



clarence
VALLEY COUNCIL

2019

Ordinary Council Meeting



Minutes

Grafton Chambers

Tuesday, 26 November 2019

2.00 pm

Agenda

01	OPENING OF ORDINARY MEETING		
	<ul style="list-style-type: none"> • Opening Prayer • Acknowledgement of Country • Recording of Meeting Announcement • Announcement of Tourism Award and two IPWEA Awards • Presentation – Kevin Franey from TNR on Audited Financial Statements 		
02	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE		
03	DISCLOSURES AND DECLARATION OF INTERESTS	1	
04	CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 22 OCTOBER 2019	2	
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	05.19.006 Support for Community Recovery as a Result of the Bushfires	5	N
06	REPORTS		
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	6a.19.030 General Fund Untied Financial Reserves Review	11	Y
	6a.19.031 Road Naming of Existing and Proposed Assets as a Result of the Construction of the New Pacific Highway	14	Y
	6a.19.032 Damage to Infrastructure as a Result of Recent Fires	20	N
	6a.19.033 Works Report	23	Y
	6a.19.034 Drought Infrastructure Funding Applications and Submission to the NSW Legislative Assembly on Drought Affected Communities	26	Y
	6a.19.035 Clarence Care + Support Not-for-Profit Entity	29	Y
	6a.19.036 Bushfire Recovery Waste Disposal Charges	41	N
b	ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE		
	6b.19.043 DA2019/0369 Temporary Secure Boat and Equipment Storage Facility, Lots 3 & 4 DP1155528, 60 Careys Lane, Harwood	46	Y + C
	6b.19.044 Development Application SUB2019/0025 – Proposed 68-Lot Residential Subdivision including Public Reserve, Drainage Reserve and Residue Lot – 966 Summerland Way (Adjacent to Trenayr Road), Junction Hill	55	Y + TBT
	6b.19.045 SUB2019/0015 – 15 Lot Residential Subdivision – 25 Mookin Street, Tucabia being Lot 188 DP751365	77	Y
	6b.19.046 Modification of Development Consent DA2018/0688 by MOD2019/0042 – Relocation of Pontoon – 253 School Road, Palmers Island being Lot 21 DP1028001	92	Y
	6b.19.047 Koala Plan of Management – Proposed Aged Care Facility, 425 Bent Street, South Grafton	99	Y + TBT
	6b.19.048 Planning Proposal – Former Maclean Depot/SES Site, Lots 721 & 722 DP1148111, River Street, Maclean (REZ2019/0001)	102	Y + TBT
	6b.19.049 Review of Caretaker Dwellings in Industrial Zones	111	N
	6b.19.050 Draft On-Site Wastewater Management Strategy 2019	117	Y
	6b.19.051 Donation – DA Fee Waiver – Kangaroo Creek Coutts Crossing Charity Sports Club Inc	121	N

6b.19.052	State Government Funding for NSW Public Libraries	123	N
6b.19.053	Scottish Statue Promotion Committee - Proposal for a Public Art Feature and Directional Signage for McLachlan Park, Maclean – on Crown Land	126	Y
6b.19.054	Development Applications	133	N
c	CORPORATE, GOVERNANCE AND WORKS COMMITTEE		
6c.19.084	Drought Assistance for Agricultural Producers and Request or Reduction in Charges from Property 133514	140	Y + C
6c.19.085	Risk Management and Internal Audit framework – Discussion Paper	143	TBT
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6c.19.087	Council Meeting Checklist – Update on Actions Taken	155	Y
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6c.19.093	Rehabilitation of Former Maclean, Townsend & Ilarwill Sewage Treatment Plants – Final Report	174	Nil
6c.19.094	Reconstruction of Road Pavement Adjacent to the IGA Supermarket – Close out Report	177	Y
6c.19.095	Local Traffic Committee	179	Y
6c.19.096	Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads - Update	183	TBT
6c.19.097	Monthly Investment Report – October 2019	186	TBT
6c.19.098	Petition to Seal Lower Kangaroo Creek Road	195	TBT
d	INFORMATION ITEMS		
6d.19.005	1. Audit Committee 2. Ilarwill Hall Committee 3. Tucabia Hall Committee	198	Y
e	TENDERS		
6e.19.016	Contract 19/003 – Demolition of Lawrence and Southgate Reservoir – Latent Condition Variation	199	N
6e.19.017	T16/026 Romiaka Channel Bridge Replacement – Close Out Report	202	N
6e.19.018	Aboriginal Communities Sewer and Water Program – Backlog Sewer Works at Malabugilmah Community	205	Conf
6e.19.019	RFT19/026 Yamba Sporting Complex Irrigation, Drainage and Field Levelling	208	Conf
07	NOTICE OF MOTIONS		
07.19.003	Cr Novak – The Lighthouse Heritage Trail Project	212	N
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08.19.003	South Grafton Ex-Services Club Flood Mitigation	214	Conf
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10	CLOSE OF ORDINARY MEETING	214	

MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL held in the Council Chambers, Grafton, 26 November 2019, commencing at 2.00 pm.

OPENING PRAYER - a representative of the Ministry was not available.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

I acknowledge the Bundjalung 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.

Announcement of Tourism Award and two IPWEA Awards

PRESENTATION

Mr Kevin Franey from Thomas Noble & Russell Auditors on the 2018/19 Audited Financial Statements

PRESENT

Cr Jim Simmons (Mayor), Cr Jason Kingsley, Cr Andrew Baker, Cr Arthur Lysaught, Cr Peter Ellem, Cr Karen Toms, Cr Debrah Novak, Cr Richie Williamson, Cr Greg Clancy, General Manager (Ashley Lindsay), Director Environment, Planning & Community (Des Schroder), Director Works & Civil (Troy Anderson), Director Corporate & Governance (Laura Black) and Minutes Secretary (Debbie McGilvray).

APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE - Nil

DISCLOSURES AND DECLARATIONS OF INTEREST – 03.19.006

Summary of Declarations to Committees

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6b.19.043	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Neighbour of Harwood Marine General Manager, Ross Roberts, but do not socialise. Intended action: Remain in Chamber
Cr Novak	6c.19.084	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Employed/contracted by agricultural producer Intended action: Leave the Chamber
Cr Toms	6c.19.088	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Contract Manager of Iluka Riverside Holiday Park Intended action: Remain in the Chamber

Declarations received at the commencement of the Ordinary Meeting

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Mr Lindsay	05.19.005	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Report deals with contract of employment of contract with Council. Intended action: Leave the Chamber
Cr Novak Withdrawn	6c.19.084	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Employed/contracted by agricultural producer Intended action: Leave the Chamber
Cr Baker	6e.19.019	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Related to substantial shareholder of one of the submitter entities. Intended action: Leave the Chamber
Cr Kingsley	6a.19.031	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Wife is an employee of RMS but does not have any affiliation with the Pacific Highway upgrade office. Intended action: Remain in the Chamber
Mr Anderson	6e.19.019	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Good friend is Project Manager/Estimator of one of the Companies submitting a tender. Intended action: Remain in the Chamber

CONFIRMATION OF MINUTES**COUNCIL RESOLUTION – 04.19.006**

Ellem/Toms

That the Minutes of the Ordinary Meeting of Council dated 22 October 2019, copies of which have been circulated, be taken as read and be confirmed.

Voting recorded as follows:

For: Baker, Clancy, Ellem, Kingsley, Lysaught, Novak, Simmons, Williamson, Toms

Against: Nil

5. MAYORAL MINUTES

ITEM	05.19.005	GENERAL MANAGER'S PERFORMANCE REVIEW FACILITATION
Meeting	Council	26 November 2019
Directorate	Mayoral Minute	
Submitted by	Cr Jim Simmons	
Attachment	Yes	

SUMMARY

The performance of the General Manager must be reviewed at least annually against the agreed performance criteria for the position. Council may choose to undertake more frequent reviews of the General Manager's performance.

I propose engagement of Local Government Management Solutions (LGMS) to facilitate the annual performance review of the General Manager, and the six monthly review if the Panel so determine the need for a six monthly review.

PROPOSED MOTION

That Council engage the services of Local Government Management Solutions to facilitate the General Manager's annual performance review, and six monthly performance review, if the Performance Review Panel so determines the need.

Having declared an interest in this item, Mr Lindsay left the Council meeting at 2.28 pm and returned at 2.37 pm.

COUNCIL RESOLUTION – 05.19.005

Mayor Simmons

That Council engage the services of Local Government Management Solutions to facilitate the General Manager's annual performance review, and six monthly performance review.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Novak, Williamson, Lysaught, Toms

Against: Clancy

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 performance management of the General Manager is guided by the Performance Management – General Manager policy, which is informed by the Office of Local Government’s Guidelines for the Appointment and Oversight of General Managers.

LGMS has previously assisted the Performance Review Panel by supporting the development of a performance agreement guided by the Local Government Capability Framework and facilitating the review process.

The LGMS Performance Agreement outlines:

- One Focus Capability from each of the four Core Capabilities and People Management elements from the LGNSW Capability Framework:
 - Personal Attributes
 - Relationships
 - Results
 - Resources
 - Workforce Leadership
- A suite of metric benchmarks covering Our Community, Our People and Our Finances.
- The Specific Strategic and Operational Objectives to be achieved during the review period.

An extract (Part 3) of the 2019/20 General Manager’s Performance Plan, which has been considered and agreed by the Performance Review Panel, is also attached for the information of Councillors.

KEY ISSUES

It has been agreed, between the General Manager and the Mayor in accordance with the Performance Management – General Manager Policy of Council, to involve the services of an external facilitator for performance reviews.

LGMS is a business unit of Local Government NSW (LGNSW). LGNSW is the peak industry association that represents the interests of NSW general-purpose councils, 12 special purpose councils and the NSW Aboriginal Land Council.

LGMS assist councils to maintain the most effective monitoring and review process, ensuring all contractual and legislative requirements are met.

LGMS Proposal attached.

General Manager’s objectives 2019/20 attached.

COUNCIL IMPLICATIONS**Budget/Financial**

LGMS is proposing a discounted fee on their standard fee structure of \$4,000 (+GST) Annual Fee (including the general manager annual review facilitation using the LGMS template). An additional \$2,000 (+GST) if a mid term review is required. A one off fee of \$1,000 (+GST) for site visits. A total of \$5,000 - \$7,000 is anticipated per annum.

ITEM	05.19.006	SUPPORT PACKAGE FOR COMMUNITY RECOVERY AS A RESULT OF THE BUSHFIRES
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Meeting	Council	26 November 2019
Directorate	Mayoral Minute	
Submitted by	Cr Jim Simmons	
Attachment	Nil	

SUMMARY

This Mayoral Minute aims to acknowledge the community loss from the bushfire emergency and provide further assistance from Council to help the Clarence Valley community recover in the fire effected areas which have been impacted since Friday 8 November. These fires are unprecedented in our area, like nothing we have seen before and as I write this Mayoral Minute fires are threatening the communities at Tullymorgan, Ashby and surrounds, Woombah and Iluka.

The message to our community is that recovery is going to take a long time. Not all recovery work can start in all areas as we need to think about safety around fires that are still going. Don't expect things to be fixed as fast as you might expect. We have to be patient. We need to look after each other and make sure that everyone in our community is safe.

PROPOSED MOTION

That Council

1. Convey our deepest sympathy to the fire affected communities who have recently lost houses and other buildings and the large financial impact the fires are having on our farming community especially the beef industry.
2. Again acknowledge the amazing ongoing efforts of the RFS, Community Services and other emergency agencies, including our own Council staff, response to the fires and thank all the volunteers both locally, nationally and internationally who have come to the Clarence Valley's aid, and also acknowledge the ongoing State and Federal Government recovery support.
3. Subject to public notice in accordance with Section 356 of the Local Government Act provide \$16,500 to the Nymboida Canoe Centre to support its role as a community driven recovery hub-(which they are currently funding from their resources which are fast running out),with this funding to particularly help with power, their water treatment facility (supplying emergency water to the Nymboida community), dust suppression on the canoe centre internal road network (\$5,000) and will enable a booster antenna to be fitted at the centre (\$1,500).
4. Arranges to supply for free a one off potable water replenishment to fire affected households in the RFS mapped fire zones capped at 7,000 litres (estimated to be one months normal household water supply at a cost of around \$180 a load) with residents to register for the water delivery within the next 4 weeks and Council allocate \$60,000 from accumulated general fund surplus for this purpose.
5. Lobby the State and Federal Government, local members, the local and state recovery committee's to reimburse Council for the water tank refill in 4 above.
6. Work with the Canoe Centre to establish a Blaze Aid camp (note the State Government has already indicated that funds will be made available for Council to help fund the camp) and the Blaze Aid Vice President Christine Male has indicated a camp will be established shortly.
7. Work with Coffs Harbour City Council on a possible Blaze Aid camp at Glenreagh or Nana Glenn.

COUNCIL RESOLUTION – 05.19.006

Mayor Simmons

That Council

1. Convey our deepest sympathy to the fire affected communities who have recently lost houses and other buildings and the large financial impact the fires are having on our farming community especially the beef industry.
2. Again acknowledge the amazing ongoing efforts of the RFS, Community Services and other emergency agencies, including our own Council staff, response to the fires and thank all the volunteers both locally, nationally and internationally who have come to the Clarence Valley's aid, and also acknowledge the ongoing State and Federal Government recovery support.
3. Subject to public notice in accordance with Section 356 of the Local Government Act provide \$16,500 to the Nymboida Canoe Centre to support its role as a community driven recovery hub (which they are currently funding from their resources which are fast running out), with this funding to particularly help with power, their water treatment facility (supplying emergency water to the Nymboida community), dust suppression on the canoe centre internal road network (\$5,000) and will enable a booster antenna to be fitted at the centre (\$1,500).
4. Arranges to supply for free a one off potable water replenishment to fire affected households in the RFS mapped fire zones capped at 7,000 litres (estimated to be one months normal household water supply at a cost of around \$180 a load) with residents to register for the water delivery and Council allocate \$60,000 from accumulated general fund surplus for this purpose.
5. Lobby the State and Federal Government, local members, the local and state recovery committees to reimburse Council for the water tank refill in 4 above.
6. Work with the Canoe Centre to establish a Blaze Aid camp (note the State Government has already indicated that funds will be made available for Council to help fund the camp) and the Blaze Aid Vice President Christine Male has indicated a camp will be established shortly.
7. Work with Coffs Harbour City Council on a possible Blaze Aid camp at Glenreagh or Nana Glen.
8. Liaise with Blaze Aid with regard to possible activities and potential other sites in the Clarence Valley.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 at the October meeting allocated \$6,000 to both the Ewingar Hall Committee and the Dundurrabin Community Hall Committee to fund community driven recovery in these areas. At Ewingar a booster antenna was installed, \$2,000 given to the community to help run the Ewingar Rising event and it was arranged to refill the water tanks. In addition a Blaze Aid camp has been established at Ewingar with \$40,000 support from the NSW Office of Emergency Management- Council has arranged out of these funds for food supplies and cooking, a generator and fuel to power RV air conditioning, water tank refilling and shortly porta loo hire.

No similar request has been forth coming from the Dundurrabin community, although this is likely to be coming shortly.

KEY ISSUES

Filling of water tanks emptied to fight individual house fires by house owners (note not RFS) has fell through the assistance cracks. Many in the fire affected areas who were able to save their house only did this by exhausting their tank water supplies, which now not only provides issues around living in the house but the ability to fight future fire's. My minute is seeking Councillors support for Council to approve a one off free 7,000 litre replenishment paid by Council (estimated as one months supply).

The Nymboida Canoe Centre has become the local community recovery hub ably led by Gray Stride and a team of local volunteer co-ordinators for different recovery areas. The Nymboida community has suffered major house (over 80 destroyed) and grazing land loss due to the fires. These fires are like nothing we have ever seen before. It will take an incredible effort from everyone to work together to rebuild our community and this minute aims to support this community led process. The addition of a mobile booster antenna, help with the power bills and running the water treatment plant at the centre (supplying emergency potable water), dust suppression on the canoe centre internal road network, as well as other incidental costs is needed urgently as the canoe centre's resources are rapidly being exhausted. The booster antenna is needed to improve the Telstra reception at the centre which will also be used by Blaze Aid and the Office of Emergency Management etc for outreach.

I also will be asking for State and Federal Government assistance under the disaster provisions to fund the water tank supply initiative and reimburse Council. I do note on this RFS will refill tanks (and dams) when they used them to fight fires and Local Land Services supply emergency water for stock.

The minute also aims to obtain Council's endorsement to set up a Blaze Aid camp at Nymboida and alerts Council to another possible one at Glenreagh. The State Government has indicated they will give funding support to help establish the Blaze Aid camp at Nymboida, they gave Council \$40,000 for Ewingar.

COUNCIL IMPLICATIONS

Budget/Financial

The allocation of \$76,500 will need to come from recurrent funds this is in addition to the Council waste subsidy in item 6a.19.036 which is listed elsewhere in this business paper. At the October meeting Council allocated \$12,000 to the Ewingar and Dundurrabin communities towards recovery also.

6. REPORTS**a. GENERAL MANAGER**

ITEM	6a.19.029	2018/19 AUDITED FINANCIAL STATEMENTS
Meeting	Council	26 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

SUMMARY

This report presents Council's consolidated Audited 2018/19 Annual Financial Statements to the public in accordance with Section 419 (1) of the Local Government Act (LGA).

OFFICER RECOMMENDATION

That Council receive and note the Audited 2018/19 Annual Financial Statements and any public submissions received in relation to the Annual Financial Statements be reported to Council's Ordinary meeting in December 2019.

COUNCIL RESOLUTION – 6a.19.029**Williamson/Lysaught**

That Council receive and note the Audited 2018/19 Annual Financial Statements and any public submissions received in relation to the Annual Financial Statements be reported to Council's Ordinary meeting in December 2019.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 Section 419(1) of the LGA, Council is required to present its audited consolidated Annual Financial Statements to the public.

Section 418(2) requires public notice of at least 7 days be given of the Council meeting date fixed for presentation of the audited financial statements. Public notice of the presentation of the audited financial statements was advertised in Coastal Views on Friday 15 November 2019 and the Daily Examiner on Saturday 16 November 2019.

Section 420 makes provision for any person to make submissions to the Council with respect to the financial statements or auditors report. Such submission must be made within 7 days after the reports are presented to the public. Copies of submissions must be referred to the auditor and, if required, amendments made to the financial reports.

A copy of Council's Audited 2018/19 Annual Financial Statements is tabled at this meeting and is available on Council's website. At its meeting of 22 October 2019 the report "2018/19 General Purpose Financial Statements Refer to Audit" was presented to Council (Item 6a.19.023). This report contained information in relation to Council's financial result, cash reserve movements and key financial performance indicators for 2018/19 and should be referred to in conjunction with this report.

KEY ISSUES

Included in the tabled 2018/19 Annual Financial Statements are the Auditor-General New South Wales Independent Auditor's Reports and the four consolidated statutory reports required by Australian Accounting Standards and the Office of Local Government's Code of Accounting Practice and Financial Reporting (Update #27). The purpose of these four reports is as follows:

Income Statement and Statement of Comprehensive Income	The change in net assets resulting from operations. The income statement and statement of comprehensive income discloses all revenues and expenses from ordinary activities for the financial year in accordance with AASB 101.
Statement of Financial Position	The net ownership of assets after the deduction of liabilities in accordance with AASB 101.
Statement of Changes in Equity	The statement of changes in equity to disclose a reconciliation of the opening and closing balances of each class of equity for the reporting period detailing the nature and amount of movements in those classes of equity (AASB 101).
Statement of Cash Flows	The effect on Council's cash resources for the year prepared in accordance with AASB 107.

The Auditor-General New South Wales is required to prepare:

1. an independent Audit Report for the General Purpose Financial Reports (Section 417 (2) of the LGA);
2. an independent Audit Report on the Conduct of the Audit (Section 417 (3) of the LGA). The report includes additional statements regarding the conduct of the audit, operating result for the year, statement of cash flows movements, statement of financial position movements, performance ratios results and other matters; and
3. an independent Audit Report for the Special Purpose Financial Reports.

COUNCIL IMPLICATIONS

Budget/Financial

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)
Result from ordinary activities before depreciation	40,843	33,529
Less Depreciation	(42,306)	(40,852)
Result from Continuing Operations before capital	(1,463)	(7,323)
Capital grants and contributions	12,817	16,855
Loss on disposal of assets	(6,926)	(4,106)
Net Operating Result for the Year – Net Profit	4,428	5,426

Financial implications were previously outlined in Council Minute (Item 6a.19.023) - "2018/19 General Purpose Financial Statements Refer to Audit" on 22 October 2019.

Asset Management

N/A

Policy or Regulation

Section 419 (1) of the Local Government Act 1993

Consultation

This report has been prepared in consultation with Council's Finance Staff.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Michael Salvestro, Financial Accountant
To be tabled	A: Audited 2018/19 Annual Financial Statements

ITEM	6a.19.030	GENERAL FUND UNTIED FINANCIAL RESERVES REVIEW
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Meeting	Council	26 November 2019
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report provides a response to a recommendation within the (Proposed) Strategic Road Improvement Reserve Notice of Motion made at the September Council meeting. Point 5 of the recommendation requested that Council:

Receive at the November 2019 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.

A subsequent review of Council's General Fund Untied Financial Reserves was undertaken throughout October. Most untied financial reserves were found to be duly supported by strategy, Council decision and/or a robust utilisation plan resulting in the identification of only \$368,448 surplus reserve funds which could potentially be made available to create a new Strategic Road Improvement Reserve.

OFFICER RECOMMENDATION

That Council:

1. Note and accept the information presented in Attachment A in relation to each General Fund untied financial reserve; and
2. Agree to transfer the identified surplus reserve balances of \$368,448 to a new Strategic Road Improvement Reserve for allocation against future road capital works projects.

COUNCIL RESOLUTION – 6a.19.030

Simmons/Toms

That Council:

1. Note and accept the information presented in Attachment A in relation to each General Fund untied financial reserve; and
2. Agree to transfer the identified surplus reserve balances of \$368,448 to a new Strategic Road Improvement Reserve for allocation against future road capital works projects.
3. Agree to transfer an additional \$522,711.00 from the following reserves to the new Strategic Road Improvement Reserve for allocation against future road capital works projects:
 - 10009 - \$22,711.00 Sick Leave Insurance Reserve
 - 10277 - \$100,000.00 Public Liability Excess
 - 10700 - \$400,000.00 Oncost Reserve Workers compensation

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Clancy, Ellem, Novak, Williamson, Lysaught, Toms

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

At the September 2019 Council meeting a Notice of Motion was made requesting 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. This information was to be returned to Council at the November 2019 meeting.

KEY ISSUES

As at 1 July 2019, Council holds \$50,788,199 in 113 General Fund untied financial reserves. Current year reserve utilisation is currently expected to reduce this balance to \$40,022,903, by 30 June 2020.

A review of all untied reserves has now been completed with a view to understanding the following aspects:

- Reserve Purpose
- Strategy or Council Decision supporting the Reserve
- Reserve Replenishment Process
- Reserve Utilisation Plan

The full details of the review can be found in Attachment A, however the reserves can be generally classified into these categories and the applicable value of each is shown in the below table.

Internal Reserve Type	Opening Balance 1/7/19	19/20 Budgeted Movement	Closing Balance 30/6/2019
Carry Forward Reserves	\$4,659,457	(\$3,337,535)	\$1,321,922
Strategic Business Reserves	\$40,815,200	(\$7,456,765)	\$33,358,435
Risk Management Reserves	\$4,967,821	\$35,004	\$5,002,825
Strategic Planning Reserves	\$345,722	\$6,000	\$339,722
Total General Fund Untied Reserves	\$50,788,200	(\$10,765,296)	\$40,022,903

Throughout the review, a number of reserves were noted to have large balances. These reserves do not hold any surplus balances and are supported by strategy and/or spending utilisation plans, however due to their significant balance, further commentary is below:

- **Employee Leave Entitlement Reserve \$3,244,174** – this reserve is a Risk Management Reserve, which aims to limit the impact of large employee leave payments and current year operating results. The balance currently represents 25% of our expected Annual and Long Service Leave liabilities and is rebalanced annually. The reserve balance is supported by financial management strategies and is informed by industry standards, probability of payment and Council employee trends. 25% funding is considered to be conservative given Council's aging workforce.
- **Sustainability Reserve \$2,031,290** – this reserve holds funding for implementation of the 100% Renewables Strategy initiatives coupled with other sustainability strategies. It is supported by the Waste Management Strategy and waste services fee structure with \$20.58 per tonne of landfill contributing to the reserve each year to assist in mitigating direct and indirect impacts of providing

waste services. Furthermore, it receives an annual contribution from the EPA, which is tied to the waste minimisation projects as approved by the EPA.

- **Fleet Reserves - \$7,436,560** – This balance comprises 3 reserves – Small Plant (\$673,680), Light Fleet Reserve (\$297,222) and Heavy Plant Reserve (\$6,465,658). Each of these reserves is supported by a 10 year replacement program, all of which were recently subject to an internal audit by Forsyths. The internal audit identified that whilst the replacement program existed, further work should be carried out to improve the strategy that supports the replacement program to ensure that it is well informed by future works requirements and not just replacement of existing plant. This being said, the audit confirmed that the costing associated with the plans to be robust and the balance of the fleet reserves to be well informed based on these plans. It is recommended that these action items from the internal audit be addressed and the strategy be updated accordingly before any financial adjustment is made to these reserves. Internal audit action plans are reported to the Audit Committee, which at its last meeting discussed the matter and noted support for the current management strategy of fleet and plant planning and procurement from reserve.

At the completion of the reserve review a total of \$368,448 surplus reserve funds were identified across 10 reserves. This surplus value represents balances no longer required by the reserve due to the reserve having reached its maximum holding limit or reserve balances whereby the works are now complete.

COUNCIL IMPLICATIONS

Budget/Financial

Creation of a new Strategic Road Improvement Reserve within in general fund with a balance of \$368,448. The funds to be transferred from other general fund reserves as they are surplus to the reserve needs or the reserve is no longer required as work is complete.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

This report has been prepared in consultation with Service Area Managers and the Management Accounting Team.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Kate Maginnity, Manager Finance & Supply
Attachment	A – 2019-20 General Fund Internal Reserves Review B – Fleet Replacement Reserves

ITEM	6a.19.031	ROAD NAMING OF EXISTING AND PROPOSED ASSETS AS A RESULT OF THE CONSTRUCTION OF THE NEW PACIFIC HIGHWAY
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Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

The construction of the new Pacific Highway requires that the existing Pacific Highway and several new assets are named in accordance with the requirements of the NSW Geographical Names Board (GNB). This report presents Council with the details of community consultation that has been undertaken for the renaming of the existing Pacific Highway, and recommends that further community consultation is undertaken to establish road names for new or existing roads that are affected by the construction of the new Pacific Highway.

OFFICER RECOMMENDATION

That Council:

1. Adopt the following road names and submit to the NSW Geographical Names Board for approval:
 - a. 'Big River Way' for the section of the existing Pacific Highway between Glenugie and Cameron Street Maclean; and
 - b. 'Serpentine Channel South Bank Road' for the new section of road that extends from the existing Serpentine Channel South Bank Road to Watts Lane.
2. Seek suggestions from the community for the naming of the following roads, and the results be collated and reported to Council at its March 2020 ordinary meeting:
 - a. Existing Pacific Highway – between Chatsworth Road and Iluka Road roundabout
 - b. The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane
 - c. Old Six Mile Lane on the western side of the new Freeway connecting to Avenue Road
 - d. The link road from the existing highway under the new freeway and connecting to Mill Road, Harwood

COUNCIL RESOLUTION – 6a.19.031

Williamson/Lysaught

That Council:

1. **Adopt the following road names and submit to the NSW Geographical Names Board for approval:**
 - a. **'Big River Way' for the section of the existing Pacific Highway between Glenugie and Cameron Street Maclean; and**
 - b. **'Serpentine Channel South Bank Road' for the new section of road that extends from the existing Serpentine Channel South Bank Road to Watts Lane.**
2. **Seek suggestions from the community for the naming of the following roads, and the results be collated and reported to Council at its March 2020 ordinary meeting:**
 - a. **Existing Pacific Highway – between Chatsworth Road and Iluka Road roundabout**
 - b. **The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane**
 - c. **Old Six Mile Lane on the western side of the new Freeway connecting to Avenue Road**
 - d. **The link road from the existing highway under the new freeway and connecting to Mill Road, Harwood**

Voting recorded as follows:

For: Lysaught, Ellem, Baker, Williamson, Clancy

Against: Novak, Toms, Kingsley, Simmons

AMENDMENT TO MOTION

Novak/Clancy

That Council:

1. Adopt the following road names and submit to the NSW Geographical Names Board for approval:
 - a. 'Breimba Way' for the section of the existing Pacific Highway between Glenugie and Cameron Street Maclean; and
 - b. 'Serpentine Channel South Bank Road' for the new section of road that extends from the existing Serpentine Channel South Bank Road to Watts Lane.
2. Seek suggestions from the community for the naming of the following roads, and the results be collated and reported to Council at its March 2020 ordinary meeting:
 - a. Existing Pacific Highway – between Chatsworth Road and Iluka Road roundabout
 - b. The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane
 - c. Old Six Mile Lane on the western side of the new Freeway connecting to Avenue Road
 - d. The link road from the existing highway under the new freeway and connecting to Mill Road, Harwood

Voting recorded as follows:

For: Novak

Against: Toms, Lysaught, Ellem, Kingsley, Baker, Williamson, Clancy, Simmons

THE amended Motion was put and declared LOST.

AMENDMENT TO MOTION

Toms/Kingsley

That Council:

1. Adopt the following road names and submit to the NSW Geographical Names Board for approval:
 - a. 'Clarence Valley Way' for the section of the existing Pacific Highway between Glenugie and Cameron Street Maclean; and
 - b. 'Serpentine Channel South Bank Road' for the new section of road that extends from the existing Serpentine Channel South Bank Road to Watts Lane.
2. Seek suggestions from the community for the naming of the following roads, and the results be collated and reported to Council at its March 2020 ordinary meeting:
 - a. Existing Pacific Highway – between Chatsworth Road and Iluka Road roundabout
 - b. The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane
 - c. Old Six Mile Lane on the western side of the new Freeway connecting to Avenue Road
 - d. The link road from the existing highway under the new freeway and connecting to Mill Road, Harwood

Voting recorded as follows:

For: Novak, Toms, Kingsley, Simmons

Against: Lysaught, Ellem, Baker, Williamson, Clancy

THE amended Motion was put and declared LOST.

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

Pacific Highway Construction

The Pacific Highway upgrade works are currently under construction with works anticipated to be completed in 2020.

Signage for the upgraded highway is currently being prepared and a new name for the existing highway between Glenugie and Tyndale will need to be determined before the end of November 2019. This will also provide the community with adequate time to become familiar with the new name which will assist them in adjusting to these changes and amending their postal addresses as required when the new name comes into place.

Road Management Responsibility

Between Glenugie and Tyndale, the existing Pacific Highway will continue to be classified as a State Road, under the management of Roads and Maritime Services (RMS). To retain the connectivity of the state road network, existing routes – HW12 Gwydir Highway and MR83 Summerland Way - which connect with the existing Pacific Highway at South Grafton, will be extended to Tyndale and Glenugie respectively.

During early consultation regarding the renaming of the existing Pacific Highway, it became evident that extending the existing route names; Gwydir Highway and Summerland Way, were not supported by the community, and in particular, directly affected residents currently residing on the existing Pacific Highway and the Tyndale and Ulmarra communities.

Dual Naming

The *Roads Act (1993)* and its preceding Acts allows for the situation where a section of road may have two official names: a local road name given by council for local addressing purposes; and a route name given by RMS to identify a long distance route to aid navigation across multiple council areas.

Under this guidance, and in response to community feedback about proposed road names, RMS recommended a local name is given to the existing highway between Glenugie and Tyndale. The new local road name would be used for addressing and will appear on local signposting, alongside the existing state-wide alpha-numeric route numbers that makes it easier for road users to plan their trip.

Road Naming Process

Clarence Valley Council is the authority for road naming of local roads. In conjunction with RMS the following roles and responsibilities were agreed regarding naming of the road:

Roads and Maritime:

- Inform the community about the proposed dual naming (state route and local road name)
- Lead consultation with community about road naming, including seeking and collating all local road name submissions
- Provide all road naming submissions to Clarence Valley Council for consideration.

Clarence Valley Council:

- Review all naming submissions in line with councils naming guidelines, and recommend new local road name to NSW Geographical Names Board for approval
- Announce the new local road name, with support from Roads and Maritime
- Provide relevant authorities with the new local road name and, when the new name comes into effect, provide support to the community to update their information.

NSW Geographical Names Board

Section 6.7 of the NSW Address Policy and User Manual published by the NSW GNB specifies the principles for road naming. Section 6.7 is attached for Councillors information, with the criteria for road naming, summarised as:

- Be unique and not the same as, or similar to, other roads in the region
- Shall not be duplicated
- Not exceed three (3) words, including the road type
- Not cause confusion for emergency services
- Not be named after living people or businesses

The NSW Address Policy and User Manual is available via this link:

https://www.gnb.nsw.gov.au/addressing/nsw_address_policy_guidelines

Other Infrastructure

In addition to the renaming of the Pacific Highway between Glenugie and Tyndale, RMS has advised that they will be seeking Council's assistance in the naming of:

- The new Harwood and Shark Creek bridges
- The new Grafton Bridge
- Several roads that have been created or dissected as a result of the highway construction.

KEY ISSUESPacific Highway

During the submission period, a total of 291 local road naming submissions were received. Of the 291 naming submissions received, 166 names were unique, and the other 125 names were suggested two or more times. A full list of naming submissions is attached, and Table 1 provides a list of the most commonly proposed naming suggestions.

Local road name suggestion	Submissions received
Clarence Valley Way Including similar names such as Clarence Valley Drive, Clarence Valley Road, Clarence Valley Scenic Drive and Clarence Way	58
Clarence River Way Including similar suggestions such as Clarence River Drive and Clarence River Road	29
Road names that recognise the Traditional Owners of the land	24
Big River Way Including similar suggestions such as Big River Drive, Big River Road, River Way, River Drive and Riverview Road	23
Jacaranda Way Includes similar suggestions such as Jacaranda Drive, Jacaranda Valley Way, Jacaranda Road and Jacaranda Pacific Drive	20
Glendale Road	13
Old Pacific Highway	13

Table 1 – Proposed naming suggestions

Several of the provided names, and related options, are already used in the region and they may not be supported by the GNB. The proposed road names, and other similar suggestions, which may conflict are:

- Clarence Valley Way
- Clarence River Way
- Jacaranda Way

Whilst suggested road names that recognise the traditional owners of the land collectively rated high in number, individually the number of each suggestion is low. Another difficult consideration with this proposal is that the Clarence Valley area consists of 3 Aboriginal Nations and there is no uniform or agreed name to represent all 3 nations.

The next most popular choice is 'Big River Way' which is in reference to the Clarence River and the fact that the vast majority of the road is adjacent to or in very close proximity to the river. The proposed name of 'Big River Way' meets the criteria set by the GNB and it is therefore recommended that the Council adopt the name Big River Way' for submission to the GNB for approval.

Other Infrastructure

RMS has advised that it is seeking Council's assistance in naming several bridges and other roads that are associated with construction of the highway. These bridges and roads are listed as follows:

Bridges

- A. New Harwood Bridge
- B. New Shark Creek Bridge
- C. New Grafton Bridge

RMS proposes that the same process be followed for the naming of the bridges (listed A – C above) that has occurred with the Pacific Highway between Glenugie and Tyndale. That is, RMS undertakes the consultation and then forwards the results to Council for decision and recommendation to the GNB.

Roads

- D. Existing Pacific Highway - Tyndale to Cameron Street, Maclean
- E. Existing Pacific Highway – between Chatsworth Road and Iluka Road roundabout
- F. The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane
- G. Old Six Mile Lane on the western side of the new Freeway connecting to Avenue Road.
- H. The link road from the existing highway under the new freeway and connecting to Mill Road, Harwood
- I. Serpentine Channel South Bank Road has been extended to connect with Watts Lane as it no longer connects to the freeway.

With regard to D, it is recommended that this section of road be given the same name as the remainder of the existing highway from Glenugie to Tyndale so that continuity of the road will remain and it will be easily signed and legible to all road users.

It is recommended that Council undertake community consultation to seek suggestion for road names for the roads listed E to H above.

With regard to the extension of Serpentine Channel South Bank Road as detailed in point I, it is recommended that this section of road be named Serpentine Channel South Bank Road as it is extension of the existing road.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

Several kilometres of new road will become new assets upon completion of the construction of new Pacific Highway. The existing highway between Glenugie and Tyndale will remain part of the state road network and will not be a council asset.

The new bridges listed A – C above and the existing Harwood Bridge and Mororo Bridge will not be Council assets.

Policy or Regulation

Roads Act (1993)

ConsultationPacific Highway – Glenugie – Tyndale

RMS distributed by letterbox drop a community update to directly affected residents between Glenugie and Tyndale.

The update was published to the Pacific Highway website and delivered to a number of key locations in the region, including Council offices at Maclean and Grafton, and the RMS office in Grafton. The release of the update, and request for road naming submissions from the community, was promoted via print and online media platforms, including Council's Facebook page.

The update provided information to the community about:

- Upgraded highway route between Glenugie and Tyndale
- Travel distances and times between the upgraded highway and South Grafton
- Ongoing maintenance, funding and management responsibility for the existing Pacific Highway
- Design of new interchanges at Glenugie and Tyndale that provide connections between the existing and upgraded highway
- Existing Pacific Highway to be give a local road name for addressing, but will retain state route classifications (HW12 and MR83)
- Process and timing for a local road name to be determined
- Feedback form for road renaming submissions including reply paid feedback form.

A copy of the community update is attached.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Troy Anderson – Director (Works & Civil)
Attachment	Section 6.7 of the NSW Address Policy and User Manual RMS Pacific Highway renaming – submissions summary report Community Update Correspondence from RMS

MOTION

Novak/Toms

That the Ordinary Council meeting be adjourned for a short break at 4.19 pm. CARRIED.

The Ordinary Council meeting resumed at 4.31 pm.

ITEM	6a.19.032	DAMAGE TO INFRASTRUCTURE AS A RESULT OF RECENT FIRES
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Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Nil	

SUMMARY

This report provides Council with a summary of the damage that has been sustained to Council's infrastructure as a result of the recent fires within the Local Government Area (LGA).

OFFICER RECOMMENDATION

That Council receive the Damage to Infrastructure as a Result of Recent Fires Report and note its contents.

COUNCIL RESOLUTION – 6a.19.032**Williamson/Lysaught**

That Council receive the Damage to Infrastructure as a Result of Recent Fires Report and note its contents.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 2.1.2 Ensure adequate natural disaster management

BACKGROUND

Since 5 September 2019 the Clarence Valley LGA has been affected by major fire activity. In this time we have seen fires affect the areas of: Shark Creek; Wooloweyah; Angourie; Ewingar; Baryulgil, Nymboida and many other localities.

To date several hundred thousand hectares have been burnt within the LGA.

KEY ISSUES

Along with the destruction of private property, there has been significant damage to infrastructure, particularly in the northern and southern areas of the LGA.

Due to the wide spread nature of the November fires our teams are only beginning to undertake assessments due to the fact that live fires have been burning in these areas preventing safe access. Currently our teams are undertaking emergency works, including but not limited to: Clearing roads, removing hazards, installing signage and clearing / constructing alternate routes / crossings.

The majority of damage to public infrastructure is primarily contained to roads and drainage infrastructure and inspection and quantification of these assets will take considerable time. To date the following infrastructure has been damaged and requires repair/replacement:

- Greater than 100km of road furniture ie signage, delineator posts, crash barriers etc
- Kangaroo Creek Road, No. 4 Bridge - 7.3m single span, single lane bridge. This bridge has been destroyed.
- Armidale Road at Hortons Creek - 9.8m single span, two lane bridge. This bridge has been destroyed. See Figure 1.
- Armidale Road at Clouds Creek - 47m long 7 span, two lane bridge. The last three spans have been badly damaged. It is likely to be irreparable.
- Ramornie Station Road at Brickmakers Creek - 11m single span single lane bridge. This bridge has been destroyed.
- Coaldale Road, Chevalleys Bridge- 3 span bridge. Multiple girders and corbels burnt, still in operation but unsure whether this is repairable.
- Upper Fine Flower Road, Bridge over Dry Creek - Some timbers burnt, likely to be repairable



Figure 1 – Hortons Creek Bridge

COUNCIL IMPLICATIONS

Budget/Financial

All costs associated with the emergency and restoration works will be claimed through the provisions of the Disaster Recover Funding Arrangements (DRFA). Council will be required to contribute these works in accordance with the DRFA, however, at this point in time, the contribution sum is unknown.

Asset Management

Council's asset records will be updated to reflect and replacement or repair works that are undertaken.

Policy or Regulation

NSW Natural Disaster Essential Public Asset Restoration Guidelines

Commonwealth Disaster Recovery Funding Arrangements

Consultation

N/A

Legal and Risk Management

Thorough inspections of infrastructure assets need to be undertaken to ensure that the risk to Council and the public is minimised.

Climate Change

N/A

Prepared by	Troy Anderson – Director (Works & Civil)
Attachment	Nil

ITEM 6a.19.033 WORKS REPORT

Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Yes	

SUMMARY

Reports on capital and major maintenance works carried out by the Works and Civil Group until late October 2019.

OFFICER RECOMMENDATION

That the works report be received and noted.

COUNCIL RESOLUTION – 6a.19.033

Toms/Ellem

That the works report be received and noted.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 October is attached.

Council staff also wish to highlight the projects below.

Project:	McIntyres Lane - Widening and initial seal	
Project Description:	Widening and initial seal of an unsealed road.	
Budget:	\$906,780	
Expenditure:	\$280,205	
Status:	<ul style="list-style-type: none"> • Works are currently progressing well • On track for completion prior to Christmas 	

Project:	Demolition of Lawrence and Southgate Reservoirs	
Project Description:	Demolition of the disused steel reservoirs at Lawrence and Southgate (and replacement of Lawrence with a new reservoir)	
Budget:	\$605,774.24	
Expenditure:	\$437,938 (as at 03/10/2019)	
Status:	<ul style="list-style-type: none"> • Contractor MPG demolished the Southgate reservoir during October 2019 • As outlined in a separate report to Council, the Lawrence reservoir is scheduled to be demolished in January 2020 	

Project:	Grafton Regional Saleyards Cattle Ramp Upgrade	
Project Description:	To upgrade three cattle ramps at the saleyards to make it safer for unloading and loading cattle.	
Budget:	\$70,117	
Expenditure:	\$75,389	
Status:	Near completion	

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.

Prepared by	Alex Dalrymple, Greg Mashiah, David Sutton
Attachment	Works Program

ITEM	6a.19.034	DROUGHT INFRASTRUCTURE FUNDING APPLICATIONS AND SUBMISSION TO THE NSW LEGISLATIVE ASSEMBLY ON DROUGHT AFFECTED COMMUNITIES
Meeting	Council	26 November 2019
Directorate	General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Nil	

SUMMARY

A combination of drought and now the extensive bushfires have had not only dire affects on house losses but also a devastating affect on the Clarence Valley agricultural industries especially the beef, dairy and the timber industry. Around 326,000 hectares are now burnt out (at the date of this report) and over 250 rural properties are now suffering the dual affects of drought and the devastation by bushfire. This will have major affects on the economic and social viability of rural communities especially in the Upper Clarence catchments.

The beef industry makes up about 50 percent of agricultural production in the Clarence Valley and a combination of drought and now extensive loss of pasture, fences and buildings has had severe impacts on this sector, worth over \$52 million to the Clarence economy, and lack of pastures and irrigation has affected the \$11 million dairy industry (source Economic ID). In addition, there is an unquantified affect on the timber industry which underpins along with sugar processing, the \$377 million manufacturing industry in the valley.

Available data shows that between 2016/17 and 2017/18 there was a net reduction of 188 jobs in the agricultural sector (1,259 down to 1,071), this does not account for the strengthening drought and now fire impacts that have occurred in recent months.

This report seeks Council's approval to submit a case that Clarence Valley Council be declared an eligible Council under the Drought Communities Assistance Program administered by the Federal Government worth up to \$1 million per council in grants (subject to a project by project application process); prepare project applications for the \$200 million Building Better Regions Fund, which is focussing on drought affected communities in this round, for Clarence Way; and make a submission to the NSW Legislative Council on 'Support for Drought Affected Communities'.

OFFICER RECOMMENDATION

That:

1. Council lobby the Federal Member for Page, Kevin Hogan MP and David Littleproud MP the Federal Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management, to have Clarence Valley Council declared an eligible council for the Drought Communities Program.
2. Submit an application under the Building Better Regions Fund for \$10 million (maximum amount) to upgrade Clarence Way through road reconstruction and sealing. Council contribute an amount of \$1.5 million towards this project comprising \$800,000 from the 7.11 (old Section 94) Copmanhurst Roads and Bridges Plan, and \$700,000 split over three years from Council's recurrent budget.
3. Allocate up to \$30,000 from the Section 94 account to prepare the funding application for the BBRF.
4. Make a submission to the NSW Legislative Assembly Inquiry on Support for Drought Affected Communities.

COUNCIL RESOLUTION – 6a.19.034**Baker/Novak****That:**

- 1. Council lobby the Federal Member for Page, Kevin Hogan MP and David Littleproud MP the Federal Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management, to have Clarence Valley Council declared an eligible council for the Drought Communities Program.**
- 2. Submit an application under the Building Better Regions Fund for \$10 million (maximum amount) to upgrade Clarence Way through road reconstruction and sealing. Council contribute an amount of \$1.5 million towards this project comprising \$800,000 from the 7.11 (old Section 94) Copmanhurst Roads and Bridges Plan, and \$700,000 split over three years from Council's recurrent budget.**
- 3. Allocate up to \$30,000 from the Section 94 account to prepare the funding application for the BBRF.**
- 4. Make a submission to the NSW Legislative Assembly Inquiry on Support for Drought Affected Communities.**

Voting recorded as follows:**For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms****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

The Federal Government announced in 2018 \$123 million over three years where eligible councils (as decided by the Minister) could access up to \$1 million in grants to stimulate employment in the agricultural sector. To be an eligible council two criteria has to be met, firstly, a drought declaration and, secondly, the drought can be shown to be having a major economic affect on the local economy. Hence, most councils west of the range which have been drought declared for long periods and nearly depend entirely on agriculture for their economic activity, were deemed automatically eligible by the Minister. Until recently, when Kyogle Council lobbied successfully for inclusion, no coastal councils were included in the eligible list due to two factors that the drought declarations were more recent and, secondly, the economies are much more diverse in the coastal areas. For instance agriculture, forestry and fishing combined as well as the dependant manufacturing sector, account for in total 13.4 percent of the Clarence Valley economy, but 100 percent of the economy in the upper Clarence Valley Council area. Any case for eligibility needs to focus on the impacts that the combination of drought and fires have had on the upper catchments and the need to generate jobs and recovery in the upper catchment villages and communities.

In the last week the Federal Government has announced a \$200 million Building Better Regions Program which will concentrate on infrastructure in drought affected communities. It is proposed to submit an application under the infrastructure stream. It is proposed to apply for \$10 million (the maximum) to put towards upgrading some of the unsealed sections of Clarence Way (the sections have not been delineated yet). It is proposed that Council makes a 15% contribution (25% is encouraged but can be waived for hardship due to drought impacts) comprising \$800,000 from the Road and Bridges Copmanhurst Section 7.11 Plan and \$700,000 from recurrent funds over two years. Works need to be completed by 2022.

The NSW Legislative Assembly Committee on Investment, Industry and Regional Development into Support for Drought Affected Communities in NSW is calling for submissions. The defining difference in the Clarence

Valley is the dual impacts of the drought and fires, and not only the impact on agriculture and support industries but also the significant forestry sector.

KEY ISSUES

All the above projects are aimed at stimulating the economy in the upper catchments of the Clarence Valley where the dual affects of both the drought and now the fires have had major financial implications on these communities especially.

If Council was classified as eligible for the maximum \$1 million allocation, projects still need to be submitted (minimum \$25,000). The focus has to be in providing employment for locals/farmers/contractors in areas affected by drought.

COUNCIL IMPLICATIONS

Budget/Financial

As outlined above Council would need to provide \$830,000 (what is in the account now) and \$700,000 from the recurrent budget over 3 years.

Asset Management

Road reconstruction and sealing of Clarence Way would have an impact on trafficability of the road and future asset maintenance allocations.

Policy or Regulation

Drought Communities Program Funding guidelines and the Building Better Regions Funding guidelines.

Consultation

There has been a lot of consultation with fire and drought affected rural communities. There was a petition from the Clarence Way road users tabled with Council for an upgrade.

Legal and Risk Management

Upgrade of Clarence Way would improve safety for both normal traffic and emergencies like the fires and floods.

Climate Change

The upgrade sealing of parts of Clarence Way would improve fuel usage.

Prepared by	Des Schroder, Director Environment Planning & Community
Attachment	Nil

ITEM	6a.19.035	CLARENCE CARE + SUPPORT NOT-FOR-PROFIT ENTITY
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Meeting	Clarence Care + Support Committee	12 November 2019
Directorate	General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes plus Confidential Attachment	

SUMMARY

This report presents to Council progress in implementing Council's resolution (refer Item 08.19.002) from the 27 August 2019 meeting which required (*inter alia*) that Council establish a wholly owned not-for-profit legal entity (subject to Minister for Local Government approval) to take over the governance control, management and the continuing operation and function of Clarence Care + Support commencing from 1 July 2020.

OFFICER RECOMMENDATION

That

A. Council amend resolution 08.19.002 from the 27 August meeting as follows:

That Council, having completed a thorough investigation and consultation period of some 12 months:

1. *Decline to transfer all of Clarence Care + Support (CC&S) from Council to a non-Council, not-for-profit entity as proposed at a cost to Council in excess of \$1.9 million.*
2. *Council create, subject to the consent of the Minister for Local Government, a community based not-for-profit legal entity to take over the governance control, management and the continuing operation and function of Clarence Care & Support commencing 1 July 2020 with the new entity to have primary responsibility for:*
 - a. *delivery of a service level, at not less than the current level of service, to current service recipients residing in the Clarence Valley local government area and,*
 - b. *creation of no disadvantage to existing service recipients residing within the Clarence Valley local government area and,*
 - c. *creation of no disadvantage to current employees of Clarence Care + Support for a period of 3 years and,*
 - d. *the provision of community care and support services and the provision of any other community benefit functions allowable to not-for-profit entities, as recommended by the governing body and,*
 - e. *a Constitution that ensures that the governing body is made up of a skills based Board with Board composition and selection being based on skills and experience including business management, corporate governance, financial and legal expertise, as well as specific expertise relevant to the business of the new entity.*
3. *Immediately inform the current recipients of CC&S services, all CC&S employees and the general public of the intent and provisions of the preceding point 2 of this resolution.*
4. *Form a committee of the Mayor, Deputy Mayor and all Councillors to work with the General Manager, a legal practitioner experienced in setting up and governance of not-for-profit entities, and any financial advisor considered necessary by the committee, to receive and consider by end of October 2019, a business case, a draft constitution, an operating model and a funding model suitable to the successful operation of the proposed new entity.*
5. *Receive from the Committee at the November 2019 meeting a proposed constitution and a report on any other transitional and loan funding requirements required to enable an orderly transfer of CC&S to the new not-for-profit entity on 1 July 2020.*
6. *Commencing 1 December 2019 and subject to adoption of a constitution and any other transitional*

and loan funding arrangements, commence a 60 day public consultation on the proposed new entity arrangements and, if required by the constitution, invite nominations for community directors during the public consultation period.

7. *At the February 2020 meeting, consider appointment of community directors to the governing body if such appointments are required by the adopted constitution of the new entity.*
 8. *Assist the governing body of the new entity in the recruitment and appointment of a Chief Executive Officer or interim chief operating officer of the new entity and provide advance loan funding if necessary to enable early employment of a suitable executive officer.*
 9. *Make all arrangements necessary to enable transfer of all CC&S operations, liabilities operating assets, functions and accommodation occupancy to the new entity in such manner to ensure uninterrupted continuation of CC&S operations from 1 July 2020.*
- B. Council endorse the recommendations as detailed in the body of this report with respect to the draft Constitution as attached (Confidential Attachment B).
- a. That the Board meet at least 10 times in each financial year with the quorum for meetings being the number equal to half of all Directors plus one.
 - b. That the Board be established by using a skills-based approach with Board composition and selection being based on skills and experience including business management, corporate governance, financial and legal expertise, as well as specific expertise relevant to the business of the organisation. It is also recommended that employees of the entity not be eligible for Board membership, with former employees not being eligible within three years of their separation.
 - c. That the size of the Board be minimum (5) and maximum (7).
 - d. Establish the initial Board by appointment of up to 4 of the Directors, applying a skills based approach, with the remaining 3 being Board Appointed Directors and then all future Board appointments to be made by the Board.
 - e. That a maximum term be of three years, and a maximum of three terms (9 years) be applied to governing Board members, with the right to renominate after one term (3 years) off the Board with the appointment of governing Board members be staggered in such a way to avoid all governing Board members positions becoming vacant at the end of the same term.
 - f. That the draft Constitution provide an option for the establishment of Advisory Reference Groups, in accordance with recommendations of the recent Royal Commissions into Aged Care, and in order to take into account stakeholders feedback on service delivery.
- C. Council endorse the draft Business Case (refer Confidential Attachment D) and proposed funding contributions by way of a grant to the new entity as detailed in this report to be included in the documentation for consultation with the community.
- D. Public feedback be sought on the following options:
- i) Council proceed to create a separate not-for-profit community based entity (independent of Council) to manage and operate Clarence Care + Support.
 - ii) Council cease operation of Clarence Care + Support.
 - iii) The status quo remain with management and operation of Clarence Care + Support retained by Council.

MOTION

Simmons/Toms

That

- A. Council having implemented Point 1 below amend resolution 08.19.002 as follows:
- That Council, having completed a thorough investigation and consultation period of some 12 months:*
1. *Decline to transfer all of Clarence Care + Support (CC&S) from Council to a non-Council, not-for-profit entity as proposed at a cost to Council in excess of \$1.9 million.*

2. *Council create, subject to the consent of the Minister for Local Government, a community based not-for-profit legal entity to take over the governance control, management and the continuing operation and function of Clarence Care & Support commencing 1 July 2020 with the new entity to have primary responsibility for:*
 - a. *delivery of a service level, at not less than the current level of service, to current service recipients residing in the Clarence Valley local government area and,*
 - b. *creation of no disadvantage to existing service recipients residing within the Clarence Valley local government area and,*
 - c. *creation of no disadvantage to current employees of Clarence Care + Support for a period of 3 years and,*
 - d. *the provision of community care and support services and the provision of any other community benefit functions allowable to not-for-profit entities, as recommended by the governing body and,*
 - e. *a Constitution that ensures that the governing body is made up of a skills based Board with Board composition and selection being based on skills and experience including business management, corporate governance, financial and legal expertise, as well as specific expertise relevant to the business of the new entity.*
 3. *Immediately inform the current recipients of CC&S services, all CC&S employees and the general public of the intent and provisions of the preceding point 2 of this resolution.*
 4. *Form a committee of the Mayor, Deputy Mayor and all Councillors to work with the General Manager, a legal practitioner experienced in setting up and governance of not-for-profit entities, and any financial advisor considered necessary by the committee, to receive and consider by end of November 2019, a business case, a draft constitution, an operating model and a funding model suitable to the successful operation of the proposed new entity.*
 5. *Receive from the Committee at the November 2019 meeting a proposed constitution and a report on any other transitional and loan funding requirements required to enable an orderly transfer of CC&S to the new not-for-profit entity on 1 July 2020.*
 6. *Commencing 1 December 2019 and subject to adoption of a constitution and any other transitional and loan funding arrangements, commence a 60 day public consultation on the proposed new entity arrangements and, if required by the constitution, invite nominations for community directors during the public consultation period.*
 7. *At the February 2020 meeting, consider appointment of community directors to the governing body if such appointments are required by the adopted constitution of the new entity.*
 8. *Assist the governing body of the new entity in the recruitment and appointment of a Chief Executive Officer or interim chief operating officer of the new entity and provide advance loan funding if necessary to enable early employment of a suitable executive officer.*
 9. *Make all arrangements necessary to enable transfer of all CC&S operations, liabilities operating assets, functions and accommodation occupancy to the new entity in such manner to ensure uninterrupted continuation of CC&S operations from 1 July 2020.*
- B. Council endorse the recommendations as detailed in the body of this report with respect to the draft Constitution as attached (Confidential Attachment B).
- a. That the Board meet at least 11 times in each financial year with the quorum for meetings being the number equal to half of all Directors plus one.
 - b. That the Board be established by using a skills-based approach with Board composition and selection being based on skills and experience including business management, corporate governance, financial and legal expertise, as well as specific expertise relevant to the business of the organisation. It is also recommended that employees of the entity not be eligible for Board membership, with former employees not being eligible within three years of their separation.
 - c. That the Board shall be comprised of 7 Directors.
 - d. Establish the initial Board by appointment of up to **7** of the Directors, applying a skills based approach to 4 of the positions and then all future Board appointments to be made by members at the Annual General Meeting.

- e. The term of the first Directors to be not more than 3 years from commencement of appointment with the right to re-nominate. The Board shall determine the order of Directors to stand down in such a way to avoid all positions becoming vacant at the end of the same term. The term of office of Directors elected thereafter to commence from the date of the Annual General Meeting at which they are elected and ends on the day of the third Annual General Meeting thereafter with the right to re-nominate.
 - f. That the draft Constitution provide an option for the establishment of Advisory Reference Groups, in accordance with recommendations of the recent Royal Commissions into Aged Care, and in order to take into account stakeholders feedback on service delivery.
- C. Council endorse the draft Business Case (refer Confidential Attachment D) and proposed funding contributions by way of a grant to the new entity as detailed in this report to be included in the documentation for consultation with the community.
- D. Public feedback be sought on the following options:
- i) Council proceed to create a separate not-for-profit community based entity (independent of Council) to manage and operate Clarence Care + Support.
 - ii) Council cease operation of Clarence Care + Support.
 - iii) The status quo remain with management and operation of Clarence Care + Support retained by Council.

Voting recorded as follows:

For: Simmons, Toms,

Against: Baker, Kingsley, Lysaught

The Motion was put and declared LOST.

COMMITTEE RECOMMENDATION

Baker/Lysaught

That this matter be deferred to full Council meeting on 26 November 2019.

Voting recorded as follows:

For: Baker, Lysaught, Toms, Simmons, Kingsley

Against: Nil

COUNCIL RESOLUTION - 6a.19.035

Baker/Toms

That Council:

Firstly, reject all the tenders received at the 22 March 2019 meeting for item 22.002.19 and in accordance with clause 178.3(e) of the Local Government Act, enter negotiations with the 3 organisations identified as 2, 3 and 4 in Key Issues with a view to making an agreement in relation to the operation of Clarence Care and Support; and

Secondly, continue implementation of Resolution 08.19.002 after exclusion of Point 2 of that resolution by:

- 1. Enabling, subject where necessary to the consent of the Minister for Local Government, a takeover of all Clarence Care & Support (CC&S) operations by:**
 - a) a suitable existing community based not-for-profit legal entity or in the event a suitable entity is unable to be adopted,**

b) a community based not-for-profit legal entity created for the purpose, where such take-over arrangements will be on the basis of Council satisfying all legal obligations in the winding up of its CC&S business including obligations to employment arrangements, funding, leasing and NDIS contract obligations and with the existing or new entity to be entirely responsible for control of its own governance, management, accommodation, recruitment, employment, funding, leasing and NDIS contract obligations and all business arrangements.

2. Continue to inform the current recipients of CC&S services, all CC&S employees and the general public of the intent and provisions of this resolution.
3. Disband the CC&S committee and receive reports when necessary on at least matters arising in the implementation of Point 1. of this resolution.
4. Commence, after adoption of a course of action from 1a. and 1b. above, a 60-day public consultation period on the intended outcomes to be achieved by this action.
5. Where 1b. above is adopted as the course of action; initiate a process during the consultation period to appoint suitable independent skills-based community members tasked with the process of establishing a suitable new entity that is beyond Council control.
6. Where 1b. is adopted and a governing body constituted; assist the governing body of the new entity in the recruitment and appointment of a Chief Executive Officer or interim chief operating officer and provide advance loan funding if necessary, to enable early employment of a suitable executive officer.
7. Where either of 1a. or 1b. is adopted; make all arrangements necessary to enable transfer of relevant CC&S operations, liabilities, operating assets, functions and accommodation occupancy if required, with such arrangements to be at commercial rates to the entity and in such manner to ensure uninterrupted continuation of current CC&S operations from commencement.
8. Where either of 1a. or 1b. is adopted; give consideration to an offer of interest-only loan funding at zero interest for 3 years to enable the entity to accommodate transitional, startup and cashflow needs.

Voting recorded as follows:

For: Baker, Clancy, Ellem, Kingsley, Lysaught, Novak, Simmons, Toms, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.6 Ensure decisions reflect the long-term interest of the community and support financial and infrastructure sustainability

BACKGROUND

In 2018 Council commenced a process to investigate the future options for the on-going operation of services provided by Clarence Care + Support (CCS). Due to a range of internal and external factors it was concluded that CCS would not be sustainable if it continued to deliver services under the restrictive requirements of the local government framework. This process has culminated in Council adopting the following resolution (refer Item 08.19.002) at its August 2019 meeting:

That Council, having completed a thorough investigation and consultation period of some 12 months:

- 1. Decline to transfer all of Clarence Care + Support (CC&S) from Council to a non-Council, not-for-profit entity as proposed at a cost to Council in excess of \$1.9 million.*
- 2. Retain sole ownership and control of CC&S by the creation, subject to the consent of the Minister for Local Government, of a wholly owned not-for-profit legal entity to take over the governance control, management and the continuing operation and function of CC&S commencing 1 July 2020 with the new entity to have primary purposes of at least;*
 - a) delivery of a service level, at not less than the current level of service, to current service recipients resident in the Council area and,*
 - b) creation of no disadvantage to existing service recipients resident within the Council area and,*
 - c) creation of no disadvantage to current employees for a period of 3 years and,*
 - d) the provision of community care and support services and the provision of any other community benefit functions allowable to not-for-profit entities as recommended by the governing body and approved by the Council and,*
 - e) a Constitution that ensures the governing body is made up in such a way that elected Councillors make up at least one more than one-half of the directors of the governing body.*
- 3. Immediately inform the current recipients of CC&S services, all CC&S employees and the general public of the intent and provisions of the preceding point 2 of this resolution.*
- 4. Form a committee of the Mayor, Deputy Mayor and all Councillors to work with the General Manager, a legal practitioner experienced in setting up and governance of not-for-profit entities, and any financial advisor considered necessary by the committee, to receive and consider by end of October 2019, a business case, a draft constitution, an operating model and a funding model suitable to the successful operation of the proposed new entity.*
- 5. Receive from the Committee at the November 2019 meeting a proposed constitution and a report on any other transitional and loan funding requirements required to enable an orderly transfer of CC&S to the new not-for-profit entity on 1 July 2020.*
- 6. Commencing 1 December 2019 and subject to adoption of a constitution and any other transitional and loan funding arrangements, commence a 60 day public consultation on the proposed new entity arrangements and, if required by the constitution, invite nominations for community directors during the public consultation period.*
- 7. At the February 2020 meeting, consider appointment of community directors to the governing body if such appointments are required by the adopted constitution of the new entity.*
- 8. At the February 2020 meeting, appoint the Mayor and Councillors as required by the Constitution to the governing body of the new entity and disband the committee formed at point 4 of this resolution.*
- 9. Assist the governing body of the new entity in the recruitment and appointment of a Chief Executive Officer or interim chief operating officer of the new entity and provide advance loan funding if necessary to enable early employment of a suitable executive officer.*
- 10. Make all arrangements necessary to enable transfer of all CC&S operations, operating assets, functions and accommodation occupancy to the new entity in such manner to ensure uninterrupted continuation of CC&S operations from 1 July 2020.*

This report presents to Council progress to date on implementing this resolution and seeks direction with respect to the constitution for the proposed new entity and considers the draft Business Case for endorsement for public consultation.

KEY ISSUES

Key criteria to obtain Minister for Local Government consent

Section 358 of the Local Government Act 1993 restricts councils in forming or participating in the formation of a corporation or other entity without first obtaining the consent of the Minister for Local Government.

Circular 07-49 (issued by the then Department of Local Government in 2007) sets out the key criteria which Council's must address in their application to the Minister (refer Attachment A). The criteria can be summarised as follows:

1. The proposal must be consistent with Council's functions and services
2. The entity must be separate from Council legally, financially and managerially
3. The impact on Council from a financial perspective must be duly considered. Is Council currently viable?
and
4. What is the impact of the proposal on existing Council staff?

Staff from the Office of Local Government have advised Council's application to the Minister will take a minimum of 3 months before a decision is made.

Consultants, Locale Consulting, have been appointed to assist with the development of the Business Case and application to the Minister and progress on the development of the Business Case will be discussed later in this report.

Development of Draft Constitution

A draft Constitution for the proposed new entity has been prepared by legal advisors Governance by Design (refer Confidential Attachment B). A discussion paper (refer Confidential Attachment C) has also been prepared to enable consideration of the key issues prior to determining the final compilation of the constitution.

The draft Constitution must be appropriate for Clarence Care + Support into the future as well as meet the requirements of both the Corporations Act 2001 (Cth) and the Australian Charities and Not-for-profit Commission Act 2012 (Cth).

A key guiding clause of the Constitution for the new entity is the object for which Clarence Care + Support is established and it is recommended that they be as follows:

- (a) To provide high quality community care, support and assistance for clients and their carers and families who require personal and social assistance and services such as home-based aged or disability care and /or assistance in achieving and maintaining sustainable living conditions, wellness or community inclusion;
- (b) To promote awareness of and improve the mental health, quality of life and wellbeing of clients and their carers and families;
- (c) To promote, provide support services to, and facilitate improvements for clients and their families by providing support services;
- (d) To advocate for greater Government support and more effective policies and programs, in relation to affordable support services for clients and potential clients;
- (e) Collaborate with other services and Government agencies or departments to increase support services for disadvantaged persons in the community;
- (f) To administer funding programs by any Government agency;

- (g) To grow and develop Clarence Care and its services, operations and facilities through any means considered by the Board to be appropriate, including by means of alliances with other organisations that have similar objectives to Clarence Care; and
- (h) To do all such other lawful things and make such agreements as are incidental to or necessary or convenient or desirable for, the attainment of the above objects.

In accordance with Point 2 of the August meeting resolution the draft Constitution has been prepared based on Council being the sole member of the new entity, plus it also provides for the Council to appoint the majority of Directors with the Board itself appointing the remainder of the Directors. This structure provides Council with full control of the new entity.

Governance by Design has provided the following advice: *"It is important to note that, regardless of the method of Director appointment, the Corporations Act provisions in relation to companies limited by guarantee would continue to apply. Those provisions would allow Council, as sole member, to remove a Director at any time if Council did not consider that they were fulfilling their duties or were otherwise not acting appropriately"*.

A key issue that Council needs to consider is whether Council wants to continue to have full control over the new entity. Council's Auditor, who is engaged by the NSW Audit Office, Adam Bradfield from Thomas Noble & Russell has advised that if Council were to structure the new Constitution as Council being the sole member this would mean Council has "control" of Clarence Care + Support and the Accounting Standards would require Council to consolidate the Clarence Care + Support financials into Council's financial accounts each year.

As discussed above one of the key requirements that need to be addressed in Council's application to the Minister is whether the entity is separate from Council legally, financially and managerially.

With Council being the sole member and having authority to appoint the majority of board members it is likely that Council will not be able to satisfy this requirement of the Minister for Local Government.

Governance by Design have also prepared further advice around the structure of the constitution to meet this requirement (refer Confidential Attachment E).

Further points of clarification with respect to the draft Constitution that have been raised by Governance by Design are as follows:

1. Currently the draft Constitution provides for the Board to meet at least 9 times in each financial year. Is any amendment to the proposed meeting frequency or quorum requirements required?

Recommendation

That the Board meet at least 10 times in each financial year with the quorum for meetings being the number equal to half of all Directors plus one.

2. Council's feedback is sought in relation to the Director eligibility criteria – particularly in relation to employee eligibility for Directorship.

Recommendation

That the Board be established by using a skills-based approach with Board composition and selection being based on skills and experience including business management, corporate governance, financial and legal expertise, as well as specific expertise relevant to the business of the organisation. It is also recommended that employees and of the entity not be eligible for Board membership, with former employees not being eligible within 3 years of their separation.

- Council's feedback is sought in relation to the suggested minimum and maximum size of the Clarence Care Board.

Recommendation

That the size of the Board be minimum (5) and maximum (7).

- What is Council's preferred model in relation to selection and appointment of Directors?

Recommendation

Council establish the initial Board by appointment of up to 4 of the Directors, applying a skills based approach, with the remaining 3 being Board Appointed Directors and then all future Board appointments to be made by the Board.

- Does Council require further advice in relation to either the issue of 'control' or nomination processes/committees?

Comment

See comments above regarding further advice being obtained with respect to the issue of 'control'. Should Council require additional advice, a resolution specifying that advice is required to be carried.

- Council's feedback is sought in relation to the maximum total term and staggered appointment process for Directors.

Governance by Design (refer page 6 of Confidential Attachment B) has provided the following direction with respect to the maximum total term and staggered appointment process for Directors.

The setting of a maximum term is becoming common practice to ensure Board-refreshment. It is quite common to have a limit of 9 years (3+3+3 terms) for governing body members, with the right to subsequently re-nominate after 1 term off the Board. We have currently provided for this in the Draft Constitution.

To ensure that there is not wholesale turnover of a governing body, we would generally recommend a staggered appointment process to ensure that not all Board members are up for election at the end of each term. For example, if the 3+3+3 year terms are agreed, it would be preferable for 1/3 of the Board to be required to step off each year and if eligible, be re-elected to the Board.

Recommendation

That a maximum term be of three years, and a maximum three terms (9 years) be applied to governing Board members, with the right to nominate after one term (3 years) off the Board.

That appointment of governing Board members be staggered in such a way to avoid all governing Board members positions becoming vacant at the end of the same term.

- Council's feedback is sought regarding establishment of Advisory Reference Groups.

Consultants Governance by Design (refer pages 6 and 7 of Confidential Attachment B) has provided the following direction with respect to the establishment of Advisory Reference Groups.

We have provided an option for Clarence Care to establish Advisory Reference Groups in the Draft Constitution. It is not essential for Clarence Care to have such groups. However, particularly in view of the recommendations of the recent Royal Commissions, which highlighted the importance of Boards taking into account the interests of all stakeholders, it is becoming more common for Boards to establish sector-based reference groups to ensure that stakeholder voices are heard.

We consider that inclusion of an ability to establish such Advisory Reference Groups would also align with the community consultation that is required as a condition of Ministerial approval for establishment of Clarence Care and indicate an intent to continue to consult into the future.

Recommendation

That the draft Constitution provide an option for the establishment of Advisory Reference Groups, in accordance with recommendations of the recent Royal Commission into Aged Care, and in order to take into account stakeholder feedback on service delivery.

Development of Business Case

Locale Consulting has developed the draft Business Case which is attached (refer Confidential Attachment D). The key points and assumptions from the draft Business Case are as follows:

- Clarence Care + Support as a stand alone entity is viable.
- The expected areas of growth are NDIS and Home Care Services.
- Future service mix is similar to existing services.
- Key assumptions in year 1 - based on current expenses plus additional costs for the establishment of not-for-profit entity, with anticipated increase in revenue of \$500,000.
- For year 2 and 3 – normal growth, expenses indexed by 3%.
- Similar operation structure, slightly flatter.
- Staff employment costs remain the same.
- Establishment of a CEO and associated costs recruitment and appointment.
- New finance and payroll systems as a priority.
- Inclusion of transition and establishment costs to be funded from existing reserves.
- Property (buildings) retained by Council and leased by the new entity.
- Other assets (such as vehicles, IT equipment, mobile phones, furniture) transferred to new entity.
- Liabilities (ELE and client funds) transferred to new entity with cash from existing reserves.
- Working capital provided to new entity by way of grant from Council from existing reserves (with current employee sick leave entitlements 100% transferred included in Working Capital amount).
- Any future funding required by new entity provided by loan at commercial terms.

Next Steps

December 2019/January 2020 - Public feedback sought on the following options:

1. Council proceed to create a separate not for profit community based entity (independent of Council) to manage and operate Clarence Care and Support.
2. Council cease operation of Clarence Care and Support.
3. The status quo remain with management and operation of Clarence Care and Support retained by Council.

February 2020 – feedback from the community considered by Council and application submitted to the Minister for Local Government.

As discussed above a key issue for Council is whether it wants to remain as the sole member and retain sole ownership and 'control' of the new not-for-profit entity as the August 2019 resolution requires. If this remains as Council's position then it is unlikely that the Minister for Local Government will provide her approval for Council to establish the new not-for-profit entity as Council's application to the Minister must demonstrate that the new entity is separate from Council legally, financially and managerially.

The officer recommendation assumes consideration of all recommendations provided by Locale Consulting and Governance By Design, and are recommended for endorsement.

COUNCIL IMPLICATIONS

Budget/Financial

Summary of Assets to be transferred to the new Clarence Care + Support entity

Asset Type	Amount	
Office Equipment/Furniture & Fittings	\$81,000	WDV as at 30 June 2019
Software TCM	\$29,545	WDV as at 30 June 2019
Fleet vehicles - 19	\$292,205	WDV as at 30 June 2019
IT Hardware	\$22,049	WDV as at 30 June 2019
TOTAL PROPERTY, PLANT & EQUIPMENT	\$424,799	

Summary of ELE and Cash Reserves to be transferred to the new Clarence Care + Support entity

ELE Liability/Cash Reserve	Amount	Funded By	
		RA 10240 Admin	General Fund
CCS Staff Annual Leave* – 100%	\$242,166	\$181,624	\$60,542
CCS Staff Long Service Leave* – 100%	\$489,005	\$366,754	\$122,251
CCS Staff TIL/RDO* – 100%	\$15,913	\$11,935	\$3,978
CCS Staff Sick Leave* – 100%	\$580,948	\$580,948	
Working Capital	\$400,000	\$400,000	
TOTAL	\$1,728,032	\$1,541,261	\$186,771

*Note – CCS staff ELE balances as at 30 June 2019. Balances are to be updated at the date of transfer to the new entity.

It is proposed that working capital be provided to the new entity by a grant from Council of \$400,000 plus 100% of the balance of the current employee's sick leave balances as at transfer date (as at 30 June 2019 this balance was \$580,948).

It is also proposed that a total of \$350,000 will be required for establishment and transition costs (Reference Locale Consulting).

Funds in the CCS reserves as at 30 June 2019 consist of:

Client unspent funds – these funds are included in restricted reserves as a requirement under the provision of Home Care Packages. Each customer has an account and if they do not spend all of their allocated funds from fees and Medicare subsidies these are then returned to the government and the customer/family on exiting. This is calculated back to the start of their package allocation hence funds accumulate over time.

Other funds – accumulated over time from grants and private service provision.

Summary of Clarence Care + Support Financial Reserves

Account details	Balance as at 30 June 2019
10240 – CCS Administration Reserve	\$3,288,010
14040 – CCS Regional Assessment Service	\$46,672
83180 – FNC Innovative Care Program	\$496,620
83185 – Short Term Restorative Care	\$308,257
Total	\$4,139,559
31185 – Client unspent funds	\$1,495,108
Total including unspent funds	\$5,634,667

Consultant costs for the preparation of the constitution, business case and application to the Minister for Local Government are anticipated to be approximately \$60,000 plus GST with Clarence Care + Support contributing \$40,000 to these costs with the balance being funded from the General Manager's organisational improvement consultant budget.

Summary of Clarence Care + Support Financial Reserves as at 30 June 2019 to be transferred to the new Entity

Account details	Indicative amount transferred to new entity based on 30 June 2019 balances	Balance available to CVC	Balance as at 30 June 2019
10240 – CCS Administration Reserve	\$1,541,261	\$1,746,749	\$3,288,010
14040 – CCS Regional Assessment Service	\$46,672	-	\$46,672
83180 – FNC Innovative Care Program	\$496,620	-	\$496,620
83185 – Short Term Restorative Care	\$308,257	-	\$308,257
Total	\$2,392,810	\$1,746,749	\$4,139,559
31185 – Client unspent funds	\$1,495,108	-	\$1,495,108
Total including unspent funds	\$3,887,918	\$1,746,749	\$5,634,667

Asset Management

Details of assets involved in the transfer to the new Clarence Care + Support entity are provided in the body of the report.

Policy or Regulation

Should Council resolve to provide the working capital funding and Plant and Equipment assets to the new Clarence Care + Support entity (which Council does not control) by way of a grant Council will be required to advertise this intent to the community in accordance with the provisions of *Section 356 of the Local Government Act 1993*.

Consultation

A workshop was held with Councillors on Tuesday 29 October to discuss aspects of the Draft Constitution and progress in developing the business case and submission to the Minister for Local Government.

Legal and Risk Management

In accordance with Section 358 of the Local Government Act Council must obtain consent from the Minister for Local Government to form the new entity. A key requirement is that Council must demonstrate that formation of the new entity is in the public interest.

The Draft Constitution for the new Clarence Care + Support entity must meet the requirements of both the Corporations Act 2001 (Cth) and the Australian Charities and Not-for-profit Commission Act 2012 (Cth).

Climate Change

N/A

Prepared by	Ashley Lindsay – General Manager
Attachment	A – DLG Circular 07-49
Confidential	B – Draft Constitution C – Governance by Design discussion paper D – Draft Business Case E - Governance by Design Advice
Attachment	F – Resolution 08.19.002 with tracked changes

ITEM 6a.19.036 BUSHFIRE RECOVERY WASTE DISPOSAL CHARGES

Meeting	Council	26 November 2019
Directorate	Corporate & Governance	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Nil	

SUMMARY

This report acknowledges the impact of waste disposal charges on bushfire recovery and considers fee reductions to assist with the recovery process.

OFFICER RECOMMENDATION

That the following bushfire recovery waste disposal charges be adopted for waste generated within Clarence Valley local government area:

1. State Government funded general waste \$90/tonne GST inclusive.
2. State Government funded asbestos waste \$170/tonne GST inclusive.
3. General waste from uninsured properties and properties not eligible for State Government funding \$30/tonne GST inclusive.
4. The revised charges be place on public exhibition

COUNCIL RESOLUTION – 6a.19.036

Williamson/Lysaught

That the following bushfire recovery waste disposal charges be adopted for waste generated within Clarence Valley local government area:

- 1. State Government funded general waste \$90/tonne GST inclusive.**
- 2. State Government funded asbestos waste \$170/tonne GST inclusive.**
- 3. General waste from uninsured properties and properties not eligible for State Government funding be zero.**
- 4. The revised charges be placed on public exhibition for a period of 28 days. Subject to no submissions being made, Council adopt the fees as above.**
- 5. Council seek Ministerial approval to implement the fees immediately.**

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Clancy, Ellem, Novak, Williamson, Lysaught, Toms

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 2.1.2 Ensure adequate natural disaster management

BACKGROUND

The Clarence Valley along with a number of other regional areas continues to be impacted by devastating bushfires resulting in a large number of residential properties that have been damaged or destroyed. Impacted communities are in the early stage of the recovery process and one of the major issues being faced is the disposal of bushfire generated infrastructure waste. The Office of Emergency Management has requested Council determine a landfill disposal charge that would apply to general and asbestos contaminated waste delivered to the Grafton Regional Landfill from properties receiving State Government Disaster Relief Grants.

Council should also consider the impact of waste disposal charges on property owners who are not eligible for State Government disaster relief funding and are uninsured.

KEY ISSUES

1. Adopted 2019/20 waste disposal charges – general waste \$200/tonne GST inclusive, asbestos waste \$280/tonne GST inclusive.
2. The NSW Government has removed the Section 88 waste levy from all bushfire related waste received at the Grafton Regional Landfill which will reduce waste charges by \$82.70 per tonne.
3. The NSW Government has agreed to fund the clean-up and disposal of asbestos contaminated waste from all uninsured bushfire impacted properties.
4. The State Government will be funding the clean-up and disposal of bushfire impacted general waste from uninsured properties that are eligible for a disaster relief grant.
5. The Office of Emergency Management has requested Council review waste disposal charges for properties receiving clean-up funding from the State Government (Disaster Relief Grant) based on the actual cost of providing the service. Based on the 2017/18 financial year the average per tonne surplus after costs and future provisions were accounted for was \$25 per tonne. If Council reduced disposal charges by the \$25 the general waste disposal charge would be \$90 per tonne GST inclusive and \$170 per tonne GST inclusive for asbestos contaminated waste.
6. For properties that are not insured and are not eligible for a Disaster Relief Grant, Council may wish to establish a reduced disposal charge. Recognising the general waste management principle that there should always be a cost to waste disposal, it is suggested that a general waste disposal charge of \$30 per tonne GST inclusive, would be appropriate (a significant reduction from \$200).
7. There is no charge for scrap metal; Council is facilitating a coordinated metal collection program.
8. The complication with reducing waste disposal charges for bushfire impacted properties is being able to ratify who is insured and who is eligible for State Government funding. Data from the Office of Emergency Management should assist however on occasions it may be difficult for weighbridge operators to determine the source of the waste.

COUNCIL IMPLICATIONS**Budget/Financial**

The big unknown at this point is the quantity of waste involved and therefore the financial impact from any fee reduction.

As an indication, the quantity of asbestos waste and general waste from properties eligible for disaster relief could easily be in the order of 10,000 tonnes. The proposed \$25 fee reduction would result in a loss in landfill income of \$250,000.

It is also anticipated that uninsured and properties not eligible for disaster relief funding could generate a further 2,000 tonnes of general waste. A reduced disposal charge of \$30 GST inclusive for this waste would result in a loss in landfill income of \$159,000.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Amendment to Councils adopted fees and charges will require exhibition.

Legal and Risk Management

N/A

Climate Change

Landfill disposal of waste will increase emissions from the landfill; however most bushfire impacted infrastructure waste will be inert and only generate minimal emissions. Apart from scrap metal there is little scope for reuse or recycling.

Prepared by	Ken Wilson
Attachment	Nil

VOTE BY EXCEPTION**Kingsley/Baker****That the following Items be adopted:**

6b.19.043	6c.19.084	6d.19.005	6e.19.016
6b.19.044	6c.19.085		6e.19.017
6b.19.045	6c.19.086		6e.19.018
6b.19.047	6c.19.087		
6b.19.048	6c.19.088		
6b.19.049	6c.19.089		
6b.19.050	6c.19.091		
6b.19.051	6c.19.092		
6b.19.052	6c.19.094		
6b.19.054	6c.19.095		
	6c.19.096		
	6c.19.097		
	6c.19.098		

Voting recorded as follows:**For: Simmons, Lysaught, Baker, Clancy, Novak, Williamson, Toms, Ellem, Kingsley****Against: Nil**

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, Grafton on Tuesday, 19 November 2019 commencing at 3.30 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

I acknowledge the Bundjalung peoples, Traditional Custodian 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 Greg Clancy, Cr Debrah Novak, Cr Richie Williamson, Cr Jim Simmons (Mayor)

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

APOLOGY - 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.19.043	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Neighbour of Harwood Marine General Manager, Ross Roberts, but do not socialise. Intended action: Remain in Chamber.

ITEM	6b.19.043	DA2019/0369 TEMPORARY SECURE BOAT AND EQUIPMENT STORAGE FACILITY, LOTS 3 & 4 DP1155528, 60 CAREYS LANE, HARWOOD
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

<i>Applicant</i>	Harwood Slipway Pty Ltd T/A Harwood Marine
<i>Owner</i>	Harwood Slipway Pty Ltd T/A Harwood Marine
<i>Address</i>	60 Careys Lane, HARWOOD NSW 2465
<i>Submissions</i>	Seven

Harwood Marine has applied for the construction of a 80m x 30m fenced area to be used as a temporary storage area for the storage of equipment during construction of a new shed approved by Council under DA2018/0368 on 13 December 2018 on Lot 5 DP1155528, 162-164 River Road East, Harwood.

The shed will be located on the adjoining Lots 3 and 4 DP1155528 zoned IN4 Industrial and owned by the Harwood Marine.

The slipway operates under an Environment Protection Authority (EPA) Licence and the application was referred to the EPA for their general terms of approval. The EPA has advised Council that the proposal can be effectively regulated under the Environmental Protection Licence issued by the EPA.

There have been a number of objections to the proposal and this matter is reported to Council to consider the issues raised. This report provides an assessment of the application, a summary of the issues raised and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Development Application DA2019/0369 be approved subject to the schedule of draft conditions attached to the report.

COMMITTEE RECOMMENDATION

Williamson/Novak

That Development Application DA2019/0369 be approved after amending Condition 6 to now read:

- The use of the storage area is to cease 12 months after an Occupation Certificate is issued for the shed approved under DA2018/0368 on 13 December 2018 on Lot 5 DP1155528, 162-164 River Road East, Harwood.

The remaining conditions and advices remain as shown in Schedule 1 of this report.

Voting recorded as follows:

For: Williamson, Simmons, Novak, Baker

Against: Clancy

COUNCIL RESOLUTION – 6b.19.043

Kingsley/Baker

That Development Application DA2019/0369 be approved after amending Condition 6 to now read:

- 6. The use of the storage area is to cease 12 months after an Occupation Certificate is issued for the shed approved under DA2018/0368 on 13 December 2018 on Lot 5 DP1155528, 162-164 River Road East, Harwood.**

The remaining conditions and advices remain as shown in Schedule 1 of this report.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Following the rezoning of the land to IN4 Working Waterfront (rezoning application REZ2012/0003) Council approved a DA2018/0368 for a shed and mound for boat construction and storage on the slipway site, Lot 5 DP1155528, 162-164 River Road East, Harwood.

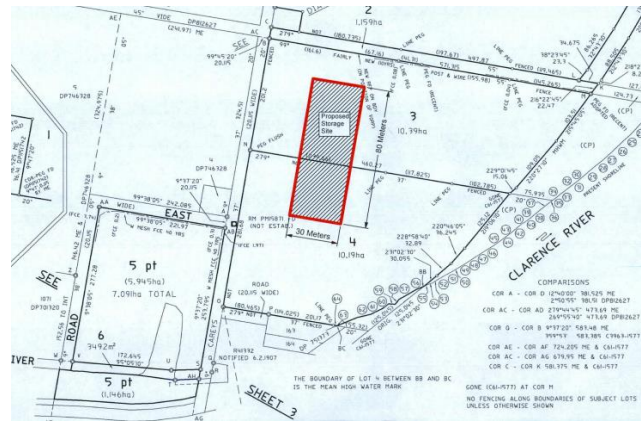
The applicant has stated that the proposal is seeking temporary storage for secure storage of boats and associated equipment to reduce congestion of the slipway yard during the construction of the new shed which is expected to be completed mid 2020.

The temporary use of the land will not involve any filling and will only require the installation of temporary security fencing around the area. The proposed hours will be restricted to weekdays between 7.00 am and 3.30 pm with access through the existing cane pad areas. The fencing will be a standard temporary fence with wire mesh with concrete blocks to hold the fence in place. No shade screening is proposed by the applicant, however, it is proposed that shade screening be required to reduce the visual impacts of the storage area.

No lighting is proposed for the storage area.

The application has been referred to the EPA who advised that the proposal can be effectively regulated under the Environmental Protection Licence for the Harwood Marine site and based on the information provided they have no objection to the proposal.

It is noted that the area shown on the site plan provided would constitute an area of around 240m x 100m. Following enquiries with the applicant it has been advised that the area shown on the plan was only indicative and the actual area to be used will be 80m x 30m only.



The application as lodged only included Lot 4 and following enquiry the applicant has requested the development to be amended to include Lot 3 in the land to be developed. In accordance with the Environmental Planning and Assessment Regulation 2000, Clause 55, a development application may be amended or varied by the applicant (but only with the agreement of the consent authority) at any time before the application is determined. It is agreed that this was an oversight of the original application and the application is amended accordingly.

KEY ISSUES

Seven submissions were received regarding the application and the issues raised are discussed below.

- Proliferation of unsightly equipment, trucks, boats, steel and rusty toxic rubbish and noise issues

Comment: The storage area is a temporary use and it will be required that the use of the land cease on completion of the shed on the slipway site. It will be a requirement that the storage area have the fencing panels sheeted with a synthetic material/shade cloth. All temporary fencing and temporary hoarding shall be erected by a competent installer in accordance to the specific hirer's instruction/installation manual. The temporary fencing and the storage area are to be maintained regularly and kept tidy and in good condition to address the concerns of the submitters.

- Buffer zones of industry to residential properties should be 1 km

Comment: The use is for temporary storage and not an industrial use. Conditions of consent will require that the site be used for storage only.

- Work hours - should be similar to hours set by RMS 7.00 am -5.00 pm Monday to Friday and 8.00 am to 2.00 pm Saturday and no works on Sunday.

Comment: As advised by the applicant the use of the site will be restricted to the hours of 7.00 am to 3.30 pm week days with no work permitted on Sundays and public holidays

- False and misleading information in the application

Comment: There were matters that needed clarification in regard to the lots subject to the development and the actual size of the storage area. These have been updated and are reflected in the application details.

- Part N - Development Control plan

Comment: The aim of the control is to provide a clearer and more detailed set of additional guidelines and requirements for the expanded Harwood Island Marine Industrial Precinct.

N2 Objectives	Comment
<p>O1. Minimise the impact of existing and future natural and man-made hazards upon the development within the precinct including upon adjoining land that is zoned E2 Environmental Conservation.</p> <p>Note: Particular hazards associated with this locality include but are not limited to flooding, drainage, riverbank erosion and acid sulfate soils.</p>	<p>The proposal can be suitably managed to address the impacts on existing and future hazards on the land from stormwater management, erosion and sediment runoff and flood impacts. The proposal is of sufficient distance from the nearest E2 zone and the river bank to mitigate any impacts. The actual works proposed are minor and temporary.</p>
<p>O2. Identify and demonstrate that all forms of pollution/polluting processes and associated potential environmental impacts are minimised.</p>	<p>The use of the site will not be an industrial use and ancillary temporary storage for the Slipway. The impacts will be minor and can be suitably managed.</p>
<p>O3. Protect the water quality of local waterways including the Clarence River.</p>	<p>No earthworks are proposed and no water quality impacts are likely during the use of the site.</p>
<p>O4. Ensure that development within the precinct has minimal impact only on the land and occupants of land within the surrounding locality including compliance with relevant noise, air and water quality guidelines.</p>	<p>There will be initial minor impacts during the setting up stage in regard to traffic and noise. The area is already impacted by nearby industry related activities from the existing Harwood Marine Facility and nearby Sugar Mill and Refinery. The impacts will be minor and not expected to impact on the surrounding environment.</p>
<p>O5. Ensure that the precinct is serviced with an adequate level and standard of infrastructure including a standard of road access appropriate to the scale and intensity of development activity proposed within the precinct taking account of the scale of existing marine industrial development in the immediate vicinity.</p>	<p>The proposal will require the relocation of boats and related machinery from the adjoining slipway site.</p> <p>It is noted that the establishment of a new access route is currently under construction for the recently zoned industrial precinct following Council's approval of the mound and shed under DA2017/0529 and the requirement to construct the haul route Option 1 is being undertaken.</p>
<p>O6. Complement the controls for that part of the precinct that is zoned W3 Working Waterways and that are contained within Clarence Valley Council Development Control Plan – Development in E and other zones 2011.</p>	<p>The proposed storage area is not proposed in the W3 or E zones.</p>
<p>1. More detailed flood assessment specific to the particular development and its components.</p>	<p>The original re-zoning process has broadly addressed the potential impacts of the precinct.</p> <p>The potential impacts of the development can be suitable addressed.</p>

2. More detailed assessment of impact on local drainage.	A detailed stormwater management assessment has been provided with the application for the shed under DA2017/0529 addressing the impacts on the surrounding drainage in and around the site. The drainage impacts from this proposal will not alter the existing drainage patterns. Stormwater management and erosion can be adequately managed.
3. Detailed flora and fauna assessment.	The site of the storage area will be over an area that has been disturbed from past agricultural uses including cropping and tilling activities. The impacts on the surrounding environment, including wetland, the Clarence River and E2 zoned areas, can be suitably managed so as to maintain the current or less impacts. The impacts on flora and fauna are considered to be negligible for the proposal.
4. Site specific Aboriginal cultural heritage assessment in accordance with OEH guidelines.	No known sites or places of Aboriginal significance have been identified on and around the site.
5. Measures to manage any cultural heritage artefacts that may be found on site during the development process, including Aboriginal and marine archaeological heritage.	The applicant has a responsibility or due diligence in respect to any Aboriginal material or objects should they be found or disturbed.
6. Noise assessment undertake in accordance with the NSW Industrial Noise Policy (NSW EPA, 2000) and Noise Guide for Local Government (NSW EPA, 2000) and which should provide a basis for managing and ameliorating all expected noise impacts including the determination of appropriate buffer distances between noise generating marine industrial activity and existing noise sensitive land uses.	<p>The proposal is for a storage facility for temporary storage for the slipway business.</p> <p>The area is already impacted by background noise of industry related activities from the existing Harwood Marine Facility and nearby Sugar Mill and Refinery. The impacts will be minor and not expected to impact on the surrounding environment above that already in place.</p> <p>Any noise generating activity related to the use of the site is to be restricted to the hours between 7.00 am to 3.30 pm weekdays.</p>

<p>7. Establishment of a road upgrade staging plan based on construction of route Option 1 of the Road Access Strategy (GHD, November 2013) submitted with the Planning Proposal, coincided with an application to construct development as indicated in the Planning Proposal's flood assessment. Any preliminary stages not calling up the need for road construction will need to be supported by a justifying traffic assessment.</p> <p>Refer to Map N2 for route Option 1.</p>	<p>The applicant has provided a Traffic Impact Assessment including a road pavement assessment and Road Safety for the approval of the shed under DA2017/0529.</p> <p>The establishment of a new access route is currently under construction for the recently zoned industrial precinct following Council's approval of the mound and shed under DA2017/0529 and the requirement to construct the haul route Option 1 is being undertaken.</p> <p>The traffic generated impacts from the use of the storage facility are not likely to increase above current uses other than the transportation of equipment for the fencing materials.</p>
<p>The aim is to consider land below mean high water mark or in close proximity to Crown land and land below mean high water mark.</p>	<p>The proposal will not impact on land below the mean high water mark and it will not impact on nearby Crown land.</p>

- Insufficient notification of the proposal

Comment: The application was advertised and notified in accordance with the Council's Development Control Plan. A copy of the report will be provided to nearby land owners that were identified through the exhibition of Part N amendments to the Industrial Zones Development Control Plan (the DCP) following the rezoning of the land so they have an opportunity to address Council in regard to the potential impacts of the development.

- The land use is not in keeping with the original re-zoning purpose

Comment: The land use will be a temporary ancillary use of the land to the adjoining slipway and consistent with the surrounding land uses.

- How can people be confident given that the developer is in breach of Condition 18 DA2018/0368 for the shed construction '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'.

Comment: The Clarence local government area has experienced some of the driest and windblown conditions experienced for some time. Dust from the concrete vehicles using adjoining gravel road (that are required to not use River Road East) has been an issue that is problematic and beyond reasonable measures to mitigate dust generation. The anticipated vehicle movements on and around the existing road network for the temporary storage facility will be minor and can be suitably managed by conditions of consent.

COUNCIL IMPLICATIONS

Budget/Financial

Council will not be financing or donating any of the costs for the development and the costs to Council are nil.

Asset Management

Council's current standards will be maintained and any damage to Council's assets will be at the cost of the developer.

Policy or Regulation

Environmental Planning and Assessment Act 1979
 Clarence Valley Local Environmental Plan 2011
 Clarence Valley Industrial Zones Development Control Plan

Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Council's Development Engineer and Building Surveyor	No concerns or issues raised.

Legal and Risk Management

Should the applicant be dissatisfied with Council's decision, they may exercise a right of appeal to the land and Environment Court.

Climate Change

The storage facility will not utilise significant energy and resources that results in emission of greenhouse gases (GHG). 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 a temporary storage facility to provide security as well as temporary storage during construction of the shed on the slipway site.

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none"> 1. Applicant's submission 2. Plan 3. Submissions 4. S4.15 Assessment Report 5. Part N – DCP Controls
Confidential	6. Three submissions have requested confidentiality and are tabled as confidential attachments to this report. It is noted that the issues raised in these submissions are raised in the Key Issues section of the report.

Schedule 1 Draft Advices and Conditions**ADVICES**

1. No earthworks are approved under this development application.
2. The land is subject to an Environment Protection Authority (EPA) licence and the use of the land is to be consistent with that licence.
3. 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.

CONDITIONS

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA). The storage area is to be located in the area shown in red on the plan of Redefinition of Lot 362.
2. The storage area is approved as being ancillary to the Harwood Marine Operations and is not to exceed an area of 80 metres x 30 metres. The storage area is not to be used for any industrial or commercial purposes other than the storage of boats and associated materials.
3. The fencing is to be in accordance with AS4687-2007, be self-supporting and modular system, secured by interlocking and supported with a base plate, block, counterweight or other fixing methods. The panels are to be sheeted with a synthetic material/shade cloth and welded mesh.
4. All temporary fencing and temporary hoarding shall be erected by a competent installer in accordance to the specific hirer's instruction/installation manual.
5. The temporary fencing and all of the components shall be of a good condition and maintained regularly and kept tidy and in good condition.
6. The use of the storage area is to cease 3 months after an Occupation Certificate is issued for the shed approved under DA2018/0368 on 13 December 2018 on Lot 5 DP1155528, 162-164 River Road East, Harwood.
7. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
8. 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.
9. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual Exceedance Probability (AEP) water level in the vicinity of the site is RL 2.92m AHD and the Extreme Flood Level is RL 4.38m AHD.

10. All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the Clarence Valley Council Development Control Plans and **NRDC**.
11. In the event of the land being affected by a flood all boats and equipment stored on the site are to be secured so that they will not move from the storage area.
12. Any vehicular crossings instated by this development are to be removed, and the kerb restored to match the existing kerb profile on the cessation of use of the storage area.
13. During the use of the site the applicant must ensure that vehicles and plant associated with the use 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.
14. During dry weather, standard dust suppressions methods are to be used as often as it necessary to ensure that adjoining properties are not adversely affected by undue dust.
15. Suitable measures shall be provided on site for preventing dust or materials that could become wind blown.
16. Any disturbed areas shall be stabilised and revegetated. 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.
17. Working hours and use of the storage facility including construction or demolition of the storage facility shall be limited to the following:
7.00 am to 3.30 pm week days
No work permitted on Sundays and public holidays

The applicant 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.
18. All erosion and sediment control measures if necessary are to be installed and are to be constructed and maintained to prevent sediment from leaving the site or entering downstream properties, drainage lines or watercourses
19. Vehicular access is to be restricted to one stabilised access point.
20. No lighting is to be installed on the fences or within the storage area.
21. The area is to be kept tidy and maintained e.g. grassed areas mown at all times.

ITEM	6b.19.044	DEVELOPMENT APPLICATION SUB2019/0025 – PROPOSED 68-LOT RESIDENTIAL SUBDIVISION INCLUDING PUBLIC RESERVE, DRAINAGE RESERVE AND RESIDUE LOT – 966 SUMMERLAND WAY (ADJACENT TO TRENAYR ROAD), JUNCTION HILL
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Andrew Fletcher & Associates Pty Ltd
<i>Owner</i>	Farlmatt Pty Ltd
<i>Address</i>	966 Summerland Way, Junction Hill (site adjacent to Trenayr Rd north of Martin Crescent)
<i>Submissions</i>	Five public submissions

The Junction Hill Urban Release Area is recognised as one of the major urban residential growth areas in the Clarence Valley. This development application seeks to progress development of that area with a 68-lot residential subdivision development, including provision of public land, that is consistent with the original design and layout of the concept approval for the release area issued by Council in 2012. Some conditions contained in the original concept approval issued need to be revised in determining this application due to the Applicant's proposal, contemporary Policy and staff recommendations.

Public submissions lodged in respect of the proposed development provide some concerns and it is considered that these can be adequately managed as proposed in the application or in recommended conditions of approval. The development is deemed to be in the public interest and conditional approval is recommended.

OFFICER RECOMMENDATION

That Council:

1. Resolve to accept variations to the DCP for Development in Residential Zones, in particular clause J7 to allow a narrower battle-axe handle width on proposed Lot 34 and clause J8 to enable creation of allotments below 560m² recognising these lots can accommodate a compliant dwelling even though supporting information did not accompany the application;
2. Support the dedication of a 20-metre wide public reserve along the Trenayr Road frontage of the development site with the reserve to be landscaped with tree plantings;
3. Require a minimum of seven (7) 450m² residential allotments to encourage provision of affordable housing in accordance with Council's Affordable Housing Policy and that these small allotments be required on the flatter land so that each lot can have improved function and usability;
4. Resolve to grant development consent to Development Application No SUB2019/0025, being for a residential subdivision comprising 68 allotments, a public reserve, a drainage reserve, and a residue lot subject to the advices and conditions provided at Schedule 1 to this report.

COMMITTEE RECOMMENDATION

Clancy/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.044**Kingsley/Baker****That Council:**

1. Resolve to accept variations to the DCP for Development in Residential Zones, in particular clause J7 to allow a narrower battle-axe handle width on proposed Lot 34 and clause J8 to enable creation of allotments below 560m² recognising these lots can accommodate a compliant dwelling even though supporting information did not accompany the application;
2. Support the dedication of a 20-metre wide public reserve along the Trenayr Road frontage of the development site with the reserve to be landscaped with tree plantings;
3. Require a minimum of seven (7) 450m² residential allotments to encourage provision of affordable housing in accordance with Council's Affordable Housing Policy and that these small allotments be required on the flatter land so that each lot can have improved function and usability;
4. Resolve to grant development consent to Development Application No SUB2019/0025, being for a residential subdivision comprising 68 allotments, a public reserve, a drainage reserve, and a residue lot subject to the advices and conditions provided at Schedule 1 to this report.

Voting recorded as follows:**For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms****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 subdivision forms part of a staged or concept development previously approved under SUB2012/0017 in August 2012. The subdivision covered the Junction Hill Urban Release Area, including concept plans for the development of the area and a variety of technical reports. The current proposal is consistent with the concept plan for the subject site approved by SUB2012/0017.

A variety of residential lot sizes and layouts are proposed, with lots ranging in size from 450m² to 1,183m² with the majority of the allotments between 700m² and 800m². The majority of allotments also have a north-south orientation providing excellent opportunity for solar access to future dwellings and private open spaces. One public reserve is proposed parallel to and alongside the Trenayr Road reserve. A drainage reserve is proposed to contain stormwater management measures to service the eastern sub-catchment of the subdivision. Both reserves are proposed to be dedicated to Council. The subdivision layout is shown in Figure 1 below.

Staged release of the lots is proposed as follows:

- Stage 1 = 21 residential lots, a public reserve, a drainage reserve and residue lot; and
- Stage 2 = 47 residential lots plus a residue lot.

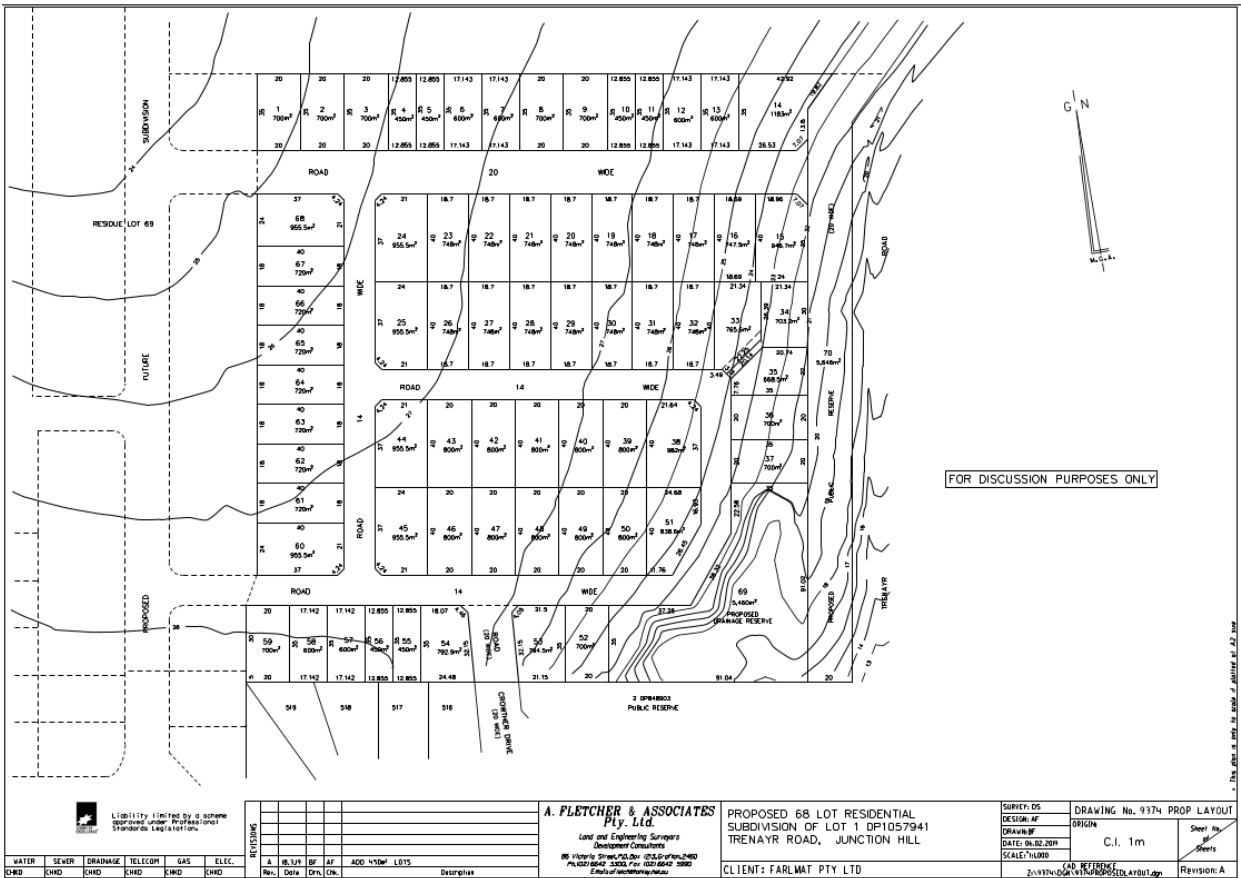


Figure 1 – Proposed subdivision layout for SUB2019/0025.

More details of the proposal are contained in the Statement of Environmental Effects submitted with the application (refer to Attachment 3).

KEY ISSUES

Strategic Context – The subject land is located within the Junction Hill Urban Release Area (URA). The URA, shown coloured orange in Figure 2, is located at the northern side of the existing Junction Hill urban area. A staged development application (SUB2012/0017) was approved by Council in August 2012. That development consent approved concept approval for the entire URA as well as approval of the detail of Stages 1A and 1B. Stage 1B has since been completed west side of the Summerland Way (see Figure 2). Stage 1A located on part of the URA east of the Summerland Way has not commenced. Future stages, such as the stage now proposed and shown outlined in red on Figure 2, need to be subject to separate development applications. Since the 2012 development, consent for one (1) additional stage of residential subdivision has been approved to the west side of Summerland Way adjacent to the north edge of the URA.

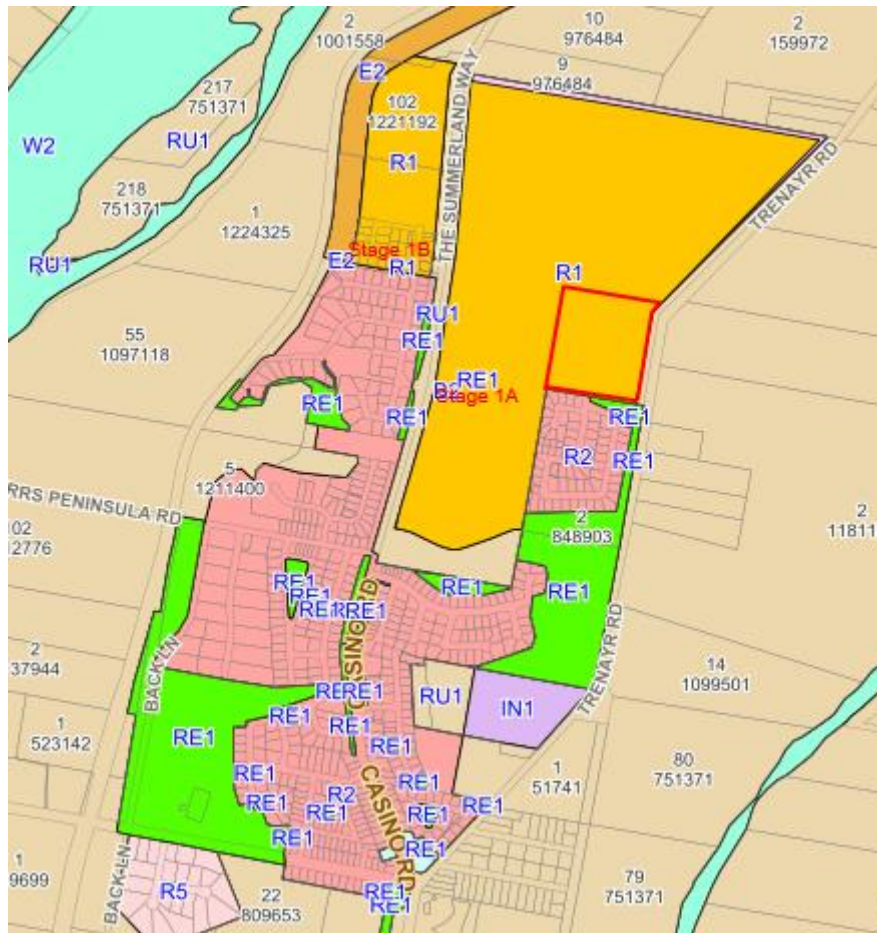


Figure 2 – Junction Hill Urban Release Area in relation to the existing Junction Hill village.

The proposed subdivision shown at Figure 1 is consistent in design and layout with the approved concept DA and the strategic context.

Access to proposed subdivision – This DA has been designed to have vehicular access from both Trenayr Road directly and via Martin Crescent and Crowther Drive through the ‘Baileys Estate’ precinct immediately adjoining and south of the subject land (see Figure 1 and Figure 2). The proponent has requested that the first 21 residential allotments, comprising Stage 1 of the proposed development, be initially accessed via ‘Baileys Estate’. In addition, a temporary construction access off Trenayr Rd is proposed to enable access for construction of civil works for both Stage 1 and 2 without heavy vehicles needing to access and manoeuvre through the existing residential subdivision to the south. A permanent intersection and access off Trenayr Road is proposed to service the subdivision by the time Stage 2 lots are released. This intersection will be adequate for traffic loads associated with the proposed 68 lots, however, when future stages of development occur to the north and west the intersection may require upgrading. This can be assessed and managed through future approvals. In accordance with the concept plan for the urban release area there will eventually be vehicular access linking Summerland Way and Trenayr Road.

Dedication of Public Reserve – The original concept development consent did not require dedication of the 20-metre wide public reserve adjacent to the Trenayr Road frontage of the development site. The Applicant has shown the dedication on the proposed plan of subdivision and offered the dedication through documentation lodged with the application. Council officers are supportive of the dedication and it is recommended that this be supported by Council. Should Council not agree to dedication of the public reserve alongside Trenayr Road then an additional condition requiring a restriction on proposed Lots 14-15 and 34-37 (inclusive) should be required to prohibit direct vehicular access to Trenayr Road should be applied.

Affordable Housing Policy – Council adopted this Policy in October 2015. For residential subdivision developments exceeding 10 lots the Policy requires at least 1 (or 10%) to be small lots of 450m² to promote land affordability and development of those allotments with smaller scale, affordable housing options. The original concept development consent required a minimum of 5% of allotments to satisfy this criteria. The proposed subdivision development proposes 6 small lots (or 8.8%) that achieve the size criteria stated in Council's Policy. Adjusting the current requirement in the concept approval to require 10% of lots in accordance with Council's current Policy would require one (1) additional 450m² lot in the proposed subdivision. It is recommended that this change be made to be consistent with Council's Affordable Housing Policy and current developments of a similar type.

DCP Variations (Battle-axe handle width and small lot requirements) – Clause J7 with respect to lot layout requires that battle-axe shaped lots shall have a minimum handle width of 5 metres. Lot 34 within the proposed subdivision (see Figure 1) has a battle-axe handle width of 3 metres, however, it is proposed to benefit from a reciprocal right of way (ROW) over Lot 33 that effectively adds an extra 3 metres of driveway width, or a total of 6 metres width. In the circumstances the variation is recommended to be accepted by Council. The battle-axe lot and ROW arrangements otherwise meet other DCP requirements.

Clause J8 of the Council's DCP states that for lots less than 560m² but greater than 450m², a plan showing a concept design for a dwelling demonstrating full compliance with the DCP (particularly clause C19 & C20) is required to be submitted with a DA. Six of the proposed lots have an area between 450-560m² and all have similar dimensions of 12-13 metres width/frontage and 30-35 metres depth.

A concept plan of a dwelling house fitting on these allotments has not been submitted with the application, however, Council staff are satisfied that a small, affordable-style dwelling with required private open space and landscaped area to meet relevant DCP requirements can be built on these allotments provided these small lots are located on the flatter land where the available land area can be better utilised. The requirement to adjust the location of some of the smaller lots makes practical sense and is considered appropriate to maximise opportunity for appropriate residential development on these smaller lots.

Public Submissions - Five public submissions have been received. The main concern relates to access to the new subdivision through the Bailey's Estate. Such access is consistent with the concept approval for this area and controls on construction vehicle access will be included to limit potential impacts associated with construction vehicles moving through the established subdivision to the south. The temporary access for the Stage 1 and 2 construction phases will be made permanent before Stage 2 is released. This has been requested in some submissions.

The Stage 1 release of 21 residential lots is only proposed to have access via Bailey's Estate. This will increase vehicle movements through the Trenayr Road and Martin Crescent intersection post-occupation of the Stage 1 allotments by approximately 30%. This is considered to be acceptable.

Assurance that stormwater flooding will not occur has been sought in one submission. The stormwater detention basin in the proposed drainage reserve is shown on the Overall Stormwater Management Layout Plans to cater for the 1% rain event for the eastern half of the site. The balance of the development will need to drain to the north-west consistent with the Overall Stormwater Management Layout Plans. Detailed design for stormwater management to treat stormwater quality and quantity to ensure pre-development flows and levels are not increased will be required with the Civil CC.

The order of staging of the urban release area is a concern stated in one submission. They would prefer to have the central spine of the release area immediately east of the Summerland Way developed before this stage. The original concept DA did not adopt or require a particular order of staging and Council has traditionally not attempted to control staging of subdivision development through land release strategies. The requested stage of development can be constructed to adequately and acceptably function without a

connection to the Summerland Way at this time. Such access will be facilitated by future stages and at an undefined timeframe.

Support for more green space that is designed with user safety in mind, consistent with the proposed DA, is stated in one submission.

Trenayr Road may be impacted by vehicles, especially construction phase, and Council officers are recommending conditions to ensure the developer pays for damages attributable to that work. The new Trenayr Road intersection required prior to release of Stage 2 will be adequate to service this stage of development, however, future intersection upgrading is likely to be required when traffic loading and demand warrants that change.

COUNCIL IMPLICATIONS

Budget/Financial

Processing of the development application is funded through recurrent staff budgets. Hand over of future public assets required to be installed to service the development will create future costs for maintenance and repair by Council. Council officers take all reasonable measures to ensure that the standard of construction and early life-cycle maintenance by developers meets the applicable standards to maximise life and minimise maintenance costs for Council. See also Asset Management below.

Asset Management

New civil works to be constructed and to become Council assets. All new civil works will be designed and constructed to ensure they are compliant with relevant standards, cater for the needs of the proposed development and are suitable for Council to accept. Public reserve and drainage reserve proposed to be dedicated to Council.

Assessment of the pavement condition in Trenayr Road adjacent to the proposed construction access is recommended to ensure that the developer repairs any damage to that asset as a result of heavy vehicles and construction traffic accessing the site during construction of civil works. Existing sewerage infrastructure downstream of the site will be upgraded if necessary following completion of a detailed sewerage assessment and design.

Policy or Regulation

State Environmental Planning Policy No 55 (Remediation of Land)

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Clarence Valley Council Development Control Plan – Development in Residential Zones

CVC Affordable Housing Policy

Consultation

The Development Application was advertised and notified in accordance with the requirements of the relevant Council's Development Control Plan. Five (5) submissions from owners of adjoining or nearby lands have been provided to Council and each submission is attached in full to this report. Refer to earlier discussion in 'Key Issues'.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Open Spaces and Facilities	Recommends approval with conditions
Development Engineer	Recommends approval with conditions
Environmental Officer	Recommends approval with conditions

Legal and Risk Management

A determination of a development application by Council may be subject to appeal. This may include a request for a review of the determination and in some cases can result in action in the Land and Environment Court. This has cost and staff resourcing implications for Council.

Climate Change

Provision of new residential subdivision and housing close to major towns and services and adjacent to existing settlements is more efficient and generates less greenhouse gases for the full life cycle of the development compared to more dispersed and fragmented forms of development. Further, future dwellings will need to be compliant with the NSW Government's building sustainability index in terms of thermal comfort, water efficiency and energy efficiency and achieving this certification makes new residential development more sustainable and less of a contributor to climate change compared to older forms of housing.

The proposed stage of the Junction Hill Urban Release Area will be connected to future areas of residential and urban development to the west of this part of the subject land. This improved connectivity will encourage movement using non-motorised forms of transport (pedestrian and cycles) and this further reduces the contribution of such a development to greenhouse gas emissions.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	1. Public submissions (5 of) 2. Section 4.15 Assessment Report
To be tabled	3. Statement of Environmental Effects (295 pages)

Schedule 1 – Draft Advices and Conditions for SUB2019/0025**Definitions**

NRDC means the current civil engineering standards in accordance with the :

- 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 Water Supply Code of Australia (WSA 03 - 2002)
- g Pressure Sewerage Code of Australia (WSA 07-2007)
- h Clarence Valley Council 'MUSIC' Guidelines (Draft)
- i Clarence Valley Council Street Lighting Strategy

AUS-SPEC documents can be obtained from 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 requires the use of the sustainability principles of the DCP. 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 includes -

- a Earthworks
- b Roadworks including car parking
- c Flood, Drainage works including **WSUD**
- d Structures
- e Water & Sewerage Reticulation
- f Provision of Utility Services including Street Lighting

NATA means National Association of Testing Authorities

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**

CivilCC is a 'Construction Certificate (Civil Engineering)' and means a :

- Subdivision Construction Certificate in accordance with the Environmental Planning and Assessment Act 1979 Sections 109C(1)(b), 81A(2) & 81A(4);
- Section 138 & 139 Roads Act 1993 (road opening) approval issued by Council and/or **RMS**;
- Section 68 Local Government Act (drainage, water & sewer) approval; and
- Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Sections 109D & E, Section 74A Building Professionals Act - Categories C1 to C6 inclusive and Section 20C 'Building Professionals Regulations').

A **CivilCC** may be issued by Council and/or accredited private certifier subject to the applicable NSW legislation.

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.

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. Civil Construction Certificate (**CivilCC**) approvals, issued by Council and/or accredited private certifier are required for this development.
 - 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.
 - Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
 - Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.
 - Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
 - A **CivilCC** 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. 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 **CivilCC** application.

Approval of a **CivilCC** 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. Copies of the engineering plans for the **CivilCC** are required in hardcopy, PDF and DXF format.

3. A 'Notice of Commencement' form must be submitted to Council at least two (2) business days before civil engineering work commences. The form may be downloaded from Council's website.
4. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **CivilCC** has been issued by Council and/or accredited private certifier.

A private certifier who issues a **CivilCC** 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.

5. 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 68 ET demand on Council's water supply, and an additional 68 ET loading on Council's sewerage system. This includes an applicable credit of 1 ET for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks
68 additional ET @ \$4,898 per ET = \$333,064.00

Sewer Headworks
68 additional ET @ \$6,700 per ET = \$455,600.00

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.

6. Occupation of the road reservation requires the approval of Council under the NSW Roads Act 1993.
7. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to acceptance 'On Maintenance' (public infrastructure) and/or 'Practical Completion' (private property works).
8. 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 **CivilCC** application form.
9. The Earthworks Management Plan must include:
An initial site inspection report. This report should include:
- a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
 - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential buildings) including any parts of the land that will be left in its natural state or modified by the development.
 - c Identify any problem areas on or adjacent to the development land (e.g. dispersible soils, high erosion risks, etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

Where relevant to the project, the following will also be required:

- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material

(VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.

- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.
- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.

The Earthworks Management Plan must :

- a. include details of how the works will comply with the Protection of the Environment Operations Act 1997.
- b. provide a concept for the full site as a minimum with details of the earthworks for a particular stage lodged with the construction certificate application for that stage.
- c. compatible with the works plans and the approved Stormwater Management Plan.

The following information will be required for earthworks undertaken:

- a Details of geotechnical laboratory and in situ (principally dry density assessment) testing for each fill type and specified volume of placed fill including records of the date and time of all testing, the source of material tested in the laboratory, and the spatial distribution and reduced level of in situ tests. The latter must be correlated with results from the laboratory testing of similar material.
- b Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.
- c Certification of the completed earthworks (including cut, fill, earth retaining structures as far as the geotechnical aspects) that the work is suitable for the intended use.
- d Certification that excavated materials have been reused or disposed of in accordance with the Protection of the Environment Operations Act 1997 and copies of receipts for disposal where relevant.

Should there be any change in the source of fill material from that previously approved for the development, the Principal Certifying Authority must be notified and approval obtained to the new source prior to the import of any of the material. A report from a practicing geotechnical engineer certifying that the new source material is suitable for the intended purpose must be provided. The report to include any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of fill type. The Earthworks Management Plan to be amended accordingly.

10. It is the developer's responsibility to make satisfactory arrangements with other property owners affected by the development, and to meet all costs associated with the development.
11. 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 for each additional lot.
12. At Council's request, additional noise and air quality assessment and mitigation may be required. This assessment and mitigation must be undertaken by a suitably qualified person.

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 plan numbered 9374 PROP LAYOUT (Revision A), dated 4 February 2019, one (1) sheet, submitted/drawn by A. Fletcher & Associates Pty. Ltd., as amended in red, or where modified by any conditions of this consent.

2. Payment to Council of the contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act:

Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities

Rate per dwelling House or Lot

- a Grafton and surrounds \$3,767.05 x 68 additional lots = \$256,159.40
GL S94CVCOSGrafton

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per dwelling House or Lot

- a Grafton and surrounds \$3,767.05 x 68 additional lots = \$256,159.40
GL S94CVCCFGrafton

Clarence Valley Contributions Plan 2011 Plan of Management

- a Rate per Dwelling/Lot \$72.15 x 68 additional lots = \$4,906.20
GL S94CVCPoMDwell

Copmanhurst Shire Council - Roads and Traffic Facilities Contribution Plan 2001

- a. All other development \$3,971.55 x 68 additional lots = \$270,065.40
GL S94 RdsCopmanT1-14

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. A Landscape Plan, prepared by a person competent in the field, is to be submitted to Council for approval prior to the issue of a Civil Construction Certificate. The plan is to show all proposed streetscape plantings at an average of one tree per lot and plantings in the two public reserves.

The plan is to be generally in accordance with the Landscape Masterplan and Report, dated December 2011, Issue C, prepared by Jackie Amos Landscape Architect, and the landscape elements reflective of the history of Junction Hill as discussed in that report. The plan shall indicate the mature height, location, quantity and species of all plantings and shall provide details of soil conditions, the planting method, root barriers, plant support and maintenance program. Street tree plantings are required to have a minimum container size of 45 litres.

Landscaping is to be completed in accordance with the approved Landscape Plan prior to the release of the relevant Subdivision Certificate.

4. Details of the embellishment, landscaping (including retention of all existing native trees and shrubs and supplementary plantings) and any ground level modifications of the proposed drainage reserve for stormwater management as well as public access and use is to be submitted to and approved by Council prior to release of the Civil Construction Certificate. The embellishment of the park, including required stormwater management devices is to occur prior to release of the Subdivision Certificate. The stormwater management works may be staged according to the stormwater management requirements for each stage of development.

5. Root protection barrier is to be installed in all road verge areas to protect the street carriageway pavement and footpaths from new tree planting in the verge.
6. The developer shall meet the full cost of the dedication to Council of the 20-metre wide public reserve alongside Trenayr Road for the length of the subject land (not including the proposed residue lot) as well as the drainage reserve prior to issue of the Subdivision Certificate for each stage as applicable.
7. A minimum of seven (7) allotments for affordable housing shall be provided within the subdivision in accordance with Council's Affordable Housing Policy with at least 1 lot/10 lots or part thereof for each stage. The affordable housing allotments shall be located on relatively level areas of the subject land to maximise their function and ability to be developed given their smaller size. No more than two affordable housing allotments shall be located adjacent to one another. It is recognised and accepted that achieving the requirements of this condition is likely to require adjustment to the subdivision layout submitted with the development application.
8. All construction works are limited to the following hours:
 - Monday to Friday: 7:00am – 6:00pm
 - Saturday: 8:00am – 1:00pm
 - No works on Sundays or Public Holidays
9. The developer shall provide written notice to the Grafton-Ngerrie Local Aboriginal Land Council at least five working days prior to the commencement of site works.
10. Should any Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and the relevant NSW Government public authority shall be contacted immediately and any directions or requirements of that authority complied with.

Note: if Aboriginal cultural material is uncovered during construction works they may need to be registered as Sites in the NSW Aboriginal Heritage Information Management System (AHIMS).
11. A 1.8 metre high timber fence is to be installed along the proposed residential allotment boundaries along the western side of the proposed Public Reserve alongside Trenayr Road prior to release of the Subdivision Certificate. The fence is to be consistent in material and colour to similar fences fronting Trenayr Road to the south of the subject land.
12. The provision and dedication of minimum 3m by 3m splays at all street intersections is required unless larger splays are required to allow for traffic control facilities to be provided in this stage or future stages.
13. Prior to the release of the Subdivision Certificate, a s88B Instrument to create any necessary easements required by the conditions of this consent is to be submitted to Council for approval.
14. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate for any stage of the development. This will require payment of a fee.
15. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
16. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **CivilCC**. 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. 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 **CivilCC**, 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

17. An **ITP** must be submitted for approval with the application for a **CivilCC**. 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. Water
- h. Other Services
- i. 'On Maintenance' (Public Infrastructure)
- j. 'Off Maintenance' (Acceptance of Public infrastructure by Council)

18. Prior to the issue of the Subdivision Certificate telecommunications (including provision for NBN services where applicable), low voltage electricity and street lighting services must be provided to the development and/or all lots within the subdivision in accordance with the requirements and specifications of the relevant service authorities, Australian Standards, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.
- a. All new services are to be provided within the service allocations within NRDC, unless an agreement has been obtained from Council for an alternative location.
 - b. Written agreement of non compliance with the service allocations will be required from the affected service authorities.
 - c. Service locations are to be clearly dimensioned on the Construction Certificate plans.
 - d. All service locations are to be approved by Council and the relevant service authority with regard to WSUD components of the proposed stormwater drainage system.
 - e. Council must be consulted, and agreement obtained, prior to any variation in location of services during construction due to field conditions.
 - f. Any variation to the service location from that approved with the Construction Certificate plans must be clearly documented on the work as executed plans. A registered surveyor

must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.

19. Prior to the issue of the Subdivision 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.

20. All construction traffic to the site for all stages is to be provided off the proposed interim intersection with Trenayr Road so as to not direct this construction traffic through Bailey Estate. An application for driveway access crossing is to be submitted and approved prior to any work commencing.

A pavement condition report is to be provided for Trenayr Road adjacent to the construction site access/s and for a distance of 75 metres in both directions from that access. 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 Trenayr Road, 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.

21. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address council@clarence.nsw.gov.au. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:

Health and Safety

- a) Public safety, amenity and site security;
- b) Traffic Control and Management;
- c) Pedestrian management;
- d) Construction hours;
- e) Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
- f) Contractor vehicle parking;
- g) Locating existing utilities and services;
- h) Health and Safety requirements.

Environment

- a) Air quality management;
- b) Erosion and sediment control- base information, monitoring and management;
- c) Waste management;
- d) Material stockpiling;
- e) Vegetation management;
- f) No go zones;
- g) Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;

- h) Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;

Quality

- a) Submission of current insurance certificates;
- b) Work method description;
- c) Construction equipment to be used;
- d) Inspection and testing requirements;
- e) Earthworks methodologies;
- f) Haulage routes;
- g) Retaining structure construction methodologies;
- h) Concrete jointing methodologies;
- i) Subsoil drainage installation methodologies;
- j) Stormwater drainage infrastructure installation methodologies;
- k) Stormwater Quality Improvement Device installation methodologies;
- l) Road construction methodologies;
- m) Accessways and footway construction methodologies;
- n) Landscaping installation methodologies;
- o) Utility and services installation methodologies
- p) Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the approved CMP. The Unexpected Finds Procedure/s must be implemented during ground disturbance and earthworks activities. All site personnel must be toolboxed on the Unexpected Finds Procedure/s.

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.

22. 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.

23. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**. The design is to consider and suit the staging of the development to avoid "dead end" servicing wherever possible. It may be necessary for mains to extend beyond the extent of the subject stage to achieve adequate supply.
24. A detailed Water Reticulation Design Plan must be submitted for approval with the application for a **CivilCC**.

Connection to the public water reticulation system requires the approval of Council under the

NSW Local Government Act.

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. Any water infrastructure inside private lots must be contained in an easement.

25. Prior to release of the Subdivision Certificate, the applicant is to provide sewerage reticulation infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
26. A detailed Sewerage Reticulation Design Plan must be submitted for approval with the application for a **CivilCC**. The design must consider the proposed staging of the development to ensure the servicing of the lots is provided to manage effluent quality

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 or in order to adequately convey effluent loads to Council's sewerage treatment facility will be required and subject to the costs outlined in Council's list of fees and charges.

27. An easement for sewerage purposes must be created 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;

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.

28. A detailed Road Network Design Plan must be submitted for approval with the application for a **Civil CC**. Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**. All works are to be undertaken in accordance with the approved plan prior to the release of the Subdivision Certificate.

Stage 1 consists of 21 residential lots plus the drainage reserve and public reserve. Vehicle access to Stage 1 will be via Crowther Drive to the south with the future Stage 2 requiring the construction of an intersection with Trenayr Road. The intersection with Trenayr Road is to be constructed prior to issue of the Subdivision Certificate for Stage 2 (remaining 47 residential lots).

The following must be included in the plan (but not limited to):

a. Road Characteristics

ROAD	SPEED (kph)	CARRIAGEWAY WIDTH (m)	KERB	VERGE WIDTH	MINIMUM ROAD RESERVE
ACCESS	50	6.0	MOUNTABLE	4.0	14.0
MAJOR COLLECTOR	50	12.0	FLUSH	8.0	20.0

b. Traffic calming & linemarking

- Traffic calming provided at entrance to Stage 1 at the extension of Crowther Drive.
- Linemarking must be provided at the intersection of Trenayr Road and the Major Collector Street.

c. Cul-de-sac & temporary turnaround area

- Turning path assessment of a garbage truck must be undertaken to identify the extent of the turnaround area.
- Turnaround area must be fully sealed. Turnaround area must be provided at staged boundaries.
- Minimum radius of 10m.

d. Battleaxe handle

- Minimum corridor width of 6.0m
- Carriageway width of 4.0m
- Passing bays (minimum of 5.5m) provision for handles 30.0m and greater in length
- Cross sectional detail provision to demonstrate the adequacy of the width to cater for the access, landscaping and services.

e. Driveways

- Lot with common areas - easement (shared ROW or reciprocal ROW) must be provided prior to the endorsement of the Subdivision Certificate.

f. Road Safety Audit

A road safety audit by a Level 3 auditor of all intersections and external footpath will be required to fully understand safety risks associated with the following:

- Concept & detailed design
- Roadworks
- Pre-opening

29. Benkelman beam testing of the constructed road pavement will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam in accordance with RMS Test Method T160.

30. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **CivilCC** approval. All roadworks for the subdivision are to have full road construction, 30mm (residential light to medium traffic) and 40mm (collector roads) minimum depth of compacted asphaltic concrete. Final pavement design will be subject to in-situ CBR tests.

A report on the existing road pavement in Trenayr Road is to be prepared by a practising Engineer to identify whether the existing pavement needs upgrading as part of the works associated with the development.

Any works identified in the pavement report are to be included in the Civil CC. These works are to be completed prior to release of the Subdivision Certificate for each relevant stage.

Stabilised pavement and concrete road pavement suitable for the intended design loadings may be used subject to submission of alternative designs for the approval of Council.

31. Prior to the issue of any **Civil CC** engineering calculations must be provided which clearly indicate the capacity of table/swale drains, the maximum flow velocities and their resistance to scour. Where table/swale drains are used they must be designed to minimise velocity of flow to that necessary to achieve draining of the table/swale minimising ponding and must be treated to minimise scour.

Table/Swale drains within the road reservation must be designed to protect the road pavement from infiltration of surface water. This could be achieved by either a configuration that locates the water surface level from minor storm flows below the subgrade level, or other methods of protection acceptable to Council.

Designs for each stage must include information demonstrating overland flow paths that cater for runoff from a 1:100 rainfall event without impacting on private property.

32. Prior to the release of the Subdivision Certificate for each and every stage of the subdivision, the stormwater facilities as generally identified in the Stormwater Management Plan are to be provided, including the following:
- (i) The Water Sensitive Urban Design (WSUD) elements;
 - (ii) Provide Council with the Maintenance Manual for Stormwater Management Devices to be incorporated into Council's Maintenance Schedule; and
 - (iii) Demonstrate how the drainage facilities for each stage will convey flows and connect to the facilities for existing stages or future development on the adjacent residual lot and how any future stage works will link to the proposed works.
33. Maintenance of the Stormwater Management Devices is to be carried out by the Developer during the Maintenance Period in accordance with the Maintenance Manual.
34. Prior to release of the Subdivision Certificate, street name signs are to be provided to all intersections in accordance with Council's specifications. The name of the proposed road(s) will require written approval from Council.
35. The applicant is required to prepare a detailed design of Bike and Pedestrian facilities within the development site and connecting onto the existing network as part of the **CivilCC** application. The minimum width of all shared bicycle/footpaths shall be 2.5m.
36. All road intersections 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 **CivilCC** plans. Details of the intersection of the Major Collector Street and Trenayr Road are to be included with the **CivilCC** application.
37. Prior to release of the Subdivision Certificate, the pedestrian pathway / cycleway / development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code), Council's Streetlighting Strategy and 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.
38. 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 Plan and **NRDC**.

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 **CivilCC**. 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 and demonstrate the stormwater quality and quantity targets contained in Part H of Council's DCP for Development in Residential Zones.

All inter-allotment and Council owned stormwater drainage systems located within private property must be located within drainage easements. Any stormwater conduit with an area of influence from the stormwater conduit measured by projecting a 45° angle from the invert of the conduit to finished surface level, extending outside of the easement, shall be covered by a 'restriction-as-to-user' requiring any structure within this area to be supported by piers to the conduit invert level. Engineers design and certification must be provided. All costs shall be borne by the developer.

39. 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.
40. 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.

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.

41. 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, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
42. Prior to release of the Subdivision Certificate, where the total value of the 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 twelve (12) 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. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier 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.

43. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to the issue of a **CivilCC**.

The Earthworks Management Plan is to be prepared in accordance with Council's guidelines. The Guidelines are provided in the Advices section of this Notice.

44. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS3798, Level 1 inspection and testing and NRDC.

45. A Works-As-Executed plan prepared by a registered surveyor, showing both original levels and finished surface levels after filling material has been placed on the site and compacted, is to be submitted to and approved by Council or accredited private certifier prior to the issue of the Subdivision Certificate.

46. Where earthworks are proposed for the site, professional details of the Geotechnical Inspection and Testing Authority involved in the project are to be submitted to Council or accredited private certifier for approval. Details of the Geotechnical Engineer involved in the design must be submitted prior to the issue of the **CivilCC** whilst details of the Geotechnical Inspection and Testing Authority involved in the construction must be submitted prior to the commencement of works. The details are to include NATA accreditation, qualifications and accreditations of the principal geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

47. Prior to the commencement of construction, a detailed Erosion and Sediment Control Plan (ESCP) must be developed by a IECA Certified Professional in Erosion and Sediment Control (CPESC), prepared in accordance with *Landcom/Department of Housing Managing Urban Stormwater: Soils and Construction Guidelines* [the Blue Book] and addressing the requirements in Part I of Council's DCP for Development in Residential Zones, including but not limited to how the works will be staged to reduce potential for erosion.

All erosion and sediment control measures are to be installed prior to the commencement of any work, including cutting and filling and are to be constructed and maintained to prevent sediment from leaving the site or entering downstream properties, drainage lines or watercourse.

All erosion and sediment control measures are to be regularly maintained in good working order at all times by the Applicant and/or the appointed contractor until an occupation certificate is issued or the development is accepted 'Off Maintenance'.

48. During the course of the works, the applicant must ensure that vehicles or plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become untrafficable for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.

49. 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.

50. 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.

Reasons

1. To ensure that the development complies with Council's Local Environmental Plan and any Development Control Plan that may be applicable to the proposed development.
2. To ensure that the surrounding environment is not detrimentally affected as a result of the development.
3. To comply with legislative requirements.
4. To ensure works are completed to an appropriate standard and documented.
5. To comply with Council's Section 94 Contribution Plans.
6. To comply with Council's Sewer and Water Development Services Plans.
7. To ensure that adequate infrastructure and services are provided in accordance with Council's Engineering Specifications for development.

ITEM	6b.19.045	SUB2019/0015 – 15 LOT RESIDENTIAL SUBDIVISION – 25 MOOKIN STREET, TUCABIA BEING LOT 188 DP751365
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Dale Brushett c/o DCS Building & Consulting
<i>Owner</i>	Steelvision Pty Ltd
<i>Address</i>	25 Mookin Street, Tucabia (Lot 188 DP751365)
<i>Submissions</i>	Yes – 2 submissions and 2 petitions (38 signatories)

Council is in receipt of Development Application SUB2019/0015 which proposes a 15 lot residential subdivision of land at 25 Mookin Street, Tucabia.

During the exhibition of the application, Council received 2 submissions and 2 petitions against the proposal. The key issues raised are the adverse impacts to visual amenity, increase in traffic, parking and lack of area for on-site sewerage management. As a result of the petitions received and resulting public interest in the application, determination of the application is considered to be outside of Council staff delegations to determine; therefore the application is forwarded to Council for a decision.

The report provides an assessment of the application, a summary of the submissions and a recommendation for Council's consideration

OFFICER RECOMMENDATION

That Development Application SUB2019/0015 be approved subject to the conditions and advices contained in Schedule 1.

COMMITTEE RECOMMENDATION

Simmons/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Novak, Simmons, Williamson

Against: Clancy

COUNCIL RESOLUTION – 6b.19.045

Kingsley/Baker

That Development Application SUB2019/0015 be approved subject to the conditions and advices contained in Schedule 1.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Development Application SUB2019/0015 was lodged with Council on 15 May 2019. The development was exhibited from 29 May to 13 June 2019. The proposal includes:

- Six (6) lots at 1,472m²
- One (1) lot at 1,518m²
- Seven (7) lots at 1,582m²
- One (1) lot at 7,417m² which is to contain the existing dwelling on the subject land

An approval of the dwelling is not available in Council's records, however, subsequent development applications and building permits have been approved for alterations and additions to the dwelling in 1981, 2000 and 2004. The dwelling currently gets access via Angouri Street, an unsealed Council maintained road.

During the exhibition period two (2) submissions and two (2) petitions having a combined 38 signatories against the proposal were received. In response to the concerns raised in submissions received, a summary of the issues were provided to the applicant

KEY ISSUES**1. Impact to amenity, lifestyle and character of Tucabia**

The main issues raised in the submissions and petitions related to the potential impact that a 15 lot subdivision and 15 dwellings will have on the character and lifestyle currently experienced in Tucabia.

Comment

The proposed subdivision plan submitted with the application shows a 6 bedroom dwelling on the property in addition to the effluent disposal area required to service a dwelling of such size. These are only visual representations to show that the land can accommodate a suitable size dwelling and effluent disposal system while also complying with the relevant setback requirements of the Residential Zones Development Control Plan and Council's On-Site Wastewater Management Strategy.

There is no minimum lot size specified for the subject land under the *Clarence Valley Local Environmental Plan 2011* (the LEP), however under the Residential Zones Development Control Plan (the DCP) a minimum lot size for a dwelling is 400m². The proposed lots comply with this provision with the smallest proposed lot being 1,472m². The On-Site Wastewater consultant report has been able to demonstrate that the proposed lots are of sufficient size. Smaller lots than proposed would likely be restrictive in terms of the size of buildings and their location on the land due to the area needed to be maintained for effluent disposal.

Lot sizes in the immediate vicinity of the subject land vary from 1,000m² to 2,000m². The proposed development is of higher density than surrounding development and over time will have an impact on the built environment of Tucabia as houses are constructed on the subject land. Each individual dwelling or other permitted use in the R2 Low Density Zoning will undergo a merit based assessment as part of the development application process. The proposed development remains consistent with the objectives of the LEP and DCP.



Figure 1 shows the subject site.

2. Suitability of services in Tucabia

Submissions received raise the following common issues regarding services in Tucabia:

- impact on the existing road network within and external to Tucabia during the operational phase of the subdivision
- Impact on parking in proximity to the site
- Impact on water service within Tucabia
- The volume of effluent being disposed over the site
- Impact to the local school and store as a result of an increased population

Comment

Road widening of Nanegai Street and Bellengen Street will be required, in addition Mookin Street and Angouri Street are required to be upgraded as a result of the development. Conditions are included in the Draft Schedule to ensure that the works are constructed to an acceptable standard to cater for the increase in lots fronting the respective streets. Parking will be assessed as part of any future development application. It is noted however that should future development applications be received, parking associated with the development will be required to be contained on-site. Suitable on-street parking within the existing grass verge will remain post development. In terms of access roads to Tucabia from Glenugie, Tyndale and Ulmarra, the roads are currently being traffic by vehicles associated with current infrastructure projects within the Clarence Valley, furthermore, Council is able to levy a Section 7.11 Contribution for Road Upgrading per lot as adopted by Council under the former Ulmarra Shire Council Contribution Plan 1993.

The proponent will be required to undertake a watermain extension along the length of Angouri Street to provide connection between the north-south watermain on both Nanegai Street and Mookin Street. Council is able to levy a Section 64 Capital Contribution per lot for water headwork charges as a result of the additional load the proposed development will have on the system. Should there be issues surrounding water pressure and adequacy of the service post-development, Council can utilise the Section 64 Contribution to resolve the matter.

The development application is accompanied by a qualified consultant's report prepared by ENV Solutions dated April 2019. The consultants report demonstrates that the indicative house size and proposed lot sizes can comply with Council's On-site Wastewater Management requirements. Ordinarily in the past for land not serviced by reticulated sewer, Council has required a designated Land Application Area (LAA) be identified on the lots and a restriction-as-to-user registered on the title of each lot. The restriction prevents

development other than for the land application of effluent within the restricted area. This potentially limits how future owners develop the property and may result in this area of land becoming unusable if the owner does not want to build a six bedroom house. Any future wastewater management system on the subject lots must comply with the Effluent Disposal Report and the associated conditions of the Approval to Install an On-Site Wastewater Management System.

The increase in population as a result of 14 additional residential lots in Tucabia will have an impact on local services such as the postal service, general store and school. The increased number of patrons may benefit the post and store, making the operation of the business more viable and may result in additional employment opportunities. Similar for the primary school, an increase in the number of students attending may have a positive affect in terms of additional staff and equipment to assist in the operation of the school.

3. Other issues raised in Submissions

A potential decrease in property values to the residential dwellings in Tucabia and lack of landscaping provided was raised as an issue within the submissions.

Comment

The impact of this development on the value of surrounding properties is difficult to quantify. Increase or loss of property value is not a matter that can be directly related to development proposals such as this because there are other factors that affect such values. The applicant has indicated that they believe plantings within the verge would add to the village and that overtime new property owners will improve the amenity through landscaping of their properties once a dwelling was constructed.

COUNCIL IMPLICATIONS

Budget/Financial

There may be financial costs to Council should the applicant appeal Council's decision. The application was accompanied by all fees required to be paid by Council's Fees and Charges. Assessment of the application has been completed by staff utilising recurrent staffing budgets.

Asset Management

All public roads in Tucabia are still recognised as Crown roads, Council still maintains the majority of these roads. Council has commenced the process of transferring these roads from Crown in 2015 although the project is not yet completed.

The road widening of Nanegai Street and Bellengen Street, upgrading of Angouri Street and Mookin Street and the water main extension along Angouri Street to service the development will become Council assets. Suitable conditions are included in the Draft Schedule to ensure that the works are constructed to an acceptable standard prior to it being accepted on maintenance and prior to becoming a Council asset.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy 55 - Remediation of Land

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Residential Zones

Consultation

The following sections of Council were consulted during the assessment of the application:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Environmental Health	Supported with conditions
Development Engineer	Supported with conditions

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

Provision of new residential subdivision and housing close to major towns and services and adjacent to existing settlements is more efficient and generates less greenhouse gases for the full life cycle of the development compared to more dispersed and fragmented forms of development. Further, future dwellings will need to be compliant with the NSW Government's building sustainability index in terms of thermal comfort, water efficiency and energy efficiency and achieving this certification makes new residential development more sustainable and less of a contributor to climate change compared to older forms of housing.

Prepared by	James Hamilton, Development Planner
Attachment	A. Proposed Plans B. Submissions C. Section 4.15 Assessment Report

Schedule 1
Draft Advices and Conditions of Consent for SUB2019/0015

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. Water Supply Code of Australia (WSA 03 - 2002)
- g. Pressure Sewerage Code of Australia (WSA 07-2007)
- h. Clarence Valley Council 'MUSIC' Guidelines (Draft)
- i. Clarence Valley Council Street lighting Strategy

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
- f. Provision of Utility Services including Streetlighting

NATA means National Association of Testing Authorities

RMS means Roads and Maritime Services

Civil CC is a 'Construction Certificate (Civil Engineering)' and applies to each of the following as applicable to the project:

- a. Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;
- b. Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or **RMS**;
- c. Local Government Act Section 68 - drainage, water & sewer approval;
- d. Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

A **Civil CC** may be issued by Council and/or accredited private certifier subject to the applicable NSW legislation.

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.

WAE means works as executed.

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. 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.
2. 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.

3. 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 14 ET demand on Council's water supply. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 14 additional ET = \$ 68,572.00

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.

4. 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.
5. 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.
6. 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.
7. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual Exceedance Probability (AEP) water level in the vicinity of the site is RL 6.04m AHD and the Extreme Flood Level is RL 8.36m AHD. Future development on the site must be undertaken in compliance with the flood plain management controls listed in the Council **DCP** for the relevant land use zone.

All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the Clarence Valley Council Development Control Plans and **NRDC**.

8. An on-site wastewater management application is to be submitted prior to works commencing for any future on-site wastewater management system.
9. 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 A1.101, dated 12 April 2019, one (1) sheet, submitted/drawn by DCS Building & Consulting, 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

- a. Isolated Coastal and Rural \$3,767.05 x 14 additional lots = \$52,738.70 GL S94CVCOSRuralCoas

Clarence Valley Contributions Plan 2011 Community Facilities

- a. Grafton and surrounds \$3,767.05 x 14 additional lots = \$52,738.70 GL S94CVCCFGrafton

Clarence Valley Contributions Plan 2011 Plan of Management

- a. Rate per Dwelling/Lot \$72.15 x 14 additional lots = \$1,010.10 GL S94CVCPoMDwell

Arterial Roads Upgrading Contribution

- a. Urban/Urban Investigation \$7,340.10 x 14 additional lots = \$102,761.40 GL S94 RdWksUlmarra

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. A landscape plan, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of a **Civil CC** for Street Tree Plantings.
4. All street trees are to be completed in accordance with the approved plan prior to the Subdivision Certificate being issued.
5. No existing trees are to be removed from the site during subdivision construction, with the exception of those necessary for road construction, site accesses, services laying, and other approved design features of the subdivision.
6. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
7. The submission of the 88B Instrument, and one copy thereof, to Council prior to the release of the Subdivision Certificate.

Environmental

8. A restriction-as-to-user is to be registered on the title of each lot to require future wastewater management system must comply with the Effluent Disposal Report prepared by ENV Solutions April 2019 and the associated conditions of the Approval to Install an On-Site Wastewater Management System.
9. If applicable, the existing on-site wastewater management system is to be relocated wholly within the property it services, an on-site wastewater management application is to be submitted prior to works commencing. An approval to operate is to be obtained prior to release of the Subdivision Certificate.
10. A Detailed Site Investigation is to be prepared to clearly identify the extent of contamination on-site.

11. A Remediation Action Plan (RAP) must be prepared in accordance with all relevant guidelines and submitted to Council for approval prior to commencing any remediation works. Any variation to the RAP requires prior approval from Council.

All works associated with the RAP are to be completed and a validation report (including sampling) demonstrating that the site is suitable for its intended use is to be submitted to Council for approval prior to release of the **Civil CC**.

Engineering

12. 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. 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
13. 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. 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)
14. **Construction Management Plan**
The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works.

The CMP shall be submitted to the Development Engineer at the following email address council@clarence.nsw.gov.au. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:

Health and Safety

- a. Public safety, amenity and site security
- b. Traffic Control and Management
- c. Pedestrian management
- d. Construction hours
- e. Noise control
- f. Contractor vehicle parking
- g. Locating existing utilities and services
- h. Health and Safety requirements

Environment

- a. Air quality management;
- b. Erosion and sediment control- base information, monitoring and management;
- c. Waste management;
- d. Material stockpiling;
- e. Vegetation management;
- f. No go zones;
- g. Heritage management (if applicable).
- h. Actual or potential items or areas of Heritage discovered during construction activities

Quality

- a. Submission of current insurance certificates;
- b. Work method description;
- c. Construction equipment to be used;
- d. Inspection and testing requirements;
- e. Earthworks methodologies;
- f. Haulage routes;
- g. Retaining structure construction methodologies;
- h. Concrete jointing methodologies;
- i. Subsoil drainage installation methodologies;
- j. Stormwater drainage infrastructure installation methodologies;
- k. Stormwater Quality Improvement Device installation methodologies;
- l. Road construction methodologies;
- m. Accessways and footway construction methodologies;
- n. Landscaping installation methodologies;
- o. Utility and services installation methodologies
- p. Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the approved CMP.

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.

15. **Working/Construction Hours** Working hours on the construction project being limited to the following:
- Monday to Friday: 7:00am – 6:00pm
 - Saturday: 8:00am – 1:00pm
 - No works on Sundays or 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.

16. 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:
- Stating that unauthorised entry to the work site is prohibited;
 - 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
 - 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.

17. 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.
18. 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.

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.

19. 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, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
20. 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.

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. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier 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.

Roadworks

21. A Road Network Design Plan must be submitted for approval with the application for a **Civil CC**. Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**. All works are to be undertaken in accordance with the approved plan prior to the release of the Subdivision Certificate.

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

22. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **Civil CC** approval. All roadworks for the subdivision are to have full road construction. The asphaltic concrete wearing surface must be a minimum 30mm (residential light to medium traffic) compacted depth. Final pavement design will be subject to in-situ CBR tests.

Bellengen Street and Nanegai Street are to be upgraded to have a sealed carriageway width of 7 metres minimum. Angouri Street and Mookin Street are to be upgraded to have a sealed carriageway width of 6 metres.

Stabilised pavement and concrete road pavement suitable for the intended design loadings may be used subject to submission of alternative designs for the approval of Council.

23. All road Intersections 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.
24. Benkelman beam testing of the constructed road pavement will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam in accordance with RMS Test Method T160.
25. The road construction/re-construction plans shall include drainage calculations for any necessary upgrade of existing stormwater drainage cross-culverts and affected services.

Erosion and Sediment Control

26. 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**.
27. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **Civil CC**. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. 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.

28. 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.
29. 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.
30. 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.

Stormwater

31. 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 must be prepared to reflect these standards and guidelines. The Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**

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.

All inter-allotment and Council owned stormwater drainage systems located within private property must be located within drainage easements. Any stormwater conduit with an area of influence (measured by projecting a 45° angle from the invert of the conduit to finished surface level) extending outside of the easement, shall be covered by a 'restriction-as-to-user' requiring any structure within this area to be supported by piers to the conduit invert level. Engineer's design and certification must be provided. All costs shall be borne by the developer.

On-site detention (OSD) for individual proposed lots need not be provided until a building is occupied on the lot, but the Development Application must demonstrate **NorBe** by calculation and details acceptable to Council. The nominated OSD per lot is 11,000 litres as per the Stormwater Management Report dated 6 August 2019 prepared by McKenzie Burridge and Associated Pty Ltd. A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title of the new allotments is required to identify the stormwater management requirements for each lot to ensure future building development compliance.

32. Prior to the issue of any **Civil CC** engineering calculations must be provided which clearly indicate the capacity of table/swale drains, the maximum flow velocities and their resistance to scour. Where table/swale drains are used they must be designed to minimise velocity of flow to that necessary to achieve draining of the table/swale minimising ponding and must be treated to minimise scour.

Table/Swale drains within the road reservation must be designed to protect the road pavement from infiltration of surface water. This could be achieved by either a configuration that locates the water surface level from minor storm flows below the subgrade level, or other methods of protection acceptable to Council.

Designs for must include information demonstrating overland flow paths that cater for runoff from a 1:100 rainfall event without impacting on private property.

Services

33. A Certificate of Compliance for Water works must be obtained from Council prior to release of the Subdivision Certificate. This may require payment of a fee.
34. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**. Council's 100mm water main is to be extended for the full frontage of Angouri Street.
35. Prior to the issue of the Subdivision Certificate telecommunications (including provision for NBN services where applicable), low voltage electricity and street lighting services must be provided to the development and/or all lots within the subdivision in accordance with the requirements and specifications of the relevant service authorities, Australian Standards, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.
- a. All new services are to be provided within the service allocations within NRDC, unless an agreement has been obtained from Council for an alternative location.
 - b. Written agreement of non compliance with the service allocations will be required from the affected service authorities.
 - c. Service locations are to be clearly dimensioned on the Construction Certificate plans.
 - d. All service locations are to be approved by Council and the relevant service authority with regard to WSUD components of the proposed stormwater drainage system.
 - e. Council must be consulted, and agreement obtained, prior to any variation in location of services during construction due to field conditions.
 - f. Any variation to the service location from that approved with the Construction Certificate plans must be clearly documented on the work as executed plans. A registered surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.
36. Prior to the issue of the Subdivision Certificate or Release of Bond, 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.

ITEM	6b.19.046	MODIFICATION OF DEVELOPMENT CONSENT DA2018/0688 BY MOD2019/0042 – RELOCATION OF PONTOON – 253 SCHOOL ROAD, PALMERS ISLAND BEING LOT 21 DP1028001
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Coastal Pontoon and Jetty Repairs
<i>Owner</i>	Todd Anthony Willis
<i>Address</i>	253 School Road, Palmers Island (Lot 21 DP1028001)
<i>Submissions</i>	Yes – one (1) submission against

Council has received an application under Section 4.55 of the *Environmental Planning and Assessment Act, 1979* to modify DA2018/0688 to amend the approved plans to allow the pontoon to be relocated approximately 3.5m from the approved location. The original application was notified, as was the modification application and one (1) submission was received during the notification period. The main issues raised in the submission are impact on riverbank erosion and stability of the rock wall, amenity and loss of views and depending on the type of vessels moored at the pontoon, the potential that vessels are unable to be contained within the site boundaries.

The application is being reported to Council for determination as the issues raised in the single submission are unable to be resolved or mitigated through conditions of approval. This report discusses the key issues with the application, and provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council:

1. Accept that MOD2019/0042 is substantially the same development as approved under DA2018/0688, and
2. Approved MOD2019/00042 subject to an amendment to Condition 3 to reflect the new plan as follows:
 3. 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 numbered Drawing No Sheet 1-210718 (Revision B C), dated 21 July 2018 and Sheet 2-210718 (Revision B), dated 21 August 2018, **Drawing No Sheet 1-210718 (Revision F), dated 3 September 2019, two three (23) sheets**, submitted/drawn by Coastal Pontoon And Jetty Repairs, as amended in red, or where modified by any conditions of this consent.

COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson
 Against: Nil

MOTION

Toms/Novak

That this item be deferred until the December meeting to allow further investigation of the submission made recently to Councillors to enable those concerns to be explored further.

Voting recorded as follows:

For: Toms, Novak

Against: Lysaught, Ellem, Kingsley, Baker, Williamson, Clancy, Simmons

POINT OF ORDER (1) – Cr Toms objected to Cr Baker debating a matter not relevant to the current motion. The Chair upheld the Point of Order.

Cr Baker responded to the Point of Order, further explaining the point being made.

POINT OF ORDER (2) – Cr Toms objected to Cr Baker continuing the debate, a matter not relevant to the current motion.

Cr Baker clarified that the debate put was in direct response to the reason provided by the mover for the motion.

The Chair asked the Councillors to move on.

The Motion was put and declared LOST.

FORESHADOWED MOTION

Lysaught/Baker

That Council:

1. Accept that MOD2019/0042 is substantially the same development as approved under DA2018/0688, and
2. Approved MOD2019/00042 subject to an amendment to Condition 3 to reflect the new plan as follows:
 3. 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 numbered Drawing No Sheet 1-210718 (Revision B C), dated 21 July 2018 and Sheet 2-210718 (Revision B), dated 21 August 2018, Drawing No Sheet 1-210718 (Revision F), dated 3 September 2019, ~~two~~ three (23) sheets, submitted/drawn by Coastal Pontoon And Jetty Repairs, as amended in red, or where modified by any conditions of this consent.

Voting recorded as follows:

For: Lysaught, Ellem, Kingsley, Baker, Williamson, Clancy, Simmons

Against: Toms, Novak

The Foreshadowed Motion was put and declared CARRIED and became the Council Resolution.

COUNCIL RESOLUTION – 6b.19.046

Lysaught/Baker

That Council:

1. **Accept that MOD2019/0042 is substantially the same development as approved under DA2018/0688, and**
2. **Approved MOD2019/00042 subject to an amendment to Condition 3 to reflect the new plan as follows:**
 3. **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 numbered Drawing No Sheet 1-210718 (Revision B C), dated 21 July 2018 and Sheet 2-210718 (Revision B), dated 21 August 2018, Drawing No Sheet 1-210718 (Revision F), dated 3 September 2019, ~~two~~ three (23) sheets, submitted/drawn by Coastal Pontoon And Jetty Repairs, as amended in red, or where modified by any conditions of this consent.**

Voting recorded as follows:

For: Lysaught, Ellem, Kingsley, Baker, Clancy, Simons, Williamson
Against: Toms, 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

Modification application MOD2019/0042 was lodged on 20 September 2019 for the modification of approved Development Application DA2018/0688 as approved under delegated authority on 1 February 2019 for a Water Recreation Structure (Pontoon). The application was exhibited between 24 September and 9 October 2019, one (1) submission was received during the notification period. A summary of the issues raised in the submission were forwarded to the applicant, the applicant provided a response to issues raised.

The applicant has sought to modify Development Application DA2018/0688 by amending Condition 3 to reflect the new plans showing the relocated pontoon. The location of the pontoon is proposed to be moved approximately 3.5m to the south of the approved location, being 6.75m from the southern boundary of the property. The total length of the pontoon is 14m long and 3.5m wide, the pontoon will be accessed via a gangway from the mounting block on the bank. The reason for the relocation of the pontoon is the result of the position of the southern property boundary being incorrectly identified prior to commencement of works. As a consequence, the pontoon piles have been installed in the incorrect position, the applicant intends to retain the existing southern pile and make it the new northern pile, see Figure 1 for existing location.



Figure 1 shows location of the existing piles looking south, the pile on the left is to be retained and made the new northern pile.
(photograph by applicant)

KEY ISSUES

1. Substantially the same Development?

The applicant has lodged a Section 4.55 (1A) amendment to the approved development application to reflect new plans showing the amended location of the pontoon. Section 4.55 (1A) of the *Environmental Planning and Assessment Act, 1979* (the Act) reads as follows:

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (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), and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Comment:

The proposed application as put forward by the applicant is only seeking to amend the location of the pontoon. The justification put forward by the applicant for modification is that the dimensions of the approved pontoon are not changing with only a minor alteration in the location of the pontoon. Furthermore, by amending the location of the pontoon it is not considered to result in additional damage

to the riverbank. Taking into account the changes to the development and the impact as a result of the proposal it is considered that Council has the ability to determine that under Section 4.55 (1A) MOD2019/0042 as the development is substantially the same development as approved.

2. Issues raised in Submission

Impact on Riverbank

The main issue raised in the single submission is that by moving the piles and the pontoon will change the alignment of the pontoon in relation to the riverbank which has the potential to cause riverbank erosion and funnel water onto a currently unstable riverbank. The impact of this is likely to be further compounded by the addition of a moored vessel to the pontoon. The submitter states that the approved position of the pontoon will have a lesser impact.

Comment:

The riverbanks around the village of Palmers Island are receding and are known to be unstable. The Clarence Valley Local Environmental 2011 and Development Control Plan have specific development controls that relate to the Palmers Island Riverbank Erosion, while the subject land is not within the mapped area Council must consider the potential impact of the proposal on the stability of the riverbank. As can be seen in Figure 1 and 2, the immediate upstream bank is a concave shape and does not follow the bank profile of upstream and downstream properties. The applicant has provided a qualified engineers certification that the proposed works have been designed so as to not impact on the bank or riverbed, and also included that the inner edge of the pontoon will be at least 8m from the riverbank.



Figure 2 shows location of pontoon (highlighted red) in relation to riverbank profile and adjoining properties

The applicant has advised that the design of the upstream and downstream edge of the pontoon is designed with a 45 degree angle to aid in dispersing water under the pontoon, instead of the traditional 90 degree edges which would push water around the pontoon during tidal flow and flood events. The edge also helps deflect debris in the water which if a substantial amount builds up could result in the structure failing. The approved location of the pontoon would place the pontoon and vessel closer to the main part of the river compared to the marginally shelter location of the concave in the bank shown in Figure 1.

Locating the pontoon within the concave may subject the structure to lower tidal forces and water movement which consequently would have a lesser impact on the upstream and downstream properties.

Impact on Amenity and Encroachment of Moored Vessel

Other issues raised in the submission are in regard to impact on amenity and loss of view to the river/landscape to the west and north-west as a result of the new position of the pontoon. Further, although the southern pile may be aligned 6.7m from the southern boundary, the pontoon structure will be closer which may result in vessels proposed to be moored not being able to be moored wholly within the property boundaries.

Comment:

The pontoon is being moved approximately 3.5m south of the approved location, see Figure 3 for new location. The common boundary of the submitter and proponent is screened with mature vegetation with the exception of the last 25m of boundary to the water. The presence of the vegetation will shield the majority of the pontoon and eventual moored vessel, however, some will remain visible. Whether the pontoon is constructed in the approved location or proposed location there will be some impact on views to the north-west, however, it is not considered to overwhelm the vista from the site. The submitter will retain existing unobstructed views due west across the river. The engineering drawings submitted with the application are designed for a maximum vessel length for the pontoon of 13.2m long and 32 tonnes, which is shorter than the floating pontoon. Therefore it is considered that a moored vessel will be wholly contained within the confines of the subject property.

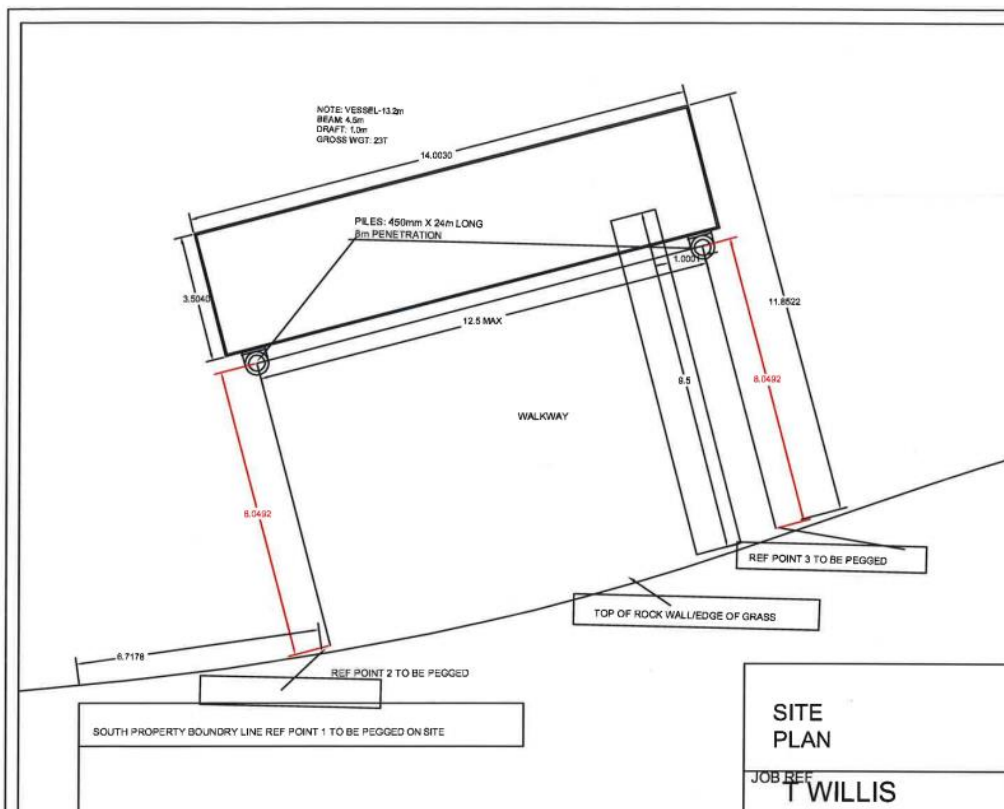


Figure 3 shows proposed location of pontoon in relation to property boundary.

COUNCIL IMPLICATIONS

Budget/Financial

There may be financial costs to Council should the applicant appeal Council’s decision. The application was accompanied by all fees required to be paid by Council’s Fees and Charges. Assessment of the application has been completed by staff utilising recurrent staffing budgets.

Asset Management

N/A

Policy or Regulation*Environmental Planning and Assessment Act 1979*

Environmental Planning and Assessment Regulations 2000

Clarence Valley Local Environmental Plan 2011

Rural Zones Development Control Plan 2011

Consultation

Notification of the application to adjacent landowners has occurred and one submission was received. Council referred the initial application to the NSW Natural Resource Access Regulator, Department of Primary Industry – Fisheries and the NSW Roads and Maritime Services, approval was granted by each of the State Government agencies. No additional internal or external consultation was required to be undertaken as part of modification application.

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 modification application will not result in any adverse climate change outcome whether it is approved or refused. The pontoon is already approved, the relocation of the structure will have a negligible impact on, climate change effects.

Prepared by	James Hamilton, Development Planner
Attachment	A. Submission B. Section 4.55 Amendment Report

ITEM	6b.19.047	KOALA PLAN OF MANAGEMENT – PROPOSED AGED CARE FACILITY, 425 BENT STREET, SOUTH GRAFTON
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Andrew Fletcher & Associates Pty Ltd
<i>Owner</i>	Grafton and District Golf Club
<i>Address</i>	425 Bent Street, South Grafton
<i>Submissions</i>	Nil

This report seeks to obtain a Council resolution to approve the site specific Koala Plan of Management prepared to manage impacts on a local koala population and habitat due to the proposed construction of a 144-bed aged care facility and associated infrastructure on part of the existing Grafton and District Golf Course site in South Grafton.

OFFICER RECOMMENDATION

That Council:

1. Approve 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), in accordance with the requirements of clause 13 of *State Environmental Planning Policy No. 44 – Koala Habitat Protection* and that implementation of the recommended planning strategies in the Koala Plan of Management be the full responsibility of the developer of the aged care facility proposed in Development Application No. DA2018/0567 unless otherwise agreed to by Council.
2. Note that in accordance with clause 13(3) of *State Environmental Planning Policy No. 44 – Koala Habitat Protection* the Koala Plan of Management will be deemed to have effect from the date that the NSW Department of Planning, Industry and Environment approved of the Plan, being 23 September 2019.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.047

Kingsley/Baker

That Council:

- 1. Approve 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), in accordance with the requirements of clause 13 of *State Environmental Planning Policy No. 44 – Koala Habitat Protection* and that implementation of the recommended planning strategies in the Koala Plan of Management be the full responsibility of the developer of the aged care facility proposed in Development Application No. DA2018/0567 unless otherwise agreed to by Council.**
- 2. Note that in accordance with clause 13(3) of *State Environmental Planning Policy No. 44 – Koala Habitat Protection* the Koala Plan of Management will be deemed to have effect from the date that the NSW Department of Planning, Industry and Environment approved of the Plan, being 23 September 2019.**

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

Strategy 4.1.2 Promote sustainable Natural Resource Management

BACKGROUND

The Koala Plan of Management (KPoM) was reported to Council's October meeting in association with the report on DA2018/0567 for the aged care facility (refer to Item 6b.19.032). The Officer's Recommendation to the October Environment, Planning and Community Committee meeting included a recommendation to approve of the KPoM. Such Council approval is required in order for the KPoM to have effect in accordance with clause 13 of the *State Environmental Planning Policy No. 44 – Koala Habitat Protection* (hereafter referred to as SEPP 44). As development consent cannot be granted until such time as the KPoM is approved by both the NSW Department of Planning, Industry and Environment (DPIE) and Council the DA remains undetermined.

Council resolved at the October meeting to issue conditional development consent to the aged care facility and that resolution is not proposed to be revisited.

KEY ISSUES

The KPoM prepared in relation to DA2018/0567 is to be tabled. SEPP 44 requires the KPoM to be approved. The provisions of SEPP 44, as well as advice issued by the DPIE and attached to this report, requires Council to approve of the KPoM to ensure the KPoM has legal effect.

The proposed aged care facility will involve impacts on core koala habitat and hence, the KPoM must be prepared. The NSW Government is satisfied that the KPoM as submitted is acceptable and has advised that they approve of the KPoM.

The Council-endorsed conditions to be included with issue of development consent for the aged care facility require the KPoM to be given effect through a range of conditional requirements.

COUNCIL IMPLICATIONS**Budget/Financial**

No specific financial implications arise for Council in approval of the KPoM. Responsibility for implementation of the KPoM will reside with the developer of the aged care facility.

Asset Management

Implementation of the KPoM in association with the aged care facility will not add to Council's Asset Management responsibilities other than for some street signs to caution motorists using Bent Street in the vicinity of the golf course and development site of the potential to observe koalas on or adjacent to the road.

Policy or Regulation

Environmental Planning and Assessment Act 1979

State Environmental Planning Policy No 44 – Koala Habitat Protection

Clarence Valley Biodiversity Management Plan

Consultation

DPIE have provided written approval and endorsement of the KPoM (see attachment). No additional consultation is relevant to this report. All necessary consultation with internal and external stakeholders was completed in conjunction with the administration and assessment of DA2018/0567.

Legal and Risk Management

Council cannot grant development consent to DA2018/0567 until such time as the KPoM is approved by both DPIE and Council. Issue of the development consent in respect of the proposed aged care facility in accordance with Council's October resolution is likely to have been deemed to be invalid if challenged through a legal appeal in the Land and Environment Court. In the circumstances, it is prudent for Council to specifically resolve to approve the KPoM as was intended when the DA was reported to the October Committee and Council meeting.

Climate Change

The resolution to approve the KPoM will in its own right have no significant impact on climate change in the longer term. Implementation of the KPoM, including the planting of 740 koala feed trees, is proposed to counter the adverse effect on the local koala population of removing 74 established koala feed trees on the golf course in association with the proposed aged care facility. These new plantings will contribute to removing carbon dioxide from the atmosphere during their life cycle, although the prime reason for these plantings is to compensate for loss of existing koala feed trees.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	1. Approval of KPoM by NSW Department of Planning, Industry and Environment
To be tabled	2. KPoM as prepared by GeoLINK

ITEM	6b.19.048	PLANNING PROPOSAL – FORMER MACLEAN DEPOT/SES SITE, LOTS 721 & 722 DP1148111, RIVER STREET, MACLEAN (REZ2019/0001)
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Proponent/Applicant</i>	Clarence Valley Council
<i>Owner</i>	Clarence Valley Council
<i>Subject land/ Address</i>	Lots 721 and 722 DP1148111, River Street, Maclean
<i>Submissions</i>	Yes

This report considers the outcomes of the exhibition of a Planning Proposal (REZ2019/0001 to rezone Lots 721 and 722 DP1148111, River Street, Maclean from IN4 - Working Waterfront to B2 - Local Centre.

The Planning Proposal was publicly exhibited from 4 October to 1 November 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. A copy of the exhibited Planning Proposal is at Attachment 1.

This report recommends that Council continue to support the Planning Proposal as exhibited.

OFFICER RECOMMENDATION

That Council:

1. Continue to support the Planning Proposal (REZ2019/0001), to rezone Lots 721 and 722 DP1148111, River Street, Maclean from IN4 - Working Waterfront to B2 - Local Centre as exhibited and without further amendment; and
2. Refer the Planning Proposal to the Planning Secretary of the Department of Planning, Industry and Environment (DPIE) requesting that arrangements be made for the drafting of the required local environmental plan to give effect to the final proposals of the Planning Proposal supported by Council as the planning proposal authority; and
3. Request the DPIE to make the proposed local environmental plan once the terms of the draft instrument are finalised.
4. Note the recommendations of the following:
 - (a) Detailed Site Investigation - 74 River Street, Maclean NSW (January 2019, Ref. 18058 R01 V3) prepared by Cavvanba Consulting in relation to land contamination at the site.
 - (b) Heritage Assessment and Investigation of Archaeological Potential - Lot 721 & Lot 722 DP1148111, Maclean Slipway, River Street, Maclean NSW prepared by Eureka Heritage.
 - (c) Environment Protection Authority in relation to the Detailed Site Investigation and Land Contamination.
 - (d) Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment in relation to acid sulfate soils, flooding, and Aboriginal Cultural Heritage.

Note – the recommendations referred to above are addressed in more detail in the report below.

5. Support the range of recommendations referred to above in Recommendation 4 and ensure that future development takes account of the range of recommendations in Recommendation 4 above.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.048

Kingsley/Baker

That Council:

1. Continue to support the Planning Proposal (REZ2019/0001), to rezone Lots 721 and 722 DP1148111, River Street, Maclean from IN4 - Working Waterfront to B2 - Local Centre as exhibited and without further amendment; and
2. Refer the Planning Proposal to the Planning Secretary of the Department of Planning, Industry and Environment (DPIE) requesting that arrangements be made for the drafting of the required local environmental plan to give effect to the final proposals of the Planning Proposal supported by Council as the planning proposal authority; and
3. Request the DPIE to make the proposed local environmental plan once the terms of the draft instrument are finalised.
4. Note the recommendations of the following:
 - (a) Detailed Site Investigation - 74 River Street, Maclean NSW (January 2019, Ref. 18058 R01 V3) prepared by Cavvanba Consulting in relation to land contamination at the site.
 - (b) Heritage Assessment and Investigation of Archaeological Potential - Lot 721 & Lot 722 DP1148111, Maclean Slipway, River Street, Maclean NSW prepared by Eureka Heritage.
 - (c) Environment Protection Authority in relation to the Detailed Site Investigation and Land Contamination.
 - (d) Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment in relation to acid sulfate soils, flooding, and Aboriginal Cultural Heritage.

Note – the recommendations referred to above are addressed in more detail in the report below.

5. Support the range of recommendations referred to above in Recommendation 4 and ensure that future development takes account of the range of recommendations in Recommendation 4 above.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Council on 21 August 2018 resolved to rezone the subject land from IN4 - Working Waterfront to B2 - Local Centre. Prior to the CVLEP the land was zoned 5(a) Special Uses - Slipway under the Maclean LEP 2001. It

should also be noted that the Planning Proposal seeks to apply a 9 metre building height on the land, noting that the Height of Buildings map under the LEP currently does not indicate a building height for the land.

On 5 February 2019 Council referred the Planning Proposal to the Department of Planning and Environment with a request for gateway determination. A gateway determination to proceed was issued on 4 March 2019. A copy of the determination is at Attachment 2.

The determination enables the Planning Proposal to proceed to public exhibition subject to a number of conditions which notably include:

- (i) Prior to community consultation a statement of significance is to be undertaken to confirm any heritage significance on the site. The contents of the Planning Proposal are to be amended in accordance with any findings of the statement.
- (ii) Public exhibition for a minimum period of 28 days.
- (iii) Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW DPI Fisheries;
 - Office of Environment and Heritage;
 - Fisheries NSW;
 - Roads and Maritime Services;
 - Yaegl Local Aboriginal Land Council; and
 - NSW Environmental Protection Agency.
- (iv) The NSW Environmental Protection Agency have advised if further site investigations or actions for potential contamination or offsite migration are required, the contents of the Planning Proposal are to be amended in accordance with any investigations or actions.

The land was recently reclassified from community to operational following the conclusion of a planning proposal which resulted in the amendment of Part 1 of Schedule 4 of the CVLEP to include the land as operational land for the purpose of the Local Government Act 1993 (LG Act). The reclassification of the land as operational took effect on 3 May 2019 when Amendment No. 40 of the CVLEP was notified.

KEY ISSUES

The principal issues include land contamination, potential heritage significance and impact, and the design and form of future development on the site under the new zoning.

Land contamination

In acknowledgement of the likelihood of the site being contaminated Council commissioned a preliminary site investigation (PSI) and detailed site investigation (DSI) which was undertaken by Cavvanba Consulting Pty Ltd. This DSI was conducted under State Environmental Planning Policy No. 55 - Remediation of Land as part of the preparation of the Planning Proposal. The DSI complies with the relevant guidelines including:

- Department of Urban Affairs and Planning (1998) State Environmental Planning Policy No. 55: Managing Land Contamination, Planning Guidelines SEPP 55 - Remediation of Land.
- EPA (formerly Office of Environment and Heritage (OEH)) (2011) Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites; and
- EPA (2017) Contaminated Sites: Guidelines for the NSW Site Auditor Scheme (3rd edition); and
- National Environment Protection Council (NEPC) National Environment Protection (Assessment of Site Contamination) Measure 1999 (ASC NEPM (2013)) - Schedule B2: Guideline on Site Characterisation (2013).

Cavvanba Consulting submitted the DSI report entitled Detailed Site Investigation - 74 River Street, Maclean NSW (January 2019, Ref. 18058 R01 V3) on 17 January 2019. This forms Appendix 8 of the exhibited

Planning Proposal. The DSI report flagged a number of exceedances of a range of contamination parameters/criteria.

Key findings of the DSI report include (section 11.0):

- (i) The primary issue is metals and hydrocarbon contamination associated with the former use of the site as a slipway. Metals and polycyclic aromatic hydrocarbons PAHs have been identified in excess of site criteria and total recoverable hydrocarbons TRH has been identified in soil in excess of management limits.
- (ii) Due to the close proximity of the Clarence River, further investigation is required to determine if offsite migration is occurring and either management or remediation of the site is required to mitigate future potential migration.
- (iii) The land use is currently proposed to remain as commercial/industrial. Should the land use change to a more sensitive use, further investigation and remediation may be required, and consideration may need to be given to potential aesthetics issues. Table 11.1 of the report highlights the issues from the investigation which should be managed including:
 - Elevated metals (including zinc, lead and copper), TRH and PAHs in soil.
 - Tributyltin in soil.
 - Potential asbestos containing materials (ACM) in and within some structures/buildings and possibly in the soil.

Additional actions/investigations recommended by the report include:

- Remediation or management of impacts of elevated metals (including zinc, lead and copper), TRH and PAHs in the soil (Table 11.1).
- Sampling of groundwater and also sediment of the Clarence River to determine if a contamination pathway exists due to Tributyltin (Table 11.1).
- Undertake a hazardous materials audit of potential ACM at the site prior to demolition (Table 11.1).
- Further investigation for evidence of, or potential for migration of contaminants from the site including potential risk to offsite receptors, and reported to the site owner or occupier.
- Further investigation is required to determine the appropriate management strategy.

The conclusions of the DSI report should not necessarily preclude a particular zoning nor suggest that the Planning Proposal in support of a zoning change from IN4 Working Waterfront to B2 Local Centre should not proceed. Site contamination is an aspect to be further considered during the DA process for a redevelopment. The further investigations recommended by the DSI report should be carried out as part of the development assessment process. Remediation or management of impacts should be carried out and completed before new development is carried out on the site depending on the nature of the use proposed and approved.

The Environment Protection Authority (EPA) considered the Planning Proposal and accompanying DSI. It recommended that the following actions be implemented by Council:

- (i) Council conduct further site investigations to determine the mobility of contaminants and potential offsite migration. The investigation will help determine the potential timing and scale of future remediation works. Specifically, if the investigation finds that there is no offsite migration or low environmental risk posed by current site contamination, then it may be appropriate to delay remediation work until the site is redeveloped in the future.
- (ii) The EPA understands that the proposed future land use is to remain as commercial/industrial. Any future revision to a more sensitive land use will require further assessment against criteria that assigns a higher level of environmental and human health protection.

Heritage significance and impact

As explained in section 4.9 of the Planning Proposal the historical significance of the old slipway at the site was drawn to the attention of Council earlier this year by a descendant of the family who established the Schwonberg Shipyard and Slipway in 1866. This led to a statement of heritage significance being prepared to support the exhibited Planning Proposal. Consultant Eureka Heritage was engaged to undertake statement of heritage significance on Council's behalf. The report entitled *Heritage Assessment & Investigation of Archaeological Potential - Lot 721 & Lot 722 DP 1148111, Maclean Slipway, River Street, Maclean NSW* was submitted on 26 September 2019. It forms Appendix 10 of the exhibited Planning Proposal.

Key points from the reports conclusions (Section 3.9) are:

“Research and investigation results demonstrates that there is some potential for archaeological resources to occur at the study site. Any resources that can be associated with the 19th Century establishment and operation of the Schwonberg Shipyard and Slipway would be considered significant at the local level for their ability to contribute meaningful information to the known history of the site.....

Ideally, significant heritage resources should remain undisturbed to be conserved in situ within the framework of the Burra Charter. Such a course is frequently impossible or impractical and questions are posed by the conflicting aims of heritage on the one hand and progress and development, including safety issues and environmental remediation, on the other.”

A number of recommendations were made and these are as follows:

Recommendation 1 - Proposed Rezoning

Based on the results of historical investigation and the assessment of heritage significance against the proposed rezoning from IN4 Working Waterfront to B2 Local Centre, and in anticipation of the potential for redevelopment of a site that might be considered prime waterfront location, any development proposal over Lot 722/723 (the former Schwonberg Slipway) should be subject to a Statement of Heritage Impact which references this assessment report and the following recommendations.

Recommendation 2 - Inclusion in Schedule 5 of the CVC LEP

Consideration might be given to the inclusion of the site and remnant structures of the circa 1866 Schwonberg Slipway (being the existing motor-house and annexe, slipway cradle and rails) as an item of local heritage significance in Schedule 5 – Environmental Heritage of the Clarence Valley Council LEP.

Recommendation 3 - Statutory Approvals for Site Works

As the former Schwonberg Slipway and associated motor-house/boat shed can be reasonably defined as a work and not a relic according to the NSW Heritage Act 1977, there is no requirement to make application for statutory approval under the Act for works at the site. However, this does not preclude the need for appropriate heritage management where an assessment of heritage significance warrants such management. It does not allow for the discovery and exposure of items that meet the definition of relic under the NSW Heritage Act.

A requirement for approval for works at the site, other than minor works, should be the preparation of a heritage mitigation plan. This document should be prepared by an appropriately qualified professional to provide guiding principles designed to avoid the loss of heritage resources at the site.

Recommendation 4 - Development Proposals and Heritage Management

Any proposed development on the site of the former Schwonberg Slipway should allow for the slipway rails and cradle, and motor-house and annexe to be retained and conserved, although modification for proposed adaptive re-use is not excluded. A Heritage Impact Statement should be prepared which assesses the potential for impact upon the site prior to any major works being approved. Consideration for the

naming of a new enterprise or development might respect the pioneering enterprise of Joachim Nicolaus Schwonberg through the use of the Schwonberg name or reference to the Shipyard and Slipway.

Recommendation 5 - Compilation of Archive Record

In reference to the assessment of local historical significance demonstrated by historical, aesthetic and social associations of the elements comprising the remnants of the Schwonberg Slipway, it is recommended that relevant information is compiled from this report in order to serve as an archive report, with contents to meet the NSW Heritage Council guidelines. The archive should be lodged with a local history repository/library where the site's historical and archive record can be publicly accessed.

Recommendation 6 - Management of Potential Archaeological Resources

Any future proposed works requiring excavation or landscaping in the precinct of the former slipway and shed may require an archaeological impact assessment and archaeological management. However, with reference to the definition of the site as a work and not a relic, there is no requirement for an application for a statutory excavation permit under the NSW Heritage Act. This does not preclude the need for appropriate management of the potential archaeological resources of the site, and the potential for the exposure of relics to occur in association with a work should be carefully considered in the archaeological impact assessment.

Where any proposed disturbance for development extends beyond the riverbank zone, the specialist services of a Maritime Archaeologist should be sought for survey, impact assessment and management.

Recommendation 7 - Interpretation

Consideration might be given to the interpretation of the history of the Schwonberg Slipway through a number of mediums as presented in a proposal by Schwonberg family descendants (refer to Appendix 3). The proposal for interpretation has merit in the inclusion of the site in a Heritage Trail and interpretation signage. However, the placement of signage and access considerations are issues that need to be further explored and developed.

In any interpretation plan, the association between the former Wesleyan Church, the former Schwonberg Cottage and the Slipway should be considered. In this regard, the information contained in the SHI should be updated to reflect the historical associations. Any proposed conservation or preservation works at the site, for example proposed construction of stone retaining walls requiring ground disturbance, would need to be carefully considered for the potential to trigger the relics provisions of the NSW Heritage Act and any proposed works should be assessed for the potential for impact upon the heritage values of the site. The need for specialist assessments prior to works on the slipway and cradle should also be carefully considered.

Recommendation 8 - Relics Provisions

During any approved ground breaking works at the study site, it should be noted that the discovery of significant relics, exposed in association with a work, needs to be notified under s146 of the Heritage Act. The provisions of the NSW Heritage Act 1977 in relation to the exposure of a relic require:

- (i) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- (ii) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;
- (iii) those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales through its delegate, Community Services, the NSW Department of Premier and Cabinet, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

Design and form of future development on the site

Four (4) submissions were received from members of the public all concerned about a similar range of issues related to local amenity, character associated with this precinct and the approaches to the Maclean CBD. All are concerned about the vision for the Maclean CBD precinct and environs and particularly about the nature and form of future development that could result on the land under a B2 Local Centre zoning.

Some of the submissions have cited the inappropriateness and incompatibility of existing businesses in the immediate vicinity such as in Church Street which are more of a light industrial nature and incompatible with the objectives of the B2 zoning. The issues and concerns raised extend to:

- hours of operation
- traffic generation including heavy vehicles using/accessing these sites and traffic safety
- noise

Most of the submissions acknowledge the increasing desirability and attraction of Maclean to visitors and also to existing and new residents including its town entry. Such desirable amenity is due principally to the predominantly heritage-based residential character in this locality with the exceptions of the inappropriate “light industrial” examples cited above.

Comment

The comments relating to the some of the incompatible “light industrial” developments and uses in the immediate locality are noted as are the concerns for the potential for inappropriate and incompatible development to occur on the land the subject of this Planning Proposal.

The lands that are currently zoned B2 were previously zoned 3(a) Commercial under the Maclean LEP 2001 which provided for a greater range of permitted with consent uses, which in part would explain some of the existing commercial uses in Church Street, approved prior to the Clarence Valley LEP 2011. The current IN4 zoning of the subject land also has the potential to permit development on the site that could be incompatible with some of the existing residential development and its character. The proposal to apply a 9 metre building height on the land, where there is currently no building height limit on the CVLEP’s Height of Building maps should go some way to limiting the scale and form of any future built development on the subject land.

Council in considering what it approves on the subject land in the future will also need to give consideration to the following:

- (i) The recommendations of the Eureka Heritage Statement of heritage significance report that forms Appendix 10 of the exhibited Planning Proposal.
- (ii) The heritage provisions of the CVLEP 2011 including clause 5.10 Heritage conservation and Schedule 5 Environmental heritage
- (iii) The heritage provisions contained in Part E Heritage conservation of Council’s Business Zones DCP 2011 as well as Part O Maclean Town Centre Controls of the Business Zones DCP 2011, particularly in relation to Precinct 6 (Southern Gateway and Peripheral Commercial Development).

Other issues

Other issues such as acid sulfate soils (ASS) and flooding have been addressed in the exhibited Planning Proposal at sections 4.8.2 and 4.8.3, respectively.

In relation to ASS the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment has advised that any future development and construction that involves works likely to affect ASS will require a development application with an Acid Sulfate Soils Management Plan (ASSMP) prepared in accordance with the ASS Manual. The ASSMP should also be prepared in accordance with the National Guidance documents for ASS (2018) <https://www.waterquality.gov.au/issues/acid-sulfatesoils>. The BCD concurs that any inconsistency

with Direction 4.1 can be of minor significance and it further advises that it has no further ASS in relation to the Planning Proposal.

In relation to flooding the BCD recommends that future development applications should:

- (i) Assess the hydraulic category (Floodway, Flood Storage or Flood Fringe) and/or the flood hazard of the land to ensure the development is compatible with the hydraulic category;
- (ii) Avoid development in parts of the land where floodway is found to exist.

In relation to Aboriginal Cultural Heritage the BCD has advised that given the highly developed and disturbed nature of Lots 721 and 722, it is unlikely that any Aboriginal cultural material would be evident on the ground surface. A recent cultural mapping exercise did not identify this particular area as having either known or high potential for Aboriginal cultural heritage. In addition, no AHIMS sites are identified on these two lots.

Both RMS and DPI Fisheries indicated that it has no objection to the Planning Proposal.

COUNCIL IMPLICATIONS

Budget/Financial

The cost of studies/assessments required to support the Planning Proposal to date has been as follows:

1. Preliminary site investigation and detailed site investigation land contamination (Cavvanba Consulting) - \$31,300 exc GST.
2. Statement of Heritage Significance (Eureka Heritage) - \$6,479 inc GST.

Asset Management

N/A

Policy or Regulation

- Environmental Planning and Assessment Act 1979 - including relevant State environmental planning policies, Minister's Section 9.1 Directions made under the Act
- North Coast Regional Plan 2036
- Clarence Valley Business Zones Development Control Plan 2011

Consultation

The gateway determination required:

- (i) That the Planning Proposal be publicly available for a minimum of 28 days;
- (ii) Consultation with the following public authorities and other stakeholders –
 - Environmental Protection Authority
 - Office of Environment and Heritage (now BCD)
 - Roads and Maritime Services
 - Yaegl Local Aboriginal land Council
 - Yaegl Traditional Owners Aboriginal Corporation
 - NSW DPI Fisheries
 - Fisheries NSW

The Planning Proposal was publicly exhibited for a period of 28 days. Written notification of the public exhibition of the Planning Proposal was given to five (5) neighbouring property owners.

Submissions were received from four members of the public, whilst the following public authorities/stakeholders responded:

- Environmental Protection Authority
- BCD
- Roads and Maritime Services

- NSW DPI Fisheries

A copy of all submissions received is at Attachment 3. Issues raised in submissions are assessed and reviewed in ISSUES above.

Legal and Risk Management

N/A

Climate Change

The land is subject to flooding as acknowledged in section 4.8.3 and Appendix 7 of the Planning Proposal. Future development on the land will need to factor in climate change predictions when assessing the hydraulic category (Floodway, Flood Storage or Flood Fringe) and/or the flood hazard of the land as suggested by the BCD submission.

Prepared by	Terry Dwyer, Strategic Planning Coordinator
To be tabled	1a - Planning Proposal as exhibited 1b - Planning Proposal Appendix 8 Pt1 1c - Planning Proposal Appendix 8 Pt2 1d - Planning Proposal Appendix 8 Pt3 1e - Planning Proposal Appendix 8 Pt4
Attachment	2 - Gateway determination 3 - Submissions

ITEM	6b.19.049	REVIEW OF CARETAKER DWELLINGS IN INDUSTRIAL ZONES
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Nil	

SUMMARY

This report provides an overview of the issues associated with caretaker dwellings being established within industrial zones in the Clarence Valley. The report recommends a fresh approach to management of such residential uses in an attempt to make industrial zoned land more attractive to industry activities and the range of benefits such land use brings to the local community and economy.

OFFICER RECOMMENDATION

That Council:

1. Prepare and advertise an amendment to the Council's Development Control Plan for Development in Industrial Zones by deleting clause C12 of that Development Control Plan;
2. Discourage the establishment of caretaker or ancillary dwellings in industrial zones due to the adverse effect such use has on the attractiveness of industrial land and potential employment opportunities from new and existing industry; and
3. Commence investigations to determine the legality of caretaker dwellings or other residential accommodation within industrial zones with a view to ensure unauthorised residential use ceases and that the result of these investigations is reported to Council on a quarterly basis.

COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.049

Kingsley/Baker

That Council:

1. Prepare and advertise an amendment to the Council's Development Control Plan for Development in Industrial Zones by deleting clause C12 of that Development Control Plan;
2. Discourage the establishment of caretaker or ancillary dwellings in industrial zones due to the adverse effect such use has on the attractiveness of industrial land and potential employment opportunities from new and existing industry; and
3. Commence investigations to determine the legality of caretaker dwellings or other residential accommodation within industrial zones with a view to ensure unauthorised residential use ceases and that the result of these investigations is reported to Council on a quarterly basis.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms
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 has 14 industrial precincts in either IN1 General Industrial or IN4 Working Waterfront zones under the Clarence Valley Local Environmental Plan 2011 (CVLEP). Almost all of these precincts contain residential accommodation in the form of ancillary or caretaker dwellings. Previous local planning provisions in the Clarence Valley have not always discouraged such forms of residential accommodation. The CVLEP prohibits residential accommodation in these industrial zones; however the relevant Council DCP still entertains the concept of such development co-existing in industrial zones.

Council's Trainee Town Planner has recently completed a visual survey of all industrial zoned land within the Local Government Area (LGA) and as a result 122 dwellings are estimated to have been identified. These occupy 22% of industrial zoned land parcels. These occur in most industrial precincts as indicated in Table 1 below. The majority of these dwellings (106 or 87%) are considered to be lawful either due to having existing use rights through a lengthy period of continuous use as a dwelling or through issue of development consent (see Figure 1). In the case of the latter, these dwellings are typically approved as being ancillary or sub-ordinate to an industrial use of the same land. Despite that, a few of these approved dwellings are substantial in size and significantly more generous than the 75m² maximum floor area currently specified in the DCP provisions. Further, it is likely that a number of the approved dwellings remain occupied residentially despite the original dominant industrial use no longer being operational on the subject land. Figure 1 provides a total summary of the preliminary status of dwellings in industrial zones in the LGA.

Precinct	Total Lots	Caretakers Dwelling	Vacant/Under-utilised
South Grafton IN1	220	60	38
Grafton IN1	49	12	1
Tyndale IN1	1	1	0
Townsend IN1	51	7	4
Macleay IN4	7	0	3
Ashby IN4	6	0	0
Harwood IN1	4	0	0
Harwood IN4	8	1	2
Goodwood Island IN4	1	0	0
Iluka IN4	18	0	0
Iluka IN1	24	12	3
Yamba IN4	2	0	0
Yamba IN1	99	15	12
Koolkhan IN1	67	14	12
TOTALS (14 precincts)	557	122 (22%)	75 (13.5%)

Table 1 – Summary of caretaker dwellings and vacant/under-utilised in Clarence Valley industrial zones.

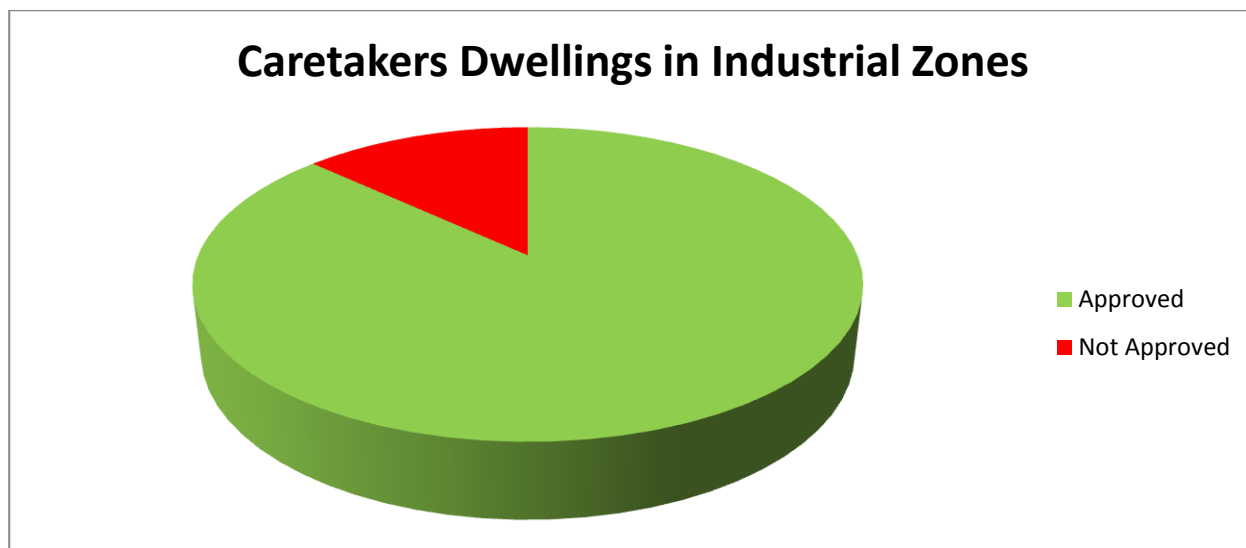


Figure 1 – Status of caretaker dwellings within Clarence Valley industrial zones – 106 (87%) approved and 16 (13%) not approved.

To obtain a regional perspective on the local government approach towards caretaker dwellings in industrial areas Council's Economic Development team sought input from other local North Coast Councils. Eight (8) councils between Tweed and Mid Coast Council provided feedback. Half of the councils allow caretakers dwellings with development consent in industrial zones with limitations on dwelling size, etc (similar to the current CVC approach) and the other half of respondent councils prohibit permanent dwellings in industrial zones.

KEY ISSUES

Caretaker dwellings (CVLEP and CVDCP) – Residential accommodation, including dwelling houses, are prohibited in both the IN1 General Industrial and IN4 Working Waterfront zones under the Clarence Valley Local Environmental Plan 2011 (CVLEP). Despite this, the Clarence Valley Development Control Plan for Development in Industrial Zones promotes the prospect of caretaker dwellings when it can be demonstrated that they are ancillary to industrial development. A NSW Department of Planning Circular published in 2013 provided advice in how to characterise development, including ancillary development, and provided some guidance or questions to determine when a use is ancillary or independent. This includes:

Considerations for characterisation

A component of a development may have features that are both ancillary and independent. If this is the case, consider the following:

- Is the component going to serve the dominant purpose of the development or is it independent?
- What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.
- Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.
- If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use.
- If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).
- Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.

- Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative.

Clause C12 of the DCP for Development in Industrial Zones currently provides as follows:

C12. Dwellings

A dwelling used as a caretaker's dwelling or ancillary dwelling to the industrial use, is permitted on an industrial lot if the following conditions are met:

- (i) Only one dwelling per lot or holding.
- (ii) The gross floor area of the dwelling is not more than 75m².
- (iii) The dwelling is attached to, and located above (i.e. not at ground level), an industrial or commercial building.
- (iv) The dwelling is for the owner of the business operating on the land, or an employee of that person.
- (v) The dwelling is adequately insulated against sound penetration from surrounding industrial activities.
- (vi) The dwelling is not subdivided as a strata title.
- (vii) A dedicated car parking space is available on the site for the dwelling.
- (viii) Use of the dwelling must be fundamental, but subordinate to the dominant industrial / commercial use of the land.

Note:

Clarence Valley Draft LEP 2011 prohibits residential accommodation in the IN1 and IN4 zones. In order for a dwelling to be permitted in an industrial zone the dwelling must be ancillary to the industrial use or other approved use of the land.

Council's DCP has attempted to place control on how caretaker dwellings are established, however it is not uncommon for the occupation and management of the original dwelling to change as land or business ownership or other circumstances change. Inevitably many caretaker dwellings end up being occupied by persons wanting cheap rental accommodation and while this assists the customer it is considered to be at the cost of the viability and attractiveness of industrial zones for industrial and employment generating development. This outcome is contrary to the Council's Community Strategic Plan to support local business and industry.

A range of issues are associated with residential accommodation in industrial zones and these are discussed in general terms below.

- Complaints from residents about the activities of industrial uses – Residents do not like to live in an environment that generates nuisance, whether it is noise, odour, glare, dust, smoke or similar. The location of caretaker dwellings in industrial areas significantly increases the potential for persons to be subject to nuisance due to the bonafide and reasonable operation of nearby industrial uses. This then provides potential for those residents to raise concern about the operation of bonafide industrial uses and Council receives complaints from residents of caretaker dwellings relatively often. To submit complaints about bonafide industrial activities when people are living in industrial areas is argued to not be reasonable and certainly problematic. Industrial uses do not operate within urban residential areas for obvious reasons and where they do there are legal provisions that limit their options for intensification and expansion in an attempt to manage the potential impact and transition these incompatible activities away from sensitive uses or receivers. It would seem reasonable that industrial

activities in industrial zones, therefore should not be constrained because incompatible residential uses have established in those areas.

- Lower residential amenity for occupants – industrial estates are generally not the nicest of places to live both in terms of outlook and potential nuisances from nearby industrial and service industry uses. Industrial uses often conduct aspects of business outside of normal business hours whether that is for manufacturing or business requirements such as deliveries, etc. Industrial areas should offer the opportunity for 24/7 business to be conducted without potential to interfere with residential amenity. In order to achieve this industrial areas are often located away from sensitive residential areas. Clarence Valley Council has made considerable effort to ensure a suitable quantity of quality residential land is zoned to enable residential development to occur. There is no shortage of zoned residential land in the Local Government Area in the foreseeable future. Hence, there is no justification for non-residential zones, such as industrial estates, to be used for residential development. The prohibition of residential accommodation in Industrial zones in the Clarence Valley LEP supports this.
- Low cost residential accommodation – Dwellings that are built for ‘caretakers’ appear to often become used for low cost residential accommodation by persons who do not own or have an interest in any adjacent industry on the same land. Whilst many caretaker dwellings commence in a bonafide ancillary capacity to an industrial use on the same land it appears that over time the nature of use and the relationship to the original business/industrial use deteriorates to the extent that the residential use can no longer be justifiably ancillary and is in fact the dominant use of the land.
- Attractiveness of industrial areas to new/existing industry – For industry to invest in a site or a locality they need confidence that their business can operate in accordance with the operational needs of the business. For industrial uses this can involve activities that would typically cause nuisance to residents, such as generation of noise, odour, heavy vehicle traffic, after-hours use, etc. When residential dwellings occur within industrial zones they increase the risk that new industry will not decide to locate in a particular industrial estate. The loss of industry and associated benefits (such as financial investment, employment growth, additional services and other multiplier benefits) to the wider community is not consistent with Council’s Community Strategic Plan *Strategy 3.1.2 Grow the Clarence Valley economy through supporting local business and industry* and so promote employment opportunities and skills growth for local people. The data collected by Council staff suggest that 13.5% of industrial zoned land parcels are vacant or have development potential. It is preferred that the attractiveness of these parcels to new industrial uses is maximised for broader community benefit.
- Alternative security/surveillance options – building a caretakers dwelling and the space it occupies comes at a significant cost. The most common reason used to justify a caretakers dwelling is that a full-time resident is required for site security and surveillance. However, in the modern day these aims can be effectively achieved with new technology at a much lower cost and arguably in a more effective manner. Monitoring equipment can be established and connected to mobile phone technology or other monitoring devices to provide instant notification of potential security issues to business owners and/or security companies. It is suggested that the concept of a live-in caretaker is an antiquated mode of providing site security that is unnecessary, inefficient and has a range of negative impacts that significantly outweigh any benefit they provide to the individual land or business owners.

After considering the concept of caretaker dwellings it is concluded by Council staff that the negative impacts of having this type of use in industrial zones significantly outweighs the benefit that arises to an individual land or business owner. Council is encouraged to pursue measures that further restrict the opportunity to establish residential uses in industrial zones consistent with the prohibition in the Clarence Valley LEP.

COUNCIL IMPLICATIONS

Budget/Financial

There will not be any adverse impact on Council’s capital budget or financial interests as a result of implementing the Officer’s Recommendation. Investigations and actions to cease unauthorised residential accommodation can be funded through existing recurrent staff budgets.

In a wider financial context, actions to remove unauthorised dwellings from industrial areas and loss of dwellings through natural attrition will make industrial land more attractive to industry and this is likely to have positive flow-on effects to the local community and Council.

Asset Management

No Council assets are related to this issue.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Local Government Act 1998

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan – Development in Industrial Zones

Clarence Valley Community Strategic Plan (Clarence 2027)

Consultation

Council's Coordinator Community and Industry Engagement contacted a range of North Coast local councils to seek their advice as to how they manage or cater for caretaker dwellings in industrial zones. A summary of the responses has been provided in the 'Background' earlier in this report.

Further, Council's Coordinator Community and Industry Engagement has provided the following comment in regard to caretaker dwellings in industrial zones –

At times the presence of a caretaker (or resident) can concern potential investors. The prospect of noise (or other operational factors) complaints can give cause for a potential investor to look elsewhere. This may or may not be within the Clarence Valley.

The need for an onsite caretaker is largely negated by advances in technology. Whereas once there was a need for a person to be onsite for surveillance there are now technological solutions to this problem.

Legal and Risk Management

There is some inherent risk of Council implementing a program of investigating the lawfulness of caretaker dwellings within the industrial zones of the Clarence Valley. Any actions that will result in the need for a person/s to vacate premises used in a residential capacity must be completed in accordance with the provisions of the *Local Government Act 1998* and *Environmental Planning and Assessment Act 1979* to ensure that suitable alternative accommodation is available for affected persons. There is also some risk that Council actions to investigate and achieve compliance of residential land use in industrial zones will be legally challenged and this could involve some additional costs to Council although this cannot be quantified at this time.

Climate Change

There are no known implications on, or as a result of, climate change in relation to the subject matter of this report.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	Nil

ITEM	6b.19.050	DRAFT ON-SITE WASTEWATER MANAGEMENT STRATEGY 2019
Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

Clarence Valley Council currently has an On-Site Wastewater Management Strategy which was adopted in 2013. This draft On-Site Wastewater Management Strategy 2019 (the Strategy) has been prepared to update the existing Strategy in accordance with the statutory obligations of the Local Government Act 1993 and all current and relevant guidelines, standards and regulations.

The draft On-Site Wastewater Management Strategy 2019 was referred to the August 2019 Council meeting and it was resolved to place the Strategy on public exhibition. No submissions were received during the public exhibition period.

OFFICER RECOMMENDATION

That Council resolve to adopt the On-site Wastewater Management Strategy 2019 in accordance with the requirements of the *Local Government Act 1993* and give public notice.

COMMITTEE RECOMMENDATION

Baker/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.050

Kingsley/Baker

That Council resolve to adopt the On-site Wastewater Management Strategy 2019 in accordance with the requirements of the *Local Government Act 1993* and give public notice.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 4.2.5 Educate the community, business and industry about sustainable practices in the home, at work and in public places

BACKGROUND

Council resolved at its August 2019 meeting (Council Resolution: 6b.19.023):

That:

1. *Council place the draft On-Site Wastewater Management Strategy 2019 on public exhibition for a period of not less than 28 days and referred to all relevant stakeholders for comment.*
2. *Any submissions and proposed amendments to the draft On-Site Wastewater Management Strategy 2019 to be reported to Council for consideration for adoption.*

The Strategy was placed on public exhibition on Friday, 13 September 2019 with both the exhibition and submissions closing on Friday, 11 October 2019 (28 days). No submissions were received during this period.

A final draft of the Strategy is appended as an attachment.

KEY ISSUES

The main objective of the draft Strategy is to provide an updated version of the 'Clarence Valley Council On-site Wastewater Management Strategy 2013' in accordance with all current and relevant regulations, standards and guidelines and other LGAs in the region to manage new and existing wastewater systems in the CVC Local Government Area (LGA).

The major outcomes from updating the draft Strategy are:

- i. **Inspection Program** – To provide consistency with neighbouring councils in our region, our inspection program will change from the previous risk based system to a targeted system where high risk On-site Sewerage Management Systems (OSM Systems) will still be inspected annually and all other OSM Systems will be targeted for inspection.
 - Previous Inspection Program: All properties with OSM systems were inspected on a 1, 3, 5 and 10 year risk based inspection cycle and "Approvals to Operate" were issued based on a pass/fail report.
 - Revised Inspection Program: All high risk areas will continue to be inspected annually and all other properties will be targeted for inspection based on; development pressure, environment and public health compliance reporting, historical data, change of owner and pre-purchase inspections. Approvals to operate with no set expiry date will be issued to every property with an OSM system which will remain valid until change of owner of that property.
- ii. **Staffing and Revenue** – In order to continue the inspection program it has been found that 2 full-time wastewater inspectors, one full-time administration staff member and environmental officer specialist advice and support are required to meet the inspection regime and administration demands. The cost of staffing the inspection program continues to be self funding through a current annual charge of \$38.00 (2019/20 period) levied against all properties with on-site wastewater systems. Fees are set annually as outlined in Council's Management Plan and the details of this charge are highlighted in Section 5.0 of the draft Strategy and detailed further in this report.
- iii. **Wastewater Systems and Disposal Areas** – Approved wastewater treatment and disposal systems will be upgraded to the requirements of the draft On-site Wastewater Management Strategy 2019 in accordance with current and relevant guidelines, standards and regulations. Details of the updated and approved treatment and disposal systems can be found in Technical Support Document Number 3.

- iv. **Consistent with other LGAs** – The draft On-site Wastewater Management Strategy 2019 has been developed in line with other local LGAs requirements to provide consistency in the management of on-site wastewater systems over the Northern Rivers region.

COUNCIL IMPLICATIONS

Budget/Financial

The inspection program continues to be self funding (Account: 994700). An annual charge of \$38.00 for the 2019/20 period is levied for all properties with on-site wastewater systems that will fund the inspection program and administration.

Local Government Area	Annual OSM Charge	Pre-purchase OSM Charge	Change Owner OSM Charge
CVC	\$38.00	\$442	Nil
Ballina	\$55.00	\$560	\$63
Kyogle	NA	\$362	\$58
Richmond Valley	\$48.00	\$300	\$60
Lismore	\$42.00	\$646	\$79
Tweed	\$46.00	\$412	\$125
Coffs Harbour	\$34.00 to \$204	\$435	\$63

Fees will be set annually as outlined in Council's Fees and Charges. The details of this charge are highlighted in Section 5.0 of the draft Strategy and detailed further in this report.

Asset Management

N/A

Policy or Regulation

The *Local Government Act 1993 (LG Act)* requires that 'Council have an *On-site Wastewater Management Strategy* suitable for its own area'.

The draft On-site Wastewater Management Strategy 2019 is a document that meets the requirements of the *LG Act* and aims to achieve positive benefits to the environmental and public health as well as adopting current best practices principles to the field of wastewater management at all levels.

Consultation

Preparation of the draft Strategy has been undertaken in-house with key staff and users of the Strategy. Council's Water Cycle section was consulted with to provide an inspection regime of our drinking water catchments consistent with their drinking water management plan.

The draft Strategy was placed on public exhibition on Friday 13 September for 28 days where plumbers, consultants, developers and ratepayers were given the opportunity to provide feedback or submissions to be considered and incorporated into the final draft.

No submissions were received during this period.

Legal and Risk Management

In 1997 there was a food poisoning incident in the Wallis Lakes region near Forster where hundreds of people were poisoned and one person died. This incident was traced back to the consumption of oysters from a farm in the Wallis Lake area and investigations linked failing septic systems to the contaminated oysters.

The NSW State Government undertook a survey that showed up to 70% of sewage management systems were experiencing some type of failure. Surprisingly, many new systems were also not working efficiently through incorrect installation, maintenance and management.

As a result of this incident statutory requirements were developed for all NSW councils to have an On-site Wastewater Management Strategy which stipulates that every on-site sewage management facility will be inspected to ensure it is not having an adverse impact on the health of people or the surrounding environment.

Risk management for on-site wastewater management is identified in the *draft Strategy* as the identification, assessment, reduction, and monitoring of:

- Public health risks;
- Environmental risks; and
- Organisational, professional and operational risks.

Climate Change

Consistent with Council's Climate Change Policy the draft On-site Wastewater Management Strategy 2019 has been assessed against relevant industry and NSW Health standards and best practice. The draft On-site Wastewater Management Strategy 2019 will not increase green house gases and is considered sustainable in regard to the potential impacts on climate change.

Prepared by	Scott Moore, Environmental Officer
Attachment	Draft On-site Wastewater Management Strategy 2019

ITEM	6b.19.051	DONATION – DA FEE WAIVER – KANGAROO CREEK COUTTS CROSSING CHARITY SPORTS CLUB INC
Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Nil	

SUMMARY

A request has been received from Kangaroo Creek Coutts Crossing Charity Sports Club Inc for the donation of the Development Application fee paid for a shed at the TSR on Armidale Road, Coutts Crossing.

OFFICER RECOMMENDATION

That Council donate to Kangaroo Creek Coutts Crossing Charity Sports Club Inc \$457.84, which is 50% of the Development Application fee for installation of a shed.

COMMITTEE RECOMMENDATION

Simmons/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.051

Kingsley/Baker

That Council donate to Kangaroo Creek Coutts Crossing Charity Sports Club Inc \$457.84, which is 50% of the Development Application fee for installation of a shed.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.3 Support, encourage and celebrate community participation, community organisations and volunteerism

BACKGROUND

Kangaroo Creek Coutts Crossing Charity Sports Club Inc has asked Council to review the costs charged for the Development Application submitted for a new shed at the TSR Armidale Rd, Coutts Crossing which will be used as a shaded office and canteen area at events.

The Club lodged DA2019/0555 and CC2019/0479 for the construction of a shed and paid the following fees:

DA2019/0555

DACCSanH	\$ 36.00
DARecArch	\$ 36.00
DevApp	\$242.57

CC2019/0479

CCBlgChg	\$293.00
CCRecArch	\$ 36.00
CCCharge	\$272.10
Total Paid	\$915.67

Donations Policy clause 8.1.1.1 applies for this request i.e. the Club is eligible for a 50% donation of fees paid.

KEY ISSUES

Clause 8.1 of the Donations Policy states that Council will consider applications to donate DA, CC, Archive and Compliance and Occupation Certificate fees as follows:

8.1.1 in respect of buildings on Council owned land or Crown Land by community based non-profit organisations –

8.1.1.1 where the facility is for the exclusive use of the organisation – 50% donation, and

8.1.1.2 where the facility is for general public use – 100%

8.1.2 in respect of buildings on private property by community based non-profit organisations – 30% donation, and

8.1.3 in respect of Rural Fire Service brigade sheds – 100% donation.

Council will not donate any portion of these fees that relate to long service leave contributions, advertising or Plan First contributions. These fees will be required to be paid in full by the applicant in all circumstances.

COUNCIL IMPLICATIONS

Budget/Financial

Should Council approve these donation requests from Kangaroo Creek Coutts Crossing Charity Sports Club Inc., there are sufficient funds held in Cost Centre 930 (PJ# 997113-58-7043-2534).

Asset Management

N/A

Policy or Regulation

Donations Policy

Consultation

Internal consultation has taken place.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Sammy Lovejoy, Community Projects Officer (Community Grants)
Attachment	Nil

ITEM	6b.19.052	STATE GOVERNMENT FUNDING FOR NSW PUBLIC LIBRARIES
Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Nil	

SUMMARY

This report provides information on the Renew Our Libraries campaign.

OFFICER RECOMMENDATION

That Council:

1. Make representation to the Local State Member, Chris Gulaptis, in relation to the need for a sustainable state funding model for the ongoing provision of public library services.
2. Write to the Hon. Don Harwin, Minister for the Arts and the Hon. Walt Secord, Shadow Minister for the Arts, calling for bi-partisan support for Consumer Price Index (CPI) indexation of state funding for NSW public libraries, as well as legislation of all elements of the 2019-20 to 2022-23 NSW state funding model.
3. Take a leading role in lobbying for sustainable State Government funding for libraries.
4. Endorse the distribution of the NSW Public Libraries Association NSW library sustainable funding advocacy information in council libraries, as well as involvement in any actions proposed by the Association.

COMMITTEE RECOMMENDATION

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.052

Kingsley/Baker

That Council:

1. Make representation to the Local State Member, Chris Gulaptis, in relation to the need for a sustainable state funding model for the ongoing provision of public library services.
2. Write to the Hon. Don Harwin, Minister for the Arts and the Hon. Walt Secord, Shadow Minister for the Arts, calling for bi-partisan support for Consumer Price Index (CPI) indexation of state funding for NSW public libraries, as well as legislation of all elements of the 2019-20 to 2022-23 NSW state funding model.
3. Take a leading role in lobbying for sustainable State Government funding for libraries.
4. Endorse the distribution of the NSW Public Libraries Association NSW library sustainable funding advocacy information in council libraries, as well as involvement in any actions proposed by the Association.

Voting recorded as follows:**For:** Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms**Against:** Nil**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.3 We will have a diverse and creative culture

Strategy 1.3.1 Support arts, learning, cultural services, community events and festivals

BACKGROUND

The NSW Public Libraries Association's 2018-19 *Renew Our Libraries* campaign was a spectacular success, delivering an increase of \$60m in state funding for NSW public libraries over the quadrennial period 2019-20 to 2022-23. This is the largest single increase in state funding since the NSW Library Act was introduced in 1939.

This outcome was achieved as a result of the remarkable support of councils, libraries and communities across the state. Over 80% of NSW councils formally endorsed *Renew Our Libraries* through council resolutions.

The NSW Public Libraries Association has requested the support of NSW councils in its advocacy to State Government to develop a sustainable funding model for NSW libraries.

KEY ISSUES

Renew Our Libraries Phase Two has recently been launched <https://renewourlibraries.com.au/>. Well known media and advocacy company, *Essential Media* has been engaged to administer the campaign, the objectives of which are to:

- **Index the total increased state funding contribution** to the Consumer Price Index (CPI) in perpetuity. Without indexation the actual value of state funding for NSW libraries will decline over time, leaving NSW councils to either meet the shortfall or reduce services.
- **Protect the new funding commitment** by including all elements of the new state funding model in legislation through the Library Act and/or the Library Regulation. Currently, only the per-capita component of the funding model (increasing from \$1.85 per capita to \$2.85 per capita over the 4-year period 2019-20 to 2022-23) is included in library legislation, **leaving 46% of the total funding for NSW libraries at risk.**

Index the Funding → Protect the Funding

These two simple measures will ensure that NSW councils continue to receive a significantly increased State Government contribution to the operation of public libraries across the state, which will be protected by legislation and will not be subject to cost of living attrition over time.

This will also mean that the NSW Public Libraries Association, its member councils and libraries across the state can direct their funds and efforts to the ongoing support and development of high quality library services for NSW communities, rather than engaging in expensive and time consuming future funding campaigns.

This is our opportunity to lock in the historic 2019 state funding increase for NSW libraries once and for all, thereby ensuring the future prosperity of the NSW public library network.

Accordingly, it is recommended that Council supports the NSW Public Libraries Association by formally endorsing Phase Two of the *Renew Our Libraries* Campaign to secure a sustainable funding model for NSW public libraries in perpetuity.

COUNCIL IMPLICATIONS

Budget/Financial

This relates to the ongoing funding support for public libraries from the State Government.

Asset Management

N/A

Policy or Regulation

This relates to the Library Act and Regulation

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Kathryn Breward, Regional Librarian
Attachment	Nil

ITEM	6b.19.053	SCOTTISH STATUE PROMOTION COMMITTEE - PROPOSAL FOR A PUBLIC ART FEATURE AND DIRECTIONAL SIGNAGE FOR MCLACHLAN PARK, MACLEAN – ON CROWN LAND
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Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report presents the Maclean Cultural Art Scottish Statue Promotion Committee's proposal to donate a piece of public art and decorative pole with multi directional finger board signage for installation on McLachlan Park, Maclean and the matters that need to be considered regarding the proposal.

OFFICER RECOMMENDATION

That Council as Crown land manager of McLachlan Park:

1. Note the proposal to donate a piece of public artwork and decorative pole with multi directional finger board signage for installation on the park and the cultural importance of this area to the Yaegl People.
2. Accept the donation of the public artwork on the proviso that:
 - a) There is no cost to Council in either its development and construction or installation.
 - b) An alternative site, other than a site within the central park area (being Lot 365 DP751388; Lot 7025 DP1035703; and Lot 7022 DP1113908), is identified for its installation subject to Council's approval and compliance with the Future Act provisions of the *Native Title Act 1993* (Cth) (if the artwork is to be installed on Crown land subject to native title).
 - c) Any compensation liability arising from its installation on Crown land managed by Council subject to native title is a matter for the Maclean Cultural Art Scottish Statue Promotion Committee and the Yaegl TOAC to resolve.
3. Accept the decorative pole with multi directional finger board signage on the proviso that:
 - a) There is no cost to Council in either its development and construction or installation.
 - b) The decorative pole be modified from the proposal removing the Scottish Thistle crest and amending the donation wording from the proposed to '*Donated by The Scottish Town In Australia Association*'.
 - c) Any compensation liability arising from its installation on Crown land managed by Council subject to native title is a matter for the Maclean Cultural Art Scottish Statue Promotion Committee and the Yaegl TOAC to resolve.

MOTION

Novak/Clancy

That this report be deferred until next week.

AMENDMENT TO MOTION

Williamson/Baker

That this report be deferred until next week to allow for advice from senior staff on the placement of the multi directional finger board signage.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COMMITTEE RECOMMENDATION

Novak/Clancy

That this report be deferred until next week to allow for advice from Senior Staff on the placement of the multi directional finger board signage.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION - 6b.19.053

Baker/Novak

Defer until February 2020 to allow further consultation between interested parties.

Voting recorded as follows:

For: Baker, Clancy, Ellem, Kingsley, Lysaught, Novak, Simmons, Williamson, Toms

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 Maclean Cultural Art Scottish Statue Promotion Committee lodged an application with Council's General Manager in June of this year seeking Council's approval for an item of public art in McLachlan Park Maclean. The proposed artwork depicts a Scottish Piper (Attachment A). Additionally a request for a decorative pole with multi directional finger board signage has also been received from the Maclean Scottish Town Committee (Attachment C).

The applications were lodged in accordance with Council's *Donated facilities on public land* policy. The proposed artwork and signage is to be donated by the Scottish Statue Promotion Committee and the Maclean Scottish Town Committee respectfully in recognition of the town's European heritage for the benefit of Council, Maclean residents and visitors in general.

McLachlan Park is Crown land, being Reserve 35921 for Public Recreation, notified 13-June-1903. Council is the appointed Crown land manager of the reserve.

Native title has been determined by the Federal Court (*Yaegl People #2 v Attorney-General of New South Wales* [NSD168/2011]) to continue to exist on the majority of land parcels that constitute McLachlan Park, in particular Lot 365 DP 751388; Lot 7025 DP 1035703; and Lot 7022 DP 1113908 (previously 7022/751388) being the main park area between the Spar supermarket and the bus shelter.

In recognition of the rights and interests afforded to the Yaegl people under their native title determination and the requirements of the *Native Title Act 1993* (Cth) in regards to the undertaking of a Future Act, Council's General Manager has tabled the proposal in meetings with the Yaegl Traditional Owners Aboriginal Corporation RNTBC (Yaegl TOAC).

The Yaegl TOAC have expressed a number of concerns about the installation of the proposed artwork at the preferred location (being grassed slope between the two concrete paths on Lot 365 DP 751388).

Cognisant of concerns raised by the Yaegl people about the installation of the proposed artwork, equal concern has been generated around the Scottish Thistle crest adorning the decorative pole.

Although the General Manager (or their delegate) has the authority under the *Donated facilities on public land* policy to accept the donation of the proposed artwork and signage or not, this matter is now being brought before Council for a resolution due to the cultural significance of the area to the Yaegl people.

KEY ISSUES

There are four considerations regarding the proposal to accept and install donated public artwork and signage on McLachlan Park, Maclean:

- The donation of the artwork and signage
- McLachlan Park being Crown land
- Native title
- Aesthetics and the intent of the recent park upgrade

The Donation of the Artwork and Signage

The donation of the artwork and signage must comply with Council's *Donated facilities on public land* policy. The principle requirements being:

Section 4

1. All offers to donate or contribute to public facilities are to be made in writing and addressed to the General Manager.
2. Generally, Council will only accept the donation of public facilities or contribution towards public facilities on public land where those facilities are included in:
 - An adopted Section 94 Contributions Plan, or
 - A Plan of Management for the public land on which the facility is to be located, or
 - Council's works program or priority list for that type of facility.

Section 4, Clause 1 has been satisfied by the Maclean Cultural Art Scottish Statue Promotion Committee's and the Maclean Scottish Town Committee's application being lodged with Council's General Manager.

An adopted plan of management currently exists for the reserve - *McLachlan Park Maclean Plan of Management Reserve No.35921* – that contains the following management objective:

Cultural		
<i>Conserve Aboriginal and non-Aboriginal heritage</i>		
OBJECTIVE	ACTION	PERFORMANCE ASSESSMENT
Provide acknowledgement of aboriginal and non-Aboriginal cultural heritage	Provide opportunities for low-key signage/themes for incorporation into the Reserve.	Improved aesthetic & cultural themes.

If the artwork is deemed to be contrary or in excess of the management action (i.e. not a relevant theme or in excess of what is considered 'low-key') a new plan of management will be required authorising this type

of artwork in general before it would satisfy Section 4, Clause 2, dot point 2 of the *Donated facilities on public land* policy.

An artist image (below left) of what the artwork would look like was provided with the application. An example of public artwork (below right) that was deemed to meet the management action detailed in the plan of management is also provided for comparison:



Artwork: 2.65m (h) x 1.2m (w) x 0.15 (d) approx.
Base: 1.8m x 0.6m x 0.3m approx.



Artwork: 4.6m (h) x 0.45m dia approx.
Base: 1.8 x 1.5m approx.

Accordingly, the proposed artwork is considered to be within the definition of a low-key theme as per the management action within the existing McLachlan Park plan of management, and therefore also meets the requirement of Section 4 Clause 2 of the *Donated facilities on public land* policy.

The decorative pole with multi directional finger board signage is considered to be consistent with the management action and therefore also meets the requirement of Section 4 Clause 2 of the *Donated facilities on public land* policy.

McLachlan Park being Crown land

As of 1 July 2018, all Crown land managed by Council as a Crown land manager must be managed as if it was 'community' land under the *Local Government Act 1993*. Where there is an existing Crown land plan of management (POM) for the reserve adopted by the Minister this POM remains in force until it is replaced by a POM adopted under the LG Act or its expiry on the 30 June 2021 (whichever is the sooner). In the absence of an adopted POM s44 of the LG Act applies, that is:

Pending the adoption of a plan of management for community land, the nature and use of the land must not be changed.

If the proposed artwork and signage was not deemed to meet the 'low key theme' criteria of the cultural management action under the existing POM, a new POM would be required prior to further consideration of the proposed artwork and signage. It is viewed by Council that the proposed artwork and signage is consistent with the management action defined in the POM and as such can be implemented under the current plan.

Native title

Native title exists on the land and operates at two levels:

- The rights and interests of native title holders afforded under a Federal Court determination
- Compliance with the Future Act provisions of the *Native Title Act 1993* (Cth)

The rights and interests of native title holders

The Federal Court in *Yaegl People #2 v Attorney-General of New South Wales* found (predominantly) in favour of the Yaegl people in that they maintained a connection to their traditional lands within the determination area. As they did not live on or practiced their customs per se the Court granted the Yaegl people non-exclusive rights and interests in the land that was claimable.

In summary, non-exclusive rights and interests means that the traditional owner's rights and interests to enter, travel over, remain on, to camp, hunt, take and use the resources of the land, to teach, practice and perform cultural activities and ceremonies etc. must co-exist with the public's rights to be on the land, to recreate, and the land manager's rights to manage the land, and any other rights/interests that may be in effect on the land etc.

The granting of non-exclusive rights and interests also means that traditional owners have no right to:

- (a) possess, occupy, use or enjoy to the exclusion of all others; or
- (b) any right to control public access or public use of the land or waters in the Determination Area.

The rights and interests granted by the Federal Court to the Yaegl people are exercisable under Common Law, and must comply with the laws of the State and Commonwealth, and the traditional laws acknowledged and traditional customs observed by the Yaegl people.

McLachlan Park is culturally important to the Yaegl people as a meeting place and as the location of the northern 'demarcation line' which was synonymous with the exclusion of Aboriginal people from the town's business district area. The 'demarcation line' was located at the southern end of the park near where the pedestrian crossing and carpark within McLachlan Park is located.

Compliance with the Future Act provisions of the Native Title Act 1993 (Cth)

Native title exists in all land unless extinguished under the Native Title Act. The Federal Court determination in favour of the Yaegl people has confirmed that native title continues to exist on the majority of parcels that make up R35921 (i.e. McLachlan Park). This means that any interest (the issuing of licences/leases over the land in full or part) or development of the land will need to comply with the Future Act provisions of the Act unless there has been a previous exclusive possession act (PEPA) or past act that would otherwise extinguish native title (i.e. a previous public work). However, native title has been determined to have been extinguished on Lot 274 DP 751388 (where bus shelter is).

A preliminary investigation by Council's Senior Strategic Planner (Public Land/Native Title) suggests that native title continues to exist at the proposed sites suggested by the Maclean Cultural Art Scottish Statue Promotion Committee and the Maclean Scottish Town Committee (i.e. evidence of a previous public work that meets the definition of a PEPA has not been established). Consequently, Council would need to comply with the requirements of Subdivision J of the Native Title Act if the proposed artwork and signage was to be installed on McLachlan Park.

Under Subdivision J the artwork and signage would be deemed to be a structure and therefore a public work that would extinguish native title. Under Subdivision J Council would need to notify NTSCorp (as Yaegl's legal representative) and the Yaegl TOAC. Yaegl TOAC have the procedural right to comment on the proposal, but they do not have the right to negotiate or object. The act would be compensable, with the amount to be determined either by an application to the Federal Court or by any jurisdiction of a court, person or body to hear appeals against, to review or otherwise to affect, a determination of compensation made in accordance with the requirements of the Native Title Act (refer s51, NT Act).

Consequently, Council would need to decide who is liable to pay compensation if the artwork and signage is to be installed on McLachlan Park – the Scottish Statue Promotion Committee, the Maclean Scottish Town Committee or Council as the Crown land manager.

Aesthetics and the intent of the recent park upgrade

The detailed design and construction of the main McLachlan Park precinct area was guided by the outcomes of the final community workshop held on the 29 May 2013 to determine 'agreed ideas' (Attachment B).

Eight (8) 'agreed ideas' were to be included in the design brief with the intent that the overall feel of the main precinct area should remain simplistic and uncluttered whilst enhancing the natural features of the area.

Consequently, the proposed installation of the artwork also needs to be considered in light of the intent to provide an 'uncluttered' public open space.

COUNCIL IMPLICATIONS

Budget/Financial

The Maclean Cultural Art Scottish Statue Promotion Committee has indicated that there would be no cost to Council in the procurement of the proposed artwork. However, it is not clear whether the Committee is also proposing to fund the installation of the artwork on McLachlan Park or that this would be a cost that Council would bear. If the installation and site remediation costs are to be borne by Council this money would be drawn from Council's Crown reserves fund.

The Maclean Scottish Town Committee have indicated that there would be no cost to Council in the procurement of the proposed signage, however they have indicated that they would need assistance from Council (actual and costs) to install the signage. Costs would need to be drawn from Council's Crown reserves fund.

The compensation liability is also unknown, but would be based on the formula determined by the High Court in the Timber Creek case, being:

- Market value of land (where native title is extinguished) x 50%
- + Interest (based on when extinguishment occurred and settlement made)
- + loss of cultural attachment (a notational sum proportionate to the cultural significance of the land subject to the extinguishment).

Asset Management

If installed the artwork would become a Council asset and therefore responsible for its ongoing maintenance and upkeep.

Policy or Regulation

- Crown Land Management Act 2016
- Donated facilities on public land policy

- Local Government Act 1993
- Native Title Act 1993 (Cth)
- McLachlan Park Maclean Plan of Management Reserve No.35921

Consultation

Consultation has been undertaken between Council's Office of General Manager, Open Spaces and Facilities and Strategic Planning Sections. Consultation between Council's General Manager and Director Works and Civil and with the Yaegl TOAC Board at meetings.

Legal and Risk Management

The proposed installation of the artwork on McLachlan Park must satisfy due process. This includes complying with Council policy, State and Commonwealth legislation.

Climate Change

N/A

Prepared by	Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title)
Attachment	A. Maclean Cultural Art Scottish Statue Promotion Committee proposal B. McLachlan Park redevelopment workshop outcomes C. Decorative pole with multi directional finger board signage

ITEM 6b.19.054 DEVELOPMENT APPLICATIONS

Meeting	Environment, Planning & Community Committee	19 November 2019
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Nil	

SUMMARY

The Report provides an update on Development Applications received, estimated value of works, applications approved and average processing times. A summary of where Council has exercised assumed concurrence to vary development standards under Clause 4.6 of the Clarence Valley Local Environmental Plan 2011 (LEP) is also provided within the report.

OFFICER RECOMMENDATION

That the update on Development Applications be noted.

COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.19.054

Kingsley/Baker

That the update on Development Applications be noted.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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. As Council has commenced taking applications electronically through the NSW Planning Portal the received date and the total number of days often does not match. The reason for this being that the application number is generated once Council accepts the application through the portal and issues the proponent with an invoice, the clock starts once payment of the application fees has been received which is usually not on the same day.

KEY ISSUES

The figures from 1 July 2019 to 31 October 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)
265	231	\$58,299,562.00	35	Average : 66 days Median: 47 days

Of the 231 approved Development Applications between 1 July 2019 and 31 October 2019, 99 (43%) were determined within 40 days or less.

As of 1 November 2019 there were 147 outstanding development applications, which have been with Council for the following timeframes:

Less than 40 days	77
41 - 60 days	12
61 - 80 days	12
81+ days	46

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
DA2019/0507	19/09/2019	42	As built amenities block	302 Gwydir Highway, WATERVIEW NSW 2460	Currently being assessed*
DA2019/0506	19/09/2019	42	Dwelling	27 Lakes Boulevard, WOOLOWEYAH NSW 2464	Currently being assessed*
DA2019/0505	19/09/2019	42	Swimming pool	266 North Street, GRAFTON NSW 2460	Additional information requested (plan showing regarding in flood storage area – land below 4.2m AHD)
DA2019/0504	18/09/2019	43	Additions to dwelling and shed	32 Binnacle Court, YAMBA NSW 2464	Submissions received and currently being assessed*
SUB2019/0036	19/09/2019	43	Subdivision of existing duplex under Strata Schemes	202 North Street, GRAFTON NSW 2460	Notice of determination being processed.
DA2019/0493	10/09/2019	51	Alterations and additions to dwelling	2 Wentworth Street, PALMERS ISLAND 2463	Currently being assessed*
DA2019/0494	10/09/2019	51	Dual occupancy (attached)	4 Moorhead Drive, SOUTH GRAFTON 2460	Awaiting internal referrals (building and engineering)
DA2019/0492	9/09/2019	52	Additional filling of land (20,000m ³)	52-54 Miles Street, YAMBA NSW 2464	Awaiting external referral to NRAR
DA2019/0489	6/09/2019	52	Dwelling	13 The Glen, MACLEAN NSW 2463	Awaiting external referral (RFS)
DA2019/0466	28/08/2019	57	Alterations and additions for metal fabrication business and boundary adjustment	20 Through Street, SOUTH GRAFTON 2460	Awaiting additional information (SOEE, amended site plan, stormwater management plan and vehicular access details)
DA2019/0483	3/09/2019	58	Convert existing garage to studio and construct new shed	30 Clarence Street, ASHBY NSW 2463	Currently being assessed*

Application No.	Received Date	Days	Description	Property	Reason
DA2019/0478	30/08/2019	59	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested (Revised Plans, Revised BASIX Certificate, OSM Application and Bushfire Report)
DA2019/0468	28/08/2019	62	Additions to school (Performance centre)	68-86 Centenary Drive, CLARENZA NSW 2460	Awaiting external referral from RFS
DA2019/0472	29/08/2019	62	As built shed and addition to shed	55 Nottingham Drive, GLENREAGH NSW 2450	Currently being assessed*
DA2019/0471	29/08/2019	63	Dual Occupancy and two sheds	114 River Road, PALMERS ISLAND NSW 2463	Awaiting internal referrals
SUB2019/0034	28/08/2019	64	40 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS 2460	Awaiting external referral to RFS and DPIE for SEPP 44
DA2019/0465	26/08/2019	65	Dwelling & garage	5 Young Street, WOLOWEYAH NSW 2464	Currently being assessed*
DA2019/0459	22/08/2019	70	Coastal protection works (rock riverbank protection)	383 North Street, WOOLI NSW 2462	Awaiting external referral (NRAR)
SUB2019/0033	20/08/2019	72	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)
DA2019/0439	14/08/2019	78	Studio, deck, carport & awning	19 Gumnut Road, YAMBA NSW 2464	Submissions received and currently being assessed*
SUB2019/0030	14/08/2019	78	305 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	Additional information requested (Compliance with DCP, Contamination Assessment, Revised Acid Sulfate Soil Assessment and various Engineering matters servicing, road layout)
DA2019/0436	13/08/2019	79	Deck	8 Clarence Street, ASHBY NSW 2463	Currently being assessed*
SUB2019/0029	13/08/2019	79	Boundary adjustment (two lots)	198 Gardiners Road, JAMES CREEK NSW 2463	Additional information requested (clarify the extent of clearing)
DA2019/0429	9/08/2019	83	Dwelling	63 Warregah Island Road, WARREGAH ISLAND 2469	RFS referral received and currently being assessed*
DA2019/0427	8/08/2019	84	Vehicle sales area & shed	18-20 Clyde Street, MACLEAN NSW 2463	Additional information requested (Heritage matters, Stormwater Management and Parking)
DA2019/0426	8/08/2019	84	Extension to Industrial Shed, Caretakers Dwelling and Carport	14 Uki Street, YAMBA NSW 2464	Variation to DCP (front setback) currently being assessed*
DA2019/0423	8/08/2019	80	255 manufactured home estate with community facilities	Brooms Head Road, GULMARRAD NSW 2463	Awaiting external referral (OEH). Staff liaising with applicant on various matters
DA2019/0421	7/08/2019	85	Dwelling	500 Bostock Road, PILLAR VALLEY NSW 2462	Additional information submitted and currently being assessed*
DA2019/0417	7/08/2019	85	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	86	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	92	Riverbank Rehabilitation	177 Carrolls Lane, CHATSWORTH NSW 2469	Currently being assessed*
DA2019/0399	26/07/2019	97	Storage shed/bays & caretakers dwelling	21-25 Brickworks Lane, SOUTH GRAFTON 2460	Awaiting internal referrals (building) and currently being assessed*
DA2019/0389	19/07/2019	104	Flood mound	Schwonberg Street, TOWNSEND NSW 2463	Awaiting internal referrals (engineering) and currently being assessed*
SUB2019/0025	19/07/2019	104	68 lot residential subdivision, drainage reserve & public reserve	966 Summerland Way, JUNCTION HILL NSW 2460	Report to November Council meeting
SUB2019/0024	10/07/2019	113	32 lot residential subdivision	21 Jubilee Street, TOWNSEND NSW 2463	Additional information submitted and currently being assessed*
DA2019/0369	5/07/2019	118	Temporary secure boat and equipment storage facility	60 Careys Lane, HARWOOD NSW 2465	Report to November Council meeting

Application No.	Received Date	Days	Description	Property	Reason
DA2019/0354	28/06/2019	119	11 lot strata subdivision & 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	126	Convert shed to dwelling	170 Bennetts Road, NYMBOIDA NSW 2460	Additional information required (site plan, BASIX Certificate and building details)
DA2019/0334	19/06/2019	134	Install brewery in backpackers cafe	26 Coldstream Street, YAMBA NSW 2464	Additional information submitted and currently being assessed*
DA2019/0325	17/06/2019	135	Industrial activity (wrecking yard)	11 Bessie Street, SOUTH GRAFTON 2460	Additional information required (stormwater management plan and unauthorised building works)
DA2019/0321	14/06/2019	139	Relocated dwelling	9 Lorikeet Place, GLENREAGH NSW 2450	Additional information requested (amended plans)*
SUB2019/0018	11/06/2019	141	8 lot residential subdivision	9 Gundaroo Crescent, ILUKA NSW 2466	Awaiting External referral (NRAR)
DA2019/0303	6/06/2019	147	Backpacker accommodation for up to 74 guests and managers residence	26-28 Wharf Street, SOUTH GRAFTON 2460	Additional information required (comment regarding noise and privacy issues)
DA2019/0266	22/05/2019	162	Remediation of riverbank erosion & construction of 2 dams & 2 flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Awaiting External referral (NRAR)
DA2019/0254	16/05/2019	168	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	168	Upgrade to Equine veterinary hospital	160 Old Lilypool Road, SOUTH GRAFTON 2460	Additional information submitted and currently being assessed*
SUB2019/0015	15/05/2019	169	15 lot residential subdivision	25 Mookin Street, TUCABIA NSW 2462	Report to November Council meeting
DA2019/0243	13/05/2019	171	Shipping container building with playground, cafe & rooftop restaurant	383 North Street, WOOLI NSW 2462	Awaiting internal referrals (engineering) and currently being assessed*
DA2019/0208	23/04/2019	191	Redevelopment and 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	191	Two lot subdivision (includes lot size variation)	401 Kungala Road, KUNGALA NSW 2460	Applicant to amend application to increase lot size to comply with LEP
DA2019/0195	15/04/2019	199	Additions to caravan park - 33 cabins for long term use	42 Marandowie Drive, ILUKA NSW 2466	Currently being assessed*
SUB2019/0007	29/03/2019	216	Subdivision of seven lots into four lots	961 Wooli Road, PILLAR VALLEY NSW 2462	Council staff to review applicant's submission regarding compliance with LEP provisions
DA2019/0160	29/03/2019	216	New vehicle repair workshop, construction of three sheds for storage, adverting sign and demolition of existing shed	9 Bultitude Street, TRENAYR NSW 2460	Additional information submitted and currently being assessed*
DA2019/0152	26/03/2019	219	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Currently being assessed, staff to liaise with applicant regarding access to the property*
DA2019/0130	20/03/2019	225	Dwelling and two lot subdivision	17 Taloumbi Street, MACLEAN NSW 2463	Applicant to review and amend proposal.
DA2019/0128	19/03/2019	226	Machinery shed	1 Youngs Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated land assessment and geotechnical report of mound)
DA2019/0126	19/03/2019	226	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Land to soon be transferred to CVC. Application likely to be withdrawn once land ownership changes.
DA2019/0085	4/03/2019	241	Shed	Vere Street, SOUTH GRAFTON 2460	Currently being assessed*
SUB2019/0002	6/02/2019	267	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Awaiting additional information (Applicant to respond to OEH comments regarding BDAR)
SUB2019/0001	24/01/2019	280	Seven lot subdivision (5 additional lots)	39/57 Chatsworth Road, CHATSWORTH NSW 2469	Contaminated land considerations currently being assessed*

Application No.	Received Date	Days	Description	Property	Reason
DA2018/0630	16/10/2018	380	Dual occupancy	1431 Pacific Highway, ULMARRA NSW 2462	Applicant to consider how/if this DA will be pursued. Geotechnical assessment of riverbank has determined there is an unacceptable factor of safety without substantial works to the riverbank.
SUB2018/0030	16/10/2018	380	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	388	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire)
DA2018/0574	20/09/2018	406	Dwelling	61 Williams Crescent, WOOLI NSW 2462	Awaiting additional information (Amended plans and Basix)
DA2018/0567	18/09/2018	408	Aged care facility (144 beds)	425 Bent Street, SOUTH GRAFTON 2460	Report to November Council meeting to endorse KPOM.
DA2018/0449	6/08/2018	451	Viewing deck	26 Ocean Road, BROOMS HEAD 2463	Second additional information sent (Amended plans, view sharing issues)
DA2018/0102	5/03/2018	605	Speedway practice track	334 School Lane, SOUTHGATE NSW 2460	Additional information submitted for review.
SUB2018/0004	23/02/2018	615	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Stormwater Management Plan submitted for review and currently being assessed*
DA2017/0671	18/10/2017	743	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	1420	140 lot Residential Subdivision and new roads	Hickey Street, ILUKA NSW 2466	SEPP 55 addendum report submitted to JRPP for consideration 31/10/19.

*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

The following table provides details of the use of Clause 4.6 during October 2019.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2019/0331	56-58 Yamba Road, Yamba	Clause 4.3 – height of buildings map	Height under Seniors Living SEPP is 8m and 9m under the LEP. The height to the elevator overrun and skylights is 12.7m.	Clarence Valley Council approved this development at the Council meeting held on 22 October 2019. The variations to the standard heights are moderate and are not expected to result in unacceptable impacts on adjoining properties or public areas. The stepping of the upper level of the proposed development results in just under half of the building being compliant with the development standard. The proposal is consistent with the objectives of the R2 Low Density Residential Zone. The proposal is consistent with the Seniors Living SEPP objectives. 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 also improve screening from the development to adjoining properties.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

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 would generally 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 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.

Prepared by	James Hamilton, Development Planner
Attachment	Nil

CLOSE OF COMMITTEE MEETING

There being no further business the Environment, Planning & Community Committee closed at 4.15 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, Grafton on Tuesday 19 November 2019 commencing at 2.00 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

I acknowledge the Bundjalung 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 Peter Ellem, Cr Jim Simmons, Cr Arthur Lysaught

Cr Andrew Baker, Cr Debrah Novak, Cr Greg Clancy, Cr Richie Williamson, Mr Ashley Lindsay (General Manager), Ms Laura Black (Director – Corporate & Governance), Mr Des Schroder (Director – Environment, Planning & Community) and Mr Troy Anderson (Director – Works & Civil) were in attendance.

APOLOGY

Ellem/Lysaught

That a leave of absence be granted to Cr Jason Kingsley.

Voting recorded as follows:

For: Toms, Ellem, Simmons, 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 Novak	6c.19.084	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Employed/contracted by Big River Milk Intended action: Leave the Chamber
Cr Toms	6c.19.088	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Contract Manager of Iluka Riverside Holiday Park Intended action: Remain in the Chamber

ITEM	6c.19.084	DROUGHT ASSISTANCE FOR AGRICULTURAL PRODUCERS AND REQUEST FOR REDUCTION IN CHARGES FROM PROPERTY 133514
Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

In response to a request from an agricultural producer, and in anticipation of the likelihood of further such requests, for a reduction or rebate in water charges due to significantly increased water consumption from the current drought, it is proposed that Council adopt a policy outlining a position on the provision of such reduction.

OFFICER RECOMMENDATION

That

1. The draft *Farmland Drought Water Rebate Policy* be placed on public exhibition for a period of 28 days and:
 - a) subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - b) if submissions are received that change the intent of the policy, the policy and submission(s) will be reported to Council for consideration.
2. The owner of Property 133514, be advised of the draft Policy and its application once adopted.

Having declared an interest Cr Novak left the chambers at 2:03 pm and returned at 2:05 pm.

COMMITTEE RECOMMENDATION

Ellem/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.084

Kingsley/Baker

That

1. The draft *Farmland Drought Water Rebate Policy* be placed on public exhibition for a period of 28 days and:
 - a) subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - b) if submissions are received that change the intent of the policy, the policy and submission(s) will be reported to Council for consideration.
2. The owner of Property 133514, be advised of the draft Policy and its application once adopted.

Voting recorded as follows:

For:	Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms
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 has received a request from Property 133514 (Confidential Attachment) for a reduction in water charges due to the impact of the current extreme drought conditions. The State Government's Best Practice Pricing guidelines require water consumption charges to be based on residential consumption, with 75% of residential income from water consumption charges.

Large water consumers such as agricultural producers were disproportionately impacted when Council most recently increased water consumption charges in 2016/17 by 24% to meet the guideline requirements that 75% of residential income be from the consumption component.

KEY ISSUES

To assist agricultural producers during the drought it is proposed that Council consider a policy position that provides for relief.

The policy provides that on application, a rebate of 50% on that component of the water charges for the quarter, which is above the average consumption for the corresponding quarter in the preceding four years.

The rebate would have two criteria:

- The property would need to be classified as a "farmland" rating category, and
- The parish where the property is located would need to be classified as being in "intense drought" under the "combined drought indicator" produced by the relevant State Government Department (currently Department of Primary Industries - <https://edis.dpi.nsw.gov.au/>)

Council currently has a similar policy, last adopted in July 2015 (Resolution 14.132/15) which offers a reduction in water charges to industrial customers requiring boiler pre-treatment to offset the increased costs to those customers resulting from Council's stabilisation of its drinking water using lime.

The submission from Property 133514 in the Confidential Attachments demonstrates the large increase in water consumption by some agricultural produces due to the drought. Once adopted, it is proposed that a rebate be provided to Property 133514 in accordance with the provisions of the draft *Farmland Drought Water Rebate* policy.

COUNCIL IMPLICATIONS

Budget/Financial

Application of this policy would result in reduced income, which has not yet been budgeted given that income from water charges is budgeted on an average year.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

One potential consequence of climate change is increased severity and frequency of droughts. The draft policy will assist continuing the viability of agricultural production in the Clarence Valley during droughts

Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	Draft Farmland Drought Water Rebate Policy
Confidential Attachment	Request from Property 133514 for reduction in water charges

ITEM	6c.19.085	RISK MANAGEMENT AND INTERNAL AUDIT FRAMEWORK – DISCUSSION PAPER
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

SUMMARY

In September 2019, the Minister for Local Government, the Hon. Shelley Hancock MP, and the Office for Local Government, released 'A New Risk Management and Internal Audit Framework for local councils in NSW' discussion paper with feedback sought by 31 December 2019. Much of the content detailed in this report can be credited to concepts and discussion contained in the 'discussion paper'. This report also provides Executive comment on the core requirements of the framework and proposes feedback be submitted to the Office of Local Government.

OFFICER RECOMMENDATION

That Council make a submission to the Office of Local Government regarding 'A New Risk Management and Internal Audit Framework for local councils in NSW' discussion paper, as detailed in the report.

COMMITTEE RECOMMENDATION

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.085

Kingsley/Baker

That Council make a submission to the Office of Local Government regarding 'A New Risk Management and Internal Audit Framework for local councils in NSW' discussion paper, as detailed in the report.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

In 2008, the Office of Local Government (OLG) released guidelines to encourage councils to establish audit, risk and improvement committees and adopt risk management frameworks and internal audit functions.

In 2014, Clarence Valley Council established an Audit Committee comprising council representatives and independent members. In 2017, the Audit Committee endorsed a three year risk based Internal Audit Plan, the first year of which was 2018/19 and in August 2019, endorsed the Enterprise Risk Management Framework.

According to the discussion paper, the findings of various public inquiries and corruption investigations since 2008, have led to increased calls for risk management and internal audit to be mandated for NSW councils.

Amendments made to the Local Government Act in 2016, require each council to be financially sustainable, continuously review its performance, properly exercise its regulatory functions, operate honestly, efficiently and appropriately, and have sound decision-making and risk management practices (s8A-8C and 223).

The proposed Framework aims to:

- Ensure each council has an independent Audit and Risk Improvement Committee (ARIC) that adds value to the council.
- Ensure each council has a robust risk management framework in place that accurately identifies and mitigates the risks facing the council and its operations.
- Ensure each council has an effective internal audit function that provides independent assurance that the council is functioning effectively and the internal controls the council has put into place to manage risk are working.
- Establish a minimum standard for these mechanisms based on internationally accepted standards and good practice guidance.

The framework has been based primarily on the NSW public sector risk management and internal audit framework, as recommended by the Independent Commission Against Corruption (ICAC) and the Institute of Internal Auditors (2017) International Professionals Practices Framework.

The discussion paper outlines what the regulatory framework is proposed to look like. A copy is attached to the report along with a Snapshot Guide produced by the Office of Local Government.

It is envisaged that ARICs be established in all councils by March 2021. Over time (post 2021), and as resources allow, each council's ARIC will be expected to expand its reach to include oversight of other management functions that councils should have in place as part of their second line of defence (defined below).

KEY ISSUES

Good governance is directly linked to an organisation's risk management and compliance framework.

The discussion papers summarises three lines of defence against risk:

1. Operational functions implemented by a council to own and manage risk.
A council's first line of defence against risk is for council staff to own and manage the risks that occur in their sphere of influence. This means they are given responsibility and held accountable for identifying and implementing internal controls.
2. Management functions implemented by a council to ensure operational functions are managing risks.
A council's second line of defence against risk is to ensure that the controls in the first line of defence are properly designed, implemented and operating as intended and include a risk management framework, a compliance framework, a financial management framework, a fraud control plan, business and performance improvement, a project management framework.

3. Functions that provide independent external assurance.

A council's third line of defence against risk is to receive assurance from an independent body external to the council that its risks are being managed appropriately in the first and second lines of defence. External assurance is designed to provide a council with a level of confidence that its goals and objectives will be achieved within an acceptable level of risk.

Independent external assurance is provided by an ARIC, supported by an internal audit function.

Other external lines of defence include:

- External audit of council's financial statements.
- Performance audit of council activities to determine whether those activities are effective, economically and efficiently performed, and compliant with legislation.
- Regulatory bodies setting of standards to be met.

When proclaimed, s428A of the Local Government Act will require each council to establish an ARIC, to provide independent advice and assurance that risks are being managed appropriately. When proclaimed, s428B of the Local Government Act, will allow council to establish a joint ARIC with other council/s including through joint or regional organisations of council.

The operations of s428A and 428B will be supported by new regulations, which will prescribe compliance requirements for the appointment of ARIC members and establishment of Risk Management Frameworks and Internal Audit programs.

The OLG is seeking submissions detailing feedback to the following Core Requirements of the Framework:

Core Requirement	Executive Comment	Submission to OLG
1. Appointment of an Independent Audit, Risk and Improvement Committee		
a) each council (including county council/joint organisation) is to have an independent ARIC that reviews all the matters prescribed in section 428A of the Local Government Act	Council's current Risk Committee comprises councillor representatives (Crs Kingsley & Lysaught) and independent external members.	Agreed
b) the ARIC is to operate according to terms of reference, based on model terms of reference, approved by the governing body of the council after endorsement by the Committee		Agreed
c) the ARIC is to comprise of three to five independent members who are prequalified via the NSW Government's Prequalification Scheme: Audit and Risk Committee Independent Chairs and Members	Council experienced significant issues attracting suitable candidates for membership of its Audit Committee. The proposed mandated fee is noted on page 38 of the discussion paper and would require an annual budget approx. of \$36,000 - \$40,000 for membership fees, recruitment of members and training (based on 3 members).	A targeted program should be coordinated by the State to attract suitable regional applicants to the Scheme.
d) ARIC members and the Chair are to serve a three to five-year term. A member's term cannot exceed eight years and the Chair's term cannot exceed five years		Given the likely shortage of appropriately qualified and interested people in regional NSW, and the cost of member recruitment, consideration should be given to

Core Requirement	Executive Comment	Submission to OLG
		aligning membership with the term of council and extending the term of a Chair to no more than two terms of council (ie 8 years) extending a members term to 3 terms of Council (ie 12 years).
e) the ARIC is to meet quarterly, with the ability to hold extra meetings if required. A council's general manager and Chief Audit Executive should attend except where excluded by the Committee		Agreed
f) ARIC members are to comply with the council's Code of Conduct and the conduct requirements of the NSW Government's Prequalification Scheme: Audit and Risk Committee Independent Chairs and Members		Agreed
g) disputes between the general manager and/or the Chief Audit Executive are to be resolved by the ARIC. Disputes with the Committee are to be resolved by the governing body of the council	This relates to disagreements relating to the findings of independent audits as the Chief Audit Executive cannot apply organisational bias to Audit findings.	Agreed
h) the ARIC is to provide an annual assurance review to the governing body of the council and be assessed by an external party at least once each council term as part of the council's quality assurance and improvement program		Agreed
i) the general manager is to nominate a council employee/s to provide secretariat support to the ARIC. Minutes must be recorded for all committee meetings	The Framework details a significant amount of administrative work, beyond secretariat support, that if prescribed, will require dedicated administrative support, particularly relating to Internal Audit coordination and reporting.	Agreed
2. Establish a risk management framework consistent with the current Australian risk management standards		
a) Each council (including county council/joint organisation) is to establish a risk management framework that is consistent with current Australian standards for risk management	Council has adopted a Risk Management Framework that is consistent with Australian Standards for risk management.	Agreed
b) The governing body of the council is to ensure that the council is sufficiently resourced to implement an appropriate and effective risk management framework		Agreed

Core Requirement	Executive Comment	Submission to OLG
c) Each council's risk management framework is to include the implementation of a risk management policy, risk management plan and risk management process. This includes deciding council's risk criteria and how risk that falls outside tolerance levels will be treated	Council's adopted risk management framework includes implementation of a risk management policy, plan and process.	Agreed
d) Each council is to fully integrate its risk management framework within all of council's decision-making, operational and integrated planning and reporting processes		Agreed
e) Each council is to formally assign responsibilities for risk management to the general manager, senior managers and other council staff and to ensure accountability		Agreed
f) Each council is to ensure its risk management framework is regularly monitored and reviewed		Agreed
g) The ARIC and the council's internal audit function are to provide independent assurance of risk management activities		Agreed
h) The general manager is to publish in council's annual report an attestation certificate indicating whether the council has complied with the risk management requirements		Agreed
3. Establish an internal audit function mandated by an Internal Audit Charter		
a) Each council (including county council/joint organisation) is to establish an internal audit function	Council is currently implementing a 3 years risk based Internal Audit Plan, which is monitored by the Audit Committee.	Agreed
b) The governing body is to ensure that the council's internal audit function is sufficiently resourced to carry out its work	See comments against 1. i)	
c) The governing body of the council is to assign administrative responsibility for internal audit to the general manager and to include this in their employment contract and performance reviews		Agreed
d) The Chief Audit Executive is to develop an Internal Audit Charter, based on a model charter, which		Agreed

Core Requirement	Executive Comment	Submission to OLG
will guide how internal audit is conducted by the council. The Charter is to be approved by the governing body of the council after endorsement by the ARIC		
4. Appoint an internal audit personnel and establish reporting lines		
a) The general manager is to appoint a Chief Audit Executive to oversee the council's internal audit activities in consultation with the ARIC	Senior staff member, not the general manager or senior finance manager. Have sufficient capacity to negotiate on equal grounds with the general manager and council.	Agreed
b) The Chief Audit Executive is to report functionally to the Audit, Risk and Improvement Committee and administratively to the general manager and attend all committee meetings		Agreed
c) The general manager is to ensure that, if required, council has adequate internal audit personnel to support the Chief Audit Executive. Councils will be able to appoint in-house internal audit personnel or completely or partially outsource their internal audit function to an external provider	Council outsources the completion of internal audits detailed in the risk based Internal Audit Plan, monitoring implementation of recommendations and reporting to the Audit Committee will likely require greater administrative support once prescribed.	Agreed
5. Develop an agreed internal audit work program		
a) The Chief Audit Executive is to develop a four-year strategic plan to guide the council's longer term internal audits in consultation with the governing body, general manager and senior managers. The strategic plan is to be approved by the ARIC	See comments against 1. i)	Agreed
b) The Chief Audit Executive is to develop an annual risk-based internal audit work plan, based on the strategic plan, to guide council's internal audits each year. The work plan is to be developed in consultation with the governing body, general manager and senior managers and approved by the ARIC	See comments against 1. i)	Agreed
c) The Chief Audit Executive is to ensure performance against the annual and strategic plans can be assessed	See comments against 1. i)	Agreed

Core Requirement	Executive Comment	Submission to OLG
6. How to perform and report internal audits		
a) The Chief Audit Executive is to ensure that the council's internal audits are performed in accordance with the IPPF and current Australian risk management standards (where applicable), and approved by the ARIC		Agreed
b) The Chief Audit Executive is to develop policies and procedures to guide the operation of the internal audit function, including the performance of internal audits	See comments against 1. i)	Agreed
c) The Chief Audit Executive is to report internal audit findings and recommendations to the ARIC. Each finding is to have a recommended remedial action and a response from the relevant senior manager/s	See comments against 1. i)	Agreed
d) All internal audit documentation is to remain the property of, and can be accessed by, the audited council, including where internal audit services are performed by an external provider. It can also be accessed by the ARIC, external auditor and governing body of the council (by resolution)		Agreed
7. Undertake ongoing monitoring and reporting		
a) The ARIC is to be advised at each quarterly meeting of the internal audits undertaken and progress made implementing corrective actions		Agreed
b) The governing body of the council is to be advised after each quarterly meeting of the ARIC of the internal audits undertaken and the progress made implementing corrective actions		Agreed
c) The ARIC can raise any concerns with the governing body of the council at any time through the Chair		Agreed
8. Establish a quality assurance and improvement program		
a) The Chief Audit Executive is to establish a quality assurance and improvement program which includes ongoing monitoring and periodic self-assessments, an annual review and strategic	See comments against 1. i)	Agreed

Core Requirement	Executive Comment	Submission to OLG
external review at least once each council term		
b) The general manager is to publish in the council's annual report an annual attestation certificate indicating whether council has complied with the core requirements for the ARIC and the internal audit function		Agreed
9. Councils can establish shared internal audit arrangements		
a) A council can share all or part of its internal audit function with another council/s by either establishing an independent shared arrangement with another council/s of its choosing, or utilising an internal audit function established by a joint or regional organisation of councils that is shared by member councils		Agreed
b) The core requirements that apply to stand-alone internal audit functions will also apply to shared internal audit functions, with specified exceptions that reflect the unique structure of shared arrangements		Agreed
c) The general manager of each council in any shared arrangement must sign a 'Shared Internal Audit Arrangement' that describes the agreed arrangements		Agreed

The transitional arrangements built into the Local Government Act mean that the requirement to have an ARIC will not come into force until six months after the next ordinary elections in September 2020. Councils will therefore have until March 2021 to establish their ARICs in line with the regulatory requirements proposed in the discussion paper.

It is proposed that councils will then have a further 18 months, until December 2022, to establish and resource their internal audit function and risk management framework (guided by the ARIC).

Council ARICs will focus on ensuring the council's internal audit function and risk management framework comply with regulatory requirements during the following three years, until 2024.

As these functions are bedded down, the role of the committee is to broaden to comply with the remaining requirements of sections 428A of the Local Government Act.

Full compliance with s 428A of the Local Government Act will be expected by 2026. However, councils that already have an ARIC and a mature internal audit function and risk management framework will be encouraged to comply sooner.

Broadly, it is considered that Council's submission to the OLG should indicate support for the Risk Management and Internal Audit Framework, noting comments against Core Requirement 1. c) and d),

which relate to the State Governments role in building a pool of suitably qualified ARIC members accessible to regional councils and the term or membership for the chair and members.

COUNCIL IMPLICATIONS

Budget/Financial

Assuming proclamation of the proposed changes to the Act, the draft 2020/2021 budget will include provision for implementation of an ARIC in accordance with prescribed fees for members, administrative support for the activities relating to implementation of the Framework and Internal Audit functions. It is proposed that the required budget will likely be in the vicinity of \$150,000 per annum. This will be offset in part by the current Internal Audit budget of \$36,900 (PJ993030) and realignment of existing staff resources. RA10359 Internal Audit Funds of \$18,082.59 are proposed to offset year one of the shortfall, which is estimated at \$42,000.

Asset Management

N/A

Policy or Regulation

The subject of this report is proposed to be legislated under the Local Government Act.

Consultation

The Audit Committee has been consulted in the preparation of this report.

Legal and Risk Management

The subject of this report details appropriate levels of organisational risk management.

Climate Change

N/A

Prepared by	Laura Black – Director Corporate and Governance
To be tabled	A – A New Risk Management and Internal Audit Framework for local councils in NSW - Discussion paper B – A New Risk Management and Internal Audit Framework for local government in NSW' – Snapshot Guide

ITEM 6c.19.086 2019/20 SPECIAL EVENTS SPONSORSHIP PROGRAM – ROUND TWO

Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report presents a summary of sponsorship applications received under Round Two of the Events Sponsorship 2019/20 program, the criteria applied in the assessment of the applications and recommendations for the allocation of funding.

OFFICER RECOMMENDATION

That Council adopt the recommendations for the provision of funding to applicants as listed in the attached schedule to the value of \$29,450 and authorise the processing of these sponsorships in accord with the adopted Event Sponsorship Policy.

COMMITTEE RECOMMENDATION

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.086

Kingsley/Baker

That Council adopt the recommendations for the provision of funding to applicants as listed in the attached schedule to the value of \$29,450 and authorise the processing of these sponsorships in accord with the adopted Event Sponsorship Policy.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Applications for sponsorship under Round Two of Council's Events Sponsorship Program opened on 7 September 2019 and closed on 30 October 2019. The funding program was promoted through advertising in the local print media, social media and Council's website. Emails were also sent to all previous applicants.

All applications were completed and submitted online via the SmartyGrants software program. A total of 15 applications were received in this round, requesting a total of \$57,410 in sponsorship.

As initiated in 2014/15, there are two rounds of calling for sponsorship applications. This is the second round, for events held between February and August 2020.

Applications were assessed against the following criteria as set out in program guidelines:

- eligibility to apply
- making a positive contribution to the local economy
- acknowledgement of Council's sponsorship
- benefit to the community
- evidence of support from groups that benefit from the event
- promotes and encourages positive exposure of the Clarence Valley
- strengthens and celebrates our community
- the organisations financial viability
- demonstrated marketing strategy, post-evaluation and income generation plan
- consideration of environmental impacts

All events are assessed against this criteria, however different request levels have particular criteria weighted more heavily, again as stated in the guidelines:

Level One \$1,000 and under	New events or in their infancy Small events that attract some visitors from outside the Clarence Valley
Level Two \$1,000 to \$5,000	Attract day visitors from outside of the Clarence Valley Have a marketing plan Are unique or promote unique characteristics of the Clarence Valley
Level Three Over \$5,000	Attract overnight visitors Have a marketing plan Are unique or promote unique characteristics of the Clarence Valley Generate an income stream to reinvest in their event Contribute significantly to the local economy

KEY ISSUES

The 15 requests are listed in the attachment with a recommended sponsorship amount and comments in regards to how the applications met the criteria.

Should Council adopt the officer's recommendations, the financial commitment will total \$29,450. The total allocated amount in the 2019/20 budget is \$89,000. An amount of \$61,550 was approved at the Council meeting held on 25 June 2019, for Round One of the Special Event Sponsorship program, however two events will not go ahead (to the value of \$2,000) reducing the spend for Round One to \$59,550. If the recommendations are approved in this report, the full budget allocation will be committed.

COUNCIL IMPLICATIONS**Budget/Financial**

The total cost of recommendations for Round Two of the Special Event Sponsorship program in 2019/20 is \$29,450. The total budget allocation for this program is \$89,000. The recommended amount falls within the current budget allocation for the program.

Asset Management

N/A

Policy or Regulation

Event Sponsorship Policy

Consultation

Consultation occurred within the Communications and Industry Engagement Team and with the Open Spaces & Facilities section

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alicia Savelloni – Events Development Advisor
Attachment	Event sponsorship schedule

ITEM 6c.19.087 COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN

Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	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.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.087

Kingsley/Baker

That the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete be removed from the checklist.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Prepared by	Karlie Chevalley – Executive Support Assistant
Attachment	Checklist

ITEM 6c.19.088 2019/20 MONTHLY FINANCIAL REPORT – OCTOBER 2019

Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

SUMMARY

The purpose of this report is to provide financial data at the end of each month for actual income and expenditure, for all Funds and provide advance notice of potential budget variations.

This report is submitted to Council in addition to the statutory reporting requirements of the Quarterly Budget Review Statements.

Budget variations identified in this report impact the General Fund end of year result positively, reducing the deficit by (\$43,417) to an expected end of year deficit of \$353,810.

The reserve fund variations identified in this report will decrease the reserve funds by \$423,864, with the total projected movement in the reserves at the end of the year being a decrease of \$13,836,861.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the monthly financial information report for October 2019, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling (\$43,417) for inclusion in the December 2019 Quarterly Budget Review Statement to be presented to Council in February 2020.
3. Endorse the proposed variations, which decrease Financial Reserves by \$423,864 for inclusion in the December 2019 Quarterly Budget Review Statement to be presented to Council in February 2020.

COMMITTEE RECOMMENDATION

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.088

Kingsley/Baker

That Council:

1. Receive and note the monthly financial information report for October 2019, attached to this report.
 2. Endorse the proposed General Fund variations as set out in this report totalling (\$43,417) for inclusion in the December 2019 Quarterly Budget Review Statement to be presented to Council in February 2020.
 3. Endorse the proposed variations, which decrease Financial Reserves by \$423,864 for inclusion in the December 2019 Quarterly Budget Review Statement to be presented to Council in February 2020.
-

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Section 202 of the *Local Government (General) Regulation 2005* requires that the responsible accounting officer of a council must:

- a) *Establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

The **attachment** to this report incorporates a monthly transactional summary of operational and capital income and expenditure by sub service for all Funds. Included in this summary are actual loan repayments transacted and estimated accruals for depreciation, staff entitlements and interest, with these being confirmed at end of year. Reserve interest is excluded, as this is transacted annually.

The report table below highlights any proposed budget variations that staff have become aware of during the past month that may affect the 2019/20 budget. The mechanism for revising the adopted budget is the Quarterly Budget Review Statement (QBRS) in compliance with Clause 203 of the *Local Government (General) Regulation 2005*.

QBRS reports are submitted to Council in October, February (in the absence of a January meeting) and April of each year, with annual financial information being reported in October (Refer to Audit and Pre-Audit Budget V Actual Result) and November (Annual Financial Statements).

KEY ISSUES***Major Budget Variations Proposed***

Following is a list of the major proposed variations for the month of October 2019.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
715	<p>Service – Corporate Systems Sub-Service – Information Services</p> <ul style="list-style-type: none"> • Fund additional estimated costs anticipated for implementation of Asset Management System from: General Fund \$77,015 RA 10020 – IR – Light Fleet \$161,044 RA 79010 – ER – Water Bank Account 	\$77,015	\$311,044	6c.19.065

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	\$75,000 RA 79025 – ER - Sewer Bank Account \$75,000 <ul style="list-style-type: none"> Fund upgrade ECM to Ci Anywhere 	\$100,000	\$Nil	6c.19.066
716	Service – Finance & Supply Sub-Service – General Purpose Revenue Management <ul style="list-style-type: none"> Increase Financial Assistance Grant Budget to align with 2019/20 Entitlement as determined by the Local Government Grants Commission (overall increase of budget \$187,799) 	(\$156,214)	\$Nil	N/A
733	Service – Human Resources Sub-Service – Work Health and Safety <ul style="list-style-type: none"> StateCover Workers' Compensation premium rebate 19/20 	(\$36,497)	\$Nil	N/A
805	Service – Roads Sub-Service – Urban Roads <ul style="list-style-type: none"> Increase Financial Assistance Grant Budget to align with 2019/20 Entitlement as determined by the Local Government Grants Commission (overall increase of budget \$187,799) RMS - Safer Roads Demonstration Program - Ngaru Aboriginal Community Grant \$164,956 Fund construction variations associated with contracted works for Maclean Carpark Road Surface Renewal from RA – 11318 – IR – Maclean & District Improvements – reported elsewhere in these business papers. 	(\$2,555) \$Nil \$Nil	\$Nil \$Nil \$53,960	N/A 6c.19.061 Foreshadowed Nov 2019
806	Service – Roads Sub-Service – Rural Roads <ul style="list-style-type: none"> Increase Financial Assistance Grant Budget to align with 2019/20 Entitlement as determined by the Local Government Grants Commission (overall increase of budget \$187,799) 	(\$29,030)	\$Nil	N/A
825	Service – Civil Works Administration Sub-Service – Operational Administration <ul style="list-style-type: none"> Remove grant budget and offsetting expenses for RMS Scanning Project as project finalised 2017/18. 	\$3,864	\$Nil	N/A
882	Service – Caravan Parks Sub-Service – Caravan Parks <ul style="list-style-type: none"> Fund Strategic plan for Clarence Coast Holiday Parks from RA 79000 - ER – Holiday 	\$Nil	\$45,600	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Parks Bank Account <ul style="list-style-type: none"> Fund Iluka Riverside Holiday Parks Business Development Strategy from RA 79000 - ER – Holiday Parks Bank Account 	\$Nil	\$13,260	N/A
	TOTAL Proposed General Fund / Reserve Balance Impact	(\$43,417)	\$423,864	

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 are estimated only based on adopted budget, with actual accruals calculated and adjusted end of year.

COUNCIL IMPLICATIONS

Budget/Financial

General Fund Budget (Surplus)/Deficit

Original Budget	\$140,398	Deficit
Q1 Revised Budget	\$397,227	Deficit
Q2 Proposed Budget Variations - October	(\$43,417)	Surplus
Proposed Movement of General Fund 19/20 Budget Result October 2019	\$353,810	Deficit

With respect the above projected deficit position of \$353,810, it should be noted that the budget is yet to be varied for the Emergency Service Levy reduction, which will reduce the projected deficit position by approximately \$219,000. Revenue NSW has advised that councils are still required to pay the increased Emergency Services Levy for 2019, but will receive funding equal to their percentage contribution for the 2019/20 increase via a grant payment. Once these grant monies are received by Council, the budget will be amended accordingly.

Proposed Impact on External and Internal Financial Reserve Funds Result

Reserve Movements

Original Budget	(\$2,329,333)	Increase
2018/19 Carry Forwards	15,674,695	Decrease
Q1 Revised Budget	\$67,635	Decrease
Q2 Proposed Budget Variations - October	\$423,864	Decrease
Proposed Movement of Reserve Funds 19/20 Budget Result October 2019	\$13,836,861	Decrease

Asset Management

N/A

Policy or Regulation

Section 202 of the *Local Government (General) Regulation*

Consultation

This report has been prepared after consultation with the Management Accounting Team.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Christi Brown – Management Accountant Coordinator
To be Tabled	Income and Expenditure Statements by Fund & Sub Service

ITEM	6c.19.089	LOCAL GOVERNMENT REMUNERATION TRIBUNAL – 2020 ANNUAL REVIEW REQUEST FOR COMMENT
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

This report considers the request for comment on the Local Government Remuneration Tribunal 2020 Annual Review proposal.

OFFICER RECOMMENDATION

That Council make a submission to the Local Government Remuneration Tribunal 2020 Annual Review providing support for the establishment of a:

1. new category titled Regional Centres, and inclusion of Clarence Valley Council in it.
2. remuneration band for the new category titled Regional Centres that is halfway between the categories either side, being, Regional Strategic Area and Regional Rural.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.089

Kingsley/Baker

That Council make a submission to the Local Government Remuneration Tribunal 2020 Annual Review providing support for the establishment of a:

- 1. new category titled Regional Centres, and inclusion of Clarence Valley Council in it.**
- 2. remuneration band for the new category titled Regional Centres that is halfway between the categories either side, being, Regional Strategic Area and Regional Rural.**

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.6 Ensure decisions reflect the long-term interest of the community and support financial and infrastructure sustainability

BACKGROUND

The Local Government Remuneration Tribunal, pursuant to s.241 of the *Local Government Act 1993* (the LG Act), is required to make an annual determination on the fees payable to Councillors and Mayors. For 2020 the Tribunal will also undertake a review of the categories as part of the determination.

KEY ISSUES

The Tribunal has reviewed the existing model and proposes to create a new category for Non-Metropolitan councils. The new category, if determined, is proposed to be titled Regional Centre, taking the current allocation from 9 to 10 categories.

Metropolitan

No changes have been proposed to the titles and criteria for Metropolitan Councils. The titles and criteria as determined in the 2019 Annual Determination remain as follows:

- Principal CBD
- Major CBD
- Metropolitan Large
- Metropolitan Medium
- Metropolitan Small

Non-Metropolitan

A new category (Regional Centre) is proposed between Regional Strategic Area and Regional Rural. The existing category of Regional City is to be renamed Major Regional City. Categories are:

- Major Regional City
- Regional Strategic Area
- Regional Centre
- Regional Rural
- Rural

Fees

The Tribunal will also determine the minimum and maximum fee levels for each category in the categorization structure.

In accordance with section 242A of the LG Act, the Tribunal is required to apply the Government's public sector wages policy to the determination of ranges of fees for Councillors and Mayors. The public sector wages policy currently provides for a cap on increases of 2.5 per cent. Thus, the minimum and maximum fees applicable to the existing categories cannot be increased by more than 2.5 per cent. However, the Tribunal is able to determine that a council can be placed in a higher category without breaching the government's wage policy.

The range of fees payable to the proposed new category of Regional Centre, if determined, will be between the ranges of fees currently paid to Regional Rural and Regional Strategic Area.

Submissions

Comment by councils, to be received by 20 December 2019, has been requested on:

- Proposed classification model and criteria
- Allocation in the proposed classification model
- Range of fees payable in the proposed classification model (including in respect to the new category, the capacity to pay any increase in fees)
- Other Matters (within the Tribunal's jurisdiction under the LG Act)

COUNCIL IMPLICATIONS**Budget/Financial**

Clarence Valley Council, currently in Regional Rural category, is now proposed as **Regional Centre** in accordance with the proposed structure for Non-Metropolitan.

Based on the fees for 2019 and incorporating the 2.5% annual increase the following is what would be expected assuming the Tribunal positions the fees for Regional Centres half way between the current categories.

CATEGORY	COUNCILLOR ANNUAL MINIMUM FEE	COUNCILLOR ANNUAL MAXIMUM FEE	MAYOR/CHAIR ADDITIONAL MINIMUM FEE	MAYOR/CHAIR ADDITIONAL MAXIMUM FEE
Regional Strategic Area	\$18,890	\$31,170	\$40,140	\$90,810
Regional Centre	\$14,150	\$25,475	\$30,100	\$68,080
Regional Rural	\$9,420	\$20,780	\$20,070	\$45,360

Asset Management

N/A

Policy or Regulation

Local Government Act 1993

Consultation

Consultation with Councillors occurred at the November workshop held 12 November 2019.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan – Governance Officer
To be tabled	A – Letter advising Councils of review B – Current Remuneration Rates

ITEM	6c.19.090	DISCLOSURE OF INTERESTS – UPDATE RESPONSES
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

This report tables the Disclosure of Interests returns lodged by elected members and designated persons for the period from 1 July 2019 in accordance with Council's Code of Conduct resolved 25 July 2019.

OFFICER RECOMMENDATION

That

1. The updated Disclosure of Interests Returns lodged by elected members and designated persons be noted.
2. Elected member Disclosure of Interests Returns, with required redactions applied, be placed on the Council website in accordance with current disclosure guidelines.
3. Designated staff Disclosure of Interests Returns be held at the Grafton Office for public viewing by appointment at either Maclean or Grafton offices.

COMMITTEE RECOMMENDATION

Toms/Lysaught

That

1. The updated Disclosure of Interests Returns lodged by elected members and designated persons be noted.
2. Elected member and designated persons Disclosure of Interests Returns, with required redactions applied, be placed on the Council website in accordance with current disclosure guidelines.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.090

Kingsley/Lysaught

That

1. The updated Disclosure of Interest Returns lodged by elected members and designated persons be noted.
2. The Declarations of Interest be available on request at the Grafton and Maclean Council Offices by appointment only.

Voting recorded as follows:

For: Lysaught, Ellem, Kingsley, Baker, Williamson, Simmons

Against: Novak, Toms, Clancy

POINT OF ORDER (1) – Cr Toms objected on the grounds of an incorrect statement made by Cr Baker.

The Chair sought clarification from the Director Corporate & Governance when Cr Baker called a further Point of Order.

POINT OF ORDER (2) – Cr Baker objected to the Chair’s questioning of the Director Corporate & Governance on the grounds that the first Point of Order had not been resolved.

POINT OF ORDER (3) – Cr Williamson objected to the Chair’s questioning of the Director Corporate & Governance on the grounds that the meeting was in debate.

The Chair advised that he did not have the information or advice before him and that he has to overrule the objection and let the debate continue.

MOTION OF DISSENT

Toms

Cr Toms moved a Motion of Dissent, on the grounds that the Chair’s ruling is incorrect, maintaining that Cr Baker’s statement was incorrect.

Voting recorded as follows:

For: Novak, Toms, Clancy

Against: Lysaught, Ellem, Kingsley, Baker, Williamson, Simmons

The Motion of Dissent was LOST.

POINT OF ORDER (4) – Cr Toms further objected that the relevant document is available to Councillors.

The Chair advised that he did not have the document before him and cannot rule otherwise than to let Cr Baker continue.

POINT OF ORDER (5) – Cr Toms recommended to the Chair to adjourn the meeting and seek advice from the General Manager or Director Corporate & Governance.

The Chair advised that if it becomes clear to him in the next day or two he will move a Rescission motion.

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

The *Local Government Act 1993* requires all elected members and staff identified as designated persons to complete and lodge with the General Manager, a Disclosure of Interest Return as at 30 June of the previous year, and that these disclosures be tabled with Council, in accordance with s440AAB and the Model Code of Conduct s4.21(b).

As council did not adopt the Clarence Valley Council Code of Conduct until July 2019, the information captured for 30 June 2019 returns by elected members and designated persons did not include property

developer disclosure. Under the new Code of Conduct, the property developer information, not present in the earlier return, must be disclosed within 3 months of this new requirement.

KEY ISSUES

A request for completion of Disclosures of Interest was made of all elected members and those staff identified as designated persons:

- General Manager
- Directors
- all Managers
- all Planners, including Strategic Planners
- all Health and Building Surveyors
- all staff with authority to engage contract services.

The Returns are physically held at the Grafton office and elected member returns are to be placed on the Council website in accordance with The Information and Privacy Commission Guideline 1: For local councils on the disclosure of information contained in the returns disclosing the interest of councillors and designated persons developed under the *Government Information (Public Access) Act 2009 (NSW)*, dated September 2019. Redactions requested by submission of a Statutory Declaration are applied. Attachment C refers. Councillor returns will be made available on the Cr page on Council's website once the resolution has been carried.

Staff returns are not recommended for placement on the Council website as the signatures displayed within the documents have the potential to be copied. Within the Council business domain individual signatures are electronically password protected as they are utilised as approval controls. To have these signatures displayed publicly on an unmonitored website contravenes risk management and audit/fraud management principles.

Redaction of signatures for staff requires significant manual manipulation and notation for each document and is considered a waste of valuable staff resourcing.

Many staff subscribe to privacy controls through other public records such as phone records and it is considered that there is no overriding public interest in breaching the privacy of staff member by displaying private residences on an unmonitored website.

The staff returns can be made available for viewing by appointment at either Maclean or Grafton offices so that a viewing register can be maintained.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Returns are governed by s440AAB of the *Local Government Act 1993* and the model Code of Conduct s4.21(b). The Returns are held by the General Manager, at the Grafton office, and are listed as open access information under Schedule 1 of the Government Information (Public Access) Regulation 2009.

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan – Governance Officer
To be tabled	A. Elected member Disclosure of Interests B. Designated Staff Disclosure of Interests C. The Information and Privacy Commission Guideline 1

ITEM	6c.19.091	2018/2019 ANNUAL REPORT
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

This report provides to Council the 2018/2019 Annual Report. This year our Annual report incorporates new branding and reporting on statutory requirements and a snapshot of activity during 2018/2019. The Annual Report is a key point of accountability between Council and community.

OFFICER RECOMMENDATION

That:

1. Council note the 2018/2019 Annual Report.
2. The 2018/2019 Annual Report be made available to the community on Council's website.
3. The URL link to the 2018/2019 Annual Report be sent to the Office of Local Government, in accordance with the checklist for completing the Annual Report, in order that the Minister for Local Government be advised of its availability.

COMMITTEE RECOMMENDATION

Ellem/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.091

Kingsley/Baker

That:

1. Council note the 2018/2019 Annual Report.
2. The 2018/2019 Annual Report be made available to the community on Council's website.
3. The URL link to the 2018/2019 Annual Report be sent to the Office of Local Government, in accordance with the checklist for completing the Annual Report, in order that the Minister for Local Government be advised of its availability.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Councils are required to prepare an Annual Report within five months of the end of the financial year.

KEY ISSUES

The 2018/2019 Annual Report contains statutory requirements of the *Local Government Act 1993* and infographic activity for the reporting period.

COUNCIL IMPLICATIONS

Budget/Financial

Whilst the Annual Report references the Annual Financial Statements, there are no financial implications with regard to adopting the recommendations of this report.

Asset Management

N/A

Policy or Regulation

The *Local Government Act 1993* provides guidance for the completion of the Annual Report under s428.

Consultation

Staff from across the organisation have provided relevant input for the preparation of the Annual Report.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan – Governance Officer
To be tabled	Annual Report 2018/2019

ITEM	6c.19.092	2020 LOCAL GOVERNMENT ELECTION COSTS
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Confidential	

SUMMARY

This report considers financial aspects of the administration of the 2020 Clarence Valley Council local government election, scheduled for the second Saturday of September (12/09/2020).

OFFICER RECOMMENDATION

That Council

1. Fund the shortfall in the Reserves budget for the 2020 local government election by way of allocation of an additional \$83,000 in the 2020/2021 draft budget.
2. Increase annual funding to financial reserves in future draft budgets to cover estimated \$400,000 for provision of services for the 2024 local government election – (\$100,000 pa).
3. Delegate authority to the General Manager to sign the Contract for Administration of 2020 Ordinary Election services.
4. Return the signed contract to the NSW Electoral Commission no later than 1 January 2020, as required by section 296 (5A)(b) of the *Local Government Act 1993*.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.092

Kingsley/Baker

That Council

1. Fund the shortfall in the Reserves budget for the 2020 local government election by way of allocation of an additional \$83,000 in the 2020/2021 draft budget.
2. Increase annual funding to financial reserves in future draft budgets to cover estimated \$400,000 for provision of services for the 2024 local government election – (\$100,000 pa).
3. Delegate authority to the General Manager to sign the Contract for Administration of 2020 Ordinary Election services.
4. Return the signed contract to the NSW Electoral Commission no later than 1 January 2020, as required by section 296 (5A)(b) of the *Local Government Act 1993*.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

In Council resolution 09.19.004 of 24 September 2019, Council resolved to seek costs and enter into a contract with NSW Electoral Commission for the provision of election services to conduct the 2020 local government election in accordance with s292(2) of the *Local Government Act 1993 (NSW)*.

KEY ISSUES

The cost of NSW Electoral Commission conducting the 2020 Clarence Valley Local Government will be up to \$382,862 excluding GST, in line with the Confidential Attachment to this report.

The contract for the conduct of the 2020 election requires signature and return to the NSW Electoral Commission no later than 1 January 2020, as required by section 296 (5A)(b) of the *Local Government Act 1993*.

COUNCIL IMPLICATIONS**Budget/Financial**

The available budget for the election to be conducted is funded from financial reserve RA10360 Election Cost Reserve.

Annual contributions to this reserve intended that the Reserve stand at \$300,000 by 2020/2021. As the full cost of administering the election will be approximately \$382,862 excluding GST, Council will be required to vary the 2020/2021 contribution to cover the costs for the 2020 local government election.

The costs for the 2016 election were approximately \$272,300 and compared with the costs for the 2020 election there is an increase variance of approximately 40%. The recent review of NSW Electoral costs for election services indicated a much higher cost than the current contract, with the State Government co-funding in part. However, for the 2024 election it is proposed that annual contributions capture a more appropriate Reserve of \$400,000.

Asset Management

N/A

Policy or Regulation

The Local Government Act provides governance for the administration of local government elections.

Consultation

N/A

Legal and Risk Management

The Local Government Act provides governance for the administration of local government elections.

A key risk is Council's ability to self administer the local government election and this risk is mitigated by outsourcing election services in their entirety.

Climate Change

N/A

Prepared by	Monique Ryan – Governance Officer
Confidential	NSW Electoral Commission 2020 Ordinary Election – contract for services

ITEM	6c.19.093	REHABILITATION OF FORMER MACLEAN, TOWNSEND & ILARWILL SEWAGE TREATMENT PLANTS – FINAL REPORT
Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	Nil	

SUMMARY

At its meeting of 27 August 2019 Council resolved (Resolution 6c.19.047) to receive a final report on the rehabilitation of the former Maclean, Townsend & Ilarwill Sewage Treatment Plants (STP) which detailed the receipt of the site audit statement of the former Maclean STP, any budget variations to be undertaken and the status of any remaining land sales.

OFFICER RECOMMENDATION

That Council

1. Receive and note the final report on rehabilitation of the former Sewage Treatment Plant sites at Maclean, Townsend and Ilarwill.
2. Endorse a budget variation to PJ910125 (STP Rehabilitation – Maclean, Townsend & Ilarwill) in the amount of \$2,159,767.16, to be funded from the sewer fund reserve, for inclusion in Council's December 2019/20 Quarterly Budget Review report to the February 2020 Council meeting.
3. List Lot 2313 DP 857839 for sale and authorise the General Manager to execute the required sale documents and attach the Common Seal of Council if required.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.093

Clancy/Novak

That Council

1. Receive and note the final report on rehabilitation of the former Sewage Treatment Plant sites at Maclean, Townsend and Ilarwill.
2. Endorse a budget variation to PJ910125 (STP Rehabilitation – Maclean, Townsend & Ilarwill) in the amount of \$2,159,767.16, to be funded from the sewer fund reserve, for inclusion in Council's December 2019/20 Quarterly Budget Review report to the February 2020 Council meeting.
3. List Lot 2313 DP 857839 for sale and authorise the General Manager to execute the required sale documents and attach the Common Seal of Council if required.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Novak, Williamson, Lysaught, Toms

Against: Clancy

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 meeting of 15 November 2016, Council resolved (Resolution 16.023/16) to:

1. *Accept the Tender from Ledonne Constructions Pty Ltd for Tender 1500769 for "Demolition and Remediation of three Redundant Sewerage Treatment Plant (STP) sites at Maclean, Townsend and Ilarwill" in the amount of \$1,595,388.37 (including GST), to be funded from PJ910125 "STP Rehabilitation - Maclean, Townsend & Ilarwill"*
2. *Accept the upper limit fee proposal from Public Works Advisory in the amount of \$161,538.30 (including GST) for Construction Project Management services of Contract 1500769.*
3. *Authorise the General Manager to approve variations of up to 15% of the contract sum.*
4. *Prepare a planning proposal to rezone Lot 1 DP553965 and Lot 3 DP564828 (Maclean STP), Lot 2 DP634170 (Townsend STP) and Lot 2313 DP857839 (Ilarwill STP) from SP2 to a zoning consistent with the adjoining land.*
5. *Undertake a boundary adjustment subdivision between Lot 1 DP553965 and Lot 3 DP564828 to remove the encroachment of an existing Sewer Pump Station on Lot 1, and approve the affixing of Council's seal as required to documentation associated with the boundary adjustment subdivision.*
6. *Offer the former STP sites (with the exception of the lot including the pump station at the Maclean STP site) for sale to the adjoining landowner(s) with the minimum consideration to be as per a valuation by a registered valuer, and the General Manager be delegated to execute the Sales Contract.*
7. *Increase the Sewerage Fund Reserve contribution to PJ910125 "STP Rehabilitation - Maclean, Townsend & Ilarwill" by \$275,200 with the budget for PJ910125 to be decreased to \$1.95 million.*

KEY ISSUESReceipt of Audit Report for the former Maclean STP

The accredited contaminated site auditor issued a site audit statement and report for the former Maclean STP site on 20 September 2019. This completes all rehabilitation works under the contract. A written notice of contract completion has been issued to Ledonne and the unconditional undertaking has been released.

Any budget variations to be undertaken

As outlined in the monthly updates provided to Council, variations and increases in provisional sums related to EPA requirements for contaminated material to be exported off site, the importation of substitute material and additional testing, sampling and reporting required by the site auditor for approval of the Remediation Action Plans (RAP) for each site. Addressing these issues extended the duration of the rehabilitation contract, which incurred additional project management costs. The drain downstream of the Maclean STP also needed to be restored. The final cost of the project is \$4,109,767.16, requiring a variation of \$2,159,767.16 to the originally approved allocation of \$1.95 million.

Status of any remaining land sales

The landowner adjoining the Ilarwill STP has withdrawn their interest and will not be proceeding with the purchase. It is recommended the property be offered for sale on the open market.

The boundary adjustment survey of the Maclean STP site has been completed and submitted for registration. When registration is completed, a property valuation will be undertaken and the property offered for sale to the adjoining landowner.

COUNCIL IMPLICATIONS

Budget/Financial

Final project costs are summarised in the table below (ex GST):

Item	Cost
Tendering costs	\$59,743.50
Original Contract Sum (Ledonne Constructions)	\$1,450,353.00
Approved Ledonne contract variations	\$227,453.91
Additional Ledonne provisional rate items	\$2,161,638.85
Original project management sum (Public Works Advisory)	\$146,853.00
Approved Public Works Project Management variations due to promulgation	\$28,914.00
Essex drain restoration (downstream of Maclean STP)	\$16,808.72
Expert Biosolids Advice	\$3,525.00
Property disposal costs to date	\$1,977.18
Total Expenditure to date	\$4,097,267.16
Estimated costs to complete property disposal	\$12,500.00
Total Project cost	\$4,109,767.16
Original budget allocation (15 November 2016)	\$1,950,000.00
Required variation	\$2,159,767.16

These costs have already been paid from the sewer fund reserve; a Council resolution is required to formally authorise and finalise the reserve transfers which have been accounted for as "works in progress".

Asset Management

The former STP sites are decommissioned assets which are assessed as having no residual value.

Policy or Regulation

Contaminated Land Management Act, 1997

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

Not applicable for consideration for this project as site works are complete.

Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	Nil

ITEM	6c.19.094	RECONSTRUCTION OF ROAD PAVEMENT ADJACENT TO THE IGA SUPERMARKET – CLOSE OUT REPORT
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Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Works & Civil	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

This report presents Council with the final position following the reconstruction of road pavement adjacent to Cameron Park, Maclean associated with the construction of the IGA supermarket.

OFFICER RECOMMENDATION

That:

1. Council receive the report and note its contents; and
2. The variation works in the sum of \$53,960.57 be funded from the Maclean and Districts Improvements Reserve (RA 11318).

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.094

Kingsley/Baker

That:

1. Council receive the report and note its contents; and
2. The variation works in the sum of \$53,960.57 be funded from the Maclean and Districts Improvements Reserve (RA 11318).

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 its April 2019 meeting Council considered a report (Item 16.011/19) regarding the reconstruction of the road pavement adjacent to Cameron Park, Maclean. These works were associated with the construction of

the IGA supermarket. Council resolved to engage Circon Constructions Pty Ltd to undertake the works at a cost of \$264,233.57 ex GST.

KEY ISSUES

The reconstruction works carpark associated with the construction of the IGA supermarket have now been completed. During the construction works 3 contract variations were required due to poor subgrade conditions being encountered. The variations total \$89,727.00 and are detailed as follows:

Concrete Blinding Layer to Area B –	\$21,816
Concrete Blinding Layer to Area A -	\$11,977
Change to concrete pavement Area D -	<u>\$55,934</u>
Total -	\$89,727

Due to the provisions of the *Building and Construction Industry Securities of Payments Act 1999* and the potential for required payment of delay costs associated with the project, the variations were authorised to proceed once they were assessed and deemed valid.

COUNCIL IMPLICATIONS

Budget/Financial

The Maclean Car Park Road Surface Renewal was a project listed in the 2018-19 operational plan (PJ 220164) and had an allocated budget of \$300,000. The required variation works exceed the available budget by \$53,960.57.

2018/19 Project Budget	\$300,000.00
Original contract	\$264,233.57
Variations	\$ 89,727.00
Balance to be funded	<u>\$ 53,960.57</u>

It is recommended that the balance be funded from the Maclean and Districts Improvements Reserve (RA11318) which has a balance as at 30 June 2019 of \$631,784.

Asset Management

The works undertaken change the asset condition rating of the assets.

Policy or Regulation

Building and Construction Industry Securities of Payments Act 1999

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Troy Anderson – Director (Works & Civil)
Attachment	Plan of areas

ITEM	6c.19.095	LOCAL TRAFFIC COMMITTEE
Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Yes	

SUMMARY

This report lists the recommendation made at 5 November 2019 meeting of the Clarence Valley Council Local Traffic Committee.

OFFICER RECOMMENDATION

That the recommendations of the Local Traffic Committee included in the Minutes of its 5 November 2019 meeting be adopted by Council.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.095

Kingsley/Baker

That the recommendations of the Local Traffic Committee included in the Minutes of its 5 November 2019 meeting be adopted by Council.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 following items were discussed at the Local Traffic Committee held on 5 November 2019.

Item: 031/19 2020 GRAFTON SHOW – VILLIERS STREET TRAFFIC MANAGEMENT

That this event be approved subject to the compliance to the relevant conditions below.

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Roads and Maritime asset such as a bridge, Motorway or viaduct)
2. NSW Police approval is obtained
3. Roads and Maritime Services approval is obtained by way of a Road Occupancy License where event is on a state road or where the event may impact the state road network.
- ~~4. National Heavy Vehicle Regulator approval is obtained as required where road closures of approved Restricted Access Vehicles routes require identification of new routes for traffic detours.~~
5. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein
6. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed;
 - a) Traffic Control Plans to include a map indicating any alternative routes required for traffic detours must be provided.
 - b) Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites
 - c) All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event
 - d) Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event. Where local council is the roads authority, notification of any reduced speed limit should be forwarded to Roads and Maritime Service and NSW Police
 - e) Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads and Maritime Services accredited persons
7. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner
8. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event
9. Community and affected business consultation including adequate response/action to any raised concerns
10. Arrangements made for private property access and egress affected by the event
11. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
12. That the applicant organise for the events to be listed on council's web page

Item: 032/19 2020 YAMBA ROAD CLOSURES – YAMBA TRIATHLON EVENT 2019

That this event be approved subject to the compliance to the relevant conditions below.

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Roads and Maritime asset such as a bridge, Motorway or viaduct)
2. NSW Police approval is obtained
- ~~3. Roads and Maritime Services approval is obtained by way of a Road Occupancy License where event is on a state road or where the event may impact the state road network.~~
- ~~4. National Heavy Vehicle Regulator approval is obtained as required where road closures of approved Restricted Access Vehicles routes require identification of new routes for traffic detours.~~
5. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein
6. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed;

- a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours must be provided.
2. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites
3. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event
4. Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event. Where local council is the roads authority, notification of any reduced speed limit should be forwarded to Roads and Maritime Service and NSW Police
5. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads and Maritime Services accredited persons
7. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner
8. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event
9. Community and affected business consultation including adequate response/action to any raised concerns
10. Arrangements made for private property access and egress affected by the event
11. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
12. That the applicant organise for the events to be listed on council's web page

Item: 033/19 HARWOOD PRECINCT DRAFT DESIGN

That

1. The Item for Information, with digital Draft Design Plans be forwarded to the Committee for feedback
2. That the Item for Information be added to the Agenda as an Item for the next meeting.
3. That the Item for Information be adopted.

Item: 034/19 YAMBA ROAD INTERSECTION UPGRADES DRAFT DESIGNS

That:

1. That the Item for Information, with digital Draft Design Plans be forwarded to the Committee for feedback
2. That the Item for Information be added to the Agenda as an Item for the next meeting.
3. That the Item for Information be adopted.

KEY ISSUES

Agenda, minutes and attachments are attached.

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

Prepared by	Alex Dalrymple – Manger Civil Services
Attachment	Traffic Committee Minutes

ITEM	6c.19.096	VOLUNTARY CONTRIBUTION FOR DUST SEALING OF UNSEALED (GRAVEL) ROADS - UPDATE
Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	To be tabled	

SUMMARY

At the July 2019 Council meeting (Item 6.c.19.022) Council resolved in part to undertake community consultation for the draft policy and provide a report detailing the submissions and modified policy. This report provides an update on this community consultation and a revised report.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the report detailing the received submission.
2. Adopt the Voluntary Contributions for Dust Sealing of Unsealed (Gravel) Roads Policy as attached to this report.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.096

Kingsley/Baker

That Council:

1. Receive and note the report detailing the received submission.
2. Adopt the Voluntary Contributions for Dust Sealing of Unsealed (Gravel) Roads Policy as attached to this report.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 July 2019 Council meeting (Item 6.c.19.022) Council resolved:

That Council:

- 1. Adopt the draft Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads, for public consultation purposes.*
- 2. Undertake community consultation in accordance with the attached community engagement plan for the draft Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads for a minimum of 28 days.*
- 3. Receive a report following the close of advertising detailing any submissions received, and subsequent recommended changes to the draft Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads.*

This report responds to item 3 of this resolution.

The draft policy was advertised between 28th of September and the 30th of October 2019 and only one submission was received, this submission is attached to this report for consideration. The sole submission overall supports the policy however takes issue with a few of the details of the policy.

KEY ISSUES

The issues raised in the sole submission are discussed below:

Cost Variations

The submission raised that item 2b in the policy states that the applicant will be charged the actual cost of the works, meaning that the cost is not capped to the estimate. This has been changed in the attached updated policy so that the estimate is the maximum price that can be charged.

Councils Contribution

The policy does not allow for Council to make any contribution to the costs of sealing the road, the submission does not agree with this approach. This has not been changed in the revised policy as it is still considered to be appropriate.

Council has already undertaken a cost benefit ratio analysis of many unsealed roads and both roads with a Benefit Cost Ratio (BCR) of greater than one are already being upgraded. The intention of this policy is to create a way that residents can pay for an upgrade for a road that does not have a BCR greater than one and therefore does not create any significant savings to Council.

Changing the policy so that Council contributes could result in funds being diverted from projects that do create significant benefit to Council, to ones that create significant benefit to a small group of residents that can afford to contribute. It is unlikely that this would be in the community's best interests.

In-kind Contribution

The submission suggests that Council accept in-kind contributions of materials. This suggestion has been incorporated into the attached policy; however it is explicitly limited to materials. The provision of in-kind contribution of plant and labour could create significant workplace health and safety issues and is not considered to be appropriate.

Schedule Variations

The submission suggests that Council provide a time window within which works will be undertaken. This has partially been incorporated into the revised policy.

Appeals

The submission suggests that there are governance issues with the Director Works and Civil making determinations on appeals or objections. This is not seen as an issue and has not been changed in the revised policy.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

All of the identified works are on existing Council roads and are already on Councils asset register.

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

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
Attachment	Voluntary Contribution for Dust Sealing of Unsealed Roads Policy Submission to the Policy exhibition

ITEM 6c.19.097 MONTHLY INVESTMENT REPORT – OCTOBER 2019

Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

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 31 October 2019 be received and noted.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.097

Kingsley/Baker

That the report indicating Council's funds investment position as at 31 October 2019 be received and noted.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 2019 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	5.94%	Plant Equipment Reserve	9.88%
Water Supply Funds	22.85%	Regional Landfill Reserves	5.23%
Developer Contributions	16.35%	Fin. Assist Grants paid in advance	4.63%
Unexpended Grants	5.84%	Waste Mngmt / Commercial Waste	4.03%
Domestic Waste Management	0.88%	Infrastructure Assets Renewals	3.09%
Clarence Coast Reserve	2.24%	Clarence Care & Support	2.78%
Deposits, Retentions and Bonds	1.51%	Employee Leave Entitlements	2.64%
Other External	1.75%	Roads & Quarries Reserves	2.29%
		Strategic Building Reserve	1.13%
		Building Asset Renewals	0.92%
		Other (refer attachment for further detail)	6.02%
	<u>57.36%</u>		<u>42.64%</u>
		Total External & Internal Reserves	<u>100.00%</u>

Portfolio Credit Limits

Tabled below is a summary of Council's investments as at 31 October 2019 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 October 2019				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	6,479,515	4.96%	Yes
AA	100.00%	34,855,774	26.70%	Yes
A	60.00%	24,250,000	18.57%	Yes
BBB	50.00%	64,980,075	49.77%	Yes
TOTAL INVESTMENTS		130,565,364	100.00%	

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.

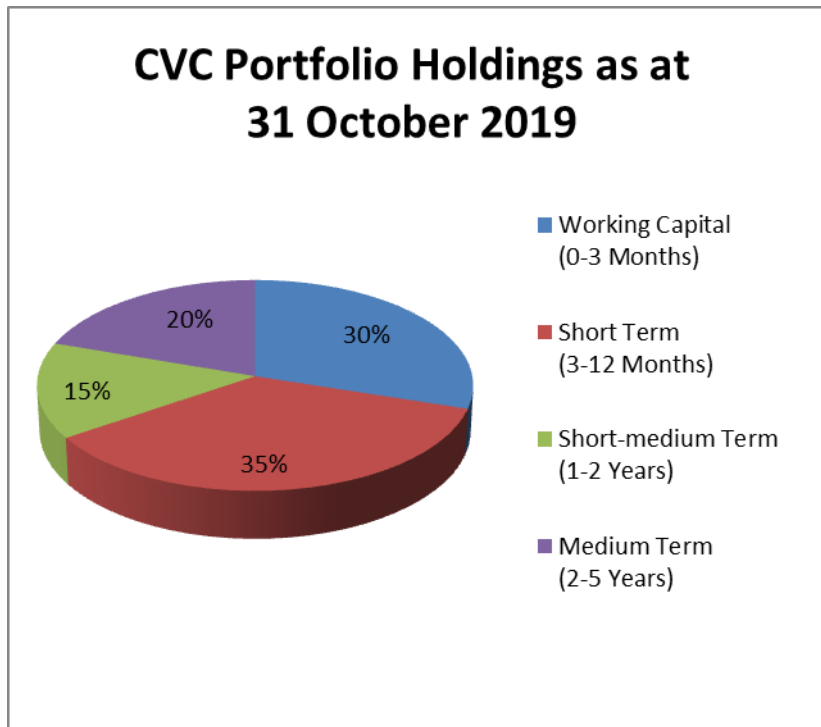
Individual Institution or Counterparty Limits

Tabled below is a summary of Council's investments as at 31 October 2019 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 31 October 2019					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	4,000,000	3.06%	Yes
ANZ*	AA-	30.00%	2,031,530	1.56%	Yes
BoQ	BBB+	15.00%	16,000,000	12.25%	Yes
Bendigo	BBB+	15.00%	7,000,000	5.36%	Yes
Bendigo*			1,006,320	0.77%	
Rural Bank			5,000,000	3.83%	
CBA*	AA-	30.00%	2,021,630	1.55%	Yes
Defence	BBB	15.00%	9,000,000	6.89%	Yes
G&C Mutual	BBB-	15.00%	1,000,000	0.77%	Yes
ING Direct	A	15.00%	14,000,000	10.72%	Yes
ME Bank	BBB	15.00%	6,000,000	4.60%	Yes
NAB	AA-	30.00%	16,000,000	12.25%	Yes
NAB*			1,004,290	0.77%	
P&N	BBB	15.00%	3,000,000	2.30%	Yes
People's Choice	BBB	15.00%	1,000,000	0.77%	Yes
RaboDirect	A+	15.00%	11,000,000	8.42%	Yes
Westpac	AA-	30.00%	7,000,000	5.36%	Yes
Westpac*	AA-		1,526,663	1.17%	
TOTAL TERM DEPOSITS & FRNs*			107,590,433	82.40%	
MANAGED FUNDS					
TCorp	AAA	40.00%	1,979,515	1.52%	Yes
TOTAL MANAGED FUNDS			1,979,515	1.52%	
FUNDS AT CALL					
AMP	BBB+	15.00%	14,723,755	11.28%	Yes
ANZ	AA-	30.00%	274,299	0.21%	Yes
CBA	AA-	30.00%	5,997,362	4.59%	Yes
TOTAL FUNDS AT CALL			20,995,416	16.08%	
TOTAL INVESTMENTS			130,565,364	100.00%	

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 October 2019. Excluding "at-call" working capital, 48.26% of Council's investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 31 October 2019					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	1,979,515	1.52%	At-Call	1.20%	AAA
AMP Bank Ltd	14,723,755	11.28%	At-Call	1.30%	BBB+
ANZ Banking Group Ltd	274,299	0.21%	At-Call	1.05%	AA-
Commonwealth Bank of Australia	5,997,362	4.59%	At-Call	0.65%	AA-
Bendigo Bank	1,000,000	0.77%	21/11/2019	2.70%	BBB+
Bendigo Bank	2,000,000	1.53%	16/12/2019	2.85%	BBB+
Bendigo Bank	2,000,000	1.53%	18/12/2019	2.85%	BBB+
ING	1,000,000	0.77%	06/11/2019	2.87%	A
ING	2,000,000	1.53%	08/11/2019	2.85%	A
ING	2,000,000	1.53%	10/12/2019	2.87%	A
ME Bank Ltd	2,000,000	1.53%	08/01/2020	1.80%	BBB
National Australia Bank	2,000,000	1.53%	11/11/2019	2.73%	AA-
National Australia Bank	2,000,000	1.53%	11/12/2019	2.75%	AA-
People's Choice Credit Union	1,000,000	0.77%	12/12/2019	2.77%	BBB
TOTAL WORKING CAPITAL (0-3 MONTHS)	39,974,931	30.62%		1.79%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	3,000,000	2.30%	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	1.53%	3/02/2020	1.85%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	6/07/2020	3.00%	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%	26/10/2020	3.20%	BBB+
Bendigo Bank	2,000,000	1.53%	27/04/2020	1.50%	BBB+
Defence Bank	1,000,000	0.77%	4/03/2020	2.80%	BBB
Defence Bank	2,000,000	1.53%	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	2.30%	14/02/2020	2.87%	A
ING	2,000,000	1.53%	20/02/2020	2.89%	A
ING	2,000,000	1.53%	2/03/2020	2.87%	A
ME Bank Ltd	2,000,000	1.53%	6/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.53%	8/05/2020	2.30%	BBB
National Australia Bank	2,000,000	1.53%	3/03/2020	1.70%	AA-
National Australia Bank	3,000,000	2.30%	3/03/2020	1.70%	AA-
National Australia Bank	2,000,000	1.53%	11/03/2020	1.73%	AA-
National Australia Bank	3,000,000	2.30%	20/05/2020	2.25%	AA-
National Australia Bank	2,000,000	1.53%	30/07/2020	1.80%	AA-
RaboDirect (Australia) Ltd	2,000,000	1.53%	11/02/2020	1.95%	A+
Rural Bank Ltd	2,000,000	1.53%	10/02/2020	2.85%	BBB+
Rural Bank Ltd	2,000,000	1.53%	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	1,006,320	0.77%	21/02/2020	2.08%	BBB+
TOTAL SHORT TERM (3-12 MONTHS)	46,006,320	35.24%		2.44%	
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.77%	2/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.53%	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	1.53%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.53%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.53%	9/03/2021	3.00%	BBB
ING	1,000,000	0.77%	10/11/2020	2.92%	A
P&N Bank	3,000,000	2.30%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.53%	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	1.53%	5/03/2021	3.00%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	19,000,000	14.55%		3.25%	

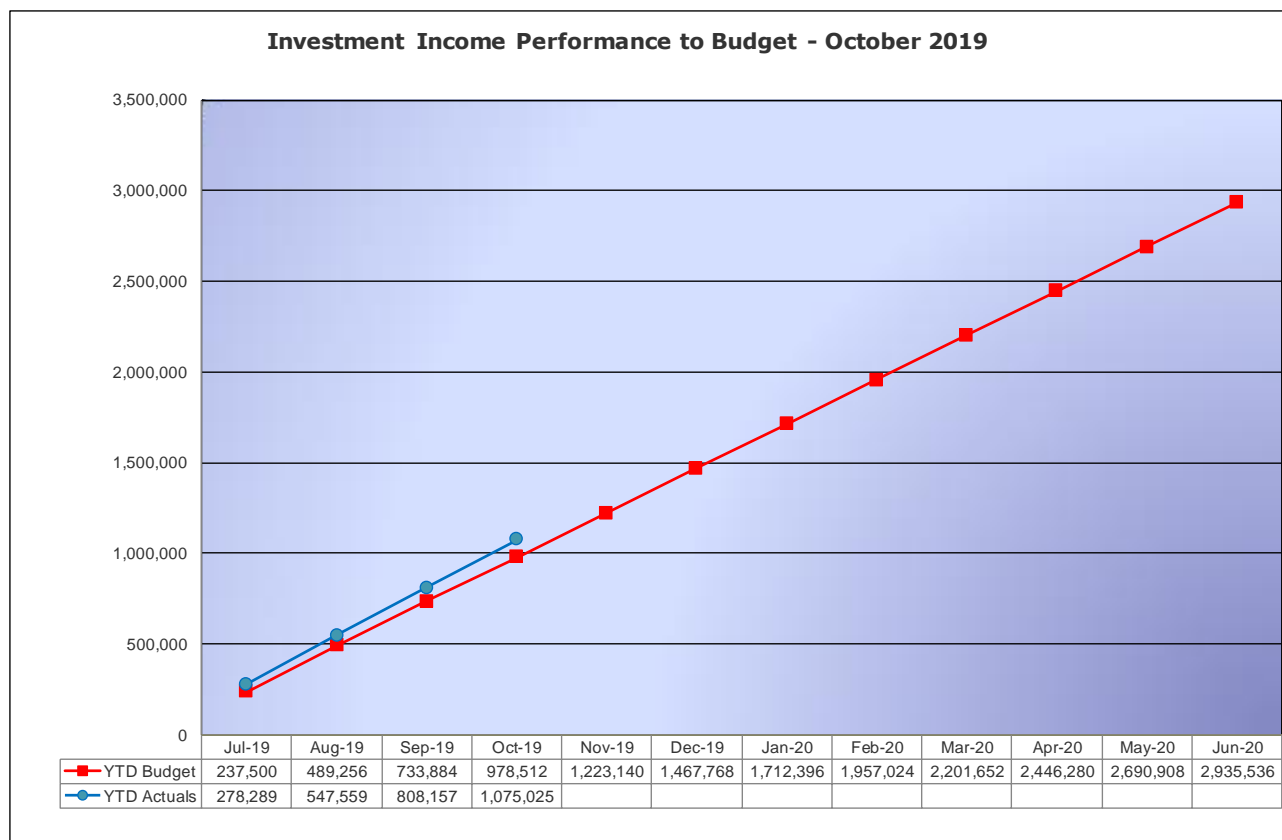
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.77%	2/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	9/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	3/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.53%	8/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.53%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.77%	4/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.53%	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	1.53%	19/09/2023	3.40%	A+
Westpac Bank	1,000,000	0.77%	16/11/2021	2.17%	AA-
Westpac Bank	2,000,000	1.53%	18/07/2022	1.94%	AA-
Westpac Bank	2,000,000	1.53%	13/03/2023	2.95%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,031,530	1.56%	06/12/2023	2.03%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,004,250	0.77%	25/04/2023	1.68%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,017,380	0.78%	11/01/2024	1.97%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,004,290	0.77%	10/02/2023	1.77%	AA-
		0.00%			
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,526,663	1.17%	24/04/2024	2.02%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	25,584,113	19.59%		2.88%	
TOTAL INVESTMENTS	130,565,364	100.00%		2.45%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 31 October 2019			
	Actual	Budget 2019/20	Over/(Under)
This Month			
Cash Deposits & FRNs	\$264,983	\$243,128	\$21,855
Managed Funds	\$1,885	\$1,500	\$385
	\$266,868	\$244,628	\$22,240
Year to Date			
Cash Deposits & FRNs	\$1,066,324	\$972,512	\$93,812
Managed Funds	\$8,701	\$6,000	\$2,701
	\$1,075,025	\$978,512	\$96,513

- Actual results have shown that total interest income to 31 October 2019 is \$0.097M above the 2019-20 budget of \$0.978M.
- As at 31 October 2019 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$90,433.

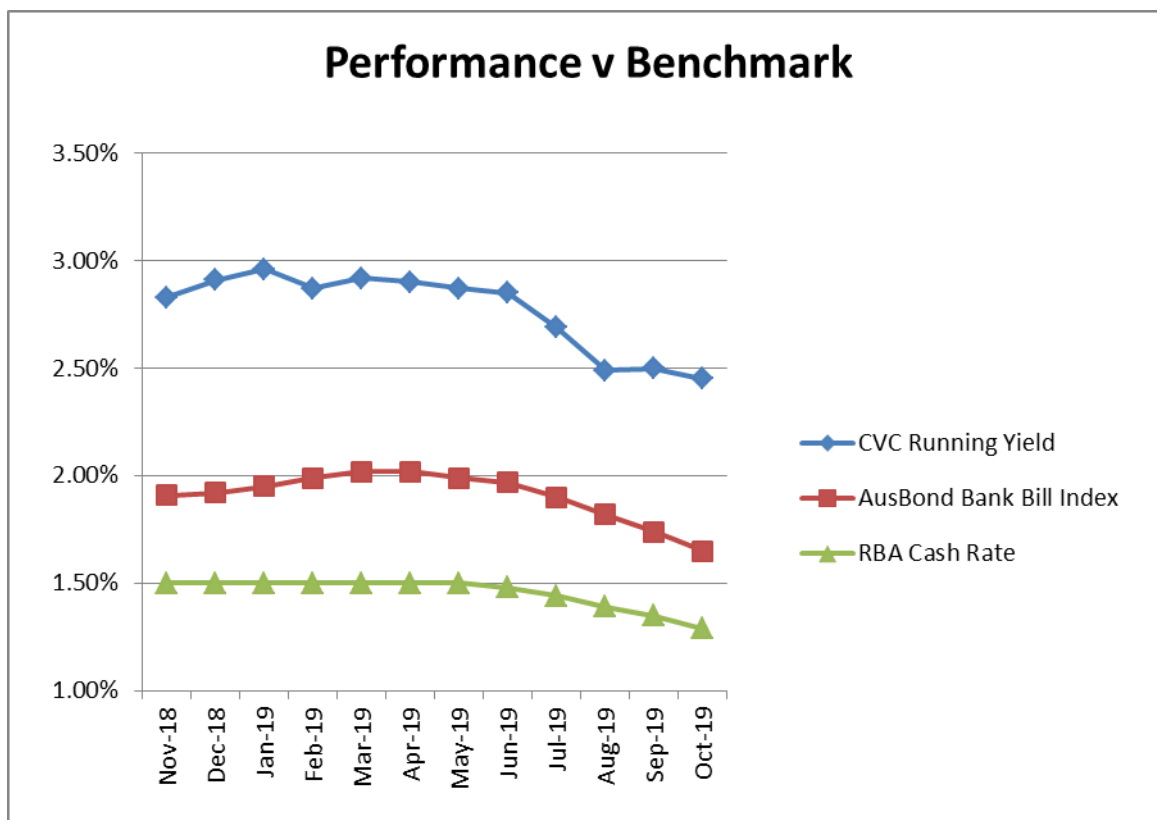


- Running yields* to 31 October 2019 have been:

AMP Business	1.05%
AMP 31 Day Notice	1.55%
ANZ Premium Business	1.05%
CBA General	0.60%
24hr Call Account	0.70%
T-CorpIM Cash Fund	1.20%
Floating Rate Notes	1.95%
Term Deposits	<u>2.79%</u>
Total	2.45%

*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 October was 0.75%. The benchmark AusBond Bank Bill Index was 1.65% for October.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.45% (September 2.50%).



- The following investment was arranged since the previous report:
 - Bendigo Bank \$2.0m TD matured 28/10/19, reinvested for 6 months at 1.50% – matures 27/04/2020.

Quarterly Investment Report 30 September 2019 (provided by CPG Research & Advisory)

The CPG report indicates that Council's Investments as at 30 September 2019 is materially consistent with Policy. Council staff place investments in accordance with Council's cash flow requirements whilst maximising investment returns where possible. Key points from the CPG report include:

- The dominant share (77%) of the portfolio is held in term deposits (fixed and some floating) with the remaining assets diversified across liquid increased cash accounts (12%) and FRNs (6%), plus the cash notice account (5%).
- As at the end of September, deposits yielded an excellent +2.83% p.a.; +208bp above the new official cash rate of 0.75%. This return is far above any deposit rate from the market, which are now typically in the mid to high 1's.
- Forward rates suggest that Council will earn far less from cash in the future. The portfolio duration of 412 days does not take this away, but provides a buffer of protection and time to adjust expectations.
- The portfolio is well distributed across maturities with some maturities spreading out to 2024. Council has excellent fixed rate protection as the rate cycle sets new records. Council has secured rates well above the current market.
- Council now faces record low deposit rates, near post-GFC low credit spreads, and record low returns on TCorp's cash funds. Council has a year of protection in place before facing it.

- As at the review date, Council did not have an overweight position to any single counterparty. Overall the portfolio is well diversified across investment grade.
- Council's portfolio has very high liquidity, with 30% of assets at call or maturing within 3 months and an additional 34% maturing within 12 months.
- There is a capacity to invest at all terms where value is available. Higher rated banks provide strong yields in liquid securities.

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
To be tabled	A: Movement of funds between months and Other Internal Reserves (detail) B: CPG Research & Advisory Quarterly Investment Report – as at 30 September 2019

ITEM 6c.19.098 PETITION TO SEAL LOWER KANGAROO CREEK ROAD

Meeting	Corporate, Governance & Works Committee	19 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	To be tabled	

SUMMARY

Council has received a petition for the upgrading/sealing of Lower Kangaroo Creek Road between the intersection of Kangaroo Creek Road and the existing sealed part of Lower Kangaroo Creek Road. The following report provides information about this road and requirements to meet the request of the petition.

OFFICER RECOMMENDATION

That Council receive the Petition to Seal Lower Kangaroo Creek Road report and note its contents.

COMMITTEE RECOMMENDATION

Ellem/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.19.098

Kingsley/Baker

That Council receive the Petition to Seal Lower Kangaroo Creek Road report and note its contents.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Council received a petition with (248 signatures and 7 letters of support) on 4 September 2019 requesting that the unsealed part of Lower Kangaroo Creek Road be sealed. The overview of issues raised in the petition states:

'The unsealed section of Lower Kangaroo Creek Road is an unstable and dangerous surface for drivers and the significant amount of dust stirred severely reduces visibility and may be harmful to residents if breathed in over an extended period of time'

Lower Kangaroo Creek Road is a local road located in Coutts Crossing that joins Kangaroo Creek Road at both ends. Some of the road is sealed, however approximately 3.8km of road is unsealed. The road runs past a mixture of rural and residential properties and receives through traffic.

KEY ISSUES

There are a number of key issues associated with this matter, including:

- Indicative costs for sealing the currently unsealed part of Lower Kangaroo Creek Road
- Council's previous resolutions regarding sealing of unsealed roads; and

Each of these items are considered below.

Indicative costs for sealing Lower Kangaroo Creek Road

Sealing this road would require road widening at some locations, a gravel overlay and sealing. While no survey or design works have been undertaken an indicative cost to seal the 3.8km of currently unsealed road is \$2.2 million.

Council's previous resolutions regarding sealing of unsealed roads

Council has considered sealing unsealed roads previously. The most relevant report is item 19.027/19 (October 2019). This resolution requires technical and benefit cost ratio assessments of all unsealed roads to create a prioritised sealing program.

As this process is currently in process it is therefore recommended to allow this to be completed prior to sealing more unsealed roads. This will allow all unsealed roads to be compared and sealing can be undertaken in a logical order and maximise the benefit to the community.

COUNCIL IMPLICATIONS

Budget/Financial

The financial implications will not be known until the project is 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 Councils long term funding requirements.

Asset Management

All of the identified works are on existing Council roads. Any additional sealing works will increase Council's whole of life costs for the road.

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
Attachment	Petition – To be tabled

CLOSE OF COMMITTEE MEETING

There being no further business the Corporate, Governance & Works Committee closed at 2:43 pm.

d. INFORMATION ITEMS

ITEM	6d.19.005	ITEMS FOR INFORMATION
Meeting	Council	26 November 2019
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

OFFICER RECOMMENDATION

That the Items for Information as listed below be adopted:

1. Audit Committee: Minutes of meetings held 6 August, 15 October and 22 October 2019.
2. Ilarwill Hall Committee: Minutes of meetings held January, June and August 2019
3. Tucabia Hall Committee: Minutes of meeting held 30 September 2019

COUNCIL RESOLUTION – 6d.19.005

Kingsley/Baker

That the Items for Information as listed below be adopted:

1. Audit Committee: Minutes of meetings held 6 August, 15 October and 22 October 2019.
2. Ilarwill Hall Committee: Minutes of meetings held January, June and August 2019
3. Tucabia Hall Committee: Minutes of meeting held 30 September 2019

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

Prepared by	Karlie Chevalley, Executive Support Assistant
To be tabled	As listed above

e. TENDERS

ITEM	6e.19.016	CONTRACT 19/003 – DEMOLITION OF LAWRENCE AND SOUTHGATE RESERVOIR - LATENT CONDITION VARIATION
Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	Nil	

SUMMARY

At its meeting of 28 May 2019 Council awarded Contract 19/003 to Major Projects Group Pty Ltd (MPG) for demolition of the Lawrence and Southgate Reservoirs (Resolution 16.016/19). Pre-tender testing of materials, which were provided to all Tenderers, indicated that asbestos material within both reservoirs was classified as bonded and confined to the internal asbestos cement riser pipes. Tenders were submitted on that assumption. As part of due diligence, MPG undertook additional testing of the asbestos material, and their hygienist has reclassified the asbestos material as friable.

In addition, the hygienist indicated that all lining material within the Lawrence reservoir also needed to be considered as containing asbestos. The increase in material volume and the change from bonded to friable classification are considered latent conditions under the contract and, as the variation exceeds the 10% variation sum previously authorised, the matter is being reported to Council.

OFFICER RECOMMENDATION

That:

1. Council approve a variation to Contract 19/003 in the amount of \$246,122.37 (including GST) due to a latent condition regarding the existing asbestos material in the Lawrence and Southgate reservoirs.
2. The variation be funded from PJ902037 (Reservoir – Renewal Expenses).

COUNCIL RESOLUTION – 6e.19.016

Kingsley/Baker

That:

1. Council approve a variation to Contract 19/003 in the amount of \$246,122.37 (including GST) due to a latent condition regarding the existing asbestos material in the Lawrence and Southgate reservoirs.
2. The variation be funded from PJ902037 (Reservoir – Renewal Expenses).

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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

Based on pre-tender testing of the Lawrence and Southgate reservoirs, the tender documents indicated a quantity of bonded asbestos material requiring removal and the rate accepted in MPG's tender for this task was \$18,850 (including GST). Bonded asbestos can be removed by a "Class B" licenced contractor, and MPG hold a class B licence.

The difficulty in detecting latent conditions is demonstrated in the investigation process Council undertook prior to Tender. Council undertook 2 samples of both reservoir linings, results of which were provided to all Tenderers, and no asbestos was detected in any of Council's samples.

Experts in the lining field had indicated the issue with the lining would be hydrocarbons, which would determine its waste classification. There was no anecdotal history of asbestos either being added to reservoir liners or detected in any other NSW reservoir lining projects.

MPG's initial due diligence testing detected possible asbestos in 1 of 4 sampling locations of the lining in the Lawrence reservoir. This triggered subsequent targeted testing by a hygienist in the areas where asbestos was potentially detected. The targeted testing detected asbestos in 7 of 12 sampling locations.

The asbestos material is approximately 1mm thick in a lining which is 16mm thick. Although only 50% of the contractor's samples of the Lawrence reservoir lining detected asbestos, as precautionary measure the hygienist has indicated it must be assumed that all of the Lawrence reservoir lining contains asbestos.

This has significantly increased the volume of material considered to contain asbestos.

Friable asbestos removal requires a "Class A" licenced contractor, and MPG has submitted a variation for removal of the asbestos material using an appropriately licenced contractor.

KEY ISSUES

The asbestos is not considered a health risk unless it is disturbed and so has not posed a risk to drinking water; however, demolition of the structure will disturb the lining material. As reservoirs are contained structures, no significant issues are expected with containment of asbestos material during removal. The main cost in the variation is maintaining the containment during removal of the material.

Due to the Lawrence reservoir being located adjacent to the Lawrence Public School, the asbestos removal work is being programmed to be held during the summer school holidays. The work is required to be undertaken continuously (i.e. including weekends) in order to be completed before school resumes.

COUNCIL IMPLICATIONS**Budget/Financial**

The variation submitted by MPG to remove asbestos is \$246,122.37 (including GST). This exceeds the 10% variation authorisation of \$42,657.82 approved by Council under resolution 16.016/19.

Resolution 16.016/19 noted that if steel from the demolished reservoirs was not accepted for recycling due to its waste classification, it would need to be disposed as regulated or restricted waste at an approved facility in Queensland. The steel from the Southgate reservoir (which was demolished in October/November) was not accepted for recycling and has been transported to Queensland.

Asset Management

These assets will be removed from Council's asset register when demolition is completed.

Policy or Regulation

Workplace Health & Safety Act and Regulation

Consultation

Project Manager Public Works Advisory

Legal and Risk Management

The demolition project is unable to proceed unless the latent condition is addressed.

Climate Change

N/A

Prepared by	Greg Mashiah – Manager Water Cycle
Attachment	Nil

ITEM 6e.19.017 T16/026 ROMIAKA CHANNEL BRIDGE REPLACEMENT – CLOSE OUT REPORT

Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	Nil	

SUMMARY

At the Council meeting of 25 June 2019 Council adopted a resolution accepting a negotiated position for the completion of the Romiaka Bridge construction with Delaney Civil. Contract works are now complete and Council are nearing a position of being able to finalise the contract.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the report on the Romiaka Channel Bridge close out.
2. Affix the Council seal to any documents to finalise the contract with Delaney Civil once all outstanding elements of the contract have been finalised.

COUNCIL RESOLUTION – 6e.19.017

Kingsley/Baker

That Council:

1. **Receive and note the report on the Romiaka Channel Bridge close out.**
2. **Affix the Council seal to any documents to finalise the contract with Delaney Civil once all outstanding elements of the contract have been finalised.**

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 its meeting of 25 June 2019, Council considered and adopted a position for Council to negotiate a settlement agreement with Delaney Civil for the completion of the Romiaka Bridge construction. The report also increased the budget for NSW Public Works Advisory for project management expenses due to the prolonged nature of the contract.

Following the Council meeting, staff negotiated an agreement with Delaney Civil in line with, and meeting the requirements, outlined in the report of 25 June 2019. Following the execution of the agreement

Delaney Civil recommenced and have now completed all works on site in accordance with the agreement, including repair of all identified defects that required actioning.

A final site inspection has been undertaken with representatives of Council, NSW Public Works Advisory and Delaney Civil. All outstanding on-site works and defects were inspected and confirmed as being complete.

KEY ISSUES

While all on-site works have been completed there are three issues still outstanding that require completion/confirmation to allow completion of the contract. These issues are:

1. Supply of all work as executed plans;
2. Supply of all required quality documentation; and
3. Close out of defects to nearby properties.

Delaney Civil have supplied work as executed plans and quality documents to NSW Public Works Advisory, who are currently confirming that all required documentation has been supplied to the required standard.

Several defects have been identified in adjoining properties which require rectification. NSW Public Works are in discussions with the property owners regarding close out the issues.

As part of the agreement with Delaney Civil, Council will complete minor works to connect the constructed footpath back to the road.

COUNCIL IMPLICATIONS

Budget/Financial

The table below shows anticipated expenditure as reported in the report of 25 June 2019 and the current and predicted expenditure for the project (excluding GST) to completion.

Approved budget	\$	3,901,736.00		
		Estimated as at 25/06/2019	Expenditure as at 11/11/2019	Remaining Expenditure
Expenditure at 25/06/2019	\$	3,699,824.72	3,699,824.72	
Contractor costs associated with settlement position	\$	400,000.00	281,241.09	118,758.91
Public Works Advisory estimated costs for project management services	\$	187,577.75	141,853.86	45,723.89
Miscellaneous Expenditure*			2,234.12	3,000.00
Subtotal – Anticipated Remaining Expenditure				167,482.80
Total forecast cost of project	\$	4,287,402.47	4,125,153.79	4,292,636.59

*The miscellaneous expenditure primarily relates to Council legal fees associated with assessment of the agreement, and costs associated with the dilapidation reports.

Asset Management

Replacement of the Romiaka Channel Bridge will address the following specific level of service objectives stated in Council's Transport Asset Management Plan:

Community Level of Service Objectives

- Bridges meet transport requirements without restriction.
- Bridge geometry meets current design requirements for current traffic.

Technical Level of Service Objectives

- Bridges to be upgraded where the bridges do not meet current capacity requirements or where timber bridge structural defects are beyond economic repair and it is more cost-effective to replace the bridge with a concrete structure, subject to the availability of funding.

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

The project is nearing completion and as a result the unknown levels of risk are now minimal.

Climate Change

N/A

Prepared by	Tim Jenkins – Asset Systems Project Coordinator
Attachment	Nil

ITEM	6e.19.018	ABORIGINAL COMMUNITIES SEWER AND WATER PROGRAM – BACKLOG SEWER WORKS AT MALABUGILMAH COMMUNITY
Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	Confidential	

SUMMARY

Council operates sewer and water services to the Aboriginal Community of Malabugilmah with funding administered by the Department of Planning, Industry and the Environment – Water (DPIE – Water). The quarterly inspection of the Malabugilmah sewerage system identified backlog works required to address fire risk and structural integrity issues.

Ecotechnology Australia Pty Ltd (Ecoteam) operate the water and sewer system at Malabugilmah under contract to Council, and were requested to provide a proposal to bring the Malabugilmah sewer system up to a satisfactory standard (“backlog” works). The Ecoteam proposal exceeds the amount stipulated in the Local Government Act for calling of Tenders. It is considered that extenuating circumstances exist such that a satisfactory result would not be achieved by inviting tenders. The Ecoteam proposal is assessed by Council and DPIE-Water as providing value for money, and DPIE-Water has indicated it will fund the works. It is therefore recommended that the proposal from Ecoteam be accepted.

OFFICER RECOMMENDATION

That Council:

1. Consider, due to the need for continuity of sewer services to the Malabugilmah community and the requirement for concurrence from the Local Aboriginal Land Council for undertaking the work, extenuating circumstances exist under Section 55 (3) (i) of the *Local Government Act 1993* in that a satisfactory result would not be achieved by inviting tenders for undertaking the backlog sewer work in this community.
2. Accept the proposal from Ecotechnology Australia Pty Ltd to undertake backlog sewer works at Malabugilmah community in the amount of \$439,215.20 (including GST) be accepted, with the works to be funded from Project Numbers 902081 and 906071.

COUNCIL RESOLUTION – 6e.19.018

Kingsley/Baker

That Council:

1. **Consider, due to the need for continuity of sewer services to the Malabugilmah community and the requirement for concurrence from the Local Aboriginal Land Council for undertaking the work, extenuating circumstances exist under Section 55 (3) (i) of the *Local Government Act 1993* in that a satisfactory result would not be achieved by inviting tenders for undertaking the backlog sewer work in this community.**
2. **Accept the proposal from Ecotechnology Australia Pty Ltd to undertake backlog sewer works at Malabugilmah community in the amount of \$439,215.20 (including GST) be accepted, with the works to be funded from Project Numbers 902081 and 906071.**

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme	1 Society
Objective	1.3 We will have a diverse and creative culture
Strategy	1.3.2 Support a diverse and rich local Aboriginal and Torres Straight Islander Culture

BACKGROUND

In July 2008, the NSW State Government commenced a program to improve the standard of water supply and sewerage services in selected Aboriginal communities. The program is jointly funded by the State and the NSW Aboriginal Land Council, and the parties agreed to commit \$200 million over a 25 year period.

Under the program Clarence Valley Council has been providing sewer and water services to the Malabugilmah community since November 2010 using contractor Ecoteam. At its meeting of 17 November 2015 Council awarded a two year operations contract (with three one year extension options) to Ecoteam (Resolution 12.054/15).

Under the agreement between Council, DPIE-Water and the Malabugilmah community, quarterly inspection and review meetings are held.

Ecoteam were requested to provide a proposal addressing the sewer backlog issues identified with the Malabugilmah community's system. This proposal is included in the confidential attachment.

KEY ISSUES

The proposal from Ecoteam exceeds the amount stipulated in Section 55 the *Local Government Act* for calling of Tenders (\$250,000 including GST); however, Section 55(3)(i) provides the following exemption to calling Tenders:

a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

It is considered that the following extenuating circumstances exist for the backlog sewer work in the Malabugilmah community:

- Ecoteam is currently engaged by Council under Contract 1500483, awarded in November 2015 to undertake operation of the Malabugilmah sewer system. The treatment system at Malabugilmah was originally designed and installed by the Principal of Ecoteam. Ecoteam thus have the best knowledge of the required works to address the backlog issue,
- The Malabugilmah sewer system is owned by Local Aboriginal Land Council (LALC), and the LALC has previously advised that, as the system is located on LALC property, they also have a concurrence role. It is therefore essential that the contractor have a good working relationship with the LALC and be experienced with working in Aboriginal communities. Ecoteam has established an excellent working relationships with the LALC and, as they are currently undertaking the operation of the system, already have the LALC concurrence,
- The community is relatively remote. As Ecoteam are able to absorb some travelling costs in their current services contract, it is considered unlikely that calling Tenders would result in significant cost savings compared with the Ecoteam proposal,
- DPIE-Water has approved the Ecoteam proposal and have agreed to fund the works, and
- There is a need to ensure continuity of sewer service to the community during the backlog works.

Council does not currently have resources within its day labour staff to undertake the identified backlog works.

DPIE–Water and Council staff have assessed the Ecoteam proposal and consider that it provides value for money.

Directors of Ecotechnology Australia Pty Ltd are Keith and Lise Bolton.

COUNCIL IMPLICATIONS

Budget/Financial

The Aboriginal Communities Sewer and Water program aims to be “cost neutral” for Council, with DPIE-Water reimbursing Council’s costs plus a 10% management fee for Council on the Contractor’s costs. To date the management fee has covered Council’s costs.

DPIE-Water has concurred with the expenditure on the Ecoteam proposal.

Asset Management

Nil. Ownership of sewer and water assets under the program remains with the Aboriginal communities.

Policy or Regulation

As outlined in the report, under Section 55(3)(i) of the *Local Government Act* Council can engage Ecoteam without calling Tenders, subject to the resolution indicating the reasons why a satisfactory result would not be achieved by inviting tenders. The local supply provisions of the Procurement Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

Consultation

DPIE-Water

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Greg Mashiah, Manager Water Cycle
Confidential	Ecoteam Proposal for Backlog Works

ITEM	6e.19.019	RFT19/026 YAMBA SPORTING COMPLEX IRRIGATION, DRAINAGE AND FIELD LEVELLING
Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Confidential	

SUMMARY

This report considers the submissions received for Tender RFT19/026: Yamba Sporting Complex Irrigation, Drainage and Field Levelling. Due to the tenders received exceeding the available budget, it is recommended that Council enter into negotiations to undertake the work.

OFFICER RECOMMENDATION

That

1. None of the tenderers received in relation to the tender for RFT19/026: Yamba Sporting Complex Irrigation, Drainage and Field Levelling be accepted and that Council not call fresh tenders for the following reasons:
 - a. The time required to complete a new tender process with a reduced scope will result in the construction occurring when the grass growth is limited, extending the impact of work on community.
 - b. The original tender was open from which a suitable pool of Contractors is available for Council to enter into negotiations with, it is unlikely that a new tender process will attract additional Contractors.
2. Council enter into negotiations with Corbett Earthmoving Pty Ltd; Ledonne Constructions Pty Ltd; NISSRINE Pty Ltd; and Synergy Resource Management Pty Ltd for the following reasons:
 - a. All companies have been assessed as capable of completing the works.
 - b. All companies submitted tenders or have completed like works for Council.
3. Council receive a report on the negotiations once complete.

Having declared an interest in this Item, Cr Baker left the Council meeting at 6.06 pm and returned at 6.07 pm.

COUNCIL RESOLUTION – 6e.19.019

Williamson/Toms

That

1. **None of the tenderers received in relation to the tender for RFT19/026: Yamba Sporting Complex Irrigation, Drainage and Field Levelling be accepted and that Council not call fresh tenders for the following reasons:**
 - a. **The time required to complete a new tender process with a reduced scope will result in the construction occurring when the grass growth is limited, extending the impact of work on community.**
 - b. **The original tender was open from which a suitable pool of Contractors is available for Council to enter into negotiations with, it is unlikely that a new tender process will attract additional Contractors.**
2. **Council enter into negotiations with Corbett Earthmoving Pty Ltd; Ledonne Constructions Pty Ltd; NISSRINE Pty Ltd; and Synergy Resource Management Pty Ltd for the following reasons:**
 - a. **All companies have been assessed as capable of completing the works.**

b. All companies submitted tenders or have completed like works for Council.

3. Council receive a report on the negotiations once complete.

Voting recorded as follows:

For: Simmons, Kingsley, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

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 2.1.4 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, and turf installation, located in the Angourie Fields, at Yamba Sporting Complex, Sports Complex Road, 78 Angourie Rd Yamba.

A non-mandatory site meeting was held on Tuesday 3 September 2019 at 11.00am 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 concurrently 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.

Tenders Received

Two 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

Summary and Recommendation

The Tender from Corbett Earthmoving Pty Ltd was not submitted to Council by the deadline for the closing of Tenders and, there being no extenuating circumstances, under Section 177(2) of the *Local Government (General) Regulation* could not be considered further. The remaining tender was progressed to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

The Ledonne Construction Pty Ltd tender significantly exceeds the allocated budget. The TEC therefore recommends that the offer from Ledonne Construction Pty Ltd for the Yamba Sporting Complex Irrigation, Drainage and Field Levelling be rejected and Council enter into negotiations with firms with the capability to undertake the work in order to undertake as much of the scope of the work as possible within the available budget.

Details of the TEC's assessment is included in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total available funds for this project are **\$359,000.00**, which is drawn from 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 **\$388,891.01**, 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
Construction of Car park (including 10% contingency)	\$357,945.01

It is foreshadowed there is **\$13,600.00** 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	\$762,000.00
Expenditure to date	388,891.01
Non-tender works to be funded from this allocation	13,600.00
Remaining balance for contract works	\$359,508.99

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

Two 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

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 Yamba 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.

Prepared by	Justin Menzies Project Manager
Confidential	Tender Recommendation Report

7. NOTICE OF MOTIONS

ITEM	07.19.003	THE LIGHTHORSE HERITAGE TRAIL PROJECT
Meeting	Council	26 November 2019
Directorate	Notice of Motion	
Submitted by	Cr Debrah Novak	
Attachment	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

The Copmanhurst community has a long proud association and history with the Australian Lighthouse through the breeding of war horses and the supply of horseman for WW1.

A regional community project to build a Lighthouse statue so as to link Copmanhurst to the Richmond Valley and Kyogle Councils shared military history and contribution provides an opportunity to collaborate with neighbouring local government areas on a joint regional project.

PROPOSED MOTION

That Clarence Valley Council:

1. Support in principle a regional collaboration between Clarence and Richmond Valley and Kyogle Councils.
2. Support the Copmanhurst community through the DA process and costs to have their statue installed through a community grants program.
3. Investigate the opportunity to establish a regional hinterland self-drive tour and call it the 'Lighthouse Heritage Trail'.

COUNCIL RESOLUTION – 07.19.003

Novak/Toms

That Clarence Valley Council:

1. **Support in principle a regional collaboration between Clarence and Richmond Valley and Kyogle Councils.**
2. **Support the Copmanhurst Lighthouse Steering Committee through the DA process and costs to have their statue installed through a community grants program.**
3. **Investigate the opportunity to establish a regional hinterland self-drive tour and call it the 'Lighthouse Heritage Trail'.**

Voting recorded as follows:

For: Baker, Clancy, Ellem, Kingsley, Lysaught, Novak, Simmons, Toms, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society
Objective 1.3 We will have a diverse and creative culture
Strategy 1.1.1 Encourage vibrant and welcoming towns and villages

BACKGROUND

The Copmanhurst community have started fundraising \$150,000.00 to build a Lighthouse Statue to commemorate their cultural and heritage links to the Australian Lighthouse. This project has cultural and heritage links to both Richmond Valley and Kyogle Councils.

This regional collaborative project complies with the North Coast Strategic Plan 2036, Clarence Valley Economic Plan, The North Coast Regional Tourism Plan and NSW Cultural and Heritage Tourism.

The villages of Copmanhurst, Casino and Tabulam are hinterland villages with a shared military history. By linking them together in a regional collaboration this project can be supported by Arts Northern Rivers.

The idea is for cars to exit the Pacific Highway at Glenugie, come through Grafton and onto Copmanhurst, head up to Tabulam and then onto Casino and back onto the Pacific Highway at Woodburn.

This project will provide tourists a reason to exit the Pacific Highway on a route of discovery while at the same time provide an economic stimulus to hinterland villages.

KEY ISSUES

The length of time it will take for the Copmanhurst community to raise \$150,000.00 for their statue.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Policy or Regulation

N/A

Consultation

Richmond Valley and Kyogle Councils have indicated their support for the collaboration. Arts Northern Rivers has indicated their support for the regional project.

Legal and Risk Management

N/A

Climate Change

N/A

8. CONFIDENTIAL BUSINESS

ITEM	08.19.003	SOUTH GRAFTON EX-SERVICES CLUB FLOOD MITIGATION
Meeting	Council	26 November 2019
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Troy Anderson)	
Attachment	Confidential	

CONFIDENTIAL *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section:*
10A 2 (d) i - The report contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it

COUNCIL RESOLUTION – 08.19.003

Williamson/Toms

That Council:

1. **Note the proposal received from Cardno to undertake a feasibility assessment of amending the South Grafton Levee to include the South Grafton Ex-Services Club.**
2.
3. **Take no further action regarding this matter.**
4. **Point 2 not be made public under Section 10A 2 (d) i of the Local Government Act as the resolution contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.**

Voting recorded as follows:

For: Novak, Toms, Lysaught, Ellem, Kingsley, Baker, Williamson, Clancy

Against: Simmons

MOTION

Williamson/Baker

That Council make the resolution public with the exception of Point 2 under Section 10A 2 (d) i of the Local Government Act as the resolution contains commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, Clancy, Ellem, Williamson, Lysaught, Toms, Kingsley

Against: Nil

9. LATE ITEMS OF BUSINESS AND MATTERS ARISING**10. CLOSE OF ORDINARY MEETING**

There being no further business the Ordinary Council meeting closed at 6.24 pm.