

# Agenda

## **Ordinary Meeting** **24 April 2024**

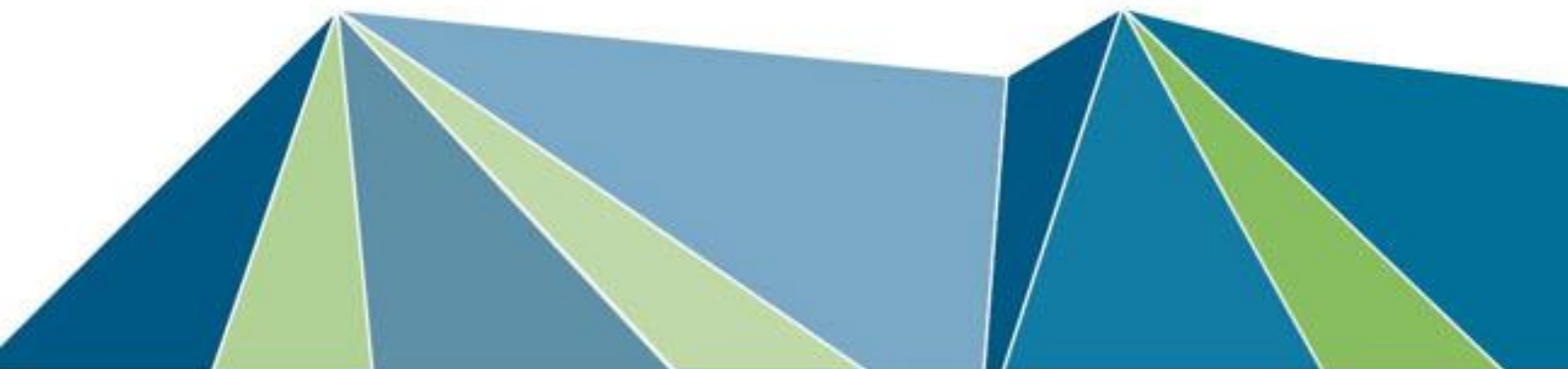
An Ordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **24 April 2024 commencing at 9:00 AM.**

1. Australian National Anthem
2. Acknowledgement of Country
3. Apologies
4. Confirmation of Minutes
5. Declarations of Interest and Reportable Political Donations
6. Deputations
7. Mayoral Minutes
8. Planning and Environmental Health Division Reports
9. Corporate and Community Division Reports
10. Civil Services Division Reports
11. Notices of Motion
12. Advisory Committee Minutes
13. Reports from Councillors on Attendance on Council's behalf
14. Confidential Session

Paul Hickey  
**General Manager**

**A morning tea break is taken at 10.30am and a lunch break taken at 1.00pm.**

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## Ethical Decision Making and Conflicts of Interest

### A guide for Councillors, Council employees and community representatives

#### Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### Conflict of Interest

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- **Pecuniary** – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Council's Code of Conduct, with whom you are associated.
- **Non-pecuniary** – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Council's Code of Conduct.

These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.

#### The test for a conflict of interest

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- It is important to consider public perceptions of whether you have a conflict of interest.

#### Identifying problems

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

#### Disclosure and participation in meetings

##### Pecuniary Interests

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a) at any time during which the matter is being considered or discussed by the Council or Committee,
  - or
  - b) at any time during which the Council or Committee is voting on any question in relation to the matter.

**No Knowledge** - A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

##### Non-pecuniary Interests

Must be disclosed in meetings. There are a broad range of options available for managing non-pecuniary interests and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary interests must be dealt with in one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.

- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absencing yourself from and not taking part in any debate or voting on the issue as per the provisions in the Code of Conduct (particularly if you have a significant non pecuniary interest)

### **Deputations to Council – Guidelines**

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting.
- Deputations are given five minutes to address Council.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
  - a) Tenderers during a public tender or request for quotation
  - b) Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
  - c) Consultants who are engaged by Council on the matter the subject of the deputation.

### **Public Question Time – This Session Does Not Form Part of the Ordinary Meeting**

- A public question time has been set aside during the Ordinary meetings of the Council. The Ordinary meeting will be adjourned from 12.45 pm for Public Question Time. If the meeting does not extend to 12.45 pm Public Question Time will be held after the meeting closes.
- The period for the public question time is set at a maximum of 15 minutes.
- Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.
- Questions may be on any topic, not restricted to matters on the Ordinary meeting agenda.
- The Chairperson will manage the questions from the gallery to give each person with a question, a "turn".
- People with multiple questions will be able to ask just one question before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, multiple questions can be invited and considered.
- Recording of the questions will not be verbatim and will not form part of the minutes of the Ordinary meeting.
- The standard rules of behaviour in the Chamber will apply.
- Questions may be asked from the position in the public gallery.

### **Recording and Livestreaming of Council Meetings**

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website ([ballina.nsw.gov.au/agendas-and-minutes](http://ballina.nsw.gov.au/agendas-and-minutes)) and a person's image and/or voice may be broadcast.
- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
- This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.

## Table of Contents

1.	Australian National Anthem .....	5
2.	Acknowledgement of Country .....	5
3.	Apologies.....	5
4.	Confirmation of Minutes.....	5
5.	Declarations of Interest and Reportable Political Donations.....	5
6.	Deputations .....	5
7.	Mayoral Minutes .....	5
8.	Planning and Environmental Health Division Reports .....	6
8.1	Sharpes Beach Car Park - Redevelopment Concept Plan	6
8.2	Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina	15
8.3	Cumalum Precinct B - Development Control Plan Amendment	28
8.4	Policy (Review) - Pesticide Use and Notification Plan - Submissions	38
8.5	Policy (Review) - Cemetery Management and Natural Burials	41
8.6	Policy (Review) - Weddings on Public Land	46
8.7	Menacing Dog Order - Review	48
8.8	Development Applications - Works in Progress - April 2024	54
9.	Corporate and Community Division Reports .....	62
9.1	Investment Summary - 31 March 2024	62
9.2	Donation - Australian Representation	68
9.3	Debt Recovery Options	70
9.4	Policy (Review) - Property Investment and Development	72
9.5	Policy (Review) - Naming of Roads, Bridges and Public Places	74
9.6	Capital Expenditure - 31 March 2024 Review	76
9.7	Delivery Program and Operational Plan - 31 March 2024 Review	83
10.	Civil Services Division Reports .....	87
10.1	Tamar Street Bus Interchange Project - Procurement	87
10.2	Fishery Creek and Canal Bridge Duplication - Procurement	90
11.	Notices of Motion .....	94
11.1	Notice of Motion - Amendment to Code of Meeting Practice	94
11.2	Notice of Motion – An Accessible Beach for Lennox Head	95
11.3	Notice of Motion - Establishment of a Junior Council	98
11.4	Notice of Motion - Tree Species	100
12.	Advisory Committee Minutes .....	108
12.1	Finance and Facilities Committee Minutes - 9 April 2024	108
13.	Reports from Councillors on Attendance on Council's behalf .....	116
13.1	Mayoral Meetings	116
14.	Confidential Session .....	117
14.1	Debt Recovery Options	117

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  2. Acknowledgement of Country
  3. Apologies
  4. Confirmation of Minutes
  5. Declarations of Interest & Reportable Political Donations
  6. Deputations
  7. Mayoral Minutes
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**1. Australian National Anthem**

The National Anthem will be played.

**2. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country.

**3. Apologies**

**4. Confirmation of Minutes**

A copy of the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 March 2024 were distributed with the business paper.

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 March 2024.

**5. Declarations of Interest and Reportable Political Donations**

**6. Deputations**

**7. Mayoral Minutes**

Nil Items

## 8.1 Sharpes Beach Car Park - Redevelopment Concept Plan

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### 8. Planning and Environmental Health Division Reports

#### 8.1 Sharpes Beach Car Park - Redevelopment Concept Plan

**Section** Open Spaces

**Objective** To provide an overview of the outcomes from the public exhibition of the draft concept plan for the redevelopment of the Sharpes Beach Car Park and seek direction on the implementation of the plan.

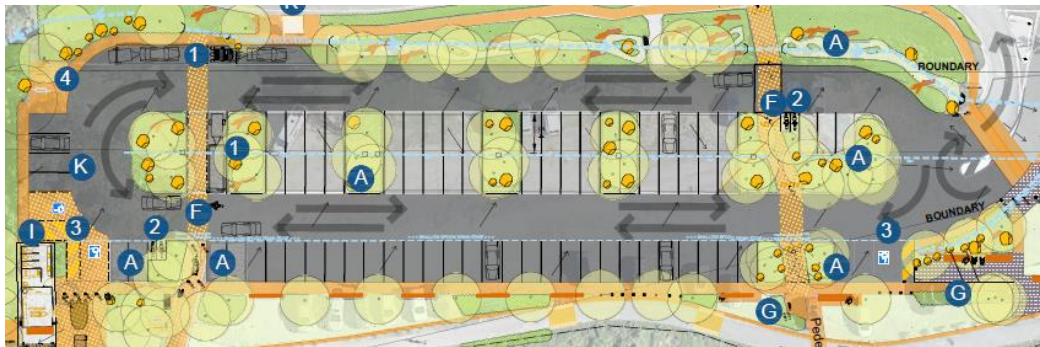
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#### **Background**

Council resolved at the 23 November 2023 Ordinary meeting to endorse the Draft Sharpes Beach Car Park Upgrade Concept for public exhibition.

The draft concept plan (Attachment 1) was exhibited for a period of eight weeks from 1 December 2023 to 31 January 2024.

The image below provides indicative detail to a finer level as a further guide to the layout and composition of the concept plan.



This report presents and addresses key items of feedback from the submissions received and sets out a recommended approach to the implementation of the plan.

#### **Key Issues**

- Stakeholder and community engagement
- Design outcomes and amendments

#### **Discussion**

The draft concept plan was advertised via Council media sources, website, social media and signage onsite as well as through direct contact and consultation with key stakeholders.

## 8.1 Sharpes Beach Car Park - Redevelopment Concept Plan

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### *Submissions*

Most public submissions were received through the Have Your Say engagement system on the Council website during the advertised consultation period. Additional submissions were also received via email and post. All submissions are included as Attachment 2.

Across seven weeks over 1,700 visits were made to the public exhibition content. This attracted 156 submissions with 149 responding to the survey:

The extent to which the draft plan as exhibited was supported or not is summarised as follows:

- 51% supported the Draft Concept Plan
- 10.7% neutral and
- 38.3% do not agree with the Draft Concept Plan

In considering this response, it is particularly important to understand the reasons why some respondents did not support the plan. This is partly explained by the feedback on some of the key issues identified below.

### *Key Response Topics*

#### **1. Number of Car Parks**

The number of car parking spaces compared to landscape and amenity improvements at the site was identified as a key concern. A survey question specifically addressed these issues with responses as follows.

- 39.5% 'Less car parking and greater emphasis on coastal landscape amenity'
- 27.2% 'More car parking and less emphasis coastal landscape amenity'
- 33.3% 'Don't feel strongly either way and appreciated a balance.'

A further survey question to identify if the community desired investigation into additional future overflow parking areas as indicated on the exhibited plan:

- 52.3% thought additional overflow parking will be required
- 31.5% were against additional overflow parking, and
- 16.1% were indifferent.

### Response

The design of the car park has been developed to optimise the number of car parks while responding to the site environment, constraints, design requirements and standards, and providing for the other required inclusions and desired outcomes. Options to provide additional parking on the western side of the Coast Road has been identified for future consideration.

### 2. Vegetation Management and Tree Removal

The retention of existing trees and vegetation was a key topic of submissions. Some respondents expressed a desire for existing trees to be retained or expressed some concern about the proposed removal of vegetation.

#### Response

The location of a number of existing trees restricts the space available for vehicle movement paths and car parking spaces.

The design of the car park has been developed to retain many of the existing trees and vegetation communities at the site where most feasible to meet project objectives and within project and operational constraints. Space is also available for the inclusion of additional trees and landscaping to achieve positive amenity outcomes.

Retention of all of the Norfolk Island Pines along The Coast Road compromises the extent of car parking and vehicle circulation. Some of these trees are located within The Coast Road, road reserve, and others are located within the car park lease area.

The image below provides an indication of trees to be removed (marked with a red X) relative to the layout of the car park, vehicle circulation and other proposed infrastructure at the site.



### 3. Impact to Coastal Views

Some submissions suggested the proposed amenities building should be located differently to reduce the visual impact on the existing natural coastal views from The Coast Road and residential dwellings at Skennars Head. There was some concern that resident views will be impacted by the increased tree canopy.



### Response

The intent of the landscape design within the car park and surrounds is to maintain a clear canopy line that improves shade to the car park with a visually clear midstory for safe sight lines and beach surveillance that is considerate of elevation and angle to existing residence ocean and coastal views and horizon line.

The amenities building has been located at the southern end of the site so that it is not in the view line to the beach when entering the car park and also the line of sight when travelling east on Headlands Drive.

The plan provides for the opening up of the foreshore area where the current lifeguard tower and storage facility is located.

### **4. Coastal Erosion**

Concern was expressed in submissions that increased impermeable car park and built surfaces will exacerbate existing erosive process caused by uncontrolled surface flows creating rill erosion in dunes.

### Response

Car park design levels and stormwater management will be established to direct water into existing swales and or pits that pipe water to existing drainages.

Fencing to protect dunes and additional dune plantings can be implemented with compensatory plantings as part of future Coastal Management Plan works.

### **5. Lighting Impact on Turtles and Sea Life**

Concern has been raised regarding the potential impacts of any lighting on nesting turtles and other sea life.

### Response

Lighting will be low lumen solar bollard lighting either orientated or shrouding to avoid light spill toward the ocean.

This can be achieved while still providing compliant lighting levels to the key pedestrian routes from a safety and CPTED compliance perspective.

### **6. Dog Wash and Drinking Infrastructure**

Requests for dog washing facilities like Seven Mile Beach were received along with submissions identifying existing issues of dog owners not complying with on-lead requirements.

### Response

Sharpes Beach is a dog on-leash area with dog exclusion areas. Council receives significant complaints regarding non-compliance of dog owners on this stretch of beach.

## **8.1 Sharpes Beach Car Park - Redevelopment Concept Plan**

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Encouraging increased use through the provision of washing facilities is not currently planned under Council's adopted Companion Animals Management Plan and the dog on and off leash management framework in place.

Dog bowl attachments will be included where it is suitable with new drinking fountains to provide dog drinking opportunities.

### **7. Improved Pedestrian Access and Public Transport**

This feedback largely supported more pedestrian dominant crossings for pedestrians.

#### Response

The plan exhibited incorporates movements from the existing bus stop and up to 10 bike racks to encourage active transport and healthy recreation options.

### **8. Food Truck/Commercial Kiosk Premises.**

Requests were made in submissions for provision of a kiosk or food truck spaces.

#### Response

Consistent with lease conditions applying to the land, the inclusion of commercial food facilities is not recommended.

Long vehicle bays have been included in the design to help cater for existing surf school usage and tours.

A planned neighbourhood centre commercial space is located to the west of The Coast Road adjacent to the playground within the Aureus subdivision.

### **9. Increased Parking Space Dimension**

Parking bay sizes greater than the standard dimensions to allow easier access for families with children and beach gear or for loading and unloading watersports equipment was raised in submissions.

#### Response

The dimensions of the car parking bays included in the exhibited design is already greater than standard dimension being 2.4m x 5.4m, with 6.2m circulation aisles.

Based on community feedback it is considered that parking must be optimised in the plan to accommodate the demand for the site.

As detailed design progresses there will be further opportunities to refine the spacing of carparks and potential opportunity to increase the widths of some spaces where it is practical and safe to do so without compromising the overall number of spaces.

### 10. Materials

Submissions included concerns about the types of materials and plants to be used.

The use of sandstone, endemic plant species and the use of bitumen with concerns of contaminated runoff and the use of surface cooling sealers were some of the matters included in submissions.

#### Response

The design has been developed to include local materials and species. The design has identified the use of basalt rock over sandstone as a naturally occurring rock in the surrounding landscape.

Sandstone may though be an alternative dependent on final detailed design and availability and cost of material.

Only native locally endemic coastal species are intended to be used in planting of new landscaping to be consistent with the surrounding natural landscape.

Bitumen cooling surface sealant products have been investigated, noting the benefits are typically reduced in open windy locations in addition to resulting in significant cost increases to the project.

There are no proposed changes to incorporate this design element.

### 11. Beach Access

Beach access is a key inclusion raised by people seeking compliant wheelchair access to the beach.

Options raised include compliant permanent accessible ramps, hybrid ramp systems or assisted mobility aids to improve access to the sand and water such as mobility mats and beach or tracked wheelchairs.

#### Response

The existing site levels and dynamic nature of the coastal shoreline, tidal range and surf zone at this location will necessitate alteration of the shoreline and significant engineering to accommodate any permanent or hybrid structures.

This is not currently provided within the scope of the current upgrade works.

Consistent with advice from the NSW Department of Climate Change, Energy, the Environment and Water most of the potential options to install compliant access to the beach at this location should be avoided.

This would need to be investigated and implemented from a holistic perspective relative to coastal processes through the future Coastal Management Plan development.

However, from a shire perspective Council is working on improved beach access for persons with a disability.

## 8.1 **Sharpes Beach Car Park - Redevelopment Concept Plan**

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Installation of an improved access for Lighthouse Beach is part of Council's current capital works program.

This improvement is funded and is progressing with completion expected by the end of 2024.

*Key stakeholders, Landowner, and Referral Agencies*

### Stewart Family

Council has continued to consult with representatives from the Stewart family in the development of the concept plan and during the consultation period, incorporating feedback and design elements throughout the process.

Consideration has been given to the feedback received and various design elements have been altered in response.

The landowner has indicated support for the progression of the exhibited master plan.

Should Council endorse the plan for implementation, further engagement will be undertaken with the Stewart family in relation to alignment of works with the lease between Council and the Stewarts and the logistics of construction.

### NSW Department of Climate Change, Energy, the Environment and Water

Council met with the Department of Climate Change, Energy, the Environment and Water representative/s regarding the draft plans and a review of access points, erosion control issues and existing stormwater outlet considerations.

Key recommendations including locating storage and toilet facilities installed above 7m AHD and as landward as practically possible have been incorporated in addition to advice regarding beach access improvements.

A copy of the submission from DCCEEW is included as Attachment 3.

### Access Reference Group

Council attended a meeting of the reference group to present the concept plan, noting feedback will be incorporated where practical into the detailed design.

### Surf Life Saving

Council has continued to liaise with Surf Life Saving to ensure both the current and future requirements for life saving operations are being met.

Importantly, the Australian Lifeguard Service (who provide the paid lifeguard service at Sharpes Beach and Flat Rock) have provided feedback in relation to the design of the facilities proposed and have indicated support for the plan (Attachment 4).

### **Delivery Program Strategy / Operational Plan Activity**

Upgrade of the Car Park area at Sharpes Beach is listed in the capital works expenditure plan under Council's current Delivery Program and Operational Plan.

A budget of \$1.3m is currently assigned to this project with \$1.05m in funding approved through the NSW Government Regional Tourism Activation Fund.

This grant funding was to be expended by 30 June 2024 however Council has obtained an extension to 30 June 2025.

It is important that Council progresses this plan in a timely manner to avoid putting this grant funding at risk, particularly as development consent is required.

### **Community Engagement Strategy**

Exhibition of the plan has been carried out in accordance with the community engagement strategy. Further engagement with the community will be carried out in association with a development application for the works.

### **Financial / Risk Considerations**

There is currently \$1.3m allocated to the implementation of upgrade works, with preliminary estimates indicating that the concept plan is costed at approximately \$2 million.

It is difficult to accurately estimate construction costs in advance of detailed design and consideration of difficult market conditions.

Further consideration of funding and project staging will be undertaken as detailed design, planning processes and costings progress.

### **Options**

1. Endorse the Draft Concept Plan as Exhibited.

The design has progressed to the point where there are clear principles and work components in accordance with the grant funding agreement and original Sharpes Beach Master Plan.

Under this approach, staff would proceed to detailed design and preparation and lodgement of a development application to enable the implementation of the concept plan to progress.

It is anticipated that construction could commence on the design contained in the exhibited concept plan in the first half of 2025.

2. Endorse the Draft Concept Plan with Amendments.

Council could resolve to amend the exhibited draft concept plan. However, no changes are recommended to the layout or composition of the concept plan (noting that where possible detailed design adjustments will seek to incorporate minor changes such as dog water bowls and landscaping improvements).

Further amendment and reporting on any proposed changes will impact on current time and cost implications for the project and may result in financial implications for the delivery of the project associated with the grant funding agreement.

This approach is not recommended.

3. Defer a Decision on the Endorsement of the Concept Plan.

Council could defer a decision to seek further information.

This option is not recommended as the community and key stakeholders have not had an opportunity to provide feedback and key issues are known.

Design rationale and reasoning for the various elements of the concept plan as presented relative to the issues raised in submissions is provided in this report.

### RECOMMENDATION

That Council endorses the Draft Concept Plan, as exhibited, as per Attachment 1 to this report.

### Attachment(s)

1. Sharpes Beach Car Park Draft Concept Plan - Exhibited [⇒](#)
2. Sharpes Beach Car Park Draft Concept Plan - Submissions [⇒](#)
3. DCCEEW Submission [⇒](#)
4. Australian Life Guard Service Correspondence [⇒](#)

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

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### 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

<b>Section</b>	Strategic Planning
<b>Objective</b>	To present a preliminary planning proposal request seeking in-principle support to permit manufacturing (plastics recycling / packaging manufacturer) on 66 Teven Road (Lot 228 DP 1121079), West Ballina, within the Teven Road Transport and Logistics Precinct.

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#### **Background**

This report considers a request seeking in-principle support for the initiation and preparation to a planning proposal. The planning proposal would seek to permit manufacturing (plastic injection moulding) upon a site located within the Teven Road Transport and Logistics Precinct (the precinct), as per Figure 1.

The precinct is zoned RU2 Rural Landscape Zone under the provisions of Ballina LEP2012. An amendment to the LEP in 2017 permitted additional uses within the precinct for the purpose of *freight transport facilities* or *warehouse* or a *distribution centre*.

The assessment of the in-principle support request has concluded that the preparation of a proponent initiated planning proposal to permit manufacturing on 66 Teven Road (Lot 228 DP 1121079), West Ballina (Lot 228), or across all lots within the precinct, has merit and could be supported. The location of Lot 228 within the precinct is shown in Figure 2.

Rezoning the precinct to E4 General Industrial has also been examined. In this respect it has been concluded that a planning proposal which seeks an E4 zone outcome for the precinct may also be supportable.

The history relating to the establishment of the precinct and development on Lot 228 is of relevance when considering whether further LEP amendments should be supported in the precinct.

Prior to the LEP amendment being finalised in 2017 the landowners entered into a Voluntary Planning Agreement (VPA) with Council. The VPA sought to mitigate the flood impact of development within the precinct by restricting surface levels and specifying minimum fill levels. A *Restriction as to User* (RATU) was required to be registered on the title of lots within the precinct. The RATU would restrict the use of part of the land for drainage and floodway purposes.

The VPA also provided that a flood relief structure must be constructed under River Street, West Ballina, prior to any development of the land for *freight transport facilities* or *warehouse* or a *distribution centre*.

A copy of the VPA is contained within Attachment 1.

Since 2017 development has been approved on Lot 228. This development did not address the restrictions contained within the VPA relating to the site levels and the flood relief structure.

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

The RATU has also not been registered on the title of the lots within the precinct, within six months of the VPA becoming operative, as required.

The flooding consequences of the non-conformances with the VPA associated with the approved development (e.g. site levels and non-construction of a flood relief structure) have been considered in a Flood Impact Assessment Report (FIAR) prepared in 2023.

The FIAR has not found any adverse flooding impacts associated with the non-compliance with VPA site level restrictions of the development on Lot 228. The non-construction of the flood relief structure prior to building work being undertaken has also been found to have no adverse outcomes.

The implications of this for the VPA should be considered by the proponent as part of the process of submitting any new proponent initiated planning proposal.

More details of the history of the establishment of the Teven Road Transport and Logistics Precincts, the provisions of the VPA and development approved on Lot 228 is contained within Attachment 2.



**Figure 1 - Teven Road Transport and Logistics Area (outlined red)**

The purpose of this report is to determine whether Council supports the land use concepts presented in principle prior to the proponent proceeding with further detailed assessment and progression to a full planning proposal.



### Key Issues

- Employment Lands
- Industrial activity
- Site suitability
- Flooding
- VPA terms

### Discussion

*Request for in-principle support for planning proposal to allow manufacturing on Lot 228 DP1121079 (Lot 228).*

Newton Denny Chapelle (NDC) in August 2022 lodged a request for in-principle support for a planning proposal upon Lot 228. The proposal seeks to allow manufacturing on Lot 228 and facilitate the construction of an additional shed on land filled pursuant to DA 2010/782.

NDC have proposed a site specific LEP amendment rather than a blanket industrial zoning.

The request by NDC, submitted on behalf of Ant Packaging Pty Ltd, forms Attachment 3 to this report.

Ant Packaging is a plastics packaging manufacturer currently operating in Bangalow.

The company manufactures plastic bottles through injection moulding. It incorporates recycled materials within its plastic product range. Some products are made from 100% recycled PET materials. They process approximately 350 tonnes per annum of synthetic plastic resin and plan to increase this to approximately 700 tonnes per annum. The company currently employs approximately 20 people.

Ant Packaging have leased the building located on Lot 228 for a period of 10 years from July 2023 with a 10 year option to renew.

It is proposed to build an additional industrial building immediately to the north of Shed 1 once zoning restrictions have been resolved. The property owner has advised that ultimately a total of six industrial buildings are currently proposed upon Lot 228.

A plastics facility that manufactures more than 2,000 tonnes per annum of synthetic plastic resins or reprocesses more than 5,000 tonnes per year of plastics, other than by a simple melting and reforming process, is classified as a *designated development* (requiring the preparation of an EIS) under the provisions of the *Environmental Planning and Assessment Act*. Ant Packaging is well below these thresholds.

Ant Packaging is seeking larger and more suitable manufacturing premises, with adequate warehousing and storage (due to the bulk of inputs and needs of product storage). The shortage of industrial land in the region has meant the company has been unable to secure an alternative suitable commercial / industrial site.

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

Manufacturing is a form of industrial activity which is not permitted within the RU2 zone applicable to Lot 228. It is also not a current permissible additional use.

Given the precinct's intended purpose (transport and logistics) the proponents have requested Council's in-principle position with respect to whether a planning proposal would be supported by the Council for manufacturing as an additional permitted use on Lot 228.

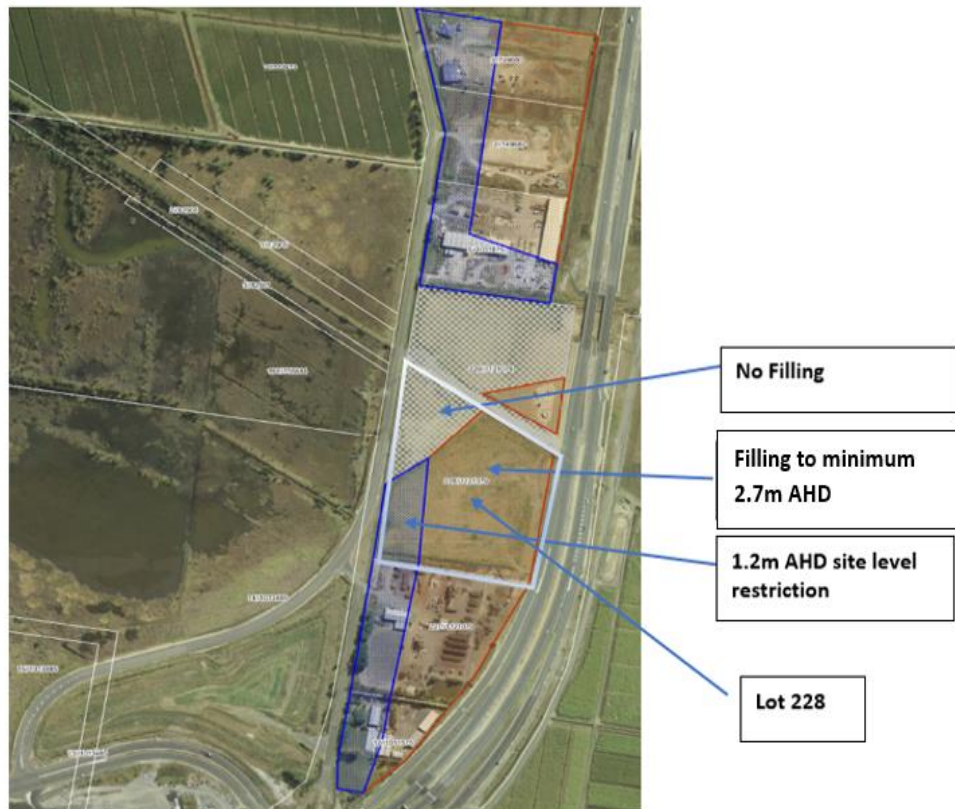
Should in-principle support be provided, the proponent will proceed with the preparation of detailed documentation and a formal planning proposal request.

An initial assessment of the request for in-principle support in November 2022 resulted in the proponent being requested to prepare a flood impact assessment.

This was due to the building work undertaken within Lot 228 as previously discussed.

The flood impact assessment was required to assess the extent to which the filling undertaken in the blue area, as shown on the VPA Map (see extract in Figure 2 below), may or may not impact on flooding elsewhere.

It was also required to examine the implications for the filling strategy agreed to under the VPA for the remainder of the precinct.



**Figure 2 – Extract from VPA Map with Explanatory Notes.**

The flood impact assessment was finalised in September 2023 and is discussed as follows.

### *Ballina LEP 2012 Definitions of Relevance*

As noted, the precinct was the subject of a planning proposal (BSCPP 14/001) which applied the additional permitted uses (APU) of 'freight transport facility' and 'warehouse or distribution centre' to the land.

The definition of these uses are as follows:

**freight transport facility** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

Whilst the proponents have proposed an APU of 'manufacturing' this term is not defined within BLEP 2012.

Manufacturing is incorporated within the definition of *industrial activity*, which the BLEP 2012 defines as follows:

**industrial activity** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

Permitting *industrial activity* as an APU may be problematic. The definition is extremely broad in nature and may result in *heavy industries* including certain *hazardous or offensive industries* being permitted. Such uses are not currently permitted within the shire.

A review of a range of potential APUs, defined in Ballina LEP 2012, which would accommodate the proposed Ant Packaging use has concluded that *general industry* would be suitable.

General industry is defined as follows:

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

*General industry* is also permitted with consent in the E4 General Industrial zone.

### *Planning Proposal BSCPP 14/001*

This previous planning proposal (BSCPP 14/001) considered the suitability of the site to accommodate 'freight transport facility' and 'warehouse or distribution centre' uses and addressed:

- Flooding impacts
- Bushfire impacts
- Ecological impacts
- Contamination assessment
- Aboriginal cultural heritage issues
- Geotechnical issues
- Traffic impacts

These previous site suitability investigations, except for flooding impacts and traffic, are considered adequate for the purpose of determining the ability of Lot 228 (or the whole precinct) to be used for *general industry* purposes.

With respect to flooding impacts, the planning proposal was accompanied by a VPA that imposes limitations on site levels and filling over parts of Lot 228 as well as the broader precinct. This was done in accordance with flood modelling advice from BMT.

The VPA also required that certain flood relief structures under River Street, on land not associated with the precinct, be constructed before the substantive development permitted by the additional permitted uses could proceed.

The 2015 flood modelling incorporated consideration of the flood relief structures (3 x 3.6m wide by 1.2m high box culverts).

The previously submitted traffic report will require updating to incorporate the proposed *general industry* APU and to reassess the operation of the intersection of the Bruxner Highway and Teven Road.

At this stage it is not anticipated that traffic issues will be an impediment to the proposed APU on Lot 228.

Flood impacts have been reviewed through additional modelling undertaken in 2023 by BMT and are discussed in more detail below. Advice has also been obtained from NSW Biodiversity, Conservation and Science (NSW BCS) about the level of flood information required to support the planning proposal and is provided in Attachment 4.

### *Key issues Raised by Proponent's Request*

The key issues relevant to the consideration of the proponent's request for in-principle support are as follows:

- Is Lot 228 a suitable site for *general industry* use (manufacturing) as proposed?
- Is there an unmet demand for employment (industrial) land within Ballina Shire and the Northern Rivers?
- If *general industry* uses are considered suitable, should they be permissible on just Lot 228, or should it also be extended to other lots within the precinct?
- What are the flooding implications associated with the VPA provisions and approved development?
- Is further building development achievable within the precinct without the flood relief structures referenced in the VPA?
- How should the existing VPA relating to Lot 228 be addressed?

These key issues are discussed as follows.

*Is Lot 228 a suitable site for general industry use (manufacturing) as proposed?*

Having regard to the range of studies which supported the 2014 planning proposal, the nature of uses already taking place, and the relatively isolated nature of the site and the broader precinct, it is considered that Lot 228 may be suitable for *general industry* usage as proposed.

Additional assessment of this issue would take place as part of any formal planning proposal that may be submitted. It would also be considered as part of any future DA assessment process particularly related to the proposed 24/7 operating hours.

*Is there an unmet demand for Employment (Industrial) land within Ballina Shire and Northern Rivers?*

The *Northern Rivers Employment Land Study*, September 2023, prepared for the Northern Rivers Joint Organisation, by Hill PDA Consulting, considered the availability and demand for employment land within each LGA comprising the Northern Rivers region. The study concluded that to 2041 there was demand for an additional 173 – 290 ha of employment land across the Northern Rivers.

The Study found that there is unlikely to be sufficient supply of employment land to 2041 to meet demand in the LGAs of Ballina, Byron, and Tweed. There is also significant demand pressure in Lismore caused in part by businesses wanting to relocate out of flood prone areas.

Specifically in respect to Ballina Shire there is an estimated demand for 30.5 to 32.8ha of employment land which cannot be met in the existing zoned land supply due to land constraints.

The study suggests that it would be prudent to plan for additional employment land within Ballina Shire of around 26 to 30ha.

In the context of the study findings, permitting *general industry* upon Lot 228 (as well as the broader precinct) is unlikely to impact demand within existing zoned and serviced employment land areas.

*Is it reasonable to confine the proposed general industry use to just Lot 228 or should it also be extended to other lots within the precinct?*

Subject to other considerations as discussed below a planning proposal could be prepared which seeks to permit the APU of *general industry*. The planning proposal may be prepared to apply only to Lot 228, or to apply to all seven lots within the precinct.

This approach has been supported in advice received from the Department of Planning Housing and Infrastructure (DPHI). The advice also stated that any time an APU is used the planning proposal should provide a clear outline on why it is needed, and why a land zone, or land use table change is not appropriate.

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

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This would then require consideration of whether it is more appropriate to apply an E4 General Industrial zone to the precinct. The application of an E4 zone to the precinct would require consideration of the range of permitted land uses within such zone and whether such uses are appropriate given land constraints.

One potential additional challenge associated with seeking to rezone the precinct to E4 is its location outside of a designated urban growth area or investigation area for employment land within the North Coast Regional Plan 2041 (NCRP).

*What are the flooding implications associated with the VPA provisions and approved development?*

*Is further building development achievable within the precinct without the flood relief structures referenced in the VPA?*

Several flood assessment reports have been prepared in respect to Lot 228 and the broader precinct.

Attachment 5 contains a copy of the BMT WBM Flood Assessment Report undertaken in 2010, which supported filling on Lot 228 up to the property boundary. This excluded the flood relief structure under River Street.

Attachment 6 contains a copy of the BMT WBM 2015 Flood Assessment Report which was utilised to prepare the VPA and facilitated the creation of the Teven Road Transport and Logistics Precinct.

This assessment looked at the whole transport precinct and included filling as shown in Figure 2 and the flood relief structure under River Street.

Attachment 7 provides a copy of the BMT 2023 Flood Impact Assessment Report (BMT 2023 report) which examines the impact of filling and building work within the 1.2m AHD site level restricted area on Lot 228.

Attachment 8 contains additional advice from BMT in respect to specific questions.

The major conclusions drawn from the extensive flood modelling and impact analysis undertaken in the 2023 BMT report are as follows:

- *For the precinct the mechanism of flooding that produces the critical flood level for different magnitude events is from the local catchment dominated flooding, as opposed to Richmond River or storm tide dominated flooding mechanisms.*
- *The tolerance for incremental peak flood level impacts for a development within the Ballina Shire on suitably zoned land is 10mm. Flood modelling must demonstrate changes in flood heights resulting from fill are less than this threshold of 10mm when comparing pre-development and post development flood conditions.*
- *Compared to the pre-development floodplain condition scenarios, regional flood impacts have not exceeded 10mm. This is as a result of the additional fill on site (Lot 228) (i.e. the 2010 site-specific approved fill in excess of the extent of fill in the VPA), plus the VPA fill within the precinct.*
- *Some localised areas of modelled afflux that exceed 10mm are evident in isolation in the floodplain to the west of the site, and around the Teven interchange service centre.*

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

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- *Where there is a reduction in flood level afflux directly south of the Site, this is due to the additional site fill inhibiting flows from the floodplain to the west southward towards the Teven interchange flood relief/overpass.*
- *Development of the site and the precinct does not require the West Ballina Flood Relief culverts to be constructed under River Street as part of the mitigation of the Site. Changes in flood height are generally within the acceptable range without culverts.*
- *For each of the 5%, 1% AEP and 1% AEP + 2050 climate events and their component flooding mechanisms, results indicate that the additional site-specific fill on Lot 228 in combination with the VPA extent of fill across the precinct does not cause incremental impacts that exceed Council's 10mm tolerance.*
- *The above modelling outcome is a change from previous assessments of the Site. The West Ballina Flood Relief culverts have been part of Ballina's regional flood mitigation strategy since the 1990s. The modelling previously undertaken for the VPA (BMT 2015) indicated that development of the VPA Precinct would have triggered the need for the culverts. This was largely due to the VPA Precinct causing a minor impact in the floodplain to the east of the Ballina Bypass, which propagated up to the Cumbalum area; an area that was already experiencing significant cumulative flood level afflux due to infrastructure and land development pressure.*

Since the first version Ballina flood model was developed in 1990s there have been three milestone updates to the model that has improved the accuracy for predicting flood heights in the Ballina floodplain. These milestone updates are summarised below:

- 2008 Flood Study Update – This version of the model was adopted for the BMT WBM Flood Assessment Report which supported filling on Lot 228 undertaken in 2010 (Attachment 5).
- 2012 Ballina Floodplain Risk Management Study – This version of the model was adopted for the BMT WBM 2015 Flood Assessment Report which was utilised to prepare the VPA and facilitated the creation of the Teven Road Transport and Logistics Precinct (Attachment 6).
- 2018 Integrated model development – This is the current version of the model and was adopted for the BMT 2023 Flood Impact Assessment Report (BMT 2023 report) which examines the impact of filling and building work within the 1.2m AHD site level restricted area on Lot 228 (Attachment 7).

In respect to the above flood analysis conclusions BMT have advised that:

Since the prior VPA assessment, the flood model has been enhanced and now includes other land development and infrastructure works. For example, the West Ballina Service Centre site (adjacent to West Ballina Flood Relief culverts at River Street) is now represented with approved DA plan information, rather than assumed fill, and the potential future West Ballina Arterial alignment has changed, now being positioned further away from the VPA Precinct and West Ballina Flood Relief culverts. Using the latest model, the need for the culverts is not yet triggered.

The 2023 BMT report indicates that non-compliance with the VPA provisions, relating to building within the 1.2m AHD surface level restricted area on Lot 228, has not had any substantive flood related impacts. The flood analysis has also concluded that the flood relief structures under River Street are not required to support development on Lot 228 or within the precinct.

## 8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina

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The 2023 BMT flood impact assessment conclusions provide a case for the review of the VPA. The review would examine if VPA provisions that prevent development, until the flood relief structure under River Street is constructed, are still warranted.

The review of the VPA could be considered as part of any planning proposal process the Council supports.

VPA related issues are addressed in the recommendations to this report.

NSW Biodiversity Conservation and Science (NSWCBS) in correspondence dated 27 March 2024 (Attachment 4) have confirmed in-principle support for the 2023 BMT Flood Impact Assessment Report.

*How should flooding characteristics and the existing VPA relating to Lot 228 be addressed?*

Section 733 of the *Local Government Act 1993* provides an exemption to liability for anything done or omitted to be done in good faith by the Council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

The exemption applies, unless the contrary is proven, if the decision was made substantially in accordance with the principles contained in the relevant manual most recently notified (the manual being the *2023 Flood Risk Management Manual* which was gazetted in June 2023 and replaced the *2005 Floodplain Development Manual*).

The 2023 BMT flood impact assessment was prepared in accordance with the 2005 Floodplain Development Manual.

NSW BCS has advised that *there is no need to reference the 2023 Flood Risk Management Manual given the way flood impact assessment is carried out remains largely unchanged between the 2005 and 2023 manuals.*

It is considered that the 2023 BMT Flood Impact Assessment Report provides a means through which Council may argue that it has acted in good faith if it accepts the findings of the report.

On this basis the findings of the 2023 report would be utilised in the planning proposal process in relation to proposed land use outcomes and consideration of the existing VPA and any proposed VPA.

### **Delivery Program Strategy / Operational Plan Activity**

The 2023/24 Delivery Program and Operating Plan references the maintenance of the LEP as an operational activity (HE3.1i).

This activity is considered to include the consideration of planning proposals and VPAs as discussed in this report.



### Community Engagement Strategy

At this stage consultation has been undertaken with NSW BCS on flood related matters.

Should a formal planning proposal be submitted community consultation will occur in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and *Regulation*.

This will include consultation with all property owners located within the precinct, as well as owners of adjoining and nearby land, and any additional property owners considered to be impacted by the proposal.

### Financial / Risk Considerations

All costs associated with a proponent initiated planning proposals are required to be met by the proponent as detailed in Council's Fees and Charges document. This includes the cost of any specialist studies and reports that may be required.

Liability risks associated with making policy decisions related to development within the floodplain may be mitigated through adherence to the provisions of s733 of the *Local Government Act 1993* as discussed.

### Options

The options available to Council when considering this matter include the following:

*Option 1 – Provide in-principle support to a proponent initiated planning proposal that permits general industry either as an additional permitted use upon Lot 228 or on all lots in the Teven Road Transport and Logistics Precinct.*

This is the recommended option.

If Council considers that there is merit in *general industry* being permitted on Lot 228, or across the whole precinct, the proponents would be advised that its support is based on the following factors:

- Submission of a proponent-initiated planning proposal incorporating updated traffic impact, and flooding analysis (already completed) additional to other documentation triggered by such a proposal, and
- The proponent addressing development on the land relative to the terms of the existing VPA and the 2023 flood impact analysis.

Seeking to permit *general industry* on only Lot 228 has merit as it confines the issue to only this lot and potentially resolves the inconsistency of development on Lot 228, undertaken since 2017, with the requirements of the VPA.

There is also merit in seeking to apply the additional permitted use of *general industry* to all lots within the precinct.

Following consideration of updated traffic analysis.

## **8.2 Planning Proposal Initiation - Ant Packaging, Teven Road, Ballina**

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This matter could be further considered by the proponent when documenting the planning proposal.

As another alternative for progression of the proposal, there may be merit in seeking to rezone the whole of the precinct from RU2 Rural Landscape zone to E4 General Industrial.

A planning proposal seeking such an outcome may be better initiated by the Council at a future time if an industrial zone is ultimately preferred. This issue could also be further considered by the proponent once the proponent has considered the updated traffic analysis.

The application of an E4 zone is not recommended at this time.

As the complexity of a planning proposal increases so may the length of time it will take to achieve the desired outcome.

Ultimately it will be a matter for the proponent to determine the nature and scope of any planning proposal that they may seek to prepare.

*Option 2 – Decline to give in principle support to a planning proposal being prepared to permit industrial activity upon Lot 228.*

Council may support this option if it seeks to maintain development of the precinct for transport and logistics purposes as originally intended. Council may also prefer this option if flooding risk and impacts are unacceptable.

When considering this issue, it is noted that the proponents may lodge a proponent initiated planning proposal at any time.

The seeking of in-principle support is not a requirement of the rezoning process.

In-principle support is being sought having regard to the history applicable to establishment of the precinct and development on lot 228.

This option is not supported as rejecting the proposal at this early stage may not be the best outcome from a shire wide economic development perspective for the following reasons:

- There is an assessed shortage of land within the shire that permits industrial (manufacturing) uses.
- Since the precinct was created in 2017 there has been no significant development for transport and logistic purposes other than the building erected by the owner of Lot 228.
- The flooding issues evident from 2015 flood modelling are, with the benefit of more refined and better modelling techniques available in 2023, no longer the substantive issues previously identified, and
- Based on 2023 flood modelling there may be a case to review and amend the existing VPA. A planning proposal as proposed by the proponents provides the means through which the review may be undertaken.

*Option 3 – Defer consideration of the request.*

Council could defer a decision on this initial request to seek additional information.

Notably, should Council resolve to support the proposal in principle, further and more detailed reporting will be presented to Council before a planning proposal is submitted to DPHI for a Gateway Determination.

This approach is not recommended

### RECOMMENDATIONS

1. That Council provides in-principle support to the preparation of a proponent initiated planning proposal that seeks to permit *general industry* as an additional permitted use on either Lot 228 DP 1121079 Teven Road, West Ballina, or on all lots within the Teven Road Transport and Logistics Precinct.
2. That Council's in-principle support is subject to the proponents preparing a fully documented planning proposal. The planning proposal is to incorporate a contemporary traffic and intersection analysis (Bruxner Highway / Teven Road), the 2023 BMT Flood Impact Assessment report, and address the terms of the existing voluntary planning agreement relative to the proposed land uses and existing site development.

### Attachment(s)

1. 2016 Executed VPA [⇒](#)
2. Background Information [⇒](#)
3. Ant Packaging In-Principle Support Application [⇒](#)
4. NSW Biodiversity Conservation and Science Advice [⇒](#)
5. 2010 BMT WBM Flood Assessment Report [⇒](#)
6. 2015 BMT WBS Flood Assessment Report [⇒](#)
7. 2023 BMT Flood Impact Assessment Report [⇒](#)
8. Additional BMT Advice 13 March 2024 [⇒](#)

## 8.3 Cumbalum Precinct B - Development Control Plan Amendment

### 8.3 Cumbalum Precinct B - Development Control Plan Amendment

<b>Section</b>	Strategic Planning
<b>Objective</b>	To outline proposed amendments to Chapter 3 of the Ballina Development Control Plan 2012 relevant to Cumbalum Precinct B for public exhibition.

#### Background

The Cumbalum Urban Release Area has been a significant part of Council's residential land release strategy for some years.

The Cumbalum Structure Plan adopted in July 2006 identified two distinct but related communities with Precinct B (CURA B) at Kinvara having potential to accommodate a future population of between 2,800 and 5,900 people.

Council's 2012 Growth Management Strategy and 2020 Local Strategic Planning Statement highlight the importance of the locality in meeting projected population growth.

CURA B is located to the north of Cumbalum as shown on the extract of the zone map in Figure 1.

Ross Lane borders the land to the north and Sandy Flat Road and Duffcys Lane run in a north-south direction through the release area. Scanlan Lane runs in an easterly direction off Sandy Flat Road/Duffcys Lane. To the east of the site is the Ballina Nature Reserve.

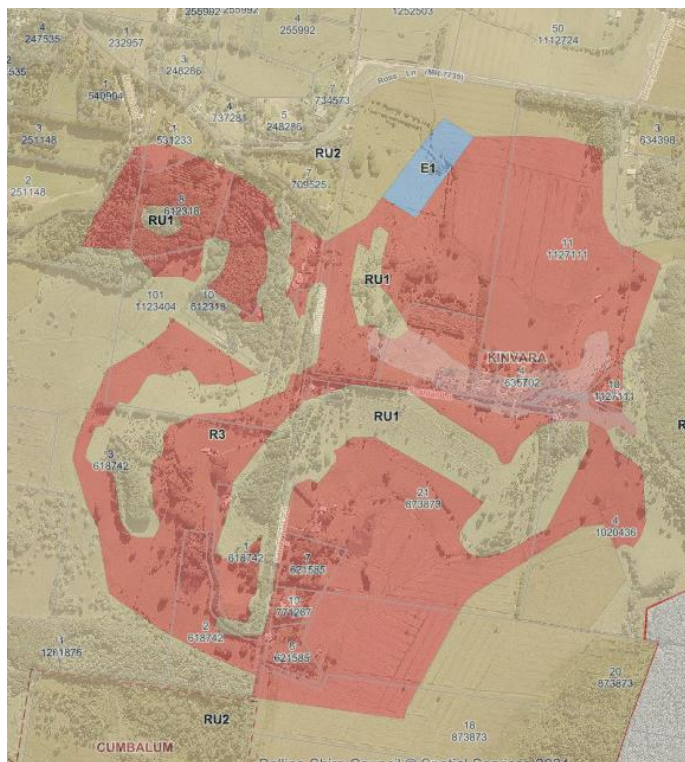


Figure 1 CURA B Release Area – Zone Map

### **8.3 Cumbalum Precinct B - Development Control Plan Amendment**

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A Development Control Plan (DCP) for CURA B was adopted in 2012, identifying a target development yield of 2,486 dwellings.

Chapter 3 (section 5.5) of the DCP contains area specific objectives, development controls and several plans including a structure plan, mobility plan and staging plan.

The DCP is intended to guide the progressive subdivision of the land and provision of all the infrastructure, open space, cycleways and pedestrian paths and commercial centres required to service the needs of the emerging new community.

A Voluntary Planning Agreement (VPA) between Council and the landowners was also executed (21 December 2012). The VPA describes the infrastructure and facilities that will be provided by the proponents, including location and timing, to service demand brought about by the development. The VPA covers roads, sewerage, water supply, open space, and community facilities.

Ahead of submitting the first development application for subdivision, the CURA B proponents met with Council staff on several occasions during 2023 to review key technical issues and the overall master planning of CURA B.

Ongoing technical investigations and review of overall master planning support changes to key aspects of the subdivision layout.

These changes should be reflected in the Structure Plan and other DCP provisions before or in conjunction with lodgement of the first development application.

An LEP amendment is also required to change the location of the E1 Local Centre zone shown on Figure 1, and to that end the proponent has advised a planning proposal will be lodged with Council in the near future.

The proponents made a presentation to Councillors in December 2023 where they provided an overview of intended changes to planning provisions.

The proponents also outlined their proposed timeline for amendments to the DCP and LEP, lodgement of development applications and a staged approach to the development, including community consultation.

The proponents submitted a request to amend the DCP on 2 February 2024. A DA pre-lodgement meeting occurred in mid-February to review a proposal for the Stage 1 development application of around 300 lots.

Four key changes are proposed to the CURA B DCP focused on the north-eastern precinct, where Stage 1 of the development is planned. There are also changes proposed that are connected to and a consequence of these key amendments. The four key changes are:

- Relocation of the commercial centre to a more central location in the north-east precinct
- Reconfiguration of the road network and associated earthworks
- Relocation of stormwater detention basins
- Significant earthworks.

## 8.3 Cumbalum Precinct B - Development Control Plan Amendment

Staff have also taken this opportunity to fine tune and update some of the provisions in this section of the DCP to reflect contemporary practice.

This report describes the proposed amendments to section 5.5 of the DCP and recommends that Council proceed to public exhibition of the draft DCP changes.

The existing chapter 3 section 5.5 of the DCP and the proposed revised section 5.5 are provided as Attachments 1 and 2, along with revised plans that relate to the DCP text revisions (Attachment 3).

It is noted that further amendments to the DCP may be requested in the future as development of this new land release area progresses.

### Key Issues

- Commercial centre relocation.
- Road network changes to reflect topography constraints.
- Drainage and relocation of stormwater detention basins.
- Substantial increase in bulk earthworks.

### Discussion

#### Local / village centre location

The DCP Structure Plan currently identifies a retail/commercial precinct adjacent to Ross Lane (solid blue on Figure 2) and shows the location of the land zoned E1 Local Centre in the LEP (rectangular dotted blue line on Figure 2).

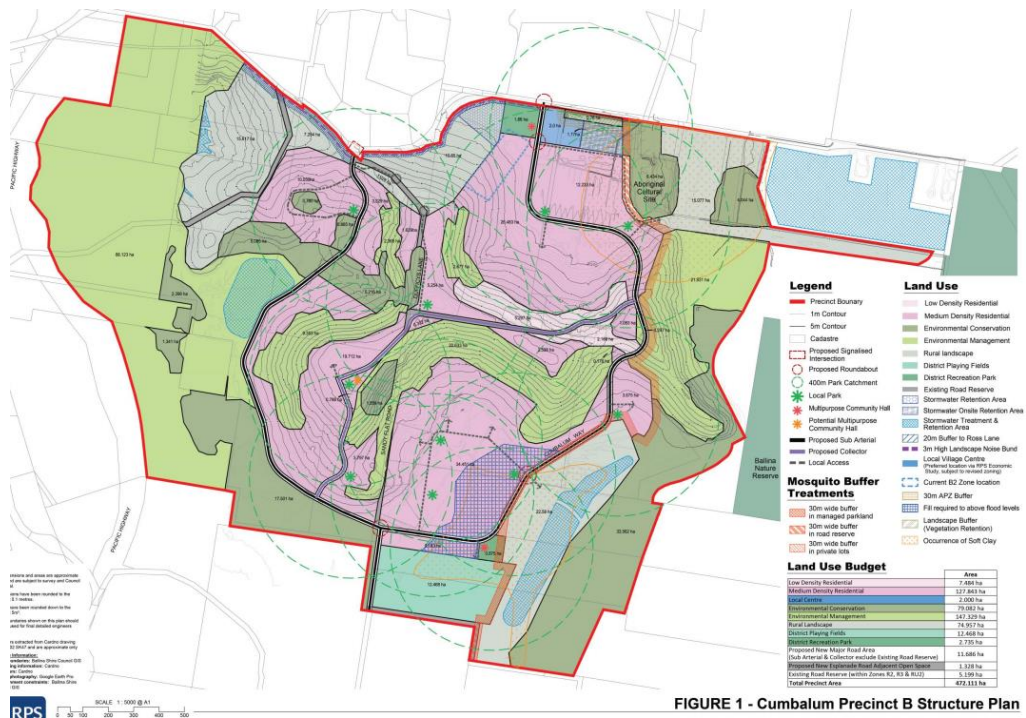


FIGURE 1 - Cumbalum Precinct B Structure Plan

Figure 2: Current CURA B Structure Plan

### 8.3 Cumbalum Precinct B - Development Control Plan Amendment

It is proposed to amend the Structure Plan to relocate the local centre to a more central location in the north-eastern precinct to ensure it is more centrally located and accessible to future residents and more readily serves as a community focal point.

Figure 3 shows the proposed new location of the centre (yellow star symbol).

A preliminary retail report prepared by Urbis for the proponents identifies the potential to locate several local centres across the CURA B development site to provide greater amenity and diversity of retail and employment options that are conveniently located to more residents across the site.

The report's initial findings suggest three local centres could be distributed across the whole development.

The stage 1 local centre nominated in the north-east precinct is suitable to accommodate 600m<sup>2</sup> Gross Leasable Area of retail/commercial space.

The proposed amendment modifies the Structure Plan to show a single local centre (Figure 3) and includes a provision in the DCP that confirms the intent for a minimum of 3,000m<sup>2</sup> of retail / commercial space for the whole CURA B development.

The provisions are also amended to reflect changes to the structure plan (refer to Element A – Layout of the Village in Attachment 2).

Further amendments to the DCP are anticipated in the future to confirm the location of additional centres as the development of the new urban area unfolds.

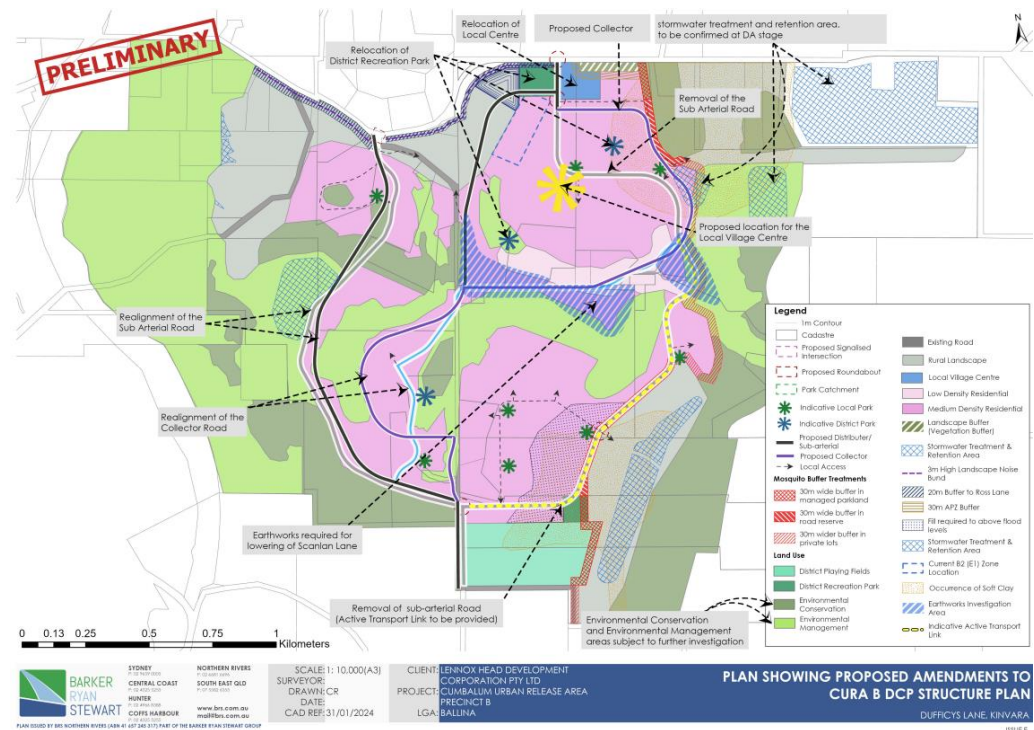


Figure 3: Proposed Changes to CURA B Structure Plan

### **8.3 Cumbalum Precinct B - Development Control Plan Amendment**

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#### *LEP Local Centre Zone*

The relocation of the local centre requires an LEP amendment to zone the new location E1 Local Centre and the existing E1 zoned land (refer to Figure 1) R3 Medium Density Residential.

This will be advanced via a planning proposal to be lodged in the near future.

The proponent also nominates the Local Village Centre land on the Structure Plan adjacent to Ross Lane and the land immediately to the east (currently shown as stormwater onsite retention area on Figure 2) as future medium density residential land.

This is not supported until further investigations occur as part of a future planning proposal.

The Structure Plan will be amended to reflect this prior to being placed on public exhibition.

#### Road network and active transport changes

More detailed investigations undertaken by the proponents show there are site constraints that make it difficult to achieve the development outcomes envisaged in the current DCP.

The topography poses significant challenges to constructing the current sub-arterial and collector road network to achieve compliant road gradients without major impacts.

The DCP currently requires the construction of 2 x sub-arterial roads extending from CURA A in the south through to Ross Lane in the north (1 x eastern and 1 x western), as shown in Figure 2.

The proponents submit that two sub-arterial roads are not required, and future traffic can be accommodated in a western distributor / sub-arterial and internal road network.

The proponents propose deleting the eastern sub-arterial and identifying this route for future walking, cycling and e-mobility connection through the site.

It is also proposed that collector roads will extend from Ross Lane in the north-eastern precinct to Scanlan Lane for a more direct and centralised route through the site. The proposed new alignments will ensure the sub-arterial road can achieve allowable sight distances and reasonable design grades and allow it to better follow the natural topography. The proposed new road network is shown in Figure 3 and Figure 4.

Council staff are generally supportive of the higher order road layout and its interaction with the contour constraints of the site.

#### *Intersections*

The DCP currently stipulates requirements for the intersection of the eastern access road onto Ross Lane and the intersection off Duffcys Lane onto Ross Lane, including a signalised intersection.



### **8.3 Cumbalum Precinct B - Development Control Plan Amendment**

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The proponents indicate that both intersections with Ross Lane will be a single lane roundabout, during early stages of the development, and then upgraded to a double lane roundabout and signaled intersection at Dufficys Lane.

Staff do not support a single lane roundabout and signalisation in a largely rural location is unlikely to be supported by Transport for NSW.

Therefore, these provisions in the DCP are amended to remove signalisation and to provide two-lane roundabouts at the intersections, or as per an approved traffic impact assessment (refer to Element B – Infrastructure Provision – Roads and Access in Attachment 2).

#### Relocation of stormwater retention basins

The DCP identifies three stormwater retention basins adjacent to Ross Lane to service the north-eastern precinct of CURA B.

Ross Lane is subject to regular inundation and road closures in storm events, and it is proposed to relocate the stormwater basins away from Ross Lane and discharge stormwater via an existing drainage channel located to the east of the site.

The proponent proposed Structure Plan at Figure 4 will be amended before public exhibition to remove the stormwater retention area shown adjacent to Ross Lane.

Council staff generally support the proposal to direct stormwater towards the existing drainage channel to the east of the site towards the nature reserve, subject to an overall stormwater management plan/hydrological assessment addressing ecological and hydrological impacts and demonstrating no adverse impacts on downstream properties and a positive effect on Ross Lane.

#### Substantial increase in bulk earthworks

The proponents propose that substantial earthworks are needed to respond to significant topographical constraints and facilitate development on the north-eastern area of the site.

Approximately 15 metres of cut along Scanlon Lane and eastern spur is proposed.

The soil from the cut is proposed to be utilised within the site in the lower lying areas in the north-east and enable stormwater runoff to be redirected away from Ross Lane in this area.

The proponents submit this outcome will negate the need to import significant volumes of fill to the site, which will result in substantially reducing impacts to the local road network from haulage activities.

Bulk earthwork modelling by Barker Ryan Stewart estimates the amount of cut/fill required for the proposed DCP amendment, compared to the existing DCP, will save 510,000m<sup>3</sup> of fill imported to the site.

The following table provides a comparison of cut/fill required for the current DCP layout (including the north-eastern precinct and eastern sub-arterial) against the proposed DCP amendments.

### 8.3 Cumbalum Precinct B - Development Control Plan Amendment

Cut / Fill	Existing DCP Layout N/E Precinct with eastern Sub-Arterial (m <sup>3</sup> )	Proposed DCP Layout N/E Precinct – deleted eastern sub-arterial (m <sup>3</sup> )
Cut	320,000	770,000
Fill	890,000	830,000
Balance	570,000 (import)	60,000 (import)

The areas proposed for the bulk earthworks are shown on the Structure Plan in Figures 3 and 4 as Earthworks Investigation Area with blue cross-hatching in the vicinity of Scanlan Lane.

The DCP will require the proponents to demonstrate that these earthworks will not result in adverse ecological or hydrological changes. Geotechnical investigations will also be required as part of the DA process.

#### Other changes

##### *District and local parks*

The key changes proposed above result in consequential amendments to the development layout including location of parks as follows:

- Relocation of the indicative district park adjacent Ross Lane and access road in the north to closer to the local centre providing a linear park between the local centre and aboriginal cultural site,
- Change the indicative local park at the central Scanlan Lane intersection / new distributor/sub-arterial road to an indicative new district park located further to the north-east adjacent the environmental management area,
- New indicative district park in Stage 3 to the east of the proposed collector road.

The precise location of parks will be finalised as part of detailed design as the development progresses.

##### *Community halls*

The DCP and VPA require the provision of two Community Halls for the entire development with one located in the north-eastern precinct.

The proponent is proposing to relocate this multipurpose community hall from the district park adjacent Ross Lane and access road in the north to closer to the proposed new local centre location.

Council staff consider that one larger community hall will be sufficient to meet the needs of the ultimate community at CURA B and propose to amend the DCP accordingly.

The current minimum size of a community hall is also proposed to be increased from 250m<sup>2</sup> to 300m<sup>2</sup> gross floor area with an auditorium of at least 200m<sup>2</sup>.

### **8.3 Cumbalum Precinct B - Development Control Plan Amendment**

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#### *Impact on groundwater*

There is potential for the development to have a significant impact on groundwater over time, if it is not managed appropriately and impacts monitored. Specific provisions are proposed to address this.

#### *Mosquito buffer treatments*

The Structure Plan nominates mosquito buffer treatment areas and DCP provisions specify the areas will be provided along the eastern edge. The principle of locating buffers along the edge of the development footprint is supported.

However, it is proposed to remove the mapped areas on the Plans as these locations may not be appropriate and will be confirmed during more detailed site planning.

#### *Feral animal control fencing*

A new provision is proposed to require fencing suitable to restrict the movement of feral and domestic animals between the development and adjacent natural areas.

#### Summary of changes

In summary, the changes proposed to Chapter 3, Section 5.5 of the Ballina DCP are as follows:

- Relocation of the local centre to an area more centrally located to future housing
- Realignment of the road network to better respond to topography
- Relocation of stormwater retention basins
- Nomination of areas where significant bulk earthworks may occur
- Modify location and requirements for parks and community halls
- New provision regarding impacts of development on groundwater
  - Update of provisions to reflect contemporary planning and environmental management practices.

The proposed revised Structure Plan is provided in Figure 4 noting that this will be amended prior to public exhibition as detailed in this report.

Any amendments to the Structure Plan will also be reflected in all of the plans.

## 8.3 Cumbalum Precinct B - Development Control Plan Amendment

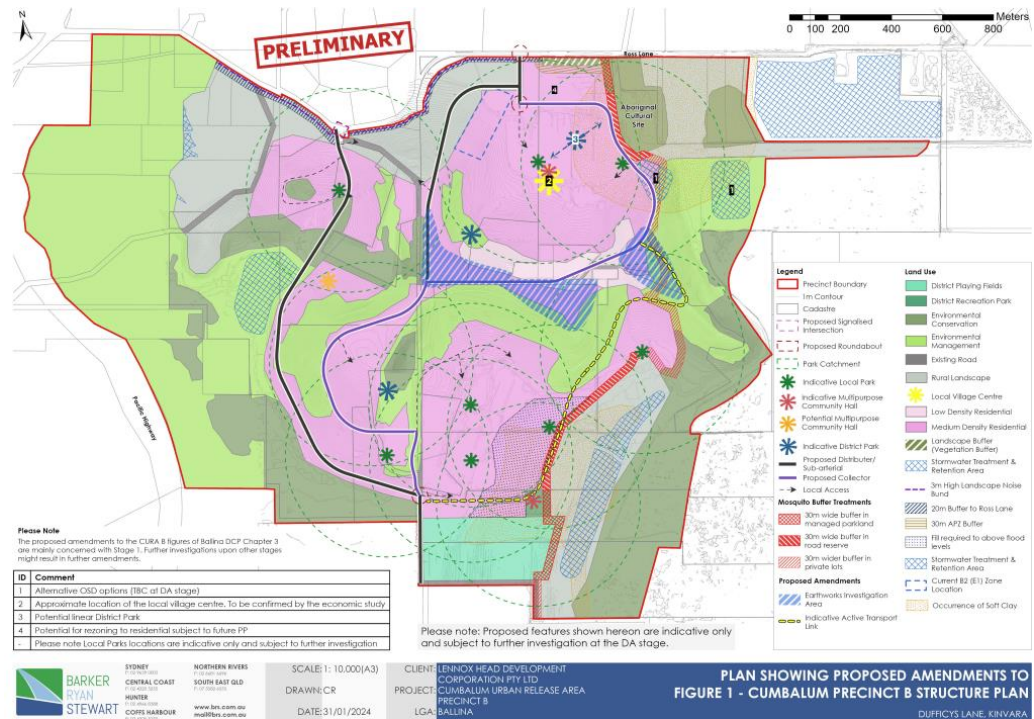


Figure 4: Proposed draft Structure Plan

### Delivery Program Strategy / Operational Plan Activity

The proposed amendments to the DCP align with the Delivery Program Strategy HE3.1 to *implement plans that balance the built environment with the natural environment.*

### Community Engagement Strategy

Should Council be supportive of the draft DCP amendments, the proposed amendments will be publicly exhibited for at least 28 days in accordance with Council's Community Participation Plan and the requirements of the *Environmental Planning and Assessment Act 1979* and associated regulation.

Independent of Council consultation the proponents plan to undertake developer led community consultation.

It is understood this is planned to commence during April 2024.

### Financial / Risk Considerations

The processing of this DCP amendment request can be accommodated within existing resources, including through the receipt of the DCP amendment fees from the proponent.

### Options

*Option 1 – Endorse the draft amendments to Section 5.5 of chapter 3 of Ballina DCP 2012 for public exhibition.*

### 8.3 Cumbalum Precinct B - Development Control Plan Amendment

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This option is recommended as the proposed amendments more appropriately reflect the significant topographical constraints in the north-eastern part of the site and the changes in layout, including centre location, will result in better planning outcomes.

Under this option staff will proceed to publicly exhibit the proposed amendments and provide a report to Council on any submissions and recommendations for adoption of the amendments.

Depending on the final DCP amendment outcomes, it may be necessary to amend the existing voluntary planning agreement or prepare a new one.

This will require further and more detailed consideration as planning for the development of the precinct progresses.

As a sub option, Council could also endorse the DCP for exhibition with specified amendments.

*Option 2 – Advise the proponents that the proposed amendments to chapter 3 of Ballina DCP 2012 are not supported.*

This option is not recommended.

The proponent could submit a development application without amendments to the DCP. However, staff consider that a DCP that more accurately reflects current intentions for the site and updated technical investigations will achieve better outcomes and provide greater transparency for the community.

*Option 3 – Defer a decision on the public exhibition of the proposed amendments*

Council could defer its decision on the proposed amendments to seek additional information. This could be in the form of a briefing.

If a briefing is preferred, it is suggested this would be best held post public exhibition of the draft amendments so that community feedback can be considered.

#### **RECOMMENDATION**

That Council endorses the draft amendments to Chapter 3 Section 5.5 of the Ballina Shire Development Control Plan 2012, as per Attachments 2 and 3 to this report, for public exhibition.

#### **Attachment(s)**

1. Current DCP Chapter 3 Section 5.5 [⇒](#)
2. Draft CURA B DCP Chapter 3 Section 5.5 [⇒](#)
3. Draft CURA B Maps (Proposed Amendments) [⇒](#)

## **8.4 Policy (Review) - Pesticide Use and Notification Plan - Submissions**

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### **8.4 Policy (Review) - Pesticide Use and Notification Plan - Submissions**

**Section** Open Spaces

**Objective** To outline submissions received on the review of the Pesticide Use Policy and the Pesticide Notification Plan and to seek Council's direction on adopting the policy and plan.

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#### **Background**

At the 23 November 2023 Ordinary meeting Council adopted a review of the Pesticide Use Policy and Pesticide Notification Plan and resolved to place it on exhibition for public feedback.

The revised policy and plan were placed on public exhibition with the closing date being 12 January 2024. Three submissions were received, copies of which are included as Attachment 1.

#### **Key Issues**

- Submission details

#### **Discussion**

The revised policy and plan documents were exhibited for a period of 28 days to allow for public comment. The exhibition was notified via Council's website and by way of community notices.

The amendments to the policy and plan were mainly minor based on legislative, public place and pesticide type reference updates. A copy of the exhibited policy is included as Attachment 2.

Three submissions were received. Two submissions supported the policy and one submission not supporting the policy. Two of the submissions (one for and one against) provided further information.

The key issues raised in the submissions include:

- Notification to residents when spraying on boundary fence lines
- State and Federal authority operations not applicable to the local policy and plan
- Organic certification with road spraying, pollination impacts, notification of spraying and changing weed control practices.

Two submissions requested more notifications when spraying on boundary fences or within 5kms from organic bee farms.

## **8.4 Policy (Review) - Pesticide Use and Notification Plan - Submissions**

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Council maintains a Roadside Pesticide Free Area register that allows farmers to register and remove their farm nature strips from chemical spraying maintenance. Those on the register maintain their nature strips including road infrastructure and weeds themselves.

Various State and Federal Government Authorities that include Rous County Council, Crown Lands, National Parks and Wildlife Service, Department of Primary Industries and the National Fire Ant Eradication Program are authorised to undertake chemical controls outside of Council's policy and plan requirements, within the shire.

In relation to provision of a 5km buffer for organic bee farms, this is not practical in Ballina Shire, with a diverse range of small urban and rural properties.

Council's rural road network requires road safety clearances and Council is also required to address biosecurity risks in accordance with the Biosecurity Act 2015 and the Roads Act 1993.

The Australian Pesticide and Veterinary Medicines Authority (APVMA) is the regulatory authority within Australia for chemical use and the NSW Environmental Protection Authority helps regulate rural industries.

Council is governed by the regulatory requirements for pesticide use set by these agencies, and the policy aligns to these requirements.

With respect to the suggestion of improved weed control measures without chemicals, the submission did not include practical solutions.

Council has previously examined other control measures, such as steam, but these have not been proven to be effective for the type and scale of uses and circumstances relevant to Council.

Council ensures that pesticides are applied to public places in a safe, responsible manner, minimising potential harm to the community and the environment.

Pesticides are effectively and economically used in public places when necessary and are reviewed regularly.

Based on the submissions that support the policy and plan and the concerns addressed in this report, the exhibited policy and plan is recommended for adoption and forwarding to the Environment Protection Authority.

### **Delivery Program Strategy / Operational Plan Activity**

The Pesticide usage and notifications broadly aligns with the following outcomes and strategies in the Delivery Program and Operational Plan.

CSP Outcome HE1 – We protect, respect, and enhance our natural environment.

- He1.1 Our planning considers past and predicted changes to the environment.
- HE1.2 Undertake and promote initiatives that improve our waterways.
- HE1.3 Beautify and protect our streetscapes and open spaces.

## **8.4 Policy (Review) - Pesticide Use and Notification Plan - Submissions**

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- HE3.2 Minimise negative impacts on the natural environment.

### **Community Engagement Strategy**

The draft policy was placed on public exhibition with a closing date of 12 January 2024. Three submissions were received and are addressed in this report.

### **Financial / Risk Considerations**

Council has a responsibility to ensure pesticide usage is justified, minimised and the community is duly notified of the usage.

Council also has responsibility as a landowner to control biosecurity risks in accordance with legislation.

### **Options**

Council may accept the exhibited policy and plan or further amend the policy and plan.

As the changes are minor based on legislative and reference updates, Option 1 is recommended.

Option 1 - Adopt the policy and plan as exhibited and notify the Environment Protection Authority.

Option 2 - Amend the policy and plan and reexhibit the changes to invite further public comment.

### **RECOMMENDATIONS**

1. That Council notes the contents of the submissions as per Attachment 1 to this report.
2. That Council confirms its adoption of the Pesticide Use Policy and Notification Plan, as exhibited.
3. That Council notify the Environment Protection Authority of its revised policy and plan.

### **Attachment(s)**

1. Pesticide Use Policy - Submissions [⇨](#)
2. Policy (Review) - Pesticide Use and Plan [⇨](#)



## **8.5 Policy (Review) - Cemetery Management and Natural Burials**

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### **8.5 Policy (Review) - Cemetery Management and Natural Burials**

**Section** Open Spaces

**Objective** To review the Cemetery Management Policy and respond to a resolution on Natural Burials.

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements.

The purpose of this report is to review the Cemetery Management policy.

Council first adopted this policy in March 2011.

The policy aims to provide guidance to Council and the community in the approach to operation and management of Ballina Shire cemeteries in accordance with legislative and licensing requirements.

The report also provides information regarding natural burials in response to Council's resolution to receive a report on this form of interment.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation
- Natural burial site in Ballina Shire

#### **Discussion**

This review of this policy identified only minor changes in relation to the following:

- Terminology and definition updates to align with legislation and industry standard.
- Burials on private property removed from this policy to avoid duplication.
- Fees and charges – Interment Services Levy.

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended.

A copy of the amended policy is included as Attachment 1.

#### *Natural burials*

Council has previously resolved to assess potential sites for a natural burial ground within Ballina Shire.

## **8.5 Policy (Review) - Cemetery Management and Natural Burials**

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There are a number of definitions of a natural burial, noting typically the purpose of a natural burial is to return the body to the earth in a manner that does not inhibit decomposition and allows the body to recycle naturally.

It is intended as an environmentally sustainable funeral practice that limits future hazards to public health and is in harmony with modern resource conservation activities.

There are currently three councils in NSW offering a natural or green burial, with Catholic Cemeteries + Crematoria also maintaining a natural burial ground in Western Sydney.

The council facilities offering a natural burial all operate in natural settings as part of an existing cemetery.

With respect to utilising existing cemeteries within Ballina Shire, both Alstonville and East Ballina cemeteries have existing master plans.

These plans do not currently cater for natural burial areas and there are a number of initial constraints identified that are not conducive to natural burial outcomes.

However, further consideration can be given to the possibility of natural burial options at the next review of these master plans, in consultation with the community.

Rous Cemetery currently does not have a master plan, with a size of approximately 4.5 ha, the site lends itself to catering for future cemetery capacity into the future.

The cemetery borders the David Scrub Nature Reserve (National Parks and Wildlife Service) and contains significant native vegetation on its boundaries.

Similarly Tintenbar Cemetery does not have a master plan. This site is comprised of some cleared and some forested areas of ecological value.

In relation to the Wardell Cemetery this site is not considered suitable having regard for cultural considerations and current site management priorities.

Consideration was also given to non-cemetery land and included an assessment against criteria provided by the Cemeteries & Crematoria NSW including but not limited to:

Location:

- zoning of the land permits use as a cemetery
- site not next to residential areas or highly visible from neighbouring areas
- site is accessible to cemetery visitors
- site is not in close proximity to a drinking water supply or a domestic water supply; and
- site is not affected by significant noise from, adjoining main roads, airports, industrial sites or similar.

## 8.5 Policy (Review) - Cemetery Management and Natural Burials

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### Physical characteristics:

- site does not have a high bushfire or flood risk
- site is not too steep
- site has sufficient soil depth to allow the top of a coffin to be not less than 900mm below the natural surface (not shallow rock or groundwater)
- site does not contain heritage sites, threatened species or heavy vegetation and
- site does not contain existing structures that cannot be used or are costly to remove.

Existing Land Use: Site doesn't have existing environmental or recreation values

Operations: Ground can be safely accessed and excavated for interment

There were no readily identifiable land parcels identified that are obviously suitable and practical for a natural burial ground. Essentially any sites to be further considered would need detailed analysis.

Further investigation should be weighed relative to current priorities for management of Council's cemeteries and demand for services.

Current priorities with regard to cemetery management include the implementation of existing master plans, with planned capital works scheduled this year to increase capacity of Alstonville Cemetery.

It is also the case that there is significant demand for traditional burials and ashes interment at the Alstonville and East Ballina cemeteries.

Council's resources are also engaged in ensuring compliance with significant State Government changes to cemetery licensing and operation.

Presently there is no demand evident for natural burials in Ballina Shire, noting Council has not had any requests for natural burials from the community or funeral directors.

Whilst current trends indicate continued growth in cremation over burials, it is recommended that any consideration for natural burials be considered as part of a future planned cemetery master plan review or via the development of a new master plan for Rous and/or Tintenbar cemeteries.

Master planning for Tintenbar and Rous cemeteries is not recommended at present due to relatively low demand for interment at these sites.

Allocation of resources for master planning of these sites is not a priority in the short term relative to other cemetery management activities.

The recommendation of this report is that Council take no further action at this time in relation to the provision of a natural burial ground.

## **8.5 Policy (Review) - Cemetery Management and Natural Burials**

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### *Fees and Charges – Interment Services Levy*

On 28 March 2024, The Hon. Stephen Kamper announced the NSW Government is proposing to implement a recommendation from IPART and the Statutory Review of the Cemeteries and Crematoria Act to expand the interment services levy.

From 1 July 2024 the levy would apply to all cemetery and crematoria operators, excluding operators of inactive cemeteries who will hold a Cemetery Operator (Caretaker) Licence (also known as Category 4 operators).

The levy is proposed to be \$41 per cremation, \$63 per ash interment and \$156 per bodily interment.

It is estimated that the levy would cost approximately \$20,000 per annum should Council absorb this cost within existing charges.

Council has previously given consideration to the draft fees and charges relating to Cemetery operations at the April Finance and Facilities Committee meeting resolving to exhibit the draft schedule of fees and charges.

It is recommended that Council includes a fee in its fees and charges for the new levy as this is effectively a charge being collected by Council with the revenue being used by a third party.

### **Delivery Program Strategy / Operational Plan Activity**

The report aligns with Delivery Program Strategy HE3.2 Minimise negative impacts on the natural environment, in addition to the operational plan activity to implement the Alstonville and East Ballina master plans.

### **Community Engagement Strategy**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment.

If any submissions are received, they can be reported back to Council however there will not be a need for any further report if there is no public comment.

In relation to natural burials, it is recommended that no further action be taken on this concept, at this time.

With respect to the foreshadowed levy, it is recommended that this be incorporated into the 2024/25 fees and charges for public exhibition.

### **Financial / Risk Considerations**

The NSW State Government cemetery levy would have a significant impact on the Council cemetery budget if the levy is not applied as a new fee.

## **8.5 Policy (Review) - Cemetery Management and Natural Burials**

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### **Options**

Council may accept or amend the proposed changes to the policy. The changes included are largely housekeeping and it is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, no further action is required.

In relation to natural burials the options are to take no further action or initiate a more detailed investigation of specified sites.

The recommendation is to take no further action, at this time.

For the State Government levy, the options are to absorb the fee within existing charges or to apply the fees as a new charge.

It is recommended that Council applies the fee as a new charge, and this be exhibited as part of the proposed 2024/25 fees and charges.

### **RECOMMENDATIONS**

1. That Council adopts the amended Cemetery Management Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.
3. That Council amend its draft fees and charges for 2024/25 to include the NSW levy for interments, as detailed in this report.
4. That having regard for demand, current cemetery planning and cemetery management priorities, Council take no further action in relation to the investigation of natural burial sites in Ballina Shire, at this time.

### **Attachment(s)**

1. Policy (Review) - Cemetery Management [⇒](#)

## 8.6 Policy (Review) - Weddings on Public Land

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### 8.6 Policy (Review) - Weddings on Public Land

<b>Section</b>	Open Spaces
<b>Objective</b>	To review the Weddings on Public Land policy

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Weddings on Public Land policy.

Council first adopted this policy in December 2007.

The policy provides options for the use of public land for wedding ceremonies while ensuring that public land is retained for passive and active recreation for residents and visitors.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation

#### **Discussion**

This review of this policy identified only minor changes as follows:

- Reference to the application process to incorporate an online application form
- Updates made to prohibited activities and conservation areas

The changes have been marked in yellow.

Otherwise the policy is still considered to be contemporary and reflects current legislation therefore no further changes are recommended. A copy of the amended policy is included as Attachment 1.

#### **Delivery Program Strategy / Operational Plan Activity**

The policy is consistent with Delivery Program strategies HE3.2 Minimise negative impacts on the natural environment and CC2.1 Create events and activities that promote interaction and education, as well as a sense of place.

#### **Community Engagement Strategy**

As the changes are only minor it is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received, they can be reported back to Council, however there will not be a need for any further report if there is no public comment.

## **8.6 Policy (Review) - Weddings on Public Land**

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### **Financial / Risk Considerations**

There are no specific legal, resource or financial implications associated with this report.

Council applies a wedding booking fee that is reviewed annually.

### **Options**

Council may accept or amend the proposed changes to the policy.

The changes are minor, and it is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, no further action is required.

### **RECOMMENDATIONS**

1. That Council adopts the amended Weddings on Public Land Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### **Attachment(s)**

1. Policy (Review) - Weddings on Public Land [⇒](#)

## 8.7 Menacing Dog Order - Review

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### 8.7 Menacing Dog Order - Review

**Section** Public and Environmental Health

**Objective** To determine whether or not a Menacing Dog Order made under section 34 of the Companion Animals Act 1998 should be revoked.

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#### **Background**

Council has received a request to revoke a menacing dog declaration that was made under the Companion Animals Act 1998 (the Act).

The declaration relates to an Australian Kelpie/Unknown cross named "Lilo". Lilo is identified on the NSW Companion Animal Register under microchip number 991003000593668.

The request for the declaration to be revoked has been made by Lilo's owners and is accompanied by supporting documentation.

In relation to a dog, the meaning of "menacing" is defined under Section 33A of the Act and is outlined below:

#### **33A Meaning of "menacing" and "menacing breed or kind of dog"**

- (1) For the purposes of this Act, a dog is **menacing** if it—
  - (a) has displayed unreasonable aggression towards a person or animal (other than vermin), or
  - (b) has, without provocation, attacked a person or animal (other than vermin) but without causing serious injury or death.
- (2) The regulations may declare a breed or kind of dog to be a **menacing breed or kind of dog**.
- (3) The Minister is not to recommend the making of a regulation under subsection (2) unless the Minister is satisfied that the breed or kind of dog concerned displays characteristics associated with menacing behaviour. A failure to comply with this subsection does not invalidate the regulation concerned.
- (4) For the purposes of this section, a **serious injury** includes any of the following—
  - (a) any injury that requires hospitalisation of a person or animal,
  - (b) a broken bone that requires medical or veterinary attention,
  - (c) a major laceration (that is, a wound caused by the tearing of body tissue or by multiple punctures caused by more than one bite from a dog) that requires medical or veterinary attention,
  - (d) a partial or total loss of sensation or function in a part of the body that requires medical or veterinary attention,
  - (e) any other injury requiring medical or veterinary attention, of the same level of seriousness as the injuries described in paragraphs (b)–(d),
  - (f) an injury that requires a person to have cosmetic surgery.

Lilo was declared to be a menacing dog by Council on 11 August 2022.

The declaration followed an incident on 20 July 2022 where Lilo displayed unreasonable aggression and attacked a person by way of biting a person's leg whilst they were playing basketball in a laneway in Ballina.



## 8.7 Menacing Dog Order - Review

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An owner of a menacing dog must comply with control requirements under Section 51 of the Act as summarised below.

- The dog must be desexed and registered (if it is not already desexed) within 28 days after it is declared to be a menacing dog.
- During any period that the menacing dog: (i) is on property on which the dog is ordinarily kept, and (ii) is not under the effective control of a person of or above the age of 18 years, the dog must be enclosed in a manner that is sufficient to restrain the dog and prevent a child from having access to the dog.
- The dog must be kept on lead and be muzzled. Whenever the menacing dog is outside property on which the dog is ordinarily kept, the dog: (i) must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the dog and that is being held by (or secured to) the person, and (ii) must be muzzled in a manner that is sufficient to prevent it from biting any person or animal.
- The dog must not at any time be in the sole charge of a person under the age of 18 years.
- One or more signs must be displayed on that property showing the words "Warning Dangerous Dog".
- A distinctive collar must be worn – The dog must always wear a collar of the kind prescribed by the regulations.
- The owner must notify the council of the area in which the dog is ordinarily kept of any changes of circumstances associated with the dog.

Approximately a month after the declaration was made Rangers observed Lilo being walked by her owners. The collar and muzzle did not meet the prescribed requirements in the declaration and the owner received a fine.

There have been no further attacks and or incidents recorded by Council since July 2022.

A representation from the dog owners requesting the declaration be revoked has now been submitted for Council's consideration.

Council can revoke the declaration under the terms of the Act as follows.

### **Section 39 Council can revoke declaration**

- (1) *The owner of a dog that has been declared a dangerous dog or a menacing dog under this Division can apply to the council of the area in which the dog is ordinarily kept (whether or not it is the council whose authorised officer made the declaration) for the declaration to be revoked.*
- (1A) *An application under subsection (1) cannot be made until after the period of 12 months following the date on which the dog was declared to be a dangerous dog or a menacing dog.*
- (2) *The council to which the application is made may revoke the declaration but only if satisfied that—*
  - (a) *it is appropriate to do so, and*
  - (b) *if the council determines that it is necessary—the dog has undergone appropriate behavioural training.*
- (2A) *In making a determination under subsection (2)(a) in relation to a menacing dog declaration, the council is to have regard to the nature and extent of any behavioural training that the dog has undergone.*

## 8.7 Menacing Dog Order - Review

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- (3) *The council must, as soon as practicable, give notice to the owner of the dog that the declaration has been revoked or that the council has refused to revoke the declaration.*

The current request is supported by submissions from Lilo's owner (Attachment 1), a behavioural assessment (Attachment 2) and a letter from Lilo's vet (Attachment 3).

The purpose of this report is to provide an outline of the circumstances and determine whether to revoke the declaration of Lilo as a menacing dog.

### Key Issues

- Public safety and public interest
- Potential injury should declaration be lifted and there is an incident
- Ongoing implications for the health of the dog and the owner in complying with the requirements of keeping a dog declared menacing

### Discussion

Menacing dog declarations impose mandatory requirements on the owners of such dogs.

The requirements are designed to protect public safety and the safety of other animals.

The requirements restrict the freedom of the dog and hence the lifestyle of the owner and the ability to enjoy the dog.

A menacing dog declaration can only be revoked after the expiration of a period of 12 months following the date on which the dog was declared to be menacing.

The owner of a dog cannot appeal to the Local Court against a refusal by a council to revoke a declaration that a dog is menacing.

This is different to circumstances where a dog is declared dangerous as an owner has a right of appeal in the local court within 28 days of the notice by the council that it has refused to revoke the declaration.

With respect to the current declaration, Council's Team Leader - Rangers has attended Lilo's home and conducted an assessment on her behaviour and interactions.

Council's Ranger is satisfied that Lilo is well trained and has a warm welcoming nature.

Lilo did not jump up through the visit and she also allowed Council's Ranger to put a hand in her mouth to remove the toy that they were playing with.

Lilo is pictured interacting with Council's Ranger.

## 8.7 Menacing Dog Order - Review

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It is evident that the owners have dedicated considerable time to Lilo's training as she has matured and completed appropriate formal training and behavioural assessment.

It was observed that Lilo is a loved and very well cared for family member.

Lilo lives with another dog and has regular interactions with children and other persons.

Video footage of Lilo out walking in public areas and interacting with people, in particular children, has been observed by Council officers.

Lilo demonstrates a mature and well-behaved nature in this footage.

At the time of the original incident Lilo was a two-and-a-half-year-old dog and had health related matters as a puppy and because of this was a very timid dog.

This may have contributed to her reaction when presented with the person and the basketball.

At the time of the dog attack Lilo's owner was present as she was being walked off leash in the laneway.

In terms of lifting the declaration, the letter from the owners outlines that the original incident was out of character and that as Lilo has grown older (currently four years old), and with appropriate training, she has become naturally calmer and mature.

After consideration of the owner's submission and supporting evidence and the observations of Council's Ranger, it is recommended that Council revoke the menacing dog declaration to support the ongoing health of Lilo and to enable her the ability to live a life with her family without the restrictions applied to a menacing dog.

In summary, it is recommended that the menacing dog declaration applying to Lilo be revoked having regard for the following:

## **8.7 Menacing Dog Order - Review**

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- Satisfactory behavioural assessments.
- Support of a qualified veterinary specialist.
- Council Rangers support for revoking the declaration.
- The statement from the owner of Lilo.

### **Delivery Program Strategy / Operational Plan Activity**

This matter relates to the following aspects of Council's Delivery Program and Operational Plan:

CC.1.1 Actively promote safety and wellbeing strategies.

CC1.1d Provide rapid responses to reported dog attacks.

CC1.2 Ensure relevant public health and safety standards are being met.

### **Community Engagement Strategy**

Consideration has been given to Council's Companion Animals Management Plan.

### **Financial / Risk Considerations**

The imposition of a menacing dog declaration can have a significant impact on the life of both a dog and its owner.

Menacing dogs are a risk to other animals and the public and the companion animal legislation was created in response to the number, frequency, and severity of dog attacks across the State.

Conversely, it is possible for dog behaviour to improve with appropriate training and sometimes age.

If Council is inclined to revoke the declaration, it is important to be satisfied that there is sufficient information to form the basis for this decision.

In this instance, the owners of Lilo have presented supporting evidence seeking to demonstrate that it is reasonable to revoke the menacing dog declaration that currently applies.

### **Options**

The options available to Council are to revoke the declaration, refuse the request or defer a decision to seek additional information.

Based on the available information, including that provided by the owners, the behavioural assessor, attending vet and Council's Ranger, the recommendation is to support the revocation of the declaration.

Under the recommended approach, there is a notification requirement under the Companion Animals Act 1998.

## **8.7 Menacing Dog Order - Review**

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Conformity with this notification requirement is embodied in the recommendations, along with a recommendation for the issue of educational information to Lilo's owner in connection with the revocation of the declaration.

### **RECOMMENDATIONS**

1. That based on the evidence presented in this report, Council endorses the revocation of the Menacing Dog Declaration dated 11 August 2022 issued to Lilo, as identified on the NSW Companion Animal Register under microchip No.991003000593668.
2. That the owner of Lilo and the Departmental Chief Executive for Local Government be advised that the declaration has been revoked in accordance with the requirements of Section 40 of the Companion Animals Act 1998.
3. That Council issue a letter to the owner of Lilo highlighting their responsibilities as a dog owner under the Act.

### **Attachment(s)**

1. Owners Request - Revocation of Menacing Declaration - Lilo [⇒](#)
2. Dog Behaviour Assessment - Lilo [⇒](#)
3. Vet Reference - Lilo [⇒](#)

## 8.8 Development Applications - Works in Progress - March 2024

### 8.8 Development Applications - Works in Progress - March 2024

This report provides an overview of current development application activity. The data for the current year is to the end of the month prior to the date of this report (i.e. to the end of March 2024). A list of development applications, not yet determined, that have been under assessment for a period of greater than 90 days is attached.

The 90 day threshold has been chosen as it provides a good indication of the volume of DAs that are in progress and overall workload. The data and reporting are continually being refined and there may be adjustments that result in alterations to the data sets as the reporting is improved.

#### Outstanding DAs by Month

The following tables for 2022, 2023 and 2024 provide an indication of the number of DAs (including modifications) under assessment with reference to various timeframes.

Assessment Timeframe	2022											
	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec
Less than 90 days	107	150	109	147	113	140	92	115	107	142	74	87
90 to 180 days	159	140	163	127	131	93	117	99	113	92	118	104
180 to 365 days	67	63	82	71	97	87	85	69	82	69	91	79
More than 365 days	23	23	31	29	34	30	41	34	37	36	50	48
<b>TOTAL</b>	<b>356</b>	<b>376</b>	<b>385</b>	<b>374</b>	<b>375</b>	<b>350</b>	<b>335</b>	<b>317</b>	<b>339</b>	<b>339</b>	<b>333</b>	<b>318</b>

Assessment Timeframe	2023											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Less than 90 days	61	91	73	101	72	95	93	93	66	77	38	56
90 to 180 days	114	97	83	73	93	70	69	49	69	56	74	70
180 to 365 days	86	79	103	91	84	63	70	61	63	53	72	64
More than 365 days	52	47	40	37	52	47	38	34	46	41	51	47
<b>TOTAL</b>	<b>313</b>	<b>314</b>	<b>299</b>	<b>302</b>	<b>301</b>	<b>275</b>	<b>270</b>	<b>237</b>	<b>244</b>	<b>227</b>	<b>235</b>	<b>237</b>

Assessment Timeframe	2024		
	Jan	Feb	Mar
Less than 90 days	58	63	66
90 to 180 days	58	52	42
180 to 365 days	74	58	57
More than 365 days	49	45	41
<b>TOTAL</b>	<b>239</b>	<b>218</b>	<b>206</b>

## 8.8 Development Applications - Works in Progress - March 2024

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The number of outstanding (lodged but not determined) DAs this financial year has seen a sustained reduction. Continuing to reduce this number of outstanding DAs remains an important focus.

### Northern Regional Planning Panel DAs under Assessment

The following table provides a summary of DAs classified as regionally significant development that are currently under assessment and will require reporting to the Northern Regional Planning Panel for determination.

DA No:	Applicant	Address	Proposal	Status
2023/537	Bullinah Aboriginal Health Service Limited	18,20 & 22 Grant Street and 109 Tamar Street, Ballina	Demolition of existing buildings and the construction of a two and three storey medical centre and related infrastructure works and landscaping	Application placed on public exhibition until 7 March 2024. Five submissions received, three by way of objection. Applicant currently addressing further information requested by council concerning traffic impacts. Panel have indicated they will require a briefing, but no date has been set.

### DA Determination Trend (Financial Year Comparison)

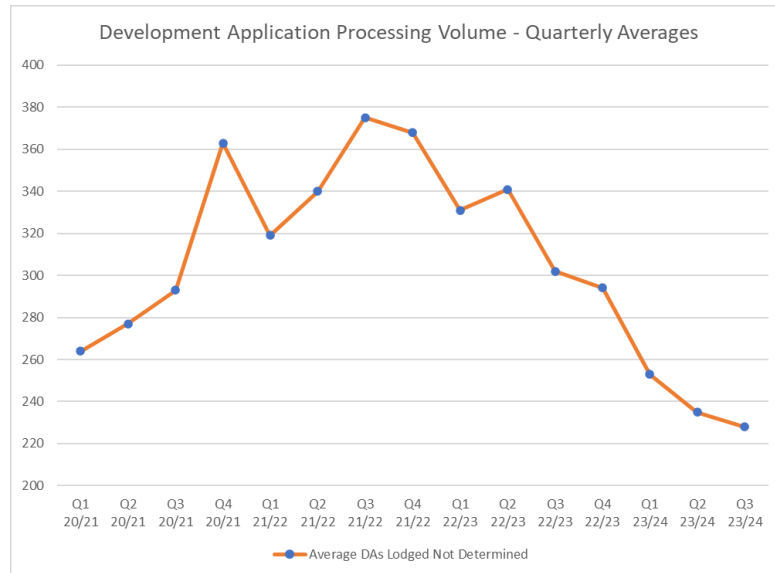
The following chart provides an overview of the volume of development applications lodged but not determined each quarter for the period July 2020 to the end of March 2024.

The quarterly figure represents the three monthly average of DAs lodged but not determined for that quarter.

Since the peak of applications lodged but not determined in March 2022 there has been a steady reduction in the volume of DAs under assessment at any one time, and a particularly noticeable decline across the last three quarters.

There is an ongoing challenge though in that there are continuing position vacancies for development assessment planners and building surveyors.

## 8.8 Development Applications - Works in Progress - March 2024



With respect to what is commonly referred to as the DA backlog, it is important to recognise that there will always be DAs under assessment.

In this regard it is not uncommon for councils like Ballina Shire to have more than 200 applications under assessment at any one time.

A focus at present is to achieve a further reduction in the number of applications under assessment at any one time, to complete assessments of DAs for alterations and additions to dwelling houses and construction of new dwelling houses and dual occupancies and to continue to progress the determination of older applications in the system.

Following the sustained period of high numbers of development applications and subsequent consents issued, there are also other development related services and responsibilities that flow on from when a DA assessment and determination has been completed.

For example, the Development Services Section has a range of responsibilities other than DA assessment including a range of post consent approvals including, subdivision works and subdivision certificate assessment, construction certificate assessment and critical stage building inspections, occupation certificate assessment, s.68 plumbing and drainage inspections and approvals and s.138 Roads Act approvals. The flow on from considerable development and construction activity requires development services staff to be reviewing the progress of development against conditions of consent and follow up enquiries from developers and members of the public.

In addition, there is continued growth in development compliance work, building information certificates, swimming pool barrier compliance inspections and certification, essential fire safety programs, provision of planning certificates, address of customer planning and building enquiries and formal pre-DA lodgement meetings.

There are also considerable ongoing changes to Council's systems and processes to align with the State Government's planning reform agenda including the operation of the NSW Planning Portal and numerous environmental planning instrument changes.

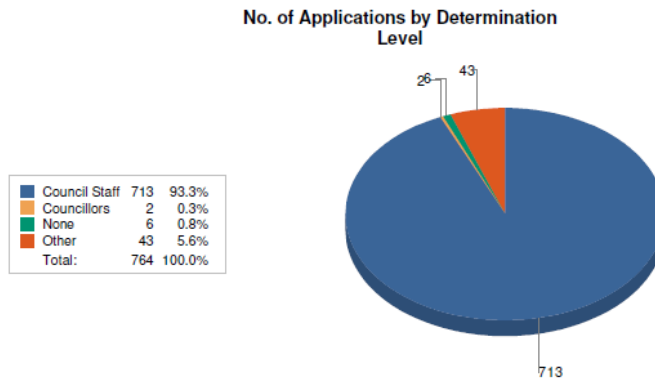


## 8.8 Development Applications - Works in Progress - March 2024

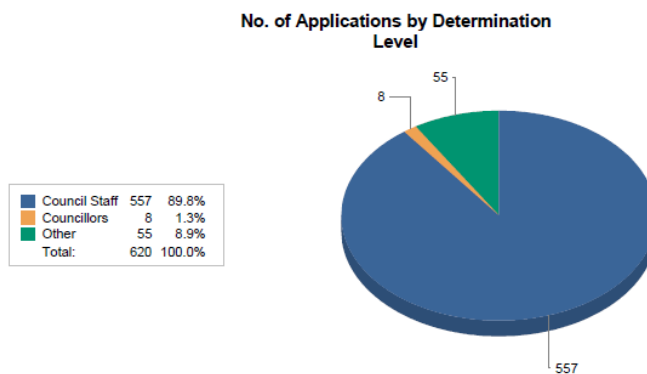
### Determination Method

The following pie charts provide an overview as to how applications are being determined. 'Other' denotes applications withdrawn. 'None' denotes applications rejected. In both cases, the applications do not progress to determination.

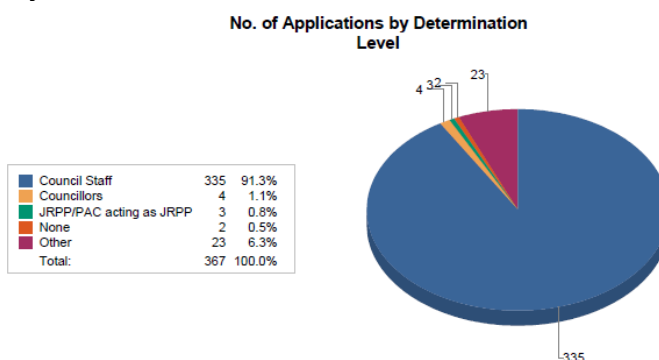
2021/2022



2022/2023



July 2023 to March 2024



In the July to March 2024 period, 98% of applications determined have been resolved by staff under delegation.

## 8.8 Development Applications - Works in Progress - March 2024

The target for the percentage of applications determined under delegated authority in the 2022/23 Delivery Program and Operational Plan is >95%.

Three applications were determined by the Northern Regional Planning Panel.

### Determination Outcome

In relation to the determination of DAs, most development applications are determined by way of approval.

In the financial year to date 97% of all applications determined by Council have been approved. In the previous two financial years the approval rate has been 98.2% (2022/23) and 98.9% (2021/22).

### Variations to Standards

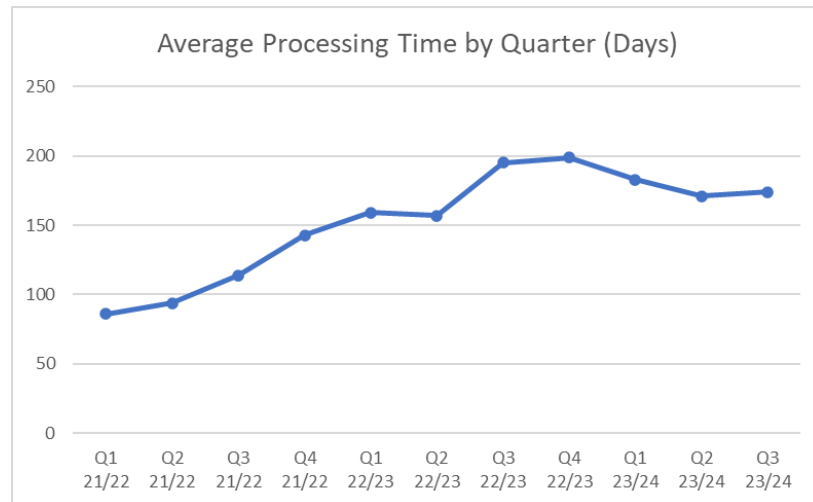
In accordance with Department of Planning reporting requirements, the following information is provided on development applications lodged prior to 1 November 2023 where a variation to a development standard of 10% or less (via the BLEP 1987 or BLEP 2012) has been approved by staff under delegated authority.

DA No.	Date Approved	Applicant	Proposal and Address	EPI and Land Zoning	Development Standard and Approved Variation	Justification for Variation
2022/146	9/2/2024	Newton Denny Chapelle	Demolition of existing buildings, vegetation management works involving the removal of four trees (one x Hells Weeping Fig, one x Tuckeroo and two x Golden Canes), and the subsequent Construction and Strata Title Subdivision of a Three Storey Mixed Use Development comprising a business premises (107m <sup>2</sup> on the ground floor) and shop-top housing (four x three bedroom apartments on Levels 1 and 2) and associated earthworks, car parking, vehicular access, stormwater management, landscaping and land dedication (57m <sup>2</sup> ) to widen Rayner Lane – 61 Ballina Street, Lennox Head	E1 Local Centre – BLEP 2012	Clause 4.3 Building Height of 9.0m  Max height of building is 9.8m representing an 8.89% variation.	The design incorporates a sloping roof and high set window in lieu of a flat roof. This design is compliant on the southern side but increases the roof height in the centre of the building to 9.8m. The height variation results in improved residential amenity for occupants of unit 4 by providing additional solar access to the interior of the unit. The building height variation does not impact on the amenity of adjacent properties or significantly alter the bulk and scale of the development. The overall design of the project is in keeping with the established and emerging character of the Lennox village centre.

### Processing Time

The following indicates average processing times for DAs by month. The chart below shows the trend for the last three financial years via the average monthly processing time per quarter.

## 8.8 Development Applications - Works in Progress - March 2024



Like the number of DAs undetermined, the average assessment time is a continued reflection of previous years' high DA volumes and complexity of incoming applications, ongoing management of numerous large development and subdivision projects and the determination of long outstanding DAs, which significantly contribute to average processing times.

A long-term downward trend is dependent on a sustained reduction in the number of DAs in the system that have been undetermined for a lengthy period.

The current resourcing strategy, including the engagement of external assistance, is aimed at reducing the volume of DAs held each month and in turn average processing times over a 12 to 18 month period. Being able to fill the current staff vacancies remains critical to this strategy.

### Total DA Volume

The next table provides an indication of the total volume of DAs annually. The figures are for DAs and section 4.55 modifications and do not include complying development certificates or other related applications for approvals. The volume of incoming DAs submitted has reduced throughout 2023 resulting in a 25% reduction in submitted applications for 2022/23 compared to 2021/22. This trend has continued in the current financial year.

Volume is not the only influence on the key assessment indicators. The type of applications received is also a factor and recently there have been enquiries and applications relating to substantial residential subdivisions, commercial, mixed use and multi storey developments. There is an ongoing trend indicating that it is likely Council will see a greater proportion of this type of development proposal during 2024.

	Year						
	17/18	18/19	19/20	20/21	21/22	22/23	23/24 YTD
No. of DAs Submitted	861	890	976	1,093	1,020	759	427
% Change	N/A	+3.4%	+9.7%	+12%	-7.2%	-25%	NA

### **Residential Subdivisions**

There is substantial ongoing work in relation to residential subdivisions, in particular planning and engineering resources are being applied to the subdivisions known as Aureus, Epiq, Lennox Rise, Banyan Hill, Ballina Heights, and private and Council land at Wollongbar.

These matters are at various stages of roll out with key areas of activity for Council relating to oversight of civil construction works, assessment of assets to be handed over to Council, monitoring of environmental and landscape works, monitoring of compliance with conditions of consent, processing of required applications (e.g. subdivision works certificates and subdivision certificates), responding to community enquiries and documentation of decisions.

Subdivision certificates for a number of these subdivisional estates are ongoing. Notably the final stage subdivision certificate for Aureus was released in mid-November.

In addition to the work associated with the roll out of these subdivisions and creation of registered lots, considerable Council resources are applied to the subsequent dwelling and dual occupancy approvals on these newly created allotments, building construction inspections and certification and plumbing and drainage approvals and inspections.

### **External Assessment Program**

Prior to the 2022/23 financial year, Council received some external assistance in the assessment of DAs. This included the Department of Planning's Regional Flying Squad.

Since the commencement of the 2022/23 financial year, planning consultants have been continuing to assist with the assessment of housing DAs. These consultants will continue with assessment work for Council (through Council engagements) to assist in reducing the volume of outstanding DAs and prioritising DAs for housing.

This is particularly important given the volume of applications with Council, the continued demand for housing supply and the difficulty in recruiting suitably qualified and experienced staff to fill existing vacancies.

In addition to these consultants, the Regional Housing Flying Squad announced a new program of assistance during 2022/23.

During the 2022/23 financial year 28 DAs were assigned to the flying squad for assessment. These applications are coordinated, reviewed and determined by Council, with the assessment being undertaken by the Regional Housing Flying Squad. Nine DAs have been assigned to date to the Flying Squad in 2023/24.

As an expansion of the external assistance program, Council has accessed an external resource program that LGNSW manages. The assessment of several housing related applications have been assigned under this program as well as some commercial projects.

## **8.8 Development Applications - Works in Progress - March 2024**

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Overall, 164 DAs have been determined and 72 are being assessed under Council's external assessment program.

### **RECOMMENDATIONS**

1. That Council notes the contents of the report on the status of outstanding development applications for March 2024.
2. That Council notes that there has been one application approved under delegation for variations to development standards of 10% or less for the period 1 October 2023 to 31 March 2024.

### **Attachment(s)**

1. Undetermined DAs (Under Assessment>90 Days) [⇨](#)

## 9.1 Investment Summary - 31 March 2024

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### 9. Corporate and Community Division Reports

#### 9.1 Investment Summary - 31 March 2024

<b>Section</b>	Financial Services
<b>Objective</b>	To provide details of Council's cash and investments portfolio breakup and performance

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#### **Background**

In accordance with the Local Government (General) Regulation 2021, the Responsible Accounting Officer of a council must provide a monthly investment report setting out the council's cash and investments.

The report is to be presented at the ordinary meeting, immediately following the end of the respective month.

This report has been prepared to confirm the cash and investments held as of 31 March 2024.

This report provides details of the total funds invested, where the investments are held and other related matters, to confirm that Council is complying with Council's Investment Policy and to ensure transparency.

The Responsible Accounting Officer certifies that the investments made during March 2024, have been made in accordance with the Act, the Regulations and Council's Investment Policy.

#### **Key Issues**

- Compliance with Investment Policy
- Return on investments

#### **Discussion**

Council's investments are in accordance with Council's Investment Policy, Section 625 of the Local Government Act 1993, and the Local Government (General) Regulation 2021.

A copy of the Investment Policy is available on Council's website.

The total balance of investments, as at 31 March 2024, was \$101.9m, compared to a balance of \$106.9m as at 29 February 2024.

Council's investments, as at 31 March 2024, were invested at a weighted average interest rate of 5.017%, which was 0.730% higher than the March average 90 Day Bank Bill Index (BBSW) of 4.287%.

## 9.1 Investment Summary - 31 March 2024

The balance of Council's Commonwealth Bank business account, as at 31 March 2024 was \$10,747,980, which compares to a balance of \$11,459,852 as at 29 February 2024.

Total combined cash and investments, as at 31 March 2024 was \$112,647,980 compared to \$118,359,852 as at 29 February 2024.

The net decrease of \$5.7m in cash and investments from February to March was due to capital expenditure payments, regular creditor payments and loan payments made with no major income received during the month.

TCorp's monthly Economic Commentary report for March 2024 can be viewed using the following link: [Monthly economic report – March 2024 \(nsw.gov.au\)](https://www.nsw.gov.au/monthly-economic-report)  
*Restricted Reserves*

The majority of Council's investment portfolio is restricted by legislation (external) and Council (internal) uses for specific purposes.

The following table reflects the portfolio percentages based on balances as at 30 June 2023.

Reserve Name	Restriction	% Portfolio
Wastewater (incl developer contributions)	External	18.18%
Water (incl developer contributions)	External	15.32%
Section 7.11 Developer Contributions	External	13.40%
Domestic Waste Management	External	1.49%
Bonds and Deposits	External	3.88%
Specific Purpose Unexpended Grants	External	8.74%
Commercial Properties	External	0.81%
Carry Forward Works	Internal	2.43%
Bypass Maintenance	Internal	2.72%
Management Plans / Studies	Internal	1.15%
Airport	Internal	7.48%
Landfill and Resource Management	Internal	1.60%
Employee Leave Entitlements	Internal	2.22%
Quarries	Internal	0.49%
Property	Internal	5.85%
Plant and Vehicle Replacement	Internal	1.14%
Road Works	Internal	2.00%
Open Spaces	Internal	1.61%
Miscellaneous Internal Reserves	Internal	2.45%
Community Facilities	Internal	0.62%
Financial Assistance Grant in Advance	Internal	4.21%
Unrestricted		2.21%
<b>Total</b>		<b>100.00%</b>

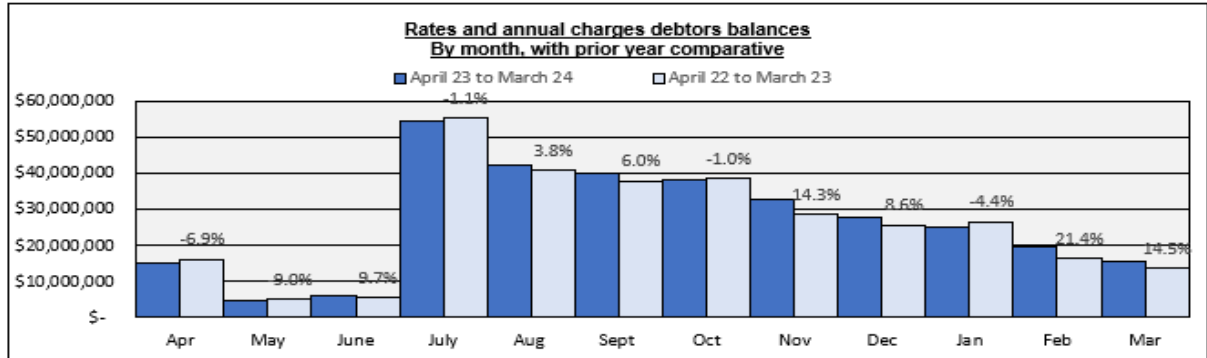
### *Debtors*

The following chart presents the month end balance of rates and annual charges debtors for the 12-month period ended 31 March 2024, and the percentage variance, in comparison to the prior year.

## 9.1 Investment Summary - 31 March 2024

The balance, as at 31 March 2024, was 14.5% higher than the balance as at 31 March 2023.

This increase in the balance is predominately due to the change in the timing of the water billing cycle, alongside balances outstanding increasing, which will continue to be monitored.



### A. Investments by Institution

Funds Invested With	Fossil Fuel Free / Green	Rating S&P	29 February \$'000	31 March \$'000	Quota %	% of Total
AMP Bank	No	BBB	6,000	6,000	20%	5.89%
Australian Unity	Yes	BBB+	5,000	5,000	20%	4.91%
Auswide Bank	Yes	BBB	7,000	7,000	20%	6.87%
Bank of Queensland	Yes	BBB+	6,000	6,000	20%	5.89%
BankVic	n/a	BBB+	5,000	5,000	20%	4.91%
Bendigo & Adelaide Bank	Yes	BBB+	1,000	1,000	20%	0.98%
Beyond Bank	Yes	BBB	2,000	2,000	20%	1.96%
Commonwealth Bank	No	AA-	10,000	10,000	20%	9.81%
Defence Bank Ltd	n/a	BBB	6,000	3,000	20%	2.94%
Great Southern Bank	Yes	BBB	4,000	4,000	20%	3.93%
IMB Bank	Yes	BBB	4,000	4,000	20%	3.93%
ING Bank (Australia) Ltd	No	A	17,000	17,000	20%	16.68%
Macquarie Bank	No	A+	1,600	1,600	20%	1.57%
MyState Bank Ltd	Yes	BBB+	2,000	2,000	20%	1.96%
National Australia Bank	No	AA-	15,000	12,000	20%	11.78%
Newcastle Perm Build Society	Yes	BBB	1,000	1,000	20%	0.98%
Suncorp Limited	Yes	A+	12,300	13,300	20%	13.05%
Westpac Bank Corp	No	AA-	2,000	2,000	20%	1.96%
<b>Total</b>			<b>106,900</b>	<b>101,900</b>		<b>100.0%</b>

Credit Rating Summary as per the Investment Policy	Maximum Allowed		Value 29 February \$'000	Value 31 March \$'000	% 29 February	% 31 March
	%	Value				
A- or Higher	100%	106,900	57,900	55,900	54.2%	54.9%
BBB	60%	64,200	49,000	46,000	45.8%	45.1%
<b>Total</b>			<b>106,900</b>	<b>101,900</b>	<b>100.0%</b>	<b>100.0%</b>



## 9.1 Investment Summary - 31 March 2024

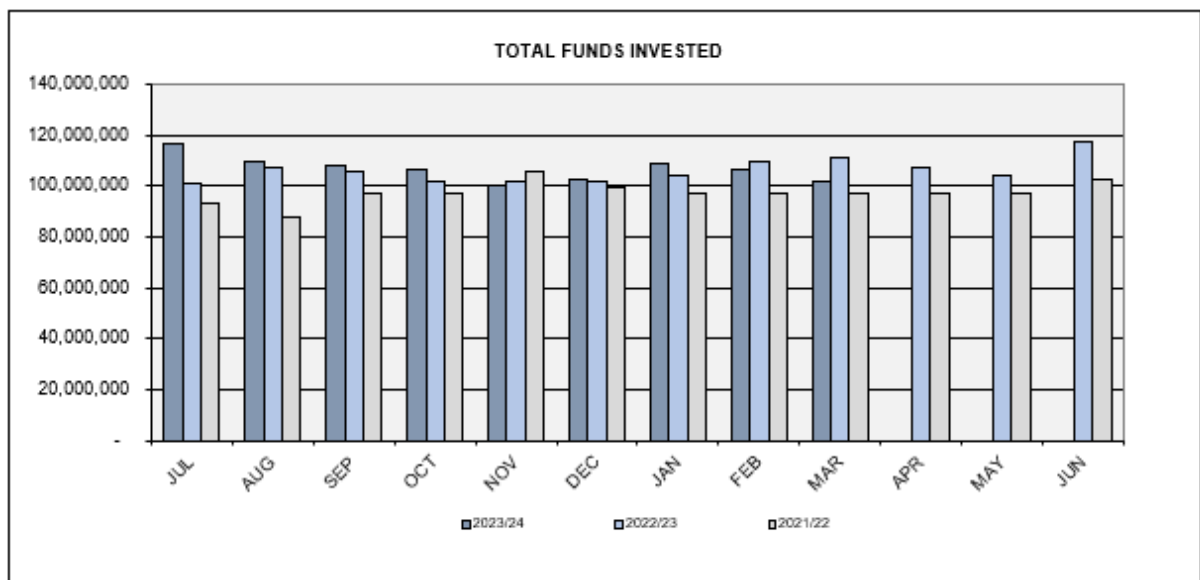
Liquidity Risk Parameters as per the Investment Policy	Maximum Allowed		Value 29 February \$'000	Value 31 March \$'000	%	%
	%	Value				
Term equal to 1 year or less	100%	101,900	99,000	93,000	92.6%	91.3%
Term > 1 year and < 3 years	40%	40,760	-	-	-	-
Term > 3 years	20%	20,380	7,900	8,900	7.4%	8.7%
<b>Total</b>			<b>106,900</b>	<b>101,900</b>	<b>100.0%</b>	<b>100.0%</b>

### B. Fossil Fuel Free and Green Investments

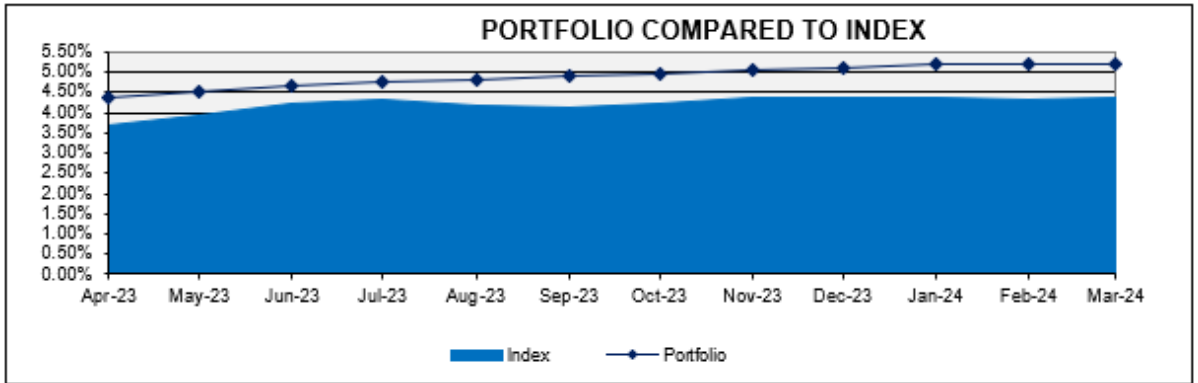
Environmental Classification	29 February		31 March	
	(\$'000)	(%)	(\$'000)	(%)
Fossil Fuel Aligned and Non-Green Investments	51,600	48.3	48,600	47.7
Fossil Fuel Free Investments	44,300	41.4	45,300	44.4
Green Investments	0	0.0	0	0.0
Not Classified	11,000	10.3	8,000	7.9
<b>Total</b>	<b>106,900</b>	<b>100.0</b>	<b>101,900</b>	<b>100.0</b>

In March 2024, nine investments matured totalling \$15.6m. Four of these investments were held with a fossil fuel aligned institution (\$8.6m) and two investments were held in not classified (\$3m). Seven new investments totalling \$10.6m were placed. Based on the available returns offered on the days that the investments were taken, four of these investments were with non-fossil fuel aligned institutions with a value of \$5.0m.

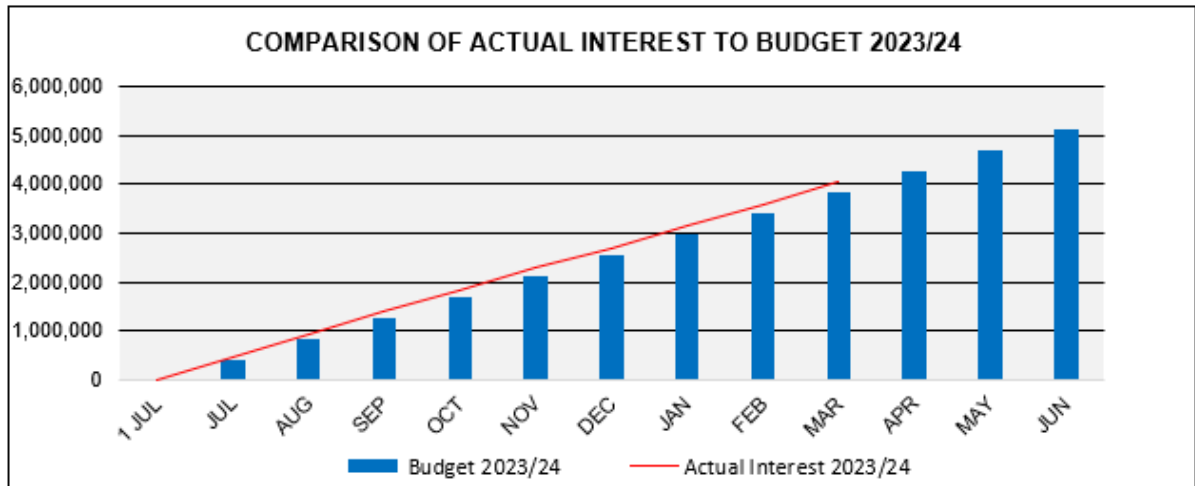
### C. Monthly Comparison of Total Funds Invested



**D. Comparison of Portfolio Investment Rate to 90 Day BBSW**



**E. Progressive Total of Interest Earned to Budget**



Interest for the year to date is trending reasonably when compared to the revised budget adopted as part of the December Quarterly Budget Review.

**F. Investments held as of 29 February 2024 and 31 March 2024**

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	29 February \$'000	31 March \$'000
24/02/21	Suncorp-Metway Limited	FRN	4.83%	24/02/26	1,300	1,300
04/03/21	Newcastle Permanent Bld Society	FRN	5.00%	04/03/26	1,000	1,000
18/06/21	Bendigo & Adelaide Bank	FRN	5.01%	18/06/26	1,000	1,000
29/06/23	AMP Bank	FRN	5.99%	29/06/26	1,000	1,000
14/09/23	Macquarie Bank Limited	FRN	5.19%	14/09/26	1,600	1,600
20/02/24	Westpac Banking Corporation	FRN	5.20%	20/02/29	2,000	2,000
19/03/24	Suncorp-Metway Limited	FRN	5.33%	19/03/29	-	1,000
28/02/23	Defence Bank Ltd	TD	5.00%	05/03/24	1,000	-
01/03/23	Defence Bank Ltd	TD	5.00%	12/03/24	2,000	-
01/03/23	National Australia Bank	TD	5.00%	12/03/24	3,000	-
03/03/23	Bank of Queensland	TD	5.06%	19/03/24	2,000	-
04/04/23	Auswide Bank	TD	4.90%	02/04/24	3,000	3,000

## 9.1 Investment Summary - 31 March 2024

PURCH DATE	ISSUER	TYPE	RATE	FINAL MATURITY DATE	29 February \$'000	31 March \$'000
04/04/23	Auswide Bank	TD	4.90%	10/04/24	1,000	1,000
23/05/23	Great Southern Bank	TD	5.11%	21/05/24	2,000	2,000
30/05/23	MyState Bank Ltd	TD	5.10%	28/05/24	2,000	2,000
31/05/23	Great Southern Bank	TD	4.70%	04/06/24	2,000	2,000
21/06/23	Australian Unity Bank	TD	5.60%	18/06/24	2,000	2,000
27/06/23	Commonwealth Bank of Australia	TD	5.50%	25/06/24	3,000	3,000
28/08/23	Commonwealth Bank of Australia	TD	5.41%	26/08/24	3,000	3,000
29/08/23	Commonwealth Bank of Australia	TD	5.41%	27/08/24	4,000	4,000
27/09/23	National Australia Bank	TD	5.32%	23/09/24	2,000	2,000
05/10/23	ING Bank (Australia) Ltd	TD	5.27%	01/10/24	4,000	4,000
17/10/23	ING Bank (Australia) Ltd	TD	5.20%	15/10/24	2,000	2,000
01/11/23	ING Bank (Australia) Ltd	TD	5.47%	29/10/24	3,000	3,000
08/11/23	ING Bank (Australia) Ltd	TD	5.48%	06/11/24	2,000	2,000
08/11/23	Australian Unity Bank	TD	5.48%	12/11/24	1,000	1,000
29/11/23	Auswide Bank	TD	5.50%	26/11/24	1,000	1,000
05/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
06/12/23	BankVic	TD	5.47%	03/12/24	2,000	2,000
12/12/23	Beyond Bank	TD	5.40%	10/12/24	2,000	2,000
19/12/23	AMP Bank	TD	5.25%	17/12/24	4,000	4,000
22/12/23	AMP Bank	TD	5.35%	19/12/24	1,000	1,000
02/01/24	ING Bank (Australia) Ltd	TD	5.32%	02/01/25	4,000	4,000
09/01/24	BankVic	TD	5.23%	07/01/25	1,000	1,000
09/01/24	Defence Bank Ltd	TD	5.23%	07/01/25	3,000	3,000
10/01/24	ING Bank (Australia) Ltd	TD	5.22%	08/01/25	2,000	2,000
18/01/24	Auswide Bank	TD	5.25%	15/01/25	2,000	2,000
23/01/24	National Australia Bank	TD	5.15%	23/01/25	7,000	7,000
29/01/24	Suncorp-Metway Limited	TD	5.20%	27/01/25	4,000	4,000
13/02/24	IMB Bank	TD	5.05%	13/08/24	4,000	4,000
14/02/24	Suncorp-Metway Limited	TD	5.08%	10/07/24	7,000	7,000
23/02/24	Bank of Queensland	TD	5.05%	04/09/24	4,000	4,000
23/02/24	National Australia Bank	TD	5.10%	19/11/24	3,000	3,000
28/02/24	Australian Unity Bank	TD	5.10%	27/02/25	2,000	2,000
13/03/24	Bank of Queensland	TD	5.17%	11/09/24	-	2,000
	<b>Total</b>				<b>106,900</b>	<b>101,900</b>
	TD=Term Deposit; FRN=Floating Rate Note					

### RECOMMENDATION

That Council notes the report of banking and investments for March 2024

### Attachment(s)

Nil

## 9.2 Donation - Australian Representation

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### 9.2 Donation - Australian Representation

**Section** Communications

**Objective** To consider two applications for funding under the Donations - Australian Representation Policy.

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#### **Background**

Council receives requests to financially support athletes who reside in the Ballina Shire if they are selected to represent Australia in their chosen field.

Council recently received two applications for financial support under the Donation - Australian Representation Policy. The applications are seeking assistance for travel expenses from two Ballina Shire residents who have been invited to represent Australia.

The first request is for the International Surfing Association (ISA) World Junior Championships to be held in El Salvador from 3 to 12 May 2024. The second request is for the 2024 Federation of International Touch (FIT) World Cup to be held in Nottingham, England from 13 to 22 July 2024.

The objective of the policy is to provide financial assistance to residents who represent Australia.

#### **Key Issues**

- Compliance with Council policy
- Equity in donation assistance

#### **Discussion**

Ocea Curtis is a resident of the Ballina Shire and selected to represent Australia in the Under 16's division in El Salvador in the International Surfing Association (ISA) World Junior Championships in May 2024 (refer Attachment 1).

Damien Hofmeyer is a resident of the Ballina Shire and has been selected to represent Australia in the Athelite Australian Emus Men's 50s masters team at the 2024 Federation of International Touch (FIT) World Cup to be held in Nottingham, England in July 2024 (refer Attachment 2).

Ocea and Damien are seeking Council's financial assistance under the Donations – Australian Representation Policy to support the expenses incurred to participate.

In terms of compliance with the policy, both applications comply with all aspects of the selection criteria including:

- confirmed residents of the Ballina Shire
- not previously received a donation this year
- assistance is for expenses incurred in representing Australia
- been selected by the nationally recognised federation.

## 9.2 Donation - Australian Representation

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Surfing Australia has confirmed all athletes are responsible for travel and accommodation costs.

Touch Football Australia has confirmed all athletes are responsible for an athlete levy of \$3,000 that covers event entry fees, equipment hire costs, ground transport and accommodation costs etc.; athletes are also responsible for their own airfare expenses.

### **Delivery Program Strategy / Operational Plan Activity**

CC3.2 - Provide young people with a range of leisure activities.

### **Community Engagement Strategy**

This matter has not been subject to community consultation, although the policy is exhibited for public comment when reviewed every four years.

### **Financial / Risk Considerations**

There is no specific budget allocation for the Donations - Australian Representation policy as the donation requests have historically been very infrequent. Any allocation is typically funded from the Community Donations budget. The 2024 figures including an update of 4.2% index on the previous year are:

- \$535 for overseas representation
- \$267 for representation within Australia

### **Options**

Council has an option to support the applications, or not support the applications. The two applications for Australian Representation meet all the criteria in the policy and it is recommended the requests be approved.

### **RECOMMENDATIONS**

1. That Council approves the donation for \$535 for Ocea Curtis towards travel expenses to compete at the International Surfing Association (ISA) World Junior Championships in May 2024 as per Council's Donations - Australian Representation Policy.
2. That Council approves the donation for \$535 for Damien Hofmeyer towards travel expenses to compete at the Federation of International Touch Football World Cup, Australian Emus Men's Team in July 2024 as per Council's Donations - Australian Representation Policy.

### **Attachment(s)**

1. Donations - Surfing Australia invite to Ocea Curtis - 2024 ISA World Junior Surfing Championships [⇨](#)
2. Donations - Damien Hofmeyer - Touch Football Australia - July 2024 [⇨](#)

### 9.3 Debt Recovery Options

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#### 9.3 Debt Recovery Options

<b>Section</b>	Financial Services
<b>Objective</b>	To obtain Council direction on further action of an outstanding sundry debtor.

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#### **Background**

Council has an outstanding debt originating from a compliance issue with debt collection steps commencing after the final time period for compliance expired in July 2016.

Efforts to date to recover this debt have been unsuccessful.

The confidential report later in this agenda seeks Council direction in respect to the options available to recover the debt.

#### **Key Issues**

- Compliance with Local Government (General) Regulations 2021
- Avenues available to collect the outstanding debt

#### **Discussion**

Details of the sundry debtor are included in the confidential report in this agenda.

The procedure for debt recovery in this matter has involved multiple meetings with the debtor and various debt recovery options through Executive Collections, Council's debt recovery agency, including court judgements.

The sundry debtor now also has a rates debt owing to Council.

The amount outstanding in relation to rates is a separate matter, which is being referred to Council's debt recovery agency for recovery action.

This amount is not part of the outstanding debt in the confidential report.

#### **Community Engagement Strategy**

Council has liaised with the debt collection agency as they worked through the process to recover the outstanding debt and associated costs.

It is a confidential matter not requiring community engagement.

#### **Financial / Risk Considerations**

There is a continued cost to Council in staff time liaising with the debt collection agency. A write-off of this sundry debtor amount owing is revenue foregone from the General Fund.

### **Options**

The options available to Council are set out in the confidential report.

In summary the options available are:

1. Bank Garnishee
2. Writ of Execution
3. Bankruptcy
4. Caveat over Property or Deed over Estate
5. Write off the debt

This report is for noting only, with the confidential report recommending a preferred option.

### **RECOMMENDATION**

That Council notes the contents of this report regarding the confidential report for debt recovery later in this agenda.

### **Attachment(s)**

Nil

## 9.4 Policy (Review) - Property Investment and Development

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### 9.4 Policy (Review) - Property Investment and Development

**Section** Governance

**Objective** To report on the results of the public exhibition of the Property Investment and Development Policy.

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#### **Background**

At the February 2024 Ordinary meeting, Council reviewed the Property Investment and Development Policy and adopted the following resolution:

1. *That Council adopts the Property Investment and Development Policy, as per Attachment 1 to this report.*
2. *That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.*

The draft policy was placed on public exhibition between 27 February and 27 March 2024 with one submission received.

#### **Key Issues**

- Submission details
- Objectives and risk parameters

#### **Discussion**

Council received one submission during the exhibition period (refer to Attachment 1) that seeks clarity on the term 'development potential'.

In response to the submission, the report seeks to amend the revised policy to clarify the wording.

The original policy wording was:

- Public land must be managed so as to maximise its usefulness (e.g. development potential) whilst at the same time minimising costs (e.g. maintenance).

As a result of the submission, the amended wording in the policy is:

- Council land, held for investment and development purposes, must be managed so as to maximise its usefulness (e.g. development potential) whilst at the same time minimising holding costs (e.g. maintenance).

Attachment 2 is the exhibited version of the policy, with the amendments highlighted in yellow.



## **9.4 Policy (Review) - Property Investment and Development**

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The words “public land” can often be confused with land held by Council classified as community land under the Local Government Act.

To avoid confusion, the term has changed to “council land”.

The policy is also seeking to further clarify the land’s intended purpose using the words “held for investment and development purposes”.

No further amendments to the policy are proposed.

### **Delivery Program Strategy / Operational Plan Activity**

Council’s commercial property activities generate significant revenues that support many of the Council services that operate at a net cost to the community, as outlined in the Delivery Program and Operational Plan.

### **Community Engagement Strategy**

The policy was advertised in accordance with Council’s Community Engagement Strategy.

### **Financial / Risk Considerations**

Commercial property development carries an element of financial risk and the risk matrix in the policy provides guidance for managing that risk.

### **Options**

Council may adopt the amended revised policy as presented or make changes to further improve the policy.

The recommendation is that the policy be adopted as presented.

As this has already been placed on public exhibition, no further action will be required.

### **RECOMMENDATION**

That Council adopts the amended Property Investment and Development Policy, as per Attachment 2 to this report.

### **Attachment(s)**

1. Submission - Policy (Review) Property Investment and Development [↗](#)
2. Policy (Review) - Property Investment and Development [↗](#)

## **9.5 Policy (Review) - Naming of Roads, Bridges and Public Places**

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### **9.5 Policy (Review) - Naming of Roads, Bridges and Public Places**

**Section** Information Services

**Objective** To review the Naming of Roads, Bridges and Public Places policy

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#### **Background**

All of Council's existing policies are progressively reviewed to ensure they reflect contemporary practices and legislative requirements. The purpose of this report is to review the Naming of Roads Bridges and Public Places policy.

Council first adopted this policy in April 2020.

The policy has been updated to align with the directives set out by the NSW Geographical Names Board (GNB) and NSW Roads Act 1993, as detailed in the NSW Addressing Policy and User Manual (APUM) to improve the property addressing system in NSW.

The purpose of this policy is to create accurate, consistent, and logical address information that meets the needs of the community, government, and business.

#### **Key Issues**

- Whether the policy meets the requirements of Council and current legislation.

#### **Discussion**

The policy name is proposed to now be 'Naming and Addressing Policy' to reflect the changes set out in the updated policy (refer to Attachment 1).

The removal of references to 'roads, bridges and public places', is due to the inclusion of property addressing requirements to ensure that addresses are consistently and accurately allocated according to a standard.

A copy of the amended policy is attached to the report with changes highlighted in yellow and deletions in red strikethrough.

Whilst the changes appear extensive, the content of the reviewed document largely remains unchanged but instead has been reworded and reordered to effectively incorporate requirements around property addressing as mentioned above.

This ensures the policy remains contemporary and reflects current legislation.

This policy still provides a framework for a Council-wide approach based on legislative obligations and addressing standards and provide accurate and timely addressing for all landowners and their services.

## **9.5 Policy (Review) - Naming of Roads, Bridges and Public Places**

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A separate policy exists for the “Naming of Council Owned Facilities”, which provides criteria in considering proposals for the naming of Council owned facilities in recognition or commemoration of individual persons.

### **Delivery Program Strategy / Operational Plan Activity**

The policy provides direction for the naming and addressing of roads, bridges and places, and incorporates property addressing requirements to ensure that addresses are consistently and accurately allocated according to a standard.

### **Community Engagement Strategy**

It is recommended that Council adopt the policy as presented, however the document will also be exhibited for public comment. If any submissions are received, they can be reported back to Council, however there will not be a need for any further report if there is no public comment.

### **Financial / Risk Considerations**

There is no financial consideration associated with this review, and it is considered that the amended policy will result in reduced risk through the application of approved addressing standards throughout the Shire.

### **Options**

Council may accept or amend the proposed changes to the policy.

It is recommended that the policy be adopted as presented.

It is also recommended that if no submissions are received from the exhibition process, no further action is required.

### **RECOMMENDATIONS**

1. That Council adopts the amended Naming and Addressing Policy, as per Attachment 1 to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received, then no further action is required.

### **Attachment(s)**

1. Policy (Review) - Naming and Addressing [⇒](#)

## 9.6 Capital Expenditure - 31 March 2024 Review

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### 9.6 Capital Expenditure - 31 March 2024 Review

**Section** Governance

**Objective** To provide an update on the delivery of the 2023/24 capital expenditure program.

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#### **Background**

Council has a significant capital expenditure program included in the annual Operational Plan.

Due to the magnitude of the program, status reports are provided on a quarterly basis.

The status report provides details on key milestones, along with a comparison between budget and actual expenditure.

This is the third report for 2023/24 and outlines work undertaken to 31 March 2024.

#### **Key Issues**

- Status of works

#### **Discussion**

To assist in understanding the delivery of the capital works program the attachments to this report provide information on the following items for the major capital projects:

- Total Project Value – As projects can be delivered over a few budget years, this column identifies the total project value. This may include expenditure from previous years or estimated expenditure for future years.
- Original 2023/24 Estimate - Represents the original 2023/24 estimate as per the adopted Operational Plan.
- Carry Forwards - Includes budgets carried forward from the previous financial year, approved by Council at the August 2023 Ordinary meeting.
- Approved Variations – Other variations approved by Council, either through a Quarterly Budget Review, or a separate report on a project.
- 2023/24 Estimate - Sum of the original estimate plus variations.
- Expended This Year - Expenditure to 31 March 2024 on a cash basis. This figure excludes commitments and accruals.
- % Expended - Percentage of budget expended to 31 March 2024 based on the cash expenditure figures.
- Milestone Dates - Target dates for the major milestones such as completion of design and / or planning approval, as well as construction commencement and completion dates.
- Status – Provides space for any additional comments.

## 9.6 Capital Expenditure - 31 March 2024 Review

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The attachments are split into the areas undertaking the works: i.e., Planning and Environmental Health Division (Open Spaces, Public and Environmental Health), Corporate and Community Division (Commercial Services, Facilities Management) and Civil Services Division (Asset Management, Emergency Services, Resource Recovery, Water, Wastewater and Engineering Works).

Points of interest are as follows.

### ***Open Spaces (attachment one)***

Lennox Park, Lennox Head – Works now complete.

Pop Denison, Car Park – This project has been deferred to 2024/25. The works are to be undertaken by Council's Engineering Works Section and due to overall workload, they are not able to undertake the works until the next financial year.

Sharpes Beach Master Plan – Separate report in this agenda to adopt the revised Master Plan to allow Council to obtain planning consent and then undertake the works.

Regatta Park and Kingsford Smith Crown Reserves – Revetments – Council accepted a tender during the quarter to allow this project to be completed by June 2024.

Sports Fields – Saunders Oval and Ballina Heights – Funding part deferred to allow the works to be completed when the winter sports season is finished. These two projects are fully grant funded.

### ***Public and Environmental Health (attachment one)***

Lake Ainsworth Coastal Management Plan – Part funding deferred to 2024/25 based on forecast cash flows.

### ***Commercial Services (attachment two)***

Airport - The Airport runway strengthening works have been completed. Part funding for the car park expansion is deferred to 2024/25 based on forecast cash flows.

Property – Council has accepted a tender for the design and approval of the proposed Wollongbar Residential Housing Project, with funding transferred from the Property Development Reserve for the estimated expenditure for the current financial year.

Council has also approved the installation of a new crane in the Council owned commercial property at Cessna Avenue, which is leased to Australian Steel Company (Operations) Pty. Ltd (typically referred to ARC).

This is being funded from the Wigmore Arcade Refurbishment Reserve and then repaid through increased lease payments.

### ***Facilities Management (attachment two)***

Fleet and Plant – Purchases are ahead of schedule with additional funds transferred from the plant reserve.

***Asset Management, Emergency Services and Resource Recovery (attachment three)***

Construction of the Lennox Head Rural Fire Service shed is largely complete, however final handover remains uncertain due to the building contractor (AGS Commercial Pty. Ltd) going into administration.

***Water and Wastewater Operations (attachments four and five)***

Water and Wastewater Operations – Water is tracking well with 72% of the budget expended and Wastewater at 65%.

Some projects are deferred to 2024/25 based on forecast cash flows.

***Engineering Works (attachment six)***

More than \$16m expended to date, out of a large program of \$28m.

Major projects completed include the Lennox Village Vision (LVV) Renewal, as well as the installation of traffic lights and associated road works at the intersection of Bentinck and Kerr Streets and Brunswick / Tweed and Kerr Streets.

As previously reported the LVV budget is significantly over-expended and two road projects totalling \$620,000 (River Drive and Beacon Road) are deferred to 2024/25 to compensate for this variation.

The significant overspend is not attributed to a single issue or major variations. Budgets for projects like these are typically created before detail designs are complete with final quantities and scope of works.

For this project there were several issues impacting on the over expenditure including material cost escalation and program changes.

The more significant issues were:

- Utility upgrades at both intersections were not in the original scope
- Cost escalation on landscaping in the current market conditions
- Additional paving completed on both sides of the Park Lane intersection
- Delays to the schedule and other work arounds to reduce the impacts on business meant additional mobilisations and traffic control
- The existing pavement was in poor condition meaning the reuse potential was limited. This increases the waste disposal costs, which were higher than originally forecast.

The budgets for the four laning of Fishery Creek Bridge, Tamarind Drive (Canal Bridge) and Evacuation Route Raising (new item) have been adjusted to reflect the forecast cash flows for the \$40m in funding Council received through the Northern Rivers Recovery and Resilience Grant. Funding details for that grant, and the associated works, were reported to the April 2024 Finance and Facilities Committee meeting.

Funding is also deferred for certain projects based on forecast cash flows, and there is a combination of budgets adjustments up and down to balance the funding required for various projects.

## 9.6 Capital Expenditure - 31 March 2024 Review

The major deferral is the Tamar Street Bus Shelter with the preferred tenderer now in administration (AGS Commercial Pty Ltd).

This has also placed \$400,000 from the Federal Government's Local Roads and Community Infrastructure (LRCI) Round 3 funding in jeopardy, as Council has not received approval to extend that grant fund beyond the 30 June 2024 expenditure date.

Representations are being made to the Federal Government Department responsible for the grant, with the preferred strategy now to seek approval to expend the grants funds on other eligible projects, that are due for completion during May and June 2024, such as playgrounds and footpaths.

If approved, the Council revenue funding allocated to those projects would then be reallocated to the Tamar Street Bus Shelter.

In respect to stormwater capital, funding is reallocated between several projects to allow a significant volume of work to be completed under the relining contract tender, which was recently accepted by Council.

### Delivery Program Strategy / Operational Plan Activity

The Operational Plan includes references to infrastructure delivery particularly:

*EL3.3h - Monitor capital works to ensure they are completed on time and within budget*

### Community Consultation Policy

This report is presented for public information. Many of the projects reflect feedback from community engagements.

### Financial / Risk Considerations

All the projects carry a degree of risk, financial and management, with risk management forming a major component of any construction works.

The following table provides the individual budget adjustments outlined in the attachments to this report.

**Table 1 – 31 March 2024 - Capital Expenditure – Budget Variations**

Item	Current Budget	Variation	Revised Budget	Comment
<b>Open Spaces – Playground Equipment and Embellishments</b>				
Lennox Park	1,371,000	35,000	1,406,000	Trans from Public Amenities
Pop Denison, Car Park	530,000	(530,000)	0	Defer to 2024/25
<b>Sub Total – Open Spaces</b>	<b>1,901,000</b>	<b>(495,000)</b>	<b>1,406,000</b>	
<b>Open Spaces – Sports Fields</b>				
Saunders Oval – Improvements	498,000	(490,000)	8,000	Defer to 2024/25
Ballina Heights – Improvements	98,000	(90,000)	8,000	Defer to 2024/25
<b>Sub Total – Sports Fields</b>	<b>596,000</b>	<b>(499,000)</b>	<b>16,000</b>	
<b>Open Spaces – Public Amenities</b>				

## 9.6 Capital Expenditure - 31 March 2024 Review

Item	Current Budget	Variation	Revised Budget	Comment
Lennox Park, Lennox Head	35,000	(35,000)	0	Transfer to Lennox Park
<b>Sub Total – Public Amenities</b>	<b>35,000</b>	<b>(35,000)</b>	<b>0</b>	
<b>Public and Environmental Health</b>				
Lake Ainsworth CMP	1,036,000	(500,000)	536,000	Defer to 2024/25
Teven Reserve	930,000	(500,000)	430,000	Defer to 2024/25
<b>Sub Total – Public and Env</b>	<b>1,966,000</b>	<b>(1,000,000)</b>	<b>966,000</b>	
<b>Commercial Services</b>				
Airport – Car Park	500,000	(435,000)	65,000	Defer to 2024/25
WUEA – Housing	0	500,000	500,000	Trans from Prop Dev Res
Flat Rock	130,000	(100,000)	30,000	Trans to Flat Rock Reserve
ARC Crane Installation	0	34,000	34,000	Trans from Wigmore Reserve
<b>Sub Total – Commercial Servs</b>	<b>630,000</b>	<b>(1,000)</b>	<b>629,000</b>	
<b>Facilities Management</b>				
BISC Improvements	65,000	38,000	103,000	Grant \$29K, \$9K revenue
Fleet and Plant	2,615,000	385,000	3,000,000	Transfer from Plant Reserve
<b>Sub Total – Facilities Mgmt</b>	<b>2,680,000</b>	<b>423,000</b>	<b>3,103,000</b>	
<b>Resource Recovery</b>				
Haulage and Drainage	470,000	100,000	570,000	Trans from LRM Reserve
<b>Sub Total – Res Recovery</b>	<b>470,000</b>	<b>100,000</b>	<b>570,000</b>	
<b>Water Operations</b>				
Main Renewals – Meters	75,000	40,000	115,000	Trans from Reserve
Main Renewals – Henderson	250,000	(170,000)	80,000	Trans to Reserve
Main Renewals – Alston Ave	450,000	75,000	525,000	Trans from Reserve
Main Renewals – Bentinck St	10,000	(5,000)	5,000	Transfer to Reserve
Main Renewals – Crane Street	165,000	(158,000)	7,000	Defer to 2024/25
Main Renewals - Hutley Drive	180,000	(30,000)	150,000	Trans to Reserve
Network Master Plan	0	5,000	5,000	Trans from Reserve
Reservoir – Lennox Head	75,000	(35,000)	40,000	Trans to Reserve
Reservoir – Pine Avenue	75,000	(25,000)	50,000	Trans to Reserve
Reservoir – Level Control Study	30,000	(10,000)	20,000	Trans to Reserve
<b>Sub Total – Water Operations</b>	<b>1,310,000</b>	<b>(313,000)</b>	<b>997,000</b>	
<b>Wastewater Operations</b>				
Main Renewals – Relining Works	300,000	30,000	330,000	Trans from Reserve
Recycled – Convair	10,000	10,000	20,000	Trans from Reserve
Recycled – Ferngrove	300,000	(150,000)	150,000	Defer to 2024/25
Pump Stations - Switchboard	900,000	(700,000)	200,000	Defer to 2024/25
Plant Changeovers	140,000	46,000	186,000	Trans from Reserve
Telemetry	10,000	10,000	20,000	Trans from Reserve
Fishery Creek Land Acquisition	23,000	14,000	37,000	Trans from Reserve
Treatment – Ballina Solar	660,000	(560,000)	100,000	Defer to 2024/25
Treatment – Lennox Solar	610,000	(610,000)	0	Defer to 2024/25
Treatment – Lennox Chlorine	500,000	(290,000)	210,000	Defer to 2024/25
<b>Sub Total – Wastewater Ops</b>	<b>3,453,000</b>	<b>(2,200,000)</b>	<b>1,253,000</b>	
<b>Engineering Works</b>				
<b>Urban Roads</b>				
Lennox Village Vision	372,000	620,000	992,000	Trans from River Drive Seg 70 and Beacon Road
River Street – Fishery Creek	1,000,000	(520,000)	480,000	Recovery Grant Adjustment
Tamarind Drive – Canal Bridge	20,000	460,000	480,000	Recovery Grant Adjustment
Barlows Road Connection	150,000	(50,000)	100,000	Trans to River St Stage 2



## 9.6 Capital Expenditure - 31 March 2024 Review

Item	Current Budget	Variation	Revised Budget	Comment
River Street – Stage 2	66,000	50,000	116,000	Trans from Barlows Roads
Bolding Street, Ballina	295,000	35,000	330,000	Trans from Russell Street
Russell Street, Ballina	350,000	(330,000)	20,000	Trans to Bolding, Waverley, Burnet, Houghlahans and River Drive
Waverley Place, Ballina	130,000	200,000	330,000	Trans from Russell Street
Burnet Street, Ballina	345,000	20,000	365,000	Trans from Russell Street
Evacuation Route Raising	0	720,000	720,000	Recovery Grant
<b>Rural Roads</b>				
Houghlahans Creek Road	130,000	50,000	180,000	Trans from Russell Street
River Drive Segment 70	338,000	(335,000)	3,000	Trans to Lennox Vision
Beacon Road	288,000	(285,000)	3,000	Trans to Lennox Vision
River Drive Segment 150	412,000	25,000	437,000	Trans from Russell Street
Regional Road Emer Repair	0	75,000	75,000	Trans from Operating Exps
<b>Footpaths and Shared Paths</b>				
Greenwood Place	78,000	20,000	98,000	Trans from Camoola Ave
Camoola Avenue	35,000	(20,000)	15,000	Trans to Greenwood Place
Montwood Drive – SCCF	179,000	(179,000)	0	Defer to 2024/25
Montwood Drive	170,000	(170,000)	0	Defer to 2024/25
<b>Ancillary</b>				
Tamar Street Bus Shelter	1,290,000	(1,000,000)	290,000	Defer to 2024/25
Ballina Heights Drive Median	100,000	50,000	150,000	Trans from Roads Contingency Reserve
<b>Stormwater</b>				
Urban Lanes	115,000	18,000	133,000	Trans from Stormwater Projects
Kerr Street	110,000	(110,000)	0	Defer to 2024/25
Tidal Gates	245,000	(200,000)	45,000	Defer \$138,000 to 2024/25 and \$62,000 transferred to Stormwater Projects
Moon Street	120,000	175,000	295,000	Trans from Stormwater Projects
Martin Street	120,000	(10,000)	110,000	Trans to Stormwater Projects
Ballina Fair	235,000	(225,000)	10,000	Trans to Stormwater Projects
Owen Street	80,000	48,000	128,000	Trans from Stormwater Projects
Quays Drive	180,000	(180,000)	0	Trans to Stormwater Projects
Lindsay Crescent	200,000	(200,000)	0	Defer to 2024/25
Temple Street	110,000	(110,000)	0	Trans to Stormwater Projects
Cherry Street	100,000	31,000	131,000	Trans from Stormwater Projects
Hindmarsh Street	16,000	87,000	103,000	Trans from Stormwater Projects
Greenfield Drive	230,000	(230,000)	0	Deferred
River and Brunswick Streets	0	69,000	69,000	Trans from Stormwater Projects
Alison Avenue	0	22,000	22,000	Trans from Stormwater Projects
Anderson Street	0	29,000	29,000	Trans from Stormwater Projects
John Sharpe Street	0	108,000	108,000	Trans from Stormwater Projects
<b>Sub Total – Eng Works</b>	<b>7,609,000</b>	<b>(1,242,000)</b>	<b>6,367,000</b>	

**Options**

This report provides an overview of the implementation of the 2023/24 capital expenditure program.

Cash expenditure to 31 March 2024 is \$46.5m on a cash basis, out of a total budget of \$80m, as per the following summary.

**Table 2 - Capital Works Summary by Section and Division  
31 December 2023 (\$'000)**

<b>Section Results</b>	<b>Budget (\$)</b>	<b>Expended (\$)</b>	<b>% Expended</b>
Open Spaces	8,392,200	4,484,300	69%
Public and Env Health	1,311,000	316,900	24%
Commercial Services	18,752,000	14,540,900	78%
Facilities Management	4,861,000	3,461,400	71%
Asset Mgmt and Emergency Services	2,258,000	1,689,000	75%
Resource Recovery	924,000	291,600	32%
Water Operations	4,057,000	2,935,500	72%
Wastewater Operations	11,462,000	2,347,300	20%
Engineering Works	28,458,100	16,442,500	58%
<b>Total</b>	<b>80,475,300</b>	<b>46,509,400</b>	<b>58%</b>
<b>Division Results</b>			
Planning and Environmental Health	9,703,200	4,801,200	49%
Civil Services	47,159,100	23,705,900	50%
Corporate and Community	23,613,000	18,002,300	76%
<b>Total</b>	<b>80,475,300</b>	<b>46,509,400</b>	<b>58%</b>

As in recent years, Council has a very large capital expenditure program to deliver, with grants continually being secured. Expenditure to 31 March 2024 of \$46.5m is above historical trends, with total expenditure in recent years being \$52m (2022/23), \$41m (2021/22) and \$31m (2020/21).

The recommendation is for noting the contents of this report, along with approving the budget variations, as per the attachments to this report, and as summarised in Table 1 in the report.

**RECOMMENDATIONS**

1. That Council notes the contents of this report regarding the 2023/24 capital expenditure review for the period ending 31 March 2024.
2. That Council approves the budget variations, as per Table 1 of this report.

**Attachment(s)**

1. Capital Expenditure - Planning and Environmental Health Division ➡
2. Capital Expenditure - Corporate and Community Division ➡
3. Capital Expenditure - Civil Services Division - Asset Management, Emergency Services and Resource Recovery ➡
4. Capital Expenditure - Civil Services Division - Water ➡
5. Capital Expenditure - Civil Services Division - Wastewater ➡
6. Capital Expenditure - Engineering Works ➡

## 9.7 Delivery Program and Operational Plan - 31 March 2024 Review

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### 9.7 Delivery Program and Operational Plan - 31 March 2024 Review

**Section** Governance

**Objective** To complete a review of the 2023/24 to 2026/27 Delivery Program and Operational Plan

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#### **Background**

Section 404 (5) of the Local Government Act states as follows:

#### ***Delivery Program***

*"The general manager must ensure that regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months".*

The preferred approach is to provide quarterly reports to ensure the information is timely.

This report represents the third review of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan, with the information based on the nine month period to 31 March 2024. The review is included as Attachment 1 to this report.

The attachment provides an overview of all the actions and indicators included in the Delivery Program and Operational Plan (DPOP), with comments provided by the Director and / or Section Manager. The DPOP is available on Council's website and is also accessible on the Councillor iPads.

#### **Key Issues**

- Outcomes achieved

#### **Discussion**

The DPOP is the corporate document that outlines Council's goals and priorities, with a four-year forecast for the Delivery Program and a one-year action list for the Operational Plan.

The attachment provides an update on all the adopted actions and indicators in the DPOP. The attachment has two main sections:

- Program Actions – Outlines the status of all the adopted actions in the Operational Plan.
- Service Delivery Indicators – Measures actual results as compared to the adopted indicators in the Operational Plan.

## 9.7 Delivery Program and Operational Plan - 31 March 2024 Review

All items are marked with a green (on track for this financial year) amber (behind schedule or trending below target / benchmark) or red (off track or well below target / benchmark) traffic light.

There are 99 program actions listed in the Operational Plan and the following two tables provide an overview of the status of the actions on a number and percentage basis.

### Program Actions Summary - By Division and Number

Division / Status	C&C	Civil	PEH	Total
Green	20	23	46	89
Amber	3	2	3	8
Red	0	0	2	2
<b>Total</b>	<b>23</b>	<b>25</b>	<b>51</b>	<b>99</b>

### Program Actions Summary - By Division and Percentage

Division / Status	C&C	Civil	PEH	Total
Green	87	92	90	90
Amber	13	8	6	8
Red	0	0	4	2
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

Many items remain on track and items of interest in the attachment include:

- Progress availability of land at the Russellton Industrial Estate and Southern Cross Industrial Estate (page 2) – Works now well advanced at the Russellton Estate and almost complete at Boeing Avenue.
- Progress development of Wollongbar Residential Land Holding (page 2) – Council accepted a tender, during the quarter, for consultancy services for the residential development on this Council owned land.
- Participate in and leverage opportunities to market the Ballina Coast and Hinterland and Implement Destination Management Plan (pages 3 and 4) – Key findings from the latest Visitation Report for Ballina, covering the period up to December 2023 reflected a significant rebound in both domestic and international tourism.

Highlights included:

- Overall Growth: 17% increase in total visitation, reaching approximately 976,000 visitors by year-end.
- Domestic Tourism: Domestic overnight visitors surged by 35%, with 424,000 visitors spending 1.2 million nights in Ballina, showcasing a notable recovery and an average stay of 2.9 nights
- International Tourism: International visitors returned to near pre-pandemic levels with 12,000 visitors

## 9.7 Delivery Program and Operational Plan - 31 March 2024 Review

The full report can be viewed at the following link:

[Microsoft Word - Visitation Report Ballina Year end Dec 2023 \(discoverballina.com.au\)](https://discoverballina.com.au/Microsoft_Word_-_Visitation_Report_Ballina_Year_end_Dec_2023)

- Seek approval for a non-compulsory dividend from Wastewater (page 5) – For the first time, Council is trying to secure a non-compulsory dividend from the Wastewater Fund to fund additional stormwater works.

This is reliant on approval from the State Government (WaterNSW) and there is a risk that the dividend may not be secured this financial year, to allow the funding to be applied in 2024/25. This will be pursued until the dividend is approved, with feedback to date from the State Government remaining positive that the dividend can be approved.

- Deliver Lennox Head Town Centre Village Renewal (page 11) – Lennox Park now open and operational, which largely means the Lennox Village Vision project is complete.
- Implement Healthy Waterways Strategy, Implement Shaws Bay Coastal Management Plan, Implement Lake Ainsworth Coastal Management Plan, Complete and Implement North Creek Coastal Management Plan (pages 17-18) – This program continues to be a success with numerous works completed or underway including 3,800 trees being planted on Council owned land on Houghlahans Creek.
- Prepare Management Plan for Hampton Park (page 21) – The public consultation phase for this management plan has now been completed with a large number of submissions received. The draft plan will now be presented to Council for finalisation.

In respect to Service Delivery, there are a total of 90 indicators identified in the Operational Plan.

The following two tables provide an overview of how the indicators are tracking against the benchmark, again on a number and percentage basis.

### Service Indicators Summary - By Division and Number

Division / Status	C&C	Civil	PEH	Total
Green	32	16	21	69
Amber	7	5	3	15
Red	3	1	2	6
<b>Total</b>	<b>42</b>	<b>22</b>	<b>26</b>	<b>90</b>

### Service Delivery Indicators Summary - By Percentage

Division / Status	C&C	Civil	PEH	Total
Green	76	73	81	77
Amber	17	23	12	17
Red	7	5	8	7
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

## **9.7 Delivery Program and Operational Plan - 31 March 2024 Review**

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The primary purpose of each indicator is to provide a guide, as to how a service may be tracking compared to previous years, or against a preferred benchmark, with some indicators beyond the control of Council. Items of note include:

- Number of passengers for Airport (page 25) – Annualised figure is slightly under 630,000 and there has been a small reduction in passenger numbers during the past 12 months.
- Community Facilities (pages 26-27) – Usage levels for several facilities continue to trend lower than 2022/23, with refinements to systems, equipment and marketing being undertaken to increase overall numbers.
- Development Services (pages 36-37) – Processing times remain below the preferred targets, with some recent improvements and the number of applications under assessment trending downwards. A comprehensive report on the work in progress for the development assessment program is included earlier in this agenda.

### **Delivery Program Strategy / Operational Plan Activity**

This report provides a status report on all the adopted activities in the 2023/24 Operational Plan and 2023/24 to 2026/27 Delivery Program.

### **Community Consultation Policy**

This report provides the community with information on how Council is performing in respect to the Delivery Program and Operational Plan.

### **Financial / Risk Considerations**

The Delivery Program and Operational Plan identify the allocation of Council's resources and finances.

### **Options**

The report is for noting with the information highlighting the many activities undertaken by Council.

### **RECOMMENDATION**

That Council notes the contents of this review on the implementation of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan, for the nine month period ending 31 March 2024.

### **Attachment(s)**

1. Delivery Program and Operational Plan - 31 March 2024 Review [⇨](#)

## **10.1 Tamar Street Bus Interchange Project - Procurement**

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### **10. Civil Services Division Reports**

#### **10.1 Tamar Street Bus Interchange Project - Procurement**

<b>Section</b>	Project Management Office
<b>Objective</b>	To approve the procurement method for the Tamar Street Bus Interchange Upgrade Project.

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#### **Background**

Tamar Street Bus Interchange is an important community asset which is located in the CBD of Ballina. The interchange plays a key role in facilitating the movement of public transport through Ballina, from adjoining townships and businesses.

Proposed works to upgrade the bus interchange are partly funded by the Federal Government's Local Roads and Community Infrastructure Program Phase 3 and Phase 4 Fund.

At the February 2024 Council Ordinary meeting, Council accepted AGS Commercial's tender for the Tamar Street Bus Interchange Upgrade. Subsequently, in March, AGS Commercial became insolvent prior to commencing at site.

Council now needs to engage a new contractor to deliver the works and this report facilitates the most appropriate procurement process in the circumstances.

#### **Key Issues**

- Engagement of a replacement contractor
- Grant funding conditions

#### **Discussion**

Considering AGS Commercial can no longer undertake the works, staff have commenced negotiations with suitable contractors to replace AGS Commercial. These contractors were not contractors that previously tendered for the works because the pricing in the previous tenders significantly exceeded the AGS Commercial pricing, which was reasonably close to the project budget.

It is preferred to enter a new contract as quickly as possible because the works are grant funded with deadline conditions, to avoid cost escalation, and community information was published to advise of the commencement of the works.

Applications are being made to the funding agency to reallocate the grant funds to other existing Council projects to reduce the risk of not complying with the grant deadlines. However it is still prudent to procure the works as quickly as possible.

## 10.1 Tamar Street Bus Interchange Project - Procurement

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As the work has previously been tendered and we understand the market response, it is preferred to avoid the time and cost of re-tendering.

Also, by using direct negotiation we aim to find a contractor who is immediately available.

This requires a Council resolution in accordance with section 55 of the *Local Government Act* 1993. Section 55(1) says a Council must invite tenders before entering into a contract for works that will cost more than \$250,000.

However, section 55(3) creates certain exemptions to this requirement including subsection (i) which is an exemption for a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reason for the decision) that a satisfactory result would not be achieved by inviting tenders.

The recommendation to this report is to make a resolution that complies with section 55(3)(i) of the Act.

### **Delivery Program Strategy / Operational Plan Activity**

This project is included in Council's current Delivery Program and Operational Plan (DPOP) Capital Expenditure – Other Road Infrastructure.

### **Community Engagement Strategy**

Community Engagement has occurred for this project including a letter drops to businesses, Community Connect and website updates.

### **Financial / Risk Considerations**

Funding remaining for the project, excluding expenditure in previous years is \$1,510,000 ex GST, sourced as follows:

<b>Funding Source</b>	<b>Amount (\$)</b>
LRCI - Phase 3	400,000
LRCI - Phase 4	610,000
Community Infrastructure Reserve	290,000
CPTIGS Scheme 23/24	210,000
<b>Total Funds Ex GST</b>	<b>1,510,000</b>

The CPTIGS (Country Passenger Transport Infrastructure Grant Scheme) is a recently approved grant which can now be added to the project budget.

If the procurement process identifies additional funds are required, this will be reported to Council in the next quarterly capital financial review or capital works review report.

### **Options**

Council can either accept the recommendation or chose to re-tender the work.



## 10.1 Tamar Street Bus Interchange Project - Procurement

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Re-tender is not preferred because of the cost and inconvenience of delay, ensuring we comply with grant conditions (if applications to vary these are unsuccessful) and direct negotiation creates more certainty in respect of managing the re-commencement of the project at a time preferred by Council. This is because there is a risk price competitive contractors may not make submissions in response to a new tender process.

Approval to increase the budget by the CPTIGS grant is also included in the recommendations.

### RECOMMENDATIONS

1. That Council, in accordance with section 55(3)(i) of the *Local Government Act* 1993, decides not to tender for the Tamar Street Bus Interchange Upgrade Project due to the extenuating circumstances of the previous contractor becoming insolvent after being awarded a contract by Council for the work.
2. The reasons for the decision in point one above include:
  - a. The works are urgent due to funding deed conditions
  - b. The works were previously tendered and a market price guide established
  - c. Tendering will involve additional time and cost, including the risk of cost escalation
  - d. Direct negotiation reduces the risk that suitable contractors may not respond to the invitation to tender
  - e. Direct negotiation enables Council to look for a contractor available for immediate commencement
  - f. Information to the community has been published announcing the commencement of the works
3. That Council increase the budget for this project by \$210,000 to recognise the 2023/24 Country Passenger Transport Infrastructure Grant Scheme funding now approved.

### Attachment(s)

Nil

### 10.2 Fishery Creek and Canal Bridge Duplication - Procurement

<b>Section</b>	Project Management Office
<b>Objective</b>	For Council to endorse a procurement strategy for the Fishery Creek Bridge and Canal Bridge Duplication Project.

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#### **Background**

On 28 July 2023 there was a joint announcement by the Federal and NSW Governments for grant funding under the Northern Rivers Recovery and Resilience Program. The announcement explains funding of \$100 million will be allocated to 20 new projects in the Northern Rivers Region. One of the projects included in the announcement was Evacuation Route Raising for Ballina Shire.

Due to the size of the grant, the full allocation of funds was subject to further review by the Government in respect of the feasibility and risks associated with the project. The risks that have been reviewed with the funding agency include managing traffic disruptions, access to services and amenities during construction, technical project risks such as pricing, environmental, geotechnical and other engineering elements.

In January 2024 the review of project risks and feasibility was successfully concluded with the funding agencies, enabling the Funding Deed to be executed. Council has secured \$40m in grant funding through the State Government's Northern Rivers Recovery and Resilience (NRRR) Program (Tranche 2). The total Funding Deed is for \$40m. A portion of this (\$600,000) is quarantined for NSW Reconstruction Authority to administer the program.

The project description for this funding is as follows:

Evacuation Route Raising – Ballina Island and West Ballina - This project involves raising a portion of the road on Ballina Island and West Ballina, duplicating the existing Fishery Creek Bridge and Canal Bridge. Project deliverables will improve evacuation options for residents during flooding events and reduce exposure to risk caused by the low-lying topography of Ballina and its proximity to riverine, creek and coastal waterways.

There are four main projects to be delivered with this funding being:

1. Fishery Creek Bridge Duplication (including approaches)
2. Canal Bridge Duplication and Tamarind Drive approaches (Kerr Street to Ballina Gardens Holiday Village)
3. North Creek Road Four Laning – Tamarind Drive to Southern Cross Drive
4. Evacuation Route Raising (improvements to primarily River Street to reduce flooding impacts).

## **10.2 Fishery Creek and Canal Bridge Duplication - Procurement**

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The funding arrangements was reported to the April 2024 Finance and Facilities Committee meeting.

This report is focused on the procurement for the bridge duplication projects.

### **Key Issues**

- Procurement options for the project
- Timing and costs effectiveness

### **Discussion**

For a project of this scale, careful consideration is required in respect of the procurement options for the design, development and delivery of the project. This is required to ensure successful delivery, meet time constraints, provide value for money and appropriate risk allocation.

Significant development work for these projects has been undertaken over the last few years. This has involved a number of technical studies to develop advanced design concepts and prepare environmental planning assessment documentation.

Recently a significant tender was awarded for undertaking further geotechnical assessment and the results of this work will inform the final design for the substructure. The construction of a bridge in Ballina's soft soils leads to expensive substructures which are typically piles.

Preparing the design to this level, rather than a design and construct, is preferred from a risk management perspective as it means more information is available to prospective tenderers before they are price the works.

A design and construct approach will typically accelerate the delivery of the project, however there is a risk of a price premium under this approach and less budget certainty as both the Council and the selected contractor deal with the more limited information available at the time of contract execution.

The construction methodology of the substructure superstructure, as decided by the bridge constructor, has a significant bearing on the cost of the project. It is also preferred from a time and risk perspective for the bridge constructor to complete the final design for the bridge's superstructure.

The preferred procurement method in the circumstances is a process described as Early Tenderer Involvement (ETI).

This process commences with an expression of interest which assesses contractor capability and experience as well as other non-price criteria. The outcome is the selection of a short list of preferred contractors.

The preferred contractors are invited to provide feedback on the design information and contract specification.

This process enables Council's technical officers to amend the documents, reallocate risk, attend to any information gaps etc considering the knowledge and experience of potential builders.

## 10.2 Fishery Creek and Canal Bridge Duplication - Procurement

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This process also means the potential builders have access to the documentation for a longer period of time than open tendering which is beneficial to both Council and the market.

The process means the interface between design and construction can be significantly improved which assists the builder to reduce price and reduce the risk of variations or omissions or mistakes in the design.

It also creates a stronger alignment between design and the construction methodology preferred or available to the contractors.

Once the contract documentation is finalised through this process, the short list of tenderers is invited to price the works in a tender phase. The outcomes of this pricing process will be reported to Council.

To facilitate the ECI process and comply with statutory requirements, the Council needs to make a resolution as per the recommendation to this report.

A copy of section 166 of the *Local Government (General) Regulation 2021* is provided below.

### ***166 Council to decide whether tenders are to be by open tendering or selective tendering***

*Whenever a council is required by section 55 of the Act to invite tenders before entering into a contract, the council must decide which of the following tendering methods is to be used--*

- (a) the open tendering method by which tenders for the proposed contract are invited by public advertisement,*
- (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest,*
- (c) the selective tendering method by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.*

Section 166(b) is the relevant section for the ETI process.

Section 168 sets out the requirements to implement the selective tendering method in section 166(b).

The Reconstruction Authority has endorsed this approach as a suitable procurement method for the project.

### **Delivery Program Strategy / Operational Plan Activity**

Duplication of Fishery Creek Bridge (River Street Stage 3) and Canal Bridge (Tamarind Drive duplication) is within Council's Delivery Program to commence construction in 2024/25, with competition in June 2026.

### **Community Engagement Strategy**

Public exhibition for both projects has been completed with the community feedback reported to Council.

### Financial / Risk Considerations

Council has secured \$40m in grant funding through the State Government's Northern Rivers Recovery and Resilience (NRRR) Program (Tranche 2) for the entire Evacuation Route Raising – Ballina Island and West Ballina project.

Given the scale of this project there are many risks to consider.

Council's technical officers have developed a risk management plan within our project management framework, however, to develop this with a further level of sophistication, a business unit operated by Council's insurer has been engaged to assist us to document a formal risk management plan.

This process has commenced.

The funding deed is different to the traditional ones provided to Council by government.

One of the differences it is a requirement for Government officers to participate in a project reference group.

Under this process there are a number of reporting and approval requirements, including procurement processes.

One of the objectives of this level of oversight is to manage risk for the Government and Council.

### Options

The recommendation is to proceed in accordance with section 166 of the regulation for the reasons discussed.

If the Council prefers a different direction, the alternate recommendation is to conduct a Councillor briefing to enable Council's technical and procurement officers to present a procurement workshop that considers the different options available.

It is noted this work has previously been undertaken at a staff level resulting in the preference for the ETI process.

### RECOMMENDATION

That, in accordance with section 166(b) of the *Local Government (General) Regulation 2021*, Council decides to use the selective tendering method by which invitations to tender for the proposed contract for the Fishery Creek and Canal Bridge Duplication Projects, are made following a public advertisement asking for expressions of interest.

### Attachment(s)

Nil

## 11.1 Notice of Motion - Amendment to Code of Meeting Practice

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### 11. Notices of Motion

#### 11.1 Notice of Motion - Amendment to Code of Meeting Practice

**Councillor**

Cr Meehan

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I move

That Council amend the Code of Meeting Practice to include the following as a new clause 5.31 in respect to attending meetings by audio-visual link:

*A councillor must not participate in a meeting by audio-visual link when driving, or sitting, in a moving vehicle, due to:*

- a. *the inherent safety risks associated with this type of activity, and*
- b. *the intermittent reception for the audio-visual link that typically occurs when a vehicle is moving.*

#### **Staff Comments**

Council's Code of Meeting Practice is available at the following link:

[Code of Meeting Practice \(nsw.gov.au\)](https://www.nsw.gov.au/code-of-meeting-practice)

Council cannot override the mandatory elements of the Model Code of Conduct provided by the Office of Local Government. Attendance at meetings, by audio-visual link relates to non-mandatory elements of the Code of Meeting Practice, therefore the motion can be adopted by Council, if supported.

Clause 362 (2) of the Local Government Act also states as follows:

*If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*

Public exhibition is a minimum of 28 days, plus another 14 days for submissions. The change proposed is not substantial.

#### **COUNCILLOR RECOMMENDATION**

That Council amend the Code of Meeting Practice to include the following as a new clause 5.31 in respect to attending meetings by audio-visual link:

*A councillor must not participate in a meeting by audio-visual link when driving, or sitting, in a moving vehicle, due to:*

- a) *the inherent safety risks associated with this type of activity, and*
- b) *the intermittent reception for the audio-visual link that typically occurs when a vehicle is moving.*

## 11.2 Notice of Motion – An Accessible Beach for Lennox Head

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### 11.2 Notice of Motion – An Accessible Beach for Lennox Head

**Councillor**

Cr Dicker

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I move

That Council include preparation of design options for an entrance to Seven Mile Beach that meets accessibility standards for persons living with a disability, in its 2024/2028 Delivery Program.

#### **Councillor Comments**

Lennox Head has long been known for its surfing culture. The recent success of para surfer and Lennox local Joel Taylor has raised the profile of adaptive surfing and will undoubtedly inspire others with disabilities to take up surfing. It will also ensure that the 1 in 5 (20%) of Australians who identify as living with disability can experience the mental and physical benefits of a day at the beach.

There are many components that make a beach accessible, which can be achieved incrementally over time. These include:

- Multiple accessible parking bays in a well-located position close to access points
- Wide clear pathways
- Accessible bathrooms and changing rooms
- Direct beach access from the pathways
- Beach matting to the water's edge
- Beach wheelchairs
- Compliant ramps if needed
- Access to shade and fresh water
- Food outlets nearby

An accessible beach access point will also create opportunities for adaptive surfing events and specialist surf coaching for people living with disability and older people with mobility limitations in Lennox Head.

Co-locating the entrance point with an operational Surf Club also provides for a broader range of opportunities, including greater inclusion of children with disabilities in Nippers.

There is also an opportunity to investigate improved beach accessibility and precinct connectivity for persons with a disability with planned improvements to public toilets and the broader Lake Ainsworth area.

A possible option for the location of the access point is shown as follows:

## 11.2 Notice of Motion – An Accessible Beach for Lennox Head



### Staff Comments

Providing improved accessibility is a key outcome across all of Council's programs and Council has been working on a disability compliant access at Lighthouse Beach, Ballina for many years.

The difficulty is in dealing with dynamic areas, where sand erosion and then sand restoration can have significant impacts on any permanent structures.

Council has recently secured \$400,000 in State Government funding to deliver the approved design for Lighthouse Beach in 2024/25.

Currently the notice of motion is open ended in respect to the delivery timeframe and if the proposal is supported, the preference would be to time the works for the 2024/25 and 2025/26 financial years.

This will then allow the Lighthouse Beach work to be completed and Council can assess the success of that project when looking at Seven Mile Beach.

Ideally, the preferred program of works would be to have compliant accesses available at Lighthouse Beach, Seven Mile Beach and Sharpes Beach / Flat Rock, covering the major coastal residential populations.

However, Council also needs to be mindful of the impacts of ramps etc on the coastal shoreline. This may not always be straightforward to implement, as per the following comments from the Sharpes Beach Car Park – Redevelopment Concept Plan report earlier in this agenda:

*Consistent with advice from the NSW Department of Climate Change, Energy, the Environment and Water most of the potential options to install compliant access to the beach at this location should be avoided.*



## **11.2 Notice of Motion – An Accessible Beach for Lennox Head**

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*This would need to be investigated and implemented from a holistic perspective relative to coastal processes through the future Coastal Management Plan development.*

*However, from a shire perspective Council is working on improved beach access for persons with a disability.*

*Installation of an improved access for Lighthouse Beach is part of Council's current capital works program.*

*This improvement is funded and is progressing with completion expected by the end of 2024.*

### **COUNCILLOR RECOMMENDATION**

That Council include preparation of design options for an entrance to Seven Mile Beach that meets accessibility standards for persons living with a disability, in its 2024/2028 Delivery Program.

### **Attachment(s)**

Nil

### **11.3 Notice of Motion - Establishment of a Junior Council**

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### **11.3 Notice of Motion - Establishment of a Junior Council**

**Councillor**

Cr Ramsey

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I move

That Council receive a report on the establishment of a Junior Council to provide a platform for young people to have their voices heard in local decision making processes.

#### **Councillor Comments**

A Junior Council in Ballina, or any local government, offers excellent outcomes and future benefits to any Shire.

Youth Representation – a Junior Council provides a platform for young people to have their voices heard in local decision-making processes. It would ensure their perspectives are heard and the needs of our younger residents in Ballina Shire are then considered in matters that affect them directly.

Civic Engagement – By participating in a Junior Council, young individuals can acquire greater knowledge regarding Council workings and a more in-depth understanding of local government, democratic processes, and civic responsibilities. This engagement would foster a sense of community commitment and encourage future participation in governance.

Leadership Development – servicing on a Junior Council would offer opportunities for leadership development. Members will learn valuable skills such as public speaking, negotiation, consensus-building, and project management, which are essential for effective leadership roles in any field.

Youth Empowerment – being part of a Junior Council empowers young people to initiate and implement projects and initiatives that address issues important to them and their peers. This sense of empowerment can boost confidence and self-esteem among participants.

Bridge Between Generations – Junior Councils provide a platform for intergenerational dialogue and collaboration. By working alongside adult councillors and community leaders, young people can gain insights into different perspectives and build relationships with older generations, fostering mutual understanding and cooperation.

Community Impact – Through their projects and initiatives, Junior Councils can make tangible contributions to improve their local communities. Whether it's advocating for youth-friendly spaces, environmental initiatives, or community events, Junior Councils can have a positive impact on the quality of life for residents of all ages.

### 11.3 Notice of Motion - Establishment of a Junior Council

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Future Leaders – Junior Councils serve as a pipeline for future leaders. By exposing young people to governance processes early on, they are more likely to develop an interest in pursuing leadership roles in local government or other civic organisations.

Overall, Junior Councils play a crucial role in promoting youth engagement, leadership development, and community building within a shire or any local government setting.

#### **Staff Comments**

During the past 25 years there have been two periods where Council has had a youth / junior council operating, from the late 1990s to the early 2000s and then again in 2011 to 2015. The aim of the 2011 Council was as follows

*“The Youth Council provides young people with the opportunity to express their views and advise Council on youth-related issues and a range of other matters relating to Council’s functions and activities.”*

The objective of the Youth Council was to:

- identify needs of young people
- review major development applications
- review infrastructure works that may impact on young people
- review youth related projects such as youth week
- liaise with Councillors and staff

Membership was limited to 10 people, with a term of two years. Meetings were held every three weeks from 4.30pm to 6.00pm in the Council Chambers. The Youth Council was disbanded in 2014/15 due to a lack of engagement, with the membership based on senior high school students.

Key considerations for a new youth council include clarity around the purpose of the group, how members are appointed, the types of matters to be presented, how matters are to be presented (e.g. formal reporting, informal discussions) and how the elected Council might refer to and / or draw on youth council feedback.

A clear purpose and role for a youth council (particularly in terms of what influence members might have in terms of their feedback) along with commensurate resourcing is considered essential to the successful function of this type of group.

Fundamentally if Council is asking young people to give time to participation, the forum must be meaningful and engaging with sustained resourcing.

If the members do not see their ideas, initiatives and feedback being implemented, they can become disengaged in the process, and this can lead to a lack of attendance at meetings.

#### **COUNCILLOR RECOMMENDATION**

That Council receive a report on the establishment of a Junior Council to provide a platform for young people to have their voices heard in local decision making processes.

## 11.4 Notice of Motion - Tree Species

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### 11.4 Notice of Motion - Tree Species

**Councillor**

Cr McCarthy

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I move

That Council stop the planting of the “Macaranga tanarius” Native tree from the list of accepted tree species being planted by Council and local community groups.

#### **Councillor Comments**

The Macaranga in urban Ballina Shire is a distinctive large tree which has hollow stems and huge heart shaped leaves. It can grow up to 10 metres tall with leaves up to 200 mm. In its normal habitat in rainforests, trees are limited in size and speed of growth by the forest overstory. When growing on the outer edges of rainforest the tree becomes more aggressive in speed of growth and size, taking over Banksia, Tuckeroo, Wattles, Coastal Rosemary, etc.

#### Impacts

On the coast it originated at Lennox Point within the last 10 years. Today it lines roadsides and invades remnant and regenerating littoral rain forests in Ballina Shire. It's large leaf structure creates a dense growth that crowds and shades out all other vegetation, killing all existing native vegetation. Its tall height blocks iconic views from the surfers Car Park, Pat Morton Car Park, The Coast Road, views from residences etc. In addition, they are now invading the iconic Norfolk Island pines at Sharps beach.

#### What Can we do?

When asked, CSIRO scientists recommended “When you have invasive native plants taking over other native vegetation, you rip them out”.







## 11.4 Notice of Motion - Tree Species

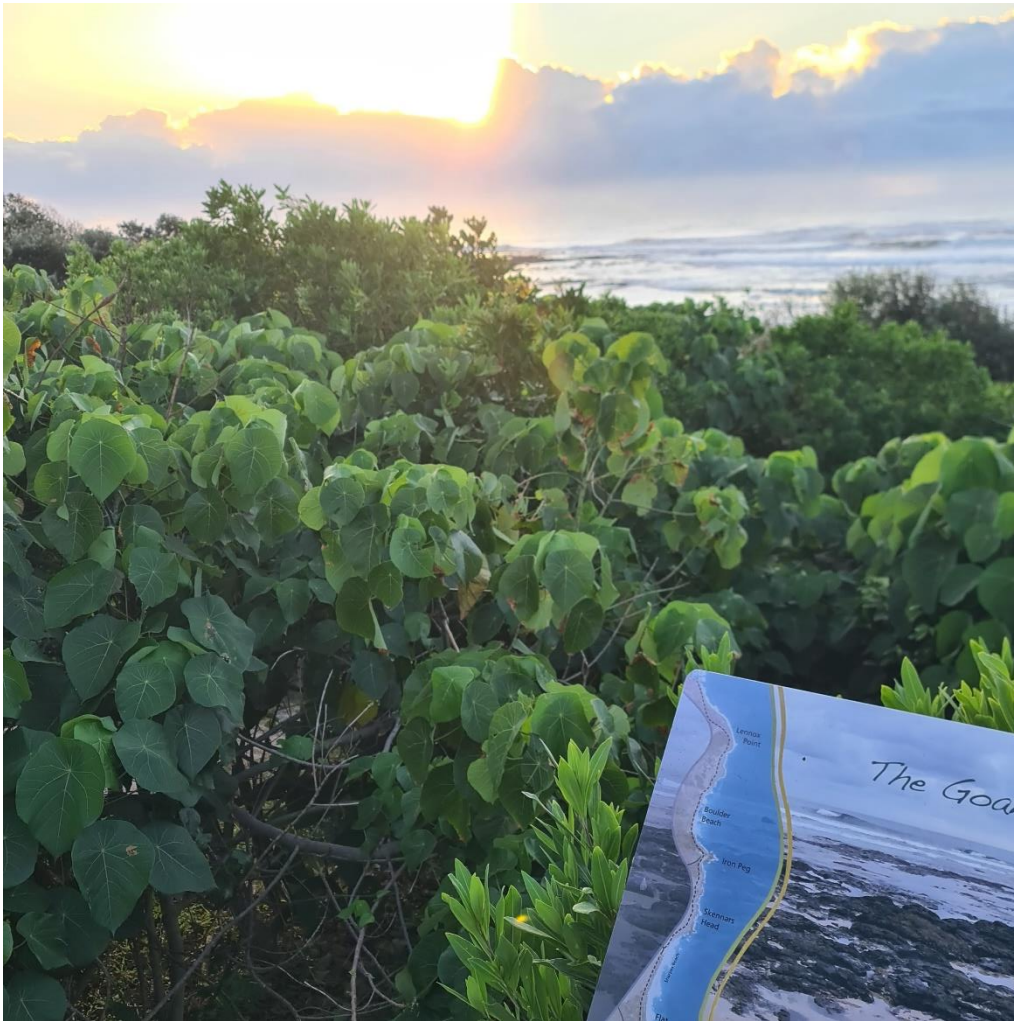
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## 11.4 Notice of Motion - Tree Species

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### Staff Comments

The following information was included in a Councillor Bulletin issued on Friday 11 November 2022.

The Macaranga (*Macaranga tanarius*) is a small to medium sized coastal rainforest tree naturally occurring within Ballina Shire, the east coast of Australia and across Southeast Asia.

It produces cream to yellowish flowers with black fruit capsules. It is a popular food source for many native bird species and provides a habitat function for our local frogs and butterflies with the large leaf canopies providing shelter.

It has recognised Aboriginal cultural uses that includes for wrapping and cooking food, making of twine and clothing and for making fishing spears.

The Macaranga is a pioneer species providing a very important first stage for the restoration and rehabilitation of cleared, degraded and weed infested lands.

They provide a fast-growing canopy with beneficial shade for slower growing, longer lived successional rainforest species to grow underneath.

Over time, the successional rainforest species typically shade out the Macaranga.

## **11.4 Notice of Motion - Tree Species**

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The pioneer species usually spread themselves via their own reproductive vectors such as seed dispersal by wind, gravity, water and native birds and this can be seen on the edges of the regenerating rainforests along the coast.

Restoration projects will often plant pioneer species to assist the success of rainforest restoration and rehabilitation projects and by mimicking the natural rehabilitation processes.

Other prominent pioneer species assisting the rainforests establishment and successional processes include Banksia (*Banksia integrifolia*), Bleeding Heart (*Homalanthus populifolius*), and the Brown Kurrajong (*Commersonia bartramia*).

### **COUNCILLOR RECOMMENDATION**

That Council stop the planting of the “*Macaranga tanarius*” Native tree from the list of accepted tree species being planted by Council and local community groups.

### **Attachment(s)**

Nil

**12. Advisory Committee Minutes**

**12.1 Finance and Facilities Committee Minutes - 9 April 2024**

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**Attendance**

Crs Sharon Cadwallader (Mayor - in the chair), Kiri Dicker (on-line), Simon Chate (on-line), Eoin Johnston (on-line, joined at 4.14pm), Stephen McCarthy, Nigel Buchanan (on-line), Eva Ramsey (arrived at 4.20pm), Phillip Meehan and Rodney Bruem.

Paul Hickey (General Manager), John Truman (Director, Civil Services Director), Matthew Wood (Director, Planning and Environmental Health Division), Caroline Klose (Director, Corporate and Community Division), Linda Coulter (Manager Financial Services) and Sandra Bailey (Secretary) were in attendance.

There were six people in the gallery at this time.

**1. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country.

**2. Apologies**

An apology was received from Cr Jeff Johnson.

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Stephen McCarthy)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Eoin Johnston and Cr Eva Ramsey

**3. Declarations of Interest**

**Cr Sharon Cadwallader** – declared an interest in Item 5.10 – Fees and Charges – 2024/25. (Nature of Interest: non-significant, non-pecuniary – she is a civil celebrant and has no direct involvement in bookings for weddings). She will be remaining in the meeting while the matter is discussed and voting on the matter.

**4. Deputations**

- **Detective Sergeant Mick Smith and Damien Looe**– spoke in relation to Item 5.1 – Public Domain Closed Circuit Television (CCTV).

- **Mick Albany, St Vincent de Paul** – spoke in relation to Item 5.11 – Community Infrastructure – Non-Recurrent Capital Projects – and especially in relation to the need for an activity centre for youth.

Cr Eoin Johnston joined the meeting on-line at 4.14pm

**Extension of Time for Deputation**

**RECOMMENDATION**

(Cr Stephen McCarthy/Cr Rodney Bruem)

That Mr Albany be granted an extension of time for his Deputation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Eva Ramsey

Cr Eva Ramsey arrived at the meeting at 04:20 pm.

**Change in Order of Business**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Stephen McCarthy)

That the Committee change the order of business to deal with items as per the Deputations received.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

**5. Committee Reports**

**5.1 Public Domain Closed Circuit Television (CCTV)**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Eva Ramsey)

1. That Council write to the Member for Ballina (Tamara Smith) for an update on their election commitment to fund CCTV for the Ballina CBD and expected timeframe for delivery and installation.
2. That Council lobby the State Government for the reintroduction of the funding program for the provision of CCTV in regional centres/targeted areas.
3. That Council undertake the CCTV scoping study, with the contract funded from the Strategic Planning Reserve.

FOR VOTE - Cr Sharon Cadwallader, Cr Kiri Dicker, Cr Simon Chate, Cr Eoin Johnston, Cr Nigel Buchanan, Cr Eva Ramsey, Cr Phillip Meehan and Cr Rodney Bruem

AGAINST VOTE - Cr Stephen McCarthy

ABSENT. DID NOT VOTE - Cr Jeff Johnson

**5.11 Community Infrastructure - Non-Recurrent Capital Projects**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Phillip Meehan)

1. That Council notes the contents of this update on non-recurrent community infrastructure projects.
2. That Council receive a report on the progress of the shared pathway between Lennox Head and Byron Shire.
3. That Council receive a report for options for improved weather protection at the Northern Rivers Regional Gallery.
4. That Council include funding in 2024/25 for an additional mobile parklet, estimated at \$25,000.
5. That Council receive a report on the estimated cost to complete the shared path along Pearces Creek Road from the Seventh Day Adventist Home to the Wollongbar Sporting fields.
6. That Council investigate the establishment of a sculpture trail in Ballina Shire.
7. That Council investigate the installation of a bus shelter on the corner of Plateau Drive and Rifle Range Road, Wollongbar.
8. That Council investigate options for additional youth services and activities in the Ballina Shire.
9. That Council investigate options for a skate park in Alstonville.

Cr Nigel Buchanan left the meeting at 04:50 pm and returned at 04:53 pm during the discussion on this item.

Cr Nigel Buchanan left the meeting at 05:09 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Nigel Buchanan

**5.2 Seven Mile Beach - 4WD Management Options**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Stephen McCarthy)

1. That based on the contents of this report, Council retain the existing permit administration system and work with the system vendor to introduce the provision of education information to drivers on responsible 4WD use of Seven Mile Beach, where this can be accommodated through the existing technology.
2. That taking into account the costs and operational difficulties as outlined in this report and recognising that Council has resolved to cease 4WD access to Seven Mile Beach by 2028, that Council does not proceed to install a boom gate.
3. That Council continue to monitor 4WD usage and compliance at Seven Mile Beach to determine the effectiveness of the change in the permit fee structure, and the distribution of education information, if enabled.

Cr Simon Chate left the meeting at 05:23 pm and returned at 05:26 pm during the discussion on this item.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Nigel Buchanan

Cr Kiri Dicker left the meeting at 05:27 pm.

**5.3 Newrybar - Provision of Wastewater Services**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Sharon Cadwallader)

That Council initiative talks with Byron Shire Council to examine the feasibility of a reticulated sewerage system for Newrybar connecting to the Bangalow sewerage treatment system.

Cr Simon Chate left the meeting at 05:28 pm and returned at 05:34 pm.

Cr Simon Chate left the meeting at 05:46 pm and returned at 05:52 pm.

FOR VOTE - Cr Sharon Cadwallader, Cr Simon Chate, Cr Eoin Johnston and Cr Rodney Bruem

AGAINST VOTE - Cr Stephen McCarthy, Cr Eva Ramsey and Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Jeff Johnson and Cr Nigel Buchanan

Cr Simon Chate left the meeting at 05:57 pm.

**5.4 Wildlife Protection - Virtual Fencing**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Rodney Bruem)

That Council notes the report and takes no further action.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.5 Water and Wastewater Assets - Insurance**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Stephen McCarthy)

That based on the contents of this report, subject to the concurrence of the Audit, Risk and Insurance Committee, in lieu of purchasing insurance, Council transfer the premium savings, being an amount of approximately \$200,000 per annum, to a reserve in the Water and Wastewater Funds for the next five years, to respond to damage to our assets caused by a natural disaster or other event.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.6 Policy (Review) - Commercial Use of Footpaths**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Stephen McCarthy)

That Council adopts the Commercial Use of Footpaths Policy, as per Attachment 1 to this report, with an amendment to remove the one year annual fee waiver on renewal of the licence, after the seven year period.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan



**5.7 Strategic Asset Management Plan - 2024/25**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Eva Ramsey)

That Council approves the exhibition of the draft Strategic Asset Management Plan, as per Attachment 1 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.8 Ballina Byron Gateway Airport - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Rodney Bruem/Cr Phillip Meehan)

That Council approves the inclusion of the Long-Term Financial Plan for the Ballina Byron Gateway Airport, as per Attachments 1 and 2 to this report, in the draft 2024/25 to 2027/28 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.9 Fees and Charges - 2024/25**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Eva Ramsey)

That Council approves the exhibition of the draft schedule of fees and charges for 2024/25, as per Attachment 1 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.10 Community Infrastructure - Recurrent Capital Works**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Stephen McCarthy)

That Council approves the inclusion of the recurrent capital expenditure priorities, as outlined in this report, in the draft 2024/25 to 2027/28 Delivery Program and Operational Plan, for public exhibition.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.12 Workforce Management Plan 2024 - 2028**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Stephen McCarthy)

That Council approves the exhibition of the draft Workforce Management Plan 2024 to 2028, as per Attachment 1 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.13 General Fund - Long Term Financial Plan**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Eva Ramsey)

That Council approves the exhibition of the draft Long Term Financial Plan, as per Attachments 1 and 2 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**5.14 Delivery Program and Operational Plan - 2024/25 to 2027/28**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Rodney Bruem)

1. That Council approves the exhibition of the draft Delivery Program and Operational Plan for 2024/25 to 2027/28, as per Attachment 1 to this report, inclusive of any changes arising from this meeting.
2. That Council adopts the following fees for the Audit Risk and Improvement Committee independent representatives for 2024/25:
  - \$1,800 for the Chair per meeting
  - \$900 for Independent Committee Members per meeting.

These payments are exclusive of superannuation.

3. That Council note the information and take no further action in relation to PV Walsh Park at Wardell.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate, Cr Jeff Johnson and Cr Nigel Buchanan

**MEETING CLOSURE**

6.33 pm

**RECOMMENDATION**

That Council confirms the minutes of the Finance and Facilities Committee meeting held 09 April 2024 and that the recommendations contained within the minutes be adopted.

**Attachment(s)**

Nil

## 13.1 Mayoral Meetings

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### 13. Reports from Councillors on Attendance on Council's behalf

#### 13.1 Mayoral Meetings

**Councillor** Sharon Cadwallader

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Activities I have attended, or propose to attend, as at the time of writing this report, since the March 2024 Ordinary meeting are as follows:

<u>Date</u>	<u>Meeting</u>
3 April	Meeting Lennox Head Sports Association
3 April	Meeting at Newrybar Markets Food Vans on Street
5 April	Governor General visit to the Ballina Shire
5 April	'Popstars! The 90s Musical' production
8 April	Australian Coastal Councils Association (ACCA) Zoom meeting
9 April	Public Citizenship Ceremony
9 April	Autism@Work Business Luncheon (Business NSW and Northern Rivers Autism Association)
9 April	Finance and Facilities Committee meeting
10 April	Alstonville/Wollongbar Chamber of Commerce Breakfast
10 April	Local Traffic Committee Meeting
10 April	Charge Ahead Electric Vehicle Day Byron Bay
11 April	Resilient Homes Program Update
11 April	Meeting with Minister Jenny Aitchison, Minister for Regional Transport and Roads
12 April	Hunter New England Local Health Department re: Rural, Regional & Remote Clinical Trials Enabling Program (R3-CTEP)
12 April	Resilient Homes Program Property Homes Update - Ballina LGA
14 April	Community Meeting Alstonville
15 April	Northern Rivers Community Leaders Forum - Mayors and MPs
17 April	Rous County Council meeting
19 April	Community Safety Precinct Committee meeting
23 April	Wardell & District Progress Association meeting
23 April	Country Mayors Good 360 Virtual Meeting
24 April	Ordinary meeting

#### **RECOMMENDATION**

That Council notes the contents of the report on Mayoral meetings.

#### **Attachment(s)**

Nil

**14. Confidential Session**

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

14.1 Debt Recovery Options

Refer to Item 9.3 of this agenda.

**RECOMMENDATION**

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

**14.1 Debt Recovery Options**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(b) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- b) the personal hardship of any resident or ratepayer

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to personal information in relation to the debtor and her current circumstances being included in the report.