



NAMBUCCA VALLEY COUNCIL

ORDINARY COUNCIL MEETING AGENDA ITEMS 15 FEBRUARY 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 telephone or in person 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 telephone or in person 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



NAMBUCCA VALLEY COUNCIL

ORDINARY COUNCIL MEETING - 15 FEBRUARY 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.

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14.2	Matters Regarding Realised or Potential Losses	
	<i>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.</i>	
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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 <i>[Tick or cross one box.]</i>	<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 <i>[Tick or cross one box]</i>	<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 <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

[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 18 JANUARY 2024

The following document is the minutes of the Ordinary Council meeting held **18 JANUARY 2024**. These minutes are subject to confirmation as to their accuracy at the next meeting to be held on Thursday 15 February 2024 and therefore subject to change. Please refer to the minutes of 15 February 2024 for confirmation.

PRESENT

Cr John Wilson (Deputy Mayor)
Cr Martin Ballangarry OAM
Cr Susan Jenvey
Cr Troy Vance

Cr James Angel
Cr Ricky Buchanan
Cr David Jones

ALSO PRESENT

Bede Spannagle (General Manager)
Keith Williams (Acting Director Engineering Services)
Evan Webb (Chief Financial Officer)

Matthew Sykes (Director Corporate Services)
Daniel Walsh (Manager Development Environment)
Rochelle McMurray (Minute Secretary)

APOLOGIES

Cr Rhonda Hoban OAM (Mayor)

Cr Trevor Ballangarry

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

Nick Green Local Community and Police Chaplain, offered a prayer on behalf of the Nambucca Minister's Association.

DISCLOSURE OF INTEREST

Councillor Vance declared a pecuniary interest in Item 11.4 2023 December - Approved Construction Certificates and Complying Development Applications under the Local Government Act as the company has engaged Cr Vance's agency to market and sell the property. Cr Vance left the meeting for this item.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING

SUBJECT: CONFIRMATION OF MINUTES - ORDINARY COUNCIL MEETING 14 DECEMBER 2023

1/24 **RESOLVED:** (Angel/Jones)

That the minutes of the Ordinary Council Meeting of 14 December 2023 be confirmed.

PUBLIC FORUM

That the following Public Forum be heard:

- i Melina Murphy - Blueberry Farming - Concerns regarding impact on water quality.*
- ii Christopher Mulvihill - Blueberry Farming - Buffer Zones and Contamination of the water in Taylors Arm River.*
- iii Alan Manuel – Multiple impacts of Blueberry farming on residents and business in the community.*

PUBLIC FORUM

- i Melina Murphy addressed Council with notes placed on 2406/2024 - SF3424*

2/24 **RESOLVED** (Jenvey/Jones)

That Council report back on the need for regular community meetings on land use conflicts and the intensive plant agriculture.

- ii Christopher Mulvihill - addressed Council with notes placed on 2408/2024 - SF3424*
- iii Alan Manuel addressed Council with notes placed on 2428/2024 - SF3424*

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.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

GENERAL MANAGER REPORTS

ITEM 9.1 SF959 180124 Outstanding Actions and Reports

3/24 **RESOLVED:** (Angel/Vance)

THAT the list of outstanding actions and reports be noted and received for information by Council.

ITEM 9.2 SF251 180124 Schedule of Council Meetings - February 2024 to June 2024

4/24 **RESOLVED:** (Buchanan/Jones)

THAT Council note the schedule of meeting dates for 15 February to 27 June 2024.

ITEM 9.3 SF81 180124 Disaster Ready Funding EOI submitted

5/24 **RESOLVED:** (Jenvey/Angel)

THAT Council:

- 1 Note an EOI application for funding the preliminary studies for the relocation of the Nambucca Emergency Operations Centre (NEOC) has been submitted for the Disaster Ready Funding Round 2.**
 - 2 Consider a budget allocation in the 2024/25 budget if the EOI for funding is unsuccessful, to enable studies to be completed and enable the essential relocation of the Nambucca Emergency Operations Centre (NEOC) project to progress.**
-

DIRECTOR CORPORATE SERVICES REPORTS

ITEM 10.1 SF3399 180124 Community Satisfaction Survey

6/24 **RESOLVED:** (Vance/Jenvey)

That Council adopt the draft community survey questionnaire subject to any amendments and engage the Taverner Research Group to conduct the survey in February 2024.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

ITEM 10.2 SF344 180124 Annual General Meeting Minutes 6 December 2023 for the Warrell Creek Hall Committee of Management

7/24 **RESOLVED:** (Angel/Buchanan)

THAT Council note the Minutes of the Warrell Creek Hall Committee of Management's Annual General Meeting held on 6 December 2023 and thank ongoing members for their efforts over the past twelve months.

ITEM 10.3 SF315 180124 Annual General Meeting Minutes 2 December 2023 for the Mary Boulton's Pioneer Cottage and Museum Committee of Management

8/24 **RESOLVED:** (Vance/M Ballangarry)

THAT Council note the Minutes of the Mary Boulton's Pioneer Cottage and Museum Committee of Management's Annual General Meeting held on 2 December 2023 and thank ongoing members for their efforts over the past twelve months.

ITEM 10.4 SF306 180124 Annual General Meeting Minutes 18 November 2023 for the Burrupine Hall Committee of Management

9/24 **RESOLVED:** (M Ballangarry/Vance)

THAT Council note the Minutes of the Burrupine Hall Committee of Management's Annual General Meeting held on 18 November 2023 and thank ongoing members for their efforts over the past twelve months.

ITEM 10.5 SF3358 180124 Investment Report to 31 December 2023

10/24 **RESOLVED:** (Angel/Jones)

THAT Council:

- 1 Note the Chief Financial Officer's report on Investments for the period December 2023.**
 - 2 Adopt the certification of the Responsible Accounting Officer for the period of December 2023.**
-

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

MANAGER DEVELOPMENT AND ENVIRONMENT REPORTS

ITEM 11.1 SF3290 180124 Undetermined Development Applications greater than 12 months or where submissions received to 10 January 2024 and Development Applications determined from 7 December 2023 to 10 January 2024 where an Application to Vary Development Standards under Clause 4.6 of the Nambucca LEP 2010 was approved under staff delegation

11/24 **RESOLVED:** (Vance/Jenvey)

THAT the information on undetermined Development Applications greater than 12 months, or where submissions have been received to 10 January 2024, and Development Applications determined from 7 December 2023 to 10 January 2024 where an application to vary development standards under Clause 4.6 of the Nambucca LEP 2010 was approved under delegation, be noted by Council.

ITEM 11.2 DA2023/233 180124 Development Application DA2023/233 - Subdivision

12/24 **RESOLVED:** (Angel/Buchanan)

That Council, pursuant Section 4.16 of the *Environmental Planning and Assessment Act 1979*, refuse consent for Development Application 2023/233 for the subdivision of the road reserve located within Lot 232 DP 598397– 793 Upper Buckrabendinni Road, Buckra Bendinni, for the following reason:

- **The area of the proposed lot is 3.5ha which is less than the 100ha minimum lot size development standard contained within clause 4.1 of the Nambucca Local Environmental Plan 2010 (LEP). The development standard cannot be varied in accordance with clause 4.6(6)(b) of the LEP.**

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

For the Motion: Councillors Angel, Buchanan, Jenvey, Jones, M Ballangarry, Vance and Wilson
Total (7)

Against the Motion: Nil
Total (0)

ITEM 11.3 SF1148 180124 Council's Rangers' Report and Penalties Issued for November 2023

13/24 **RESOLVED:** (Vance/Jenvey)

THAT:

- 1 The Rangers' Impounding Statistics for the month of November 2023 be received and noted by Council.**
- 2 The penalties issued for the month of November 2023 be noted.**

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

Councillor Troy Vance left the meeting before the commencement of this item, the time being 6:21 PM

ITEM 11.4 SF3290 180124 2023 December - Approved Construction Certificates and
Complying Development Applications

14/24 **RESOLVED:** (Jones/Buchanan)

THAT the Construction Certificates and Complying Developments approved for December 2023 be noted and received for information by Council.

Councillor Troy Vance returned to the meeting at the completion of this item, the time being 6:22 PM

ITEM 11.5 SF3290 180124 2023 December - Development Applications and Complying
Development Applications Received

15/24 **RESOLVED:** (Angel/Buchanan)

THAT the Development Applications and Complying Developments received in December 2023 be received for information.

DIRECTOR ENGINEERING SERVICES REPORTS

ITEM 12.1 PRF53 180124 River Street Toilet Block Relocation

16/24 **RESOLVED:** (Vance/M Ballangarry)

THAT Council:

- 1 Adopt an alternate building footprint directly adjacent to the existing structure on the North Eastern side, as per Attachment B and;**
- 2 Engage an architect to progress the design of the proposed new amenities and report back to Council.**

ITEM 12.2 SF263 180124 Remove Bollards From Watt Creek Cycleway

MOTION: (Jenvey/Buchanan)

THAT Council:

- 1 Remove bollards along the Watt Creek Cycleway that aren't protecting bridge structures from vehicles, and:**

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

- 2 Provide additional delineation with linemarking, signs and cats eyes at the approach to remaining bollards protecting structures to increase rider awareness of the impending bollard.

AMENDMENT: (Jenvey/Buchanan)

THAT Council:

- 1 Remove bollards along the Watt Creek Cycleway that aren't protecting bridge structures from vehicles, and:
- 2 Provide additional delineation with linemarking, signs and cats eyes at the approach to remaining bollards protecting structures to increase rider awareness of the impending bollard.
- 3 Relocate bollards protecting structures to either side of the footpath, leaving a 1.6m gap sufficient for cyclists but too narrow for motor vehicles, approximate cost \$3,000.

17/24 **RESOLVED:** (Jenvey/Buchanan)

- 1 Remove bollards along the Watt Creek Cycleway that aren't protecting bridge structures from vehicles, and:
- 2 Provide additional delineation with linemarking, signs and cats eyes at the approach to remaining bollards protecting structures to increase rider awareness of the impending bollard.
- 3 Relocate bollards protecting structures to either side of the footpath, leaving a 1.6m gap sufficient for cyclists but too narrow for motor vehicles, approximate cost \$3,000.

COUNCIL IN CLOSED MEETING (CLOSED TO THE PUBLIC)

18/24 **RESOLVED:** (Vance/Jenvey)

- 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:

DIRECTOR ENGINEERING SERVICES REPORTS

For Confidential Business Paper in Closed Meeting

ITEM 13.1	T005/2023 Resurfacing	180124	Request for Quotation T005/2023 - Marion Wood Netball Court
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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) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

For Confidential Business Paper in Closed Meeting

ITEM 13.2	T006/2023	180124	Tender T006/2023 - Nambucca Valley Sporting Fields Subsoil Drainage Program
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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) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

For Confidential Business Paper in Closed Meeting

ITEM 13.3	SF3301	180124	Matters Regarding Realised or Potential Losses
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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.

CLOSED MEETING

The Ordinary Council Meeting's Meeting **IN CLOSED MEETING** commenced at 6.31 PM.

RESUME IN OPEN MEETING

19/24 **RESOLVED:** (Vance/Buchanan)

That Ordinary Council Meeting resume in Open Meeting. The Ordinary Council Meeting resumed IN OPEN MEETING at 6.52 PM.

FROM COUNCIL IN CLOSED MEETING

The General Manager then read the Confidential resolutions.

DIRECTOR ENGINEERING SERVICES REPORTS

For Confidential Business Paper in Closed Meeting

ITEM 13.1	T005/2023	180124	Request for Quotation T005/2023 - Marion Wood Netball Court Resurfacing
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20/24 **RESOLVED:** (Jenvey/Vance)

THAT Council:

- 1 Note the engagement under Delegated Authority, by Council's General Manager, of Court Craft to resurface the Marion Wood Netball Courts, for a sum of \$220,300, be noted for information by Council.**
- 2 Update the Contract Register.**

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

For Confidential Business Paper in Closed Meeting

ITEM 13.2 T006/2023 180124 Tender T006/2023 - Nambucca Valley Sporting Fields Subsoil Drainage Program

MOTION: (Buchanan/Jenvey)

THAT Council:

- 1 Decline to accept any of the Tenders *as per Section 178(1)(b) of the Local Government (General) Regulation 2021, Part 7.*
- 2 Enters into negotiations with Turf Drain Australia with a view to entering into a contract in relation to the subject matter of the tender - installation of subsoil drainage, *as per the Local Government (General) Regulation 2021, Part 7, Section 178(3)(e).*
- 3 Authorise the General Manager to execute the contract following negotiations as per item 2.
- 4 Once the contract is executed, update the Contract Register.

AMENDMENT: (Angel/Vance)

THAT Council:

- 1 Decline to accept any of the Tenders *as per Section 178(1)(b) of the Local Government (General) Regulation 2021, Part 7.*
- 2 Enters into negotiations with Turf Drain Australia with a view to entering into a contract in relation to the subject matter of the tender - installation of subsoil drainage, *as per the Local Government (General) Regulation 2021, Part 7, Section 178(3)(e).*
- 3 Authorise the General Manager to execute the contract following negotiations as per item 2.
- 4 Once the contract is executed, update the Contract Register.
- 5 Seek additional funds from future grants to complete the works to the small field of the EJ Biffin Playing Fields.

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

For the Motion:	Councillors Angel, Buchanan, Jenvey, Jones, M Ballangarry, Vance and Wilson
	Total (7)
Against the Motion:	Nil
	Total (0)

21/24 **RESOLVED:** (Angel/Vance)

THAT Council:

- 1 **Decline to accept any of the Tenders *as per Section 178(1)(b) of the Local Government (General) Regulation 2021, Part 7.***
- 2 **Enters into negotiations with Turf Drain Australia with a view to entering into a contract in relation to the subject matter of the tender - installation of subsoil drainage, *as per the Local Government (General) Regulation 2021, Part 7, Section 178(3)(e).***

Ordinary Council Meeting

MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 18 JANUARY 2024

-
- 3 Authorise the General Manager to execute the contract following negotiations as per item 2.
 - 4 Once the contract is executed, update the Contract Register.
 - 5 Seek additional funds from future grants to complete the works to the small field of the EJ Biffin Playing Fields.

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

For the Motion:	Councillors Angel, Buchanan, Jenvey, Jones, M Ballangarry, Vance and Wilson
	Total (7)
Against the Motion:	Nil
	Total (0)

For Confidential Business Paper in Closed Meeting

ITEM 13.3	SF3301	180124	Matters Regarding Realised or Potential Losses
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22/24 **RESOLVED:** (Jones/Angel)

THAT the information concerning incidents where there is a realised or potential loss of funds and/or reputation be received.

CLOSURE

There being no further business the Deputy Mayor then closed the meeting the time being 6.55 PM.

Confirmed and signed by the Deputy Mayor on 15 February 2024.

Cr John Wilson
DEPUTY MAYOR

(CHAIRPERSON)

MAYORAL MINUTE

**ITEM 3.1 SF3422 150224 MAYORAL MINUTE - LOCAL GOVERNMENT NSW PERIODIC
COST SHIFTING SURVEY**

AUTHOR/ENQUIRIES: Rhonda Hoban OAM, Councillor

SUMMARY:

Cost shifting occurs when state and federal governments force councils to assume responsibility for infrastructure, services and regulatory functions without providing sufficient supporting funding.

Late last year, Local Government NSW (LGNSW) published their latest cost shifting report prepared by consultants Morrison Low. Alarming, this report shows that the increase in cost shifting has been accelerated by various NSW Government policies. For the 2021/2022 financial year, cost shifting represented a total of \$1.36 billion of unfunded costs passed onto councils and their communities.

On average, this represents an additional cost of \$460.67 for every ratepayer across the state.

The effect of this cost shift is fewer services, less infrastructure maintenance and investment, and lost opportunity and amenity for all our residents and businesses. It is taxation by stealth and it is important that our community is made aware of it.

RECOMMENDATION:

- 1 Council receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year.**
- 2 A copy of the cost shifting report be placed on Council's website so that our community can access it.**
- 3 Council write to the Premier, the NSW Treasurer and the NSW Minister for Local Government requesting that they urgently address these costs through a combination of regulatory reform, budgetary provision and appropriate funding**

DISCUSSION:

The pressure on councils to continue to provide services of appropriate standard to our communities is now extraordinary.

The unrelenting growth of cost shifting to councils, coupled with rate pegging, is increasingly eroding any possibility of financially sustainable local government and risking the capacity of councils to deliver tailored, grassroots services to their communities and properly deliver and maintain vital local infrastructure.

Alarming, the latest research commissioned by Local Government NSW (LGNSW) shows that the increase in cost shifting has been accelerated by various NSW Government policies.

As shown in the latest cost shifting report produced by independent consultants Morrison Low on behalf of LGNSW for the 2021/2022 financial year, an amount of \$1.36 billion of expense has been passed on to councils to fund. This is an increase of \$540 million since the last report from the 2017/2018 financial year and represents lost services, lost opportunity and lost amenity for all of our residents and businesses. The top five cost shifts onto NSW Councils are the waste levy, rate exemptions, DA's and regulatory functions, emergency services contributions and the reduction in libraries funding.

For a large rural Council such as Nambucca Valley, this represents on average, an additional cost of \$490.10 for every ratepayer in our Council.



ITEM 3.1 MAYORAL MINUTE - LOCAL GOVERNMENT NSW PERIODIC COST SHIFTING SURVEY

With councils having to fund this ongoing subsidy for the State Government each and every year it means our communities get less or go without. They go without better roads, they go without better parks, they go without important community services that only councils provide, and they and their ratepayers are effectively paying hidden taxes to other levels of government.

Prior to the most recent state election the then Minns Opposition wrote to LGNSW acknowledging that cost shifting had undermined the financial sustainability of the local government sector.

Now in 2024, it is important to councils and communities that the NSW Government urgently seek to address cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding.

ATTACHMENTS:

- 1  3968/2024 - LGNSW Cost Shifting Survey Summary
- 2  3969/2024 - LGNSW Cost Shifting Survey Full Report

GENERAL MANAGER'S REPORT**ITEM 10.1 SF959 150224 OUTSTANDING ACTIONS AND REPORTS**

AUTHOR/ENQUIRIES: Bede Spannagle, General Manager; Matthew Sykes, Director Corporate Services; Evan Webb, Chief Financial Officer; Joanne Hudson, Manager Human Resources; Daniel Walsh, Manager Development and Environment; Keith Williams, Acting Director Engineering Services; Stephen Saunders, Manager Economic Development

The following table is a report on all outstanding resolutions and questions from Councillors (except development consents, development control plans & local environmental plans). Matters noted or received, together with resolutions adopting rates, fees and charges are not listed. Where matters have been actioned, they are indicated with ~~strike through~~ and then removed from the report to the following meeting. Please note that the status is updated one week before the Council meeting.

RECOMMENDATION:

THAT the list of outstanding actions and reports be noted and received for information by Council.

	FILE NO	COUNCIL MEETING	SUMMARY OF MATTER	ACTION BY	STATUS
MARCH 2022					
1	SF2143	31/03/22 13/10/22	That an Asbestos Management Register for all Council buildings be prepared once a funding source is obtained.	A/DES	<p>19/07/22 – Manager of Assets has advised that there are registers/management plans for all sites containing asbestos. These will be available through QR codes at each site.</p> <p>06/09/22 – Further investigation into feasibility of required actions to be undertaken.</p> <p>17/10/22 – Timeframe for establishment of register to be determined and copies of plans to be sent to each Committee.</p> <p>14/11/22 – No further update.</p> <p>05/12/22 – Management Plans to be sent out by the end of December, register anticipated to be finalised by the end of the financial year.</p> <p>01/02/23 – Plans to be sent out as soon as possible.</p> <p>13/02/23 – Plans are being sent out. Registers anticipated to be finalised this financial year.</p> <p>08/03/23 – Included in draft budget to fund remaining works.</p> <p>20/03/23 to 20/09/23 - No further update.</p> <p>04/10/23 – Budget allocation is for an audit of the registers via a contractor yet to be engaged.</p> <p>18/10/23 – No further update.</p> <p>06/11/23 to 22/11/23 - No further update.</p> <p>05/12/2023 – Works currently in progress.</p> <p>10/01/24 – A/MAF arranging a consultant to progress works.</p> <p>8/2/24 – Request for Quote (RFQ) now being prepared by LGP</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

MAY 2022					
2	DA2022/115	26/5/22	<p>2 Once the proposed lots are registered, Council gives public notice of a proposed resolution to reclassify Lot 2 from operational land back to community land in accordance with section 34 of the Local Government Act 1993.</p> <p>3 A report on any submissions to Council's public notice of a proposed resolution to reclassify proposed Lot 2 from operational land back to community land be presented to Council after the exhibition period.</p>	MDE	<p>08/06/22 – Waiting on registration of the Lots.</p> <p>05/07/22 – As part of the registration of the plan of subdivision, it was intended to dedicate Coronation Street as public road. Currently it is partly located within Crown land and Council land. The Crown have advised Council that this can't occur unless Council compulsory acquires the section of Crown land. In addition to this, the Bowra Hub development intend to locate their power lines within the Crown land to supply the Hub. The Crown have advised that this cannot occur until a licence is obtained for the placement of the electricity line within Crown land.</p> <p>Council is in the process of obtaining a licence for the placement of the electricity line within the Crown Land and the compulsory acquisition of the section of Crown land. This will be reported to Council separately.</p> <p>To finalise the plan of subdivision, it will be registered without Coronation Street as a public road. A right of carriageway will be created benefiting the Hub development across Council land.</p> <p>19/07/22 – Awaiting concurrence from NSW LALC to enable licence application to be lodged.</p> <p>17/08/22 – Still awaiting concurrence. NSW LALC have advised concurrence is not a certain outcome and will be presented to a board meeting.</p> <p>06/09/22 – Plan in the process of being registered.</p> <p>04/10/22 – No further update.</p> <p>19/10/22 – Plan having final amendments made before being sent for pre-examination.</p> <p>02/11/22 – Final amendments still being made.</p> <p>16/11/22 – Lodged on 14 November 2022 for pre-examination.</p> <p>05/12/22 – Subdivision Certificate issued and documents to be executed prior to registration.</p> <p>01/02/23 – Delays due to resignation of Registered Surveyor.</p> <p>13/02/23 – Surveyors are doing final markings on site prior to lodgement of plans of registration.</p> <p>08/03/23 – No further update.</p> <p>22/03/23 – Plan/s88B in process of being signed by Essential Energy. Once done it can be sent for registration.</p> <p>05/04/23 - No further update.</p> <p>19/04/23 – 9/8/23 – Waiting for Essential Energy.</p> <p>23/8/23 – Amendments to plans being done to satisfy Essential Energy requirements.</p> <p>06/09/23 – 18/10/23 – Amendments being</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

					<p>finalised.</p> <p>07/11/23 – Amended plans sent to Essential Energy for signing.</p> <p>22/11/23 – 6/12/23 - No further update.</p> <p>10/1/24 – 6/2/24 - All documents have been signed for registration. Once registered the public notice will be made and reported back to Council.</p>
3	SF3168	13/10/22	That in consultation and possible partnership with Bellingen Shire Council, Nambucca Valley Council seek a meeting or meetings with nearby Councils (Port Macquarie-Hastings, Kempsey, Bellingen, and Coffs Harbour) to discuss potential options for waste arrangements post early 2027 when the current Coffs Coast Waste contracts are due to expire.	MDE	<p>19/10/22 – Meeting organised with Coffs Harbour and Bellingen Councils on 18 November 2022.</p> <p>02/11/22 – Meeting organised with Coffs Harbour and Bellingen Councils on 18 November 2022 and seek agreement to meet with Port Macquarie-Hastings, Kempsey.</p> <p>15/11/22 – Meeting with General Manager of Bellingen Shire and agreed to organise further meetings with General Managers of Bellingen, Kempsey, Port Macquarie Hastings Councils.</p> <p>Regional Waste Strategy Reference Group meeting has been deferred until Wednesday 30 November 2022.</p> <p>01/02/23 – Meeting being arranged with Bellingen, Kempsey and Port Macquarie Hastings Councils.</p> <p>16/02/23 – Virtual meeting arranged for 22 March 2023.</p> <p>20/3/23 – Outcomes of discussions with surrounding Councils will be reported back to Council as part of a future options report once all options have been investigated.</p> <p>22/03/23 – Meeting to be held 22 March 2023 with Bellingen, Kempsey, Nambucca Valley and Port Macquarie Councils.</p> <p>30/03/23 – Item to remain open at the request of Cr Jenvey.</p> <p>05/04/23 – Refer to separate report. Note that a future report will be referred to Council once all options for Councils future waste strategy has been finalised.</p> <p>13/04/23 – Resolution 133/23 that Council not enter into an agreement to accept any residue waste from City of Coffs Harbour Council.</p> <p>14/04/23 – Correspondence sent to GM City of Coffs Harbour Council (CoCH) advising NVC not in a position to offer access to our landfill at this point in time.</p> <p>19/04/23 – Meeting to be arranged by EPA.</p> <p>03/05/23 – The EPA proposed joint procurement facilitation service and the regional group will email EPA to seek their application process to move forward with investigations into the establishment of a regional entity.</p> <p>17/05/23 to 07/06/23 Waiting for response from EPA.</p> <p>21/06/23 to 04/07/23 – Meeting held with Clarence Valley Council and Bellingen Shire Council on 09/06/23. Discussions to continue.</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

					<p>19/07/23 – Discussions are continuing with Bellingen, Port Macquarie, Kempsey, and Clarence. Coffs have previously advised that they are not wanting to discuss green or yellow processing. A feasibility study regarding processing green and yellow bin waste at Clarence's facilities is currently being undertaken.</p> <p>09/08/23 – No further update.</p> <p>23/8/23 – Refer to separate report with update.</p> <p>06/09/23 to 06/2/24 – No further update.</p>
4	SF1092	13/10/22	<p>1 Request approval from the Minister Administering the Crown Lands Management Act 2016 to approve the draft Plan of Management for Wellington Park Nambucca Heads Reserve 81262 Part Lot 7016 DP 1056524</p> <p>2 Upon approval from the Minister Administering the Crown Lands Management Act 2016, amend the draft Plan of Management if required by the Minister and place it on public exhibition as per Section 38 of the Local Government Act, 1993.</p>	MED	<p>19/10/22 – PoM lodged with the Minister for approval.</p> <p>01/11/22 – No further update.</p> <p>15/11/22 – No further update.</p> <p>08/12/22 – No further update.</p> <p>11/01/23 – No response to date.</p> <p>01/02/23 – No further update.</p> <p>09/02/23 – Crown Lands has advised there is a considerable backlog at this point in time.</p> <p>Council requires the PoM to be completed for the renewal of the existing licence by Dec 2024.</p> <p>08/03/23 - No further update.</p> <p>22/03/23 – No further update.</p> <p>05/04/23 - Matter has been referred to DoPE Crown Lands for further information, and the Crown are yet to respond.</p> <p>19/04/23 to 03/05/23 - DoPE Crown Lands have are yet to provide a detailed response.</p> <p>16/05/23 - Followed up with LANDSAS who are facilitating the processing of the report on Council's behalf. Expecting a progress update by the end of the month.</p> <p>07/06/23 – LANDSAS yet to provide the response.</p> <p>20/06/23 – Dept Crown Lands confirmed PoM held for review.</p> <p>04/07/23 – LANDSAS has been asked to make minor clarification amendments on the encroachment area in the plan and resubmit to Crown Lands (CL).</p> <p>19/07/23 to 06/09/23 – No further update.</p> <p>20/09/23 – Dept CL have requested further amendments to the PoM. Landsas have challenged the request citing they are inconsistent with the CLM Act 2016.</p> <p>Amendments include: removal of Caravan Park encroachment licence to be managed by the Crown and removal of various authorisations. Meeting with CL scheduled for 29/09/23 to discuss further.</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

					<p>04/10/23 – A/MED on leave therefore meeting with CL to be scheduled for a later date.</p> <p>17/10/23 – Meeting (Teams) held between Dept Crown Lands representatives, Landsas and Council's AMED on 14 October 2023 to clarify comments made by Dept CL on PoM under review. Dept CL have now provided explanation for their position, and Landsas will amend and progress PoM as a result. Once approved by the Minister, this will be brought back to Council accordingly.</p> <p>02/11/23 – LANDSAS have addressed issues raised by DoPE Crown Lands and now resubmitted to the Minister for review. Currently with DoPE.</p> <p>22/11/23 – 05/02/24 - No further update, awaiting a response from DoPE.</p>
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MAY 2023					
5	SF2524	25/05/23	Council as Crown Land Manager execute the 21-year lease to Nambucca Heads RSL Club Limited over Lots 1 and 2 in DP 866932 Reserve 85113 under Council seal.	MED	<p>31/05/23 - Followed up with NHRSL Club who will revert with decision on acceptance of lease by 2/6/23.</p> <p>07/06/23 - meeting with RSL representatives to be held 07/06/23.</p> <p>20/06/23 – Councillors updated at meeting</p> <p>15/06/23 - NHRSL Club advised of Council's position. No response to hand at this stage.</p> <p>04/07/23 – NHRSL Club has responded requesting a further meeting with Nambucca Valley Council.</p> <p>19/07/23 – A meeting took place on 11 July 2023 with the RSL to organise a meeting between the RSL Board and Council.</p> <p>09/08/23 - Lease not yet executed. Awaiting completion of Council's stormwater remediation project to be commenced imminently.</p> <p>23/08/23 – The General Manager met with the RSL on 18 August 2023 and the lease will be discussed at their Board Meeting 30 August 2023.</p> <p>The stormwater is 50% completed.</p> <p>06/09/23 - NHRSLCL have advised they will suspend signing the lease due to new issue presented during the stormwater rectification project – being a sinkhole and large cavity requiring remediation. Council's Project Manager is liaising with RSL's Stakeholder Liaison from C2Hills Consultancy and seeking involvement from NSW Public Works.</p> <p>20/09/23 – Manager Projects is waiting on formal response from NSW Public Works confirming their contribution to works</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

				<p>required.</p> <p>04/10/23 – Manager Projects has advised that NSW Public Works have undertaken their first review of Council's submission for funding. PWA have said that they will cover:</p> <ul style="list-style-type: none"> - The full length of stormwater pipe replacement except for the first 12m - The asphalt concreting of the 2.4m (excavator width) on the full 60m long trench - The concrete carpark for 3 car parking bays out of 7. <p>This is pending the final review by PWA which could be in 2 weeks.</p> <p>17/10/23 - The Club have advised they do not wish to proceed with execution of the new licence until the current carpark works being done by Council are completed, or at least have progressed significantly.</p> <p>Council has had verbal commitment from NSW PWA (Public Works) to provide partial, but significant funding to the rectification works, however an executed funding deed has not yet been received. Once written confirmation has been received, Council will proceed to engage the contractors to undertake the identified works – including the sink hole cavities presented once the stormwater project commenced. This step will enable focus back to progressing the execution of the new licence agreement.</p> <p>02/11/23 – Meeting on-site with NHRSL CEO and Project Manager; AMED & Manager Projects to walk through issues identified with sink holes, cavities and current rectification works. Need has been identified that there is a much larger problem in the sub-surface which needs full investigation prior to any re-surfacing. Engineers to undertake proper and full investigation, project to rectify to be scoped; responsibilities of works to be clearly delineated; funding for project to be sought. Report to be brought back to Council on status once fully understood.</p> <p>22/11/23 - DoPE Crown Lands have advised they are completing independent Native Title Advice to be supplied to Council, however require 2 additional purposes to be added to the reserve purposes being Access, and Tourist Services. These will need to be gazetted and will provide approval for the existence of access to the boardwalk and boat ramp, and for the kiosk and café.</p> <p>The progressing of the new lease will be subject to the outcome of the exploration</p>
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ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

					<p>works with the stormwater rectification project works, then confirming our negotiated position with the RSL Club.</p> <p>05/12/23 to 05/02/24- No further action. Awaiting completion of works at premises (estimated to be completed by the end of this financial year given the funding parameters set by TfNSW who have funded a large portion of the required works), and native title advice from DoPE Crown Lands.</p>
JUNE 2023					
6	SF3303	29/06/23	<p>As part of our support for the Voice to Parliament Nambucca Valley Council will convene a meeting of its Aboriginal Advisory Committee and extend its stakeholder engagement if necessary to produce a Reconciliation Plan to be linked to Council's Community Strategic Plan.</p> <p>Council policies such as initiatives of Aboriginal place naming to be part of the Reconciliation Plan between Nambucca Valley Council and its Gumbaynggirr community representatives. This Reconciliation Plan is to include Council's support for NAIDOC Week and Reconciliation Week, as well as agreement to showcase First Nation's performances, art and culture in Council facilities.</p>	DCS	<p>06/07/23 – Placed on website 19/07/23 – awaiting replacement of the Manager Community Development position to undertake the actions of:</p> <ul style="list-style-type: none"> • convene a meeting of Council's Aboriginal Advisory Committee and extend Council's stakeholder engagement if necessary to produce a Reconciliation Plan to be linked to Council's Community Strategic Plan. • Council policies such as initiatives of Aboriginal place naming to be part of the Reconciliation Plan between Nambucca Valley Council and its Gumbaynggirr community representatives. This Reconciliation Plan is to include Council's support for NAIDOC Week and Reconciliation Week, as well as agreement to showcase First Nation's performances, art and culture in Council facilities. <p>09/08/23 report to this Council meeting on staff structure related to Community Development.</p> <p>22/08/23 - Community Development Officer position to be recruited.</p> <p>06/09/23 - Applications for Community Development Officer position close 24.09.23</p> <p>18/09/23 – no further update</p> <p>04/10/23 to 18/10/23 – Interviews for Community Development Officer position to be held 20/10/23.</p> <p>08/11/23 to 22/11/23 Community Development Officer to commence 4 December 2023.</p> <p>06/12/2023 - Community Development Officer (CDO) commenced 4 December 2023.</p> <p>03/01/2024 – CDO has:</p> <ul style="list-style-type: none"> • researched into why previous committee meetings ceased in 2012 (interest waned to a point

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

					<p>where the lack of a quorum resulted in meetings being abandoned),</p> <ul style="list-style-type: none"> attended a meeting of the Local Government Aboriginal Network, and scheduled a meeting with Council's three indigenous councillors on the 18th January 2024. <p>01/02/2024 – CDO is currently working through a consultation phase to engage with key aboriginal stakeholders (to date it has included meeting with two aboriginal councillors and a meeting with Jaanymili Bawrrungga Association. The CDO has also reached out to Unkya Aboriginal Land Council to seek a meeting) regarding re-establishing the Aboriginal Advisory Committee and creating a Reconciliation Action Plan (RAP). RAP's of other organisations are being reviewed to determine the appropriate format/content. Over coming weeks the CDO is seeking meetings with: Nambucca Aboriginal Land Council, Bowraville Land Council, Muurbay Language and Cultural Cooperative, Miimi Aboriginal Corporation and Ngurrala Aboriginal Corporation. The CDO has also recently had consultation with the key stakeholders involved in the development of the new Gumbaynggirr Keeping Place. CDO is also liaising with local community stakeholders to gain an understanding of what the issues and challenges are for our indigenous community.</p>
JULY 2023					
7	SF396	27/07/23	Housekeeping amendment to Nambucca Local Environmental Plan 2010 <p>1 If the Minister determines that the matter should proceed, Council staff undertake community consultation in accordance with the gateway determination.</p> <p>2 Following community consultation, Council staff report the planning proposal back to Council for consideration of submissions received and a final decision as to whether Council will proceed to make the amended plan.</p>	MDE	<p>09/08/23 – Refer to separate report. Once a decision is made on these matters the planning proposal will be finalised and sent to the Minister for Gateway Determination.</p> <p>23/08/23 – Planning proposal being finalised for submission to the Minister for Gateway Determination.</p> <p>06/09/23 to 06/2/24– Amendments requested by the Minister prior to Gateway determination being finalised for resubmission.</p>
AUGUST 2023					
8	LF5363	31/08/23	Council to receive a report addressing the matter raised by and on behalf of the Save the River Group and the	A/DES & MDE	<p>06/09/23 - Submission received and report to be prepared accordingly.</p> <p>20/09/23 – No further update.</p>

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			Nambucca Heads Island Golf Club in relation to the causeway to Stuarts Island Nambucca Heads. (45604/2023 & 46082/2023)		<p>04/10/23 – Options investigation commenced.</p> <p>18/10/23 – No further update. Investigations will take time to develop.</p> <p>06/11/23 to 22/11/23 – No further update.</p> <p>05/12/23 to 07/02/24 – Draft report to go to the Nambucca Rivers, Creeks, Estuaries and Coastline Committee – 15 February 2024.</p>
SEPTEMBER 2023					
9	SF2278	28/09/23	<p>Electric Vehicle (EV) Charging Stations</p> <p>That Council:</p> <p>2 Consider all alternate locations including Nambucca Heads as a focus point (Main Street, Anzac Park near the garden centre, Bellwood Park and V-Wall).</p> <p>3 Investigate grant funding opportunities for paid EV Chargers</p>	MDE	<p>04/10/23 – No further update.</p> <p>18/10/23 to 6/2/24 – Staff are investigating suggested sites.</p> <p>6/2/24 – Possible grant funding through “Community Energy Upgrades Fund Round 1” \$100m of funding over 2 funding rounds ran over 3 years from 2024/25, must be completed by March 2027. Council must contribute to 50% of the costs of the total project. Council staff to make submissions.</p>
10	SF3190	28/09/23	<p>Warrell Creek land Lots 9, 17 and 18 DP 884316:</p> <p>2 Issue letters to relevant parties advising that Council will not be proceeding with the subdivision as originally planned and will not be proceeding to contract for the sale of land</p> <p>3 Survey the land boundaries with Lot 1 DP 374127 and Lot 6 DP 748478 to identify if there are any encroachments from these lots.</p> <p>4 Report the findings of the encroachment survey to Council with options for the potential subdivision of the land.</p>	MED	<p>04/10/23 – No further update</p> <p>18/10/23 - AGM and AMED to prepare and hand deliver letters to current landowners advising Council will not be progressing to contract for sale of earlier proposed lots, and staff are currently attending to further survey of the land to inform subdivision options to be presented to Council as per resolution.</p> <p>02/11/23 – A/MED phoned affected landowners to advise situation and delivered letters in confirmation of Council not proceeding to contract of sale. Review of the subdivision plan by internal stakeholders completed and 3 options are being sketched to bring through the Land Development Committee, then brought to Council for direction on which option to proceed with.</p> <p>22/11/23 – report on northern Lot subdivision to 30 November Council Meeting.</p> <p>05/12/2023 – Subdivision options presented to Land Development Committee 30 November and Committee chose Option 1. Staff to proceed to draft subdivision in accordance with chosen option and bring back to Council for resolution to proceed further.</p> <p>Report on northern lots deferred from Council meeting of 30 November and will be brought to Council meeting of</p>

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					<p>14 December accordingly.</p> <p>10/01/24 – Investigation progressing on southern lots</p> <p>01/02/24 – Investigation continuing, requested information on OSSM.</p> <p>05/02/24 - Meeting with OSSM consultant scheduled early February to define lot size/shape possibilities</p>
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OCTOBER 2023					
11	SF90	12/10/23	<p>THAT Council:</p> <p>1 Install a trial 2-hour parking restriction for 12 months along High street Bowraville, both sides of the road, between Belmore Street and the cenotaph, between the hours of:</p> <ul style="list-style-type: none"> • 8.30am to 6.00pm Monday to Friday, and 8.30am to 12.30pm Saturdays. • A further extension of the trial will be considered in 12 months and approval will be subject to regular compliance being carried out. <p>2 Concur with the installation of a 10m No Stopping Zone immediately prior to the Nambucca Vocational College car park driveway located at 29 Cooper Street, Macksville.</p> <p>6 Install an additional disabled parking bay, pram crossing and requisite signage on High Street Bowraville immediately adjacent to the pharmacy.</p> <p>8 Install one hour parking restrictions at the Matthew Street Lookout, Scotts Head.</p>	A/DES	<p>18/10/23 – To be implemented when time permits.</p> <p>08/11/23 – Signs for point 1, 6 & 8 have been delivered, now organising installation.</p> <p>22/11/23 – Signs waiting to be installed for all items.</p> <p>5/12/23 – No change.</p> <p>6/02/24 – Signs have been installed.</p> <p> </p> <p>5/12/23 – Completed.</p> <p> </p> <p>22/11/23 - Line Marking contractors engaged for disabled parking bay. 5/12/23 – line marking completed. 10/01/24- pram crossing still outstanding 6/02/24 – Structures crew to prioritise, not yet complete.</p> <p> </p> <p>06/12/23 – No change. 10/01/24 – completed</p>
12	SF3303	26/10/23	<p>Request for funding for funding allocation - Design of Shared Pathway - Hyland Park to Mann Street</p> <p>THAT:</p> <p>1 If staff can identify sufficient available funds in reserves or the adopted 2023/2024 budget Council allocate those funds at the September 2023 Quarterly</p>	CFO	<p>06/11/23 – No reserve funds or unallocated funds available in the budget. Council will be applying for grant funds through the “Get NSW Active” program that opened on 31/10/23 for the design of the cycleway.</p> <p> </p> <p>22/11/23 - Council receiving ongoing letters of support and quotations received for survey design. Application to be lodged in December 2023.</p> <p> </p> <p>5/12/23 – Application will be made prior to</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

			<p>Budget Review to engage an external consultancy to prepare a design for a shared pathway from Hyland Park to Mann Street, Nambucca Heads.</p> <p>2 When a new round of Transport for NSW's Get NSW Active program opens or any other suitable grant funding opportunity arises Council apply for funding for an external consultancy to prepare a design for a shared pathway between Hyland Park and Mann Street, Nambucca Heads.</p> <p>3 If sufficient funding cannot be identified in reserves or the current budget and no new grant funding opportunity has opened or if a grant funding application remains undetermined or has been unsuccessful Council consider a funding allocation in the 2024/2025 budget to engage external consultants to design a shared pathway between Hyland Park and Mann Street, Nambucca Heads.</p> <p>4 The design encompass multi modal trip for cycle friendly infrastructure.</p>	A/DES	<p>12 December 2023 through NSW Get Active program.</p> <p>10/01/24- Grant application made and budget bid to be added to 24/25 budget process.</p> <p>22/11/23 - Will be part of design if grant application is successful.</p> <p>5/1/24 to 6/02/24 - no change.</p>
13	SF3303	26/10/23	<p>1 Council reconvene the Nambucca River Creeks Estuaries and Coastline Management Committee.</p> <p>2 Council extend the area of interest of the Committee to include the entire Nambucca River, Swimming Creek, Warrell Creek, and Deep Creek catchments and consider renaming the Committee to reflect the broader area of interest.</p> <p>3 Once reconvened the Committee review its Terms of Reference and membership.</p>	A/DES	<p>08/11/23 -Investigation underway to locate original terms of reference. Original Committee members to be contacted for re-participation.</p> <p>22/11/23 - Coast and Estuary committee Meeting set for mid-February 24.</p> <p>5/12/23 to 10/01/24– Meeting scheduled for 15/2/24.</p>
14	SF1358	26/10/23	<p>That the amended report - Proposed Changes to the Organisation Structure be deferred until the December 2023 meeting.</p>	GM	<p>22/11/23 - No further action.</p> <p>06/12/23 to 7/02/24 – Structure review will be undertaken in conjunction with budget process under the new General Manager.</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

NOVEMBER 2023					
15	SF2381	16/11/23	<p>THAT Council:</p> <ol style="list-style-type: none"> 1 Actively seek to minimise land use conflict between different types of farming through the use of buffer zones, planning changes, and better definitions of 'productive farmland' etc. 2 Receive a report on the proposal to submit a planning proposal to the Planning Minister which seeks to amend the Nambucca LEP 2010 to make intensive plant agriculture permissible with development consent in the RU1 and RU2 zones. 4 Seek legal advice to clarify if development application is required prior to the erection of Netting and Greenhouses associated with horticulture (blueberries) in Rural Zones; and if a development application is not required, seek legal advice as to which changes are needed to make it so, using the experience of the Coffs Harbour Council. 5 Receive a report on a Rural Land Use Strategy. 	MDE	<p>22/11/23 – Action yet to be taken.</p> <p>6/12/23 – 10/01/24 – Report to be provided to Council once the legal advice is received.</p> <p>6/2/24 – The legal advice is expected to be received before the end of this month, in which case the report will be presented to Council at either the 29 February or 14 March 2024 meeting.</p>
16	SF843	16/11/23	<p>Vehicular Access to Beaches</p> <ol style="list-style-type: none"> 2 Contact National Parks and Wildlife Service regarding a possible new access at North Valla and report back to the Vehicular Access to Beaches Committee. 3 Undertake temporary pedestrian and vehicle access improvements at Swimming Creek. 	A/DES	<p>5/12/23 – As per Council's Environmental Project Officer – Due to funding being successful for the upgrade of 4WD and pedestrian access at both North Valla and Swimming Creek, an alternative access path bordering Jagun NP is not required.</p> <p>On hold due to pending applications.</p> <p>9/1/24 – no longer require temporary improvements as funding application was successful. Further update regarding long term improvements to come once Environmental Project Officer returns from leave.</p> <p>6/02/24 – Department of Climate Change Energy the Environment and Water – Coast and Estuaries implementation funding – Project to commence in 2024.</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

			<p>4 Investigate the cost of surveillance cameras to be installed at Swimming Creek, Scotts Head and North Valla.</p> <p>5 Approve emergency vehicles including surf lifesaving vehicles to go beyond the prohibited point on Forsters Beach, Scotts Head.</p> <p>6 Install no parking signs in the dune area at Scotts Head beach access.</p>		<p>Waiting on advice from the Ranger.</p> <p>6/12/23 – Approximately \$5,000 for the cameras and installation from the Beach Control Capital GL 8075.721.</p> <p>9/1/24 – MICT advised that approval is required by Crown Lands to install surveillance cameras at the beach access points. Cameras will need to be equivalent to the flood cameras and estimated cost for equipment is \$45k.</p> <p>Information to be given to VABC at the meeting on 9 February 2024.</p> <p>6/02/24 – Council's Property Officer advised that licences would be required for any infrastructure to be installed on Crown land.</p> <p>VABC Committee meeting on 9 February 2024.</p> <p>Council adopted 16 November Resolution 440/23.</p> <p>Lodged into Datascope SR2458.</p> <p>9/1/24 – signs installed prior to Christmas.</p>
17	SF1867	30/11/23	<p>Illegal Dumping in the State Forest</p> <p>That Council receive a report addressing both the concerns and suggestions made in Mr Humphrey's presentation to Council.</p>	MDE	<p>6/12/23 – To be reported to Council in the new year.</p> <p>10/1/24 – To be reported to February Meeting.</p> <p>6/2/24 – Refer to separate report.</p>
DECEMBER 2023					
18	DA2023/015	14/12/23	<p>Demolition of existing dwelling, construction of Residential Flat Building, Strata Subdivision – 3 High Street Nambucca Heads</p> <p>1 The report be deferred until, with the permission of the owners of 1 High Street and 47 Ridge Street, Nambucca Heads, the independent Consultant attend onsite and complete a view impact assessment.</p> <p>2 Council engage a legal firm recommended by staff to provide a second opinion on the legal status and ownership of the road i.e. Lot 1 DP 1288566.</p>	MDE	<p>10/01/24 – To be reported back to Council for determination once the inspection is carried out and legal advice received.</p> <p>6/2/24 – Refer to separate reports.</p>

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

19	SF3190	14/12/23	<p>1 Approves the registration of the subdivision plan for Lots 9 and 10 DP 884342, Warrell Creek as submitted.</p> <p>2 Approves the preparation of the newly created proposed Lot 2 DP 657578 to market for sale, noting any negotiated sale to be brought back to Council for formal approval.</p>	MED	10/01/24 to 05/02/24 registration of subdivision underway as per Council resolution.
20	SF731	14/12/23	<p>Free On Street Camping at Bowraville</p> <p>1 Council endorse the southern end of Cook Street, Bowraville for overnight free camping for caravans and other camping vehicles either side of the road, subject to it being restricted to between the hours of 5.00 pm to 8.00 am during school days.</p> <p>2 The proposal be referred to the Local Traffic Committee for consideration and, should the Traffic Committee provide concurrence, Recommendation 1 be implemented.</p>	A/DES	<p>10/01/24 – Reporting to Traffic Committee in February, minutes of the February Traffic Committee meeting will be presented to Council for adoption prior to recommendation 1 being implemented.</p> <p>6/2/24–LTC meeting scheduled for 13/2/24.</p>
JANUARY 2024					
21	SF3424	18/01/24	Council report back on the need for regular community meetings on land use conflicts and the intensive plant agriculture	MDE	7/2/24 – Will be reported back to Council with item 15.
22	SF81	18/01/24	<p>Disaster Ready Funding EOI</p> <p>Consider a budget allocation in the 2024/25 budget if the EOI for funding is unsuccessful, to enable studies to be completed and enable the essential relocation of the Nambucca Emergency Operations Centre (NEOC) project to progress.</p>	CFO	6/2/24 EOI was unsuccessful, consideration will be included in 24/25 budget.

ITEM 10.1 OUTSTANDING ACTIONS AND REPORTS

23	PRF53	18/01/24	<p>River Street Toilet Block Relocation</p> <p>1 Adopt an alternate building footprint directly adjacent to the existing structure on the North Eastern side, as per Attachment B and;</p> <p>2 Engage an architect to progress the design of the proposed new amenities and report back to Council.</p>	A/DES	6/2/24 - Planned layouts still being determined. Once complete, the architect will be engaged.
24	SF263	18/01/24	<p>Remove Bollards From Watt Creek Cycleway</p> <p>Relocate bollards protecting structures to either side of the footpath, leaving a 1.6m gap sufficient for cyclists but too narrow for motor vehicles, approximate cost \$3,000.</p>	A/DES	6/2/24 - Works completed.
25	T006/2023	18/01/24	<p>Nambucca Valley Sporting Fields Subsoil Drainage Program</p> <p>1 Seek additional funds from future grants to complete the works to the small field of the EJ Biffin Playing Fields</p>	A/DES	6/2/24 - Funding has been identified with LRCI phase 4 grant with some grant administration to be completed.

ATTACHMENTS:

There are no attachments for this report.

DIRECTOR CORPORATE SERVICES REPORT

ITEM 11.1 SF3383 150224 SPECIAL RATE VARIATION - DEFERMENT

AUTHOR/ENQUIRIES: Evan Webb, Chief Financial Officer

SUMMARY:

To defer the application of a Special Rate Variation to IPART from 2025/2026 to 2026/2027.

RECOMMENDATION:

That Council defer the Special Rate Variation application to IPART from the adopted 2025/26 to 2026/27.

OPTIONS:

- 1 Do nothing/business as usual (i.e. apply for a 2025/26 special rate variation as per original recommendation.)
- 2 Proposed recommendation
- 3 Alternative option – Don't apply for a special rate variation.

DISCUSSION:

At the Council meeting held on the 15th June 2023 per Council Resolution 22/23 it was resolved that: -

“Council undertake a 2025/26 Special Rate Variation application and note the fee proposals provided.”

On the 30 November 2023, Councillors were involved in Special Rate Variation workshop, presented by Councils CFO, Evan Webb, prior to the Council meeting (presentation attached).

At that workshop there was discussion around why Council needed a Special Rate Variation and also the timing of a Special Rate Variation Application being in the middle of Council elections.

At the workshop it was discussed with Councillors that Council staff are currently in the process of completing roads condition data assessment of the Road network including Kerb & Gutter and Carparks. This data will give the Councillors and staff a true indication of what condition our road network is currently in and what is required to spend on the road network annually depending on what service level is agreed upon.

It has now been advised (by the contractors supplying the road condition data) that this data will not be ready in time for 2024/25 Budget Process or the 2024/25 – 2023/34 Long Term Financial Plan process.

Not having this information would mean that Council would have to apply for a Special Rate Variation based on financial sustainability purposes rather than also including asset-based purposes. It is suggested that when applying for a Special Rate Variation that Council use an asset-based approach, this will assist Council with renewal strategies and maintenance gaps. This can be used in community forums to show rate payers what they will be getting with the increases in their annual ordinary rates paid to Council.

With an additional year available for staff to apply for the Special Rate Variation it will give additional time for staff to have a more mature Road Network Asset Management Plan and also have time to look at Service Levels.

Council staff will need assistance from an outside contractor to assist with the preparation of the application to IPART and also be heavily involved in the community consultation process to assist with media releases, community forums and management of the process. Council has previously received two quotes for this engagement, however these quotes are both out of date and will need to be updated after Council has made a final decision on the application date for a Special Rate Variation.

ITEM 11.1 SPECIAL RATE VARIATION - DEFERMENT**CONSULTATION:**

Councillors
 IPART
 General Manager
 Director Corporate Services
 Acting Director Engineering Services
 Acting Manager Assets & Facilities
 Rates Officer

SUSTAINABILITY ASSESSMENT:**Environment**

Nil

Social

Deferring the Special Rate Variation will alleviate the financial burden currently being experienced by the community due to cost of living pressures.

Economic

A Special Rate Variation will impact business in the Valley.

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Risk Assessment
Council to identify the need for a Special Rate Variation in conjunction with new road network asset information that will assist in the development of Council's Road Network Asset Management Plan and potential Service Levels on Council's road network assets throughout the Local Government Area.	M	H	Develop Asset Management Plans, Long Term Financial Plans and Service Levels for Councils Assets	If this work is not completed, Council may be in financial stress.

Delivery Program Action

CC5 - Identify and implement initiatives to improve financial sustainability

ITEM 11.1 SPECIAL RATE VARIATION - DEFERMENT

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

If approved a Special Rate Variation will have major positive impact on the 2026/27 Budget and future Budgets. Considerable disaster recovery funding is expected to be available for repair of the damaged sections of the road network. This will defer the requirement for additional capital funding for the next two to three years for the road network.

Working funds – justification for urgency and cumulative impact

If Special Rate Variation is approved will have a major improvement on working funds in the 2026/27 financial year.

Impacts on 10 Year Long Term Financial Plan

A Special Rate Variation, if approved or not it may have major implications for Councils Long Term Financial sustainability.

Service level changes and resourcing/staff implications

If SRV is approved will have positive impacts on service levels. In addition of Council proceed with a special rate variation this will have major impacts on staffing levels and will require additional resources from contractors to assist with the preparation and the delivery of a special rate variation.

ATTACHMENTS:

1  1575/2024 - Special Rate Variation

DIRECTOR CORPORATE SERVICES REPORT

ITEM 11.2 SF336 150224 ANNUAL GENERAL MEETING MINUTES 20 NOVEMBER 2023 FOR THE TAYLORS ARM HALL COMMITTEE OF MANAGEMENT

AUTHOR/ENQUIRIES: Michael Grieve, Community Development Officer

SUMMARY:

The report acknowledges the Annual General Meeting of the Taylors Arm Hall Committee of Management held on the 20 November 2023. A copy of the Annual General Meeting minutes and Financials are **attached**.

RECOMMENDATION:

THAT Council note the Minutes of the Taylors Arm Hall Committee of Management's Annual General Meeting held on 20 November 2023 and thank ongoing members for their efforts over the past twelve months.

OPTIONS:

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

DISCUSSION:

Following calls for nominations the following persons were elected:

President	Vicki Provost
Vice President	Allen Ward
Secretary	Raelene Daley
Treasurer	Julie Gooch

CONSULTATION:

Director Corporate Services

SUSTAINABILITY ASSESSMENT:

Environment

Nil

Social

Nil

Economic

Nil

Risk Analysis

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

**ITEM 11.2 ANNUAL GENERAL MEETING MINUTES 20 NOVEMBER 2023 FOR THE TAYLORS ARM
HALL COMMITTEE OF MANAGEMENT**

Delivery Program Action

LW10 - Work with S355 Committees

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

Nil.

ATTACHMENTS:

- 1** 1712/2024 - Taylors Arm Hall Committee of Management AGM Minutes and Financial Year
 Statement 2022 -2023

DIRECTOR CORPORATE SERVICES REPORT**ITEM 11.3 SF251 150224 SCHEDULE OF COUNCIL MEETINGS - 29 FEBRUARY 2024 TO 11 JULY 2024****AUTHOR/ENQUIRIES:** Rochelle McMurray, Business Services Coordinator**SUMMARY:**

The following is a schedule of dates for public Council and Council Committee meetings to be held 29 February 2024 to 11 July 2024. The meeting dates may change from time to time and this will be recorded in the next available report to Council.

The Council meeting schedule is two meetings per month, that being the last Thursday of the month and the Thursday two (2) weeks prior with the exception being the meeting to be held on Wednesday 24 April 2024 due to Anzac Day being Thursday 25 April 2024.

RECOMMENDATION:

THAT Council note the schedule of meeting dates for 29 February 2024 to 11 July 2024.

MEETING	DATE	VENUE	COMMENCING
2024			
Council Meeting	29 February	Council Chambers	5.30 PM
Refreshments with the public prior to Council Meeting	14 March	Utungun Community Centre	5.00 PM
Council Meeting			5.30 PM
Council Meeting	28 March	Council Chambers	5.30 PM
Refreshments with the public prior to Council Meeting	11 April	Scotts Head SLSC	5.00 PM
Council Meeting			5.30 PM
Council Meeting	Wed 24 April	Council Chambers	5.30 PM
Refreshments with the public prior to Council Meeting	16 May	South Arm Hall	5.00 PM
Council Meeting			5.30 PM
Council Meeting	30 May	Council Chambers	5.30 PM
Council Meeting	13 June	Council Chambers	5.30 PM
Council Meeting	27 June	Council Chambers	5.30 PM
Council Meeting	11 July	Council Chambers	5.30 PM

ATTACHMENTS:

1  49668/2023 - Nambucca Valley Council Away Meetings to 27 June 2024

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

**ITEM 12.1 DA2022/364 150224 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED)
- 24 SEAVIEW STREET, NAMBUCCA HEADS**

AUTHOR/ENQUIRIES: Michael Coulter, Senior Town Planner

Summary:

On 17 October 2023 the Council issued a development consent for staged dwelling additions at 24 Seaview Street, Nambucca Heads (Lot 5 DP 23005).

Condition no. 1 of the consent stipulated that,

“The following amendment is required to the above (approved) plans: the ridge height of the roof of the proposed middle floor plan additions is to be no greater at any point than the ridge height of the existing roof (RL33.77). Plans submitted with the application for a Construction Certificate are to demonstrate compliance with this condition ...”.

The applicant has now applied for a review of this requirement (and the determination generally) pursuant to Section 8.3 of the *Environmental Planning and Assessment Act 1979*.

The application proposed the ridge height of the middle floor addition to be RL34.07 whereas condition 1 has restricted it to a height of no greater than RL33.77 being the existing roof height. Therefore, what is in dispute is a difference in roof height of 300mm.

The reason for the imposition of a requirement to reduce the roof height by 300mm was to maintain standing views from a rear master bedroom deck at 26 Seaview Street.

The assessment report was prepared when the adjoining house at 26 Seaview Street was under construction and there was no opportunity to stand on the rear deck to consider the benefit of this 300mm reduction in height. Now that the construction of 26 Seaview Street has been completed it is apparent that the required 300mm reduction in roof height will have no benefit in the retention of the view from the rear bedroom deck.

The retention of the view from the rear bedroom deck of 26 Seaview Street would require DA2022/364 to be refused. This is considered an unreasonable option for the reasons discussed in the report.

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 approve DA2022/364 in accordance with the original conditions except for the requirement in condition 1 to reduce the roof height of the middle floor addition by 300mm being deleted (as shown with ~~striketrough~~) and with a condition being added to restrict the height of vegetation between the front building line and Seaview Street, being a distance of approximately 7.4m, to 2m (as shown with underline). These changes being shown in attachment 5 to the report.

OPTIONS:

- 1 That Council endorse the original determination with the requirement in condition 1 to reduce the roof height of the middle floor addition by 300mm, with or without the condition restricting the height of vegetation in the front yard.

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

- 2 The application DA2022/364 be refused with reasons to be provided.
- 3 The recommendation being to approve the application DA2022/364 with the requirement in condition 1 to reduce the roof height of the middle floor addition by 300mm being deleted and with a new condition that the vegetation in the front yard be maintained so that it does not exceed 2m in height.

DISCUSSION:

On 17 October 2023 the Council issued a development consent for staged dwelling additions at 24 Seaview Street, Nambucca Heads (Lot 5 DP 23005).

Condition no. 1 of the consent stipulated that,

“The following amendment is required to the above (approved) plans: the ridge height of the roof of the proposed middle floor plan additions is to be no greater at any point than the ridge height of the existing roof (RL33.77). Plans submitted with the application for a Construction Certificate are to demonstrate compliance with this condition ...”.

The applicant has now applied for a review of this requirement (and the determination generally) pursuant to Section 8.3 of the *Environmental Planning and Assessment Act 1979*.

The application proposed the ridge height of the middle floor addition to be RL34.07 whereas condition 1 has restricted it to a height of no greater than RL33.77 being the existing roof height. Therefore, what is in dispute is a difference in roof height of 300mm.

In support of the request to review the determination, the applicant has put forward the following reasons for the approval of the ridge height as designed (and not 300mm lower).

- *The rear deck of the neighbours dwelling the subject of the purported view loss is attached to a bedroom*
- *Our proposal is code compliant development under the 8.5m height plane.*
- *It has been suggested that the ceiling heights be lowered or that the building be excavated into the site. A 2.7m ceiling is required in the garage so that it is accessible to a work vehicle with racks and equipment (builder). Note that the building designer has shown a 2.1m high roller door whereas a 2.4m high door is required with a 300mm lintel over to support the cantilevered deck. Also, that the design achieves a light airy form similar to the existing building.*
- *An excavation further into the site will introduce a precedence for water inundation.*
- *The intent of the DCP and LEC principles is an attempt to share a view, not enforce a policy to no view loss especially across a side boundary. We have done this by removing the front deck. It has been shown and supported by the LEC that views are not owned.*
- *Finally, however and supported by the following survey the existing ridge height at 24 Seaview Street is 33.77m whilst the floor at the deck at 26 is 31.75 ($33.77 - 31.75 = 2.02$) which reduced by 300mm = 1.72m. Generally, the view point of a standing person is 1.55/1.65m. Therefore, reducing the ridge height by 300mm to 33.77m will not achieve any further views.*

The review of a determination of a decision made by a delegate of a council is to be conducted –

(a) by the council, or

(b) by another delegate of the council who is not subordinate to the delegate who made the determination or decision (this is not applicable so the Council is the determining authority).

It is important to note that pursuant to Section 8.5 of the *Environmental Planning and Assessment Act* that the functions of a consent authority in relation to a matter subject to review are the same as the functions in connection with the original application or determination. In other words, the Council has to assess all aspects of the development application and not just the condition which is being contested by the

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

applicant. Accordingly, it is open to the Council, after considering all relevant matters, to approve or refuse the application or to impose different conditions to those issued with the consent.

If a determination is changed on review, the changed determination replaces the earlier determination on the date the decision made on the review is registered on the NSW planning portal.

The first section of this report deals with the specific matter raised in the application for a review being the change to condition 1 to allow the roof height as per the plans submitted, whilst the second section of this report deals with the application more generally. The second section of the report is based on the original application assessment.

The attachments in order are:

1. Request for a review DA2022/364 (doc 967/2024)
2. Stamped approved plans (doc 55011/2023)
3. Notice of determination (doc 55587/2023)
4. Visual Impact Assessment (redacted) (doc 999/2024)
5. Recommended consent conditions with the deletion of the contested part of condition 1 shown with ~~strikethrough~~. (doc 1002/2024)

Requested Change to Condition 1

The applicant seeks to delete the requirement to restrict the roof height of the dwelling addition to the existing ridge height and allow a roof height as per the proposed plans which provided for the roof height for the rear extension to be 300mm higher than the existing roof height. The 300mm step up in the height of the roof is shown in Figure 1 whilst the view impacts of this are shown in Photo 1.

The Nambucca Development Control Plan 2010 (DCP) provides that the objectives of view sharing controls are to:

- ensure that building form and design allow for view sharing where possible; and
- ensure that views, including vistas of heritage items or dominant landmarks, or natural features are not substantially affected by new development.

In relation to controls the DCP provides that when views from the site are identified in the site analysis, the Statement of Environmental Effects (SEE) is to demonstrate how the design has resolved the reasonable sharing of views between proposed and neighbouring dwellings.

The site analysis shall demonstrate how proposed residential development will impact on views to and from the waterfront, public domain areas and from neighbouring properties.

Where a negative impact is identified the applicant shall provide a visual impact assessment, which addresses view loss.

Such an assessment shall take into consideration the planning principle for view sharing assessment and attempt to quantify the extent of view loss from adjoining properties.

In relation to this, the DCP provides that Council will implement a four-step process identified below in order to assess view sharing. The four matters to be considered and comments in relation to their application to this application are listed as follows.

1. Identify and assess the value of views to be affected;

Comment: In relation to the view currently obtained from the bedroom balcony at 26 Seaview Street, shown in Photo 1 below, the water view across the rear deck skillion roof of 24 Seaview Street is a good quality view, depreciated to some extent by the foreground of disparate roof forms at 24 Seaview Street.

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

2. Identify where the views are obtained from on the property;

Comment: The views available to 26 Seaview Street are primarily over the side boundary of 24 Seaview Street. The applicant deleted a proposed front deck extension to 24 Seaview Street which has preserved the majority of the view of the estuary and ocean from the front deck of 26 Seaview Street.

3. Identify the extent and value of the view loss;

Comment: The existing roof line of 24 Seaview Street obscures most of the opportunities for eastern views of the ocean and estuary from the new dwelling at 26 Seaview Street. The two main exceptions to this are views from the front deck area (off the family room) and rear deck area (off the master bedroom). It should be noted that the deletion of a proposed front deck from DA2022/364 for 24 Seaview Street has preserved the majority of the view from the front deck. My assessment is that the view from the rear deck off the master bedroom will be obscured regardless of whether the roof height is reduced by 300mm or allowed to proceed as proposed. This is apparent from photograph 1 taken by myself and noting I'm above average height. As discussed further the water view from the master bedroom deck across the rear deck skillion roof of 24 Seaview Street is a good quality view, depreciated to some extent by the foreground of disparate roof forms at 24 Seaview Street.

4. Identify the reasonableness of the proposal causing the impact.

Comment: There are a number of components to "reasonableness" which need to be considered. As per the discussion in relation to the judgement in Tenacity Consulting, the proposed development complies with the applicable height control. As to whether views can be preserved by making further "reasonable" changes to the plans, what Tenacity refers to as a "more skilful design", is the essence of the assessment.

It should be noted that the proposed extensions to/redevelopment of 24 Seaview Street are compliant in terms of the 8.5m building height limit and the 0.55:1 floor space ratio. The nature of the extensions/redevelopment to the north and along the side boundary with 26 Seaview Street is partly driven by the relatively narrow lot frontages (less than 15m) and excessive depth to frontage ratio. This is demonstrated in Figure 0 below which is an extract from Council's mapping system which shows the now demolished dwelling at 26 Seaview Street and the existing buildings on 24 Seaview Street.

As per the discussion in relation to the Tenacity principles below, the view which is in contention is a bedroom balcony view from 26 Seaview Street across a side boundary which is proposed to be obstructed by a height compliant extension to the adjoining dwelling at 24 Seaview Street. To avoid the impact on this view would require the building height at 24 Seaview Street to be more than 300mm lower than what is proposed. This would require a substantial redesign, which would likely compromise the design integrity which utilises the constructed form of the existing dwelling at 24 Seaview Street. There is also a significant risk that a substantial redesign to avoid view loss from the rear bedroom deck of 26 Seaview Street will result in the extensions to 24 Seaview Street having reduced utility and higher cost.

In summary, to avoid the view loss DA2022/364 would need to be refused as extensive design changes should not be required by way of a condition for the reason that the resultant development may be significantly different to that advertised and assessed. For the reasons indicated this is considered to be unreasonable.

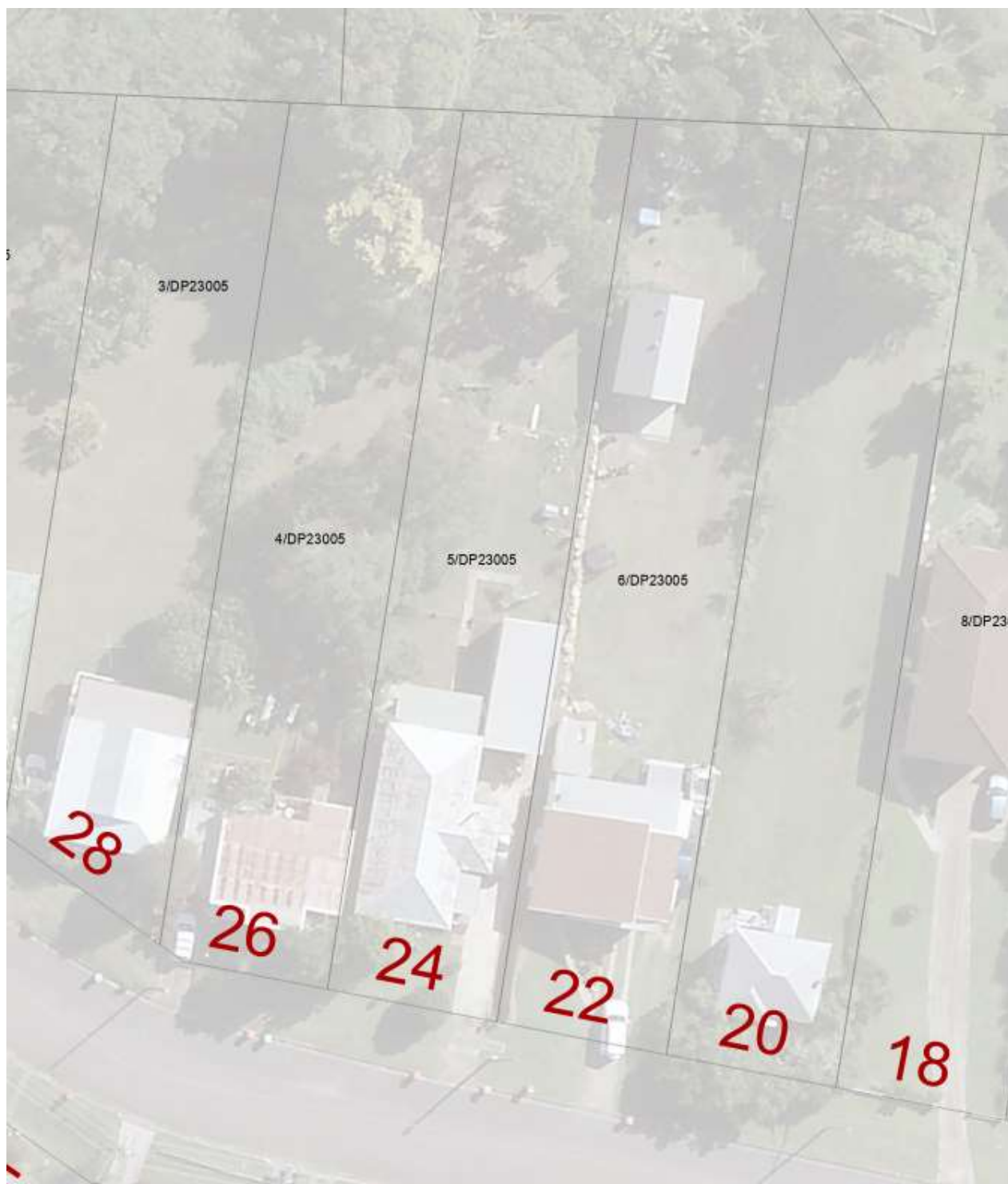
ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

Figure 0 – Lot layout of 24 and 26 Seaview Street demonstrating narrow frontages and excessive depth to frontage ratio

In considering view sharing the Council must also consider relevant planning principles. In relation to view sharing the NSW Land and Environment Court acknowledges the principles set out in *Tenacity Consulting v Waringah* [2004]. In the judgement of that matter Senior Commissioner John Roseth set out the following principles:

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment: As indicated, in relation to the view currently obtained from the bedroom balcony at 26 Seaview Street, shown in Photo 1 below, the water view across the rear deck skillion roof of 24 Seaview Street is a good quality view, depreciated to some extent by the foreground of disparate roof forms at 24 Seaview Street.

2. The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment: The view which is the subject of condition 1 concerns the master bedroom and rear deck. It is a side view.

3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (although views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment: It is important to note that revised plans which were lodged during the assessment of the application removed the deck on the southern elevation of the upper floor addition to 24 Seaview Street. This revision means that the front deck on the dwelling at 26 Seaview Street has reasonable views to the ocean retained from all areas of the front deck, from both sitting and standing positions. The retention of views from the bedroom and rear bedroom deck, whilst desirable, are of a lesser priority to the living areas.

4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment: This step is the essence of the requested review. The assessment report indicates that the proposed dwelling extension is essentially compliant. It is possible to change the building design to avoid view loss, but to what extent (if any) would such a requirement be judged as being reasonable. The reasonableness of insisting on a, "more skilful design", needs to consider the impact on the proposed development in relation to design and cost.

The view which is in contention is a bedroom balcony view from 26 Seaview Street across a side boundary which is proposed to be obstructed by a height compliant extension to the adjoining dwelling at 24 Seaview Street. To avoid the impact on this view would require the building height at 24 Seaview Street to be more than 300mm lower than what is proposed. This would require a substantial redesign, which would likely compromise the design integrity which utilises the constructed form of the existing dwelling at 24 Seaview Street. There is also a significant risk that a substantial redesign to avoid view loss from the rear bedroom deck of 26 Seaview Street will result in the extensions to 24 Seaview Street having reduced utility and higher cost.

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In summary, to avoid the view loss at 26 Seaview Street, DA2022/364 would need to be refused as extensive design changes should not be required by way of a condition for the reason that the resultant development may be significantly different to that advertised and assessed. For the reasons indicated this is considered to be unreasonable.

As the required reduction in building height of 300mm will produce no benefit in relation to the retention of the view, it is agreed with the applicant that the requirement in Condition 1 to reduce the proposed ridge height of the middle floor plan by 300mm be deleted.

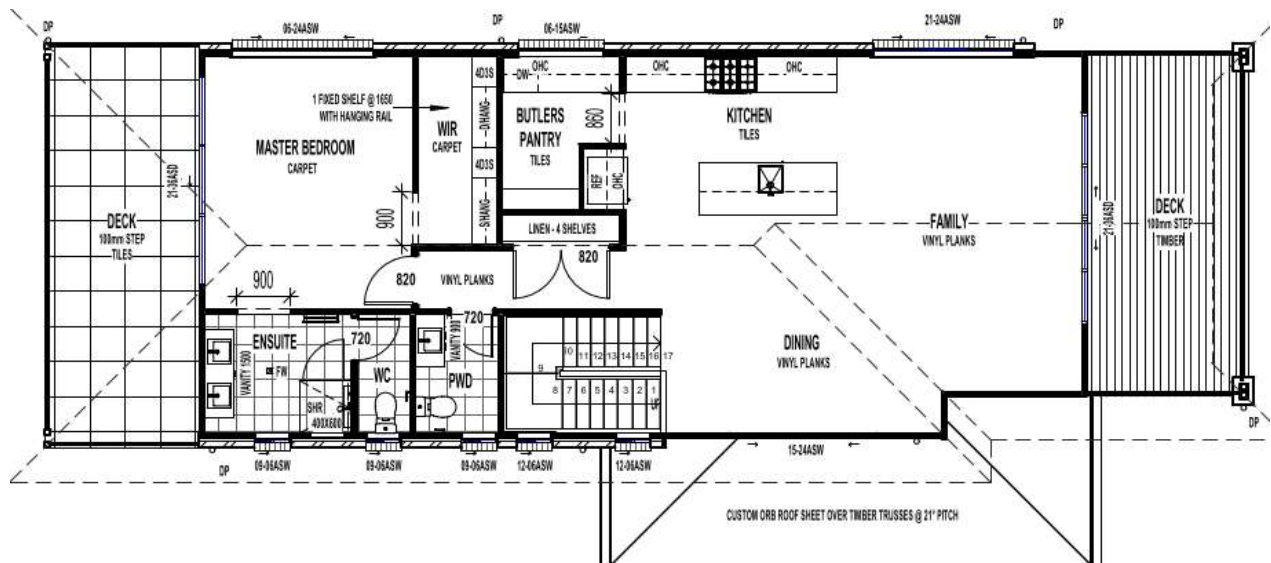


Figure 1 – First floor plan of 26 Seaview Street with the rear deck shown in Photo 1.

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Photo 1 - Eastern view from rear first floor bedroom deck of 26 Seaview Street across skillion roofed rear deck of 24 Seaview Street. Note: the approved plans and condition 1 provide for this roof height to be extended from the right of the photo past the left-hand edge of the photo (with the skillion roofed rear deck to be removed). The application proposed this section of roof to be 300mm higher than the main house roof shown on the right. This disputed condition requires the maintenance of the roof height. This is the view and section of roof which is in contention.



Figure 2 - Western elevation of proposed dwelling additions at 24 Seaview Street with the contested roof line being highlighted in red. The beige coloured section to the right is the existing dwelling with the rear wall shown in photo 1 being to the right of the skillion roof addition. Note the existing roof hip is to be removed with the roof ridge proposed to step up by 300mm compared to the existing roof ridge line.

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Photo 2 - Eastern view from first floor front deck of 26 Seaview St across front yard of 24 Seaview St



Photo 3 - North eastern view from first floor front deck of 26 Seaview St showing view impact of existing roof height of 24 Seaview Street.

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Photo 4 - Frontage of 24 Seaview Street, showing first floor front deck of 26 Seaview Street



Photo 5 – Rear of 24 Seaview Street showing existing dwelling and proposed location of extension

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

Development Application Assessment Report

Synopsis:

DA No:	2022/0364
Applicant:	Qualitech Drafting & Design
Land Description:	Lot: 5 DP: 23005,
Address:	24 Seaview Street Nambucca Heads
Zoning:	R1 General Residential
Existing Use of Land:	Dwelling
Development Proposal:	Dwelling additions (staged)
Type of Development:	Local

Internal Referrals – not applicable

Government Departments – not applicable

Easements/Infrastructure - Does the proposal impact on any easements/utility infrastructure? No – general condition will be added to any consent regarding proximity to powerlines.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ASSESSMENT

The proposed development is assessed against the relevant sections of the *Environmental Planning and Assessment Act 1979* as follows:

Section 1.7 – Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

It is not considered that the proposal will have any significant effects on threatened species, populations, communities or their habitats.

Section 4.14 – Consultation and development consent—certain bush fire prone land

Not applicable

Section 4.15(1) In determining a development application a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a)(i) The provisions of any environmental planning instrument (EPI)

NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010

The proposed development is assessed against the relevant clauses of the *Nambucca Local Environmental Plan 2010* in the following table:

Clause	Complies	Comments
2.3 – Zone objectives and Land Use Table	Yes	The proposed development is permissible with consent and is considered to be consistent with the relevant objectives of the zone being to provide for the housing

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		needs of the community; to provide for a variety of housing types and densities; and to enable other land uses that provide facilities or services to meet the day to day needs of residents.
2.7 – Demolition requires development consent	Yes	A condition should be added to any consent regarding demolition.
4.3 – Height of buildings	Yes	The additions will not create a building that is more than 8.5 metres above ground level. In relation to this the section plan indicates a maximum building height of 8.446m at the rear of the stage 2 first floor addition (at the front) but more typically the building height is 7 metres or less.
4.4 – Floor space ratio	Yes	The FSR will remain below 0.55
7.1 – Acid sulfate soils	Yes	Class 5 – no conditions required for this proposal.
7.4 – Public utility infrastructure	Yes	Already available and connected
7.6 – Earthworks	Yes	The proposed earthworks will not impact significantly on surface water flows; will not result in any significant impacts on the future uses on the land or redevelopment; will not impact any contaminated soil or the amenity of surrounding properties; is unlikely to disturb any relics; and appropriate erosion control measures have been included. Conditions regarding batters and retaining walls should be added to any consent.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposed development is assessed against the relevant State Environmental Planning Policies in the following table:

State Environmental Planning Policy	Complies	Comments
SEPP (Building Sustainability Index: BASIX)	Yes	A valid BASIX certificate, No A481015, issued on 17 November 2022, was lodged with this application. A condition requiring the development to meet the commitments of this BASIX certificate should be included in any consent.
SEPP Primary Production	Yes	The proposed development will not result in any adverse effects on oyster aquaculture development or a priority oyster aquaculture area because of the sites location from any of these areas, with earthworks and stormwater flows resulting from the development being able to be appropriately managed by conditions of consent.
SEPP Resilience & Hazards	Yes	The land is not considered to be contaminated because there are no known previous uses or activities on the site that would have resulted in any contamination of the land and the proposal does not include a change of use of the land. The proposal is consistent with the relevant matters for consideration outlined in Chapter 2 because it will not result in any significant impacts on the coastal

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		environment, values, or processes; and it will not adversely affect vegetation, undeveloped headlands, rock platforms, existing public open space, safe access within the coastal zone, archaeological significance, use of the surf zone, scenic qualities, overshadowing, wind funnelling or the loss of views from public places to foreshores.
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(a)(ii) The provision of any draft environmental planning instrument (EPI)

There are no draft environmental planning instruments relevant to the proposed development.

(a)(iii) The provision of any Development Control Plan

NAMBUCCA DEVELOPMENT CONTROL PLAN 2010

The proposed development is assessed against the relevant clauses of the Nambucca Development Control Plan 2010 in the following table:

NAMBUCCA DCP 2010	Complies	Comments
Environmental context (Part A)	Yes	The proposed development is satisfactory having regard to the relevant matters for consideration under clause A4.0.
Car Parking & Traffic (Part C)	Yes	Compliant parking and access are proposed.
Sediment & erosion control (Part D)	Yes	All works to be undertaken as part of any consent will be subject to a condition of consent requiring the installation of compliant erosion and sedimentation devices.
Residential developments (Part H)	Yes	<p>The side setback in the location of the stage 2 upper storey development does not comply with the setback required in the DCP. The setback is approximately 1.32 metres, however the DCP requires a setback of approximately 1.55 metres.</p> <p>There are no windows on the western elevation of this addition, so privacy at 26 Seaview Street will not be impacted by this closer setback.</p> <p>Given the north-south elevation of the blocks, any overshadowing will only occur in the morning and compliance with the daylight access of the DCP will be achieved.</p> <p>The initial application did not include a view impact assessment (VIA) as required by this section. Two submissions identified view loss from the adjoining properties, 26 and 28 Seaview Street. Accordingly, on 19 December 2022 a view loss assessment was requested from the applicant, with this being submitted on 24 January 2023. The VIA attempted to follow the LEC's View Planning Principles format derived from the Tenacity Consulting v Warringah Council [2004], however the identification of views affected and where they were obtained from was completed for 24 Seaview Street, instead of for the adjoining property.</p> <p>Accordingly, on 3 February 2023, a revised VIA was requested, which was received on 8 February 2023.</p> <p>A site inspection of 26 Seaview Street was undertaken on</p>

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		<p>17 February 2023 to evaluate the VIA. The proposed design of the master bedroom additions would totally block the sea views from the main living area at 26 Seaview Street and the upper deck on the southern elevation would largely obscure views from the front deck of 26 Seaview Street. As a result of that site inspection, a request for a revised View Impact Assessment and modified plans was sent to the applicant.</p> <p>The applicants were unable to obtain permission to access the rear deck at 26 Seaview Street, so an assessment has been made based on a site visit by Council to 24 Seaview Street, where photos of the deck at 26 Seaview Street were taken and on the revised plans submitted on 28 September 2023 by the applicant for this development application.</p> <p>The revised plans and revised View Impact Assessment (submitted on 28 September 2023) have removed the deck on the southern elevation of the upper floor addition. This revision means that the front deck on the dwelling at 26 Seaview Street will now have reasonable views to the ocean retained from all areas of the front deck, from both sitting and standing positions. The interface between the ocean and the sand can be clearly seen which is considered acceptable.</p> <p>The living room will not have views from the window on the eastern elevation, but views will be obtained through the glass doors leading to the front deck, which is considered acceptable. It is noted that the planning principles recognise that views over side boundaries are more difficult to maintain, which is the case here.</p> <p>At the time the assessing officer had to assess views from the rear deck at 26 Seaview Street, based on photos from 24 Seaview Street and some photos from 26 Seaview Street (as access to the rear deck was not available due to the fact the dwelling was under construction).</p> <p>The assessing officer concluded that so as to maintain standing views from the rear deck, the notice of determination be conditioned requiring that the ridge line of the additions to the dwelling notated as "Proposed Stage 1 Extension" be required to be no higher than the ridge line of the current roof at the rear of the dwelling, a reduction in height of 300mm. Plans would be required to be submitted as part of any construction certificate application demonstrating compliance with this. It was noted that this may be achieved by altering the roof pitch, lowering the floor to ceiling height of the rooms in this addition, providing the lower slab at a lower level or any combination of these measures.</p> <p>It was noted that this modification to the submitted plans would satisfy the requirements of the planning principles by providing for view sharing due to a more skilful design of the proposed development.</p>
Waste Minimisation and Management (Part N)	Yes	Conditions can be included within any consent regarding the management of waste during construction.

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(a) (iia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

There are no planning agreements applying to the subject site.

(a) (iv) Any Matters prescribed by the Regulation

The proposed development is assessed against the relevant matters for consideration prescribed by the Environmental Planning and Assessment Regulation (2021) in the following table:

Clause	Complies	Comments
Section 61(1) – For development involving building demolition , refer AS 2601	Yes	A condition will be included within any consent requiring any demolition works to be undertaken in accordance with AS2601.
Section 64 – For development involving alterations and/or extensions to an existing building: Will it be appropriate to require partial/total conformity with BCA? Are fire measures adequate?	Yes	Compliant smoke alarms should be conditioned in the existing dwelling

(a) (v) Any Coastal Zone Management Plan

It is not considered that the nature or location of the proposed development will be contrary to any of the management actions outlined within the *Coastal Zone Management Plan for the Nambucca Valley Coastline*.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Subject to the conditions of consent, it is not considered that the proposal will result in any significant impacts on the natural or built environments or any social or economic impacts on the locality due to its scale, location and consistency with surrounding uses.

(c) The suitability of the site for the development

Does the proposal fit in the locality?	Yes	X	No	
Are the site attributes conducive to development?	Yes	X	No	

d) Any submissions made in accordance with this Act or the Regulations

Two submissions were received during the notification of the development application in accordance with the Nambucca Community Participation Plan with the following matters raised:

Summary of Matters Raised in Submissions	Reporting Officers Comment
View loss to 26, 28 and 30 Seaview Street – to the north and to the south.	A site inspection has shown no view loss from the proposal to 28 and 30 Seaview Street. See discussion above in DCP Part H regarding view sharing.
Approved DA for 26 Seaview Street not taken into consideration.	This has now occurred with revised plans being submitted by the applicant.
Sunlight blocked to ground floor windows.	Setback considered reasonable.
Overshadow solar panels	The second storey addition is only to the south of 24 Seaview Street. Good positioning of solar panel should still be possible.

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Overshadow window at the front on the eastern side.	See discussion above in DCP Part H regarding side setbacks.
Extension to the north will limit the north-easterly breeze entering 26 Seaview Street	Main points of entry should still enjoy a breeze.
Ground floor window may be a fire source feature	This can be dealt with at the CC stage
Changes aesthetics of the street	Proposed additions will create a similar style dwelling as that recently approved at 26 Seaview Street
View loss to houses on the street	See comment above
Increasing roof and driveway may add to increase in urban heat	Considered minimal and no greater than that approved at 26 Seaview Street.
Bower bird at 24 and 26 Seaview Street	Impact should be minimal as the dwelling will not impact the bower.

One submission was received during the notification of the application for the review of the determination.

The submission states as follows:

Our concern is that the proposed DA 2022/364 would seem to restrict the current shared view. DA is for 24 Seaview Street Nambucca Heads and we are the owners of 26 Seaview Street Nambucca Heads.

- 1. We acknowledge that the view from our front veranda is only slightly impeded and would currently meet the definitions of a shared view. However, our concern is the height of the plants/trees in the front yard.*

We have spoken to the owner of 24 Seaview Street about the plants in the front yard and they have said to us that they will keep the plants/trees trimmed. However, is it possible for the DA to have a height restriction of the plants/trees in the front yard of 200cm in order to ensure that the view from the front veranda is not further impeded. If the plants/trees grew over the height of the ground floor this could result in the front view being removed. If the view is removed from the front veranda then we would be left with no shared view with the current design.

- 2. If this is not possible we would be seeking that consideration of the height of the roof immediately adjacent to the back deck be reduced as the current height on the DA would completely remove the view from the deck looking towards the V-Wall, Wellington Rock and the inner harbour. If the height of the roof was reduced to the end of the back deck/building of 26 Seaview Street we would still retain some of the shared view. I think that the height of the roof in this new proposal is higher than a previous ruling by the council and would only need the lower roof height to be extended to the end of our house.*

Michael Coulter, the Senior Town Planner took video footage of the shared view from both the back and front deck on the 11 December 2024.

In speaking to the council previously it was suggested the council could come out to speak to both parties. We would be interested in this option if it was available.

Reporting Officer's Comment – The request for a restriction on the height of plants/trees between the street and dwelling at 24 Seaview Street is reasonable and lawful. It does relate to a relevant matter; the condition would be addressing the impact of the development; the condition is for a planning purpose; and it fairly and reasonably relates to the development. Accordingly this requested condition has been incorporated in the recommended consent conditions.

(e) The public interest

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Subject to any recommended conditions of consent, it is not considered that the proposal is contrary to the public interest because it will not result in any significant impacts on the natural, social, or economic environments.

Section 7.11 & 7.12- Contributions

Development Contribution Plan	Applicable	N/A	Contribution Amount
7.11 Mines & Extractive		X	
7.12 Contribution Plan	X		\$240,000 x 1% = \$2,400

Section 64 – Construction of Works for Developers (Local Government Act 1993) - not applicable

CONSULTATION:

There has been consultation with the owners of 26 Seaview Street and with one of the owners of 24 Seaview Street.

SUSTAINABILITY ASSESSMENT:

Environment

There are no significant implications for the environment.

Social

There are no significant social implications.

Economic

There are no significant economic implications.

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Risk Assessment
Appeal against a refusal of development consent	Unknown	Contesting a merits appeal is expensive.	Comprehensive reporting which addresses and considers all relevant matters and avoids irrelevant matters. Compliance with planning law and Council policy.	One unknown variable = unknown
Class 4 appeal pertaining to procedural error	Unknown	Contesting a Class 4 appeal is expensive although cost orders can benefit a successful respondent.	Comprehensive reporting which addresses and considers all relevant matters and avoids irrelevant matters. Compliance with planning law and Council policy.	One unknown variable = unknown

ITEM 12.1 REVIEW OF DA2022/364 - DWELLING ADDITIONS (STAGED) - 24 SEAVIEW STREET, NAMBUCCA HEADS

Delivery Program Action

CC4 - Maintain an effective governance regime

CE1 - Provide diverse, sustainable, adaptable and affordable housing options through effective land use planning

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

There is no budgetary impact.

Working funds – justification for urgency and cumulative impact

There is no impact on working funds.






Impacts on 10 Year Long Term Financial Plan

There is no impact on the Long Term Financial Plan.

Service level changes and resourcing/staff implications

There is no impact on service levels or staff resources.

ATTACHMENTS:

- 1  967/2024 - Request for a review
- 2  55011/2023 - Stamped approved plans
- 3  55587/2023 - Notice of Determination
- 4  999/2024 - View Impact Assessment (redacted)
- 5  2738/2024 - Recommended Conditions

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT**ITEM 12.2 SF1148 150224 COUNCIL'S RANGERS' REPORT AND PENALTIES ISSUED FOR DECEMBER 2023****AUTHOR/ENQUIRIES:** Rochelle McMurray, Business Services Coordinator**SUMMARY:**

The following is the Council's Rangers' reports and listing of penalty notices issued for the month of December 2023 by Council Officers.

RECOMMENDATION:**THAT:**

- 1 The Rangers' Impounding Statistics for the month of December 2023 be received and noted by Council.
- 2 The penalties issued for the month of December 2023 be noted.

DECEMBER 2023	Cats	Dogs
COUNCIL'S SEIZURE ACTIVITY		
Seized (doesn't include those animals dumped or surrendered)	0	0
Returned to Owner	0	0
Transferred to - Council's Facility from Seizure Activities	0	0
ANIMALS IN AND ARRIVING AT COUNCIL'S FACILITY		
Animals In Council's Facility - (Start of Month)	11	5
Abandoned or Stray	3	7
Surrendered	1	1
Animals transferred from Seizure Activities	0	0
Total Incoming Animals	15	13
ANIMALS LEAVING COUNCIL'S FACILITY		
Released to Owners	0	0
Sold	5	4
Released to Organisations for Rehoming	0	8
Died at Council's Facility (other than euthanised)	0	0
Stolen from Council's Facility	0	0
Escaped from Council's Facility	0	0
Other	0	0
EUTHANISED		
Restricted Dogs	0	0
Dangerous Dogs	0	0
Owner's Request	0	0
Due to Illness, Disease or Injury	0	0
Feral/infant animal	0	0
Unsuitable for rehoming	0	0
Unable to be rehomed	0	0
Total Euthanised	0	0
Total Outgoing Animals	5	12
TOTAL IN COUNCIL'S FACILITY - (END OF MONTH)	10	1

Cattle	Breakdown	Total
Seized	0	0
Returned to Owner	0	0
Impounded	0	0
Total Seized	0	0

ITEM 12.2 COUNCIL'S RANGERS' REPORT AND PENALTIES ISSUED FOR DECEMBER 2023**PENALTIES ISSUED BY COUNCIL'S RANGER AND COUNCIL OFFICERS –DECEMBER 2023***(All now issued electronically)*

DECEMBER 2023		PARKING			
OFFENCE CODE	PN NUMBER	OFFENCE	DATE ISSUED	PENALTY \$	SUBURB
93877	3168988800	*Not position front/rear of vehicle correctly - 90 degree angle parking	2-Dec-23	\$92.00	Bowra Street, Nambucca Heads
8646	3168988819	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	2-Dec-23	\$110.00	Shelley Beach Road, Nambucca Heads
93877	3168988864	* Not position front/rear of vehicle correctly - 90 degree angle parking	13-Dec-23	\$92.00	River Street, Macksville
8646	3169000221	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	13-Dec-23	\$110.00	South Pacific Drive, Scotts Head
8646	3169000230	Fail to comply with terms of notice erected by council (driving/parking/use of vehicle)	13-Dec-23	\$110.00	South Pacific Drive, Scotts Head
93877	3168988882	*Not position front/rear of vehicle correctly - 90 degree angle parking	14-Dec-23	\$92.00	Fletcher Street, Nambucca Heads
82890	3168988891	Stop in loading zone	14-Dec-23	\$215.00	Wallace Street, Macksville
93877	3168988900	Not position front/rear of vehicle correctly - 90 degree angle parking	14-Dec-23	\$92.00	Fletcher Street, Nambucca Heads
		TOTAL		\$913.00	

**All fines are 'Opt-In' Local Government parking fines*

ITEM 12.2 COUNCIL'S RANGERS' REPORT AND PENALTIES ISSUED FOR DECEMBER 2023**COMPANION ANIMAL PENALTIES**

DECEMBER 2023		COMPANION ANIMALS		
ISSUED BY:	PN NUMBER	INFRINGEMENT DETAILS	DATE ISSUED	PENALTY \$
Ranger	*3169000203	Code: 81562 Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	2-Dec-23	\$1,320.00
Ranger	3168988828	Code: 81543 Owner of dog not under control in public place	9-Dec-23	\$330.00
Ranger	3168988837	Code: 81543 Owner of dog not under control in public place	9-Dec-23	\$330.00
Ranger	*3168988846	Code: 81562 Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	9-Dec-23	\$1,320.00
Ranger	*3168988855	Code: 81562 Owner of dog which rushes at/attacks/bites/harasses/chases any person/animal	9-Dec-23	\$1,320.00
		TOTAL:		\$4,620.00

PIN# 3169000203- Dog escaped property and attacked another dog being walked on lead in Hyland Park.

PIN# 3168988846 Dogs escaped property and ran to a nearby property and attacked another dog in Florence Wilmont Drive.

PIN# 3168988855 Dogs escaped property and ran to a nearby property and attacked another dog in Florence Wilmont Drive.

OTHER PENALTIES

DECEMBER 2023		OTHER		
ISSUED BY:	PN NUMBER	INFRINGEMENT DETAILS	DATE ISSUED	PENALTY \$
Ranger	3169000194	Code: 9820 Fail to comply with terms of notice erected at public place	2-Dec-23	\$110.00
Manager	3169009012	*Code: 31912 Development not accord consent - any other case - Corporation	2-Dec-23	\$6,000.00
Ranger	3169000212	Code: 9318 Fail to comply with order number 18 (keep birds/animals)	9-Dec-23	\$220.00
Manager	3168988873	Code: 18119 Operate sewage management system without approval	14-Dec-23	\$330.00
Manager	3168988910	Code: 6609 Residential pool not have complying barrier - Owner	22-Dec-23	\$550.00
Manager	3168988929	*Code: 91905 Development without development consent - class 1a or 10 building - Individual	22-Dec-23	\$1,500.00
		TOTAL:		\$8,710.00

** PIN# 3169009012 - Despite warnings, a precast facility in the Macksville industrial area exceeded its hours of operations on a number of occasions in breach of its development consent, resulting in noise amenity impacts on nearby residents.*

** PIN# 3168988929 - A pool was installed with an illegal dwelling with no barrier as required by the Swimming Pools Act. Initial compliance action required the pool to be drained and covered. This was undertaken; however, it was subsequently reinstated with no approval.*

ATTACHMENTS:

There are no attachments for this report.

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

ITEM 12.3 SF3410 150224 UNDETERMINED DEVELOPMENT APPLICATIONS GREATER THAN 12 MONTHS OR WHERE SUBMISSIONS RECEIVED TO 6 FEBRUARY 2024 AND DEVELOPMENT APPLICATIONS DETERMINED FROM 10 JANUARY 2024 TO 6 FEBRUARY 2024 WHERE AN APPLICATION TO VARY DEVELOPMENT STANDARDS UNDER CLAUSE 4.6 OF THE NAMBUCCA LEP 2010 WAS APPROVED UNDER STAFF DELEGATION

AUTHOR/ENQUIRIES: Daniel Walsh, Manager Development and Environment

SUMMARY:

This report contains information in relation to Development Applications which have been undetermined for over 12 months, undetermined Development Applications which have received submissions and Development Application determined where an application to vary a development standard was approved.

In accordance with Minute 848/08 from Council's meeting of 18 December 2008, should any Councillor wish to "call in" an application a motion is required specifying the reasons why it is to be "called in". If an application is not called in and staff consider the matters raised by the submissions have been adequately addressed then the application will be determined under delegated authority.

In the interests of transparency, all Development Applications determined under delegation, where an application to vary development standards under Clause 4.6 of the Nambucca Local Environmental Plan 2010 was approved, are reported to Council for information.

RECOMMENDATION:

THAT Council note the information on undetermined Development Applications greater than 12 months, or where submissions have been received to 6 February 2024, and Development Applications determined from 10 January 2024 to 6 February 2024 where an application to vary development standards under Clause 4.6 of the Nambucca LEP 2010 was approved under delegation.

OPTIONS:

In addition to the above recommendation, Council may choose to "call in" any or all of the Development Applications referred to in this report, or any other Development Applications not yet determined under delegation by Council staff. Please see information in the summary above regarding how to "call in" a development application.

DISCUSSION:

TABLE 1: UNDETERMINED DEVELOPMENT APPLICATIONS IN EXCESS OF 12 MONTHS OLD

DA 2023/015, for a residential flat building at Lot 2 DP 390600, 3 High Street, Nambucca Heads was submitted on 31 January 2023. Refer to separate report.

TABLE 2: UNDETERMINED DEVELOPMENT APPLICATIONS WITH SUBMISSIONS

DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/015	31 January 2023	Residential Flat Building comprising 5 units	Lot 2 DP 390600, 3 High Street, Nambucca Heads
Twenty-three submissions were received during the initial consultation period and thirty-one additional submissions were received during the additional consultation period which ended on 25 September 2023.			
STATUS: The legal advice has been received and the Town Planning consultant has undertaken the site inspection. Refer to separate report.			

ITEM 12.3 UNDETERMINED DEVELOPMENT APPLICATIONS GREATER THAN 12 MONTHS OR WHERE SUBMISSIONS RECEIVED TO 6 FEBRUARY 2024 AND DEVELOPMENT APPLICATIONS DETERMINED FROM 10 JANUARY 2024 TO 6 FEBRUARY 2024 WHERE AN APPLICATION TO VARY DEVELOPMENT STANDARDS UNDER CLAUSE 4.6 OF THE NAMBUCCA LEP 2010 WAS APPROVED UNDER STAFF DELEGATION

DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/291	24 October 2023	Change of Use – Truck Depot	Lot 157 DP 755539, 45 Warrell Waters Road, Gumma
Thirty-two submissions and a petition have been received. Exhibition period closed on 13 November 2023.			
STATUS: Awaiting legal advice.			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/281	23 October 2023	Dwelling, Pool & Change of use from three dwellings to tourist accommodation	Lot 101 DP 755550, 62 Lumsdens Lane, North Macksville
Two submissions have been received			
STATUS: Awaiting NSW RFS general terms of approval prior to determination.			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/303	13 November 2023	Car parking area and retaining walls	Lot 9 Sec 11 DP 758150, 31 Adam Street, Bowraville
One submission has been received			
STATUS: Awaiting additional information and a referral response from Essential Energy.			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/306	27 November 2023	Secondary Dwelling	Lot 4 DP 1238100, 15 Callistemon Place, Nambucca Heads
Two submissions have been received.			
STATUS: Determination being finalised.			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2023/331	18 December 2023	4 Lot Rural Subdivision	Lots 10, 11, 12 & 14 DP 1287883, 528 Lower Buckrabendinni Road, Buckra Bendinni
One submission has been received.			
STATUS: Awaiting additional information and NSW RFS general terms of approval prior to determination			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2024/003	15 January 2024	Continued use of office	Lot 1 DP 385214, 180 Bakers Creek Road, Taylors Arm
One submission has been received			
STATUS: Being assessed.			
DA NUMBER	DATE OF RECEIPT	PROPOSAL	ADDRESS
2024/010	17 January 2024	Demolition of existing dwelling and construction of new dwelling	Lot 11 Sec 10 DP 758749, 6 Pacific Street, Nambucca Heads
One submission has been received			
STATUS: Being assessed.			

TABLE 3: DEVELOPMENT APPLICATIONS DETERMINED UNDER DELEGATION WHERE AN APPLICATION TO VARY DEVELOPMENT STANDARDS UNDER CLAUSE 4.6 OF THE NLEP WAS APPROVED

No development applications were determined between 10 January 2024 to 6 February 2024 where an application to vary development standards under Clause 4.6 of the NLEP was approved under staff delegation.

ITEM 12.3 UNDETERMINED DEVELOPMENT APPLICATIONS GREATER THAN 12 MONTHS OR WHERE SUBMISSIONS RECEIVED TO 6 FEBRUARY 2024 AND DEVELOPMENT APPLICATIONS DETERMINED FROM 10 JANUARY 2024 TO 6 FEBRUARY 2024 WHERE AN APPLICATION TO VARY DEVELOPMENT STANDARDS UNDER CLAUSE 4.6 OF THE NAMBUCCA LEP 2010 WAS APPROVED UNDER STAFF DELEGATION

Development applications determined in 2024

At the meeting on 26 October 2023 Councillors requested a report listing all development applications approved in 2023. **Attachment 1** includes a report containing details of all development applications approved in 2023.

CONSULTATION:

Nil

SUSTAINABILITY ASSESSMENT:

Environment

To be undertaken in assessment of individual development applications.

Social

To be undertaken in assessment of individual development applications.

Economic

To be undertaken in assessment of individual development applications.

Risk Analysis

None identified.

FINANCIAL IMPLICATIONS:

Direct and indirect impact on current 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

Nil.

ATTACHMENTS:

1  1440/2024 - 2023 Determined DAs

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

ITEM 12.4 DA2023/015 150224 VIEW IMPACT ASSESSMENT - PROPOSED RESIDENTIAL FLAT BUILDING - 3 HIGH STREET, NAMBUCCA HEADS

AUTHOR/ENQUIRIES: Michael Coulter, Senior Town Planner

Summary:

Development consent is sought to:

- Demolish existing buildings on the site including a brick and tile dwelling house, garage, outbuilding, retaining wall, patio, pathways and driveway, and clear vegetation including a Jacaranda tree in the south;
- Close a section of Hill Street to incorporate into the land the subject of the proposal (subdivision).
- Construct a four-storey residential flat building that contains a ground/basement level garage with ten car parking bays and a lift, central levels that each contain two three-bedroom apartments designed around a foyer, and an upper level with a single three-bedroom apartment and roof deck; and
- Strata subdivide the building into common property and lots that encapsulate each unit, inclusive of an equal allocation of car parking bays.

The proposal to close part of Hill Street, Nambucca Heads also requires approval under the Roads Act 1993 to facilitate the above-mentioned development. The section of Hill Street proposed to be closed is shown as Lot 1 DP 1288566 on the submitted plans. To facilitate this the section of Hill Street proposed to be closed is to be made operational land under the Local Government Act 1993.

At Council's meeting on 14 December 2023 it was resolved as follows:

THAT:

- 1 *The report be deferred until, with the permission of the owners of 1 High Street and 47 Ridge Street, Nambucca Heads, the independent Consultant attend onsite and complete a view impact assessment.*
- 2 *Council engage a legal firm recommended by staff to provide a second opinion on the legal status and ownership of the road i.e. Lot 1 DP 1288566.*

This report concerns the first part of the resolution being a, *"the independent Consultant attend onsite and complete a view impact assessment."*

The independent Consultant's report is **attachment 1**.

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.

ITEM 12.4 VIEW IMPACT ASSESSMENT - PROPOSED RESIDENTIAL FLAT BUILDING - 3 HIGH STREET, NAMBUCCA HEADS

RECOMMENDATION:

THAT Council:

- 1 Classify the section of Hill Street, Nambucca Heads illustrated on the DA Plans as Lot 1 DP 1288566 as operational land in accordance with section 31 of the Local Government Act 1993.**
- 2 Close the section of Hill Street, Nambucca Heads illustrated on the DA Plans as Lot 1 DP 1288566 in accordance with section 38D of the Roads Act 1993.**
- 3 Approve development application DA2023/015 in accordance with section 4.16 of the Environmental Planning & Assessment Act 1979, subject to the recommended conditions of consent contained within Attachment 5 of this report.**

OPTIONS:

- 1 Recommendation
- 2 Refusal with reasons to be provided

BACKGROUND:

At Council's meeting on 14 December 2023 it was resolved as follows:

THAT:

- 1 The report be deferred until, with the permission of the owners of 1 High Street and 47 Ridge Street, Nambucca Heads, the independent Consultant attend onsite and complete a view impact assessment.*
- 2 Council engage a legal firm recommended by staff to provide a second opinion on the legal status and ownership of the road i.e. Lot 1 DP 1288566.*

This report concerns the first part of the resolution being, *"the independent Consultant attend onsite and complete a view impact assessment."*

The independent Consultant's report is contained within **attachment 1**.

The report concludes that an assessment inclusive of the north eastern wing of the 1 High Street building is still considered to satisfy Council's resolution of 25 May 2023 to, *"provide owners consent for the submission of Development Application DA 2023/015, subject to the development not resulting in view loss on surrounding properties any greater than a development on 3 High Street which has compliance [sic] setbacks with Council's DCP"*.

DISCUSSION:

Refer to the Consultant's report which is **attachment 1**.

For the sake of completeness, the previously reported assessment report and recommended conditions of consent are contained within **attachments 2-5**.

A copy of the submissions received are contained within **attachment 6**.

ITEM 12.4 VIEW IMPACT ASSESSMENT - PROPOSED RESIDENTIAL FLAT BUILDING - 3 HIGH STREET, NAMBUCCA HEADS

CONSULTATION:

There has been consultation with the planning consultant, Utopia Planning and residents of various properties listed in the planning consultant's report.

SUSTAINABILITY ASSESSMENT:

Environment

Refer to the attachments.

Social

Refer to the attachments.

Economic

Refer to the attachments.

Risk Analysis

Identified	Risk Likelihood (H,M,L)	Impact of risk (H,M,L)	Strategy to manage risk	Risk Assessment
Appeal against a refusal of development consent	Unknown	Contesting a merits appeal is expensive but the risk of an expense is an irrelevant consideration in the assessment of the DA.	Comprehensive reporting which addresses and considers all relevant matters and avoids irrelevant matters. Compliance with planning law and Council policy.	One unknown variable = unknown
Class 4 appeal pertaining to procedural error	Unknown	Contesting a Class 4 appeal is expensive although cost orders can benefit a successful respondent.	Comprehensive reporting which addresses and considers all relevant matters and avoids irrelevant matters. Compliance with planning law and Council policy.	One unknown variable = unknown

Delivery Program Action

CC4 - Maintain an effective governance regime

CE1 - Provide diverse, sustainable, adaptable and affordable housing options through effective land use planning

FINANCIAL IMPLICATIONS:

Direct and indirect impact on current and future budgets

The Council has incurred the expense of the independent assessment of the development application which can be met from existing budget provisions.

ITEM 12.4 VIEW IMPACT ASSESSMENT - PROPOSED RESIDENTIAL FLAT BUILDING - 3 HIGH STREET, NAMBUCCA HEADS

Working funds – justification for urgency and cumulative impact

There is no impact on working funds.







Impacts on 10 Year Long Term Financial Plan

There is no impact on the Long Term Financial Plan.

Service level changes and resourcing/staff implications

There are no resourcing implications.

ATTACHMENTS:

- 1  4877/2024 - DA2023/015 - View Impact Assessment
- 2  63940/2023 - DA2023/015 - Development Application Assessment
- 3  63949/2023 - DA2023/015 - DA Plans - Revision 3 - November 2023
- 4  63944/2023 - DA2023/015 - Addendum to Development Application Assessment
- 5  64362/2023 - DA2023/015 - Draft Conditions (Version 2)
- 6  64533/2023 - DA2023/015 - Redacted Submissions

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

ITEM 12.5 SF1867 150224 ILLEGAL DUMPING IN STATE FOREST

AUTHOR/ENQUIRIES: Daniel Walsh, Manager Development and Environment

SUMMARY:

This report addresses matters raised by Chris Humphreys in the public forum on 30 November 2023 regarding illegal dumping in State Forests.

RECOMMENDATION:

THAT Council:

- 1 Note the information contained within the report.**
- 2 Provide contact details for Forestry Corporation's representative to Mr Humphreys to seek assistance with tipping fees.**

OPTIONS:

- 1 Proposed recommendation.
- 2 Reimburse Mr Humphreys for any waste collected from State Forests and pay the NSW Government the applicable waste levy.

BACKGROUND:

Mr Chris Humphreys addressed in the public forum regarding illegal dumping in State Forests at the Council meeting on 30 November 2023. Following the representations Council made the following resolution:

That Council receive a report addressing both the concerns and the suggestions made in Mr Humphrey's presentation to Council.

A copy of Mr Humphreys address to Council is attached.

DISCUSSION:

State Forests are managed by Forestry Corporation. Council has no management role with regards to State Forests.

In order to dispose of any waste (excluding recyclables) at Councils waste facility a waste levy must be paid to the NSW Government based on the type and weight of the waste. This waste levy applies to any waste that has been illegally dumped in the State Forest. As such, if Council were to waive all fees for the disposal of waste from State Forests, Council would have to pay the NSW Government the waste levy for the disposal of rubbish from their land.

In addition to this, the acceptance of any waste at Councils waste facility has costs to Council which are reflected in Councils tipping fees and applied to all rate payers. It is not considered appropriate that the NSW Government collects a waste levy from all ratepayers for the disposal of their waste, obtains a waiver on tipping fees for waste from State Forests at a cost to the ratepayer, and obtains cash payment from ratepayers for disposing the waste from State Forests through the waste levy. It is noted that illegal dumping is primarily associated with the costs payable to use Councils waste facility. The application of the waste levy is a large factor in these costs.

Having regard to the above, it is considered reasonable that the NSW Government pay for the disposal of illegally dumped waste from their land in the same way Council has to pay for the disposal of illegally dumped waste on Council managed land. As such, if someone like Mr Humphreys is seeking

ITEM 12.5 ILLEGAL DUMPING IN STATE FOREST

reimbursement/cost coverage for undertaking the clean-up work in State Forests he is volunteering; the approach should be made to Forestry Corporation and not Council. It is noted that the cost savings Mr Humphreys would be providing by voluntarily collecting the waste as suggested would be a saving to Forestry Corporation, not Council.

Requiring payment will also encourage ongoing management of State Forests with regards to illegal dumping. Unfortunately the illegal dumping illustrated in Mr Humphreys photos is only the tip of the iceberg when it comes to illegal dumping within State Forests. Forestry Corporation staff have advised Council staff of numerous dump sites within State Forests when they are discovered. Forestry Corporation actively clean up these sites, with Council staff providing assistance where needed through the implementation of hidden cameras in an effort to catch offenders illegally dumping in the state forests.

The NSW Environment Protection Authority (EPA) are currently reviewing the waste levy. During a consultation meeting, Council staff outlined the extent of illegal dumping within the Nambucca Valley, particularly in State Forests. It was agreed that the application of the waste levy was a factor in the dumping of waste illegally, with Council staff suggesting consideration should be given to either removing the levy or reinvesting some of the levy into the removal of illegally dumped waste. It is expected that formal consultation through a discussion paper on the waste levy review will be released soon.

There is grant funding available for prevention measures to be scoped and implemented by Forestry Corporation within State Forests; however, no funding is available for the physical removal of waste.

CONSULTATION:

Nil.

SUSTAINABILITY ASSESSMENT:

Environment

Removing illegally dumped waste would have a positive impact on the environment.

Social

Removing illegally dumped waste would have a positive social impact.

Economic

Negative economic impacts would result from the removal of illegally dumped waste from State Forests which should be absorbed by the NSW Government as outlined above.

Risk Analysis

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

Delivery Program Action

CE10 - Minimise illegal dumping of waste

FINANCIAL IMPLICATIONS:

Direct and indirect impact on current and future budgets

Nil as report is for information.

Working funds – justification for urgency and cumulative impact

Nil as report is for information.

Impacts on 10 Year Long Term Financial Plan

Nil as report is for information.

ITEM 12.5 ILLEGAL DUMPING IN STATE FOREST

Service level changes and resourcing/staff implications

Nil as report is for information.

ATTACHMENTS:

- 1  4943/2024 - Copy of Chris Humphreys address to Council
- 2  4944/2024 - Photos from Chris Humphreys address

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

**ITEM 12.6 SF3410 150224 2024 JANUARY - APPROVED CONSTRUCTION
CERTIFICATES AND COMPLYING DEVELOPMENT APPLICATIONS**

AUTHOR/ENQUIRIES: Melanie Ellis, Business Services Officer


SUMMARY:

The **attached** report, produced from Council's computer system, Authority, is for the information of Councillors with regard to approved Construction Certificates and Complying Developments for the month of January 2024 as at 6 February 2024.

RECOMMENDATION:

THAT Council note the Construction Certificates and Complying Developments approved for January 2024.

ATTACHMENTS:

1  5157/2024 - Construction Certificates & Complying Developments Approved January 2024

MANAGER DEVELOPMENT AND ENVIRONMENT REPORT

**ITEM 12.7 SF3410 150224 2024 JANUARY - DEVELOPMENT APPLICATIONS AND
COMPLYING DEVELOPMENT APPLICATIONS RECEIVED**

AUTHOR/ENQUIRIES: Melanie Ellis, Business Services Officer

SUMMARY:

Council at its meeting on 16 January 2014 resolved:

“That Council endorse the method of reporting Construction and Complying Development Certificates as presented to the 16 January 2014 meeting and further that the General Manager investigate the possibility of reporting Development Applications lodged in previous month.”

Attached is a list of Development Applications and Complying Developments received in January 2024 as at 6 February 2024.

RECOMMENDATION:

THAT Council note the Development Applications and Complying Developments received in January 2024.

ATTACHMENTS:

1  5158/2024 - Development Applications & Complying Developments Received January 2024

DIRECTOR ENGINEERING SERVICES REPORT

ITEM 13.1 PRF47 150224 DAWKINS PARK, MACKSVILLE

AUTHOR/ENQUIRIES: Keegan Noble, Environmental Project Officer**SUMMARY:**

This report outlines the next recommended step in the management of water quality issues in Dawkins Lake.

RECOMMENDATION:

THAT Council support the connection of the main Dawkins Lake Island with the southern edge of the lake.

OPTIONS:

- 1 Do nothing/business as usual: The lake will continue to be a source of public complaints, poor public attraction, odour, fish kills and nutrient rich water entering the estuary system via Hughes creek (East street drain).
- 2 Proposed recommendation: The lake will slowly have increased oxygen levels due to reduced nutrient input through reduced population of resident birds from passive disturbance by public users. Plants and macrophytes may establish due to less predation by birds, increasing community appeal. Fish kills will be less likely to occur and water quality levels will increase, resulting in healthier inputs into Hughes creek.

DISCUSSION:

Dawkins Park is a centre point of Macksville, where many tourists/travellers and locals find themselves due to the proximity to community outlets and facilities like the library, council chambers, service station and sporting facilities. The issues of water quality, foul odour and fish kills at the manmade lake stems from factors such as urban storm water runoff, gross pollutants, stagnant waters, acid sulphate soils, shallow water depths, elevated water temperatures and nutrient load from resident bird populations.

Attempts have been made to rectify these issues through consultation and design of water filtration devices and park layout changes (see attached documents) with the installation of gross pollutant traps on main storm water inflows and the installation of three different aeration devices to increase dissolved oxygen in the water. These devices being:

- Diffused airline running from a blower near Giinagay Way and injecting air into the water through a pipe system.
- A mixer that is permanently anchored near Giinagay Way and simply brings water from lower down in the water profile, up to the surface. As it pushes it out, oxygen is mixed into the water through surface disturbance.
- The wind mill which is designed to transport water from the eastern side of the lake to an artificial wetland at the western side in Dawkins Park. The effect of filtration through the plants and gravel in the wetland is designed to reduce nutrient levels and turbidity in the water before it returns back to the lake.

With all of these devices functioning the water quality, nutrients and associated Biological Oxygen Demand (BOD), odour and turbidity is still at a very high level. Continued nutrient load from resident birds is the driving factor behind low dissolved oxygen due to BOD from the breakdown of nutrients. Additionally, algae blooms in the water (resulting from excessive nutrients), are further reducing dissolved oxygen levels through depletion of surface diffusion. The alga is also the key offender in blocking the intake of the mixer and windmill, resulting in reduced effectiveness of these devices. Currently, due to the increased

ITEM 13.1 DAWKINS PARK, MACKSVILLE

level of algae growth in the lake, the foot valve of the windmill continually blocks and has to be manually cleaned by council staff.

The mixer also has trouble dealing with this algae issue as it has a mesh cage around the intake, which can block and reduce efficiency of the device.

Low oxygen levels in the water result in the stagnant odour and fish kills.

Attempts have been made to passively reduce the effect of and population size of the resident bird population (predominately the White Ibis) through planting vegetation on the islands to absorb nutrients and an egg oiling licence for the White Ibis outlined in the White Ibis management plan.

Both of these have failed due to predation of the plants by resident birds and limited access to the islands and availability of people to constantly undertake egg oiling.

By undertaking the works recommended in the attached report it will increase the effectiveness of the implemented infrastructure such as the windmill, oxygen diffuser and mixer. Increased access to the island will enable Council to plant and maintain plantings on the island to increase the vegetation integrity. Enabling access to deposit soil around edges of islands will encourage the growth of macrophytes, as suggested in external reports. The small island will still act as a bird sanctuary and maintain a smaller resident bird population in which water filtration/aeration devices may keep up with the nutrient load and resulting dissolved oxygen issues.

CONSULTATION:

Consultation has been undertaken with external parties such as:

- Ecologists
- Department Primary Industries (DPI) Fisheries
- National Parks and Wildlife (NPWS)
- Manager Development & Environment

SUSTAINABILITY ASSESSMENT:**Environment**

Part 5 environmental assessment and REF attached.

Social

Increased social amenity.

Economic

Increased benefit from economic investment in water treatment devices.

Risk Analysis

It is not considered that there is any significant risk associated with the proposal.

Delivery Program Action

CE16 - Deliver projects funded under the Environmental Levy and related environmental grants

ITEM 13.1 DAWKINS PARK, MACKSVILLE

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

Future works will be funded from Environmental Levy, therefore no impact to budget bottom-line.

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

This works would be undertaken by contractors or internal staff.

ATTACHMENTS:

- 1** 55333/2023 - Dawkins Park proposed actions and alternatives

- 2** 55321/2023 - GeoLINK - 4378-1003 Dawkins Park Water Quality and Wildlife Management Options
Assessment Report-2023-04-05 V1

- 3** 34106/2016 - Final Draft IBIS Management Plan PR1912-RE.AWIMP Dawkins Park.FI

- 4** 35104/2022 - Concept plan to connect islands to Dawkins Park

- 5** 5395/2024 - Dawkins Park and Hughes Creek Water Quality Improvement Works REF DraftV1.3


DIRECTOR ENGINEERING SERVICES REPORT

**ITEM 13.2 SF3201 150224 BUDGET VARIATION - E J BIFFIN PLAYING FIELDS
LIGHTING UPGRADE**

AUTHOR/ENQUIRIES: David Banwell, Assets Engineer

SUMMARY:

To advise Council of additional expenditure required for the installation of the lights at EJ Biffin Playing Fields.

RECOMMENDATION:

That Council allocate the additional expenditure of \$35,000 to finalise the installation of lighting at EJ Biffin Playing Fields, Nambucca Heads.

OPTIONS:

- 1 Do nothing and don't finalise the installation of lighting
- 2 Proposed recommendation

DISCUSSION:

Council received grant funding for the installation of new lights at the EJ Biffin playing fields, Fred Brain Avenue, Nambucca Heads. These lights have been installed but not yet commissioned. Midway through the installation, the contractor "Smada Electrical", advised that there was not enough power supply from the street where the field lights would be connected, and also power the downstream connections such as the canteen.

A level 3 electrical design had to be completed for the power upgrade work. This work has been done and it has been estimated the power upgrade to connect the lighting and work at full capacity, an additional \$35,000 will be required.

All grant funds have been exhausted and the additional funds will complete the lighting upgrade for the EJ Biffin Playing Fields.

CONSULTATION:

General Manager
Acting Director Engineering Services
Chief Financial Officer
Assets Engineer
Acting Manager Assets and Facilities
Technical Assistant Assets

SUSTAINABILITY ASSESSMENT:

Environment

Nil

Social

Night play of sport at the fields will not be possible without adequate lighting.

ITEM 13.2 BUDGET VARIATION - E J BIFFIN PLAYING FIELDS LIGHTING UPGRADE**Economic**

Nil

Risk Analysis

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

Delivery Program Action

LW6 - Maintain Sporting Facilities

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

Will affect the 2024/25 budget but not future budgets. Funds will come from retained earnings.

Working funds – justification for urgency and cumulative impact

If not approved Council will not be able to install the lights

Impacts on 10 Year Long Term Financial Plan

Nil

Service level changes and resourcing/staff implications

Nil

ATTACHMENTS:

There are no attachments for this report.