

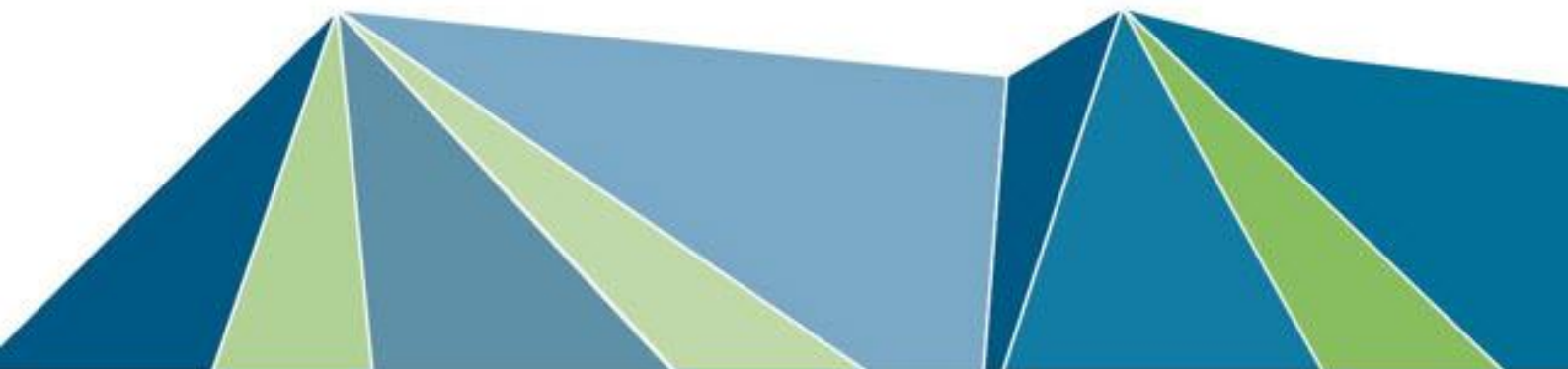
Agenda

Extraordinary Meeting 4 August 2025

An Extraordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **4 August 2025 commencing at 4:00 PM.**

1. Acknowledgement of Country
2. Apologies
3. Declarations of Interest and Reportable Political Donations
4. Deputations
5. Reports

Paul Hickey
General Manager



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 absenting 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.

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) 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.	Acknowledgement of Country	5
2.	Apologies.....	5
3.	Declarations of Interest and Reportable Political Donations.....	5
4.	Deputations	5
5.	Civil Services Division Reports	6
	5.1 Tender - Ballina Bridges Duplication - Construction	6
6.	Confidential Session.....	14

DISCLAIMER ©NSW Spatial Services 2024. Although all care is taken in the preparation of plans within Council's business paper (both agendas and attachments), Ballina Shire Council accepts no responsibility for any misprints, error, omissions or inaccuracies. The information contained within each plan is for pictorial representation only and not to scale. Accurate measurements should be undertaken by survey.

1. Acknowledgement of Country
 2. Apologies
 3. Declarations of Interest & Reportable Political Donations
 4. Deputations
-

1. Acknowledgement of Country

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

2. Apologies

3. Declarations of Interest and Reportable Political Donations

4. Deputations

5.1 Tender - Ballina Bridges Duplication - Construction

5. Civil Services Division Reports

5.1 Tender - Ballina Bridges Duplication - Construction

Section	Project Management Office
----------------	---------------------------

Objective	To report the outcomes of the tender evaluation for the Tender - Ballina Bridges Duplication - Construction
------------------	-------------------------------------------------------------------------------------------------------------

Background

The purpose of this report is to present the tender assessment for the Ballina Bridges Duplication Project and to confirm the preferred approach to move forward.

The grant funding for the project has program milestone dates that need to be met to ensure the grant is available to Council.

To achieve the milestone date for the completion of the project, under the construction program, it is preferred to award a tender as early as possible.

The tender requires further negotiation and clarification in response to the submissions.

Also, a request to the NSW Reconstruction Authority for additional funding needs to be finalised before the tender can be awarded.

Confirming final contract award costs will assist the processing of this request.

Due to the project timeframe, the preference has been to report this tender to an Extraordinary meeting to allow negotiations to commence with the preferred tenderer.

Key Issues

- Comply with the Local Government (General) Regulation 2021
- Obtain value for money
- Scope of Works
- Funding Options and Project Budget

Discussion

Project and Procurement Development

The existing Fishery Creek Bridge in River Street Ballina and existing Canal Bridge on Tamarind Drive Ballina are two-lane bridges, often at capacity during peak hours. They are also significant congestion points for Ballina's main evacuation route during flooding events.

5.1 Tender - Ballina Bridges Duplication - Construction

To ease the congestion, a second bridge will be built on the southern side of Fishery Creek Bridge, and a second bridge will be built on the eastern side of Canal Bridge. A second carriageway is required to be connected to each bridge.

The NSW Reconstruction Authority is administering a Federal Government grant of \$40m provided under the Emergency Response Fund Northern Rivers Recovery and Resilience Program (NRRRP).

These funds have been provided to Council to assist in building the two bridges, the associated roads and raise the existing roads leading in and out of Ballina.

The River Street (Fishery Creek Bridge) Stage 3 Lane Duplication involves developing four lanes in River Street, between approximately 70m east of Henry Philip Avenue and Brampton Avenue, including a duplicate bridge over the waterway.

The Tamarind Drive (Canal Bridge) Lane Duplication involves developing four lanes in Tamarind Drive, between Kerr Street and approximately 320 metres north-west to North Creek Road and developing four lanes in North Creek Road, between Tamarind Drive to Southern Cross Drive.

This project includes a duplicate bridge over the waterway.

In March 2024, Council awarded a contract to Civil Consult Pty Ltd to undertake geotechnical investigations at the bridges and their approaches.

The contract also includes designing the retaining walls and the substructures for the two bridges.

In May 2024, Council awarded a contract to AT&L to prepare preliminary designs of the roadways adjacent to the bridges.

These designs have been incorporated as part of the Principal's Design in the proposed Design Development and Construct (DDC) Contract to be completed by the contractor appointed to the two separable portions.

In April 2024, Council proceeded with a selective tendering method, by which invitations to tender are made.

Following an open tender assessment, in July 2024 an Early Tender Involvement (EOI) process commenced after Council determined a preferred shortlist of three Prospective Tenderers.

The three Prospective Tenderers were invited to review the Principal's Design and suggest changes which may enhance the constructability, operations, and maintenance of the proposed assets.

Significant re-work of the Principal's Design ensued, and this phase finished in February 2025.

This process was undertaken to ensure the best balance was achieved for the risk allocation between Council and the contractor.

5.1 Tender - Ballina Bridges Duplication - Construction

The three Prospective Tenderers were invited to tender in April 2025 on the following.

- Duplication of Fishery Creek Bridge on River Street
- Duplication of Canal Bridge on Tamarind Drive
- Duplication of North Creek Road (Tamarind Drive – Southern Cross Drive), as an Optional Additional Works.

At the close of tenders in July 2025, two tender submissions were received.

Concurrently with the EOI and tender phases there have been preliminary construction works undertaken involving relocation of underground services and land acquisition. This includes telecommunications infrastructure.

Delivery Program Strategy / Operational Plan Activity

This project is consistent with Delivery Program Strategy LP1.2:

Facilitate connectivity and provide affordable infrastructure to meet growing demands.

Community Engagement Strategy

The Canal Bridge and Tamarind Drive package was placed on public exhibition in November 2022 and Council adopted the concept plan in December 2022.

The Fishery Creek Bridge and River Street design package was exhibited in 2020, and Council adopted the Concept plan later that year.

The Review of Environmental Factors for both locations, encompassing all the most recent modifications, was displayed to the public in June 2025.

No issues were raised that required further assessment or re-design.

Council has undertaken a public tender process in accordance with the Local Government (General) 2021.

Financial / Risk Considerations

At the May 2025 Ordinary meeting, Council considered a report reviewing the budget for the project.

This report considered options in respect to the scope of the project and funding, noting a significant budget shortfall was predicted for the full scope of works.

The report also noted that, under the grant conditions, it is possible for Council and the Reconstruction Authority to vary the scope of the project to reallocate \$8m from the Evacuation Route Raising component of the Project to the bridge duplications.

The grant component of the project's funding is sourced from the NRRRP. NRRRP is administered by the NSW Reconstruction Authority.

5.1 Tender - Ballina Bridges Duplication - Construction

At the time of writing the previous report, the NSW Reconstruction Authority had advised it is possible that Council be granted approval, to receive another \$8m to \$10m in Federal Government funding for the project under the program's contingency funding.

The revised scope and budget, as reported to the May 2024 Ordinary meeting, was as follows:

Description	Amount (\$'000)
Latest Quantity Surveyor Estimate	88,700
Delete Evacuation Route Raising	(8,000)
Revised Estimate	80,700
Sources of Funding	
NRRRP - Original Grant	39,400
Less expended in 2023/24	(1,700)
<i>NRRRP - Additional Grant</i>	<i>8,000</i>
Developer Contributions Allocated	21,460
Council Loan Funds Allocated	5,000
Council Reserve Funds Allocated	1,440
Total	73,600

This budget has a \$7.1m shortfall in funding.

As part of the Early Tenderer Involvement process, risk allocation, design details and contract documentation had been reviewed with the Prospective Tenderers.

This process enabled the market to reliably price the works to produce the most effective assets.

It optimised the placement of assets in line with the available construction methodology, which will reduce the risk of major delays or disputes during construction.

Tender Assessment

Tenderers were required to price three packages of work.

This enables Council to adjust the scope of works to be awarded under the contract if this is necessary from a budget perspective.

One or two bridges can be awarded to one or two Tenderers.

In addition to the Conforming Tenders there were also Alternative Tenders requested and submitted.

The Alternative Tenders allow for bespoke solutions that may have been further developed after the Principal's Design was settled.

The Tenderers were DT Infrastructure, Quickway Constructions, and Hazell Bros.

5.1 Tender - Ballina Bridges Duplication - Construction

During the Tender pricing period, DT Infrastructure withdrew from the process, citing a global decision to reduce operations, which removed them from seeking any future work in regional NSW.

Two requests from Tenderers to extend the closing date were granted, with the tender closing 16 July 2025.

Two conforming tender submissions were received from Quickway Constructions and Hazell Bros.

Quickway Constructions also submitted an Alternative Tender.

The Tenderers had previously been assessed during the EOI phase to ensure conformance with the following mandatory criteria:

- Legal Entity
- Financial Capacity
- ISO Accredited WHS Management System
- OFSC Accreditation
- ISO Accredited Environmental Management System
- ISO Accredited Quality Management System
- Dealing with Modern Slavery
- Insurances

All tender submissions were assessed using the following weighted assessment criteria:

- | | |
|---------------------------|-----|
| • Pricing structure | 70% |
| • Methodology and Program | 15% |
| • Local and community | 15% |

Details of the assessment and pricing options have been provided to Councillors by a confidential memorandum.

The two conforming Tenders from Hazell Bros and Quickway Constructions significantly exceed the available budget.

In addition to the construction contract, other works associated with the project need to be undertaken.

These include utility relocation, artwork, project management, property acquisition, design fees, compensatory planting and contingencies.

Quickway Constructions is the preferred tenderer based on their Conforming Tender. Quickway Construction's Alternative Tender offers cost savings of nearly \$10m compared to their Conforming Tender.

Key scope changes in this Alternative Tender include:

- Alternate Option for resolving settlement risk at Fishery Creek
- Increased Centre Span for Fishery Creek bridge
- Precast Driven Piles
- Alternate Pedestrian shared paths
- Alternate option for Box Culvert at Tamarind Drive

5.1 Tender - Ballina Bridges Duplication - Construction

Quickway Construction's submission has priced the construction of the box culvert adjacent to Tamarind Drive as follows:

Item	Amount (\$)	Priced
Underground Powerlines	400,000	Provisional
Culvert Excavation	300,000	Lump Sum
Sheet Piling	3,500,000	Excluded
Dewatering	396,000	Schedule of Rates
Acid Sulphate Treatment	240,000	Schedule of Rates
Foundation Preparation	187,200	Lump Sum
Remove and replace unsuitable	176,000	Schedule of Rates
Piling for Culvert Slab	729,750	Lump Sum
Culvert Construction	4,500,000	Lump Sum
TOTAL	10,428,950	

The box culvert is in the Principal's Design, as it is essential to retain the stormwater carrying capacity parallel to Tamarind Drive, when fitting in a widened road, a shared path from River Oaks and Ferngrove Estates, and maintenance access to Essential Energy twin 11 kV power lines.

The box culvert has been identified as an opportunity to improve the visual amenity of this drain, however this component of the works is a significant addition to the total cost.

Quickway Constructions has provided five other major alternative ideas in their Alternative Tender.

The deletion of the box culvert would involve the 'reconstruction and beautification of the open channel providing an enhanced visual outcome for the entrance to Ballina Island.'

The tender evaluation panel sees various limitations in these options as presented, however there is merit in investigating these alternatives further.

The preferred method to resolve these matters is to decline all tenders and negotiate with the Quickway Constructions on the basis they have provided the lowest cost conforming tender and the only alternative tender.

Entering negotiations allows Council to finalise the grant funding with the Reconstruction Authority before settling on a final sum for the contract.

Options

The options for Council are set out in Part 7 Section 178 (1) of the Local Government (General) Regulation 2021, which requires that:

(1) After considering the tenders submitted for a proposed contract, the council must either:

(a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or

(b) decline to accept any of the tenders.

5.1 Tender - Ballina Bridges Duplication - Construction

Based on the tender evaluation, it is recommended that Council declines to accept any tenders and that Council negotiates with Quickway Constructions.

Sections 178(3) and (4) of the regulations provide direction in the circumstances where a Council declines to accept any tenders in accordance with section 178(1)(b).

(3) A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:

(e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,

(4) If a council resolves to enter into negotiations as referred to in subclause 3 (e), the resolution must state the following:

(a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),

(b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).

Declining all tenders and negotiating with the lowest conforming Tenderer, Quickway Constructions, will enable investigation of the alternative ideas to achieve better value for money for the intended assets.

This approach will enable staff, to resolve any outstanding points in the contract, review the final scope of works with a preferred contractor and discuss further budget opportunities with the NSW Reconstruction Authority.

A further report is recommended to enable the Council to consider the outcomes of the negotiation and the budget implications.

RECOMMENDATIONS

1. That Council in accordance with the Local Government (General) Regulation 2021 Section 178(1)(b), declines to accept any tenders for the Tender - Ballina Bridges Duplication - Construction as the tenders are significantly above currently available budget.
2. That Council, in accordance with Local Government (General) Regulation 2021 Section 178(3)(e) authorises the General Manager to enter negotiations with Quickway Constructions for the Tender - Ballina Bridges Duplication - Construction.
3. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established sufficient market interest and it is more efficient and timelier to negotiate with interested parties than call for new submissions.

5.1 Tender - Ballina Bridges Duplication - Construction

4. That in accordance with the Local Government (General) Regulation 2021 Section 178(4)(b), Council has determined to negotiate with Quickway Constructions as they have provided the lowest priced tender following assessment against the mandatory and weighted evaluation criteria established for the tender and they have provided the only alternative tender, with the alternative tender providing options to potentially reduce the cost of the project.
5. That the General Manager prepare a further report to enable the Council to consider the outcomes of the negotiation process to be undertaken in accordance with points one to four above.

Attachment(s)

1. Confidential Memorandum - Tender Report - Ballina Bridges Duplication Project (Confidential)

6. Confidential Session

6. Confidential Session

Nil Items