

ATTACHMENTS TO

Finance and Facilities Committee Meeting Business Paper 10 June 2026

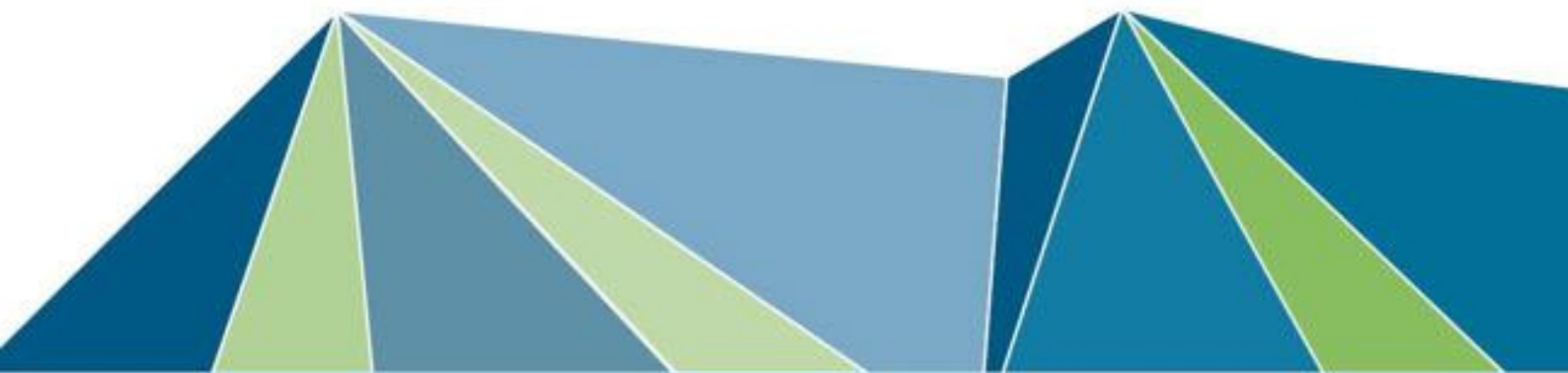


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C O N S U L T I N G

Planning Analysis

Corner of Snapper Drive & Hutley Drive, Lennox Head

Prepared for Ballina Shire Council

By Planit Consulting Pty Ltd

(V.2) - April 2026

Job No: J9063

5.2 Council Land Use - Corner Snapper and Hutley Drive, Lennox Head

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(V.1)	9/04/2026	Roseanna Meech	Josh Townsend
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Executive Summary

This Planning Analysis relates to land located at the corner of Snapper Drive and Hutley Drive, Lennox Head, being Lot 4 DP1239938 (the subject site). The subject site is owned by Ballina Shire Council, classified as 'Operational Land' under the *Local Government Act 1993*, and comprises 1,813m² of site area. The subject site is located within an identified urban growth area, which is experiencing strong population growth. The subject site is well connected to the existing village settlement of Lennox Head, as well as higher order settlements, such as the Ballina CBD.

The Planning Analysis follows a resolution at the Council Meeting of 27 November 2025, being:

That Council:

1. *Recognises the strategic location and potential of the council-owned commercial site situated at the corner of Snapper and Hutley Drive, adjacent to the soon-to-be-constructed basketball court and in close proximity to the existing sports field.*
2. *Notes the rapid development of the surrounding residential community and the planned establishment of a new school in the area, which will significantly increase local activity and demand for community infrastructure and services.*
3. *Requests that Council undertake a comprehensive investigation into potential future uses of the site, including but not limited to:*
 - *Construction of a facility for lease to commercial or community tenants*
 - *Development of a multi-purpose community hub*
 - *Public-private partnership opportunities*
 - *Other innovative or strategic uses that align with community needs and Council's strategic objectives.*
4. *Requests that the investigation include:*
 - *A review of current and projected demographic and economic data for the area*
 - *Engagement with relevant stakeholders including local residents, businesses, and educational institutions*
 - *Financial modelling and feasibility analysis of proposed options.*
5. *Requests that a report outlining findings and recommendations be presented to Council for consideration at a future meeting.*

The Planning Analysis considers the particulars of the subject site including mapped constraints, relevant planning legislation and Ballina Shire Council policies. Further, an understanding of the social and economic context of the locale, and the LGAs wider network of community facilities and economic centres has been pursued. These investigations have identified that the subject site benefits from limited environmental impediments (namely bushfire and flooding), and an established network of social infrastructure and economic services. Applicable planning legislation for the subject site also facilitates a 2 – 3 storey-built form and a broad range of land use opportunities, including residential accommodation in a 'shop top' format.

Within an understanding of these key influences, four (4) primary development scenarios have been further explored, including potential tenure arrangements. The primary development scenarios include:

- Mixed use commercial, retail and/or recreation facility (indoor) development
- Mixed use commercial, retail and shop-top housing development
- Multi-purpose Community Hub
- Centre-based childcare facility

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Each of the development scenarios explored is identified as supporting the growing and younger community of the locality, whilst complimenting the existing social and economic network of centres.

Whilst any multi-purpose community hub proposal is anticipated to be confined to Council ownership, remaining scenarios can be delivered via sale or lease-based agreements. We anticipate that detailed ownership and management arrangements, consistent with Council's Property Investment and Development Policy, would be explored should further investigations into a preferred development outcome/s be pursued. Each scenario holds opportunity to be realised via a public-private partnership; however, no significant benefit has been identified in doing so at this time.

Notwithstanding the opportunities of the subject site, the investigations through this Planning Analysis have not identified clear shortfalls of social infrastructure or economic services for the growing community. The subject site, and wider growth area, benefits from existing and emerging services, as well as connectivity into a wider network of services. The established and emerging network is identified as well positioned to cater for the additional growth projected for the locality.

Acknowledging such, beyond potentially responding to larger, macro policy drivers, such as the National Housing Accord, a specific impetus to progress a development scenario urgently has not been identified. Noting the delivery timeline of additional population growth and the pipeline of enabling infrastructure, it is suggested that a time horizon of 5+ years forms a preliminary benchmark to any development scenario delivery. Pursuit of a longer-term outlook is anticipated to further facilitate a 'fit-for-purpose' development and therefore improve cost efficiencies. Further, detailed financial modelling and feasibility analysis is encouraged to be pursued to determine the highest and best use of the site and inform future stakeholder engagement.

Planning Analysis

1. Site Analysis

1.1 Locality

This Planning Analysis relates to the subject site located at the corner of Snapper Drive and Hutley Drive, Lennox Head (Lot 4 DP1239938). Situated within Lennox Head, the locality comprises coastal living character with proximity to beaches and both an established coastal village and emerging local centre. The subject site is located at the southern corner of the EPIQ Lennox Head master planned community positioned approximately 2km south of the Lennox Head Village.

The site is strategically located, located within walking distance to:

- EPIQ Marketplace (100m)
- Harmony Early Education Lennox Head (Daycare and Preschool) (200m)
- Lennox Head Public School (400m)

Beyond the immediate locale, the subject site is comfortably accessible by vehicle to:

- Lennox Village and Beach (2.5km)
- M1 Pacific Highway (10km)
- Ballina CBD (12.5km)
- TAFE Ballina (13.5km)
- Ballina Airport (15km)
- Byron Bay CBD (21km)
- TAFE Byron (25km)
- Lismore Base Hospital (38km) and Tweed Valley Hospital (79.5km)
- Gold Coast International Airport (87km)
- Southern Cross University, Lismore Campus (45km) and Gold Coast Campus (89km)



Figure 1: Locality Map (Nearmap, 2025)

1.2 The Site

The subject site is irregular in shape, generally flat and comprises 1,813m² of site area. The subject site is a corner allotment bound by Snapper Drive to the north and Hutley Drive to the west. Adjoining land uses include the following:

- To the north is the 5,500m² EPIQ Marketplace Lennox Heads.
- To the immediate south-east is a man-made wetland area and stormwater retention basin constructed as part of the EPIQ housing estate.
- To the south of the site is the proposed Basketball Court and existing Ballina Sewer Pump Station.
- To the west is the EPIQ Sports Ground.
- To the south-west is the current end point of Hutley Drive, footpath and associated stormwater drainage.

At the time of writing, EPIQ Marketplace Lennox Heads includes the following tenant composition:

• Woolworths grocery store	• Bottle shop
• Food & specialty shops (butcher, health food and café)	• Medical centre & Pharmacy
• Hairdresser	• Newsagent
• Nail salon	• Gym/fitness centres

Directly adjoining the EPIQ Marketplace to the west, the newly constructed EPIQ retail precinct delivers an additional eight (8) commercial tenancies within the master-planned estate. Development has also commenced on the lots to the north-west of the site, which will accommodate the approved Live/Work Terraces, self-storage facilities, and the EPIQ Tavern.

The subject site is currently a vacant lot with access from Snapper Drive and Hutley Drive. The site is serviced by both underground electricity, telecommunication and NBN services. As detailed within **Attachment 1**, there is an existing gravity sewer main that runs along the Hutley Drive frontage, protected by an 8m wide easement. Ballina Shire Council is progressing plans for the southern extension of Hutley Drive, connecting to North Creek Road at Skennars Head.

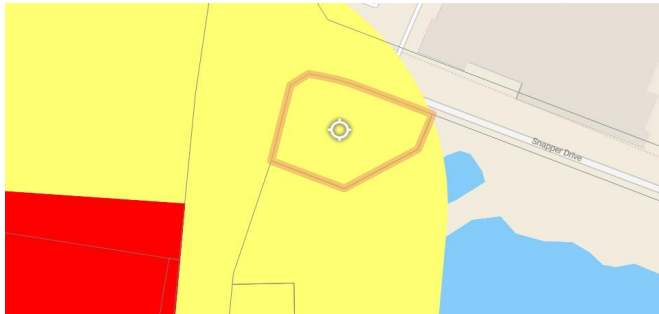


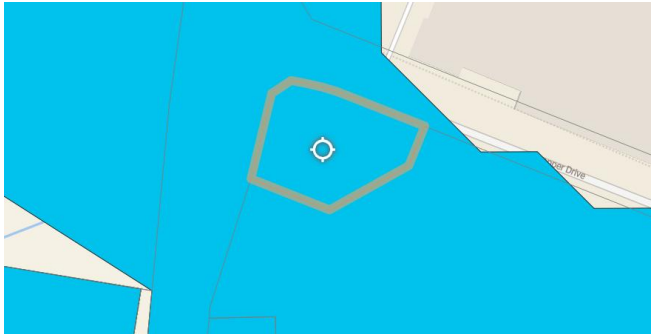
Figure 2: Subject Site (Nearmap, 2025)

1.3 Key Planning Control Summary

Key Planning Controls	Development Standard
Land Zoning	E1 – Local Centre
Maximum Floor Space Ratio	0.6:1 (therefore a maximum potential of 1,087m ² gross floor area (GFA)).
Maximum Building Height	9m
Minimum Lot Size	800m ²
Car Parking and Access	Car parking requirements are as per <i>Table 2.3 – General Car Parking Requirements</i> within the <i>Ballina Development Control Plan 2012</i> (BDCP 2012).
Building Setbacks	No building line setbacks are nominated for the subject lot in the BDCP 2012.
General DCP Provisions	BDCP 2012 Chapter 2 - General and Environmental Considerations. This chapter applies to all development within the Shire and identifies the requirements relating to general and environmental planning elements. Car parking is to be provided in accordance with the schedule contained in Table 2.3 of this Chapter. BDCP 2012 Chapter 6C: Commercial Development - Lennox Head. This chapter applies to all E1 zoned land in Lennox Head and is applicable to all development types. Development proposals must be consistent with the planning objectives for the chapter and each of the applicable elements.

1.4 Constraint Summary


Constraint	Applicable Layer
Bushfire	 <p>Figure 3: Bushfire Prone Land 2025 (Ballina Shire Council, 2026)</p> <p>The subject site is mapped within the Bush Fire Vegetation Buffer Zone. An assessment of Planning for Bushfire Protection 2019 will be required to inform and support any development proposal. Based on desktop review, bushfire threat is not identified as a prohibitive constraint for</p>

	development of the subject site, however asset protection zones and building material requirements may be applicable depending on the land uses ultimately proposed. Obtaining formal advice from a bushfire specialist is encouraged should any development scenario be advanced.
Flooding	 <p>Figure 4: Flood Planning Area BLEP 2012 (Ballina Shire Council, 2026)</p> <p>The site is mapped within Flood Planning Area of the <i>Ballina Local Environmental Plan 2012</i> (BLEP 2012). The subject site is mapped as a Medium Flood Risk within Chapter 2 Floodplain Management of the BDCP 2012.</p> <p>Certain land uses are identified as inappropriate in areas of elevated flood risk. Within the Medium Risk Area, 'Sensitive Uses & Facilities' are identified as an unsuitable land use. Sensitive Uses & Facilities includes community facilities which are essential to evacuation during periods of flood or if affected would unreasonably affect the ability of the community to return to normal activities after flood events.</p> <p>The community facilities considered within the development scenario Section of this Planning Analysis are not envisaged to reflect this role or function. Notwithstanding, consideration and assessment of flood risk via formal specialist advice is encouraged should any development scenario be advanced.</p> <p>Planning considerations outlined within Chapter 2b of the BDCP 2012 also include provisions relating to:</p> <ul style="list-style-type: none"> • Floor Level • Building Components and Methods • Structural soundness • Car parking
Ecological	No mapped ecological constraints have been identified.
Heritage	No mapped heritage items have been identified.
Coastal Hazards Area &	<p>The site is mapped as:</p> <ul style="list-style-type: none"> • Proximity Area to Coastal Wetlands; • Coastal Use; and • Coastal Environment Areas.

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	Accordingly, any development of the subject site will require measures to mitigate impact of the biophysical, hydrological or ecological integrity of the adjacent coastal wetland.
Acid Sulphate Soils	Class 2 Acid Sulfate Soils. Accordingly, an Acid Sulfate Soils Management Plan will be required for any future development proposal.
Drinking Water Catchment	The subject site is not located within the mapped Drinking Water Catchment.
Watercourse	No mapped watercourses have been identified within the subject site.
Sewer Easement	 <p>Figure 6: Wastewater gravity pipe shown as pink perforated line (<i>Ballina Shire Council, 2026</i>)</p> <p>As identified in Figure 6, an existing gravity sewer main traverses the subject site. An easement to ensure the protection of the asset is identified on the Deposited Plan and Section 88B.</p> <p>Council's 'Building Over or Adjacent to Council Assets Policy' identifies the types of work that are permissible over an easement of this type including driveways, paved areas and lightweight fences. Accordingly, the location and size of the easement impacts the potential developable envelope within the subject site.</p> <p>Specifically, of the 1,813m² site area, this easement area is approximately 315m² should be discounted from accommodating any built form, other than a carpark/driveway access.</p>



2. Zoning and Land Use Opportunities

2.1 Zone E1 Local Centre

The E1 Local Centre zone within the *Ballina Local Environmental Plan 2012 (BLEP 2012)* details a broad suite of permissible land uses to provide facilities that serve the needs of people who live in, work in or visit the area.

Through the stated objectives, the zoning encourages investment in local commercial development, generating employment opportunities and fostering economic growth. It aims to create vibrant and active local centres that enhance the community's quality of life.

2.2 Permissible Uses

A copy of the land use table is provided as an **Attachment**, however, in summary, key land uses include:

- Commercial Premises: offices, banks and other professional services.
- Retail Premises: such as cafes, small supermarkets, pharmacies and bakeries.
- Medical facilities: Including Hospital and GP clinics.
- Community based services: Such as childcare facilities and community centers.
- Shop top residential development: Residential opportunities are confined to a shop top format (located above commercial premises or health services facilities).

The E1 Local Centre zone is an 'open zone', whereby a broad variety of land uses can be pursued, allowing flexibility for the future use of this site. Where land uses are not listed as prohibited for the Local Centre zone, the land use is permitted with development consent.

Prohibited land uses are primarily related to agriculture, tourism and industrial purposes. Accordingly, the anticipated outcomes identified within Council's resolution such as community infrastructure and services are permitted in the zone with development consent.

2.3 Planning Pathway

Pursuing any non-infrastructure' land uses will trigger the need for the lodgment of a Development Application (DA).

State Environmental Planning Policy (Planning Systems) 2021 identifies specific triggers whereby a development proposal is classified as 'State Significant' or 'Regionally Significant'. Per Schedule 6 of the Planning Systems SEPP, projects with a capital investment value of more than \$5 million that are on Council-owned land are identified regionally significant and would be determined by the Northern Regional Planning Panel. Any development concept which maximises the opportunities of the subject site is anticipated to be close to, or exceed the \$5 million threshold stipulated. Noting the wider planning reform processes being pursued by NSW Government, the planning pathway is encouraged to be confirmed at the time any specific development scenario is advanced.

Should Council wish to advance a Development Application for development of the subject site, the following information is anticipated:

<ul style="list-style-type: none"> • Architectural Plans • Town Planning Report • Acid Sulfate Soils Management Plan • Survey Plan • Estimated Development Cost 	<ul style="list-style-type: none"> • Bushfire Assessment • Landscape Plan • Waste Management Plan • Stormwater Management Plan • Flood Impact Assessment/ Flood Response Assessment Plan
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Depending on final project scope and details, further assessments may be required such as but not limited to:

- BASIX Certificate and/or Sustainability/NABERS Assessment
- Traffic/Parking Report
- Socioeconomic Impact Assessment
- Crime Prevention Through Environmental Design Assessment

Development contributions levied per Section 7.11 of the *Environmental Planning and Assessment Act 1979* will also be applicable to any project which intensifies the use of the subject site beyond its existing 'credit'. An estimate of developer contributions is encouraged to be obtained once any development concept is advanced.

3. Demographic drivers and trends

3.1 Ballina Shire Profile

Ballina Shire is experiencing strong population growth, with a projected increase of 22.15%, or 11,299 people, to 2046. For many of its suburbs, including Lennox Head, current and forecast growth brings increased local activity and demand for community-based infrastructure and commercial-based services. Health Care and Social Assistance is the LGAs largest employer, generating 4,160 local jobs in 2023/24, followed by Construction (3,184 jobs), Retail Trade (2,547 jobs), Education and Training (1,933 jobs) and Accommodation and Food Services (1,878 jobs).

3.2 Lennox Head Community

The subject site is located within the Lennox Head - Skennars Head statistical area (SA2 112011242). Salient socio-demographic observations for the Lennox Head - Skennars Head statistical area include:

- A younger demographic – In Lennox Head - Skennars Head, 30.7% of households were made up of couples with children in 2021, compared with 23.3% in Ballina Shire
- Family orientated – In 2021, Lennox Head - Skennars Head had higher proportion of children (under 18) and a lower proportion of persons aged 60 or older than Ballina Shire
- Strong population growth – The rate of growth remains strongest within the Lennox Head - Skennars Head area, which accounted for almost 60% of Ballina Shire population growth
- Continued growth into the future – Lennox Head has the greatest area of forecasted dwellings with the forecast to see a 36% increase in population from 2023 to 2036

The wider EPIQ development includes more than 450 homes, sporting fields, a childcare centre and the established neighbourhood shopping centre and has supported the strong population growth. An additional growth pipeline is present, including but not limited to Lennox Rise. The Kinvara (CURA B) subdivision will further increase the population in the broader locality. The emerging community is supported with existing and new infrastructure, including the construction of a new basketball court to the immediate south of the site and the new Lennox Head Public School and Preschool. The Lennox Head Public School and Preschool are expected to be completed in 2027 and will have capacity for more than 550 students.

Whilst infrastructure exists to support the community, it is be noted that population trends will continue to increase demand for services, and localised capacity limitations may become apparent. By way of example, we understand the Harmony Early Education Lennox Head is experiencing waitlists. Identification of whether these capacity limitations are 'site-based', stem from access to staff resources, or both. Notwithstanding, the presence of enabling infrastructure, such as schools and playing fields, is anticipated to drive a younger demographic within the Lennox Head – Skennars Head locality for the foreseeable future. Accordingly, consideration of the value-chain of both the LGAs economic pillars, and the local demographic is encouraged to be monitored and considered further into the future.

3.3 Community Facilities within the Ballina Shire

Publicly accessible community facilities are important places that provide the community with space to connect and enjoy entertainment, creative and recreational pursuits. The '*Community Facilities Strategy*' identifies 27x publicly accessible community spaces of which 21x are owned or managed by Ballina Shire Council or other government agencies. This includes community halls, multipurpose surf clubs, seniors' centres, youth spaces, meeting rooms, scout halls and other community spaces. With growing demand for community facilities, the following have been identified as needs:

- A new multi-purpose library, community and cultural hub in Ballina Town Centre

- Aboriginal cultural centre
- Expanded library at the Lennox Head Community and Cultural centre
- More spaces for creative community participation

Where Council has identified community and cultural facility needs, the Community Facilities Strategy has predominately included site identification and site-specific strategies. Local community facilities include:

- Ballina Indoor Sports Centre and meeting rooms
- Lennox Head Cultural Centre including auditorium
- Ballina Surf Club and function room
- Lennox Head Community Hall sporting and community space
- Hutley Fields Community Facility including change rooms, office, timekeeper's room, commercial kitchen and community meeting space

Through discussion with Council staff, it is understood that booking capacity is available within existing assets. The Hutley Fields Community Facility has the capacity to continue servicing the sporting community and support the delivery of sporting events within the local area. Where there is a change in the type of demand for sporting activities that cannot be supported by the current facilities, then the subject site should be explored as an option to facilitate such a need.

The Community Facilities Strategy has not specifically identified the subject site as required to deliver social infrastructure for Ballina's community, based on projected population growth to 2045. No notable disruption to population forecasts has been identified since adoption of the Community Facilities Strategy in 2022, accordingly, a strategic imperative to revisit or revise its findings has been identified.

3.4 Retail and Commercial Demand

Larger retail and commercial opportunities, focusing on 'chore-based retailing', have been realised at EPIQ Marketplace Lennox Heads immediately adjoining the subject site. EPIQ Marketplace Lennox Heads complements a wider retail network, with other chore-based hubs identified within surrounding localities including:

- Lennox Head Village along Ballina Street (IGA) - 2.5km
- East Ballina Neighborhood Centre (Foodworks and Australia Post) - 8.5km
- Ballina Central and Ballina Fair (Coles, Woolworths and Kmart) - 11.4km
- Ballina Town Centre (Woolworths and larger specialty stores) (12.5km).

Where retail opportunities might be explored on the subject site, tenants are generally anticipated to comprise smaller, specialty businesses, as opposed to an additional large floorplate proposal, such as a 'full-line' supermarket. Smaller floorplate supermarkets, such as Spar, IGA or Aldi, may be appropriate and can generally be accommodated within the subject site land area. Any chore-based retail proposal is encouraged to be underpinned by economic analysis, ensuring the primacy of existing centers is upheld and the wider network complemented.

Whilst opportunity for additional specialty businesses is present, the existing Lennox Head Village benefits from a stronger critical mass of floor area and services, as well as a confluence with tourist activity. Accordingly, the competitive advantage of the subject site aligns more directly to the local (walking catchment) community, as opposed to serving an LGA, or sub-regional focus. A stronger 'local' focus may manifest in the pursuit of smaller and greater diversity of tenancy sizes, catering towards local start ups and offering alternate price points within the market.

The Live/Work Terraces will enhance the area's retail and commercial presence, complementing the existing mix of spaces. They introduce an alternative workspace model that moves beyond the need for traditional office and commercial development.

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In preparing this Planning Analysis, no economic assessments or conditions have been cited which identify demand for bulky goods or like large floorplate operations in this locality.

4. Development Scenarios & Discussion

4.1 Methodology

The methodology of the development scenarios explored for the site involve an understanding of demographics, trends, existing opportunities and limitations to the site. Specifically, the subject site is:

- Located within a key growth corridor for the Lennox Head community and broader Ballina LGA.
- Well located, benefiting from a highly walkable and active transport catchment area inclusive of homes, existing retail premises and education infrastructure.
- Within an emerging urban structure that has facilitated high amenity levels and an incoming demographic of households made up of couples with children, typically working in education and training, construction, retail trade, professional services or accommodation and food services.
- Within a locality that includes
 - Childcare
 - Commercial and retail shopping centre
 - Lennox Head Public School
 - 40-place public preschool
 - Sports fields
 - Community Hall
 - Live/Work Terraces and self-storage premise (under construction)
 - Low and mid-rise housing
 - Tavern (under construction)
- Within proximity to additional infrastructure investment including the new public school site and southern extension of Hutley Drive.

In finalising the methodology, several informed assumptions were also made, including but not limited to:

- Avoidance of basement carparking – Generally the use of basement carparking comprises a more efficient use of site area within highly-urbanised locations. Within Council's planning framework, basement parking is not supported on sites within the Medium Flood Risk area. In addition, noting the applicable development standards (particularly height and FSR) and location of sewer infrastructure, it is unlikely that the economic cost of pursuing a basement carpark would be overcome by the value of the ultimate development form.
- Precautionary land areas discounted from the site area to account for constraints such as sewer infrastructure and bushfire protection – To maximise the subject sites potential, specialist civil engineering and bushfire assessments will be required specific to the ultimate development form proposed. In the absence of an advanced design and these specialist assessments, a precautionary approach and land allowance to setback from infrastructure and hazards has been pursued.
- Discounting unplanned social infrastructure – As detailed previously, a contemporary Community Facilities Strategy is in place which does not identify a need or demand for social infrastructure on the subject site. Additional, regional or subregional facilities, such as theatres and galleries have also been discounted noting the land area of the subject site and the wider network opportunities available.

Acknowledging the abovementioned methodology, 4x primary development scenarios have been identified, as detailed overpage.



4.2 Development Scenario 1 - Mixed use commercial, retail and/or recreation facility (indoor) development

Theme	Planning Commentary
Permissible uses	Commercial premises (business premises, office premises, retail premises). Recreation facilities (indoor)
Developable area	1,498m ² Maximum floor area (FSR of 0.6): 1,088m ²
Setbacks	No building line setbacks are nominated for commercial development in the DCP.
Car parking requirements	Food and drink premises - 1 space per 3 seats or 15 per 100m ² GFA, whichever is the greater Retail, business and office premises - 1 space per 40m ² GFA Gymnasium - 4.5 spaces per 100m ² GFA Dance Studio - 1 space per 3 pupils Other activities - on merit
Discussion	<p>Exploring development scenarios which directly aligns with the stated zone objectives, a mixed use outcome comprising a variety of retail, commercial and potentially indoor recreation uses holds opportunity to support the local community. Whilst retail development is generally best located at ground level, to maximise the development opportunities of the subject site, a two (2) storey form may be pursued. A two (2) storey form is anticipated to capitalise on vistas and outlooks afforded to the locale, increasing the amenity to future office or recreation facility (indoor) uses. A reasonable range of floor space is difficult to prescribe at this time, noting the variance in operational, carparking and delivery requirements. Notwithstanding, a general floor area projection of 500m²+ is anticipated assuming food and drink premises are predominately ancillary to retail, office and recreation area uses.</p> <p>The commercial and retail tenancies will continue to be an opportunity for Council to generate revenue whilst providing services to the community.</p> <p>This development scenario is to complement the existing EPIQ Marketplace Lennox Heads by increasing critical mass of floorspace and services, as well as offer increased diversity of tenancy sizes. The development scenario is encouraged to explore accommodating an anchor tenant, such as a medical centre, or bespoke retail operator offering choice to the established EPIQ Marketplace Lennox Heads offering.</p> <p>Existing recreation facilities within the locale could also be complimented with indoor commercial operations. Operations which align with the local demographic may include (but are not limited to) martial arts, dance, yoga, pilates and the like.</p>



4.3 Development Scenario 2 - Mixed use commercial, retail and shop-top housing development

Theme	Planning Commentary
Permissible uses	<p>Commercial premises (business premises, office premises, retail premises). Recreation facilities (indoor)</p> <p>Shop top housing (one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities)</p>
Developable area	<p>1,498m²</p> <p>Maximum floor area (FSR of 0.6): 1,088m²</p>
Setbacks	<p>No building line setbacks are nominated for the commercial ground floor development in the DCP.</p> <p>Walls more than 4.5 metres above existing ground level must be setback from side and rear boundaries as follows:</p> <ul style="list-style-type: none"> • 2.5m for western and southern elevations. • 1.5m for northern and eastern elevations.
Car parking requirements	<p>As per Scenario 1 for non-residential land uses; plus</p> <p>Dwelling – 2 spaces per dwelling</p>
Discussion	<p>Exploring development scenarios which directly aligns with the stated zone objectives, a mixed use outcome comprising employment and residential accommodation above holds opportunity to support the local community, and contribute towards the LGAs housing targets.</p> <p>Per the discussion in Development Scenario 1, retail, office and any recreation facility (indoor) use is best located at ground level, with residential accommodation positioned in the storey, or 2 above. The suite of potential ground floor uses in Development Scenario 2 aligns with the previous Development Scenario 1, though at a reduced scale. Accordingly, a specific need and opportunity for an anchor tenant is not as predominant in this development scenario.</p> <p>Acknowledging the particulars of the subject site and the policy framework, should a retail/office and shop top housing scenario be pursued, a two-to-three storey development form is anticipated. The development form is anticipated to be inclusive of 200 – 300m² of specialty retail and/or office space and between 4 - 6x 2-bedroom units above. The Development Scenario will also be supported by delineated resident and staff parking, as well as landscaping.</p> <p>The shop-top housing option will generate housing growth, and provides diversity to the housing stock available locally. Accordingly, the Development Scenario offers an alternate price point to the low-rise housing in the immediate locality. The development scenario also enables opportunity for Council to engage with affordable or low-income ‘build to rent’ housing providers. This could be through lease agreements, or Public Private Partnership.</p>

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	<p>Due to the proximity of the site to the proposed basketball court and existing EPIQ Marketplace, a Noise Impact Assessment is encouraged to ensure no adverse impact on sensitive receivers, or existing operations.</p> <p>In addition to the EPIQ Marketplace, the adjoining retail precinct and Live/Work Terraces highlight the area's capacity to accommodate ongoing commercial, retail, and residential growth.</p>
--	---

4.4 Development Scenario 3 - Multi-purpose Community Hub

Theme	Planning Commentary
Permissible uses	Community facilities - owned or controlled by a public authority or non-profit community organisation, and used for the physical, social, cultural or intellectual development or welfare of the community
Developable area	1,498m ² Maximum floor area (FSR of 0.6): 1,088m ² Site Coverage: 60% Landscaped area: 20%
Setbacks	No building line setbacks are nominated for the subject lot in the DCP.
Car parking requirements	Merit based
Discussion	<p>The strategic location of the subject site within the locality, namely its co-location with open space, education, commercial and residential land uses, provide an ideal opportunity for a community hub/centre. The size of the subject site is considered suitable to accommodate a 'local' community centre, or a 'regional' museum. Higher-order, district and regional focuses community facilities are not identified as suitable with a 1,813m² site area.</p> <p>Whilst theoretical opportunity is undoubtedly present, as detailed earlier within this Planning Analysis, the subject site is not identified as fulfilling a community or cultural facility purpose within contemporary network planning. Further, community and cultural facilities of like scale and providing diverse functions already exist within the wider locality. The capacity of existing facilities has not been identified as reaching a saturation point. Likewise, projected population growth has been accounted for. Accordingly, there is a limited likelihood of social infrastructure shortfall void of significant unplanned growth. Accordingly, general composition parameters of a community hub have not been prescribed at this time.</p> <p>Should Council see value in re-calibrating their network planning and/or re-distributing access to services across the LGA,</p>

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	<p>engagement with the community to further resolve the function and programming of a community hub is strongly encouraged.</p> <p>Community hubs are typically administered via lease agreements. Alternatively, Public Private Partnerships with tertiary education providers or non-for-profit organisations can be pursued.</p>
--	---

4.5 Development Scenario 4 - Centre-based childcare facility

Theme	Planning Commentary
Permissible uses	Centre-based childcare facility (including long day care, occasional childcare, out-of-school-hours care, including vacation care, and preschool care)
Developable area	<p>1,498m²</p> <p>Maximum floor area (FSR of 0.6): 1,088m²</p> <p>Site Coverage: 60%</p> <p>Landscaped area: 20%</p> <p>Maximum Floor Area: 679.88m²</p> <p>Indoor Space Requirements - Minimum 3.25m² of unencumbered space per child</p> <p>Outdoor Space Requirements - Minimum 7m² of unencumbered space per child.</p>
Setbacks	No building line setbacks are nominated for the subject lot in the DCP.
Car parking requirements	1 space per 4 children plus drop off/pick up area
Discussion	<p>Demographic analysis identified a key driver within the locality of young families. Anecdotally, capacity of existing childcare centers in the area and along key commuter routes, is limited. Accordingly, opportunity for additional childcare facilities within the locality is identified as present.</p> <p>The subject site is identified as sufficiently sized to accommodate this land use. In addition, setbacks from the subject site to existing sensitive receivers is notable, indicating ideal opportunity to mitigate land use conflicts, such as traffic and noise, with minimal treatment and associated costs.</p> <p>In considering the particulars of the subject site, it is anticipated that any childcare facility would comprise a one-to-two storey form (depending on the extent of facilities, staff amenities and desired playspace outcomes), approximately 75-90 placements, as well as staff.</p> <p>A childcare facility, either entirely private or Council owned (as a landlord) on the subject site would benefit from the accessibility to surrounding residential homes and the ongoing younger</p>



	<p>demographic profile anticipated from proximity to school infrastructure.</p> <p>Should Council wish to advance this development scenario further, we anticipate that a Development Application would be advanced with consultation inclusive of multiple service providers. A formal public private partnership may be appropriate, however suitable title-based arrangements are available to secure community orientated outcomes should freehold sale of the site be desired.</p>
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4.6 Further Discussion & Next Steps

The subject site benefits from a strategic location within a growing community, as well as location to amenity and services and generous site size. These underlying traits emphasise the lands value as a Council asset. This Planning Analysis recognises and future opportunity for development through the land use zoning, associated development standards, and absence of significant constraints. The Planning Analysis has explored development scenarios that support the growing and younger community of the locality, whilst complementing the existing social and economic network of centres.

Notwithstanding the development opportunities of the subject site, the investigations through this Planning Analysis have not identified clear shortfalls of social infrastructure or economic services for the growing community. The locality is experiencing the macro pressures faced across the LGA and wider region, such as increased housing demand, however, the locale benefits from existing and emerging services, as well as connectivity into a wider network of services. Further, the established and emerging network is identified as well positioned to cater for the additional growth projected for the locality.

In this regard, the 4x primary development scenarios detailed are reflective of the orderly and economic use of land, however there is no clear 'highest and best use' of the subject site at this time.

Acknowledging the above, beyond potentially responding to macro policy drivers, such as the National Housing Accord, a specific impetus to progress a development scenario urgently has not been identified. Noting the delivery timeline of additional population growth and the pipeline of enabling infrastructure, it is suggested that a time horizon of 5+ years forms a preliminary benchmark to any development scenario delivery. This time period is considered advantageous to monitor the needs and wants of the dynamic and growing community, as well as allow Council to position itself within a more mature picture of social and economic services as locality's population catchment is realised. To reaffirm, where opportunities have been identified, the existing network and infrastructure possesses capacity for the projected population increases.

In conjunction with a medium-term timeline, Planit recommends engagement with relevant stakeholders including local residents, businesses, and education institutions to inform deliberations for land uses on the subject site. Case study analysis based on the 4x development scenarios would also be beneficial to facilitate engagement and may also be appropriate to inform detailed financial modelling and feasibility analysis.

Whilst any multi-purpose community hub proposal is anticipated to be confined to Council ownership, remaining scenarios can be delivered via sale or lease-based agreements. Each scenario holds opportunity to be realised via a public-private partnership; however, no significant benefit has been identified in doing so at this time. The variety of partnership and operational pathways is encouraged to be considered in determining the breadth of stakeholders for future engagement. We anticipate that detailed ownership and management arrangements, consistent with Council's Property Investment and Development Policy, would be explored should further investigations into a preferred development outcome/s be pursued.

5.2 Council Land Use - Corner Snapper and Hutley Drive, Lennox Head

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Attachment 1 – Title & DP

Attachment 2 – Land Use Table

Ballina Local Environmental Plan 2012 (2013 EPI 20)

Zone E1 Local Centre

1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure the adequate provision of infrastructure to support neighbourhood shopping facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To encourage development that—
 - a) recognises natural, cultural and built heritage, and
 - b) uses resources efficiently, including energy and water, and
 - c) is compatible with the hierarchy of centres, and
 - d) has high accessibility and amenity, particularly for pedestrians.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and contribute to vibrant, diverse and functional streets and public spaces.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Extensive agriculture; Function centres; Group homes; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition villages; Forestry; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Restricted premises; Rural industries; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Wharf or boating facilities; Wholesale supplies





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BALLINA SHIRE COUNCIL
Developer Contributions Options Report

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Acknowledgement of Country

GLN Planning Pty Ltd. respectfully acknowledges the Traditional Custodians of Country throughout Australia and recognises and respects their continuing cultural heritage, beliefs and connection to land, sea and community. We pay our respects to their Elders past, present and emerging. This land always was and always will be traditional Aboriginal Land.



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Executive summary

Councils in NSW can require developers to make monetary, land or works contributions for new or upgraded local infrastructure, if the council has adopted a contributions plan under section 7.13 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

Ballina Shire Council (**BSC**) has the following active contribution plans:

- Ballina Shire Roads Contribution Plan V4.2, 2021
- Ballina Shire Open Space and Community Facilities Contributions Plan, 2022
- Ballina Shire Car Parking Contribution Plan 2014
- Cumbalum Urban Release Area Precinct A Contribution Plan
- Heavy Haulage Contribution Plan 2019

This report documents a review of the Ballina Shire Roads Contribution Plan V4.2 2021 (**Roads Plan**), the Ballina Shire Open Space and Community Facilities Contributions Plan 2022 (**OS Plan**) and the Ballina Shire Car Parking Contribution Plan 2014 (**Parking Plan**).

BSC has two further active contributions plans - Development Servicing Plans, for wastewater and water supply – that were not considered as part of this review.

This review covers the current framework for imposing local infrastructure contributions in NSW, identifies causes of the income shortfall and assesses the merits of alternative approaches to support a more effective and sustainable contributions strategy. The forecast income modelling of the different scenarios can be viewed in

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Table 1 and Figure 4 and 5.

Key findings include:

- When the Roads and OS plans are combined, the cap imposed and using the current cost estimates in the plan's work schedule, the plans have a total funding gap of approximately \$108m (Table 9).
- The shortfall is due to a combination of the Minister's cap on s7.11 contributions, construction costs escalating faster than the costs assumed in the plans, and the forecast growth being overestimated.
- The cap allows councils to collect for infrastructure not included in the 'Essential Works List' (EWL). The cap contributing to the \$108m loss allows council to collect approximately \$10m towards work not on the EWL.
- To help bridge that funding gap the work schedule needs to align with the actual growth and the forecast costs need to be updated to better reflect current costs.
- It's estimated that this would result in a residential section 7.11 contribution of approximately \$50,000 per lot (rounded), which will require the contributions plan to be reviewed by IPART. **NOTE:** this figure will likely change once a quantity surveyor has costed the infrastructure to be included in the work schedule.
- An IPART-reviewed s7.11 plan would mean the \$10m worth of infrastructure not on the EWL could not be collected for, but it would raise significantly more income than the EWL contributions foregone.
- An IPART plan would likely encourage more planning agreements because the developer might be able to secure some cost savings, which also transfers delivery risk from Council to the developer.
- The Parking Plan is forecast to average about \$50,000 per year in collections but based on recent history this is likely bullish.
- The adoption of a section 7.12 contributions plan, which is not constrained by the EWL, would allow Council to collect for infrastructure not on the EWL, including parking. This would likely collect against alterations and additions (residential and non-residential) and secondary dwellings over \$100,000 in value.
- For new non-residential development a s7.11 contributions and plan remains the most suitable levying mechanism, as contributions are uncapped.
- To avoid creating a shortfall in the collections for regional open space in the proposed IPART plan, the Cumbalum Urban Release Area Precinct A Contribution Plan will need to be referred to IPART for review as well.

The following table presents a summary comparison of results of income scenario options.



Table 1 Summary comparison of income options tested to deliver roads and open space infrastructure

	Ballina Council Income Options – Roads and Open Space Plans				
	S7.11		S7.12 – Alts and adds (all development) ¹		
	BAU	IPART-reviewed	1%	3%	5%
CP rate / value of development	\$20k / dwelling, capped (new dwellings)	\$50k / dwelling (new dwellings)	\$183m / year ²	\$183m / year ²	\$183m / year ²
15-year income³	\$103m	\$303m	\$3.3m	\$5.5m	\$9.2m
Funding flexibility	Low	Medium	High	Medium	
Simplicity	Medium	Medium	High	High	
Applicant appeals	Low to Medium risk	Low to Medium risk	No risk		
Likelihood of implementation	High	High	High	Low	Low
Stakeholder risk	Low	Medium	Medium	High	High
Overall	Results in a gap of \$108m once increased construction costs are accounted for	Very good income, cannot fund non-essential works (~\$10m), medium stakeholder risk	Very flexible, additional income that the council currently doesn't collect for	Good income, but unlikely to receive approval from DPPI, high stakeholder risk	High income but unlikely to be supported by DPPI, high stakeholder risk

¹ New plan to collect for applications relating to development that requires consent but is not a new dwelling

² Forecast figures derived from DA data supplied by Ballina Council for the last five years of approved development that was not a new dwelling.

³ Assumes 275 new dwellings per year for 15 years (4,125 new dwellings in total) and includes the \$15m calculated for non-residential development in Table 8.

Ballina Shire Council



1 Introduction

Ballina Shire Council engaged GLN Planning (**GLN**) to review the Roads Plan and the OS Plan in response to:

- A persistent shortfall between contributions income and the cost of infrastructure;
- The need to explore more effective and flexible contributions mechanisms; and
- An increase in project costs.

This review aims to provide BSC with a clear and robust understanding of how actual costs compare to income received. This is based on an analysis of:

- Contributions income forecasts under different plan models
- Updated construction costs
- The impacts of having plans IPART reviewed to exceed the contribution cap
- How a s7.12 plan for infill areas might help fund infrastructure
- Alignment with the EP&A Act and associated regulations and recent revised Practice Notes.

1.1 Report Structure

The rest of this Options Paper is structured as follows:

- **Part 2** summarises the local infrastructure funding mechanisms available to councils.
- **Part 3** reviews the performance of the Roads and OS Plans.
- **Part 4** analyses growth forecasts across the area for residential and non-residential development
- **Part 5** tests contributions framework options, including for residential and non-residential development.
- **Part 6** presents recommendations resulting from this review.



2 Local contributions mechanisms

Section 7.11 and 7.12 of the EP&A Act are the two primary mechanisms councils use to fund local infrastructure. Each mechanism has distinct advantages, limitations and suitability to various development contexts as shown in **Table 2**.

While both s7.11 and s7.12 plans are subject to contribution limits, there are pathways to increase these rates under certain conditions. These options are explored later in this section.

Table 2: Comparison of section 7.11 and 7.12 contributions

	Section 7.11	Section 7.12
Basis	Contribution rate based on nexus and apportionment (e.g. cost of new infrastructure apportioned to development divided by the new development-generated population increase).	A percentage levy based on the cost of development. Delivery of works in kind may be less common as contributions are not linked to specific infrastructure items.
Cap / maximum rate	S7.11 contributions are more cost-reflective and typically collect a higher contribution than a standard s7.12 levy but are capped at \$20,000 per dwelling (\$30,000 in the case of greenfield areas) unless reviewed by the Independent Pricing and Regulatory Tribunal (IPART).	Standard s7.12 levies are limited to 1% of development costs over \$200,000, unless the Minister for Planning and Public Spaces approves a higher rate. For a \$600,000 dwelling, the levy is \$6,000. While contributions are lower, they scale with rising construction costs over time.
Funding flexibility	S7.11 contributions are less flexible due to nexus and apportionment requirements. Infrastructure must have a direct link (nexus) to the development it supports, and catchments help establish this link but restrict spending to specific areas. Plans must also show apportionment—the share of costs funded by contributions from new development. Since contributions rarely cover 100% of costs, councils must use other fundings sources (such as grants, rates, or general revenue) to fund the remainder. S7.11 contributions can fund the reasonable costs of administering the contributions plan.	S7.12 levies, overall, offer greater flexibility than s7.11 contributions. Standard s7.12 levies don't require nexus or apportionment, allowing councils to pool contributions and fully fund individual works—ideal when other funding sources are limited. S7.11 items can be repeated in s7.12 plan works schedules to help cover costs not funded under s7.11 i.e. unapportioned costs. Section 7.12 contributions – based on advice in DPHI practice notes – cannot however cover the cost of plan administration activities.
Simplicity	S7.11 plans are more complex than S7.12 plans due to detailed infrastructure requirements, technical studies, and varying rates across catchments. Their complexity can make them harder for non-technical audiences to interpret. In greenfield area developments, the development will typically be levied once at the subdivision stage.	Standard s7.12 plans are simpler to prepare, use, and administer than S7.11 plans. They don't require detailed nexus or apportionment, and use a straightforward percentage-based levy, making them easier for both applicants and Council staff to understand and apply. In greenfield area developments, the development will typically be levied once at the subdivision stage (for the cost of



	Section 7.11	Section 7.12
		earthworks and subdivision works) and again at the building stage.
Applicant appeal rights	Applicants can challenge the 'reasonableness' of a s7.11 contributions in the NSW Land and Environment Court, but such appeals are increasingly rare, mainly due to the government's non-indexation of the \$20,000 threshold since 2011.	Applicants cannot appeal the reasonableness of a section 7.12 condition.

2.1 Charging uncapped s7.11 contribution rates

A \$20,000 per new dwelling contribution threshold for s7.11 contributions was introduced in 2011 to support housing delivery feasibility. A \$30,000 per new dwelling threshold applies in greenfield areas. However, the NSW Government has not indexed the relevant thresholds since their introduction. This has had the effect of drawing more s7.11 contributions into an IPART-review situation than would have happened if the cap was indexed.

Figure 1 illustrates the indexed equivalent of the threshold using the Consumer Price Index (CPI) and Producer Price Index, showing how its static nominal value has steadily eroded since 2011. This lack of indexation limits councils' ability to fund local infrastructure, without going through an IPART review.

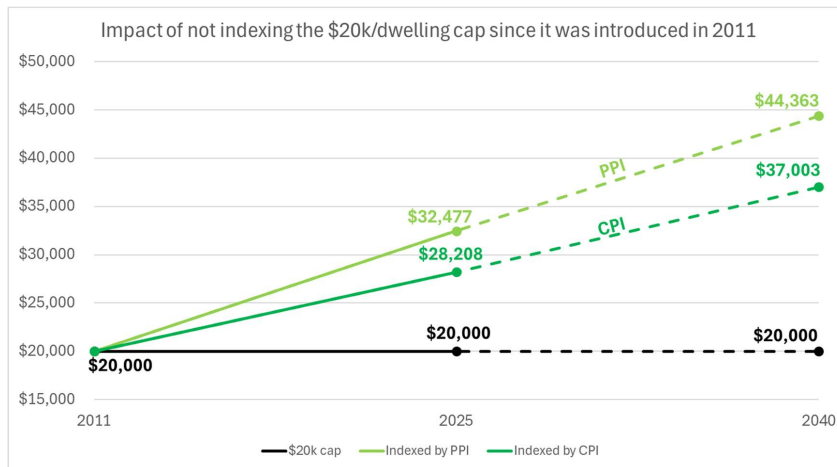


Figure 1: Impact of not indexing \$20,000 / dwelling cap

To charge a s7.11 contribution over the relevant cap, the Minister's approval informed by an IPART review is required. In their review of the contribution plan and its costs, IPART apply their EWL which



restricts the application of s7.11 funding to what to what is considered essential works in the 2025 practice notes issued by DPHI. The EWL includes:¹

- land for open space (for example, parks and sporting facilities) including base level embellishment
- land for community services (for example, childcare centres and libraries)
- land and facilities for transport (for example, road works, traffic management and pedestrian and cyclist facilities), but not including carparking
- land and facilities for stormwater management
- the costs of plan preparation and administration.

Generally speaking, community facilities and indoor recreation facility capital costs, streetscape works, and open space embellishment beyond a 'base-level' are examples of items not included in the EWL.

2.2 Charging a s7.12 levy higher than 1%

The modelling has looked at s7.12 income using the base rate of 1%, that doesn't require Ministerial approval as well as 3% and 5% which do require Ministerial approval. The approval process for a higher rate s7.12 is not dissimilar to a IPART reviewed section 7.11, except the assessment of a higher rate s7.12 plan is undertaken by DPHI, not IPART.

To charge a section 7.12 levy above 1%, councils must apply to the Minister for Planning and Public Spaces and meet criteria for increased levies specified in DPHI's 2025 Practice Note for s7.12 levies. The criteria for a levy that collects over 1% is generally as follows:

- A demonstrated funding gap not covered by the standard levy
- Strategic justification aligned with planning objectives
- Financial modelling to justify the need for a higher rate
- Consistency with local and regional plans.

The criteria for a higher s7.12 levy is geared towards or centre-based precinct planning. All approved higher rate levy requests have focused on a particular area in an LGA.

Although higher-rate s7.12 plans may initially raise less than an IPART-reviewed s7.11 plan, they offer greater flexibility. These plans are not restricted by an EWL, but councils must still prepare a works schedule in consultation with DPHI, apply apportionment where appropriate, and provide financial modelling to justify the levy's sustainability and alignment with infrastructure delivery. **Figure 2** gives a high-level comparison of how income from a s7.12 plan, with varying levy's and indexed over time, compares to a capped s7.11 plan.

¹ DPHI 2025 Practice Notes, <https://www.planningportal.nsw.gov.au/local-infrastructure-contributions/ipart-review-section-7-11>, accessed 2 March 2026.

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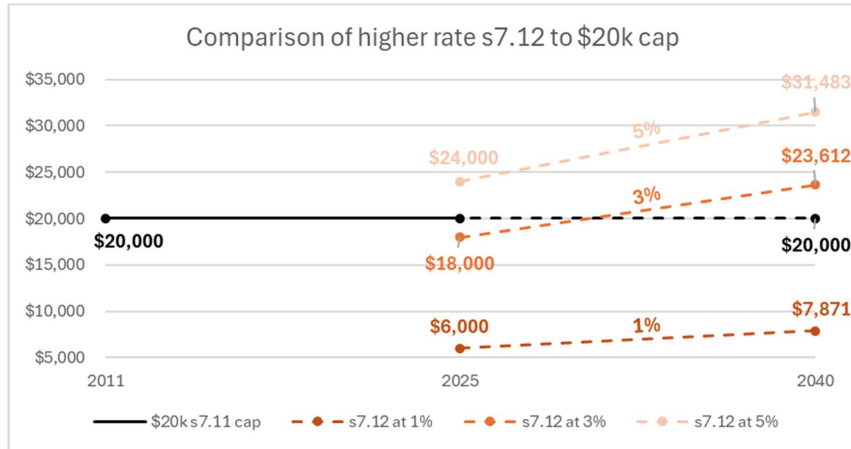


Figure 2: Comparison of higher rate s7.12 to \$20k cap, assuming a \$600,000 construction cost

2.3 Choosing a contributions mechanism

Selecting the appropriate contributions mechanism depends on the development context, infrastructure funding needs, and administrative capacity of the council. As outlined in **Table 2**, both s7.11 and s7.12 plans support local infrastructure delivery, but differ in their contribution potential, flexibility, and complexity. These differences become more pronounced in uncapped / higher rate contribution plans.

Table 3 outlines the types of infrastructure that can be funded under each mechanism, including scenarios where an uncapped s7.11 plan or a higher rate s7.12 plan is used.

Table 4 compares uncapped s7.11 and higher rate s7.12 plans with their standard plan counterparts, highlighting differences in contribution rates, constraints, and requirements.

While s7.11 plans generally can collect more, they cannot fund any non-essential works and face IPART’s strict scrutiny of scope, cost and nexus. Higher rate s7.12 plans offer more flexibility but require financial justification and Ministerial approval.

Table 3: Infrastructure funded under different local infrastructure mechanisms

Infrastructure item	S7.11 (capped)	S7.11 (IPART-reviewed)	S7.12 (including higher rate s7.12)
‘Essential’ works – land acquisition, transport and stormwater works, base level open space embellishment	✓	✓	✓
Community facility works costs, streetscape works,	✓	X	✓



Ballina Shire Council



Infrastructure item	S7.11 (capped)	S7.11 (IPART-reviewed)	S7.12 (including higher rate s7.12)
beyond base-level open space embellishment			
Cost recoupment	✓	✓ Essential works only	✓
Plan administration costs	✓ Up to 1.5% of apportioned capital costs	✓ Up to 1.5% of apportioned EWL capital costs	✗

Table 4: Comparison of an uncapped s7.11 and a higher rate s7.12 plan

	Uncapped IPART-reviewed s7.11	Minister-approved higher rate s7.12
Indicative contribution rate	Similar IPART-reviewed precincts (Frenchs Forest, Wolli Creek) currently collect \$30-35k / dwelling, but can be set by Council down to a 'tolerable' level e.g. \$25k/dwelling	Similar higher rate s7.12 precincts (Macquarie Park, Burwood town centre, Willoughby, Liverpool city centre) charge between 3-4% = roughly \$18-24k / dwelling.
Additional risks / constraints	Contributions can only fund items on the EWL. EWL is considered on a case by case basis by IPART using the guidance of the DPHI 2025 practice note. IPART requires detailed infrastructure studies and robust nexus / apportionment calculations. While the IPART review process can delay the adoption of contribution plans by around 12 months, IPART brings the rigour of an independent statutory authority, ensuring transparency and consistency in their assessments.	Financial modelling is required to demonstrate the reasonableness, sustainability, and alignment of the proposed levy with infrastructure delivery needs. Apportionment rates apply and are scrutinised by DPHI. Approval timeframes may be subject to delays or influenced by broader State government priorities.



3 Existing contributions framework

Ballina Council's current contribution plan portfolio is described below:

- Cumbalum Urban Release Area Precinct A Contributions Plan 2015 - This contributions plan enables Council to levy section 7.11 contributions on developers of Precinct A of the Cumbalum Urban Release Area for the provision of district open space, sporting fields, community facilities and associated works.
- Ballina Shire Car Parking Contributions Plan 2014 - This contributions plan enables Council to levy section 7.11 contributions on developers for car parking-deficient developments in the Ballina, Lennox Head and Alstonville commercial centres.
- Ballina Shire Open Spaces and Community Facilities Contribution Plan 2022 - This contributions plan enables Council to levy section 7.11 contributions from residential and tourist developments towards the provision of open space, recreation and community facilities. The plan became operational on 1 August 2022.
- Heavy Haulage Contributions Plan 2019 - This contributions plan enables Council to levy section 7.11 contributions on development that generates heavy haulage traffic. The plan seeks a contribution for road reconstruction work due to the impact of heavy haulage vehicles on the local road network.
- Ballina Shire Roads Contribution Plan Version 4.2 - This contributions plan enables Council to levy section 7.11 contributions on development that generates additional vehicle movements. These additional movements will result in Council having to undertake roads and traffic upgrades in response to the demands generated by new development, to ensure the overall level of service of the road network is maintained and the contributions collected will help Council fund the upgrades as per the works schedule in the contributions plan.

While the effect of any decisions resulting from this review need to consider all the plans above the only plans being modelled and potentially amended as part of this project are the OS and Roads Plans. In addition, BSC may choose to repeal the Car Parking Plan in favour of the s7.12 plan.

The land to which the Open Spaces and Community Facilities Contribution Plan apply can be seen in **Figure 3**. The Roads Contribution Plan applies to the whole LGA.

In addition, Ballina administers development servicing plans for water supply and wastewater management, which are not considered as part of this review.

Ballina Shire Council

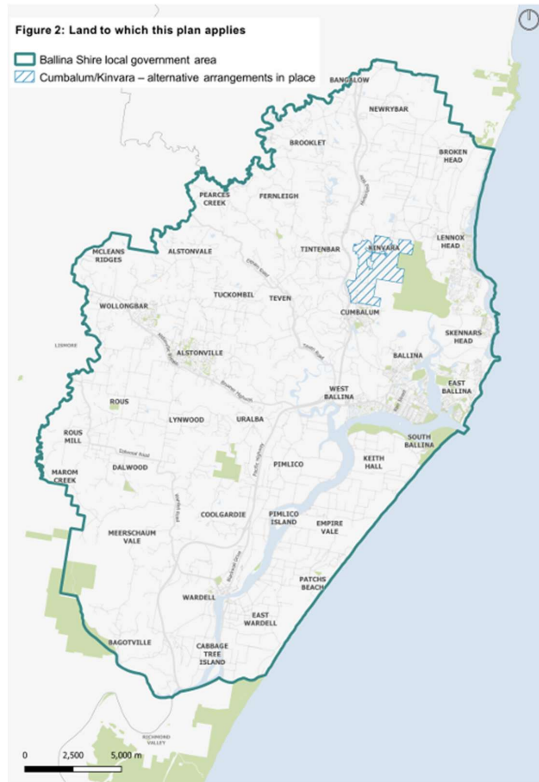


Figure 3: Land to which the Open Spaces and Community Facilities Contribution Plan applies

Source: Ballina Shire Open Spaces and Community Facilities Contribution Plan

3.1 Contributions cap / threshold

Ballina’s contributions plans are subject to the relevant cap or threshold. The cap only applies to residential development funding local infrastructure, so the car parking, heavy haulage and development servicing plans are unaffected by the relevant cap.

The Cumbalum contributions plan has been approval by the Minister to charge at the greenfield cap rate which is \$30,000 per lot. The remainder of the LGA is capped at the non-greenfield rate of \$20,000 per lot. The Roads Plan contributes to the Cumbalum plan cap as does the OS Plan for regional recreation facilities (items 19 and 20 in the OS Plan).

The modelling undertaken as part of this review shows the cap is a significant contributor to the funding gap between what is collected and what the infrastructure costs. A successful review of the amended plan by IPART will allow council to collect above the cap and stem the widening of existing funding gaps.



3.2 Current income and expenditure

Revenue from financial years 2020/21 to 2023/24 across all plans came to \$21.3 million which is an average of \$5.3 million per year. This average is reflected in council's Long Term Financial Plan which forecasts an annual income of between \$5.0 and \$6.3 million over the following 15 years.

Of the income from financial years 2020/21 to 2023/24 \$5.3 million was paid under the OS Plan and \$13.4 million was paid under the Roads Plan. A small amount was collected under the repealed roads plan (\$159,700) over the four years.

Expenditure over the four's years on items in the OS Plan was \$945,600 and Roads Plan \$10,893,000 of which \$963,000 came from the repealed roads plan.

For an analysis of the expenditure to be relevant it needs to look at timing i.e. is the level of expenditure mirroring the delivery timelines in the plans work schedule and is the amount contributed as a % of the forecast cost still relevant to the actual cost.

For the Roads Plan the analysis was based on the work schedule contained in the Draft Roads V4.3 Trial 1 spreadsheet, rather than the Roads CP, 11 of 26 projects have been completed or partially completed, which is considered healthy; but more telling is the fact that the value delivered only equates to 8.5% of the works forecast value. This low percentage is a symptom of apportionment and the cap. Even though the plan itself isn't capped, residential s7.11 contributions on a particular development are.

The same level of analysis can't be done on the OS Plan because it is only three years old and the works in the Long Term Financial Plan are master planning tasks rather than infrastructure delivery. However, it is envisaged that the same issues of the contribution cap and cost escalations will apply to the OS Plan as to the Roads Plan.

The Parking Plan collected approximately \$200,000 in 2022/23 but collected only \$31,000 over the next two financial years. The 10 year income forecast is for approximately \$50,000/year, which could be considered bullish.

3.3 Contributors to the funding gap

For Ballina, the following issues are contributing to the gap between income and expenditure (the list is not exhaustive):

- Existence of the contribution cap for residential development
- Planning requirements impacting construction costs (e.g. heritage, flooding, biodiversity)
- Statutory/engineering changes occurring between the original scope development and delivery
- Escalation of construction costs outstripping indexation

The construction costs relied on in the plans are proving to be less than actual costs of delivering the infrastructure and this is particularly evident with bridges. This is not purely a symptom of escalation but also an increase in indirect elements that influence the delivery cost. For these reasons a review of the costs in the Roads and OS Plans needs to look closely at the scope and planning requirements to be complied with in delivering this infrastructure.

Ballina Shire Council



The funding gaps that Ballina is currently experiencing can be reduced by having the affected plans reviewed by IPART, once the scope and costs have been updated to meet current requirements, so collections can be for actual costs.

Having the plans regularly reviewed to ensure the base rates for infrastructure remain relevant to the current market costs will ensure the costs and associated collections remain relevant through the life of the plan.





4 Growth projections in Ballina

4.1 Residential

Ballina Council’s Housing Strategy 2024 states that the Ballina Council, on average, approve 389 new dwellings each year and the population is expected to increase by 7,000 people over the next 20 years.

Ballina Councils Local Strategic Planning Statement 2020 (LSPS) has just undergone a review and is due to go on public exhibition. The forecasted dwelling yields for Ballina’s zoned, greenfield sites, to 2040, can be seen in **Table 5**. The figures in the table below suggest that the annual dwelling yield over the next 15 years will drop to between 191 and 359. The modelling for this report has assumed a figure of 275 new dwellings a year which is the average of the upper and lower yield forecasts.

Table 5: Upper and lower forecast dwelling yields to 2040

Location	Residential Zoned ‘greenfield’ sites	Potential dwelling yield
West Ballina	3.7 ha	29-55
Cumbalum ²	100 ha	800-1500
Kinvara Area ²	136 ha	1088-2040
Lennox Head	52.6 ha	420-789
Skennars Head	16ha	128-240
Wollongbar	50.4 ha	403-757
Ballina Shire Total	358.7	2868-5381¹

Source: Ballina Council’s draft LSPS

¹ Dwelling yield relied on in this report is the average of upper and lower divided by 15 years which is 4125 new dwellings overall with an average annual dwelling yield of 275.

² Area covered by OS Plan is only for regional infrastructure

NOTE: Both the Roads Plan and OS Plan forecast population growth over the life of the plans at between 10,200 and 10,429. The timeline to deliver the housing to support that population, based on the current average, is 26.5 years. This has the effect of a work schedule that can’t be funded by the actual growth i.e. the obligation far exceeds the income that is likely to be collected and the likely demand the development will generate.

The forecast infill figures for land that has already been developed can be seen in **Table 6**.

Table 6: Upper and lower forecast infill dwelling yields to 2040

Location	Low	High
Ballina	195	300
Cumbalum/Kinvara	0	0

Ballina Shire Council



Location	Low	High
Lennox Head	180	225
Skennars Head	0	0
Alstonville	45	225
Wollongbar	15	15
Wardell	15	15
Rural	315	315
Total	765	870

Source: Ballina Council's draft LSPS

NOTE: It has been assumed for the purposes of this report that the infill development will not attract a s7.11 contribution because it has already been levied, but 50% of the average will attract a s7.12 payment i.e. 50 % of the above is subdivision for dual occupancy or secondary dwellings and 50% is knockdown rebuild.

4.2 Non residential

Forecasts for the new development of employment land (for potential release areas not yet zoned for urban purposes) in the draft LSPS can be seen in **Table 7**.

Table 7: Potential employment land lots not yet zoned for urban purposes

Location	SUGA Area	No. potential 1250m ² lots	No. potential 5000m ² lots
Southern Cross Estate	0ha	0	0
Racecourse Rd	6.2ha	49	12
Ross Lane	21ha	168	42
Russelltown Estate	23.2ha	185	46
Clark Street	5ha	40	10
Teven Road	13.9ha	111	27
West Ballina	4ha	32	8
Pimlico Road	13ha	104	26
Total	86.3ha	689	160

Source: Ballina Council's draft LSPS

If it is assumed that each of these sites will be developed with a blanket FSR of 0.6:1 then there will be approximately 530,000m² of non-residential development.

Ballina Shire Council



For the purposes of this report, it has been assumed that only 30% of the future employment land will be developed in the next 15 years and all the employment development will be for bulky goods. **Table 8** shows the calculation for non-residential growth up to 2040.

Table 8: Non-residential development forecast

Development	Trips generated / 100m ²	Rate	Income / 100m ²	Income from 159,000m ²
Bulky goods	4	\$2,375 ¹	\$9,500	\$14,757,000 (unindexed over the 15 years)

¹ Rate and admin contribution indexed to November 2025



5 Mitigating the funding gap

5.1 IPART reviewed plan

The dominant development type in Ballina is a freestanding dwelling, which is capped at \$20,000 in infill areas and \$30,000 in greenfield areas.

To charge a contribution above the threshold, Council would need to submit the s7.11 Plan to IPART for review.

In their review of a contributions Plan, IPART assess the infrastructure schedule and apply the EWL, removing items it deems non-essential. Works such as community facilities capital costs, streetscape works, and beyond base-level embellishment of open space are excluded. Council currently collects for approximately \$10m (indexed to Sept 2025) of infrastructure that is outside the EWL.

One work cost example of the effect of the funding gap, which can be attributed to cost escalation, is North Creek Road and Bridge project, which is work item 18 in the Roads contribution plan. In the plan this item is costed at \$25.4m (indexed to Sept 2025) and is to be 100% funded by development. A cost report by a quantity surveyor in May 2025 costed this project at \$80m.

In a capped plan, that has already reached the cap, and absent a grant, 100% of the financial liability of a cost increase needs to be found from another funding source. Often this is the council's General Fund.

5.2 Scope relevance and escalation

Scope relevance has the potential to have an enormous impact on contributions towards infrastructure. If the scope is not properly considered at the making of the contribution plan or not considered with regards to changes in planning, engineering or environmental requirements at the review stage, the base cost in the plan will always, despite indexation, lag the actual costs.

As an example, in the May 2025 cost report for the North Creek Road and Bridge project there is a \$5m allowance for biodiversity offset credits. The requirements for biodiversity credits commenced in August 2017 so would not be included in the 2002 costing that informed the original scopes. While this point is irrelevant for capped plans it highlights why a capped plan is not appropriate for delivering enabling infrastructure like roads in areas expecting growth rates that will have significant impacts on infrastructure demand.

Even when the scope is correct the escalation of construction costs often exceeds the consumer price index which is the indexation method relied on for both plans. When indexation can't keep pace with market changes the base rate in the plan needs to be regularly updated to mitigate the future loss.

GLN modelled three different contribution scenarios to determine the most cost-effective way for Ballina to fund local infrastructure into the future. The three models created were:

- Business as Usual i.e. the current practice (Column labelled Scenario 1 in Figures 4 and 5)
- Combine the Roads and Open Space and Community facilities plan, apply the EWL and get the new plan reviewed by IPART (Blue areas in column labelled Scenario 2 in Figures 4 and 5)



- Create a new s7.12 plan to enable council to collect for development types not currently attracting a contribution e.g. residential and non-residential alterations and additions. (Orange area in columns labelled Scenario 2 of Figures 4 and 5)

The results of the modelling can be seen in **Figure 4** for residential and **Figure 5** for non residential. Each figure contains a comparison between the business as usual (**BAU**) and a modelled alternate.

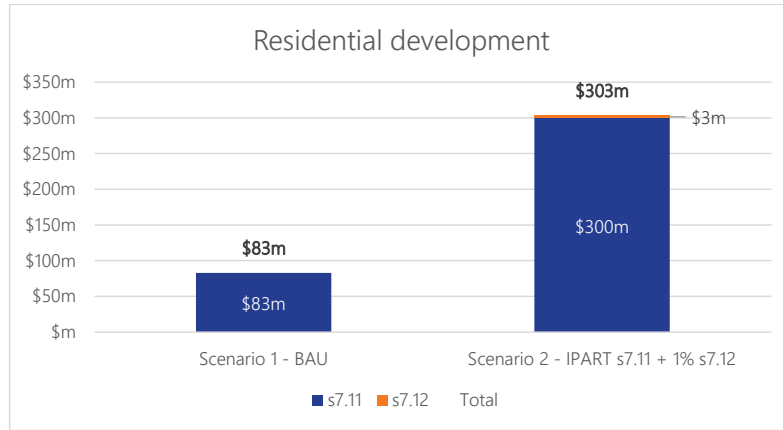


Figure 4: Comparison of BAU against the income potential of an IPART reviewed and s7.12 plan

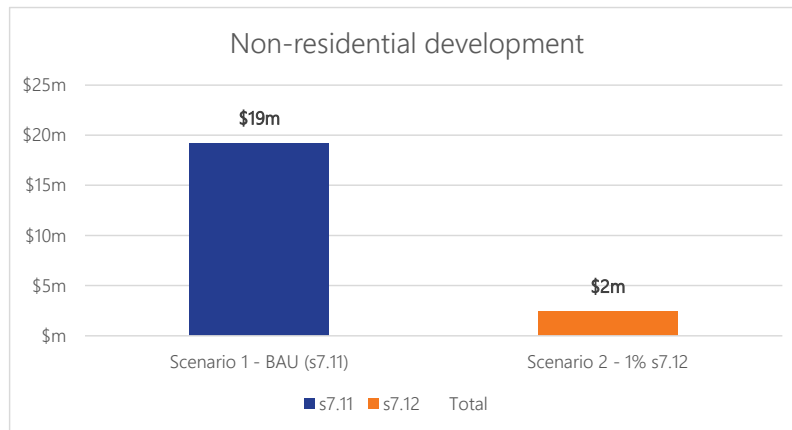


Figure 5: Comparison of BAU against the income potential of a s7.12 plan.

NOTE: Figure 5 doesn't include the option of an IPART reviewed s7.11 plan because non-residential development is not capped and so would be exactly the same as the BAU amount.

Table 9 illustrates the ability of the current Roads and OS Plans to meet their funding commitments relying on the current rates. The expenditure costs use the updated costs in spreadsheet titled Draft Roads V4.3 Trial 1 as these are more realistic to the actual costs.



Table 9: Comparison of income options and expenditure

Plan	Current Account Balance (\$m)	BAU Income to 2040 (\$m)	IPART Income to 2040 (\$m)	Total Income (\$m)
Roads Plan+ OS Plan - BAU	\$17.16	\$103.0 ²	\$0	\$120.16
Roads Plan+ OS Plan – IPART + s7.12	\$17.16	\$0	\$303.0 ²	\$320.16
Plan	Total Income (\$m)	Current CWP (\$m)	Outstanding Works (\$m)	Funding Gap (\$m)
Roads Plan+ OS ² Plan - BAU	\$120.16	\$58.04 ¹	\$170.11	(\$107.99)
Roads Plan+ OS Plan – IPART + s7.12	\$320.16	\$58.04 ¹	\$170.11	\$92.01

¹ 10 years expenditure for Roads and OS Plans taken from LTFP commencing 2024/25

² Includes income for non-residential development in Table 8

NOTE: The total in the Funding Gap column for Roads Plan + OS Plan – IPART + s7.12 is dependent on final IPART approved costings for infrastructure.

Based on this modelling the Scenario 1 (BAU) loses \$108m over the life of the plans and Scenario 2 shows a surplus of \$92m.

5.3 Data and assumptions relied on for modelling

The data relied on to inform the modelling is listed below:

- Spreadsheet on DA data from Ballina
- Ballina’s current Contribution Plans
- Census data for occupancy rates
- Ballina Council’s Long Term Financial Plan

As the modelling is a forecast, assumptions need to be relied on to fill the gaps left by data which is describing what happened in the past. The assumptions used in the modelling can be seen in **Table 10**.

Table 10 Assumptions used in options testing

Assumptions	
1	Contributions income projections in this report are based on new residential development, new non-residential development and alterations and additions to both development types.
2	The forecast figures adopted for Options Testing are: <ul style="list-style-type: none"> • 4,125 new dwellings over 15 years

Ballina Shire Council



Assumptions	
	<ul style="list-style-type: none"> 159,000m² of GFA for bulky goods warehousing over 15 years \$2.75B worth of alts and adds work over 15 years
3	The cash account balances shown in the spreadsheet Ballina LTFP for s7.11 include forecast expenditure i.e. committed funds
4	Secondary dwellings are subject to the Developer Contributions Investment Incentive at the rate of 50% of the secondary dwellings are detached (50% discount) and 50% are attached (100% discount). This has not been applied for this as the take up is so low as to not have an effect now.
5	\$600,000 is the assumed cost to construct 1 dwelling. This is applied to s7.12 levy calculations.
6	The s7.11 rates used for BAU are the current Roads and Open Space and Community Facilities contribution rates adjusted for the \$20,000/lot cap.
7	An annual indexation rate of 3.68% (0.92% per quarter) was adopted for modelling future income projections and infrastructure costs. This is based on the average CPI over the last 5 years.



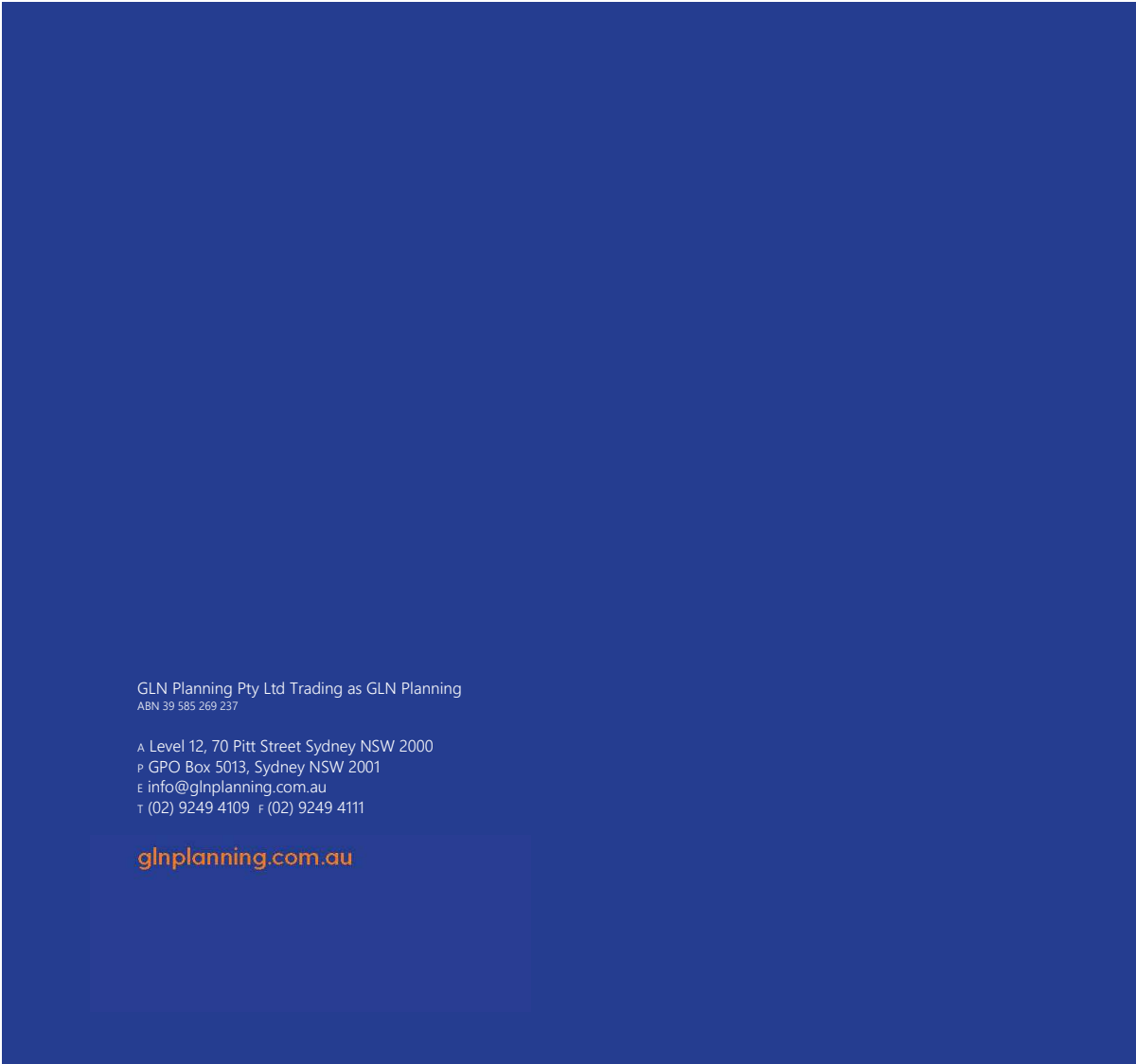
6 Recommendations

Based on the review of the Roads and OS Plans following are our recommendations to address the issues identified in the key findings:

1. Prepare a hybrid s7.11/s7.12 contributions plan that:
 - Imposes s7.11 for roads and open space infrastructure from new residential and non-residential development within the same catchments as the current plans.
 - Include collections for financing costs where money has been borrowed externally to forward fund infrastructure in advance of development.
 - Collects s7.12 across the whole LGA for alts and adds development on residential and non-residential development.
 - Have the plan reviewed by IPART to allow Council to require contributions above the relevant contributions cap.
 - Retire the car parking CP and roll the current cash balance into the s7.12 plan as seed funding.
2. For the s7.11 work schedule interrogate the current infrastructure lists to ensure that all the items are relevant for the growth expected within the lifetime of the plan.
3. The s7.11 IPART reviewed component of the hybrid contributions plan would likely allow Council to impose a higher maximum contribution rate on new development than current rates. Council needs to consider whether it should impose this contribution from day 1, or phase in the change in contribution rate.
4. The infrastructure work schedule should be costed by a QS or IPART's Benchmark Rates prior to the draft report going to IPART.
5. Review the actual cost of infrastructure already delivered to identify projects where recoupment of infrastructure land and works could be sought.
6. Include external borrowing costs for any infrastructure that the Council has raised, or proposes to raise, loans to finance the cost of.
7. For the s7.12 work schedule look to include infrastructure not included in the EWL, including car parking infrastructure.

Ballina Shire Council





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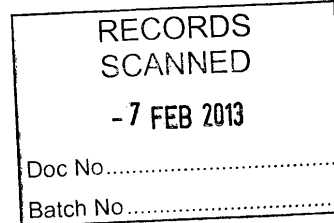
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5998 letter of support to minister (jan 2013) _final

5 February 2013

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Attention: Mr Simon Scott

Dear Simon

re: Cumbalum Precinct A Planning Proposal

I refer to prior communications in respect of the subject matter and in particular to your letter dated 21st December 2012 [Ref.: Cumbalum Precinct A Planning Proposal (TRIM 12/58191)]. Your letter requests written support from the landowners in CURA A for a lifting of the cap on s94 contributions within CURA A so that the General Manager may make a submission to the Minister of Planning to affect this change.

This letter is made on behalf of all of the landowners whose land is contained within the Cumbalum Precinct A Planning Proposal, being:

- Vixsun Pty Ltd
 - Lot 284 DP 1141745
- The Trustees of the Roman Catholic Church for Diocese of Lismore
 - Lot 1 DP 1077982
- J Sheather
 - Lot 18 DP 1022777
 - Lot 190 DP 1063589
 - Lot 2 DP 1171927

Engineers | Planners | Surveyors | Environmental | Project Management

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5 February 2013

- Intrapac
 - Lot 20 DP 1022777

- JM Barlow
 - Lot 333 DP 755684
 - Lot 150 DP 755684
 - Lot 3 DP 517149
 - Lot 2 DP 823662
 - Lot 3 DP 823662

It should be noted that Ballina Shire Council now owns land within CURA-A (being Lot 1 DP 1171927) which is land that has been purchased and created for the siting of water reservoirs to service the future urbanisation of CURA-A.

As articulated to Council previously on a number of occasions, the undersigned hereby provide their full support to Council requesting that the Minister grant an exemption to the Section 94 contributions cap in order to allow Council to implement a Section 94 Plan that will allow the developers to finance the infrastructure not constructed by the developers for the future urbanisation of CURA-A Precinct A. The purpose of the request will be to enable Council to levy developer contributions in excess of \$30,000.00 per lot.

As previously advised the undersigned propose to deliver agreed infrastructure to CURA A to the extent and by the means and program articulated in earlier correspondence provided by APP. In summary this delivery mechanism proposes that all infrastructure funding within CURA A is to be provided by a combination of:

1. Direct finance for infrastructure components built by the developers and
2. Contribution finance provided to Council via the proposed locally amended s94 plan and the existing Shire Wide s94 and s64 plans currently in place.

The actual quantum of the contribution is not known at this time, however it is expected that the combined value of the local amendment and existing s94 plan contributions will marginally exceed \$30,000.00 per lot. The actual amount will be determined via further detailed investigation and assessment by Council and the project team comprising APP and other consultants.

Having regard to the above, it is hopeful that the Minister grant such an exemption to the Section 94 cap for Cumbalum Precinct A which will facilitate the preparation of further planning and infrastructure servicing documents to be prepared to enable this extremely important (and long-standing strategically planned) urban growth area to be rezoned and developed for urban purposes.

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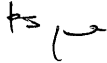
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5 February 2013

Should you require any further information or clarification, please contact me on 6686 3280 or pauls@ardillpayne.com.au.

Yours faithfully



Paul Snellgrove
ARDILL PAYNE & PARTNERS

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4.
5998 letter of support to minister (Jan 2013) _final
~~10 January~~ 2013
5 FEB 13

We the undersigned, being the owners of land to which the Cumbalum Precinct A Planning Proposal relates, endorse the above letter and request that it be forwarded to the Minister to support Council's request for an exemption to the Section 94 contributions cap in respect of the land to which the Cumbalum Precinct A Planning Proposal relates:

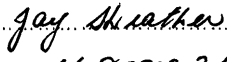
Vixsun Pty Ltd (Lot 284 DP 1141745)

Name: Rodney GATES Signature: 
Date: 22.1.2013 Contact No.: 0427 863375
Name: Signature:
Date: Contact No.:
Name: Signature:
Date: Contact No.:

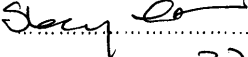
The Trustees of the Roman Catholic Church for Diocese of Lismore (Lot 1 DP 1077982)

Name: PAUL LLOYD Signature: 
Date: 23-1-2013 Contact No.: 0719 64596

J Sheather (Lot 18 DP 1022777, Lot 190 DP 1063589, Lot 2 DP 1171927)

Name: Joy SHEATHER Signature: 
Date: 24.1.2013 Contact No.: 0266 878235

Intrapac (Lot 20 DP 1022777)

Name: SHELLER SMULLEN Signature: 
Date: 30/1/13 Contact No.: 0418 306324

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5.3 Section 7.11 Developer Contributions Plans - Review

5.
5998 letter of support to minister (jan 2013) _final

~~16 January~~ 2013

5 FEB

JM Barlow & ME Smith (Lot 333 DP 755684, Lot 150 DP 755684, Lot 3 DP 517149, Lot 2 DP 823662, Lot 3 DP 823662)

Name: J.M. Barlow Signature: 

Date: 25-1-13 Contact No.: _____

Name: M.E. Smith Signature: 

Date: 25.1.13 Contact No.: (02) 66878163

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Local Infrastructure Contributions

Expenditure Improvements

May 2026
Local Infrastructure Team

Acknowledgment of Country

I acknowledge the Traditional Custodians of the various lands on which we work today and the Aboriginal and Torres Strait Islander people participating in this meeting.

I pay my respects to Elders past, present and emerging, and recognise and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW





Today

What we are looking at

- Expenditure of local contributions
- Review and repeal of outdated plans
- Higher rate s7.12 as an alternative
- Probity in planning agreements
- Securing contributions under CDC's

What we are not looking at

- Change to policy settings under s7.11
- Change to IPART reviewed plans
- Reform to the wider contributions system
- Other planning matters



Expenditure Improvements



Clear Expectations



s7.3 (1) *Environmental Planning and Assessment Act 1979* A consent authority or planning authority is to hold any monetary contribution or levy ... and apply the money towards that purpose within a reasonable time.



s216 *Environmental Planning and Assessment Regulation 2021* A council must keep a contributions plan under review and, if the plan specifies a date by which a review must be done, must review the plan by the date.

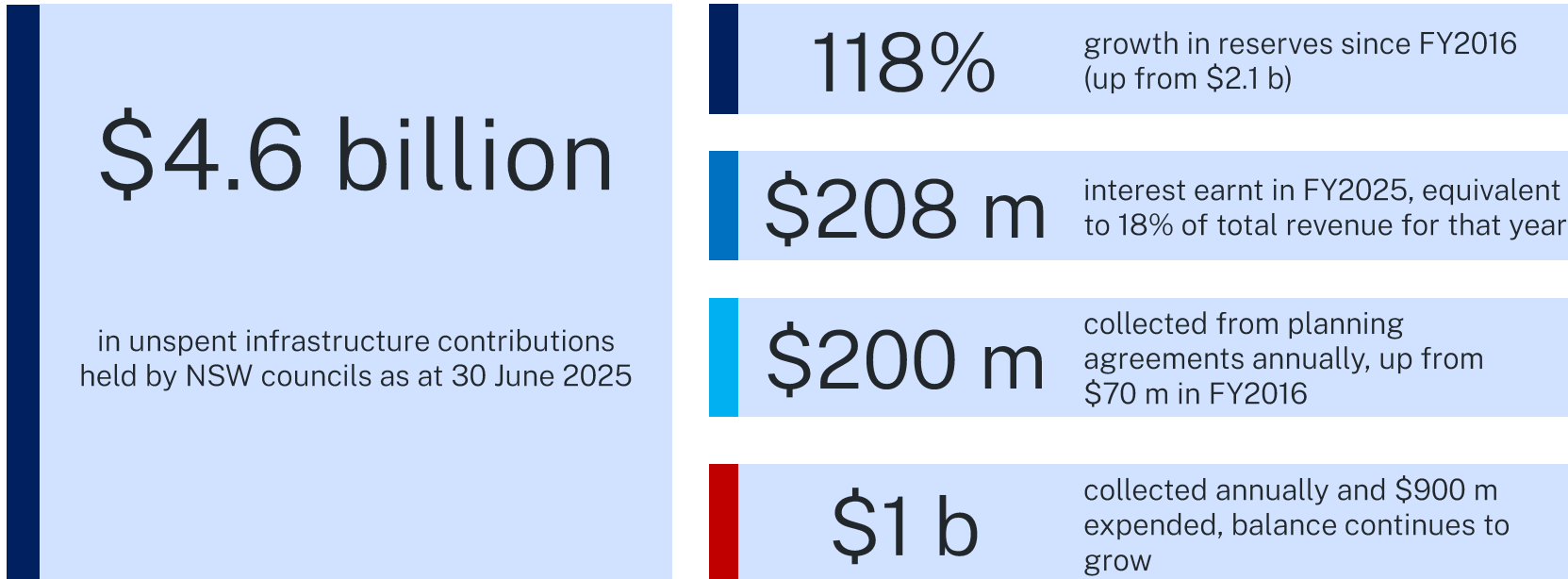
■ The system was designed to justify collection, not to spend it,
it is not focused on delivering infrastructure

Expenditure Improvements

4



There is a build up of money



Expenditure Improvements

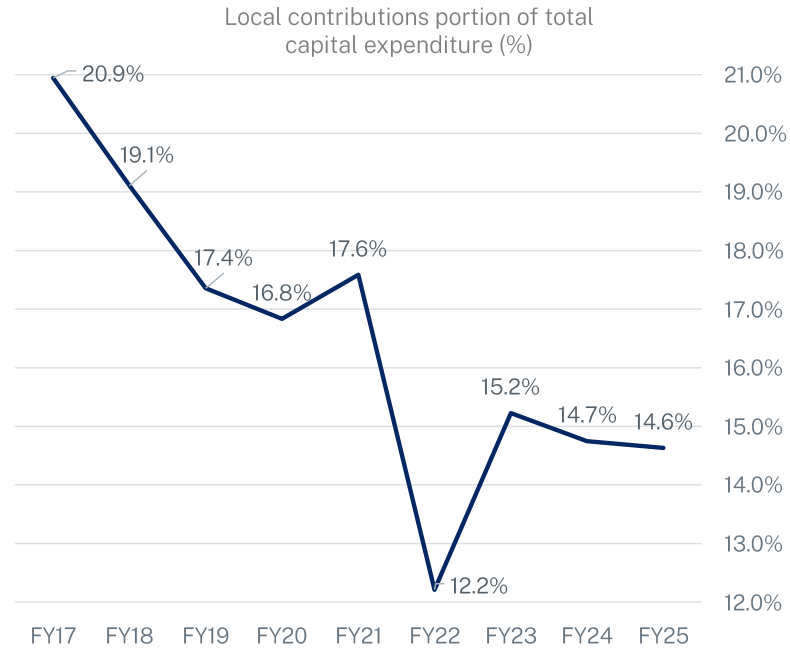


The expenditure issues are systemic

Expenditure performance is low over time for many

FY21	FY22	FY23	FY24	FY25
7%	12%	6%	11%	4%
14%	11%	5%	5%	6%
11%	11%	13%	15%	22%
4%	2%	3%	13%	4%
11%	8%	11%	9%	4%
8%	3%	10%	11%	7%
18%	3%	4%	9%	4%
8%	9%	8%	7%	13%
10%	15%	10%	25%	11%
9%	10%	18%	20%	7%
21%	16%	11%	22%	17%
14%	8%	14%	17%	15%

Contributions are funding less infrastructure

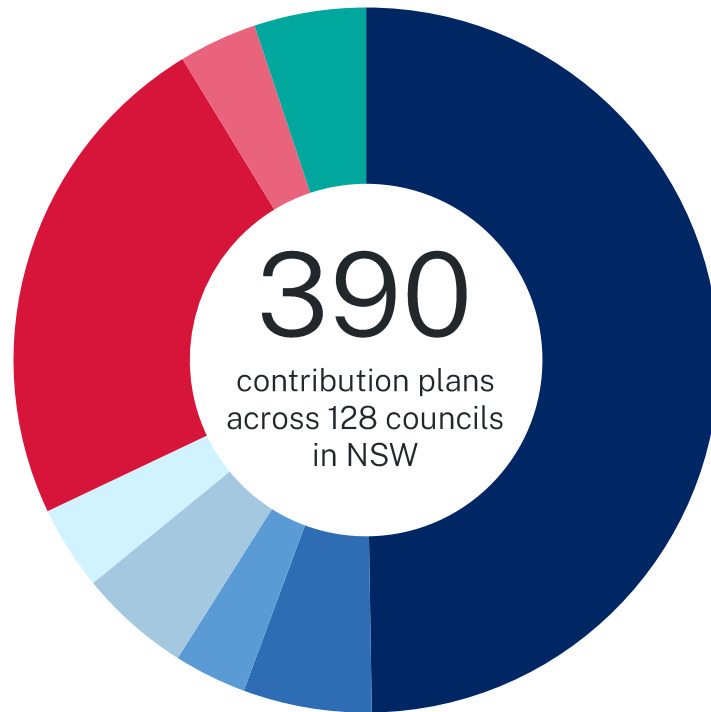


Source: DPHI Analysis (Office of Local Government data)

Expenditure Improvements



Too many complicated and outdated plans



Section 7.11

- Threshold (\$20,000)
- Threshold (\$30,000)
- Grandfathered
- IPART
- Single category plans

Section 7.12

- Up to 1%
- Higher levy

Hybrid

- Hybrid plans

Expenditure Improvements



Trust and transparency are essential

Obligation	What we are seeing	
There is a framework under which stakeholders pay	<ul style="list-style-type: none"> • Almost all contributions plans are available on council's websites • Not all councils publish their planning agreements register or provide the ability to view Planning Agreements and Explanatory Notes 	
Stakeholders know how much they are paying	<ul style="list-style-type: none"> • Most Councils are providing a list of current rates on their website, for some it can be hard to work out what you pay 	
There is a clear record of payments	<ul style="list-style-type: none"> • There is a concerning number of councils that do not have their contributions register publicly available 	
There is evidence of where contributions are spent	<ul style="list-style-type: none"> • It is difficult to determine what projects contributions have been spent on e.g. through Annual Report's and few councils publicly track plan delivery 	

Expenditure Improvements



Identified barriers to expenditure

Cause	Implication
Apportionment	<ul style="list-style-type: none"> • Worst where apportionment to new development is low
Cost Increase	<ul style="list-style-type: none"> • Costs have increased fast, especially compared to the rate of development or plan review timeframes • Value of money collected erodes over time
Different infrastructure priorities	<ul style="list-style-type: none"> • Current needs differ from schedule of works, and / or grant funded projects are prioritised
Infrastructure delivery timeframes	<ul style="list-style-type: none"> • Constraints where there is material or resourcing constraints, land acquisition required, and / or related state infrastructure

Expenditure Improvements



Targeted reform, delivered in the short term

Areas of Focus

- 1 • New guidance on repealing and replacing contributions plans, to unlock existing funds
- 2 • Improving access to higher-rate section 7.12 levies, as an alternative to a base rate s7.11
- 3 • Greater probity in planning agreements, to improve trust in this mechanism
- 4 • Securing contributions collected under CDC's, as this pathway grows

■ Any other suggestions?

Expenditure Improvements



1

New guidance on repealing contributions plans and expenditure



The case for change

The benefits of repealing plans is not being fully realised

<p style="font-size: 2em; margin: 0;">\$902 m</p> <hr style="border: 1px solid red;"/> <p style="margin: 0;">in repealed plans' funds across metro councils</p>	Issue	Response
	Changing expenditure priorities	Redefine repealed plan funds' priorities
	Funding gap	Review work items and their costs

Expenditure Improvements



Purpose

Resolving long standing questions about repealing and replacing plans

Element	What it covers
Practice note guidance	<ul style="list-style-type: none">• When to update contribution plans and when to repeal and replace them• How to allocate unspent funds from plans that have been repealed (NSW Audit Office's <i>Local Government 2023</i> recommendation)
Operational tool	<ul style="list-style-type: none">• Optional health and performance self assessment tool

Expenditure Improvements

Health and performance check

- Councils should regularly check the performance of their contributions system and plans
- Recommended that councils assess their contributions system every 5 years (or sooner if needed)
- Performance check results – outdated plans
 - Underpinning assumptions no longer valid, very old plans, or other major issues
 - Should be repealed and replaced

New Health and Performance Self Assessment Tool

- Optional tool to help councils assess their contributions system and contributions plans
- Provides a 'self assessment' dashboard staff can use to make the case for change

Expenditure Improvements

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Repealed Plan policy guidance

Contributions funds remain restricted assets, even if the plan is repealed

Councils should

- Carry over the remaining funds to a new plan
- Only carry over items if they are still needed
- Identify new items to be funded
- Set priorities for expenditure of repealed plan funds

Use of carried-over funds

- Expenditure of carried-over funds should be prioritised.
- Allocate to short-term priorities (5 yrs or less)

Expenditure Improvements

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What can repealed plan funds be spent on?

Speed up expenditure of repealed plan funds

Carried over items	<ul style="list-style-type: none">• Carried over items from repealed plan with updated cost
New work items	<ul style="list-style-type: none">• New work items in the new CP
Funding gaps	<ul style="list-style-type: none">• Cost increase due to escalation, cost apportioned to councils, other funding gaps

Expenditure Improvements

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Workshop



Detailed session on updating, repealing and replacing plans will be held on Tuesday 9 June 2026



Process of repealing a contributions plan



Items that can be funded by repealed contributions plan funds



Exhibition requirements

Expenditure Improvements

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2

Improving higher rate section 7.12 levies

Section 7.12 levies

Default section 7.12

- A fixed percentage levy on the cost of development
- Default maximum is 1%
- Simple and efficient to administer
- Suited to established urban areas with existing infrastructure

Higher rate section 7.12 levies

- Case-by-case Departmental assessment
- Minister's approval and EP&A Regulation update
- Up to 4% in strategic centres
- Productivity Commissioner recommended increasing default to 3% equivalent for residential



What has changed since 2020

Construction costs have risen

Labour, materials and finance all cost more for both housing and infrastructure

Growth has spread across more urban areas

Housing supply policies now focus on urban infill areas

Infrastructure contributions balances have grown ~ \$4.6 billion

Revenue is being collected, infrastructure is not being delivered in a timely manner

Expenditure Improvements

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Benefits of section 7.12 plans



Simple

Simpler administration,
straightforward for councils
and applicants



Flexible


Does not require a strict
nexus and apportionment



Self-indexing

Ability to index the levy
over time, keeping up with
infrastructure cost
increases.

Four objectives for improvement




Simple

- Fewer plans
- Higher levy rate
- Eligibility



Fair

- Low value developments
- High value developments



Transparent

- Where higher rate applies
- Administration fee



Timely

- Expenditure performance
- Works in kind

Expenditure Improvements



Workshop

Detailed session on higher rate s7.12 will be held on Wednesday 10 June 2026



Share your experience with the current process



Identify practical barriers and opportunities to higher rate s7.12



Contribute ideas on improving expenditure and simplifying the system



Help design a s7.12 framework that works for councils and communities

Expenditure Improvements

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3

Improving probity in planning agreements



Planning agreement use has increased

Planning agreement use is increasing

- \$200 m collected from planning agreements annually, up from \$70 m in 2016
- Over \$80 m collected over five years by each of the biggest users of planning agreements

Some councils do not use any planning agreements

- About 1/3 of councils do not use planning agreements at all



ICAC Operation Galley

ICAC Operation Galley identified corrupt conduct relating to planning agreements

Recommendation 6

Require councils consider before each agreement

- Principles
- Acceptability test
- Value and reasonableness
- Public interest

Recommendation 8

Planning agreement offers

- Develop guidance on essential information to be submitted with each offer

Recommendation 9

Risk-based audits

- Conduct regular risk-based audits of council planning agreements

Expenditure Improvements

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Proposed response

Updates to planning agreement guidance

- Require applicants provide standard essential information in offers
- Require councils demonstrate how each planning agreement aligns with the principles and acceptability test
- Updated acceptability test to make it simpler and fit for purpose

New planning agreement monitoring and audit framework

- New council internal audit framework using councils existing Audit and Risk Committees
- Risk monitoring tool to identify issues and red flags

Expenditure Improvements

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Workshop



Detailed session on updates to planning agreements will be held on Friday 12 June 2026



Materials will be distributed detailing these proposed updates



Technical input and ideas for improvement



Audit team staff are welcome to attend second session

Expenditure Improvements

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4

Local contributions collected under complying development certificates (CDCs)



What have we already heard

There is a need for guidance that addresses certifier responsibilities for contributions

There is an issue of some certifiers not putting contributions conditions on CDCs

There is an issue of some certifiers not checking contributions have been paid before issuing post-consent certificates

The enforcement and compliance pathways for councils chasing contributions on incorrect CDCs is complex and ineffective

Private certifiers are looking for guidance and technical support

Expenditure Improvements

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Change within legislative context

Building Productivity Reforms

Building (Approvals and Practitioners) Bill 2026

- Proposes changes to Part 6 of the EP&A Act and replacement of the EP&A (DCFS) Regulation
- Strengthens certifier conflict of interest laws and penalties to increase confidence in the sector.
- Currently before Parliament, regulations to be drafted.

Planning System Reforms

Proposed Changes

- Proposal to allow applications that only vary slightly from development standards to use the CDC pathway, with conditions.
- Proposal to allow most applications that don't meet the test for complying development to be assessed in a target timeline of 50 days.
- On exhibition 14 May–24 June, submissions can be made via the planning portal.

Expenditure Improvements

We have drafted guidance



Outlining existing legislative requirements for certifiers for contributions.

Proposing best practice procedure for certifiers to follow when imposing contribution conditions to CDCs and for checking contributions have been paid before issuing post consent certificates.

Providing best practice policy for councils to assist certifiers in undertaking their responsibilities

Expenditure Improvements

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Workshop



Detailed session on guidance on certifier responsibilities will be held on Thursday 11 June 2026



Materials will be distributed based on the current context



Feedback on the best practice steps and councils' role in CDCs



Feedback will inform final certifier guidance and practice

Expenditure Improvements

33

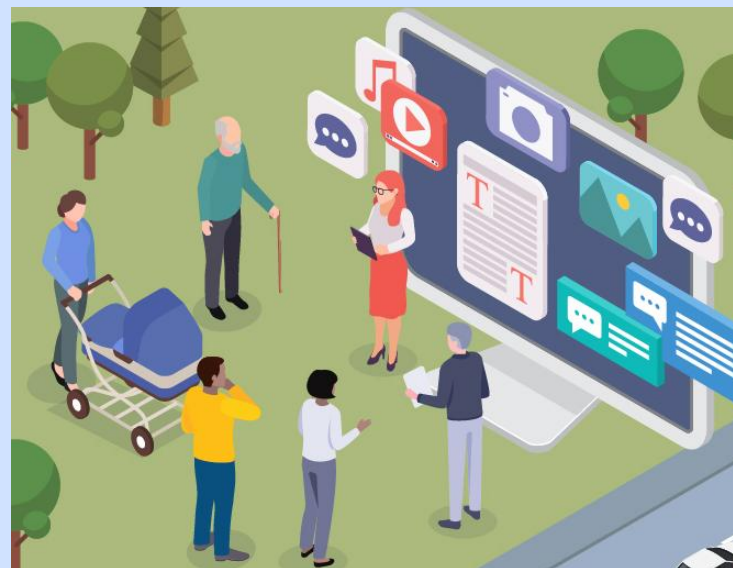
Workshop invitation

We invite you to join collaborative workshops to share your insights and help shape improvements that work for councils and communities

Workshops

- Repealed Plan funds: Tuesday, 9 June
- Higher Rate Section 7.12: Wednesday, 10 June
- Guidance on Certifier Responsibilities: Thursday, 11 June
- Planning Agreement Probity Measures: Friday, 12 June

If you are unable to attend, please email your comments to:
infrastructure.contributions@planning.nsw.gov.au



Expenditure Improvements

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POLICY NAME: FINANCIAL ASSISTANCE (HARDSHIP)
RATES AND CHARGES
 (REVIEW)

POLICY REF: F08

MEETING ADOPTED: 22 August 2024
 Resolution No. 220824/17

POLICY HISTORY: 230323/15; 240119/19; 141217/22;
 261115/20; 220911/19; 230311/23;
 260804/052



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OBJECTIVE

To provide financial assistance to ratepayers who are experiencing genuine and significant financial difficulties in paying their rates and charges.

To provide a decision making framework for the consistent and equitable determination of all financial hardship applications.

POLICY

Any ratepayer who cannot pay their rates and charges due to genuine financial hardship can apply to Council for assistance.

Rates and charges are deemed to consist of those rates and charges listed on a ratepayer's Rates and Charges Notice.

Each individual case will be considered on its merits.

To be eligible for consideration of hardship rate relief, a ratepayer must complete the Hardship Rate Relief Application Form (those applying for a periodical payment arrangement are not required to complete a Hardship Rate Relief Application Form).

The Hardship Rate Relief Application Form is available for download on Council's website ballina.nsw.gov.au

The completed form is to be returned to Council including details of income, expenditure, assets, liabilities, and such other information required for the Council to make an informed decision.

The criteria for assessment will include, but not be limited to the following:

- The applicant must be the owner of the property and must be liable for the payment of rates and charges on the property
- ~~The property for which the hardship application is made must be the applicant/s principal place of residence (with exception as per Clause 4 below)~~
- The applicant must not own any other property either within or outside the Council area (with exception as per Clause 4 below)
- The property must be categorised residential or farmland for rating purposes
- The Hardship Rate Relief Application must be accompanied with supporting documentation which may include, but is not limited to:
 - Details of income and expenditure, assets and liabilities
 - Copies of most recent bank statements
 - A letter supporting the application outlining the reason for applying for financial hardship and the period of time for which the hardship relief may apply.

All applications for hardship rate relief will be assessed by an internal Hardship Committee. The Hardship Committee will consist of three Council officers appointed by the General Manager.

The Hardship Committee is to make recommendations to the General Manager for approval of payment terms exceeding 24 months or interest write-offs less than \$1,000.

The Hardship Committee, through the General Manager, is to make recommendations to Council for interest write-offs greater than \$1,000 or other assistance as considered appropriate under extenuating circumstances.

The hardship assistance provisions offered are as follows:

1. Periodical Payment Arrangements – Section 564

Council may enter into payment arrangements with ratepayers who may not meet the criteria outlined in this policy, but are still facing financial difficulties in meeting their normal instalment payments as provided by the LGA.

Authorised Council staff can accept over the phone payment arrangements for weekly, fortnightly or monthly payments that are within a 24 month timeframe. Any requests for periodical payment arrangements greater than 24 months need to be authorised by the General Manager.

Such agreements will continue to be subject to interest charges as per the interest rate for overdue rates and charges detailed in Council's Fees and Charges.

Debt recovery action will be deferred whilst the agreed payment arrangement is adhered to.

If the applicant does not adhere to the payment arrangement, the agreement may be cancelled, and the full amount will become due and payable immediately. Recovery action will recommence in accordance with Council's Rates and Charges Debt Recovery Policy.

2. Interest Free Period— Section 564 and 567

Under Sections 564 and 567 of the LGA, Council may write off accrued interest charges payable by a ratepayer where if, in its opinion, payment of accrued interest would cause the person hardship.

This assistance does not apply to rates and charges levied, but rather the interest accrued on their rates and charges.

Eligibility for such assistance is to be based on the criteria stated in this policy and the completion of Council's Hardship Rate Relief Application.

If eligible, council may grant an interest free period if the full amount owing (including current rates and charges) is finalised by direct debit arrangement within 12 to 24 months of the application. The interest free period will apply from the date of approval. Any requests exceeding 24 months need to be authorised by the General Manager.

3. Deferral of the general rate following a revaluation – Section 601

A ratepayer who is required to pay a higher ordinary rate due to an increase in land value following a revaluation may apply to Council for relief. The ratepayer must demonstrate that the rate increase has caused them to experience significant financial hardship.

Council may defer payment of the whole of the increase of the ordinary rate due, to the following rating year.

This is subject to one quarter of the amount of the increase being added to each instalment due in the following rating year. Interest is not charged on the deferred amount, unless it remains unpaid when the following rate instalment it was added to, becomes overdue.

Eligibility for such assistance is to be based on the criteria stated in this policy and the completion of Council's Hardship Rate Relief Application. The additional criteria used to determine eligibility is as follows:

- The percentage increase in land value must be greater than the residential shire wide average increase.

This option is only available in the first year that new land values are used to levy rates.

4. **Consideration of Domestic and Family Violence**

Persons impacted by domestic and family violence may be required to relocate from the property which was previously their principal place of residence.

Council recognises that domestic and family violence circumstances may prevent a person having any control over the ability to sell property and may not have adequate income or cash assets to settle debts in the short to medium term.

The criteria for assessment requiring **that the ratepayer does not own the property to be the ratepayer's principal place of residence and the requirement for not owning** any other property will not be applied for ratepayers who advise Council they are impacted by domestic and family violence.

A person impacted may still apply for relief options available under this policy, by lodgement of a Hardship Rate Relief Application Form.

This policy also allows staff to place a hold on all debt recovery actions for any rates and charges outstanding, for a period of six months without the lodgement of a Hardship Rate Relief Application Form. Interest charges would continue to apply in that circumstance.

5. **Other Ratepayer Assistance**

In addition to the above, Council may determine other applications for assistance which are to be submitted to Council on an individual basis for consideration.

6. **Cancellation of Hardship Assistance**

Hardship assistance may be cancelled as a result of the following:

- Defaulting on a payment arrangement
- The ratepayer no longer owns the land
- The ratepayer advises Council that financial hardship no longer applies
- Council receives information that the financial hardship no longer exists.

Such cancellation will be at the discretion of the General Manager.

BACKGROUND

Council recognises that, at times, ratepayers may have difficulty in paying their rates and charges. This policy outlines the options Council will provide to cases of genuine financial hardship and the process to be followed in providing such assistance.

The Local Government Act, 1993, (LGA) allows Council to provide assistance to ratepayers under the following sections of the Act.

- a) **Section 564** of the LGA provides Council with the option to accept payment of rates and charges due and payable by a person in accordance with a periodical payment arrangement and to write off or reduce interest accrued on rates and charges if the person complies with the agreement.

5.4 Policy (Review) - Financial Assistance (Hardship) - Rates and Charges

Ballina Shire Council

(Review) Financial Assistance (Hardship) - Rates and Charges

- b) **Section 567** of the LGA provides for Council to write off accrued interest on rates and charges payable by a ratepayer if, in Council's opinion the reasons that the ratepayer was unable to pay the rates and charges when they became payable were beyond the ratepayer's control, or; that the ratepayer is unable to pay the accrued interest for reasons beyond that ratepayer's control, or; that the payment of the accrued interest would cause the ratepayer hardship.
- c) **Section 601** of the LGA provides for ratepayers who incur a rate increase in the first year following a General Revaluation of land values to apply to Council for rate relief if the increase in the amount of rates payable will cause them substantial financial hardship.

DEFINITIONS

Financial Hardship:

- When a ratepayer is willing but unable to pay their rates and charges on time due to unexpected events (e.g. serious injury or illness, spouse bereavement, natural disasters) or unforeseen changes (e.g. unemployment, significant income variations, family separation) that impacts their cash flow.

SCOPE OF POLICY

This policy applies to:

- Ratepayers of Ballina Shire

RELATED DOCUMENTATION

Related documents, policies and legislation:

- Local Government Act 1993
- Rates and Charges - Debt Recovery Policy
- Hardship Rate Relief Application Form
- Fees and Charges

REVIEW

This policy is to be reviewed every four years.

8.6 Policy (Review) - Community Property Leasing and Licensing

8.6 Policy (Review) - Community Property Leasing and Licensing

Section	Governance
Objective	To review the Community Property Leasing and Licensing Policy, focusing on the rent structure.

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 Community Property Leasing and Licensing policy.

Council first adopted this policy on 28 July 2016. The policy was substantially reviewed in September 2020. Minor amendments were made in May 2024.

The policy sets out a process and criteria to assess the granting of leases and licences of certain Council owned or managed properties to Not for Profit Community Groups, which use the properties for sporting, recreation or other community purposes.

The policy includes criteria for determining which organisations will be considered Not for Profit Community Groups.

The policy only applies to the specific properties listed in the policy.

Key Issues

- Whether the policy meets the requirements of Council.
- Equity in applying rent for Council owned community properties.
- Transparency and consistency in policy.

Discussion

The policy was reviewed in May 2024, and at the 11 December 2025 Ordinary Council meeting, it was suggested to bring forward a review in respect to the way rents are set and applied to ensure more equity in the policy.

In September 2020, Council resolved that the minimum rent charged to Not for Profit Community Groups for the properties listed in the policy would be equal to the statutory minimum rent charged by NSW Crown Lands, which is currently \$622 plus GST per annum.

This was to create a consistent *minimum* rent for the community properties listed in the policy.

Attachment 3 of the current policy "Guide for Rent Assessment" allows Council to charge a higher rent.

Some examples are provided in the policy for when Council may consider charging a higher rent.

8.6 Policy (Review) - Community Property Leasing and Licensing

The listed examples include:

- where the tenant has received approval from Council to sublet or licence part of the property and under the arrangement the tenant will receive from the subtenant/licensee income that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant’s repair and maintenance obligations, insurance costs, payment of rates, charges and services etc);
- where the Council has done particular upgrade works or other improvement works at the tenant’s request, and part of the costs of that work is to be recovered by way of a higher rent;
- where the tenant (or any sub-tenant or sub-licensee) holds a liquor licence that enables the sale of alcohol at the property on more than 52 occasions per year;
- whilst the tenant continues to predominantly use the property for sporting, recreation or other community purposes, there is a minor commercial activity undertaken at the property, such as a small kiosk. This is not intended to capture regular canteens, sausage sizzles etc commonly operated at sporting grounds as part of regular sports club fundraising activities.

The examples in the policy are not exhaustive. Council has discretion to charge a higher rent for the properties listed in the policy when they are leased to a Not-for-Profit Community Group.

In addition, if a particular tenant does not meet the criteria for being a Not-for-Profit Community Group, a lease to that tenant would fall outside the policy, and Council could resolve to lease the property on commercial terms.

This review focuses on the rent structure in the current policy.

Rent structures of other councils

Table 1 summarises how several other councils as well as NSW Crown Lands structure rent for public properties based on their published policies.

Most councils provide subsidised rent to community organisations, in recognition of the benefits they provide for the local community.

It is a common theme from this review that the rent or subsidy applied is dependent on the organisation type of the tenant, with the greater discount given to not-for-profit community organisations with limited ability to generate revenue.

Table 1 – Rent Structure Examples

Entity	Rent Structure in Published Policy
NSW Crown Lands	<ul style="list-style-type: none"> • Market rent reduced by a concession for eligible tenants. • Many tenants leasing our Council community properties would be categorised as either: <ul style="list-style-type: none"> ○ Community Volunteer Service Group – which are required to pay statutory minimum rent; or

8.6 Policy (Review) - Community Property Leasing and Licensing

Entity	Rent Structure in Published Policy
	<ul style="list-style-type: none"> ○ Single Interest and Sporting Groups – which are required to pay 50% of market rent. • NSW Crown Lands may apply additional rebates; however, the minimum rent will be the statutory minimum amount.
Byron Shire Council	<ul style="list-style-type: none"> • Rent for all properties leased to a not for profit or charity organisation is based on a market rent as assessed by a registered valuer or 6% of the unimproved capital land value. • Council then may apply a subsidy, making the rent amount payable equal to statutory minimum rent.
Lismore City Council	<ul style="list-style-type: none"> • Council is required to obtain market rent on all its properties. Subsidies are considered for community-based groups in certain circumstances, being: <ul style="list-style-type: none"> ○ Must be a not-for-profit community-based group, open membership i.e. open to the public. ○ An incorporated association. ○ Provide necessary and beneficial service to the general community. • Subsidised rent is considered on a case-by-case basis.
Lake Macquarie City Council	<ul style="list-style-type: none"> • There is no rental structure specified in their policy. • It is Council staff discretion to determine an appropriate rent, and their policy refers to lease equity contribution model as an example.
Port Macquarie Hastings Council	<ul style="list-style-type: none"> • There is no rental structure specified in their policy. • It is within Council staff discretion to determine an appropriate rent, and their policy refers to a lease equity contribution model as an example.
Newcastle City Council	<ul style="list-style-type: none"> • Council determines rent based on community group type. Most community groups start with a statutory minimum rent, then rent is reviewed based on any proposed Financial Gain. Financial Gain is income generated from the provision of goods or services commercially available.
Midcoast Council	<ul style="list-style-type: none"> • Council determines a market rent for each property. • Tenants pay a percentage of market rent: <ul style="list-style-type: none"> ○ Local community groups pay 10%. Local community groups must have no paid staff and no recurrent government funding. ○ Local community sporting groups pay 20%. Local community sporting groups must have 5 or less paid staff.

8.6 Policy (Review) - Community Property Leasing and Licensing

Entity	Rent Structure in Published Policy
	<ul style="list-style-type: none"> <li data-bbox="715 309 1198 398">○ Small to medium not for profit provider of community services pays 30%. Small to medium not for profit providers of community services must have an annual income up to \$1million. <li data-bbox="715 421 1198 510">○ Large not for profit provider of community services pays 50% of market rent. Large not for profit providers of community services are those with an annual income of more than \$1million.

Consideration of the existing properties under the policy

The matter raised at the 11 December 2025 Ordinary meeting related to a Not-for-Profit Community Group with a particularly high annual revenue of approximately \$48m.

That organisation is the only Not-for-Profit Community Group leasing a community property covered by the policy with a revenue that high. It is an outlier.

The next category of Not-for-Profit Community Groups leasing the community properties covered by the policy with the highest annual revenue are the community preschools.

The annual revenue of preschools varies significantly, depending on the size and number of places offered. For example, we have one preschool recording revenue in the order of \$2.8m, and it ranges down to approximately \$909,000.

Although this seems to be high annual revenue, their expenses are also high, resulting in generally low profit figures.

As they are incorporated associations, any profit is reinvested into their ongoing operations, which includes maintaining the property to the high standards required of preschools.

Apart from the community preschools, most of the remaining tenants covered by the policy have varying revenue capacities.

It is estimated that all other community groups leasing the properties in the policy have revenue figures well under \$1m per annum, with some well under \$50,000 per annum, and others operating at a loss in some years.

Some of the community group tenants covered by the policy struggle financially with increasing costs of insurance, electricity, water, consumables, statutory compliance (such as reporting to the NSW Office of Fair Trading or the Australian Charities and Not for Profits Commission) and day to day property maintenance.

Most leases to community groups under the policy pass on regular property maintenance obligations to the tenants.

The leases to preschools pass on more substantial property maintenance obligations, as they have many statutory compliance matters to attend to, to keep their accreditation and ensure a safe environment for children.

8.6 Policy (Review) - Community Property Leasing and Licensing

So more of their revenue is being applied to keeping the property in good repair and condition.

Recommended rent structure

If Council introduces a rental structure under which all Not for Profit Community Groups covered by the policy are to pay a proportion of the market rent for the property, there are cost implications for Council.

This approach would require market rent valuations from external valuers.

The cost of a market rent valuation would depend on the size of the property and the nature of the use of the property; however, each valuation may cost in the order of \$3,000 to \$8,000.

As the leases under the policy are generally granted every three to four years, obtaining regular market rent valuations would be an expensive financial commitment.

The final rent for a property would need to exceed the cost of obtaining the valuation to make that rental structure financially viable.

Many of the Not-for-Profit Community Groups have very low annual revenues, particularly our museums, concert band, community gardens, small sporting clubs etc.

Based on the examples from other councils and our range of Not-for-Profit Community Groups occupying the properties covered by the policy, the recommended solution is to apply a revenue threshold.

If a particular Not for Profit Community Group applies for a lease and its average revenue for the last three years exceeds that threshold, then a market rent valuation would be obtained and a percentage of that market rent charged.

The proposed rent structure presented in the reviewed policy in Attachment 1 is to split Not for Profit Community Groups into:

1. Small Not for Profit Community Group (Small NFP): Average revenue for the last three years is less than \$1m, not including community preschools.
2. Large Not for Profit Community Group (Large NFP): Average revenue for the last three years is \$1m or more, not including community preschools.
3. Community preschools.

The reviewed policy proposes the rent structure as shown in Table 2.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Table 2 – Proposed Rent Structure

Tenant	Rent per annum
Small NFP	An amount equal to NSW Crown Lands statutory minimum rent
Community preschool	An amount equal to NSW Crown Lands statutory minimum rent
Large NFP leasing storage shed only	
Large NFP leasing storage shed only	An amount equal to NSW Crown Lands statutory minimum rent.
Large NFP leasing building other than storage shed	
Large NFP with average revenue for last three years \$1m - <\$1.3m	Pay 10% of market rent for the first year of the lease term, then annual CPI adjustments
Large NFP with average revenue for last three years \$1.3 - <\$2m	Pay 50% of market rent for the first year of the lease term, then annual CPI adjustments
Large NFP with average revenue for last three years over \$2m	Pay 100% of market rent for the first year of the lease term, then annual CPI adjustment

The intention behind charging a Large NFP statutory minimum rent when they lease only a storage shed is to avoid the need to pay for a market rent valuation, when it is likely the cost of the market valuation may outweigh the rent received.

The changes in the reviewed policy in Attachment 1 show additions in yellow highlight and deletions in red strikethrough.

The changes reflect the revised rent structure shown in Table 2.

Other changes to policy

There are a couple of additional housekeeping changes in the policy:

- Lease term for Crown Land: Generally, the properties leased under the policy will have a lease term of four years. However, Crown Lands have advised that they will require any leases over three years to be registered on the title of the land. Lease registration involves additional costs, such as lease survey plan preparation, legal fees for registration etc. To minimise those potential additional costs, an adjustment has been made to reflect that leases of Crown Land will generally be three years.
- Related Documentation: This section has been updated to refer to current related documents.

Otherwise, the policy is still considered to be contemporary and reflects current legislation.

8.6 Policy (Review) - Community Property Leasing and Licensing

Delivery Program Strategy / Operational Plan Activity

The policy broadly aligns with the following item:

- Delivery Program: EL2.1 to ensure a balance budget, with revenue opportunities combined with cost savings and efficiencies.

Community Engagement Strategy

The document will be exhibited for public comments. 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

Most of the tenants leasing properties covered by the policy are run by volunteers from our community.

There are some exceptions to this, such as the community preschools and the Social Futures youth centre (including Headspace, 30-32 Swift Street, Ballina), which have paid employees.

Council is receiving below market rents for the community properties listed in the policy.

Council has traditionally resolved to charge below market rents in recognition of the benefits the Not-for-Profit Community Groups provide to the broader community.

Charging a market rent, or a portion of market rent, would necessitate market rent valuations from external valuers.

The cost of a market rent valuation would depend on the size of the property and the nature of the use; however, each valuation may cost in the order of \$3,000 to \$8,000.

As the leases under the policy are generally granted every three to four years, obtaining regular market rent valuations would be an expensive financial commitment.

The final determined rent for a property would need to substantially exceed the cost of obtaining the valuation to make that rental structure financially viable.

The rental structure proposed in the revised policy in Attachment 1 would only require a market rent valuation for properties leased to Large NFPs.

The rents received under the policy are insufficient to carry out any major capital repairs or capital improvements to the community properties listed in the policy.

The tenants of these properties generally rely on grant funding opportunities if considering any improvement works to these properties.

8.6 Policy (Review) - Community Property Leasing and Licensing

Options

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

The changes clarify how rent structures are to be applied, noting that whichever option is selected, the new rent will only take effect the next time a lease is granted to a relevant Not for Profit Community Group.

It is recommended that the policy be adopted as presented and 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 Community Property Leasing and Licensing 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) - Community Property Leasing and Licensing [↔](#)

8.6 Policy (Review) - Community Property Leasing and Licensing

POLICY NAME: COMMUNITY PROPERTY LEASING AND LICENSING
POLICY REF: C02
MEETING ADOPTED: 23 May 2024
Resolution No. 230524/8
POLICY HISTORY: 240920/16; 280716/32



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8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

Community Property Leasing and Licensing

OBJECTIVE

The objective of this policy is to provide a process and criteria to assess the granting of leases and licences of Council owned or managed properties to Not for Profit Community Groups which are to be predominantly used for sporting, recreation or other community purposes.

POLICY

The purpose of this policy is to:

- provide guidelines for the leasing and licencing of the properties covered by this policy to Not for Profit Community Groups;
- provide assessment criteria to assist in assessing the suitability of tenants;
- encourage better utilisation of the properties;
- set out some of the general terms and conditions for leases and licences, and the general leasing process;
- ensure that demonstrated benefits are being provided to the community to warrant the Council receiving less than market rent for the properties.

This policy does not alter the terms of any existing leases or licences.

1. APPLICATION

Leases and licences to which this policy applies

This policy applies to leases or licences of the properties listed in Attachment 1 to Not for Profit Community Groups, where the properties are to be predominantly used for sporting, recreation or other community purposes.

This policy does not apply to:

- leases or licences of a property listed in Attachment 1 for commercial purposes; or
- leases or licences of a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group.

2. PLAN OF MANAGEMENT

Under the *Local Government Act*, Council's land is categorised as either Operational Land or Community Land. Classification of land as Community Land reflects the importance of those properties to the community. Community Land needs to be managed according to special requirements in the *Local Government Act* and *Crown Land Management Act*.

Under the *Local Government Act*, Council may only grant a lease or licence over Community Land if:

- the Plan of Management expressly authorises the lease or licence; and
- the purpose of the lease or licence is consistent with the core objectives for the category of land. The categories include sportsground, general community use, park, an area of cultural significance and natural area. For example, if the Plan of Management categorises a property as sportsground, any lease or licence for that property must be for a purpose consistent with the core objectives for sportsgrounds; and
- the lease or licence is for a purpose listed in section 46(1)(b) of the *Local Government Act*.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

Community Property Leasing and Licensing

There are only very limited exceptions to the above in s46 of the *Local Government Act*.

Crown Land classified as Community Land – Plan of Management

As part of the implementation of the *Crown Land Management Act*, Crown Land managed by Council is categorised as either Community Land or Operational Land. Properties classified as Community Land are further categorised as either sportsground, general community use, park, an area of cultural significance or natural area. Those properties are listed in a Plan of Management. Leases or licences granted by Council for Crown Land categorised as Community Land must be in accordance with the express authorisation in the Plan of Management, for purposes consistent with the core objectives of the category of land.

3. PUBLIC NOTIFICATION OF PROPOSED LEASE

The *Local Government Act* (s47 and s47A) sets out a public notification process that Council is required to follow for proposed leases or licences of Community Land. The public notification process generally involves:

- giving notice to adjoining landowners, putting a sign on the property and publishing certain details on Council's website;
- members of the public may make written submissions within the timeframe prescribed in the notice;
- Council considers those submissions when making a final decision on the proposed lease or licence; and
- if the submissions include an objection and the lease term is over 5 years, the matter must be referred to the Minister for Local Government for consent.

4. OTHER LEGISLATIVE REQUIREMENTS

For proposed new leases or licences, there may be various legislative requirements that need to be met before a lease or licence can be granted, or before a tenant can commence a particular use of the property. For example:

- for Crown Land:
 - depending on the term of the proposed lease or licence, Council may need to obtain the Minister's prior consent to the granting of the lease or licence;
 - the proposed lease or licence is subject to obtaining Native Title Manager Advice under the *Crown Land Management Act* before the lease or licence can be granted by Council;
 - any undetermined Aboriginal land claims under the *Aboriginal Land Rights Act* will also need to be considered;
- in some circumstances, the tenant's proposed use of the property may require the tenant to obtain a development approval. The tenant would be required to obtain the development approval and comply with any development approval conditions at the tenant's cost.

5. ELIGIBLE TENANTS

A lease or licence under this policy may be granted to a Not for Profit Community Group. Council does not enter into leases or licences with individuals representing a group, such as committee members.

As Community Land is intended to provide benefits to the broader community, it is appropriate that occupation of Community Land listed in Attachment 1 is often by Not for Profit Community Groups, who will use the properties for predominantly sporting, recreation or other community purposes.

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Policy No. C02

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council Community Property Leasing and Licensing

If Council decides to:

- lease or licence a property listed in Attachment 1 for commercial purposes; or
- lease or licence a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group,

the terms of this policy will not apply to that lease or licence and Council may impose such commercial terms and conditions as Council determines.

6. ASSESSMENT CRITERIA FOR ELIGIBLE TENANTS

Attachment 4 sets out the general process for leasing or licensing the properties in Attachment 1 to Not for Profit Community Groups. As part of that process, the proposed tenant is assessed against the Assessment Criteria in Attachment 2.

Council recognises that many existing tenants of properties in Attachment 1 have strong historical, social and recreational ties to the properties they use. Although an existing tenant may have contributed to the development of a particular property over time, that does not convey permanent or preferential access to that property. However, the length of time the tenant has occupied the property and any improvements the tenant has made to the property are taken into account as part of the Assessment Criteria in Attachment 2.

There is increasing demand by Not for Profit Community Groups seeking to use Council owned and managed properties. When a Council property listed in Attachment 1 becomes available for lease or an existing tenant's lease is due to expire, Council may consider the existing usage of the property, the potential future usage for the property, the potential for the property to be used on a multi-user basis and changing community needs. As demographics and local needs change over time, Council may re-assess the demands of the community and the best possible uses of properties. It is important to continue to look for ways to ensure that properties covered by this policy are as fully utilised as possible, to increase the benefit provided to the community.

Where:

- Council acquires a new property classified as Community Land; or
- a property listed in Attachment 1 becomes vacant,

and Council intends to lease or licence that property to a Not for Profit Community Group for sporting, recreation or other community purposes, Council may elect to conduct an expression of interest process or tender process.

In the event an offer of tenure is made to a proposed tenant which is not accepted by the tenant within one month of the date of the offer, Council may withdraw the offer and seek to find another tenant for the property.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

7. GENERAL TERMS AND CONDITIONS OF LEASES AND LICENCES

Standard Lease and Licence Agreements

Council has developed standard lease and licence agreements however, these documents vary over time and may be tailored to suit each property and the proposed usage by a tenant. Additional clauses will be included in the lease or licence when necessary to meet specific requirements of Council or the proposed tenant.

The terms of the lease or licence document entered into by the Council and the tenant will prevail over any inconsistent provisions in this policy. However, generally:

Rent	<p>The rent charged for the property will be determined in accordance with the guide in Attachment 3.</p> <p>The rent or licence fee sought by Council for properties covered by this policy is generally less than the market rent for the property. The difference between the market rent Council could obtain for the property and the amount payable by a tenant, is a rental rebate provided by Council to the tenant.</p> <p>Council's provision of this rental rebate is to assist Not for Profit Community Groups in their day to day operations, and is recognition of the benefits they provide to the local community.</p>
Rates, charges, services	<p>Rates: if the property is rateable, tenants are to pay the rates (or a proportion of the rates, if the property leased/licenced to the tenant is part of a larger property);</p> <p>Charges: tenants are to pay the charges for all services provided to the property – including both access charges and consumption/usage charges (water, sewerage, stormwater, waste, septic etc);</p> <p>Services: tenants are to pay for their own services, such as electricity, gas, telephone etc.</p> <p>Given the Council has provided a rental rebate, it is expected that tenants leasing properties covered by this policy will generate sufficient income to pay for rates, charges and services. A tenant's demonstrated capacity to pay these amounts forms part of the Assessment Criteria in Attachment 2.</p> <p>Some tenants may be eligible for a donation of some rates and charges. Tenants are referred to Council's "Donations – Rates and Charges" Policy on Council's website to determine if they are eligible.</p>
Permitted use	<p>The tenant must only use the property for the permitted use listed in the lease or licence. The tenant must seek the Council's prior written consent to any new or additional proposed uses. The lease or licence document would have been prepared and tailored to the particular use listed in the document. If a tenant proposes to introduce any new or additional uses, that may require a variation of the lease or licence document. It may also trigger the requirement for other approvals, such as development approvals, that the tenant would be required to apply for and obtain at the tenant's cost.</p>

8.6 **Policy (Review) - Community Property Leasing and Licensing**

	For Community Land, the property must only be used for a purpose consistent with the requirements of the Plan of Management.
Repair and maintenance	<p>Generally:</p> <ul style="list-style-type: none"> the tenant will be required to keep the property, the services, and the tenant's own items in good repair and condition during the term. This would include, for example, arranging and paying for day to day repair and maintenance of the property, and the servicing of equipment; the Council will usually be required to attend to structural repairs, except where required because of the acts or default of the tenant or where the tenant carried out the original structural work/improvements. <p>The repair and maintenance obligations of particular tenants may differ because of previous arrangements. For example, tenants may have procured building works themselves or may have historically been responsible for structural repairs/maintenance. Tenants may have also sought approval to carry out extensions or alteration works, and Council may have approved those works on the basis that the tenant agrees to be responsible for the ongoing structural repair, maintenance and replacement of those items.</p>
Tenant alterations	<p>The tenant must seek Council's prior approval of:</p> <ul style="list-style-type: none"> any proposed extensions, alterations, additions or structural work to the property, or to the installation of items on the outside the existing building (such as solar panels, cement pads for split system air conditioning systems, fencing etc) (Alteration Works); and any proposed application for grant funding for Alteration Works. <p>If the proposed Alteration Works are approved in principal, the tenant must seek and obtain at the tenant's cost any authority approvals required for the Alteration Works, which may include for example building approvals and/or development approvals. If the work is on Crown Land, there will be Native Title considerations to be addressed before any work can commence.</p> <p>All work must be carried out by licensed tradespeople holding the insurances required by Council, and must be carried out and completed in accordance with the authority approvals and in compliance with all laws. A site induction may be required with Council staff.</p>
Insurance	<p>Generally the tenant must take out and maintain:</p> <ul style="list-style-type: none"> Public liability Insurance - in the amount required in the lease or licence. The certificate of currency provided to Council must note Ballina Shire Council as an interested party; Contents Insurance – for any contents, chattels and other items stored in or on the premises; Workers Compensation Insurance – appropriate workers compensation insurance as required by relevant legislation to provide protection for employees or volunteers; Plate Glass Insurance – for the full replacement value of plate glass in the premises;

8.6 **Policy (Review) - Community Property Leasing and Licensing**

	<ul style="list-style-type: none"> • Products Liability Insurance – as required by relevant legislation for any goods or products made by the tenant (if applicable to the tenant's particular operations from the property). <p>A certificate of currency for each insurance must be provided by the tenant to Council annually. Any claims, excess or deductions payable under the terms and conditions of the tenant's insurance policies are to be paid by the tenant.</p>
Subletting	<p>Depending on the type of property and the particular use of the property, the lease may allow a tenant to sublease part of the property. If the lease allows a tenant to sublease, the tenant may not sublease without Council's prior written consent (which may be given subject to conditions or may be withheld).</p> <p>If consent is granted to a sublease, Council may impose conditions on the consent. For example, if the sublease arrangement will generate income for the tenant that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc), it is reasonable for the Council to consider whether the tenant should remain eligible for the same level of rental rebate the tenant is at that time receiving from Council.</p>
Casual use by other community groups	<p>Council wishes to encourage existing tenants to allow the casual use of the property by other community groups whose use is permitted at that location and is consistent with the category of the property in the Plan of Management. This is to assist in having the property as fully utilised as possible. The introduction of other community group users is one of the criteria taken into account in the Assessment Criteria in Annexure 2. This will not be practical for all properties covered by this policy. For example, if the building is a simple, small storage shed, it may be impractical to allow the casual use of the shed by other community groups. However, some tenants occupy larger buildings with multiple rooms and facilities, and only use the property on a seasonal basis, or only for a number of hours per week. While there are other new or growing community groups seeking premises for their meetings and other activities. Any tenant wishing to introduce other users are encouraged to contact Council to discuss those opportunities. Lease documents can be drafted to accommodate these types of arrangements, provided the use by the other users is permitted in the Plan of Management and would not require a development approval or building works.</p>
Term	<p>The general position is that a term of 4 years for Council owned property and 3 years for Council managed Crown Land will be offered.</p> <p>To minimise costs, the general position is that leases of 4 years and under will not be registered on the title of the land, unless the tenant requests that it be registered. If a tenant requests that it be registered and Council agrees, the tenant must arrange the registration and pay all costs associated with registering the lease (which may include for example the cost of preparing lease plans and obtaining consents/approvals of any third parties).</p>

8.6 **Policy (Review) - Community Property Leasing and Licensing**

	<p>Under exceptional circumstances, Council may grant tenure of longer than 4 years. If a lease of 5 years or more is granted, the lease should be registered on the title of the land. In addition to the usual registration costs, tenants must also pay the costs of obtaining the Minister's consent (if required), the costs of preparing any required subdivision plans, and the costs of obtaining a development approval (noting that a lease of part of a parcel of land for more than 5 years requires a development approval to be obtained - <i>Conveyancing Act</i> and <i>Environmental Planning and Assessment Act</i>).</p> <p>If Council engages external lawyers to assist in the preparation, negotiation and registration of leases, the tenant must pay Council's reasonable legal costs.</p>
Tenant reporting	<p>As Council is providing a rental rebate on the basis that the tenant's use is providing community benefit, tenants are expected to report to Council:</p> <ul style="list-style-type: none"> • the annual financial statements, detailing the tenant's income and expenditure (including any grants/sponsorships etc); • any changes in the committee members or office bearers of the tenant organisation and updated contact information; • membership numbers (if applicable); • details of any repair and maintenance works carried out by the tenant, and any proposed works; • information on usage of the property, to demonstrate ongoing community benefit. <p>The above reporting is important to ensure that the rental rebate provided by Council is warranted, as there is demonstrated ongoing benefit to the community by the tenant continuing to operate from the property.</p>

POLICY IMPLEMENTATION AND PROCEDURAL MATTERS

This policy is administered by Council's Community Property Officers.

The general leasing process is outlined in the flowchart in Attachment 4.

DEFINITIONS

Community Land	Land classified as community land under the <i>Local Government Act</i> or <i>Crown Land Management Act</i> . Classification as community land reflects the importance of the land to the community because of its use or special features and must be managed according to special requirements in the <i>Local Government Act</i> and <i>Crown Land Management Act</i> .
Community Preschool	Means a Not for Profit Community Group operating a preschool from a property listed in this policy.
Crown Land	Land owned by the State Government, where Council has been appointed as Crown Land Manager.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

<p>Ballina Shire Council</p> <hr/> <p>Large NFP</p> <p>Not for Profit Community Group</p> <p>Operational Land</p> <p>Small NFP</p> <p>Statutory minimum rent</p>	<p>Community Property Leasing and Licensing</p> <hr/> <p>Means a Not for Profit Community Group that has an annual revenue of more than \$1 million dollars (averaged over 3 years) as reported to NSW Fair Trading or The Australian Charities and Not for profits Commission, not including Community Preschools.</p> <p>Means an organisation meeting each of the following requirements:</p> <ul style="list-style-type: none"> (a) an association incorporated under the <i>Associations Incorporation Act</i> or a company limited by guarantee registered under the <i>Corporations Act</i>; and (b) involved in the promotion, arranging and managing of sporting, recreation or other activities for community purposes; and (c) a not for profit organisation included on the Australian Charities and Not-for-Profit Commission Register or registered with the NSW Department of Fair Trading as a Not for Profit Incorporated Association. <p>Council owned land or Crown Land classified as operational land under either the <i>Local Government Act</i> or <i>Crown Land Management Act</i>. Land classified as operational land is usually not intended for use by the general public. Operational land would ordinarily comprise of land held as a temporary asset or as an investment, land which facilitates the carrying out of Council's functions, or land which may not be open to the general public, such as a works depot, wastewater facility, waste centre, quarry, office building etc. Council is able to deal with operational land in a similar manner that a person may deal with their private freehold land, and the special requirements applying to Community Land under the <i>Local Government Act</i> do not apply to Operational Land.</p> <p>Means a Not for Profit Community Group that has an annual revenue of less than \$1 million dollars (averaged over 3 years) as reported to NSW Fair Trading or The Australian Charities and Not for profits Commission (as required), not including Community Preschools.</p> <p>Means the minimum base rent under clause 38(1) of the <i>Crown Land Management Regulation</i> as adjusted by CPI in accordance with section 6.4 of the <i>Crown Land Management Act</i> and published online by the New South Wales government Crown land website.</p>
<p>Page 8 of 16</p>	<p>Policy No. C02</p>

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

Community Property Leasing and Licensing

SCOPE OF POLICY

This policy applies to:

- Council staff
- Councillors
- Existing tenants and proposed tenants of property covered by this policy

RELATED DOCUMENTATION

Related legislation, policies and document:

- *Aboriginal Land Rights Act 1983 (NSW)*
- *Associations Incorporation Act 2009 (NSW)*
- *Charities Act 2013 (Cth)*
- *Conveyancing Act 1919 (NSW)*
- *Corporations Act 2001 (Cth)*
- *Crown Land Management Act 2016 (NSW)*
- *Crown Land Management Regulation 2018 (NSW)*
- *Crown Land Management Rules, Policies and Guidelines*
- *Environmental Planning and Assessment Act 1979 (NSW)*
- ~~*Hampton Park Plan of Management 2005*~~
- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2005 (NSW)*
- *Native Title Act 1993 (Cth)*
- *Plan of Management for Community Land 2025-2023*
- *Plan of Management for Williams Reserve 2007*
- *Real Property Act 1900 (NSW)*
- ***Sports Facility Management Plan***
- *Any Plan of Management adopted after the date of this policy which covers properties listed in Table 1*

REVIEW

The Community Property Leasing and Licensing Policy will be reviewed every four years.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

Community Property Leasing and Licensing

ATTACHMENT 1 – PROPERTIES TO WHICH POLICY APPLIES

1A – Council owned properties to which this policy applies

#	Property – Community Land
1.	Crawford Park Clubhouse, Lot 2 DP1205880, Alston Avenue, Alstonville
2.	Community Preschool, Lot 1 DP1205880, Freeborn Place, Alstonville
3.	Ballina Community Youth Centre, Lots 12, 13 & 14 DP1714, 32 Swift Street, Ballina (known as Wigmore Park)
4.	Community Preschool, Lot 1 DP781710, Fox Street, Ballina
5.	Ballina Players Theatre, Lot 7 DP688267 & Part Lot 70 DP1005100, 24 Swift Street, Ballina
6.	Quays Reserve Clubhouse, Lot 62 DP263861, 96-98 Kalinga Street, West Ballina
7.	Wigmore Hall, Lots 9 and 10 DP1714 and Lot 70 DP1005100, 26-28 Swift Street, Ballina
8.	Prospect Lake Boat Shed, Lot 105 DP871675, Links Avenue, East Ballina
9.	Lennox Head Preschool, Lot 415 DP 1244339 21 Mackney Lane, Lennox Head (note: part of yard is on Crown Land Reserve 97839. See separate entry in Crown Land Attachment 1B)
10.	Skennars Head Sports Fields Clubhouse and storage areas, Lot 13 DP1245669, 54 Skennars Head Road, Skennars Head
11.	Newrybar Hall, Lot 10 DP1202765, 13-15 Old Pacific Highway, Newrybar
12.	Power Drive Sports Clubhouse, Lot 99 in DP1196589, 33 Power Drive, Cumbalum
13.	Wardell and District War Memorial Hall, Lot 1 DP312334, Richmond Street Wardell
14.	Wardell Tennis Courts, Fitzroy Park, Lot 18 DP1129974, 32 Bridge Drive, Wardell
15.	Lyle Park Clubhouse, Lot 106 DP807798, Lyle Park, Cerreto Circuit, Wollongbar
16.	Community Preschool, Lot 266 DP1209571, 5 Hall Court, Wollongbar
17.	Wollongbar Community Hall, Lot 267 DP1209571, Hall Court, Wollongbar
18.	Cawarra Park Buildings, Cawarra Street, Ballina, Lots 2 and 3, Section 37 DP758047
19.	Lennox Community Gardens, Lot 31 DP787876, Ocean Breeze Park, Ocean Breeze Drive, Lennox Head
20.	Chickiba Sports Clubhouse, Lot 207 DP851318, Chickiba Drive, East Ballina
21.	Ballina Aboriginal Child and Family Centre, Lot 1 DP1181025, 10 Hayman Street, West Ballina
22.	Geoff Watt Sports Clubhouse, Lot 85 DP239781, 2 Deegan Drive, Alstonville
23.	20 Megan Crescent Sports Clubhouse, Lot 74 DP774896, 20 Megan Crescent, Lennox Head

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8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council Community Property Leasing and Licensing

#	Property – Community Land
24.	Tennis Court Facility, Lot 2 DP1168781 Elvery Lane, Wollongbar
25.	Wollongbar Sportsfield Clubhouse, Lot 2 DP1168781, Elvery Lane, Wollongbar
#	Property – Operational Land
26.	Equestrian Centre, Lot 114 DP 755684, 70 Gallans Road, Ballina
27.	Pimlico Hall, Lot 3 DP561944, 580 Pimlico Road, Pimlico
28.	Mountain Bike Track Facility, Lot 12 DP814359, 240 Bruxner Highway, Alstonville
29.	Gap Road Alstonville Sporting Clubhouses, Lot 4 DP1130300, 486 Gap Road, Alstonville
30.	Gap Road Alstonville Storage Sheds, Lot 4 DP1130300, 486 Gap Road Alstonville
31.	Shed Facility, Lot 100 DP1281698, 44 Fishery Creek Road, Ballina
32.	Childrens Centre, Lot 210 DP735156, 4 John Sharpe Street, East Ballina
33.	Crawford House, Lot 6 DP235088, 10 Wardell Road, Alstonville

1B – Crown Land managed by Council to which this policy applies

#	Property
34.	Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP755745 and whole of Lot 7004 DP92641, 2 Pearces Creek Road, Alstonville
35.	Croquet Clubhouse and croquet field, Part Reserve 540004 for the purpose of Public Recreation, notified 20 August 1886 being part Lot 5611 DP1282979
36.	Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962, Lot 4 DP1153430, Canal Road, Ballina
37.	Kingsford Smith Park Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064 DP1118403 and Lot 153 DP1098090
38.	Naval and Maritime Museum (incorporating Richmond-Tweed Family History Research Centre), Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina
39.	Netball Clubhouse, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina
40.	Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 729297 known as Saunders Oval, Canal Road, Ballina
41.	Tennis Clubhouse and Tennis Courts, part Dedication (D540004) for Public Recreation notified 20 August 1886, being part Lot 5612 DP1282979, known as Hampton Park, Burnet Street, Ballina
42.	Fripp Oval Clubhouse and Storage, Lot 1 DP1153430, Canal Road, Ballina
43.	Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head

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Policy No. C02

5.5 Policy (Review) - Community Property Leasing and Licensing

8.6 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

#	Property
44.	Community Preschool Yard Area, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head NSW (note: Part of Preschool is on Council owned land. See separate entry in Attachment 1A)
45.	Sailing Clubhouse, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina
46.	Tintenbar Oval Clubhouse & Tennis Courts, Lot 371 DP729061, 56 Fernleigh Road, Tintenbar
47.	Hall, Lot 8, Sec 5A, DP758047, part Captain Cook Park, River Street Ballina

Note: Council may update the tables in Attachment 1 over time.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

ATTACHMENT 2 – ASSESSMENT CRITERIA

An assessment will be conducted to determine the eligibility and suitability of a tenant by considering the objectives of this policy. The following factors will be considered as part of the assessment of the tenant and the tenant's proposed use of the property.

A	<p>Community benefit Community benefit that will be provided by the tenant's activities.</p> <p>This includes consideration of the tenant's existing membership base (if the tenant is an organisation with members), and the likely extent of social, cultural, physical, or intellectual benefit from the activities of the tenant conducted from the property.</p>
B	<p>Best utilisation of the property The proposed frequency of use of the property by the tenant (number of days per week, estimated hours per week, any months when the property will not be used, for example, if the tenant's proposed use is seasonal).</p> <p>This includes consideration of whether the tenant proposes to allow use of the property by other community groups (whose use is permitted at that location and is consistent with the category of the property in the Plan of Management), to ensure the property is as fully utilised as possible. These criteria will not be relevant to small storage shed style buildings but may be relevant to other larger properties.</p>
C	<p>Eligible tenant Whether the tenant is an eligible tenant (see part 5 of this policy).</p>
D	<p>Tenant's capacity to comply with lease obligations The tenant's capacity to pay, including whether the tenant has demonstrated it has the capacity to pay:</p> <ul style="list-style-type: none"> • rent; • rates and charges; • the cost of services (electricity, gas, water, waste etc); • insurance premiums to ensure the insurances required under the proposed lease are maintained throughout the term; • ongoing costs of complying with legislative requirements relevant to the tenant's proposed use; • the costs of obtaining any development approvals or other approvals required for the tenant's proposed use or required in order for a lease to be granted; • the costs of carrying out routine repair and maintenance, to ensure the property is kept in good repair and condition
E	<p>Tenant's previous occupancy of the property For renewals:</p> <ul style="list-style-type: none"> • the length of time the tenant has occupied the property; • any improvements the tenant has made to the property; • the tenant's compliance with the terms of the previous lease, including, but not limited to, compliance with the repair and maintenance obligations, payment of all amounts under the lease or licence, and keeping the required insurances current during the full term; • if the tenant has had any previous issues with neighbours, whether the tenant has demonstrated a proactive approach to resolving issues

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

Community Property Leasing and Licensing

F	<p>Suitability of the property for the proposed use Consideration of:</p> <ul style="list-style-type: none"> • the impact of the tenant's use on the property • suitability of the property for the proposed use: <ul style="list-style-type: none"> ○ whether the proposed use is consistent with the core objectives for the category of the property in the Plan of Management, and the type of lease to be granted is authorised in the Plan of Management ○ planning requirements ○ building requirements ○ other statutory requirements
G	<p>Any works required or approvals to be obtained Consideration of:</p> <ul style="list-style-type: none"> • whether Council would need to do work to the property prior to any occupation, and if so, whether Council agrees to do such work (taking into account Council financial plans/budgets and the Delivery Program and Operational Plan) • whether the tenant would need to do work to the property prior to any occupation, and if so, whether Council agrees to that work being carried out • any development approvals or other approvals that would be required in relation to the grant of the proposed lease, in relation to the tenant's proposed use, or in relation to any proposed works. Note that the Plan of Management may restrict the types of further development work that may take place on particular parcels of land.
H	<p>Financial return to Council Consideration of the financial return to Council and any future uses of the property that should be considered.</p>

8.6 **Policy (Review) - Community Property Leasing and Licensing**

ATTACHMENT 3 – GUIDE FOR RENT ASSESSMENT

Minimum rent

3.1 Rent for Small NFPs and Community Preschools

To create equity between tenants occupying Council owned properties and Crown Land managed by Council, Council adopts the statutory minimum rent ~~set by the NSW Government~~ as the minimum rent for all leases and licences ~~to Small NFPs and Community Preschools~~ covered by this policy. Importantly, the statutory minimum rent will in most cases still be well below the market rent that could be obtained for the property, so a tenant paying the statutory minimum rent will still be receiving a rental rebate. ~~Council has the discretion to resolve to charge a higher rent under Section 3.3.~~

3.2 Rent for Large NFPs

The minimum rent to be charged to Large NFPs for all leases and licences covered by this policy is:

Large NFP leasing storage shed only	
Large NFP leasing storage shed or container structure only	An amount equal to NSW Crown Lands statutory minimum rent.
Large NFP leasing building other than storage shed	
Large NFP with average revenue for last 3 years \$1m - <\$1.3m	Pay 10% of market rent for the first year of the lease term, then annual CPI adjustments
Large NFP with average revenue for last 3 years \$1.3 - <\$2m	Pay 50% of market rent for the first year of the lease term, then annual CPI adjustments
Large NFP with average revenue for last 3 years over \$2m	Pay 100% of market rent for the first year of the lease term, then annual CPI adjustment

Council has the discretion to resolve to charge a higher rent under Section 3.3.

3.3 Discretionary higher rents

~~Some properties to attract rent higher than statutory minimum rent~~
~~The statutory minimum rent will be applied to the majority of leases and licences covered by this policy. However, there will occasionally be some leases and licences for which Council resolves to charge a rent higher than the statutory minimum rent.~~

Sections 3.1 and 3.2 set out the minimum rent that may be charged. Council may resolve to charge a rent higher than the minimum rent set out in Sections 3.1 and 3.2. Some examples of when Council may consider charging a higher rent include:

~~For example:~~

- ~~where the tenant has received approval from Council to sublet or licence part of the property and under the arrangement the tenant will receive from the subtenant/licensee income that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc);~~

8.6 **Policy (Review) - Community Property Leasing and Licensing**

Ballina Shire Council

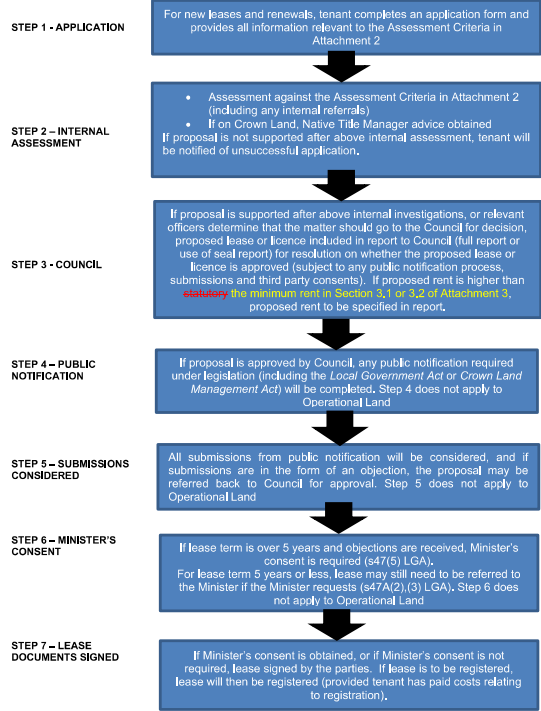
Community Property Leasing and Licensing

- where the Council has done particular upgrade works or other improvement works at the tenant's request, and part of the costs of that work is to be recovered by way of a higher rent;
- where the tenant (or any sub-tenant or sub-licensee) holds a liquor licence that enables the sale of alcohol at the property on more than 52 occasions per year;
- whilst the tenant continues to predominantly use the property for sporting, recreation or other community purposes, there is a minor commercial activity undertaken at the property, such as a small kiosk . This is not intended to capture regular canteens, sausage sizzles etc commonly operated at sporting grounds as part of regular sports club fundraising activities.

If it is proposed that a tenant will be charged a rent higher than the **statutory** minimum rent in **Sections 3.1 or 3.2** for a lease or licence covered by this policy, the higher rent will be included in the report to Council for resolution under Step 3 of the General Leasing Process in Attachment 4.

8.6 **Policy (Review) - Community Property Leasing and Licensing**

ATTACHMENT 4 – GENERAL LEASING PROCESS



Note: The above is the general process that will apply to the majority of leases and licences covered by this policy. However, there may be property specific issues or particular tenant proposed uses that trigger additional steps in the process.

POLICY NAME: COMMUNITY PROPERTY LEASING AND LICENSING (EXHIBITION COPY)
POLICY REF: C02
MEETING ADOPTED: 26 February 2026
 Resolution No. 260226/21
POLICY HISTORY: 230524/8, 240920/16; 280716/32



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OBJECTIVE

The objective of this policy is to provide a process and criteria to assess the granting of leases and licences of Council owned or managed properties to Not for Profit Community Groups which are to be predominantly used for sporting, recreation or other community purposes.

POLICY

The purpose of this policy is to:

- provide guidelines for the leasing and licencing of the properties covered by this policy to Not for Profit Community Groups;
- provide assessment criteria to assist in assessing the suitability of tenants;
- encourage better utilisation of the properties;
- set out some of the general terms and conditions for leases and licences, and the general leasing process;
- ensure that demonstrated benefits are being provided to the community to warrant the Council receiving less than market rent for the properties.

This policy does not alter the terms of any existing leases or licences.

1. APPLICATION

Leases and licences to which this policy applies

This policy applies to leases or licences of the properties listed in Attachment 1 to Not for Profit Community Groups, where the properties are to be predominantly used for sporting, recreation or other community purposes.

This policy does not apply to:

- leases or licences of a property listed in Attachment 1 for commercial purposes; or
- leases or licences of a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group.

2. PLAN OF MANAGEMENT

Under the *Local Government Act*, Council's land is categorised as either Operational Land or Community Land. Classification of land as Community Land reflects the importance of those properties to the community. Community Land needs to be managed according to special requirements in the *Local Government Act* and *Crown Land Management Act*.

Under the *Local Government Act*, Council may only grant a lease or licence over Community Land if:

- the Plan of Management expressly authorises the lease or licence; and
- the purpose of the lease or licence is consistent with the core objectives for the category of land. The categories include sportsground, general community use, park, an area of cultural significance and natural area. For example, if the Plan of Management categorises a property as sportsground, any lease or licence for that property must be for a purpose consistent with the core objectives for sportsgrounds; and

- the lease or licence is for a purpose listed in section 46(1)(b) of the *Local Government Act*.

There are only very limited exceptions to the above in s46 of the *Local Government Act*.

Crown Land classified as Community Land – Plan of Management

As part of the implementation of the *Crown Land Management Act*, Crown Land managed by Council is categorised as either Community Land or Operational Land. Properties classified as Community Land are further categorised as either sportsground, general community use, park, an area of cultural significance or natural area. Those properties are listed in a Plan of Management. Leases or licences granted by Council for Crown Land categorised as Community Land must be in accordance with the express authorisation in the Plan of Management, for purposes consistent with the core objectives of the category of land.

3. PUBLIC NOTIFICATION OF PROPOSED LEASE

The *Local Government Act* (s47 and s47A) sets out a public notification process that Council is required to follow for proposed leases or licences of Community Land. The public notification process generally involves:

- giving notice to adjoining landowners, putting a sign on the property and publishing certain details on Council's website;
- members of the public may make written submissions within the timeframe prescribed in the notice;
- Council considers those submissions when making a final decision on the proposed lease or licence; and
- if the submissions include an objection and the lease term is over 5 years, the matter must be referred to the Minister for Local Government for consent.

4. OTHER LEGISLATIVE REQUIREMENTS

For proposed new leases or licences, there may be various legislative requirements that need to be met before a lease or licence can be granted, or before a tenant can commence a particular use of the property. For example:

- For Crown Land:
 - depending on the term of the proposed lease or licence, Council may need to obtain the Minister's prior consent to the granting of the lease or licence;
 - the proposed lease or licence is subject to obtaining Native Title Manager Advice under the *Crown Land Management Act* before the lease or licence can be granted by Council;
 - any undetermined Aboriginal land claims under the *Aboriginal Land Rights Act* will also need to be considered;
- In some circumstances, the tenant's proposed use of the property may require the tenant to obtain a development approval. The tenant would be required to obtain the development approval and comply with any development approval conditions at the tenant's cost.

5. ELIGIBLE TENANTS

A lease or licence under this policy may be granted to a Not for Profit Community Group. Council does not enter into leases or licences with individuals representing a group, such as committee members.

As Community Land is intended to provide benefits to the broader community, it is appropriate that occupation of Community Land listed in Attachment 1 is often by Not for Profit Community Groups, who will use the properties for predominantly sporting, recreation or other community purposes.

If Council decides to:

- lease or licence a property listed in Attachment 1 for commercial purposes; or
- lease or licence a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group, the terms of this policy will not apply to that lease or licence and Council may impose such commercial terms and conditions as Council determines.

6. ASSESSMENT CRITERIA FOR ELIGIBLE TENANTS

Attachment 4 sets out the general process for leasing or licensing the properties in Attachment 1 to Not for Profit Community Groups. As part of that process, the proposed tenant is assessed against the Assessment Criteria in Attachment 2.

Council recognises that many existing tenants of properties in Attachment 1 have strong historical, social and recreational ties to the properties they use. Although an existing tenant may have contributed to the development of a particular property over time, that does not convey permanent or preferential access to that property. However, the length of time the tenant has occupied the property and any improvements the tenant has made to the property are taken into account as part of the Assessment Criteria in Attachment 2.

There is increasing demand by Not for Profit Community Groups seeking to use Council owned and managed properties. When a Council property listed in Attachment 1 becomes available for lease or an existing tenant's lease is due to expire, Council may consider the existing usage of the property, the potential future usage for the property, the potential for the property to be used on a multi-user basis and changing community needs. As demographics and local needs change over time, Council may re-assess the demands of the community and the best possible uses of properties. It is important to continue to look for ways to ensure that properties covered by this policy are as fully utilised as possible, to increase the benefit provided to the community.

Where:

- Council acquires a new property classified as Community Land; or
- a property listed in Attachment 1 becomes vacant,

and Council intends to lease or licence that property to a Not for Profit Community Group for sporting, recreation or other community purposes, Council may elect to conduct an expression of interest process or tender process.

In the event an offer of tenure is made to a proposed tenant which is not accepted by the tenant within one month of the date of the offer, Council may withdraw the offer and seek to find another tenant for the property.

7. GENERAL TERMS AND CONDITIONS OF LEASES AND LICENCES

Standard Lease and Licence Agreements

Council has developed standard lease and licence agreements; however, these documents vary over time and may be tailored to suit each property and the proposed usage by a tenant. Additional clauses will be included in the lease or licence when necessary to meet specific requirements of Council or the proposed tenant.

The terms of the lease or licence document entered into by the Council and the tenant will prevail over any inconsistent provisions in this policy. However, generally:

Rent	<p>The rent charged for the property will be determined in accordance with the guide in Attachment 3.</p> <p>The rent or licence fee sought by Council for properties covered by this policy is generally less than the market rent for the property. The difference between the market rent Council could obtain for the property and the amount payable by a tenant, is a rental rebate provided by Council to the tenant.</p> <p>Council's provision of this rental rebate is to assist Not for Profit Community Groups in their day to day operations and is recognition of the benefits they provide to the local community.</p>
Rates, charges, services	<p>Rates: if the property is rateable, tenants are to pay the rates (or a proportion of the rates, if the property leased/licenced to the tenant is part of a larger property);</p> <p>Charges: tenants are to pay the charges for all services provided to the property – including both access charges and consumption/usage charges (water, sewerage, stormwater, waste, septic etc);</p> <p>Services: tenants are to pay for their own services, such as electricity, gas, telephone etc.</p> <p>Given the Council has provided a rental rebate, it is expected that tenants leasing properties covered by this policy will generate sufficient income to pay for rates, charges and services. A tenant's demonstrated capacity to pay these amounts forms part of the Assessment Criteria in Attachment 2.</p> <p>Some tenants may be eligible for a donation of some rates and charges. Tenants are referred to Council's "Donations – Rates and Charges" Policy on Council's website to determine if they are eligible.</p>
Permitted use	<p>The tenant must only use the property for the permitted use listed in the lease or licence. The tenant must seek the Council's prior written consent to any new or additional proposed uses. The lease or licence document would have been prepared and tailored to the particular use listed in the document. If a tenant proposes to introduce any new or additional uses, that may require a variation of the lease or licence document. It may also trigger the requirement for other approvals, such as development approvals, that the tenant would be required to apply for and obtain at the tenant's cost.</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

(EXHIBITION COPY) Community Property Leasing and Licensing

	<p>For Community Land, the property must only be used for a purpose consistent with the requirements of the Plan of Management.</p>
Repair and maintenance	<p>Generally:</p> <ul style="list-style-type: none"> the tenant will be required to keep the property, the services, and the tenant's own items in good repair and condition during the term. This would include, for example, arranging and paying for day to day repair and maintenance of the property, and the servicing of equipment. the Council will usually be required to attend to structural repairs, except where required because of the acts or default of the tenant or where the tenant carried out the original structural work/improvements. <p>The repair and maintenance obligations of particular tenants may differ because of previous arrangements. For example, tenants may have procured building works themselves or may have historically been responsible for structural repairs/maintenance. Tenants may have also sought approval to carry out extensions or alteration works, and Council may have approved those works on the basis that the tenant agrees to be responsible for the ongoing structural repair, maintenance and replacement of those items.</p>
Tenant alterations	<p>The tenant must seek Council's prior approval of:</p> <ul style="list-style-type: none"> any proposed extensions, alterations, additions or structural work to the property, or to the installation of items on the outside the existing building (such as solar panels, cement pads for split system air conditioning systems, fencing etc) (Alteration Works); and any proposed application for grant funding for Alteration Works. <p>If the proposed Alteration Works are approved in principal, the tenant must seek and obtain at the tenant's cost any authority approvals required for the Alteration Works, which may include for example building approvals and/or development approvals. If the work is on Crown Land, there will be Native Title considerations to be addressed before any work can commence.</p> <p>All work must be carried out by licensed tradespeople holding the insurances required by Council and must be carried out and completed in accordance with the authority approvals and in compliance with all laws. A site induction may be required with Council staff.</p>
Insurance	<p>Generally, the tenant must take out and maintain:</p> <ul style="list-style-type: none"> Public liability Insurance - in the amount required in the lease or licence. The certificate of currency provided to Council must note Ballina Shire Council as an interested party; Contents Insurance – for any contents, chattels and other items stored in or on the premises; Workers Compensation Insurance – appropriate workers compensation insurance as required by relevant legislation to provide protection for employees or volunteers; Plate Glass Insurance – for the full replacement value of plate glass in the premises;

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

(EXHIBITION COPY) Community Property Leasing and Licensing

	<ul style="list-style-type: none"> • Products Liability Insurance – as required by relevant legislation for any goods or products made by the tenant (if applicable to the tenant's particular operations from the property). <p>A certificate of currency for each insurance must be provided by the tenant to Council annually. Any claims, excess or deductions payable under the terms and conditions of the tenant's insurance policies are to be paid by the tenant.</p>
Subletting	<p>Depending on the type of property and the particular use of the property, the lease may allow a tenant to sublease part of the property. If the lease allows a tenant to sublease, the tenant may not sublease without Council's prior written consent (which may be given subject to conditions or may be withheld).</p> <p>If consent is granted to a sublease, Council may impose conditions on the consent. For example, if the sublease arrangement will generate income for the tenant that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc), it is reasonable for the Council to consider whether the tenant should remain eligible for the same level of rental rebate the tenant is at that time receiving from Council.</p>
Casual use by other community groups	<p>Council wishes to encourage existing tenants to allow the casual use of the property by other community groups whose use is permitted at that location and is consistent with the category of the property in the Plan of Management. This is to assist in having the property as fully utilised as possible. The introduction of other community group users is one of the criteria taken into account in the Assessment Criteria in Annexure 2. This will not be practical for all properties covered by this policy. For example, if the building is a simple, small storage shed, it may be impractical to allow the casual use of the shed by other community groups. However, some tenants occupy larger buildings with multiple rooms and facilities, and only use the property on a seasonal basis, or only for a number of hours per week. While there are other new or growing community groups seeking premises for their meetings and other activities. Any tenant wishing to introduce other users are encouraged to contact Council to discuss those opportunities. Lease documents can be drafted to accommodate these types of arrangements, provided the use by the other users is permitted in the Plan of Management and would not require a development approval or building works.</p>
Term	<p>The general position is that a term of 4 years for Council owned property and 3 years for Council managed Crown Land will be offered.</p> <p>To minimise costs, the general position is that leases of 4 years and under will not be registered on the title of the land, unless the tenant requests that it be registered. If a tenant requests that it be registered and Council agrees, the tenant must arrange the registration and pay all costs associated with registering the lease (which may include for example the cost of preparing lease plans and obtaining consents/approvals of any third parties).</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

(EXHIBITION COPY) Community Property Leasing and Licensing

	<p>Under exceptional circumstances, Council may grant tenure of longer than 4 years. If a lease of 5 years or more is granted, the lease should be registered on the title of the land. In addition to the usual registration costs, tenants must also pay the costs of obtaining the Minister's consent (if required), the costs of preparing any required subdivision plans, and the costs of obtaining a development approval (noting that a lease of part of a parcel of land for more than 5 years requires a development approval to be obtained - <i>Conveyancing Act</i> and <i>Environmental Planning and Assessment Act</i>).</p> <p>If Council engages external lawyers to assist in the preparation, negotiation and registration of leases, the tenant must pay Council's reasonable legal costs.</p>
<p>Tenant reporting</p>	<p>As Council is providing a rental rebate on the basis that the tenant's use is providing community benefit, tenants are expected to report to Council:</p> <ul style="list-style-type: none"> • the annual financial statements, detailing the tenant's income and expenditure (including any grants/sponsorships etc); • any changes in the committee members or office bearers of the tenant organisation and updated contact information; • membership numbers (if applicable); • details of any repair and maintenance works carried out by the tenant, and any proposed works; • information on usage of the property, to demonstrate ongoing community benefit. <p>The above reporting is important to ensure that the rental rebate provided by Council is warranted, as there is demonstrated ongoing benefit to the community by the tenant continuing to operate from the property.</p>

POLICY IMPLEMENTATION AND PROCEDURAL MATTERS

This policy is administered by Council's Community Property Officers.

The general leasing process is outlined in the flowchart in Attachment 4.

DEFINITIONS

Community Land

Land classified as community land under the *Local Government Act* or *Crown Land Management Act*. Classification as community land reflects the importance of the land to the community because of its use or special features and must be managed according to special requirements in the *Local Government Act* and *Crown Land Management Act*.

Community Preschool

Means a Not for Profit Community Group operating a preschool from a property listed in this policy.

Crown Land

Land owned by the State Government, where Council has been appointed as Crown Land Manager.

**Not for Profit
Community Group (NFP)**

Means an organisation meeting each of the following requirements:

- (a) an association incorporated under the *Associations Incorporation Act* or a company limited by guarantee registered under the *Corporations Act*; and
- (b) involved in the promotion, arranging and managing of sporting, recreation or other activities for community purposes; and
- (c) a not for profit organisation included on the Australian Charities and Not-for-Profit Commission Register or registered with the NSW Department of Fair Trading as a Not for Profit Incorporated Association.

Operational Land

Council owned land or Crown Land classified as operational land under either the *Local Government Act* or *Crown Land Management Act*. Land classified as operational land is usually not intended for use by the general public. Operational land would ordinarily comprise of land held as a temporary asset or as an investment, land which facilitates the carrying out of Council's functions, or land which may not be open to the general public, such as a works depot, wastewater facility, waste centre, quarry, office building etc. Council is able to deal with operational land in a similar manner that a person may deal with their private freehold land, and the special requirements applying to Community Land under the *Local Government Act* do not apply to Operational Land.

Statutory minimum rent

Means the minimum base rent under clause 38(1) of the *Crown Land Management Regulation* as adjusted by CPI in accordance with section 6.4 of the *Crown Land Management Act* and published online by the New South Wales government Crown land website.

SCOPE OF POLICY

This policy applies to:

- Council staff
- Councillors
- Existing tenants and proposed tenants of property covered by this policy

RELATED DOCUMENTATION

Related legislation, policies and document:

- *Aboriginal Land Rights Act 1983 (NSW)*
- *Associations Incorporation Act 2009 (NSW)*
- *Charities Act 2013 (Cth)*
- *Conveyancing Act 1919 (NSW)*
- *Corporations Act 2001 (Cth)*
- *Crown Land Management Act 2016 (NSW)*
- *Crown Land Management Regulation 2018 (NSW)*
- *Crown Land Management Rules, Policies and Guidelines*
- *Environmental Planning and Assessment Act 1979 (NSW)*
- ~~*Hampton Park Plan of Management 2005*~~
- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2021 ~~2005~~ (NSW)*
- *Native Title Act 1993 (Cth)*
- *Plan of Management for Community Land 2025 ~~2023~~*
- *Plan of Management for Williams Reserve 2007*
- *Real Property Act 1900 (NSW)*
- *Sports Facility Management Plan*
- *Any Plan of Management adopted after the date of this policy which covers properties listed in Table 1*

REVIEW

The Community Property Leasing and Licensing Policy will be reviewed every four years.

ATTACHMENT 1 – PROPERTIES TO WHICH POLICY APPLIES

1A – Council owned properties to which this policy applies

#	Property – Community Land
1.	Crawford Park Clubhouse, Lot 2 DP1205880, Alston Avenue, Alstonville
2.	Community Preschool, Lot 1 DP1205880, Freeborn Place, Alstonville
3.	Ballina Community Youth Centre, Lots 12, 13 & 14 DP1714, 32 Swift Street, Ballina (known as Wigmore Park)
4.	Community Preschool, Lot 1 DP781710, Fox Street, Ballina
5.	Ballina Players Theatre, Lot 7 DP668267 & Part Lot 70 DP1005100, 24 Swift Street, Ballina
6.	Quays Reserve Clubhouse, Lot 62 DP263861, 96-98 Kalinga Street, West Ballina
7.	Wigmore Hall, Lots 9 and 10 DP1714 and Lot 70 DP1005100, 26-28 Swift Street, Ballina
8.	Prospect Lake Boat Shed, Lot 105 DP871675, Links Avenue, East Ballina
9.	Lennox Head Preschool, Lot 415 DP 1244339 21 Mackney Lane, Lennox Head (note: part of yard is on Crown Land Reserve 97839. See separate entry in Crown Land Attachment 1B)
10.	Skennars Head Sports Fields Clubhouse and storage areas, Lot 13 DP1245669, 54 Skennars Head Road, Skennars Head
11.	Newrybar Hall, Lot 10 DP1202765, 13-15 Old Pacific Highway, Newrybar
12.	Power Drive Sports Clubhouse, Lot 99 in DP1196589, 33 Power Drive, Cumbalum
13.	Wardell and District War Memorial Hall, Lot 1 DP312334, Richmond Street Wardell
14.	Wardell Tennis Courts, Fitzroy Park, Lot 18 DP1129974, 32 Bridge Drive, Wardell
15.	Lyle Park Clubhouse, Lot 106 DP807798, Lyle Park, Cerreto Circuit, Wollongbar
16.	Community Preschool, Lot 266 DP1209571, 5 Hall Court, Wollongbar
17.	Wollongbar Community Hall, Lot 267 DP1209571, Hall Court, Wollongbar
18.	Cawarra Park Buildings, Cawarra Street, Ballina, Lots 2 and 3, Section 37 DP758047
19.	Lennox Community Gardens, Lot 31 DP787876, Ocean Breeze Park, Ocean Breeze Drive, Lennox Head
20.	Chickiba Sports Clubhouse, Lot 207 DP851318, Chickiba Drive, East Ballina
21.	Ballina Aboriginal Child and Family Centre, Lot 1 DP1181025, 10 Hayman Street, West Ballina
22.	Geoff Watt Sports Clubhouse, Lot 85 DP239781, 2 Deegan Drive, Alstonville
23.	20 Megan Crescent Sports Clubhouse, Lot 74 DP774896, 20 Megan Crescent, Lennox Head

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

(EXHIBITION COPY) Community Property Leasing and Licensing

#	Property – Community Land
24.	Tennis Court Facility, Lot 2 DP1168781 Elvery Lane, Wollongbar
25.	Wollongbar Sportsfield Clubhouse, Lot 2 DP1168781, Elvery Lane, Wollongbar
#	Property – Operational Land
26.	Equestrian Centre, Lot 114 DP 755684, 70 Gallans Road, Ballina
27.	Pimlico Hall, Lot 3 DP561944, 580 Pimlico Road, Pimlico
28.	Mountain Bike Track Facility, Lot 12 DP814359, 240 Bruxner Highway, Alstonville
29.	Gap Road Alstonville Sporting Clubhouses, Lot 4 DP1130300, 486 Gap Road, Alstonville
30.	Gap Road Alstonville Storage Sheds, Lot 4 DP1130300, 486 Gap Road Alstonville
31.	Shed Facility, Lot 100 DP1281698, 44 Fishery Creek Road, Ballina
32.	Children's Centre, Lot 210 DP735156, 4 John Sharpe Street, East Ballina
33.	Crawford House, Lot 6 DP235088, 10 Wardell Road, Alstonville

1B – Crown Land managed by Council to which this policy applies

#	Property
34.	Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP755745 and whole of Lot 7004 DP92641, 2 Pearces Creek Road, Alstonville
35.	Croquet Clubhouse and croquet field, Part Reserve 540004 for the purpose of Public Recreation, notified 20 August 1886 being part Lot 5611 DP1282979 [No longer managed by Council]
36.	Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962, Lot 4 DP1153430, Canal Road, Ballina
37.	Kingsford Smith Park Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064 DP1118403 and Lot 153 DP1098090
38.	Naval and Maritime Museum (incorporating Richmond-Tweed Family History Research Centre), Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina
39.	Netball Clubhouse, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina
40.	Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 729297 known as Saunders Oval, Canal Road, Ballina
41.	Tennis Clubhouse and Tennis Courts, part Dedication (D540004) for Public Recreation notified 20 August 1886, being part Lot 5612 DP1282979, known as Hampton Park, Burnet Street, Ballina
42.	Fripp Oval Clubhouse and Storage, Lot 1 DP1153430, Canal Road, Ballina

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

(EXHIBITION COPY) Community Property Leasing and Licensing

#	Property
43.	Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head
44.	Community Preschool Yard Area, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head NSW (note: Part of Preschool is on Council owned land. See separate entry in Attachment 1A)
45.	Sailing Clubhouse, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina
46.	Tintenbar Oval Clubhouse & Tennis Courts, Lot 371 DP729061, 56 Fernleigh Road, Tintenbar
47.	Hall, Lot 8, Sec 5A, DP758047, part Captain Cook Park, River Street Ballina

Note: Council may update the tables in Attachment 1 over time.

ATTACHMENT 2 – ASSESSMENT CRITERIA

An assessment will be conducted to determine the eligibility and suitability of a tenant by considering the objectives of this policy. The following factors will be considered as part of the assessment of the tenant and the tenant’s proposed use of the property.

A	<p>Community benefit Community benefit that will be provided by the tenant’s activities.</p> <p>This includes consideration of the tenant’s existing membership base (if the tenant is an organisation with members), and the likely extent of social, cultural, physical, or intellectual benefit from the activities of the tenant conducted from the property.</p>
B	<p>Best utilisation of the property The proposed frequency of use of the property by the tenant (number of days per week, estimated hours per week, any months when the property will not be used, for example, if the tenant’s proposed use is seasonal).</p> <p>This includes consideration of whether the tenant proposes to allow use of the property by other community groups (whose use is permitted at that location and is consistent with the category of the property in the Plan of Management), to ensure the property is as fully utilised as possible. These criteria will not be relevant to small storage shed style buildings but may be relevant to other larger properties.</p>
C	<p>Eligible tenant Whether the tenant is an eligible tenant (see part 5 of this policy).</p>
D	<p>Tenant’s capacity to comply with lease obligations The tenant’s capacity to pay, including whether the tenant has demonstrated it has the capacity to pay:</p> <ul style="list-style-type: none"> • rent; • rates and charges; • the cost of services (electricity, gas, water, waste etc); • insurance premiums to ensure the insurances required under the proposed lease are maintained throughout the term; • ongoing costs of complying with legislative requirements relevant to the tenant’s proposed use; • the costs of obtaining any development approvals or other approvals required for the tenant’s proposed use or required in order for a lease to be granted; • the costs of carrying out routine repair and maintenance, to ensure the property is kept in good repair and condition
E	<p>Tenant’s previous occupancy of the property For renewals:</p> <ul style="list-style-type: none"> • the length of time the tenant has occupied the property; • any improvements the tenant has made to the property; • the tenant’s compliance with the terms of the previous lease, including, but not limited to, compliance with the repair and maintenance obligations, payment of all amounts under the lease or licence, and keeping the required insurances current during the full term; • if the tenant has had any previous issues with neighbours, whether the tenant has demonstrated a proactive approach to resolving issues

5.5 Policy (Review) - Community Property Leasing and Licensing

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F	Suitability of the property for the proposed use Consideration of: <ul style="list-style-type: none">• the impact of the tenant's use on the property• suitability of the property for the proposed use:<ul style="list-style-type: none">○ whether the proposed use is consistent with the core objectives for the category of the property in the Plan of Management, and the type of lease to be granted is authorised in the Plan of Management○ planning requirements○ building requirements○ other statutory requirements
G	Any works required or approvals to be obtained Consideration of: <ul style="list-style-type: none">• whether Council would need to do work to the property prior to any occupation, and if so, whether Council agrees to do such work (taking into account Council financial plans/budgets and the Delivery Program and Operational Plan)• whether the tenant would need to do work to the property prior to any occupation, and if so, whether Council agrees to that work being carried out• any development approvals or other approvals that would be required in relation to the grant of the proposed lease, in relation to the tenant's proposed use, or in relation to any proposed works. Note that the Plan of Management may restrict the types of further development work that may take place on particular parcels of land.
H	Financial return to Council Consideration of the financial return to Council and any future uses of the property that should be considered.

ATTACHMENT 3 – GUIDE FOR RENT ASSESSMENT

Minimum rent

3.1 Category 1 – Small Not for Profits

Small NFPs are volunteer based, membership funded NFPs that have:

- a. no paid executive staff; and
- b. no permanent commercial trading (such as permanent bar, gaming, catering or event hire trading); and
- c. annual revenue below \$250,000.

Rent for Category 1: The rent charged to Category 1 tenants will be the statutory minimum rent.

~~To create equity between tenants occupying Council owned properties and Crown Land managed by Council, Council adopts the statutory minimum rent set by the NSW Government as the minimum rent for all leases and licences covered by this policy.~~ Importantly, the statutory minimum rent will in most cases still be well below the market rent that could be obtained for the property, so a tenant paying the statutory minimum rent will still be receiving a rental rebate.

Council has the discretion to resolve to charge a higher rent under Section 3.6.

3.2 Category 2 – Community organisation NFPs with commercial trading

Community organisation NFPs with commercial trading that have:

- a. paid staff or contractors; and
- b. commercial revenue streams from bar, gaming, catering, event hire etc that generate an annual revenue (evidenced through financial statements) that is above \$250,000.

Rent for Category 2: The rent to be charged to Category 2 tenants is based on the tenant's annual revenue:

Annual revenue of tenant	Rent to be paid
Between \$250,001 - <\$1 million	25% of market rent for the first year of the term, then annual CPI adjustments
\$1 million - \$2 million	50% of market rent for the first year of the term, then annual CPI adjustments
Greater than \$2 million	100% of market rent for the first year of the term, then annual CPI adjustments

3.3 Category 3 - Community Preschools

Rent for Category 3: The rent charged to Category 3 Community Preschool tenants will be the statutory minimum rent.

3.4 Category 4 – Large Not for Profits

Large Not for Profits (Large NFPs), including government funded service providers, are those NFPs that:

- a. have paid staff or contractors; and
- b. have professional executive structure; and
- c. have paid workforce delivering services to the community; and
- d. receives significant recurrent government funding; and
- e. typically operate across additional local government areas.

Rent for Category 4: The rent to be charged to Category 4 tenants is based on the tenant's annual revenue:

Annual revenue of tenant	Rent to be paid
Between \$250,001 - <\$1 million	25% of market rent for the first year of the term, then annual CPI adjustments
\$1 million - \$2 million	50% of market rent for the first year of the term, then annual CPI adjustments
Greater than \$2 million	100% of market rent for the first year of the term, then annual CPI adjustments

3.5 Category 5 – Large Not for Profits renting a storage shed only

Category 5 is for organisations that meet the criteria in Category 4 to be classified as a Large NFP, that are only leasing a storage shed.

Rent for Category 5: The rent to be charged is to be determined on a case by case basis based on the size of shed and organisational scale.

3.6 Discretionary higher rents

Sections 3.1 – 3.4 set the minimum rent to be charged for each Category. Council may by resolution resolve to charge a higher rent for a particular property being leased to an NFP.

Some properties to attract rent higher than statutory minimum rent

The statutory minimum rent will be applied to the majority of leases and licences covered by this policy. However, there will occasionally be some leases and licences for which Council resolves to charge a rent higher than the statutory minimum rent.

For example:

- where the tenant has received approval from Council to sublet or licence part of the property and under the arrangement the tenant will receive from the subtenant/licensee income that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc);
- where the Council has done particular upgrade works or other improvement works at the tenant's request, and part of the costs of that work is to be recovered by way of a higher rent;

5.5 Policy (Review) - Community Property Leasing and Licensing

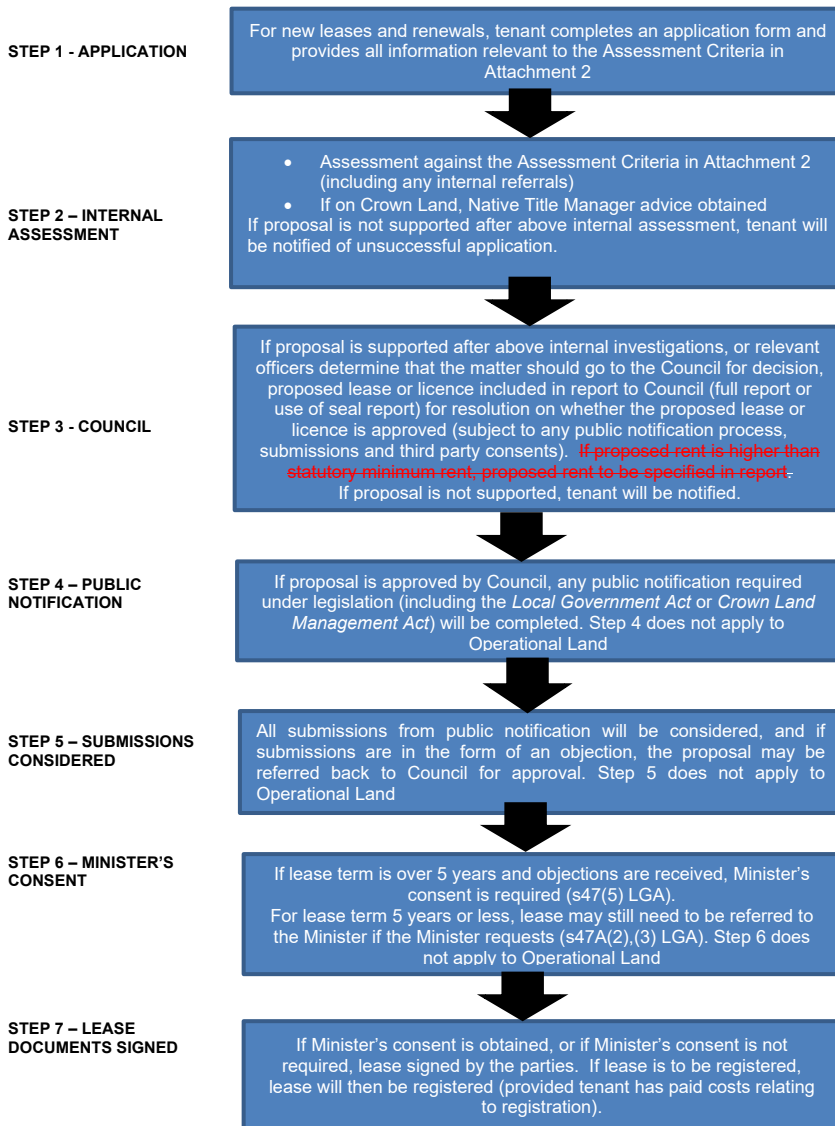
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(EXHIBITION COPY) Community Property Leasing and Licensing

- ~~• where the tenant (or any sub-tenant or sub-licensee) holds a liquor licence that enables the sale of alcohol at the property on more than 52 occasions per year;~~
- ~~• whilst the tenant continues to predominantly use the property for sporting, recreation or other community purposes, there is a minor commercial activity undertaken at the property, such as a small kiosk. This is not intended to capture regular canteens, sausage sizzles etc commonly operated at sporting grounds as part of regular sports club fundraising activities.~~

~~If it is proposed that a tenant will be charged a rent higher than the statutory minimum rent for a lease or licence covered by this policy, the higher rent will be included in the report to Council for resolution under Step 3 of the General Leasing Process in Attachment 4.~~

ATTACHMENT 4 – GENERAL LEASING PROCESS



Note: The above is the general process that will apply to the majority of leases and licences covered by this policy. However, there may be property specific issues or particular tenant proposed uses that trigger additional steps in the process.

[REDACTED]

From: Seahorse TV - Ballina Rugby Union Club [REDACTED]
Sent: Thursday, 19 March 2026 11:47 AM
To: Community Property
Subject: Re: - Review of Community Property Leasing and Licensing Policy - Inviting submissions

Follow Up Flag: Follow up
Flag Status: Completed

Hi [REDACTED]

Thanks for the information.

Quick question re section 3.6:

3.6 Discretionary higher rents Sections 3.1 – 3.4 set the minimum rent to be charged for each Category. Council may by resolution resolve to charge a higher rent for a particular property being leased to an NFP.

There's no reason or rationale as to why Council may chose by Resolution to charge a higher than statutory minimum rent.

Can you provide that reason / rationale please?

many thanks

Al Noble

Secretary
Ballina Rugby Club
[REDACTED]

From: Community Property <communityproperty@ballina.nsw.gov.au>
Sent: Thursday, March 19, 2026 11:28 AM
To: Community Property <communityproperty@ballina.nsw.gov.au>
Subject: FW: - Review of Community Property Leasing and Licensing Policy - Inviting submissions

Further to my below email, I have become aware that the link to the Policy is not working for some recipients.

If the Policy link does not work, please click on the "Your Say Ballina" link ([Community Property Leasing & Licensing Policy | Your Say Ballina](#)). A copy of the Policy with the proposed amendments is located on the Ballina Shire Council Your Say page under the heading "Community Property Leasing & Licensing Policy" on the right hand side of the page.

Please let me know if there are any further issues with accessing the Policy via the Your Say page.

Kind Regards

[Redacted]

From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Thursday, 19 March 2026 11:59 AM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - Task to [Redacted]

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

Al Noble

Phone Number

[Redacted]

Your email address

[Redacted]

Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

Neutral

Please provide further information about your response below.

With respect to the proposed Council changes below, Ballina Rugby Club requests clarification on how the amendments will materially affect our lease and rental obligations, and asks Council to identify the specific criteria that will be applied to our club.

I have read and agree with Council's Privacy Policy

5.5 Policy (Review) - Community Property Leasing and Licensing

Yes

Do you wish your submission to be treated as confidential?

No

[Redacted]

From: [Redacted]
Sent: Tuesday, 31 March 2026 2:11 PM
To: Community Property
Subject: Re: Review of Community Property Leasing and Licensing Policy - Inviting submissions

Follow Up Flag: Follow up
Flag Status: Flagged

Hi [Redacted],

Thank you for this reminder. I have read the document and need to confirm that the status of Rainbow Children's Centre Inc remains as a **Category 3 - Community Preschools Rent for Category 3: The rent charged to Category 3 Community Preschool tenants will be the statutory minimum rent.** This status hasn't changed?

Kind regards,
Jayne Sanders
Director
Rainbow Children's Centre Inc.

Due to the high level of emails received we advise that we will respond as soon as possible, this may not be immediately but every effort will be made to respond within 24 hours. Thank you for your consideration and patience.

Rainbow Children Centre
[Redacted]
Ph: [Redacted]
Email: [Redacted]

On Tue, 31 Mar 2026 at 12:21 [Redacted] > wrote:

Regards

Jodie
Office Manager

Due to the high level of emails received we advise that we will respond as soon as possible, this may not be immediately but every effort will be made to respond within 24 hours. Thank you for your consideration and patience.

Rainbow Children Centre
[Redacted]

[REDACTED]

From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Tuesday, 7 April 2026 2:57 PM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - [REDACTED]

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

MICK KOELLNER

Phone Number

[REDACTED]

Your email address

[REDACTED]

Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

No

Please provide further information about your response below.

We are a non for profit sporting club trying to get kids and adults some exercise and sporting activities, it is so hard to get volunteers to help run and clean the club. we rely on our sponsors to keep our club going, this new policy would break most clubs budgets and put another financial burden on struggling sporting organisations .

I have read and agree with Council's Privacy Policy

1

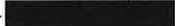
5.5 Policy (Review) - Community Property Leasing and Licensing

Yes

Do you wish your submission to be treated as confidential?

No



From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Wednesday, 8 April 2026 1:28 PM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - 

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

Richard Greaves

Phone Number



Your email address



Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

Neutral

Please provide further information about your response below.

In determining property rents and leases council must be aware that many non for profits such as the museum play an integral and import part in supporting the wider Ballina Community. for example the museum has an annual visitation rate of around eight to nine thousand a year. As well as local residents we see visitors from inter and intra state as well as a significant number of of international guests. These numbers are collected daily and are available on request from the museum should councilors be interested. Obviously, this visitation rate flows on to the economy and businesses of Ballina Shire. In our case we are open for 7 days per week from 9 am till 4pm(excluding 3 public holidays). We also provide a valuable education resources to the schools of the shire and also

5.5 Policy (Review) - Community Property Leasing and Licensing

maintain two heritage vessels vessels the MV Florrie and PV Richmond on behalf of the population of Ballina. Our visitors books and online reviews such as google indicate a very high degree of satisfaction with the museum. A common comment to volunteers is " thank heaven you are open... there doesn't seem to be much else happening. The museum keeps our entry fees low to accommodate family groups and to ensure that our rich maritime history is accessible to all at a reasonable cost. As our staff are all volunteers , who give freely of the time and efforts to raise the profile of Ballina it would seem counterintuitive not to reward success by penalising the organisation with high rents and costs. As we give freely of our time and skills we would expect the support of council and not be seen as a potential source of increased funding for Council. We note in the section Tentent Reporting some specific issues. !. We already collect and collate visitor numbers and sources and have done so for years. the figures are present at our general meetings which has two council reps on it. We have never had an interested councillors drop in to enquire how we are going and avail themselves of this information. The museum has operated successfully for over thirty years. In that time we have added value to the building as well as regular maintenance and completed two extended galleries as well as maintaining our exhibits to a high standard. The requirement to submit our financial statements and income could be seen as an opportunity for council to penalise success with higher rents and costs. This is not supporting the community or organisations who give freely of their time. As stated council already appoints to reps to the museum who could report this information back. While it is reasonable for small increases in costs over time unnecessarily increasing costs would fly in the face of councils stated aim of providing a community benefit.

I have read and agree with Council's Privacy Policy

Yes

Do you wish your submission to be treated as confidential?

No

[Redacted]

From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Tuesday, 7 April 2026 5:22 PM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - [Redacted]

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

William Mcinerney

Phone Number

[Redacted]

Your email address

[Redacted]

Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

No

Please provide further information about your response below.

Council should provide these amendments with no charges for the use to the public facilities Or are you going to start children to have a swing at the park

I have read and agree with Council's Privacy Policy

Yes

5.5 Policy (Review) - Community Property Leasing and Licensing

Do you wish your submission to be treated as confidential?

No

5.5 Policy (Review) - Community Property Leasing and Licensing

[Redacted]

From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Monday, 13 April 2026 12:08 PM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - Task to [Redacted]

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

Michelle Frankham

Phone Number

[Redacted]

Your email address

[Redacted]

Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

No

Please provide further information about your response below.

This would be another financial burden on all sporting organisations and volunteers

I have read and agree with Council's Privacy Policy

Yes

5.5 Policy (Review) - Community Property Leasing and Licensing

Do you wish your submission to be treated as confidential?

No

[REDACTED]

From: Colin Webster [REDACTED]
Sent: Monday, 13 April 2026 12:27 PM
To: Community Property
Cc: Ballina Tennis Club; [REDACTED]
Subject: Ballina Tennis Club Inc. (BTC) - Feedback Re: (REF. C02) - Community Property Leasing and Licensing Policy (February 2026) Exhibition Copy.pdf (293 KB)

ATTN: [REDACTED] - Property Officer, Ballina Shire Council

As per your invitation for submission on the above Draft Policy (Ref.C02), and as discussed with you since then (telephone on Tuesday 31 March), please note the following comments, queries and concerns regarding the proposed changes being considered by Council.

We hold concern that the changes proposed - in particular within 'ATTACHMENT 3 - GUIDE FOR RENT ASSESSMENT' - might negatively impact our Club due to possible severe (perhaps unintended) financial consequences. As the Council will know, BTC has occupied this area for many years and over that time has managed, maintained and continuously improved the facilities. While always engaging positively with Council, much of this improvement has been paid for by the Club membership, fundraising and through grants made available through various funding bodies such as NSW State Govt., Tennis NSW and Tennis Australia. The Club has recognised that the Lease renewal for our site in Burnet St, which has to date, been assessed below market rate and at the 'statutory minimum' plus CPI, is a benefit provided to the Club by Council and recognising the many benefits provided to our community as a sporting Not-For-Profit organisation. It is our hope that this continued rent/lease assessment reduction remains in place and in absence of any other changes, also clearly within the intention of the policy.

The proposed amendments to the policy includes more detailed and defined changes categorising and defining future eligibility/guide for reduced rent/lease. If adopted, these changes MAY impact the Ballina Tennis Club in the near future and result in substantial increase in Council assessed rent/lease - even if no other substantial changes occur within our organisation.

Page 16 - Attach 3 - Guide for Rent Assessment.

3.1 Category 1 – Small Not for Profits

Nominally this category would include Ballina Tennis Club Inc (volunteer-based and membership funded) for continued eligibility for rent reduction to 'statutory minimum', BUT the following is noted and of concern:

a. no paid executive staff; - This is unclear - would this include contractors for service who might also be a club member and potentially be elected and serve on the Club Committee? It might be assumed this would NOT include contractors for service eg. coaches, cleaners, court maintenance, and other service providers, but it is increasingly the case that volunteer organisations need to supplement their operations with paid and professional expertise for certain services that are perhaps less clear eg. administrative, business or financial services. Might this preclude them from also being elected to the Club Committee (which is the elected 'Executive' of the Club) and which MIGHT then be considered to be part of this criteria?

b. no permanent commercial trading (such as permanent bar, gaming, catering or event hire trading); - Would this include financial arrangements with other entities for use/access to facilities? Would this include the operation from time-to-time, of a canteen/BBQ for sales of food, drinks and confectionery? Would it include the hire of Courts/Facility for private events, to schools, tournaments etc.? Would it include public Court/Facility hire to non-members?

c. annual revenue below \$250,000.

Our recent annual financial reports (2024 Revenue = \$141k, 2025 = \$123k) are well under this criteria...

BUT as this is a FIXED criteria of <\$250k annual revenue, there is a risk that in the short term, in any single year moving forward this limit might be exceeded (eg. if grant income is secured to upgrade facilities/capex improvement - which would be included as revenue in our financials) and could therefore be subject to a higher rental assessment eg. Category 2 (I think Category 4 is unlikely, but not impossible). It is easy to imagine (as we did with the clubhouse upgrade a few years ago) a grant of \$100-\$200k and under these new provisions would then be subject to higher rental eg. 25% of market rent, which I expect would potentially be >\$10k pa!! This would be a massive increase simply because we are enhancing the Council asset.

The Criteria values are NOT proposed to increase over time, it is therefore foreseeable that Club general revenue/growth could naturally rise through simple operations/price increases to exceed this \$250k hurdle, AND depending on the above definitions might face a significant increase in rental if/when it occurred. This would have a significantly detrimental impact on the Club's income from growth, perhaps NOT intended from these changes, but given the size of the potential financial impact may negatively impact the Club's ability and strategy to grow it's membership and resources over time.

It is also noted that "**Council has the discretion to resolve to charge a higher rent under Section 3.6.**" This does NOT suggest there is a discretion to charge a LOWER rent - thus reinforcing a strict interpretation of the criteria as stated. This is not beneficial where the \$250k hurdle might be exceeded in any one year and perhaps not in subsequent years AND seemingly not allow for the rent/lease to be maintained or later return to 'statutory minimum' level.

The Club continues to operate entirely for NFP purposes, the club has an ongoing demonstrated history of self-maintaining and significantly improving Council assets, while serving as a vital hub supporting physical health and social wellbeing of the Ballina community.. If through simple good management, it were to exceed this relatively small Lease criteria and 'trip' a change in rent from \$625pa to several \$000's (who knows what 25% of Market Value would be in the future!??), then this would be a very large consideration that would not be supportive of the Clubs ongoing growth into the future.

The Annual Revenue criteria might be better and more fairly described as below - and would avoid any short term or unintended consequences of Revenue growth >\$250k:

- **'Annual revenue' EXCLUDES any 'one-off extraordinary or abnormal incomes' (eg. tied/Capex/Project Grants or funding for capital improvement projects) from the calculation.**

Page 7 - will limit the term of lease to 3 years for Council-managed Crown land.(Ballina Tennis Club is identified in Attach. 1 as property #41 subject to the policy). It is not clear why this period has been separated and reduced to 3 years in the new policy. Clearly staying below 4 years duration ensures reduced costs of registration of lease BUT would seem more equitable if this 4 year limit were applicable to BOTH Council-owned AND Council-managed leased properties.

Council consideration and clarification of these policy changes in order to NOT detrimentally impact our long-standing Community NFP organisation is appreciated.

As per your advice in your 'Follow-up' email of April 9, I am sending this submission via the advised Council email (communityproperty@ballina.nsw.gov.au) and would much appreciate your confirmation and/or reply confirming receipt of this submission prior to the close-off date of

5.5 Policy (Review) - Community Property Leasing and Licensing

Wednesday 15 April. Your additional comments regarding submissions being publicly available documents are noted.

I remain available to discuss or explain further any of the above comments.

Col Webster
Treasurer
Ballina Tennis Club Inc.



[REDACTED]

From: Ballina Shire Council <notifications@engagementhq.com>
Sent: Monday, 13 April 2026 9:33 PM
To: Ballina Shire Council
Subject: Anonymous User completed Feedback - Community Property Leasing & Licensing Policy - Task to [REDACTED]

Anonymous User just submitted the survey Feedback - Community Property Leasing & Licensing Policy with the responses below.

Your Name

[REDACTED]

Phone Number

[REDACTED]

Your email address

[REDACTED]

Was the document easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

Yes

Please provide further information about your response below.

LENNOX HEAD COMBINED SPORTS ASSOCIATION INC. Contact: [REDACTED]
mob: [REDACTED] Property Officer Ballina Shire Council RE: Review of Councils
Community Property Leasing & Licensing Policy Dear [REDACTED] The Lennox Head Combined Sports
Association Inc. is a Not for Profit (NFP) community group that holds a License on the Williams
Reserve Clubhouse, Lennox Head. Our Association is an Incorporated body with a turnover of less
than \$250,000. Since our beginning we have been focused on servicing the needs of the sporting
community of Lennox Head. Currently, we have 7 sporting clubs in Lennox Head who are financial
members of our Association, along with the Lennox Head Public School. Current membership

includes: • Rugby League • Rugby Union • Golden Oldies • Fishing Club • Cricket • Long Boarders • AFL • Lennox Head Public School We meet monthly with an emphasis on working co-operatively to get the best outcome for all user groups. We have been responsible for the construction of the Clubhouse which offers canteen, change-rooms, toilets & club-room facilities. We have also installed disabled access to toilets & change-rooms for the disabled. In recent times, we have converted the old toilets into womens change-rooms. We work closely with other community groups in Lennox Head & have made the Clubhouse available in times of need. The focus of our Association has always been to promote & foster sport in our community, regardless of race, gender or ability. We have acted on behalf of our member clubs over many years, lobbying local, State & Federal Government Departments for funding to improve these facilities. The Clubhouse is used extensively throughout the year by our members for meetings, fundraising, workshops, training & storage. During the winter months, Rugby union & Rugby league use the changerooms in addition to the canteen, toilets & club-room facilities. During the upgrade of Williams Reserve (Oct 2024-Dec 2025), we had to cancel our major community event- Carols in the Park. Most impacted during this closure were Rugby Union & Rugby League who both incurred a significant drop in turnover. Considering our contributions & our long association with Williams Reserve, we would support Councils decision to offer a 3 year license on Council managed Crown Land. This would help when applying for grants & also be more attractive to potential sponsors. As a small Not for Profit group with: • an annual revenue well below \$250,000, • no paid staff • volunteer based • membership funded • no commercial trading we would support the amendments proposed by Council to charge the statutory minimum rent for Category 1 tenants Please let me know if you have any concerns about my submission. Kind Regards [REDACTED]. [REDACTED]
[REDACTED] Lennox Head Combined Sports Association represents the interests of over 2500 people, young and old: Lennox Head Golden Oldies Rugby Club, Lennox Head Rugby Union Club, Lennox Head Junior Rugby League Club Lennox Head Fishing Club, Lennox Head Cricket Club, Lennox Head Public School, Lennox Long-boarders, Lennox Head AFL.

I have read and agree with Council's [Privacy Policy](#)

Yes

Do you wish your submission to be treated as confidential?

Yes

Community Property Leasing and Licensing Policy Response

Peter Harding, President, Ballina Players

- If a NFP has a turnover in excess of \$250,000.00 (attachment 3 3.2) but has a demonstrated retained profit of substantially less than that figure, and fits criterion A&B of section 3.1 (no paid staff, no permanent commercial trading) what steps are council adopting to ensure 25% of market rent does not make the NFP entity no longer fanatically viable forcing closure of that entity?

- Attachment 3 Section 3.1 b.

Could council please define 'permanent commercial trading'.

Does this mean trading 7 days a week? 5 days a week? Every other week, Once every six months in the Bunnings BBQ tent? Does simply having the ability to trade, but trading infrequently, classify as permanent trading?

- Could Council please advise what 'market rent' *Attachment 3 3.2 table 1* is based on and the process by which the dollar value is derived?

If an NFP entity built its own building, approved by council at the time, on council land, is the NFP entity being charged rent for the building it paid to build and the land, or just the unimproved value of the land it is built on?

If Council is to charge market rent for a building it did not build, operate or maintain, in addition to the unimproved value of the land, what justification does council offer for such a decision?

- In reference to attachment 3 sections 3.2 "*Council has the discretion to resolve to charge a higher rent under section 3.6*" and 3.6 "*Discretionary higher rents Sections 3.1 – 3.4 set the minimum rent to be charged for each Category. Council may by resolution resolve to charge a higher rent for a particular property being leased to an NFP.*"

Could council please advise what steps are being taken to protect NFP entities, if councils' discretionary resolution to increase market rent causes the entity to suffer financial hardship or forced insolvency?

Is council considering adding the clause to resolve to reduce an entities market rent should that entity fail to fit categories 3.1-3.4 or such an increase would cause financial harm?



Submission to Ballina Shire Council

Feedback on Proposed Rent Assessment Framework

April 2026





Playgroup NSW is a not-for-profit organisation that connects children and families to people and services in the community that positively impact their quality of life.

Our impact at a glance:

- 550 playgroups a week
- 26,000 playgroups a year
- 65,000 members across 99% of postcodes
- 650 volunteers, 75 staff

For over 50 years, Playgroup NSW has delivered and linked families to vital services such as parent support groups and playgroups for those experiencing vulnerability and diversity, and those who value community connections. We also support families to navigate the broader community and tertiary support systems, with playgroups an effective, local, place-based soft entry point underpinned by an early intervention and prevention approach.

We are proud to offer valuable volunteer opportunities and experiences through our community-led programs, and we support our volunteers to create connections through play within their communities.

All Playgroup NSW programs delivered across NSW and ACT are designed to help families navigate the joys and challenges of parenting and build strong, resilient communities.

Thousands of families connect via Playgroup sessions affiliated with or delivered by Playgroup NSW every week, building their parental capacity, building their village, and helping their children learn.

Playgroup NSW is the leading peak body for playgroups in NSW, committed to inclusivity and community, and at the heart of our playgroups lies the essence of connection. Since 1972, we focus on giving children an equal opportunity in education, health, and wellbeing.

We play a key role in ensuring that the voices of children and families are heard on matters that affect them at both the state and federal level, as well as lead a range of national consortia research projects, including building evidence based best practices, inclusive enablers and impact measurement frameworks.



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Introduction

Thank you for inviting feedback on the proposed rent assessment framework. As the peak body for playgroups in NSW, we support policies that help all families access community facilities and promote early childhood development, social connection, and family wellbeing.

Some parts of the proposed rent model may unintentionally make it harder for families to access important playgroup and early childhood services. This goes against the policy's aim to support community use of Council-owned facilities.

Our submission focuses on two key concerns:

Issue 1: The treatment of auspiced community playgroups, where Playgroup NSW is the legal tenant, but the actual user is a small, volunteer-run group.

Issue 2: The inequity between early childhood service types, where community preschools receive statutory minimum rent while playgroups operated by a Large NFP would be charged up to 100% of market rent.

We respectfully request that Council consider amendments to ensure the policy is fair, consistent, and aligned with community needs.

Issue One: Treatment of Auspiced Community Playgroups

Background

Many small community playgroups in regional NSW are unincorporated and rely on Playgroup NSW to auspice their activities.

In these cases:

- Playgroup NSW holds the lease for governance and insurance purposes
- The local playgroup is volunteer-run
- There are no paid staff
- There is no commercial activity
- Revenue is minimal and used solely for basic program costs

These groups clearly meet the policy's definition of **Category 1 - Small Not-for-Profits**, which states: "*Small NFPs are volunteer-based... and have annual revenue below \$250,000.*" Yet under the proposed framework, the rent category is determined by the **auspicing organisation's** revenue, not the **actual user's** scale or capacity. This results in Playgroup NSW being classified as a **Category 4 Large NFP**, attracting rent of 25-100% of market value.





Why is this inequitable?

- **The policy penalises auspicing arrangements** - auspicing is a widely accepted mechanism that enables small, unincorporated community groups to operate safely and legally. The proposed policy unintentionally discourages auspicing by imposing rent obligations far beyond the group's capacity.
- **The rent assessment does not reflect the actual user** - the local playgroup, not Playgroup NSW, uses the facility. The group's characteristics align entirely with Category 1.
- **The policy contradicts its own equity objectives** - the draft states that statutory minimum rent is intended for small, volunteer-run groups. An auspiced playgroup fits this definition exactly.
- **Risk of service loss** - if auspicing bodies are charged market rent, they may be forced to withdraw support, leaving small community groups without governance, insurance, or access to facilities.

Recommendation – Auspicing Clause

We recommend adding a clause such as:

- *Where a Large NFP auspices a small, unincorporated community group that meets the criteria for Category 1, rent will be assessed based on the characteristics of the auspiced group, not the auspicing organisation.*

This ensures the policy reflects real-world community practice and maintains equitable access to facilities.



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Issue Two: Inequity Between Early Childhood Service Types

Background

The policy creates a dedicated category for **Community Preschools (Category 3)**, which are charged the statutory minimum rent regardless of organisational size or revenue.

However, if Playgroup NSW were to operate a playgroup service in Ballina directly, the organisation would be classified as a **Category 4 Large NFP**, attracting rent of up to 100% of market value.

This creates a significant inequity between two early childhood service types that serve the same age group and similar community needs.

Why is this inequitable?

- **Playgroups and preschools both deliver early childhood development outcomes.** Playgroups provide:

- early learning experiences
- social connection for children and caregivers
- school readiness
- early intervention pathways
- community cohesion

These benefits align closely with those provided by community preschools.

- **Playgroups are low-cost, non-commercial, and volunteer-supported.** Unlike preschools, playgroups:

- do not receive recurrent government funding
- do not charge commercial fees
- operate only a few hours per week
- rely heavily on volunteers

Charging market rent is incompatible with the nature of the service –

- **The policy does not explain why preschools receive special treatment, but playgroups do not** - both service types contribute to early childhood wellbeing and community development. The current distinction appears arbitrary and inconsistent with Council's community objectives.
- **Risk of reduced access for families** - Market rent would make playgroup services financially unviable, particularly for vulnerable families who rely on low-cost early childhood supports.





Recommendation – Early Childhood Playgroup Category

We recommend that one of the following options be adopted:

- **Option A** – *Extend Category 3 to include early childhood playgroups: Early childhood playgroups operated by NFPs will be charged the statutory minimum rent.*
- **Option B** – *Create a new category for early childhood playgroups: Recognising their unique role and low-cost, non-commercial nature.*
- **Option C** – *Assess rent based on the scale of the local service: Not the organisation's total revenue.*

Any of these options would ensure consistency and fairness across early childhood service types.

Summary of Recommendations

1. **Introduce an auspicing clause** to ensure rent is based on the characteristics of the local group, not the auspicing organisation.
2. **Ensure early childhood playgroups receive equitable treatment** alongside community preschools.
3. **Assess rent based on the scale and nature of the local service**, not the organisation's total revenue.
4. **Avoid applying market rent to small, volunteer-run, non-commercial early childhood programs**, as this undermines community access and wellbeing.

Conclusion

Playgroup NSW strongly supports Council's intention to create a fair and transparent rent assessment framework. However, without amendments, the proposed model will unintentionally disadvantage small community playgroups and create inequities between early childhood service types.

I welcome the opportunity to discuss these issues further and work collaboratively with Council to ensure the policy supports the diverse needs of families and children in the Ballina Shire.



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Our Impact: Playgroup NSW

ABOUT PLAYGROUP NSW

IMPACT AT A GLANCE

- 550 playgroups a week
- 26,000 playgroups a year
- 63,868 members
- 546 Aboriginal and Torres Strait Islander Children in culturally appropriate Playgroups
- 5235 parents attending peer to peer support sessions
- Members in 99% of NSW postcodes, reflecting the incredible reach and diversity of our community
- \$7.2 million annual funding, 30% growth in income over the past year, enhancing our impact
- 50+ years proudly in operation as the peak body with state and national footprint in services and advocacy

OUR STRATEGIC PLAN

OUR LEADERSHIP TEAM

Kellie Murray, Chief First Nations Officer
 Steve Moore, Chief Operating Officer
 Emily Caska, Chief Executive Officer
 Jennifer Kemp, Chief Social Impact Officer



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OUR GROWING IMPACT

"Playgroup is a place to make the most of my child's early years. As a parent, I know that my child's early years are the most important time of their life, and Playgroup has helped me make the most of it."

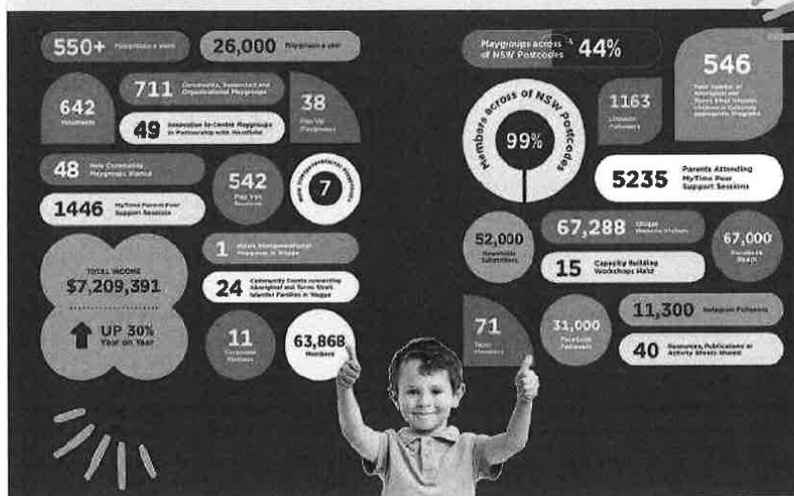
"My Playgroup experience has been a wonderful one. I have met other parents and children, and I have learned a lot about my child's development. The staff are friendly and helpful, and I have a great time going to Playgroup every week. It's a great place for my child and I."

"I have learned a lot from Playgroup. I have met other parents and children, and I have learned a lot about my child's development. The staff are friendly and helpful, and I have a great time going to Playgroup every week. It's a great place for my child and I."

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OUR EVIDENCE BASED PROGRAMS

<p>Playgroup NSW Supported Programs & Playgroups</p> <p>Playgroup NSW has been instrumental in connecting 140,000 NSW families through a range of Playgroups and Family and Community Groups facilitated by either volunteers or trained employees.</p>	<p>TIMELESS PLAY INTERGENERATIONAL PLAYGROUPS</p> <p>Timeless Play intergenerational Playgroups bring together three generations – adults, children and their families – connecting with people 20-30 years older than them. Playgroup programs for children and adults encourage working for change who work together to improve lives with their own grandparents.</p>	<p>SUTHERLAND SUPPORTED PLAYGROUPS (SSPG)</p> <p>Sutherland Shire Council (SSC) has achieved great outcomes for the parents, families and children who attend Sutherland Supported Playgroups. The program has been instrumental in connecting 140,000 NSW families through a range of Playgroups and Family and Community Groups facilitated by either volunteers or trained employees.</p>
<p>COMMUNITY PLAYGROUPS</p> <p>Playgroups are a place for children and their families to play and learn together. They provide a safe and fun environment for children to play and learn together. They also provide a place for parents to connect with other parents and share their experiences. There are many different types of Playgroups, from playgroups for children with disabilities to playgroups for children with special needs.</p>	<p>MULTI-ME</p> <p>A Playgroup program that provides a safe and fun environment for children and their families to play and learn together. It is a place where children can play and learn together, and where parents can connect with other parents and share their experiences.</p>	<p>ABORIGINAL SUPPORTED</p> <p>Aboriginal Supported Playgroups are a place where Aboriginal children and their families can play and learn together. They provide a safe and fun environment for children to play and learn together, and where parents can connect with other parents and share their experiences.</p>
<p>BABY AND FIRST-TIME PARENT'S GROUPS</p> <p>Baby and First-Time Parent's Groups are a place where new parents can connect with other parents and share their experiences. They provide a safe and fun environment for children to play and learn together, and where parents can connect with other parents and share their experiences.</p>	<p>PLAYCONNECT +</p> <p>PlayConnect+ is a program that provides a safe and fun environment for children and their families to play and learn together. It is a place where children can play and learn together, and where parents can connect with other parents and share their experiences.</p>	<p>LANGUAGE-SPECIFIC AND CULTURALLY DIVERSE GROUPS</p> <p>Language-Specific and Culturally Diverse Groups are a place where children and their families can play and learn together. They provide a safe and fun environment for children to play and learn together, and where parents can connect with other parents and share their experiences.</p>
<p>COMMUNITY AND FAMILY SUPPORTS</p> <p>Community and Family Supports are a place where children and their families can play and learn together. They provide a safe and fun environment for children to play and learn together, and where parents can connect with other parents and share their experiences.</p>	<p>START STRONG</p> <p>Start Strong Families Program helps parents to connect with other parents and share their experiences. They provide a safe and fun environment for children to play and learn together, and where parents can connect with other parents and share their experiences.</p>	<p>PALS</p> <p>PALS is a program that provides a safe and fun environment for children and their families to play and learn together. It is a place where children can play and learn together, and where parents can connect with other parents and share their experiences.</p>
		<p>PLAYTOGETHER</p> <p>PlayTogether is a program that provides a safe and fun environment for children and their families to play and learn together. It is a place where children can play and learn together, and where parents can connect with other parents and share their experiences.</p>

92% would recommend Playgroup NSW Playgroups to other families with young children

96% say attending Playgroup has increased their connection with other parents

95% say Playgroup has increased their participation with people and services in their community

97% say Playgroup has benefited them in their parenting role

98% say Playgroup has supported their child's development

98% say Playgroup has increased their child's social skills



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OUR KEY MESSAGES

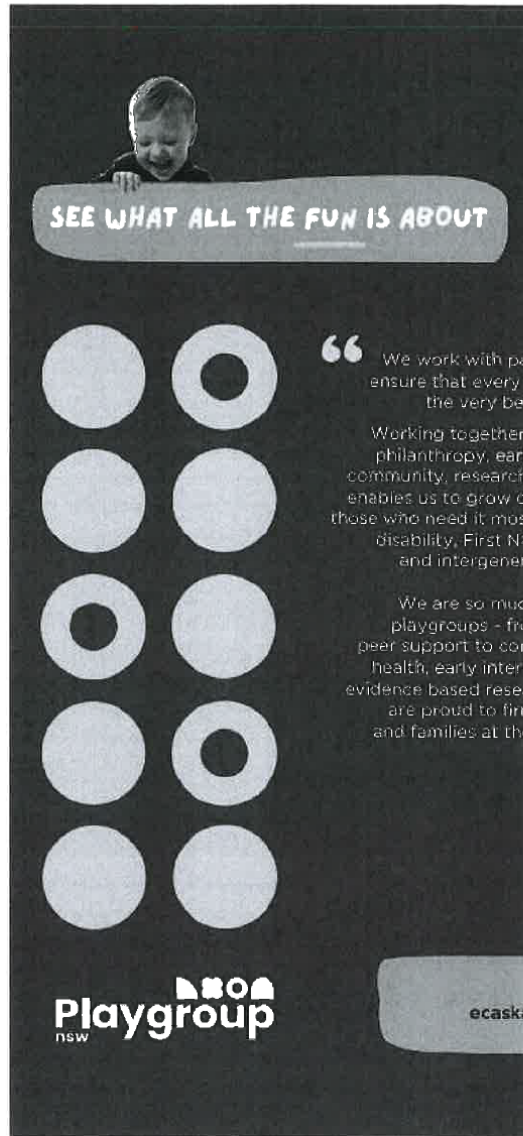
- Play is critical to the first 2000 days of a child's life
- Playgroups are a unique soft entry point that are local, place based, early intervention and prevention model
- Playgroups are unique - both children and parents benefit
- Playgroup NSW is leading the future of playgroups, innovative in our approaches across community and supported groups to reach dads, multicultural families, vulnerable cohorts, remote communities, Aboriginal families and children in non-traditional settings such as out of home care and adoptive families
- Playgroups are a key foundational support, navigation, connector and referral point in the critical early years
- Peer to peer support is a key component of playgroups in building capacity, nurturing connection and resilience



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Emily Caska
Chief Executive Officer



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Department of
Primary Industries

Authorising surf life saving clubs' use of Crown land in NSW



www.dpi.nsw.gov.au

Authorising surf life saving clubs' use of Crown land in NSW

Published by NSW Department of Primary Industries

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More information

www.crownland.nsw.gov.au

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (January 2016). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Foreword from the Minister

NSW has some of the best beaches anywhere in the world and for more than 110 years surf life saving clubs and their members have been making sure they are also the safest.

Each year more than 129 clubs and 77,000 volunteers keep their eyes on the water and the NSW Government is determined to support the incredible work they do right up and down the coast.

Because most of the state's beaches and around 80 per cent of surf clubs are located on Crown land, the NSW Government is providing streamlined access and lease arrangements to make it easier for these iconic clubs to get on with what they do best and not tied up in red tape.

Surf Life Saving NSW and the NSW Government have been working together, with valuable input from a range of councils along the NSW coast to simplify the way clubs get access to Crown land. To assist surf clubs and councils to understand the new approach, we have developed a position statement entitled *Authorising Surf Life Saving clubs' use of Crown land in NSW*.

On behalf of the NSW Government, I thank the surf life saving clubs of NSW for their valuable contribution to creating this template.

Our surf clubs are a permanent fixture on our beaches and the NSW Government is determined to make it easier for these clubs to grow and prosper and remain the institutions that they are – and these changes to the leasing arrangements go a long way in doing that.



Niall Blair MLC
Minister for Lands and Water
Minister for Primary Industries

Foreword

On behalf of the members of Surf Life Saving NSW (SLSNSW), I would like to extend my thanks to the NSW Department of Primary Industries - Lands who have worked tirelessly with our organisation over the last four years to bring in a standardised lease template for affiliated Surf Life Saving Clubs (SLSCs) in NSW that are located on Crown land.

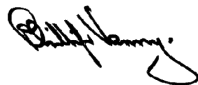
Volunteer surf lifesavers have been an iconic sight on Australian beaches for more than a century and are recognised world-wide for the unique community service they provide. This is the first time in NSW that a standardised lease template for facilities on Crown land has been created, which recognises the vital community service lifesavers provide in protecting beach goers along our coastline.

Importantly, the standardised lease template provides secure tenure for our SLSCs by offering a 20 year minimum lease term, which alleviates SLSCs from having to renegotiate short-term leases and licence agreements. This enables our SLSCs to focus on conducting lifesaving activities to meet their core purpose which is to provide a safe beach and aquatic environment throughout NSW.

The standardised lease template acknowledges that SLSCs are not-for-profit organisations and that the costs associated with the maintenance and improvement of SLSCs is a significant issue for SLSCs and reserve managers, particularly due to the harsh coastal environment. This template provides for affordable access to Crown land for SLSCs by offering the minimum statutory rent under the *Crown Lands Act 1989* and enables SLSCs to conduct fundraising activities relating to the permitted use for revenue generating purposes.

Whilst it is recognised that there will be differences across the state due to localised issues, this lease template has been devised with the majority of SLSCs and their needs in mind. It ensures that there is a level of consistency across the state; and provides secure and affordable access to SLSCs that are on Crown land.

Our SLSCs are at the heart of coastal communities. They are uniquely placed to provide supervision and easy access to rescue equipment to ensure that our beaches are safe and enjoyable destinations for all to enjoy. It is thanks to the dedication and professionalism of our volunteers that NSW beaches are amongst the safest in the world and providing secure tenure for the majority of our SLSCs will ensure surf lifesavers are able to continue to protect the public well into the future.



Mr Phillip Vanny AM
Chief Executive Officer
Surf Life Saving NSW

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Authorising surf life saving clubs' use of Crown land in NSW

The NSW Government is committed to supporting a strong and sustainable surf life saving movement in NSW.

Surf life saving clubs (surf clubs) provide surf life saving services to local communities throughout NSW. There are currently 129 affiliated surf clubs in NSW with more than 77,000 members.

Surf clubs facilities are also important community assets that are often available for use by the general public for meetings, training, functions and events.

The vast majority of surf club facilities are located on Crown land, which is mostly reserved for public recreation. The management and administration of Crown land in NSW is governed under the provisions of the *Crown Lands Act 1989* (the Act). Under the Act, Crown land resources are to be shared equitably in accordance with the principles of environmental protection, conservation and ecological sustainability, public use and enjoyment as well as encouraging multiple use of the land.

This document has been developed to provide guidance for the occupation of Crown land in NSW by affiliated SLS Clubs. It outlines the principles and requirements to enable ongoing and lawful occupation of Crown land by the surf life saving movement. The roles and responsibilities of surf clubs operating on Crown reserves, Crown reserve managers and the government are also described.

Roles and responsibilities

Surf clubs

- exist to provide a safe beach and aquatic environment throughout NSW
- have their buildings, equipment and facilities located on Crown land and use Crown land for their lifesaving, sporting, training and education, member services, events, programs and fund-raising activities
- are the tenants of reserve managers on Crown land
- are responsible for maintaining their buildings, equipment and facilities, and to support the reserve manager in the maintenance and upkeep of the Crown land assets.

Reserve managers

- are appointed under the *Crown Lands Act 1989* to care, control and manage public land (including the uses and assets on those lands)
- plan for the use of public land in conjunction with local councils and their local communities (in most, if not all, cases the reserve manager for coastal Crown land that surf clubs are located on is the local council)
- authorise surf clubs to occupy and use public land for their surf life saving activities
- are landlords for surf clubs on Crown land
- work with surf clubs to manage commercial leasing of Crown land in an open and transparent and competitively neutral way.

Department of Primary Industries – Lands

- is a division of the NSW Department of Primary Industries
- is a regionally-based government agency that focuses on the administration and management of the Crown estate in accordance with the Act

¹ NSW Department of Primary Industries, January 2016

- appoints reserve managers to care, control and manage public land on its behalf
- assists, monitors and regulates reserve managers in their role of managing Crown reserves
- may be delegated ministerial functions under the Act and authorises leases and commercial uses on behalf of the Minister.

The Minister for Lands and Water

- acts as the owner of Crown land on behalf of the NSW Government and is responsible for administration of the *Crown Lands Act 1989*
- assists and can direct reserve managers in their management of Crown land
- is generally responsible for authorising many uses of a reserve including by surf club.

The NSW Government

- gains benefits from a healthy and sustainable surf life saving movement
- supports surf clubs through grant funding, exemptions, levies and rental rebates
- regulates the activities of surf clubs through a range of licences, approvals and permits.

² NSW Department of Primary Industries, January 2016

What we know

1. Surf clubs exist to save lives and reduce drowning in the NSW community. Surf clubs undertake rescues, preventative actions, perform first aid and educate the community about water safety. Surf clubs save lives, support the community through voluntary effort and free advice, educate our communities about water safety and are an important part of our coastal culture.
2. Affordable access to land is critical to the viability of the surf life saving movement in NSW.
3. Security of tenure supports a sustainable surf life saving movement.
4. Commercial uses of surf club buildings can be important sources of revenue to help with the maintenance of the property and the Crown reserve.
5. Appropriate commercial uses of surf club buildings can provide opportunities for small businesses, and add value to the local economy.
6. Space on our coastal lands is at a premium and surf club buildings often occupy special locations on the coast. Surf clubs require premises which are able to store rescue equipment for patrolling duties and out-of-hours emergency callouts along the coast to be able to respond efficiently in a rescue or emergency situation.
7. Local communities and their councils are best placed to decide the use of local public land.
8. Reserve managers need to allocate land for the future needs of their local communities.

1. Surf clubs save lives, educate our communities about water safety and are an important part of our coastal communities.

The NSW Government recognises that surf clubs provide a vital service to their local communities and its visitors, and the government is committed to a strong and sustainable surf life saving movement in NSW.

2. Affordable access to land is critical to the viability of the surf life saving movement in NSW

Surf clubs - like many other community organisations, sporting and recreation clubs - need affordable access to Crown land. The majority of surf club buildings in NSW are located on Crown land which mostly reserved for public recreation or similar purposes.

The NSW Government, as the owner of those Crown lands, is keen to ensure Crown land is made available for the use of surf clubs at an affordable rate.

It is recognised that the costs associated with the maintenance and improvement of surf clubs and their facilities is a significant issue for the surf clubs and reserve managers.

This position statement provides for affordable access to Crown land for surf clubs conducting their surf life saving activities.

3. Secure tenure is beneficial for a sustainable surf life saving movement

This position statement provides reserve managers and surf clubs with certainty on the appropriate form of tenure for surf clubs on Crown land. Security of tenure enables surf clubs to focus their efforts on surf life saving activities.

³ NSW Department of Primary Industries, January 2016

It is desirable for all surf clubs to have tenure. Where surf clubs have no tenure, it is important that those occupations migrate to a tenure that is consistent with this position statement.

Existing leases could be progressively migrated to the form of lease proposed by this position statement at the point of renewal or by agreement, including when another trigger arises such as a request for expansion or re-development.

4. Revenue generating uses of surf club buildings can be important to help with the maintenance of the property

Crown land set aside for public recreation generally should be open for the public to use as of a right, and should not be a source of private profit. Revenue earned from Crown land should benefit those Crown lands.

This position statement provides for the use of surf club buildings to conduct fundraising activities relating to the permitted use (surf life saving activities) for revenue generating purposes and, with prior written consent and under a separate written agreement, for profit making purposes which are not part of the permitted use or fundraising.

The profit-making purposes must be conducted as a separate standalone occupation of part of the surf club buildings and conducted by a for-profit entity which is completely legally separate from the surf club.

5. Commercial uses of the lease premises must be achieved through a genuine competitive process, with rental set at market rates.

Commercial uses will be considered in appropriate circumstances. Any revenues from the commercial use, raised by the surf club, must be used by the surf club to fund its obligations under its lease of the premises.

If commercial uses are proposed, those uses should be in the public interest and must not:

- be the most substantial or significant use of the premises
- conflict with the use for surf life saving activities
- materially adversely affect the carrying of surf life saving activities on the remainder of the surf club buildings.

Commercial uses should not unreasonably exclude the public.

6. Space on our coastal lands is at a premium

There are many and varied uses and pressures on coastal Crown land. It is the role of the reserve manager to care for, control and manage the reserve for the benefit of the people of NSW.

A key principle of Crown land management is to encourage multiple use of Crown land. In keeping with this principle, multiple uses of surf club buildings should be encouraged wherever possible.

To make best use of the space available, where possible surf club buildings should be available for compatible uses like functions, meetings, training and other similar uses.

The standard surf club lease provides for the surf clubs to consider granting a short-term licence to a third party community user, specified by the reserve manager as landlord, wherever reasonable. This is to ensure multiple uses of buildings occur consistent with the reservation or dedication of the land.

⁴ NSW Department of Primary Industries, January 2016

7. Local communities and their councils are best placed to decide the use of local public land

Decisions about the best ways to use and manage Crown land are often best made at the local level by those who know the land and understand the needs of the local community.

Crown reserves should be managed by local councils where important local facilities and assets exist.

8. Reserve managers need to allocate land for the future needs of their local communities

It is for councils as local planning authorities and reserve managers to plan for the wise use of Crown land to meet the needs of their communities.

There are many issues that must be taken into consideration when considering the use of Crown land. Use of Crown land by surf clubs must consider the cost of maintenance or replacement of surf club buildings and other assets, and in particular the forces of coastal erosion and sea level rise.

Provision of Crown land for use by surf clubs should be balanced against the environmental, social and economic conditions that prevail within a local government area. In the main, these are issues for reserve managers, local communities and surf clubs to address.

The NSW Government can play a role in providing a framework to provide secure tenure over existing sites or assisting with the identification of alternative sites where longer term forces might threaten the future of club facilities and access.

Where surf club buildings are at imminent threat from natural forces like coastal erosion, reserve managers must take action to protect the safety and well-being of the community.

Directions for occupation of Crown land by surf life saving clubs

1. Leases give surf clubs lawful use and occupation

Surf clubs occupying Crown land must be authorised through an appropriate and lawful tenure arrangement.

A standard lease agreement (lease) has been developed for use by reserve managers for surf clubs on Crown land. The lease is designed to facilitate the majority of surf life saving clubs and their surf life saving needs.

Where surf clubs wish to conduct activities beyond those that are considered to be essential or ancillary to their surf life saving activities, it may be necessary for additional consideration and special conditions to be included in any lease.

2. Encourage multiple use by the community

Crown land reserved for public recreation should be open to the public generally as a right, and generally must not be a source of private profit.

It is recognised that members of the public may not have free access to all parts of Crown land occupied by surf clubs at all times. Surf clubs, as lessees of the premises, may restrict members of the public where the building is being used by the surf club for the permitted use or for other important safety and security reasons.

Where appropriate, multiple uses of surf club buildings on Crown land, including public access will be encouraged.

Reserve managers are to work with surf clubs to ensure there is an equitable regime for access to surf clubs on Crown land.

3. Surf clubs may continue to fundraise to support their clubs

It is important that surf clubs are able to raise funds to assist in undertaking their surf life saving activities and support the management of their facility, including obligations as tenant under a lease. It is in the interests of the landlord (the reserve manager) and tenant (surf club) that surf clubs are able to generate revenue to contribute toward the upkeep of the asset and to improve the facility and reserve.

Surf clubs will be authorised, through the lease, to conduct fundraising activities in accordance with the framework set out in the *Charitable Fund Raising Act 1991*.

Activities that solicit money, property or other benefit from the use of the premises and are not undertaken as an authorised fundraising appeal will not be permissible without the prior consent of the reserve manager.

Surf clubs wishing to conduct fundraising activities can find out more information from the Government Licensing Service website at www.licence.nsw.gov.au/new/categories/charities-not-for-profit.

4. There are circumstances when commercial use of a surf club facility is appropriate

The standard surf club lease for surf clubs on Crown land will permit a surf club building to be used for commercial purposes, but only with the prior written approval of the lessor (reserve manager) and under a separate written agreement.

Most surf clubs have been granted a lease to occupy Crown land without having been through a competitive process. It is important that there are no commercial or competitive advantages that result from the surf club's use of Crown land.

The use of Crown land for commercial gain must be achieved in a competitively neutral environment. Any commercial use of a surf club building must be let through an open, transparent and competitive process and must be let at a market rate.

In accordance with the standard surf club lease, the commercial use must be a separate, stand-alone occupation of part of the surf club buildings and be conducted by a for-profit entity which is legally separate from the surf club.

All revenue raised by a surf club from a commercial operation being carried out from premises must be used by the surf club to fund its obligations under the lease.

Reserve managers should work with the surf club to agree on how such commercial uses will occur. The standard surf club lease conditions require that a proposed commercial use of surf club buildings must not:

- be the most substantial or significant use of the building
- conflict with the permitted use of surf club
- materially adversely affect the carrying out of surf life saving activities on the remainder of the premises.

Direct dealings, where the surf club negotiates directly with one party about a commercial use of a surf club building on Crown land, are not allowed unless exceptional circumstances exist.

Surf clubs wishing to find out more information about direct negotiations can visit the Independent Commission Against Corruption (ICAC) website at <http://www.icac.nsw.gov.au/publications-and-resources/corruption-prevention>

5. Caretakers in residence need a tenancy lease

It is an offence to reside on Crown land without lawful authority, and Crown land set aside for public recreation generally should not be a place of private profit.

It is recognised that, due to the nature of surf life saving activities where access to the surf clubs out-of-business hours is required for training and out-of-patrol hour rescues and for responding in emergency situations, that it may be necessary for surf clubs to appoint caretakers to manage their properties. This option is available to surf clubs only where no other option is reasonable.

The standard surf club lease does not permit a surf club to allow a person to reside within surf club buildings as caretaker and to retain rental paid by the caretaker unless the caretaker arrangement is genuine, related to the use of the buildings for surf life saving purposes and prior written approval is obtained from the reserve manager. The surf club and the caretaker must enter into an agreement that complies with all relevant law and under which the caretaker must provide services to and for the surf club related to or in support of surf club purposes and in consideration of the licence to reside at the surf club. Surf clubs must obtain any necessary approvals from authorities to allow a caretaker to lawfully reside at the surf club and provide copies of these approvals to the reserve manager if requested to do so.

6. The lease gives limited liquor and no gaming licence concessions

The standard surf club lease allows surf clubs to hold a liquor licence under the *Liquor Act 2007*. A liquor license authorises the licensee to sell or supply liquor on the licensed premises for consumption on the premises only and only as part of, or in connection with, a function or at any gathering of the members of surf clubs and their guests in association with or following surf club activities.

The standard surf club lease also allows surf clubs holding an 'on-premises' liquor licence under the *Liquor Act 2007*. This licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises. For example, a surf

⁷ NSW Department of Primary Industries, January 2016

club letting the premises for others to hold functions that involves the sale and consumption of alcohol would not be prevented under this lease.

The standard surf club lease prohibits surf club premises from being used in conjunction with a hotel liquor licence, general bar licence or small bar licence.

The standard surf club lease also prohibits the use of surf club premises in conjunction with any form of gambling licence.

7. The standard lease term offered is 20 years

The reserve manager will offer a standard 20 year term. The reserve manager will not agree to option terms taking the lease beyond 20 years where surf clubs present an imminent risk of danger to life or property.

8. Minimum rent will be charged under the standard lease and paid to the reserve manager

Surf clubs operating under the standard surf club lease will pay the reserve manager statutory minimum rent as it is determined from time to time, or any greater number agreed between the surf club and the reserve manager.

Where a surf club derives additional income from the premises for commercial uses that are not authorised fundraising activities, the surf club must achieve a market rent for that commercial use.

9. Keeping the asset actively managed over its lifecycle

Surf club buildings are important community assets. In many cases, funds for their construction and operations come from local, state and/or federal government sources along with contributions from local communities.

SLS Clubs are facilities that should be used and enjoyed by the public, and wherever possible should perform multiple use roles and contribute to broader community needs.

It is important that surf club buildings and improvements are well maintained and managed. Reserve managers and surf clubs are to ensure appropriate approaches are implemented to manage the asset over its useful life, and ensure funds are put aside to cover future repair, upgrade or replacement.

The standard surf club lease provides that surf clubs must keep the premises in good condition and repair, and must bear all costs of maintaining and repairing the interior of the premises.

The standard surf club lease provides that the reserve manager must (unless agreed otherwise) undertake all structural repairs that are required to keep surf club buildings in good repair and condition.

The standard surf club lease also provides that all buildings and structures erected on the Crown reserve, including surf club improvements, are and will remain the property of the reserve manager.

10. Other matters

Crown land in NSW is subject to the *NSW Aboriginal Land Rights Act 1983* and the *Commonwealth Native Title Act 1993*. Native title is the name Australian law gives to the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, laws and customs. These rights are different to, and separate from, the statutory right of Aboriginal Land Councils to make claims for Crown land under the *NSW Aboriginal Land Rights Act 1983*.

Leases for surf clubs on Crown land must be cognisant of these Acts, especially where native title is found to exist or an Aboriginal land claim is granted.

Monitoring and evaluation

DPI Lands, reserve managers and Surf Life Saving NSW will actively monitor the transition to the new standard lease arrangements and report to the Minister as required.

More information

Contact DPI Lands on 1300 886 529 or visit www.crownland.nsw.gov.au

POLICY NAME: COMMUNITY PROPERTY LEASING AND LICENSING
POLICY REF: C02
MEETING ADOPTED: 23 May 2024
Resolution No. 230524/8
POLICY HISTORY: 240920/16; 280716/32



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OBJECTIVE

The objective of this policy is to provide a process and criteria to assess the granting of leases and licences of Council owned or managed properties to Not for Profit Community Groups which are to be predominantly used for sporting, recreation or other community purposes.

POLICY

The purpose of this policy is to:

- provide guidelines for the leasing and licencing of the properties covered by this policy to Not for Profit Community Groups;
- provide assessment criteria to assist in assessing the suitability of tenants;
- encourage better utilisation of the properties;
- set out some of the general terms and conditions for leases and licences, and the general leasing process;
- ensure that demonstrated benefits are being provided to the community to warrant the Council receiving less than market rent for the properties.

This policy does not alter the terms of any existing leases or licences.

1. APPLICATION

Leases and licences to which this policy applies

This policy applies to leases or licences of the properties listed in Attachment 1 to Not for Profit Community Groups, where the properties are to be predominantly used for sporting, recreation or other community purposes.

This policy does not apply to:

- leases or licences of a property listed in Attachment 1 for commercial purposes; or
- leases or licences of a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group.

2. PLAN OF MANAGEMENT

Under the *Local Government Act*, Council's land is categorised as either Operational Land or Community Land. Classification of land as Community Land reflects the importance of those properties to the community. Community Land needs to be managed according to special requirements in the *Local Government Act* and *Crown Land Management Act*.

Under the *Local Government Act*, Council may only grant a lease or licence over Community Land if:

- the Plan of Management expressly authorises the lease or licence; and
- the purpose of the lease or licence is consistent with the core objectives for the category of land. The categories include sportsground, general community use, park, an area of cultural significance and natural area. For example, if the Plan of Management categorises a property as sportsground, any lease or licence for that property must be for a purpose consistent with the core objectives for sportsgrounds; and
- the lease or licence is for a purpose listed in section 46(1)(b) of the *Local Government Act*.

There are only very limited exceptions to the above in s46 of the *Local Government Act*.

Crown Land classified as Community Land – Plan of Management

As part of the implementation of the *Crown Land Management Act*, Crown Land managed by Council is categorised as either Community Land or Operational Land. Properties classified as Community Land are further categorised as either sportsground, general community use, park, an area of cultural significance or natural area. Those properties are listed in a Plan of Management. Leases or licences granted by Council for Crown Land categorised as Community Land must be in accordance with the express authorisation in the Plan of Management, for purposes consistent with the core objectives of the category of land.

3. PUBLIC NOTIFICATION OF PROPOSED LEASE

The *Local Government Act* (s47 and s47A) sets out a public notification process that Council is required to follow for proposed leases or licences of Community Land. The public notification process generally involves:

- giving notice to adjoining landowners, putting a sign on the property and publishing certain details on Council's website;
- members of the public may make written submissions within the timeframe prescribed in the notice;
- Council considers those submissions when making a final decision on the proposed lease or licence; and
- if the submissions include an objection and the lease term is over 5 years, the matter must be referred to the Minister for Local Government for consent.

4. OTHER LEGISLATIVE REQUIREMENTS

For proposed new leases or licences, there may be various legislative requirements that need to be met before a lease or licence can be granted, or before a tenant can commence a particular use of the property. For example:

- for Crown Land:
 - depending on the term of the proposed lease or licence, Council may need to obtain the Minister's prior consent to the granting of the lease or licence;
 - the proposed lease or licence is subject to obtaining Native Title Manager Advice under the *Crown Land Management Act* before the lease or licence can be granted by Council;
 - any undetermined Aboriginal land claims under the *Aboriginal Land Rights Act* will also need to be considered;
- in some circumstances, the tenant's proposed use of the property may require the tenant to obtain a development approval. The tenant would be required to obtain the development approval and comply with any development approval conditions at the tenant's cost.

5. ELIGIBLE TENANTS

A lease or licence under this policy may be granted to a Not for Profit Community Group. Council does not enter into leases or licences with individuals representing a group, such as committee members.

As Community Land is intended to provide benefits to the broader community, it is appropriate that occupation of Community Land listed in Attachment 1 is often by Not for Profit Community Groups, who will use the properties for predominantly sporting, recreation or other community purposes.

If Council decides to:

- lease or licence a property listed in Attachment 1 for commercial purposes; or
- lease or licence a property listed in Attachment 1 to an entity that is not a Not for Profit Community Group,

the terms of this policy will not apply to that lease or licence and Council may impose such commercial terms and conditions as Council determines.

6. ASSESSMENT CRITERIA FOR ELIGIBLE TENANTS

Attachment 4 sets out the general process for leasing or licensing the properties in Attachment 1 to Not for Profit Community Groups. As part of that process, the proposed tenant is assessed against the Assessment Criteria in Attachment 2.

Council recognises that many existing tenants of properties in Attachment 1 have strong historical, social and recreational ties to the properties they use. Although an existing tenant may have contributed to the development of a particular property over time, that does not convey permanent or preferential access to that property. However, the length of time the tenant has occupied the property and any improvements the tenant has made to the property are taken into account as part of the Assessment Criteria in Attachment 2.

There is increasing demand by Not for Profit Community Groups seeking to use Council owned and managed properties. When a Council property listed in Attachment 1 becomes available for lease or an existing tenant's lease is due to expire, Council may consider the existing usage of the property, the potential future usage for the property, the potential for the property to be used on a multi-user basis and changing community needs. As demographics and local needs change over time, Council may re-assess the demands of the community and the best possible uses of properties. It is important to continue to look for ways to ensure that properties covered by this policy are as fully utilised as possible, to increase the benefit provided to the community.

Where:

- Council acquires a new property classified as Community Land; or
- a property listed in Attachment 1 becomes vacant,

and Council intends to lease or licence that property to a Not for Profit Community Group for sporting, recreation or other community purposes, Council may elect to conduct an expression of interest process or tender process.

In the event an offer of tenure is made to a proposed tenant which is not accepted by the tenant within one month of the date of the offer, Council may withdraw the offer and seek to find another tenant for the property.

7. GENERAL TERMS AND CONDITIONS OF LEASES AND LICENCES

Standard Lease and Licence Agreements

Council has developed standard lease and licence agreements however, these documents vary over time and may be tailored to suit each property and the proposed usage by a tenant. Additional clauses will be included in the lease or licence when necessary to meet specific requirements of Council or the proposed tenant.

The terms of the lease or licence document entered into by the Council and the tenant will prevail over any inconsistent provisions in this policy. However, generally:

Rent	<p>The rent charged for the property will be determined in accordance with the guide in Attachment 3.</p> <p>The rent or licence fee sought by Council for properties covered by this policy is generally less than the market rent for the property. The difference between the market rent Council could obtain for the property and the amount payable by a tenant, is a rental rebate provided by Council to the tenant.</p> <p>Council's provision of this rental rebate is to assist Not for Profit Community Groups in their day to day operations, and is recognition of the benefits they provide to the local community.</p>
Rates, charges, services	<p>Rates: if the property is rateable, tenants are to pay the rates (or a proportion of the rates, if the property leased/licenced to the tenant is part of a larger property);</p> <p>Charges: tenants are to pay the charges for all services provided to the property – including both access charges and consumption/usage charges (water, sewerage, stormwater, waste, septic etc);</p> <p>Services: tenants are to pay for their own services, such as electricity, gas, telephone etc.</p> <p>Given the Council has provided a rental rebate, it is expected that tenants leasing properties covered by this policy will generate sufficient income to pay for rates, charges and services. A tenant's demonstrated capacity to pay these amounts forms part of the Assessment Criteria in Attachment 2.</p> <p>Some tenants may be eligible for a donation of some rates and charges. Tenants are referred to Council's "Donations – Rates and Charges" Policy on Council's website to determine if they are eligible.</p>
Permitted use	<p>The tenant must only use the property for the permitted use listed in the lease or licence. The tenant must seek the Council's prior written consent to any new or additional proposed uses. The lease or licence document would have been prepared and tailored to the particular use listed in the document. If a tenant proposes to introduce any new or additional uses, that may require a variation of the lease or licence document. It may also trigger the requirement for other approvals, such as development approvals, that the tenant would be required to apply for and obtain at the tenant's cost.</p>

	For Community Land, the property must only be used for a purpose consistent with the requirements of the Plan of Management.
Repair and maintenance	<p>Generally:</p> <ul style="list-style-type: none"> the tenant will be required to keep the property, the services, and the tenant's own items in good repair and condition during the term. This would include, for example, arranging and paying for day to day repair and maintenance of the property, and the servicing of equipment; the Council will usually be required to attend to structural repairs, except where required because of the acts or default of the tenant or where the tenant carried out the original structural work/improvements. <p>The repair and maintenance obligations of particular tenants may differ because of previous arrangements. For example, tenants may have procured building works themselves or may have historically been responsible for structural repairs/maintenance. Tenants may have also sought approval to carry out extensions or alteration works, and Council may have approved those works on the basis that the tenant agrees to be responsible for the ongoing structural repair, maintenance and replacement of those items.</p>
Tenant alterations	<p>The tenant must seek Council's prior approval of:</p> <ul style="list-style-type: none"> any proposed extensions, alterations, additions or structural work to the property, or to the installation of items on the outside the existing building (such as solar panels, cement pads for split system air conditioning systems, fencing etc) (Alteration Works); and any proposed application for grant funding for Alteration Works. <p>If the proposed Alteration Works are approved in principal, the tenant must seek and obtain at the tenant's cost any authority approvals required for the Alteration Works, which may include for example building approvals and/or development approvals. If the work is on Crown Land, there will be Native Title considerations to be addressed before any work can commence.</p> <p>All work must be carried out by licensed tradespeople holding the insurances required by Council, and must be carried out and completed in accordance with the authority approvals and in compliance with all laws. A site induction may be required with Council staff.</p>
Insurance	<p>Generally the tenant must take out and maintain:</p> <ul style="list-style-type: none"> Public liability Insurance - in the amount required in the lease or licence. The certificate of currency provided to Council must note Ballina Shire Council as an interested party; Contents Insurance – for any contents, chattels and other items stored in or on the premises; Workers Compensation Insurance – appropriate workers compensation insurance as required by relevant legislation to provide protection for employees or volunteers; Plate Glass Insurance – for the full replacement value of plate glass in the premises;

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

	<ul style="list-style-type: none"> • Products Liability Insurance – as required by relevant legislation for any goods or products made by the tenant (if applicable to the tenant's particular operations from the property). <p>A certificate of currency for each insurance must be provided by the tenant to Council annually. Any claims, excess or deductions payable under the terms and conditions of the tenant's insurance policies are to be paid by the tenant.</p>
Subletting	<p>Depending on the type of property and the particular use of the property, the lease may allow a tenant to sublease part of the property. If the lease allows a tenant to sublease, the tenant may not sublease without Council's prior written consent (which may be given subject to conditions or may be withheld).</p> <p>If consent is granted to a sublease, Council may impose conditions on the consent. For example, if the sublease arrangement will generate income for the tenant that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc), it is reasonable for the Council to consider whether the tenant should remain eligible for the same level of rental rebate the tenant is at that time receiving from Council.</p>
Casual use by other community groups	<p>Council wishes to encourage existing tenants to allow the casual use of the property by other community groups whose use is permitted at that location and is consistent with the category of the property in the Plan of Management. This is to assist in having the property as fully utilised as possible. The introduction of other community group users is one of the criteria taken into account in the Assessment Criteria in Annexure 2. This will not be practical for all properties covered by this policy. For example, if the building is a simple, small storage shed, it may be impractical to allow the casual use of the shed by other community groups. However, some tenants occupy larger buildings with multiple rooms and facilities, and only use the property on a seasonal basis, or only for a number of hours per week. While there are other new or growing community groups seeking premises for their meetings and other activities. Any tenant wishing to introduce other users are encouraged to contact Council to discuss those opportunities. Lease documents can be drafted to accommodate these types of arrangements, provided the use by the other users is permitted in the Plan of Management and would not require a development approval or building works.</p>
Term	<p>The general position is that a lease or licence term of 4 years will be offered.</p> <p>To minimise costs, the general position is that leases of 4 years will not be registered on the title of the land, unless the tenant requests that it be registered. If a tenant requests that it be registered and Council agrees, the tenant must arrange the registration and pay all costs associated with registering the lease (which may include for example the cost of preparing lease plans and obtaining consents/approvals of any third parties).</p>

	<p>Under exceptional circumstances, Council may grant tenure of longer than 4 years. If a lease of 5 years or more is granted, the lease should be registered on the title of the land. In addition to the usual registration costs, tenants must also pay the costs of obtaining the Minister's consent (if required), the costs of preparing any required subdivision plans, and the costs of obtaining a development approval (noting that a lease of part of a parcel of land for more than 5 years requires a development approval to be obtained - <i>Conveyancing Act</i> and <i>Environmental Planning and Assessment Act</i>).</p> <p>If Council engages external lawyers to assist in the preparation, negotiation and registration of leases, the tenant must pay Council's reasonable legal costs.</p>
Tenant reporting	<p>As Council is providing a rental rebate on the basis that the tenant's use is providing community benefit, tenants are expected to report to Council:</p> <ul style="list-style-type: none"> • the annual financial statements, detailing the tenant's income and expenditure (including any grants/sponsorships etc); • any changes in the committee members or office bearers of the tenant organisation and updated contact information; • membership numbers (if applicable); • details of any repair and maintenance works carried out by the tenant, and any proposed works; • information on usage of the property, to demonstrate ongoing community benefit. <p>The above reporting is important to ensure that the rental rebate provided by Council is warranted, as there is demonstrated ongoing benefit to the community by the tenant continuing to operate from the property.</p>

POLICY IMPLEMENTATION AND PROCEDURAL MATTERS

This policy is administered by Council's Community Property Officers.

The general leasing process is outlined in the flowchart in Attachment 4.

DEFINITIONS

Community Land	<p>Land classified as community land under the <i>Local Government Act</i> or <i>Crown Land Management Act</i>. Classification as community land reflects the importance of the land to the community because of its use or special features and must be managed according to special requirements in the <i>Local Government Act</i> and <i>Crown Land Management Act</i>.</p>
Crown Land	<p>Land owned by the State Government, where Council has been appointed as Crown Land Manager.</p>
Operational Land	<p>Council owned land or Crown Land classified as operational land under either the <i>Local Government Act</i> or <i>Crown Land Management Act</i>. Land classified as operational land is usually not intended for use by the general public. Operational land</p>

would ordinarily comprise of land held as a temporary asset or as an investment, land which facilitates the carrying out of Council's functions, or land which may not be open to the general public, such as a works depot, wastewater facility, waste centre, quarry, office building etc. Council is able to deal with operational land in a similar manner that a person may deal with their private freehold land, and the special requirements applying to Community Land under the *Local Government Act* do not apply to Operational Land.

**Not for Profit
Community Group**

Means an organisation meeting each of the following requirements:

- (a) an association incorporated under the *Associations Incorporation Act* or a company limited by guarantee registered under the *Corporations Act*; and
- (b) involved in the promotion, arranging and managing of sporting, recreation or other activities for community purposes; and
- (c) a not for profit organisation included on the Australian Charities and Not-for-Profit Commission Register or registered with the NSW Department of Fair Trading as a Not for Profit Incorporated Association.

SCOPE OF POLICY

This policy applies to:

- Council staff
- Councillors
- Existing tenants and proposed tenants of property covered by this policy

RELATED DOCUMENTATION

Related legislation, policies and document:

Aboriginal Land Rights Act 1983 (NSW)
Associations Incorporation Act 2009 (NSW)
Charities Act 2013 (Cth)
Conveyancing Act 1919 (NSW)
Corporations Act 2001 (Cth)
Crown Land Management Act 2016 (NSW)
Crown Land Management Regulation 2018 (NSW)
Crown Land Management Rules, Policies and Guidelines
Environmental Planning and Assessment Act 1979 (NSW)
Local Government Act 1993 (NSW)
Local Government (General) Regulation 2005 (NSW)
Native Title Act 1993 (Cth)
Real Property Act 1900 (NSW)

Plans of Management

Plan of Management for Community Land 2023

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

Plan of Management for Williams Reserve 2007

Hampton Park Plan of Management 2005

Any Plan of Management adopted after the date of this policy which covers properties listed in Table 1

REVIEW

The Community Property Leasing and Licensing Policy will be reviewed every four years.

ATTACHMENT 1 – PROPERTIES TO WHICH POLICY APPLIES

1A – Council owned properties to which this policy applies

#	Property – Community Land
1.	Crawford Park Clubhouse, Lot 2 DP1205880, Alston Avenue, Alstonville
2.	Community Preschool, Lot 1 DP1205880, Freeborn Place, Alstonville
3.	Ballina Community Youth Centre, Lots 12, 13 & 14 DP1714, 32 Swift Street, Ballina (known as Wigmore Park)
4.	Community Preschool, Lot 1 DP781710, Fox Street, Ballina
5.	Ballina Players Theatre, Lot 7 DP668267 & Part Lot 70 DP1005100, 24 Swift Street, Ballina
6.	Quays Reserve Clubhouse, Lot 62 DP263861, 96-98 Kalinga Street, West Ballina
7.	Wigmore Hall, Lots 9 and 10 DP1714 and Lot 70 DP1005100, 26-28 Swift Street, Ballina
8.	Prospect Lake Boat Shed, Lot 105 DP871675, Links Avenue, East Ballina
9.	Lennox Head Preschool, Lot 415 DP 1244339 21 Mackney Lane, Lennox Head (note: part of yard is on Crown Land Reserve 97839. See separate entry in Crown Land Attachment 1B)
10.	Skennars Head Sports Fields Clubhouse and storage areas, Lot 13 DP1245669, 54 Skennars Head Road, Skennars Head
11.	Newrybar Hall, Lot 10 DP1202765, 13-15 Old Pacific Highway, Newrybar
12.	Power Drive Sports Clubhouse, Lot 99 in DP1196589, 33 Power Drive, Cumbalum
13.	Wardell and District War Memorial Hall, Lot 1 DP312334, Richmond Street Wardell
14.	Wardell Tennis Courts, Fitzroy Park, Lot 18 DP1129974, 32 Bridge Drive, Wardell
15.	Lyle Park Clubhouse, Lot 106 DP807798, Lyle Park, Cerreto Circuit, Wollongbar
16.	Community Preschool, Lot 266 DP1209571, 5 Hall Court, Wollongbar
17.	Wollongbar Community Hall, Lot 267 DP1209571, Hall Court, Wollongbar
18.	Cawarra Park Buildings, Cawarra Street, Ballina, Lots 2 and 3, Section 37 DP758047
19.	Lennox Community Gardens, Lot 31 DP787876, Ocean Breeze Park, Ocean Breeze Drive, Lennox Head
20.	Chickiba Sports Clubhouse, Lot 207 DP851318, Chickiba Drive, East Ballina
21.	Ballina Aboriginal Child and Family Centre, Lot 1 DP1181025, 10 Hayman Street, West Ballina
22.	Geoff Watt Sports Clubhouse, Lot 85 DP239781, 2 Deegan Drive, Alstonville
23.	20 Megan Crescent Sports Clubhouse, Lot 74 DP774896, 20 Megan Crescent, Lennox Head

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

#	Property – Community Land
24.	Tennis Court Facility, Lot 2 DP1168781 Elvery Lane, Wollongbar
25.	Wollongbar Sportsfield Clubhouse, Lot 2 DP1168781, Elvery Lane, Wollongbar
#	Property – Operational Land
26.	Equestrian Centre, Lot 114 DP 755684, 70 Gallans Road, Ballina
27.	Pimlico Hall, Lot 3 DP561944, 580 Pimlico Road, Pimlico
28.	Mountain Bike Track Facility, Lot 12 DP814359, 240 Bruxner Highway, Alstonville
29.	Gap Road Alstonville Sporting Clubhouses, Lot 4 DP1130300, 486 Gap Road, Alstonville
30.	Gap Road Alstonville Storage Sheds, Lot 4 DP1130300, 486 Gap Road Alstonville
31.	Shed Facility, Lot 100 DP1281698, 44 Fishery Creek Road, Ballina
32.	Childrens Centre, Lot 210 DP735156, 4 John Sharpe Street, East Ballina
33.	Crawford House, Lot 6 DP235088, 10 Wardell Road, Alstonville

1B – Crown Land managed by Council to which this policy applies

#	Property
34.	Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP755745 and whole of Lot 7004 DP92641, 2 Pearces Creek Road, Alstonville
35.	Croquet Clubhouse and croquet field, Part Reserve 540004 for the purpose of Public Recreation, notified 20 August 1886 being part Lot 5611 DP1282979
36.	Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962, Lot 4 DP1153430, Canal Road, Ballina
37.	Kingsford Smith Park Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064 DP1118403 and Lot 153 DP1098090
38.	Naval and Maritime Museum (incorporating Richmond-Tweed Family History Research Centre), Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina
39.	Netball Clubhouse, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina
40.	Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 729297 known as Saunders Oval, Canal Road, Ballina
41.	Tennis Clubhouse and Tennis Courts, part Dedication (D540004) for Public Recreation notified 20 August 1886, being part Lot 5612 DP1282979, known as Hampton Park, Burnet Street, Ballina
42.	Fripp Oval Clubhouse and Storage, Lot 1 DP1153430, Canal Road, Ballina
43.	Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head

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5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

#	Property
44.	Community Preschool Yard Area, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head NSW (note: Part of Preschool is on Council owned land. See separate entry in Attachment 1A)
45.	Sailing Clubhouse, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina
46.	Tintenbar Oval Clubhouse & Tennis Courts, Lot 371 DP729061, 56 Fernleigh Road, Tintenbar
47.	Hall, Lot 8, Sec 5A, DP758047, part Captain Cook Park, River Street Ballina

Note: Council may update the tables in Attachment 1 over time.

ATTACHMENT 2 – ASSESSMENT CRITERIA

An assessment will be conducted to determine the eligibility and suitability of a tenant by considering the objectives of this policy. The following factors will be considered as part of the assessment of the tenant and the tenant’s proposed use of the property.

A	<p>Community benefit Community benefit that will be provided by the tenant’s activities.</p> <p>This includes consideration of the tenant’s existing membership base (if the tenant is an organisation with members), and the likely extent of social, cultural, physical, or intellectual benefit from the activities of the tenant conducted from the property.</p>
B	<p>Best utilisation of the property The proposed frequency of use of the property by the tenant (number of days per week, estimated hours per week, any months when the property will not be used, for example, if the tenant’s proposed use is seasonal).</p> <p>This includes consideration of whether the tenant proposes to allow use of the property by other community groups (whose use is permitted at that location and is consistent with the category of the property in the Plan of Management), to ensure the property is as fully utilised as possible. These criteria will not be relevant to small storage shed style buildings but may be relevant to other larger properties.</p>
C	<p>Eligible tenant Whether the tenant is an eligible tenant (see part 5 of this policy).</p>
D	<p>Tenant’s capacity to comply with lease obligations The tenant’s capacity to pay, including whether the tenant has demonstrated it has the capacity to pay:</p> <ul style="list-style-type: none"> • rent; • rates and charges; • the cost of services (electricity, gas, water, waste etc); • insurance premiums to ensure the insurances required under the proposed lease are maintained throughout the term; • ongoing costs of complying with legislative requirements relevant to the tenant’s proposed use; • the costs of obtaining any development approvals or other approvals required for the tenant’s proposed use or required in order for a lease to be granted; • the costs of carrying out routine repair and maintenance, to ensure the property is kept in good repair and condition
E	<p>Tenant’s previous occupancy of the property For renewals:</p> <ul style="list-style-type: none"> • the length of time the tenant has occupied the property; • any improvements the tenant has made to the property; • the tenant’s compliance with the terms of the previous lease, including, but not limited to, compliance with the repair and maintenance obligations, payment of all amounts under the lease or licence, and keeping the required insurances current during the full term; • if the tenant has had any previous issues with neighbours, whether the tenant has demonstrated a proactive approach to resolving issues

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Community Property Leasing and Licensing

F	Suitability of the property for the proposed use Consideration of: <ul style="list-style-type: none">• the impact of the tenant's use on the property• suitability of the property for the proposed use:<ul style="list-style-type: none">○ whether the proposed use is consistent with the core objectives for the category of the property in the Plan of Management, and the type of lease to be granted is authorised in the Plan of Management○ planning requirements○ building requirements○ other statutory requirements
G	Any works required or approvals to be obtained Consideration of: <ul style="list-style-type: none">• whether Council would need to do work to the property prior to any occupation, and if so, whether Council agrees to do such work (taking into account Council financial plans/budgets and the Delivery Program and Operational Plan)• whether the tenant would need to do work to the property prior to any occupation, and if so, whether Council agrees to that work being carried out• any development approvals or other approvals that would be required in relation to the grant of the proposed lease, in relation to the tenant's proposed use, or in relation to any proposed works. Note that the Plan of Management may restrict the types of further development work that may take place on particular parcels of land.
H	Financial return to Council Consideration of the financial return to Council and any future uses of the property that should be considered.

ATTACHMENT 3 – GUIDE FOR RENT ASSESSMENT

Minimum rent

To create equity between tenants occupying Council owned properties and Crown Land managed by Council, Council adopts the statutory minimum rent set by the NSW Government as the minimum rent for all leases and licences covered by this policy. Importantly, the statutory minimum rent will in most cases still be well below the market rent that could be obtained for the property, so a tenant paying the statutory minimum rent will still be receiving a rental rebate.

Some properties to attract rent higher than statutory minimum rent

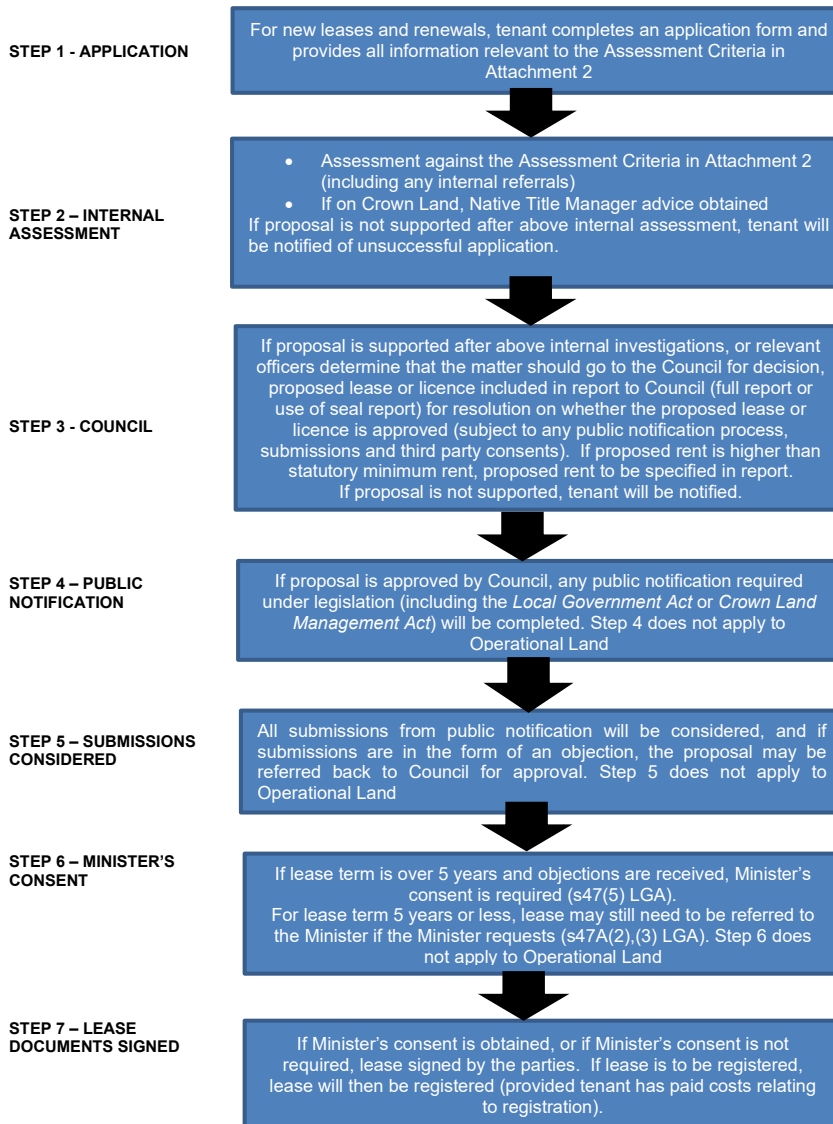
The statutory minimum rent will be applied to the majority of leases and licences covered by this policy. However, there will occasionally be some leases and licences for which Council resolves to charge a rent higher than the statutory minimum rent.

For example:

- where the tenant has received approval from Council to sublet or licence part of the property and under the arrangement the tenant will receive from the subtenant/licensee income that is more than what the tenant will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the tenant's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc);
- where the Council has done particular upgrade works or other improvement works at the tenant's request, and part of the costs of that work is to be recovered by way of a higher rent;
- where the tenant (or any sub-tenant or sub-licensee) holds a liquor licence that enables the sale of alcohol at the property on more than 52 occasions per year;
- whilst the tenant continues to predominantly use the property for sporting, recreation or other community purposes, there is a minor commercial activity undertaken at the property, such as a small kiosk. This is not intended to capture regular canteens, sausage sizzles etc commonly operated at sporting grounds as part of regular sports club fundraising activities.

If it is proposed that a tenant will be charged a rent higher than the statutory minimum rent for a lease or licence covered by this policy, the higher rent will be included in the report to Council for resolution under Step 3 of the General Leasing Process in Attachment 4.

ATTACHMENT 4 – GENERAL LEASING PROCESS



Note: The above is the general process that will apply to the majority of leases and licences covered by this policy. However, there may be property specific issues or particular tenant proposed uses that trigger additional steps in the process.

POLICY NAME: PROPERTY LEASING AND LICENSING – NOT-FOR-PROFIT GROUPS
POLICY REF: C02
MEETING ADOPTED: 23 May 2024
 Resolution No. 230524/8
POLICY HISTORY: 240920/16; 280716/32



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OBJECTIVE

The objective of this policy is to provide a criteria and process to assess the granting of leases and licences for Council owned or managed properties to Not for Profit Groups, with the properties to be predominantly used for sporting, recreation or other community purposes.

POLICY

The purpose of this policy is to:

- provide guidelines for the leasing and licencing of the properties covered by this policy to Not for Profit Groups
- provide assessment criteria to assist in assessing the suitability of lessees or licensees
- encourage better utilisation of the properties
- set out the general terms and conditions for leases and licences, and the leasing process
- provide guidelines for the determination of rent
- ensure that benefits are provided to the community to warrant Council receiving less than market rent.

This policy does not alter the terms of any existing leases or licences.

1. APPLICATION

Leases and licences to which this policy applies

This policy applies to leases or licences for the properties listed in Appendix 1 to Not-for-Profit Groups, where the properties are predominantly used for sporting, recreation or other community purposes. This policy does not include Council properties where the lease or licence is provided to a commercial entity or State Government Agency.

2. PLANS OF MANAGEMENT AND LAND CLASSIFICATIONS

Community Land and Operational Land

Under the *Local Government Act*, council owned land is categorised as Community Land or Operational Land.

Community Land reflects the importance of the intrinsic value of the property to the community. Community Land needs to be managed according to specific requirements in the *Local Government Act* and *Crown Land Management Act*.

Under the *Local Government Act*, Council can only grant a lease or licence over Community Land if:

- the Plan of Management expressly authorises the lease or licence; and
- the purpose of the lease or licence is consistent with the core objectives for the category of land. The categories include sportsground, general community use, park, an area of cultural significance and natural area. For example, if the Plan of Management categorises a property as sportsground, any lease or licence for that property must be for a purpose consistent with the core objectives for sportsgrounds; and
- the lease or licence is for a purpose listed in section 46(1)(b) of the *Local Government Act*.

There are only limited exceptions to the above in section 46 of the *Local Government Act*.

Operational Land is public land held to facilitate council functions, such as works depots, utilities infrastructure or offices, or kept as a temporary asset or for investment. Unlike community land, it has no special restrictions and can be sold or developed

In accordance with the *Crown Land Management Act*, **Crown Land managed by Council** is also categorised as Community Land or Operational Land.

Plans of Management

Properties classified as Community Land are further categorised as either sportsground, general community use, park, an area of cultural significance or natural area. Those properties are listed in a Plan of Management. Leases or licences granted by Council for Crown Land categorised as Community Land must be in accordance with the express authorisation in the Plan of Management, for purposes consistent with the core objectives of the category of land.

Crown Land Leased by Council from NSW Crown Lands

There are limited parcels of land in the Ballina Shire, where Council leases Crown Land from the State Government. Typically, the lease fee paid to the State Government is 50% of the market rent, subject to the land being used for a community use. NSW Crown Lands must approve any sub-leasing of the land.

3. PUBLIC NOTIFICATION OF PROPOSED LEASE

The *Local Government Act* (s47 and s47A) sets out a public notification process that Council is required to follow for proposed leases or licences of Community Land. The public notification process generally involves:

- giving notice to adjoining landowners, putting a sign on the property and publishing certain details on Council's website
- members of the public may make written submissions within the timeframe prescribed in the notice
- Council considers those submissions when making a final decision on the proposed lease or licence; and
- if the submissions include an objection and the term is over five years, the matter must be referred to the Minister for Local Government for consent.

4. OTHER LEGISLATIVE REQUIREMENTS

For proposed new leases or licences, there may be various legislative requirements that need to be met before a lease or licence can be granted, or before a lessee or licensee can commence a particular use of the property. For example:

- for Crown Land:
 - depending on the term of the proposed lease or licence, Council may need to obtain the Minister's prior consent to the granting of the lease or licence.
 - the proposed lease or licence is subject to obtaining Native Title Manager Advice under the *Crown Land Management Act* before the lease or licence can be granted by Council.
 - any undetermined Aboriginal land claims under the *Aboriginal Land Rights Act* will also need to be considered.

- in some circumstances, the lessee or licensee's proposed use of the property may require the lessee or licensee to obtain a development consent.

The lessee or licensee would be required to obtain the development consent and comply with any development approval conditions at the lessee / licensee's cost.

5. ELIGIBLE LESSEES OR LICENSEES

A lease or licence under this policy may be granted to a Not-for-Profit Group, as per the definitions outlined in this policy.

Appendix 2 provides the eligibility and suitability assessment criteria for Not-for-Profit Groups.

Council does not enter leases or licences with individuals representing a group, such as committee members.

If Council decides to:

- lease or licence a property listed in Appendix 1 for commercial purposes; or
- lease or licence a property listed in Appendix 1 to an entity that is not a Not-for-Profit Group,

Council may impose such commercial terms and conditions as Council determines.

6. ASSESSMENT CRITERIA FOR ELIGIBLE LESSEES OR LICENSEES

Once a Not-for-Profit Group is determined as being eligible in accordance with Appendix 2, Appendix 3 sets out the market rent assessment and Appendix 4 sets out the general process for leasing or licensing the properties in Appendix 1.

Council recognises that many existing lessees or licensees of properties in Appendix 1 have strong historical, social and recreational ties to the properties they use.

Although an existing lessee or licensee may have contributed to the development of a particular property over time, that does not convey permanent or preferential access to that property.

However, the length of time the lessee or licensee has occupied the property and any improvements the lessee or licensee has made to the property are considered as part of the Assessment Criteria in Appendix 2.

When a Council property listed in Appendix 1 becomes available for lease or an existing lessee or licensee's lease is due to expire, Council may consider the existing usage of the property, the potential future usage for the property, the potential for the property to be used on a multi-user basis and changing community needs.

As demographics and local needs change over time, Council may re-assess the demands of the community and the best possible uses of properties.

It is important to continue to look for ways to ensure that properties covered by this policy are as fully utilised as possible, to increase the benefit provided to the community.

Where:

- Council acquires a new property; or

- a property listed in Appendix 1 becomes vacant,

and Council intends to lease or licence that property to a Not-for-Profit Group for sporting, recreation or other community purposes, Council may elect to conduct an expression of interest process.

In the event an offer of tenure is made to a proposed lessee or licensee, which is not accepted by the lessee or licensee within one month of the date of the offer, Council may withdraw the offer and seek to find another lessee or licensee for the property.

7. GENERAL TERMS AND CONDITIONS OF LEASES AND LICENCES

Standard Lease and Licence Agreements

Council has developed standard lease and licence agreements; however, these documents vary over time and may be tailored to suit each property and the proposed usage by a lessee or licensee.

Additional clauses will be included in the lease or licence when necessary to meet specific requirements of Council or the proposed lessee or licensee.

The terms of the lease or licence document entered by Council and the lessee or licensee will prevail over any inconsistent provisions in this policy.

Condition	Details
Rent	<p>The rent charged for the property will be determined in accordance with the guide in Appendix 3.</p> <p>The rent sought by Council for properties covered by this policy is generally less than the market rent for the property, however a market rent may be charged.</p> <p>Where there is a difference between the market rent Council could obtain for the property and the amount payable by a lessee or licensee, this represents a rent rebate provided to the lessee or licensee.</p> <p>Council's provision of a rent rebate is to assist Not for Profit Groups in their day-to-day operations and is in recognition of the benefits they provide to the local community.</p> <p>Appendix 5 provides a guide as to the value of market rent rebates based on the unimproved land value for the property leased or licensed.</p>
Rates, charges, services	<p>Rates: if the property is rateable, lessee or licensees are to pay the rates (or a proportion of the rates, if the property is part of a larger property).</p> <p>Charges: lessee or licensees are to pay the charges for all services provided to the property – including access charges and consumption / usage charges (water, wastewater, stormwater, waste, septic etc)</p> <p>Services: lessee or licensees are to pay for their own services, such as electricity, gas, telephone etc.</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Condition	Details
	<p>It is expected that lessee or licensees leasing properties covered by this policy will generate sufficient income to pay for rates, charges and services.</p> <p>A lessee or licensee's demonstrated capacity to pay these amounts forms part of the Assessment Criteria in Appendix 2.</p> <p>Lessees or licensees may be eligible for a Council donation of part of the applicable rates and charges.</p> <p>Refer to the "Donations – Rates and Charges" Policy on Council's website for further information.</p>
Permitted use	<p>The lessee or licensee must only use the property for the permitted use listed in the lease or licence.</p> <p>The lessee or licensee must seek the Council's prior written consent to any new or additional proposed uses.</p> <p>If a lessee or licensee proposes to introduce any new or additional uses, that may require a variation of the lease or licence document.</p> <p>It may also trigger the requirement for other approvals, such as development consent, that the lessee or licensee would be required to apply for and obtain at their cost.</p> <p>For Community Land, the property must only be used for a purpose consistent with the Plan of Management.</p>
Repair and maintenance	<p>Generally:</p> <ul style="list-style-type: none"> • the lessee or licensee will be required to keep the property, the services, and the lessee or licensee's own items in good repair and condition during the term. <p>This would include, for example, arranging and paying for day-to-day repair and maintenance of the property, and the servicing of equipment</p> <ul style="list-style-type: none"> • the Council will usually be required to address structural repairs, except where required because of the acts or default of the lessee or licensee or where the lessee or licensee conducted the original structural work / improvements. <p>The repair and maintenance obligations of lessees or licensees may differ because of previous arrangements. For example, lessees or licensees may have procured building works themselves or may have historically been responsible for structural repairs/maintenance.</p> <p>Lessees or licensees may have also sought approval to conduct extensions or alteration works, and Council may have approved those works on the basis that the lessee or licensee agrees to be responsible for the ongoing structural repair, maintenance and replacement of those items.</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Condition	Details
Lessee / licensee alterations	<p>Council's prior approval must be obtained for:</p> <ul style="list-style-type: none"> • any proposed extensions, alterations, additions or structural work to the property, or to the installation of items on the outside the existing building (such as solar panels, cement pads for split system air conditioning systems, fencing etc) (Alteration Works); and • any proposed application for grant funding for Alteration Works. <p>If the proposed Alteration Works are approved in principle, the lessee or licensee must seek and obtain at their own cost any authority approvals required for the Alteration Works, which may include for example building approvals and / or development approvals.</p> <p>If the work is on Crown Land, there will be Native Title considerations to be addressed before any work can commence.</p> <p>All work must be conducted by licensed tradespeople holding the insurances required by Council and must be conducted and completed in accordance with the authority approvals and in compliance with all laws.</p> <p>A site induction may be required with Council staff.</p>
Insurance	<p>Generally, the lessee or licensee must take out and maintain:</p> <ul style="list-style-type: none"> • Public liability Insurance - in the amount required in the lease or licence. The certificate of currency provided to Council must note Ballina Shire Council as an interested party • Contents Insurance – for any contents, chattels and other items stored in or on the premises • Workers Compensation Insurance – appropriate workers compensation insurance as required by relevant legislation to provide protection for employees or volunteers • Plate Glass Insurance – for the full replacement value of plate glass in the premises • Products Liability Insurance – as required by relevant legislation for any goods or products made by the lessee or licensee (if applicable to the operations from the property). <p>A certificate of currency for each insurance must be provided by the lessee or licensee to Council annually.</p> <p>Any claims, excess or deductions payable under the terms and conditions of the lessee or licensee's insurance policies are to be paid by the lessee or licensee.</p>
Subletting	<p>Depending on the type of property and the particular use of the property, the lease may allow a lessee or licensee to sublease part of the property. If the lease allows a lessee or licensee to sublease, the lessee or licensee may not sublease without Council's prior written consent (which may be given subject to conditions or may be withheld).</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Condition	Details
	<p>If consent is granted to a sublease, Council may impose conditions on the consent.</p> <p>For example, if the sublease arrangement will generate income for the lessee or licensee that is more than what the lessee or licensee will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting the lessee or licensee's repair and maintenance obligations, insurance costs, payment of rates, charges and services etc), it is reasonable for the Council to consider whether the lessee or licensee should remain eligible for the same level of rental rebate the lessee or licensee is receiving from Council.</p>
<p>Casual use by other community groups</p>	<p>Council wishes to encourage existing lessees or licensees to allow the casual use of the property by other community groups whose use is permitted at that location and is consistent with the category of the property in the Plan of Management.</p> <p>This is to assist in having the property as fully utilised as possible.</p> <p>The introduction of other community group users is one of the criteria considered in the Assessment Criteria in Appendix 2.</p> <p>This will not be practical for all properties covered by this policy.</p> <p>For example, if the building is a simple, small storage shed, it may be impractical to allow the casual use of the shed by other community groups.</p> <p>However, some lessees or licensees occupy larger buildings with multiple rooms and facilities, and only use the property on a seasonal basis, or only for a few hours per week.</p> <p>Any lessee or licensee wishing to introduce other users are encouraged to contact Council to discuss those opportunities.</p> <p>Lease documents can be drafted to accommodate these types of arrangements, provided the use by the other users is permitted in the Plan of Management and would not require a development approval or building works.</p>
<p>Term</p>	<p>The general position is that a term of four years for Council owned property and three years for Council managed Crown Land will be offered.</p> <p>To minimise costs, the general position is that leases of four years and under will not be registered on the title of the land, unless the lessee or licensee requests that it be registered.</p> <p>If a lessee or licensee requests that it be registered and Council agrees, the lessee or licensee must arrange the registration and pay all costs associated with registering the lease (which may include for example the cost of preparing lease plans and obtaining consents / approvals of any third parties).</p>

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Condition	Details
	<p>Under exceptional circumstances, Council may grant tenure of longer than four years. If a lease of five years or more is granted, the lease should be registered on the title of the land.</p> <p>In addition to the usual registration costs, lessee or licensees must also pay the costs of obtaining the Minister's consent (if required), the costs of preparing any required subdivision plans, and the costs of obtaining a development approval (noting that a lease of part of a parcel of land for more than five years requires a development approval to be obtained - <i>Conveyancing Act</i> and <i>Environmental Planning and Assessment Act</i>).</p> <p>If Council engages external lawyers to assist in the preparation, negotiation and registration of leases, the lessee or licensee must pay Council's reasonable legal costs.</p>
Lessee / licensee reporting	<p>To assist Council in ensuring that the lessee or licensee is providing community benefit, lessees or licensees may be asked to report to Council:</p> <ul style="list-style-type: none"> • the annual financial statements, detailing the lessee or licensee's income and expenditure (including any grants/sponsorships etc) • any changes in the committee members or office bearers of the lessee / licensee organisation and updated contact information • membership numbers • details of any repair and maintenance works conducted and any proposed works • information on usage of the property, to demonstrate ongoing community benefit.

POLICY IMPLEMENTATION AND PROCEDURAL MATTERS

Council's Community Property Officers administer this policy. The general leasing process is outlined in the flowchart in Appendix 4.

DEFINITIONS

Term	Description
Community Land	Land classified as community land under the <i>Local Government Act</i> or <i>Crown Land Management Act</i> . Classification as community land reflects the importance of the land to the community because of its use or special features and must be managed according to special requirements in the <i>Local Government Act</i> and <i>Crown Land Management Act</i> .
Crown Land	Land owned by the State Government, where Council is appointed as Crown Land Manager. Council can also lease Crown Land.
Liquor License	As determined by NSW Liquor and Gaming based on three main classes for the application of this policy being:

Term	Description
	<ul style="list-style-type: none"> • On-premises – Alcohol is sold as an ancillary item to a primary service, must be consumed on the premises and take-away sales are not permitted. • Club – A primary activity is the sale of alcohol as a benefit for members and their guests. Specifically designed for registered clubs, RSLs or sporting clubs, allows alcohol to be consumed on the licensed premises and in some cases, off site and allows the operation of gaming machines, subject to separate approvals. • Limited – Designed for not-for-profit, sports club, or community groups to sell alcohol for consumption during a single event, or a set number of events.
Not for Profit Group	<p>Means an organisation meeting each of the following requirements:</p> <ul style="list-style-type: none"> (a) an association incorporated under the <i>Associations Incorporation Act</i> or a company limited by guarantee registered under the <i>Corporations Act</i>; and (b) involved in the promotion, arranging and managing of sporting, recreation or other activities for community purposes; and (c) a not-for-profit organisation included on the Australian Charities and Not-for-Profit Commission Register or registered with the NSW Department of Fair Trading as a Not-for-Profit Incorporated Association.
Operational Land	<p>Council owned land or Crown Land classified as operational land under either the <i>Local Government Act</i> or <i>Crown Land Management Act</i>.</p> <p>Land classified as operational land is usually not intended for use by the public.</p> <p>Operational land would ordinarily comprise of land held as a temporary asset or as an investment, land which facilitates the carrying out of Council's functions, or land which may not be open to the public, such as a works depot, wastewater facility, waste centre, quarry, office building etc.</p> <p>Council can deal with operational land in a similar manner that a person may deal with their private freehold land.</p>

Term	Description
Revenue	<p>Consistent with NSW Fair Trading and Australian Government’s “Australian Charities and Not-for-Profits Commission” (ACNC), the definition of revenue is as follows.</p> <p>Revenue arises in the course of ordinary activities and can be referred to by a variety of different names, such as sales, fees, interest, dividends and royalties.</p> <p>Revenue is realised from the sale of goods or services, through the use of capital or assets, or revenue arising from the contribution of an asset to the organisation.</p> <p>Examples of revenue include:</p> <ul style="list-style-type: none"> • grants from government, foundations, private or any other sources • donations, tithes, bequests or legacies • fees for provision of services • sale of goods • inflows from fundraising activities or sponsorship • interest earned on investments, dividends • royalties and license fees • in-kind donations (for example, volunteer time or goods). <p>The collection of State or National Federation fees for members and players is specifically excluded to avoid the situation where, particularly, some sporting clubs are collecting fees and are then forwarded to another organisation which can inflate the revenue figure.</p>
Minimum Rent	<p>Means the statutory Crown Lands minimum rent under clause 38(1) of the <i>Crown Land Management Regulation</i> as adjusted by CPI in accordance with section 6.4 of the <i>Crown Land Management Act</i> and published online by the New South Wales State Government Crown land website.</p> <p>Some lessees or licensees may still be charged \$1, as a minimum rent, as the Council decision to apply the statutory Crown Lands minimum rent to all eligible lessees or licenses, occurred at the September 2020 Ordinary meeting, and this decision only applies when existing leases or licenses expire.</p>

SCOPE OF POLICY

This policy applies to:

- Council staff
- Councillors
- Existing and proposed lessees or licensees of property covered by this policy

RELATED DOCUMENTATION

Related legislation, policies and document:

- *Aboriginal Land Rights Act 1983 (NSW)*
- *Associations Incorporation Act 2009 (NSW)*
- *Charities Act 2013 (Cth)*
- *Conveyancing Act 1919 (NSW)*
- *Corporations Act 2001 (Cth)*
- *Crown Land Management Act 2016 (NSW)*
- *Crown Land Management Regulation 2018 (NSW)*
- *Environmental Planning and Assessment Act 1979 (NSW)*
- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2021 (NSW)*
- *Native Title Act 1993 (Cth)*
- *Plan of Management for Community Land 2025*
- *Real Property Act 1900 (NSW)*
- *Sports Facility Management Policy*
- *Sports and Recreation Facilities Plan 2020*
- *Any Council adopted Plan of Management or Master Plan which covers the properties listed in Table 1*

REVIEW

The Property Leasing and Licensing – Not-for-Profit Groups Policy will be reviewed every four years.

APPENDIX 1 – PROPERTIES COVERED BY THIS POLICY

1A – Council Owned Properties (Community and Operational Land)

Community Land
<i>Preschools and Child Care Centres</i>
Alstonville Community Preschool, Lot 1 DP1205880, 1A Freeborn Place, Alstonville
Ballina Aboriginal Child and Family Centre, Lot 1 DP1181025, 10 Hayman Street, Ballina
Ballina Fox Street Community Preschool, Lot 1 DP781710, 84 Fox Street, Ballina
Lennox Head Community Preschool, 21 Mackney Lane, Lennox Head – Lot 466 DP 729058 and Lot 415 DP 1244339 (part of yard on Crown Land Reserve 97839).
Rainbow Children’s Centre, Lot 210 DP735156, 4 John Sharpe Street, Ballina
Wollongbar Community Preschool, Lot 266 DP1209571, 5 Hall Court, Wollongbar
<i>Sporting Groups</i>
Cawarra Park Buildings, Cawarra Street, Ballina, Lots 2 and 3, Section 37 DP758047
Chickiba Sports Fields Clubhouse, Lot 207 DP851318, Chickiba Drive, Ballina
Crawford Park Sports Fields Clubhouse, Lot 2 DP1205880, Alston Avenue, Alstonville
Geoff Watt Sports Fields Clubhouse, Lot 85 DP239781, 2 Deegan Drive, Alstonville
Lyle Park Sports Fields Clubhouse, Lot 106 DP807798, Lyle Park, Cerreto Circuit, Wollongbar
Megan Crescent Sports Fields Clubhouse, Lot 74 DP774896, 20 Megan Crescent, Lennox Head
Power Drive Sports Fields Clubhouse, Lot 99 in DP1196589, 33 Power Drive, Cumbalum
Quays Reserve Sports Fields Clubhouse, Lot 62 DP263861, 96-98 Kalinga Street, Ballina
Skennars Head Sports Fields Clubhouse and Storage, Lot 13 DP1245669, 54 Skennars Head Road, Skennars Head
Wardell Tennis Courts, Fitzroy Park, Lot 18 DP1129974, 32 Bridge Drive, Wardell
Wollongbar Sports Fields Clubhouse, Lot 2 DP1168781, Elvery Lane, Wollongbar
Wollongbar Tennis Courts, Lot 2 DP1168781 Elvery Lane, Wollongbar
<i>Other</i>
Ballina Bowling and Recreation Club, 10 Stewart Street, Lennox Head
Ballina Players Theatre, Lot 7 DP668267 & Part Lot 70 DP1005100, 24 Swift Street, Ballina

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Community Land
Kentwell Centre, Treelands Reserve, Lot 246 DP755684, Ballina
Lennox Community Gardens, Lot 31 DP787876, Ocean Breeze Park, Ocean Breeze Drive, Lennox Head
Newrybar Hall, Lot 10 DP1202765, 13-15 Old Pacific Highway, Newrybar
Prospect Lake Boat Shed, Lot 105 DP871675, Links Avenue, Ballina
Wardell and District War Memorial Hall, Lot 1 DP312334, Richmond Street Wardell
Wigmore Park - Ballina Community Youth Centre, Lots 12, 13 & 14 DP1714, 32 Swift Street, Ballina
Wigmore Park – Wigmore Hall, Lots 9 to 14 DP1714 and Lot 70 DP1005100, 26-28 Swift Street, Ballina
Wollongbar Community Hall, Lot 267 DP1209571 and Lot 1 DP 600547 Hall Court, Wollongbar
Operational Land
62 Crane Street, Ballina (Meals on Wheels)
Crawford House, Lot 6 DP235088, 10 Wardell Road, Alstonville
Equestrian Centre, Lot 114 DP 755684, 70 Gallans Road, Ballina
Gap Road Alstonville Sports Fields Clubhouses and Storage Sheds, Lot 4 DP1130300, 486 Gap Road, Alstonville
Men's Shed Facility, Lot 100 DP1281698, 44 Fishery Creek Road, Ballina
Mountain Bike Track Facility, Lot 12 DP814359, 240 Bruxner Highway, Alstonville
Pimlico Hall, Lot 3 DP561944, 580 Pimlico Road, Pimlico

1B – Crown Land Leased by Council

Crown Land
<i>Preschools and Child Care Centres</i>
River Street Children's Centre and Playgroup NSW, 12 River Street, Ballina
<i>Other</i>
42 Cherry Street, Ballina, Lot 2 DP 1153927 (Commercial Property)

1C – Council Managed Crown Land

Crown Land
<i>Preschools and Child Care Centres</i>
Community Preschool Yard Area, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head (Part of Preschool is on Council owned land).
<i>Sporting Groups</i>
Ballina Tennis Clubhouse and Tennis Courts, part Dedication (D540004) for Public Recreation notified 20 August 1886, being part Lot 5612 DP1282979, Burnet Street, Ballina (Hampton Park)
Fripp Oval Clubhouse and Storage, Lot 1 DP1153430, Canal Road, Ballina
Kingsford Smith Reserve - Ballina Netball Clubhouse, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina
Kingsford Smith Park Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064 DP1118403 and Lot 153 DP1098090
Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP755745 and whole of Lot 7004 DP92641, 2 Pearcees Creek Road, Alstonville
Sailing Clubhouse, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina
Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 7292971, Canal Road, Ballina
Tintenbar Oval Clubhouse and Tennis Courts, Lot 371 DP729061, 56 Fernleigh Road, Tintenbar
Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head
<i>Surf Club Facilities</i>
Ballina Surf Club Lot 1 DP 1197191 RT 415027
Lennox Head Surf Club Lot 1-2 DP 1115145 RT 120347
Shelly Beach Surf Club Part Lot 2 DP 1192961 RT 295613
<i>Other</i>
Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962, Lot 4 DP1153430, Canal Road, Ballina
CWA Hall, Lot 8, Sec 5A, DP758047, part Captain Cook Park, River Street, Ballina
Naval and Maritime Museum (incorporating Richmond-Tweed Family History Research Centre), Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina

Note: Council may update the tables in Appendix 1 as properties are acquired, sold or crown land management arrangements are amended.

APPENDIX 2 – ELIGIBILITY AND SUITABILITY ASSESSMENT

An assessment will be conducted to determine eligibility and suitability of a lessee or licensee based on the objectives of this policy. The following factors will be considered as part of the assessment.

#	Assessment Criteria
A	<p>Community benefit</p> <p>Community benefit provided by the lessee or licensee’s activities. This includes consideration of the lessee or licensee’s existing membership base (if the lessee / licensee is an organisation with members), and the likely extent of social, cultural, physical, or intellectual benefit from the activities of the lessee or licensee conducted from the property.</p>
B	<p>Best utilisation of the property</p> <p>The proposed frequency of use of the property by the lessee or licensee (number of days per week, estimated hours per week, any months when the property will not be used, for example, if the lessee or licensee’s proposed use is seasonal).</p> <p>This includes consideration as to whether the lessee or licensee proposes to allow use of the property by other community groups (whose use is permitted at that location and is consistent with the category of the property in the Plan of Management, where applicable), to ensure the property is as fully utilised as possible.</p> <p>These criteria will not be relevant to small storage shed style buildings but may be relevant to larger properties.</p>
C	<p>Not-for-Profit Group</p> <p>Whether the lessee or licensee is an eligible Not-for-Profit Group as per the definition included in this policy.</p>
D	<p>Lessee or licensee’s capacity to comply with lease obligations</p> <p>The lessee or licensee’s capacity to pay, including whether the lessee or licensee has demonstrated it has the capacity to pay:</p> <ul style="list-style-type: none"> • rent • rates and charges • the cost of services (electricity, gas, water, waste etc) • insurance premiums to ensure the insurances required under the proposed lease are maintained throughout the term • ongoing costs of complying with legislative requirements relevant to the lessee / licensee’s proposed use • the costs of obtaining any development approvals or other approvals required for the lessee / licensee’s proposed use or required for a lease to be granted • the costs of carrying out routine repair and maintenance, to ensure the property is kept in good repair and condition

5.5 Policy (Review) - Community Property Leasing and Licensing

#	Assessment Criteria
E	<p>Lessee or licensee's previous occupancy of the property</p> <p>For renewals:</p> <ul style="list-style-type: none"> • the length of time the lessee or licensee has occupied the property. • any improvements the lessee or licensee has made to the property. • the lessee or licensee's compliance with the terms of the previous lease, including, but not limited to, compliance with repair and maintenance obligations, payment of all amounts under the lease or licence, and keeping the required insurances current during the full term. • if the lessee or licensee has had any previous issues with neighbours, whether the lessee or licensee has demonstrated a proactive approach to resolving issues
F	<p>Suitability of the property for the proposed use</p> <p>Consideration of:</p> <ul style="list-style-type: none"> • the impact of the lessee or licensee's use on the property • suitability of the property for the proposed use: <ul style="list-style-type: none"> ○ whether the proposed use is consistent with the core objectives for the category of the property in the Plan of Management, and the type of lease to be granted is authorised in the Plan of Management ○ planning requirements ○ building requirements ○ other statutory requirements
G	<p>Any works required or approvals to be obtained</p> <p>Consideration of:</p> <ul style="list-style-type: none"> • whether Council would need to do work to the property prior to any occupation, and if so, whether Council agrees to do such work (considering Council financial plans/budgets and the Delivery Program and Operational Plan) • whether the lessee or licensee would need to do work prior to any occupation, and if so, whether Council agrees to that work being carried out • any development approvals or other approvals that would be required in relation to the grant of the proposed lease, in relation to the lessee or licensee's proposed use, or in relation to any proposed works. Note that the Plan of Management may restrict the types of further development work that may take place on parcels of land.
H	<p>Financial return to Council</p> <p>Consideration of the financial return to Council and any future uses of the property that should be considered.</p>

APPENDIX 3 – MAXTRIX FOR RENT ASSESSMENT

The matrix is based on classing Not-for-Profit Groups as Tier 1 or 2 organisations. This classification is aligned to the NSW State Government Department of Fair Trading and Australian Government’s ACNC reporting requirements, where incorporated associations are classified as Tier 1 and Tier 2 based on revenue and assets. There are exceptions provided, with the classes in the matrix providing a guide as to what rent should be applied.

Criteria	Description	Rent
Tier 2 Classes (Smaller Organisations – Simplified Disclosure Framework)		
Organisational Structure	Small locally based organisation or group. Staffed by volunteers only with no or limited paid contractors and / or employees. Board of Directors or Management Committee comprised of volunteers.	Statutory Crown Lands Minimum
Funding Revenue Assets	Annual revenue \$500,000 or less. Nil or limited or infrequent government funding received. Minor capacity to generate independent revenue.	
Contribution to Council	Nil, or limited capacity to pay market rent and nil, or limited capacity to contribute towards capital works.	
Strategic Alignment	Some or limited capacity to provide “in-kind” contributions Services delivered include volunteer sporting groups and volunteer community services.	
Liquor and Gaming	Nil, or limited liquor licence and no gaming machines.	
Organisation Structure	Local branch of State or Australia Wide Organisation. Staffed by volunteers only with no or limited paid contractors and / or employees, such as: Lions Club, Rotary Club, CWA, Girl Guides NSW, Playgroup NSW, Meals on Wheels	Statutory Crown Lands Minimum
Strategic Alignment	Predominant Use of Leased or Licensed Area: <ul style="list-style-type: none"> • Community Based Pre-Schools • Surf Clubs / Surf Lifesaving Services 	Statutory Crown Lands Minimum

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

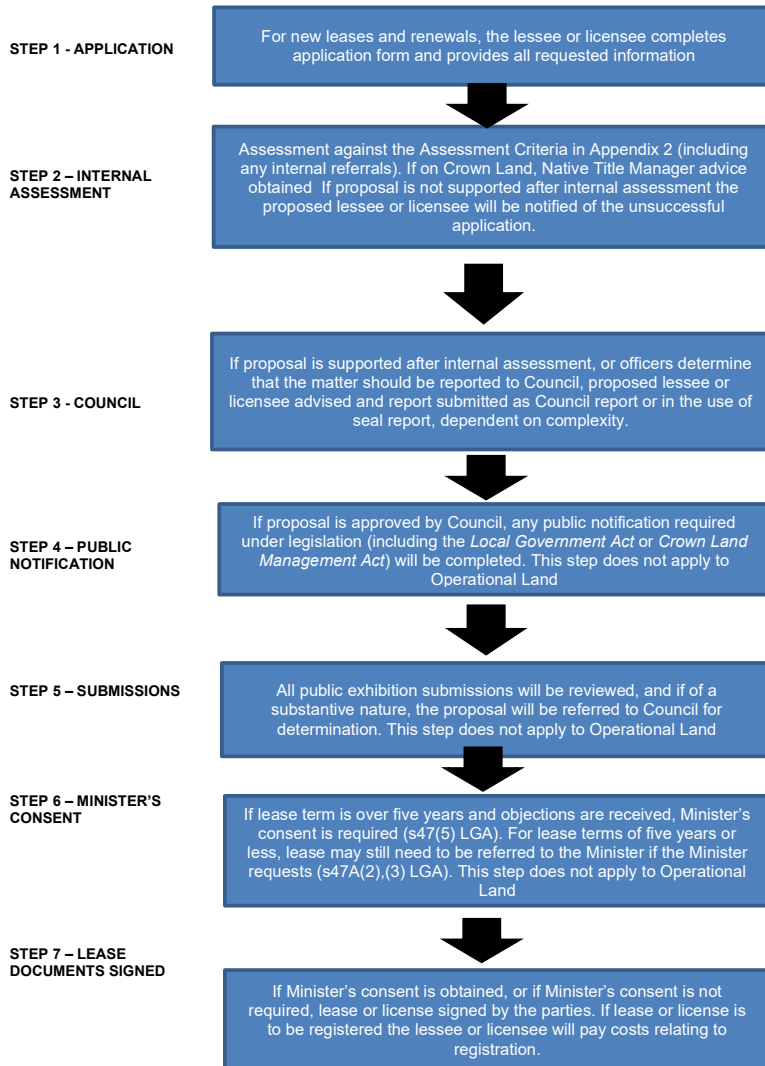
Criteria	Description	Rent
Liquor and Gaming – On Premises Liquor Licence	On-Premises liquor licence and no gaming machines	50% Market Rent
Liquor and Gaming – On Premises Liquor Licence	On-Premises liquor licence and gaming machines	100% Market Rent
Liquor and Gaming – Club Liquor Licence	Club Liquor Licence and / or gaming machines	100% Market Rent
Tier 1 (Larger Organisations – Typically required to comply with all Australian Accounting Standards)		
Organisational Structure	Medium to Large organisation. Staffed predominantly by paid employees. Organisational structure with tiers of management. Board of Directors and/or Management Committee comprised of volunteer or remunerated members	100% Market Rent.
Funding Revenue Assets	Annual revenue greater than \$500,000. Typically receives government funding to deliver operational programs / projects / activities. Generates independent revenue.	
Contribution to Council	Capacity to pay market rent and contribute towards capital works; High capacity to provide “value-in-kind” contributions	
Other		
Community Radio	Crown Land – Not-for-Profit Use Required to Reduce Crown Land Lease Fee Charged to Council - Paradise FM	75% to 100% of Market Rent

Application of Matrix

This matrix provides a guide only and Council can resolve to charge a different rent based on the circumstances relating to the lease or licence. Examples where this may arise, include, but are not limited to:

- where the lessee or licensee has received approval from Council to sublet or licence part of the property and under the arrangement the lessee or licensee will receive from the sub lessee or licensee income that is more than what the lessee or licensee will need to meet its financial commitments under the lease or licence with Council (including for example the costs of meeting repair and maintenance obligations, insurance costs, etc)
- where Council has completed improvement works at the lessee or licensee’s request, and part of the costs of that work is to be recovered by way of a higher rent
- whilst the lessee or licensee continues to predominantly use the property for sporting, recreation or other community purposes, there are commercial activities undertaken, of such a scale and magnitude that Council determines a higher rent is appropriate.

APPENDIX 4 – GENERAL LEASING PROCESS



The above is the general process that will apply to most leases and licences covered by this policy.

There may be specific issues or proposed uses that trigger additional steps in the process.

APPENDIX 5 – MARKET RENT REBATE

As many leases and licenses for the properties listed in this policy result in rent rebates (i.e. the rent charged is below the market rent based on the unimproved or improved land value), it is important that there is transparency in respect to the overall level of assistance provided.

To assist with this, the following tables duplicate the properties listed in Appendix 1, with the following extra information included:

- Latest unimproved land value for the leased or licenced property. This information is sourced from Council’s rating records, with Council provided new land values every three years.

A land value may not always be available and at times the land value may not match exactly the leased or licensed area. The land value figures should be taken as a guide only.

- Estimated market rent based on a 5% return on the land value. 5% is an indicative percentage and this benchmark may change as interest rates move up and down.
- Current rent classification

These figures help demonstrate the community benefit.

This Appendix will be updated every four years when this policy is reviewed, and new unimproved land values are available.

1A – Council Owned Properties (Community and Operational Land)

Community Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
Preschools and Child Care Centres			
Alstonville Community Preschool, Lot 1 DP1205880, 1A Freeborn Place, Alstonville	79,500	4,000	Minimum
Ballina Aboriginal Child and Family Centre, Lot 1 DP1181025, 10 Hayman Street, Ballina	284,000	14,000	Minimum
Ballina Fox Street Community Preschool, Lot 1 DP781710, 84 Fox Street, Ballina	963,000	48,000	Minimum
Lennox Head Community Preschool, 21 Mackney Lane, Lennox Head – Lot 466 DP 729058 and Lot 415 DP 1244339 (part of yard is on Crown Land Reserve 97839).	538,000	27,000	Minimum
Rainbow Children’s Centre, Lot 210 DP735156, 4 John Sharpe Street, Ballina	1,220,000	61,000	Minimum
Wollongbar Community Preschool, Lot 266 DP1209571, 5 Hall Court, Wollongbar	1,560,000	78,000	Minimum
Sporting Groups			
Cawarra Park Buildings, Cawarra Street, Ballina, Lots 2 and 3, Section 37 DP758047	905,000	45,000	Minimum
Chickiba Sports Fields Clubhouse, Lot 207 DP851318, Chickiba Drive, Ballina	2,390,000	120,000	Minimum

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Community Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
Crawford Park Sports Fields Clubhouse, Lot 2 DP1205880, Alston Avenue, Alstonville	1,420,000	71,000	Minimum
Geoff Watt Sports Fields Clubhouse, Lot 85 DP239781, 2 Deegan Drive, Alstonville	958,000	48,000	Minimum
Lyle Park Sports Fields Clubhouse, Lot 106 DP807798, Lyle Park, Cerreto Circuit, Wollongbar	871,000	44,000	Minimum
Megan Crescent Sports Fields Clubhouse, Lot 74 DP774896, 20 Megan Crescent, Lennox Head	765,000	38,000	Minimum
Power Drive Sports Fields Clubhouse, Lot 99 in DP1196589, 33 Power Drive, Cumbalum	507,000	25,000	Minimum
Quays Reserve Sports Fields Clubhouse, Lot 62 DP263861, 96-98 Kalinga Street, Ballina	765,000	38,000	Minimum
Skennars Head Sports Fields Clubhouse and Storage, Lot 13 DP1245669, 54 Skennars Head Road, Skennars Head	1,440,000	72,000	Minimum
Wardell Tennis Courts, Fitzroy Park, Lot 18 DP1129974, 32 Bridge Drive, Wardell	94,500	5,000	Minimum
Wollongbar Sports Fields Clubhouse, Lot 2 DP1168781, Elvery Lane, Wollongbar	1,850,000	93,000	Minimum
Wollongbar Tennis Courts, Lot 2 DP1168781 Elvery Lane, Wollongbar			
Other			
Ballina Bowling and Recreation Club, 10 Stewart Street, Lennox Head	1,270,000	64,000	Market
Ballina Players Theatre, Lot 7 DP668267 & Part Lot 70 DP1005100, 24 Swift Street, Ballina	342,000	17,000	Minimum
Kentwell Centre, Treelands Reserve, Lot 246 DP755684, Ballina	1,000,000	50,000	Market
Lennox Community Gardens, Lot 31 DP787876, Ocean Breeze Park, Ocean Breeze Drive, Lennox Head	157,000	8,000	Minimum
Newrybar Hall, Lot 10 DP1202765, 13-15 Old Pacific Highway, Newrybar	430,000	22,000	Minimum
Prospect Lake Boat Shed, Lot 105 DP871675, Links Avenue, Ballina	1,900,000	95,000	Minimum
Wardell and District War Memorial Hall, Lot 1 DP312334, Richmond Street Wardell	663,000	33,000	Minimum
Wigmore Park - Ballina Community Youth Centre, Lots 12, 13 & 14 DP1714, 32 Swift Street, Ballina	1,260,000	63,000	Minimum
Wigmore Park – Wigmore Hall, Lots 9 to 14 DP1714 and Lot 70 DP1005100, 26-28 Swift Street, Ballina			
Wollongbar Community Hall, Lot 267 DP1209571, Hall Court, Wollongbar	314,000	16,000	Minimum
Operational Land			
62 Crane Street, Ballina (Meals on Wheels)	869,000	43,000	Minimum
Crawford House, Lot 6 DP235088, 10 Wardell Road, Alstonville	545,000	27,000	Minimum

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Community Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
Equestrian Centre, Lot 114 DP 755684, 70 Gallans Road, Ballina	1,020,000	51,000	Minimum
Gap Road Alstonville Sports Fields Clubhouses and Storage Sheds, Lot 4 DP1130300, 486 Gap Road, Alstonville	834,000	42,000	Minimum
Men's Shed Facility, Lot 100 DP1281698, 44 Fishery Creek Road, Ballina	414,000	21,000	Minimum
Mountain Bike Track Facility, Lot 12 DP814359, 240 Bruxner Highway, Alstonville	593,000	30,000	Minimum
Pimlico Hall, Lot 3 DP561944, 580 Pimlico Road, Pimlico	71,600	4,000	Minimum

1B – Crown Land Leased by Council

Crown Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
<i>Preschools and Child Care Centres</i>			
River Street Children's Centre and Playgroup NSW, 12 River Street, Ballina	706,000	35,000	Minimum
<i>Other</i>			
42 Cherry Street, Ballina, Lot 2 DP 1153927	272,000	14,000	Part Market

1C – Council Managed Crown Land

Crown Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
<i>Preschools and Child Care Centres</i>			
Community Preschool Yard Area, Reserve 97839 for Kindergarten notified 12 July 1985 being Lot 466 DP 729058, Mackney Lane, Lennox Head (Part of Preschool is on Council owned land).	538,000	27,000	Minimum
<i>Sporting Groups</i>			
Ballina Tennis Clubhouse and Tennis Courts, part Dedication (D540004) for Public Recreation notified 20 August 1886, being part Lot 5612 DP1282979, Burnet Street, Ballina (Hampton Park)	1,170,000	59,000	Minimum
Fripp Oval Clubhouse and Storage, Lot 1 DP1153430, Canal Road, Ballina	941,000	47,000	Minimum
Kingsford Smith Reserve - Ballina Netball Clubhouse, part Reserve 82164 for Public Recreation notified 20 November 1959, being part Lot 7064 DP1118403, Owen Street, Ballina	2,210,000	111,000	Minimum and

5.5 Policy (Review) - Community Property Leasing and Licensing

Ballina Shire Council

Property Leasing and Licensing – Nor-for-Profit Groups

Crown Land	Land Value 2025 (\$)	5% Return (\$)	Current Rent (\$)
Kingsford Smith Park Sports Complex, Part Reserve No. 82164 for purpose of Public Recreation notified on 20 November 1959 being part Lot 7064 DP1118403 and Lot 153 DP1098090			Ballina Hockey Club 50% Market
Lumley Park Tennis Courts, part Reserve 575670 for Public Recreation notified 12 December 1924 being part of Lot 333 DP755745 and whole of Lot 7004 DP92641, 2 Pearces Creek Road, Alstonville	323,000	16,000	Minimum
Sailing Clubhouse, part reserve 87280 for Public Recreation notified 25 July 1969, being part Lot 1 DP 1051004, River Street Ballina	1,950,000	98,000	Minimum
Saunders Oval Clubhouse, part Reserve 83963 for Public Recreation notified 24th August 1962 being part of Lot 495 DP 729297I, Canal Road, Ballina	No Land Value	N/A	Minimum
Tintenbar Oval Clubhouse and Tennis Courts, Lot 371 DP729061, 56 Fernleigh Road, Tintenbar	98,200	5,000	Minimum
Williams Reserve Clubhouse, Reserve No. Part 82927, Part Lot 473 DP 729088, Park Lane Lennox Head	1,270,000	64,000	Minimum
Surf Club Facilities			
Ballina Surf Club Lot 1 DP 1197191 RT 415027	348,000	17,000	Minimum
Lennox Head Surf Club Lot 1-2 DP 1115145 RT 120347	976,000	49,000	Minimum
Shelly Beach Surf Club Part Lot 2 DP 1192961 RT 295613	No Land Value	N/A	Minimum
Other			
Ballina Community Garden, Reserve No. R83963 for Public Recreation notified on 24 August 1962, Lot 4 DP1153430, Canal Road, Ballina	No Land Value	N/A	Minimum
CWA Hall, Lot 8, Sec 5A, DP758047, part Captain Cook Park, River Street, Ballina	42,900	2,000	Minimum
Naval and Maritime Museum (incorporating Richmond-Tweed Family History Research Centre), Part Reserve 97786 for Public Recreation and Museum notified 10 May 1985, being part Lot 502 DP 729388, Regatta Avenue, Ballina	988,000	49,000	Minimum