



clarence  
VALLEY COUNCIL

2019

# Ordinary Council Meeting



**Business Paper**

**Maclean Chambers**

Tuesday, 22 October 2019

2.00 pm

# Agenda

01	OPENING OF ORDINARY MEETING		
	<ul style="list-style-type: none"> <li>• Opening Prayer by Ps. Alan Livingston</li> <li>• Acknowledgement of Country</li> <li>• Recording of Meeting Announcement</li> </ul>		
02	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE		
03	DISCLOSURES AND DECLARATION OF INTERESTS		
04	CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 24 SEPTEMBER 2019		
05	MAYORAL MINUTES		
05.19.004	<a href="#">Acknowledgement of the major impacts bushfires are having on the Clarence Valley Community and Environment – Offer Specific Help to the Isolated Communities of Ewingar and Dundurrabin</a>	1	
06	REPORTS		
a	GENERAL MANAGER		
6a.19.023	<a href="#">2018/19 General Purpose Financial Statements Refer to Audit</a>	4	TBT
6a.19.024	<a href="#">Nymboida Hydro Power Station – Desktop Investigation</a>	11	Conf
6a.19.025	<a href="#">December 2019 and January 2020 Council Meeting Arrangements</a>	15	N
6a.19.026	<a href="#">Draft Gas Filled Balloons on Council Managed Land Policy</a>	17	Y
6a.19.027	<a href="#">Strategic Road Improvement Reserve</a>	21	N
6a.19.028	<a href="#">2019/20 Operational Plan – Quarterly Review as at 30 September 2019</a>	27	Y
b	ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE		
6b.19.031	<a href="#">Planning Proposal for Palmers Island Marine Industrial - REZ2016/0001</a>	30	y
6b.19.032	<a href="#">DA2018/0567 – Proposed Aged Care Facility, 425 Bent Street, South Grafton</a>	45	Y
6b.19.033	<a href="#">MOD2019/0031 – Request to Modify DA2014/0214 to Remove the Café from the Motel</a>	72	Y
6b.19.034	<a href="#">DA2019/0331 – 50 Independent Seniors Living Apartments, 56–58 Yamba Road, Yamba, Lots 1 &amp; 2 DP829279 &amp; Lot 11 DP556436</a>	85	Y
6b.19.035	<a href="#">SUB2019/0022 – Proposed Two Lot Subdivision Upon 139 Clearview Road, Coutts Crossing being Lot 6 DP710704</a>	107	Y
6b.19.036	<a href="#">DA2019/0298 Alterations and Additions to Veterinary Clinic, Pound Street, Grafton</a>	117	Y
6b.19.037	<a href="#">Planning Proposal - Function Centres In Rural Zones</a>	122	Y
6b.19.038	<a href="#">Community Participation Plan</a>	128	Y
6b.19.039	<a href="#">Clarence Valley Local Heritage Grants 2019-20</a>	131	Y
6b.19.040	<a href="#">Cities Power Partnerships</a>	135	Y
6b.19.041	<a href="#">Development Applications</a>	137	N
6b.19.042	<a href="#">Discussions Regarding Clarence Correctional Centre</a>	144	N
c	CORPORATE, GOVERNANCE AND WORKS COMMITTEE		
6c.19.062	<a href="#">Glenreagh Rail Precinct Risk Assessment</a>	147	Y
6c.19.063	<a href="#">Changes to the Australian Citizenship Ceremonies Code</a>	152	TBT
6c.19.064	<a href="#">Council Meeting Checklist – Update on Actions Taken</a>	154	Y

6c.19.065	<a href="#">Enterprise Asset Management Project Update</a>	156	N
6c.19.066	<a href="#">Corporate System Roadmap 2019-2023</a>	161	N
6c.19.067	<a href="#">Request from account 2230266 for consideration for reduction in water account</a>	166	Conf
6c.19.068	<a href="#">Water consumption charge subsidy to affected rate payers for protection and clean up following bushfires</a>	169	N
6c.19.069	<a href="#">2019/20 Quarterly Budget Review Statement – September 2019</a>	172	Y
6c.19.070	<a href="#">Cameron Park Carpark – Road Upgrade</a>	179	N
6c.19.071	<a href="#">Road Maintenance Council Contract</a>	182	N
6c.19.072	<a href="#">Clarence Valley Regional Airport – Landing Fees and Charges Review</a>	184	N
6c.19.073	<a href="#">Alcohol Prohibited Areas – Jacaranda Festival</a>	187	N
6c.19.074	<a href="#">Baryulgil Waste Transfer Station – Summary of Trial Management (Gating and Staffing)</a>	190	N
6c.19.075	<a href="#">Acquisition of Crown Land Easements for Yamba Sewerage</a>	196	Y
6c.19.076	<a href="#">Convent Beach Sewer Upgrade – Property 117973 Electrical Works</a>	199	N
6c.19.077	<a href="#">Benchmark and Report Card 2019/20</a>	202	TBT
6c.19.078	<a href="#">Governance Report</a>	204	N
6c.19.079	<a href="#">Pre-Audit 30 June 2019 Budget V Actual Result</a>	207	Y
6c.19.080	<a href="#">Monthly Investment Report – September 2019</a>	212	Y
6c.19.081	<a href="#">Upgrading of Christopher Creek, South Grafton - Update</a>	220	N
6c.19.082	<a href="#">Works Report</a>	222	Y
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6e.19.009	<a href="#">T19/027 – Yamba Sporting Complex Car Park Design and Construct – On Crown Land</a>	229	
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## 5. MAYORAL MINUTES

<b>ITEM</b>	<b>05.19.004</b>	<b>ACKNOWLEDGEMENT OF THE MAJOR IMPACTS BUSHFIRES ARE HAVING ON THE CLARENCE VALLEY COMMUNITY AND ENVIRONMENT - OFFER SPECIFIC HELP TO THE ISOLATED COMMUNITIES OF EWINGAR AND DUNDURRABIN</b>
<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Nil	

**SUMMARY**

A number of Clarence Valley communities are impacted by the ongoing bushfire emergency. To date 34 homes have been destroyed and 21 damaged, plus 100's of out buildings and 258 rural landholders have been affected by fire. Around 10% of the Clarence Valley is now impacted by bushfires. There is also major impacts on the natural eco-system and wildlife in the valley (still being documented by NPWS) and loss of forestry resources. According to one prominent ecologist in the region a major koala colony may have been lost as a result of the Long Gully Drake fire.

I, along with Acting General Manager, Des Schroder, attended the community meeting at Ewingar Hall on Saturday, 12 October, at 2pm where all the key combat agencies such as RFS, fire rescue and emergency services were present along with the following key recovery agencies: Office of Emergency Management (with Chaplains), NSW Department of Primary Industry, Essential Energy, NSW Health Department, Insurance Council of Australia, Red Cross and Council.

About 100 people attended the session which was well received by the community. As a result of that meeting a few key short term issues that Council could potentially deal with were raised with me and some longer term issues.

The short term issues, the subject of this Mayoral Minute, are the possible provision of a mobile booster antenna on the hall and water for its depleted water tanks (over 100 people sheltered there, 15 fire tanker crews plus the hall provides showers to affected community members) and some help to fund the hall running costs over the fire period.

Longer term issues raised include the clean up, DA's for replacement buildings, lobbying for a mobile tower, a bigger asset protection zone around the hall and moving the fire shed to the land below the hall (it nearly burnt down itself). An additional request for a donation towards a community fund raising event has also been received.

A community who has worked and is working through similar issues is Dundurrabin/Tyringham. Council has already attended the initial Office of Emergency NSW community meeting and has assisted with the septic pump out at the Tyringham fire shed and also provided porta loo's, toilet cleaning and road traffic control. It would be pertinent to offer similar funding to that isolated community also.

**PROPOSED MOTION**

That Council

1. Pass on its condolences to the families of the two people who tragically lost their lives as a result of the fires of 7 October - Gwen Hyde and Bob Lindsey from Coongbar.
2. Acknowledge the fabulous work that the Rural Fire Service, other emergency agencies and state agencies have been doing in the Clarence Valley and say thank you on behalf of all the fire affected communities.

3. Acknowledge the great hardship that many of our communities are now suffering as a consequence of the dual impacts of the drought and now severe fires and offer Council's support where we can to the affected communities.
4. Allocate a maximum of \$6,000 to help the Ewingar community to recover (including possible funding of a mobile booster antenna, filling of the hall water tanks, helping with electricity costs and a donation of \$2,000 to help fund the organisation of a community fund raising event)
5. Allocate a maximum of \$6,000 to help the Dundurrabin community for similar needs if requested.
6. Lobby the State and Federal Members to obtain 'black spot' funding for a mobile telecommunication tower to service the Ewingar area.
7. Request the Department of Primary Industry fund extra staff to support farmers in their recovery across northern NSW. (It is understood from the Ewingar meeting 2 extra staff are necessary.)

### LINKAGE TO OUR COMMUNITY PLAN

Theme	1 Society
Objective	1.2 We will have a safe, active and healthy region
Strategy	1.2.4 With our partners, promote community safety

### BACKGROUND

There have been severe bushfires in the Clarence Valley since the beginning of September starting with the Shark Creek fire, the Long Gully Road, Drake fire (subject of this Mayoral Minute and understood to be contained) and the Bees Nest (contained) fire around Dundurrabin/Billys Creek/Tyringham. In addition a number of small now controlled fires have occurred at Ramornie (where Council also lost a bridge), Purgatory Creek, Kaloe Mountain Trail, Whiteman Creek and Ashby. The first three fires in particular, as outlined in the summary, have led to severe house and shed property loss with major impacts on farming operations. The Department of Primary Industry and Local Land Services are still assessing the overall impacts on livestock loss and fences. Blaze Aid is establishing base at Casino to help with fence reconstruction.

The Ewingar Hall is on the Council asset register and is insured by Council. The hall has a very active Section 355 committee. The hall is the key community meeting place for the Ewingar community and provided a safe place for bushfire refuge for the community and a base for the firefighters.

The Dundurrabin Hall is also a Council asset and has an active 355 Committee.

### KEY ISSUES

The Ewingar community meeting identified some very short term issues that Council could help with and some longer term issues, some of which, will be common in other fire areas especially the Bees Nest fire. Hence this is why I'm requesting Council also make an allocation, if necessary, available to the Dundurrabin community.

In the short term at Ewingar, there is a need for Council to:

- Establish if a mobile phone booster will work at Ewingar Hall and if it will, install the booster (around \$1,300).
- Refill the hall water tanks (an initial 13,000 litres was delivered on Saturday, 19 October).

- Provide help with the extra hall operating costs, electricity etc incurred over this prolonged bushfire emergency.
- Allocate \$2,000 to help the hall committee organise a community recovery fund raiser.

Council is also part of the Northern NSW Fires Recovery Committee sub-committees having staff now attending two of these (generally by phone hook up): the Health and Wellbeing Sub-committee Chaired by the Department of Planning, Industry and Environment - Rural Resilience Program; and the Waste, Environment and Infrastructure sub-committee Chaired by EPA.

The Office of Emergency Services are running drop in information points at the affected communities with two this week at Ewingar. Council should also support the request by NSW DPI for two additional staff to support farmers in the recovery phase the need which was outlined at the Ewingar meeting.

It was obvious in the Ewingar fire that lack of a reliable mobile phone reception (some limited coverage comes from the Copmanhurst tower and the Whiporie tower) put lives at risk with many households having no idea of the approaching fire and it is remarkable that no more lives were lost.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The \$12,000 should come from Council consolidated budget through the appropriate funding source which will be reported in QBR adjustments and may lead to a slightly increased budget deficit.

The ongoing management help with the fires is impacting on other core Council operations e.g. our LEMO (a weeds officer) has been full time on the fires for the last few months and needs a break; our alternate LEMO, who is a planner, will relieve this position over the next few weeks, meaning that DA processing will suffer. Similarly our planners/building surveyors will need to give priority to advice and DA's for replacement and repair of destroyed and damaged houses in highly bushfire prone areas. This is already putting additional pressure on a very high DA load at the moment, building certification etc

Our road crews have helped with traffic control and making roads safe and have dealt with the loss of one bridge. IT have been working on the communication issues at Ewingar also reducing services in this section to the organisation. Council will also play a key role in waste disposal and our landfill has already been investigated for this purpose and there maybe a need yet for collection points to be established in isolated communities - already our transfer stations at Tyringham and Baryulgil have received some burnt household waste.

**6. REPORTS****a. GENERAL MANAGER**

ITEM	6a.19.023	2018/19 GENERAL PURPOSE FINANCIAL STATEMENTS REFER TO AUDIT
<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

Council's 2018/19 Annual Financial Statements have been completed and are currently being audited by Council's auditor, Thomas Noble and Russell. The purpose of this report is to present the interim financial results and to implement certain statutory obligations in relation to the finalisation of the audited financial statements.

The auditor will present the audit report to Council's 26 November 2019 Ordinary meeting along with the public presentation of the audited financial statements.

**OFFICER RECOMMENDATION**

That Council:

1. Adopt the General Purpose Financial Statements for the financial year ending 30 June 2019.
2. Refer the 2018/19 Annual Financial Statements to the Auditor for audit in accordance with Section 413 (1) of the Local Government Act 1993.
3. Sign the Statements as prescribed by Section 413(2) (c) of the Local Government Act 1993 for the General Purpose Financial Statements and the Special Purpose Financial Statements.
4. Receive and note the 2018/19 Special Schedules, which are not required to be audited.
5. Authorise the General Manager to forward the Financial Statements to the Office of Local Government upon receipt of the audited 2018/19 Financial Statements.
6. Present the signed audited Financial Statements, together with the signed Client Services Reports (Auditor's Reports), to the public at the Ordinary Council meeting to be held on 26 November 2019 in accordance with Section 419 (1) of the Local Government Act 1993.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Under Section 416(1) of the Local Government Act 1993, Council must prepare and arrange for its annual Financial Statements to be audited within four (4) months of year end (that is, by 31 October each year). The 2018/19 Annual Financial Statements have been completed and have been audited by Council's Auditor, Thomas Noble & Russell. The 2018/19 Annual Financial Statements can now be referred to Council, as a resolution of Council is required to formally refer the Annual Financial Statements to the Auditor for audit.

Council is also required to resolve to sign and attach a 'Statement by Councillors and Management' to its annual Financial Statements in accordance with Section 413(2) (c) of the Act. This Statement is included in the attachments (refer Attachment A) for Council's reference. This Statement is to be signed by the Mayor, Deputy Mayor, General Manager and Council's Responsible Accounting Officer.

In accordance with the requirements of the Local Government Code of Accounting Practice and Financial Reporting, Council is required to prepare Special Purpose Financial Statements for the Business Activities of Council. Council's Water, Sewerage, Clarence Coast Reserve Trust and Clarence Care & Support operations are Category 1 businesses for the purposes of the Special Purpose Financial Statements. A copy of the Statement by Councillors and Management that is required to be signed by the Mayor, Deputy Mayor, General Manager and Responsible Accounting Officer is attached (refer to Attachment B).

This formal process of referring the Financial Statements to audit by the Council and the signing of the Council Statement for inclusion with the Financial Statements is a legislative obligation which in reality does not match the timing of the actual audit process as Council's auditor commenced the audit on Monday 16 September 2019 and is in the process of finalising the audit.

As soon as practicable after the Client Services Reports (Auditor's Reports) have been received, Council must fix a date for a meeting, and give public notice of this meeting, to present the audited Annual Financial Statements and the Client Services Reports to the public. The audited Annual Financial Statements are placed on public exhibition from the date of the public notice of the Council meeting until seven days after the meeting. It is proposed that the final 2018/19 Annual Financial Statements be presented to the ordinary Council meeting of 26 November 2019.

A copy of Council's 2018/19 General Purpose Financial Statements is included in the attachments (refer to Attachment C). The General Purpose Financial Statements incorporate the Primary Financial Statements i.e. Income Statement, Statement of Comprehensive Income, Statement of Financial Position, Statement of Changes in Equity and Statement of Cash Flows.

Council's 2018/19 Special Purpose Financial Statements for the Water, Sewerage, Clarence Coast Reserve Trust, Clarence Care & Support Services operations, have been completed and a copy of the Income Statement by Business Activity and Statement of Financial Position by Business Activity are included in the attachments (refer to Attachment D).

In accordance with the requirements of the Local Government Code of Accounting Practice and Financial Reporting, Council is required to prepare Special Schedules for the purposes of providing additional information required for the NSW Grants Commission, the Australian Bureau of Statistics, the Department of Industry and the Office of Local Government and also to support data included in the Special Purpose Financial Statements. The data from the Special Schedules is also used in the allocation of Financial Assistance Grants, incorporation in national statistics, monitoring of loan approvals, allocation of borrowing rights and monitoring of financial activities of specific services. The auditor is not required to audit the Special Schedules.

The Special Schedules included in the attachments (refer to Attachment E) are:

- Special Schedule 2 - Permissible Income for General Rates



- Special Schedule 7 - Report on Infrastructure Assets (as at 30 June 2019). Special Schedule 7 also includes the following mandatory Infrastructure Asset performance indicators:
  1. Building and Infrastructure Renewals Ratio
  2. Infrastructure Backlog Ratio
  3. Asset Maintenance Ratio
  4. Costs to Bring Assets to Agreed Service Level Ratio

The below Special Schedules are no longer part of the Annual financial statements. These now form part of the Financial Data Return (FDR) which are submitted separately to the OLG:

- Special Schedule 1 - Net Cost of Services
- Special Schedule 3 - Water Supply Operations - includes Income Statement
- Special Schedule 4 - Water Supply – Statement of Financial Position
- Special Schedule 5 - Sewerage Service Operations - includes Income Statement
- Special Schedule 6 - Sewerage Services – Statement of Financial Position

## KEY ISSUES

### Summary Financial Result

Council's Net Operating Result for the financial year ended 30 June 2019 was a profit (surplus) of \$4.428M which includes Capital Income of \$12.817M. This compares to a restated profit (surplus) in 2018 of \$5.426M (including Capital Income of \$16.855M). The 2019 consolidated result can be summarised as follows:

	2019	2018 restated
	\$'000	\$'000
Income from Continuing Operations	132,645	124,159
Expenses from Continuing Operations	(91,802)	(90,630)
<b>Result from ordinary activities before depreciation</b>	<b>40,843</b>	<b>33,529</b>
Less Depreciation	(42,306)	(40,852)
Less Impairment	-	-
<b>Result from Continuing Operations before capital</b>	<b>(1,463)</b>	<b>(7,323)</b>
Capital grants and contributions	12,817	16,855
Loss on disposal of assets	(6,926)	(4,106)
<b>Net Operating Result for the Year – Net Profit</b>	<b>4,428</b>	<b>5,426</b>

As detailed at Note 14 (b) of the General Purpose Financial Statements, Council has brought to account the disposal of a section of the Regional Water Supply water main that was not transacted in the relevant financial year in which the disposal occurred. The impact on the 2018 Statement of Financial Position was to reduce the fair value of the Water Supply network infrastructure asset by \$13.668M. The impact on the 2018 Income Statement was to reduce depreciation expense and hence improve the Net Operating Result by \$0.138M.

### Financial Reserves - Externally Restricted

External financial restrictions represent unspent monies that have been provided to Council to be spent on a particular project/allocation. They generally consist of unspent Section 7.11 and Section 64 Developer Contributions, unspent specific purpose grants, sewerage fund, domestic waste management and Clarence Coast Reserve Trust revenues.

As at 30 June 2019, Council's balance of externally restricted cash is \$72.104M (compared to \$64.659M as at 30 June 2018). A summary is tabled below:

<b>Externally Restricted Reserves</b>	<b>Balance as at 30 June 2019</b>	<b>Balance as at 30 June 2018</b>
Unexpended Grants	\$4,673,000	\$5,460,000
Water Supply Contributions, Loans & General Reserves	\$31,494,000	\$27,214,000
Sewer Services Contributions, Loans & General Reserves	\$13,301,000	\$9,566,000
Developer Contributions – General Fund	\$9,324,000	\$8,762,000
Security Deposits & Bonds	\$1,807,000	\$1,623,000
Domestic Waste Management Charges & Loans	\$1,058,000	\$1,265,000
Clarence Coast Reserve Trust	\$2,708,000	\$3,172,000
Clarence Care & Support Services Grants	\$5,636,000	\$5,731,000
Other External Reserves	\$1,055,000	\$1,086,000
Clarence Regional Library	\$1,048,000	\$780,000
<b>TOTAL Externally Restricted Reserves</b>	<b>\$72,104,000</b>	<b>\$64,659,000</b>

#### **Financial Reserves - Internally Restricted**

Internal financial restrictions represent monies set aside for expenditure on non-specific items that Council has resolved to spend in the future.

As at 30 June 2019 Council's balance of internally restricted cash is \$47.778M (compared to \$45.726M as at 30 June 2018). A summary is tabled below:

<b>Internally Restricted Reserves</b>	<b>Balance as at 30 June 2019</b>	<b>Balance as at 30 June 2018</b>
Employee Leave Entitlements	\$3,159,000	\$2,711,000
Floodplain Services	\$522,000	\$574,000
Strategic Building Reserve	\$1,354,000	\$1,335,000
Roads	\$1,657,000	\$1,195,000
Quarry Rehabilitation/Development	\$1,089,000	\$609,000
Regional Landfill	\$6,275,000	\$5,042,000
Public Pool Improvements	\$493,000	\$317,000
Replacement – Plant & Vehicles	\$11,839,000	\$13,246,000
Unexpended Loans	\$116,000	\$262,000
Building Asset Renewals	\$1,101,000	\$1,010,000
Sporting Facilities Improvements	\$993,000	\$416,000
Cemetery Reserves	\$25,000	\$94,000
Saleyards Asset Replacement	\$234,000	\$260,000
Election Cost Reserve	\$150,000	\$75,000
Insurance Reserves	\$976,000	\$804,000
Maclean & District Improvements	\$614,000	\$586,000
Software Implementation Reserves	\$483,000	\$362,000
Waste Management Reserves	\$4,837,000	\$3,992,000
Other Internal Reserves	\$2,605,000	\$1,979,000
Unspent Financial Assistance Grant	\$5,553,000	\$5,519,000
Infrastructure Assets Renewal Reserve	\$3,703,000	\$5,338,000
<b>TOTAL Internally Restricted Reserves</b>	<b>\$47,778,000</b>	<b>\$45,726,000</b>

**Special Purpose Financial Reports**

In accordance with the requirements of the Local Government Code of Accounting Practice and Financial Reporting, Council is required to prepare Special Purpose Financial Reports for the Business Activities of Council. Council's Water, Sewerage, Clarence Coast Reserve Trust and Community Support Service operations are Category 1 businesses in accordance with the "Pricing & Costing for Council Businesses A Guide to Competitive Neutrality" issued by the Office of Local Government in July 1997.

**Water Supply Business Activity – Category 1**

The Water Supply Business Activity achieved an Operating Surplus After Tax of \$0.308M compared to an Operating Surplus After Tax of \$0.231M for 2017/18.

**Sewerage Business Activity – Category 1**

The Sewerage Business Activity achieved an Operating Surplus After Tax of \$1.918M compared to an Operating Deficit after tax of \$3.038M for 2017/18.

**Clarence Coast Reserve Trust – Category 1**

The Clarence Coast Reserve Trust (CCRT) achieved an Operating Surplus After Tax of \$1.432M compared to an Operating Surplus After Tax of \$0.332M for 2017/18.

**Clarence Care & Support – Category 1**

Clarence Care & Support reported an Operating Deficit After Tax of \$0.277M compared to an Operating Deficit After Tax of \$0.518M for 2017/18.

**Special Schedules**

Special Schedule 7 (SS7) which is the Report on Infrastructure Assets discloses by Infrastructure Asset Class for the financial year the following; Estimated cost to bring up to a satisfactory standard, Estimated cost to bring to the agreed level of service set by council, Required Maintenance, Actual Maintenance, Net Carrying Amount, Gross Replacement Cost and Assets in Condition Ratings 1 to 5 as a percentage of the Gross Replacement Cost of Infrastructure Assets. For the 2018/19 financial year SS7 is not subject to audit.

**COUNCIL IMPLICATIONS****Budget/Financial**

Tabled below is a summary of some financial indicators and the result vs the benchmark goal.

FINANCIAL INDICATORS	2018/19	2017/18	BENCHMARK GOAL
<b>1. Operational Liquidity (short term focus)</b>			
1.1 Unrestricted Current Ratio (Overall)	4.42	4.29	All Funds: >1.5:1 (OLG Recommendation)
1.2 Rates & Annual Charges Outstanding	6.65%	6.03%	<=5% (Council Policy)
1.3 Cash Expense Cover Ratio	13.90 months	13.22 months	Consolidated Funds: Minimum >3 months (OLG Recommendation)
<b>2. Fiscal Responsibility (Council elected term focus)</b>			
2.1 Operating Performance Ratio (by Fund)			All Funds: Minimum >0% (Council Policy)
Overall	(1.14%)	(5.86%)	Fit For The Future (General Fund Only): >=0% meet by 2020/21
General Fund Result	(7.82%)	(6.00%)	
Water Fund Result	20.30%	5.58%	
Sewer Fund Result	8.66%	(15.18%)	

FINANCIAL INDICATORS	2018/19	2017/18	BENCHMARK GOAL
2.2 Own Source Revenue Ratio (by Fund)			All Funds: Minimum >60% (OLG Recommendation)
Overall	71.47%	67.32%	
General Fund Result	62.92%	57.35%	Fit For The Future (General Fund Only): >60% meet by 2020/21
Water Fund Result	90.77%	91.06%	
Sewer Fund Result	94.04%	93.80%	
2.3 Debt Service Cover Ratio (by Fund)			All Funds: Minimum >2x (OLG Recommendation)
Overall	3.37	2.89	
General Fund Result	5.95	6.08	
Water Fund Result	4.40	3.27	
Sewer Fund Result	1.67	1.07	
<b>3. Financial Sustainability (Long term intergenerational focus)</b>			
3.1 Infrastructure Renewals Ratio (by Fund)			All Funds Maximum >100% (OLG Recommendation)
Overall	31.73%	21.37%	
General Fund Result	43.04%	27.89%	Fit For The Future (General Fund Only): >100% meet or show improvement towards achieving by 2020/21
Water Fund Result	14.18%	18.67%	
Sewer Fund Result	6.59%	1.57%	
3.2 Infrastructure Backlog Ratio (by Fund)			All Funds Maximum <2% OLG Recommendation)
Overall	4.29%	3.90%	
General Fund Result	4.83%	4.40%	Fit For The Future (General Fund Only): <2% meet or show improvement towards achieving by 2020/21
Water Fund Result	4.53%	4.01%	
Sewer Fund Result	1.43%	1.38%	
3.3 Cost to bring assets to agreed service level (by Fund)			All Funds <=4.5%
Overall	3.14%	2.88%	
General Fund Result	3.58%	3.31%	
Water Fund Result	3.26%	2.83%	
Sewer Fund Result	1.00%	1.00%	
3.4 Asset Maintenance Ratio (by Fund)			All Funds Maximum >100% (OLG Recommendation)
Overall	95.94%	74.49%	
General Fund Result	94.65%	71.25%	Fit For The Future (General Fund Only): >100% achieve, or show progress towards achieving by 2020/21
Water Fund Result	97.33%	87.32%	
Sewer Fund Result	105.42%	89.12%	

Based on Council's performance against the benchmarks for 2018/19, Council's operational liquidity or **short term financial position is satisfactory.**

#### Asset Management

N/A

#### Policy or Regulation

Sections 413 and 416 of the Local Government Act

**Consultation**

Report has been prepared in consultation with the Manager Finance and Supply.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Michael Salvestro, Financial Accountant
To be tabled	A – Statement by Councillors & Management General Purpose Financial Statements B – Statement by Councillors & Management Special Purpose Financial Statements C – General Purpose Financial Statements D – Special Purpose Financial Statements E – Special Schedules

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**ITEM 6a.19.024 NYMBOIDA HYDRO POWER STATION – DESKTOP INVESTIGATION**


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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Confidential	

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**SUMMARY**

This report addresses point 1 of Council item 17.005/18 presenting the Desktop Investigation into the Economics of Recommissioning the Nymboida Hydro Power Station for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Receive and note the confidential report on the Desktop Investigation into the Economics of Clarence Valley Council Generating Electricity at the Nymboida Hydro Power Station.
2. Hold discussions with Essential Energy as the owner, to gain agreement on options for the future ownership transfer and/or potential joint venture opportunities.
3. Subject to the negotiations detailed in point 2, a scope of works be developed to enable quotations to be sought from suitably qualified consultants to undertake a detailed feasibility study into the recommissioning of the Nymboida Hydro Power Station.
4. Receive quarterly update reports in the progress of points 2 and 3.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 4 Environment

Objective 4.2 We will foster a balance between development and the environment considering climate change impacts

Strategy 4.2.1 Promote, plan and implement strategies that reduce carbon emissions, improve energy efficiencies and increase the use of renewable energy

**BACKGROUND**

At the 26 June 2018 Council meeting it was resolved:

*That Council*

1. *Fund an independent desktop investigation into the economics of Clarence Valley Council generating electricity at the Nymboida Power Station. Terms of reference include (but not limited to):*
  - *Council owning and operating the hydro scheme, for the generation of power being for Local Government use with any surplus supply being sold to the grid.*
  - *A desktop review of the known risks and benefits, including (but not limited to) infrastructure, licencing risks, heritage risks, carbon reduction payments, available Government grants and schemes for capital items (for the power station to remain in public hands).*
2. *Investigate any opportunity for the generation of solar energy at/or on the Shannon Creek Dam. With points 1 and 2 to be funded up to a maximum amount of \$40,000 from the Sustainability Fund.*

Power Station Details

Currently the power station is owned by Essential Energy (EE) and is located 35 km west of Grafton at 3532 Armidale Road, Nymboida NSW 2460. The power station was built by Clarence River County Council between 1924 and 1926, generating electricity using water extracted from the Nymboida River and

discharging it to Goolang Creek, which flows into the Orara River. The hydro power station stopped generating power in February 2013 following a flood event that caused major damage to the water supply infrastructure.

#### Essential Energy

Council negotiated with EE to gain access to the site and obtain key data to enable the investigation to proceed. Council engaged consultant GHD Pty Ltd (GHD) to undertake the detailed investigation work. On the 15 May 2019, EE agreed to work with Council and GHD to facilitate the investigation subject to a comprehensive confidentiality agreement (attached) that imposed restrictions on the use and release of information.

GHD completed the Desktop Investigation in September 2019 following reviews of draft reports by EE and Council staff.

#### **KEY ISSUES**

##### Report Scope

GHD was engaged by Council to provide advice on the feasibility of developing a micro hydro generator utilising water being directed to Goolang Creek for environmental flow purposes. The scope of work completed by GHD included:

- The current power station infrastructure, its general condition and feasibility to make it operational or identify required upgrades.
- The estimated cost of re-activating the hydro power station.
- The cost benefit of operating the hydro power station.
- Licensing and heritage status and risks.
- The opportunity to generate carbon reduction payments or similar green energy income.
- The availability of Government grants and schemes to assist in funding capital works.
- The risks associated with CVC owning and operating the hydro power station including alternate arrangements.
- The flow-on benefits of re-activating the hydro power station on the Nymboida Canoe Centre [and the wider community].
- The viability of developing a separate micro hydro generator utilising water currently directed to Goolang Creek for environmental flow purposes.

GHD completed the Desktop Investigation in September 2019 addressing the above points, the findings and recommendations are included in the attached confidential report.

##### Project Risk

There are a number of significant risks that need to be considered should Council proceed further with the investigation or implementation of the project, these include:

- Taking on roles which fall outside core Council business. The operation of a power station and the generation of power fall outside Council's core business, Council does not have expertise in this area. Council may need to work with the private sector or an approved power generator to be compliant.
- The water licence. The licence is currently held by Essential Energy, should Council proceed further with generation of power it is likely Council would become responsible for maintenance of the weir / cost of the water licence and installation of improvement works such as construction of a fishway on the weir.
- Water availability. The water licence is limited by flows in the Nymboida River, in the case of low flows in the river water for power generation is not available.
- Fluctuations in power market and ability of the power station to generate power when required (peak power).

- Flood events. The power station was damaged due to a flood event, similar events are likely to occur in the future, and there is significant risk that such event may cause similar damage again incapacitating the power station.

In addition to the aforementioned risks, it is understood that EE has not advanced investigation or other like actions required to repair and reactivate the power station since being damaged in February 2013 following a flood event. This action may not be a reflection of viability of the power station and may be the result of other factors; it should however be a consideration.

#### Regional Water Supply Heads of Agreement

The power station water supply and the regional water supply share some common assets, negotiations pertaining to assignment of ownership to the appropriate agency have been ongoing for a number of years. The status of the Heads of Agreement is the subject of a separate report to this meeting, the interconnectivity of these assets and the status of the Heads of Agreement should be considered as part of any resolution by Council regarding the generation of electricity from the power station by Council.

#### Summary and Recommendation

In addressing point 1 of Council item 17.005/18, Council appointed consultant GHD completed the Desktop Investigation in September 2019, the findings and recommendations are included in the attached report. The confidentially agreement limits the use and release of information learnt from completing the investigation and as such it is recommended that Council receive and note the Confidential - Desktop Investigation into the Economics of Clarence Valley Council Generating Electricity at the Nymboida Hydro Power Station.

The desktop investigation of the economic feasibility of Council generating electricity from the power station identified several options which may be beneficial for Council to consider further, these options need to be considered in the context of the project risks some of which were identified above.

Should Council be willing to proceed further investigation into recommissioning the Nymboida Hydro Power Station, the following actions would need to be undertaken to advance the project:

- A. Council enter into negotiations with EE as the owner, to gain agreement on options for the future ownership transfer and/or potential joint venture opportunities.
- B. Subject to negotiations with EE a scope of works be developed to seek quotations from suitably qualified consultants to undertake a detailed feasibility study into the recommissioning of the Nymboida Hydro Power Station.

Given that there is no/minimal cost with undertaking these negotiations and scope development it is recommended that these two actions occur and that the results be reported to Council on a quarterly basis.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

The cost of the report from GHD was \$35,400 (Ex GST) which was funded from the Sustainability Fund.

Should Council have the risk appetite to proceed further with recommissioning the Nymboida Hydro Power Station and subject to the Essential Energy's consent, Council would need to fund:

- Expert consultants and solicitors to facilitate negotiations (initial estimates being in the order of \$100,000).
- Consultants to undertake a detailed feasibility study (initial estimates being in the order of \$80,000).
- Consultants to complete the engineering design and construction management (initial estimates being in the order of \$300,000).



**Asset Management**

Subject to the resolution of Council, should Clarence Valley Council proceed with generating electricity at the Nymboida Hydro Power Station, Council may become responsible for the assets (weir/tunnels/pipe network/ power station etc) and will need to fund the maintenance and depreciation accordingly.

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

Council must comply with the confidentiality agreement with Essential Energy.

**Climate Change**

The recommissioning of the Nymboida Hydro Power Station to produce renewable energy will have a positive climate change outcome by significantly reducing greenhouse gas emissions.

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Prepared by	Ken Wilson and David Sutton
Confidential Attachments	Desktop Investigation into the Economics Of Clarence Valley Council Generating Electricity at the Nymboida Hydro Power Station Essential Energy Confidentiality Deed

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<b>ITEM</b>	<b>6a.19.025</b>	<b>DECEMBER 2019 AND JANUARY 2020 COUNCIL MEETING ARRANGEMENTS</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Nil	

**SUMMARY**

This report concerns the setting of dates for Council and Committee meetings in December 2019 and January 2020.

**OFFICER RECOMMENDATION**

That the following adjusted meeting schedule be adopted:

Tuesday, 17 December 2019	Open Forum/Deputations to be held at 12 noon. Combined Committee/Council Meeting at Maclean Chambers commencing at 2.00 pm
Tuesday, 21 January 2020	Tentative date for Ordinary Council Meeting for urgent matters only and subject to a quorum being available commencing at 2.00 pm. Venue to be advised.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

With the Christmas holiday period, it has been the practice for Council to adjust the meeting cycle in December and January. The primary reason for this is to provide sufficient time following the meeting for staff to action the decisions arising from the meeting prior to the Christmas break.

**KEY ISSUES**

Due to its proximity to the Christmas holiday period, it is recommended that a combined Committee/Council meeting be held on the Committee meeting day in December (scheduled for the second Tuesday) and commencing at the usual time of 2.00 pm. This would allow sufficient time for the bulk of Council decisions made at that meeting to be implemented prior to the vacation period. The usual practice has been to suspend standing orders to allow for the deputations normally considered at the Committee meetings, to be held at the Council meeting.

With respect to the month of January, the practice adopted over the past few years has been to only meet in January if matters of an urgent nature arose and provided a quorum was available.

At this stage no urgent matters have been identified or anticipated for next January. Nevertheless, tentative arrangements have been made to reserve Tuesday, 21 January 2020 for a meeting if required. The

lack of a meeting in January has not caused any problems in the past as the arrangements generally coincide with the holiday period for both the business sector and the development industry.

A return to the normal cycle of Council meetings is recommended from February 2020, with the first meetings to be held in the Grafton Chambers.

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

N/A

##### **Asset Management**

N/A

##### **Policy or Regulation**

Code of Meeting Practice

##### **Consultation**

The practice of adjusting the meeting cycle to mesh with the vacation period, for the benefit of both Councillors and staff, is appropriate in the circumstances. By making arrangements now, adequate public notice of the proposed arrangements can be given.

##### **Legal and Risk Management**

N/A

##### **Climate Change**

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	Nil

ITEM	6a.19.026	DRAFT GAS FILLED BALLOONS ON COUNCIL MANAGED LAND POLICY
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Yes	

**SUMMARY**

At its September meeting Council considered a draft Policy on Gas Filled Balloons on Council Managed Land. Council resolved not to endorse the original draft Policy but that a revised Policy be presented to the October 2019 meeting.

**OFFICER RECOMMENDATION**

That Council:

1. Adopt the Gas Filled Balloons on Council Managed Land Policy for exhibition purposes.
2. Publically exhibit the Gas Filled Balloons on Council Managed Land Policy for a period of 28 days.
3. Receive a future report which details the results of the public exhibition.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

Strategy 4.1.1 Manage our coastal zone, waterways, catchments and floodplains in an ecologically sustainable manner

**BACKGROUND**

Council has considered matters relating to balloons on Council managed land at its February, June and September 2019 meetings. At the September meeting Council resolved (Item 6c.19.053):

1. *Council not endorse the draft policy for public exhibition*
2. *The General Manager bring back a policy to the October 2019 meeting that reflects Council's resolution to the 25 June meeting.*

This report responds to that resolution.

**KEY ISSUES**

For reference the June 2019 resolution (6b.19.006) is listed below:

*That Council develop a policy on prohibiting the use and sale of helium balloons on Council managed lands and facilities with the draft policy to be reported back to Council by September 2019 for endorsement for public exhibition and consultation, with the report to include:*

- i. details of the impact this policy may have on any other Council policies,*
- ii. the regulatory implications for the implementation of this policy, and*
- iii. a draft public awareness campaign about the environmental impacts of balloons, including the estimated costs of this campaign.*

The points of the resolution are addressed separately as follows:

Details of the impact this Policy may have on other Council Policies

The main Policies impacted would be policies that currently regulate the use of Council managed facilities and land including:

- Market Policy
- Sports Management Policy
- Commercial Recreational Activities on Public Land Policy

To facilitate application and enforcement of the draft Gas Filled Balloons on Council Managed Land Policy (Balloon Policy), the aforementioned policies would need to be revised to either reference the Balloon Policy in the related documents and / or amended such that a condition 'prohibiting the use, release, sale or distribution of gas filled (helium) balloons' for the associated purpose on Council managed facilities and land is written into the Policies. Following review, these Policies would then require public exhibition.

Other facility and land management documents that would be impacted include:

- Conditions on development consent for any functions or events.
- Terms and Conditions for Council managed cemeteries.
- Operating procedures at Council leased facilities.

To facilitate application and enforcement of the Balloon Policy, the Development Consent and Leased Facilities terms and conditions would need to be revised to include a condition 'prohibiting the use, release, sale or distribution of gas filled (helium) balloons'. This action can be completed on issuing a new agreement.

Council's cemeteries already have terms and conditions which prohibit the use of helium (tribute) balloons, as such no additional action would be required.

The regulatory implications for the implementation of this Policy

Council's Open Spaces & Facilities staff could enforce compliance of the Policy through application of new conditions within the Council's Market Policy; Sports Management Policy; Commercial Recreational Activities on Public Land Policy, and the terms and conditions of hire agreements with the applicants, user groups, event organiser and the like.

If there was a clear breach of the Policy and conditions of hiring a Council managed site, there would be follow-up action taken with the applicants, user groups, event organiser and the like and the non-compliance will be considered with any future hire applications. Enforcement by Council's Open Spaces & Facilities staff could be achieved with current resources and budgets.

Council's compliance staff could enforce the Policy generally across facilities and land under the care, control and management of Council in association with other compliance actions. To achieve the greatest impact there would be a specific focus applied during weekends, events and school holiday periods. Enforcement by compliance officers will initially seek cooperation and the provision of education; however blatant or ongoing non-compliance may result in regulatory action.

Enforcement by Council's compliance staff will require additional funding to provide equipment and overtime. These costs are detailed in the budget/financial section of this report.

Public awareness campaign on the environmental impacts of balloons

There are two options proposed to provide a public awareness campaign as follows:

- a. Option one would incorporate balloon awareness and impacts into Council's general waste and environmental awareness campaigns. This would include using existing newsletters, limited paid advertising, media releases, social media, Council's website and education of children and community attending the environmental learning facility. The cost of this campaign excluding staff resources would be approximately \$1,500 pa.

- b. Option two is a far more intensive community awareness campaign as detailed in the below table. The cost of this campaign excluding staff resources would be approx. \$30,000 pa.

Balloon Awareness Campaign - 12 months		
Media type	Number	Cost*
Print media COV Full page	6 inserts	\$ 4,158.00
Print media IND Full page	6 inserts	\$ 3,960.00
Facebook (\$500 each)	6 posts	\$ 3,000.00
15 sec video (not including talent)	1	\$ 4,000.00
DL postcards x 3 versions (10,000)	30,000	\$ 2,175.00
Fridge magnets x 3 versions (10,000)	30,000	\$ 7,275.00
Radio - local	6 months	\$ 5,040.00
Media Release	1	\$ 0 00
EDM (Bulk email list)	1	\$ 0.00
Rates notice (mail)	1	\$ 0.00
Clarence Valley Council Web page	1	\$ 0.00
Total		\$ 29,608.00

## COUNCIL IMPLICATIONS

### Budget/Financial

#### Enforcement

Should the Balloon Policy be adopted, enforcement of hire agreements could be undertaken Open Spaces & Facilities staff within existing resources and budgets.

Active enforcement of the Balloon Policy by compliance staff generally across all facilities and land under Council's management will require additional resources. The forecast cost for this level of enforcement is \$76,800. This cost comprises of:

- \$25,000 (CAPEX) for a vehicle,
- \$7,000 (OPEX) for annual running costs
- \$44,800 (OPEX) for staff time, broken down as follows:
  - Weekends – 26 per year, 52 days total
  - School Holidays – 12 weeks per year, 60 days total;
  - Total days – 112 per year;
  - 112 days x 8 hrs = 896 hrs x \$50/hr = \$44,800.

#### Public awareness

Implementation of the public awareness campaign option one can be undertaken under the existing waste and sustainability education budget. Option two will require additional funding of \$30,000.

### Asset Management

N/A

### Policy or Regulation

Protection of the Environment Operations Act 1997- Amendment (Balloons) Act 2000;

- The Protection of the Environment Operations Act (POEO) 1997 makes it illegal to release more than 20 gas filled (helium) balloons. The release of any type of gas filled balloons would also be considered a littering offence under the POEO Act. This ruling comes under the Protection of the Environment Operations Act 1997- Amendment (Balloons) Act 2000.
- Market Policy 2018;

- Sports Management Policy 2017;
- Commercial Recreational Activities on Public Land Policy 2018;
- Various Terms and Conditions applied by staff to bookings of Council managed facilities and land.

**Consultation**

Climate Change Advisory Committee and Draft Policy to be exhibited for public comment

**Legal and Risk Management**

N/A

**Climate Change**

Regulating the use of helium balloons on Council land will have a minimal direct impact on climate change however the Policy does restrict the use of fossil fuels (balloons are normally produced from fossil fuel) and importantly will protect natural ecosystems which will help species endure changes to the climate.

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Prepared by	Ken Wilson – Waste & Sustainability Coordinator
Attachment	Draft Gas Filled Balloons on Council Managed Land Policy

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<b>ITEM</b>	<b>6a.19.027</b>	<b>STRATEGIC ROAD IMPROVEMENT RESERVE</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Nil	

**SUMMARY**

At the September 2019 Council meeting Council adopted a Notice of Motion (Item 07.19.002) regarding the creation of a reserve to fund road upgrades that deliver significant strategic and/or economic value. This report provides the information and analysis requested in that resolution.

**OFFICER RECOMMENDATION**

That Council:

1. Undertake further analysis to identify specific projects on Clarence Way, Armidale Road and Orara Way for future funding.
2. Undertake Route Corridor Reviews into all of the identified sealed roads and prioritise the project outcomes from these reviews.
3. Undertake further technical and Benefit Cost Ratio assessments of all unsealed roads to develop a prioritised road upgrading list.
4. Allocate up to \$150,000 to be equally funded from Section 7.11 and recurrent funds to undertake a high-level feasibility assessment for a bypass of Yamba along the reserved corridor.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.5 Provide safe and effective vehicular and pedestrian networks that balance asset conditions with available resources

**BACKGROUND**

At the September 2019 meeting Council resolved (Item 07.19.002):

*That Council:*

1. *Receive a report to the November 2019 meeting that identifies three or more regional or local roads or proposed roads within the Clarence Valley local government area where upgrading or construction to sealed road standard would create significant strategic and/or economic value.*
2. *Seek and lobby State and Federal Government assistance to fund or jointly fund the three highest priority roads adopted by Council as being of significant strategic and/or economic value.*
3. *Establish a financial reserve to be known as the Strategic Road Improvement Reserve for the purpose of Council funding, and attempting to attract State and Federal Government funding or joint funding, for the upgrading or construction of roads to bitumen seal standard.*
4. *Report to the November meeting on the untied funds available from Clarence Care + Support Reserves to be transferred to the Strategic Road Improvement Reserve.*
5. *Receive at the November meeting an analysis of all untied financial reserves to inform identification of further internal sources of funding, if any, for transfer to the Strategic Road Improvement Reserve.*



6. *Develop the necessary plans and costings to support funding applications that will enable the earliest construction commencement of the adopted upgrade or construction priorities with such development to be funded from the Strategic Road Improvement Reserve.*

This report only addresses item one of this resolution. The assessment of the unsealed and sealed roads in relation to the resolution has been undertaken separately as detailed below.

### **Conversion of Unsealed Roads to Sealed Standard**

Unsealed roads are a significant proportion of our road network; however they are also typically low traffic volume roads and many are not through roads. Despite the fact that they only cater for low traffic volumes they do account for a significant number of complaints about our road network. The complaints usually centre around additional wear and tear on vehicles, safety issues and dust generation.

Previously Council has considered a number of reports that relate to upgrading roads from unsealed to sealed standard. Some of these include:

- Item 15.043/18 – March 2018 re sealing gravel roads and a benefit-cost analysis of sealing roads identified in report Item 13.103/11.
- Item 15.184/18 – October 2018 re detailed assessment of James Creek Road and McIntyres Lane
- Item 15.169/18 – October 2018 re sealing of Clarence Way following lodgement of a petition
- Item 15.028/19 – March 2019 re sealing of Clarence Way following lodgement of a petition
- Item 6a.19.007 – July 2019 re sealing of McIntyres Lane, Gulmarrad

Of particular note is item 15.043/18 from the March 2018 meeting. This report included a Benefit Cost Ratio (BCR) analysis as well as a technical assessment of the benefits of upgrading roads from unsealed to sealed standard of 43 roads. These 43 roads were identified in the June 2011 report as roads where Council had received consistent requests for upgrade or where staff had identified a benefit in sealing the roads.

The BCR analysis identified two roads with a BCR greater than one: James Creek Road, James Creek and McIntyres Lane, Gulmarrad. The construction and sealing of James Creek Road has recently been completed and the works at McIntyres Lane are currently in progress.

The remaining roads assessed had a BCR of less than one which indicates that on a purely financial basis they would cost more to convert to sealed standard than the benefit derived by Council and the community. It is worth noting that this assessment did attach a value to the economic impacts to the community such as vehicle wear and tear, fuel consumption and travel times. However it did not attach a value to the auxiliary benefits that may be derived by the community. For instance, the amenity benefits such as lower dust generation and environmental benefits from lower sediment loads in run off and lower consumption of quarried materials were not considered.

The March 2018 report also used the Institute of Public Works Engineers Australasia (IPWEA) methodology to assess roads for upgrade to sealed standard. This assessment methodology does apply a qualitative value to broader benefits such as dust generation and identified a number of roads that were worth considering for upgrade to sealed standard (rating of greater than 16). The roads that were identified and their ratings are provided in the below table:

<b>Road</b>	<b>Rating</b>	<b>Classification</b>
Four Mile Lane, Clarenza	19	Local
Diggers Camp Road	19	Local
Glens Creek Road, Nymboida	19	Local
Grays Road	19	Local
Patemans Road, Ashby	19	Local
Braunstone Road, Braunstone (Coutts Crossing)	19	Local

Road	Rating	Classification
Lower Kangaroo Creek Road, Coutts Crossing	17	Local
Clarence Way, Dulgigin Creek	17	Regional
Clarence Way, Fineflower	17	Regional
Clarence Way, Malabugilmah	17	Regional
Clarence Way, Nettle Creek	17	Regional
Dinjerra Road, Glenugie	17	Local
Ellis Road, Braunstone (Coutts Crossing)	17	Local
Levenstrath Road, Levenstrath (Coutts Crossing)	17	Local
Ashby-Tullymorgan Road, Ashby	17	Local
Mantons Road, Lawrence	17	Local

These assessments only considered the 43 roads identified as a priority in the 2011 report. Due to this there are many unsealed roads that have not been considered for upgrading. Particularly only 4 segments of Clarence Way have been considered at this stage and all roads affected by the asbestos sealing program have not been included. The recommended priorities may change if a wider assessment is conducted.

### Upgrading Sealed Roads

There are also many roads within the sealed road network that are worth considering for upgrades. Typically sealed roads cater for higher traffic volumes and higher speeds and generally upgrade works on sealed roads provides a greater benefit to the community because of these factors. Typically upgrades to sealed roads are targeting one or more of the following issues, often related to recorded accident history:

- Insufficient pavement width;
- Poor road geometry;
- Specific road safety issues; and
- High maintenance burden.

We have assessed a number of roads within the sealed road network that have significant issues worth considering for upgrades. These roads are:

Road	Priority	Issues	Classification
Armida Road	1	<ul style="list-style-type: none"> <li>• Insufficient width</li> <li>• Poor geometry</li> <li>• Significant accident history</li> <li>• Maintenance burden</li> </ul>	Regional
Orara Way	2	<ul style="list-style-type: none"> <li>• Insufficient width</li> <li>• Poor geometry</li> <li>• Significant accident history</li> <li>• Maintenance burden</li> </ul>	Regional
Wooli Road	3	<ul style="list-style-type: none"> <li>• Insufficient width</li> <li>• Poor geometry</li> <li>• Significant accident history</li> </ul>	Regional
Lawrence Road	4	<ul style="list-style-type: none"> <li>• Insufficient width</li> </ul>	Regional
Clarence Way	5	<ul style="list-style-type: none"> <li>• Poor geometry</li> <li>• Partially Unsealed</li> </ul>	Regional
Old Glen Innes Road	6	<ul style="list-style-type: none"> <li>• Insufficient width</li> <li>• Poor geometry</li> </ul>	Local
Kangaroo Creek Road	7	<ul style="list-style-type: none"> <li>• Insufficient width</li> </ul>	Local

In order to identify and prioritise potential projects within these road corridors we have commenced Route Corridor Reviews for the full length of some of these. The intention of the review is to better quantify the

scale of the issues as well as their locations and priorities. At this stage we have completed the review into Armidale Road. This review has identified 120 sites where the pavement requires widening to meet current and future projected traffic volumes as well as a significant number of geometry and road safety issues.

It is recommended that such a review be carried out on each of the above identified roads and the results used to identify specific projects on each road and prioritise the identified projects.

### Potential Funding Sources

There is a range of potential funding sources for the upgrading of Council roads. Some of the funding sources have restrictions on their use and these are reflected in the comments below.

Funding	Type	Grant Requirements
General Revenue	Recurrent	No restriction on use.
Block Grant / Supplementary Block Grant	Recurrent	For use on Regional Roads only. Funds typically used to provide the other 50% to REPAIR Program projects but this is at the discretion of Council.
REPAIR Program	Recurrent	For use on Regional Roads only. Project provides 50% of funding. At present Council can nominate projects but may change long-term to a merit based process.
Roads to Recovery	Recurrent	For any road related program nominated by Council.
Fixing Country Roads	Competitive Grant	For projects that better connect local and regional roads to state highways and key freight hubs and for projects that improve freight efficiency. Project provides 50% of funding. Subject to project application and merit based assessment state wide.
Safer Roads / Blackspot	Competitive Grant	For projects that treat a specific safety issue, requires recorded crash history. Project provides 50% or 100% funding. Subject to project application and merit based assessment state wide.
Regional Growth Fund	Competitive Grant	Options maybe available under the provisions of this scheme however there is not any particular category of funding that would suit the intent of maintenance upgrades.
RA 10880 - IR - Roads (SIC)	Reserve	This is an internal reserve that is funded from Council's contracted works with Roads and Maritime Services. Council typically uses funds from this reserve for road and footpath related projects.
S7.11 (former section 94) Contributions	Reserve	There are some funds in reserve that have been contributed as a result of developments. Many of these funds are tied to specific works and are well below the required funding for the projects that they are tied to. The funding can be used to supplement other funding and as contributions to grant applications. S7.11 funding may also require a Council contribution consistent with the S7.11 plan.

All of the competitive grant sources assess the grants based on criteria that are similar to a BCR. In most cases the traffic volumes of the particular asset are used in this assessment and as a result typically only projects that have sufficiently high traffic volumes will achieve a BCR that meets the minimum criteria and potentially be funded. This means that the vast majority of grants that are submitted and funded are for high traffic roads, which in most cases are regional roads.

Historically this has been seen as the most appropriate way to prioritise road upgrade works as the roads that benefit the most people will be upgraded first. However this has created the situation where very low traffic volume roads, no matter how dangerous or poor condition are unlikely to ever be funded by a grant.

**Strategic Connections via Unmade Roads**

It is proposed to undertake a feasibility assessment of a future urban bypass of Yamba along the reserved corridor. This assessment will include:

- Strategic estimate of construction costs
- Preliminary traffic impact assessment
- Preliminary environmental assessment focusing on:
  - Ecological studies and vegetation offset obligations (a preliminary staff assessment of these obligations would put the costs in excess of \$2M alone),
  - Potential impacts on the local flood regime, and
  - Potential noise impacts

The estimated cost to undertake this high level assessment is up to \$150,000. Approximately 50% of these costs would be funded from Section 7.11 (old Section 94 funds) and the balance from Council's recurrent budget.

It is anticipated that a feasibility assessment of the proposed Goodwood Street bypass of Townsend would require a similar allocation of funds, noting that this would need to be funded from the recurrent budget.

**KEY ISSUES**

The main issues include:

1. Most unsealed road upgrade projects have a BCR of less than one when assessed on a purely financial basis.
2. Many residents see value in the auxiliary benefits of upgrading unsealed roads. These benefits are very difficult to quantitatively value and are usually not considered in grant assessments or current works prioritisation methods.
3. Many unsealed and very low traffic volume roads are very unlikely to be upgraded with the current grant assessment and works prioritisation methods.
4. Most road upgrade grants and internal projects target high traffic volume roads as these are the roads with the highest risk and benefit to the community

**Summary and Recommendation**

From the above information there are a number of ways the funding can be allocated depending on the intent of the NOM. On a purely *significant strategic and/or economic value* consideration funding would be directed to works on the regional roads (i.e. higher traffic volumes and higher risk). This could include sealing parts of Clarence Way (as considered in previous Council reports) or continuation of current programs to upgrade Armidale Road and Orara Way (in particular) where the additional funding could be potentially used as leverage in grant applications, improving Council's potential to attract additional grant funding.

It is acknowledged that this may not be the intent of the NOM, which may be to provide funding to undertake works on roads where options to attract other sources of funding is limited. While there would undoubtedly be benefits to the local community in sealing unsealed roads this will not, in the view of staff, maximise the strategic or economic benefits from the expenditure. If this intent of the NOM is adopted, roads (or sections thereof) such as Four Mile Lane, Diggers Camp Road, Glens Creek Road and Grays Road should be considered.

On this basis of the above considerations, works on Armidale Road, Orara Way and Clarence Way would be recommended in general, with specific projects being identified following a Route Corridor assessment as an initial process. To provide further detail for consideration of longer term projects it is also recommended that Council:

- Undertake Route Corridor Reviews into all of the identified sealed roads and prioritise the project outcomes from these reviews; and

- Undertake further technical and BCR assessment of all unsealed roads to develop a prioritised road upgrading list.

**COUNCIL IMPLICATIONS****Budget/Financial**

The financial implications will not be known until projects are fully investigated and costed. Any upgrade works that are undertaken will increase the value of the asset and the subsequent depreciation and replacement costs. This will increase Council's long term funding requirements.

**Asset Management**

Any upgrades to roads will increase Council's asset value.

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

Council has an obligation under the Civil Liability Act to repair the worst (highest risk) defects first. Road width, geometry and safety issues may be considered to be a defect. Therefore changing the funding priorities from the industry accepted practise many have insurance and risk management implications.

**Climate Change**

The maintenance of unsealed roads is resource intensive and uses significant quantities of quarried rock, water and fossil fuels. These resources are finite and their use may contribute to climate change.

In addition, road transport is one of the largest consumers of fossil fuels; the provision of sealed roads and better road alignments does reduce fuel consumption especially for heavy vehicles.

Prepared by	Alex Dalrymple, Manager Civil Services & Adam Cameron, Manager Environment, Development & Strategic Planning
Attachment	Nil

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**ITEM 6a.19.028 2019/20 OPERATIONAL PLAN – QUARTERLY REVIEW AS AT 30 SEPTEMBER 2019**


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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Yes	

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**SUMMARY**

This report provides the first quarterly review on Council's performance of fulfilling its actions, services, projects and programs in the 2019/20 Operational Plan.

**OFFICER RECOMMENDATION**

That the Quarterly Operational Plan outcomes as at 30 September 2019 be noted.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme	5 Leadership
Objective	5.2 We will have an effective and efficient organisation
Strategy	5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

**BACKGROUND**

On 25 June 2019 Council adopted the 2019/20 Operational Plan, which specifies the objectives, strategies and activities to be achieved in this financial year.

*The Clarence 2027* identified five themes which are then broken down into objectives for Council to aspire to when setting the strategies and activities for the 2019/20 financial year.

**KEY ISSUES**

The one year Operational Plan is a sub-plan of the 2017/21 Delivery Program, which identifies activities (programs, services and projects) to be delivered by Council during the 2019/20 financial year. The General Manager is required to ensure regular progress reports are provided to Council with respect to the principal activities.

Detailed progress updates for the final quarter are contained in the attached report.



The report shows that as at the end of September 2019, the Council’s programs, projects and services are 24% completed. As this is the first quarterly report most of the items will not be completed until later in the financial year.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

Actions contained in the 2019/20 Operational Plan that have a financial implication are included in the adopted budget, which is reported to Council each month.

**Asset Management**

N/A

**Policy or Regulation**

Section 404(5) of the Local Government Act 1993

**Consultation**

Outcomes based on information provided by all section Managers and Directors.

**Legal and Risk Management**

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Quarterly Progress Report

**b. ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE**

**MINUTES** of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 15 October 2019 commencing at 3.30 pm.

**ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND**

I acknowledge the Yaegl peoples, traditional custodians of these lands on which this meeting is taking place and pay tribute and respect to the Elders both past and present of the Bundjalung, Gumbaynggirr and Yaegl nations which lie within the Council boundaries.

**ANNOUNCEMENT**

All present are advised that this meeting is being broadcast and audio recorded. The recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. Speakers are asked not to make insulting or defamatory statements and to take care when discussing other people's personal information. No other persons are permitted to record the meeting unless specifically authorised by Council to do so.

**PRESENT**

Cr Andrew Baker (Chair), Cr Debrah Novak, Cr Richie Williamson

Cr Karen Toms, Cr Peter Ellem, Cr Jason Kingsley, Cr Arthur Lysaught, Mr Des Schroder (Acting General Manager and Director – Environment, Planning & Community), Ms Laura Black (Director – Corporate & Governance) and Mr Troy Anderson (Director – Works & Civil) were in attendance.

**APOLOGY****MOTION**

Williamson/Novak

That a leave of absence be granted to Mayor Jim Simmons and Cr Greg Clancy.

Voting recorded as follows

For: Baker, Novak, Williamson

Against: Nil

**DISCLOSURE AND DECLARATIONS OF INTEREST -**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6b.19.031	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Neighbour of Ross Roberts, Harwood Marine, but do not socialise. Intended action: Remain in Chamber



<b>ITEM</b>	<b>6b.19.031</b>	<b>PLANNING PROPOSAL FOR PALMERS ISLAND MARINE INDUSTRIAL - REZ2016/0001</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

## SUMMARY

<i>Applicant</i>	Rob Donges Planning Consultant
<i>Owner</i>	Yamba Welding and Engineering Pty Ltd
<i>Address</i>	School Rd, Palmers Island, NSW 2464
<i>Submissions</i>	183

The subject planning proposal seeks to rezone land at Lot 2, DP 598769, School Rd, Palmers Island for marine industrial purposes. The most recent version of the planning proposal includes 10.56ha of the subject land proposed to be zoned IN4 Working Waterfront; 1.1ha to be zoned W3 Working Waterways and the residue 9.5ha to be retained as RU1 Primary Production zone.

A Gateway Determination was issued by the Department of Planning (*now Department of Planning Industry and Environment*) on 14 August 2018 to enable public exhibition of this Planning Proposal subject to the carrying out of further studies. Upon receipt of the studies from the applicant, the Planning Proposal was placed on exhibition from 10 May until 11 June 2019 in accordance with the Gateway requirements. An extension was granted by Council until 12 July 2019.

183 submissions were received. This included two petitions and four submissions from Government Agencies including an objection to the loss of primary agricultural land from Department of Primary Industries. The submissions have been assessed by an external planning consultant (Planning Resolutions) to provide independent advice. The consultant has provided a summary report of matters raised in the submissions and a summary of the key issues at Attachment B.

The report by Planning Resolutions concluded that:

*'The support for the Planning Proposal is almost entirely and simply support of the business/boat building industry rather than supporting a change in zoning for this particular site. The submissions objecting to the Planning Proposal provide compelling evidence as to the adverse site impacts and comprehensively dispel the reasons put forward by the proponent for not locating the business on Harwood Island. Council has completed a proper strategic planning process that establishes Harwood Island as a suitable Marine Precinct'.*

Council has been advised by the Minister for Planning and Public Spaces that it is not the local plan-making authority for this Planning Proposal and has no legal power to determine this application.

Two separate legal advices confirm that the Planning Proposal in its current form is in conflict with State Environmental Planning Policy 55 - Remediation of Land due to a tractor storage area on the property being a potentially contaminated site. Whilst this matter is resolvable, a rezoning may not be considered in any form when such conflict with a state policy exists. Therefore on this issue alone the Planning Proposal is likely to not proceed.

**OFFICER RECOMMENDATION**

That Council:

1. Note that the Planning Proposal is legally invalid in its present form and may not be considered any further due to conflicts with State Environmental Planning Policy No 55 - Remediation of Land as confirmed by two separate legal advices on this matter.
2. Acknowledge the extensive number of submissions and issues raised and the local public interest in this proposal and refer these to the Minister for Planning and Public Spaces for consideration. Whilst it recognises the support for the boat building industry, it recognises the potentially adverse site impacts and potentially unresolvable issues of amenity which are likely to result from this proposal on this site.
3. Note that it is not the Local Plan Making Authority for this Planning Proposal and is therefore not legally bound to make a definitive recommendation to the state government on this proposal.

**MOTION**

Novak

That the Officer Recommendation be adopted.

The Motion LAPSED for want of a seconder.

**COMMITTEE RECOMMENDATION**

Williamson/Novak

That this Item be deferred to the Ordinary Council meeting on 22 October 2019 to allow all Councillors to participate in the debate.

Voting recorded as follows:

For: Williamson, Novak, Baker

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.8 Ensure good governance, effective risk management and statutory compliance

**BACKGROUND**

Following two previous refusals at Gateway stage, a request for a Review of the Gateway Decision was made by the applicant in 2018. The matter was considered by the Joint Regional Planning Panel (JRPP) in April 2018 which recommended that the proposal be granted a Gateway Determination. This resulted in a revised Gateway Determination being issued by the Department of Planning on 14 August 2018, to enable the public exhibition of this Planning Proposal to proceed subject to the carrying out of further investigative studies.

Due to the length of time that this proposal has been under consideration, the following timeline is provided with key dates.

**Timeline**

Planning Proposal Lodged	25 May 2016
Additional Information Requested	29 June 2016
Updated Traffic and Acoustic Reports submitted and reviewed by Council's environmental officer and traffic engineer.	September - October 2016
Report to Council on Planning Proposal Council Resolution to support a 40% reduction of proposed area.	15 November 2016
Letter to Department of Planning requesting Gateway Determination.	1 December 2016
Department of Planning request for additional information.	16 December 2016
Updated Planning Report provided by Consultant and updated Traffic and Acoustic Reports.	4 May 2017
Referral to Department of Planning and request for Gateway Determination.	10 May 2017
Department of Planning requirement for proposal to go back to Council meeting due to revised consultants reports on traffic and acoustics.	16 May 2017
Full Council consideration of updated acoustic and traffic reports and resolution to support Planning Proposal and seek Gateway Determination.	18 July 2017
Request sent to Department of Planning for gateway determination.	20 July 2017
Determination issued by Department of Planning not to support proposal.	10 November 2017
Information Report to Council to advise of Determination decision.	12 December 2017
Applicant lodges request for review of Gateway Determination with Department of Planning and Environment.	No date known
Northern Joint Regional Planning Panel considers proposal and supports issue of a Gateway Determination.	3 April 2018
Department of Planning and Environment issue a revised Gateway Determination with conditions for further reports prior to public consultation.	14 August 2018
Consultant finalises additional reports required by Gateway determination of 14 August 2018.	10 March 2019
Revised reports sent to Department of Planning and Environment.	14 March 2019
Department of Planning and Environment provide comments- relayed to consultant.	27 March 2019
Consultant updates report to reflect changed legal policies 9.1/117 Directions.	10 April 2019
Updated final report sent to Department of Planning and Environment.	24 April 2019
Further revised report with updated timeline and Rural Sepp provided to Council by consultant for public exhibition.	1 May 2019
Public Exhibition	10 May to 11 June 2019 Extended to 11 July 2019
Review of Submissions and Return to Council	22 October 2019

### KEY ISSUES

The key issues raised by this planning proposal were outlined extensively in previous planning reports to Council dated 8 November 2016 (Attachment D) considered at an early stage of the application at a broad level which included:

1. Strategic Planning in relation to the location of marine industry uses on the Clarence River.
2. Compliance with legal planning policies, SEPPS, S.9.1 Directions and justification for any areas of non compliance
3. Loss of RU1 Primary Production land, 21.22 ha regionally significant farmland.

4. Aboriginal Cultural Heritage Assessment: Yaegl LALC in a letter dated 4 July 2019 during the exhibition period has confirmed that there are no Aboriginal heritage issues associated with the site.
5. Native Title Yaegl Peoples # 1: Consultation/consent requirements over Clarence River waterway.
6. Very strong objections on potential impacts on rural and residential property in the locality in terms of amenity, noise, and change to the existing rural character of the area.
7. Noise and vibration potential environmental issues.
8. Access, transport and traffic- increased demand on local roads by traffic generated by the likely future development.
9. Flooding - Impacts of proposal on properties and farmland up and down stream
10. Hydrology- location on an acknowledged eroding river bank site.
11. Air, soil and water-potential environmental issues. Soil contamination SEPP 55.
12. Justification for rezoning. Support for local employment generation.
13. Consultation with Government Agencies.

#### **PUBLIC EXHIBITION AND SUBMISSION ASSESSMENT**

The above issues form the basis of many of the submissions made to the Planning Proposal. The following summary has been prepared by independent planning consultant- Planning Resolutions:

#### **PLANNING RESOLUTIONS CONSULTANTS REPORT SUMMARY OF THE OUTCOMES OF THE SUBMISSIONS**

##### **“Palmers Island Marine Industrial Planning Proposal (REZ2016/0001)**

As instructed, I have undertaken an independent review of the submissions received to the public exhibition of the Palmers Island Marine Industrial Planning Proposal. 189 submissions were received. This included two petitions and four submissions from Government Departments.

One petition, with 689 signatures, was in support of the Planning Proposal. The petition was submitted with a series of letters (these were separately assessed), all with a covering page from the proponent. The second petition, with 445 signatures, objected to the Planning Proposal. The petition was lodged by a Palmers Island resident. The petitions have not been checked for repetition of names nor have the names and addresses been verified.

A number of Palmers Island residents engaged lawyers Mills Oakley, in association with Environmental Consultants Molino Stewart to provide a review of the Planning Proposal. This has resulted in a letter of advice from lawyers Mills Oakley, dated 12 July 2019 (prepared by Anthony Whealy, Partner Accredited Specialist - Local Government and Planning) and a report by Molino Stewart ‘*Review of the Palmers Island Industrial Marine Precinct Planning Proposal REZ2016/0001*’ dated 28 June 2019. These were attached to a number of submissions. Also, a number of residents used information from the legal advice and environmental report in their submission.

The key points from each of the submissions have been summarised in the attached table.

A public exhibition is not necessarily about the number of submissions but more about the content of the submissions. There have been a very large number of submissions. While there clearly has been some “sharing” of submission ideas, many of the submissions have been uniquely worded, indicating a strong interest in the Planning Proposal. In any event the following table sets out a basic analysis of the distribution of the 183 individual public submissions made.

Association with Proposal	Supports	Objects	Total
<b>Palmers Island resident and/or landowner</b>	2	40	42
<b>Employee or employee's relative</b>	18	0	18
<b>Associated business</b>	3	0	3
<b>Tourist</b>	0	17	17
<b>Community Group</b>	0	2	2
<b>Other</b>	29	72	101
<b>TOTAL</b>	52	131	183

The submissions in support of the Planning Proposal typically did not make any reference to the particular site. Their support was in terms of the need for the business to expand and the value that the business brings to the local economy. The reasons for supporting the business were fairly consistent. Typical comments were as follows;

- *I strongly support the proposed move of the business to Palmers Island and trust council appreciates the benefits it will bring to our community.*
- *If this proposal is not allowed to progress, Yamba Welding and Engineering will need to move outside of the Lower Clarence to enable this expansion to go ahead.*
- *...a tremendous boost for youth employment in the trade sector for Yamba.*
- *I am in full support for this project, I cannot stress enough how much of a good thing this is for the lower Clarence, more employment means boosted economy.*
- *Enable them to grow and create more employment opportunities, therefore allowing many families to remain in the Clarence Valley.*

The matters raised in the petition in support of the Planning Proposal had similar reasons for support to that of the individual submissions.

Only a couple of submissions in support provided any details specifically in support of the Palmers Island site. Some submissions made unsubstantiated statements comparing the proposed impacts to the impacts from the existing land uses, such as the dog kennels, the prawn farm and the macadamia farm. Typically, the statements in support of the site were generic with no details or evidence provided, such as the following statement:

*I am of the understanding that this redevelopment of the site at Palmer's Island would not affect the local residents or environment in any way with the use of rainwater catchment facilities, solar panels for power supplementation, sound proofing of the factory, buffer zones with vegetation which would also create screening and beautification.*

Very few of the people who were objecting to the Planning Proposal also had any adverse issues with regard to the business/ boat building industry. The majority of the submissions that objected to the Planning Proposal supported the re-establishment of the business on Harwood Island. Those that did make negative comments about the business in their submission, made points about the business operation as such rather than the boat building industry. One such negative comment was the following:

*If his current premises aren't big enough he should limit the number of contracts he takes on - it is simple good business practice not to extend yourself past your working environment. Or move somewhere that is appropriately zoned.*

Just under half of the people who made submissions objecting to the Planning Proposal were either residents of Palmers Island or tourists who had stayed in accommodation on the island. Though, given the numerous objections from areas such as Tamworth, it is likely that many of these were also tourists even though they didn't state any particular association with Palmers Island.

The objectors didn't raise any particularly new issues with the proposal other than their frustration with the process of the JRPP review. Some typical general statements about the process were as follows:

- *Land Ownership – should NOT be criteria for rezoning.*
- *It makes a fool of the planning code. In doing this it seeks to open an avenue for any person to buy cheaper land than it would be in the correct zone and being able to change the zoning for their gain at the disturbance of residents.*
- *He could submit a DA to CVC along similar lines to his Planning Proposal – but there is NO GUARANTEE he will, because he doesn't have to – he just needed supporting documentation to GET the rezoning through.*
- *I reiterate just because the applicant owns this land does NOT demonstrate that there is a NEED for that land to be rezoned for this purpose. There is adequate land zoned for this purpose a mere 3klm away at Harwood.*

One resident of Harwood Island, while not supporting the current Planning Proposal, is concerned about the impact on him and fellow residents. He states in his submission;

*I do not support the call by Palmers Island residents to send the current proposal over Harwood Island, where it would be located beside the private amenity of myself and other Harwood residents, who are already negatively affected by the slipway's development plans.*

Clearly the flooding, noise, traffic, visual impacts and loss of agricultural land have not been resolved with this revised Planning Proposal. These impacts have been set out in detail in many of the submissions. In particular Molino Stewart in their 'Review of the Palmers Island Industrial Marine Precinct Planning Proposal REZ2016/0001' dated 28 June 2019 set out in detail, on behalf of residents, the issues with the above impacts. The NSW Department of Primary Industries does not support the loss of the agricultural land.

Only the traffic impact issues may be capable of being resolved. The other site issues are fundamental flaws with the proposed location. Not only will residents be adversely impacted but other businesses, tourists and school children will also be adversely impacted. The excessively high acoustic barrier is but one such example whereby the proposed solution generates other unacceptable impacts.

Both the land contamination assessment and the Aboriginal cultural heritage assessment are insufficient and need to be resolved. (Note - A letter has been provided since the submissions from Yaegl LALC outlining that it has no objection to the proposal). However, given the fundamental flaws with the proposed location there seems little utility in pursuing these further.

Many submissions set out the inconsistency with regional and local planning strategies. Lawyers Mills Oakley conclude that: *the Planning Proposal does not have strategic merit for reasons including that it is inconsistent with and does not give effect to regional and local planning strategies.*

Many submissions specifically addressed what they saw as the reasons for the JRPP's reversing the previous decisions to reject the Planning Proposal. The following submission is typical of the points made:

**All three of these NJRPP reasons are no longer (or never were) valid, justifiable or relevant.**

1. **Land ownership** should NEVER have been a consideration for a rezoning proposal, as many business owners throughout NSW do NOT own the land or premises where they operate. Additionally, **land ownership is an invalid reason**, as Harwood Marine Precinct already has ample established and desired zoning, which is only partially occupied. There are acres of land on which additional marine facilities may be established. It is public knowledge the current owner of Harwood Marine Precinct has land available for other businesses. This fits the goal of establishing a functioning and efficient marine cluster, as per Council and State Government's original intention with Harwood Marine Precinct's zoning and establishment.
2. **Access limitations** (whilst possibly presenting problems at the time of the NJRPP review) **are no longer an issue**. In December 2018, multi-million dollar funding from the NSW State Government was granted for a heavy-duty upgrade to roads between the Harwood Marine Precinct and the new Pacific Highway. (<https://www.dailyexaminer.com.au/news/38m-investment-boosts-harwoodmarine-precinct-pros/3605650/>)
3. **Operational requirements** of the incompatibility of aluminium fabrication within the vicinity of steel fabrication **have never been valid or justifiable**, as Council and DPIE are well aware from previous documentation provided by credible marine experts. Additionally, Harwood Marine currently constructs both steel and aluminium vessels on site; and the applicant's business (Yamba Welding & Engineering) currently successfully operates only 240m away from a mild and stainless steel fabrication/engineering facility. The applicant conveniently fails to highlight the obvious point of operating in his own separate buildings, which also **renders this "operational requirement" irrelevant**.

#### Conclusions:

The support for the Planning Proposal is almost entirely and simply support of the business/boat building industry rather than supporting a change in zoning for this particular site. The submissions objecting to the Planning Proposal, provide compelling evidence as to the adverse site impacts and comprehensively dispel the reasons put forward by the proponent for not locating the business on Harwood Island. Council has completed a proper strategic planning process that establishes Harwood Island as a suitable Marine Precinct.

(END OF CONSULTANT ADVICE)

**LEGAL ADVICE**

Council also obtained legal advice regarding its role in this Planning Proposal as it has been advised by the (then) Department of Planning that it is not the Local Plan Making Authority for this proposal.

Marsdens Lawyers has advised on the following questions. Extracts of the response are provided below for brevity, and the whole legal opinion is attached at Attachment C.

**ADVICE**

**1. Is Council obliged to make a recommendation on the Planning Proposal to the DPIE/Minister, under the applicable legal framework of the Environmental Planning and Assessment Act 1979 ("EP&A Act"), regulations and policy, in circumstances where Council is not the local plan-making authority for the Planning Proposal?**

Whilst it is generally accepted that a Council in its capacity as the PPA for a planning proposal will provide a report and recommendation to the Minister in respect of the planning proposal following completion of the public exhibition and consultation requirements of the gateway determination, there is no statutory obligation imposed on the PPA to do so.

**2. Are there any legal repercussions if Council does not make a recommendation on the Planning Proposal to the DPIE/Minister?**

If the Council, in its capacity as the PPA for the Palmers Island Planning Proposal, does not provide a report or recommendation to the Minister following completion of the public exhibition and consultation requirements it would be open to the Minister to make a direction that the Planning Secretary or a Sydney district or regional planning panel be the PPA for the planning proposal for the purpose of finalising the post exhibition process.



**3. Is Council able to review and note the submissions and pass it onto the determining authority for the final decision?**

As noted above, there is no statutory requirement for the Council, in its capacity as the PPA for the Palmers Island Planning Proposal, to make a recommendation or request the Minister to make the proposed local environmental plan following completion of the public exhibition and consultation requirements.

Provided that the requirements of the gateway determination have been carried out (as well as any consultation required under section 3.25 of the EP&A Act) it would be open to the Minister as the local plan making authority to make a local environmental plan (with or without variation of the proposals submitted by the PPA) in the terms the Minister considers appropriate irrespective of whether the Council provides a recommendation or a request for the plan to be made.

Accordingly, it would be open to the Council to review and note the submissions made in respect of the planning proposal and forward the submissions and review to the Minister with a statement to the effect that:

- Council neither supports nor opposes the making of the proposed local environmental plan;
- Council notes that the Minister as the local plan-making authority is responsible for deciding whether or not to make the proposed local environmental plan.

**4. If Council is not the legal determining authority for the planning proposal, it is responsible for defending any legal appeal under the EP&A Act?**

If proceedings are commenced to challenge the validity of the planning proposal or a local environmental plan made to give effect to the planning proposal, it is likely that the Council, the Minister and the landowners would be joined as necessary Respondents to the proceedings.

**5. Is the Mills Oakley opinion valid in terms of the Planning Proposal not being able to proceed due to the inconsistency with State Environmental Planning Policy No 55—Remediation of Land ("SEPP 55")?**

On the basis that the planning proposal, as submitted to the Minister's delegate for a gateway determination, did not consider SEPP 55 to be relevant and did not contain any information about or any indication that the Council was positively satisfied of the matter in clause 6(1)(b) of SEPP 55, it seems to us that it would be reasonably arguable (but not certain) that the preparation of the planning proposal was flawed for failure to comply with clause 6 of SEPP 55 and that the gateway decision made by the Minister's delegate was invalid.

**Review of Flood and Hydrology Reports**



Council's Manager of Water Cycle and Floodplain Coordinator reviewed the Palmers Flood Study submitted with the application and provided the following advice.

- BMT are a highly regarded flood consultancy with the relevant experience to prepare such a document
- The model used (TUFLOW) is considered to be one of the industry standard flood models, and is the same model that has been used for the development of the wider Lower Clarence Valley Flood Study.
- Any project like this will have a flooding impact on a local scale. We think an appropriate benchmark for determining acceptability of flood impacts would be to refer to the "Conditions of Approval" written by the NSW Government for recent major projects such as the Grafton Bridge and Pacific Highway upgrades (provided below for information).
- If rezoning is approved, a more detailed flood study will need to be submitted.

The flood management objectives are applicable to the 5, 20, 50 and 100 year Average Recurrence Interval (ARI) events. Table 1.2 outlines the project flood management objectives.

Table 1.2 Flood management objectives

Parameter	Location	Flood management objectives
Flood level	Residences	Up to 50 millimetre increase
	Cane farm land	Up to 50 millimetre increase
	Grazing, forested and other rural lands	Generally up to 250 millimetres with localised increase of up to 400 millimetres for short duration/ local catchment flooding acceptable over small areas (nominally less than 5 hectares)
Flood duration	Residences	No more than 5% increase
	Cane farm land	No more than 5% increase
	Grazing, forested and other rural lands	No more than 10% increase
Flood Velocity	Residences	Velocity x depth to remain in the zone of low hazard for children below 0.4m <sup>2</sup> /s.
	Cane farm land	Below 1.0m/s where currently below this figure An increase of not more than 20% where existing velocity is above 1.0m/s
	Grazing, forested and other rural lands	Below 1.0m/s where currently below this figure An increase of not more than 20% where existing velocity is above 1.0m/s
Flood direction	Residences	No change to the direction of watercourses or the direction of flood flows except for constriction in and expansion out of discrete openings (culverts and bridges) and construction diversions
	Cane farm land	
	Grazing, forested and other rural lands	

### Aboriginal Cultural Heritage

The matter was referred to Yaegl LALC and advice was provided directly to the applicant, Yamba Welding and Engineering who supplied a copy of the advice to Council as follows:

*"After an inspection of the above site by a Yaegl LALC Site Monitor Shane Eamens who have given a verbal report on the site visit on Monday 1<sup>st</sup> July 2019.*

*Shane has advised that there are no cultural issues relating to the property where the area is to be developed, particularly along the waterfront where a basin is to be excavated and did not observe any cultural items or artefacts.*

*Consent for works on the site requiring works to stop immediately should any artefacts be unearthed and that Yaegl Land Council be notified immediately and be given the authority to decide how the artefacts are to be treated.*

*Yaegl LALC have authorised the above proposed rezoning for the Palmers Island Marine Park in School Rd to proceed subject to any condition being placed on any development."*

### Traffic Impacts

The Traffic Report by TTM remains as per the 28 September 2016 version with an update annexure of 5 April 2017. This was assessed previously by Council's Development Engineer. Parking can be designed to meet DCP requirements as there is a large site area. The impact of additional traffic on the road network raised issues about the adequacy of the School Rd/Yamba Rd intersection.

Council's previous advice:

Traffic Impact Assessment of the Intersection of School Rd/Yamba Rd

"Table 3 of the updated TTM Report

1. The proposed priority intersection treatment will *function up to a level of service of E (worst case scenario - right turn lane movement) during the AM & PM peak within the design horizon (Base 2028).*
2. The proposed priority intersection treatment will *fail during the AM & PM peak within the design horizon (Development 2028).*
3. The proposed roundabout intersection treatment will *function to an acceptable level of service both Base & Development (2028).*

A sensitivity analysis must be undertaken to determine when the priority treatment would fail and determine roundabout treatment construction completion year."

#### 4. Traffic Impact at the Intersection of School Road and Yamba Road

Council conclude that the previously prepared does not adequately demonstrate that the development's impact is mitigated by the recommended turning treatments at the School Road / Yamba Road intersection. Council further states that roundabout treatment is likely to be required to cater to the likely traffic.

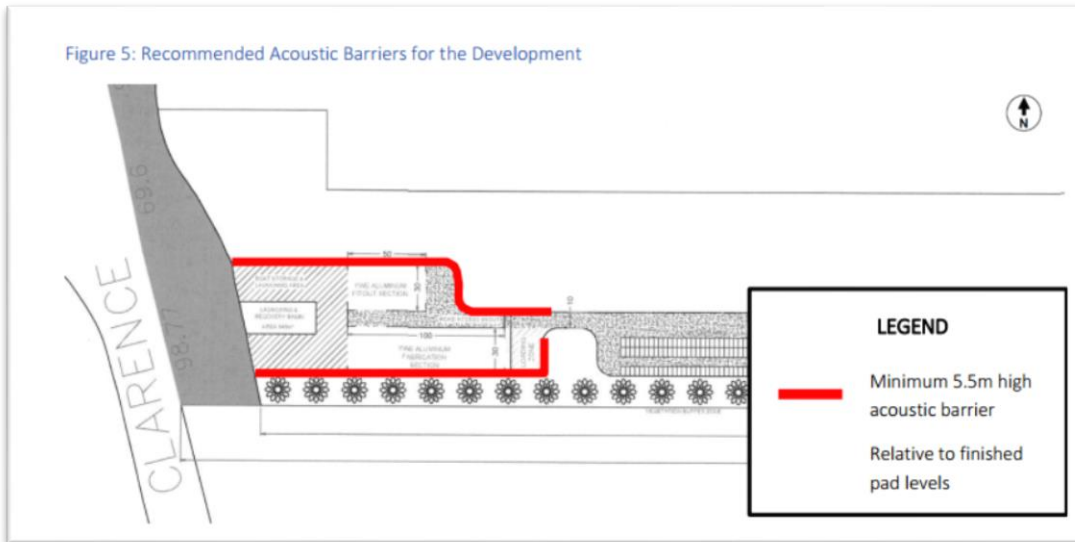
TTM have undertaken an additional analysis of the upgrade options of the School Road / Yamba Road intersection to contrast the performance and likely land requirements.

TTM's proposed treatment would introduce an Auxiliary Left (AUL) and Channelised Right (CHR) treatment at the intersection. The concept design provided was based on the Yamba Road / Orion Drive intersection to the east. The recommended treatment would require minimal land acquisition and pavement widening to accommodate it. The proposed design allows for a single left turn vehicle to queue beside a right turning vehicle on School Road as illustrated in Figure 1.

By comparison, a roundabout of sufficient size to cater to AV movements would require approximately a 30m diameter roundabout, comparable to the Yamba Road / Golding Street roundabout. This treatment would require considerably more land and pavement (especially to the south) as illustrated in Figure 2.

### Acoustic Impacts

The applicant provided an Acoustic Report updated 5 April 2019 to assess the potential impacts of noise from the proposed concept development. The applicant’s consultants conclude that the noise generated by the development is predicted to comply with the criteria of the NSW Noise Policy for Industry when assessed at the nearest residential receivers. This is based upon a proposed design of 5.5m high acoustic barrier walls located upon built up earth pads of 3.5m for the proposed industrial buildings. (Total 9 metres above natural ground level.) In addition the acoustic barrier also includes the actual buildings which would exceed this height.



Yamba Welding and Engineering is proposing to seek approval for a planning application with the purpose of developing a business park at Lot 2 DP598769 School Road, Palmers Island. The development is to be known as Palmers Island Marine Park and will incorporate the relocation of the Yamba Welding and Engineering fabrication business onsite.

TTM was engaged to provide an acoustic assessment as supporting evidence for the planning application. The acoustic assessment predicts the expected noise impact from the development onto the nearest noise sensitive receivers. During the assessment, TTM provided acoustic design advice to develop a revised site plan which provides the best level of internal noise attenuation. Predictive noise calculations were conducted based on this site plan.

These calculations indicate that noise levels from the proposed development are predicted to comply with the criteria. Through smart acoustic design, acoustic barriers and noise mitigation treatment to marine Travelift machinery, noise generated by the development is predicted to comply with the criteria of the NSW *Noise Policy for Industry* when assessed at the nearest residential receivers.

- Council’s Environmental Office has reviewed the acoustic assessment and provided the following advice:
- The *Environmental Noise Assessment Report* has been prepared in accordance with *NSW Noise Policy for Industry* (NPI), with all noise monitoring activities undertaken in accordance with Australian Standard - *AS1055:1997 Acoustics – Description and Measurement of Environmental Noise (AS1055)* using equipment calibrated by a National Association of Testing Authorities (NATA) accredited laboratory. In accordance with the NPI, the Assessment utilised on-site noise monitoring results to determine the Project Noise Trigger Levels. Using the CONCAWE noise prediction method, the anticipated noise levels were calculated for each of the potentially impacted sensitive

- receivers (identified as 1 – 6). The noise prediction method assumed worst-case scenario i.e. all equipment operating simultaneously (cumulative impact) and included the effects of unfavourable weather conditions (temperature inversions and wind). The noise assessment found that the predicted noise level did not exceed the Project Noise Trigger Level at sensitive receivers 1 – 6.
- However, confirmation from TTM / YWE is required that the noise scenarios modelled in the *Environmental Noise Assessment Report* accurately represents the scale and nature of the works given the future expansion of YWE Operations.
  - The *Environmental Noise Assessment Report* fails to assess the impact to sensitive receivers associated with the additional traffic movements on School Rd associated with the proposal.
  - The *Environmental Noise Assessment Report* fails to assess the impact to sensitive receivers associated with the construction of the proposal.
  - Should the proposal be approved, the following approval conditions must be considered:
    - o All recommendations and noise control measures detailed in Section 7 of the *Environmental Noise Assessment Report* must be implemented.
    - o A noise assessment (incl. monitoring at sensitive receivers 1 - 6) must be undertaken by a suitably-qualified person within the first 3 months of operation and yearly thereafter. The intent of the noise assessment is to ensure the operational (actual) noise levels do not exceed those predicted in the *Environmental Noise Assessment Report*.
    - o No works are to occur on a Sunday or Public Holiday.
    - o Works are restricted to:
      - 6:00am – 6:00pm, Monday to Friday; and
      - 8:00am – 1:00pm, Saturdays.
    - o Noisy equipment and activities are not to be undertaken between the times of 6am – 7am, Monday – Friday. These include, but are not limited to; waste collection, boat lifting and movement (crane or Travelift), welding and hammering and cutting of aluminium by either powered hand saw or guillotine.
    - o All plant and equipment must be maintained and operated in a proper and efficient manner.
    - o If required, plant and equipment must be fitted with non-tonal reversing alarms. Traditional beepers or pulsed tonal alarms are not to be used on-site.

### Visual impacts

Introducing a significant industrial structure into a predominantly rural setting would introduce visual impacts to nearby sensitive receivers and alter the rural character of the land. Should the Planning Proposal be approved, any future development application would need to include a detailed landscape character and visual impact assessment.

This assessment would need to include but not be limited to an assessment of the potential visual impacts associated with introducing very high noise barriers with an effective height of 9m (3.5m mound + 5.5m high barrier) into this landscape, and the impacts associated with built structures and hardstand parking areas. **Contaminated Land- SEPP 55**





As outlined in the Regional Geotechnical Solutions Consultants Report dated 9 January 2019, the tractor storage area which lies partly within the area proposed for rezoning, contains levels of heavy metals which were above adopted criteria for commercial industrial use. This matter raises a conflict with State Environmental Planning Policy No 55- Contaminated Land for which there is case law, which prevents a rezoning application proceeding. Whilst this is potentially resolvable, it is an impediment to the current rezoning proposal.

Extract from Geotechnical Solutions report dated 9 January 2019.

**6 ASSESSMENT AND CONCLUSIONS REGARDING SITE CONTAMINATION**

The site has predominately been used for farming purposes since at least 1904. Some structures appear to have been demolished/removed between 1980 and 2010. There is an area on the western boundary that has been used for storing tractors, oils, and chemicals.

The Phase 1 site contamination assessment has been completed using a judgemental sampling approach as defined within the NSW EPA 'Sampling Design Guidelines' (1995). A judgemental sampling pattern was selected as it was considered that there was enough information on the probable locations of contamination based on the results of the site history study and field observations.

Analysis of soil samples found heavy metals, TPH, BTEX, PAH and OC/OPP were either at concentrations below the laboratory detection limits or at concentrations below the adopted criteria for commercial/industrial land use for all samples tested except for one sample within the tractor storage area (Sample S21).

The tractor storage area is outside the area of the site where development is proposed, however, if this area of the site is to be developed then further investigations and analysis will be required to determine the extent of the area to be remediated and to assist in the development of a Remedial Action Plan for this portion of the site.

Regional Geotechnical Solutions  
RGS31684.2 - AB  
9 January 2019

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**COUNCIL IMPLICATIONS**

**Budget/Financial**

The applicant paid a fee of \$3,200 in 2016 when lodging this Planning Proposal pre gateway and Council advised that the applicant would be responsible for any additional studies required for the proposal and subsequent levels of processing.

Councils 2019 fees and charges set a fee of \$5,432 for post gateway assessment plus advertising fee of \$336 (x 2) and staff time @ 157.60 per hour. Considerable resources have been applied post Gateway to the assessment of this complex Planning Proposal with the amendments to this proposal, the extensive public consultation requirements and additional consultancy and legal fees. A summary of the Post Gateway costs which have been incurred by Council for processing to date are set out below.

**Post Gateway Costs Incurred**

Advertising x 2	\$336 x 2	\$772
Staff time for compilation of exhibition information for public consultation and setting up of a website page for the exhibition documentation	5 hours @ \$157.60	\$788
GIS Mapping, creation of spreadsheet of owners, preparation of letter and mail out of notification letters to residents	7 hours @ \$157.60	\$1,103
Postage costs	\$200	\$200
Compilation of the summary of submissions received with e mail and contacts for review	7 hours @ \$157.60	\$1,103
Planning Consultant Fees for the review and assessment of submissions and summary of issues raised		\$9,444
Council report preparation and liaison with planning consultant and applicant	8 hours @ \$157.60	\$1,260
Council's Legal Advice		\$2,217
<b>Total</b>		<b>\$16,887</b>

**Asset Management**

The site currently has a rock armoured bank on it which was constructed by Council. Implications for this structure may need to be further investigated as it is located on private land. The impact of the development by creation of flood mounds and the creation of the wet dock, on local flooding may affect adjacent properties and hold implications for future maintenance in relation to similar protection works which would be required to be carried out at the owner's responsibility.

**Policy or Regulation**

The Planning Proposal is assessed with due regard to the requirements of the *Environmental Planning and Assessment Act 1979* including relevant State Environmental Planning Policies and Ministers 9.1 Directions made under the Act.

A challenge to the legality of the Planning Proposal has been made in relation to several matters and with particular regard to a part of the site which is potentially contaminated land and in conflict with the provisions of State Environmental Planning Policy No.55. Legal Advice has been obtained in respect of various matters and is appended to this report.

**Consultation**

Extensive public consultation was carried out in accordance with the Director's requirements set out in the Gateway Determination dated 14 August 2018. This required individual letters of consultation to every landowner within a 2km radius of the site and general public exhibition. The proposal with all the relevant reports was placed on Council's website and notices were placed in the local newspapers. All persons who made a submission are notified of the return of this item to the Council meeting and given the opportunity to present a deputation subject to Councils adopted policy on this process.

**Legal and Risk Management**

The Planning Proposal is being assessed with compliance with the *Environmental Planning and Assessment Act 1979* and accompanying guidelines on the preparation of Planning Proposals and Preparation of Draft LEPs. Legal Advice has been obtained in respect of procedural matters in relation to the processing of this Planning Proposal.

**Climate Change**

The site lies in the floodplain of the Clarence River and therefore may be affected by changes in sea level and flooding events.

Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	A. Zoning map B. Planning Resolutions Summary of Submissions and Key issues C. Legal Advice from Marsdens Lawyers re Council responsibilities D. Council Report dated 8 November 2016 and ITEM 14.108/16 - Attachment 2
To be tabled	E. Submissions (183)
Confidential	F. Confidential Submissions (2)

<b>ITEM</b>	<b>6b.19.032</b>	<b>DA2018/0567 – PROPOSED AGED CARE FACILITY, 425 BENT STREET, SOUTH GRAFTON</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes plus Confidential Attachment	

## SUMMARY

<i>Applicant</i>	A Fletcher and Associates Pty Ltd
<i>Owner</i>	Grafton District Golf Club Ltd
<i>Address</i>	425 Bent Street (Lot 400 DP1153969), South Grafton
<i>Submissions</i>	Yes – 16 public submissions and agency comments

Council is in receipt of a Development Application seeking consent to an aged care facility comprising 144 rooms with ensuites. The site of the development has a considerable history of being controversial with plans to develop part of the Grafton and District golf course with residential development being keenly contested by proponents and nearby residents over many years. The land is presently zoned R5 Large Lot Residential zone with a public expectation of large lot residential development similar to the style of development opposite the site in Bent Street.

State policy enables the NSW Government to consider the option of considering sites with certain attributes present, in this case a registered club, to be suitable for seniors housing development and can issue a Site Compatibility Certificate (SCC) enabling a development application for such development to be considered by the relevant consent authority. This circumstance has arisen for the subject land. A number of significant issues specified in the SCC and in consideration of other relevant legislation are relevant to this case.

The proposal has created challenges in managing biodiversity impacts generally and more specifically impacts on core koala habitat and resident koalas, especially on a site that includes bush fire prone land and associated requirements to manage vegetation. These matters are considered to have been adequately attended to in consultation with relevant NSW government agencies.

Conditional development approval is recommended.

## OFFICER RECOMMENDATION

That:

1. Council is satisfied that the requirements of clause 24 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for issue of the site compatibility certificate under the Policy for the subject land have been met.
2. Council is satisfied that the development proposed appropriately addresses the issues of bulk, scale, visual impact, flora and fauna and vehicle access and traffic in the layout and building construction as required by the Site Compatibility Certificate, dated 18 July 2018, subject to the recommended conditions (see item 3 below).
3. Council grant consent to Development Application No 2018/0567 subject to advices and conditions contained in Schedule 1 to this report.; and
4. By granting development consent to Development Application No 2018/0567 that Council also approves the Koala Plan of Management and it shall have effect from the date the development consent is issued by Council.



**COMMITTEE RECOMMENDATION**

Baker/Novak

That this item be deferred to Ordinary Council meeting on 22 October 2019 to allow consideration of variations to Conditions.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.4 We will have access and equity of services

Strategy 1.4.2 Encourage the supply of affordable and appropriate housing

**BACKGROUND**

The subject land is zoned R5 Large Lot Residential zone under the Clarence Valley Local Environmental Plan 2011. This zoning ordinarily prohibits seniors housing, however under the provisions of the State policy for Seniors Housing the NSW Government can decide the issue a Site Compatibility Certificate (SCC) that enables the prohibition to be effectively overcome if certain matters can be satisfactorily addressed. A SCC was issued on 18 July 2018 and is valid for 24 months from the date of issue.

Past planning decisions relating to the subject land have been difficult and controversial and the current DA maintains that trend. The current South Grafton Heights Precinct Strategy recognised that there was potential for low density residential development on this part of the golf course land. The current development application on the back of the SCC seeks to obtain approval for a more intense form of residential use, albeit not your typical scenario for residential occupation and tenancy.

The developer proposes to construct a 144-bed residential care facility with associated parking, landscaping and infrastructure (see Attachments 1, 2 and 3 for plans) and offers the following information:

*Our residents enjoy the privacy of their own large fully air-conditioned bedroom with sliding door access to outside areas from each room and all rooms have ensuite bathroom, giving security and a sense of belonging, much valued during times when friends and family visit. Our current design provides a focus on varying sizes of bedrooms to cater for different client needs. The design of facilities vary according to climatic conditions. All homes have flexible care arrangements to accommodate couples requiring different levels of care. In addition to providing ageing in place and accommodation for singles and couples, all homes have a dedicated dementia specific wing which meets the specialized needs of residents with dementia. Scattered through our homes are libraries, games areas and multi-purpose areas such as chapel and cafe.*

*Each facility is personally designed with respect to the land and surrounding environment, creating the most liveable surroundings for aged residents. Each building is built with state of the art specialised safety and fire equipment, sprinklers and smoke detectors and fully equipped with independence devices such as hand rails and non-slip surfaces to assist in the care for our most vulnerable residents. Our facilities are equipped with overhead lifting tracks to minimise manual handling.*

*Each home is built with the concept of residents belonging to a group of between thirty and thirty six other residents with similar care needs. Dementia specific areas are separated again making an area of between 15 & 18 places for each pod. The home is designed to draw residents to a central dining area typical of a family home, having meals with between two and six other residents at each table depending on friendships and preferences. There are spacious lounges in each wing and tea and coffee making areas for residents and their families.*

*In all the homes constructed by the Group; fixtures, fittings, floor coverings and furnishings are amongst the highest industry standard. The buildings are appropriately heated & cooled, with occupant controlled air conditioning standard. They also feature large single rooms, café, hair salon, integrated CCTV and computer systems, electric hi low oversize king single beds, over-bed tracking systems and spacious open living areas.*

*All homes are equipped with specialised aged care equipment. The beds are single king size, high low electric with specialised pressure care mattresses; there are a variety of lifting devices and mobility equipment to assist residents if necessary. Furnishings are designed especially to aid independence, comfort and cleanliness. Residents' chosen doctor is invited into the home and assisted and supported in caring for the resident in a specific medical room designed to meet the needs of the doctor while on site.*

*Signature Care homes comply with all State and Federal government regulations including Aged Care Accreditation, Certification of Buildings, as required for its operation under the Aged Care Act 1997.*

The development company behind the development application provide the following information in the Statement of Environmental Effects with respect to economic benefit –

*Each 144 Bed Home provides a contribution to Gross Regional Product and is expected to be \$7,780,800 per annum without factoring in the wages regenerated into the local economy. The breakdown of the direct employment extending to 167 full and part time direct staff (144 full time equivalents) will include the following professions:*

- Facility Manager 1*
  - Admissions Manager 1*
  - Care Manager 2*
  - Registered Nurses 18*
  - Physiotherapists 5*
  - Endorsed Nurses 18*
  - Administration 5*
  - Management Secretary 1*
  - Lifestyle Co-ordinators 4*
  - Maintenance Manager 1*
  - Maintenance & Gardener 3*
- 
- Chef 1*
  - Cooks 5*
  - Food Assistants 11*
  - Laundry Staff 3*
  - Cleaning Services 16*
  - Personal Carer 72*
- Total 167***



*Even though there is a substantial benefit in direct employment, the economic benefit to the local community through the additional local staffing will be far higher as these wages are expended in the local area and regenerated many times over. The direct wage payments expected to be made once the facility is at full capacity is circa \$6.3M per annum.*

*The Facility, in construction phrase, supports the growth of other businesses as it will require the services/products from:*

- concrete suppliers;*
- roof truss manufacturers;*
- earthworks contractors;*
- landscapers;*
- concreters;*
- plumbing contractors;*
- electrical contractors;*
- plasterers;*
- tilers;*
- painters;*
- interior decorators; and*
- various other trades & suppliers*

*The Facility, in operational phrase, supports the growth of other businesses as it will require:*

- food supplies including meat and fresh fruit and vegetables to the value of \$355,000 per annum.*
- property services including fire monitoring, responses & testing, pest control, repairs & maintenance expenses and grounds maintenance exceeding \$170,000 per annum.*
- medical supplies including medication, medical gases and other general supplies exceeding \$210,000 per annum.*
- cleaning and laundry services (excluding labour) of over \$50,000 per annum.*
- utilities including direct council rates, waste disposal, water supply, electricity supply and gas supply exceeding \$315,000 per annum.*
- Other general expenses including but not limited to local advertising, stationery, printing supplies, staff training and general purchases exceeding \$150K per annum.*

Public interest from nearby landowners remains strong and a total of 16 public submissions have been made in response to notification and advertising of the application. The majority of nearby residents oppose the current proposal with one landowner supportive.

A Statement of Environmental Effects and photomontages for the proposed development are provided at Attachments 2 and 3, respectively.

An assessment report has been prepared under Section 4.15 of the Environmental Planning and Assessment Act 1979 and is included at Attachment 4.

## KEY ISSUES

Seniors Housing SEPP – State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004 (hereafter referred to as the ‘Seniors Housing SEPP’) is the key planning legislation administering the design and assessment of this development. Ordinarily the Seniors Housing SEPP prohibits development of this type in the R5 Large Lot Residential zone, however provisions within the SEPP enable issue of a Site Compatibility Certificate to enable a consent authority, such as Council, to consider an application and grant development consent provided the terms of the certificate and the Seniors Housing SEPP are satisfied. In this case, the Executive Director, Regions, as delegate of the Secretary of the then Department of Planning and Environment following an application from A Fletcher and Associates Pty Ltd made the determination to issue a Site Compatibility Certificate. The Certificate is provided at Attachment 5 and considered that the subject site is suitable for more intensive development and further, that seniors housing of the kind proposed is compatible with surrounding land uses only if the final layout and building construction appropriately addresses issues relating to bulk, scale, visual impact, flora and fauna and vehicle access and traffic. The Certificate was issued on 18 July 2018 and remains valid for 24 months from the date of issue.

The Applicant has provided commentary against each of these factors in the Statement of Environmental Effects submitted with the DA. Bulk, scale and visual impact are closely related and these factors have been key concerns for nearby residents when options for development on the subject land have been proposed in the past. The proposed aged care facility is a large building, however to assist both functionality of the facility and to reduce the apparent bulk, scale and visual impact the building has been designed to be built on a single level cut down into the landform, especially as viewed from Bent Street. This approach significantly lowers the relative height of the building as viewed from Bent Street and allows street tree plantings and vegetation to be retained along the frontage to Bent Street to be more dominate visually compared to a scenario where a building was proposed at the existing ground level. The provision of the facility on a single level does make the building as viewed from the south or south-west sector to be higher in relative terms. In fact, parts of the proposed development will be a significant height above existing ground level due to proposed filling and the lay of the existing land. Modifications to the provision of landscaping along the southern and south-western side of the development, where compatible with bush fire management requirements, would further reduce visual impact and hence, it is recommended that these modifications be included as a condition of any development consent. Retention of existing trees compatible with bush fire management on the western side of the site are expected to make visual impacts acceptable from that perspective. Large setbacks to common boundaries to the west and south-west side of the site also ameliorate the visual impact.

Flora and fauna considerations have been thoroughly investigated and documented in both the Biodiversity Development Assessment Report (BDAR) and Koala Plan of Management (KPoM) that are discussed in more detail below.

Vehicle access and traffic has been the subject of a traffic assessment and consideration by Council officers. The development seeks approval to two vehicular accesses off Bent Street. The main access closest to the existing golf club entry will service the main car park and public entry to the facility, whilst the second access at the western side of the site is proposed to cater for staff parking and servicing needs. These accesses can be designed to comply with Council requirements, however residents located opposite these access points are concerned that use of the dwellings will be adversely disrupted by traffic movements and associated impacts. These impacts would occur with any development of the site to some degree and the main concern relates to the volume of use and the periodic peaks associated with changes of shifts. There is capacity for operational measures to be put in place to reduce the potential nuisance associated with such movements. The scale of traffic is not likely to be more significant than could be associated with golfing patrons and functions held at the nearby golf clubhouse, however the potential for the timing of

vehicle movements in the early hours of the morning is the main variable. Again, this can be managed with attention to changeover times for employee shifts.

It is important to note that the Seniors Housing SEPP overrides the Clarence Valley LEP 2011 and the Council's Development Control Plan in the event of an inconsistency. For example, Council's DCP would ordinarily require 72 parking spaces based on 1 space/2 beds. Whereas the SEPP (cl 48) contains minimum requirements, including car parking, for residential care facilities that if complied with cannot be used as grounds to refuse a development application. In this case the SEPP provision requires 1/10 beds (say 15 spaces), plus 1 per 2 staff on duty at the same time (another 25 spaces) and an ambulance space, equating to 41 spaces. The proposal, with 67 spaces and a loading bay, easily exceeds the SEPP requirements, however it is less than the rate required by Council's DCP. The parking requirement proposed in the DA can be upheld through conditions, however the application cannot be refused on this basis.

Public Interest (neighbourhood and wider) – There is a clear and increasing demand for quality aged care accommodation and services within the Clarence Valley. This proposal seeks to fill some of that demand. The broader community want to see elderly residents capable of being cared for when they are no longer able to live independently in their own homes. Such developments also provide opportunities for direct and indirect employment during construction and operation and jobs are an important factor in achieving community well-being and resilience. When development of this scale is proposed there is an imperative to also ensure the development can co-exist in the neighbourhood without unreasonable impacts on nearby residents, amenity and the local environment.

Biodiversity and habitat – BDAR and KPoM – The development proposes to clear 1.76 hectares (0.95 hectares permanently cleared and 0.81 hectares partially cleared) of vegetation and habitat from the subject land. This clearing exceeded the biodiversity offset scheme threshold under the *Biodiversity Conservation Act 2016* and hence, in accordance with that Act the Applicant was required to prepare a Biodiversity Development Assessment Report (BDAR). A full copy of the BDAR is provided at Attachment 6. In the course of preparing the BDAR the ecological consultants formed the view that the subject land contained core koala habitat and hence, a Koala Plan of Management (KPoM) was required to be prepared in accordance with the requirements of *State Environmental Planning Policy No 44 – Koala Habitat Protection* (SEPP 44). A full copy of the final KPoM is provided at Attachment 7. SEPP 44 specifies that when a KPoM is required to be prepared for a development proposal that the consent authority cannot grant consent until the Director of the Department of Planning and Environment (now Department of Planning Industry and Environment (DPIE), Planning and Assessment) has approved of the KPoM (refer to letter of approval at Attachment 8). More detailed discussion regarding the KPoM and the DPIE requirements follows later in this report.

Both the BDAR and KPoM required a number of revisions before they were accepted by both Council officers and the relevant agencies. The revisions for the BDAR were necessary to ensure that all clearing required to be undertaken to construct the development and associated works, as well as indirect impacts and prescribed impacts, was accounted for and considered for offsetting. This included the final requirements or General Terms of Approval issued by the NSW Rural Fire Service on 1 March 2019 (refer to Appendix A of the BDAR) The revisions of the KPoM were focussed on ensuring the criteria contained in the NSW Government Guidelines for preparing KPoMs were appropriately investigated and considered. The result is that both reports have been deemed to be satisfactory and/or approved by relevant agencies in order that Council can now determine this development application.

Clearing associated with the proposed aged care facility impacts plant community type PCT 1209 Spotted Gum, Grey-Box and-Grey Ironbark dry open forest of the Clarence Valley lowlands in the North Coast Bioregion. This PCT is not a threatened ecological community under the *Biodiversity Conservation Act 2016*. The clearing is proposed to involve the removal of ten (10) large native gum trees exceeding 500mm diameter at breast height. Five (5) each in Zones 1 and 3 (comprising less than 10% of the trees proposed to be removed in Zones 1 and 3) and including six (6) preferred koala feed trees (PKFT). Over 90% of trees and PKFT proposed to be removed in Zones 1 and 3, and 100% of trees in Zones 2, 4 and 5 are smaller trees

(refer to Appendix D in the BDAR). The BDAR also suggests that the construction of the aged care facility is not expected to comprise part of a corridor for ground-dwelling threatened fauna and hence, the facility is not expected to restrict movement of such fauna in anyway. This conclusion is relevant to consideration of the fencing design requirements around the perimeter of the facility.

The BDAR has also included an assessment of matters of significance under the Commonwealth's *Environmental Protection and Biodiversity Conservation Act 1999* and concludes that referral of the proposal to the Commonwealth Government under the Act is not required.

The BDAR concludes that in order to offset the impact of clearing and other activities that may impact on native biodiversity as a result of this development that 13 Ecosystem Credits and 17 Species Credits for koala must be retired with the NSW Biodiversity Trust prior to issue of a Construction Certificate for the development. These are estimated to cost \$31,439.16 and \$10,122.70 (including GST), respectively and the requirement to purchase and/or otherwise retire these credit types and values need to be included in any determination that grants consent to the development.

The KPoM specifies the management actions that are needed to offset impacts on koalas and koala habitat as a result of the development, including the removal of 74 koala feed trees (51 Tallwood, 18 Forest Red Gums and 5 Grey Box) and approximately 0.3 hectares (or 2.18%) of primary koala habitat from the subject land being the entire golf course site. The recommended management actions that are included in the KPoM also need to be upheld in any determination to approve this development. The management actions include a range of measures including compensatory planting of 740 koala feed trees on unutilised land within the golf course as well as on private property adjoining the southern side of the golf course, protection of remaining koala habitat and compensatory plantings in perpetuity and koala monitoring activities. The adjoining land proposed for compensatory planting is proposed to be purchased by the Grafton District Golf Club and consolidated with the land title for the golf course. The relevant landowner has provided written agreement to the use of their land for that purpose. The KPoM concludes that *with effective implementation of the amelioration measures prescribed, it is considered that the local Koala population is unlikely to undergo substantial loss of resources or be subject to a significant increase in threatening processes which would reduce the viability of the local population.*

The DPIE approval requires that the KPoM has no effect until such time as it is also approved by Council. Further, DPIE recommends that Council consider and ensure certain matters are adequately addressed in determining the associated development application. These matters include:

- *retention and protection of the remaining koala habitat on the site within the golf course grounds and the created compensatory habitat in perpetuity;*
- *purchase of the adjoining land (Lot 41 DP1084591) identified for compensatory habitat works and ongoing protection in perpetuity;*
- *finalisation of the agreement between the developer and golf course management regarding the planting and ongoing management of the compensatory habitat areas; and*
- *koala monitoring activities are continued for a sufficient period of time following completion of the development.*

Schedule 1 contains conditions that will adequately address these matters as well as requirements of Council's Biodiversity Officer. The requirement for adequate arrangements to be in place in perpetuity arise because some clearing of koala habitat and feed trees associated with the development will be permanent. This type of secure arrangement is consistent with the offset requirements under the NSW Government's Biodiversity Offset Scheme. Such security will also apply if the developer chooses to offset credit requirements for biodiversity under the BDAR by securing and ensuring management of suitable habitat in lieu of making the monetary payments mentioned earlier.

Public submissions/concerns – Sixteen (16) public submissions have been received from nine (9) landowners in the vicinity of the development. All submissions are included in full at Attachment 9. Main concerns and comment from Council staff is provided below:

- *Construction Impacts* – Nuisance associated with construction of the development, particularly noise and parking of vehicles alongside Bent Street.

*Comment by staff* – Controls on the hours of construction are routine requirements of Council approvals. Construction can involve some noise and inconvenience and this is not unreasonable. Being a large project the length of construction would be greater than typically associated with development in this location, hence some specific conditions to limit impacts are considered reasonable. Site management during the construction phase to reduce potential for nuisance, eg dust or noise, is necessary.

- *Nuisance from access and use of driveways/service areas and infrastructure* – Residents located opposite and adjacent to proposed access driveways and car parks raised concern that use of these areas would present unreasonable and excessive nuisance due to traffic/vehicle noise, headlight shine at night, lighting in car parks, servicing infrastructure such as the LPG tank, laundry, waste disposal and re-supply, etc. Some suggested that conditions should be required to upgrade their private dwellings to mitigate noise.

*Comment by staff* – the overall volume of traffic expected to be using this facility is not large. It does exceed what is normally associated with development in the neighbourhood with the probable exception of the golf clubhouse that caters for functions and recreation. Changeover in shifts will produce peak traffic volumes and timing these to avoid the early morning period as indicated in the documentation lodged with the development application will significantly reduce impact to nearby residents. A noise report has been completed and contains a number of recommendations to mitigate nuisance as well as establishing relevant noise criteria. Council's Environmental Officer concludes that the noise assessment has been prepared in an acceptable manner and has provided conditions to apply to any approval for the proposed aged care facility. Compliance with these criteria and conditions should ensure that nearby residents are not unreasonably impacted.

- *Compliance with DCP criteria* – Some submissions commented on compliance of the development with provisions of the Council's Residential Zones DCP. Presentation to the street, setbacks, fencing, request for street trees to remain and extra landscaping, impact on character, potential impact of solar panels, and parking provision.

*Comment by staff* – The proposed facility is substantial compared to nearby development. Setbacks to Bent Street and side and rear boundaries meet the requirements for R5 zoned land. The front setback of development in the neighbourhood is variable and often larger than the 10 metre minimum front setback, especially on the northern side of Bent Street. The setback along the southern side of the street is less established due to the large vacant area of R5 on the golf club land. Recessing of the buildings into the slope or landform creates a solution to disguise the large size of the building. The development does not face the street, however the main entry is visible from Bent Street and so provides address to the street. The building form, front wall and roof line is broken up by changes to the profile consistent with the DCP to provide visual interest and reduce the bulk and scale of the development. This is important in light of the requirements of the site compatibility certificate. Retention of street trees and the majority of trees along the front setback of the subject site will further reduce the visual impact of the proposal. Opportunities to increase landscaping can be explored, however there are stringent requirements on vegetation management due to bush fire risk at the site, hence such opportunities are likely to be limited. Fencing satisfies the DCP, although being forward of the building there is potential for a conflict with visual amenity if the fencing is not mostly 'see-through' and dark-coloured. Fencing up to 1.8 metres high adjacent to the front of the site will be an open, pool style fence and as requested in some submissions a requirement for the fencing to be coloured black is recommended. Any solar panels located on the roof of the proposed development are not considered likely to provide significant visual nuisance due to reflectivity.

- *Provision of services and public infrastructure* – Some submissions requested that no street lights or kerb and gutter be required and that Council needed to ensure adequate water and sewer servicing,



especially given existing water pressure problems that area on this high part of South Grafton from time to time. Local residents value the dark night amenity and the enhanced opportunity to view the stars due to the lack of street lights. There was also some concern for the loss of golf cart access through the golf course from the west and increased danger for pedestrians that walk along Bent Street.

*Comment by staff* – No kerb and gutter or street lights are required. A public footpath along the frontage of the site is recommended to provide good quality access for persons accessing the facility and the adjacent golf club. This will assist with safe golf cart access and pedestrian function. Lighting of the footpath and car park areas will be necessary for safety of users of these spaces. Conditions are recommended to ensure lighting is designed, located and installed to prevent light overspill towards nearby residential dwellings. A range of conditions are recommended to ensure adequate servicing and connection to water and sewer reticulation, including assessment of water pressure. Options for connecting to water and sewer have been discussed with Council and details will be required to be submitted and approved as part of a Civil Construction Certificate.

- *Adequacy of DA information* – Some residents reported concern with the quality of plans and documents placed on exhibition. In addition, some comment was made that certain matters, such as public health, ecological assessment and wildlife management, stormwater management, erosion and sediment control plans, traffic assessment, noise assessment were not adequately addressed in information lodged with the DA or in later additional information.

*Comment by staff* - Documents lodged with the DA were substantial. Action was taken to provide electronic versions of the plans and related documentation to assist members of the public in reviewing the application. While some residents have challenged the adequacy of information submitted in general terms the information is deemed to be of sufficient quality to make a determination on this application with acceptable level of confidence. A range of conditions are recommended to ensure additional details are provided to Council prior to commencement of site works and that certain matters are properly managed during the operational phase of the development. Comment provided in other parts of this report address some of these concerns as well.

## COUNCIL IMPLICATIONS

### **Budget/Financial**

Fees paid with this development application contribute to Council's income stream. Assessment of the application utilises recurrent staffing budgets largely within the Environment, Development and Regulatory Services Section.

Section 64 contributions for water and sewer headworks will collectively yield over \$1M, however due to the type of development no Section 7.11 or 7.12 (formerly Section 94 and 94A) contributions apply in accordance with the Council's Contributions Plan 2011.

The development has been valued at \$21M and documentation submitted with the application indicates the facility will employ 167 people (144 full time equivalent) in a range of roles and make a significant contribution to the local economy without including wages. Refer also to 'Background' earlier.

### **Asset Management**

The proposed development will need to install new public infrastructure assets that will become Council assets. These items are likely to include sewer and water reticulation and associated infrastructure, as well as a footpath and bus shelter. No significant upgrade to Bent Street is required, however an assessment of pavement condition prior to the development is required to ensure any construction impacts on the road pavement are repaired without impact on the public purse.

**Policy or Regulation***Environmental Protection and Biodiversity Conservation Act 1999**Environmental Planning and Assessment Act 1979**Biodiversity Conservation Act 2016**Environmental Planning and Assessment Regulation 2000**State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004**State Environmental Planning Policy No 44 – Koala Habitat Protection**State Environmental Planning Policy No 55 – Remediation of Land*

CVC Development Control Plan – Development in Residential zones

**Consultation**

The DA was advertised and notified for public comment in accordance with the requirements within Council's Development Control Plan. The initial notice of the DA was undertaken in October 2018 and resulted in nine (9) submissions. A further notice to adjoining landowners was provided in January 2019 when updated supporting documents and photo montages were provided by the Applicant. This round of consultation yielded five (5) public submissions. In June 2019 following revision to the photo montages for the Bent Street elevations in response to NSW Rural Fire Service fire management requirements the landowners located opposite the site in Bent Street were notified of the changes. Two (2) written submissions resulted from the third notification process. The nature of comments remained reasonably consistent through each of the different rounds of comment despite a progressive decline in the rate of response. In the first and second round of comment one person supported the proposal. All other submissions raised issues to be considered/addressed or objected to the proposal. The issues presented in public submissions and response by Council officers is included at 'Key Issues' earlier. Copies of all public submissions are included at Attachment 9.

Council also referred this application to the Office of Environment and Heritage (now Department of Planning Industry and Environment, Biodiversity and Conservation Division), Rural Fire Service and the former Department of Planning and Environment (now Department of Planning Industry and Environment, Planning and Assessment). The Office of Environment and Heritage were provided with a copy of the Biodiversity Development Assessment Report and the KPoM for assessment and comment. The Rural Fire Service were referred the application as 'integrated development' to consider compatibility of the development with bushfire risk, and the Department of Planning, Industry and Environment (Planning and Assessment) were requested to consider the Koala Plan of Management for approval under the provisions of SEPP 44. All final agency comments with respect to this application are provided at Attachment 8.

The now Biodiversity and Conservation Division of DPIE (former OEH) provided detailed comment on both the BDAR and KPoM and the feedback resulted in a number of revisions of both of these documents before that agency, along with Council officers, accepted the adequacy of the reports. Final correspondence regarding the BDAR and KPoM from the Biodiversity and Conservation Division are attached to the report. Final correspondence from both the NSW Rural Fire Service on bushfire management requirements, and DPIE (Planning and Assessment) in providing approval to the KPoM, are attached to this report.

A number of internal staff referrals have occurred to ensure comment on the broad range of issues relevant to this development proposal as presented in the Applicant's documentation as well as in consideration of matters raised in public and agency submissions. A summary of internal staff comments is provided below.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Building Surveyor	Approve with conditions
Development Engineer	Approve with conditions
Environmental Health Officer	Approve with conditions
Biodiversity Officer	BDAR and KPoM acceptable and recommend conditions
Trade Waste Officer	Approve with conditions

**Legal and Risk Management**

The development application requires Council to consider a broad range of Commonwealth, State and local planning legislation in order to be satisfied that the development is acceptable. Development of the subject land has a considerable history of being controversial due to the proposed change from the existing open space/recreational use to a more intense, urban form. Any determination by Council is likely to be subject to scrutiny whether from the perspective of the Applicant or persons who have made written submissions. Any legal appeal to Council's determination in this matter would incur costs for Council.

**Climate Change**

The proposed aged care development is located on the edge of the South Grafton urban area and development of the scale proposed should be located in urban areas where servicing and accessibility are more efficient and involve less energy consumption for all concerned. The development is proposed to cater for 144-bedrooms and as mentioned in some public submissions the level of occupancy would be equivalent to 60 standard dwelling houses. Given that level of occupancy this is suggested to make the development very efficient from the perspective of energy consumption per capita both in terms of building materials, construction and operational aspects. Designing the facility as a single building reduces energy requirements for heating and cooling.

The site of the development is well above areas that are predicted to be affected by sea level rise and related climate change effects. The location on the edge of the urban area, whilst not optimal in terms of access to services, remains acceptable.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	<ul style="list-style-type: none"> <li>1. Selected plans</li> <li>3. Photo montages</li> <li>4. s4.15 Report</li> <li>5. Site Compatibility Certificate</li> <li>8. Agency submissions</li> <li>9. Public submissions (16)</li> </ul>
To be tabled	<ul style="list-style-type: none"> <li>2. Statement of Environmental Effects and Plans</li> <li>6. BDAR</li> <li>7. KPoM</li> </ul>
Confidential	Public submissions (3 of)

**Schedule 1 – Recommended Advices and Conditions for DA2018/0567****DEFINITIONS:**

**NRDC** the current civil engineering standards in accordance with the relevant parts of the following guidelines

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)
- e Sewerage Code of Australia (WSA 02 - 2002)
- f Clarence Valley Council 'MUSIC' Guidelines (Draft)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage.

WSA documents are subject to copyright and may be obtained from the 'Water Services Association of Australia'.

For 'MUSIC' guidelines and policy documents contact Council's development engineer.

**WSUD** means Water Sensitive Urban Design

Clarence Valley Council Development Control Plans include Sustainable Water Controls which identify the measures required in the various land use zones. Council endorses the Queensland 'Water By Design - Healthy Waterways' reference and technical guidelines for the design and construction of WSUD drainage systems.

The **WSUD** documents may be accessed via the 'Water-By-Design' web-site.

**Civil Works may include -**

- a Earthworks
- b Roadworks (including car parking and/or driveways)
- c Flood, Drainage works including **WSUD** and flood mitigation measures,
- d Structures
- e Water & Sewerage Reticulation

**RMS** means Roads and Maritime Services

**WAE** means works as executed

**ITP** means Inspection and Testing Plan in accordance with **NRDC**.

**TCP** means Traffic Control Plan in accordance with the **RMS** 'Traffic Control at Worksites' guideline.

**CC** means Construction Certificate

**Advice to Applicant**

Council in determining the subject application requests you to take note of the following advice and where pertinent to convey the advice to future owners or tenants:

1. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act, 1986. Value of works must be included on any Construction Certificate Application form.
2. If the premises requires or requests a larger water meter then the appropriate fee in Council's Fees and Charges will be applicable, less any capital contributions paid to date.
3. All construction and components must comply with the wind rating for the site which has been assessed at N3.
4. Any reference in this development consent notice to BDAR means the Biodiversity Development Assessment Report, Aged Care Facility, Part Lot 400 DP1153969, 425 Bent Street, SOUTH GRAFTON NSW, prepared by Land and Fire Assessments Pty Ltd, being Project No 15007, dated 10 May 2019 (Revision 3).
5. Any reference in this development consent notice to KPoM means the Koala Plan of Management, Grafton Aged Care Facility, prepared by GeoLINK for Croft Developments Pty Ltd, being Report No 3360-1021, dated 26 August 2019 (Issue 4).
6. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 72 ET demand on Council's water supply, and an additional 108 ET loading on Council's sewerage system. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 72 additional ET = \$352,656.00

Sewer Headworks \$6,700.00 x 108 additional ET = \$723,600.00

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

Where any works are required on Council's water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the Certificate of Compliance.

**Conditions of Consent**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans prepared by Croft Developments Pty Ltd for Job No 118 including:
  - General Notes, Legend and Locality Plan, Drawing No A001 (Revision 1), dated 3 August 2018;
  - Site Plan, Building Setout and Fencing, Drawing No A100 (Revision 3), dated 10 August 2018

- Carpark Setout Plan, Drawing No A101 (Revision 1), dated 3 August 2019;
- Overall Building Plan, Drawing No A200 (Revision 2), dated 10 August 2018;
- Overall Roof Plan, Drawing No A202 (Revision 2), dated 3 August 2018;
- Building Elevations – Sheet 1, Drawing No A300 (Revision 1), dated 3 August 2018;
- Building Elevations – Sheet 2, Drawing No A301 (Revision 1), dated 3 August 2018;
- Building Sections – Sheets 1, 2 and 3, Drawing No's A350, A351 and A352 (Revision 1), dated 3 August 2018;
- Wall Sections, Drawing No A353 (Revision 1), dated 3 August 2018;
- Front Portico Details, Drawing No A450 (Revision 1), dated 3 August 2018; and
- Civil Site Works Overall Layout Plan, Drawing No C100, dated 13 August 2018, prepared by CJ Arms and Associates,

as amended in red, or where modified by any conditions of this consent.

2. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
3. Monitoring, and reporting, of koala activity on the site of the aged care facility, the golf course and the koala feed tree compensatory planting areas shall be completed in accordance with Section 6.4 and 6.5.2 of the KPOM. Such monitoring and reporting shall commence within three (3) months of the date of this development consent and continue for five (5) years after the date of the issue of the Occupation Certificate for the aged care facility.

#### **Prior to issue of Construction Certificate**

4. The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
5. Civil Construction Certificate (**Civil CC**) approvals, issued by Council and/or accredited private certifier are required for this development.
  - A A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works.
  - B Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.
  - C Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
  - D Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
  - E A **Civil CC** application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
6. The proponent must purchase and/or otherwise retire the 13 Ecosystem Credits for PCT 1209 and the 17 Species Credits for koala as identified in Sections 4.3.2 and 4.3.3, respectively, of the BDAR prior to issue of any Construction Certificate for the aged care facility. Documentary evidence of these requirements having been finalised must be provided to Council by the NSW Biodiversity Conservation Trust prior to issue of any Construction Certificate for the aged care facility.

7. A detailed waste management plan (WMP) shall be submitted with the Construction Certificate indicating how solid waste generated during both the construction and operational phase of the proposed development will be managed. Refer also to Conditions No 41 and 88. Measures to re-use or recycle such waste are preferred. The WMP shall be approved by Council prior to issue of the Construction Certificate. The approved WMP shall be complied with during construction and operational phase. Waste management measures applicable to the construction phase shall be in place prior to the commencement of building works and measures relevant to the operational phase shall be in place prior to issue of the Occupation Certificate.
8. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **Civil CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Subdivision Certificate / Occupation Certificate. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.

Prior to commencement of works or issue of a **Civil CC**, a practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works:

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
  - b will not be affected by landslip either above or below the works.
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
9. An **ITP** must be submitted for approval with the application for a **Civil CC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

Where Council is the Certifying Authority for civil engineering works the applicant must give Council one (1) business day's notice to attend inspections.

Hold Point, Witness Point and Audit inspections must be documented by the ITP and include the following works (but not limited to):

- a Pre-start Meeting (attended by Council and/or Accredited Private Certifier, Principal Contractor and Supervising Engineer and/or Registered Surveyor)
  - b Erosion & Sedimentation Controls
  - c Earthworks
  - d Roadworks
  - e Stormwater Drainage
  - f Sewer
  - g Water
  - h Other Services
  - i 'On Maintenance' (Public Infrastructure)
  - j Practical Completion (Works on Private Property)
  - k 'Off Maintenance' (Acceptance of Public infrastructure by Council)
10. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.

11. All excavated or filled areas are to be battered to a slope of not greater than 45 degrees to the horizontal, or alternatively, be retained by a retaining wall. Where the height of the retaining wall exceeds 1m, a compliance certificate or other form of documentary evidence from a structural engineer stating the structural adequacy of the design is to be forwarded to the Principal Certifying Authority. All excavated and filled areas are to be drained to prevent surface water affecting neighbouring properties.
12. Any retaining walls and associated foundations, sub-soil drainage and the like shall be wholly located on the subject land. Details shall be provided prior to issue of the Construction Certificate.
13. Water Reticulation Design Plan that also addresses any water pressure boosting needs must be submitted for approval with the application for a **Civil CC**. The proposed location of the water service and meter must be shown on the drawings.

Connection to the public water reticulation system requires the approval of Council under the NSW Local Government Act and will be subject to the costs outlined in Council's list of fees and charges. Refer also to Condition No 66.

14. The design and function of the water distribution system must take into consideration the risk of contamination and microbial colonisation of legionella bacteria. To the end, provide hydraulic plans (plumbing details) to a suitable scale (eg 1:50) that have been designed and reviewed by a suitably qualified person in legionella control for the water distribution system with the proposed aged care facility from the initial water supply through to the final use.
15. Sewerage Reticulation Design plan must be submitted for approval with the application for a **Civil CC**.

Connection to the public sewerage reticulation system requires the approval of Council under the NSW Local Government Act.

Any upgrade to the existing sewerage service to the property will be subject to the costs outlined in Council's list of fees and charges.

16. A sewer junction must be provided to service the proposed new lot in accordance with the provisions of the Local Government (General) Regulation. Cutting in of sewer junctions can only be undertaken by Council's Water Cycle Section.
17. A concrete or paved footpath, 2m wide and no less than 1.2m wide where necessary to avoid tree removal is to be provided within and along the southern side the Bent Street road reserve from the western access driveway to the vehicular entry driveway of the Grafton District Golf Club in accordance with NRDC. Disabled access requirements are to be satisfied where practical and the path shall be designed and constructed such that no street trees need to be removed. Details are to be included in the **Civil CC** application.
18. A completed 'Design Certification Report' with supporting documentation, in accordance with the requirements of **NRDC** must be submitted to Council and/or Accredited Private Certifier with the submission of the **Civil CC** application.

Engineering plans for the **Civil CC** are required in electronic format to be confirmed with Council before lodgement.

19. Each of the driveway intersections must satisfy safe intersection sight distance requirements for the Bent Street speed zone in accordance with NRDC. Sight distance diagrams must be provided with the Construction Certificate plans.



20. Detailed design of the public footpath, bus stop and bus shelter are to be provided as part of the **Civil CC** application.

Comments of the bus company/ies servicing the area containing the development must be sought, and any reasonable requirements of the bus company are to be considered in the design and placement of these facilities for each stage (as applicable). A copy of the comments should be provided to Council. Council will consider these comments in assessing the **Civil CC**. It is preferred that any bus stop and shelter is located on the south side of Bent Street to aid access for persons accessing the aged care facility and to reduce nuisance and visual impact to nearby residents.

21. A pavement condition report is to be provided for Bent Street adjacent to the construction site access/s and for a distance of 75 metres in both directions from that access/s. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **Civil CC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction and operational phase of the development.

Payment of a bond is required to ensure maintenance of Bent Street, with the bond value to be determined in the pavement condition report, prior to commencement of works. Should the pavement condition become unsafe Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.

22. All stormwater falling on the property is to be collected within the property and discharged generally in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC and the Stormwater Management Plan (SWMP) prepared by CJ Arms & Associates as submitted as Annexure 1 with DA2018/0567. A revised SWMP must be submitted with the Construction Certificate for the building works that considers construction and operational phases and the full extent of the development, including extensions to car parking and vehicle manoeuvring areas required by NSW Rural Fire Service. The final SWMP shall demonstrate how the stormwater quality and quantity requirements in Table G1 and G2 in Part G of the Council's Development Control Plan for Development in Residential zones will be achieved.

The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge consistent with the above requirements and as identified in the Stormwater Outfall and Detention Report prepared by CJ Arms & Associates must be submitted with the final SWMP for approval by Council and/or Accredited Private Certifier prior to issue of the Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

The Stormwater Management Plan must include a management plan for any **WSUD** systems.

23. Prior to release of the Occupation Certificate, the driveway accesses and car parking areas shall be lit to provide safety for users consistent with the NSW Police 'Safer By Design' guidelines. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to issue of the Construction Certificate. Lighting and fixtures must be designed, located and installed such that light does not overspill to the residential dwellings on the northern side of Bent Street.
24. Prior to the issue of the Building Construction Certificates, the adequacy of car parks, driveways and vehicular accesses for the development is to be demonstrated by the submission of standard scale plans with manoeuvring paths shown in accordance with AS2890. This must clearly

demonstrate that the parking area will function as intended and cater for the vehicle access requirements of the NSW Rural Fire Service (refer to Condition No 96). The parking area plans are to be submitted and approved by Council or Accredited Private Certifier.

25. A detailed Erosion and Sediment Control Management Plan for the development must be submitted for assessment and approval by Council or Accredited Private Certifier, prior to issue of a **CC** for the relevant stage. This shall be compatible with the Stormwater Management Plan, Part H (Erosion and Sediment Control) of Council's DCP and must include procedures for site stabilisation (refer to Condition No 54), clean-up and restoration of public/private property and infrastructure, as well as maintenance requirements for any permanent soil management devices. All such remedial works are to be completed to the satisfaction of Council or Accredited Private Certifier. This shall include WSUD components of the proposed drainage system.
26. Measures to avoid and minimise impacts on biodiversity specified in Section 4.2 (including Table 13) of the BDAR and Section 6 of the KPoM must be incorporated into the Construction Environment Management Plan (CEMP) and the Operational Site Management Plan (OSMP), as relevant, with details of how these measures will be implemented to be submitted prior to issue of any Construction Certificate (the CEMP) and prior to issue of any Occupation Certificate (the OSMP). Refer also to Condition No 60.
27. An application to discharge liquid trade waste to Council's sewerage system shall be submitted with the Construction Certificate application for assessment. Detailed trade waste drainage plans shall be submitted with the application.
28. The grease arrestor/s and cooling pit shall be located in an area accessible for the pumpout contractor. Details are to be shown on drawings submitted with the Construction Certificate.
29. The design and construction of the food premises must comply with the Australia and New Zealand Food Standards Code – Standard 3.2.3 *Food Premises and Equipment*.
30. Copies of the following types of plans need to be submitted with the Construction Certificate for the canteen/kitchen:
  - a. floor plan - to a suitable scale (e.g. 1:50)
  - b. sectional elevation drawings - to a suitable scale (e.g. 1:50) showing all fittings and equipment.
  - c. mechanical exhaust ventilation drawings (i.e. plans, elevation and schematic diagrams, where applicable) - to a suitable scale (e.g. 1:50).
31. The following details for the kitchen shall be included on the Construction Certificate plans, drawings or as attached specifications to allow appropriate assessment:
  - a. finishes to floors, walls and ceilings
  - b. layout of all equipment, benches, fittings and fixtures, and mechanical ventilation
  - c. door, window and servery openings
  - d. customer and staff toilet details
  - e. process flow, from product received through to end-product delivered
32. A landscape and vegetation management plan for the allotment containing the aged care facility, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of a Construction Certificate that meets the requirements of clause C.22 in Council's Development Control Plan for Development in Residential zones. Where compatible with the general terms of approval of NSW Rural Fire Service suitable additional plantings within the front setback to Bent Street and the southern setback shall be incorporated. This could include climbing plants on a vertical structure or similar. In addition, the plan shall indicate the mature height,

location, quantity and species of all plantings, container size, garden edging/treatments, vertical plantings (as applicable), fencing details (refer to Condition 62), the planting method and maintenance program (including satisfaction of NSW Rural Fire Service bush fire management requirements).

#### **Prior to Commencement**

33. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
34. An easement for maintenance of structures, such as retaining walls, shall be registered over relevant adjoining properties prior to commencement of such works.
35. Signage warning of the posted speed limit (50 km/hr) and displaying text or a symbol informing drivers they are in a Koala zone shall be installed further north along Bent Street around the Seventh Day Adventist Church (approximately 240 metres from the golf course). This signage shall be installed by Council at the developer's cost prior to commencement of any site works associated with the aged care facility.
36. That the part of Lot 41 DP1084591, being a minimum of 1.88 hectares, required to provide additional land for koala feed tree compensation planting in accordance with Section 6 of the approved KPoM shall be transferred to ownership of the Grafton District Golf Course prior to commencement of any site works for the aged care facility.
37. The developer shall inform the Grafton-Ngerrie Local Aboriginal Land Council at least 5 working days prior to commencement of excavation works.
38. A vegetation management plan (VMP) for the compensatory koala tree planting zones required by, and consistent with, Section 6.3 and 6.5.1 of the KPoM, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of a Construction Certificate. The plan shall indicate the species and number of each species to be planted at each site, timing of planting, planting layout, ground preparation, planting method, irrigation measures, mulching, weed control, pest control, fertiliser/nutrient management, inspection frequency (minimum every week for the first month after planting), replacement and maintenance program for a five (5) year period from the date of the final compensatory planting. The VMP shall include maintenance and inspection requirements of these zones in perpetuity. The VMP must also specify who is responsible for each component of implementing the VMP. The VMP must be approved by Council prior to issue of any Construction Certificate for the aged care facility. All compensatory plantings must be planted in the respective zones prior to any removal of trees on the aged care facility site and as soon as practical.
39. A covenant shall be placed on the title of any land on which compensatory koala feed tree plantings are to be located that requires the owner of such land to allow for access and management of plantings in accordance with the requirements of the VMP and Condition No's 35, 36 and 38 in perpetuity. The covenant shall not be altered or removed without written approval from Council.
40. A restriction-as-to-user is to be placed over the title of any land on which compensatory koala feed tree plantings are to be located that prohibits the removal or damage of tree species, being Forest Red Gum (*Eucalyptus tereticornis*), Tallowood (*Eucalyptus microcorys*), Swamp Mahogany (*Eucalyptus robusta*) or Grey Box (*Eucalyptus molocanna*), without Council approval. The restriction shall not be able to be altered or removed without written approval from Council.

41. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
42. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited;
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign is to be removed when the work has been completed.

43. Where the work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves enclosure of a public place, the following must be provided:
- a A hoarding or fence must be erected between the work site and the public place.
  - b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
  - d Any such hoarding, fence or awning is to be removed when the work has been completed.
44. **Toilet Facilities** are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a A standard flushing toilet, connected to a public sewer, or
  - b An approved temporary chemical closet.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

45. Prior to building work commencing approval under Section 68 of the Local Government Act shall be obtained from Council for sewerage work, water plumbing and stormwater work. Hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
46. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.

### Construction Phase

47. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **Civil CC** has been issued by Council and/or Accredited Private Certifier.

A Private Certifier who issues a **Civil CC** must forward a copy of the Certificate along with a copy of the approved plans and **ITP** to Council two days before work commences on the development.

Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.

48. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained for a minimum of 67 car parking spaces (including 4 disabled parking spaces), service/loading bay and provision for 12 bicycle spaces in accordance with the DA approved plan and the Statement of Environmental Effects. The car parking classification is Class 1 for the staff parking area and Class 3 for the visitor parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
49. Accessible grades and paths of travel are to be provided from carparking bays through to the main entrance of the building in accordance with AS1428.1 and the Building Code of Australia. Details should be shown on Construction Certificate drawings for the aged care facility.
50. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
51. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued or the development is accepted 'Off Maintenance'.
52. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
53. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.
54. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of earthworks. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or Accredited Private Certifier in writing together with full 24 hour per day contact details.
55. Should any Aboriginal objects, relics or artefacts be uncovered during works on the site, all work is to cease and the NSW Department of Planning Industry and Environment, (Biodiversity and Conservation Division) shall be contacted immediately and any directions or requirements of the Department complied with.
56. **Working/Construction Hours** Working hours on the construction project being limited to the following:  
  
7.00 am to 6.00 pm on weekdays, 8.00 am to 2.00 pm Saturdays. No work permitted on Sundays and public holidays

The builder to be responsible to instruct and control sub contractors regarding the hours of work and the requirements of the Protection of the Environment Operations Act 1997 and Regulations.

57. All large and heavy vehicles associated with the construction of the aged care facility shall park on the subject land. Where practical all light vehicles shall also park on the site during the construction phase to avoid damage to the Bent Street road verge and conflict with pedestrians.
58. Imported fill shall not come from a contaminated source. Any imported fill shall be free of building and other demolition waste and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the *Protection of the Environment Operations Act 1997*, excavated natural material or the relevant waste resource recovery exemption from the NSW Environment Protection Authority (EPA). Written details of the source of fill shall be submitted to Council prior to fill being imported to the site.
59. No waste soil or fill material shall be taken from the subject land until such time as it is classified under the *Protection of the Environment Operations Act 1997*. No soil or waste fill from the subject land shall be placed on other land unless the work is either exempt development, has prior written development consent from Council or is otherwise authorised to be placed on land, for example placed at a suitably licenced waste management facility.
60. The clearing of trees and shrubs is to be restricted to the area to be built upon, the bushfire asset protection zones, stormwater drainage corridor or other areas identified to be cleared in the BDAR (refer also to Condition No 26). No further clearing of trees in association with the aged care facility is to occur without the prior written consent of Council.
61. **Site Safety Management** Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.
- All excavations and back filling associated with the erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.
62. Fencing up to 1.8 metres high adjacent to the front of the site shall be an open, pool style fence and shall be coloured black to minimise visual impact of fencing to nearby residents. No fences shall exceed 1.8 metres high on any part of the site. Fencing shall be kept to the minimum extent necessary on the site to enable movement of wildlife whilst ensuring safety of residents. See also Condition No 32.

#### **Prior to Subdivision Certificate**

63. Upon subdivision of the aged care facility site from Lot 400 DP 1153969 (refer also to Condition No 68) an easement is to be created to provide for conveyance of proposed inter-allotment drainage through the golf course. The easement/s shall be provided as follows:
- a The easement/s shall be in favour of the properties requiring the benefit; and
  - b Easement widths must be in accordance with **NRDC**.

The right to release vary or modify the easement is to be assigned to Clarence Valley Council where Council has a benefit. The easement shall be created prior to issue of any Occupation Certificate.

#### **Prior to Occupation Certificate**

64. The roof covering to the carport shall be located a minimum of 500mm from the side boundary to comply with Clause 3.7.1.6 of the Building Code of Australia.

65. A restriction as to user is to be placed against the title of the property restricting the occupation of the accommodation to the following:
- a) seniors or people with a disability,
  - b) people who live within the same household with seniors or people who have a disability, or
  - c) staff employed to assist in the administration of and provision of services to housing provided under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- The restriction is required to be registered prior to the issue of an Occupation Certificate.
66. The aged care facility shall be serviced by a fire sprinkler system to satisfy requirements of the Seniors Housing SEPP.
67. The existing sewer overflow gully shall be located to a position clear of the proposed extensions.
68. The aged care facility and all required Asset Protection Zones (APZ) shall be subdivided from Lot 400 DP1153969 onto a separate allotment or where part of the required APZ is located on adjoining land appropriate restrictions on use and management arrangements through a positive covenant shall be placed on the respective land titles to secure the APZ and management thereof for the life of the aged care facility to ensure consistency with the Planning for Bushfire Protection Guidelines. The Subdivision Certificate shall be issued prior to issue of an Occupation Certificate for the aged care facility.
69. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Building Occupation Certificate for any stage of the development. This may require payment of a fee.
70. Prior to the issue of the Occupation Certificate Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
71. Prior to issue of the Occupation Certificate, the applicant is to provide water supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
72. Prior to release of the Occupation Certificate sewerage reticulation infrastructure is to be provided to service the development, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy and NRDC.
73. The granting of an easement for sewerage purposes prior to issue of the Occupation Certificate, over the Council's sewer mains and any other sewer infrastructure to be dedicated to Council, within any lots in the development or any lots burdened by sewerage reticulation required to service the development.
- The width of the easement must be;
- a) Where the sewer is less than 1.5 metres depth, the easement width shall be 3.0 metres, except that for sewers which are less than 0.75 metres depth and serving only one residential lot, the easement width may be reduced to 1.5 metres,
  - b) Where the sewer is between 1.5 metres and 3.0 metres depth, the easement width shall be 5.0 metres,
  - c) Where the sewer is greater than 3.0 metres depth, the easement width shall be determined by Council following an assessment of maintenance access requirements;

Unless specific approval or direction is given by Council to an alternative easement width having regard to the particular circumstances of the development and the sewer infrastructure.

The easement shall be located centrally about a line drawn between manholes to an accuracy of 0.15 metres by a registered surveyor and supported by an engineering survey plan showing the dimensions between the sewer line and the extremity of the easement at each point where the easement dissects the boundary of the subdivided lot or lots or any change of direction.

74. Prior to the release of any Occupation Certificate, which dedicates infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
75. In accordance with **NRDC** and prior to the release of the Occupation Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

Where sewer works are involved the **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.

For the construction of **WSUD** systems the **WAE** shall include detailed records of the materials used, inspection and testing.

76. Prior to release of the Occupation Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required at each stage of the development (as applicable).

All work is subject to a maintenance period of six (6) months from the date of Practical Completion as certified by Council or Accredited Private Certifier. The maintenance period may be extended due to material or construction work compliance reasons or should the application for a Subdivision Certificate be delayed beyond the maintenance period. The maintenance period and bond amounts for **WSUD** components must be in accordance with the Council approved stormwater management plan.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or Accredited Private Certifier to confirm the compliance and performance of the constructed works, in accordance with **NRDC**.

Where constructed works to become public infrastructure have been controlled by Private Certifier Council must attend the 'Off Maintenance' inspection. The documentation, compliance and performance of the constructed works must be in accordance with **NRDC** for Council to accept responsibility for the infrastructure.

77. Approval to discharge liquid trade waste to Council's sewerage system must be obtained prior to issuing the Occupation Certificate.
78. All sinks and floor wastes in food preparation areas shall contain basket arrestors.
79. The garbage bin enclosure shall contain a floor waste basket arrestor.
80. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
81. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate



of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.

82. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.

### Operational/Ongoing

83. All liquid trade waste from the garbage bin enclosure, main kitchen, satellite kitchens 1 and 2, the café and the scullery, shall discharge through an appropriately sized grease arrestor or grease arrestors.
84. All liquid trade waste from the laundry shall discharge through an appropriately sized cooling pit which contains a lint basket.
85. Cleaners' sinks shall contain basket arrestors.
86. The hair salon chairs and sinks shall contain hair traps.
87. All used cooking oil shall be stored in a roofed and bunded area.
88. Waste collection services are only to be undertaken between the hours of 9.00am and 6.00pm Monday through to Saturday. No waste collection services shall be undertaken on Sundays.
89. Servicing of the development such as re-supply, laundry servicing, LPG re-fuelling and similar activities shall not occur between 6.00pm and 6.00am to reduce the potential for nuisance to nearby residents. Waste collection activities are subject to different requirements as specified in Condition No 88.
90. Recommended acoustic treatments contained within Section 6.0 of the Environmental Noise Impact Assessment, prepared by CRGAcoustics, dated October 2018, are to be implemented and/or complied with.
91. Noise emissions  $Leq$  15min d(B)A from the development must not exceed intrusiveness noise levels during each period as identified below;

*All Noise Levels are expressed as  $Leq$  15min d(B)A*

<b>PERIOD</b>	<b>Intrusiveness Noise Level = (RBL + 5d(B)A)</b>
Daytime (7.00am – 6.00pm)	<b>39</b> (RBL 34+5)
Evening (6.00pm – 10.00pm)	<b>37</b> (RBL 32+5)
Night Time (10.00pm – 6.00am)	<b>31</b> (RBL 26+5)
Shoulder Period (6.00am -7.00am)	<b>38</b> (RBL 33+5)

*RBL= Rating Background Level as determined by Environmental Noise Impact Assessment by CRGAcoustics, October 2018.*

92. Staff shifts shall not routinely change between the hours of 11.00pm and 6.00am to reduce the impact of vehicles entering and leaving the development on nearby residents.
93. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
94. A separate Development Application will be required for any advertisements that are not defined as 'exempt development'. The business identification sign located adjacent to the main driveway entry and shown on the Site Plan, being Drawing No A100 (Revision 2), prepared by Croft

Developments Pty Ltd, dated 3 August 2018, and the photo montage No 2, submitted to Council by A Fletcher and Associates on 29 November 2018 is approved.

95. The approved business identification sign shall not be internally illuminated.

**Integrated Development Requirements**

96. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 1 March 2019, consisting of three (3) pages, and as attached to this Notice of Determination.

END

<b>ITEM</b>	<b>6b.19.033</b>	<b>MOD2019/0031 – REQUEST TO MODIFY DA2014/0214 TO REMOVE THE CAFÉ FROM THE MOTEL</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

### SUMMARY

<i>Applicant</i>	Design King Company Architects
<i>Owner</i>	Mainrow Pty Ltd
<i>Address</i>	2 Queen Street, Yamba
<i>Submissions</i>	Yes – 21 submitters (some lodged 2 submissions)

Application DA2014/0214 (as reviewed by REV2015/0002) approved the demolition of the existing Surf Motel, and construction of a new 12 room motel and café at 2 Queen Street, Yamba. Council is now considering application MOD2019/0031 which seeks approval to modify the approved DA2014/0214 to remove the café from the proposal. The modification also proposes minor alterations to the exterior of the building.

This report provides a review of the modifications proposed, assesses the key issues, discusses the matters raised in the submissions and makes a recommendation for Council's consideration.

### OFFICER RECOMMENDATION

That:

1. Council is satisfied that the development subject to Development Application MOD2019/0031 is substantially the same as the original development approved under DA2014/0214; and
2. Development Application MOD2019/0031 be approved subject to changes to the conditions of consent for DA2014/0214 as detailed in Schedule 1 attached.

### COMMITTEE RECOMMENDATION

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Baker

Against: Novak

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

The subject land is zoned SP3 Tourist under the Clarence Valley Local Environmental Plan 2011 (LEP) and hotel and motel accommodation is permitted in this zone with consent. Hotel and motel accommodation is defined as:

*“a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:*

*(a) comprises rooms or self-contained suites, and*

*(b) may provide meals to guests or the general public and facilities for the parking of guests’ vehicles,*

*but does not include backpackers’ accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

*Note. Hotel or motel accommodation is a type of tourist and visitor accommodation”*

A summary of the two previous applications for the development being DA2014/0214 and REV2015/0002 is provided below. Details of the modifications to the development now sought under MOD2019/0031 are also provided.

**DA2014/0214**

DA2014/0214 was lodged with Council on 16 May 2014 seeking approval for the demolition of the existing Surf Motel building and construction of a boutique hotel at 2 Queen Street, Yamba.

Details of the original proposal (DA2014/0214):

The development proposed:

- Demolition of the Surf Motel consisting of 7 units and a manager’s residence
- Construction of a 4 story boutique motel including parking, reception, lobby and café at ground level, 12 motel rooms on the first and second floors, and a multi purpose rooftop area.
- The roof top multi-purpose area is intended for recreational use by motel guest only, including a pool, terrace, deck, and ‘club room’. This area is proposed to close at 10pm daily.
- Provision of 9 parking spaces on-site and a monetary contribution for 2 spaces (via a Voluntary Planning Agreement - VPA)
- A small café to service tourist and the general public located fronting Queen Street. Hours of operation proposed are 7am to 10pm daily.
- Employment of 2 permanent staff for the motel and café supported by casual and contract staff for cleaning and maintenance.
- The reception is proposed to be staffed until 10.30pm daily. That staff member will also supervise the rooftop area to manage use and behaviour.

Determination of DA2014/0214:

DA2014/0214 was refused by Council at its meeting on 17 February 2015, for the following reasons:

1. That the building is located within the required 6m front set back area as per DCP.
2. Non compliance with the LEP with the height limit.
3. Non compliance with the landscaping requirements as per DCP.
4. Non compliance with the parking provisions as per DCP
5. Non compliance with overshadowing as per DCP

**REV2015/0002**

A s82A review application was lodged on 27 April 2015 to seek a review of Council’s decision to refuse DA2014/0214.

While the development was still for a four storey, 12 unit boutique motel; a number of changes were proposed through the 82A review, including:

- The fire exit stairwell at the upper level was reduced and relocated to allow for an increased setback to the south-western boundary and reduce the perceived bulk from the street. This design change also reduced overshadowing on the balcony of Unit 3 Seadrift Apartments;
- The lift overrun was removed, resulting in a single level roof reaching a maximum height of 12.27m;
- The motel entry was set back by 2 metres to reduce the building bulk and allow clear sight lines to the property and to the driveway to the property at the south-east;
- The front wall of the ground floor café was changed to retractable glazing rather than a fixed structural façade as proposed in the original plan. The main building structure was set back 2m, so when the stackable doors are open, the increased setback will be apparent; and
- New balconies were added to the southern side of the building.

#### Determination of REV2015/0002:

REV2015/0002 was considered at the September 2015 Council Meeting (item no. 13.120/15 – copy of minutes attached). At that meeting, Council approved the review and granted development consent for DA2014/0214 (subject to conditions); and agreed to enter into a Voluntary Planning Agreement (VPA) to receive a monetary contribution to the value of \$34,120 in lieu of 2 parking spaces that cannot be provided on-site.

#### **MOD2019/0031**

MOD2019/0031 for a s4.55(1A) modification to DA2014/0214 was lodged with Council on 17 July 2019. The application seeks approval to modify the approved development by removing the café from the proposal and increasing the reception area and providing a storage area in its place. Removal of the café will require applicable conditions of consent to be modified or deleted. The modification also proposes minor alterations to the exterior of the building. A copy of the proposed plans is attached. The application states:

The works do not seek to alter the external envelope of the building with the exception of:

- Increasing the ground floor front setback by 2m (in order to better align the ground floor setback with the setback of the upper levels, and improve views along Queen Street),
- Reducing the depth of the eastern upper roof eave,
- Providing two privacy screens (in accordance with DA conditions),
- Changing the balcony glazing from clear to opaque,
- Reducing the width of the ground floor reception area with increased setback to eastern boundary,
- Minor increase in western boundary fence from 1.8m to 2m for fire safety and compliance reasons,
- Minor relocation of services adjacent to car park to allow for improved manoeuvring,
- Minor increase in landscaping to ground floor level and minor increase in landscaping at roof level,
- Lowering the ground floor level by 100mm (to assist with level access to reception area without the requirement of a ramp),
- Windows to motel rooms and communal areas have been made smaller, and
- Plant on the upper level has been screened with an enclosure (as per condition of consent).

A late request to the application was received on 26 September 2019 to modify Condition 2 of consent. The request is to amend the condition to require the VPA to be executed and delivered to Council prior to issue of the Occupation Certificate. This is discussed under Key Issues.

The current application was placed on exhibition on 2 occasions. There were 21 submitters in objections to the application, with some lodging 2 submissions in response to the separate notification periods. A copy of the submissions is attached. The key matters raised in the submissions are discussed in Key Issues below.

#### **KEY ISSUES**

##### **1. Is removal of the café substantially the same development?**

The majority of submissions to the application state that the café is an integral part of the development and approval of the development (including the variations to the standards and controls) was justified by the vibrancy that the café will bring to the street and the public benefit it provides. By removing the café from

the proposal the submitters suggest that the development is fundamentally different to the approved development, it is not substantially the same development, and that a new Development Application should be submitted for consideration of the amended proposal.

Comment:

To be able to be considered as a modification, in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act), the modified development needs to be substantially the same development to that originally approved. Section 4.55(1A)(b) of the EP&A Act states:

*(1A)(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)*

There are case law examples that provide a guide as what should be considered when determining if a modification is substantially the same development. The key aspects to consider are both quantitative and qualitative aspects of the modified development, including environmental impacts, and should include:

- Consideration of the numerical differences in all key aspects of the development;
- Consideration of non-numerical factors (eg visual impact, traffic impacts or changed land uses);
- Consideration of any changes relating to a material and essential feature of the approved development.

The outcomes of the case law on the matter are varied due to the individual merits of each proposal and the subjective nature of the test.

The numerical aspects of the development, including the height, setbacks, landscaped area, etc, are largely unchanged by the modification. The removal of the café from the proposal is not considered to result in additional environmental impacts. The key matters for consideration are the non-numerical factors, such as change in the land use, and changes to the material features of the approved development.

In the assessment of the previous applications, the café has been considered as part of the motel use and has not been assessed as a separate land use in accordance with the LEP or DCP provisions. The definition of a hotel and motel accommodation (provided above) includes that meals *may* be provided to guests or the general public. As such the café was not defined separately as a 'restaurant or café' under the LEP. Also, in assessing the parking requirements for the development, the parking was calculated for a hotel and motel use (including the café). For these reasons, the cafe appears to have been considered as a part of the motel use and not as a separate use. The development is still for hotel and motel accommodation (as defined) without the provision of meals. The primary purpose of the development is to provide short term accommodation on a commercial basis. The planning definition applicable to the proposed use is not changed by the current proposal, other than offering one less service being the provision of meals. In this regard, it is considered that the modified proposal is substantially the same development.

Additionally, section 4.55(3) states:

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The attached s4.55 assessment includes consideration of the relevant matters referred to in s4.15(1) of the EP&A Act. The submissions have stated that the café component of the development played a key role in Council's decision to approve the development at the September 2015 Council Meeting, viewing it an essential feature of the development. The written minutes of the meeting do not list the reasons for granting consent to the development. The audio recording from the meeting revealed that two of the four Councillors who spoke in support of the development suggested that the café would provide vibrancy to the locality and saw this as a benefit of the development. Other reasons for supporting the development were stated by the Councillors, including that the amended proposal under the review suitably addressed

the previous grounds for refusal and the concerns raised by the Councillors; as well as the benefits (including economic benefits) the tourist development would contribute to the area.

Council in considering the application needs to be satisfied that the development is substantially the same as the original development.

## **2. Timing of Voluntary Planning Agreement (VPA) for car parking**

Condition 2 of the existing development consent requires the VPA, which the developer has offered to enter into, to be executed and delivered to Council in accordance with the relevant sections of the EP&A Act. The condition does not specify when this is to occur. The applicant is requesting to amend the condition to stipulate that the VPA be executed prior to issue of the Occupation Certificate.

### Comment:

The current wording of condition 2 is silent as to when the VPA is to be executed. The applicant has been advised that in accordance with Council's Policy 'Planning Agreements – Car Parking Deficits' the VPA is required to be executed, and contributions paid, prior to issue of the Construction Certificate. The Policy was adopted in October 2015 after determination of REV2015/0002, hence why timing of execution of the VPA was not referenced in the previous report to Council. It is suggested that Council not modify condition 2 as proposed, in which case the VPA is to be executed prior to issue of a Construction Certificate in accordance with Council's adopted Policy. Hence, the recommended changes to Advices and Conditions contained in Schedule 1 do not include the requested change to Condition No 2.

## **3. Front setback**

The approved development has a 2m front setback to the main wall of the building with the front wall of the café to be of retractable glass doors to the front boundary, which when open will provide an outdoor dining area to the front of the main building wall.

The modification proposes to remove the café, redesign the ground floor level to increase the reception area and provide a storage area, and remove the retractable glass doors. The front setback of the wall at ground level is proposed to be 2m.

Submitters have objected to a 2m front setback as it does not comply with the minimum 6m front setback required under the DCP and is inadequate.

### Comment:

In approving DA2014/0214 (under REV2015/0002) Council assessed and approved the variation to the front setback of 2m to the building wall (see attached Council report). The justification for support of the reduced front setback in the report to Council for REV2015/0002 stated:

*"The adjacent buildings in Queen Street are forward of the 6m setback line; sight lines for vehicles and pedestrians have been improved (by both the redesign, and from the current situation); the café design provides an interesting and active street frontage; and it is acknowledged that the size and shape of the lot are factors constraining future development. For these reasons, the reduced front setback is supported."*

The proposed modification retains the 2m front setback to the building wall, as previously approved, and removes the café's retractable glass doors forward of the solid wall. It is noted that one of the reasons for supporting the variation was that the café provides an interesting and active street frontage. Whilst that reason is no longer applicable with the modified proposal, the other reasons for support of the reduced setback are still valid. The proposed modification is an improvement on the front setback variation as previously approved by Council.

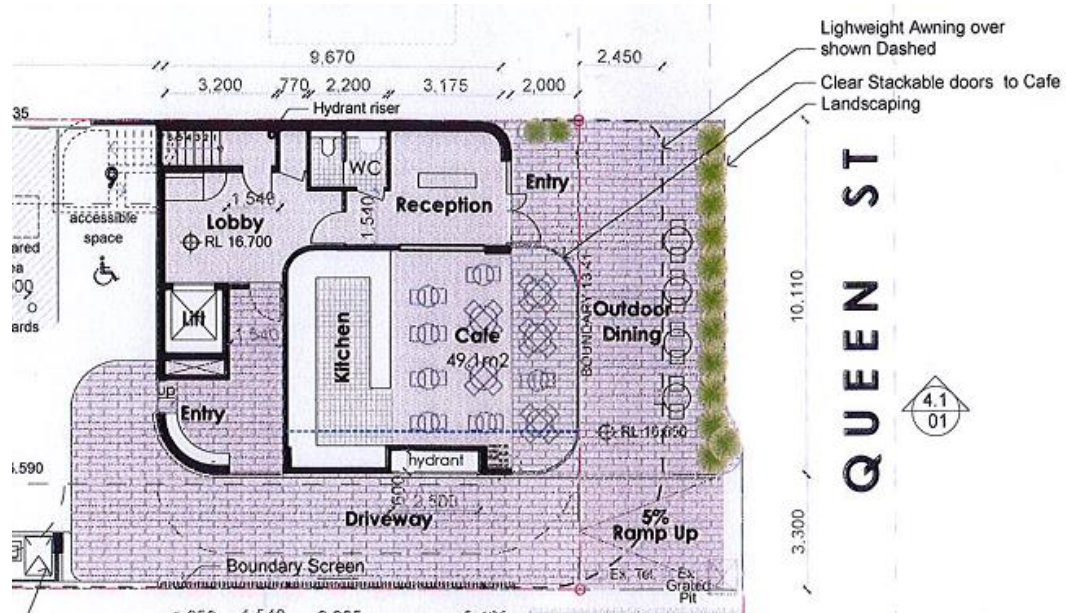
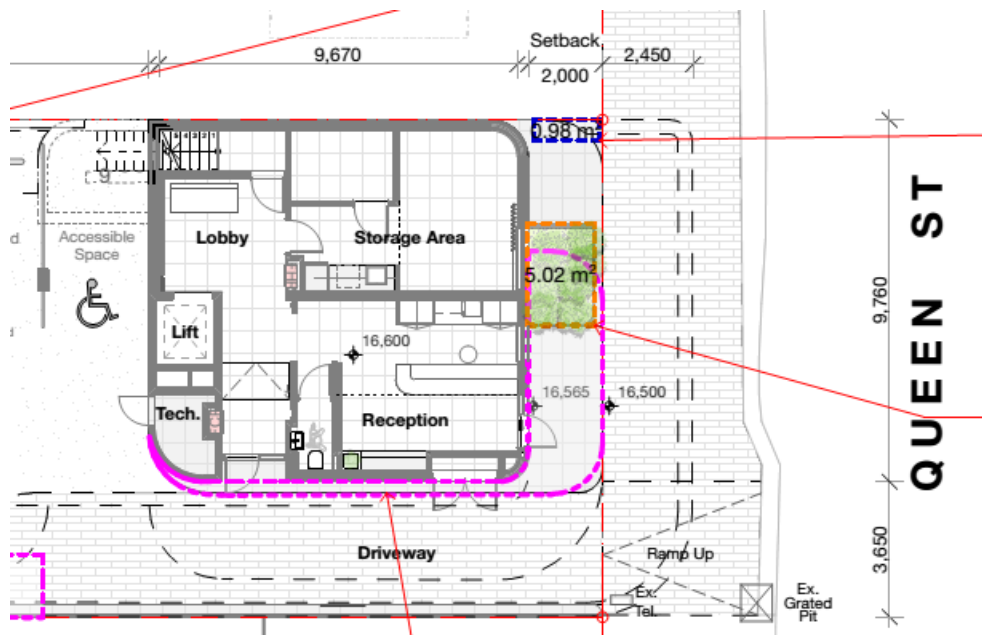


Figure 1 (above) shows the approved ground floor layout and Figure 2 (below) shows the modified proposal with the removal of the retractable glass doors (note the pink dotted line outlines the extent of the approved development)



**4. Landscaping**

The approved plans show a landscaped area of 10% over the site with 16m<sup>2</sup> landscaping at the ground level and 39m<sup>2</sup> at roof top level.

The proposal is to amend the location of the landscaping on-site with minor increases in the landscaping proposed (see attached plans). An additional 1.92m<sup>2</sup> of landscaped area at ground level is proposed.

Submitters have objected to the variation to the landscaped area, as it does not comply with the requirement of 35% of site area to be landscaped. Submissions state that landscaped areas should only include the deep root landscaping and not potted plants.

Comment:



In approving DA2014/0214 (under REV2015/0002) Council assessed and approved the variation to the landscaped area (see attached Council report). The justification for support of the reduced landscaped area in the report to Council for REV2015/0002 stated:

*“Given the location of this development (immediately adjacent to the main beachfront and parkland); and the fact that it is tourist accommodation rather than permanent residential accommodation; for this development, providing parking instead of landscaping is preferred.”*

The proposed modification is considered to be a slight improvement on the landscaping variation approved by Council. Additional landscaping at the front of the building will aid aesthetically. As Council has already supported the variation for the development, and the modification does not further reduce the variation, the above reasons for support of the variation are still valid.

## 5. Parking

The approved development includes requirements for the provision of 9 parking spaces on-site, and payment of a monetary contribution for 2 spaces that cannot be physically provided on-site via a Voluntary Planning Agreement (VPA); totalling 11 parking spaces for the development. The reduction of staff numbers required for the modified development changes the parking requirements in accordance with the DCP (see ‘Comment’ below).

Submitters have raised concerns that the proposed parking on-site is insufficient and parking for the development should not occupy the heavily utilised public parking area.

### Comment:

Part F of the relevant DCP has the requirement that hotel or motel accommodation requires 1 space per unit, plus 1 space per 2 employees, plus 1 service vehicle space. The applicant has claimed 4 credits for the existing Surf Motel, in accordance with the DCP.

The original number of employees required for the development was 4, being a manager, cleaner and 2 café employees. The total number of spaces calculated to be provided for the development under DA2014/0214 was 11. As the café is proposed to be removed, the number of employees required for the modified proposal is reduced to 2, being the manager and cleaner. The total number of spaces calculated to be required for the modified proposal is 10 (see below calculation).

Methodology	Calculation
a) Calculate the number of spaces required for the current land use, under the provisions of this DCP.	a) 9 (7 units, 1 managers residence, plus employees)
b) Determine the number of spaces that have been physically provided on site.	b) 5
c) Determine the number of spaces (if any) previously paid for through monetary contributions.	c) 0
d) Calculate the number of spaces credited to the subject land by $[a - (b + c)]$ .	d) $[9 - (5 + 0)] = 4$
e) Calculate the number of spaces required for the proposed land use, under the provisions of this DCP.	e) 13 (12 rooms plus 2 employees) + 1 service vehicle space = 14
The number of spaces to be physically provided on site is $[(e) - (d)]$ .	Total required to be provided on-site is $[14 - 4] = 10$

The applicant has not proposed to alter the approved parking arrangements under the modified development. The approval is for the provision of 9 on-site parking spaces and a monetary contribution for 2 spaces via a VPA; totalling 11 spaces for the development. As such, there may be an additional credit of 1 parking space to the site.

It is recommended that a condition of consent be imposed to clarify the minimum parking spaces required for the development (see Schedule 1 for recommended wording).

## 6. Submissions

The application was advertised, and notified (on two occasions) in accordance with the DCP. During the notification period, a total of 21 submitters lodged objections. The matters raised are summarised as:

- (a) The proposal is not substantially the same development & the changes are not minor– a new DA is required to consider the amended proposal
- (b) Non-compliance with DCP controls – setbacks, landscaping, height, etc
- (c) Parking – insufficient on-site parking
- (d) Noise – from traffic, balconies and rooftop recreation areas
- (e) Overshadowing – shadow diagrams supporting previous applications not accurate
- (f) Loss of coastal views – not adequately considered in original application
- (g) Uncertainty to storage space use – potential to be used as a hotel room or managers residence
- (h) Impact on Streetscape – building aesthetics and streetscape
- (i) Unsuitability of development on the site
- (j) Uncertainty to rooftop area use – will there be a function centre or gym?
- (k) Concern for description of development as a hotel
- (l) Awning should not overhang footpath with removal of the café
- (m) Lack of public benefit – use of public parking by guest and reduction of line of sight to coastal foreshore areas
- (n) The consent should be revoked in accordance with the provision of Division 4.9, Section 4.57 of the EP&A Act
- (o) The conditions of consent should be reviewed to remedy all non-compliances approved under the original development
- (p) Economic impact to neighbouring tourist accommodation – loss of income due to loss of sunlight

### Comment:

Matters listed above that have been addressed earlier in this report are not repeated here.

The proposal does not alter the overall building height or decrease setbacks. As such, potential impacts on view loss and overshadowing is unchanged by the modification. Potential impacts of the development and variations to the LEP and DCP have been assessed and the development approved under REV2015/0002. The assessment of the current modification application does not re-assess aspects of the approved development not affected by the modification, or amend conditions of consent not affected by the proposed modification. It is not the role of the modification process to assess the adequacy of the previous assessments relating to overshadowing or view loss impacts where these aspects or potential impacts are not changing. These matters should have been raised during assessment of the review and/or in appeal of that decision. If the modification is not supported, the development can still proceed as currently approved under DA2014/0214.

The use of the rooftop area is not proposed to change as part of the modification. The roof top multi-purpose area is intended for recreational use by motel guest only, including a pool, terrace, deck, and 'club room'. This area is proposed to close at 10pm daily. Condition 7 of consent was imposed to regulate the use of the roof top area, which reads:

- 7. *The rooftop recreation area is to be closed to guests by 10.00pm daily. The rooftop area is not to be used for functions or the service of alcohol from the bar area without further approval from Council.*

A motel is defined as 'hotel and motel accommodation' under the LEP (see definition above). The proposal no longer includes a café and no functions are proposed to operate from the rooftop area. Again, condition 7 regulates this, and it is not proposed to be amended by the modification. This requirement will assist in managing potential nuisance from use of the roof-top space.

The application only indicates the room on the ground floor as a storage area. If the application is supported, it is recommended that a condition of consent be imposed restricting the use of the storage area so it cannot be used for human habitation. See discussion under point 7 below.

The approved development includes a lightweight cantilevered awning extending over part of the footpath area as well as over part of the internal driveway. The awning is not proposed to be modified as part of the application. No outdoor dining was approved as part of the original DA (it is subject to a separate application to Council). The awning, as approved, does not appear to have been approved for the purpose of the café only.

Section 4.57 of the EP&A Act does enable Council, having regard to the LEP, to revoke or modify a development consent if that consent should not be carried out or completed, or should not be carried out or completed except with modifications. The clause is interpreted to refer to matters relating to the LEP only, for which the development consent is generally consistent with, apart from a variation to the maximum height that has previously been approved. The other variations approved for the development are variations to the DCP controls. There would need to be very sound reasoning to revoke or modify an approved consent and Council officers are unaware of any justifiable reasons for the current consent to be revoked as suggested in submissions. Compensation may also need to be provided to the developer in accordance with the section of the Act. It is recommended that in the event that Council is considering revoking any consent that it should first obtain legal advice. Council officers are not recommending that any consent relating to the subject land be revoked.

An assessment of the submissions is provided in the attached s4.55 assessment.

#### **7. Advices and conditions to be modified, deleted or inserted**

The application proposes the following conditions to be modified or deleted in response to the modified application:

- Condition 1 - Approved plans – modify to reflect modified drawings numbers.
- Condition 2 - VPA - modify to complete prior to the issue of the Occupation Certificate.
- Condition 10 - Height of fences – modify to allow western boundary fence to a height of 2m.
- Condition 66 - Food safety – delete.
- Condition 67 - Additional sink – delete.
- Condition 68 - Floor tiles grout – delete.
- Condition 69 - Mechanical equipment – delete.
- Condition 71 - Dishwasher in food prep areas – delete.
- Condition 72 - Light fittings in food prep areas – delete.
- Condition 73 - Kitchen counters - delete.
- Condition 74 - Food appliances - delete.
- Condition 78 - Sink arrestors - delete.
- Condition 79 - Grease arrestor – delete.
- Condition 80 - Liquid trade waste – delete.

#### Comment:

If Council is supportive of the changes proposed, including removing the café from the development, the conditions can be modified or deleted as detailed above. Council officers are recommending to Council that Condition 2 not be modified as proposed to ensure consistency with the adopted Council Policy (see earlier discussion at Item 2).

Additionally, the following advices and conditions can be deleted, modified or inserted:

- Advice 1 - Section 64 headworks contributions – update calculations and amounts for the modified proposal (note – the method for calculating the contributions has been recently amended)
- Advice 13 – café inspection requirements - delete

- Condition 9 – outdoor dining – delete
- Insert new condition – a condition should be added to prohibit the use of the storage and office areas for human habitation, whether for tourist use or use by an on-site manager
- Insert new condition – a condition should be added to clarify the minimum parking requirements for the development

Refer to attached Schedule 1 which details the exact changes discussed above.

## COUNCIL IMPLICATIONS

### Budget/Financial

No additional financial implications to Council will result from the modification proposed. The financial implications of the VPA have been considered under the previous applications. No changes to the VPA are proposed. Assessment of the application has utilised budgetary allocation under recurrent staffing budgets.

### Asset Management

N/A

### Policy or Regulation

The following planning and legislative instruments were considered:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000*
- *Clarence Valley Local Environmental Plan 2011*
- Council's Environmental Protection, Recreation and Special Uses Zones Development Control Plan
- Council's Policy: Planning Agreements – Car Parking Deficits

### Consultation

Internal consultation was as follows.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Comments provided
Senior Building Surveyor	Comments provided
Environmental Health Officer	Comments provided
Liquid Trade Waste Officer	Comments provided

### Legal and Risk Management

Council's decision may be appealed to the Land and Environment Court or the Applicant may seek a review of the determination. Any appeal process through the Court would involve costs to Council.

### Climate Change

Removal of the café and the other modifications proposed to the approved motel development are not considered to contribute to climate change, or be adversely impacted by additional risks and hazards arising from climate change. The construction of a new building compliant with current construction codes will provide a structure that is more resilient against storms and similar severe weather events that will occur in the future whether or not they are attributable to climate change.

Prepared by	Sarah Sozou, Development Planner
Attachment	A. Amended Plans B. Notice of Determination REV2015/0002 of DA2014/0214 C. Council report for REV2015/0002 – Item No 13.120/15 - September 2015 D. Section 4.55 Assessment E. Submissions from second notification period F. Submissions from first notification period

**Schedule 1  
Draft Advices and Conditions of Consent for MOD2019/0031**

**Advices**

1. To obtain a Certificate of Compliance for water and or sewer works, Council will require payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The current contributions are:

~~Water Headworks \$5,207.40 x 2.4 ET's = \$12,497.76~~  
~~Sewer Headworks \$10,414.80 x 5.80 ET's = \$60,405.84~~  
**Water Headworks \$4,898.00 x 1.2 ET's = \$5,877.60\***  
**Sewer Headworks \$11,977.00 x 1.8 ET's = \$21,558.60\***  
*(\*note – amounts current as of October 2019)*

Where any works are required on Council's water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the certificate of compliance.

*[Modified by MOD2019/0031]*

13. ~~The café must be inspected by Council's Environmental Health Officer PRIOR to opening for trade.~~

*[Deleted by MOD2019/0031]*

**Conditions**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulation thereunder, the Building Code of Australia (BCA) and being generally in accordance with the following approved plans:
- ~~Drawing Number 5.4 Issue DA-E Setback & height Diagrams, dated 14/7/2015~~
  - ~~Drawing Number 3.1 Issue DA-E Elevations North – Queen Street, dated 14/7/2015;~~
  - ~~Drawing Number 3.2 Issue DA-E Elevations East, South & West, dated 14/7/2015;~~
  - ~~Drawing Number 4.1 Issue DA-E Section 01, 02, 03, dated 14/7/2015;~~
  - Drawing Number 1.5 Issue DA-D Demolition Plan, dated 30/03/2015;
  - ~~Drawing Number 2.2 Issue DA-E Ground Floor Plan, dated 30/03/2015;~~
  - ~~Drawing Number 2.3 Issue DA-D First Floor Plan, dated 30/03/2015;~~
  - ~~Drawing Number 2.4 Issue DA-D Second Floor Plan, dated 30/03/2015; and~~
  - ~~Drawing Number 2.5 Issue DA-D Roof Floor Plan, dated 30/03/2015;~~
  - **Drawing Number S4.55-01, Issue F, Site Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-02, Issue F, Ground Floor Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-03, Issue F, First Floor Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-04, Issue F, Second Floor Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-05, Issue F, Roof Terrace Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-06, Issue F, Roof Plan, dated 15/08/2019;**
  - **Drawing Number S4.55-07, Issue F, Elevation North – Queen Street, dated 15/08/2019; and**
  - **Drawing Number S4.55-08, Issue F, Elevation East, South and West, dated 15/08/2019.**
- or where modified by any conditions of this consent.

*[Modified by MOD2019/0031]*

9. ~~The outdoor street dining proposed has not been approved as part of this application. It is not to be used for that purpose without further approval from Council.~~

*[Deleted by MOD2019/0031]*

10. The maximum height permitted for any boundary fence installed on the site is 1.8m, ***with the exception of the western boundary fence which is not to exceed 2m in height.***  
***[Modified by MOD2019/0031]***
66. ~~Council must be notified of the business's Food Safety Supervisor prior to operation of the business.~~  
***[Deleted by MOD2019/0031]***
67. ~~Another sink is required separate from the food preparation sink. This sink is to be placed adjacent to the dishwasher and used for rinsing etc. The designated food preparation sink and hand wash sink cannot be used for rinsing dirty dishes etc.~~  
***[Deleted by MOD2019/0031]***
68. ~~The ceramic floor tiles and wall tiles must be grouted with EPOXY grout and finished flush with the surface of the tiles.~~  
***[Deleted by MOD2019/0031]***
69. ~~The mechanical kitchen exhaust hood shall comply with Part F4.12 of the National Construction Code 2011 Building Code of Australia unless documentation is provided to Council verifying that power inputs of cooking apparatuses do not exceed those specified in Part F4.12. A compliance certificate from a registered professional engineer is required to verify compliance of mechanical exhaust system with AS1668.2.~~  
***[Deleted by MOD2019/0031]***
71. ~~The dishwasher must be a commercial type and shall be fitted with a thermometer clearly visible to the operator indicating temperature for the washing and rinsing operation or be fitted with an automatic pilot light visible to the operator which indicates that the water in the heating device has reached the correct temperature.~~  
***[Deleted by MOD2019/0031]***
72. ~~Light fittings in the food preparation, food service and food storage areas, including those that are part of equipment used to process or display open food, shall be—~~  
~~— designed and constructed to prevent contamination of food should the globe or tube shatter; and~~  
~~- free from any features that would harbour dirt, dust or insects or make the fitting difficult to clean.~~  
***[Deleted by MOD2019/0031]***
73. ~~Equipment, shelves, counters and the like, where not located on plinths, shall be supported on approved metal legs not less than 150 mm above the floor or on wheels or castors to permit movement for cleaning.~~  
***[Deleted by MOD2019/0031]***
74. ~~All hot and cold food appliances shall be equipped with an externally located, easily visible, industrial type thermometer, accurate to 1°C, to enable monitoring of the appliance's operating temperature.~~  
***[Deleted by MOD2019/0031]***
78. ~~All sinks and floor wastes in the kitchen area shall contain basket arrestors.~~  
***[Deleted by MOD2019/0031]***
79. ~~All liquid trade waste from the kitchen shall discharge through a 1000L grease arrestor.~~  
***[Deleted by MOD2019/0031]***
80. ~~Detailed liquid trade waste drainage plans shall be submitted with the Construction Certificate.~~  
***[Deleted by MOD2019/0031]***

**Additional conditions**

81. *The storage and office areas on the ground floor level are not to be occupied for human habitation, whether for tourist use or use by an on-site manager, without further approval from Council.*  
*[Inserted by MOD2019/0031]*
82. *The development requires a minimum of 10 car parking spaces. The parking is proposed to be provided through a combination of on-site parking and a monetary contribution in lieu of parking that cannot physically be provided on-site.*

*[Inserted by MOD2019/0031]*

<b>ITEM</b>	<b>6b.19.034</b>	<b>DA2019/0331 – 50 INDEPENDENT SENIORS LIVING APARTMENTS, 56–58 YAMBA ROAD, YAMBA, LOTS 1 &amp; 2 DP829279 &amp; LOT 11 DP556436</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

**SUMMARY**

<i>Applicant</i>	Uniting C/o All About Planning Pty Ltd
<i>Owner</i>	The Uniting Church in Australia Property Trust (NSW)
<i>Address</i>	56-58 Yamba Road, Yamba (and 4 Freeburn Street, Yamba)
<i>Submissions</i>	One

Council is in receipt of Development Application DA2019/0331 which proposes to construct 50 independent seniors' living apartments fronting Yamba Road and adjacent to the existing Caroon aged care facility off Freeburn Street, Yamba. Caroon is owned by The Uniting Church in Australian Property Trust which is a registered social housing provider. The proposal will have car parking at ground level and 50 apartments on the above three levels consisting of 32 x 2 bedroom units, 4 x 3 bedroom units and 12 x 1 bedroom units. The building will be 11.7 metres high to the roof (and 12.7 metres to the top of the elevator shaft and skylights) which exceeds the 9 metre building height specified in Height of Building Map of the LEP and 8 metre height specified in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Living SEPP); an application to vary the height limit has been applied for under the proposal.

During the exhibition of the application, Council received a submission from an adjoining neighbour against the proposal. The key issues raised are the overall height, overlooking of private open space areas, overdevelopment, building design and overshadowing.

The report provides an assessment of the application including the application to vary the maximum height and issues raised and a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That:

1. After consideration of the application under clause 4.6 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) Council approve a variation to the 9 metre maximum building height prescribed by clause 4.3 of the Height of Buildings Map in the CVLEP and 8 metre maximum height specified in State Environmental Planning Policy (Housing for Seniors or People with a disability) 2004.
2. DA2019/0331 be approved subject to the imposition of conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Williamson, Baker

Against: Nil



**LINKAGE TO OUR COMMUNITY PLAN**

Theme	1 Society
Objective	1.4 We will have access and equity of services
Strategy	1.4.2 Encourage the supply of affordable and appropriate housing

**BACKGROUND**

DA2019/0331 was lodged with Council on 19 June 2019 and placed on exhibition between 25 June and 18 July 2019. The development application has been lodged under the provisions of the (Senior Living SEPP). It is proposed that Lots 1, 2 and 11 are to be consolidated with the adjoining Uniting Residential Care Facility to make one site.

The subject land is zoned part R2 Low Density Residential under the provisions of the Clarence Valley Local Environmental Plan 2011 (LEP). For the purposes of this application the development is defined as seniors housing in the form of self-contained dwellings. Seniors Housing is a form of Residential Accommodation which is permitted with consent within the R2 zone under the provisions of the LEP.

*As defined: a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

The building will be four storeys in height being 11.7 metres to the top of the roof of the level 4 apartments and 12.7 metres to the top of the elevator overrun and skylights. The four storeys will consist of:

- A ground level with landscaped courtyards, central entrance, lift lobby, parking and storage area;
- Levels 2 and 3 occupied by a mix of seniors living apartments;
- Level 4 occupied by 10 apartments recessed from the Yamba Road frontage to reduce the bulk and scale as seen from Yamba Road.

The apartments will have kitchens and laundries to allow for independent living. Meals and laundry facilities may be available to those residents transitioning into the residential aged care facility.

Access to the 50 units will be via two driveways off Yamba Road and the ability to undertake right hand turn in and right hand turn out of the driveways has been raised as an issue which is discussed later in this report.

The overall height of around 50% of the building will be 11.7 metres (above LEP 9 metre height requirement and above the 8 metres required under the Seniors Living SEPP). This is discussed further in the key issues section of this report.

The front setback and side setbacks to adjoining properties will be 6 metres with landscaping to provide screening to adjoining properties. The building will be set back 12 metres to the existing aged care facility at the rear.

Where the development application is made by, or is made by a person jointly with, a social housing provider, 10 parking spaces are required under the Seniors Living SEPP at a rate of 1 car space for each 5 dwellings; car parking for 53 vehicles are proposed by the development. The SEPP overrides Council's DCP parking requirements.



Figure 1: Location Map - Yamba



Figure 2: Aerial view of Uniting site



BEV2 BIRDS EYE VIEW FROM NORTH-WEST

**Figure 3: Concept view from Yamba Road looking east**



RFV3 BIRDS EYE VIEW FROM NORTH-EAST

**Figure 4: Concept view from Yamba Road looking west**

## KEY ISSUES

### Height variation, visual, privacy and overlooking impacts

The applicant has included an application under Clause 4.6 – Exceptions to Development Standards of the CVLEP with the application.

The proposal is seeking a variation to the height both under the Seniors Living SEPP which sets a maximum height of 8 metres in residential zones and the height specified on the Height of Building Map of the Clarence Valley Local Environmental Plan 2011 (the LEP) which is 9 metres for this site.

Clause 4.6 of the CVLEP enables a consent authority, in this case the Council, to grant development consent for a development that contravenes a development standard, such as the height of buildings criteria, when Council is satisfied about the following matters:



- (a) That the applicant has made written request seeking to justify the contravention of the development standard and such written request has adequately demonstrated:
  - (i) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (ii) that there are sufficient environmental planning grounds to justify contravening the development standard;
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and
- (c) The concurrence of the Secretary has been obtained.

[NOTE: The NSW Department of Planning Circular PS 08-003, dated 9 May 2008, notified that Council can assume the Director-General's concurrence where an environmental planning instrument has adopted clause 4.6 of the Standard Instrument. The CVLEP adopts clause 4.6 of that Instrument.]

The objectives of clause 4.6 are as follows:

- (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development;
- (b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The height of buildings development standard is established within clause 4.3 of the CVLEP. The objectives of this clause are as follows:

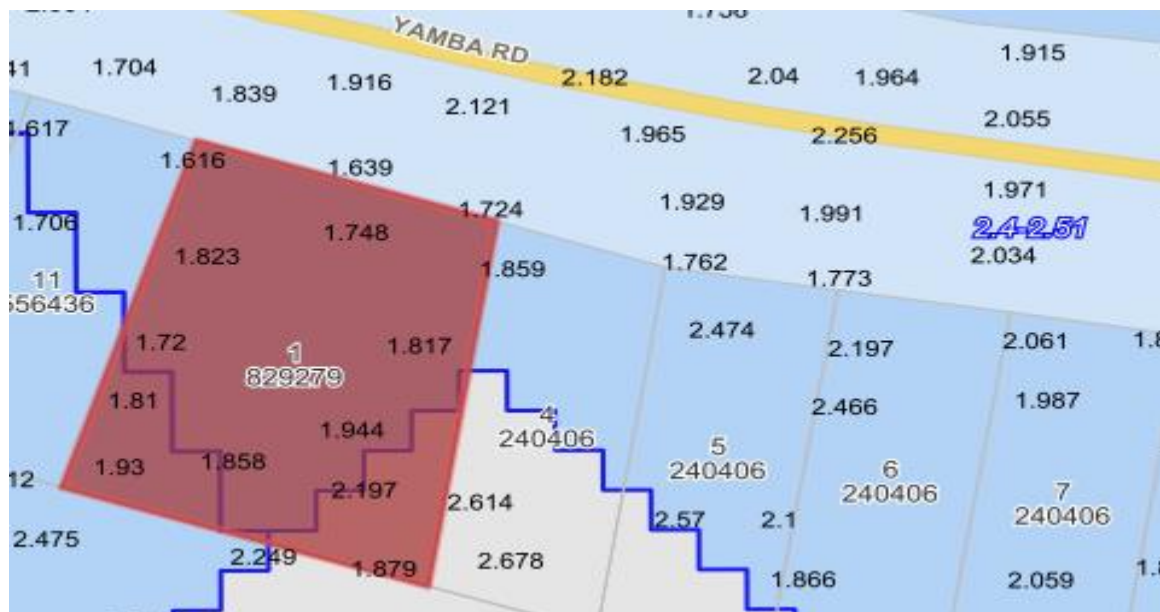
- (a) To maintain the low scale character of towns and villages in the Clarence Valley;
- (b) To protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.

#### Comment

The main reason for the height variation appears to be maximising the unit yield by allowing the apartments on the first storey to be above the habitable floor area required for flood affected lots. The predicted flood height and existing ground levels are shown below.

The height variations are estimated by the applicant to be 38.8% to the Seniors Living SEPP requirement and 23% variation to Council's LEP. The actual height variations to the roof height are estimated to be 46% ( $11.7 - 8 / 8 \times 100 = 46\%$  and  $11.7 - 9 / 9 \times 100 = 30\%$ ). The height to the elevator overrun and skylights is calculated to be a 41% variation to the CVLEP height and 58.7% to the Seniors Living SEPP. It is noted that the natural ground levels vary slightly over the site and these figures will vary accordingly.

The applicant has not considered the heights of the elevator overrun and top of the skylights which appears to be an oversight. It is noted that these structures are minor variations in regard to the height of the building and do not significantly add to the bulk and scale of the building nor result in privacy, shadowing or overlooking issues and can be considered in the assessment of the application.



**Figure 5: Flood and land heights**

The habitable floor level is required to be 500mm above the higher 1:100 flood level of 2.51 metres. To meet Council's Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 3.01 metres Australian Height Datum (AHD). Based on an average ground height of 1.8 metres the habitable floor level is required to be approximately 1.21 metres above the natural ground level for this site. The height of Level 2 of the building will be 2.7 metres above the ground level.

Under the Residential Zone Development Control Plan clause C15 applies to a Variation to the Maximum Height of a Building and provides:

*A variation to the maximum height of buildings as identified on the Clarence Valley LEP 2011 Height of Buildings Map may be achieved by using clause 4.6 (2) Exceptions to development standards in the following circumstances:*

*(a) to meet flood control requirements of Part D of this DCP only if the fill required is less than 1 metre in height*

...

The applicant is not proposing to fill the site, however this reasoning has been included in the justification for the applicants 4.6 variation.

This allowance would potentially reduce the overall height variation by 1 metre in height. The applicant's proposal to include ground level parking negates the requirement to fill the land and achieve a habitable floor level as per Council's Floodplain Management Controls.

A summary of the applicant's justifications for the 4.6 variation are:

- The variations are moderate and not result in any unacceptable impact on adjoining properties or public areas,
- The stepping of the upper level results in just under half of the building being compliant with the required building height,
- The proposal is consistent with the objectives of the R2 Low Density Residential Zone:
  - *To provide for the housing needs of the community within a low density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- The proposal is consistent with the Seniors Living SEPP objectives:

- *The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.*
- The proposal does not create any unreasonable unmitigated impacts on adjoining properties in regard to bulk and scale, privacy and overlooking,
- The side boundaries being 6 to 9 metres are double or triple Council’s DCP requirement of 3 metres, the dense and quality landscaping proposed will prove screening to adjoining properties,
- Solid railings on the balconies reduce visual or acoustic privacy impacts,
- The development has been assessed in accordance with the requirements of SEPP 65 – Design Quality of Residential Apartment Development and a design report has been submitted,
- The proposal is consistent with the objectives of Clause 4.3 of the CVLEP,
- The proposal will not create an undesirable precedent or cumulative effect,
- There is a clear benefit from the proposal given the increasing demand for aged care facilities, and
- The proposal includes 10 NSW Government Social and Affordable Housing Fund (SAFH) units.

The proposed variation to the height requirements and justification to the CVLEP and Seniors Living SEPP when considered against the first of the objectives of 4.3 of the CVLEP would generally be inconsistent with maintaining the low scale character of towns and villages in the Clarence Valley. It is noted that the Design Verification Statement provided with the development likens the building to that of *low-density buildings in coastal towns, such as motels, apartments and small civic buildings, emphasising their use of the horizontal emphasis and light and dark tones to additionally lower the visual scale of the buildings.*

In this respect the development is one that will dominate the streetscape in this location though not be imposing due to the overall design of the building, recessing or stepping of the upper level to around 17 metres from Yamba Road, generous setbacks and provision of landscaping which achieves reduced bulk and scale visual impacts.

The second objective of Clause 4.3 of the CVLEP is *to protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.* The objection from the adjoining neighbour identified concerns about the potential loss of privacy and overlooking from the balconies to their private opens space areas including their swimming pool.

Under the Residential Zones DCP setbacks are required to meet the following objectives:

- *sufficient separation of buildings to provide privacy and sunlight access for neighbouring dwellings,*
- *buildings setback from the street to provide adequate space for landscaping, privacy and an attractive streetscape.*
- *a design that reduces the apparent bulk of the new buildings.*

For the R2 zone buildings setbacks are required as per the following table:

TABLE C5

Maximum height of building (metres)	Side & rear setbacks
Up to 6.5m	900mm
Over 6.5m and up to 9m	1.5 metres
Over 9m and up to 12m	3 metres

**Figure 6: R2 zone setback requirements**

For buildings over 9 metres and up to 12 metres the required setback is 3 metres; the proposal provides minimum side setbacks of 6 metres. The proposal can be considered as being generally consistent with the

DCP objectives and would also meet the requirements for buildings over 9 metres and up to 12 metres in height.

There are potential impacts from overshadowing of the private open space areas of adjoining property at 52 Yamba Road in winter afternoons as depicted in the shadow diagrams provided.

The Residential Zones DCP is silent in regard to the shadow diagrams though there are provisions that are specific to the Yamba Hill section of the DCP. Parts of Yamba Hill that the provisions apply to have a maximum height of 12 metres and the general principles of the provisions can be considered under this application. Section P7 of the DCP (Yamba Hill Controls) provides that *'at least half the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter'*. The shadow diagrams provided with the proposal show that the shadowing impacts are not apparent until after 2pm in June. The impacts on 52 Yamba Street are not inconsistent with the Yamba Hill Controls.

The proposed landscaping will also impact on the shadowing of the adjoining residences though it is noted that the site has a number of existing large trees that already provide afternoon shading. A detailed landscape plan shows that the proposed plantings will be dense and provide a high degree of privacy once established. The application will be conditioned to comply with the landscape plan and planting details.

Overall the proposal is considered to be consistent with the setback objectives of the DCP in that sufficient separation of buildings is provided and there is sufficient space for landscaping to achieve a suitable level of privacy and sunlight access for neighbouring dwellings. The setbacks, landscaping and design of the building will assist in reducing the apparent bulk and scale of the new building.

### **Traffic**

Access to and from the 50 units is directly onto Yamba Road via two separate driveways that are approximately 22 metres apart.

### Comment

The applicant was advised that it is likely that access to the development will be restricted to left in / left out vehicle movements, to and from the site. The applicant has stated that this is unnecessary, and that the existing traffic conditions on Yamba Road do not warrant this restriction. The applicant has provided manoeuvring diagrams and a SIDRA traffic analysis for access to and from the development site on to Yamba Road. Council's Development Engineer has advised that further analysis is required to determine the traffic impacts of the development. These impacts include:

#### 1. Consideration of peak traffic volumes on Yamba Road

The traffic count survey (copy provided in the attachments) was undertaken during peak hour on a Tuesday (7:00-9:00am and 3:00-6:00pm). Council data identifies that traffic volumes along Yamba road are seasonal and significantly increase during the weekend and holiday periods. As a result, further intersection analysis will be required that considers weekend and seasonal traffic along Yamba Road to determine the worst case impact of the development. The traffic report included as an attachment does not consider this impact.

#### 2. Impact of eastern and western access to development

The report only considered the western access to the development in isolation. It is expected that if both access points were to be modelled concurrently, then the subsequent queue length for the eastern access (for right turn in from Yamba Road) would impact on access via the western driveway and visa versa. Until

this is assessed then it is unclear what the ultimate impact on the serviceability would be as it is assumed that one access could potentially impact the other in some way.

In order to reduce the traffic impacts of the development on Yamba Road, it will be required that the development be restricted to left-in left-out movements. This is to limit the number of conflict points arising from uncontrolled right turn movements in accordance with Austroads 6.10.3.3. This will be enforced by the construction of a raised median along Yamba Road centreline for the full frontage of the development site. Additional signage is to be provided indicating no right turn out of the development. The above requirements will be required as a condition of consent.

Furthermore, it will be required that the driveway widths both be increased to a minimum of 6m in external width to accommodate 2-way entry/exit traffic to the proposal.

### **Stormwater**

Following a site inspection by Council's Development Engineers, it was identified that the existing stormwater inlet pit at the proposed point of discharge for the development is very small. In addition, the existing headwall which discharges into the adjoining channel would require significant modification for the proposed twin pipe outlet.

### Comment

The submitted stormwater management plan has indicated that no detention will be required. However, detention is required where the development results in downstream infrastructure surcharging. As is indicated by the submitted stormwater management plan and calculated discharge rates, it is required that the downstream Council street drainage system be upgraded to cater for the development flows.

It will be required that the stormwater be managed in accordance with the requirements for pre and post development quality as well as quantity to have no net increase in stormwater leaving the site so that the existing system can continue to cater for current stormwater events and will be required as a condition of consent. A revised stormwater management plan and design details will need to be submitted with the Civil Construction Certificate to demonstrate that the requirements of the above can be met.

### **Garbage collection**

Issues were raised with the applicant in regard to the initial proposed garbage collection and the service providers (JR Richards & Sons) requirements to enter the site and collect the waste bins.

Detailed consideration was given to other alternatives for the garbage collection facilities including an additional circular, drive-in drive-out vehicular access within the road reserve which Council's Development Engineers didn't support and various onsite collection options which are not considered feasible.

### Comment

Following a request for additional information the applicant has discussed the bin collection with the service provider and proposes to have bins collected along the frontage of Yamba Road.

An amended plan for waste storage and collection was submitted which confirmed the following:

- The revised number and type of residual (13), recycle (12) and organics (5) bins as required by Council for the proposal.
- The two proposed onsite garbage bin storage areas are adequately designed and sized for the above number and size of bins.
- The bins would be presented at the existing kerbside for collection at the kerb by the complex management.



- That there is adequate space on Yamba Road for the garbage trucks to pull up in the Yamba Road parking lane and service the bins, without hindering the main flow of traffic.

#### Comment

The submitted additional information regarding waste collection has proposed a 1.8m wide concrete hardstand path located at the back of kerb for the length between both driveway accesses. This is considered acceptable for the purposes of garbage collection. The proposed landscaping on the Yamba Road frontage will need to be relocated. Details are to be provided with a Civil Construction Certificate including details of the path and driveway in accordance with NRDC.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Processing and administration of the DA utilises internal staff resources funded through existing recurrent budgets. These budgets are supplemented by income generated through payment of DA and related fees.

#### **Asset Management**

NA

#### **Policy or Regulation**

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Clarence Valley Local Environmental Plan 2011*
- *CVC Development Control Plan – Development in Residential Zones*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development*
- *State Environmental Planning Policy 55 - Remediation of Land*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*

#### **Consultation**

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Engineering	Supported with conditions
Health & Building	Supported with conditions
Environmental Health	Supported with conditions
Trade Waste	Supported with conditions
Senior Waste and Sustainability Officer	Supported with conditions
External	
NSW Roads and Maritime Services	

#### **Legal and Risk Management**

Should the applicant be dissatisfied with Council's decision, they have a right of appeal to the Land and Environment Court which may incur a financial cost to Council. Prior to any appeal submitted through the Court the applicant can seek a review of Council's determination in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

#### **Climate Change**

The *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* requires a BASIX Certificate to be submitted for all BASIX affected development; the proposal triggers the need for this certificate. A valid BASIX Certificate has been submitted with the application which sets out the obligations of the applicant in regards to the proposal to reduce greenhouse gas emissions, energy efficiency and reduce potable water consumption. Compliance that these commitments have been met will be required to be demonstrated prior to issue of the Occupation Certificate. In general terms, the provision of

additional aged housing in an established urban area with suitable access to commercial, recreational and other opportunities reduces the generation of carbon emissions associated with transport and servicing the development

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ul style="list-style-type: none"> <li>A. Proposed Plans</li> <li>B. Submission</li> <li>C. Section 4.15 Assessment report</li> <li>D. Shadow Diagrams</li> <li>E. Landscape Plans</li> <li>F. Waste Management Plan</li> <li>G. Traffic Count Survey (SIDRA)</li> <li>H. Design Verification Statement</li> </ul>

**Schedule 1 Draft advices and conditions****DEFINITIONS:**

**NRDC** the current civil engineering standards in accordance with the relevant parts of the following guidelines

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)
- e Sewerage Code of Australia (WSA 02 - 2002)
- f Clarence Valley Council 'MUSIC' Guidelines (Draft)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage.

WSA documents are subject to copyright and may be obtained from the 'Water Services Association of Australia'.

For 'MUSIC' guidelines and policy documents contact Council's development engineer.

**WSUD** means Water Sensitive Urban Design

Clarence Valley Council Development Control Plans include Sustainable Water Controls which identify the measures required in the various land use zones. Council endorses the Queensland 'Water By Design - Healthy Waterways' reference and technical guidelines for the design and construction of WSUD drainage systems.

The **WSUD** documents may be accessed via the 'Water-By-Design' web-site.

**Civil Works may include -**

- a Earthworks
- b Roadworks (including car parking and/or driveways)
- c Flood, Drainage works including **WSUD** and flood mitigation measures,
- d Structures
- e Water & Sewerage Reticulation

**RMS** means Roads and Maritime Services

**WAD** means Works Authorisation Deed, an agreement with **RMS** for works to be carried out on roads managed by **RMS**

**ITP** means Inspection and Testing Plan in accordance with **NRDC**.

**TCP** means Traffic Control Plan in accordance with the **RMS** 'Traffic Control at Worksites' guideline.

**NorBE** means the control and mitigation of developed stormwater quality and flow-rate quantity to achieve a neutral or beneficial outcome for post-development conditions when compared to pre-development conditions, in accordance with **NRDC**.

**ET** means an 'equivalent tenement'. This is the demand or loading a development will have on infrastructure in terms of water consumption or sewage discharge for an average residential dwelling or house.

**ADVICES**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
3. The recommendations specified in the Access Review report prepared by Jen Barling dated 17/04/2019 will need to be specified in the Construction Certificate documentation.

**Engineering**

4. Civil Construction Certificate (**Civil CC**) approvals, issued by Council and/or accredited private certifier are required for this development.
  - a A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works.
  - b Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.
  - c Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
  - d Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
  - e A **Civil CC** application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
5. A completed 'Design Certification Report' with supporting documentation, in accordance with the requirements of **NRDC** must be submitted to Council and/or accredited private certifier with the submission of the **Civil CC** application.

Approval of a **Civil CC** will be current for a period of two years after which time Council may require the alteration to the Engineering Design to comply with current standards. Engineering plans for the **Civil CC** are required in electronic format to be confirmed with Council before lodgement.

6. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **Civil CC** has been issued by Council and/or accredited private certifier.

A private certifier who issues a **Civil CC** must forward a copy of the Certificate along with a copy of the approved plans and **ITP** to Council two days before work commences on the development.

Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.

7. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The

application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 21.1 ET demand on Council's water supply, and an additional 33.0 ET loading on Council's sewerage system. This includes an applicable credit for pre-existing uses. The headworks charges at 2018/19 financial year rates are:

Water Headworks \$4,898.00 x 21.1 additional ET = \$103,347.80

Sewer Headworks \$11,977.00 x 33.0 additional ET = \$395,241.00

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

Where any works are required on Councils water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the Certificate of Compliance.

8. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
9. Upgrading of the existing Council stormwater drainage system is not permitted. A revised stormwater management plan must be submitted to demonstrate that post development peak flows not to exceed pre development flows, and therefore does not result in the existing infrastructure surcharging.
10. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to public infrastructure being accepted "on maintenance" and/or "practical completion" being granted for private property works.
11. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.

#### Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans
  - Site Plan, Project Number 935, Dwg. No. 030 (Revision CC), dated 17 June 2019,
  - Landscape Plan, Project Number 935, Dwg. No. 131 (Revision CC), dated 17 June 2019
  - Level 1 Floor Plan, Project Number 935, Dwg. No. 101 (Revision CC), dated 17 June 2019
  - Level 2 Floor Plan, Project Number 935, Dwg. No. 102 (Revision CC), dated 17 June 2019
  - Level 3 Floor Plan, Project Number 935, Dwg. No. 103 (Revision CC), dated 17 June 2019
  - Level 4 Floor Plan, Project Number 935, Dwg. No. 104 (Revision CC), dated 17 June 2019
  - Roof Plan, Project Number 935, Dwg. No. 110 (Revision CC), dated 17 June 2019
  - Section A, East Elevation, Project Number 935, Dwg. No. 120 (Revision CC), dated 17 June 2019
  - Section B & West Elevation, Project Number 935, Dwg. No. 121 (Revision CC), dated 17

June 2019

- Sections C & North Elevation, Project Number 935, Dwg. No. 122 (Revision CC), dated 17 June 2019
- Section D & South Elevation, Project Number 935, Dwg. No. 123 (Revision CC), dated 17 June 2019
- Materials and Finishes Schedule, Project Number 935, Dwg. No. 210 (Revision CC), dated 17 June 2019
- Shadow Diagrams, June 21, September 23 & December 21, Project Number 935, Dwg. No. 910, 911 & 912 (Revision CC), dated 17 June 2019,
- Waste Collection Plan, Project Number 935, Dwg. No. 221 (Revision DD), dated 4 September 2019,

Twenty (20) sheets, drawn by Environa Studio,

- Landscape site plan and landscape plan details, Dwg. No 2503.1 , Plans LP-00, LP-01, Lp-3.0, LP-3.1, LP-3.2, LP-3.3 & LP-3.4 dated 10-04-2019, Seven (7) sheets drawn by John Lock & Associates,

as amended in red, or where modified by any conditions of this consent.

2. A restriction as to user is to be placed against the title of the property restricting the occupation of the accommodation to the following:
  - a) seniors or people with a disability,
  - b) people who live within the same household with seniors or people who have a disability,
  - c) staff employed to assist in the administration of and provision of services to housing provided under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.The restriction is required to be registered prior to the issue of an Occupation Certificate.
3. Should any Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease immediately and the Office of Environment and Heritage shall be contacted immediately and any directions or requirements of the Service complied with.
4. Any other signage other than signage shown on the approved plans will require separate development consent if not defined as "exempt development".
5. All landscaping works are to be completed generally in accordance with the landscape site plan and landscape plan details, Dwg. No 2503.1 , Plans LP-00, LP-01, Lp-3.0, LP-3.1, LP-3.2, LP-3.3 & LP-3.4 dated 10-04-2019. The trees along Yamba Road frontage will need to be relocated to allow the hardstand area for bin collection. Details of alternate plantings are to be provided prior to Council issue of the Construction Certificate.
6. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
7. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
8. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

### **Building**

9. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.

10. Working/Construction Hours Working hours on construction or demolition shall be limited to the following:

**7.00 am to 6.00 pm 6 days per week**  
**No work permitted on Sundays and public holidays**

The builder is responsible to instruct and control sub contractors regarding the hours of work and the requirements of the Protection of the Environment Operations Act 1997 and Regulations.

11. **Site Safety Management Building** equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.

All excavations and back filling associated with the erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

12. Where the work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves enclosure of a public place, the following must be provided:

- a A hoarding or fence must be erected between the work site and the public place.
- b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d Any such hoarding, fence or awning is to be removed when the work has been completed.

13. **Toilet Facilities** - are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a A standard flushing toilet, connected to a public sewer, or
- b An approved temporary chemical closet.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

14. **Adjoining Building Work** - A person who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land shall, at their own expense and where necessary:

- a Preserve and protect the building from damage; and
- b If necessary, underpin and support the building in an approved manner, details of which are to be submitted with the application for the Construction Certificate and certified by a professional engineer or an accredited certifier.

The person who causes this excavation must, at least seven (7) days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to this owner of the proposed work. (Note: An adjoining allotment of land includes a public road and any other public place. A building includes a fence).

15. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited, and
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work, and

Any such sign is to be removed when the work has been completed.

16. **Home Building ACT** - Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
- a has been informed in writing of the licensee's name and contract licence number; and
  - b is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
  - c has been informed in writing of the person's name and owner builder permit number, or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of **owner-builder work** in Section 29 of that Act.

A Certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that part is sufficient evidence the person has complied with a and b.

17. Prior to the issue of an Occupation Certificate the principal contractor responsible for the construction work shall provide Council with a certificate which states that **all commitments** listed within the current Basix Certificate (quoting number and date) have been installed in accordance with the requirements of that Basix Certificate.
18. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
19. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
20. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate (in accordance with the Waste Collection Plan, Project Number 935, Dwg. No. 221 (Revision DD), dated 4 September 2019).
21. All building construction below 3.01m AHD shall be of flood compatible materials.
22. To meet Council's Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 3.01 metres Australian Height Datum (AHD). A certificate indicating the height of habitable floors on the ground floor (related to AHD) is to be



forwarded to the Principal Certifying Authority.

- a In the case of timber floors, on completion of the floor framing;
- b In the case of concrete slabs when formwork is in place but prior to pouring concrete.

This certificate is to be provided by a Registered Surveyor. No further work is to be carried out on the building until such certificate is provided to the Principal Certifying Authority.

23. The building shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineer's certificate shall be submitted prior to issue of the Construction Certificate to verify the building will withstand the likely forces imposed on it by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions.

### Engineering

24. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
25. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
26. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **Civil CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Occupation Certificate.

Prior to commencement of works or issue of a **Civil CC**, a practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works :

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
  - b will not be affected by landslip either above or below the works.
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
27. An **ITP** must be submitted for approval with the application for a **Civil CC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

Where Council is the Certifying Authority for civil engineering works the applicant must give Council one (1) business day's notice to attend inspections.

Hold Point, Witness Point and Audit inspections must be documented by the ITP and include the following works (but not limited to):

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
- b Erosion & Sedimentation Controls
- c Earthworks

- d Roadworks
- e Stormwater Drainage
- f Sewer
- g Other Services
- h 'On Maintenance' (Public Infrastructure)
- i Practical Completion (Works on Private Property)
- j 'Off Maintenance' (Acceptance of Public infrastructure by Council)

28. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.

29. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document workplace health and safety, traffic management (pedestrian & vehicular) and the proposed methods of work within the development work site and the associated public road network.

Associated TCPs must be prepared by a person authorised by the RMS to prepare TCPs.

The approval of Council under the Roads Act 1993 is required for construction works within and occupation of, the road reserve. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.

30. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:

- a Stating that unauthorised entry to the work site is prohibited;
- b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
- c Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign is to be removed when the work has been completed.

31. For any part of the site that comes under the jurisdiction of another Government department, a Controlled Activity approval (or similar approval) may be required. Any such approval must be obtained and provided to Council prior to issue of the Construction Certificate.

32. Prior to issue of the Occupation Certificate, the applicant is to provide water supply infrastructure to service development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy.

33. Connection to the public water reticulation system requires the approval of Council under the NSW Local Government Act.

34. Any upgrade to the existing water service to the property will be subject to the costs outlined in Council's list of fees and charges.

35. No building/structures are to be located with sewer easements. It will be required that the existing sewer main be relocated so that the proposed building works are not located within the appropriate easements of the new sewer main.

36. A Sewerage Reticulation Design plan must be submitted for approval with the application for a **Civil CC**.

Connection to the public sewerage reticulation system requires the approval of Council under the NSW Local Government Act.

Any upgrade to the existing sewerage service to the property will be subject to the costs outlined in Council's list of fees and charges.

37. The granting of an easement for sewerage purposes, over the Council's sewer mains within any lots in the subdivision.

The width of the easement must be;

- a Where the sewer is less than 1.5 metres depth, the easement width shall be 3.0 metres, except that for sewers which are less than 0.75 metres depth and serving only one residential lot, the easement width may be reduced to 1.5 metres,
- b Where the sewer is between 1.5 metres and 3.0 metres depth, the easement width shall be 5.0 metres,
- c Where the sewer is greater than 3.0 metres depth, the easement width shall be determined by Council following an assessment of maintenance access requirements;

The easement shall be located centrally about a line drawn between manholes to an accuracy of 0.15 metres by a registered surveyor and supported by an engineering survey plan showing the dimensions between the sewer line and the extremity of the easement at each point where the easement dissects the boundary of the subdivided lot or lots or any change of direction.

38. A new sewer junction must be provided to service the proposed development in accordance with the provisions of the Local Government (General) Regulation. Cutting in of sewer junctions can only be undertaken by Council. In respect to these works, contact Council's Water Cycle Section.

39. A raised median to provide a physical barrier between traffic lanes is to be constructed along the centreline of Yamba Road for the full frontage of the development site. Any additional works (widening/linemarking) to Yamba Road required as a result of the associated median are to be provided in accordance with the relevant standard.

40. Design plans must be submitted for approval with the application for a **Civil CC**. Design and construction is to be in accordance with the applicable Austroads Guide to Road Design standard, the applicable Clarence Valley Council Development Control Plans and **NRDC**.

Works to and on public road reserve requires the approval of Council or other Roads Authority under the NSW Roads Act.

41. Prior to the release of a **Civil CC** for any stage involving works on an RMS controlled road, evidence is to be provided that a **WAD** has been entered into with **RMS**.

42. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**.

A Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**. A revised stormwater management plan will be required to be submitted to demonstrate that post development peak flows not to exceed pre

development flows, and does not require the upgrading of the existing stormwater drainage infrastructure. In order to meet this requirement on-site detention will be necessary.

43. The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the **Civil CC**. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

The Stormwater Management Plan must include a management plan for any **WSUD** systems. The management plan must consider construction and operational phases.

44. Prior to the release of any Occupation Certificate, which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.

45. In accordance with **NRDC** and prior to the release of the Occupation Certificate, the applicant must provide Work as Executed plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

Where sewer works are involved the **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.

46. Prior to the issue of any Occupation Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.

47. Prior to release of the Occupation Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development.

48. All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with **NRDC**.

Where constructed works to become public infrastructure have been controlled by private certifier, Council must attend the 'Off Maintenance' inspection. The documentation, compliance and performance of the constructed works must be in accordance with **NRDC** for Council to accept responsibility for the infrastructure.

49. Car parking, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the DA approved plan and made available thereafter. The car parking classification is Class 1A for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.

50. Driveways are to be minimum of 6m in external width from Yamba Road to the property boundary.

51. A detailed plan of the proposed driveway including longitudinal section, road levels, garage levels, property boundaries and other site specific considerations must be submitted for approval with the **CivilCC** to demonstrate that access to the development is provided in accordance with **NRDC**.  
  
Driveways must satisfy safe intersection sight distance requirements for the speed zone of the road servicing the development in accordance with NRDC. Sight distance diagrams must be provided with the **Civil CC** plans.
52. Any existing vehicular crossings rendered unnecessary by this development are to be removed, and the kerb restored to match the existing kerb profile.
53. Prior to the issue of the Building Construction Certificates, the adequacy of parking and car parks, the development is to be demonstrated by the submission of standard scale plans with manoeuvring paths shown in accordance with AS2890. This must clearly demonstrate that the parking area will function as intended. Manoeuvring diagrams must also demonstrate that a vehicle can enter and exit the site assuming both parking areas are at capacity (i.e. no available spaces). The parking area plans are to be submitted and approved by Council or accredited private certifier.
54. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued or the development is accepted 'Off Maintenance'.
55. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
56. If residents in the self contained units are to utilise a meal service and laundry facilities from the existing residential aged care facility, a review is required to be undertaken and submitted to Council for assessment with regards to the grease arrestor capacity servicing the kitchen and the cooling pit capacity servicing the laundry. The review must take into account the requirements of Council's trade waste policy to ensure that the pre treatment equipment is of adequate capacity to service the volume of liquid trade waste discharged from the property.
57. The review shall be submitted for determination by Council prior to issuing the Construction Certificate.
58. The trade waste equipment for the Community Room shall comply with Council's trade waste policy. Detailed plans shall be submitted for approval prior to issuing the Construction Certificate.
59. Lot 1 & 2 DP829279 and Lot 11 DP556436 are to be consolidated prior to the issue of an Occupation Certificate.

<b>ITEM</b>	<b>6b.19.035</b>	<b>SUB2019/0022 – PROPOSED TWO LOT SUBDIVISION UPON 139 CLEARVIEW ROAD, COUTTS CROSSING BEING LOT 6 DP710704</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

### SUMMARY

<i>Applicant</i>	O'Donohue Hanna and Associates
<i>Owner</i>	Lucas and Margaret Visagie
<i>Address</i>	139 Clearview Road, Coutts Crossing
<i>Submissions</i>	Nil

Development Application SUB2019/0022 seeks consent for a two (2) lot subdivision upon 139 Clearview Road, Coutts Crossing.

This matter is being reported to Council as the applicant has requested a variation to Clause C24.5 and J6 of the Residential Zones Development Control Plan to remove the need to seal Clearview Road for the frontage of the development site from the northern boundary to the existing dwelling. The section of Clearview Road that fronts the development site is a category 1b Council maintained gravel road.

The request to vary the provisions of the DCP has been considered and a recommendation for Council's consideration is provided. That recommendation is to approve the development subject to the sealing of Clearview Road for the frontage of the development site from the northern boundary to the existing dwelling on the subject land in accordance with Council Development Control Plan and NRDC.

### OFFICER RECOMMENDATION

That Development Application SUB2019/0022 be approved subject to the imposition of Conditions contained in Schedule 1.

### COMMITTEE RECOMMENDATION

Williamson/Novak

That Development Application SUB2019/0022 be approved subject to the imposition of Conditions contained in Schedule 1 amending:

1. Condition 7 to not require a sealed carriageway and in lieu of that seek the proponent to make a voluntary contribution of \$5,000 per lot or a voluntary planning agreement equivalent to \$5,000 per lot for scheduled maintenance to Council at or prior to release of subdivision plan.
2. Associated conditions accordingly.

Voting recorded as follows:

For: Williamson, Baker, Novak

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

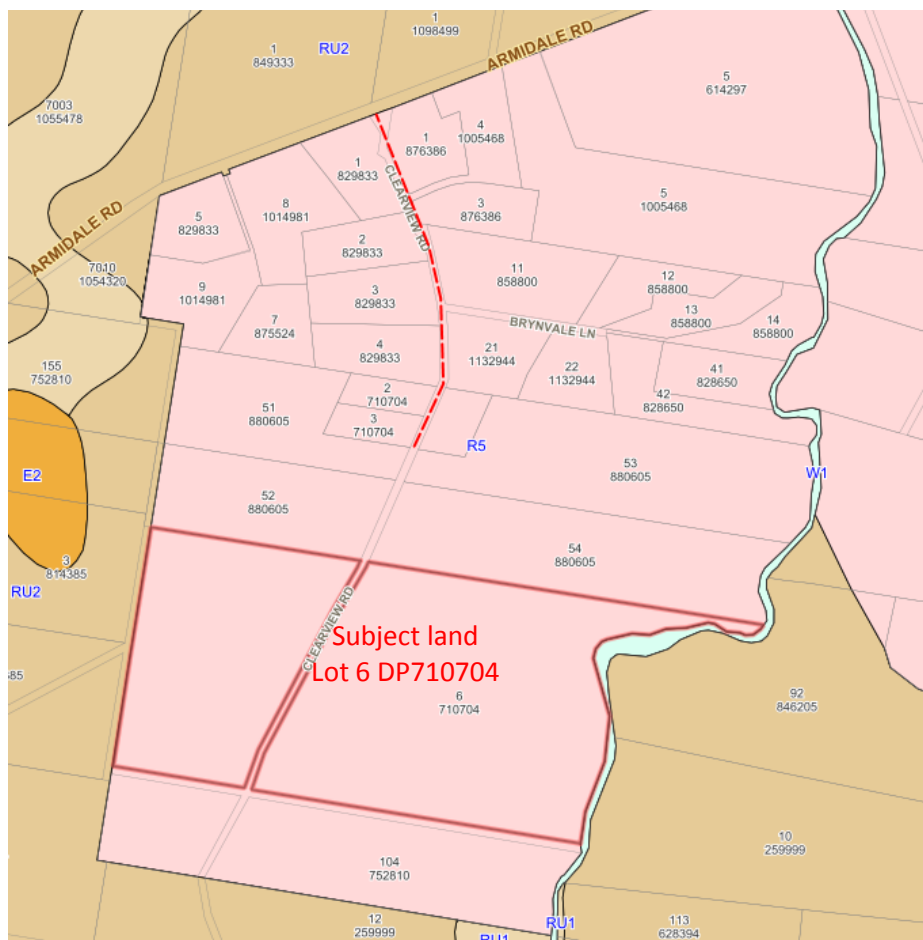
Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Provide open, accountable and transparent decision making for the community

**BACKGROUND**

Development Application SUB2019/0022 was accepted via the Planning Portal (Portal Application Number PAN-2300) on 8 July 2019. The subject land is zoned R5 Large Lot Residential under the provisions of the *Clarence Valley Local Environmental Plan 2011* (CVLEP). The proposed subdivision is permissible with consent and a minimum lot size of 4000m<sup>2</sup> applies to the land under Clause 4.1 as shown on the minimum lot size map. The proposed subdivision will result in two allotments: Lot 9 (28.64ha) and Lot 10 (52.29ha). Both allotments comply with the minimum lot size set by the LEP.

The property is located approximately 375m from the existing sealed section of Clearview Road. The section of Clearview Road from the property to the termination of the existing seal is Crown Land. Council has applied for the transfer of this section of Clearview Road to be dedicated to Council. Clearview Road is classified as a category 1b unsealed Council maintained road and is listed within Council’s Roads Policy as being graded at a frequency of twice a year. A map showing the extent of the sealed section of Clearview Road in relation to the subject land (Lot 6 DP710704) is provided below for information purposes.



----- Sealed Section of Clearview Road

The application was notified in accordance with Part B of the Residential Zones DCP and no submissions were received during the exhibition period.

## KEY ISSUES

## 1. Variation to Clause C24.5 of the Residential Zones DCP

The applicant has requested a variation to Clause C24.5 of the Residential Zones DCP which requires new development and subdivisions to be serviced by a sealed constructed vehicular access in accordance with Part J of the DCP and Northern Rivers Local Government Development (NRDC) and Design and Construction Manuals. An extract of Clause C24.5 is provided below:

**C24.5. Provision of suitable road access**

*(a) Development (including dwelling houses/residential development) and subdivision must be serviced by a sealed constructed vehicular access that has direct frontage to a sealed public road or a Category 1 unsealed road that is listed in Councils adopted Roads Policy, that is Councils' Road Asset (Maintenance) List; the standard of road access is to comply with Part J of this DCP, the Northern Rivers Local Government Development and Design Manual, the Northern Rivers Local Government Construction Manual. A lesser standard may be considered having regard to the nature and scale of the proposed development, the context of the site and locality and the Northern Rivers Local Government Development and Design Manual, the Northern Rivers Local Government Construction Manual.*

Clause C24.5 allows Council to consider a lesser standard having regard to the nature and scale of the proposed development, context of site, locality and NRDC. As such, the applicant has requested a variation on the following grounds:

*In light of the scale of the proposed development and the likely costs of the road upgrade we respectfully request that Council abandon any requirement to upgrade Clearview Road and delete the above mentioned draft conditions (4-12 and 14-17) from the final Notice of Determination. We are of the view that such conditions are unwarranted and unreasonable in this particular circumstance for the following reasons:-*

- 1. Our clients have lived in the existing dwelling since 1989 and, whilst traffic volumes have increased slightly since then, recent monitoring suggests average daily vehicle movements of around 20. The current standard of the formation of Clearview Road is considered suitable for such low volumes and capable of accommodating the traffic generated by one(1) additional lot; and*
- 2. Clearview Road is considered a Category 1 Council Maintained Road with a Road Classification of Local Access and Road Classification Rating of 1b by Council's Road Policy. Clearview Road functions as a no-through road and services a very low number of isolated rural properties and small farms. Our client's land is the most southern of the R5 zoned land and the probability of any further development along Clearview Road is very low. Hence, the requirement to upgrade one (1) 300 metre section of the road is considered unreasonable and unwarranted;*
- 3. We are of the view that the upgrade could cost in the order of around \$140,000.00. That costing is based upon an estimate for Detail Survey, Geotechnical Testing and Reporting, Engineering Designs, Construction Certificate application, construction of road and drainage structures, Construction Supervision and Testing, As-built Surveys, Works as Executed Plans & final sign-off. With the addition of Council's likely fees and charges and plan registration and other legal costs the two (2) lot subdivision quickly becomes economically non-viable.*
- 4. Further, our client acknowledges that Council's Engineers are concerned that a succession of two (2) lot subdivisions could follow this current application using similar arguments to avoid the cost of upgrading Clearview Road. We suggest, then, to avoid that scenario, that a Restriction of the Use of Land be imposed on proposed Lots 9 and 10 informing future owners that Consent to further develop either lot will most likely contain conditions requiring Clearview Road to be upgraded to a suitable standard.*

A copy of the full correspondence from the applicant requesting a variation to the DCP is provided in the attachments.



Comment

Council staff have considered the request for variation under Clause C24.5(a) with regard to the scale and nature of the development, context of the site and NRDC.

The scale of the development to create one additional lot may not appear to be significant in a general sense. However, it is the adverse cumulative impact that approving the development without sealing of the road would likely have in terms of the surrounding area that raises concern. The adjoining lots to the north and south are all zoned R5 and have further development potential (refer to the map showing land zoning in the 'Background' section of this report). A variation to the DCP by removing the need to seal the road frontage for this development would set a precedent and may result in adjoining land owners wanting to apply for a similar single-lot subdivision with the expectation of not having to seal the road frontage. Given the context of the site in relation to the adjoining R5 zoned lots that have development potential off Clearview Road, Council staff are of the view that Council's adopted development controls should be adhered to in this instance so that the development does not result in an increase to Council's road maintenance budget or further deterioration of Council's road asset.

Clauses D1.14 and D1.27 of the NRDC refer to carriageway widths and characteristics for urban and rural roads. In accordance with the NRDC standards contained in Tables D.1.5 and T 1.27, Clearview Road requires a minimum of 6m seal and 0.5m shoulders for roads with minor traffic volume.

Subsection D1.27.2 of the NRDC states that carriageway widths to existing roads shall generally be in accordance with Table T1.27 however may be reduced at the discretion of the director of engineering services.

As a result of discussions with the Civil Services section of Council, the standards of NRDC are recommended to be upheld otherwise the development is likely to increase the maintenance required for Clearview Road. For this reason, Council staff recommend that the frontage of the property along Clearview Road be sealed to the minimum standard (6m seal with 0.5m shoulders) from the northern boundary of the property to the southern most point of vehicular access to the existing dwelling on the subject land. This will ultimately lead to the decrease in Council's long term maintenance cost of the existing unsealed road network and incrementally improve the overall road network in the area.

Design and construction is to be in accordance with NRDC and be submitted for approval with an application for a Civil Construction Certificate. Locations of the proposed access points are to be nominated on design plans and constructed prior to issue of Subdivision Certificate. Draft conditions to this effect are contained in Schedule 1.

Option 1

That Council not support a variation to the DCP and approve the development subject to the draft conditions of consent contained in Schedule 1 requiring the sealing of Clearview Road for the frontage of the development site from the northern boundary to the southern most vehicular access to the existing dwelling on the subject land in accordance with the requirements of Clause C24.5 of the Residential Zones DCP and NRDC standards. Option 1 is the preferred option.

Option 2

Council may wish to vary the DCP requirement and permit the development to proceed without the need to seal the frontage of the development site. However, this option is not recommended because:

- The development could set a precedent and may result in an adverse cumulative impact if other land owners with development potential subsequently propose to subdivide one lot at a time with the expectation to avoid the sealing upgrade of the road.

- An increase in traffic upon the unsealed road will increase the deterioration rate and therefore likely result in an increase to Council's road maintenance budget for Clearview Road.

If Council supports a variation to Clause C24.5 of the DCP by not requiring sealing of the road, it is recommended that a positive covenant be registered against the title of proposed Lots 9 and 10 advising that any future subdivision of the lots will require sealing of Clearview Road for the frontage of the development site. A resolution supporting the variation will necessitate a range of advices and conditions to be removed and/or amended from those recommended and provided at Schedule 1.

## COUNCIL IMPLICATIONS

### Budget/Financial

Council currently maintains the unsealed section of Clearview Road that fronts the development site. An increase in traffic upon the unsealed road will increase the deterioration rate and therefore require more frequent maintenance to maintain the current road surface standard including an increase to Council's long term maintenance cost of the existing unsealed road network. For this reason, the development has been recommended for approval subject to conditions requiring sealing of Clearview Road for part of the frontage of the development site.

### Asset Management

Council staff recommend that the frontage of the property along Clearview Road be sealed to the minimum standard (6m seal with 0.5m shoulders) from the northern boundary of the property to the southern most point of access to the existing dwelling. Sealing of the road will ultimately lead to a decrease in Council's long term maintenance cost of the existing unsealed road network and improve the overall road network in the area.

### Policy or Regulation

Environmental Planning & Assessment Act 1979

Environmental Planning & Assessment Regulations 2000

Roads Act 1993

State Environmental Planning Policy No. 55 – Remediation of Land

Clarence Valley Local Environmental Plan 2011

Residential Zones Development Control Plan (DCP)

Clarence Valley Council Roads Policy

### Consultation

The following internal sections of Council were consulted as part of the application assessment:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Variation to DCP and NRDC not supported
Civil Services	Variation to DCP and NRDC not supported

The application also required a referral to the NSW Rural Fire Service as Integrated Development. The RFS General Terms of Approval are contained in the attachments and referenced in the draft conditions of consent in Schedule 1.

### Legal and Risk Management

The applicant may appeal Council's determination of the development application in the NSW Land and Environment Court for which there would be a financial cost to Council.

**Climate Change**

The approval of the two lot subdivision will contribute to climate change via increased energy use and additional demand on infrastructure and services due to the ability to construct an additional dwelling on the land. However, any future dwelling will be required to comply with the energy efficiency requirements of BASIX and this will be considered at the time of lodgement of a DA for a dwelling.

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	<ol style="list-style-type: none"><li>1. Plans</li><li>2. Request for Variation to DCP</li><li>3. NSW Rural Fire Service General Terms of Approval</li><li>4. Section 4.15 Assessment</li></ol>

**Schedule 1**  
**Draft Advices and Conditions of Consent for SUB2019/0022**

**Definitions**

**NRDC** the current civil engineering standards in accordance with the relevant parts of the following guidelines

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage.

**Civil Works may include -**

- a Roadworks (including car parking and/or driveways)

**ITP** means Inspection and Testing Plan in accordance with **NRDC**.

**TCP** means Traffic Control Plan in accordance with the **RMS** 'Traffic Control at Worksites' guideline.

**Advices**

1. Civil Construction Certificate (**Civil CC**) approvals, issued by Council and/or accredited private certifier are required for this development.
  - a A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works.
  - b Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
  - c A **Civil CC** application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
2. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **Civil CC** has been issued by Council and/or accredited private certifier.

A private certifier who issues a **Civil CC** must forward a copy of the Certificate along with a copy of the approved plans and **ITP** to Council two days before work commences on the development.

Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.

3. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to public infrastructure being accepted "on maintenance" and/or "practical completion" being granted for private property works.
4. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.

5. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
6. The submission of evidence that satisfactory arrangements have been made with service providers for the provision of utility services prior to issue of the subdivision certificate.
7. The submission of a further Development Application will be required for any further extension of development on the site.
8. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2019/20 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00).

### Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plan numbered 12292-03, dated 29 March 2019 (1) sheet, submitted/drawn by Bothamley & O'Donohue, as amended in red, or where modified by any conditions of this consent.

2. Payment to Council of the contributions pursuant to Section 94 of the Environmental Planning and Assessment Act:

#### **Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities**

##### Rate per dwelling House or Lot

Isolated Coastal and Rural \$3,767.05 x 1 = \$3,767.05                      GL S94CVCOSRuralCoas

#### **Clarence Valley Contributions Plan 2011 Community Facilities**

##### Rate per dwelling House or Lot

Grafton and surrounds \$3,767.05 x 1 = \$3,767.05                      GL S94CVCCFGrafton

#### **Clarence Valley Contributions Plan 2011 Plan of Management**

Rate per Dwelling/Lot \$72.15 x 1 = \$72.15                      GL S94CVCPoMDwell

#### N.B.

The contribution(s) as assessed will apply for 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this notice **will be adjusted** in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

The contributions are to be paid to Council prior to release of the Subdivision Certificate.

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary and if so will become the contribution payable.

All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

3. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
4. An ITP must be submitted for approval with the application for a **Civil CC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

Where Council is the Certifying Authority for civil engineering works the applicant must give Council one (1) business day's notice to attend inspections.

Hold Point, Witness Point and Audit inspections must be documented by the ITP and include the following works (but not limited to):

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
- b Erosion & Sedimentation Controls
- c Roadworks
- d 'On Maintenance' (Public Infrastructure)
- e Practical Completion (Works on Private Property)
- f 'Off Maintenance' (Acceptance of Public infrastructure by Council)

5. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
6. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document workplace health and safety, traffic management (pedestrian & vehicular) and the proposed methods of work within the development work site and the associated public road network.

Associated TCPs must be prepared by a person authorised by the RMS to prepare TCPs.

The approval of Council under the Roads Act 1993 is required for construction works within and occupation of, the road reserve. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.

7. Clearview Road is to be upgraded to provide a sealed carriageway of 6.0m wide with 0.5m shoulders for the frontage of the development from the northern boundary of the lots to the southern most point of access proposed as part of the development.
8. Preliminary road pavement design, in accordance with **NRDC**, must be submitted to Council as part of the **Civil CC** approval. Final pavement design will be subject to in-situ CBR tests. Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm for all roads. Details of the bitumen spray-seal designs are to be submitted to Council for approval prior to sealing.
9. The road design plans must show the location and sizing of the proposed driveway access and culvert required for a future access to the new lot in accordance with **NRDC**. The driveway is to be constructed prior to the release of the subdivision certificate.
10. Prior to the release of any Subdivision Certificate, which dedicates infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
11. In accordance with **NRDC** and prior to the release of the Subdivision Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
12. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, pipelines, road batters,

access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.

13. Prior to release of the Subdivision Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons or if a Subdivision Certificate approval is delayed beyond the maintenance period.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with **NRDC**.

Where constructed works to become public infrastructure have been controlled by private certifier Council must attend the 'Off Maintenance' inspection. The documentation, compliance and performance of the constructed works must be in accordance with **NRDC** for Council to accept responsibility for the infrastructure.

14. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued or the development is accepted 'Off Maintenance'.
15. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
16. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.
17. Should any aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and the Office of Environment and Heritage shall be contacted immediately and any directions or requirements of the Service complied with.
18. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 20 August 2019, consisting of two (2) pages, and as attached to this Notice of Determination.

<b>ITEM</b>	<b>6b.19.036</b>	<b>DA2019/0298 ALTERATIONS AND ADDITIONS TO VETERINARY CLINIC, POUND STREET, GRAFTON</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

### SUMMARY

<i>Applicant</i>	R.D. & V. Barnett Pty Ltd
<i>Owner</i>	Dougherty Bros Pty Limited
<i>Address</i>	91 Prince Street, Grafton
<i>Submissions</i>	Nil

The applicant is seeking approval for expansion of the existing veterinary clinic into an adjoining premises as well as alterations and additions to the existing premises fronting Pound Street, Grafton. It has been assessed that there will a shortfall of parking for the development. The applicant is proposing to enter into a Voluntary Planning Agreement (VPA) with Council to pay a monetary contribution to compensate for the parking shortfall. This matter is reported to Council to consider the offer to enter into a VPA and provides a recommendation for Council's consideration.

### OFFICER RECOMMENDATION

That Council agree to enter into a Voluntary Planning Agreement for a contribution for two car parking spaces that are required and cannot be provided by the development subject to Development Application No. 2019/0298.

### COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Baker, Williamson

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

### BACKGROUND

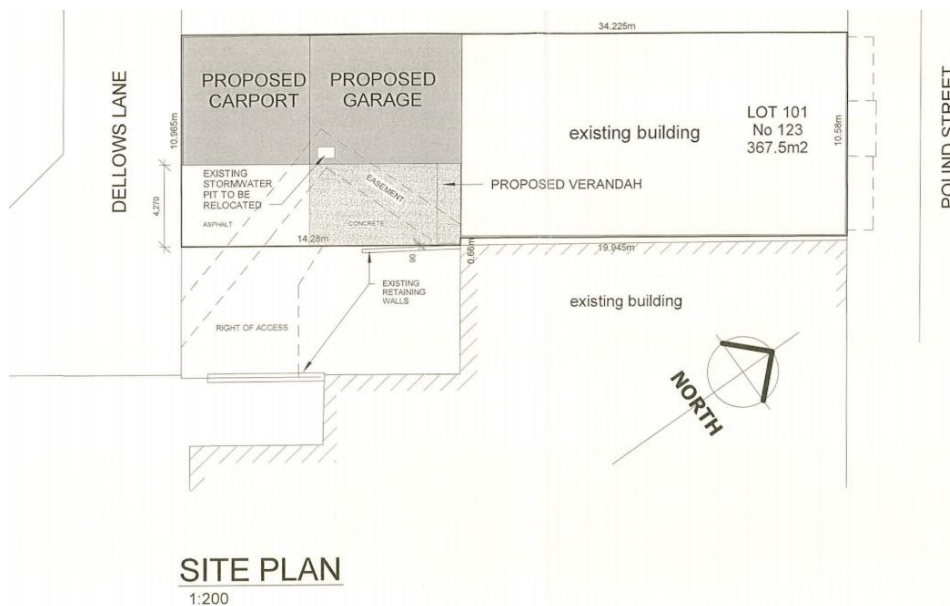
DA2019/0298 was lodged with Council on 4 June 2019 for alterations and additions to two commercial premises fronting Pound Street. One of the shops is occupied by Clarence Valley Veterinary Clinic and the proposal is to expand the clinic into the adjoining shop premises.





**Figure 1: Aerial view of shops and rear parking area (site highlighted in red)**

Five parking spaces are currently available at the rear of the shops and accessed off Dellovs Lane (see Figure 1). The applicant seeks consent to construct a double garage and double carport in the rear parking area (see Figure 2). Council’s assessment concludes that one accessible car parking space, suitable for use by persons with an access impairment, is required in conjunction with other parking space requirements for the development.



**Figure 2 - Site Plan DA2019/0298 showing proposed garage and carport**

**KEY ISSUES**

The proposed expansion of the veterinary clinic will allow for continued operation of the vet clinic out of which two veterinarians operate.

The application has presented two options for parking for Council to consider. The applicant’s preferred option (see Figure 3) is to provide an accessible space as a stacked space immediately in front of the

proposed garage. This option is not supported as the DCP provisions do not enable stacked parking and when the accessible space is occupied it will prevent vehicular access to and from the garage.

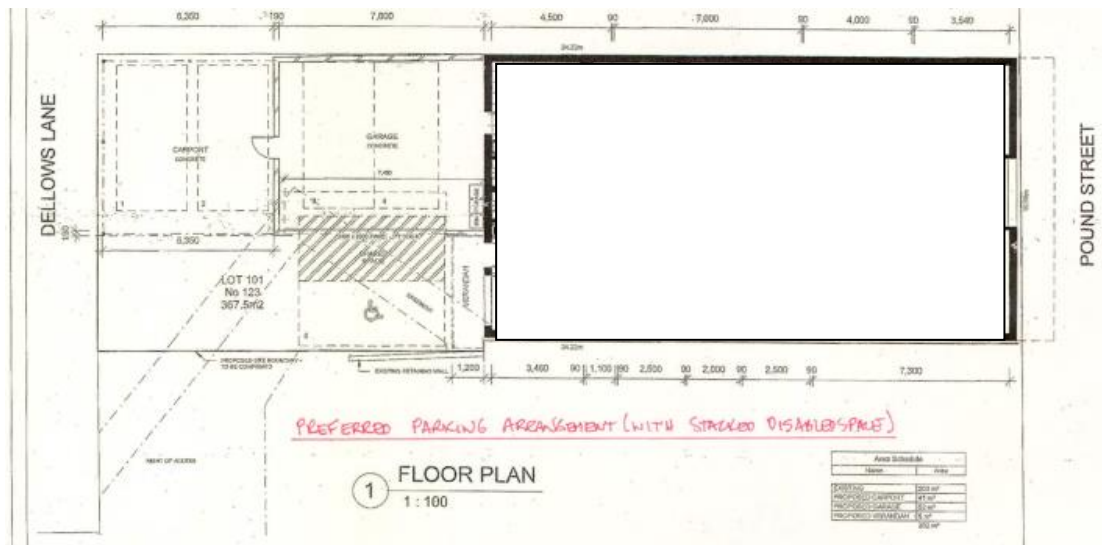


Figure 3 – Applicant’s preferred floor and parking plan (not supported by Council officers)

The second option (see Figure 4) shows use of the carport area for the accessible parking space that can meet the Australian Standard dimensions and is the Council officers preferred option as it removes the vehicular manoeuvring conflict in the Applicants preferred option. In cases where an accessible space is required and less than five parking spaces are provided on a site the Building Code of Australia provides that the accessible space can also function as a double car parking space.

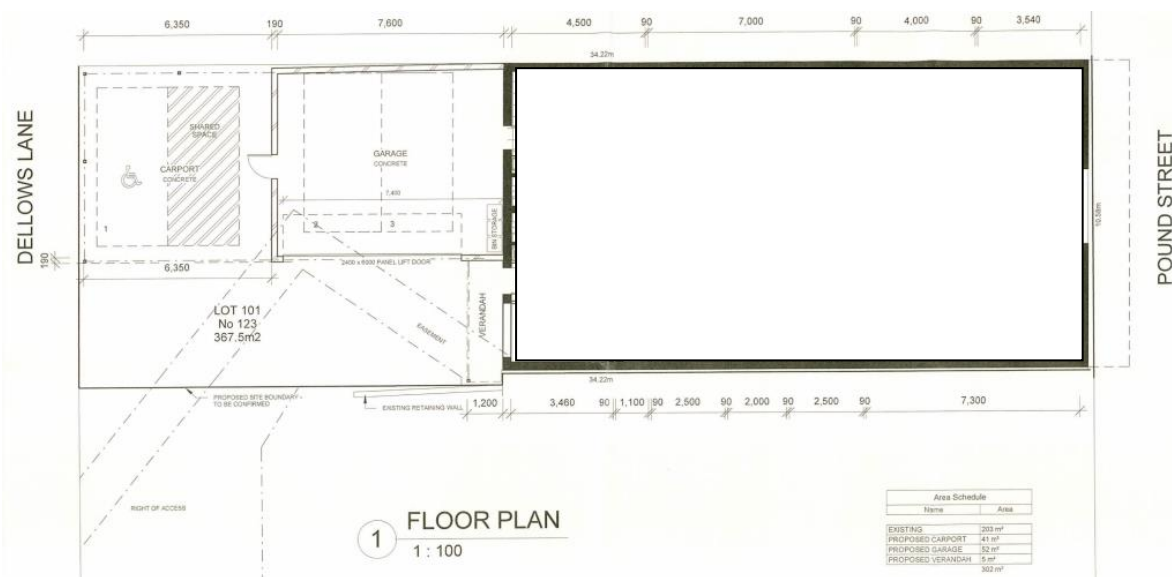


Figure 4 – Alternative floor and parking plan (Council officers preferred option)

The development proposal is assessed to require six on-site car parking spaces. The total parking provision on-site in the parking option preferred by Council officers is four parking spaces. Hence, there will be a parking deficit of two spaces. More detail on the parking calculation is provided in the Section 4.15 Assessment Report as attached to this report.

The proposed garage and carport structures will result in a less efficient parking arrangement on the site. The applicant has requested the garage and carport structures as they have a function that benefits the operational needs of the veterinary clinic. Council staff suggested that the applicant consider the option of leaving the parking area unencumbered by buildings to maximise parking opportunity and so reducing the

need for offsetting the loss of parking spaces, however, they have opted to proceed with the application as lodged.

The applicant has indicated that they are prepared to enter into a Voluntary Planning Agreement for a payment of the contribution for the parking shortfall in accordance with the Council's Planning Agreements – Car Parking Deficits Policy.

In accordance with the Policy:

- The proposal passes the acceptability test as the planning agreement will be for proper planning purpose and is related to the development. It will produce an outcome that meets with the values and public expectations, is in the public interest and conforms with the intent, principles and requirements of the Policy;
- Based on the former Section 94 car parking contributions plan the parking rate for the Grafton CBD will be indexed to \$9,460.00 per space (from \$8,274.00 in 2011) in accordance with the Consumer Price Index;
- Payment will be required prior to the issuing of a Construction Certificate for the proposed development; and
- The costs associated with the agreement will be met by the developer.

Council officers propose that the DA will be approved under delegated authority and if the offer of the Voluntary Planning Agreement is accepted by Council it will be reflected in the conditions of development consent.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The monetary contribution made in accordance with the VPA to Council will be used for the provision of public car parking and/or public transport facilities that service or are in the vicinity of the development. The value of the contribution through the VPA will be \$18,920.00 for the two spaces.

### **Asset Management**

Not applicable. Future public parking or associated assets provided by utilisation of this contribution will result in public assets that need to be managed.

### **Policy or Regulation**

CVC Planning Agreements – Car Parking Deficits Policy. This Policy applies to non-residential development in Business Zones under the Clarence Valley Local Environmental Plan 2011.

### **Consultation**

Council's Development Engineers and Coordinator Building and Environmental Services have been consulted and agree with the parking layout and solution identified in Figure 4.

### **Legal and Risk Management**

The applicant has indicated that they are prepared to enter into a VPA to offset the parking shortfall of two car parking spaces. In the circumstances, it is not considered this presents any significant legal or other risk provided the preparation, advertising and adoption of the VPA is procedurally correct.

### **Climate Change**

The option of not building the garage and carport would provide a better outcome for climate change as the production of building materials utilises energy and resources that results in emission of greenhouse gases (GHG). Further, building these structures means that stormwater drainage on-site needs to be modified resulting in use of machinery and stormwater pipes, etc that generate GHG through production of goods and installation. In isolation these added impacts are very small. Doing nothing would be a better outcome from a climate change perspective.

Planning decisions of both applicants and Council need to weigh up positives and negatives in a range of areas. The applicant has a clear desire and operational need for covered car parking spaces as they provide improved security as well as storage and dry loading/unloading opportunities for the vets and clients. This is deemed to have an economic and work, health and safety benefit to the clinic.

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Prepared by	Pat Ridgway, Senior Development Planner
Attachment	Section 4.15 assessment report

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<b>ITEM</b>	<b>6b.19.037</b>	<b>PLANNING PROPOSAL - FUNCTION CENTRES IN RURAL ZONES</b>
<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

This report considers the outcomes of the exhibition of a Planning Proposal to permit function centres with consent in the RU1 Primary Production and RU2 Rural Landscape zones; also exhibited were amendments to Council's Rural Zones Development Control Plan (DCP) to complement the proposed LEP provisions.

The Planning Proposal was publicly exhibited from 31 May to 28 June 2019. It now remains for Council to again consider the Planning Proposal in light of public comment/stakeholder consultation and to decide whether to finalise the Planning Proposal and DCP amendment. A copy of the exhibited Planning Proposal and DCP amendment is at Attachment 1.

This report recommends that Council support an amended Planning Proposal as well as minor amendments to the proposed Rural Zones DCP provisions. The amended Planning Proposal, LEP clause and Rural Zones DCP provisions recommended for adoption are at Attachment 2.

## OFFICER RECOMMENDATION

That:

1. Council support an amended Planning Proposal by:
  - (a) deleting the proposal to permit function centres with consent in the RU1 Primary Production zone; and
  - (b) amending proposed LEP clause X.X 2(b) from -
 

*"(b) the land use will not result in unreasonable conflict to the use of the land or any adjoining land for agriculture or rural industries, and", TO*

*"(b) the land use will not result in unreasonable conflict to the use of the land or any land for agriculture or rural industries adjoining or in close proximity, and".*
2. Council refer the amended Planning Proposal to the Planning Gateway to consider the issue of an "altered determination".
3. In the event an "altered determination" to proceed being issued, Council proceed to finalise the Planning Proposal in accordance with the Gateway requirements and in accordance with plan making delegations previously offered.
4. Council support an amendment to the proposed Rural Zones DCP provisions Part X CONTROLS FOR FUNCTIONS CENTRES as follows:
  - (a) Amend proposed Part X2 What are the objectives of controls for function centres from -
 

X2(a) - *"(a) Does not unreasonably impact residents and lawful uses", TO*

X2(a) - *"(a) Does not unreasonably impact residents and other lawful uses in the locality and upon the ability to undertake lawful primary industry production and associated lawful agricultural practices in the locality, whether existing or in the future"*

- (b) Amend proposed Part X3 Information to accompany development applications for function centres from -  
 X3.5.f - *“(f) Land use risk assessment”, TO*
- X3.5(f) - *“(f) Land use risk assessment prepared in accordance with guidelines established by NSW Department of Primary Industries – Agriculture”*
- (c) Amend proposed Part X4 Special considerations from -  
 X4.6 - *“6. Existing agricultural uses on adjoining land and whether the proposal will present a conflict of use.”, TO*
- X4.6 - *“6. Existing lawful primary industry production in the locality and the ability to undertake lawful primary industry production and associated lawful agricultural practices in the locality, whether existing or in the future without mutual conflict.”*

#### COMMITTEE RECOMMENDATION

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Novak, Baker

Against: Nil

#### LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.2 Grow the Clarence Valley economy through supporting local business and industry

#### BACKGROUND

Council on 26 June 2018 resolved to prepare a Planning Proposal to allow function centres in RU1 and RU2 zones under the Clarence Valley Local Environmental Plan 2011 as uses permitted with consent and that the Planning Proposal includes the insertion of a new clause into the CVLEP that ensures the impacts of function centres are properly considered when development consent for function centres is sought in rural areas.

On 26 February 2019 Council considered a Planning Proposal prepared by staff and resolved to refer the proposal to the Department of Planning and Environment (the Department) with a request for a Gateway Determination. It also resolved to publicly exhibit a draft amendment to Council’s Rural Zones Development Control Plan in relation to function centres concurrently with the Planning Proposal, following the receipt of a Gateway Determination to proceed.

Council received a Gateway Determination dated 12 April 2019 from the Department to the effect that the Planning Proposal can continue to public exhibition subject to a range of conditions. The Planning Proposal was publicly exhibited from 31 May to 28 June 2019. See Consultation below. A copy of the exhibited Planning Proposal and proposed Rural Zones DCP provisions is at Attachment 1.

A copy of the Gateway Determination is at Attachment 3. Council was also issued plan making delegations.

**KEY ISSUES**

The major issue raised via the community and stakeholder consultation process is the potential for function centres to impact on agricultural resources and industries. This issue was raised by NSW Department of Primary Industries Agriculture (DPI Agriculture) and is further discussed below.

**Potential impact on agricultural resources and industries**

In its submission to the Planning Proposal DPI Agriculture has expressed concern about the potential for function centres to impact on agricultural resources and industries in Council's rural zones. A copy of the submission is at Attachment 4.

The essence of the DPI Agriculture submission is that it:

- (i) objects to the part of the Planning Proposal that seeks to permit function centres with consent in the RU1 zone.
- (ii) concerned with the breadth of the definition of 'function centres' and the risk that larger scale developments could pose. In considering the permissibility of function centres in the RU2 zone it recommends that Council consider a new term/definition of 'Rural Event Site' similar to that being considered by Byron Council to limit the number of events and their frequency.
- (iii) suggests the following amendment be made to 2(b) of the draft CVLEP clause:  
*'the land use will not result in unreasonable conflict to the use of the land or any land for agriculture or rural industries adjoining or in close proximity'.*

DPI Agriculture further considers that Council should strategically assess its rural zones and critical production areas to:

- (i) ensure a balance between the right to farm for primary producers, and diversification of income in certain areas, and
- (ii) protect critical production areas while enabling diversification where it won't impact production.

It suggests further considerations could include:

- The development should be small-scale and the development footprint limited to an acceptable area.
- The proposal should be located an acceptable distance from the adjoining property boundary.
- Proponents are to demonstrate that reasonable consultation has occurred with neighbouring landowners and/or landowners within 1km of the proposal as part of the development application.
- Where there is an unacceptable land use conflict risk identified, appropriate mitigation measures should be applied, this may include a vegetation buffer established on the proponent's land.
- Where relevant, a biosecurity management plan should be required that may include signage, guest exclusion areas, etc.
- Proponents are required to give at least 48 hours notice of a scheduled event to landowners within 1km of the subject land
- A fireworks management plan that includes consultation with nearby residences should be included in the development application where fireworks are proposed.
- The traffic management plan should consider strategies for minimising traffic on rural roads during the event and as part of event set up and pack up, e.g. catering etc.

Comment

Whilst the DPI Agriculture's concerns are appreciated there does not appear to be any substantial evidence that would suggest that function centres or events impact on or impair primary producers, primary production, agricultural practices and activities in Council's rural areas, though it is conceded that it may be possible for that to happen in certain circumstances.

Council's experience is that there have been limited instances of conflicts between certain rural function centres/events and occupants/residential of adjoining properties eg noise/amenity impacts. A case in point

is the Riverside Ranch Yamba (Micalo Road) which has been the subject of intermittent noise related complaints. A review of Council complaints system for complaints over the last 3 years indicates that there have been no complaints or other reported conflicts associated with function centres and/or events in rural areas other than the instance mentioned above. Council receives complaints at times about noisy parties or tenants in residential neighbourhoods and sometimes in rural areas.

Recent discussions held with officers of the DPI Agriculture indicate that it maintains the position that function centres should not be permitted within RU1 land unless such developments have been planned for strategically. It further states that consideration of further refinement of the definition within RU2 as a mechanism to ensure the principle use of the land remains as agriculture may also assist.

DPI Agriculture was also requested to respond to two alternative positions posed to it including:

1. Alternative position 1 - Permitting function centres with consent in RU1 zone subject to revised LEP clause & DCP provisions.

DPI Agriculture response - The inclusion of the proposed requirements in Option 1 are reasonable requirements however as indicated we would not support the inclusion within RU1 unless some work had been undertaken to consider where these types of development are appropriate.

2. Alternative position 2 - Permitting function centres with consent in RU1 zone but not on land mapped under the North Coast Regional Plan 2036 as important farmland. This would be accompanied with a proposed amendment to the LEP clause as well as an amended DCP provision similar to alternative position 1.

DPI Agriculture response - Whilst the notion of avoiding important farmland through Option 2 is preferred, by including exception criteria the premise of protecting this land becomes somewhat void.

Further details of the alternative positions suggested to DPI Agriculture and the DPI Agriculture's response is at Attachment 5.

The North Coast Regional Environmental Plan identifies and maps what is called important farmland which is rural land of regional importance to support long-term agricultural production.

The DPI Agriculture stated that a large proportion of the Council area is mapped as important farmland. This is not true. Seven per cent (7% or 72,500 hectares) of the Council area is mapped as important farmland. Other key statistics include:

- % of LGA mapped RU1 zone - 11% (or 115,500 ha)
- % of LGA mapped RU2 zone - 38% (or 400,700 ha)
- % of RU1 zoned land mapped as important farmland - 50%
- % of RU2 zoned land mapped as important farmland - 2%
- % of important farmland zoned RU1 - 79%
- % of important farmland zoned RU2 - 10%

The criteria for or relevant factors or attributes that make up important farmland is not known or evident. Further, it is not known if important farmland is the same or similar to Important Agriculture Land (IAL) which is the existing or future location of local or regionally important agricultural industries or resources; and which includes a combination of biophysical resources and socio-economic (infrastructure, proximity to processing facilities, markets etc) requirements for local or regionally important agricultural industries.



If the important farmlands mapped in the North Coast Regional Environmental Plan are of such regional significance and of such importance to DPI Agriculture then Council should be of the view that DPI Agriculture resource the strategic assessment of critical production areas and rural zones.

**Other issues and public authority responses**

The NSW Rural Fire Service (NSW RFS) has advised that it has no objection to the Planning Proposal. It further advises that future development applications on mapped bush fire prone land will be required to satisfy bush fire legislation and guidelines.

Roads and Maritime Services has no objection to the proposed amendments, particularly in view of reference to traffic and road access measures being included into the CVLEP and relevant DCP.

**Conclusion**

Due to the DPI Agriculture's concerns about the impact function centres could potentially have on agricultural resources and industries particularly in the RU1 zone, it is to be recommended that the Planning Proposal be amended as per the officer recommendation.

To accommodate some of the DPI Agriculture's other concerns amendments are also suggested to the proposed Rural Zones DCP provisions (proposed Part X CONTROLS FOR FUNCTIONS CENTRES) as per the officer recommendation.

**COUNCIL IMPLICATIONS****Budget/Financial**

Preparation of the Planning Proposal and administration of the CVLEP amendment process is being accommodated within the existing staffing and advertising budgets for Council's Land Use Planning functions.

**Asset Management**

N/A

**Policy or Regulation**

Environmental Planning and Assessment Act 1979  
Clarence Valley Local Environmental Plan 2011  
Clarence Valley Rural Zones Development Control Plan

**Consultation**

The Planning Proposal was publicly exhibited from 31 May to 28 June 2019. Notification of the exhibition of the Planning Proposal and draft DCP controls was given to interested parties who were either known "function centre" operators or had concerns about the operation of existing function centres. Additionally, the matter was also referred to the following public authorities - Roads & Maritime Services, Dept. Primary Industries - Agriculture and NSW Rural Fire Service. These submissions are reviewed in ISSUES above.

One private submission was received and this was in support of the proposal. Public authority responses are reviewed in ISSUES above. Copies of submissions received to the exhibited Planning Proposal and DCP amendment are at Attachment 4.

**Legal and Risk Management**

Continuing to issue development approvals for operations that are intending to be ongoing as "Temporary Uses" is a potential risk. In addition, if those uses have any adverse amenity impacts, they are not permissible under Clause 2.8 and such decisions have been overturned by the Land and Environment Court. This places both the proponent and Council at risk of financial loss.

**Climate Change**

N/A

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Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none"><li>1. Planning Proposal and draft DCP amendment – as exhibited</li><li>2. Amended Planning Proposal (inc LEP clause and Rural Zones DCP provisions)</li><li>3. Gateway Determination</li><li>4. Submissions</li><li>5. Alternative LEP and DCP provisions suggested to DPI Agriculture</li></ol>

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<b>ITEM</b>	<b>6b.19.038</b>	<b>COMMUNITY PARTICIPATION PLAN</b>
<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

A draft Community Participation Plan (CPP) has been prepared for Council's consideration. All councils in NSW are required to finalise their CPPs by 1 December 2019.

All applicable NSW planning authorities (including councils) will be required to have the final version of their first CPP published on the NSW Planning Portal by 1 December 2019.

## OFFICER RECOMMENDATION

That Council adopt, for the purpose of public exhibition, the draft Community Participation Plan and place it on public exhibition for a minimum period of 28 days.

## COMMITTEE RECOMMENDATION

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.3 Engage with the community to inform decision making

## BACKGROUND

Amendments to the Environmental Planning and Assessment Act 1979 (the Act) effective from 1 March 2018 required all NSW councils to prepare CPPs. A CPP is a document that outlines how and when planning authorities engage with the community across their planning functions. The key objective of the CPP is to outline all legislative and Council policy requirements for public notification of development applications and engagement with the community on other land use planning matters in a single concise document.

Schedule 1 to the Act currently sets out mandatory community participation requirements, including minimum:

- (i) public exhibition timeframes for plans, development applications (DAs) and other matters;
- (ii) minimum notification requirements in relation to DAs and decisions.

Currently Council's "community participation" requirements in relation to DA matters are primarily contained in its Development Control Plans (DCPs); these include information setting out specific exhibition timeframes (sometimes referred to as notification periods) for types for DAs.

The purpose of the CPP is to consolidate Council's engagement planning matters into a single document. Once adopted the CPP will supersede the DCP provisions for notification and advertising in Council's DCPs. Complementary amendments to Council's DCPs will also need to be prepared and exhibited.

It should be noted that the CPP does not relate to any other functions of Council beyond planning. The CPP is distinct from, but complementary to Council's Community Engagement Strategy which remains Council's overarching adopted strategy for engaging with the community for all of its functions.

The draft CPP has to be exhibited for a minimum period of 28 days.

### KEY ISSUES

The key issue with the CPP is ensuring compliance with legislated requirements and accompanying guidance issued by the Department of Planning, Industry and Environment.

Section 2.23 (2) of the Act requires Council and other planning authorities to have regard to the following when preparing a CPP:

- (a) The community has a right to be informed about planning matters that affect it.*
- (b) Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning.*
- (c) Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning.*
- (d) The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.*
- (e) Community participation should be inclusive and planning authorities should actively seek views that are representative of the community.*
- (f) Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made.*
- (g) Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account).*
- (h) Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development.*

These are the community participation principles. The draft CPP has adopted these in their entirety. No other community participation principles are proposed.

As mentioned in Background above, Schedule 1 to the Act sets out mandatory community participation requirements.

The CPP will be a new policy that will set out when and how Council will engage with the community in the carrying out of its planning functions, including:

- Statutory Planning - Assessment of development applications (DAs);
- Strategic Planning - Planning proposals, local strategic planning statements, new local environmental plans and development control plans;
- Contribution Plans - making or amendment of contribution plans and planning agreements;
- Plans of management under the Local Government Act 1993 – being forward planning documents used by Council to manage public land under its control.

The CPP also sets out how Council will deal with submissions in terms of receiving and responding to them in the planning process.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Preparation of the draft CPP is being carried out with contract assistance.

#### **Asset Management**

N/A

#### **Policy or Regulation**

Environmental Planning and Assessment Act 1979

Local Government Act 1993

#### **Consultation**

In the course of preparing the draft CPP, the following consultation has occurred to date:

1. Internal consultation
2. Public drop in session at Maclean, 10.00am – 2.00pm on 10 September 2019
3. Focused stakeholder workshop at Grafton, 5.30 - 7.30pm on 10 September 2019

While the primary focus of sessions 2 and 3 above was the proposed Local Strategic Planning Statement, proposed CPP was still discussed.

Adoption of the draft CPP (the subject to this report) will enable the formal public exhibition of the draft CPP for a minimum period of 28 days including the opportunity for interested stakeholders and the community in general to provide formal input.

#### **Legal and Risk Management**

The draft CPP has been prepared to comply with legislated requirements and DPIE guidelines. On this basis, there are no foreseeable legal and risk management implications

#### **Climate Change**

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	Draft Community Participation Plan

<b>ITEM</b>	<b>6b.19.039</b>	<b>CLARENCE VALLEY LOCAL HERITAGE GRANTS 2019-20</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

**SUMMARY**

Council has received 22 applications under the 2018-19 Local Places Heritage Grants program, 16 of which have had no prior funding in the last five years and five from applications which have had previous funding. The priority for 2019-20 is to heritage items, and contributory buildings within in Grafton and South Grafton and its Heritage Conservation Areas. There is sufficient funding to support 20 applications received in accordance with the assessment guidelines. Council is requested to allocate the funding amount of \$39,028 in accordance with the recommendations below.

**OFFICER RECOMMENDATION**

That:

1. Council allocate funding to applicants in accordance with the 'Funding Offer' column in the table at Attachment 1 to this report with each applicant required to sign a written agreement and comply with any relevant conditions payment and acquittal requirements.
2. The General Manager be authorised to reallocate any funding offers that are not taken up to other suitable projects within the year.

**COMMITTEE RECOMMENDATION**

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.2 Respect the heritage of the region by highlighting and enhancing our unique characteristics

**BACKGROUND**

The Local Heritage Places Fund is a small grant incentives program to support and encourage owners of heritage items and contributory historic buildings in carrying out important maintenance and conservation works. The grant program is funded by Council with contribution from NSW Department of Premier and Cabinet (formerly NSW OEH). Each year available funds are prioritised to a different area and rotated around the Clarence Valley to provide some focus to the works, and equitable opportunity for owners and managers of heritage items and places of heritage value. This year the priority area is Grafton and South Grafton and a total of 22 applications were lodged, 20 within the priority area, and two from other areas.

Council's Operational Plan (2019-20) contains Action 1.1.2 for an ongoing commitment to implement the Heritage Assistance Program with a KPI to spend or commit 100% of funding before 30 June annually. The applications have been reviewed and a ranking of applications produced with regard to the criteria set out by OEH to guide assessment.

## **KEY ISSUES**

### **Application Overview**

A summary of the applications and recommended funding is set out in Attachment 1 to this report.

The submitted projects were assessed and ranked based on several merit criteria. The ranking is used to assist with the allocation of funds.

### **Proposed Works**

The proposed projects include important maintenance, guttering, repairs or reconstruction of damaged joinery, removal of unsympathetic elements and reconstruction to match or suit the era original details, installation of appropriate picket fences and repainting in heritage colour schemes.

### **Economic Benefit**

The total value of the proposed projects is \$184,680. The grant fund of \$39,028 represents less than 25% of this value indicating that it has an economic multiplier effect of nearly fivefold.

### **Public Education and Awareness**

Heritage grants are an important tool for heritage conservation and deliver a positive message to the community of Council's support for its cultural heritage. The grants raise awareness of the need for ongoing maintenance and stimulate projects for maintenance and restoration, which are essential for long term conservation of the heritage items, raise public awareness and increase education on the need for appropriate materials and approaches.

### **Assessment Process**

Eligible projects that may be funded include:

- termite control, site stabilisation, stormwater and subsoil drainage;
- protection of archaeological sites including protection of cemetery sites;
- reinstatement of missing elements to original details, such as fences, verandahs, timber windows, decorative features;
- removal of unsympathetic additions and restoration to original details;
- emergency repairs and keeping buildings watertight pending longer term restoration;
- re-roofing and guttering in authentic materials and profiles;
- repainting in a traditional heritage colour scheme;
- Building Code Australia upgrades (fire, services, and access) for ongoing and new uses.

### **Assessment**

The applications were assessed against a number of criteria including the heritage value of the place/premises, the conservation merits of the proposed work and potential public benefit. This includes public access, the visibility of works, contribution to streetscapes and removal of unsympathetic elements and the relative value of the conservation works. Scores against each criterion were recorded and applications ranked in order from highest to lowest score. The applications in the table at Attachment 1 are listed in ranked order with the priority area applications first followed by applications for non-priority areas.

Selection criteria	Points
Heritage Item	15
In a heritage conservation area	5
Public access and visibility	1-10
Located in well-maintained streetscape/setting	1-10
Located in a heritage group, complex or main street precinct	1-10
Degree of maintenance to avert risks to place/premises and conservation value of works	1-20
Works additional to maintenance, e.g. remove unsympathetic alterations	1-10
Sustainable long term heritage benefits	5-10
Increases opportunities for learning, access, community involvement, employment, regional economy positive community attitudes	1-10
<b>Total</b>	<b>Score out of 100</b>

### Allocation

- In accordance with the assessment criteria and principles, \$2,000 (or 50% of the project value if less than 4,000) was firstly allocated to each project in the priority area, in ranked order.
- Whilst some projects have a higher total cost, the public advertisement stated that *“Grants will generally be offered up to a maximum of \$2,000 per item, on a dollar for dollar basis”*.
- Heritage grants are an incentive and the objective is to provide support to as many projects as possible.
- Smaller projects are often reliant on the matching funding in order to carry out important maintenance works, therefore no change is recommended to this allocation.
- After allocation to the priority area the remaining applications were able to be supported, although the final ranked application was less than \$2,000 due to the amount of remaining funds. The proposed grant allocations are set out in Attachment 1 on the basis of this assessment.

### COUNCIL IMPLICATIONS

#### Budget/Financial

Council’s Operational Plan (2019/20) contains Action 1.1.2 to implement the Heritage Assistance Program with a KPI to spend or commit 100% of funding before 30 June 2020. The recommendation of this report is to commit 100% of the available funding (\$39,028) for this program in the 2019/20 year.

#### Asset Management

None of the applications relate to Council owned assets.

#### Policy or Regulation

The majority of the proposed works will be assessed as ‘maintenance and works of a minor nature’ which can be approved under Clause 5.10(3) heritage exemption provisions, of the *Clarence Valley Local Environmental Plan 2011*, with the grant notice prior to works commencing. Where development consent is required the applicants will be advised accordingly.

#### Consultation

The 2019-20 Clarence Valley Local Heritage Grants program was publicly advertised in the local press, through social media, on a radio interview and through Council’s website. Applications closed at midnight on 30 August 2019.

#### Legal and Risk Management

Not anticipated to create any potential issues.



**Climate Change**

Heritage conservation is very positive through conservation of existing resources and utilising the embodied energy of existing buildings.

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Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	Allocation of Funding for Heritage Grants 2019-20

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<b>ITEM</b>	<b>6b.19.040</b>	<b>CITIES POWER PARTNERSHIPS</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

Council has been invited to join the Cities Power Partnership (CPP). This report provides a background to CPP and details the potential benefit from joining.

**OFFICER RECOMMENDATION**

That Council join the Cities Power Partnership.

**COMMITTEE RECOMMENDATION**

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 4 Environment

Objective 4.2 We will foster a balance between development and the environment considering climate change impacts

Strategy 4.2.1 Promote, plan and implement strategies that reduce carbon emissions, improve energy efficiencies and increase the use of renewable energy

**BACKGROUND**

The Cities Power Partnership (CPP) is a free national program initiated by the Climate Council. The CPP is a coalition of the willing – made up of mayors, councils and communities committed to a sustainable non-polluting energy future. It was launched in 2017 and now represents over 110 local governments and 300 towns and cities.

CPP offers members ongoing access to the knowledge hub, Power Analytics tool, webinars with domestic and international experts as well as communications and advocacy training as well as an awards program. Members are buddied with other members to share knowledge and experience.

**KEY ISSUES**

The Partnership Action Pledge – participating councils who join the partnership are obliged to select and commit to implement 5 key actions from an extensive action list covering renewable energy, energy efficiency, transport and advocacy.

Clarence Valley Council is in the position of being able to nominate actions that it has already committed to under the 100% renewable strategy including targets for emission reduction and renewable energy. Council is therefore not obliged to commit to any new actions.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Joining the Cities Power Partnership is free and does not incur any additional financial commitments.

#### **Asset Management**

N/A

#### **Policy or Regulation**

Climate Change Policy and Council's strategy to reduce emissions by 40% and increase the use of renewable energy to 50% (100% Renewables Report).

#### **Consultation**

Council's Climate Change Advisory Committee has endorsed Council joining.

#### **Legal and Risk Management**

N/A

#### **Climate Change**

Joining Cities Power Partnership is seen as a positive initiative that will assist Council meet its climate change targets and also assist other councils implement actions to mitigate the impact of climate change.

Prepared by	Ken Wilson, Waste & Sustainability Coordinator
Attachment	Cities Power Partnership

**ITEM 6b.19.041 DEVELOPMENT APPLICATIONS**

<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Nil	

**SUMMARY**

This report provides an update on Development Applications received, estimated value of works, applications approved, average processing times for the period 1 July to 30 September 2019, as well as DAs undetermined for more than 40 days as at 30 September 2019.

**OFFICER RECOMMENDATION**

That the update on Development Applications be noted.

**COMMITTEE RECOMMENDATION**

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

The calculation method for the numbers of days an application is held by Council includes all calendar days including weekends and public holidays. This method is consistent with the NSW Department of Planning *Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*. A small percentage of development applications (DAs) approved have been with Council for a substantial amount of time and hence, these applications upwardly skew the average processing time. Hence, the median (or middle score) processing time for DAs has been included to give an additional indication of the amount of time taken to approve development applications during the reporting period.

**KEY ISSUES**

The figures from 1 July 2019 to 30 September 2019 are:

No. of Applications Received	No of Applications Approved	Value of Approved Works	No of Lots Approved	Processing Times (including stop-the-clock days)
189	174	\$36,615,490.00	21	Average : 71 days Median: 51 days

Of the 174 approved Development Applications between 1 July 2019 and 30 September 2019, 68 (39%) were determined within 40 days or less. At 1 October 2019 there were 157 undetermined development applications that have been with Council for the following timeframes:

<b>Less than 40 days</b>	73
<b>41 - 60 days</b>	24
<b>61 - 80 days</b>	12
<b>81+ days</b>	48

The table below shows undetermined DAs that have been with Council for over 40 days with reasons for their current status.

#### Reasons for Undetermined Applications over 40 days

Application No.	Received Date	Days	Description	Property	Reason
DA2019/0456	20/08/2019	41	Shed	195 Gardiners Road, JAMES CREEK NSW 2463	Currently being assessed*
SUB2019/0033	20/08/2019	41	Boundary adjustment & consolidation of Lot 10 DP752845 & Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Additional information requested (access and servicing of proposed lots, details of vegetation removal (if any) and liaise with Local Aboriginal Land Council)
SUB2019/0032	19/08/2019	41	Two lot subdivision	136 Queen Street, GRAFTON NSW 2460	Awaiting internal referrals (engineering and building) and currently being assessed*
DA2019/0449	19/08/2019	42	Shed	145 Rogan Bridge Road, WATERVIEW HEIGHTS NSW 2460	Currently being assessed*
DA2019/0447	19/08/2019	42	Retaining wall	165-169 Cambridge Street, SOUTH GRAFTON NSW 2460	Additional information submitted and currently being assessed*
SUB2019/0031	15/08/2019	42	Two lot strata subdivision	46 Coramba Street, GLENREAGH NSW 2450	Currently being assessed*
DA2019/0444	16/08/2019	45	Carport	48 Melaleuca Drive, YAMBA NSW 2464	Currently being assessed*
DA2019/0442	15/08/2019	46	Covered walkway	Bent Street, SOUTH GRAFTON NSW 2460	Currently being assessed*
DA2019/0439	14/08/2019	47	Studio, deck, carport & awning	19 Gumnut Road, YAMBA NSW 2464	Currently being assessed*
DA2019/0438	14/08/2019	47	Convert dwelling to child care centre	6 River Street, HARWOOD NSW 2465	Awaiting internal referrals (building, environment and engineering) and currently being assessed*
SUB2019/0030	14/08/2019	47	305 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	Staff to liaise with applicant regarding various matters.
DA2019/0436	13/08/2019	48	Deck	8 Clarence Street, ASHBY NSW 2463	Currently being assessed*
DA2019/0434	13/08/2019	48	Dwelling	Swallow Road, SOUTH GRAFTON NSW 2460	Additional information requested (amended plans)
DA2019/0433	13/08/2019	48	Shed	Erikas Drive, ASHBY NSW 2463	Additional information submitted and currently being assessed*
SUB2019/0029	13/08/2019	48	Boundary adjustment (two lots)	198 Gardiners Road, JAMES CREEK NSW 2463	Awaiting internal referrals (environmental) and currently being assessed
SUB2019/0028	12/08/2019	49	Two lot subdivision	34 Rawdon Street, LAWRENCE NSW 2460	Awaiting internal referrals (engineering) and currently being assessed*
DA2019/0429	9/08/2019	52	Dwelling	63 Warregah Island Road, WARREGAH ISLAND NSW 2469	Currently being assessed*
DA2019/0427	8/08/2019	53	Vehicle sales area & shed	18-20 Clyde Street, MACLEAN NSW 2463	Awaiting internal referrals (building and engineering) and currently being assessed*
DA2019/0426	8/08/2019	53	Extension to Industrial Shed, Caretakers Dwelling and Carport	14 Uki Street, YAMBA NSW 2464	Additional information submitted and currently being assessed*
DA2019/0423	8/08/2019	54	255 manufactured home estate with community	Brooms Head Road, GULMARRAD NSW 2463	Awaiting external referral (OEI). Staff liaising with

Application No.	Received Date	Days	Description	Property	Reason
			facilities		applicant on various matters.
DA2019/0422	7/08/2019	54	Dwelling	32 The Drive, YAMBA NSW 2464	Currently being assessed*
DA2019/0421	7/08/2019	54	Dwelling	500 Bostock Road, PILLAR VALLEY NSW 2462	Additional information submitted and currently being assessed*
DA2019/0417	7/08/2019	54	Additions to existing waste transfer station	704 Armidale Road, ELLAND NSW 2460	Additional information requested (amended plans and elevation plans)
DA2019/0415	6/08/2019	55	Two lot residential subdivision and demolition of carport and erect new carport	30 Yamba Road, YAMBA NSW 2464	Additional information requested (amended subdivision plans, plans of car port and demonstrate compliance with DCP or DCP variation is to be submitted)
DA2019/0407	31/07/2019	61	Riverbank Rehabilitation	177 Carrolls Lane, CHATSWORTH NSW 2469	Currently being assessed*
DA2019/0404	30/07/2019	62	Dwelling	1096-1130 Yamba Road, PALMERS ISLAND NSW 2463	Currently being assessed*
DA2019/0403	29/07/2019	63	Alterations and additions to dwelling	458 Murrayville Road, ASHBY NSW 2463	Additional information submitted and currently being assessed*
DA2019/0402	29/07/2019	61	Demolition of dwelling	85-103 Mary Street, GRAFTON NSW 2460	Currently on exhibition.
DA2019/0399	26/07/2019	66	Storage shed/bays & caretakers dwelling	21-25 Brickworks Lane, SOUTH GRAFTON NSW 2460	Awaiting internal referrals (building and engineering) and currently being assessed*
DA2019/0398	25/07/2019	67	Dwelling	26 Wooli Street, YAMBA NSW 2464	One submission received and currently being assessed*
DA2019/0394	24/07/2019	68	Alterations and Additions	3 Banksia Street, MINNIE WATER NSW 2462	Currently being assessed*
SUB2019/0026	24/07/2019	68	Two lot subdivision	143 Bent Street, SOUTH GRAFTON NSW 2460	Currently being assessed*
DA2019/0390	19/07/2019	73	Alterations and Additions to dwelling	46 Clarence Street, BRUSHGROVE NSW 2460	Awaiting additional information (amended plans)
DA2019/0389	19/07/2019	73	Flood mound	Schwonberg Street, TOWNSEND NSW 2463	Awaiting internal referrals (engineering) and currently being assessed*
DA2019/0388	19/07/2019	73	Construct shed for timber processing	230 Orchard Road, MOUNTAIN VIEW NSW 2460	Awaiting internal referrals (building and engineering) and currently being assessed*
SUB2019/0025	19/07/2019	73	68 lot residential subdivision, drainage reserve & public reserve	966 Summerland Way, JUNCTION HILL NSW 2460	Likely to be report to November Council meeting
SUB2019/0024	10/07/2019	82	32 lot residential subdivision	21 Jubilee Street, TOWNSEND NSW 2463	Additional information required (stormwater management plan and noise attenuation from highway)
DA2019/0380	9/07/2019	83	Convert shed to dwelling	1 Perch Road, WELLS CROSSING NSW 2460	Additional information requested (contamination assessment and building details)
DA2019/0377	9/07/2019	83	Demolition and dwelling	32 Acacia Circuit, YAMBA NSW 2464	Currently being assessed*
SUB2019/0022	8/07/2019	83	Two lot rural subdivision	139 Clearview Road, COUTTS CROSSING NSW 2460	Report to October Council meeting.
DA2019/0369	5/07/2019	87	Temporary secure boat and equipment storage facility	60 Careys Lane, HARWOOD NSW 2465	Awaiting external referral to EPA
DA2019/0356	28/06/2019	88	Alterations & additions to convert school residence to classroom	Morpeth Street, HARWOOD NSW 2465	Additional information submitted and currently being assessed*
DA2019/0354	28/06/2019	88	11 lot strata subdivision and alterations and additions to residential units	20A River Street, ULMARRA NSW 2462	Awaiting internal referral (building) and currently being assessed*
DA2019/0336	19/06/2019	95	Convert shed to dwelling	170 Bennetts Road, NYMBOIDA NSW 2460	Additional information required (site plan, BASIX Certificate and building details)

Application No.	Received Date	Days	Description	Property	Reason
DA2019/0334	19/06/2019	103	Install brewery in backpackers cafe	26 Coldstream Street, YAMBA NSW 2464	Awaiting additional information (revised floor plan and elevations, trade waste, waste management).
DA2019/0331	18/06/2019	104	50 self contained senior living units	56 Yamba Road, YAMBA NSW 2464	Additional information received, potential report to October Council meeting to consider height variation.
DA2019/0325	17/06/2019	104	Industrial activity (wrecking yard)	11 Bessie Street, SOUTH GRAFTON NSW 2460	Additional information required (stormwater management plan and unauthorised building works)
DA2019/0321	14/06/2019	108	Relocated dwelling	9 Lorikeet Place, GLENREAGH NSW 2450	Additional information requested (amended plans)*
DA2019/0310	11/06/2019	110	Convert shed to dwelling	94 Citrus Drive, WELLS CROSSING NSW 2460	Further additional information submitted and currently being assessed*
SUB2019/0018	11/06/2019	110	8 lot residential subdivision	9 Gundaroo Crescent, ILUKA NSW 2466	Awaiting External referral (NRAR and DPI Fisheries)
DA2019/0303	6/06/2019	116	Backpacker accommodation for up to 74 guests and managers residence	26-28 Wharf Street, SOUTH GRAFTON NSW 2460	Additional information required (comment regarding noise and privacy issues)
DA2019/0298	4/06/2019	117	Alterations and additions to commercial building (Veterinary Clinic)	91 Prince Street, GRAFTON NSW 2460	VPA to be reported to October Council meeting*
DA2019/0266	22/05/2019	131	Remediation of riverbank erosion & construction of two dams & two flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Awaiting External referral (NRAR)
DA2019/0254	16/05/2019	137	Dwelling and secondary dwelling	31 Riverside Drive, WOOLI NSW 2462	Awaiting additional information (amended OSM report and land contamination assessment).
DA2019/0253	16/05/2019	137	Upgrade to Equine veterinary hospital	160 Old Lilypool Road, SOUTH GRAFTON NSW 2460	Awaiting additional information (Stormwater management plan and amended plans)
SUB2019/0015	15/05/2019	138	15 lot residential subdivision	25 Mookin Street, TUCABIA NSW 2462	Currently being assessed, likely report to November Council meeting*
DA2019/0248	14/05/2019	139	Regrading land (cut and fill)	Arthur Street, GRAFTON NSW 2460	NRAR have not issued General Terms of Approval, application to be withdrawn by the applicant or refused.
DA2019/0243	13/05/2019	140	Shipping container building with playground, cafe and rooftop restaurant	383 North Street, WOOLI NSW 2462	Awaiting internal referrals (engineering) and currently being notified*
DA2019/0242	13/05/2019	140	Secondary dwelling	47 Williams Crescent, WOOLI NSW 2462	Additional information requested (on-site wastewater report or withdraw application)
DA2019/0215	26/04/2019	157	Filling of land	2 Micalo Road, MICALO ISLAND NSW 2464	External referrals now received and currently being assessed*
DA2019/0208	23/04/2019	160	Redevelopment & refurbishment of Pacific Hotel (including demolition of beach house & northern section of hotel, construction of new tourist accommodation & ancillary works)	16 Pilot Street, YAMBA NSW 2464	Awaiting Additional information (Sediment and erosion control plans and assessment against steep land provisions of the DCP). Applicant reconsidering proposal in response to public submissions.
SUB2019/0010	23/04/2019	160	Two lot subdivision ( includes lot size variation)	401 Kungala Road, KUNGALA NSW 2460	Department of Planning have advise that concurrence cannot be issued. Applicant to withdraw application.
DA2019/0195	15/04/2019	168	Additions to caravan park - 33 cabins for long term use	42 Marandowie Drive, ILUKA NSW 2466	Requirement for ecological assessment being reviewed.

Application No.	Received Date	Days	Description	Property	Reason
SUB2019/0007	29/03/2019	185	Subdivision of seven lots into four lots	961 Woolli Road, PILLAR VALLEY NSW 2462	Awaiting additional information (demonstrate compliance with Clause 4.1B of the LEP and preliminary contamination assessment)
DA2019/0160	29/03/2019	185	New vehicle repair workshop, construction of three sheds for storage, advertising sign and demolition of existing shed	9 Bultitude Street, TRENAYR NSW 2460	Awaiting internal referrals (engineering) and currently being notified*
DA2019/0152	26/03/2019	188	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Currently being assessed*
DA2019/0130	20/03/2019	194	Dwelling and two lot subdivision	17 Taloumbi Street, MACLEAN NSW 2463	Applicant to review and amend proposal.
DA2019/0128	19/03/2019	195	Machinery shed	1 Youngs Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated land assessment and geotechnical report of mound)
DA2019/0126	19/03/2019	195	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Applicant to review scope of proposal, likely to be no change. Application may be withdrawn once land ownership changes.
DA2019/0085	4/03/2019	210	Shed	Vere Street, SOUTH GRAFTON NSW 2460	Currently on exhibition.
SUB2019/0002	6/02/2019	236	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Awaiting additional information (Applicant to respond to OEH comments regarding BDAR)
DA2019/0044	5/02/2019	237	Alterations and additions to aged care facility (Increase from 63 to 83 beds)	126 North Street, GRAFTON NSW 2460	Waiting for revised site compatibility certificate to be issued.
SUB2019/0001	24/01/2019	249	Seven lot subdivision (5 additional lots)	39/57 Chatsworth Road, CHATSWORTH NSW 2469	Currently being assessed*
DA2018/0630	16/10/2018	349	Dual occupancy	1431 Pacific Highway, ULMARRA NSW 2462	Geotechnical assessment of riverbank presents an unacceptable risk without substantial works to the riverbank. Staff to liaise with applicant prior to determination.
SUB2018/0030	16/10/2018	349	Boundary adjustment	Pacific Highway, TYNDALE NSW 2460	Awaiting additional information (Contaminated land assessment), third update for status of information request sent.
SUB2018/0027	8/10/2018	357	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire)
DA2018/0574	20/09/2018	375	Dwelling	61 Williams Crescent, WOOLI NSW 2462	Awaiting additional information (Amended plans and Basix)
DA2018/0567	18/09/2018	377	Aged care facility (144 beds)	425 Bent Street, SOUTH GRAFTON NSW 2460	Report to October Council meeting.
SUB2018/0021	7/09/2018	388	Four (4) lot industrial subdivision	Federation Street, SOUTH GRAFTON NSW 2460	Additional information now submitted and currently being assessed*
DA2018/0449	6/08/2018	420	Viewing deck	26 Ocean Road, BROOMS HEAD NSW 2463	Second additional information sent (Amended plans, view sharing issues)
DA2018/0102	5/03/2018	574	Speedway practice track	334 School Lane, SOUTHGATE NSW 2460	Awaiting additional information (noise assessment)
SUB2018/0004	23/02/2018	584	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Stormwater Management Plan submitted for review and currently being assessed*



Application No.	Received Date	Days	Description	Property	Reason
DA2017/0671	18/10/2017	712	Caravan Park - Alterations & Additions (10 additional sites) and amenities	391 Goodwood Island Road, GOODWOOD ISLAND NSW 2469	Awaiting additional information (Building Certificate Application, plans and compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
SUB2015/0034	11/12/2015	1389	140 lot Residential Subdivision and new roads	Hickey Street, ILUKA NSW 2466	JRPP deferred pending finalisation of SEPP 55 Assessment.

\*Currently being assessed under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*

#### Exceptions to Development Standards under Clause 4.6 of the LEP

During the month of September 2019 there was no use of Clause 4.6 to authorise variations to development standards for any DAs that were determined.

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

Council assesses development applications using recurrent staffing budgets. Fees for new applications are a significant income stream for Council.

##### **Asset Management**

N/A

##### **Policy or Regulation**

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

NSW Department of Planning *Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*

##### **Consultation**

Applicants with DAs exceeding 40 days should be aware of the reason/s why their DA has not been determined. Staff processing DAs are encouraged to maintain regular contact with Applicants and there remains room to improve this communication. Improvements such as this form one of the outcomes from Council's DA Review Project currently underway.

Correspondence acknowledging receipt of DAs or requesting additional information contains details of the staff member (including direct phone number) responsible for assessment of the DA. Hence, Applicants can easily make contact with the relevant officer if they require assistance or have any questions.

##### **Legal and Risk Management**

DAs that have not been determined within a period of 40 days (not including any 'stop-the-clock' days) can be considered by the Applicant to be a deemed refusal. This factor is unlikely to apply to most of the DAs listed in the earlier table as the calculation of 40 days used for this report does not exclude 'stop-the-clock' days. However, when the appropriate circumstances apply to a DA then the *Environmental Planning and Assessment Act 1979* provides that an Applicant can lodge an appeal to the Land and Environment Court against the deemed refusal and request the Court to determine the DA. It is rare that Applicants pursue this course of action as the cost and time associated with pursuing Court action does not generally justify such action, especially if Applicants are confident that their DA will be approved when determined. DAs where a recommendation for refusal is possible are more likely to be subject to such appeal.

**Climate Change**

The matters discussed in this report have no direct impact on climate change or the effects thereof. Development or works proposed in individual DAs can have implications and these can be considered in assessment of DAs as relevant, eg development on land subject to long term sea level rise and/or coastal erosion.

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Prepared by	James Hamilton, Development Planner
Attachment	Nil

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ITEM	6b.19.042	DISCUSSIONS REGARDING CLARENCE CORRECTIONAL CENTRE
<b>Meeting</b>	Environment, Planning & Community Committee	15 October 2019
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Nil	

## SUMMARY

This report advises the activity occurring relating to external social impacts of the Clarence Correctional Centre.

## OFFICER RECOMMENDATION

That Council note the:

1. Information provided regarding the external social impacts of the Clarence Correctional Centre; and
2. Work being undertaken by NSW Agencies, Correctional Centre operators and local service organisations, with the participation of relevant Council staff.

## COMMITTEE RECOMMENDATION

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Williamson

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.2 We will have a safe, active and healthy region

Strategy 1.2.2 Improve outcomes for the Clarence Valley through partnerships with key agencies and community organisations

## BACKGROUND

At its meeting held in May 2019 Council resolved:

*That:*

1. Council host a roundtable discussion with NSW Corrective Services, Northern Pathways and local service providers to ensure local services are adequate for the arrival of family members associated with the 1700 prisoners arriving in June 2020.
2. Council establish a working group to ensure the needs of this marginalised community are being met.
3. The General Manager report back to Council no later than October 2019 on the outcome of the roundtable.

**KEY ISSUES**

In acknowledging this matter is managed by the NSW Government, Council staff liaised with NSW Premier & Cabinet regarding NSW agency discussions.

Consultation has occurred across a range of State agencies including NSW Premier & Cabinet, Family & Community Services, Infrastructure NSW, Justice, Justice Health, Aboriginal Affairs, Education, Health, Coffs/Clarence Police District and Roads & Maritime. NSW Premier & Cabinet advised that State Directors and Managers currently engage with, and will continue to engage with, senior agency representatives who in turn manage the flow of this information to those at service level.

The Executive and staff met with Serco to discuss the issues and community concerns around managing the external social impact of the Correctional Centre. Serco will be releasing social performance indicators to the community periodically throughout the contract.

Investigation by local community services into the impact of the new correctional facility is being undertaken by Social Futures in partnership with the Aboriginal Medical Service and Council's Executive team and Community Services Coordinator are participating in this process.

This investigation is being led by Deloitte consultants and has a full cross-section of community stakeholders engaged. Council has been an active participant, in the review and feedback processes, and will receive a report on the outcomes. Implications and suggested actions can be considered at this point.

Council staff are continuously developing partnerships and networks to ensure that the needs of the community are realised and is looking for opportunities to grow social engagement that enhances the quality of life for Clarence Valley residents.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

The Community Services team, Community & Industry Engagement have consulted with relevant stakeholders as detailed in the body of the report.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Dan Griffin, Community Services Coordinator
Attachment	Nil

**CLOSE OF COMMITTEE MEETING**

There being no further business the Environment, Planning & Community Committee closed at 4.10 pm.

**c. CORPORATE GOVERNANCE AND WORKS COMMITTEE**

**MINUTES** of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday 15 October 2019 commencing at 2.00 pm.

**ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND**

I acknowledge the Yaegl peoples, traditional custodians of these lands on which this meeting is taking place and pay tribute and respect to the Elders both past and present of the Bundjalung, Gumbaynggirr and Yaegl nations which lie within the Council boundaries.

**ANNOUNCEMENT**

All present are advised that this meeting is being broadcast and audio recorded. The recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. Speakers are asked not to make insulting or defamatory statements and to take care when discussing other people's personal information. No other persons are permitted to record the meeting unless specifically authorised by Council to do so.

**PRESENT**

Cr Karen Toms (Chair), Cr Jason Kingsley, Cr Peter Ellem, Cr Arthur Lysaught

Cr Andrew Baker, Cr Debrah Novak, Cr Richie Williamson, Mr Des Schroder (Acting General Manager), Ms Laura Black (Director – Corporate & Governance), and Mr Troy Anderson (Director – Works & Civil) were in attendance.

**APOLOGY****MOTION**

Lysaught/Kingsley

That a leave of absence be granted to Cr Jim Simmons.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**DISCLOSURE AND DECLARATIONS OF INTEREST**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Toms	6c.19.069	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Contract Manager of Iluka Holiday Park re carry forwards. Intended action: Remain in the Chamber
Cr Toms	6c.19.064	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Item on RFT18/010 Director of JKT & Sons who was an applicant in the tender. Intended action: Leave the Chamber.

<b>ITEM</b>	<b>6c.19.062</b>	<b>GLENREAGH RAIL PRECINCT RISK ASSESSMENT</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes plus Confidential Attachment	

**SUMMARY**

This report presents to Council the results of the risk assessment of the Glenreagh Rail Precinct and details the insurance implications should Council proceed with entering into a lease agreement with the Australian Rail Track Corporation and/or the Glenreagh Rail and Station Preservation Society Inc. for the management of the Glenreagh Rail Precinct.

**OFFICER RECOMMENDATION**

That

1. Council not enter into leasing arrangements with the Australian Rail Track Corporation or the Glenreagh Rail and Station Preservation Society Inc. for the management of the Glenreagh Rail Precinct due to the significant financial risk to Council.
2. The Glenreagh Rail and Station Preservation Society Inc. be encouraged to work with the Glenreagh Mountain Railway organisation, in a combined effort to preserve the Glenreagh rail history offsite in the village of Glenreagh.
3. Council support this combined effort, with the Community Projects Officer (Community Grants) meeting with the group to understand their strategic goals and support their efforts in identifying and seeking funds for collaborative activities.
4. The Myclarenevalley promotion of Glenreagh be updated to incorporate the rail history value of the destination.

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.2 Respect the heritage of the region by highlighting and enhancing our unique characteristics

**BACKGROUND**

In response to a Notice of Motion from Cr Toms at the April 2019 meeting (refer Item 17.008/19) Council considered a further report at the July 2019 meeting (refer Item 6a.19.011) regarding Council assisting the Glenreagh Rail and Station Preservation Society Inc. (GRASPS) to acquire a lease over the Glenreagh Rail Precinct from the Australian Rail Track Corporation (ARTC) and resolved as follows:

*That Council engage an appropriately qualified consultant up to an amount of \$5,000 plus GST to undertake a risk assessment of the Glenreagh Rail Precinct and that this report be presented back to Council by October 2019, with the Council report to include details of any legal/and or insurance implications for Council entering into a lease agreement with the Australian Rail Track Corporation and/or the Glenreagh Rail and Station Preservation Society Inc for the management of the Glenreagh Rail Precinct.*

Jardine Lloyd Thompson Pty Ltd (JLT) was engaged to complete the risk assessment of the Glenreagh Rail Precinct and a copy of this report is attached (Refer Attachment A).

#### **KEY ISSUES**

The risk assessment completed by JLT regarding Council entering into a lease with ARTC and GRASPS for the Glenreagh Rail Precinct was informed by a *“commissioned report (January 2019) on the site by engineering professional services company GHD”* (refer Attachment B), which *“recommended several options for the station house and the water tower. The options provided were ‘demolition only’ or ‘demolition and reconstruction’. These recommendations were made based on the then decrepit state of the structures which included significant termite damage and corrosion”*. (Page 4 - JLT report)

The JLT report states that *“this risk assessment is focusing on the question of the risks faced by Clarence Valley Council if it does enter into site leasing arrangements with ARTC and GRASPS, and also the risks faced by Council if it declines to enter into these arrangements without offering any credible alternatives.*

The report also advises that *“this risk assessment has been conducted using a completely qualitative approach, including a risk mind-mapping exercise to identify risks, and a Delphi-technique with a group of experience Risk Managers to independently evaluate the risks.”*

A schedule of the identified risks is contained within Table 1 at pages 8 & 9 of the JLT report and the analysis and evaluation of these risks are summarised in the report at pages 9 and 10.

A summary of the risk ratings (at page 10 of the report) states:

*“The ratings suggest that Council faces significant risk if it decides to enter into the leasing arrangements with ARTC and GRASPS, with 60% of the identified risks rated as **High** and the other 40% rated as **Medium**. Conversely, the risks faced by Council if it chooses to not enter into the leasing arrangements are all rated as **Low**, with the exception of Risk #15, which is **Medium**.*

*It is reasonably clear that the collective opinion of the Risk Managers is that lease conditions will not adequately insulate Council from adverse outcomes of the renovation project or any subsequent commercial operations at the Glenreagh Rail Precinct. Such outcomes are considered to have significant adverse financial impact on the Council.*

#### **Risk Assessment Report Options**

The JLT report at page 11 identifies three (3) distinct options that Council can take with the question of whether to enter into leasing arrangements with ARTC and GRASPS for the purposes of protecting railway heritage in the Glenreagh Rail Precinct. The recommendations for the three (3) options can be summarised as follows:

##### **Option 1 – If Council is interested in entering into leasing arrangements**

Option 1 is a **High** risk to Council. If Option 1 is selected these recommendations should be taken as a group, not as separate components.

- Option 1a – Demolition and subsequent reconstruction of the station in an alternate location, AND

- Option 1b – Undertake an independent financial assessment of the project and subsequent commercial activity, AND
- Option 1c – Ensure that lease conditions on the operations at the site are as strong as possible to protect Council from any adverse outcomes as much as is practicable, AND
- Option 1d - Ensure that the leasing arrangements align with Council’s Strategic Plan.

### **Option 2 – If Council is not interested in entering into leasing arrangements**

Council could elect to pursue Option 2 which is considered a **Low** risk by the JLT report and recommends the following:

- Option 2a – create a working group to investigate alternate structures that could lease the site from ARTC and run the subsequent reconstruction project and commercial operations, AND
- Option 2b – consider alternate ways that Council help GRASPS to create awareness and attract corporate sponsorship.

ARTC has advised previously that its strong preference for issuing a lease is with Council. The likelihood of success of this option is extremely limited.

### **Option 3 – Council elects to take no action and make no decisions regarding the Glenreagh Rail Precinct**

The JLT report indicates this option to be a **Medium** risk for Council. It is considered that there is relevant activity that could be undertaken to mitigate the reputational risk identified by JLT.

There are two community groups in Glenreagh coordinating activities to preserve the rail history of Glenreagh and is considered appropriate that Council support the combined efforts of these groups by meeting to understand the common strategic goals of the groups in order to support them to identify and seek funding for activities.

Council’s Tourism Services should also be updated to recognise the rail history value of the area. Both of these functions are within Council’s current service level and do not require additional resources or for resources to be diverted from other priorities.

### **Risk Assessment Conclusions**

At page 12 of the JLT report the conclusions of the risk assessment are as follows:

*“Council faces risks regardless of which option it chooses to follow. However, those risks are significantly lower if Council chooses to not enter into any leasing arrangements with ARTC and GRASPS, especially in terms of potential for reputation damage and financial outlay.*

*If the Glenreagh Rail Precinct is to be restored, the precinct’s station house must first be relocated further away from the active rail line. This should be Council’s absolute requirement if it chooses to enter into leasing arrangements with ARTC and GRASPS.*

*There is no realistic option whereby the site restoration can be undertaken without first moving the station house away from the active rail line.*

*If this were to occur, Council will need to ensure that no legislative breaches of the Rail Safety Act 2008 or the Rail Safety National Law (NSW) No 82a have occurred, or are likely to occur.*

*The GHD report on the site provides compelling argument that Council can rely on as a factor for not entering into leasing arrangements with ARTC and GRASPS. To proceed against this professional opinion and let a community group attempt restoration has significant potential for disastrous outcomes for Council from both a liability and a reputation perspective.*



*It is the considered opinion from this risk assessment that Clarence Valley Council should opt for Option 2 recommendations and not enter into leasing arrangements with ARTC and GRASPS but provide some credible support”.*

### **Implications for Council’s Insurance Cover**

Council’s Account Manager from JLT has provided a summary of the insurance considerations (taking into account the Risk Assessment report) should Council wish to consider proceeding with entering into lease arrangements with ARTC and GRASPS for the management of the Glenreagh Rail Precinct. (Refer Confidential Attachment A).

Those sections of the correspondence which are not confidential are set out below:

- *Lease conditions and obligations cannot indemnify Council from all GRASPS activities*

*Should Council enter into a lease agreement with ARTC, such lease would likely include an indemnity clause requiring Council to hold harmless, and indemnify ARTC for any cause howsoever arising. Council has Public Liability cover with Statewide Mutual, and this cover protects Council for its legal liability for causing personal injury and/or property damage happening to others in connection with Council’s business activities. Such cover includes terms, conditions, limitations and exclusions and the indemnity granted to ARTC may be greater than that of any remedy available under public liability cover. This risk would be considered inherent in most contracts, and wherever practical we recommend that such onerous contractual indemnities aren’t entered into.*

- *GRASPS public liability insurance may be insufficient*

*As noted in earlier parts of this report, there are freight and passenger trains operating through the railway line of the subject property. Whilst ARTC may accept a limit of liability of \$20,000,000 under a lease agreement, such limits may become quickly exhausted should the activities of GRASPS result in a claim, or multiple claims arising from a single occurrence. In this situation, council may be a joint and co-defendant to any claims as lessor of the property and this may unreasonably expose council to adverse claims costs incurred by council, as well as having unfavourable claims attaching to council’s loss history which could otherwise be avoided.*

- *Council, as the primary Lessee, is liable for safe operation of site*

*Council will have ongoing obligations to inspect and monitor activities of its tenant to ensure that council is complying with its contractual requirements outlined in a proposed lease between Council and ARTC. Such obligations would continue until the lease expires, and should GRASPS cease operating, council would be left solely responsible for this site at its own cost unless a suitable replacement tenant could be found and a new contract entered into.*

- *Council as the primary Lessee may be required to indemnify ARTC for an accident caused by GRASPS due to their activities on the site*

*Council would be required to indemnify ARTC for such losses happening at the leased premises, and Statewide only covers council for council’s business activities, not the business activities of others. Whilst council may pass such obligations onto GRASPS under contract, any wrongdoing of GRASPS which results in a claim may affect council in its professional capacity as a consenting authority and council should consider the potential risks both financially and reputational.*

### **Recommendation**

Based on the recommendation of JLT’s Risk Assessment report and the potential implications to Council’s insurance cover it is recommended that Council not enter into leasing arrangements with the Australian Rail Track Corporation or the Glenreagh Rail and Station Preservation Society Inc. for the management of the Glenreagh Rail Precinct due to the significant financial risk to Council. It is also noted that managing the preservation of historical railway stations and/or corridors is not a core function of local government.

Clarence Valley Council has a significant task ahead of it to meet the requirements of its Strategic Improvements Plan and current focus is on refining service delivery to find operational efficiencies to the value of \$4m over two years.

### COUNCIL IMPLICATIONS

#### Budget/Financial

The quote from JLT for the Risk Assessment and Report and the Insurance advice was \$4,000 to \$4,500 which is within the \$5,000 limit set by Council at the July 2019 meeting (refer Item 6a.19.011). A final invoice for the work has not been received at time of writing this report.

#### Asset Management

N/A

#### Policy or Regulation

N/A

#### Consultation

Various representatives of JLT have been consulted in seeking the preparation of the Risk Assessment and insurance advice.

#### Legal and Risk Management

A comprehensive risk assessment was completed by JLT refer Attachment A.

#### Climate Change

N/A

Prepared by	Ashley Lindsay – General Manager
Attachment	A – Risk Assessment Glenreagh Rail Precinct B – GHD Report Glenreagh Rail Precinct
Confidential	JLT Glenreagh Railway Station - Insurance Considerations

<b>ITEM</b>	<b>6c.19.063</b>	<b>CHANGES TO THE AUSTRALIAN CITIZENSHIP CEREMONIES CODE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	To be tabled	

**SUMMARY**

This report advises Council of proposed changes to the Australian Citizenship Ceremonies Code by the Department of Home Affairs.

**OFFICER RECOMMENDATION**

That Council

1. Conduct a citizenship ceremony on Australia Day (January 26).
2. Invite the Federal Member for Page to attend our citizenship ceremonies to read the Minister's message.
3. Adopt the dress code for ceremonies and advise the Department of Home Affairs.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.2 Create awareness of Council's roles, responsibilities and services

**BACKGROUND**

The Hon David Coleman, MP, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs has written previously to Council seeking feedback on a number of proposed changes to the Australian Citizenship Ceremonies Code.

Council at its February 2019 meeting resolved at Item 13.002/19:

*That Council provide feedback to the Minister advising:*

1. *Council does not agree with holding a citizenship ceremony on Australia Day (26 January) due to the additional costs incurred by Council (as Australia Day is a public holiday) but will hold it on the business day nearest to that date.*
2. *That a citizenship ceremony will be held on Australian Citizenship Day (17 September) as long as it does not fall on a weekend.*

**KEY ISSUES**

Council has now received advice from the Minister of a new version of the Australian Citizenship Ceremonies Code which took effect as at 19 September 2019 (refer Attachment A).

The three changes to the Code are:

1. Local government councils must ensure ceremonies are conducted in accordance with the Australian Citizenship Ceremonies Code. This includes a requirement to hold a citizenship ceremony on Australia Day (January 26). Councils that conferred citizenship on less than 20 people in the previous year are exempt from this requirement.

**Comment:** Council has had several citizenship ceremonies this year with over 60 people making their pledge to Australia. Once the Department of Home Affairs advises of the names of the people wishing to become citizens in January, Council will contact them and hold the ceremony as required.

2. Federal Members of Parliament, if attending a citizenship ceremony, should read the Minister's message.

**Comment:** An invitation has been extended to the Federal Member for Page, Mr Kevin Hogan MP, to attend the citizenship ceremonies as planned for each year.

3. Individual councils are to establish a Dress Code for ceremonies, to reflect the significance of the occasion, and provide a copy of their Dress Code to the Department of Home Affairs.

**Comment:** Due to the relaxed atmosphere that comes from living in a regional area such as the Clarence Valley it is not felt necessary to enforce a formal dress code but rather a smart casual (no thongs) which allows everyone to feel comfortable and able to move on to celebrations in a park or elsewhere. A draft Dress Code is attached for Council's consideration and if adopted will be sent to the Department of Home Affairs.

**COUNCIL IMPLICATIONS****Budget/Financial**

There will be additional costs to Council as a result of the need to hold a Citizenship Ceremony on Australia Day. Support staff will be required to work on the public holiday, which is likely to cost up to \$1,000.

**Asset Management**

N/A

**Policy or Regulation**

Australian Citizenship Ceremonies Code

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
To be Tabled	Australian Citizenship Ceremonies Code Draft Dress Code

<b>ITEM</b>	<b>6c.19.064</b>	<b>COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**SUMMARY**

This report updates Councillors on actions taken to implement resolutions of previous Council meetings.

**OFFICER RECOMMENDATION**

That the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete be removed from the checklist.

*Having declared an interest in this item, Cr Toms left the CG&W Committee meeting and Cr Kingsley assumed the Chair at 2.13 pm. Cr Toms returned at 2.14 pm and resumed the Chair.*

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

A formal monthly report is required for each Council meeting to include the full checklist from the previous month and any outstanding actions from earlier meetings.

**KEY ISSUES**

A checklist is issued to Managers and relevant staff after each Council meeting to enable them to provide comments on the status of resolutions adopted by Council.

The attached checklist contains actions taken on all Council resolutions from the prior month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

Local Government Act 1993 S335 (1)

**Consultation**

Staff and Managers

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Karlie Chevalley – Executive Support Assistant
Attachment	Checklist

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<b>ITEM</b>	<b>6c.19.065</b>	<b>ENTERPRISE ASSET MANAGEMENT PROJECT UPDATE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Nil	

**SUMMARY**

The implementation of the Enterprise Asset Management project is continuing. The timing of the implementation of some components of the system has been brought forward. The operating platform of the system also needs installation. There are cost implications of these issues but also cost savings and operational efficiencies to be made.

**OFFICER RECOMMENDATION**

That Council endorse the budget variations for the Enterprise Asset Management project as detailed in the financial implications section of this report for inclusion in Council's December 2019/20 Quarterly Budget Review report to the February 2020 Council meeting.

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

A report was presented to the 25 June 2019 Council meeting (Item 6c.19.020) providing a brief outline of the Enterprise Asset Management (EAM) project status. The project has commenced and is progressing to have an operational system by 1 July 2020. The June 2019 report advised of an estimated implementation cost of up to \$1 million with a currently approved budget of \$850,000.

Although not specifically detailed in previous reports there are effectively two components to this project:

- The development and implementation of the Ci Anywhere (CiA) platform; and
- The implementation of the Enterprise Asset Management (EAM) system.

**Ci Anywhere**

By way of background the current suite of Technology One products (Electronic Communications Management (ECM), Property and Rating, Works and Assets and Finance 1) operate within a Technology One system or platform called Ci. The products are modules that use this platform to operate. Technology

One has evolved the Ci platform to an advanced platform known as Ci Anywhere (CiA). The advantages of CiA over Ci are that CiA:

- Allows access to the entire suite of related Technology One software from any device;
- Uses smart mobile devices (laptops, tablets and mobile phones) to access the software;
- Allows seamless movement across devices throughout the day, in the office and in the field;
- Leverages all the capabilities of devices including GPS, camera and video; and
- Operates more efficiently than the Ci platform.

Within Ci Anywhere there are potentially four environments that allow the development and customising of each product from initial purchase through to Production (the final operation system). These environments are:

Dev(elopment):	Used for the development of products, including migrating of Council data from old systems to new systems, identifying and rectifying data issues and customising the standard CiA configuration to Council's specific requirements.
Test:	Used for testing the system operation and data and configuration decisions made under the Dev environment. There is an iterative process between the Dev and Test environments until the desired function of the system is reached.
Train:	This environment has not been used by Council previously. Staff training was conducted in either the Test or Production environments. Technology One provides two major updates annually and other ad-hoc upgrades. Having the separate training environment allows for installation and configuration of these updates in the Dev and Test environment, training in the Train environment while the existing modules continue to operate in the Production environment.
Production:	This is the environment in which normal use of the system will operate.

These environments only need to be created once for use by all relevant Technology One products. The Dev and Test environments have already been created. Funding for the creation of the Production environment was initially going to be split across a number of Technology One products that were being developed concurrently (ECM, EAM and Enterprise Budgeting). Development of some of these products have been delayed but the creation of this environment is needed for EAM to proceed and will ultimately be required for these other products and the development of any other products into the future.

The Train environment has not been included in previous budget discussions. With the change in the update methodology of Technology One the creation of the Train environment will simplify the upgrade and training process. While it is possible to undertake training in the other environments staff believe the advantages in creating this environment, considering that it will be able to be used for the training of staff in the changes of future products, is worth the upfront costs and advantages that brings.

### **Enterprise Asset Management**

There are a number of components to the Enterprise Asset Management System being implemented. To a degree the implementation of some of these components has been brought forward as there is a synergy able to be achieved in implementing these components as a unit. Additionally implementing some of these components earlier allows Council to achieve the efficiencies and cost-savings that their implementation brings earlier than was previously programmed.

There are a number of components that make up the Enterprise Asset Management System, which are detailed below.

Asset Data Transfer	Council currently maintains its asset register in a series of unrelated spreadsheets. These assets will be transferred to an integrated series of registers which will allow improved management of the assets and financial and physical modelling of the assets. The initial migration of the data has
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	commenced and is to be completed in 2019/20 with checking of data validity continuing into 2020/21.
Maintenance Schedules	Council currently operates a number of proprietary systems for maintenance schedules for various Council assets. These will be replaced by the EAM system. Additionally a comprehensive maintenance scheduling system will be developed for plant and fleet maintenance. These schedules need to be built in the EAM framework. The framework of the maintenance schedules is to be completed in 2019/20 with the uploading of the schedules commencing in 2019/20 and continuing into 2020/21.
Defect Management	Council operates a defect management system for roads which provides data for the maintenance schedules and it also provides data for insurance claim purposes. The EAM system will replace to a large degree the current proprietary system. Council also uses this system for the Road Maintenance Council Contract (RMCC) with Roads and Maritime Services (RMS) and there needs to be some discussion with RMS whether the EAM system can be used for the RMCC. The base system for roads is planned to be completed in 2019/20. Evolution of the system to other areas of Council will continue into 2020/21.
Work Orders	The work order system is a new concept for parts of the outdoor workforce. Once the system is operational work gangs will be issued works through an electronic work order system. The work order system is to be operational in 2020/21.
Mobility	One of the advantages of the CiA system is the use of mobile devices, especially for field use. While a high proportion of the work gangs currently use mobile devices in the field this process will standardise the type and use of devices. This will be completed in 2019/20. Costs for standardising mobility devices will be met from existing budgets established for device replacement.
Crew Management	Under the EAM work gangs will submit electronic timesheets instead of paper. In combination with the Work Order component this will streamline the processing of timesheets and reduce the potential for errors, especially in project coding. This will be prepared for commencement in 2020/21.
Chart of Accounts	With the implementation of EAM there needs to be a change to the structure of the financial accounts. This will be prepared for commencement in 2020/21 and the upgrade requirements are detailed in a separate report.
Strategic Asset Management	A key component of this process is the implementation of a Strategic Asset Management component. The foundation of this component will be developed in 2019/20. The effectiveness of the system relies on the accuracy of the asset data, the checking of which will continue into 2020/21. Therefore the implementation of this system will not be fully operational until late 2020/21. This will provide data for Council's Asset Management Plans and Long Term Financial Plan.

## KEY ISSUES

There are a number of key issues that will need to be addressed in implementing the EAM. These are summarised below.

Ci Anywhere	As a minimum the Production environment needs to be developed. Council staff also recommends the development of the Train environment. There are budget implications with this which are detailed below in financial considerations.
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Asset Data Transfer	Data migration from the old to the new system is time consuming as a range of data checks needs to be completed and there are a number of data sets that are not complete. This is a time and resource issue.
Maintenance Schedules	Converting the maintenance schedules to the new system, especially for fleet, is currently a manual process.
Work Orders	Training of staff into the new system of work orders is potentially an issue. In the implementation of the system 3 – 4 months has been allowed for staff training in this area.
Strategic Asset Management	The integrity of data is essential for Strategic Asset Management.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

To date Council has approved a budget of \$850,000. In addition, in 2018/19, \$30,000 of the existing Corporate System Upgrade budget was utilised for this project. Expenditure and commitments against this budget have been made as detailed below.

Income					
Item	Description	Budget			
	RA 14045	450,000.00			
	Water and Sewer Contributions	200,000.00			
	General Fund Contribution	200,000.00			
	Corporate System Upgrade (18/19)	30,000.00			
	<b>TOTAL</b>	<b>880,000.00</b>			
Expenditure					
Item	Description	Budget	Expenditure	Balance	
1	Licence and Commissioning	565,913.97	565,913.97	-	
2	TechOne Asset Management Solution Implementation – Base Configuration	234,940.00	86,760.82	148,179.18	
3	Disbursements	6,522.38	6,522.38	-	
4	External Project Management	7,220.00	7,220.00	-	
	<b>Sub-Total</b>	<b>814,596.35</b>	<b>666,417.17</b>	<b>148,179.18</b>	
Variations					Fund Source
V4	Additional Scripts and Interfaces Configuration	33,240.00	28,140.00	5,100.00	Project Budget
V5	Environments Installation	49,178.91	49,178.91	-	Project Budget
V6	Development of Fuel Statements	14,544.00	6,385.00	8,159.00	Fleet Reserve
	<b>Current Budget Over-commitment</b>	<b>17,015.26</b>			

Council has accepted a fee for the standard implementation of the system of \$234,940 (ex-GST). Council will require additional configuration to the base configuration to meet Council’s individual requirements. Unfortunately in some instances it is difficult to determine these requirements in advance and the amendments only become apparent after the base configuration has been undertaken with the outcome not fully meeting Council’s requirements. Where possible Council is utilising the standard configuration.

Based on the current progress the following additional costs are predicted.

Activity	Estimated Cost	Comment and Potential Funding Source
Train and Production environment installation	50,000	Potential Funding Source: General Revenue/Water & Sewer Funds
Council Visits	5,000	Some critical EAM Project staff will travel to some select Councils who have installed EAM to discuss implementation issues.  Potential Funding Source: General Revenue.

Activity	Estimated Cost	Comment and Potential Funding Source
Data Transfer	30,000	To meet the required timeframes for data transfer (by February 2020) some additional resources will be required for data transferring and checking. Six months has been allowed for an additional person. Existing Asset Management staff will also be completing this process.  Potential Funding Source: General Revenue/Water & Sewer Funds.
Maintenance Schedules	100,000	The scheduled maintenance process for fleet requires plant hour and odometer readings to be imported into the maintenance schedule system. The Light Fleet and Heavy Plant Staff Steering Group have been reviewing external reporting options from an operational perspective which will also provide the information required for the maintenance scheduling function. The costs for various systems can vary considerably depending on the functionality of the preferred system. The nominated \$100,000 is for the PinPoint system.
	26,500	A data entry person for six months to import fleet maintenance schedules.
	20,000	System configuration and report generation.
		Potential Funding Source: Fleet Reserve.
Additional configuration	125,000	Crew Management Finance Additional (reporting dashboards and unforeseen configuration) Potential Funding Source: General Revenue/Water & Sewer Funds

Based on the above breakdown an additional \$388,059 is requested to be funded from:

General revenue	\$77,015
Water Fund	\$75,000
Sewer Fund	\$75,000
Fleet reserve	\$161,044

While there are additional costs, Council will receive operational and financial benefits from the system implementation. Licence fees for proprietary systems that will be replaced by EAM will no longer be required giving a potential saving of between \$25,000 to \$31,000 annually. There will also be efficiency savings in the Finance section through the implementation of electronic timesheets for the outdoor workforce with reduced data entry and processing requirements.

#### Asset Management

The EAM will be used for asset management at all levels of the organisation. It will also provide information for the development of Council's Asset Management Plans and Long Term Financial Plan when fully operational.

#### Policy or Regulation

N/A

#### Consultation

Consultation is being undertaken with all sections of Council and the Technology One consultants in the development of the system.

#### Legal and Risk Management

N/A

#### Climate Change

N/A

Prepared by	Tim Jenkins – Asset Systems Project Coordinator
Attachment	Nil

<b>ITEM</b>	<b>6c.19.066</b>	<b>CORPORATE SYSTEM ROADMAP 2019-23</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

## SUMMARY

Council's Information Services Strategic Plan identifies the roadmap for improved corporate systems and opportunities to leverage evolving technology and systems. This report presents a consolidated view of major investment in corporate systems for the period 2019-20 to 2022-23, with specific requirements to fund upgrade of Council's Enterprise Content Management system and the FinanceOne financial chart, in the current financial year.

Maintaining currency and upgrading Council's corporate systems is integral to realising operational efficiencies in the short, medium and long term.

## OFFICER RECOMMENDATION

That Council endorse a variation of \$100,000 for inclusion in the Q2 Quarterly Budget Report Statement, to be reported in February 2020, for upgrade ECM to Ci Anywhere in 2019-20.

## COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

## BACKGROUND

On the 1<sup>st</sup> July 2020 we will go live with a new corporate system platform called Ci Anywhere. The current suite of Technology One products (Electronic Communications Management (ECM), Property and Rating, Works and Assets and Finance One) operate within a Technology One platform called Ci. The products are modules that use this platform to operate. Technology One has evolved the Ci platform to an advanced platform known as Ci Anywhere (CiA).

The Ci platform is currently hosted locally (on premise) on Council owned infrastructure. Ci Anywhere is a Cloud based platform, The advantages of CiA over Ci are that CiA:

- Allows access to the entire suite of related Technology One software from any device;
- Uses smart mobile devices (laptops, tablets and mobile phones) to access the software;
- Allows seamless movement across devices throughout the day, in the office and in the field;
- Leverages all the capabilities of devices including GPS, camera and video; and
- Operates more efficiently than the Ci platform.
- Continued vendor support as use of on premise platforms across the industry is decreased.

Asset Management and Electronic Communications Management will be the first two products operating on this new platform. Other products will be migrated to the new platform over the next 3 years, providing significant opportunity to realise savings through reduced manual workload.

The Enterprise Asset Management (EAM) system implementation commenced in 2018 (Min 15.143/18). This system is scheduled to go live in July 2020.

Whilst the Technology One Ci Anywhere is recognised as our corporate platform and has significant functionality, there are some business needs that are not catered for and therefore other solutions will need to be considered. Third party solutions are identified as opportunities in the strategic plan – an example being the Bookable, which is a third party solution. Integration of third party solutions with our corporate system is integral to efficient service levels.

## **KEY ISSUES**

### **Corporate System projects that require funding in 2019 20**

#### ***Electronic Content Management (ECM)***

In August 2019, the latest version of ECM Ci Anywhere (2019A) was released. This new version offers significant improvements and automation, and replaces our current version (4.02), which is fast approaching end of life. The investment in this system is for configuration and migration of data to the new platform. The new version of ECM is proposed to go live July 2020.

Funding is required in the current financial year to implement the upgrade. An annual licence fee of \$50,000 is required to maintain the system, and will be projected in the 2020/2021 budget.

Current funded projects:

Council allocated \$200,000 in the Original Budget to progress the upgrade of the corporate financial system to improve budget management, streamline activities and reduce error and rework across the functions.

#### ***Finance Chart Review***

To support implementation of the Enterprise Asset Management system, the financial chart will need to be rebuilt to align to the required accounting structure. While the upgrade has broad organisational benefits that would need to be addressed in coming years, implementation of EAM has prioritised this activity as a short term requirement.

#### ***Enterprise Budgeting***

The Enterprise Budgeting system will need to be reconfigured and aligned to the new financial chart. This project is funded in Council's original budget.

#### ***Rapid AP***

Funded in 2018/19, Optical Character Recognition (OCR) software identifies the characters on scanned documents to maximise time and minimise risk. Implementation of Rapid AP as a solution in Accounts Payable was commenced in 2018/19 and will be completed this month. Cost savings associated with implementation will be realised in the Strategic Improvements for 2019/20. And alternative uses to increase efficiencies in other business areas will be considered.

**Corporate System projects that will require funding from 2020 21****Migration to CI Anywhere**

Following from the migration of the Enterprise Asset Management and Electronic Content Management systems to the Ci Anywhere platform, we will progressively migrate the remaining systems, such as Finance, Human Resource, Regulatory, Customer Requests and Property.

**Cloud Migration**

The Ci Anywhere Platform is current hosted on premise (infrastructure that we own). Cloud hosting is gradually becoming more affordable (infrastructure that vendors own). Corporate system licencing is making it more difficult and more expensive to licence on premise.

Generally speaking, vendors are reducing their support for on premise platforms and investing in Cloud solutions and it is envisaged that at some point in the future all corporate systems will only be available if licenced in the Cloud.

**Business Intelligence & Dashboards**

Dashboards allow staff to have instant visibility of key sets of data, often with the use of graphs and charts to easily identify trends and possible issues. Dashboards allow staff to drill down on datasets to get the high level and detail level visibility on data with a click of a mouse.

**Data Archiving**

Archiving previous year data results in improved speed and efficiency. There is a licencing cost associated with the archiving modules for Financials and Supply Chain systems.

**Other technology projects incorporated in the Information Services Strategic Plan from 2020 23:**

The following projects are identified as opportunities to increase efficiency in the workplace by reducing manual work, increasing accuracy and oversight of activity by management and include:

**Meeting Minute Management**

Improving communication, collaboration, participation, and engagement among the executive, managers, elected officials and community members is important to Council. A meeting management system will automate the current manual, inefficient and time-consuming processes that are currently followed to create the Business Papers.

**Strategic Planning (corporate)**

A Strategic Planning solution delivers automation, planning, reporting and control of business processes such as Corporate Planning & Reporting, Departmental Reporting, Performance Reporting, Business Planning and Online Dynamic data collection (eForms).

**Employee Management**

Employee Management solutions address our business requirements in the areas of on boarding, education and performance and development planning and management and in particular the Capability Framework.

**Project Management**

Project Management software will assist in the efficient management of all aspects of projects from business case review and prioritisation through to risks, issues and variations, supporting our Project Management Framework.

**Governance**

Governance Solutions address our business requirements in the areas of Delegations, Policies, Auditing and legislative compliance.

**Office 365**

Office 365 is a cloud hosted version of the Microsoft Office suite that we currently use. As we migrate systems to the cloud, it will be necessary to upgrade our Office Suite to Office 365. Office 365 offers improved functionality associated with files stored in the cloud, including advanced integration capabilities with corporate systems such as ECM.

**Security & Compliance**

While no single mitigation strategy is guaranteed to prevent cyber security incidents, organisations are recommended to implement eight essential mitigation strategies as a baseline. This baseline, known as the Essential Eight, makes it much harder for adversaries to compromise systems.

Furthermore, implementing the Essential Eight proactively can be more cost-effective in terms of time, money and effort than having to respond to a large-scale cyber security incident.

**NBN & Mobility**

One of the major challenges of mobility is having the required capacity to allow an increased number of devices to access our infrastructure remotely. A key element in this is having suitable internet access. NBN provides an affordable solution as does an enterprise Internet plan.

This increased capacity is available now, but has not been realised by Council.

**Website and Intranet**

Upgrading our website (and intranet) to provide opportunity to integrate with TechOne corporate systems is integral to building efficiency into our operations. Currently, our website provides an interface only. All submissions via the website require manual data entry to corporate systems to be allocated and acted.

**COUNCIL IMPLICATIONS****Budget/Financial**

The proposed (General Fund) funding model required to upgrade Council's corporate systems follows:

	2019_20	2020_21	2021_22	2022_23
<b>Electronic Content Management</b>	100,000	50,000	50,000	50,000
<b>Finance Chart Review</b>	50,000			
<b>Enterprise Budgeting</b>	50,000			
<b>Migration to CI Anywhere</b>		200,000	150,000	100,000
<b>Cloud Migration</b>		100,000	400,000	200,000
<b>Business Intelligence &amp; Dashboards</b>		80,000	30,000	30,000
<b>Data Archiving</b>		50,000		
	<b>330,000</b>	<b>480,000</b>	<b>630,000</b>	<b>380,000</b>

\$100,000 of the current years requirements is included in the adopted budget, an additional \$100,000 is required from General Fund to complete the ECM upgrade, as identified in the body of the report.

2020/21-2022/23 funding requirements will be included in future draft budgets for Council's consideration. Opportunistic projects, identified above, will be presented to Council by way of a business case during budget preparation.

**Asset Management**

Corporate Systems are an Asset.

**Policy or Regulation**

Information Technology Policy

**Consultation**

Projects will be managed by Council's Project Management Framework. Consultation with stakeholders will include internal staff and external suppliers, companies and agencies.

**Legal and Risk Management**

The risk of not maintaining currency of systems is decreased support from vendors, increased crashes and down time, increased cost to maintain antiquated systems, decreased productivity, increased security vulnerabilities and decreased ability to manage legal and compliance risks. There are currently a number of outstanding issues on our Auditors Management Letter and Internal Audit Plans that we are unable to progress without upgrading corporate systems.

**Climate Change**

N/A

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Prepared by	Tim Howarth – Manager Information & Corporate Systems
Attachment	Nil

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<b>ITEM</b>	<b>6c.19.067</b>	<b>REQUEST FROM ACCOUNT 2230266 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Confidential	

### SUMMARY

Council received a request from the owner of Water Account 2230266 on 5 September 2019 seeking a reduction on water usage charges issued, due to a concealed leak on his property.

### OFFICER RECOMMENDATION

That

1. Council not grant additional concession on Account 2230266 as it does not comply with the Concealed Leak Policy.
2. The property owner be advised that if a suitable arrangement is entered into by 31 October 2019, the period for payment of this account will be extended to twelve months.
3. If a payment arrangement is not entered into by 31 October 2019, Council will continue with its debt recovery process in accordance with its Rates and Charges Debt Recovery Policy.

### COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

### BACKGROUND

On 5 September 2019, Council received a request (Attachment A) from the owner of the property expressing concern regarding a water leak on his property.

On 23 August 2017, the owner was notified in writing, of higher than normal water consumption. The correspondence requested that the owner check the details, as a leak may exist.

Council's officers attended the property on two occasions and on the first occasion the owner of the property advised the high consumption was a result of him changing the water in the pool and washing the horses. The owner did not realise the amount of water that was being used at the time. On the second visit to the property Council's officers informed the owner to turn off the water supply to the farm and see if the

leak stopped. It was determined that the leak existed somewhere on the owner's property. The owner believes the water leak is in the flood drain and went undetected as, according to him, the drain is heavily infested with weeds and at the time, had mild flooding due to heavy rain. The owner believes Council should do more to maintain the flood drain.

Council has been granted an easement over the property to access the flood levee and the flood drain. Staff undertake periodic inspections and report satisfaction with the functioning of the flood drain.

The following is a breakdown of the consumption history on account 2230266 since 2016.

Meter ID	Reading Date	Consumption	Amount	Daily Average
03X037480	15/08/2019	38	\$ 93.10	0.413
03X037480	15/05/2019	68	\$ 166.60	0.747
03X037480	13/02/2019	56	\$ 137.20	0.629
03X037480	16/11/2018	48	\$ 117.60	0.511
03X037480	14/08/2018	79	\$ 190.39	0.952
03X037480	23/05/2018	70	\$ 168.70	0.714
03X037480	14/02/2018	433	\$ 1,043.53	4.865
03X037480	17/11/2017	1,680	\$ 4,048.80	18.261
03X037480	17/08/2017	274	\$ 649.38	3.262
03X037480	25/05/2017	46	\$ 109.02	0.460
03X037480	14/02/2017	68	\$ 161.16	0.764
03X037480	17/11/2016	92	\$ 218.04	1.011

Debt recovery action was commenced in 2017, and the owner has been paying the overdue water account on an agreed \$55 per fortnight since 19 January 2018, which is due to be completed on 5 Jan 2021. At the time \$70 per fortnight was requested, but the owner could only commit to \$55, which was accepted.

The owner is now requesting a reduction on his account because he was unaware of the leak on his property. The source of the leak has not been investigated by a licensed plumber, as the owner advises it would be too costly.

#### KEY ISSUES

The leak occurred during the period 17/08/2017 – 14/02/2018. There was a significant increase in the owner's daily average consumption and as a result Council sent written notification and staff also visited the site.

On notification of higher than normal water consumption, the property owner attributed it to known increased use.

It has since been established that the leak exists within the property. The property is of significant size and the owner advises that the cost to investigate would be unaffordable.

The owner is currently on a payment plan arranged agreed with Council's Debt Recovery Agent.

The current outstanding debt is \$5,341.91.

**COUNCIL IMPLICATIONS****Budget/Financial**

If no adjustment is granted there will be no impact on the income for the 2018/19 financial year, however, if a concession is granted to this account as per the ratepayers request which if approved would be \$1,084.50 (based on the Concealed Leak Policy), income for the 2019/2020 financial year on PJ 902125-03-6219-1241 (Water – Usage Non Residential Income) will be reduced by this amount.

**Asset Management**

N/A

**Policy or Regulation**

Concealed Water Leak Allowance Policy

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Paula Krahe – Revenue Co-Ordinator
Confidential	A - Email to Council dated 5 September 2019

<b>ITEM</b>	<b>6c.19.068</b>	<b>WATER CONSUMPTION CHARGE SUBSIDY TO AFFECTED RATE PAYERS FOR PROTECTION AND CLEAN UP FOLLOWING BUSHFIRES</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Nil	

## SUMMARY

At the September Ordinary Meeting this matter was considered by Council (refer Item 6a.19.018) and the recommendation was ruled out of order by the Mayor and no decision was made with respect to providing a water consumption charge subsidy to property owners who had increased water usage charges due to protection and clean up of their property during the recent bushfires.

The report has been updated to clarify the concerns of Councillors to ensure compliance with Council's Code of Meeting Practice and the report proposes a water consumption charge subsidy on application, be provided to water consumers who had increased water usage charges due to protection and clean up of their property during the recent bushfires where there is evidence of increased water usage.

## OFFICER RECOMMENDATION

That

- Council provide property owners within the Clarence Valley who have experienced increased water consumption whilst protecting and cleaning their properties following the September 2019 bushfires with a subsidy of \$65.00 on the following basis:  
The subsidy is applied:
  - on application.
  - to property in the vicinity of the Yuraygir National Park and Shark Creek area where there is evidence of increased water consumption.
- Access to the subsidy be reported to Council, when the budget variation for increased income relating to increased water usage, is reported.

## COMMITTEE RECOMMENDATION

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.4 Ensure a safe and healthy work environment

**BACKGROUND**

A Natural Disaster was declared by the State Government in relation to the bushfire, which commenced in the Shark Creek area and proceeded to burn north into the Yuraygir National Park. The fire covered an area of almost 11,000ha and evacuation orders were placed for the southern parts of Gulmarrad, Wooloweyah and Angourie.

At the September Ordinary Meeting (refer Item 6a.19.018), during consideration of the following Points of Order, the Chair (Mayor) ruled:

**1. POINT OF ORDER – CR BAKER**

That the motion and amendment be ruled out of order in accordance with Clause 10.9 of the Code of Meeting Practice as it does not identify a funding source.

**2. POINT OF ORDER – CR BAKER**

That where the Chair invites the General Manager to provide advice in the course of the meeting an adjournment must be called under Clause 15.26 of the Code of Meeting Practice.

Ruled by the Chair that this Point of Order be UPHELD.

The Chair adjourned the Council meeting at 2.46 pm in order to seek advice from the General Manager. The meeting resumed at 2.49 pm.

**Ruled by the Chair that the first Point of Order be UPHELD. The original Motion and the Amendment to Motion were ruled OUT OF ORDER.**

This report seeks to clarify the Budget/Financial implications, as stated in the original report.

**KEY ISSUES**

It is proposed, the current budget projected income relating to water usage remain as adopted in the original budget at this point. Any potential increased income from additional water usage has not yet been projected, as the bushfires were not foreseen. The original report on this matter proposed that the subsidy be reduced from the as yet, un-projected income. The effect being, a reduction of income, which will be reported as a variation to the Water Fund, when quantified.

The Amendment on the other hand, sought to implement a subsidy that was not tied to proposed un-projected income. Identifying from where it was to be expended (ie General Fund, Water Fund), was required to give effect to the Motion.

The calculation for establishing a \$65.00 subsidy is as follows:

- 24 hours continuous use @15L/min = 21.6kL @ \$2.49/kL = \$53.78
- The inclining block tariff of \$3.71/kL applies to consumption above 1.233kL/day (111kL/90 days)
- An increased consumption of 21.6kL is likely to increase the consumption of many rural into the inclining block tariff. Applying a 20% allowance for the inclining block tariff = \$53.78 x 1.2 = \$64.54 (rounded up to \$65).

Applying the subsidy on application and where there is evidence of increased water consumption to properties in the vicinity of the Yuraygir National Park and Gulmarrad areas provides guidelines for administration as increased water consumption is already monitored for advising of possible concealed leaks.

**COUNCIL IMPLICATIONS****Budget/Financial**

Application of a \$65.00 subsidy results in reduced income, which has not yet been budgeted given the unexpected increase in water consumption.

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Laura Black – Director Corporate & Governance
Attachment	Nil

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<b>ITEM</b>	<b>6c.19.069</b>	<b>2019/20 QUARTERLY BUDGET REVIEW STATEMENT – SEPTEMBER 2019</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

**SUMMARY**

This report presents to Council the September 2019 Quarterly Budget Review Statement (QBRs) reports for the period 1 July 2019 to 30 September 2019.

Budget adjustments for the quarter ended 30 September 2019 (subject to council resolution) result in a net General Fund deficit of \$256,829 increasing the current year projected budget result to a \$397,227 deficit.

**OFFICER RECOMMENDATION**

That Council:

1. The information in the Quarterly Budget Review Statement to September 2019 be received and noted.
2. Approve General Fund variations detailed in this report totalling \$256,829, which results in a projected General Fund budget Deficit of \$397,227 for the year.
3. Approve the variations for the Financial Reserves as detailed in this report totalling \$18,071,663, which results in a projected decrease in the External and Internal Reserves Funds of \$15,742,330.

**COMMITTEE RECOMMENDATION**

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

In accordance with Clause 203(1) of the Local Government (General) Amendment (planning and reporting) Regulation 2011, the Quarterly Budget Review Statement must be submitted to Council no later than two months after the end of the quarter.

The QBRs presents a summary of Council's financial position at the end of each quarter. It is the mechanism whereby Councillors and the community are informed and monitor Council's progress against the Operational Plan (original budget) and the last adopted revised budget.

The QBRS includes:

Attachments

1. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Fund (**Attachment A**):
  - Consolidated
  - General
  - Water
  - Sewer
  - Holiday Parks
  - Clarence Regional Library
  - Domestic Waste Management
  - Clarence Care and Support
2. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Sub-Service (**Attachment B**).
3. Statement of Restricted Cash Reserve Funds providing a projected year end position (**Attachment C**).
4. Statement of Material Contracts entered into by Council and details of Consultancies and Legal Expenses during the quarter (**Attachment D**).
5. Proposed Carry Forwards Projects – Provides a full list of the proposed carried forward projects from the 2018/19 financial year (**Attachment E**)

Other Matters:

6. Quarterly Budget Review – Provides the proposed variations for the month of September. Summarises the General Fund budget variations during the quarter and the impact on the overall projected result and reserves.
7. Capital Budget Review – References to the Works Report reported elsewhere in these Business Papers.
8. Improvement Strategies – Indicates a future report to be provided to Council on the status of the adopted Improvement Strategies in 2019/20.
9. Key Performance Indicators – Provides a projected result against the benchmark for Council's General Fund key performance indicators.

**KEY ISSUES**

**QUARTERLY BUDGET REVIEW**

The report table below includes proposed budget variations for the month of September to be considered for inclusion in the 2019/20 budget. The mechanism for reporting the actual variation is this Quarterly Budget Review Statement (QBRS) in compliance with Clause 203 of the Local Government (General) Regulation 2005.



**Major Budget Variations Proposed**

Following is a list of the major proposed variations for the month of September 2019.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
805	<b>Service – Roads</b> <b>Sub-Service – Urban Roads</b> <ul style="list-style-type: none"> <li>Fund additional works to enable slab construction on Maclean Carpark as a result of poor quality subgrade.</li> </ul>	\$33,793	\$Nil	N/A
808	<b>Service – Roads</b> <b>Sub-Service – State Roads</b> <ul style="list-style-type: none"> <li>Adjust the Roadside Maintenance Council Contracts to align with approved reseal programs (\$82,000)</li> </ul>	\$Nil	\$Nil	N/A
811	<b>Service – Footpaths &amp; Cycleways</b> <b>Sub-Service - Footpaths &amp; Cycleways</b> <ul style="list-style-type: none"> <li>RMS has denied project funding for the following programs allowing the allocated funds to be returned to the SIC Reserve: <ul style="list-style-type: none"> <li>Hoof St to Cranworth St Footpath extension (\$4)</li> <li>Bent St to Fitzgerald St New Footpath (\$4)</li> <li>Duke St to Oliver St New Footpath \$Nil</li> </ul> </li> </ul>	(\$4) (\$4) \$Nil	(\$42,500) (\$126,500) (\$46,500)	6a.19.014 6a.19.014 6a.19.014
930	<b>Service – Community Development</b> <b>Sub-Service – Community Development</b> <ul style="list-style-type: none"> <li>Transfer funds from RA 10015 – IR – OGov Grafton Sports Complex Building Works to contribute to PCYC for completion of insurance claim repairs.</li> </ul>	\$Nil	\$513,072	N/A
931	<b>Service – Community Development</b> <b>Sub-Service – Youth Services</b> <ul style="list-style-type: none"> <li>Allocate the indexation payment from the Department of Communities and Justice (\$435).</li> </ul>	\$Nil	\$Nil	N/A
941	<b>Service – Libraries</b> <b>Sub-Service – Public Libraries</b> <ul style="list-style-type: none"> <li>Allocate Get Online Week Event Grant (\$1,500)</li> <li>Casual Wages added based on 3 year average and 2.5% award increase.</li> </ul>	\$Nil \$80,000	\$Nil \$Nil	N/A N/A
973	<b>Service – Community Care</b> <b>Sub-Service – General Operations</b> <ul style="list-style-type: none"> <li>Fund Locale Consultants to advise on the new Clarence Care &amp; Support NFP from RA 10240 – IR – CCS Administration Reserve</li> </ul>	\$Nil	\$30,960	N/A
	<b>TOTAL Proposed General Fund / Reserve Balance Impact</b>	<b>\$113,785</b>	<b>\$328,532</b>	

The table below summarises the General Fund budget variations endorsed during the quarter (Minutes 6c.19.035 July and 09.19.003 August) and the impact on the overall projected result.

September 2019 Quarter Budget Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	\$0	\$0	\$0	Nil	6c.19.035
August	\$100,182	\$42,862	\$143,044	Deficit	09.19.003
September Proposed	\$0	\$113,785	\$113,785	Deficit	
<b>Total</b>	<b>\$100,182</b>	<b>\$156,647</b>	<b>\$256,829</b>	<b>Deficit</b>	

<b>Original Adopted Budget Movement</b>			<b>\$140,398</b>	<b>Deficit</b>
September Quarter Proposed Variations	\$100,182	\$156,647	\$256,829	Deficit
<b>Revised Budget as at 30 September 2019</b>			<b>\$397,227</b>	<b>Deficit</b>

The table below summarises the External/Internal Reserve budget variations endorsed during the quarter and the impact on the overall projected result.

September 2019 Quarter Reserve Funds Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	\$0	\$0	\$0	Nil	6c.19.035
August	\$1,110,000	\$958,436	\$2,068,436	Decrease	09.19.003
September Proposed	(\$215,500)	\$544,032	\$328,532	Decrease	
Carry Forwards Proposed	\$0	\$15,674,695	\$15,674,695	Decrease	
<b>Total</b>	<b>\$894,500</b>	<b>\$17,177,163</b>	<b>\$18,071,663</b>	<b>Decrease</b>	

<b>Original Adopted Budget Reserve Funds Movement</b>			<b>(\$2,329,333)</b>	<b>Increase</b>
September Quarter Proposed Variations	\$894,500	\$17,177,163	\$18,071,663	Decrease
<b>Revised Budget as at 30 September 2019</b>			<b>\$15,742,330</b>	<b>Decrease</b>

### **PROPOSED CARRY FORWARD PROJECTS**

Attached (refer Attachment E) is a full list of the proposed carried forward projects totalling \$19,446,588 which is further dissected on a funds basis and funding source as follows:

<b><u>FUND</u></b>	<b><u>AMOUNT</u></b>	<b><u>Reserve Funds</u></b>	<b><u>Grant Funds</u></b>
General	\$14,671,425	\$10,899,532	\$3,771,893
Water	\$2,884,721	\$2,884,721	\$Nil
Sewer	\$1,278,890	\$1,278,890	\$Nil
Holiday Parks	\$611,552	\$611,552	\$Nil
Clarence Care and Support Services	\$Nil	\$Nil	\$Nil
<b>TOTAL CARRY FORWARD PROJECTS</b>	<b>\$19,446,588</b>	<b>\$15,674,695</b>	<b>\$3,771,893</b>

**CAPITAL BUDGET REVIEW**

For information on Council's capital works program and status, refer to the Works Report reported elsewhere in this business paper.

Any proposed changes that have a substantial impact on planned capital works, reserves or purchases and sales of capital assets during the current financial year will be notified to council in this report.

**IMPROVEMENT STRATEGIES**

As per Council Resolution Item 6a.19.004 dated 25 June 2019, Council will receive a separate progress report on a quarterly basis commencing on the first Ordinary meeting after December 2019.

**KEY PERFORMANCE INDICATORS**

The indicators adopted in the Financial Planning Policy measure Council's financial position and its financial performance and are categorised into the following framework:

- 1) Operational Liquidity (Short Term),
- 2) Fiscal Responsibility (Medium Term), and
- 3) Financial Sustainability (Long Term).

The operating performance ratio forecast is updated quarterly. The remaining indicators are reported as forecast against benchmark; the forecasts are derived from Council's adopted Long Term Financial Plan and the Asset Management Strategy (Asset Sustainability Ratio), unless a material variation in the indicator has occurred during the period. The variations proposed in the QBRs do not materially affect Council's end of year position against KPI's.

<b>GENERAL FUND</b>	<b>Forecast Indicator</b>	<b>Benchmark</b>
<b>1. Operational Liquidity (Short Term)</b>		
1.1 Unrestricted Current Ratio	3.50	> 1.5:1
1.2 Rates and Annual Charges Outstanding	6.92%	<= 5%
1.3 Cash Expense Cover Ratio	12.72	Min > 3 Months
<b>2. Fiscal Responsibility (Medium Term)</b>		
2.1 Operating Performance Ratio	(4.55%)	Min > 0%
2.2 Own Source Revenue Ratio	62.97%	Min > 60%
2.3 Debt Service Cover Ratio	6.38	Min > 2x
2.4 Debt Service Ratio	4.68%	< 12%
2.5 Real Operating Expenditure Per Capita	1.37	Declining Trend
<b>3. Financial Sustainability (Long Term)</b>		
3.1 Building & Asset Renewal Ratio	54.32%	Min > 100%
3.2 Infrastructure Backlog Ratio	4.10%	Max < 2%
3.3 Cost to bring assets to agreed service level (SS7 Est Cost to agreed service level/Gross replacement Cost per 18/19 Financial Statements)	4.13%	<= 4.5%
3.4 Asset Maintenance Ratio	84%	Min > 100%
3.5 Asset Sustainability Ratio	100%	Min > 90% but < 110%

**COUNCIL IMPLICATIONS**

**Budget/Financial**

The proposed General Fund budget variations for the September 2019 Quarter will result in a Revised 2019/20 Budget as at 30 September 2019 of a \$397,235 Deficit. The approved Reserve Funds variations for the September 2019 Quarter has resulted in a Revised 2019/20 Budget Reserve Funds movement as at 30 September 2019 of a \$15,742,330 reduction.

**Asset Management**

N/A

**Policy or Regulation**

The reports presented are in accordance with the requirements outlined in the Code of Accounting Practice and Financial Reporting, and clause 203(1) of the Local Government (General) Regulations applicable from 1 July 2011 including the format required under the Integrated Planning and Reporting (IP&R) framework.

**Consultation**

Report has been prepared in consultation with the Management Accounting staff and Section budget managers.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Christi Brown – Management Accountant Coordinator
To be tabled	A. Quarterly Budget Review Income Statement by Fund B. Quarterly Budget Review Sub Service Summary C. Quarterly Budget Review Summary of Restrictions
Attachment	D. Quarterly Budget Review Contracts and Other Expenses E. Carry Forwards

**Explanation of Attachment**

Income and Expenditure Statements (**Attachment**) are included for the information of Councillors. It should be noted that the reports include actual monthly transactions with the exception of:

- Accruals for depreciation, staff entitlements and Reserve interest which are currently calculated and adjusted only at year end.

**Appendix 1****Report by Responsible Accounting Officer – 2019/20 September Quarter Budget Review**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulation 2005.

It is my opinion that the Quarterly Budget Review Statement for Clarence Valley Council for the quarter ended 30 September 2019 indicates that Council's projected short term financial position at 30 June 2020 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The available working capital for Council's General Fund as at 30 June 2019 was \$4.842m.

For clarification, the available working capital is regarded as funds that are currently not restricted for any use by Council for either internal or external purposes. In summary, the estimated balance of available working capital as at 30 June 2020 is as follows:

Estimated Balance of Working Capital	Amount \$'000
General Fund working capital as at 30 June 2019	\$4,842
Adopted original budget for 2019/20 – Deficit	\$140
Variations for September 2019 Quarterly Review – Deficit	\$257
<b>Estimated Balance of Working Capital at 30 June 2020</b>	<b>\$4,445</b>

Council's adopted benchmark goal for the General Fund working capital is for it to be maintained above \$4m. The estimated balance of the working capital for General Fund at 30 June 2020 of \$4,445m is above Council's benchmark and can be considered a satisfactory result as at 30 June 2020. However, Council must continue to maximise its revenue and contain expenditure to budget expectations to ensure the forecast Working Capital for 2019/20 does not deteriorate to unsatisfactory level.

Signed      Kate Maginnity, Responsible Accounting Officer, Clarence Valley Council  
Date        2/10/18

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**ITEM 6c.19.070 CAMERON PARK CARPARK – ROAD UPGRADE**


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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

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**SUMMARY**

Council staff have investigated complaints regarding a deteriorated pavement that is located on Maclean and District Bowling Club land. This pavement has historically been used as a public thoroughfare, for car parking and for the Bowling Clubs operations. This report seeks approval for Council to undertake works to repair this pavement.

**OFFICER RECOMMENDATION**

That Council approve pothole patching and crack sealing works to be undertaken on lot 100 DP 1110269 owned by the Maclean and District Bowling Club Cooperative Ltd to be funded by Council from PJ 931110 – Urban Car Park Areas maintenance.

**COMMITTEE RECOMMENDATION**

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.2 We will have a safe, active and healthy region

Strategy 1.2.4 With our partners, promote community safety

**BACKGROUND**

Council previously subdivided Cameron Park Carpark land into two parcels being lot 1020 and 1021 DP 1232390. Lot 1020 was disposed of and is now being developed into a supermarket; lot 1021 was retained by Council as Cameron Park Carpark.

One of the conditions of consent for the supermarket was the reconstruction of some of Councils car park land that fronts McLachlan Street. To complement this work Council has paid for the construction of pavement upgrades to link this carpark with the Argyle Street and Alexander Street entries.

The pavement upgrade from Alexander Street runs past the Maclean and District Bowling Club Cooperative Ltd (Bowling Club) land. Whilst the upgraded pavement is wholly on Council owned land, it adjoins a small piece of Bowling Club land that historically has been used as car parking, as a public thoroughfare and for the clubs operations. During construction of the supermarket it has also been used by some construction vehicles.

This small piece of pavement is quite deteriorated and Council has received complaints from the Bowling Club about its state. Most of the damage was pre-existing prior to the construction of the supermarket and therefore Council staff are unable to require the contractor to repair the area. The damage is likely attributable to the historical use of this area as a public thoroughfare, as a public carpark as well as for the clubs deliveries and operations.

It is therefore proposed that Council undertake repairs to this area in some form. There are two proposed options for repair:

- \$4,000 to pot hole patch and crack seal the area; or
- \$16,000 to heavy patch and reseal the area.

### **KEY ISSUES**

The proposed works are wholly located on private land. Council is unable to undertake works on any private land unless either; an approved fee is charged, or, the works are approved by resolution of the council in an open meeting. This report seeks that approval.

The repair methods proposed are also a consideration. Pothole patching and crack sealing is the most economical repair method however it will not address the pavement shape issues and has limited life expectancy. This is a normal maintenance activity of Council and due to this area being historically used primarily as a public thoroughfare it is recommended that Council meet this cost if this option is adopted.

A heavy patch and reseal treatment will repair the pavement shape and add some structure back to the pavement, however depending on how it is used in the future it may only last 5 to 10 years. This is a longer term treatment and as such if this option is selected it is recommended that the Bowling Club be approached to make a contribution of 50% to these works as they will derive some longer-term benefit from the works.

Another consideration is that this land belongs to the Bowling Club and Council has limited control on how it is managed. For instance, the bowling club could either barricade this area off to prevent public access, or could apply for a DA to extend their clubhouse over this land. Whilst no DA has been lodged at this stage, it is understood that there may be long term plans for a club house extension.

In the short term the pothole patch and crack seal option is recommended until the traffic movements associated with the IGA can be assessed and potential impacts of any future upgrade known. If it is required in the future the pavement could be heavy patched (or other treatment), subject to a Council resolution.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

The financial implications are detailed in the report. Costs for the pothole patching and crack sealing option can be funded PJ 931110 – Urban Car Park Areas maintenance.

If the option for a heavy patch and reseal treatment is adopted funding would need to be made available from PJ 931115 – Urban Minor Heavy Patching.

#### **Asset Management**

Any constructed infrastructure will remain an asset of the Maclean and District Bowling Club.

#### **Policy or Regulation**

N/A

**Consultation**

There has not been discussion with the Bowling Club over treatment options for this area.

**Legal and Risk Management**

N/A

**Climate Change**

There are no foreseen climate change impacts from these works.

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Prepared by	Alex Dalrymple – Manager Civil Services
Attachment	Nil

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<b>ITEM</b>	<b>6c.19.071</b>	<b>ROAD MAINTENANCE COUNCIL CONTRACT</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

**SUMMARY**

Roads and Maritime Services (RMS) have notified Council that a new contract has been developed for the Road Maintenance Council Contract (RMCC) and the current contract will be terminated, with Council receiving an offer to enter into a new contract.

**OFFICER RECOMMENDATION**

That:

1. Council accept the new Road Maintenance Council Contract as offered by Roads and Maritime Services, due to commence on 1 March 2020; and
2. The Common Seal of Council be affixed to all necessary documentation.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.5 Provide safe and effective vehicular and pedestrian networks that balance asset conditions with available resources

**BACKGROUND**

The current Road Maintenance Council Contract is over 10 years old and Roads and Maritime Services require a number of changes to be made to the existing contract. These changes are required to ensure RMCC is in line with legislation, meet current demands and allow efficiencies to be made to reduce administration and excessive overheads costs. This will require current contract to be terminated and a new contract established.

RMS has advised Council that the existing contract will terminate on Saturday 29 February 2020, with a new contract commencing on Sunday 1 March 2020. They are seeking a response from Council by 8 November 2019 whether they will be entering into a new contract.

**KEY ISSUES**

The RMCC works program supplements Councils works program and has lead to efficiencies and improved work practises in Council works as a result of the RMCC contract. Council also benefits financially by completing the contract requirements.

**COUNCIL IMPLICATIONS****Budget/Financial**

Council has undertaken up to \$5 million worth of RMCC works annually, although the amount of works will vary from year to year. Council's have been advised that the level of funding to RMCC projects is due to increase in coming years.

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Alan Dunne – Senior Projects Engineer
Attachment	Nil

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**ITEM 6c.19.072 CLARENCE VALLEY REGIONAL AIRPORT – LANDING FEES AND CHARGES REVIEW**


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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

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**SUMMARY**

A review has been undertaken of the current landing fees and charges at the Clarence Valley Council Regional Airport. A number of changes to the current adopted fees and charges are proposed.

**OFFICER RECOMMENDATION**

That the following revised fees and charges at the Clarence Valley Council Regional Airport be adopted for the remainder of the 2019/20 financial year:

<b>Fee Name and Description</b>	<b>2019/2020 Fee (inc GST)</b>
<del>Annual Charges for Landing Rights – Air Training Licence Fees – p.a.</del>	<del>\$500.00</del>
<del>C-A Transiting RPT and</del> Passenger Charter Aircraft – Minimum Charge	\$28.13
<del>C-A Transiting RPT and</del> Passenger Charter Aircraft – Per Landing per 1,000 kg (or part thereof)	\$18.45
General Aviation Aircraft Including Helicopters - Minimum Charge	\$28.13
General Aviation Aircraft Including Helicopters - Per Landing, per 1,000 kg (or part thereof)	\$18.45
Air Training Aircraft - Per Landing and Full Stop - Minimum Charge	\$28.13
Air Training Aircraft - Per Landing and Full Stop, per 1,000kg (or part thereof)	\$18.45
Air Training Aircraft - Touch and Go (per landing and take off)	\$1.50

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Council has adopted a range of fees and charges for the Clarence Valley Regional Airport for the 2019/20 financial year. A review of these fees and charges has been undertaken as a result of some events at the airport which highlighted some gaps in the current fee and charges structure or situations where a different fee structure will provide a better result for Council.

**KEY ISSUES**

The proposed changes in the fees and charges are detailed below (blue deletions, red additions):

Fee Name and Description	2019/2020 Fee (inc GST)
<del>Annual Charges for Landing Rights – Air Training Licence Fees – p.a.</del>	<del>\$500.00</del>
Annual Charges for Landing Rights – Grafton Gliding Club – p.a.	\$205.00
Annual Charges for Landing Rights – State Forests of NSW – p.a.	\$410.00
<del>C-A Transiting RPT and</del> Passenger Charter Aircraft – Minimum Charge	\$28.13
<del>C-A Transiting RPT and</del> Passenger Charter Aircraft – Per Landing per 1,000 kg (or part thereof)	\$18.45
General Aviation Aircraft Including Helicopters - Minimum Charge	\$28.13
General Aviation Aircraft Including Helicopters - Per Landing, per 1,000 kg (or part thereof)	\$18.45
Air Training Aircraft - Per Landing and Full Stop - Minimum Charge	\$28.13
Air Training Aircraft - Per Landing and Full Stop, per 1,000kg (or part thereof)	\$18.45
Air Training Aircraft - Touch and Go (per landing and take off)	\$1.50
Landing Fees not payable for children carried free by the airlines, Air Ambulance, Angel Flight, Careflight, Child Flight, Royal Flying Doctors Service or Rescue Helicopter Services	No Charge
Non Exclusive hire of Clarence Valley Airport Terminal for S44 Declared emergencies – Per day	\$1303.29
Commercially Sensitive – RPT – Per Person Arriving and Departing (1st 15,000 passengers)	
Commercially Sensitive – RPT – Per Person Arriving and Departing (Passengers in excess of 15,000)	
Parking Fees – RPT Apron – First two hours free	First 2 hrs free of charge
Parking Fees – RPT Apron – Daytime – Non commercial aircraft parked RPT Apron – per day – 1 day maximum	\$50.00
Parking Fees – RPT Apron – Overnight – Non commercial aircraft parked RPT Apron – per night – 1 night maximum	\$75.00
Parking Fees – GA Apron – One spot available only – per day or part thereof	\$10.00
Parking Fees – Grass site – Per Day or part thereof	\$5.00
Parking Fees – Non-operational or abandoned aircraft – Per day up to 10 days (after 10 days \$30.00 per day applies)	\$10.00
Airside Activities – Vehicular Escort – \$100 per hour – minimum 1 hour	\$100.00

Fee Name and Description	2019/2020 Fee (inc GST)
Airside Activities – Personal Escort – \$75 per hour – minimum 1 hour	\$75.00
Airside Activities – Call Out Fee – Excludes Emergency & Security situations	\$250 call out fee plus additional \$100 per hour or part thereof
Airside Activities – Environmental Levy/Charge – Clean up of spills/rubbish	\$100 per hour or part thereof plus cost of materials used and waste disposal
Issue of Visitor Identification Card – per person	\$10

### COUNCIL IMPLICATIONS

#### Budget/Financial

The minor changes to the fee structure will allow easier administration and charging of fees where applicable.

#### Asset Management

N/A

#### Policy or Regulation

N/A

#### Consultation

In reviewing the fees and charges Council has examined fees and charges applied at other regional airports.

#### Legal and Risk Management

N/A

#### Climate Change

N/A

Prepared by	Tim Jenkins – Asset Systems Project Coordinator
Attachment	Nil

**ITEM 6c.19.073 ALCOHOL PROHIBITED AREAS – JACARANDA FESTIVAL**

<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

**SUMMARY**

An application for a further two Jacaranda Festival events has been received that will permit the sale and consumption of alcohol. Market Square is an alcohol prohibited area and approval of the sale and consumption of alcohol within the park requires the temporary revoking of the restriction for the duration of the events.

**OFFICER RECOMMENDATION**

That Council revoke the alcohol prohibition at Market Square for the 2019 Jacaranda Festival as follows:

- Tuesday 29 October 2019 between 5:00pm – 11:00pm.
- Thursday 31 October 2019 between 9:00am– 4:00pm.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.5 Attract and grow events which contribute to the economy with a focus on high participatory events

**BACKGROUND**

The Grafton Jacaranda Festival is the longest running floral festival in Australia, the Festival is held under canopies of purple blossoms from the last weekend in October to the first weekend of November every year. This year is the 85<sup>th</sup> Anniversary of the event.

The festival commences regally with the crowning of their Jacaranda Queen and Princesses. Local arts, crafts and sporting groups take the week long opportunity to showcase their work. The city of Grafton comes to a standstill on Jacaranda Thursday with the main street lined with market stalls, rides and entertaining skits performed by local businesses.

The mighty Clarence River is a spectacular backdrop for the Riverlight event on Friday evening where spectators line the riverbank to watch local performers before a fantastic finale of fireworks. The festival culminates with a float parade of enormous proportions on Saturday afternoon followed by a sunset family concert on the Riverbank.

**KEY ISSUES**Alcohol Prohibited Areas

The drinking of alcohol is prohibited at Market Square, Grafton all hours (24/7) [Item 15.035/19]. This prohibition is in place to promote the safe use of the park.

Alcohol prohibited areas are enforced by the police.

Jacaranda Festival

The Jacaranda Festival is a multiday, multi faceted event (see attached program).

As part of the committees desire to grow the event and cater for resident and visiting communities expectation it is proposed that 7 events within the larger calendar of events will permit the sale and consumption of alcohol.

The events being:

- Jacaranda Ball (Friday 25 October 2019 between 5:00pm – 12:00am)
- The Queen Crowning (Saturday 26 October 2019 between 4:00pm – 11:00pm)
- Retrofest (Sunday 27 October 2019 between 10:00am – 4:00pm)
- **Evening of Jacaranda Film (Tuesday 29 October 2019 5:00pm – 11:00pm) – New event**
- **Jacaranda Thursday (Thursday 31 October 2019 9:00am – 4:00pm) – New event**
- RiverLIGHT (Friday 1 November 2019 between 4:00pm – 10:00pm)
- RiverFEAST Saturday 2 November 2019 between 11:00am – 11:00pm

The applicant has advised that alcohol will be served by qualified attendants who hold an RSA Certificates within a delineated area. Police will be notified of the event and available to attend if required, however it is envisaged that the style of the event will determine positive behaviour.

It is proposed to adjust the prohibition in this instance to allow alcohol consumption as part of this event.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

The following references are applicable to this report:

- Local Government Act 1993, section 644
- Council Minute 15.035/19
- Council Resolution - 6c.19.009

**Consultation**

The Application has been received from Jacaranda Festival Committee.  
Internal consultation has occurred with several areas of Council.

**Legal and Risk Management**

If approved, a risk management plan will be submitted by the applicant, prior to the event.

**Climate Change**

N/A

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Prepared by	Natalie Sear – Acting Parks & Recreation Officer
Attachments	Nil

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<b>ITEM</b>	<b>6c.19.074</b>	<b>BARYULGIL WASTE TRANSFER STATION – SUMMARY OF TRIAL MANAGEMENT (GATING AND STAFFING)</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (David Sutton)	
<b>Attachment</b>	Nil	

**SUMMARY**

This report presents a summary of the outcomes from the Baryulgil Waste Transfer Station (WTS) trial management arrangements (gating and staffing) and seeks Council's endorsement to seek quotations from suitably qualified Contractors to continue the management arrangements (gating and staffing).

**OFFICER RECOMMENDATION**

That Council:

1. Receive and note the outcomes of the trial;
2. Formally thank the Baryulgil Local Aboriginal Land Council (LALC) for their assistance staffing and operating Baryulgil WTS during the trial;
3. Seek quotations from suitably qualified contractors to operate the Baryulgil WTS consistent with the trial management arrangements (gating and staffing);
4. Request Baryulgil LALC if they are willing to continue to operate the Baryulgil WTS until a contractor is engaged.
5. Defer the implementation of waste disposal fees at the Baryulgil WTS for Baryulgil area residents until January 2021.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 4 Environment

Objective 4.2 We will foster a balance between development and the environment considering climate change impacts

Strategy 4.2.3 Provide efficient and effective solid waste management services which prioritises resource recovery and minimises environmental impacts

**BACKGROUND**

At the June 2019 ordinary meeting of Council, Council resolved to;

1. *Endorse the trial of controlled access (4 days a week) at the Baryulgil WTS in line with similar waste disposal facilities in the Clarence Valley.*
2. *Accept \$25,000 grant funding through North East Waste from the NSW Environment Protection Authority (EPA) to fund the trial for approximately 4 months.*

3. *Receive a future report summarising the outcomes of the trial, including but not limited to:*
- a) *Summary of community feedback*
  - b) *Quantity and types of waste collected*
  - c) *Incidents of illegal dumping*
  - d) *Possible future management options for the site.*

Baryulgil WTS is located approximately 80 km from Grafton on the Clarence Way. The Baryulgil WTS services the Aboriginal communities of Baryulgil and Malabugilmah in addition to the surrounding rural properties. Prior to the trial, the Baryulgil WTS had uncontrolled access (24/7) and no staff supervision. Waste disposal at the Baryulgil WTS prior to and during the trial was free.

Council accepted a \$25,000 grant through North East Waste from the NSW Environment Protection Authority (EPA) for staffing the site during the trial with the aim to improve health, safety, environmental and financial outcomes for the community and Council.

The trial commenced 15 July 2019 being staffed by representatives of the Baryulgil LALC. It is forecast that the grant funding received from the NSW EPA for staffing will be expended by December 2019.

#### Pre-trial waste volume trends and issues

Prior to the trial the quantity of waste received at the Baryulgil WTS had increased from an average of 150 tonnes per annum to a peak of 250 tonnes per annum. There was anecdotal evidence of waste coming from as far away as Casino, Tabulam and Grafton. It is assumed that this was to avoid paying waste disposal fees at the respective waste handling facilities.

With the increase in waste, there was an increase in the instances of illegal disposal of problematic waste including; asbestos; bulk loads of tyres; and other various hazardous and dangerous wastes. The illegal disposal of problematic waste at the Baryulgil WTS resulted in an increase in the frequency of 'clean-ups' of the facility from intervals of 6-8 weeks to 2-3 weeks by Council Staff and licenced Contractors for asbestos.

The increased quantity of waste resulted in the site being regularly overloaded creating an unsafe environment for patrons and Council staff when cleaning the Baryulgil WTS. Additionally the clean-up of illegal disposal of problematic waste placed a significant cost burden and health and safety risk on Council.

#### **KEY ISSUES**

The trial management arrangements (gating and staffing) commenced on the 15<sup>th</sup> July 2019.

Prior to commencing the trial the Baryulgil WTS was cleaned-up; gates and signage were installed; additional recycling services provided and the surrounding community informed. Additionally a demountable building that provided staff shelter and equipment storage was installed.

The Baryulgil LALC were engaged to staff the Baryulgil WTS four days a week (Monday, Wednesday, Saturday and Sunday) between 9:00am and 3:00pm. Staff were inducted to the site and completed on the job training on the operations requirements. The Baryulgil LALC continues to operate the Baryulgil WTS on this basis.

The trial has been in place for 11 weeks. Data was gathered throughout this trial with a summary of the outcomes of the trial provided below.

#### Summary of Trial Results

- Waste volumes have decreased from an average of 22.5 Tonnes per month to an average 6.8 Tonnes per month;
- Waste disposal costs for waste transferred from Baryulgil WTS being received at Grafton Regional Landfill have decreased from average \$3,766 per month to \$1,354 per month;

- There have been no clean-ups during the trial resulting in a cost reduction from an average \$2,629 per month to \$0 per month;
- Bulk bin transport costs have decreased from an average \$2,692 per month to \$2,004 per month;
- There has been no complaints from the Aboriginal communities of Baryulgil and Malabugilmah or the surrounding rural properties;
- There has been no increase in illegal dumping reported in the area surrounding the Baryulgil WTS;
- The OH&S risk have been dramatically reduced as the site is organised, illegal dumping stopped and over loading controlled;
- It is estimated Council has saved \$5,279 per month (considering EPA grant) or \$1,547 (excluding EPA grant) during the trial.

A break down of the average monthly costing is provided below:

	<b>Pre-Trial Monthly Average</b>	<b>Trial Monthly Average*</b>
Wages for Baryulgil LALC	-	\$3,732**
Recycling Costs	-	\$450
Waste Disposal	\$3,766	\$1,354
Transport (Bulk Bins)	\$2,692	\$2,004
Clean-up costs (contractor + CVC staff and plant)	\$2,629	\$0
<b>Total Costs</b>	<b>\$9,087</b>	<b>\$7,540</b>
<b>Estimated Savings with EPA grant per month</b>		<b>\$5,279</b>
<b>Estimated Savings excluding EPA grant per month</b>		<b>\$1,547</b>
<b>Waste Tonnes / Month</b>	22.5 Tonnes per month	6.8 Tonnes per month (70% reduction)

\*Based on 11 weeks data from 15th July to 24 September

\*\* The wages for Baryulgil LALC staffing the site have been grant funded by EPA through North East Waste during the trial

Based on the above results, the trial is considered successful from a financial, WHS and environmental perspective.

#### Specific Trial Results

Addressing point 3 of the June 2019 resolution of Council the specific results are provided.

#### **Summary of Community Feedback**

Prior to the trial commencing all residents in the Baryulgil area were notified (mail, media and signs) of the trial. Letters sent to residents requested they provide comments or feedback about the management or future management of the site.

Overall there has been very little feedback regarding the trial. Prior to the commencement of the trial no written or verbal comments / enquiries were received. During the trial two general enquiry calls were received and one written comment being:

*'...the changes you have made at the Baryulgil tip are simple and effective, and more particularly, are working. Residents appreciate it.'*

Baryulgil LALC staff that operate the site have indicated that generally community feedback on the trial has been positive.

#### **Types of Wastes Collected during the Trial**

The type and quantity of waste collected during the trial at the Baryulgil WTS being:

Types of Waste Collected	Quantity Tonnes
Waste (general domestic)	14.5
Steel	0.98
Household Recyclable containers	0.7
Batteries/ Oils	0.2

The above quantities represent a significant reduction in quantity of material being disposed at this location.

### Illegal Dumping

Council's field staff that work in the area have advised that there is no obvious increase in illegal dumping in the Baryulgil area. This is supported by no reports of illegal dumping in the Baryulgil area on Council's customer request system.

### Future management options

Options may include:

1. Revert back to an unmanned site, being open 24/7.
  - This option is not recommended due to the known WHS risks; high reactive cost to complete clean-ups; the impact to the environment and being contrary to the NSW EPA requirement to regulate waste management.
2. Close the Baryulgil WTS.
  - This option is not recommended as the closest waste handling facility to the Baryulgil WTS is Copmanhurst WTS being approximately 55 km away, that the Baryulgil WTS used by a large number of residents in the Baryulgil area and with the permanent closure it is likely result in significant illegal dumping.
3. Continue to operate the Baryulgil WTS consistent with the trial management arrangements (gating and staffing).
  - This option is recommended due to the success achieved through the trial in reducing cost and waste quantities at the Baryulgil WTS, equitable access to waste handling facilities for the residents in the Baryulgil area and the likely environmental benefits through the prevention of illegal dumping.

It is recommended that Council implement option 3 being the implementation of the trial management arrangements (gating and staffing) on a continuing basis. To achieve this Council should seek quotations from suitably qualified Contractors to operate the Baryulgil WTS consistent with the trial management arrangements (gating and staffing). It is proposed that a condition of the RFQ documents would be for the Contractor to have a minimum of 50% of the staff employed at the Baryulgil WTS from the Aboriginal communities of Baryulgil and / or Malabugilmah.

### Fees and Charges

Waste disposal fees were not charged at Baryulgil WTS prior to and during the trial. All other Clarence Valley WTS's have waste disposal fees set in accordance with Council's fees and charges. While not tested it is assumed that the community acceptance of the trial management arrangements (gating and staffing) may not have been as high if fees were introduced.

Should Council resolve to continue the new management arrangements (gating and staffing), it is recommended that the introduction of waste disposal charges be deferred for at least 12 months to allow residents greater time to become comfortable with the change. A similar arrangement was put in place when the Tyringham WTS was gated.

The NSW EPA funding to provide staff resources during the trial will be exhausted by December 2019. Should Council resolve to continue the trial management arrangements (gating and staffing), Council will

need to fully fund all costs from December 2019. This cost can be funded from the savings from existing budgets achieved from reduced clean-up and disposal costs.

Council will need to approach the Baryulgil LALC to continue to operate the site until a long term arrangement can be put in place.

#### Summary and Recommendation

The trial management arrangements (gating and staffing) are considered successful from a financial (minimum average saving \$1,547 per month), WHS (reduced risk) and environmental perspective (reduced illegal dumping, overloading, uncontrolled waste volumes). A large part of the success of the trial can be attributed to the Baryulgil LALC and its representatives that staffed the Baryulgil WTS. It is recommended that Council *'formally thank the Baryulgil Local Aboriginal Land Council (LALC) for their assistance staffing and operating Baryulgil WTS during the trial'*.

To continue the success it is recommended that Council implement option 3 of the future management options being the implementation of the trial management arrangements (gating and staffing) on a continuing basis. To achieve this Council should *'seek quotations from suitably qualified Contractors to operate the Baryulgil WTS consistent with the trial management arrangements (gating and staffing)'*.

To effect the above recommendation interim staffing arrangements will be required, it is recommended that Council *'request Baryulgil LALC if they are willing to continue to operate the Baryulgil WTS until a Contractor is engaged'*.

To imbed the changes and to allow residents greater time to become comfortable with the changes it is recommended that Council *'defer the implementation of waste disposal fees at the Baryulgil WTS for Baryulgil area residents until January 2021.'*

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

The staffing of the trial has been funded through the NSW EPA and provided through North East Waste. It is forecast that this funding will be exhausted by December 2019. The improvements to the waste transfer station (signage, gates, site shed, safety equipment etc) were funded from Baryulgil Transfer Station Upgrade (PJ530199 Cost Centre 878).

It is calculated that the savings to Council have been approximately \$5500 per month (considering the EPA grant money), without the grant funding (i.e if Council had paid for staff) the savings would have been approximately \$1500 per month when compared to the cost to operate the unstaffed site (reactive clean-ups, waste disposal). The management and staffing costs during the trial are approximately \$950 week. It is expected this would increase if this went to the open market as the Contract will be carrying the risk, overheads and other operational costs, however it is considered there will continue to be financial savings by permanently staffing the site.

If a contractor is engaged this can be funded through PJ 994490 *Transfer Station Operations*. It is forecast that the savings from reduced waste disposal and reduced clean-up costs would offset the additional management costs.

##### **Asset Management**

Works are undertaken in accordance with Council's Waste Asset Management Plan.

**Policy or Regulation**

The two acts that are relevant to this site are the *Protection of the Environment Operations Act* which relates to the environmental management of the site and the *Work Health and Safety Act* and Regulation which requires a safe environment for patrons and staff. The ongoing management of this site will assist Council to comply with both these legislative requirements.

**Consultation**

All residents in the Baryulgil area were notified of the trial (mail, media and signs). Council is working with the CEO of both Aboriginal communities (Baryulgil and Malabugilmah) during the trial and will continue to do so to ensure a suitable service is provided. Little feedback has been received from the community since the trial commenced with only one e-mail providing positive feedback.

**Legal and Risk Management**

The ongoing site management will reduce current risks at the site through improved environmental and health and safety management.

**Climate Change**

Improved waste management and resource recovery at this site will:

- reduce waste to landfill and the corresponding methane gas that would be produced.
- Recover resources (steel, glass and household recyclables) for recycling which will reduce emissions and save landfill space.
- Reduced waste received at the site will reduce transport emissions.

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Prepared by	Richard Roper – Senior Waste and Sustainability Officer
Attachment	Nil

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ITEM	6c.19.075	ACQUISITION OF CROWN LAND EASEMENTS FOR YAMBA SEWERAGE
<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Yes	

## SUMMARY

In 2015 Council constructed components of the Yamba sewerage scheme on Crown land using its powers of entry under Section 191A of the *Local Government Act 1993*. The “notice to enter property” issued to NSW Trade & Investment, Crown Lands Division indicated that Council proposed to obtain easements over the pipelines once works were completed. It is proposed that the sewerage easements be acquired using a compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* and the authority of the *Local Government Act 1993*.

## OFFICER RECOMMENDATION

That

1. The following proposed interests in land be acquired by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991* by authority contained in the *Local Government Act 1993* for the purposes of the Yamba Sewerage Scheme:
  - a. An easement for sewerage purposes (limited in stratum) within the Clarence River shown as A3, A1 and B1 in Deposited Plan 1228046.
  - b. An easement for sewerage purposes over Lot 7319 in Deposited Plan 1162093 shown as A2 in Deposited Plan 1228046.
  - c. An easement for sewerage purposes over Lot 7042 in Deposited Plan 1023322 shown as A4 in Deposited Plan 1228046.
  - d. An easement for sewerage purposes over Lot 262 in Deposited Plan 822829 shown as B2 in Deposited Plan 1228046.
  - e. An easement for sewerage purposes over Lot 185 in Deposited Plan 7042312 (on a perpetual lease to Yamba Golf & Country Club) shown as B4 in Deposited Plan 1228046.
  - f. An easement for sewerage purposes over Lot 7060 in Deposited Plan 1 1 1 5112 shown as B5 in Deposited Plan 1228046.
  - g. An easement for sewerage purposes over Lot 126 in Deposited Plan 751395 shown as B6 in Deposited Plan 1228046.
  - h. An easement for sewerage purposes over Lot 7301 in Deposited Plan 1 147287 shown as B7 in Deposited Plan 1228046.
2. The terms of the easements shall be as shown on Schedule 'A' in the attachments.
3. Minerals are to be excluded from this acquisition.
4. These acquisitions are not for the purpose of resale.
5. The necessary applications be made to the Minister for Local Government and the Governor.
6. The Common Seal of Council be affixed to all necessary documentation.

## COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.8 Ensure good governance, effective risk management and statutory compliance

### BACKGROUND

As noted by Council in December 2016 (Resolution 14.126/16), under Section 5.50 of the *Crown Land Management Act 2016* where a Council had been relying on Section 191A it is now required to seek an easement "as soon as practicable after becoming aware that it needs access to Crown land on an on-going basis".

The provisions of this Act were enacted in July 2018; however, as two of the relevant land parcels were subject to Aboriginal Land Claims, acquisition could not proceed until the claims were determined.

Council has engaged Public Works Advisory (PWA) to undertake the easement acquisitions. The proposed easements are shown on Deposited Plan 1228046 which is included in the attachments.

### KEY ISSUES

Acquisition of interests in Crown land are carried out by compulsory process with agreement under Section 29 of the *Land Acquisition (Just Terms Compensation) Act 1991*. This method is the accepted way for councils to acquire an interest in Crown land, and the requirements of native title are also addressed through this process. The Section 29 method of acquisition requires a Council Resolution and the Executive Council approval via the Office of Local Government.

This method is the accepted way for councils to acquire interests in Crown land. On approval of the resolution, PWA will liaise with the Office of Local Government to gain the necessary Minister's and Governor's approval.

Once the Minister's and Governor's approvals are received PWA will start the acquisition under procedures in the *Land Acquisition (Just Terms Compensation) Act*.

### COUNCIL IMPLICATIONS

#### Budget/Financial

Sewerage easement acquisitions are funded under PJ910017 (Sewer Easement Asset Purchases). The compensation payable to Lands will be determined by the Valuer General.

The impairment of native title rights and interests are also compensable under the *Native Title Act 1993* (Cth).

It is unknown what this liability will be, but will be determined in accordance with the requirements of the *Native Title Act 1993* (Cth).

#### Asset Management

Easements are not considered as a Council asset in Council's asset register.



**Policy or Regulation**

NSW Crown Lands Act 1989  
NSW Crown Land Management Act 2016  
NSW Land Acquisition (Just Terms Compensation) Act 1991  
NSW Local Government Act 1993  
Commonwealth Native Title Act 1993

**Consultation**

The Yaegl Traditional Owners Aboriginal Corporation and Birrigan Gargle Local Aboriginal Land Council were previously consulted during construction of the pipelines.

**Legal and Risk Management**

The acquisition of the easements is a legislative requirement under s5.50 of the *Crown Land Management Act 2016*. The easements will allow Council unfettered access to its sewerage infrastructure as and when required.

**Climate Change**

N/A

Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	1. Proposed Terms of Easement 2. Deposited Plan 1228046

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**ITEM 6c.19.076 CONVENT BEACH SEWER UPGRADE – PROPERTY 117973 ELECTRICAL WORKS**


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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

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**SUMMARY**

At its meeting of 25 June 2019 Council resolved (Resolution 6e.19.001) to award a contract to Ledonne Constructions Pty Ltd to replace the existing Y3 sewer pump station at Convent Beach Yamba and associated gravity reticulated system with a pressure sewer network. Pressure sewer systems are powered from property switchboards, and an electrical audit of the properties in the catchment has indicated that Property 117973 requires substantial electrical upgrading to be compliant with current Australian Standards. As the electrical upgrading requirement has been triggered by Council replacing the gravity sewer system with a pressure sewer system, it is proposed that Council contribute half the cost of the necessary electrical upgrading. The property owner has verbally agreed to contribute half the cost.

**OFFICER RECOMMENDATION**

That Council:

1. Contribute half the cost of electrical upgrading works at Property 117973 on the basis that the upgrading requirement was triggered by Council's replacement of the existing sewerage system with a pressure sewer system.
2. Note the electrical auditor's estimate that the total cost of the electrical upgrading works will be \$25,000 to \$30,000.

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.1 Maintain and renew water and sewer networks

**BACKGROUND**

Ledonne Construction's electrical contractor has undertaken electrical audits of the seven properties which will be connected to the pressure sewer network. Six of the properties require minor electrical works to enable pressure sewer units to be installed and this work will be undertaken by the contractor as part of the pressure sewer installation.

Property 117973 requires substantial electrical work including upgrading underground service mains and consumer mains, upgrading the main switchboard, relocating the meter to outside and installing submains to existing boards under the building. While existing electrical works are “grandfathered” for compliance with standards which existed at the time of installation, as soon as any new electrical work is undertaken on a property the existing electrical work need to be upgraded to current Australian Standards.

The owner of property 117973 has verbally advised that he has no current plans for the property which would require new electrical work.

### **KEY ISSUES**

The owner of Property 117973 will benefit from the electrical upgrading work in that, if there is any future installation which requires new electrical work, they would be required to fund the full cost of the electrical upgrading. They recognise that they will benefit from the electrical upgrading, and have verbally agreed to pay half the upgrading cost. As the requirement for electrical upgrading at Property 117973 was triggered by Council’s replacement of the existing gravity sewer system with a pressure sewer system, it is considered fair and reasonable that Council contribute half of the upgrading cost. Under Section 356(1) of the *Local Government Act, 1993* this contribution needs to be authorised by Council resolution.

In the Lawrence and Iluka pressure sewer schemes property owners were required to fund the full cost of electrical upgrading. A significant difference between those schemes and Convent Beach is that Lawrence and Iluka were new sewerage schemes and therefore any properties requiring electrical upgrading could continue using their existing on-site effluent disposal systems until upgrading works were undertaken. Property 117973 is currently serviced with gravity sewer and as soon as the pressure sewer network is installed it will need to connect the pressure sewer system to maintain the current level of sewer service.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Council resolution 6e.19.001 at its meeting of 25 June 2019 authorised contract variations up to \$41,769.55. The minor electrical upgrading work required to install pressure sewer systems on the other six properties will be a contract variation as the work could not be quantified prior to Tender and is estimated to cost \$8,500.

The electrical auditor has estimated the total cost of the electrical upgrading work on Property 117973 will be \$25,000 to \$30,000, so Council’s 50% contribution would be \$12,500 to \$15,000. Following electrical upgrading work the remaining variation allowance will therefore be reduced to just over \$18,000.

#### **Asset Management**

The electrical upgrading works on all properties will remain private assets. The pressure sewer system will be a Council asset.

#### **Policy or Regulation**

NSW Local Government Act 1993  
Australian Standard AS3000

#### **Consultation**

Ledonne Constructions  
Governance Section

#### **Legal and Risk Management**

A delay in undertaking electrical upgrading works has the potential to delay the contractor’s critical path, in which case they would be entitled to delay costs. The delay cost under the contract is \$430 per day.

**Climate Change**

Not applicable to the electrical upgrading at Property 117973.

Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	Nil

<b>ITEM</b>	<b>6c.19.077</b>	<b>BENCHMARK AND REPORT CARD 2019/20</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**SUMMARY**

The Benchmark and Report Card report gives Council and community oversight of our services and how we compare against industry averages and, how we are tracking toward goals. It also provides some key information about the quantity of activity being undertaken. This report represents activity results for Quarter 1 of 2019/20.

**OFFICER RECOMMENDATION**

That the Quarter 1 Benchmark and Report Card for 2019/20 report be received and noted.

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

**BACKGROUND**

The Benchmark and Report Card document makes transparent our activity and our progress toward goals. Information is collated quarterly and is reported at the first Ordinary Meeting following the end of the quarter. This is the second year of such reporting and it provides oversight of trends as the reported quarter's activity can be comparable to previous quarters.

**KEY ISSUES**

Reports for some activity are not currently available without system, or system report writing, upgrade. As we improve systems and visibility of data, the document will become more comprehensive. The document includes some Key Performance Indicators that are also included in our quarterly report of achievement against the Delivery Program and Operational Plan. Over time it is anticipated as we review our Delivery Program and Operational Plan following the next local government election, the two will become integrated.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Laura Black – Director Corporate & Governance
To be tabled	Benchmark and Report Card Q1 2019/20

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ITEM	6c.19.078	GOVERNANCE REPORT
<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

## SUMMARY

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) Applications and insurance claims in the period 1 July 2019 to 30 September 2019.

## OFFICER RECOMMENDATION

That Council receive and note the Governance report for the period 1 July 2019 to 30 September 2019.

## COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.8 Ensure good governance, effective risk management and statutory compliance

## BACKGROUND

### *Legal Proceedings*

The report on legal proceedings is to contain details of the legal proceedings that have been taken by or against Council, except in cases where:

- the security of the Council, Councillors, Council staff or Council property may be threatened;
- the privacy of the personal affairs of the person may be contravened by revealing the information;
- the proceedings concern a personnel or industrial relations matter involving an individual staff member (for example, unfair dismissal claims, workers compensation claims and personal injury claims);
- the proceedings concern the personal hardship of any resident or ratepayer, or
- a not for publication order has been made by the relevant Court or Tribunal.

The report is also to contain details of the amounts, costs and expenses paid or received by the Council.

### *Complaints Management*

Under Council's Complaints Management Policy a request for a service or for information about a service is not a complaint. However, they may escalate into a complaint if action is not taken within designated timeframes or is undertaken in an unprofessional or substandard manner.

The following are not complaints under Council's Complaints Management Policy:

- an objection to a Development Application (DA) or a submission made to Council in response to a call for public comment;
- a concern for service levels that are the result of limits set by Council Policy, and not the result of organisational or mechanical breakdown;
- Code of Conduct complaints.

Under the policy Council has committed to respond substantially to any complaint (other than a competitive neutrality complaint) within 21 calendar days after it is received.

#### *Government Information (Public Access) Applications*

The purpose of the Government Information (Public Access) Act 2009 (GIPA) is to open government information to the public by:

- (a) authorising and encouraging the proactive public release of government information by agencies, and
- (b) giving members of the public an enforceable right to access government information, and
- (c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

Information is not disclosed, if disclosing it would also disclose:

- private information about a third party
- details of legal action or law enforcement
- details that would undermine competitive neutrality in connection with any functions of Council or
- details that would endanger or prejudice any system or procedure for protecting the environment.

#### *Insurance Claims*

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

### **KEY ISSUES**

#### *Legal Proceedings*

For the period the following legal proceeding taken by or against Council:

- LEC Class 1 Proceedings – defending a position – Iluka Road Woombah – clearing of native vegetation; with directions hearing scheduled for 14 October 2019.

#### *Complaints Management*

During the reporting period there was 1 complaint lodged:

- One lodged with the Privacy Information Commission which on investigation and response to the Commission the complaint was subsequently withdrawn.

#### *Government Information (Public Access) Applications*

During the period three GIPA applications were processed from the previous reporting period and eight new GIPA applications were received. Of the three GIPA's held at the beginning of the reporting period, all were finalised.

Of the eight new applications, three were granted full access and two cases advised no records held by Council and one access denied due to overriding public interest for non disclosure. Application seven requested open access information and was therefore treated as an informal request, the relevant information disclosed and fee refunded.

Consultation with applicant eight resulted in the formal application being withdrawn and fee returned.



*Insurance Claims*

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

There were twenty three claims lodged, comprising of:

- Twelve motor vehicle claims. The claims fell under Council's insurance policies resulting in a cost to Council of \$12,000, which is the excess of \$1,000 per claim
- 20 public liability claims of which 13 were declined and 4 settled at a cost of \$3,772.03; the remainder pending finalisation
- Nil property claims during the reporting period.

**COUNCIL IMPLICATIONS****Budget/Financial**

For legal proceedings taken by or against the Council any costs incurred or recovered are allocated to the budget areas for the respective matters.

The GIPA Act provides that requests are subject to an initial fee of \$30 to cover first hour of investigation. There is an additional processing fee of \$30 per hour, after the first hour. Fees can be reduced by 50% if the agency is satisfied:

- the individual making the application is suffering financial hardship, or
- the information applied for is of special benefit to the public generally.

Council's liability for insurance claims is limited to the excess under the respective policy. Claims up to the excess are allocated against the operational budget of the relevant directorate.

**Asset Management**

N/A

**Policy or Regulation**

Complaints Management Policy

Government Information (Public Access) Act 2009 (GIPA Act) Privacy and Personal Information Act 1998

Council's suite of insurance policies

Civil Liabilities Act 2002 No 22

**Consultation**

Insurance and Risk Officer, Managers and Directorates

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Monique Ryan – Governance Officer
Attachments	Nil

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**ITEM 6c.19.079 PRE-AUDIT 30 JUNE 2019 BUDGET V ACTUAL RESULT**


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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Yes	

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**SUMMARY**

This report presents to Council the unaudited budget result against the actual financial result for all Council funds for the financial year 2018/19.

**OFFICER RECOMMENDATION**

That Council receive and note the unaudited budget-v-actual financial result for the financial year 2018/19 for each fund and financial reserve as detailed in this report.

**COMMITTEE RECOMMENDATION**

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Under the Integrated Planning and Reporting framework, Clause 203 of the Local Government (General) Regulation 2005 requires that Council prepares and considers a budget review statement within 8 weeks of the end of each quarter (except the June quarter), which provides that Council receive its Annual Financial Statements by 31 October.

This report is provided in addition to the requirements of Integrated Planning and Reporting to advise Council of the pre-audit financial result compared to the revised budget for the year to 30 June 2019. Timely delivery of the Annual Financial Statements in October, should minimise the need for this report in future.

**KEY ISSUES****Pre-Audit Budget Result for 2018/19**

1. General Fund financial result for the financial year to 30 June 2019 is a deficit of \$433,667. This result for 2018/19 is \$5,814 less than the projected Revised Budget Deficit of \$439,481 that was reported to Council's 23 April 2019 meeting (refer Item 13.009/19). Further detail is provided as Attachment A.

2. Council's restricted financial reserves have increased by \$13.6 million, which is a \$26.37 million variance to the projected reduction of \$12.765 million. A detailed list of specific reserve movements is provided as Attachment B.

The following table is a summary of the adopted General Fund budget variations throughout the year.

**General Fund Budget & Actual Result – (Attachment A)**

<b>Original 2018/19 Budget Surplus</b>	<b>(\$124,341)</b>
September Budget Review Variations (increase in surplus)	(\$104,389)
December Budget Review Variations (reduction to surplus)	\$733,361
March Budget Review Variations (decrease to deficit)	(\$65,150)
<b>Revised Projected Budget Deficit as at 30 June 2019</b>	<b>\$439,481</b>
Actual Variations from March Budget Position	(\$5,814)
<b>Pre-Audit Actual Result as at 30 June 2019 - Deficit</b>	<b>\$433,667</b>

A detailed summary of the variations by Directorate and Sub-Service that has resulted in the General Fund pre-audit deficit for the financial year 2018/19 of \$433,667 is included in **Attachment A**. This attachment also provides detail of the variances between the revised Budget and the Actual Result.

**Tax Equivalent Dividends from Water & Sewer Funds**

Council's 2018/19 budget provided for tax equivalent dividends to be paid from the Water & Sewer Funds.

Tax equivalent dividends have been processed totalling \$114,924. The amounts from each fund being as follows:

Water Fund to General Fund \$67,131 (being 22,377 assessments @ \$3)

Sewer Fund to General Fund \$47,793 (being 15,931 assessments @ \$3)

**ELE Reserve – Estimated Balance as at 30 June 2019**

Council's Employee Leave Entitlement (ELE) liability balance as at 30 June 2019 is estimated to be \$12.631M (\$12.199M as at 30 June 2018). The estimated balance of the ELE Reserve as per the unaudited 2018/19 Annual Financial Statements is \$3.244M as at 30 June 2019, which represents 25.68% of the estimated total liability.

Council resolved in October 2009 for the ELE reserve to be held in the vicinity of 25%. The current estimated balance of \$3.244M is 0.68% more than this percentage which is equivalent to \$86K.

A summary of the transfers to/from the ELE Reserve is tabled below:

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Balance as at 30 June 2019 (per unaudited 2018/19 Annual Financial Statements) \$'000
\$2,787	\$513	\$56	\$3,244

**Restricted Funds and Financial Reserve Movements**

Council's budget also includes internal and external financial reserve movements. The following table lists the types of reserves held and the variances between the revised budget and the actual movement in the reserves.

The pre-audit result indicates a net increase in restricted financial reserves of \$13.6 million which is \$26.37 million variance to the projected reduction of \$12.765 million.

The following table is a summary of all reserves held by type or fund which shows the reserves opening and closing balance. This table also indicates the variation between the budgeted and the unaudited actual movements for the 2018/19 financial year.

Reserves	Opening Balance 1/7/18 \$000's	Actual Transfers (To)/From \$000's	Closing Balance 30/6/19 \$000's	Revised Budget Movement \$000's	Budget V Actual Variance \$000's
Unexpended Loans	(261)	145	(116)	230	(85)
Grants	(5,461)	(373)	(5,834)	1,638	(2,011)
S94	(8,761)	(564)	(9,325)	2,033	(2,597)
Deposits, Retentions & Bonds	(1,623)	(184)	(1,807)	0	(184)
Held as Custodian	(787)	9	(778)	252	(243)
Other External	(287)	10	(276)	29	(19)
General Purpose	(48,234)	(2,553)	(50,788)	7,312	(9,865)
Water Fund	(30,103)	(6,748)	(36,851)	-166	(6,582)
Sewer Fund	(9,343)	(2,430)	(11,773)	(641)	(1,789)
Clarence Coast Reserve Trust	(3,172)	(370)	(3,542)	1,328	(1,698)
Clarence Regional Library	(780)	(268)	(1,048)	(234)	(34)
Domestic Waste	(1,265)	(377)	(1,642)	7	(384)
Clarence Care & Support	(5,730)	95	(5,635)	977	(882)
<b>Total - All Funds</b>	<b>(115,808)</b>	<b>(13,608)</b>	<b>(129,415)</b>	<b>12,765</b>	<b>(26,373)</b>

**Attachment B** provides a summary by reserve of the variances between the revised budget and the actual result. This report also indicates the pre-audit closing balance of each reserve. A large proportion of the variances between the budget movements and the actual movements can be attributed to works budgeted for but not completed. This is reflected in the proposed carried forward projects reported in the 2019-20 Quarterly Budget Review Statement – September 2019, which forms part of these business papers.

### Externally Restricted Funds

Council's restricted funds, annual expenditure is funded from each of the restricted funds own accumulated reserves. Following is an explanation by fund of the budget variations at 30 June 2019 as compared to the actual reserve movements.

### Water Fund

Following is the pre-audit balance of the Water Fund financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$30,103	\$12,603	\$5,855	\$36,851

The revised budget at 30 June 2019 was an estimated increase in the reserves of \$165,602. The actual movement in reserves was an increase of \$6,747,925 which has resulted in a budget variation at year end of \$6,582,323. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure in the Water Fund.

**Sewer Fund**

Following is the pre-audit balance of the Sewer Fund financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$9,342	\$8,929	\$6,499	\$11,773

The revised budget at 30 June 2019 was an estimated increase in the reserves of \$640,833. The actual movement in reserves was an increase of \$2,430,048, which has resulted in a budget variation at year end of \$1,789,215. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure in the Sewer Fund operations.

**Clarence Coast Reserve Trust**

Following is the pre-audit balance of the Clarence Coast Reserve Trust financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$3,172	\$3,556	\$3,186	\$3,542

The revised budget at 30 June 2019 was an estimated decrease in the reserves of \$1,327,795. The actual movement in reserves was an increase of \$369,714 which has resulted in a budget variation at year end of \$1,697,509. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure.

**Clarence Regional Library**

Following is the pre-audit balance of the Clarence Regional Library financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$780	\$616	\$348	\$1,048

The revised budget at 30 June 2019 was an estimated increase in the reserves of \$233,817. The actual movement in reserves was an increase of \$268,263, which has resulted in a budget variation at year end of \$34,446. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure.

**Domestic Waste Management**

Following is the pre-audit balance of the Domestic Waste Management financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$1,265	\$377	\$0	\$1,642

The revised budget at 30 June 2019 was an estimated decrease in the reserves of \$7,262. The actual movement in reserves was an increase of \$376,605, which has resulted in a budget variation at year end of \$383,866. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure.

**Clarence Care & Support**

Following is the pre-audit balance of the Clarence Care & Support financial reserves as at 30 June 2019.

Balance as at 1 July 2018 \$'000	Transfers to Reserve \$'000	Transfers from Reserve \$'000	Pre-Audit Balance as at 30 June 2019 \$'000
\$5,730	\$1,601	\$1,695	\$5,635

The revised budget at 30 June 2019 was an estimated decrease in the reserves of \$976,518. The actual movement in reserves was a decrease of \$94,882, which has resulted in a budget variation at year end of \$881,636. The reasons for these variances include budgeted income not received or spent, adjustments in funding splits and over or under expenditure.

**COUNCIL IMPLICATIONS****Budget/Financial****RESPONSIBLE ACCOUNTING OFFICER****Council's Financial Position – General Fund Unrestricted Available Working Funds Position**

For clarification, the Available Working Capital is regarded as funds that are currently not restricted for any use by Council for either internal or external purposes. Council's adopted benchmark goal for the General Fund working funds position is for it to be maintained above \$4M.

The balance of the available working funds for General Fund at the 30 June 2019 is estimated to be \$4,842M (\$6.469M 30 June 2018). This projected result is \$842K above Council's benchmark and can be considered a satisfactory result as at 30 June 2019.

A comprehensive review of Council's financial position will be included as part of a report direct to Council recommending Council's 2018/19 General Purpose Financial Statements to be referred to audit at the October Council meeting.

**Asset Management**

N/A

**Policy or Regulation**

Clause 203 of the Local Government (General) Regulation 2005

**Consultation**

The end of year processing required to produce the final results for the 2018/19 financial year was prepared in conjunction with budget managers and coordinators

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Nigel Longstaff – Finance Project Officer
Attachment	A - Budget v Actual Sub Service Summary B - Budget Review Reserves Statement by Fund

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**ITEM 6c.19.080 MONTHLY INVESTMENT REPORT – SEPTEMBER 2019**


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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Yes	

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**SUMMARY**

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month.

**OFFICER RECOMMENDATION**

That the report indicating Council's funds investment position as at 30 September 2019 be received and noted.

**COMMITTEE RECOMMENDATION**

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

This report has been completed in accordance with the *Local Government Act 1993*, Part 9, Division 5, Clause 212 of the *Local Government (General) Regulation 2005*, and Council's Investment Policy, which requires a monthly report to Council. The report is to include the source and amount of funds invested, terms of performance, and a statement of compliance in relation to the *Local Government Act 1993*.

**KEY ISSUES****Source of Funds Invested**

The funds invested are funds held under internal and external restrictions. External Restricted Funds are primarily from Sewer & Water, Granting Bodies and Developer Contributions. Internal restrictions are primarily sourced from General Revenue Funding and Unspent Loans.

Based on the audited 30 June 2018 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	3.97%	Plant Equipment Reserve	12.00%
Water Supply Funds	21.57%	Regional Landfill Reserves	7.44%
Developer Contributions	15.72%	Fin. Assist Grants paid in advance	5.00%

Unexpended Grants	6.71%	Infrastructure Assets Renewals	4.83%
Domestic Waste Management	1.15%	Clarence Care & Support	3.45%
Clarence Coast Reserve	2.85%	Employee Leave Entitlements	2.46%
Deposits, Retentions and Bonds	1.47%	Roads & Quarries Reserves	1.68%
Other External	1.69%	Strategic Building Reserve	1.21%
		Building Asset Renewals	0.91%
		Waste Management Reserves	0.75%
		Other (refer attachment for further detail)	5.14%
	<u>55.13%</u>		<u>44.87%</u>
		Total External & Internal Reserves	<u>100.00%</u>

### Portfolio Credit Limits

Tabled below is a summary of Council's investments as at 30 September 2019 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 30 September 2019				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	6,477,630	4.99%	Yes
AA	100.00%	39,058,119	30.10%	Yes
A	60.00%	24,250,000	18.69%	Yes
BBB	50.00%	59,966,368	46.22%	Yes
<b>TOTAL INVESTMENTS</b>		<b>129,752,117</b>	<b>100.00%</b>	

Note, a permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the *Financial Claims Scheme* and hence receives a rating of AAA.

### Individual Institution or Counterparty Limits

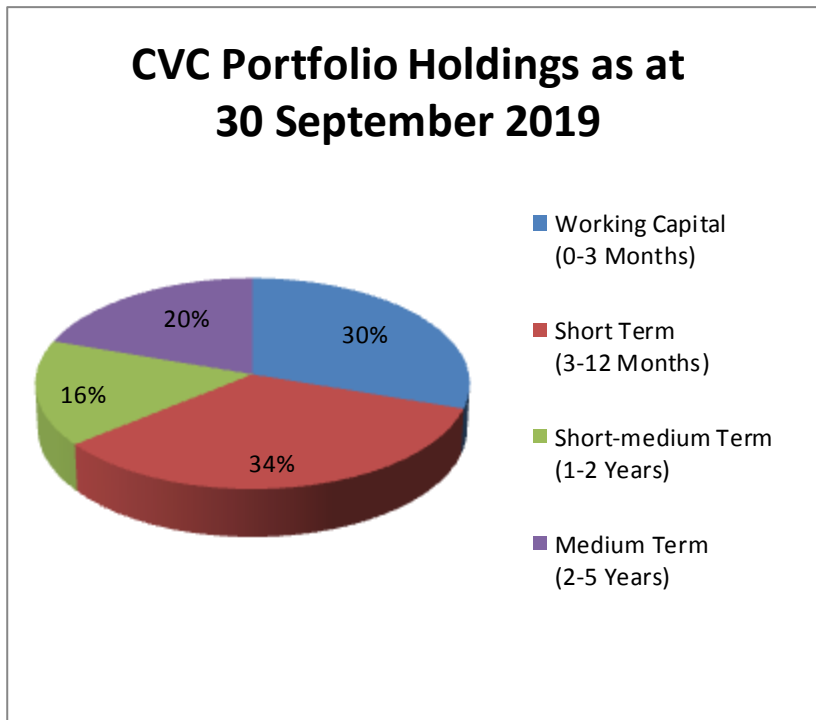
Tabled below is a summary of Council's investments as at 30 September 2019 which details compliance with Council's Investment Policy Counterparty Limits.



Individual Institution or Counterparty Limits as at 30 September 2019					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
<b>TERM DEPOSITS &amp; FRNs*</b>					
AMP	BBB+	15.00%	4,000,000	3.08%	Yes
ANZ*	AA-	30.00%	2,028,210	1.56%	Yes
BoQ	BBB+	15.00%	16,000,000	12.33%	Yes
Bendigo	BBB+	15.00%	7,000,000	5.39%	Yes
Bendigo*			1,004,970	0.77%	
Rural Bank			5,000,000	3.85%	
CBA*	AA-	30.00%	2,029,090	1.56%	Yes
Defence	BBB	15.00%	9,000,000	6.94%	Yes
G&C Mutual	BBB-	15.00%	1,000,000	0.77%	Yes
ING Direct	A	15.00%	14,000,000	10.79%	Yes
ME Bank	BBB	15.00%	6,000,000	4.62%	Yes
NAB	AA-	30.00%	16,000,000	12.33%	Yes
NAB*			1,007,215	0.78%	
P&N	BBB	15.00%	3,000,000	2.31%	Yes
People's Choice	BBB	15.00%	1,000,000	0.77%	Yes
RaboDirect	A+	15.00%	11,000,000	8.48%	Yes
Westpac	AA-	30.00%	7,000,000	5.39%	Yes
Westpac*	AA-		1,532,633	1.18%	
<b>TOTAL TERM DEPOSITS &amp; FRNs*</b>			<b>107,602,118</b>	<b>82.93%</b>	
<b>MANAGED FUNDS</b>					
TCorp	AAA	40.00%	1,977,630	1.52%	Yes
<b>TOTAL MANAGED FUNDS</b>			<b>1,977,630</b>	<b>1.52%</b>	
<b>FUNDS AT CALL</b>					
AMP	BBB+	15.00%	9,711,398	7.48%	Yes
ANZ	AA-	30.00%	274,089	0.21%	Yes
CBA	AA-	30.00%	10,186,882	7.85%	Yes
<b>TOTAL FUNDS AT CALL</b>			<b>20,172,369</b>	<b>15.55%</b>	
<b>TOTAL INVESTMENTS</b>			<b>129,752,117</b>	<b>100.00%</b>	

**Portfolio Holdings by Maturity**

Illustrated and tabled below is a summary of Council’s investments by maturity as at 30 September 2019. Excluding “at-call” working capital, 47.02% of Council’s investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 30 September 2019					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>WORKING CAPITAL (0-3 MONTHS)</b>					
T-CorpIM Cash Fund	1,977,630	1.52%	At-Call	0.84%	AAA
AMP Bank Ltd	9,711,398	7.48%	At-Call	1.55%	BBB+
ANZ Banking Group Ltd	274,089	0.21%	At-Call	1.30%	AA-
Commonwealth Bank of Australia	10,186,882	7.85%	At-Call	0.90%	AA-
Bendigo Bank	2,000,000	1.54%	28/10/2019	2.95%	BBB+
Bendigo Bank	1,000,000	0.77%	21/11/2019	2.70%	BBB+
Bendigo Bank	2,000,000	1.54%	16/12/2019	2.85%	BBB+
Bendigo Bank	2,000,000	1.54%	18/12/2019	2.85%	BBB+
ING	1,000,000	0.77%	06/11/2019	2.87%	A
ING	2,000,000	1.54%	08/11/2019	2.85%	A
ING	2,000,000	1.54%	10/12/2019	2.87%	A
National Australia Bank	2,000,000	1.54%	11/11/2019	2.73%	AA-
National Australia Bank	2,000,000	1.54%	11/12/2019	2.75%	AA-
People's Choice Credit Union	1,000,000	0.77%	12/12/2019	2.77%	BBB
<b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>	<b>39,149,999</b>	<b>30.17%</b>		<b>1.90%</b>	
<b>SHORT TERM (3-12 MONTHS)</b>					
AMP Bank Ltd	3,000,000	2.31%	6/03/2020	2.75%	BBB+
AMP Bank Ltd	1,000,000	0.77%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	3/02/2020	1.85%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	6/07/2020	3.00%	BBB+
Defence Bank	1,000,000	0.77%	4/03/2020	2.80%	BBB
Defence Bank	2,000,000	1.54%	11/05/2020	3.00%	BBB
G&C Mutual Bank	1,000,000	0.77%	18/03/2020	4.00%	BBB-
ING	3,000,000	2.31%	14/02/2020	2.87%	A
ING	2,000,000	1.54%	20/02/2020	2.89%	A
ING	2,000,000	1.54%	2/03/2020	2.87%	A
ME Bank Ltd	2,000,000	1.54%	8/01/2020	1.80%	BBB
ME Bank Ltd	2,000,000	1.54%	6/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.54%	8/05/2020	2.30%	BBB
National Australia Bank	2,000,000	1.54%	3/03/2020	1.70%	AA-
National Australia Bank	3,000,000	2.31%	3/03/2020	1.70%	AA-
National Australia Bank	2,000,000	1.54%	11/03/2020	1.73%	AA-
National Australia Bank	3,000,000	2.31%	20/05/2020	2.25%	AA-
National Australia Bank	2,000,000	1.54%	30/07/2020	1.80%	AA-
RaboDirect (Australia) Ltd	2,000,000	1.54%	11/02/2020	1.95%	A+
Rural Bank Ltd	2,000,000	1.54%	10/02/2020	2.85%	BBB+
Rural Bank Ltd	2,000,000	1.54%	4/03/2020	2.80%	BBB+
Rural Bank Ltd	1,000,000	0.77%	4/03/2020	2.80%	BBB+
Bendigo Bank (3m BBSW +110bps) (Principal Value \$1,000,000) Market Value	1,004,970	0.77%	21/02/2020	2.08%	BBB+
<b>TOTAL SHORT TERM (3-12 MONTHS)</b>	<b>44,004,970</b>	<b>33.91%</b>		<b>2.42%</b>	
<b>SHORT - MEDIUM TERM (1-2 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.77%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	2/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	12/01/2021	3.65%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	29/06/2021	3.45%	BBB+
Defence Bank	2,000,000	1.54%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.54%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.54%	9/03/2021	3.00%	BBB
ING	1,000,000	0.77%	10/11/2020	2.92%	A
P&N Bank	3,000,000	2.31%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.54%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.54%	5/03/2021	3.00%	AA-
<b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>	<b>21,000,000</b>	<b>16.18%</b>		<b>3.25%</b>	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>MEDIUM TERM (2-5 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.77%	2/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	9/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	3/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	8/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.77%	4/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.54%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	5/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.54%	19/09/2023	3.40%	A+
Westpac Bank	1,000,000	0.77%	16/11/2021	2.17%	AA-
Westpac Bank	2,000,000	1.54%	18/07/2022	2.17%	AA-
Westpac Bank	2,000,000	1.54%	13/03/2023	2.95%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,028,210	1.56%	06/12/2023	2.03%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,007,515	0.78%	25/04/2023	1.85%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,021,575	0.79%	11/01/2024	2.26%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,007,215	0.78%	10/02/2023	1.77%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,532,633	1.18%	24/04/2024	2.23%	AA-
<b>TOTAL MEDIUM TERM (2-5 YEARS)</b>	<b>25,597,148</b>	<b>19.73%</b>		<b>2.93%</b>	
<b>TOTAL INVESTMENTS</b>	<b>129,752,117</b>	<b>100.00%</b>		<b>2.50%</b>	

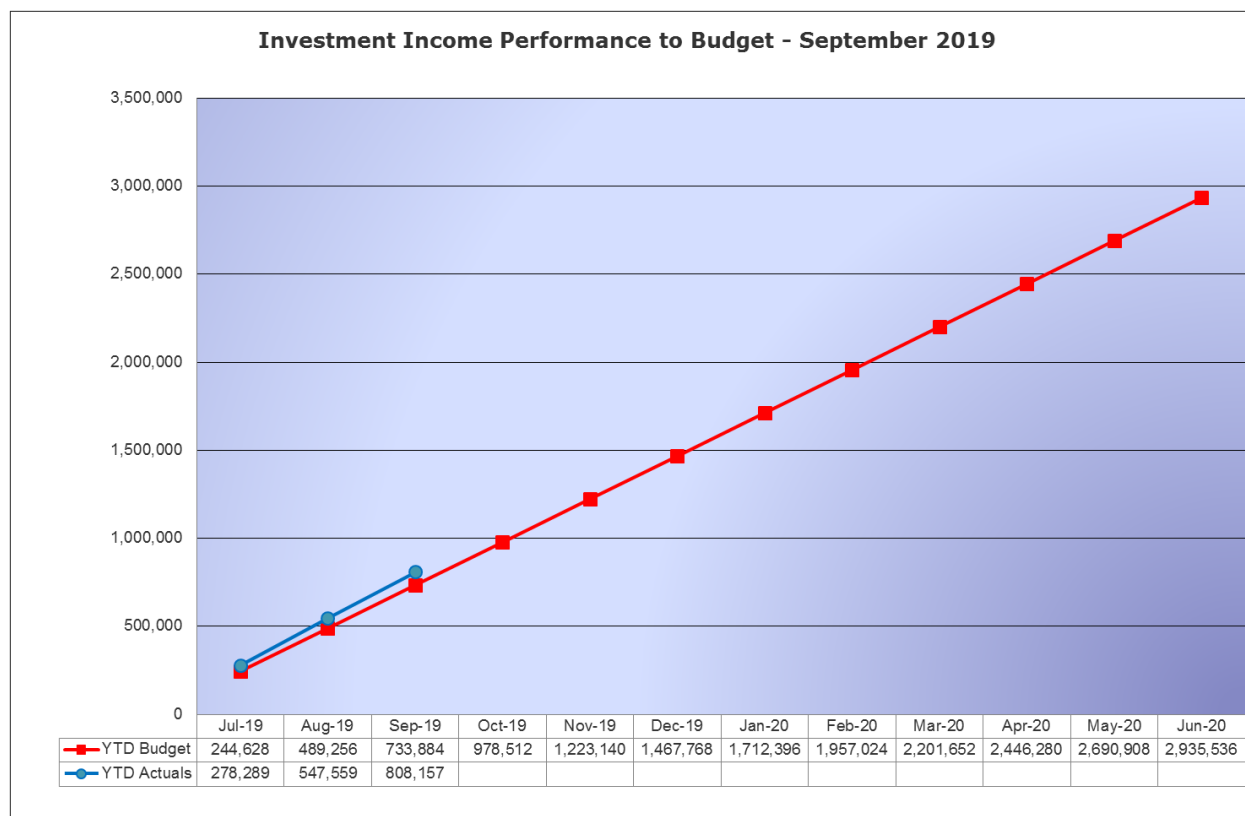
## COUNCIL IMPLICATIONS

### Budget/Financial

<b>Portfolio Investment Returns to 30 September 2019</b>			
	<b>Actual</b>	<b>Budget 2019/20</b>	<b>Over/(Under)</b>
<b>This Month</b>			
Cash Deposits & FRNs	\$258,851	\$243,128	\$15,723
Managed Funds	\$1,747	\$1,500	\$247
	<b>\$260,598</b>	<b>\$244,628</b>	<b>\$15,970</b>
<b>Year to Date</b>			
Cash Deposits & FRNs	\$801,341	\$733,884	\$67,457
Managed Funds	\$6,816	\$4,500	\$2,316
	<b>\$808,157</b>	<b>\$738,384</b>	<b>\$69,773</b>

- Actual results have shown that total interest income to 30 September 2019 is \$0.070M above the 2019-20 budget of \$0.738M.

- As at 30 September 2019 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$78,923.

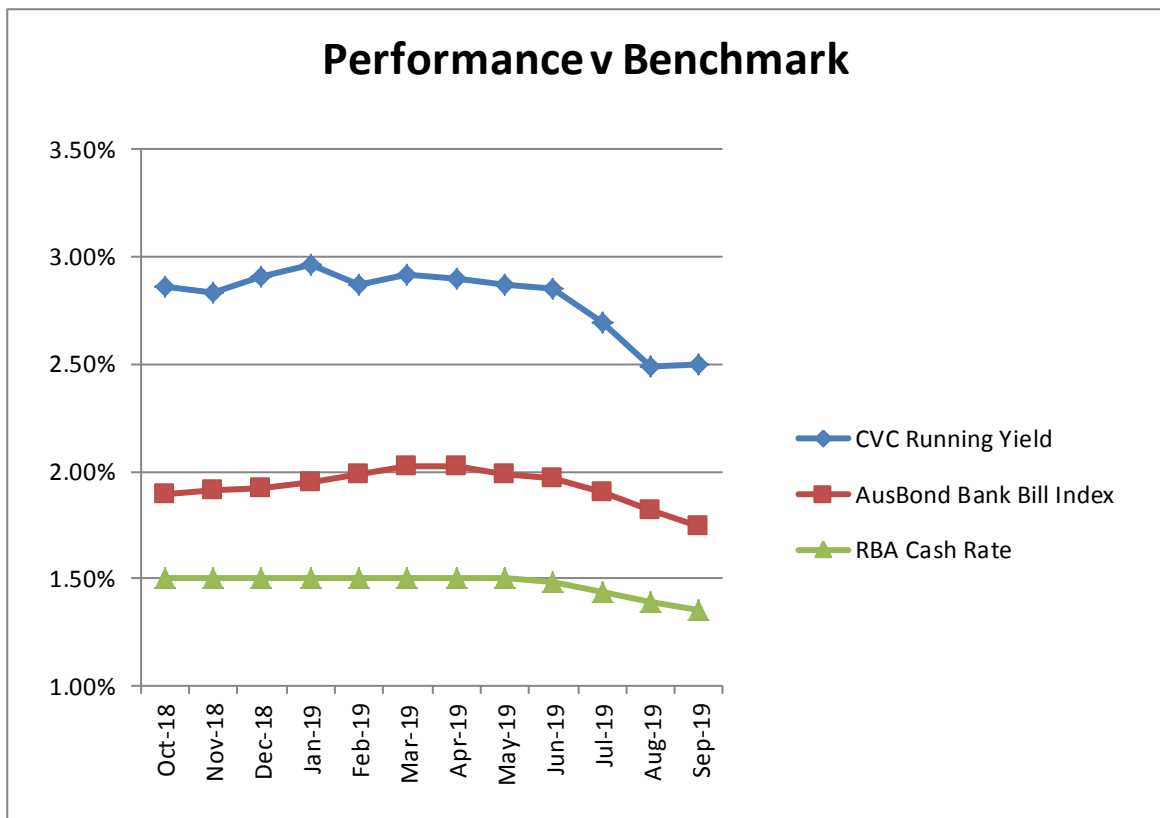


- Running yields\* to 30 September 2019 have been:

AMP Business	1.30%
AMP 31 Day Notice	1.80%
ANZ Premium Business	1.30%
CBA General	0.85%
24hr Call Account	0.95%
T-CorpIM Cash Fund	1.08%
Floating Rate Notes	2.05%
Term Deposits	2.82%
<b>Total</b>	<b>2.50%</b>

\*Running yield is a measure of the return (before costs) that would be earned from current positions if there were no trades and no fluctuation in market yields.

- The RBA cash rate at the end of September was 1.00%. The benchmark AusBond Bank Bill Index was 1.74% for September.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.50% (August 2.49%).



- The following investment was arranged since the previous report:
  - NAB \$2.0m TD matured 13/09/19, reinvested for 180 days at 1.73% - matures 11/03/2020

**Asset Management**

N/A

**Policy or Regulation**

- Local Government Act 1993
- Part 9, Division 5, Clause 212 of the Local Government (General) Regulation 2005
- Investment Policy

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

Climate change impact of the current investment portfolio has not been undertaken. Investments are driven by the current Investment Policy.

Prepared by	Vickie Stacey – Finance Officer (Accounting) Michael Salvestro – Financial Accountant
Attachment	Movement of funds between months and Other Internal Reserves (detail)

<b>ITEM</b>	<b>6c.19.081</b>	<b>UPGRADING OF CHRISTOPHER CREEK, SOUTH GRAFTON - UPDATE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Nil	

**SUMMARY**

At the June 2018 Council meeting Council adopted a resolution (Item 15.093/18) regarding the upgrade of Christopher Creek between Spring Street and Through Street, South Grafton. This report provides an update on this resolution.

**OFFICER RECOMMENDATION**

That the update report on the upgrading of Christopher Creek, South Grafton be received and noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.5 Provide safe and effective vehicular and pedestrian networks that balance asset conditions with available resources

**BACKGROUND**

At the June 2018 Council meeting Council considered a report on a petition received regarding the upgrade of Christopher Creek, South Grafton. The resolution was:

*That Council prepare design options and estimates for the upgrading of Christopher Creek, South Grafton between Spring Street and Through Street for consideration as part of the 2019/2020 budget.*

Unfortunately there were delays in the design process and the consideration of the project for the 2019/2020 budget was not met.

A design for this section of the creek was completed in 1987 for the installation of a low flow culvert and high flow open channel similar to the section of Christopher Creek upstream of Spring Street. There have been some significant changes in legislation since this time and Council needs to determine whether this design is currently viable both legislatively and hydraulically or whether other options need to be considered. There are also still potential boundary issues that will need to be resolved.

A design review/redesign of the Christopher Creek upgrade is due to be completed by the end of December 2019. This will, in part, determine if the 1987 design is still applicable given changes in legislation since that time or whether an alternate design is required. A further report will be presented to Council following the review on the outcome of the design and estimate for the recommended works for consideration for the 2020/2021 budget.

#### **KEY ISSUES**

The major issues relate to meeting current legislative requirements and property boundary issues. While a number of boundary issues have been resolved over the years as opportunities have arisen there are still some potential issues that will require resolution. This will ultimately be determined by the final design.

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

The financial implications will not be known until a final design option is determined.

##### **Asset Management**

Any constructed infrastructure will become an asset of Council and will be included on Council's asset register.

##### **Policy or Regulation**

N/A

##### **Consultation**

Council will need to consult with adjoining landowners, NSW Fisheries and Crown Lands as part of the investigation and design process.

##### **Legal and Risk Management**

N/A

##### **Climate Change**

There are limited options in terms of climate change. There have been upgrading works both upstream and downstream of this section of Christopher Creek which limits available options with the design.

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Prepared by	Alex Dalrymple – Manager Civil Services
Attachment	Nil

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<b>ITEM</b>	<b>6c.19.082</b>	<b>WORKS REPORT</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Civil Services (Alex Dalrymple)	
<b>Attachment</b>	Yes	

**SUMMARY**

Reports on capital and major maintenance works carried out by the Works and Civil Group until late September 2019.

**OFFICER RECOMMENDATION**

That the Works report be received and noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.5 Provide safe and effective vehicular and pedestrian networks that balance asset conditions with available resources


**BACKGROUND**

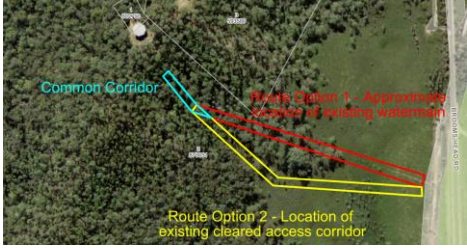
Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.


**KEY ISSUES**

The summary of works undertaken in September is attached.

Council staff also wish to highlight the projects below:

<b>Project:</b>	Armidale Road at McPhersons Crossing, Braunstone (Safer Roads Program)	
<b>Project Description:</b>	<p>This project is a road safety grant to address a dangerous curve and corner combination on Armidale Road at McPhersons crossing road. It is 100% funded through a Safer Roads Grant.</p> <p>The project involves the reconstruction of approx. 500m of Armidale Road including curve realignment, pavement widening and provision of a sheltered turn lane for McPhersons Crossing Road.</p>	
<b>Budget:</b>	\$434,195	
<b>Expenditure:</b>	\$454,382	
<b>Status:</b>	<ul style="list-style-type: none"> <li>• Construction works are complete</li> <li>• Additional costs were encountered with service relocations and property acquisitions</li> <li>• A variation with the funding body is pending</li> </ul>	

<b>Project:</b>	Brooms Head Watermain renewal	
<b>Project Description:</b>	Renew 580m of 200mm diameter watermain east of the Brooms Head Reservoir	
<b>Budget:</b>	\$285,000 (Carry Forward Project)	
<b>Expenditure:</b>	\$144,608 (not including works in week of 30/09)	
<b>Status:</b>	<ul style="list-style-type: none"> <li>• It was originally proposed to relocate a portion of the new main away from the existing easement in an existing cleared access corridor (Option 2),</li> <li>• Works needed to be placed on hold in June 2019 when it was discovered the property had been sold to RMS for compensatory habitat purposes.</li> <li>• Following negotiation with RMS and NPWS, it was agreed to locate the entire main in the existing easement (Option 1).</li> <li>• Clearing of the renewal works corridor commenced in the week of 30 September, and the main renewal is scheduled to be completed by end of October (weather permitting).</li> </ul>	

<b>Project:</b>	Ellem Oval Sports Field Renewal	
<b>Project Description:</b>	The project scope includes field levelling (top dress), rebuilding 3 pitch turf wicket on correct alignment including drainage to wicket; upgrading irrigation system to provide full field automatic irrigation; and renewal of field boundary fence.	
<b>Budget:</b>	\$295,000	
<b>Expenditure:</b>	\$75,000	
<b>Status:</b>	<p>Works have been broken into 3 packages to reflect the nature of the work, these being; field works, irrigation works and fence works.</p> <p>The field works have commenced.</p>	

**COUNCIL IMPLICATIONS****Budget/Financial**

Financial details are provided in the attached works summary.

**Asset Management**

Maintenance standards are undertaken in accordance with that detailed in the relevant Asset Management Plan. Capital works are as detailed in the Delivery Plan and Operational Plan.

**Policy or Regulation**

There are no policy or regulation implications.

**Consultation**

Consultation has been held internally with Civil Services Section and Water Cycle Section and Open Spaces and Facilities Section.

**Legal and Risk Management**

There are no legal or risk management implications.

**Climate Change**

There are no climate change implications.

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Prepared by	Alex Dalrymple, Greg Mashiah, David Sutton
Attachment	Works Report

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<b>ITEM</b>	<b>6c.19.083</b>	<b>QUARTERLY REPORT – REGIONAL WATER SUPPLY HEADS OF AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL, ESSENTIAL ENERGY AND NSW GOVERNMENT</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	15 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Nil	

## SUMMARY

At its meeting of June 2015 Council considered and subsequently signed a Heads of Agreement to progress a number of matters associated with the Regional Water Supply. This report provides an update of progress regarding the agreement.

## OFFICER RECOMMENDATION

That the June 2019 Quarterly Report on the Regional Water Supply Heads of Agreement be received and noted.

## COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Lysaught

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.1 Maintain and renew water and sewer networks

## BACKGROUND

At its June 2015 meeting Council resolved (14.119/15) to receive quarterly reports with regard to progress of the agreement. This report provides progress to 30 September 2019.

## KEY ISSUES

The table below provides a status report on each of the items.

ITEM	STATUS
Transfer of Weir and Tunnel Number Two to the relevant government agency	Essential Energy (EE) advises that, following discussions with Infrastructure NSW, formal documentation has been delivered but a response is yet to be received.
Release of water for environmental and recreational purposes	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes i.e. canoeing and rafting.

ITEM	STATUS
Protection of heritage value of the power generation buildings (including equipment installed within the facility)	Item complete.
Transfer of property rights for the ongoing ownership and operation of the Nymboida Canoe Centre	EE advises the land has been transferred to the Canoe Centre and this item is now complete.
Transfer of Tunnel Number One to Clarence Valley Council	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is still subject to further discussions between EE and the relevant Ministers.
Transfer of licences and other authorisations to support its ownership of Tunnel Number One	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is also still subject to further discussions between EE and the relevant Ministers.
Transfer of Goolang Creek Bridges to Clarence Valley Council	<p>The EE contract for bridge restoration achieved practical completion for all bridges other than bridge #7 in the 2nd week of May 2018. Bridge signage (tonnage) has been updated and engineering certification issued.</p> <p>Engaged Contractor has recently completed a further round of maintenance and pest control, following several individual enquiries.</p> <p>Bridge #7 now requires replacing and designs and estimations have been completed. Various alternate options for access to the affected property are currently being investigated. A 3rd Party Consultant has been engaged by EE to facilitate these confidential discussions with the affected land owners involved; with a view to providing recommendations on the issue.</p> <p>At a meeting in November 2017 Council reiterated its position that it will not 'own' any bridges which do not provide a critical service link for Council's water supply. EE has requested Council assistance in facilitating transfers of ownership to the respective parties involved.</p>
Investigate the possible construction of a 285ML 'surge tank' to provide recreational water flows for the operation of the Nymboida Canoe Club	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting.
Nymboida power generation buildings and ancillary infrastructure to be decommissioned and secured	Item complete. The infrastructure is now in a program of ongoing preservation and maintenance.

No further feedback has been received regarding the matters discussed between Council, Local Member Chris Gulaptis and Essential Energy in November 2017.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

At its meeting of 26 June 2018 Council resolved (Resolution 17.005) to investigate the economics of Council generating electricity from the Nymboida Power Station. The investigation is the subject of a separate report to this meeting.

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Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	Nil

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**CLOSE OF CORPORATE, GOVERNANCE & WORKS COMMITTEE MEETING**

There being no further business the Corporate, Governance & Works Committee Meeting closed at 2.38 pm.

## d. INFORMATION ITEMS

ITEM	6d.19.003	ITEMS FOR INFORMATION
<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	To be tabled	

**OFFICER RECOMMENDATION**

That the Items for Information as listed below be adopted:

1. Mid North Coast Regional Organisation of Councils: Minutes of meeting held 13 September 2019
2. Parliamentary Secretary for Emergency Services: Emergency Services Levy Increase
3. Minister for Local Government: Relocation of regional service offices

Prepared by	Karlie Chevalley, Executive Support Assistant
To be tabled	As listed above

## e. TENDERS

<b>ITEM</b>	<b>6e.19.009</b>	<b>T19/027 - YAMBA SPORTING COMPLEX CAR PARK DESIGN AND CONSTRUCT – ON CROWN LAND</b>
<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Water Cycle (Greg Mashiah)	
<b>Attachment</b>	Confidential	

**SUMMARY**

Tenders were called for the design and construction of a 105 space car park adjacent to the Ernie Muller Pavilion and No. 1 Soccer Field at the Ngayundi Yamba Sports Complex, 78 Angourie Road, Yamba. This report presents the outcome of the tender process and seeks Council's endorsement to accept the most advantageous tender, which has been assessed as the conforming tender from Corbett Earthmoving Pty Ltd, enabling the commencement of detailed design and construction.

**OFFICER RECOMMENDATION**

That Council:

1. Accept the tender from Corbett Earthmoving Pty Ltd (ABN 29 062 304 205) for RFT19/027 for the design and construction of a 105 space car park at Ngayundi Yamba Sporting Complex at a cost of \$357,945.00 (GST inclusive) to be funded from PJ 540118 (*Ngayundi Sporting Complex – carpark sealing & playing surface upgrade*), PJ530200 (*Ngayundi Yamba Sports Complex*), PJ550181 (*Parks & Reserves Access Pavements and Carparks renewals*) (all Cost Centre 841).
2. Authorise the General Manager to approve variations up to 10% of the contract value.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.4 Manage and enhance our parks, open spaces and facilities

**BACKGROUND**

Council called for tenders on Friday 23 August, 2019 for the design and construction of a 105 space car park, located adjacent to the Ernie Muller Pavilion and No. 1 Soccer Field at the Ngayundi Yamba Sports Complex, 78 Angourie Road, Yamba.

A non-mandatory site meeting was held on Tuesday 3 September 2019 with tenders set to close on Friday, 13 September 2019. Multiple requests for extension of time were requested by Tenders, reasons given included: businesses impacted by bushfires; and the number of tenders being sought by Council. An extension was granted, with Tenders closing on Friday 27 September 2019.

Tenderers were able to submit an alternate non-conforming tender on the basis that a conforming tender was also submitted.



Tenders were assessed by a Tender Evaluation Committee (TEC) consisting of three staff. Prior to the evaluation process the evaluation committee confirmed that the Tender Evaluation Plan (TEP) was appropriate and the Code of Conduct provisions were understood and signed off by the panel.

## KEY ISSUES

### Car Park Design

The Tender included a conceptual arrangement of a 105 space car park, the conceptual arrangement being prepared by GEOLink as part of the Yamba Sports Field Master Plan project completed in 2012. The car park arrangement was provided as an editable (AutoCAD) and print file (pdf). A topographic survey was provided that included existing site features and contours.

The tender documents required the tenders to design the car park in accordance with AS 2890.5 "Off-Street Parking"; AS 2890.6 "Off-Street Parking for People with disabilities", with the pavement design being in accordance with Northern Rivers Local Government Development Design and Construction Manual.

### Tenders Received

Five submissions were received in response to the Request for Tender process, four compliant conforming tenders and one compliant alternate non-conforming tender. Tenders were received from:

1. AGS Commercial Pty Ltd
  2. Corbett Earthmoving Pty Ltd (submitted a conforming and non-conforming tender submission)
  3. Planit Consulting Pty Ltd
  4. Valley Earthworks Pty Ltd
- (listed in alphabetic order)

### Options Considered

All tenderers submitted a compliant conforming tender based on the 105 space car park conceptual arrangement provided. As the tender required the detailed design to be completed as part of the contract, variance occurred in the proposed car park surface profile and drainage method. Interviews were held with the two highest ranked Tenderers to confirm construction methodology. The TEC were satisfied with the information provided by both the highest ranked Tenderers for the 105 space car park.

A compliant alternate non-conforming tender was submitted by Corbett Earthmoving Pty Ltd. The alternate tender increased the number of carparking spaces to 113 by increasing the overall car park footprint, changing the space dimensions (smaller) and changing the traffic islands (removed) and aisles (smaller). While the alternate tender increased the total number of carparking spaces, it was assessed as creating a lower design standard (as well as increasing the total construction cost) and was therefore not considered further.

### Summary and Recommendation

The TEC evaluated the submissions against the criteria to ensure compliance with the TEP. All compliant conforming tenders were processed through to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

Details of the tender assessment are contained in the confidential attachment. After consideration of the tender submissions, scoring, results of further clarification, interviews and project reference checks, the TEC considers that the tender from Corbett Earthmoving Pty Ltd is the most advantageous to Council and recommends that this tender be accepted.

**COUNCIL IMPLICATIONS****Budget/Financial**

The total available budget for this project is **\$762,000**, which comprises the following funding sources:

Agency	Source	Amount
NSW Government	Stronger Country Communities Fund (PJ540118)	\$370,000
Clarence Valley Council	Ngayundi Yamba Sports Complex (PJ530200)	\$342,000
	Parks & Reserves Access Pavements and Carparks renewals (PJ550181)	\$ 50,000

Expenditure to date on the project is **\$30,946**, comprising:

Internal project management costs	\$ 6,600.00
Irrigation detailed design	\$13,500.00
Tender advertising costs	\$ 314.00
Soil bearing testing	\$3,802.00
Acid sulfate soil testing	\$6,730.00

It is foreshadowed there is **\$13,600** of works to be funded from this allocation which is not included as part of the contract works, comprising:

Internal project management costs	\$ 6,600.00
Irrigation construction supervision	\$ 7,000.00

**Funding Summary:**

Item	Amount
Project Budget	<b>\$762,000.00</b>
Expenditure to date	<b>30,946.00</b>
Non-tender works to be funded from this allocation	<b>13,600.00</b>
Remaining balance for contract works	<b>717,454.00</b>
Recommended tenderer's price (ex GST)	<b>325,404.55</b>
Remaining contingency & allocation for irrigation & drainage**	\$392,049.45

\*\* In addition to the car park and the above identified costs the proposed program of work includes automatic irrigation and field drainage, this work will be the subject of further report to Council.

**Asset Management**

The proposed car park replaces an existing gravel car park that is not currently identified as an asset. As such the proposed car park is considered to be a new asset and will need to be included into Council's Asset Management Plans.

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

**Consultation**

The car park arrangement was informed by consultation at the time of the master plan development. Current sporting clubs and associations have been informed of the project status.

**Legal and Risk Management**

Four submissions were received in response to the Request for Tender process, the Company Partners and Directors are as follows:

<b>Tenderer</b>	<b>ABN</b>	<b>Name of Partners and Directors</b>	<b>Position</b>
AGS Commercial Pty Ltd	37 602 997 606	Simon David Booth	Director
Corbett Earthmoving Pty Ltd	29 062 304 205	Michael Corbett	Managing Director
Planit Consulting Pty Ltd	20 099 261 711	Michael McCarthy	Director
		Tomas Doyle	Director
Valley Earthworks Pty Ltd	72 109 527 095	Mark Mitchell	Director
		Paul Fuller	Director

(listed in alphabetic order)

**Climate Change**

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change, to offset the impact of the car park the existing trees retained and new tree planting will be included to provide shade and reduce heat sink effects, where appropriate surface drainage water will flow to planting areas, and existing select grade gravel will be used in the base course.

Prepared by	David Sutton, Manager Open Spaces & Facilities
Confidential	Tender Recommendation Report

<b>ITEM</b>	<b>6e.19.010</b>	<b>T19/028 - KEN LEESON OVAL LASER LEVELLING, IRRIGATION AND TURF CONSTRUCTION – ON CROWN LAND</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Confidential	

## SUMMARY

Tenders were called for the construction of an automatic irrigation system, field laser levelling and turf installation at the Ken Leeson Oval, corner Owen Street & Spencer Street, Iluka.

This report presents the outcome of the tender process and seeks Council's endorsement to accept the most advantageous tender enabling the commencement of detailed design and construction.

## OFFICER RECOMMENDATION

That Council:

1. Accept the tender from Synergy Resource Management Pty Ltd (ABN 57 120 757 299) for RFT19/028 for the construction of an automatic irrigation system, field laser levelling and turf installation at Ken Leeson Oval at a cost of \$527,419.79 (GST inclusive) to be funded from PJ 540119 (*Ken Leeson Oval – stage 1 from masterplan*), PJ540113 *Iluka Sports Ground Upgrade Stage 1* and PJ541195 (*Sportsfields Top Dress and Drainage*) (all Cost Centre 841).
2. Authorise the General Manager to approve variations up to 10% of the contract value.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.4 Manage and enhance our parks, open spaces and facilities

## BACKGROUND

Council called for tenders on Friday 23 August, 2019 for the construction of an automatic irrigation system, field laser levelling and turf installation, located in the Ken Leeson Oval, corner Owen Street and Spenser Street, Iluka.

A non-mandatory site meeting was held on Tuesday 3 September 2019 with tenders set to close on Friday, 13 September 2019. Multiple requests for extension of time were requested by Tenders, reasons given included: businesses impacted by bushfires; and the number of tenders being sought by Council. A two week extension was granted and Tenders closed 3:00pm Friday, 27 September 2019.

The Tender enabled tenderers the opportunity to submit an alternate non-conforming tender on the basis that a conforming tender had been submitted.

Tenders were assessed by a Tender Evaluation Committee (TEC) consisting of three staff. Prior to the evaluation process the evaluation committee confirmed that the Tender Evaluation Plan was appropriate and the Code of Conduct provisions were understood and signed off by the panel.

**KEY ISSUES**Design

The Tender included detailed design drawings and technical specification for the automatic irrigation system and pump station works. Additionally a contour drawing and GPS data was provided to guide the field levelling works and specification for the soil amelioration.

Tenders Received

Four submissions (listed in alphabetic order) were received in response to the Request for Tender:

1. Corbett Earthmoving Pty Ltd (late)
2. Ledonne Constructions Pty Ltd
3. NISSRINE Pty Ltd (non-conforming)
4. Synergy Resource Management Pty Ltd

Summary and Recommendation

As the Tender from Corbett Earthmoving Pty Ltd was not submitted to Council by the deadline for the closing of Tenders, under Section 177(2) of the *Local Government (General) Regulation* this Tender could not be considered. The NISSRINE Pty Ltd Tender was passed over by the TEC as being non-conforming. The two remaining tenders were progressed to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

After consideration of the tender submissions, scoring, results of further clarification, interviews and project reference checks, the TEC considered the offer from Synergy Resource Management Pty Ltd for the construction of an automatic irrigation system, field laser levelling and turf installation at the Ken Leeson Oval, corner Owen Street & Spencer Street, Iluka is the most advantageous and recommends this tender be accepted.

Details of the TEC's assessment is included in the confidential attachment.

**COUNCIL IMPLICATIONS****Budget/Financial**

The total available budget for this project is **\$542,000**, which comprises the following funding sources:

Agency	Source	Amount
NSW Government	Stronger Country Communities Fund (PJ540119)	\$150,000
Clarence Valley Council	Iluka Sports Ground Upgrade Stage 1 (PJ540113)	\$342,000
	Sportsfields Top Dress and Drainage (PJ541195)	\$ 40,000

Expenditure to date on the project is **\$12,542**, comprising:

Internal project management costs	\$ 2,500
Irrigation detailed design	\$ 4,500
Tender advertising costs	\$ 652
Acid sulfate soil testing	\$ 4,890

It is foreshadowed there is **\$31,750** of works to be funded from this allocation which is not included as part of the contract works, comprising:

Internal project management costs	\$ 2,500
Irrigation construction supervision	\$ 2,250
Synthetic wicket	\$ 15,000
Yaegl Sites Officer	\$ 12,000*

- \* Ken Leeson Oval is Crown Land with Native Title being determined to exist, it is anticipated that Sites officers from the Yaegl Traditional Owners Corporation (RNTC) will attend site during the earth works. The estimated cost of site officer attendance is \$12,000.

#### Funding Summary:

Item	Amount
Project Budget	<b>\$542,000.00</b>
Expenditure to date	\$ 12,542.00
Non-tender works to be funded from this allocation	\$ 31,750.00
Remaining balance for contract works	<b>\$497,708.00</b>
Recommended tenderer's price (ex GST)	<b>\$479,472.54</b>
Remaining contingency	\$ 18,235.46

#### Asset Management

The proposed automatic irrigation system is a new asset and will need to be included into Council's Asset Management Plans.

#### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

#### Consultation

The irrigation and field levelling works was informed by consultation at the time of the master plan development. Current sporting clubs and associations have been informed of the project status.

#### Legal and Risk Management

Four submissions were received in response to the Request for Tender process, the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Corbett Earthmoving Pty Ltd	29 062 304 205	Michael Corbett	Managing Director
Ledonne Constructions Pty Ltd	20 099 261 711	Tony Ledonne	Managing Director
NISSRINE Pty Ltd	72 109 527 095	Scott Smythe	Director
Synergy Resource Management Pty Ltd	57 120 757 299	Matthew Paul Smith	Director
		Robert Matthew Sedon	Director
		Andrew Mark Reardon	Director

(listed in alphabetic order)

**Climate Change**

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change. The water resource will be treated water reused from the Iluka STP. Use of this water will reduce the reliance on potable water currently used. The application of water will be monitored through the use of total weather stations, ground water sensors in accordance with industry best practice to limit loss through wind drift and overwatering.

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Prepared by	David Sutton, Manager Open Spaces & Facilities
Confidential	Tender Recommendation Report

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<b>ITEM</b>	<b>6e.19.011</b>	<b>T19/029 NEW MOTOR GRADER</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Confidential	

## SUMMARY

Tenders were called for the supply of one new grader in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to Council for the purchase of the grader.

## OFFICER RECOMMENDATION

That Council

1. Accept the tender from Komatsu Australia Pty Ltd for T19/029 for one new grader being supplied at a cost of \$434,104.00 (GST inclusive) to be funded from Heavy Fleet Acquisitions (PJ 558500 Cost Centre 822) and the Council seal attached.
2. Dispose of the current grader plant via public auction.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

## BACKGROUND

This grader operates predominantly on Council's road construction projects; it was specified to include the installation of grade control systems. This system allows operators to utilise machine control technology and guidance systems to control the blade height and angle whilst final trim grading. The current grader is due for replacement and as such tenders were called through the Local Government Procurement Vendor Panel contract 707-3

## KEY ISSUES

The evaluation team has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Warranty offered, local service and parts backup

A Tender Evaluation Committee (TEC) evaluated the submissions against the criteria to ensure compliance with the Tender Evaluation Plan (TEP). The TEC recommendation is included in the tender evaluation report which is included as a confidential attachment.

The TEC recommends that Council accept the tender from Komatsu Australia Pty Ltd.



**COUNCIL IMPLICATIONS****Budget/Financial**

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed the grader for replacement in the 2019/20 financial year. Funds are available from PJ558500 Heavy Fleet Acquisitions to fund the purchase.

The available budget for the tender is Heavy Fleet Acquisition, PJ 558500 Cost Centre 822 and the GST exclusive tender price is \$394,640.00.

**Asset Management**

Replacement of these plant items is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant items.

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

**Consultation**

Council Fleet Coordinator, Manager of Civil Services and Senior Civil Services Operational Staff have been consulted during the tender development and evaluation process.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Paul Gallagher – Fleet Coordinator
Confidential Attachment	Tender Assessment

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**ITEM 6e.19.012 T19/031 - UPGRADE TRUCK WASH FACILITY AT GRAFTON REGIONAL SALEYARDS**


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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (David Sutton)	
<b>Attachment</b>	Confidential	

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**SUMMARY**

This report considers the submissions received for Tender RFT19/031: Upgrade Truck Wash Facility at Grafton Regional Saleyards and recommends a preferred contractor.

**OFFICER RECOMMENDATION**

That Council:

1. Accept the tender from Corbett Earthmoving Pty Ltd for RFT19/031 Upgrade Truck Wash Facility at Grafton Regional Saleyards at a cost of \$128,306.68 (including GST) for all lump sum items including approach roads and option I gravel pavement treatment to be funded from Truck Wash Upgrade (PJ 996836 Cost Centre 883).
2. Authorise the General Manager to approve any contract variations up to 10% of the contract sum.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

Objective 2.1 We will have communities that are well serviced with appropriate infrastructure

Strategy 2.1.4 Manage and enhance our parks, open spaces and facilities

**BACKGROUND**

Fresh tenders have been sought for the upgrade of the Truck Wash Facility at Grafton Regional Saleyards following council resolution – 6e.19.007 (27 August 2019)

The tender was advertised in the Daily Examiner and Coastal Views, as well as on Tenderlink on Council's web site. A non-mandatory pre-tender site meeting was held on Monday 2 September 2019 to allow tenderers to familiarise themselves with the proposed works. Tenders closed at 9:00am on Monday 16 September 2019.

Tenders were assessed by a Tender Evaluation Committee (TEC) consisting of three staff. Prior to the evaluation process the evaluation committee confirmed that the Tender Evaluation Plan was appropriate and the Code of Conduct provisions were understood and signed off by the panel.

**KEY ISSUES**

Seven tenders were received:

<b>Tenderer</b>	<b>ABN</b>	<b>Address</b>
AGS Commercial Pty Ltd	37 602 997 606	172 Casino St, SOUTH LISMORE NSW 2480
All Kerb Pty Ltd	67 153 317 287	200H Aryshire Park Dr, BOAMBEE NSW 2450
Coastal Concrete & Excavation Pty Ltd	82 615 917 292	41 Ocean Rd., BROOMS HEAD NSW 2463
Corbett Earthmoving Pty Ltd	29 062 304 205	4 Ironbark Dr, TOWNSEND NSW 2463

Jackson Lucas	33 238 146 269	33 Dianella Dr, GULMARRAD NSW 2463
Ledonne Constructions Pty Ltd	68 003 117 717	28 Hyde St, SOUTH GRAFTON NSW 2460
Valley Earthworks Pty Ltd	72 109 527 095	13 Treelands Dr, YAMBA NSW 2464

*\*Listed in alphabetical order*

The Tender Evaluation Committee (TEC) considered that all tenders received were deemed conforming and were processed through to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

After consideration of the tender submissions, scoring and results of further clarification, the TEC are recommending that the offer from Corbett Earthmoving Pty Ltd for upgrade of the Truck Wash Facility at Grafton Regional Saleyards be accepted.

Details of the tender assessment are contained in the confidential attachment.

## COUNCIL IMPLICATIONS

### Budget/Financial

Saleyard – Truck Wash Upgrade PJ 996836 Cost Centre 883 included \$159,000 each from State and Federal government and \$11,500 from Council, for a total project budget of \$330,500 (excluding GST).

Of the \$319,000 (excluding GST) \$34,236.19 has been committed for investigation, planning and design work, leaving an available budget of \$284,763.81 (excluding GST).

### Asset Management

The upgraded truck wash facilities will be included in the Saleyards Asset Management Plan.

### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

### Consultation

SMEC Engineering Consultants & Services were engaged to review the scope and design of the truck wash facilities, the design completed by SMEC considered comments received from the Saleyard Committee, and Council staff.

**Legal and Risk Management**

Directors of the tendering entities are listed in the Tender Recommendation Report being –

<i>Tenderer</i>	<i>Director</i>	<i>Director's Address</i>
AGS Commercial Pty Ltd	S Booth	44 Lakeview Circuit BALLINA NSW 2478
All Kerb Pty Ltd	M Long	200H Aryshire Park Drive BOAMBEE NSW 2450
Coastal Concrete & Excavation Pty Ltd	M McCarthy T Doyle	13 Pacific Street ANGOURIE NSW 2464 41 Ocean Road BROOMS HEAD NSW 2463
Corbett Earthmoving Pty Ltd	M Corbett	4 Ironbark Drive TOWNSEND NSW 2463
Jackson Lucas	NA (Individual)	33 Dianella Drive GULMARRAD NSW 2463
Ledonne Constructions Pty Ltd	T Ledonne	43 Planthurst Road CARLTON NSW 2218
Valley Earthworks Pty Ltd	M Mitchell P Fuller	13 Treelands Drive YAMBA NSW 2464

**Climate Change**

Upgrade of the truck wash facilities has no increased climatic impacts.

Prepared by	Julie Schipp, Holiday Parks and Saleyards Officer
Confidential	Tender Recommendation Report

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<b>ITEM</b>	<b>6e.19.013</b>	<b>T19/032 ROAD MAINTENANCE AUTO PATCHING TRUCK</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Tim Jenkins)	
<b>Attachment</b>	Confidential	

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## SUMMARY

Tenders were called for the supply of one new road maintenance auto patching truck in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to Council for the purchase of one new truck.

## OFFICER RECOMMENDATION

That Council

1. Accept the tender from Paveline International Pty Ltd for T19/032 for one new auto patching truck being supplied at a cost of \$435,380.00 (GST inclusive) to be funded from Heavy Fleet Acquisitions (PJ 558500 Cost Centre 822) and the Council seal be attached.
2. Dispose of the current auto patching truck via public auction.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

## BACKGROUND

Council currently operates one auto patching road maintenance truck within its fleet. This vehicle is designed and built with a specialist road maintenance body on the back which allows the crews to maintain and repair Council's sealed road network. The current truck is due for replacement and as such tenders were called through the Local Government Procurement Vendor Panel Contract NPN04-13 and NPN115 Trucks and Specialised Bodies.

## KEY ISSUES

The evaluation team has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Warranty offered, local service and parts backup

A Tender Evaluation Committee (TEC) evaluated the submissions against the criteria to ensure compliance with the Tender Evaluation Plan (TEP). The TEC recommendation is included in the tender evaluation report which is included as a confidential attachment.

The TEC recommends that Council accept the tender from Paveline International Pty Ltd.

**COUNCIL IMPLICATIONS****Budget/Financial**

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed the road maintenance auto patching truck for replacement in the 2019/20 financial year. Funds are available from PJ558500 Heavy Fleet Acquisitions to fund the purchase.

The available budget for the tender is Heavy Fleet Acquisition, PJ 558500 Cost Centre 822 and the GST exclusive tender price is \$395,800.00.

**Asset Management**

Replacement of this plant item is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant item.

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

**Consultation**

Council Fleet Coordinator, Manager of Civil Services and Senior Civil Services Operational Staff have been consulted during the tender development and evaluation process.

**Legal and Risk Management**

The tendering and evaluation process followed was consistent with the requirements of the Local Government Act and Regulations while the evaluation process was based on the evaluation criteria contained within the tender documentation.

**Climate Change**

N/A

Prepared by	Paul Gallagher – Fleet Coordinator
Confidential	Tender Recommendation

<b>ITEM</b>	<b>6e.19.014</b>	<b>REGPRO621920 - SUPPLY &amp; DELIVERY OF CONCRETE PIPES</b>
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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Confidential	

## SUMMARY

This report recommends to Council the acceptance of a “Panel Source” Tender for the supply and delivery of Concrete Pipes for the period 1 October 2019 to 30 September 2022, with an option to extend for 12 months subject to satisfactory performance. The Tender was called by Regional Procurement Initiative<sup>®</sup> (REGPRO621920) on behalf of Richmond Valley Council and Clarence Valley Council.

## OFFICER RECOMMENDATION

That Council accept the following tendered GST exclusive prices from the Panel as detailed in Attachment A to this report for the Supply and Delivery of Concrete Pipes (Regional Procurement Initiative<sup>®</sup> REGPRO621920) for the period 1 October 2019 to 30 September 2022:

- i) Holcim (Australia) Pty Ltd for Category 1 Concrete Pipes.
- ii) Concrete Pipes Australia (NSW) Pty Ltd for Category 2 Fibre Reinforced Concrete Pipes.

## LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.2 We will have an effective and efficient organisation
Strategy	5.2.1 Operate in a financially responsible and sustainable manner

## BACKGROUND

Council is a member of Regional Procurement Initiative<sup>®</sup>, a Division of Hunter Councils Inc., which was established in response to a need for a collaborative approach to regional tendering and contracting.

On behalf of Clarence Valley Council and Richmond Valley Council, Regional Procurement<sup>®</sup> called an Open Panel Source by Council tender for Supply & Delivery of Concrete Pipes Tender REGPRO621920. Council’s participation in Regional Procurement Tender processes is compliant with the Local Government (General) Regulation 2005 - Part 7 Tendering, for annual expenditure over \$150,000.

This tender was advertised in the following media:

- Sydney Morning Herald on 21 May 2019
- Newcastle Herald on 25 May 2019
- Gold Coast Bulletin on 25 May 2019
- Northern Daily Leader 25 May 2019
- Tenderlink on 21 May 2019

**KEY ISSUES****Evaluation Methodology:****Category 1: Concrete Pipes and Associated Products**

The Tender Price evaluation result was determined as follows:

**Tender Price @ 70%**

- 20% Table 1.2 products total \$ value
- 15% Table 1.3 products total \$ value
- 10% Table 1.4 products total \$ value
- 10% Table 1.5 head walls total \$ value
- 10% Table 1.8 pre-cast kerb entry units total \$ value
- 5% Table 1.12 precast box culverts small 2.4 x 450mm \$ value

The total value of all items was added to determine the lowest overall price. The lowest overall amount was awarded the full criteria % for each category. Each subsequent total \$ value was divided into the lowest total amount to obtain a pro-rata score.

**Category 2: Fibre Reinforced Concrete Pipes and Associated Products**

The Tender Price evaluation result was determined as follows:

**Tender Price @ 70%**

- 25% Class 2 pipes total \$ value
- 25% Class 3 pipes total \$ value
- 20% Class 4 pipes total \$ value

The total value of all items was added to determine the lowest overall price. The lowest overall amount was awarded the full criteria % for each category. Each subsequent total \$ value was divided into the lowest total amount to obtain a pro-rata score.

**Non-price Criteria**

- 10% Quality Assurance and 10% WH&S

If the tenderer provided the required evidence to meet the benchmark, eg a current ISO Certificate of Registration the Evaluation Panel awarded full marks for that category.

If the tenderer provided partial evidence to meet the benchmark, eg provides a QMS document contents page, but they are not ISO certified, the Panel determined a lower score by deducting points based on the evidence in front of them and comparing the evidence to the other submissions. A notation was included in the matrix as to why a lower score was allocated.

If the tenderer failed to meet the benchmark completely, eg they demonstrated no ability to meet the criteria and did not provide any supporting evidence, the Panel awarded 0 points to the tenderer for that evaluation criteria. A notation was included in the matrix as to why the 0 score was allocated.

- 10% Referees

This was calculated by adding the total scores obtained from the tenderers three nominated referees (where each is worth up to 25 points) and dividing this by the maximum possible score of 75, then multiplying this number by the allocated matrix weighting value.

- Insurances

Each tenderer's insurance records was checked against tender requirements and with non-conformities noted in the Evaluation Matrix for the consideration of the panel.



**COUNCIL IMPLICATIONS****Budget/Financial**

It is anticipated that Council's overall spend on the provision of supply and delivery of concrete pipes for the duration of the period of the contract may exceed \$250000 and as a result a Council resolution is required to accept the tender.

Select sizes of concrete pipes are an inventory item and costed to projects and capital works.

**Asset Management**

N/A

**Policy or Regulation**

Section 178 (1) of the Local Government (General) Regulation 2005

**Consultation**

Consultation on the suitability of tenderers to supply and deliver concrete pipes to Council was undertaken with Council's Works Program Coordinator.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Trevor Pate – Procurement Coordinator
Confidential Attachment	Tender Recommendation Report

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**ITEM 6e.19.015 RFT-10025741 GRAFTON REGIONAL ART GALLERY UPGRADE**


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<b>Meeting</b>	Council	22 October 2019
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Troy Anderson)	
<b>Attachment</b>	Confidential	

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**SUMMARY**

Public Works Advisory (PWA), on behalf of Council, called tenders for the upgrade of the Grafton Regional Art Gallery (GRAG). This report recommends that Council accept the Tender from O'Donnell & Hanlon Pty Ltd for the project.

**OFFICER RECOMMENDATION**

That:

1. Council accept the tender from O'Donnell & Hanlon Pty Ltd for RFT-10025741 Grafton Regional Art Gallery Upgrade Project (Design and Construct) at a cost of \$6,813,738 (GST inclusive) to be funded from Grafton Regional Gallery Expansion (PJ300216 Cost Centre 945) and the Council seal be attached to all required documentation.
2. The General Manager be authorised to approve variations to the value of 10% of the contact sum.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.3 Provide land use planning that facilitates and balances economic growth, environmental protection and social equity

**BACKGROUND**

The project requirements and specification for the Grafton Regional Art Gallery upgrade project have been developed. PWA, on behalf of Council called open tenders (RFT-10025741) on 27 August 2019 and closed tenders on 3 October 2019 for the upgrade of the Grafton Regional Art Gallery.

**KEY ISSUES**

A detailed Tender Evaluation Report is included in the confidential attachments.

As with all construction projects it is likely that some contract variations will be required during the work. It is therefore recommended that the General Manager be authorised to approve variations totalling up to 10% of the sum of the contract award.

**COUNCIL IMPLICATIONS****Budget/Financial**

This project is funded by CreateNSW in accordance with funding agreement RCF17R1L00018. Table 1 details the current project financials.

**Table 1 – Current Project Financials**

Description	Amount *
Total Funding	\$ 7,621,480
Actuals + Commitments	\$ 532,516
Proposed Tender	\$ 6,194,307
Works outside of proposed contract	\$ 247,772
Construction Contingency (10%)	\$ 619,430
Total	\$ 7,594,025
Balance	\$ 27,455

\*All figures are Ex GST

### Asset Management

Asset Information shall be recorded and provided to the Asset Management Team in accordance with the asset management requirements specified within the project requirements documentation for asset management.

### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The Tender Evaluation Plan requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local content.

### Consultation

Public Works Advisory

### Legal and Risk Management

Hazardous Materials Reports have been developed and made readily available to Tenderers for demolition and alterations work as part of the project upgrade.

Additional project risks identified include the potential need to install fire booster pump and additional power infrastructure upgrades to support the increased power consumption.

### Climate Change

N/A

Prepared by	Sisa Rasaku – Project Manager
Confidential Attachment	Tender Evaluation Report

**7. NOTICE OF MOTIONS - Nil**

**8. CONFIDENTIAL BUSINESS - Nil**

**9. LATE ITEMS OF BUSINESS AND MATTERS ARISING**

**10. CLOSE OF ORDINARY MEETING**