



NAMBUCCA VALLEY COUNCIL

ORDINARY COUNCIL MEETING AGENDA ITEMS 14 NOVEMBER 2024

Council has adopted the following Vision and Mission Statements to describe its philosophy and to provide a focus for the program areas detailed in its Delivery Program.

Our Vision

Nambucca Valley ~ Living at its best.

Our Mission Statement

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

Our Values in Delivery

- *Professionalism:*
Show drive and motivation, innovation, risk awareness, an awareness of strengths and weaknesses and a commitment to learning.
- *Accountability:*
Take responsibility for own actions, act in line with legislation and policy and be open and honest.
- *Community Focus:*
Commit to delivering customer and community focused services in line with strategic objectives.
- *Team work:*
Be a respectful, inclusive and reliable team member, collaborate with others and value diversity.
- *Safety:*
Strive towards a safety focused workplace culture to ensure the wellbeing of staff, their families and the community.
- *Value for Money:*
Achieve results through efficient use of resources and a commitment to quality outcomes.
- *Leadership (Managers):*
Engage and motivate staff, develop capability and potential in others and champion positive change.

Council Meetings: Overview and Proceedings

Council meetings are held on the **last Thursday** of each month AND on the Thursday two weeks before the Thursday meeting. Both meetings commence at **5.30 pm**. Meetings are held in the Council Chamber at Council's Administration Centre—44 Princess Street, Macksville (unless otherwise advertised).

How can a Member of the Public Speak at a Council Meeting?

1 Addressing Council with regard to an item on the meeting agenda:

Members of the public are welcome to attend meetings and address the Council. Registration to speak may be made by application on Council's website <https://nambucca.nsw.gov.au/addresscouncil> before 11.00 am on a meeting day. The relevant agenda item will be brought forward at 5.30 pm in agenda order, and dealt with following preliminary business items on the agenda. Public addresses are limited to five (5) minutes per person with a limit of two people speaking for and two speaking against an item.

2 Public forum address regarding matters not on the meeting agenda:

Nambucca Valley Council believes that the opportunity for any person to address the Council in relation to any matter which concerns them is an important demonstration of local democracy and our values. Accordingly Council allows members of the public to address it on matters not listed in the agenda provided the request is received before publication of the agenda (registration to speak may be made by application on Council's website <https://nambucca.nsw.gov.au/addresscouncil> before 11.00 am on a meeting day) and the subject of the address is disclosed and recorded on the agenda.

In relation to regulatory or enforcement matters it needs to be understood that the Council has certain legal obligations which will generally prevent the Council from providing an immediate response to any concerns or grievances which may be raised in the public forum. In particular the Council has to provide procedural fairness and consider all relevant information.

Generally this cannot be done with matters which have come direct to Council via the public forum. So the fact that the Council may not immediately agree to the representations and seek a report instead should not be taken to indicate disagreement or disinterest.

Where the subject matter concerns an on-going complaint which has been the subject of previous investigation by Council staff and/or external bodies such as the NSW Ombudsman, the General Manager in consultation with the Mayor will decide on whether or not the person will be allowed to speak in the public forum.

Speakers should address issues and refrain from making personal attacks or derogatory remarks. You must treat others with respect at all times.

Council Meeting Audio Recordings

Council audio records all Council Meetings and the recordings are posted on the website once the Minutes are released. Please note that the audio files could be quite large and may take a while to download.

Meeting Agenda

These are available Council's website: www.nambucca.nsw.gov.au

For Councillors

If you would like to submit a Notice of Motion or Question with Notice for an upcoming Council meeting, please use the link [Councillor Notice of Motion/Questions with Notice](#)



4.00PM – BRIEFING ON ITEM 11.1 – AMENDMENT TO THE NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010 – HORTICULTURE

4.30PM – ESTABLISH ABORIGINAL ADVISORY WORKING GROUP

NAMBUCCA VALLEY COUNCIL

ORDINARY COUNCIL MEETING - 14 NOVEMBER 2024

Acknowledgement of Country *(Mayor)*

I would like to acknowledge the Gumbaynggirr people who are the Traditional Custodians of this Land. I would also like to pay respect to the elders both past and present and extend that respect to any Aboriginal People present.

Council Meeting Audio Recordings *(Mayor)*

This meeting is being webcast and those in attendance should refrain from making any defamatory statements.

AGENDA

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Statement of ethical obligations:

The Mayor and Councillors are reminded of their Oath/Affirmation of office made under Section 233A of the *Local Government Act 1993* and their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

NAMBUCCA VALLEY COUNCIL



DISCLOSURE OF INTEREST AT MEETINGS

Name of Meeting: _____
Meeting Date: _____
Item/Report Number: _____
Item/Report Title: _____

I _____ declare the following interest:
(name)

Pecuniary – must leave chamber, take no part in discussion and voting.

Non Pecuniary – Significant Conflict – Recommended that Councillor/Member leaves chamber, takes no part in discussion or voting.

Non-Pecuniary – Less Significant Conflict – Councillor/Member may choose to remain in Chamber and participate in discussion and voting.

For the reason that _____

Signed _____ Date _____

Council's Email Address – council@nambucca.nsw.gov.au

(Instructions and definitions are provided on the next page).

Definitions

(Local Government Act and Code of Conduct)

Pecuniary – An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

(Local Government Act, 1993 section 442 and 443)

A Councillor or other member of a Council Committee who is present at a meeting and has a pecuniary interest in any matter which is being considered must disclose the nature of that interest to the meeting as soon as practicable.

The Council or other member must not take part in the consideration or discussion on the matter and must not vote on any question relating to that matter. *(Section 451)*.

Non-pecuniary – A private or personal interest the council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

If you have declared a non-pecuniary conflict of interest you have a broad range of options for managing the conflict. The option you choose will depend on an assessment of the circumstances of the matter, the nature of your interest and the significance of the issue being dealt with. You must deal with a non-pecuniary conflict of interest in at least one of these ways.

- It may be appropriate that no action is taken where the potential for conflict is minimal. However, council officials should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (for example, participate in discussion but not in decision making or visa-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict or reallocating the conflicting duties to another officer).
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply (particularly if you have a significant non-pecuniary conflict of interest).

SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST

- 1 This form must be completed using block letters or typed.
- 2 If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.25 of the Code of Conduct – Councillors and 4.37 of the Code of Conduct - Council for the Nambucca Valley Council (the Codes of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Codes of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Codes of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

“Relative” is defined by clause 4.4 of the Codes of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests byin the matter of
 which is to be considered at a meeting of the

 to be held on the.....day of 20

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature:

Date:

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

NAMBUCCA VALLEY COUNCIL

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

The following document is the minutes of the Ordinary Council meeting held **31 OCTOBER 2024**. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on Thursday 14 November 2024 and therefore subject to change. Please refer to the minutes of 14 November 2024 for confirmation.

PRESENT

Cr Gary Lee (Mayor)
Cr Martin Ballangarry OAM
Cr David Jones
Cr Ljubov Simson
Cr Troy Vance

Cr James Angel
Cr Susan Jenvey
Cr Tamara McWilliam
Cr Jane Smith

ALSO PRESENT

Bede Spannagle (General Manager)
David Moloney (Director Engineering Services)
Evan Webb (Chief Financial Officer)

Matthew Sykes (Director Corporate Services)
Daniel Walsh (Manager Development Environment)
Suzanne Sullivan (Minute Secretary)

APOLOGIES

Nil

ACKNOWLEDGMENT OF COUNTRY

I would like to acknowledge the Gumbaynggirr people who are the Traditional Custodians of this Land. I would also like to pay respect to the elders both past and present and extend that respect to any Aboriginal People present.

COUNCIL MEETING AUDIO RECORDINGS

This meeting is being webcast and those in attendance should refrain from making any defamatory statements

PRAYER

Minister Garry White from the Nambucca River Presbyterian Churches offered a prayer on behalf of the Nambucca Minister's Association.

DISCLOSURE OF INTEREST

Councillor Jenvey declared a non-pecuniary - significant conflict of interest in *Item 11.1 Planning Proposal – 44 Kookaburra Lane, Bowraville* under the Local Government Act as Cr Jenvey, whilst not a near neighbour, has views onto the subdivision.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING

SUBJECT: CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING 17 OCTOBER 2024

335/24 **RESOLVED:** (Angel/Jones)

That the minutes of the Ordinary Council Meeting of 17 October 2024 be confirmed.

NOTICE OF MOTION - CR VANCE

ITEM 5.1 SF3422 311024 Notice of Motion - Request for Leave - CR Troy Vance 17
December 2024 to 11 January 2025

336/24 **RESOLVED:** (Vance/Angel)

That Council grants a leave of absence to Cr Troy Vance in accordance with Section 234(1)(d) of the *Local Government Act 1993* for the period of 17 December 2024 to 11 January 2025 inclusive.

PUBLIC FORUM AND DELEGATIONS

That the following Public Forum be heard:

- i Raewyn Macky – LEP Amendments*
- ii Professor Kirsten Benkendorff – Intensive Horticulture*

PUBLIC FORUM

- i Raewyn Macky addressed Council with notes being placed on 56164/2024 SF3424*

337/24 **RESOLVED:** (Jones/Jenvey)

That Council grant the speaker Raewyn Macky an extension of time.

- ii Professor Kirsten Benkendorff addressed Council with notes being placed on 56950/2024 SF3424*

338/24 **RESOLVED:** (Jenvey/Jones)

That Council grant the speaker Professor Kirsten Benkendorff an extension of time.

That the following delegations be heard:

- iii Ilse Noble, on behalf of South Arm Hall Committee*

DELEGATIONS

- iii Ilse Noble addressed Council with notes being placed on 57013/2024 SF3424*

NAMBUCCA VALLEY COUNCIL

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

Bring Forward Item 12.2 Response to Matters Raised – Public Forum 11 July 2024

339/24 **RESOLVED** (Angel/Smith)

That Council bring forward Item 12.2 Response to Matters Raised – Public Forum 11 July 2024

ITEM 12.2 SF3424 311024 Response to Matters Raised - Public Forum 11 July 2024

340/24 **RESOLVED:** (Jenvey/Angel)

That Council:

- 1 **Notes the report in response to the matters raised by public forum speakers at the Ordinary Meeting of Council on 11 July 2024.**
- 2 **Prioritise a wet room in future budgets for South Arm Hall.**
- 3 **Receive a report outlining a list of projects and priorities for each Council hall.**

ASKING OF QUESTIONS WITH NOTICE

There were no questions with notice.

QUESTIONS FOR CLOSED MEETING WHERE DUE NOTICE HAS BEEN RECEIVED

There were no questions for Closed Meeting where due notice has been received.

GENERAL MANAGER REPORTS

ITEM 9.1 SF959 311024 Outstanding Actions and Reports

341/24 **RESOLVED:** (Jones/McWilliam)

That Council notes the list of outstanding actions and reports.

ITEM 9.2 SF45 311024 2024 LGNSW Annual Conference Voting Delegates

342/24 **RESOLVED:** (Angel/Smith)

That Council change the third voting delegate from Councillor Ballangarry to Councillor Smith for the 2024 Local Government NSW (LGNSW) Annual Conference.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

DIRECTOR CORPORATE SERVICES REPORTS

ITEM 10.1 SF1438 311024 State of Our Valley Report- Progress Report on Implementing the 2022/23 to 2031/32 Community Strategic Plan

343/24 **RESOLVED:** (Jenvey/Jones)

That Council:

- 1 **Notes the State of Our Valley Report on the achievements or otherwise of the actions within the Nambucca Valley Council 2022/23 to 2031/32 Community Strategic Plan.**
 - 2 **Adopt the State of the Valley report with minor amendment;
- Addition of 'Council promoting the work of local artists and offers professional development and access to grants programs' on page 32 for achievements in relation to continued involvement with Arts Mid North Coast (LW1).**
-

ITEM 10.2 SF3503 311024 Community Strategic Plan Consultation Engagement Report

344/24 **RESOLVED:** (Jenvey/Smith)

That Council notes the Community Strategic Plan Consultation Engagement Report from Locale Consulting.

ITEM 10.3 SF3528 311024 Investment Report for September 2024

345/24 **RESOLVED:** (Angel/Smith)

That Council:

- 1 **Notes the Chief Financial Officer's report on Investments for the period September 2024.**
 - 2 **Adopts the certification of the Responsible Accounting Officer for the period of September 2024.**
-

ITEM 10.4 SF1031 311024 Draft CS38 Artificial Intelligence Governance Policy

346/24 **RESOLVED:** (Angel/Jenvey)

That Council adopts the new draft policy CS 38 Artificial Intelligence Governance.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

ITEM 10.5 SF3504 311024 Request for a 2024/2025 Section 356 Donation - Assist with purchases of AED units for Girralong community

347/24 **RESOLVED:** (Jones/Smith)

That Council approves a Section 356 donation of \$500 to the Girralong Residents' Group Automatic Electronic Defibrillator (AED) Project Team.

ITEM 10.6 SF963 311024 Nominations to Council Section 355 Committees of Management

348/24 **RESOLVED:** (Angel/McWilliam)

That Council:

- 1 Accepts the new nominations to the following Section 355 Committees of Management as per the table in the body of the report.**
 - 2 Provides the successful nominees with a copy of the Terms of Reference, Code of Conduct for Delegates, Section 355 Committee Guidelines and Volunteer Safety Handbook.**
-

MANAGER DEVELOPMENT AND ENVIRONMENT REPORTS

ITEM 11.1 SF3507 311024 Planning Proposal - 44 Kookaburra Road, Bowraville

349/24 **RESOLVED:** (Angel/Jones)

That Council make the local environmental plan as outlined within the planning proposal contained within attachment 1 in accordance with section 3.36(2) of the *Environmental Planning and Assessment Act 1979*.

Upon being put to the meeting, the motion was declared carried.

For the Motion: Councillors Angel, Ballangarry, Jones, Lee, McWilliam, Simson, Smith and Vance
Total (8)

Against the Motion: Nil
Total (0)

Councillor Susan Jenvey left the meeting before the commencement of this item, the time being 7:15 PM
Councillor Susan Jenvey returned to the meeting at the completion of this item, the time being 7:16 PM

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

ITEM 11.2 SF3410 311024 Undetermined Development Applications greater than 12 months, where submissions have been received, or where an application to vary development standards under Clause 4.6 of the Nambucca LEP 2010 was approved under staff delegation

350/24 **RESOLVED:** (Angel/Smith)

That Council notes the information on undetermined development applications greater than 12 months, or where submissions have been received to 22 October 2024, and development applications determined from 3 – 22 October 2024 where an application to vary development standards under Clause 4.6 of the Nambucca LEP 2010 was approved under delegation.

ITEM 11.3 DA2022/377 311024 Community Facility (Gumbaynggirr Keeping Place) - Modification to Development Consent and Subdivision Certificate for Two Lot Subdivision

351/24 **RESOLVED:** (Angel/Jenvey)

That Council:

- 1 Approves the application to modify the consent for DA2022/377 in accordance with the determination shown in attachment 1 and the plans shown in attachment 2.
- 2 Notes the Subdivision Certificate for DA2022/377 will be issued upon compliance with the consent conditions, including a Notice of Compliance from Essential Energy. Further, the applicant be advised that if the subdivision proceeds in advance of the Occupation Certificate they will need to ensure any required easements are identified in advance of the construction.
- 3 Notes that the Land Council entity be responsible for all costs associated with the transfer of the land including but not limited to infrastructure, survey, legal, stamp duty and plan registration.
- 4 Enter a deed of agreement prior to the commencement of construction between the parties wherein the Council agrees to the transfer of ownership of the land for one dollar upon the issue of an Occupation Certificate and where the Land Council entity agrees to accept the transfer of ownership.
- 5 Include a condition of transfer of the land in the deed that in the event the Land Council entity is wound up or seeks to transfer the land for any reason, Council have first right of refusal to resume ownership of the land for one dollar.

Upon being put to the meeting, the motion was declared carried.

For the Motion: Councillors Angel, Ballangarry, Jenvey, Jones, Lee, McWilliam, Simson, Smith and Vance

Total (9)

Against the Motion:

Nil

Total (0)

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

ITEM 11.4 SF3410 311024 2024 August - Approved Construction Certificates and Complying Development Applications

352/24 **RESOLVED:** (Angel/McWilliam)

That Council notes the Construction Certificates and Complying Development Certificates approved for August 2024.

ITEM 11.5 SF3410 311024 2024 August - Development Applications and Complying Development Applications Received

353/24 **RESOLVED:** (Jenvey/Simson)

That Council notes the Development Applications and Complying Development Applications received in August 2024.

ITEM 11.6 SF3410 311024 2024 September - Approved Construction Certificates and Complying Development Applications

354/24 **RESOLVED:** (Smith/Jones)

That Council notes the Construction Certificates and Complying Developments approved for September 2024.

ITEM 11.7 SF3410 311024 2024 September - Development Applications and Complying Development Applications Received

355/24 **RESOLVED:** (Smith/Angel)

That Council notes the Development Applications and Complying Developments received in September 2024.

ITEM 11.8 SF1148 311024 Council's Rangers' Report and Penalties Issued for August 2024

356/24 **RESOLVED:** (Ballangarry/Simson)

That Council notes the Rangers' impounding statistics and the penalties issued for August 2024.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

DIRECTOR ENGINEERING SERVICES REPORTS

ITEM 12.1 SF1676 311024 Update on the 2024/25 Civil and Building Capital Works Report
as at 30 September 2024

357/24 **RESOLVED:** (Jenvey/Smith)

That Council notes the update on the 2024/25 Civil and Building Capital Works as at 30 September 2024.

ITEM 12.2 - was dealt with under delegations.

COUNCIL IN CLOSED MEETING (CLOSED TO THE PUBLIC)

358/24 **RESOLVED:** (Jenvey/Ballangarry)

- 1 That Council consider any written representations from the public as to why the Meeting should not be Closed to the public.
- 2 That Council move into Closed Meeting to discuss the matters for the reason(s) listed below.

Reason reports are in Closed Meeting:

GENERAL MANAGER REPORTS

For Confidential Business Paper in Closed Meeting

ITEM 13.1 SF3420 311024 Matters Regarding Realised or Potential Losses

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (g) of the Local Government Act, 1993, on the grounds that the report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 31 OCTOBER 2024

CLOSED MEETING

The Ordinary Council Meeting's Meeting **IN CLOSED MEETING** commenced at 7:31PM.

RESUME IN OPEN MEETING

359/24 **RESOLVED:** (Angel/Smith)

That Ordinary Council Meeting resume in Open Meeting. The Ordinary Council Meeting resumed **IN OPEN MEETING** at 7:41PM.

FROM COUNCIL IN CLOSED MEETING

The General Manager then read the Confidential resolutions.

GENERAL MANAGER REPORTS

For Confidential Business Paper in Closed Meeting

ITEM 13.1 SF3420 311024 Matters Regarding Realised or Potential Losses

360/24 **RESOLVED:** (Angel/Smith)

That Council notes the information concerning incidents where there is a realised or potential loss of funds and/or reputation.

CLOSURE

There being no further business the Mayor then closed the meeting the time being 7:43PM.

Confirmed and signed by the Mayor on **14 NOVEMBER 2024**

Cr Gary Lee
MAYOR
(CHAIRPERSON)

NOTICE OF MOTION

ITEM 5.1 SF3422 141124 NOTICE OF MOTION - FEASIBILITY STUDY AND FUNDING TO CONSTRUCT A SEA WALL AT THE SOUTHERN SIDE OF THE NAMBUCCA RIVER

AUTHOR/ENQUIRIES: Gary Lee, Mayor

SUMMARY:

Studies have shown that sand migrates north on the coast and therefore is directed into the Nambucca River by the Northern Wall which was established in 1915 by the Government of the day. The Government being responsible for the Coastline, I propose a Southern Wall be put in place including the possibility of dredging a navigable channel up the river for watercraft would be beneficial to all and allow Emergency Services ie Sea Safety to use the Nambucca River for Sea Rescues and many other water users plus allows the river to be flushed out in major flood times. This will reduce sand build up in the river and reduce many areas of flood prone land.

RECOMMENDATION:

That Council writes to the NSW Minister for Transport The Hon Jo Haylen and Member for Oxley Michael Kemp MP to:

- 1 Fund a feasibility study into whether a Southern Sea Wall will stop sand build up and create access to Nambucca River
- 2 Fund a feasibility study into dredging the Nambucca River, to allow access to Maritime Rescue.

OPTIONS:

- 1 Do nothing/business as usual
- 2 Proposed recommendation
- 3 Alternative option

DISCUSSION:

CONSULTATION:

SUSTAINABILITY ASSESSMENT: N/A

Risk Analysis: N/A

Delivery Program Action

CC12 - Provide support for local emergency services

FINANCIAL IMPLICATIONS: N/A

ATTACHMENTS:

There are no attachments for this report.

NOTICE OF MOTION

ITEM 5.2 SF3422 141124 NOTICE OF MOTION - REQUEST THAT STAFF INVESTIGATE A PROFESSIONAL STYLE NOTICEBOARD FOR COMMUNITY INFORMATION FOR NAMBUCCA HEADS TOWN CENTRE

AUTHOR/ENQUIRIES: Susan Jenvey, Councillor

SUMMARY:

Notice boards play a pivotal role in displaying information, announcements and updates to community members and visitors alike. They can promote a sense of belonging and social cohesion in a community by sharing information about events and activities. The noticeboards in Bowra Street Nambucca Heads are on disparate shop fronts and lack the cohesion of providing a central hub for the displayed information.

RECOMMENDATION:

That staff report on the feasibility of establishing a professional style noticeboard for community information in Bowra and Ridge Street CBD areas of Nambucca Heads.

OPTIONS:

- 1 Do nothing/business as usual
- 2 Proposed recommendation

DISCUSSION:

A community notice board has long been sought after in Nambucca Heads. In the past there has been no easy solution to achieve this. Now that there is a cultural precinct under awnings there may be a way forward. Other possible ideas include an awning over a noticeboard on pedestrian accesses to Fletcher Street, at the bus stop outside the police station, or a negotiated space with a landlord.



ITEM 5.2 NOTICE OF MOTION - REQUEST THAT STAFF INVESTIGATE A PROFESSIONAL STYLE NOTICEBOARD FOR COMMUNITY INFORMATION FOR NAMBUCCA HEADS TOWN CENTRE



This is Urunga's Community Noticeboard

GENERAL MANAGER'S COMMENT:

Within the last two years, Council has not received any requests for a community noticeboard in Nambucca Heads.

There is a large, well-used community noticeboard at Nambucca Plaza which I believe is managed by the Plaza management. These noticeboards require someone to manage and maintain them, and as you can see by the photo above, notices and business cards can spill over onto the surrounding surface and make the area look untidy.

Physical noticeboards have largely been replaced by online sites such as the Nambucca Valley Community Notice Board on Facebook which has 12,600 members.

If Council feels there is a need for a physical noticeboard in the Nambucca CBD area, when staff resources become available, an investigation, scoping and pricing could be undertaken and included in the budget process for Councils consideration.

CONSULTATION:

NA

SUSTAINABILITY ASSESSMENT:

NA

FINANCIAL IMPLICATIONS:

There is some staff resourcing required to implement the recommendation.

ATTACHMENTS:

There are no attachments for this report.

GENERAL MANAGER'S REPORT

ITEM 9.1 SF1535 141124 LICENCE OF PART LOT 3/DP1289987 TO BOWRAVILLE RECREATION CLUB CO-OP LTD

AUTHOR/ENQUIRIES: Andrea Baillie, Property Officer

SUMMARY:

At its meeting of 15 August 2024, Council resolved to enter into a 5 year licence agreement with the Bowraville Recreation Club Co-Op Ltd for part lot 3/DP1289987 for the permitted use of operating a golf course, and to place the draft licence on public exhibition for 28 days.

The document was placed on public exhibition from 23 August 2024 to 20 September 2024 with no submissions being received during this period.

This report seeks resolution to proceed with the new licence accordingly.

RECOMMENDATION:

That Council:

- 1 Notes nil submissions were received during the public exhibition period**
- 2 Proceeds with a new licence the Bowraville Recreation Club Co-Op Ltd for part lot 3/DP1289987 for the permitted use of operating a golf course.**

OPTIONS:

- 1 Do nothing/business as usual
- 2 Proposed recommendation

DISCUSSION:

Council Resolution 261/24 adopted the recommendation to enter into a new licence to the Bowraville Recreation Club Co-Op Ltd for part lot 3/DP1289987 for the permitted use of operating a golf course and that the draft licence be publicly exhibited for 28 days.

The public exhibition period has now closed with no submissions being received during the period.

The draft licence has been agreed to by the licensee subject to the formal approval of Council. Such approval is now sought to proceed with the licence accordingly.

CONSULTATION:

Bowraville Recreation Club Co-Op Ltd
Community via public exhibition

SUSTAINABILITY ASSESSMENT: N/A**Risk Analysis**

Risk in this instance is presented if there is no management of the golf course, resulting in the loss of provision of golf to the broader community.

Continuing to licence the community land to an on-site, experienced entity who operates, manages and maintains the course mitigates that risk.

ITEM 9.1 LICENCE OF PART LOT 3/DP1289987 TO BOWRAVILLE RECREATION CLUB CO-OP LTD

Delivery Program Action

CC2 - Use information from the community in decision making

LW6 - Maintain Sporting Facilities

FINANCIAL IMPLICATIONS:

Direct and indirect impact on current and future budgets

Nil

Working funds – justification for urgency and cumulative impact

Nil


Impacts on 10 Year Long Term Financial Plan

Nil

Service level changes and resourcing/staff implications

Business as usual with nil additional impact.

ATTACHMENTS:

- 1  39538/2024 - Draft Licence Agreement - Bowraville Recreation Club Co-Op Ltd - Bowraville Golf Course

GENERAL MANAGER'S REPORT

**ITEM 9.2 SF1092 141124 DRAFT PLAN OF MANAGEMENT - BOWRAVILLE
RACECOURSE RESERVE 540002 - PUBLIC EXHIBITION**

AUTHOR/ENQUIRIES: Andrea Baillie, Property Officer

SUMMARY:

At its meeting of 31 August 2023, Council resolved to authorise submission of the Draft Plan of Management for Bowraville Racecourse Reserve 540002 to the Department of Planning and Environment, Crown Lands for Ministerial review and consent to proceed with the formal adoption process.

This process has been completed, with the Minister of the now named Department of Planning Housing & Infrastructure Crown Lands providing approval to progress to public exhibition and Minister's consent to adopt.

This report presents the documents to Council and seeks resolution to proceed to public exhibition and continue with the adoption process.

RECOMMENDATION:

That Council places the Draft Plan of Management for Bowraville Racecourse Reserve 540002 on public exhibition for 42 days with all submissions to be reported back to Council.

OPTIONS:

- 1 Adopt the recommendation and place the Draft Plan of Management on public exhibition and proceed with the formal adoption process. This is the preferred option.
- 2 Reject the recommendation. This option would prevent Council meeting its statutory obligations under the CLM Act and LG Act at this time.

BACKGROUND:

Section 3.23 (6) & (7) of the *Crown Land Management Act 2016* (CLM Act) requires Council to adopt a Plan of Management for each reserve for which it is appointed as Crown Land Manager. Each Plan of Management must be prepared in accordance with the Crown Land Guidelines.

The Draft Plan of Management (PoM) in this Report is for Bowraville Racecourse Reserve 540002.

The Draft PoM has been prepared by staff and with Council resolution sent to the Department of Planning Housing and Infrastructure, Crown Land for review and Minister's consent to proceed with the formal adoption process.

The Department reviewed the document and directed Council to attend to various amendments which have been made. Consent to proceed with the adoption process has now been provided by the Minister, together with authorisation to seek Council approval to proceed to public exhibition of the document.

The prescribed exhibition process is a minimum of 28 days, with a minimum period to make submissions of 42 days. It is proposed to lodge the document on public exhibition for 42 days with all submissions to be reported back to Council to proceed with the formal adoption process.

CONSULTATION:

- Nambucca River Jockey Club Ltd - Lessee
- Relevant internal operational staff
- Manager Economic Development (Native Title Manager)
- Department of Planning Housing and Infrastructure – Crown Lands

ITEM 9.2 DRAFT PLAN OF MANAGEMENT - BOWRAVILLE RACECOURSE RESERVE 540002 - PUBLIC EXHIBITION

SUSTAINABILITY ASSESSMENT:**Environment**

The draft PoM makes provision for future actions to preserve and enhance the reserve as needed.

Social

There are no uses or management actions authorised in the draft PoM that represent any form of reduced community access to the reserve. The draft PoM also authorises the granting of leases, licences and other estates so that organisations providing services to the community may have security of tenure. The public exhibition period provides for public submissions to be considered.

Economic

Once adopted, a PoM provides the ongoing legal framework which allows for the reserve to be occupied or used. This has a direct positive economic benefit to those who provide and access these services, as well as having a multiplier (flow-on) effect to the local economy.

Risk Analysis

Should Council not adopt a PoM under the *Crown Land Management Act 2016* guidelines, capacity is limited in performing future functions and in leasing and licensing land within the Reserve.

Delivery Program Action

CC3 - Keep the community informed of the decisions, key issues and actions of Council

PP9 – Manage Crown Land Plans of Management

FINANCIAL IMPLICATIONS:**Direct and indirect impact on current and future budgets**

Nil

Working funds – justification for urgency and cumulative impact

Nil



Impacts on 10 Year Long Term Financial Plan

Nil

Service level changes and resourcing/staff implications

Business as usual. Adopting the recommendation will have no further impact.

ATTACHMENTS:

- 1  56435/2024 - DRAFT Plan of Management - Bowraville Racecourse Reserve 540002
- 2  56437/2024 - Letter of consent to exhibit & adopt Draft PoM

GENERAL MANAGER'S REPORT

**ITEM 9.3 SF938 141124 LICENCE PART ROAD RESERVE ADJACENT TO 72 SIDING
 ROAD NEWEE CREEK**

AUTHOR/ENQUIRIES: Andrea Baillie, Property Officer

SUMMARY:

The property owner at 72 Siding Creek Road, Newee Creek has been occupying part of the adjoining road reserve for several years.

Council is the roads authority for this local road and road reserve, and proposes to enter into a licence with the property owner formalising the use of that part of the road being occupied.

This report seeks resolution to notify the public of the proposed licence agreement as required under section 153 of the NSW *Roads Act 1993*.

RECOMMENDATION:

That Council places the Draft Part Road Reserve Adjacent to 72 Siding Road Licence Agreement with Kevin Gaddes on public exhibition.

OPTIONS:

- 1 Adopts the recommendation placing the draft agreement on public exhibition to progress the licence process.
- 2 Rejects the recommendation and not progressing to formalise the occupation, and require the property owner to cease occupying the road reserve.

DISCUSSION:

The property owner of 72 Siding Creek Road, Newee Creek operates a commercial earthmoving business and landscaping supplies business from his property. It has been identified that part of the adjoining road reserve contains part of the storage of the landscaping supplies and is used for access to the facility.

Council staff have been liaising with the property owner, who is in the process of submitting a DA which will seek to close that portion of the road reserve being used with a view to purchasing it to be added to his adjoining property.

While that process is underway and will be considered by Council in due course, Council as Roads Authority of this local road has sought to formalise the occupation by way of licence under s.153 of the NSW *Roads Act 1993*.

In recognition the occupation has been in place for some time, the licence is backdated to commence 1 June 2020 for the maximum term of 5 years to terminate 31 May 2025. This period should provide sufficient time for the DA process to be undertaken and road closure to be assessed.

Section 153 of the *Roads Act 1993* requires the proposed licence to be publicly notified for a minimum of 28 days. Any submissions received during this time will be brought back to Council for consideration to progress the licence process.

CONSULTATION:

Kevin Gaddes, property owner
Manager Development & Environment
NSW *Roads Act 1993*

ITEM 9.3 LICENCE PART ROAD RESERVE ADJACENT TO 72 SIDING ROAD NEWEE CREEK

SUSTAINABILITY ASSESSMENT:

Environment

The occupation has been in place for some time. Proceeding to licence the occupation will not have any further Environmental impact.

Social

Notifying the public of the proposed licence allows for submission by the public. Submissions will be brought back to Council accordingly. Entering into a licence to formalise the existing occupation will have no social impact.

Economic

Nil

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Residual Risk
Occupation of public land without consideration for public liability insurance	High	High	Licence will require provision of public liability insurance	Nil
The road reserve closure and sale may not meet the 31 May 2025 expiry date	Medium	Low	New arrangement will be negotiated, or licensee will need to remove encroachments	Low

Delivery Program Action

CC1 - Using a variety of tools, engage with the community in ways that are accessible and transparent

PP1 - Foster development opportunities

FINANCIAL IMPLICATIONS:

Direct and indirect impact on current and future budgets

Nil

Working funds – justification for urgency and cumulative impact

Nil

Impacts on 10 Year Long Term Financial Plan

Nil

Service level changes and resourcing/staff implications

Processing the proposed licence is business as usual, requiring no service level changes or resourcing.

ATTACHMENTS:

- 1  56802/2024 - Draft road licence to Kevin Gaddes

DIRECTOR CORPORATE SERVICES REPORT

ITEM 10.1 SF3492 141124 MINUTES OF THE AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING HELD 16 OCTOBER 2024

AUTHOR/ENQUIRIES: Matthew Sykes, Director Corporate Services

SUMMARY:

The Minutes of the Audit, Risk and Improvement Committee (ARIC) Meeting held 16 October 2024 are shown below for Council’s endorsement. Discussion around the items presented to ARIC have been included in the minutes **attached**.

From the 16 October 2024 ARIC meeting the proposed changes to the 2024 to 2027 ARIC four-year (4) Workplan i.e. rescheduling of future Internal Audit reviews to allow for sufficient time for outstanding findings from previous Internal Audit reviews to be actioned per page 9 item 4.1.1 of the work plan, requires Council approval.

Regarding the revised ARIC four-year (4) Workplan for the period 2024 to 2027 per page 87 of the ‘Guidelines for Risk Management and Internal Audit for Local Government in NSW issued under section 23A of the *Local Government Act 1993*’ – see <https://www.olg.nsw.gov.au/wp-content/uploads/2023/12/Guidelines-for-Risk-Management-and-Internal-Audit-updated-November-2023.pdf> :

The committee may, in consultation with the governing body, vary the strategic work plan at any time to address new or emerging risks. The governing body may also, by resolution, request the committee to approve a variation to the strategic work plan. Any decision to vary the strategic work plan must be made by the committee.

Council also needs to approve the inclusion of the Audit, Risk, and Improvement Committee 2023/24 Annual Report in the Nambucca Valley Council 2023/24 Annual Report and approve the Audit, Risk, and Improvement Committee 2023/24 Annual Report to be uploaded to the Nambucca Valley Council website.

RECOMMENDATION:

That Council notes the Minutes from the Audit, Risk and Improvement Committee Meeting held 16 October 2024.

OPTIONS:

Nil as for information.

DISCUSSION:

As per the summary.

CONSULTATION:

ARIC members.

SUSTAINABILITY ASSESSMENT:

Not Applicable.

Risk Analysis

Implementation of the internal and external audit recommendations as identified within the report will substantially reduce Council's risk profile.

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Risk Assessment
Items listed in external and internal audit findings.	Moderate	High	ARIC to monitor appropriate action taken in agreed timeframes to address the risks.	Moderate

ITEM 10.1 MINUTES OF THE AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING HELD 16 OCTOBER 2024

Delivery Program Action

CC4 - Maintain an effective governance regime

FINANCIAL IMPLICATIONS:**Direct and indirect impact on current and future budgets**

The cost of internal and external audits has been budgeted for in 2024/25.

Working funds – justification for urgency and cumulative impact

As above.




Impacts on 10 Year Long Term Financial Plan

Nil.

Service level changes and resourcing/staff implications

No change from current levels.

ATTACHMENTS:

- 1**  53588/2024 - Minutes - Audit, Risk and Improvement Committee Meeting 16 October 2024
- 2**  52186/2024 - Nambucca Valley Council 2023/24 Audit Risk Improvement Committee Annual Report
- 3**  56673/2024 - 2024 to 2027 Audit Risk and Improvement Committee Work Plan

DIRECTOR CORPORATE SERVICES REPORT

**ITEM 10.2 SF3409 141124 DISABILITY INCLUSION ACTION PLAN UPDATE TO 30
JUNE 2024**

AUTHOR/ENQUIRIES: Jocelyn Box, Community Development Officer

SUMMARY:

Year 2 Progress Report on Nambucca Valley Council's Disability Inclusion Action Plan (DIAP) 2022 – 2026. Nambucca Valley Access Committee have reviewed a draft of the progress and accepted it as noted in Access Committee minutes 29 October 2024 with following resolution:

*Review of Disability Inclusion Action Plan 2022-2026 Progress Year 2 – **RESOLVED:** (Shales/Sky)
That the Committee accept the draft Disability Inclusion Action Plan Year 2 Progress Report*

RECOMMENDATION:

That Council notes the Year 2 Progress Report of the Disability Inclusion Action Plan 2022-2026 to be submitted to the Department of Communities and Justice.

OPTIONS:

- 1 As per the recommendation.
- 2 Change the content to the Year 2 DIAP update.

DISCUSSION:

The current DIAP will be reviewed by 1 July 2025 with Department of Communities and Justice, with opportunity to re-engage community feedback and/or amend actions. Some of the key projects listed in the attached report that have been completed are:

- Nambucca Valley Council collaborated with Nambucca Valley Rotary, Lions Club of Nambucca Head, Macleay Options, physiotherapist Bec Dalzell, and the Macksville Memorial Aquatic and Fitness Centre to provide a mobile change table to enable people with disability to change before and after a swim.
- Replace the boardwalk between the Visitor Information Centre and Bellwood Park, Nambucca Heads.
- Multiple residential footpath construction projects across the valley linking key areas.
- Prepare a Pedestrian Access Management Plan (PAMP) for Scotts Head.

CONSULTATION:

Access Committee
Relevant staff

SUSTAINABILITY ASSESSMENT:

Social

Disability inclusion plans often include measures to ensure that people with disabilities have access to health promotion and prevention activities, which can lead to better health outcomes. The plan ensures that people with disabilities can participate in everyday activities and have roles similar to their peers without disabilities.

Economic

Inclusion can lead to increased innovation, and productivity by leveraging the diverse skills and talents of people with disabilities.

ITEM 10.2 DISABILITY INCLUSION ACTION PLAN UPDATE TO 30 JUNE 2024

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Residual Risk
Nil from production of DIAP				

Delivery Program Action

CC3 - Keep the community informed of the decisions, key issues and actions of Council

LW12 - Promote social equity with equal opportunities for access and participation

FINANCIAL IMPLICATIONS: N/A

ATTACHMENTS:

1  57821/2024 - NVC DIAP Progress Report 2 V2.0

DIRECTOR CORPORATE SERVICES REPORT

ITEM 10.3 SF963 141124 NOMINATIONS TO COUNCIL SECTION 355 COMMITTEES OF MANAGEMENT

AUTHOR/ENQUIRIES: Jocelyn Box, Community Development Officer

SUMMARY:

Council has twenty four (24) Section 355 Committees of Management. The Committees have a long history within Council with many long term and new volunteers who manage a Council facility on behalf of Nambucca Valley Council. Nominations for each Committee are shown in the table below in the discussion section for Council’s consideration. It is recommended that the following nominations be endorsed and be provided with the Terms of Reference, Code of Conduct for Delegates, Section 355 Committee Guidelines and Volunteer Safety Handbook.

RECOMMENDATION:

That Council:

- 1 Approves the new nominations to the following Section 355 Committees of Management as per the table in the body of the report.**
- 2 Provides the successful nominees with a copy of the Terms of Reference, Code of Conduct for Delegates, Section 355 Committee Guidelines and Volunteer Safety Handbook.**

OPTIONS:

There are no other options. Council needs voluntary Committees of Management to manage recreation, cultural and community facilities across the Nambucca Valley.

DISCUSSION:

Committee	Nominees	Reason for nominating
Argents Hill Hall	Kaycee Simuong	Continue being a committee member for the hall.
	Tom Macindoe	To continue being a committee member for the hall
	Hannah Readman	Asked to join the committee
Coronation Park	John Ogilvy	Has an interest in sports played at Coronation park and a strong background in governance, administration, and asset management.
	Peter Bellden	Interested in being involved as has previously been President Nambucca Roosters and on the General Committee for Nambucca Roosters Juniors.
	Jane Mumbler	Interest in women and girls amenities
	Jackson Elphick	I am on Rugby League committee and a part of Coronation Park Committee as well
	Jeff Cork	Continue involvement. President of Nambucca Junior Rugby League
Mary Boulton Pioneer Cottage and Museum	Leanne Welsh	Complete interest in the local history of our community. Continue involvement in an executive role
	Geoffrey Lynn Minett	Mary Boulton Pioneer Cottage for 72 years. Life member.
	Debbie Kent	Continue being a committee member for the hall.
	David Boulton	Continue being a committee member for the hall.
Missabotti Community Centre	Jeff Unwin	To provide service to the Missabotti Community.

ITEM 10.3 NOMINATIONS TO COUNCIL SECTION 355 COMMITTEES OF MANAGEMENT

	Lee Unwin	To continue to help Hall committee.
Nambucca Community and Arts Centre	Wendy Montagne	Continuation of current position as NCAC Vice President.
Nambucca District Band	Jemma Burtonwood	Help organise band.
	Douglas Smith	Committee member and treasurer.
	Ian Flarrey	Continue to serve and support the community through music.
	David Geeson	To support the community with music.
	Joanne Waller	To continue to help with organisation of the band and promoting continuity of the band.
Taylors Arms Sports Reserve	Julie Gooch	Renominating to continue to help committee.
	Michael Spear	Vietnam veteran's representative on committee of management.
	Allan Ward	Ensure reserve continues for future.
	Emma Lowe	To help the local community.
	Daniel Welsh	Helping the local community.
	Greg Desmond	Interests in cricket, tennis and social functions.
Unkya Reserve	Lisa Hall	Currently President of the Committee and would like to continue this role.
	Jennifer Gibson	Enjoys working for the great community asset that is Unkya Reserve.
	Lynda Scott	To support the local community meeting place, network with local people/organisations, help raise funds, and maintain Unkya Reserve.
Utungun Community Hall	Paul Schadel	To contribute to our local community
	Gwen Green	To continue to help Hall committee.
	Steve Sanderson	To continue to help Hall committee.
	Gail Schadel	Important to keep Utungun Hall open and used by the wider community.
Valla Beach Community Association	Simon Lavery	Volunteer, website design/development.

CONSULTATION:

Director Corporate Services

SUSTAINABILITY ASSESSMENT:

Nil

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk
Injury to volunteers	M	H	Volunteers are given a Volunteer Safety Handbook after approval of Council.
Mismanagement	L	H	Council Code of Meeting Practice and Code of Conduct must be adhered to.
Fraud	L	H	Code of Conduct must be adhered to.

ITEM 10.3 NOMINATIONS TO COUNCIL SECTION 355 COMMITTEES OF MANAGEMENT

FINANCIAL IMPLICATIONS:

Nil

Service level changes and resourcing/staff implications

Nil impacts.

ATTACHMENTS:

- 1  57746/2024 - Coronation Park CoM Nominations - Redacted
- 2  57420/2024 - Nomination Forms - Mary Boulton Pioneer Cottage & Museum Committee of Management - Redacted
- 3  57757/2024 - Missabotti Community Hall CoM Nominations - Redacted
- 4  57762/2024 - Nambucca Community and Arts Centre CoM Nominations - Redacted
- 5  57372/2024 - Nomination Forms - Nambucca District Band Committee of Management - Redacted
- 6  57368/2024 - Nomination Form - Taylors Arms Sports Reserve Committee of Management - Redacted
- 7  57370/2024 - Nomination Forms - Utungun Hall Committee of Management - Redacted
- 8  57765/2024 - Valla Beach Community Association CoM Nominations - Redacted
- 9  57782/2024 - Unkya Reserve CoM Nominations - Redacted
- 10  57802/2024 - Argents Hill Hall CoM Nominations - Redacted

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

ITEM 11.1 SF3508 141124 AMENDMENT TO THE NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010 - HORTICULTURE

AUTHOR/ENQUIRIES: Daniel Walsh, Manager Development and Environment

Summary:

A planning proposal seeking an amendment to the Nambucca Local Environmental Plan 2010 (LEP) has been prepared which seeks to:

- Require development consent for horticulture in the RU1 Primary Production and RU2 Rural Landscape zones.
- Amend existing exemptions for horticulture within the R5 Large Lot Residential zone and apply those exemptions to the RU1 Primary Production and RU2 Rural Landscape zones.

A gateway determination has been issued by the Minister of Planning and the planning proposal has been publicly exhibited in accordance with the gateway determination. 78 submissions were received from the community during the exhibition period and 3 submissions were received from public authorities.

The proposed amendment is supported as it will minimise pollution incidents occurring from horticulture activities by ensuring farms are established using best practice methods.

NOTE: This matter requires a “Planning Decision” meaning a decision made in the exercise of a function of the council under the Environmental Planning and Assessment Act 1979 including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan. Under Section 375A of the Local Government Act 1993 it requires the General Manager to record the names of each Councillor supporting and opposing the decision.

RECOMMENDATION:

That Council make the local environmental plan as outlined within the planning proposal contained within attachment 3 in accordance with section 3.36(2) of the *Environmental Planning and Assessment Act 1979*.

OPTIONS:

- 1 Not proceed with proposed amendments to the LEP.
- 2 Amend the planning proposal. This would require Council to seek a new Gateway Determination from the Minister.

BACKGROUND:

Land use conflict and pollution incidents from horticulture activities have been the result of inappropriate farm establishment. Currently, regulation of environmental impacts such as water and air pollution is reactive to inappropriate farm establishment and operation. This is due to there being no requirements to ensure a farm is established using best practice methods such as water quality management and buffers. Instead, considerable resources are allocated by Local and State Governments to provide education to farmers and undertake regulatory action once pollution incidents have occurred.

At the 11 April 2024 meeting Council considered the report contained within **attachment 1** which recommended a proactive approach to regulating the impacts associated with horticulture. After consideration of the report Council made the following resolution:

ITEM 11.1 AMENDMENT TO THE NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010 - HORTICULTURE

THAT:

- 1 Council forward a planning proposal to the Minister for Planning for gateway determination in accordance with section 3.34 of the Environmental Planning and Assessment Act 1979, which includes the following amendments to the Nambucca Local Environmental Plan 2010:
 - a) The relocation of 'horticulture' from 'permitted without consent' in the land use table for the RU1 Primary Production and RU2 Rural Landscape zones to 'permitted with consent'.
 - b) The inclusion of the RU1 Primary Production and RU2 Rural Landscape zones in Schedule 2 so that the specified forms of 'horticulture' become exempt development in the same manner that they currently are in the R5 Large Lot Residential zone and add the prohibition of structures to support the exempt horticultural activity.
- 2 If the Minister determines that the matter should proceed, Council staff undertake community consultation in accordance with the gateway determination.
- 3 Following community consultation, Council staff report the planning proposal back to Council for consideration of any submissions received and a final decision as to whether Council will proceed to make the amended plan.

DISCUSSION:

Council received gateway determination for the planning proposal from the Minister on 10 July 2024. The gateway determination is contained within **attachment 2**.

The planning proposal was placed on public exhibition from 20 August – 1 October 2024. The planning proposal is contained within **attachment 3**.

78 submissions were received during the exhibition period and are contained within **attachments 4-7**. A summary of the submissions received is outlined below:

Matters Raised in Support	Staff Comment
Requiring DAs will reduce conflicts leading to a more cohesive community and less stress on neighbours.	Agreed.
There will be increased regulation of chemical use.	The proposed amendments will not regulate the types of chemicals used on farms. However, it will result in measures being implemented in the establishment of farms to mitigate potential off site impacts of chemicals.
The implementation of buffer zones will enhance protection from chemical runoff, spray drift, and other pollutants. Various comments made regarding extent of buffers.	Agreed. The extent of buffers is to be determined through further consultation with the community, industry and relevant state agencies as part of an amendment to the Development Control Plan.
There will be better environmental protection for land and waterways.	Agreed.
DAs will curb illegal activities such as water theft, obstruction of watercourses and unauthorised tree felling.	The use and harvesting of water will still be regulated under the Water Management Act 2000. It is not the intention of the planning proposal to duplicate existing regulations.
Support the requirements for a DA, but not for any exemptions. For environmental protection there should be no exemptions. It could be possible for exempt activities to commence, then a DA be lodged for structures which would be hard to refuse.	The intent of the exemptions is to not require a DA for types of horticulture considered to have less potential of impact. Farms found to have been polluting in the past will not fit within the exempt criteria and will require a DA. It isn't considered that an exempt use would make it hard to refuse a DA

ITEM 11.1 AMENDMENT TO THE NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010 - HORTICULTURE

	for structures.
There should be a clear definition of 'structures' which must include netting, wires and poles. A planning policy should be adopted that makes clear these are farm buildings and require consent.	Structures are defined under the Environmental Planning and Assessment Act 1979 as a building. Netting, wires and poles are structures. Previous concerns over ancillary structures being permitted without approval will be removed with the amendments proposed in the planning proposal.
Farmers are not abiding by the rules which results in environmental impacts and conflict in the community.	Not all farms are resulting in pollution incidents. Horticulture can be undertaken without any adverse impacts on the surrounding environment, with examples present in the Nambucca Valley. The intent of the planning proposal is to ensure farms are established to minimise potential impact before it occurs.
The Community Participation Plan should be amended so that DAs for horticulture are advertised.	Horticulture is already advertised development under the Community Participation Plan. Horticulture is a form of Intensive Plant Agriculture.
Horticulture is one of the oldest activities, this basic human right to farm our land should be protected and encouraged, not targeted in a pointless witch hunt. It brings over \$48m into the local economy.	The significant inputs horticulture provides to the local economy is not disputed. The intent of the planning proposal is to ensure appropriate measures are in place before operation to prevent environmental and amenity impacts. This is no different to many other rural land uses which have the potential to result in significant impacts as has been experienced from horticulture (eg. pig & poultry farms).
Under these new rules will cattle farmers be required to fence watercourses as they do more damage than a well managed farm.	This planning proposal only relates to horticulture.
<p>The objectives of the RU1 zone state:</p> <ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. <p>Land has been purchased with these rules in mind. Will Council compensate landholders if the changes are made? Destroying our resource lands is not sustainable.</p>	<p>The planning proposal does not seek to negatively impact horticulture within the rural zones. It seeks to minimise land use conflict issues and minimise potential impact on the environment on which all forms of agriculture rely. This is considered to be consistent with the stated objectives.</p> <p>Having to lodge a DA before commencement demonstrating the above is no different to other agricultural activities such as viticulture, turf farming, plant nurseries, pig farms, poultry farms and dairies. It is also consistent with horticulture farms in the adjoining Kempsey Local Government Area where DAs are already required for all horticulture farms, with no exemptions as proposed in this planning proposal.</p>
Please point me to the results of grower consultation or economic analysis carried out.	<p>This report refers to the statutory public consultation which has been carried out. Council has also received representations from industry stakeholders prior to proceeding to the gateway determination stage of the LEP amendment process.</p> <p>The planning proposal seeks to ensure measures to mitigate impacts on the environment and surrounding amenity are implemented prior to commencement of horticulture activities. Given farmers should already be implementing such measures to mitigate these impacts during the design phase of their farm, there should be no adverse economic impacts associated with the</p>

ITEM 11.1 AMENDMENT TO THE NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010 - HORTICULTURE

	proposal.
If you decide to overregulate the industry instead of working with the industry, the Nambucca Valley will be at a huge disadvantage. If passed, these new regulations would directly influence my decisions when looking for areas to expand.	This is not agreed as Councils LEP will be consistent with the adjoining Kempsey LEP and greater thought will be given to farm design to maximise agricultural productivity, while minimising environmental and amenity impacts.
A more viable option would be community awareness and an effort to install pride in the local community around the superior horticulture production coming from the area.	The importance of horticulture to the Nambucca Valley has been well established through generations.
Those who do not abide by the rules should be penalised. But to penalise entire sectors of an industry through the proposed changes is foolhardy.	Those who do not abide by the rules should be penalised. However, waiting for impacts to occur, investing significant public funds into compliance to identify impacts, and enforcing retrospective works on farmers is inappropriate. Especially when preventative measures can be included within a farm design.
Council had a duty to take steps to bring the community together with representatives from the regulators to workshop ideas rather than let a group of people intent of destroying industries control the agenda.	In 2017 industry representations were made to Council not to require DAs for horticulture in the rural zones to give them the opportunity to implement codes of practice and educational programs with growers. Over the period since, Council has been a part of workshop groups with multiple regulators from State and Local Government. The overwhelming majority agree requiring DAs is the only method available under the current legislation to ensure appropriate measures to stop impacts are in place before the commencement of operations.
The proposal will impact both established and new farms. The proposal to add controls to prohibit structures necessary for sustainable horticulture is a direct contradiction to government initiatives.	DAs will not be required for existing farms. The new provisions would only apply to new farms or expansions to existing farms. The proposal does not prohibit the use of structures. It will just mean if the structures do not comply with the state-wide exempt provisions, a DA will be required before erection.
There is already robust legislation in place to oversee and regulate horticultural practices.	There is no legislation in place which requires the implementation of buffers or measures to prevent water pollution before operation.
NSW DPI has extensive resources to manage land use conflict issues. Council should withdraw the planning proposal and work collaboratively with NSW DPI and the NSW Local Land Services to address land use conflicts through more targeted, effective and sustainable measures.	It is acknowledged DPI and LLS undertake considerable work into educating farmers on how to minimise land use conflicts in rural areas. The draft Development Control Plan (DCP) controls are based around a DPI document. It is intended to seek input from DPI and LLS in the establishment of best practice methods to be incorporated into Councils final DCP. By doing this those farmers who take their advice will be able to obtain approval and commence farming. Those that don't will be able to be enforced to comply before impacts arise.
The cost and time associated with obtaining a DA would make it financially unviable for many farms to continue or establish in the Nambucca Valley.	It is not considered that the cost of a DA would make a farm unviable. The same can be said for Councils average assessment timeframe of 41 days.
How do you define 'inappropriate established farms'? To use such terminology only supports	Farms that are established without any water quality management systems or any consideration for land

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those who aggressively and disrespectfully targeted all berry growers.	use conflict buffers, resulting in water pollution and significant amenity impacts on nearby dwellings.
If DAs are required, then all farmers should have to apply for a DA to farm plants. Not requiring DAs for organic farmers is biased and creates divide in the community. The LEP should cover all horticulture practices, not just targeting one group.	The proposal does not exempt organic farmers or target any particular form of horticulture.
Saying the farms are not established to meet best standards is a biased comment with circumstantial evidence. It is implied that all farms don't comply, the EPA have only detected 3 with breaches.	There are numerous examples of pollution and land use conflict issues associated with horticulture which have been identified by the NSW EPA and other regulatory authorities over many years. The resulting enforcement actions was not based on circumstantial evidence.
Implementing controls on horticulture impacts farmers right to farm. It is not an offence to undertake lawful farming that is without negligence under the right to farm act. Farmers shouldn't have to justify or repel complaints, particularly in the absence of actual verifiable evidence.	It is not intended to impact farmers ability to farm land in a manner which does not impact the surrounding environment. This is the intent of the rural zones and this planning proposal. What will be required of farmers will be to demonstrate how their horticulture activities will mitigate impacts on the surrounding environment. This is no different to farmers in other industries who are already required to lodge DAs prior to exercising their right to farm.
The amendments affect the entirety of horticulture and not specific operators of concern.	It is not intended to target any particular form of horticulture.
Grants are available to bring forward crop protection structures and Council seeks to restrict, delay and hinder their availability.	Grants fund the structures. DAs ensure they will not have an adverse impact. Note that a DA will not be required for structures which fall within the existing state-wide exemptions.
It is consistent with the character of rural zones to see a diversity of structures that aid production and processing of rural commodities. Structures should be expected and remain permitted without consent.	It is agreed that structures that aid production and processing of rural commodities are consistent with the character of rural zones.
The widespread use of netting, igloos, tunnels and greenhouses are not consistent with the rural character of Nambucca. While they may be a necessary commercial use in some types of horticulture all effort should be made to minimise their use.	However, when they exceed exempt provisions, consideration should be given to how impact of scale can be minimised where possible and their location can be optimised to maximise agricultural land while minimising land use conflict.
The land use is not the problem. The lack of proactive coordinated multi-agency approach to education, farm planning, land use conflict risk assessment, environmental responsibility and application of regulatory powers seems to be the problem. There is enough legislation in place to regulate all aspects of agriculture. A cooperative, collaborative and coordinated approach to compliance is absent.	The multi-agency approach has been undertaken for over a decade as suggested. However, a requirement to ensure a farm is established in accordance with the available education resources does not exist. This results in environmental and amenity impacts which could be prevented as proposed.
The amendment seeks to remove or impede flexibility in the range of production systems that can be used.	There is no intention to do this.
Planning certificates should be used to advise people of potential conflicts.	This is already done. But it doesn't stop the preventable impacts being experienced.
If Council work with DPI they would be up to date with the best practices around land use conflict resolution. DPI has a diploma level course which assist understanding of these land use conflict resolution issues.	It is intended to work closely with DPI to determine an appropriate set of DCP controls. Being up to date with best practices and undertaking a diploma level course does not enable a proactive approach to environmental management to be implemented

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	as proposed with this LEP amendment.
By not supporting our farmers we risk undermining the sustainability of our local food production. All farmers should be given a fair go.	It is intended to give farmers a fair go. The DA process is a familiar process for many farmers in other industries.
Persons employed by horticultural operations do not have adequate facilities provided such as toilets, eating, and washing facilities. This should be looked at for new and existing operations.	The LEP amendments cannot be applied retrospectively. Amenities would be considered as part of any DA.
The proposed changes will only be effective if Council has the staff to enforce the new conditions. Without enforcement it will fail.	Council has sufficient resources to assess the DAs and check compliance prior to commencement of operation. Existing regulatory authorities will remain for ongoing compliance.
Does Council follow the NSW Governments standard planning instruments? Zoning changes are unclear and inconsistent, particularly relating to Valla Quarry.	Councils LEP is as per the NSW standard instrument. The planning proposal does not include zoning changes.
The planning proposal should not be supported in its current form as it results in statutory controls that are inconsistent with State, Regional and local strategy and policy, and creates uncertainty for the future of the berry industry in the Nambucca Valley.	As outlined in the planning proposal, it is considered that the proposal is consistent with State, Regional and local strategy and policy.
Industry organisations established to support growers towards best practices in terms of chemical and nutrient management.	The work done to support growers is acknowledged, but it isn't working.
The objectives and intended outcomes of the planning proposal are not clearly identified, did not provide critical analysis of the controls and contained vague assertions not supported by evidence. The lack of clarity regarding what is to be solved has made it challenging to determine what actions can actually be taken to manage any issues, real or perceived. It is somewhat circular to state that the outcome of requiring development consent will be achieved by requiring development consent.	The intended outcome of the planning proposal is to require DAs for horticulture in the Nambucca Valley, aside from those operations which meet the specified exempt criteria. The justification for this is to have a proactive regulatory approach which seeks to prevent environmental and amenity impacts rather than wait for the impacts to occur. It is considered that this is clear in the planning proposal, along with the evidence of these impacts identified by the EPA who are the lead investigation agency.
Is the LEP the appropriate mechanism to address the concerns, particularly as there are existing regulations to manage the concerns raised.	Yes. The existing regulations do not facilitate the proactive approach sought.
Concern that the Blueberry Code of Conduct (CoC) has been misrepresented to provide legitimacy for the planning proposal. The CoC was not developed as a legislative instrument and the advice is general in nature.	The CoC was developed and presented to Council in 2017 as the tool to ensure growers farm in a manner which did not result in the impacts identified in the planning proposal. It was based off this advice Council resolved not to require DAs. The comments that the CoC is not a legislative instrument and just advice is accurate. This is seen the industries inability to enforce the CoC on growers. Instead when approached regarding a land use matter, an industry representative informed Council compliance with the CoC is an economic decision for the farmer.
The planning proposal is inconsistent with State, Regional and Local strategies and priorities and Focus Area 9.2 of the Ministerial Direction for Rural Land.	As outlined in the planning proposal, it is considered that the proposal is consistent with State, Regional and Local strategies as well as Ministerial Directions.
Dwellings in rural zones impact the productive land base. Introducing DAs to manage land use	The assertion that impacts on dwellings in rural areas should be ignored is not supported. Potential

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relationships and improve environmental outcomes could potentially burden fruit growers and impact the rural economy to essentially overcome the consequences of previous poor planning decisions.	impacts should be managed as best as possible to protect the interests on both sides of the boundary fence. The intent of the planning proposal is to ensure this occurs before commencement of operation.
The proposed DCP amendments have implications for regulatory control and costs associated with enforcement action to regulate vegetative buffers, and public notification of a DA opens opportunities for planning appeals that have not existed.	The impacts on public resources to regulate proactively as proposed will be far less than reactively. Farmers will have the right to appeal if they think Council is being unreasonable in its consideration of the application.
Spray drift claim in the planning proposal appears somewhat unsubstantiated. There is no established information on the facts concerning spray drift. Similar concerns were raised in Coffs Harbour with a report finding all tested water to be below water quality guidelines.	The EPA have responded to numerous spray drift complaints associated with horticulture along the north coast. It is well known that if chemicals are not applied correctly spray drift can result. What many in the industry fail to recognise is that there is genuine concern within the wider community about the potential for spray drift impacting nearby sensitive receivers. This can lead to significant social and economic impacts within communities. Despite highly publicised instances of zero buffer provision and the social impacts this causes on communities, there continues to be instances where farmers opt not to provide any form of buffer for their own financial gain ahead of the social and economic interests of their neighbour. This planning proposal facilitates the opportunity to incorporate a buffer into a farm design which enables the agricultural viability of the land to be retained while providing a level of protection for surrounding properties.
Light and noise pollution can occur as the result of night time use of machinery which is common in a working rural landscape.	Agreed. There is no intent to alter this.
Traffic generation is seasonal and linked to harvesting periods.	Agreed. There is no intent to alter this.
The spatial extent of the rural zones must be evaluated to appreciate the potential effects of the planning proposal on important farmland.	Measures to mitigate potential impacts identified in the planning proposal should already be included in farm design. As such, the planning proposal isn't considered to have any negative effects on important farmland.
The objectives of the rural zones prioritise agricultural uses, with non-agricultural activities such as dwelling houses being secondary.	While the objectives promote agricultural uses, they also promote minimising land use conflict.
The Council report asserts the LEP and DCP changes are necessary to mitigate land use conflicts, providing a single example without critical analysis of the complexities of land use conflicts and where these may arise in Nambucca.	The example provided is one of many.
A one size fits all approach of installing a vegetative buffer may not achieve the desired effect and reduce the usable area of a lot.	The DCP controls will be finalised separately to the planning proposal after further consultation and refinement. The intent of providing a set buffer was to give farmers and the community certainty of what could be done on land. However, under the Act Council must be flexible in the application of DCP controls where it can be demonstrated a farm meets

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	<p>the objectives of the controls. As such, a farmer could propose a reduced buffer for consideration where it could be demonstrated the intended effect of mitigating adverse amenity impacts on adjoining properties could be met.</p>
<p>The planning proposal made several unsupported statements about the impact of berry farming on water quality in the Nambucca region. This contradicts the results of the EPAs investigation which stated that after testing for 96 different pesticides across nine waterways in the Nambucca Valley, they found low levels of only three chemicals, all of which were below water quality guidelines.</p>	<p>The planning proposal does not refer to berry farming. The positive about the Nambucca water quality tests were that they were low level detections and not widespread high level readings many in the community were fearing. However, what was identified is that the chemicals were present in the water because farms upstream had been established without water quality treatment systems. The tests at the 9 sites cost over \$10k, did not cover all watercourses down stream of horticulture farms, and are a snapshot in time that are subject to variables. The ideal result would be to have no chemicals in the water. The fact that there was, as a result of no treatment devices, leads to the reason this planning proposal has been prepared.</p>
<p>The following statement in the planning proposal is patently false and reflects a complete lack of understanding of berry production:</p> <p><i>Currently, there are many farms that contain greenhouses that do not have any controls to treat wastewater. Instead, wastewater with excessive levels of nutrients and chemicals is being discharged via pipes into watercourses.</i></p> <p>Based on feedback from DPI officers, berry growers do not discharge nutrients and chemicals via pipes into water courses. Council should provide evidence of this.</p>	<p>The water quality issues referred to above were the result of no treatment devices being installed. Wastewater from greenhouse irrigation systems was found to be discharged to land which flows to watercourses. This was then picked up during the sampling. The planning proposal does not direct the blame for this on berry growers.</p>
<p>It is frustrating that the planning proposal refers to a “water quality consultant” being engaged to design a water treatment system by the NSW Local Land Services (LLS) to support the argument that berry growers are polluting the waterways. We understand the LLS, in conjunction with industry and NSW DPI are working collaboratively to develop a best practice in this space. This is largely funded through the Federal Government to reduce the burden of compliance.</p>	<p>Council is regularly updated by LLS on the consultant engaged to undertake a design for a wastewater treatment system.</p> <p>This is supported as it will assist farmers mitigate impacts. The planning proposal seeks to have regulations in place which require the systems installation before operation, not just if the farmer gets caught polluting.</p>
<p>Growers in the Nambucca region have to comply with a raft of supply chain obligations that require them to test their water quality and meet minimum residue limits. The growers are audited annually.</p>	<p>Growers audits don’t require them to test wastewater before entering the environment.</p>
<p>The water quality development controls in the DCP are unimplementable as there are no qualified people in this arena. They are unnecessary given water quality is regulated and controlled through other legislation.</p>	<p>LLS have engaged a local consultant as referred to above. Given the effort industry and DPI have invested into education and environmental management over the past decade, it is surprising design solutions are not more prevalent.</p>

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The planning proposal was also referred to public authorities in accordance with the requirements of the gateway determination. The responses received are contained within **attachments 8-10** and are summarised in the below table.

Public Authority	Matters Raised	Staff Comment
NSW Rural Fire Service (RFS)	No concerns or issues in relation to bushfire.	Noted and agreed.
NSW Department of Primary Industries (DPI)	<p>Not considered that condition 1(c) of the gateway determination has been met as no reasonable analysis of the impact of the proposal on horticultural operations across the shire has been undertaken.</p>	<p>Condition 1(c) of the gateway determination requires the planning proposal to be updated prior to going on public exhibition to:</p> <p><i>“include additional information and analysis of existing and different types of horticulture operations across the shire and the impact of the proposal”.</i></p> <p>In accordance with this condition the planning proposal was updated prior to going on public exhibition to address this condition. The update is contained on page 16.</p> <p>While DPI may not consider this update to be reasonable, the update does address the terms of the condition. It is therefore considered that the planning proposal is consistent with the gateway determination.</p> <p>DPIs assertion that further analysis needs to be undertaken is considered unreasonable. The proposed LEP amendments will not impact existing farming operations as the consent requirements cannot be applied retrospectively.</p> <p>Any new farm or expansion of existing operations will be subject to DA requirements. The DA requirements will be based on best practice farming methods that are promoted by DPI and other industry organisations which should already be implemented by farmers. As such, there shouldn't be any significant impact on horticultural operations across the LGA. Except for those who choose to ignore the education provided by DPI and other industry organisations.</p>
	<p>DPI do not support the planning proposal without a comprehensive and balanced assessment of the implications of the proposal. It is recommended that this analysis be undertaken as part of a broader Rural Land Strategy. This would enable a comprehensive assessment of the matters being considered and whether an alternative proposal would be</p>	<p>The intent of the planning proposal is to alter the existing reactive regulatory approach of waiting for impacts to arise to a proactive approach which ensures suitable measures are implemented before operations commence to reduce potential impacts.</p> <p>There is no other statutory path which is available to achieve this. Undertaking a strategy to identify this is only a deferral on addressing the issue.</p>

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	more effective.	
	The horticulture industry is an important sector within the Nambucca Valley LGA and Australian economy.	Agreed.
	The areas biophysical characteristics and location advantages are ideal for horticulture production.	Agreed.
	The planning proposal effectively introduces a sub-definition of horticulture in the LEP.	The planning proposal does not alter the definition of horticulture. The exempt provisions enable low impact horticultural activities to proceed without a development application.
	There will be resourcing and enforcement issues that will unfairly prejudice the horticultural industry.	Council has the resources to assess the expected development applications and ensure required measures are in place before commencement of operations. The changes will bring the horticulture industry in line with others which already require DAs for rural activities such as viticulture, turf farming, plant nurseries, pig farms, poultry farms and dairies. DPI are aware of this as they review referrals when DAs for these uses are received. As such, it is not considered that horticulture will be unfairly prejudiced.
	The proposed amendments sets an undesirable precedent for agricultural industries in rural zones where the primary zone objective is to encourage sustainable primary production.	A precedent has already been set in the neighbouring Kempsey Local Government Area with DAs already required for horticulture in the rural zones.
	The application of the proposed draft DCP controls may hinder crop production. Research has shown that different crops may require different coloured netting depending on how the colour may influence plant development and growth.	It is intended to address DCP controls following the LEP amendment being made. This will be done by undertaking further consultation with state agencies, industry and the community as part of a formal DCP amendment under the act. However, it is acknowledged that some farmers will require certain colours to maximise crop yields. It is not the intent of the draft DCP controls to impact crop yields.
	The inclusion of a prescribed buffer distance, may also reduce the available production area within rural land and on smaller holdings inhibit production. The Departments interim Buffer Guideline recommends a 250m setback for sensitive receivers from the boundary with horticulture, based on the SEPP Exempt and Complying Codes. However, other states recommend buffers between	While the buffer distances referred to exceed those proposed in the draft DCP controls, it is agreed that buffers are required between sensitive receivers and horticulture. However, it is perplexing that DPIs concerns buffers will impact production area holds greater weight than ensuring appropriate buffers are implemented between uses to avoid the social and economic impacts on surrounding areas.

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	<p>300m-500m to horticulture, and some do not allow the encroachment of a buffer until after the vegetated buffers are fully established.</p>	
	<p>The environmental and amenity concerns highlighted in the planning proposal are noted. There are currently numerous non-planning arrangements to deliver research, education and information to the horticulture industry in the LGA to improve the design and operation of farms. Industry Codes of Conduct and grower advisory bodies also act to provide self-regulation within the industry.</p>	<p>As outlined above, there is no other statutory path which is available to achieve the proactive regulation sought by the planning proposal.</p> <p>The numerous non-planning arrangements referred to have been attempted and have not had desired success. Instead, the Code of Conduct previously put forward by industry when DAs were previously considered in 2017, has eventuated into a document which is optional for industry members to adhere to.</p>
	<p>State level legislation exists to manage environmental issues, many land use conflict concerns are emotional and social based and can have more weighting than reasonably expected.</p>	<p>As outlined above, there is no other statutory path which is available to achieve the proactive regulation sought by the planning proposal.</p> <p>Whilst it's agreed buffers between horticulture and sensitive uses are required, it is considered that the determination of what weighting is given to the extent of buffers can only be through the DA process.</p> <p>Ideally the NSW State Government would have regard to the impacts associated with horticulture which have been identified by state agencies such as the EPA, LLS and DPI and have a uniform statewide approach of applying DA requirements with exempt and/or complying development provisions for all intensive plant and livestock agriculture. This would ensure the associated impacts are addressed while ensuring consistency across the state and certainty for both industry and the community.</p> <p>However, this is not the case and it has been left to individual LGAs to determine varying positions.</p>
	<p>Wollondilly Shire Council recently exhibited a planning proposal to provide exempt and complying development provisions for horticulture in their rural zones. The current approach of requiring a DA was seen as a barrier ('red tape') to primary producers wanting to undertake horticulture, particularly it is proposed on a small scale and is low impact.</p>	<p>The key thing to take from this is that although DAs may have been seen as 'red tape', Wollondilly Shire Council did not make horticulture permitted without consent in their LEP. It remains only permitted with development consent (DA) and they introduced exempt and complying provisions to facilitate the implementation of low impact horticulture activities without needing a DA.</p> <p>This planning proposal also proposes to</p>

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		require DAs for horticulture and implement exemptions that facilitate the implementation of low impact horticulture activities without needing a DA.
	State level policies such as the Right to Farm Policy and North Coast Regional Plan advocate for agricultural development in rural areas and require due consideration.	The proposed LEP amendments are considered to be consistent with the Right to Farm Policy (and the act) and North Coast Regional Plan as outlined in the planning proposal.
NSW Biodiversity, Conservation and Science (BCS)	Support for the planning proposal as it will likely reduce environmental impacts associated with horticulture developments.	Noted and agreed.

It is noted that although the NSW Environment Protection Authority (EPA) did not provide a response during the exhibition period, they did provide advice as part of the preparation of the planning proposal. Their advice letter in support of the planning proposal is contained within the planning proposal in **attachment 3**.

All conditions of the Gateway Determination have been complied with and it is recommended that Council proceed with making the amendments to the LEP as outlined within the planning proposal.

Should Council proceed in accordance with the recommendation, the next steps in the process for the LEP amendments to come into effect are:

- The planning proposal will be referred back to the Planning Minister to make a determination if the LEP amendments are to be made.
- If the Minister approves the LEP amendments, the amended LEP needs to be drafted by Parliamentary Counsel before being gazetted by the Minister.

If the Minister approves the LEP amendments, Council staff will then review the draft DCP controls having regard to the comments made in the attached submissions. The review will also include further consultation with DPI, EPA, LLS and industry for input into the draft controls to ensure they meet best practice measures that mitigate the environmental and amenity impacts as outlined in the planning proposal.

After this the draft DCP controls will be reported back to Council for consideration before going on public exhibition in accordance with the formal process required under the Environmental Planning and Assessment Act 1979.

CONSULTATION:

Community
Public Authorities

SUSTAINABILITY ASSESSMENT:

Environment

Addressed in report.

Social

Addressed in report.

Economic

Addressed in report.

Risk Analysis

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Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Residual Risk
Nil.				

Delivery Program Action

CC1 - Using a variety of tools, engage with the community in ways that are accessible and transparent

FINANCIAL IMPLICATIONS: Nil

ATTACHMENTS:

- 1  23617/2024 - 11 April Council Report
- 2  57866/2024 - Gateway Determination
- 3  42289/2024 - Planning Proposal
- 4  57867/2024 - Submissions - Part 1
- 5  57868/2024 - Submissions - Part 2
- 6  57869/2024 - Submissions - Part 3
- 7  57870/2024 - Submissions - Part 4
- 8  57636/2024 - BCS Response
- 9  57635/2024 - RFS Response
- 10  57633/2024 - DPI Response