



clarence  
VALLEY COUNCIL

2019

# Ordinary Council Meeting



**Minutes**

**Grafton Chambers**

Tuesday, 26 March 2019 –

2.00 pm

# Agenda

|                                                                                                                      |    |
|----------------------------------------------------------------------------------------------------------------------|----|
| OPENING OF ORDINARY MEETING                                                                                          |    |
| ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND                                                            |    |
| OPENING PRAYER BY CAPT MARTIN HERRING                                                                                |    |
| STATEMENT IN RELATION TO RECORDING OF COUNCIL MEETINGS                                                               |    |
| APOLOGIES                                                                                                            |    |
| ANNOUNCEMENTS                                                                                                        |    |
| PRESENTATIONS                                                                                                        |    |
| URGENT, SUPPLEMENTARY AND LATE ITEMS OF BUSINESS                                                                     | 1  |
| DISCLOSURE AND DECLARATION OF INTERESTS                                                                              | 2  |
| TABLING OF REPORTS AND PETITIONS                                                                                     |    |
| CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING 26 FEBRUARY 2019 AND EXTRAORDINARY COUNCIL MEETING 19 MARCH 2019 | 3  |
| MAYORAL MINUTES                                                                                                      |    |
| RECOMMENDATIONS FOR ITEMS TO BE CONSIDERED IN CONFIDENTIAL SECTION                                                   | 4  |
| REPORTS FROM THE GENERAL MANAGER                                                                                     |    |
| <a href="#">13.005/19</a> Land Purchases for the Grafton Waterfront Precinct Plan                                    | 5  |
| <a href="#">13.006/19</a> OEH Coast and Estuary Program Grant Offers                                                 | 8  |
| <a href="#">13.007/19</a> Crown Reserve 95853 – Frank McGuren Park Grafton                                           | 10 |
| <a href="#">13.008/19</a> Purchase of Land – 1 Robinson Avenue Grafton                                               | 14 |

\*As per Council's *Code of Meeting Practice, Section 3.24 (1) Block Voting*: refer Page 17 of these Minutes.

## ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE REPORTS

### *Items for Decision*

|                                                                                                                                                                                                            |    |   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|---|
| <a href="#">14.019/19</a> DA2017/0596 – Bed and Breakfast, 73 Martin Road, Nymboida, Lot 127 DP1186608                                                                                                     | 19 | Y |
| * <a href="#">14.020/19</a> Modification of Development Consent DA1994/0019 by MOD2018/0056 – to Extend Quarry Operational Time for an Additional 25 Years - No. 2965 Orara Way, Kremnos – Lot 71 DP752829 | 31 | Y |
| * <a href="#">14.021/19</a> SUB2018/0035 – Staged Development Application – Dwelling Envelope and Consolidation of Land – Lots 1, 2 and 3 DP751377 – Kings Creek Road, Lawrence                            | 35 | Y |
| * <a href="#">14.022/19</a> Modification of Development Consent D42/96 by MOD2018/0057 – Amend Stage 2 of Motel Development – 5-13 Villiers Street, Grafton                                                | 42 | Y |
| * <a href="#">14.023/19</a> DA2018/0785 – Alterations and Additions to Indoor Recreation Facility for Police Citizens Youth Club – 300 Powell Street, Grafton – Waiving of                                 | 54 | N |

|                             |                                                                                                                                                                                                                                                                    |     |   |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|---|
|                             | Section 7.11 Contributions                                                                                                                                                                                                                                         |     |   |
| <a href="#">14.024/19</a>   | DA2018/0373 – 200 Dwelling Manufactured Home Estate – Carrs Drive, Yamba – Lot 1 DP568545                                                                                                                                                                          | 57  | Y |
| <a href="#">14.025/19</a>   | DA2018/0557 Health Services Facility (Medical Centre and Auxiliary Pharmacy), 202 Queen Street, Grafton, Lot 1 DP400843                                                                                                                                            | 80  | Y |
| <a href="#">14.026/19</a>   | MOD2019/0013 - Request to Modify DA2016/0540 and MOD2017/0074 - Recreation Facility (Outdoor) – Private Motocross Track – 436 Tallawudjah Creek Road, Glenreagh (Lot 2 DP264272)                                                                                   | 99  | Y |
| * <a href="#">14.027/19</a> | Planning Proposal REZ2018/0003 Housekeeping CVLEP Amendment – Post Exhibition                                                                                                                                                                                      | 107 | Y |
| * <a href="#">14.028/19</a> | Maclean Community Precinct – Concept Plans                                                                                                                                                                                                                         | 110 | Y |
| * <a href="#">14.029/19</a> | Cultural & Sports Trust Fund                                                                                                                                                                                                                                       | 114 | N |
| * <a href="#">14.030/19</a> | Clarence Valley Cultural Committee Membership                                                                                                                                                                                                                      | 116 | Y |
|                             | <i>Items for Notation</i>                                                                                                                                                                                                                                          |     |   |
| * <a href="#">14.031/19</a> | Development Applications                                                                                                                                                                                                                                           | 118 | N |
| * <a href="#">14.032/19</a> | DA2018/0783 – Proposed Alterations and Additions to Grafton Regional Gallery (Including Upgrades and Part Demolition) - Assessment to Joint Regional Planning Panel – Lot B DP359677 And Lot 3 DP38033, 158 Fitzroy Street, Grafton and 5 Robinson Avenue, Grafton | 122 | Y |
|                             | <i>Items for Information</i>                                                                                                                                                                                                                                       |     |   |
| * <a href="#">14.033/19</a> | 1. Clarence Valley Aboriginal Advisory Committee<br>2. Clarence Valley Cultural Committee<br>3. CVC Grafton Regional Gallery Advisory Committee                                                                                                                    | 126 | Y |

#### CORPORATE, GOVERNANCE & WORKS COMMITTEE REPORTS

|                             |                                                                                                                                  |     |      |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------|-----|------|
|                             | <i>Items for Decision</i>                                                                                                        |     |      |
| * <a href="#">15.028/19</a> | Sealing of Clarence Way - Petition                                                                                               | 128 | Y    |
| * <a href="#">15.029/19</a> | Local Traffic Committee                                                                                                          | 133 | Y    |
| * <a href="#">15.030/19</a> | Roads Maintenance Policy Review                                                                                                  | 137 | Y    |
| <a href="#">15.031/19</a>   | Clarence Valley Regional Airport - Adoption of Master Plan                                                                       | 141 | Y    |
| <a href="#">15.032/19</a>   | Kungala-Lanitza RFS, Community Hall Committee and Related Site Works                                                             | 146 | Conf |
| <a href="#">15.033/19</a>   | Wooloweyah Parks & Reserves 355 Committee - Change to Constitution (Crown Land)                                                  | 150 | Y    |
| <a href="#">15.034/19</a>   | Clarence and Lower Clarence Sports Committees – Minutes of Meetings                                                              | 153 | Y    |
| * <a href="#">15.035/19</a> | Review of Alcohol Prohibited Areas                                                                                               | 161 | Y    |
| * <a href="#">15.036/19</a> | Trenayr Park and Martin Crescent Reserve Plan of Management Exhibition                                                           | 169 | N    |
| * <a href="#">15.037/19</a> | Solid Waste Management Strategy 2019-25                                                                                          | 171 | Y    |
| * <a href="#">15.038/19</a> | Maintenance Strategy for Riverbank Protection Assets                                                                             | 173 | N    |
| <a href="#">15.039/19</a>   | Australian Local Government Women’s Association National Conference                                                              | 177 | N    |
| <a href="#">15.040/19</a>   | Council Meeting Checklist – Update on Actions Taken                                                                              | 179 | Y    |
| * <a href="#">15.041/19</a> | Policies Reviewed                                                                                                                | 181 | Y    |
| <a href="#">15.042/19</a>   | 2018/19 Monthly Financial Report – February 2019                                                                                 | 187 | TBT  |
|                             | <i>Items for Notation</i>                                                                                                        |     |      |
| <a href="#">15.043/19</a>   | Works Report                                                                                                                     | 193 | Y    |
| * <a href="#">15.044/19</a> | Bridge Renewal Program and Fixing Country Roads Funding Applications for Bridge Replacement Projects                             | 195 | N    |
| * <a href="#">15.045/19</a> | RMS Funding Offer – Safer Roads Program – Orara Way                                                                              | 199 | N    |
| * <a href="#">15.046/19</a> | Rehabilitation of Former Maclean, Townsend & Ilarwill Sewage Treatment Plants – Update Report                                    | 201 | N    |
| * <a href="#">15.047/19</a> | Quarterly Report – Regional Water Supply Heads of Agreement Between Clarence Valley Council, Essential Energy and NSW Government | 204 | N    |
| * <a href="#">15.048/19</a> | Proposed Review of Palmers Island Riverbank Plan Immediate Impact Line                                                           | 207 | N    |

|                                                                                 |                                                                |     |     |
|---------------------------------------------------------------------------------|----------------------------------------------------------------|-----|-----|
| * <a href="#">15.049/19</a>                                                     | Progress of the Disability Inclusion Action Plan               | 209 | Y   |
| * <a href="#">15.050/19</a>                                                     | Monthly Investment Report – February 2019                      | 213 | Y   |
|                                                                                 | <i>Items for Information</i>                                   |     |     |
| * <a href="#">15.051/19</a>                                                     | 1. Nymboida Hall Management Committee Minutes 18 February 2019 | 221 | Y   |
|                                                                                 | <i>Motions on Notice</i>                                       |     |     |
| <a href="#">17.005/19</a>                                                       | Proposed Review of the Clarence Valley Council Tourism Logo    | 222 | N   |
| <br>                                                                            |                                                                |     |     |
| TENDERS AND CONTRACTS FOR SUPPLY                                                |                                                                |     |     |
| * <a href="#">16.004/19</a>                                                     | Tender for Construction of Landfill Cell 4B                    | 225 |     |
| * <a href="#">16.005/19</a>                                                     | T19/006 – Supply of Two Motor Graders                          | 228 |     |
| * <a href="#">16.006/19</a>                                                     | T19/008 – Supply of Two Wheel Loaders                          | 231 |     |
| <a href="#">16.007/19</a>                                                       | T19/009 – Supply of One Excavator                              | 234 |     |
| <br>                                                                            |                                                                |     |     |
| MOTIONS ON NOTICE                                                               |                                                                |     |     |
| <br>                                                                            |                                                                |     |     |
| FUNCTIONS ATTENDED AND REPORTS FROM COUNCIL DELEGATES                           |                                                                |     | 236 |
| <br>                                                                            |                                                                |     |     |
| AUTHORITY TO AFFIX THE COMMON SEAL OF COUNCIL FOR ITEMS NOT INCLUDED IN REPORTS |                                                                |     |     |
| <br>                                                                            |                                                                |     |     |
| OPEN FORUM                                                                      |                                                                |     | 236 |
| <br>                                                                            |                                                                |     |     |
| FORWARD MEETING DATES                                                           |                                                                |     | 236 |
| <br>                                                                            |                                                                |     |     |
| CONFIDENTIAL BUSINESS                                                           |                                                                |     |     |
| <a href="#">22.002/19</a>                                                       | Clarence Care + Support                                        | 237 |     |
| <br>                                                                            |                                                                |     |     |
| CLOSE OF ORDINARY MEETING                                                       |                                                                |     |     |

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

**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 (until 4.58), General Manager (Ashley Lindsay) Director Environment Planning & Community (Des Schroder), Director Works & Civil (Troy Anderson), Director Corporate & Governance (Laura Black) and Minutes Secretary (Lesley McBay)

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

We 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.

**OPENING PRAYER** – The opening prayer was said by Capt Martin Herring

**STATEMENT IN RELATION TO RECORDING OF MEETINGS**

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.

**APOLOGIES** – Nil

**ANNOUNCEMENTS** – Nil

**PRESENTATIONS** – Nil

**URGENT, SUPPLEMENTARY AND LATE ITEMS OF BUSINESS**

**COUNCIL RESOLUTION – 07.002/19**

**Kingsley/Toms**

**That the following items, copies of which have been circulated, be accepted as a late item of business**

- **Item 13.006/19 OEH Coast and Estuary Program Grant Offers**
- **Item 13.007/19 Crown Reserve 95853 – Frank McGuren Park Grafton**
- **Item 13.008/19 Purchase of Land – 1 Robinson Avenue Grafton**

**Voting recorded as follows:**

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

**Against: Nil**

## MOTION

Toms/Kingsley

That the Open Forum be the next item of business.

Voting recorded as follows:

For: Kingsley, Lysaught, Clancy

Against: Novak, Ellem, Williamson, Baker, Simmons, Toms

The Motion was put and declared LOST.

**DISCLOSURE AND DECLARATIONS OF INTEREST – 08.002/19****Summary of Declarations to Committees**

| <i>Name</i>   | <i>Item</i> | <i>Nature of Interest</i>                                         | <i>Reason/Intended Action</i>                                                                                                                                                                                                                |
|---------------|-------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cr Williamson | 14.026 /19  | <input checked="" type="checkbox"/> Significant Non Pecuniary     | Reason: Friendship with an objector.<br>Intended action: Leave the Chamber                                                                                                                                                                   |
| Cr Kingsley   | 14.019/19   | <input checked="" type="checkbox"/> Significant Non Pecuniary     | Reason: Has previously worked with the applicant in a professional capacity.<br>Intended action: Leave the Chamber                                                                                                                           |
| Cr Kingsley   | 15.034/19   | <input checked="" type="checkbox"/> Pecuniary                     | Reason: My daughter is a member of the Grafton City Tennis Club. I have personal and professional involvement with the club, assisting with the organising of the Annual Wheelchair Tennis Tournament.<br>Intended action: Leave the Chamber |
| Cr Kingsley   | 15.049/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: The Organisation I work for was the lead agency in organising the “We R One Day” social inclusion event mentioned in the report and I was chairperson of the organising committee.<br>Intended action: Remain in the Chamber         |
| Cr Simmons    | 15.032/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: One of the tenderers listed is married to Cr Simmons’ niece.<br>Intended action: Remain in the Chamber                                                                                                                               |
| Cr Ellem      | 15.033/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: Wife on Committee<br>Intended action: Leave the Chamber                                                                                                                                                                              |

**Declarations received at the commencement of the Meeting**

| <i>Name</i> | <i>Item</i> | <i>Nature of Interest</i>                                                                                                                                     | <i>Reason/Intended Action</i>                                                                                                                |
|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Mr Anderson | 15.034/19   | <input type="checkbox"/> Pecuniary<br><input type="checkbox"/> Significant Non Pecuniary<br><input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: Son plays cricket for Harwood Cricket Club.<br>Intended action: Remain in the Chamber                                                |
| Cr Kingsley | 14.023/19   | <input type="checkbox"/> Pecuniary<br><input type="checkbox"/> Significant Non Pecuniary<br><input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: Daughter is member of Basketball Assoc who has the contract to operate the stadium.<br>Intended action: Remain in the Chamber        |
| Cr Kingsley | 14.026/19   | <input type="checkbox"/> Pecuniary<br><input type="checkbox"/> Significant Non Pecuniary<br><input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: Engaged the services of one of the objectors on a couple of occasions over the past 12 months.<br>Intended action: Leave the Chamber |
| Cr Kingsley | 13.005/19   | <input type="checkbox"/> Pecuniary<br><input checked="" type="checkbox"/> Significant Non Pecuniary<br><input type="checkbox"/> Non-Significant Non Pecuniary | Reason: Personal relationship with the solicitor of one of the land owners.<br>Intended action: Remain in the Chamber                        |

**TABLING OF REPORTS AND PETITIONS** - Nil Items**CONFIRMATION OF MINUTES****COUNCIL RESOLUTION – 10.002/19**

Ellem/Toms

**That the**

- Minutes of the Ordinary Meeting of Council dated 26 February 2019, copies of which have been circulated, be taken as read and be confirmed noting that Cr Toms voted against the Confidential Item 22.001/19 Maclean Pool Contract.**
- Minutes of the Extraordinary Meeting of Council dated 19 March 2019, copies of which have been circulated, be taken as read and be confirmed.**

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

**RECOMMENDATIONS FOR ITEMS TO BE CONSIDERED IN CONFIDENTIAL SESSION**

**COUNCIL RESOLUTION – 12.002/19**

**Simmons/Toms**

**That Item 22.002/19 Clarence Care + Support be considered in confidential session under Section 10A 2(d) (ii) of the Local Government Act as it contains information that would, if disclosed, confer a commercial advantage on a competitor of the Council.**

**Voting recorded as follows:**

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

**Against: Nil**

---



## REPORTS FROM THE GENERAL MANAGER

| ITEM               | 13.005/19                         | LAND PURCHASES FOR THE GRAFTON WATERFRONT PRECINCT PLAN |
|--------------------|-----------------------------------|---------------------------------------------------------|
| <b>Meeting</b>     | Council                           | 26 March 2019                                           |
| <b>Directorate</b> | Environment, Planning & Community |                                                         |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay  |                                                         |
| <b>Attachment</b>  | Confidential                      |                                                         |

**SUMMARY**

Authorise the purchase of land relating to the Grafton Waterfront Precinct Plan.

**OFFICER RECOMMENDATION**

That Council:

1. Proceed to purchase the lots listed and on the terms in the confidential attachment "A".
2. Classify the purchased lots as "community" land.
3. Delegate authority to the General Manager to execute any document/s associated with a subdivision and purchase of the land.
4. Authorise the common seal of Council to be affixed to the subdivision and purchase of land document/s identified in confidential attachment "A".

**MOTION - WITHDRAWN**

Kingsley/Lysaught

That Council:

1. Proceed to purchase the lots listed and on the terms in the confidential attachment "A1".
2. Classify the purchased lots as "community" land.
3. Delegate authority to the General Manager to execute any documents associated with a subdivision and purchase of the land.
4. Authorise the common seal of Council to be affixed to the subdivision and purchase of land documents identified in confidential attachment "A1".

**MOTION**

Baker/Toms

That this matter be deferred to be considered in confidential session as discussion in open Council may disclose a commercial advantage to a competitor of Council. [LGA 10A 2 (d) ii]

Voting recorded as follows:

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

Against: Nil

Cr Kingsley resubmitted his motion after discussion in closed session noting that Cr Clancy had left the Council meeting when this item was considered by Council.

**COUNCIL RESOLUTION – 13.005/19****Kingsley/Lysaught****That Council:**

1. Proceed to purchase the lots listed and on the terms in the confidential attachment “A1”.
2. Classify the purchased lots as “community” land.
3. Delegate authority to the General Manager to execute any documents associated with a subdivision and purchase of the land.
4. Authorise the common seal of Council to be affixed to the subdivision and purchase of land documents identified in confidential attachment “A1”.

**Voting recorded as follows:****For: Simmons, Kingsley, Baker, Ellem, 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 3.1.1 Promote the Clarence region as a wonderful place to invest, live, work and visit

**BACKGROUND**

Council resolved at its meeting on 21 August 2018, Item 14.098/18 to allocate funds for the acquisition of land and further resolved at its meeting on 26 February 2019 Item 13.001/19 to proceed with the purchase of some available land. Further land has now become available for purchase.

**KEY ISSUES**

Council resolved to acquire land with the priority being by voluntary land acquisition. There is currently an opportunity to progress with acquisition of further sections of the precinct.

Section 31 of the *Local Government Act 1993* provides that the land acquired after 1 July 1993 should be classified. Land purchased for the Grafton Waterfront Precinct Plan will be classified as community land. The land proposed to be acquired will require a subdivision.

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

As per Council resolution on 21 August 2018, Item 14.098/18, Council allocated up to \$2 million from Section 94A funds to be spent on this project. This has been set aside and purchases will come from this Reserve 92040 (\$94A CVC Development other than residential).

**Asset Management**

Council will own riverfront land forming part of the Grafton Waterfront Precinct Plan. The land will be included in Council's Asset Management plans and register.

**Policy or Regulation**

Local Government Act 1993

Conveyancing Act 1919

Environmental Planning and Assessment Act 1979

**Consultation**

Consultation has been undertaken internally.

**Legal and Risk Management**

N/A

|                          |                                                          |
|--------------------------|----------------------------------------------------------|
| Prepared by              | Des Schroder, Director Environment, Planning & Community |
| Confidential Attachments | A – List of Lots<br>B - Valuation<br>C - Correspondence  |
| Tabled (Confidential)    | A1 – Replacement Schedule                                |

|             |                  |                                                   |
|-------------|------------------|---------------------------------------------------|
| <b>ITEM</b> | <b>13.006/19</b> | <b>OEH COAST AND ESTUARY PROGRAM GRANT OFFERS</b> |
|-------------|------------------|---------------------------------------------------|

|                    |                                      |               |
|--------------------|--------------------------------------|---------------|
| <b>Meeting</b>     | Council                              | 26 March 2019 |
| <b>Directorate</b> | Works & Civil                        |               |
| <b>Reviewed by</b> | Manager - Water Cycle (Greg Mashiah) |               |
| <b>Attachment</b>  | Nil                                  |               |

### SUMMARY

Council has been offered grant funding from OEH to implement two high priority actions from adopted Coastal Zone Management Plans (CZMP) – Design and Environmental Assessment for the Brooms Head Revetment Wall Extension and the Wooli Beach Sand nourishment program. It is recommended that the grants be accepted with Council's 50% financial contribution for the two projects provided from the Clarence Coast Reserve Trust.

### OFFICER RECOMMENDATION

That

1. Council accept the grant offer for the *Wooli beach sand nourishment scheme design and environmental assessment* in the amount of \$75,000 and the *Brooms Head revetment wall extension design and environmental assessment* in the amount of \$50,000.
2. The matching contribution of \$125,000 be from the Clarence Coast Reserve Trust.

### COUNCIL RESOLUTION – 13.006/19

**Toms/Novak**

That

1. Council accept the grant offer for the *Wooli beach sand nourishment scheme design and environmental assessment* in the amount of \$75,000 and the *Brooms Head revetment wall extension design and environmental assessment* in the amount of \$50,000.
2. The matching contribution of \$125,000 be from the Clarence Coast Reserve Trust.

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

### BACKGROUND

Following consultation, Council adopted CZMPs for Wooli Beach (Council Resolution 14.113/18 at its meeting of 18 September 2018) and Brooms Head Beach and Lake Cokora (Council Resolution 14.077/17 at its meeting of 15 August 2017). Identified actions from these plans are implemented based on priority and as resourcing allows.

Grant applications were submitted to OEH's Coast and Estuary Program for key outstanding priority actions in 2018. The applications were to enable essential design and environmental assessment works that need to be completed prior to any on ground works.

## KEY ISSUES

### *Wooli*

A trial beach nourishment program is currently underway at Wooli (funded by OEH, CVC and the Wooli CCPA). The grant offer is for a detailed design and environmental assessment for further beach nourishment of a much larger scale.

### *Brooms Head*

The Brooms Head Beach and Lake Cokora CZMP recommended the extension of the foreshore reserve revetment at north end of Brooms Head Reserve to the southern bridge abutment to ensure the protection of public assets. A geotechnical study has recently been completed. The grant offer will prepare a detailed design and undertake an environmental assessment of the extension. The design will allow for public foreshore access and stormwater management. The environmental assessment will include an assessment of impact on the entrance area due to extension of the revetment to the bridge abutment.

## COUNCIL IMPLICATIONS

### **Budget/Financial**

The OEH Coast and Estuary funding program requires a 50% contribution from Council. As both these projects relate to Clarence Coast Reserve Trust land, it is proposed that Council's matching contribution of \$125,000 be from the Clarence Coast Reserve Trust.

### **Asset Management**

Nil at this stage as these grants relate to the design and environmental assessment of possible future projects.

### **Policy or Regulation**

Crown Lands Management Act 2016

Local Government Act 1993

Coastal Management Act 2016

### **Consultation**

Both the Wooli Beach and Brooms Head Beach and Lake Cokora CZMPs (and their identified actions) have been through extensive stakeholder consultation prior to their adoption by Council.

### **Legal and Risk Management**

Section 733 of the Local Government Act provides Council with a statutory immunity for coastline management provided that Council has acted "in good faith". It is considered that a program for implementing identified projects in the CZMPs would assist in demonstrating that Council is acting "in good faith".

|             |                                             |
|-------------|---------------------------------------------|
| Prepared by | Peter Wilson, Coast and Estuary Coordinator |
| Attachment  | Nil                                         |

**ITEM 13.007/19 CROWN RESERVE 95853 – FRANK MCGUREN PARK GRAFTON**

|                    |                                   |               |
|--------------------|-----------------------------------|---------------|
| <b>Meeting</b>     | Council                           | 26 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community |               |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay  |               |
| <b>Attachment</b>  | Yes                               |               |

**SUMMARY**

This report seeks Council's approval as Crown Land Manager for Reserve 95853 (aka Frank McGuren Park) to resign as land manager of the reserve.

The report also seeks Council's approval to offer the Grafton Regional Sports Centre (being Lot 21 DP 712604 located at 300 Powell Street Grafton) for sale to the Police Citizens Youth Club as per the terms detailed in the confidential attachment.

**OFFICER RECOMMENDATION**

That Council:

1. Note that the resolution from 11 December 2018 Item 15.215/18 will not be proceeding.
2. Resign as Crown Land Manager of Reserve 95853 and advise NSW Department of Industry – Lands and Water accordingly.
3. Transfer ownership of Lot 21 DP 712604 to the Police Citizens Youth Club for a nominal figure of \$1.00 plus GST.
4. Delegate authority to the General Manager to execute the transfer document/s.
5. Authorise the Common Seal of Council to be affixed to the disposal of land document/s.

**COUNCIL RESOLUTION – 13.007/19**

**Ellem/Novak**

**That Council:**

1. **Note that the resolution from 11 December 2018 Item 15.215/18 will not be proceeding.**
2. **Resign as Crown Land Manager of Reserve 95853 and advise NSW Department of Industry – Lands and Water accordingly.**
3. **Transfer ownership of Lot 21 DP 712604 to the Police Citizens Youth Club for a nominal figure of \$1.00 plus GST.**
4. **Delegate authority to the General Manager to execute the transfer document/s.**
5. **Authorise the Common Seal of Council to be affixed to the disposal of land document/s.**

**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**

Council resolved on 11 December 2018 – Item 15.215/18 as follows:

*That Council:*

1. Lodge an application with NSW Department of Industry – Lands & Water, requesting the Minister for Lands and Forestry to vest the whole of Lots 197 and 202 DP 751371, being Reserve 95853 (identified in Figure 1), to Clarence Valley Council and include in that request the classification of the area as ‘Operational’ land, under the Local Government Act 1993; and
2. Authorise the General Manager to execute any documents relating to the vesting/transfer of the Crown land to Council.
3. If approval is not granted by NSW Department of Industry – Lands & Water to classify the whole of Reserve 95853 as Operational, an application be made for classification as part ‘Operational’ and part ‘Community’, per Figure 2.

**KEY ISSUES**

In accordance with resolution of Council (15.215/18), an application to vest the land to Council was lodged with NSW Department of Industry - Lands & Water Crown Lands Division (Crown Lands). Crown Lands has advised Council that they have no current pathway to progress the application.

Crown Lands has suggested to Council that it resign as land manager for this Reserve to allow the PCYC to apply to be land manager. This will resolve the short term management of the encroachment.

Crown Lands will then work with PCYC to vest the land directly to them once a process is established.

**Figure 1 – Red outline R95853.**



The timing of the gazette notifying Council’s resignation as land manager and the appointment of the PCYC should coincide with the transfer of Council’s freehold land (21/712604) to the PCYC to ensure effective building management.

Management of the facility will remain Council's responsibility until such time as the transfer of the reserve and the freehold land is completed.

In relation to Council's freehold land Lot 21 DP 712604, Council resolved as its meeting on 15 May 2018, Item 13.022/18 to provide in principle support as follows:

*That:*

1. *Council in-principle agree to the transfer of the Grafton Sports Complex and surrounding land comprising Lot 22 DP712604, 288 Powell Street, Grafton to the ownership of the Police Citizens Youth Club (PCYC) on the conditions that there is:
  - a. *Completion of a mutually beneficial negotiation (which has commenced) by PCYC with the Grafton Basketball Association about continuing use and the Association agreeing to terminate its current lease with Council.*
  - b. *Completion of negotiations by PCYC with the Grafton Ghosts - Senior and Junior Leagues, and NSW Crown Lands which may involve the PCYC becoming trustee of the toilets/change rooms on the side of the basketball complex as these are on Crown Lands.**
2. *Any transfer to PCYC has provisions to ensure that a basketball complex is maintained for future use of the community, especially if PCYC ceased to operate the complex.*
3. *The contract of sale include the provision for formal registration on title that should the PCYC cease operations at the centre the property is returned to Clarence Valley Council.*

Negotiations have been ongoing with the Grafton Basketball Association (GBA) regarding the current contract for the management and operation of the centre, which expires 30 September 2020. It is expected that GBA will seek remuneration for the balance of the contract as they are currently seeking legal and financial advice. Their proposal to Council is expected in the next two weeks and will be reported to Council accordingly.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

There are no known associated fees for the application to NSW Department of Industry – Lands & Water to gazette the resignation of Council and the appointment of the PCYC. Council will have reduced management costs once the transfer to the PCYC has been completed.

In relation the centre located on Lot 21 DP 712604 the building has been valued at \$800,000.00 excluding GST. This is considered as Council's contribution to the PCYC and service they will provide to the community and hence the property is being transferred at the nominal rate of \$1.00 plus GST.

### **Asset Management**

The subject land is currently recorded on Council's Asset Register and if the resignation is approved it will be removed at that time. The asset will become the responsibility of the PCYC.

### **Policy or Regulation**

Crown Land Management Act 2016 – Division 4.2

Local Government Act 1993 – Chapter 6 Part 2 Division 1



**Consultation**

Internal consultation has occurred with relevant officers within Strategic Planning, Open Spaces and Facilities; Community Services and Governance. External consultation has been undertaken with Crown Land staff, the PCYC and with the Grafton Ghosts Rugby League Club Board.

Communication regarding the planned change of management commenced in 2018 with all stakeholders given opportunity for input planning. A letter of support is attached. Ongoing engagement, throughout the partnership development is planned and committed to by all parties.

**Legal and Risk Management**

If the above arrangement is not approved and Council has to pursue the vesting this will take months and this could delay the project and the PCYC operation.

---

|              |                                                          |
|--------------|----------------------------------------------------------|
| Prepared by  | Des Schroder, Director Environment, Planning & Community |
| Attachment   | Letter of support from PCYC and Grafton Ghosts           |
| Confidential | Valuation                                                |

---

---

**ITEM 13.008/19 PURCHASE OF LAND – 1 ROBINSON AVENUE GRAFTON**


---

|                    |                                   |               |
|--------------------|-----------------------------------|---------------|
| <b>Meeting</b>     | Council                           | 26 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community |               |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay  |               |
| <b>Attachment</b>  | Nil                               |               |

---

**SUMMARY**

To consider purchase of a property located at 1 Robinson Avenue, Grafton, for future car parking for the public and ancillary use by the Grafton Regional Gallery.

**OFFICER RECOMMENDATION**

That

1. Council delegate authority to the General Manager to bid for the purchase of Lot 1 DP 38033 located at 1 Robinson Avenue, Grafton, at the Auction on 27 March 2019, up to the value determined in the independent valuation.
2. If Council's bid is successful,
  - a) Delegate authority to the General Manager to execute the Contract for Sale and transfer documents relating to the purchase.
  - b) Authorise the Common Seal of Council to be affixed to the transfer documents relating to the purchase.
  - c) Transfer the purchased property to Council as a public reserve.
  - d) Classify the purchased property as Operational land.
  - e) Prepare a project scope listing costs and timeframes for demolition of the building and construction of the car park.

---

**COUNCIL RESOLUTION – 13.008/19**

**Williamson/Ellem**

That

1. Council delegate authority to the General Manager, or his delegate, to bid for the purchase of Lot 1 DP 38033 located at 1 Robinson Avenue, Grafton, at the Auction on 27 March 2019, up to the value determined in the independent valuation.
2. If Council's bid is successful,
  - a) Delegate authority to the General Manager to execute the Contract for Sale and transfer documents relating to the purchase.
  - b) Authorise the Common Seal of Council to be affixed to the transfer documents relating to the purchase.
  - c) Transfer the purchased property to Council as a public reserve.
  - d) Classify the purchased property as Operational land.
  - e) Prepare a project scope listing costs and timeframes for demolition of the building and construction of the car park.

**Voting recorded as follows:**

**For: Simmons, Kingsley, Ellem, Williamson, Lysaught**

**Against: Novak, Baker, Toms, Clancy**

---

FORESHADOWED MOTION

Baker

That Council take no further action on the purchase by auction of the Robinson Avenue (Lot 1 DP 38033) property.

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

1 Robinson Avenue, Grafton, has been placed on the market for sale and will be auctioned on 27 March 2019.

KEY ISSUES

Robinson Avenue Grafton has become an area inundated by the public using the street verges as parking spaces. Car parking in the street in this manner reduces the trafficable width to one lane and Council continuously receives complaints relating to the parking in this vicinity. Landowners and occupants of the Robinson Avenue area have been consulted. Some residents are seeking restricting parking in Robinson Avenue while others are satisfied with the current status. The matter will be considered at a future Traffic Committee meeting.

1 Robinson Avenue, Grafton, is 692sqm and adjoins the car park area at the Grafton Regional Gallery. The gallery is subject to a current DA and funding for additions and development of the site.

Acquisition of 1 Robinson Avenue would enable a long term parking solution in the area. The premise could be demolished and a car park established in turn potentially providing a solution to the cars parking in Robinson Avenue and would also be ancillary then to events at the Grafton Regional Gallery.

Whilst no formal project plan and costings for development of a car park have been prepared (although a very preliminary estimate has been completed for the purposes of this report), the sale is an opportune time to purchase and hold the land for possible future development.



The primary focus and preference would be to develop the site into a car park to address the immediate parking issues in this vicinity.

Depending on Councils Project Scope and timeframes, if Council is successful in purchasing this property, consideration could be given to enter into a residential tenancy agreement until such time as a Project Plan has been created for the creation of the car park.

The premise has some structural cracks in its exterior. The rest of the premise appears to be in a sound condition. It is recommended to obtain an Engineers Report prior to entering into any agreements. A pest and building report has not been obtained for this property.

The property is currently zoned as R1 Residential. There are two options available. One is to seek transfer of the land to Council as a Public Reserve which can still be classified as operational use. This would then allow development of a car park under the provisions of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP). The second option is that it could be considered as ancillary to the gallery use to be permissible with development consent.

## COUNCIL IMPLICATIONS

### Budget/Financial

Acquisition of the land including legal fees, demolition of the premise and construction of the car park is preliminary estimated at \$620,000 and would be funded from development ("Section 94") contributions.

An independent valuation for the purchase of the property has been obtained and is attached.

"S94" Available Funds –

|                                                    |              |
|----------------------------------------------------|--------------|
| RA 92040 – S94A Development other than residential | \$463,000.00 |
| RA 90841 – CVC Parking Grafton                     | \$78,464.79  |
| RA 90230 – S94 CVC Community Facilities            | \$80,000.00  |
| Total                                              | \$621,464.79 |

If the property is acquired a further project plan with final costs will be reported back to Council.

As the car park will benefit the Grafton Regional Gallery it is proposed to use part of the funds from community facilities Section 94 funds.

There will be ongoing maintenance costs associated with the management of the car park once constructed.

### Asset Management

The property would be listed on Council's Asset Register as Operational land.

### Policy or Regulation

*Conveyancing Act 1919*

*Local Government Act 1993*

**Consultation**

Council's gallery, property and planning staff have been consulted.

**Legal and Risk Management**

Council has not undertaken any studies in relation to car parking in the Grafton area.

|             |                                                          |
|-------------|----------------------------------------------------------|
| Prepared by | Des Schroder, Director Environment, Planning & Community |
| Attachment  | Confidential Valuation                                   |

**BLOCK VOTE****Lysaught/Kingsley**

That the following Items be adopted:

|           |           |           |
|-----------|-----------|-----------|
| 14.020/19 | 15.028/19 | 16.004/19 |
| 14.021/19 | 15.029/19 | 16.005/19 |
| 14.022/19 | 15.030/19 | 16.006/19 |
| 14.023/19 | 15.035/19 |           |
| 14.027/19 | 15.036/19 |           |
| 14.028/19 | 15.037/19 |           |
| 14.029/19 | 15.038/19 |           |
| 14.030/19 | 15.041/19 |           |
| 14.031/19 | 15.044/19 |           |
| 14.032/19 | 15.045/19 |           |
| 14.033/19 | 15.046/19 |           |
|           | 15.047/19 |           |
|           | 15.048/19 |           |
|           | 15.049/19 |           |
|           | 15.050/19 |           |
|           | 15.051/19 |           |

Voting recorded as follows:

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

Against: Nil

**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 March 2019 commencing at 3.38 pm.

**PRESENT**

Cr Andrew Baker, Cr Greg Clancy, Cr Debrah Novak, Cr Jim Simmons (Mayor) and Cr Richie Williamson.

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

**DISCLOSURE AND DECLARATIONS OF INTEREST –**

| <i>Name</i>   | <i>Item</i> | <i>Nature of Interest</i>                                                                                                                                     | <i>Reason/Intended Action</i>                                                                                      |
|---------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Cr Kingsley   | 14.019/19   | <input type="checkbox"/> Pecuniary<br><input checked="" type="checkbox"/> Significant Non Pecuniary<br><input type="checkbox"/> Non-Significant Non Pecuniary | Reason: Has previously worked with the applicant in a professional capacity.<br>Intended action: Leave the Chamber |
| Cr Williamson | 14.026 /19  | <input type="checkbox"/> Pecuniary<br><input checked="" type="checkbox"/> Significant Non Pecuniary<br><input type="checkbox"/> Non-Significant Non Pecuniary | Reason: Friendship with an objector.<br>Intended action: Leave the Chamber                                         |

**DEPUTATIONS**

**Item 14.021/19 SUB2018/0035 – Staged Development Application – Dwelling Envelope and Consolidation of Land – Lots 1, 2 and 3 DP751377 – Kings Creek Road, Lawrence**

- Jim O'Donohue, Bothamley & O'Donohue Pty Limited (Applicant)

**Item 14.022/19 Modification of Development Consent D42/96 by MOD2018/0057 – Amend Stage 2 of Motel Development – 5-13 Villiers Street, Grafton**

- John Higham (Against)

**Item 14.024/19 – DA2018/0373 – 200 Dwelling Manufactured Home Estate – Carrs Drive, Yamba – Lot 1 DP568545**

- Peter Childs (Applicant)

*Having declared an interest in this item Cr Williamson left the EP&C meeting at 4.11 pm and returned at 4.27 pm.*

**Item 14.026/19 – MOD2019/0013 - Request to Modify DA2016/0540 and MOD2017/0074 - Recreation Facility (Outdoor) – Private Motocross Track – 436 Tallawudjah Creek Road, Glenreagh (Lot 2 DP264272)**

- Christopher Spry (Against)
- Bayden Blanchette (Applicant)

|             |                  |                                                                                     |
|-------------|------------------|-------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.019/19</b> | <b>DA2017/0596 – BED AND BREAKFAST, 73 MARTIN ROAD, NYMBOIDA, LOT 127 DP1186608</b> |
|-------------|------------------|-------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

## SUMMARY

|                    |                          |
|--------------------|--------------------------|
| <i>Applicant</i>   | James Travers-Murison    |
| <i>Owner</i>       | James Travers-Murison    |
| <i>Address</i>     | 73 Martin Road, Nymboida |
| <i>Submissions</i> | Nil                      |

Development Application DA2017/0596 seeks approval for a Bed and Breakfast and requests a reclassification of the road access from Crown road reserve to Council. This matter was deferred from the February 2019 Council meeting at the request of the applicant to resolve concerns regarding conditions of consent. Following further consultation with the applicant, minor changes have been made to the report and Advices and Conditions contained in Schedule 1.

Legal and physical access to the proposed development could be achieved if the section of Crown road from the maintained section of Martin Road to the point where the access road/right of carriageway begins on Lot 9 DP262439 is transferred to Council; being a distance of approximately 270m. For Council to accept the transfer of the section of Crown road as a Category 2 road under Council's Roads Policy it is proposed that some upgrading is undertaken to ensure a nominal 100mm deep gravel pavement layer is provided over a 4m width, with passing bay as required by the NSW Rural Fire Service.

Category 2 roads are unsealed roads in Council's ownership that are maintained as resources permit. No regular maintenance frequency is proposed for Category 2 roads.

This report discusses Council's suitable road access provisions and makes a recommendation for Council's consideration.

## OFFICER RECOMMENDATION

That:

1. The section of Crown road reserve from the maintained section of Martin Road to the point where the access road/right of carriageway begins on Lot 9 DP262439; being a distance of approximately 270m, be transferred to Council, and
2. DA2018/0596 be approved subject to the imposition of conditions contained in Schedule 1.

*Having declared an interest in this item Cr Kingsley left the EP&C meeting at 4.28 pm and returned at 4.32 pm.*

**COMMITTEE RECOMMENDATION**

Williamson/Novak

That:

1. The section of Crown road reserve from the maintained section of Martin Road to the point where the access road/right of carriageway begins on Lot 9 DP262439; being a distance of approximately 270m, be transferred to Council as a Category 2 road under Council's Road Policy, and
2. DA2018/0596 be approved subject to the imposition of conditions contained in Schedule 1.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

*Having declared an interest in this item Cr Kingsley left the Council Ordinary meeting at 2.56 pm and returned at 2.58 pm.*

**COUNCIL RESOLUTION – 14.019/19**

**Novak/Lysaught**

That:

1. The section of Crown road reserve from the maintained section of Martin Road to the point where the access road/right of carriageway begins on Lot 9 DP262439; being a distance of approximately 270m, be transferred to Council as a Category 2 road under Council's Road Policy, and
2. DA2018/0596 be approved subject to the imposition of conditions contained in Schedule 1.

Voting recorded as follows:

For: Simmons, 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 Provide open, accountable and transparent decision making for the community

**BACKGROUND**

A Building Permit was issued under BA46/90 for a 2 storey 4 bedroom dwelling on 12 February 1991 on the property. No final inspection was undertaken for the dwelling and a Building Certificate was issued on 8 May 2015 (BLD2015/0047). Photos of the dwelling are provided below:





Photo 1: Front Elevation



Photo 2: Side Elevation

DA2017/0596 for use of the dwelling for Bed and Breakfast accommodation was lodged with Council on 20 September 2017. Issues were raised in regard to the access to the lot (see Map 1 below), NSW Rural Fire Service requirements and proposed number of guest rooms.

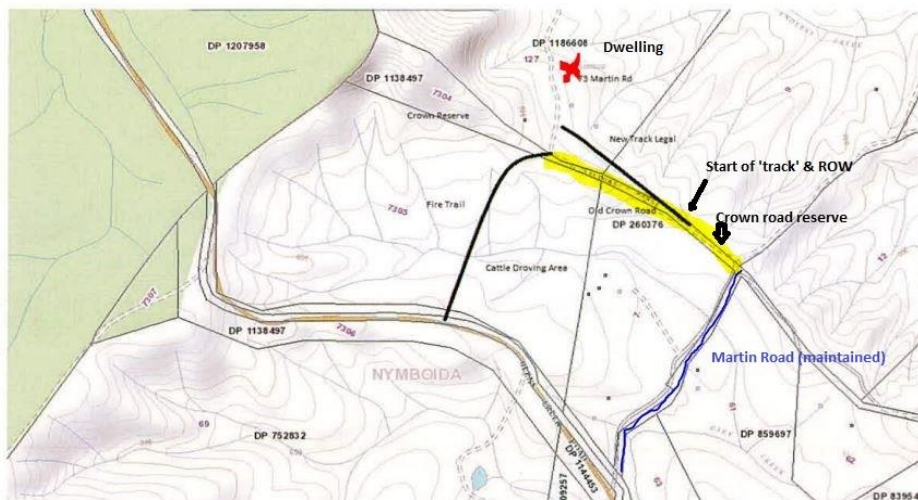
**KEY ISSUES**

**Issue 1 - Access**

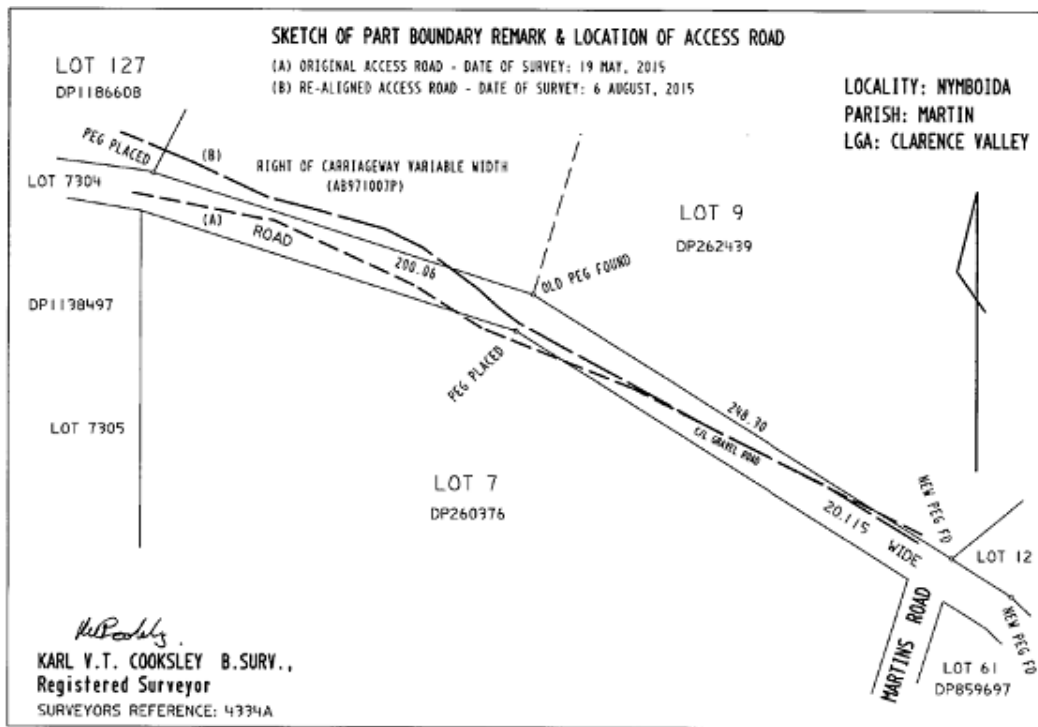
Access to the property is shown in the attached plan with notations.

**3. Access Roads leading directly from Property**

Main access road goes down crown road to Martin Road via easement on neighbours land. Second access road runs parallel to this using crown road. Third access road is a fire trail and fairly rough, going from ridge on property boundary near crown reserve heading south across cattle droving area to Glens Creek Rd direct and is marked as fire trail.



Map 1: Access roads



Survey plan showing ROW

Following Council’s requests the applicant made an application to transfer the road to private ownership with NSW DPI Crown Lands. The transfer required the applicant’s neighbours to acquire the road with the provision of a right-of-way benefiting the applicant and one of the adjoining owners as the applicant does not have direct frontage to the Crown road reserve and Crown Land cannot transfer the road to the applicant for this reason. After a lengthy process neither neighbour was in agreement to the transfer as each wanted to be the owner and the application was refused.

An application for access was made to Crown Lands to use an alternative 430m gravelled track (essentially a fire trail). The track is constructed over the Crown road reserve which then terminates and the track extends into Lot 7304 DP1138497, which is a Crown reserve (but not road). Crown Lands Reserves section were not able to issue a licence over the Crown Reserve for access as requested by the applicant.

There is second track to the property that has been constructed generally parallel to the Crown road and on the northern side of the Crown road, through the neighbouring Lot 9 DP262439. There is a right-of-way benefiting the subject land (Lot 127 DP 1186608) over the track on adjoining Lot 9. Due to the terrain, the difference in level between the track on the Crown road and the “private” track is significant. The “private” track joins the Crown road about 270m from Martin Road.



Photos 3 & 4: Crown road reserve and start of access track.

Comment

The applicant now proposes that Council take over the road to formalise legal access to the property. Legal and physical access to the proposed development could be achieved if the Crown road is transferred to Council for a distance of approximately 270m from Martin Road and the connection made to the “private” track.

Clause 5.3 of the Roads Policy sets out the provisions in which Council may accept existing Crown roads or extensions of existing Council roads for inclusion as part of Council’s constructed road network (as either Category 1 or Category 2 roads) as follows:

1. The subject road must be the sole means of access to at least one continuously occupied residence(s). If a residence is able to obtain access from another maintained road, the road may not be included. Council will also give consideration to the length of road to be maintained, the cost of maintaining the additional length of road and the number of residences on the road and distances between residences in determining whether the road should be accepted.

Comment

The proposed access road is the sole ‘legal’ access to the subject land, all other options have been exhausted. The length of road is approximately 270 metres from the maintained section of Martin Road. There is an existing continuously occupied residence that would be served by the road that has been approved by Council.

2. The maximum length accepted shall be the distance to the access point of the last residential property.

Comment

The length of road proposed to be dedicated as Category 2 road extends approximately 270 metres to the access point of the ROW on Lot 9 DP262439 from the maintained section of Martin Road.

3. Where Council accepts the transfer of a Crown road it shall approach the State Government to have the road reclassified as a public road over the nominated length. If the road is accepted for inclusion to the Roads Asset Register, all costs for reclassification are to be met by the applicant.

Comment

The road is classified as a Crown road reserve. If Council accepts the transfer of the road to Council, all expenses are to be met by the applicant. This will form part of the conditions of consent if approved.

4. The constructed road shall be wholly located within the designated road reserve.

Comment

The access road will be wholly located within the existing road reserve.

5. The road shall be constructed (at no cost to Council) to the required standard specified in the Northern Rivers Development and Design Manual – Version 2 and the Northern Rivers Construction Manual. An exception may be made for existing unmaintained public roads which may be accepted as Category 2 roads. No newly constructed roads will be accepted as Category 2 roads.

Comment

For Council to accept transfer of the section of Crown road as a Category 2 road under Council’s Roads Policy, some nominal upgrading to ensure a nominal 100mm deep gravel pavement layer is to be provided over a 4m width. Any passing bays required to meet the NSW Rural Fire Service’s requirements will need to be provided.

6. There shall be no timber bridges located on the subject road.

Comment

There are no timber bridges located on the subject road.

Further additions to the Roads Asset Register will only be considered on a written request to Council. In determining an application Council will consider the above criteria, Council's financial position and the ability to maintain the additional road length.

Comment

At the time of writing of this report Council's Roads Policy was under review on public exhibition. If the proposed amendments to the Policy are adopted Council's Manager Civil Services will have delegation to accept the road as a Category 2 road as long as the road meets the minimum standards set out in the Policy.

The proposed development does not meet the provisions of Clause 5.3(5) in that no newly constructed roads should be accepted as Category 2 roads. Whilst the proposed access is technically inconsistent with Council's Roads Policy maintaining the standard, in this instance, is considered unreasonable because it provides access to an existing approved dwelling.

It is recommended that Council accept the transfer of the Crown road reserve section as a Category 2 road provided the owner/applicant upgrades the road to a suitable standard as set out in the draft conditions of consent contained in Schedule 1.

The road will also be required to be transferred from Department of Industry (DPI) Crown Lands to Council (at the expense of the owner) and adopted into the Roads Asset Register, which (currently) requires a resolution of Council. The transfer of the road is supported by Council staff as it will legitimise the existing access to the dwelling.

**Issue 2 - Variation to Council's Rural Zones DCP**

Clause C8.3 of the Rural Zones DCP provides that for the purposes of clause 7.8(e) of the CVLEP 2011 "suitable road access" for the purposes of development is deemed to be satisfied when the lot being developed has frontage to a sealed public road or a Category 1 unsealed road listed in Council's adopted Roads Policy.

Allowing the applicant to use a Category 2 road in lieu of a Category 1, sealed constructed vehicular access as access for the construction of a dwelling requires a variation to the DCP provisions.

Comment

Clause A9 of the DCP allows Council to grant consent to a development proposal that does not comply with the specific requirements of the DCP. It is recommended that, in this instance, Council support a variation to the DCP on the following grounds:

- Access to the lot will be over a portion of road that, once upgraded, will be a standard suitable for the level of use for the Bed and Breakfast accommodation;
- The road is approximately 270m long;
- There will be minimal maintenance costs to Council as it is being classified as a Category 2 unsealed road and any maintenance will only be undertaken as resources permit;
- Council's Engineering Section have inspected the road and support the classification of the road as Category 2 unsealed road subject to an upgrade of a minimum 4m width constructed of 100mm compacted gravel and associated drainage and passing bays as required by the NSW Rural Fire Service;
- It is highly unlikely that there will be further dwellings accessing off this portion of the road.



**Issue 3 - NSW Rural Fire Service requirements**

Issues were raised with the applicant in regard to the development meeting the NSW Rural Fire Service's requirements for access and asset protection zones.



Photos 5 & 6: part access track to the dwelling house.

**Comment**

Normally, such applications are referred to the NSW Rural Fire Service as an integrated development, however, there are exemptions under the NSW Rural Fire Service Regulation where development is for the purpose of Bed and Breakfast accommodation using an existing building, but only if the building is more than 30 metres from native vegetation. While it appears that the 30 metre buffer is achieved, this will need to be confirmed through a condition of consent.

The standard requirement of the Rural Fire Service for access for firefighting vehicles requires a 6m wide pavement or 4m wide with passing places at maximum 200m spacing. The section of Crown road can generally be provided at this width, and there is scope for passing spaces to be provided as required. The "private" track is constructed on the side of the steep slope, so widening is difficult and surface stability in some sections is of some concern. The length of the private track to be used for the access is approximately 560m, so for this to be an acceptable route it would be necessary to construct a passing bay within this length.

To ensure that the development meets the recommended bushfire standards the applicant will be required to submit a report demonstrating compliance with the requirements of the NSW Rural Fire Service prior to use of the dwelling for a Bed and Breakfast accommodation.

**Issue 4 - Number of guest bedrooms per existing amenities**

Clause 5.4(1) of the Clarence Valley Local Environmental Plan (the LEP) requires that Bed and Breakfast accommodation must consist of no more than 3 bedrooms. The applicant has applied to have 3 guest bedrooms for Bed and Breakfast accommodation in the dwelling. The applicant has been advised that with the current amenities only up to a maximum of 2 should be allowed.

**Comment**

Council's Development in Rural Zones DCP (Part L5) requires that adequate toilet and bathroom facilities must be provided for guests. A minimum of 1 bathroom must be provided for every 2 guest bedrooms or part thereof; as per the Building Code a bathroom is to have a bath or shower, toilet and washbasin.

The dwelling has 1 bathroom with a toilet and basin on the ground floor and a separate toilet and basin on the second level. Ideally, toilet and bathroom facilities for guests should be separate from those used by the permanent residents of the house, though this is not a requirement specified in the DCP, nor is it proposed under this application.

As such the amenities in the building are sufficient for only up to 2 guest rooms and as such the proposal will be conditioned to restrict the accommodation to no more than 2 guest rooms.

Summary

Whilst the proposed access is technically inconsistent with Council's Roads Policy and DCP, maintaining the standard is considered unreasonable, in this instance, because:

- The proposal will formalise legal access to the property.
- A dwelling has been approved on the site under the existing access arrangements.
- No additional accesses will be gained from an extension of the road network.
- Council has supported similar variations to the Roads Policy and DCP in the past.
- The proposal will be required to meet the NSW Rural Fire Service requirements.
- Restricting the number of guest bedrooms to a maximum of 2 is reasonable given the limited bathrooms and facilities available.

Council may wish to refuse the application because the development does not meet the provisions of suitable road access in Council's Roads Policy or Clause C8.3 of the Rural Zones DCP, or for other good reasons, however this is not recommended for the reasons provided above.

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

There will be minimal cost to Council as the road has been classified as Category 2 unsealed road and maintenance will only occur as resources permit.

**Asset Management**

If the road is adopted as a Category 2 Road the additional 270m of road length will be included in Council's Roads Asset Register and maintained as resources permit.

**Policy or Regulation**

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy No. 55 - Remediation of Land

Clarence Valley Local Environmental Plan 2011

CVC Rural Zones Development Control Plan (DCP)

CVC Roads Policy

**Consultation**

The following internal section of Council was consulted during the assessment of the application.

| <i>Internal Section or Staff Member</i> | <i>Comment</i>                                    |
|-----------------------------------------|---------------------------------------------------|
| Development Engineer                    | Supported with conditions contained in Schedule 1 |
| Building Surveyor                       | Supported with conditions contained in Schedule 1 |

**Legal and Risk Management**

By including the section of Crown road as a Category 2 road, Council potentially reduces its risk of litigation because the road is then included onto the road maintenance schedule while acknowledging that, as a Category 2 road, it will only be maintained as resources permit.

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

|             |                                                         |
|-------------|---------------------------------------------------------|
| Prepared by | Pat Ridgway, Senior Development Planner                 |
| Attachment  | 1. Section 4.15 Assessment<br>2. Applicant's submission |

**Schedule 1  
Draft Advices and Conditions**

Advices

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. This development has been assessed under Section 4.14 of the *Environmental Planning and Assessment Act 1979* on the basis that the development is excluded from the requirements for a bush fire safety authority under Clause 45 of the Rural Fires Regulation 2013.

Development is excluded from the operation of Section 100B of the *Rural Fires Act 1979* where development is for the purpose of Bed and Breakfast accommodation using an existing building, but only if the building is more than 30 metres from native vegetation.

2. This proposal does not authorise the clearing of native vegetation. Separate approvals for any clearing of native vegetation is to be obtained from the relevant authority where required.
3. For any part of the development that comes under the jurisdiction of another Government department, approval by the relevant concurrence authority or approval body is required. Any such approval must be obtained and provided to Council prior to final inspection.
4. The 4 bedroom dwelling was approved under BA46/90 on 24 May 1990 and a Building Certificate was issued under BLD2015/0047 on 8 May 2015. Access to the dwelling on Lot 127 DP1186608 is from Martin Road, then over approximately 270m of Crown public road and then via a Right-of-Way over adjoining Lot 9 DP262439.

Building Advice

5. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act, 1986. Value of works must be included on Construction Certificate Application form.
6. A safety balustrade shall be provided in accordance with Clause 3.9.2 of the Building Code of Australia (BCA) to all landings, balconies and stairways with a height of 1 metre above ground level. The balustrade is to be constructed in such a manner that a 125mm sphere is not able to pass through it at any point. Wire balustrade systems shall comply with the requirements of Clause 3.9.2.3(f) of the BCA. The height must not be less than:
  - a. 1m above the floor of any path, balcony, landing or the like; or
  - b. 865mm above the nosing of stair treads or the floor of a ramp.
7. A smoke alarm system designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, and complying with Part 3.7.2 of the Building Code of Australia, shall be installed. Smoke alarms must be interconnected where there is more than one alarm. A licensed electrical contractor's installation certificate is to be submitted to Council prior to final inspection and commencement of operation.
8. Portable fire extinguishers must be provided and must be selected, located and distributed in accordance with AS 2444.
9. No more than 2 bedrooms are to be used for the Bed and Breakfast accommodation.

## Engineering Advice

10. The NSW State Government will not grant permission for roadworks to be undertaken on a Crown road until the road reserve has been transferred to Council. If Council supports the transfer of the road, the applicant will be required to lodge a bond with Council for the cost of the roadworks to ensure that the road is upgraded within an acceptable timeframe after the transfer of the road to Council.
11. To facilitate the transfer of the Crown road to Council, Council must apply to the Department responsible for Crown roads. Prior to the application being made by Council for the transfer of the Crown road the applicant will be required to provide to Council:
  - a A cheque for the application fee made out to the relevant Government department.
  - b Council's administration fee in accordance with the fees and charges at the time of the application.
  - c A plan showing the extent of the road to be transferred.
  - d A bond to the value of 130% of the cost of the road works.
12. Formal approval from Council to carry out road works will be required under Section 138 of the Roads Act 1993.
13. A 'Notice of Commencement' form must be submitted to Council at least 2 business days before civil engineering work commences. The form may be downloaded from Council's website.

## Environmental Health Advice

14. The Bed and Breakfast needs to be registered with Council's annual inspection roster for food premises which is subject to an annual fee detailed in the Council's Fees and Charges. The food business must be notified to Council in advance of trade. Food Premise Registration Forms are available on Council's website or by request to a Council EHO.

An inspection of the premise is required by an Environmental Health Officer in advance of trade. Contact Council to arrange a time for inspection.

The food premise must have a NSW Food Authority Food Safety Supervisor employed in advance of trade. The list of registered training organisations that provide the certificate is available on the NSW Food Authority web page -<http://www.foodauthority.nsw.gov.au/rp/fss-food-safety-supervisors/approved-training-providers>

15. Council at its meeting of March 2019 resolved to transfer approximately 270m of the Crown Road Reserve as Category 2 road under the Council's Roads Policy.

**Conditions of Consent**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans for the dwelling approved under BA46/90, (2) sheets, as amended in red, or where modified by any conditions of this consent.
2. A minimum of 1 bathroom (with a bath or shower, toilet and washbasin) is to be provided for every 2 guest bedrooms. The dwelling has 1 bathroom with a toilet and washbasin on the ground level and a toilet with a washbasin on the second level. The Bed and Breakfast accommodation is to be restricted to a maximum of 2 guest bedrooms under the current bathroom arrangements.
3. The Bed and Breakfast accommodation is to be for short term guests only. No long term or permanent accommodation is to be provided.



The Bed and Breakfast accommodation is to be operated by the permanent residents of the dwelling.

4. No more than 10 residents (including permanent residents) of the Bed and Breakfast accommodation are to be accommodated at any one time.
5. A separate Development Application will be required for any advertisements that are not defined as "exempt development".
6. 1 car space is to be provided per guest room in addition to the 1 space required for the dwelling. Adequate provision of the car parking spaces is to be provided prior to final inspection.

#### Building Conditions

7. 8. Mandatory Inspections: The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:

- a. After works have been completed and prior to commencement of operation.

If the inspection is not performed an Occupation Certificate cannot be issued for the building. Inspection bookings can be made online at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) until midnight on the day before the inspection or by calling Council on 02 6643 0200 during office hours. The Development Application number must be provided when booking an inspection.

9. A total of 45,000L of water storage capacity shall be provided to the dwelling for domestic purposes. It is recommended that a first flush device is fitted before the water tank. Where a catchment roof has lead flashings, tank water cannot be used for drinking water.
10. A report is to be prepared to address the requirements of Planning for Bushfire Protection 2006. A copy of the report is to be submitted to Council and the recommendations of the report are to be implemented prior to request for final inspection.
11. The use of the dwelling for Bed and Breakfast accommodation is not to occur until such time as all the conditions of this consent are complied with including the transfer of the section of Crown road reserve to Council, the upgrading of the road in accordance with the conditions of this consent and a satisfactory final inspection for the Bed and Breakfast accommodation has been completed.

#### Engineering Conditions

12. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
13. The road between the property and Martin Road is on a Crown road reserve currently under the control of the NSW State Government. The transfer of the Crown road reserve, being the section of Crown road from the maintained section of Martin Road to the point where the access road / right of carriageway begins on Lot 9 DP262439, must be completed prior to any works commencing on the road reserve.
14. For any section of the access to the development that passes through lots other than those being developed, a right-of-way for access must be created, to ensure legal access is provided to the development.

15. A detailed plan of the proposed driveway including longitudinal sections, typical cross sections, road levels, earthwork batters, retaining walls, drainage culverts, property boundaries and other site specific considerations must be submitted for approval with the **CivilCC** to demonstrate that access to the development is provided in accordance with **NRDC**.
16. Grades and travel paths for persons with disabilities are to be provided from designated car parking bays to the main entrance of the building in accordance with AS2890, AS1428.1 and the Building Code of Australia.
17. Upon transfer of the Crown road to Council, it will be necessary for the applicant to construct a gravel surfaced road to provide access. It will be necessary for the developer to upgrade the road to a standard that is satisfactory for access by firefighting vehicles, providing either a 6m wide pavement with a total minimum of 100mm gravel thickness, or 4m wide pavement with passing places at no greater than 200m spacing, with nominal 100mm gravel thickness. **Consideration will be given to existing surface gravel in place.**

#### Environmental Health Conditions

17. Prior to final inspection the applicant shall prepare and submit to NSW Health a Water Quality Assurance Program (QAP) for the proposed development. The QAP shall satisfy the requirements of the *Public Health Act 2010* and *Regulation 2012* and demonstrate that drinking water supplied to the development will consistently meet the *Australian Drinking Water Guidelines*.  
  
**Note:** Guidance for private water suppliers in the preparation of a QAP is available on the NSW Health website - [www.health.nsw.gov.au](http://www.health.nsw.gov.au)
18. All food preparation and food storage areas shall comply with the requirements of Standard 3.2.3 of Chapter 3 of the Food Standards Code.
19. Walls shall be of solid construction, sealed, of an impervious material, and able to be easily and effectively cleaned.
20. External windows and doors to the food preparation and food storage areas shall be made insect/vermin proof.

|             |                  |                                                                                                                                                                                      |
|-------------|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.020/19</b> | <b>MODIFICATION OF DEVELOPMENT CONSENT DA1994/0019 BY MOD2018/0056 – TO EXTEND QUARRY OPERATIONAL TIME FOR AN ADDITIONAL 25 YEARS - NO. 2965 ORARA WAY, KREMOS – LOT 71 DP752829</b> |
|-------------|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

**SUMMARY**

|                    |                                                               |
|--------------------|---------------------------------------------------------------|
| <i>Applicant</i>   | James Patrick O'Donohue C/- Bothamley & O'Donohue Pty Limited |
| <i>Owner</i>       | Louis Andrew Green                                            |
| <i>Address</i>     | 2965 Orara Way, Kremnos                                       |
| <i>Submissions</i> | Nil                                                           |

Council has received an application under Section 4.55 of the *Environmental Planning and Assessment Act, 1979* to modify DA1994/0019 to extend the life of the extractive industry for an additional 25 years until 16 November 2044. The approval is currently conditioned to impose a limited lifespan of the quarry for a period of 25 years from date of the approval with the approval set to lapse on 16 November 2019.

The applicant has requested that the quarry be granted an additional 25 years operation time which would allow the quarry to operate until 16 November 2044 or until such time as the designated extraction areas are exhausted of material or the maximum extractive depth of 20m is reached.

The modification to extend the operational time limit does not alter or change the annual extraction limit of 40,300m<sup>3</sup> of material or maximum 5 hectare area to be used for extraction required under Conditions 2 and 11 of the Consent.

The application was advertised and notified and no submissions were received during the notification period.

The application is being reported to Council as the original application was determined by the full Council. This report discusses the key issues with the application, and provides a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That MOD2018/0056 be approved subject to the amended conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.020/19****Lysaught/Kingsley**

**That MOD2018/0056 be approved subject to the amended conditions 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 Provide open, accountable and transparent decision making for the community

**BACKGROUND**

Development Application DA1994/0019 for an expansion to an existing quarry operation was granted conditional consent on 16 November 1994. This consent was for a period not to exceed 25 years which is set to lapse on 16 November 2019. The annual extraction rate is set at 40,300m<sup>3</sup> of coarse gravel, selected fill and bush rock.

The application was later modified on 7 December 2001. The amendment permitted an additional 15m depth for extraction and an increase in the area of ongoing works by an additional 3 hectares to a total of 5 hectares.

The applicant has sought an extension to the consent period of DA1994/0019 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 as the quarry has only been operating in a small capacity with an approximate 5-10% of the approved extraction limits being extracted and a depth of one metre being reached thus far.

For information purposes, the land on which the development is being carried out has an area of 541.5 hectares and is located 6km north west of Glenreagh. The land is bisected by a 330kv overhead electricity transmission line and steel towers which provides for a 70 metre wide cleared corridor running in a north south direction. Access to the site is via a gravel track which exits off Orara Way.

**KEY ISSUES**

1. Extension of operational time on consent for an additional 25 years

The applicant has requested that the 25 year time limit imposed by Condition 28 of DA1994/0019 be extended to permit the operation of the quarry for an additional 25 years. This means that the quarry would cease to operate on 16 November 2044 or when the approved areas are exhausted of material or when the maximum depth has been achieved, whichever occurs first.

There is a 16 hectares designated area for quarry operations to be undertaken on the site and this is enforced via Condition 9 of the approval. Only 5 hectares of area is to be disturbed and cleared at any one time and this is enforced by Conditions 4 and 11.

It should be noted that quarry operations are cyclical depending on demand for material at the time and as such, there has only been 5-10% extraction on the site to date. The site offers further opportunity to

extract material and it is considered that the continued operation will allow material to be extracted in accordance with the existing conditions of consent.

The site has been considered and approved for the purposes of a quarry and it is considered that the amendment be supported to enable the quarry to operate to its full potential. If Council wishes to refuse the application then a new application would be required to be submitted.

The subject land is zoned RU2 Rural Landscape under the *Clarence Valley Local Environmental Plan 2011*. Extractive industries are permitted with consent within the RU2 zone under the provisions of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, Clause 7(3). The quarry is considered to be a suitable use of the land and through the imposition of the existing conditions will achieve the following aims of the SEPP:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) *to promote the development of significant mineral resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) *to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
  - (i) *to recognise the importance of agricultural resources, and*
  - (ii) *to ensure protection of strategic agricultural land and water resources, and*
  - (iii) *to ensure a balanced use of land by potentially competing industries, and*
  - (iv) *to provide for the sustainable growth of mining, petroleum and agricultural industries.*

2. Potential impacts from operation of quarry to an additional 25 years

The potential impacts of the extractive industry were considered as part of the original application. It is considered that the development consent contains appropriate conditions regarding clearing, review of site rehabilitation, Aboriginal archaeology, flora and fauna including restrictions on bush rock removal, noise and road upgrade requirements.

In support of the above, Condition 13 of the approval required a review of the effectiveness of site rehabilitation as follows:

- 21. *A review of the effectiveness of site rehabilitation shall be carried out by a competent person acceptable to Council's Director of Environmental Services before 17 October 1996.*

*This review should address and make recommendations on: - site rehabilitation and restriction of the land, indicating soil conservation, structural suitability and landscaping in place.*

It is recommended that because the date for submission in Condition 13 has passed, it is appropriate that this be updated to a future date so that Council has the ability to review future site rehabilitation measures. For this reason, Condition 13 should be amended as follows:

- 22. *A review of the effectiveness of site rehabilitation shall be carried out by a competent person acceptable to Council's Director of Environmental Services before 17 October 2021.*

*This review should address and make recommendations on: - site rehabilitation and restriction of the land, indicating soil conservation, structural suitability and landscaping in place.*

In summary, it is recommended that Council approve the Section 4.55 amendment to permit the operation of the extractive industry for an additional 25 years until 16 November 2044 subject to amendment to Condition 28 which would allow the extractive industry to continue until such time as the extractive material has been exhausted from the site or the operational period ends, whichever occurs first.

### COUNCIL IMPLICATIONS

#### Budget/Financial

There may be a financial cost to Council if the applicant appeals Council decision. Council also collects Section 94 Contributions at a rate of \$0.31 per m<sup>3</sup> of material extracted as per Condition 27 of DA1994/0019.

#### 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
- State Environmental Planning Policy (Rural Lands) 2008
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

#### Consultation

No internal or external consultation was required to be undertaken as part of application assessment.

#### Legal and Risk Management

Should the applicant be dissatisfied with Council's determination of the DA, they may appeal to the Land & Environment Court.

|             |                                                                                                        |
|-------------|--------------------------------------------------------------------------------------------------------|
| Prepared by | Carmen Landers, Development Planner                                                                    |
| Attachment  | 1. Copy of DA1994/0019<br>2. Plans<br>3. Section 4.55 Assessment Report for MOD2018/0056 (DA1994/0019) |

### Schedule 1 Draft Amended Conditions of Consent for DA1994/0019 (MOD2018/0056)

13. A review of the effectiveness of site rehabilitation shall be carried out by a competent person acceptable to Council's Director of Environmental Services before ~~17 October 1996~~ **17 October 2021**.

This review should address and make recommendations on: - site rehabilitation and restriction of the land, indicating soil conservation, structural suitability and landscaping in place.

28. This consent is valid for a period not exceeding ~~25~~ **50** years from the date of issue of this development consent unless otherwise extended by Council. At the end of this period the development shall cease and all equipment and buildings shall be removed from the land and the site rehabilitated to the satisfaction of Council.

Applications for an extension to a limited consent must be made in writing and received by Council prior to expiration of the period referred to above, **otherwise** as a New Development Application will be required.

|             |                  |                                                                                                                                                            |
|-------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.021/19</b> | <b>SUB2018/0035 – STAGED DEVELOPMENT APPLICATION – DWELLING ENVELOPE AND CONSOLIDATION OF LAND – LOTS 1, 2 AND 3 DP751377 – KINGS CREEK ROAD, LAWRENCE</b> |
|-------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

**SUMMARY**

|                    |                                   |
|--------------------|-----------------------------------|
| <i>Applicant</i>   | Bothamley & O'Donohue Pty Limited |
| <i>Owner</i>       | James Dennis O'Keeffe             |
| <i>Address</i>     | Kings Creek Road, Lawrence        |
| <i>Submissions</i> | Nil                               |

Development Application SUB2018/0035 seeks approval for a staged development consent; Stage 1 being the establishment of a building envelope; and Stage 2 being the consolidation of Lots, 1, 2 and 3 DP751377 along Kings Creek Road, Lawrence.

Individually, Lots 1, 2 and 3 do not have dwelling entitlement as they do not meet the minimum 40 hectare lot size required for the erection of a dwelling under Clause 4.2B of the *Clarence Valley Local Environmental Plan 2011* (herein referred to as the LEP). Each lot is approximately 1 hectare in area. The applicant seeks to vary Clause 4.2B using the Exceptions to Development Standards Clause 4.6 of the LEP to vary the minimum lot size from 40 hectares to 3.4 hectares through a consolidation of the three lots.

This application is reported to Council as staff do not have delegations to vary a development standard by more than 10%. The Department of Planning and Environment has granted concurrence to the Clause 4.6 variation to permit a variation to the minimum lot size for the purposes of a dwelling.

This report discusses the key issues with the application and provides a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That SUB2018/0035 be approved subject to the advices and conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Novak/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.021/19**

Lysaught/Kingsley

**That SUB2018/0035 be approved subject to the advices and conditions 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 Provide open, accountable and transparent decision making for the community

**BACKGROUND**

Development Application SUB2018/0035 was lodged with Council on 19 November 2018. The applicant originally lodged 3 applications seeking consent for dwelling eligibilities on each of the three Lots 1, 2 and 3 DP751377. Following advice from the Department of Planning and Environment, the 3 applications were subsequently withdrawn and 1 application to consolidate the 3 lots and establish a building envelope on the consolidated lot was lodged under this application SUB2018/0035.

The subject land is located within the RU1 Primary Production Zone under the provisions of the LEP and has frontages to Kings Creek Road and the Clarence River. The land is vacant other than an old shed and stockyards located in the north western corner and is clear of vegetation other than some trees adjacent to the Clarence River. The applicant states that the land has been used for low intensity grazing for beef cattle for several decades and there has been no other agricultural use. Agriculture is a potentially contaminating land use and as such a preliminary site investigation was carried out which revealed that the land was partially contaminated. This matter has been considered and addressed under the provisions of *State Environmental Planning Policy No. 55 – Remediation of Land* within the Section 4.15 assessment and appropriate conditions have been contained in Schedule 1 to ensure that the land is suitable for the intended use prior to the construction of any dwelling on the land.

**KEY ISSUES**

1. Variation to minimum lot size for dwelling under Clause 4.2B of Clarence Valley Local Environmental Plan 2011

Lots 1, 2, 3 in DP751377 have no dwelling eligibility by virtue of the size of the land parcels. They are in the RU1 zone which requires a minimum lot size of 40 hectares for the construction of a dwelling. Once consolidated, the land will comprise a total lot size of 3.4 hectares.

Clause 4.2B of the LEP states that development consent must not be granted for erection of a dwelling house on land unless the lot is:

- (a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
- (b) a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement, or
- (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or
- (d) an existing holding, or
- (e) a lot created under clause 4.1A (4), or
- (f) a lot created following a boundary adjustment, but only if a dwelling house or dual occupancy could be erected on the lot immediately before that boundary adjustment under paragraph (a), (b), (c), (d) or (e).



Clause 4.6 of the LEP enables exemptions to certain development standards to be considered. The applicant is requesting a variation to the 40 hectare minimum lot size development standard under clause 4.2B(a) in accordance with the provisions of clause 4.6. The relevant sections of clause 4.6 read:

#### 4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

(i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

(ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Secretary has been obtained.*

#### Comment

A written request to vary the development standard, as required by clause 4.6(3), supported the application and the following justification was provided for the variation:

- *The proposal does not compromise the objectives of the RU1 zone of the CVLEP;*
- *It would not have been unreasonable for the subject land and the adjoining elevated land to have been included in the R2 Low Density Residential Zone when the CVLEP was prepared;*
- *The proposal does not contribute to dispersed rural settlement but provides a suitable dwelling site amongst like sized lots;*
- *The land at 3.4 hectares would not support agricultural activities associated with standard primary production processes;*
- *The land has flood free sites near to Kings Creek Road and adjacent to public utility services which are available for extension if required;*
- *The subject land is adjacent to the Town of Lawrence and the current land area is consistent with the existing subdivision pattern within 2 kilometres of the land. Many of the lots within 2 kilometres of the land are also smaller than 40 hectares, however, much of the land is flood prone and unsuitable for a dwelling unlike the subject land;*
- *There are numerous dwellings within and adjacent to the Township of Lawrence as evidenced by the attachment 'C1' and another dwelling would not be out of character with the existing spread of dwellings but could be considered in-fill;*

- *The proposal will not have any significant adverse impact upon the natural or built environment;*
- *The proposal and contravention of the development standard does not raise any matter of significance for State or regional environmental planning; and*
- *The proposed is considered to be in the public interest as it serves to greater utilise existing public facilities and services and could be considered to comply with Council's philosophy of urban consolidation.*

In accordance with Clause 4.6(4)(a) of the LEP, Council staff consider that the written request adequately addressed the matters required to be considered under Clause 4.6(3). The applicant has demonstrated that the development standard is unreasonable or unnecessary in the circumstances, there are sufficient environmental planning grounds to justify contravening the development standard and no precedent will be set for the following reasons:

- The development site shares a boundary with the adjoining residential zone.
- There is suitable road access and public utilities to adequately service the site and the development is unlikely to result in an unreasonable demand for public services or facilities.
- The size of existing Lots 1, 2 and 3 are considered too small to be agriculturally viable in their own right and a consolidation would see a reduction in rural land fragmentation.
- There is no public benefit in maintaining the 40 hectare development standard as the land is already fragmented into lots significantly less than 40 hectares.
- The development is not inconsistent with the Clarence Valley Settlement Strategy in that the land adjoins a residential zone which helps reinforce the identity of Lawrence as the "village by the river".
- The development will result in the creation of a large residential lot for dwelling purposes which is consistent and of an appropriate character to the surrounding area and subdivision patterns within the vicinity of the development.
- The location of the proposed building envelope is located on flood free land.
- The development is not inconsistent with the objectives of the RU1 zone.

The concurrence of the Department of Planning and Environment has also been granted in this instance under the provisions of Clause 4.6(4)(b) for the following reasons:

1. *The proposal does not raise any matters of State or regional planning significance. The consolidation of three lots into one on which the dwelling house is proposed will ensure that a precedent is not set for erecting dwellings on single undersized lots in the locality; and*
2. *There is no public benefit in maintaining the 40 hectare development standard in this instance as the land is already fragmented into lots of significantly less than 40 hectares. The land adjoins the Lawrence urban area and is bounded by other rural residential style development.*

Based on the reasons provided above, it is recommended that a variation to the minimum lot size be supported and that Council grant consent to the development.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The developer is required to pay for an extension to the water infrastructure including capital contribution and also required to pay Section 7.11 Contributions (formerly Section 94's) for the creation of the additional building envelope.

There may be a financial cost to Council if the applicant appeals Council's decision.

### **Asset Management**

N/A

**Policy or Regulation**

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Rural Lands) 2008
- State Environmental Planning Policy (Coastal Management) 2018
- Clarence Valley Local Environmental Plan 2011
- Rural Zones Development Control Plan 2011

**Consultation**

The Department of Planning and Environment (DPE) were consulted during the assessment process as the consent authority able to grant a Clause 4.6 variation to the minimum lot size. The proposal was supported by the DPE with no specific conditions of consent. A copy of their correspondence is contained within the attachments.

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

| <i>Internal Section or Staff Member</i> | <i>Comment</i>                        |
|-----------------------------------------|---------------------------------------|
| Engineering                             | Supported with no specific conditions |
| Environment                             | Supported with conditions             |

**Legal and Risk Management**

Should the applicant be dissatisfied with Council's determination of the DA, they may appeal to the Land & Environment Court.

|             |                                                                                                                                                                                                     |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Carmen Landers, Development Planner                                                                                                                                                                 |
| Attachment  | <ol style="list-style-type: none"> <li>1. Department of Planning and Environment Concurrence</li> <li>2. Plan of Consolidation and Building Envelope</li> <li>3. Section 4.15 Assessment</li> </ol> |

**Schedule 1**  
**Draft Advices and Conditions of Consent for SUB2018/0035**

**Advices**

1. 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 1.2 ET demand on Council's water supply. The headworks charges at 2018/19 financial year rates are:

Water Headworks \$4,817.00 x 1.2 additional ET = \$5,780.40

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.

2. At the time of dwelling construction, a water connection and metre must be provided to the site, the appropriate fee in Council's Fees and Charges will apply.
3. 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.
4. The applicant is advised that Lot 1, 2 and 3 DP751377 are not within the Development Servicing Plan for Sewerage and so the newly created lot will not be permitted to connect to Council pressure sewerage infrastructure.
5. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
6. Driveways must be constructed and sealed in accordance with NRDC standard drawing R14. The driveway shall be sealed from the edge of road to a point 3m inside the property boundary as part of the dwelling construction.
7. The NSW Planning and Environment has issued concurrence to vary the development standard contained in clause 4.2B of the *Clarence valley Local Environmental Plan 2011* (the LEP) to allow a variation to the minimum lot size required for a dwelling on the land. A copy of that approval is attached for your records.
8. This approval relates only to the variation of the LEP standard and establishment of building envelope, and facilitates the way to lodge a formal development application for a dwelling on the land.
9. Please be advised that contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act will be payable prior to issue of any Building Construction Certificate. These contributions are payable as the use of the building is changing to incorporate residential use. The current rates for 2018/19 are as follows.

**Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities**

Rate per dwelling House or Lot

Coastal \$3,675.15 x 1 = \$3,675.15

GL S94CVCOSCoastal

**Clarence Valley Contributions Plan 2011 Community Facilities**Rate per dwelling House or Lot

Macleans surrounds \$3,675.15 x 1 = \$3,675.15                      GL S94CVCCFMacleans

**Clarence Valley Contributions Plan 2011 Plan of Management**

Rate per Dwelling/Lot \$70.40 x 1 = \$70.40                      GL S94CVCPoMDwell

10. The site is contaminated and the Planning Certificate will be noted accordingly. Prior to any development approval being issued for a future dwelling on the site the contamination must be investigated, remediated and validated.
11. Lots 1, 2 and 3 must be consolidated prior to lodgement of a development application for a dwelling.

**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 11974, dated 2 November 2018 (1) sheet, submitted/drawn by Bothamley and O'Donohue, as amended in red, or where modified by any conditions of this consent.
2. A Detailed Site Investigation (DSI) must be undertaken by a duly qualified person/s and submitted to Council for approval prior to the issue of development approval for a dwelling on the land and must include:
  - A Remediation Action Plan prepared by duly qualified person/s for approval prior to remediation works commencing.
  - Remediation works on the site shall be conducted by a duly qualified person/s and completed prior to issue of a development approval for a dwelling on the land.
  - A Validation Report prepared by a duly qualified person/s shall be submitted to Council after completion of remediation of the site and prior to the issue of development approval for a dwelling on the land. The Validation Report shall confirm that the site is suitable for its proposed use.

|             |                  |                                                                                                                                        |
|-------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.022/19</b> | <b>MODIFICATION OF DEVELOPMENT CONSENT D42/96 BY MOD2018/0057 – AMEND STAGE 2 OF MOTEL DEVELOPMENT – 5-13 VILLIERS STREET, GRAFTON</b> |
|-------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

**SUMMARY**

|                    |                                                        |
|--------------------|--------------------------------------------------------|
| <i>Applicant</i>   | Richard van Dorp (Richard van Dorp Architects Pty Ltd) |
| <i>Owner</i>       | EJ & MM Pty Limited                                    |
| <i>Address</i>     | 5-13 Villiers Street, Grafton                          |
| <i>Submissions</i> | Yes – 3 submissions                                    |

Council has received an application under Section 4.55 (2) of the *Environmental Planning and Assessment Act, 1979* to modify D42/96 to modify Stage 2 plans for the motel development approved on the subject site. The current Stage 2 approval permits an additional 21 motel units to be constructed. One single storey building containing 7 units fronting Victoria Street requiring the demolition of 2 dwellings (30 and 32 Victoria Street) and second two storey building containing 14 units located behind the previously mentioned building.

The applicant has requested that the number of units approved be reduced from 56 to 53 units and that the 2 separate accommodation blocks be reconfigured and attached resulting in the retention of the dwelling on 32 Victoria Street. The proposal will also require a boundary adjustment and consolidation of lots to allow for the reconfiguration of the motel units.

The application was advertised and notified and 3 submissions were received during the notification period. The issue raised in all 3 submissions relate to the potential heritage impact as a result of demolishing 2 dwellings and reconstructing with infill development.

The application is being reported to Council as the original application was determined by the full Council. This report discusses the key issues with the application and provides a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Accept that MOD2018/0057 is substantially the same development as approved under D42/96;
2. Support the requested variation to the Clause C16 'Setbacks' of the Development Control Plan for Development in Residential Zones, and
3. Approve MOD2018/0057 subject to the amended conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker

Against: Clancy, Novak

**COUNCIL RESOLUTION – 14.022/19****Lysaught/Kingsley****That Council:**

- 1. Accept that MOD2018/0057 is substantially the same development as approved under D42/96;**
- 2. Support the requested variation to the Clause C16 ‘Setbacks’ of the Development Control Plan for Development in Residential Zones, and**
- 3. Approve MOD2018/0057 subject to the amended conditions contained in Schedule 1.**

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

Theme 5 Leadership

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

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

**BACKGROUND**

Modification Application MOD2018/0057 was lodged on 21 November 2018 for the modification of approved Development Application D42/96 as granted by former Grafton City Council for the ‘Erection of a Motel Development Comprising 56 Motel Units, Restaurant and Conference Facilities’. A copy of the consent and approved plans is provided in Attachment 1. The development of the motel, restaurant and conference rooms was granted approval in 2 stages with the first stage consisting of 35 motel units, restaurant and conference facilities already built, see Figure 1 below. As a result of the proposed modification the description of the approved development will need to be amended so that it reads as follows ‘Erection of a Motel Development Comprising 53 Motel Units, Restaurant, Conference Facilities, Boundary Adjustment and Demolition of House and Shed’.

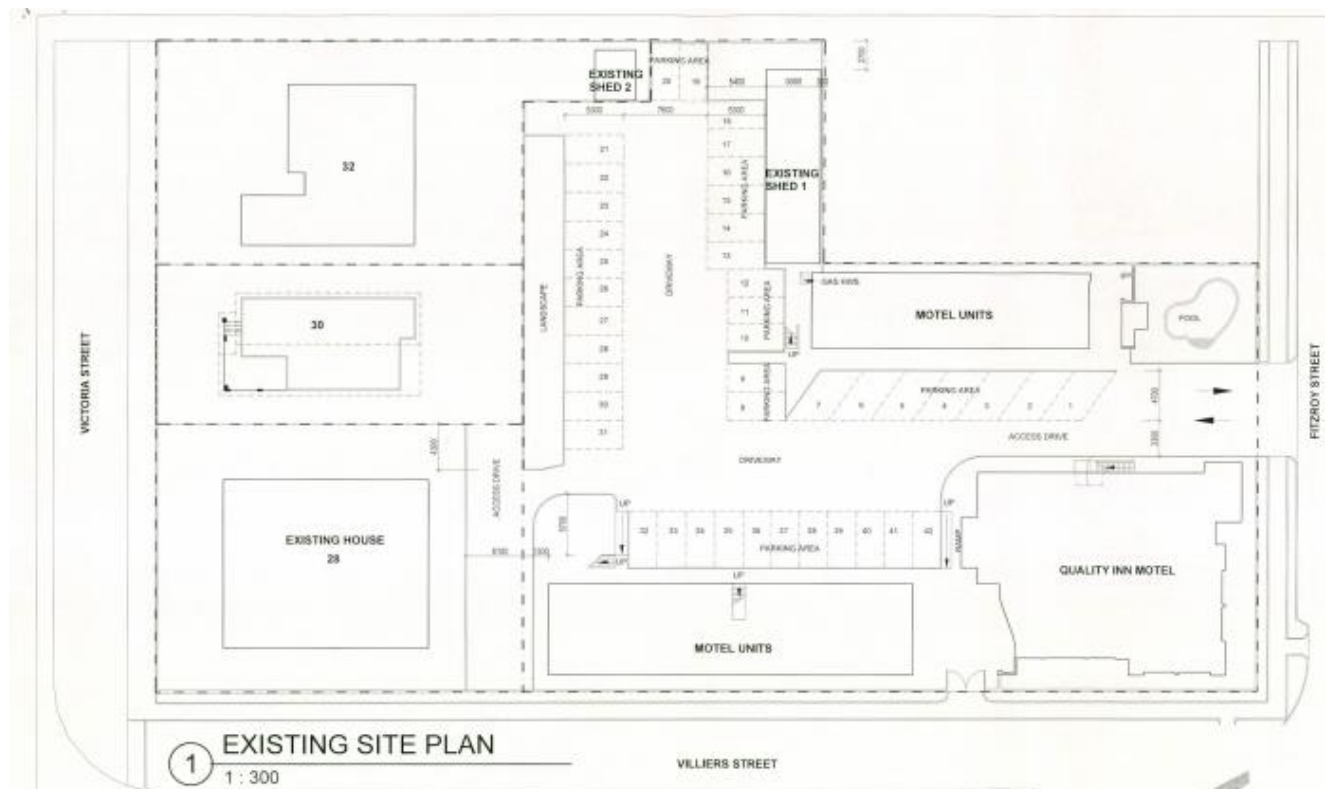


Figure 1: Existing site plan of the built Stage 1 of the motel development

As stated by the applicant as a result of increased demand for accommodation, commencement of Stage 2 is now proposed. However, as a result of the changing demand for accommodation and the needs of clients, undercover parking is a higher priority than a larger room; subsequently the applicant intends to reconfigure Stage 2 to meet these demands. In relation to Stage 2 the applicant has requested an amendment to the approved development as follows:

1. Realign the two storey building to be north-south (instead of east-west) and attach to the single storey building fronting Victoria Street,
2. Shorten the length of the façade presenting to Victoria Street resulting in the retention of 1 dwelling previously approved to be demolished,
3. Transfer the ground level motel units in Block A to the first floor to allow for covered car parking,
4. A consolidation of Lot 1 DP872077 (the motel) and Lot 2 DP998697 (30 Victoria Street),
5. A boundary adjustment between the consolidated lot and Lot 1 DP986069 (28 Victoria Street) and Lot 2 DP872077 (32 Victoria Street) to allow for the reconfiguration of the motel units,
6. Reduce the total number of units from 56 to 53 units, a reduction of 21 to 18 units for Stage 2, and
7. As a consequence of the reduction in motel units, reduce the required parking on-site of 64 to 62.
8. Demolition of a shed shown as existing shed 2 in Figure 1.

The dwelling house located at 28 Victoria Street was granted approval under development application number D83/97 to convert the dwelling for short term accommodation on 28 November 1997. Additionally, the dwelling house located at 32 Victoria Street was granted approval under DA 10.2004.190.1 to convert the dwelling to 4 short term accommodation units on 27 August 2004.

## KEY ISSUES

1. Substantially the same development?

This fundamental question needs to be dealt with before any further assessment of the proposed modification. MOD2018/0057 has been lodged under Section 4.55 (2) of the *Environmental Planning and Assessment Act 1979* (EP&A) which reads as follows:



'(2) Other modifications - 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 development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
  - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.
- Subsections (1) and (1A) do not apply to such a modification.'

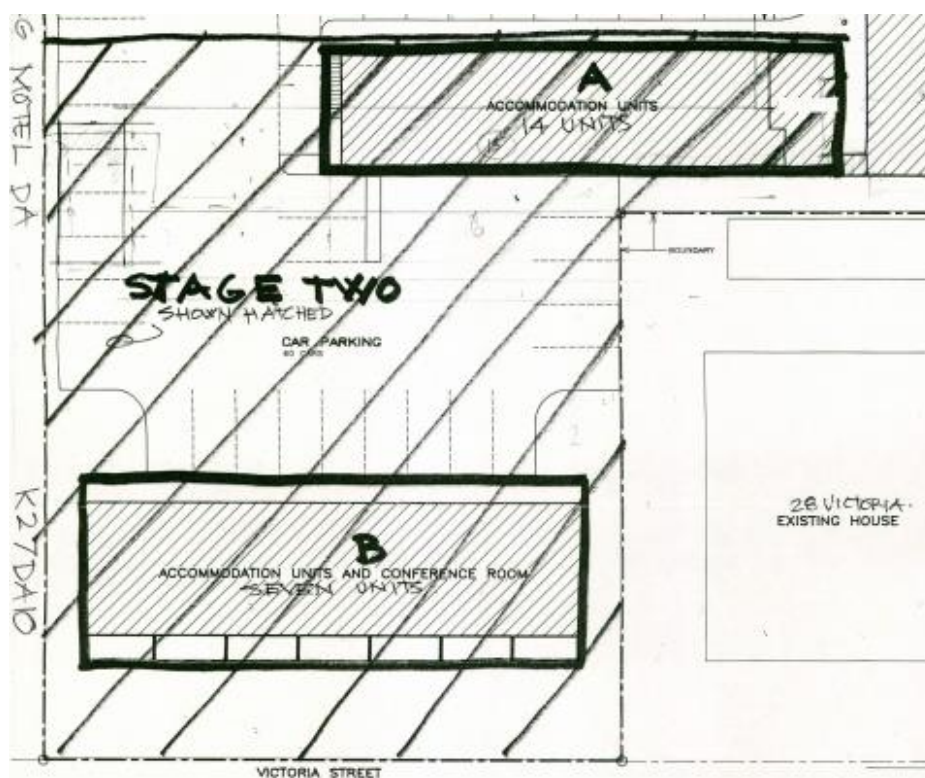


Figure 2: Layout of Stage 2 of the motel consisting of the two storey Block A and single storey Block B fronting Victoria Street

Stage 2 of the development granted approval for 2 separate buildings as shown in Figure 2. One of these buildings (Block A) being a two storey building located centrally to the site as a separate wing containing 14 motel units coming off of the eastern wing built as part of Stage 1. The second building containing 7 motel units being a long single storey building (Block B) set over 2 lots with frontage to Victoria Street requiring the demolition of 2 dwelling houses located at 30 and 32 Victoria Street.

Comment:

Council has no power under Section 4.55(2) to grant consent unless it is satisfied that the proposed modified development it relates to is substantially the same development as originally approved. Although the approved development is for motel and the modification proposes the continued use of the motel,

comparison of the quantitative and qualitative changes is required. Focus is to be given on the particular elements that are being changed, especially where that component is an essential component of the development. The key difference proposed by the applicant is the alignment and location of the 'Block A' and 'Block B'.

The proposed Stage 2 plans for the motel will contain a single two storey structure containing 2 ground floor accessible units and 16 first floor units, with provisions made for undercover parking. In conclusion, there will be a reduction in total motel units from 56 to 53, with the number of ground floor units in Stage 2 decreased from 13 to 2 and first floor units increased from 7 to 16. As a result of the reduction in motel units, the applicant has reduced the number of car parks from 64 to 62. Furthermore, the total building footprint of the proposed development is to reduce from 617m<sup>2</sup> to 510m<sup>2</sup>, a reduction in the total building footprint of approximately 17%.

The major alteration to the approved layout is the shortening of 'Block A' fronting Victoria Street resulting in the retention of 32 Victoria Street. Furthermore, by consolidating Block A and B to form a single two storey structure the overall bulk and scale of the two storey development visible from Victoria Street is reduced which will have a reduced impact on the heritage significance of the locality heritage character of the area. Taking into account the changes to the development and the reduction in impact as a result of the proposed amendments it is considered that Council has the ability to determine MOD2018/0057 under Section 4.55(2) as the development is substantially the same development as approved.

## 2. Variation Sought to Clause C16 – Setbacks of the Residential Zones DCP

The objectives of the setback requirements are a) to provide sufficient separation of buildings to provide privacy and sunlight access for neighbouring dwellings; b) buildings setback from the street to provide adequate space for landscaping, privacy and an attractive streetscape; and c) a design that reduces the apparent bulk of the new buildings.

Clause C.16 requires a side setback of 900mm to side and rear boundaries where the height of the building is below 6.5m, furthermore, a side and rear setback of 1.5m applies where the building is between 6.5m and 9m in height. The proposed motel units are to have an approximate height of 8m therefore requiring a side and rear setback of 1.5m.

Under clause C17 variations to front and side setbacks will be considered on merits if better development outcomes or clear advantages in other aspects of the design are achieved with regard to overshadowing and overlooking. Compensatory setbacks elsewhere in a development may be considered in granting variations to setback requirements.

The applicant is seeking a variation to the setback requirements to allow the eastern and western wall of the new motel units to be located 900mm from each respective boundary. The applicant has provided justification and the main points are summarised below:

1. Not allowing a relaxation of the setback requirement will impede vehicle manoeuvrability for the undercover parking,
2. Only portion of the roof is above 6.5m,
3. Due to the design of the roofline varying between 2.8m and 8.0m the area above 6.5m in height (identified as C in Figure 3) is over compensated by vacant space below 6.5m (shown in Figure 3 as A and B), and
4. The proposed development complies with the objectives of the Residential Development Control plan are as follows:
  - i. The positioning of the two storey motel units is located towards the rear to allow the single storey units to dominate the streetscape,
  - ii. The design matches the existing motel with the original approved design for Victoria Street retained,
  - iii. The original approved design is sympathetic to the streetscape,

- iv. There is no overlooking or overshadowing of neighbouring properties, with the window shades adding a further level of privacy,
- v. The roof line has been kept at a low pitch to minimise the overall height of the building and a gap is maintained between the motel and the existing buildings at 28 and 32 Victoria Street, and
- vi. The overall appearance and amenity from the street has not changed.

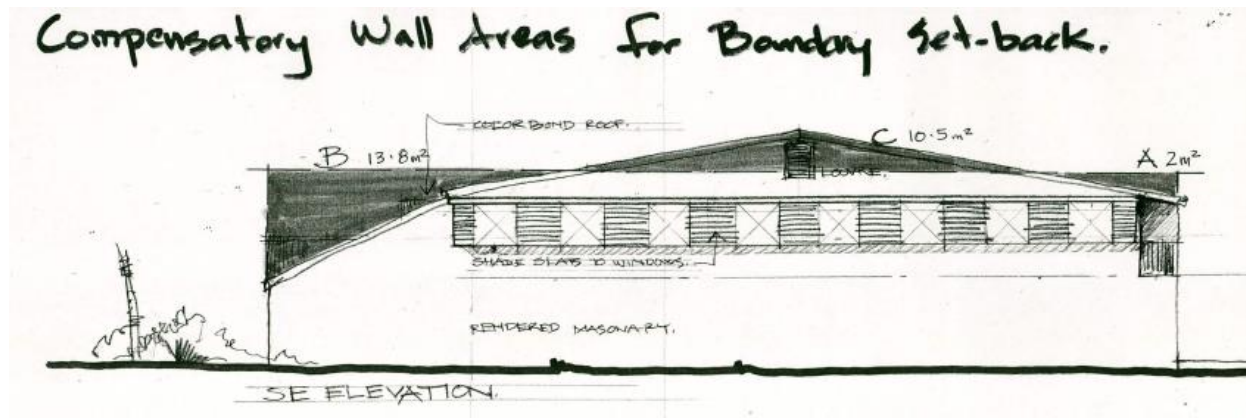


Figure 3: Identification of compensatory wall areas above and below a building height of 6.5m from existing ground levels.

Comment:

Due to the adjoining uses of 28 and 32 Victoria Street being for short term accommodation and also being in association with the motel development, overlooking and privacy is not considered to be detrimentally impacted by the proposed modification and the addition of window screens by the applicant will provide an additional level of privacy. The repositioning of the motel will also improve solar access to the courtyards for both 28 and 32 Victoria Street as compared to the current approved development.

The dwellings at 28 Victoria Street and 32 Victoria Street have both been approved for use as overnight accommodation, in association with the motel. Although both structures are below 6.5m in height, a 1.5m minimum setback is required to achieve suitable separation for fire safety purposes due to the use and building classification. A change of use assessment was undertaken and approved on the basis that the existing side boundary setback of 4.3m for 28 Victoria Street and a 1.6m side setback for 32 Victoria Street were sufficient to not require any fire rating upgrading of the external wall.

As a consequence of the boundary adjustment the proposed boundaries reduces the side setback to 1.0m for 28 Victoria Street and 1.2m for 32 Victoria Street. Therefore as a result, upgrading to the western external wall of 28 Victoria (including protection of any openings in that wall) and eastern external wall of 32 Victoria will be required to ensure that a non-complying boundary setback is not created by the boundary adjustment. Any fire rating upgrading to that wall may substantially alter the appearance or structure of that wall which may also impact on the heritage value of each of those structures. The applicant has put forward a fire sprinkler system as the intended avenue to overcome this issue. This option would be favoured as a non-intrusive way of complying with fire separation requirements of the Building Code of Australia, however, this will need separate assessment as part of a future Building Construction Certificate.

Considering the above discussion and what has been put forward by the applicant it is considered suitable in this instance to allow a reduction in the side setback of 900mm subject to the proponent demonstrating prior to issue of the Building Construction Certificate that suitable fire safety measures can be achieved for both the motel units and buildings at 28 Victoria Street and 32 Victoria Street.

3. Heritage Impacts

The dominant issue raised in all 3 submissions received focus on the impact to the historic heritage value of the Victoria Street landscape as a result of the proposed development.

The current consent approved the removal of 2 existing dwellings at 30 and 32 Victoria Street to allow for a single storey set of 7 motel units to be constructed. As depicted in the southern elevations from Victoria Street (see Figure 4 and Attachment 1), the two storey southern wing is visible above the low standing motel units and visible through the gap between the motel and the building at 28 Victoria Street (not shown).

At the time the application was considered and approved in 1996, the buildings subject to being demolished were not recognised for their heritage significance, although the subject land did fall under the Grafton Urban Conservation area under the *North Coast Regional Environmental Plan 1988*. In terms of the development site no buildings were recognised for their State or regional significance although 2 houses occupying the site at 7 and 9 Villiers Street (now demolished as part of Stage 1) contributed to the character of the conservation area, however, were considered to be poorly maintained. The assessment provided in the September 1996 Planning Committee Report states that *'in respect of the Victoria Street frontage, the 6m setback respects that of adjoining dwellings'* and *'the single storey high pitched roof is in harmony with the general tenor of Victoria Street and the frontage is considered to blend in well with the established streetscape in this area'*.

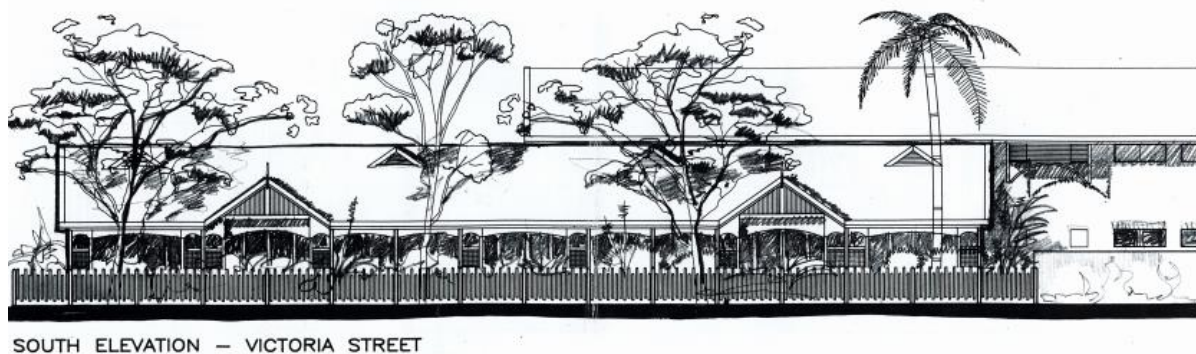


Figure 4: Southern elevation of approved motel units fronting Victoria Street (note 28 Victoria Street is not shown on the right)



Figure 5: Southern elevation of proposed modification to motel units fronting Victoria Street.

Under the *Clarence Local Environmental Plan 2011* (the LEP) the 6 properties located at 28 – 38 Victoria Street are individually heritage listed and form part of the historic Victoria Street appearance and also fall within the Grafton Heritage Conservation Area. Under the current planning framework and recognised heritage significance of the streetscape, the proposed demolition of an item of heritage is contrary to the objectives of the LEP 2011, as it would have an adverse impact on built heritage and impact upon the integrity of the streetscape. The extended façade of the 7 motel units, although symmetrical, the design does not replicate the pattern of individual single freestanding one storey dwellings, additionally, the bulk and scale two storey southern wing behind would detract from the streetscape and heritage value.

This modification no longer proposes to demolish the residence at 32 Victoria Street due to reconfiguring the layout, although 30 Victoria Street will still be demolished which would be contrary to the LEP, however, the outcome is considered to be beneficial as under the current consent two heritage dwellings



could be demolished. As a result of the boundary adjustment the curtilage surrounding 28 and 32 Victoria Street will be reduced although this is not anticipated to detract from the heritage significance of each residence. As discussed above, the reduction in side setback may require some alterations to the external appearance of 28 and 32 Victoria Street to comply with fire separation, however, the majority of the works would be limited to the side walls which would lessen the impact on heritage value. By shortening the single storey motel units and repositioning the two storey the overall visual prominence of the structure from Victoria Street is less. Further to this, the low pitch design of the two storey component roof line will mean that this infill development will not dominate the streetscape.

Overall the impact to the heritage significance of Victoria Street will be reduced as a result of the proposed redesign in comparison to the current approval and retention of the structure at 32 Victoria Street. Furthermore, the combination of relocating the two storey building and shortening of the 7 units to 2 will have less of a visual impact and reduce the bulk and scale of the development as visible from Victoria Street.

## 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

The proposed motel layout will result in the northern portion of the units being built over Council's sewer main and will require the proponent to relocate the sewer main. As outlined in Condition 12, the sewer will need to be relocated at least 1.5m from the building and will still need to service the building located at 28 Victoria Street. All costs relating to the relocation of the sewer main will be at the developers cost.

### Policy or Regulation

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulations 2000*

*Clarence Valley Local Environmental Plan 2011*

Development Control Plan for Development in Residential Zones 2011

### Consultation

The proposal was referred to the following internal sections of Council:

| <i>Internal Section or Staff Member</i> | <i>Comment</i>                                                                                                              |
|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Development Engineer                    | Supportive - comments and conditions provided.                                                                              |
| Health and Building                     | Supportive - subject to compliance with the BCA requirements for fire safety/separation - comments and conditions provided. |
| Heritage Officer                        | Not supportive of demolition of heritage item.                                                                              |

### 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.

|             |                                                                                                                                                                                                                                                                 |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | James Hamilton, Development Assessment Planner                                                                                                                                                                                                                  |
| Attachment  | <ol style="list-style-type: none"> <li>1. D42/96 Consent and approved Plans (plans containing floor plans have been omitted)</li> <li>2. Proposed Modification Plans</li> <li>3. Submissions</li> <li>4. Section 4.55 Modification Evaluation Report</li> </ol> |

**Schedule 1**  
**Draft Advices and Conditions of Consent for MOD2018/0057**

**Insert New Advices as Follows:**

1. Prior to building work commencing approval under the Plumbing and Drainage Act 2011 shall be obtained from Council for sewer work, water plumbing and stormwater work. Two copies of hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
2. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to the proposed building. A Section J report shall be submitted with the Construction Certificate application.
3. Full details of the proposed method of achieving BCA compliance shall be submitted with the construction certificate application. Particular attention is to be given to convergence of exit paths of travel in the car park of the new building, protection of window openings and shade slats.
4. No construction is to be commenced until a Construction Certificate has been issued.
5. The subject property is flood prone and receives a level of flood protection from the Grafton flood levee system. To meet Council's current Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 6.4 metres Australian Height Datum (AHD) and ground levels at the site exceed this level.

However, you are advised that the BMT-WBM 'Lower Clarence Flood Model Update 2013' study indicates that the 1:100 year flood level (1% annual exceedance probability flood level) in the vicinity of the subject site is 7.28m Australian Height Datum (AHD) and the extreme flood level is 9.41m AHD. Council is currently reviewing the flood planning levels for North Grafton based on consideration of the revised flood model (Council resolution 13.043/14). Until that review is completed and a revised minimum floor level for primary habitable areas in North Grafton is determined the current minimum of 6.4m AHD will continue to apply. It is recommended that you take into consideration the findings of the BMT-WBM 'Lower Clarence Flood Model Update 2013' for this development.

6. A subdivision certificate fee is charged for the endorsement of linen plans. Fees for the 2018/19 financial year are \$79.00 per lot (minimum \$150.00).
7. As part of this approval, consent is granted for demolition of the dwelling at 30 Victoria Street and 'Existing Shed 2' as shown on plan titled 'Existing Site Plan', Sheet Ref A101 (Revision A), dated 26 October 2018 and drawn by Richard van Dorp Architects Pty Ltd.
8. Where the dwelling at 30 Victoria Street is to be relocated, relocation of the dwelling is to comply with all of Council's requirements.

**Amend Conditions as Follows:**

1. A total of ~~64~~ **62** car parking spaces visitor/customer car parking spaces shall be provided on-site. Such spaces and the access thereto shall be constructed of hardstanding material with spaces to be delineated to Council's satisfaction. Individual spaces and access ways are to be dimensioned in accordance with ~~AS2890 Council's Car Parking Code~~. **All dedicated car parking spaces must be accessible by B99 vehicles**. Any minor redesign of the development shall require car parking to be required on-site at the rate of one space for each unit, one for the manager's residence, three for

staff, and a provision for any restaurant/conference area calculated according to its revised floor area on the same basis as that used in the issue of this development application. (Reason: To ensure that adequate provision is made for the increased parking demand caused by the development and to ensure that such parking area is functional. [Section 90(1)(i)])

4. At least three **accessible** car parking spaces ~~for disabled persons~~ be provided and suitably marked or signposted to notify car park users of its intended use. (Reason: To provide for the needs of the disabled. [Section 90(1)(i)])
6. Detailed plans of site drainage are to be submitted to the City Engineer for approval, prior to issue of the Building **Construction Certificate** ~~Permit~~. The plans shall detail the existing and proposed ground levels, method of collection of roof and site drainage and connection to Council's drainage on the eastern side of Villiers Street. (Reason: To ensure that stormwater run-off is properly collected and conveyed to an adequate drainage facility. [Section 90(1)(b) and (h)])
12. A clearance of 1.5 metres shall be provided between proposed buildings and Council's sewers within the site. Relocation of sewers shall be at the full cost to the applicant and shall be in accordance with plans and specifications approved by the Director, Engineering Services. Council will require the submission of a bond in an amount to be determined. **Sewer relocation works are to be completed prior to the commencement of any building works on the site. A certificate of Compliance for Sewer works must be obtained from Council prior to the issue of a Building Construction Certificate. All works on live sewer main must be undertaken by Council staff at the developer's expense.** (Reason: To maintain the efficiency of the City's sewerage system. [Section 90(1)(l)])
15. Detailed landscaping plans for Council approval shall be lodged with Council prior to the issue of the **Building Construction Certificate** ~~Building Approval~~, showing proposed species and number and location of plantings. (Reason: To ensure that landscaping is appropriate having regard to the design and scale of the development and to the streetscape. [Section 90(1)(c) and (m)])
17. Provision is to be made during design for access for people with disabilities in accordance with Part D3 of the Building Code of Australia. Details demonstrating such shall be submitted with the **Building Construction Certificate** ~~building~~ application. Disabled access shall also be provided to the main reception/restaurant area: (Reason: To provide a practical means of access for all members of the public. [Section 90(1)(r)])
20. The walls and floors shall have a minimum sound transmission class of 45 where they divide units and any wall dividing a unit from a laundry must have an STC not less than 50 and provide a satisfactory level of insulation against impact sound. The applicant shall submit details to Council **of the proposed method of meeting the current sound and impact requirements of the Building Code of Australia** for consideration with the **Building Construction Certificate** ~~building~~ application. (Reason: To provide an acceptable amenity for the occupants of the motel. [Section 90 (1)(q)])

#### Insert New Conditions as Follow:

22. 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 K27DA3, K27DA4, K27DA5, K27DA6, K27DA7 and K27DA9, six (6) sheets, submitted/drawn by Richard van Dorp Architects Pty Ltd, as amended in red, or where modified by any conditions of this consent.
23. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Heritage

(formerly the Environment Protection Authority), including:

- a. Work Health and Safety Act 2011 and associated regulations
- b. WorkCover NSW Code of Practice for the Safe Removal of Asbestos
- c. Australian Standard 2601 (2001) - Demolition of Structures
- d. The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

A copy of Council's Asbestos Policy is available on Council's web site at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) or a copy can be obtained from Council's Customer Service Centres.

24. A detailed Waste Management and Minimisation Plan shall be submitted to and approved by Council prior to demolition work commencing. The plan shall include, but shall not be limited to, the identification of the materials to be re-used, the quantities of waste to be managed as part of the demolition process, and the proposed destination of materials for re-use, recycling or disposal.

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

26. **Working/Construction Hours** Working hours on the construction project being limited to the following:

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

The builder 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.

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

28. 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.

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

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

30. The new boundaries on either side of the new building at 30 Victoria Street shall be located to avoid significant upgrading to the adjoining buildings at 28 and 32 Victoria Street to achieve fire ratings required by the Building Code of Australia (BCA). In this regard a minimum 1.5m side boundary setback is recommended to avoid the need to upgrade the walls of existing buildings to



a 90/90/90 Fire Resistance Level (FRL). As 28 and 32 Victoria Street are heritage listed, details of the proposed method of meeting the fire separation requirements of the BCA, including protection of openings shall be submitted to and approved by Clarence Valley Council prior to issue of the Building Construction Certificate.

31. Roofing materials are to be uncoloured or a neutral, non-reflective colour.
32. New gutters are to be low front quad or ogee profile with metal round downpipes.
33. Certification is to be provided to the Principal Certifying Authority by a Registered Surveyor prior to the issue of the Subdivision Certificate, that all services and domestic drainage lines are wholly contained within the respective lots.
34. The Subdivision Certificate is to be registered prior to issue of the Final Occupation Certificate.
35. Provide a full schedule of materials, colours and finishes which are sympathetic to the setting of the heritage items in the vicinity of the site prior to issue of the Building Construction Certificate.
36. An archival report of existing buildings on the subject land, including their history, and heritage significance shall be prepared by a suitably qualified person in accordance with the publication "How to Prepare Archival Records of Heritage Items." In particular the requirements of Schedule A, Heritage Items of Local Significance. A minimum of three (3) copies shall be submitted to Council prior to any works commencing on the subject land. A supplementary archival report (minimum 3 copies) shall be compiled during the demolition and rebuilding phases, as applicable.

|             |                  |                                                                                                                                                                                  |
|-------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.023/19</b> | <b>DA2018/0785 – ALTERATIONS AND ADDITIONS TO INDOOR RECREATION FACILITY FOR POLICE CITIZENS YOUTH CLUB – 300 POWELL STREET, GRAFTON – WAIVING OF SECTION 7.11 CONTRIBUTIONS</b> |
|-------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                          |               |
|--------------------|--------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                              | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                        |               |
| <b>Reviewed by</b> | Manager - Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Nil                                                                      |               |

### SUMMARY

|                  |                                                                      |
|------------------|----------------------------------------------------------------------|
| <i>Applicant</i> | Stimson & Baker Planning                                             |
| <i>Owner</i>     | Clarence Valley Council and Department of Industry – Lands and Water |
| <i>Address</i>   | 300 Powell Street, Grafton                                           |

Council is currently considering Development Application DA2018/0785 for alterations and additions to the existing indoor recreation facility located at 300 Powell Street, Grafton. The existing indoor recreation facility is a Council owned facility managed by an external contractor, the Grafton Basketball Association, under a management agreement.

The project is being undertaken by Police Citizens Youth Club (PCYC), a community, non profit organisation. The estimated cost of works for the project is \$3 million dollars. Using the estimated construction cost, a Section 7.12 Contribution of \$30,000 is payable to Council if the development is approved. This payment is generally required prior to issue of the Construction Certificate.

To assist in the development application determination timeframe, this report is being presented to Council for consideration of accepting the proposed works in lieu of payment of Section 7.12 contributions only. This report does not provide a full assessment of the application. The development application is on public exhibition until 21 March 2019 at which time a full assessment of the proposal will be completed. A further report may be required to Council at that stage depending on the nature of any submissions received.

### OFFICER RECOMMENDATION

That Council waive the Section 7.12 Contributions of \$30,000 under Clause 2.18 of the Clarence Valley Contributions Plan 2011 as the works provide a public material benefit.

### COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

### COUNCIL RESOLUTION – 14.023/19

Lysaught/Kingsley

**That Council waive the Section 7.12 Contributions of \$30,000 under Clause 2.18 of the Clarence Valley Contributions Plan 2011 as the works provide a public material benefit.**

**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**

For information purposes only, Council at their meeting of May 2018 (Item No. 13.022/18) resolved that:

4. *Council in-principle agree to the transfer of the Grafton Sports Complex and surrounding land comprising Lot 22 DP712604, 288 Powell Street, Grafton to the ownership of the Police Citizens Youth Club (PCYC) on the conditions that there is:*
  - a. *Completion of a mutually beneficial negotiation (which has commenced) by PCYC with the Grafton Basketball Association about continuing use and the Association agreeing to terminate its current lease with Council.*
  - b. *Completion of negotiations by PCYC with the Grafton Ghosts - Senior and Junior Leagues, and NSW Crown Lands which may involve the PCYC becoming trustee of the toilets/change rooms on the side of the basketball complex as these are on Crown Lands.*
5. *Any transfer to PCYC has provisions to ensure that a basketball complex is maintained for future use of the community, especially if PCYC ceased to operate the complex.*
6. *The contract of sale include the provision for formal registration on title that should the PCYC cease operations at the centre the property is returned to Clarence Valley Council.*

**KEY ISSUES**

1. Clarence Valley Contributions Plan 2011

Clause 2.18 of Council's Contributions Plan 2011 states that Council can consider in lieu the need for payment of Section 94A Contributions where works in-kind or other material public benefit are offered in part or full satisfaction of contribution requirements.

Matters to be considered in determining offers of land or material public benefit under Clause 2.18.3 of the Contributions Plan include:

- *The extent to which the proposed land or material public benefit aligns with the objectives of this Plan, particularly the works schedule;*
- *The extent to which the proposed land or public material benefit duplicates or overlaps with existing Local Infrastructure;*
- *The extent to which the proposed land or material public benefit will satisfy community demand;*
- *The extent to which the proposed land or material public benefit is likely to require public funds for operations and maintenance;*
- *In the case of land offered for open space, recreation or community purposes, whether the proposed land complies with any criteria, specifications or standards established by the Council and that are contained in a policy or strategy that it has adopted;*
- *The applicant's expressed intention as to ultimate ownership of the proposed material public benefit;*

- *The program for provisions of the land or material public benefit;*
- *The proposed material public benefit conforming to an acceptable standard or workmanship and materials;*
- *An appropriate defects liability period;*
- *An agreement as to the cost of the proposed material public benefit which is agreed by both parties; and*
- *Any other matter the Consent Authority, in its discretion, considers pertinent to determining the offer.*

#### Comment

The proposed alterations and additions to the existing indoor recreation facility will be located upon Reserve 95853 and will be used for community purposes. The upgraded facilities will provide a community benefit by providing additional sporting infrastructure and amenities to the Grafton Regional Sports Centre in conjunction with the establishment of a PCYC.

The establishment of a PCYC will also provide benefits to the community and in particular youth, through the provision of services to encourage development of skills, character and leadership with an aim to reduce and prevent crime by and against young people.

The cost of construction is being funded in totality by the PCYC with no funding input required from Council. It is considered that the proposed alterations and additions to the Grafton Regional Sport Centre provide a material public benefit to the community and for this reason it is recommended that Council accept the works in lieu of the \$30,000 Section 7.12 contributions.

#### **COUNCIL IMPLICATIONS**

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

If Council supports to waive the Section 7.12 Contributions Council will not collect an amount of \$30,000 towards the local infrastructure.

##### **Asset Management**

The existing indoor recreation facility is managed by Council.

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

- Environmental Planning and Assessment Act 1979
- Clarence Valley Contributions Plan 2011

##### **Consultation**

No internal or external consultation was required as part of the request to waive the contributions.

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

N/A

|             |                                     |
|-------------|-------------------------------------|
| Prepared by | Carmen Landers, Development Planner |
| Attachment  | Nil                                 |

|             |                  |                                                                                                  |
|-------------|------------------|--------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.024/19</b> | <b>DA2018/0373 – 200 DWELLING MANUFACTURED HOME ESTATE – CARRS DRIVE, YAMBA – LOT 1 DP568545</b> |
|-------------|------------------|--------------------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

## SUMMARY

|                    |                                                               |
|--------------------|---------------------------------------------------------------|
| <i>Applicant</i>   | Mavid Developments Gold Coast Pty Ltd                         |
| <i>Owner</i>       | Sydney Lawsen, Marie Lawsen, Mark Lawsen and Christine Lawsen |
| <i>Address</i>     | Lot 1 DP568545, Carrs Drive, Yamba                            |
| <i>Submissions</i> | Three                                                         |

Development Application DA2018/0373 seeks approval for a 200 dwelling manufactured home estate with associated community facilities, site infrastructure and internal roads to be provided on a 12 stage basis.

The proposed development was advertised and notified and 3 submissions were received during the submission period. Issues raised within the submissions include impacts from flooding due to height of filling; impacts from traffic, noise, dust and access to St. James School and Carrs Drive during construction; and suitability of proposed internal layout of the manufactured home estate.

The other major consideration in determining the application is the potential biodiversity impacts from clearing. DA2018/0373 proposes to clear 7.78 hectares of native vegetation and therefore required the preparation of a Biodiversity Development Assessment Report (BDAR) to consider the impacts of the development under the *Biodiversity Conservation Act 2016*. Consideration of the impacts under the BDAR has triggered entry into the biodiversity offset scheme (BOS). The BDAR submitted with DA2018/0373 is the first such report submitted to Council in accordance with the new biodiversity conservation legislation. The BDAR has been assessed by Council and Office of Environment and Heritage, and has been given conditional support subject to the imposition of suitable conditions requiring offsets under the BOS by retiring credits based on the like-for-like rules or making a payment to the Biodiversity Conservation Trust calculated using the offset payments calculator.

This report discusses the key issues with the application within the body of this report and provides a recommendation for Council's consideration.

## OFFICER RECOMMENDATION

That DA2018/0373 be approved subject to the advices and conditions contained in Schedule 1.

## COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker

Against: Clancy, Novak

**COUNCIL RESOLUTION – 14.024/19****Baker/Novak**

That this item be deferred to April 2019 Council meeting to allow further discussions with the applicant on conditions.

Voting recorded as follows:

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

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

Development Application DA2018/0373 was received on 4 July 2018. The application was advertised and notified and 3 submissions were received as part of the exhibition period.

The subject land is zoned part R1 General Residential, E2 Environmental conservation and E3 Environmental Management under the provisions of the Clarence Valley Local Environmental Plan 2011. The site is approximately 18.42 hectares in area with the development area being approximately 7.78 hectares. The development is only to occur within the R1 zone and shall be constructed over 12 stages.

Map 1 - Extract of Site Plan by Zoran Architecture



Map 2 - Extract of Development Layout Staging Plan by Zoran Architecture



Manufactured home estates are ordinarily prohibited within the R1 zone using the provisions of the LEP, however, the proposed development is permissible with consent using Clause 6 of State Environmental Planning Policy No. 36 – Manufactured Homes Estates which permits development for the purposes of manufactured home estates on any land where caravan parks are permitted.

The proposed manufactured home estate is considered to be consistent with the general aims of SEPP 36 to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements and encouraging the provision of affordable housing in well designed estates.

As stated within the Statement of Environmental Effects submitted with the application, community and landscaping space will occupy an area of approximately 5.4 hectares including:

- Landscaping will be provided at a minimum 30m<sup>2</sup> per dwelling lot and totalling approximately 0.6 hectares;
- Communal space of 0.98 hectares; and
- Verge and park plantings of approximately 3.88 hectares.

The community amenities area provides for the following:

- Community facilities and buildings
- Visitor parking
- Vegetable garden
- Multiple BBQ facilities within the site to include electric BBQ, shade shelter with tables and seating
- Activity lawn
- Swimming pool
- Bowling green

**KEY ISSUES****1. Impacts of potential increased flooding from height of fill**

Flooding impacts: Concerns have been raised about the impact that the proposed filling of the site will have on flooding and stormwater management in the vicinity. This has been expressed particularly by St. James School which is sited at levels below those proposed by this, and other developments adjacent to the school.

A flood modelling exercise and flood impact assessment has been conducted by BMT WBM Pty. Ltd. for the West Yamba Urban Release Area which has assumed the land zone R1 will be filled above the 1:100 flood level. This assessment has shown that no change in flooding is predicted within the school site.

Stormwater management: The application proposes to discharge stormwater runoff from the filled site through water quality management (bioretention) filters to the land west of the proposed development area. This is an acceptable approach. Details of the outlets from the bioretention filters will be required with the detailed design.

**2. Impacts from traffic, noise and dust during filling construction**

Filling impacts: Concerns have been raised about the impact of construction traffic, and especially the volume of trucks that will be required for the site filling. This will significantly change the traffic in Carrs Drive compared to the existing situation. Advice from the developer's representative has indicated that the filling is likely to be carried out over the development area as a single exercise, or possibly in 2 stages, subject to availability of suitable fill material. Unless alternative filling options such as dredging become available, the traffic impact is an inevitable consequence of developing this and other adjacent areas. These traffic impacts could be partially mitigated by reducing the speed limit during construction and haulage operations. The application has been conditioned accordingly and details are to be provided as part of the Construction Management Plan.

Impact on Carrs Drive road pavement: Additional traffic in Carrs Drive will increase the rate of deterioration of the road pavement. It is a requirement of the approval under SUB2014/0016 (22 Carrs Drive) that the existing road pavement is to be reconstructed between O'Grady's Lane and Miles Street.

Similarly, this development requires the Carrs Drive frontage to the development to be reconstructed. The road pavement design will cater for future traffic loading. A condition assessment/dilapidation report will be conducted before any work commences to determine a baseline condition of Carrs Drive that the developer will need to maintain during and on completion of the work. A bond is also required to be paid to provide Council with a means of restoring Carrs Drive that results from haulage operations to ensure any damage is repaired at the applicant's cost. The DA will be conditioned accordingly.

Traffic Generation: The application included a Traffic Impact Assessment prepared by Bitzios Consulting. The assessment includes estimates of traffic for the subject development, as well as the subdivision currently underway at 22 Carrs Drive, and allows growth factors for Yamba Road traffic for a 10 year horizon from 2020 (i.e. to 2030). The assessment indicates that the existing intersection arrangement is acceptable for existing traffic.

It is acknowledged that Council has received notification of grant funding towards the upgrade of 4 key intersections on Yamba Road. The funding in no way negates the need for the developers to contribute to their proportion of the upgrading works for each respective development. As per the approval issued for 22 Carrs Drive (160 lot subdivision) and service station on corner of Treelands Drive and Yamba Road, this development will also be conditioned to either construct infrastructure or contribute to their apportionment of the costs.



RMS Response: The Roads and Maritime Services were consulted during the assessment of the application. A summary of issues are provided below:

| RMS comment                                                                      | CVC Response                                                                                                 |
|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 1. Traffic impact assessment to cater for total WYURA                            | Each developer in the WYURA is assessing the impacts of their development in addition to existing approvals. |
| 2. Carrs Drive upgrading                                                         | Conditioned as part of the approval                                                                          |
| 3. Connections for active transport users (pedestrians/cyclists)                 | Conditioned as part of the approval                                                                          |
| 4. Yamba Road works to be undertaken in accordance with RMS Road Work Guidelines | Conditioned as part of the approval                                                                          |
| 5. Section 138 Approval required                                                 | Conditioned as part of the approval                                                                          |
| 6. Concept intersection design of Carrs Drive and Yamba Road                     | This has been prepared as part of SUB2014/0016                                                               |
| 7. Procedures applicable to traffic signals                                      | N/A – No traffic signals expected as part of this development                                                |
| 8. Provision for connection to Yamba Bypass from Carrs Drive                     | This has been prepared as part of SUB2014/0016                                                               |

### 3. Biodiversity

As this application represents the first BDAR to be considered by Council a summary of the new Biodiversity legislation requirements is provided for information purposes below.

The *Biodiversity Conservation Act 2016* commenced on 25 August 2017. The Act is a key pillar of the NSW Government's framework for biodiversity assessment and management, and outlines the framework for addressing impacts on biodiversity from development and clearing. It establishes a framework to avoid, minimise and offset impacts on biodiversity from development and clearing through the Biodiversity Offsets Scheme (BOS).

There are 2 key elements to the BOS:

- a) Developers and landholders who undertake development or clearing, generating a credit obligation which must be retired to offset their activity.
- b) Landholders who establish a biodiversity stewardship site on their land, generating credits to sell to developers or landholders who require those credits, to securely offset activities at other sites.

The Biodiversity Offsets Scheme applies to local development (assessed under Part 4 of the *Environmental Planning and Assessment Act 1979*) that triggers the Biodiversity Offsets Scheme threshold or is likely to significantly affect threatened species based on the test of significance in section 7.3 of the *Biodiversity Conservation Act 2016*.

The *Biodiversity Conservation Regulation 2017* sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has 2 elements:

1. Area clearing threshold - whether the amount of native vegetation being cleared exceeds a threshold area set out below in table 1.
2. Whether the impacts occur on an area mapped on the Biodiversity Values map published by the Minister for the Environment.

If clearing and other impacts exceeds either trigger, the Biodiversity Offsets Scheme applies to the proposed development including biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017.

### Area clearing threshold

The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP).

TABLE 1: Area Clearing Threshold Triggering Entry into the BOS

| Minimum lot size associated with the property | Threshold for clearing, above which the BAM and offsets scheme apply |
|-----------------------------------------------|----------------------------------------------------------------------|
| Less than 1 ha                                | 0.25 ha or more                                                      |
| 1 ha to less than 40 ha                       | 0.5 ha or more                                                       |
| 40 ha to less than 1,000 ha                   | 1 ha or more                                                         |
| 1,000 ha or more                              | 2 ha or more                                                         |

The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided.

In the case of the proposed development, the site has no minimum lot size and hence, any clearing over 0.25 hectares triggers the BOS. The proposed development is intending to clear 7.78 ha and therefore triggers entry into the BOS.

### Biodiversity Development Assessment Report

A BDAR was prepared by GHD Pty. Ltd. for the subject land to identify the impacts of the proposal on the biodiversity values on the site. In conclusion of the report it was found that the proposal would result in the following impacts:

- *Removal of 7.78ha of PCT 1230 – Swamp Mahogany swamp forest on coastal lowlands.*
- *Potential indirect impacts to adjoining vegetation associated with edge effects, light spill, noise and introduction of weeds and pathogens. These impacts have been ameliorated through project design and the managed APZ located between the development and intact vegetation in the western portion of the site.*

As a requirement of the BAM, the environmental assessments and calculations undertaken in the BDAR has found the proposal requires the offsetting of 221 ecosystem credits for impacts on PCT1230 – Swamp Mahogany swamp forest on coastal lowlands. A PCT or Plant Community Type is a vegetation community classification system that is used in the BC Act. All vegetation types are currently being assigned a PCT number, and given associated credits. PCT 1230 is a threatened ecological community or TEC (formally known as an Endangered Ecological Community (EEC) under the now repealed Threatened Species Conservation Act). The BOS states the offset rules permit proponents to meet their offset obligation by:

1. retiring credits based on the like-for-like rules or
2. making a payment to the Biodiversity Conservation Trust calculated using the offset payments calculator

The Biodiversity Offset Payment Calculator has estimated that 221 credits for PCT 1230 requires the payment of **\$1,055,869.95 into the Biodiversity Conservation Trust (BCT)**. **The BCT was established under the BC Act to administer conservation on private lands through stewardship agreements. The proponent has the choice to pay this amount to the BCT, or retire credits from stewardship sites, as stated above. The development application will be conditioned accordingly.**

The preferred approach by the developer is to offset the impacts of the development by securing and retiring appropriate credits from stewardship sites that fit within the trading rules of the BOS in accordance with the 'like-for-like' report generated by the BAM calculator. If such credits are unavailable, credits are to be sourced in accordance with the 'variation report' generated by the BAM calculator. A payment to the Biodiversity Conservation Trust would only be considered if a suitable number and type of biodiversity credits cannot be secured from third parties.

As part of the BDAR assessment, comments from the Office of Environment were sought and their correspondence is summarised as:

- The Clarence Valley Council should ensure the nominated bushfire asset protection zone location and its ongoing management forms part of the development approval.
- The BAM calculator should be reviewed to ensure the correct Confirmed and Candidate species have been assessed.
- Further information should be provided to detail and justify how the flora and fauna surveys meet the BAM requirements.

Council staff consider that after consideration of the proposed offsetting mechanisms via the BOS and imposition of conditions requiring the preparation of a vegetation management plan for the residual land (i.e. the part of the subject land not being developed), the development on this degraded site is a suitable use of the land.

#### **4. Suitability of site layout**

Concerns were raised within one of the submissions regarding the suitability of the internal layout of the manufactured homes estate and lack of detail regarding the setout of future homes on the site.

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* sets out the requirements for manufactured home estates in terms of land and dwelling site requirements, setbacks, roads and services. The development is required to comply with the Regulations and the application has been conditioned accordingly. A section 68 approval is also required to be issued by Council prior to operation of the site as a manufactured home estate ensuring compliance with the Regulation.

### **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 Fee and Charges. Assessment of the application has been completed by staff utilising recurrent staff budgets.

An increase in the number of heavy vehicles using Carrs Drive will increase the potential for damage to occur to the road pavement which has potential to impact on Council's budget. Conditions are proposed to ensure road condition is properly assessed prior to commencement of the filling works and that appropriate arrangements (including monetary bonds) are in place to ensure any damage is repaired at the applicants cost.

#### **Asset Management**

Carrs Drive is a Council managed road. Constant heavy vehicle traffic along the haulage route to the subject site from fill source sites will increase the likelihood of repairs and maintenance work on the road surface to ensure it is kept in a trafficable state for road users during the duration of the project.

**Policy or Regulation**

- Environmental Planning and Assessment Act 1979
- Biodiversity Conservation Act 2016
- Environmental Planning and Assessment Regulation 2000
- Biodiversity Conservation Regulation 2017
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- State Environmental Planning Policy No. 36 – Manufactured Home Estates
- State Environmental Planning Policy No. 55 - Remediation of Land
- State Environmental Planning Policy (Coastal Management) 2018
- Clarence Valley Local Environmental Plan 2011
- Development Control Plan for Development in Environmental Protection, Recreation and Special Use Zones
- Development Control Plan for Residential Zones Development Control Plan
- NSW Coastal Design Guidelines

**Consultation**

The following internal section of Council was consulted during the assessment of the application.

| <i>Internal Section or Staff Member</i> | <i>Comment</i>            |
|-----------------------------------------|---------------------------|
| Environment (Flora and Fauna)           | Supported with conditions |
| Environmental Health                    | Supported with conditions |
| Health and Building                     | Supported with conditions |
| Engineering                             | Supported with conditions |

The Roads and Maritime Services were also notified as part of the application. A copy of their comments is contained within the attachments. Issues raised by the RMS have been considered in the key issues section above and addressed as part of the Section 4.15 assessment.

The Office of Environment and Heritage were also consulted as part of the application assessment and consideration of their comments has been included under the biodiversity section of the key issues. A copy of their correspondence is contained in the attachments.

**Legal and Risk Management**

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

|             |                                                                                                                                                                                                                                                                                   |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Carmen Landers, Development Planner                                                                                                                                                                                                                                               |
| Attachment  | <ol style="list-style-type: none"> <li>1. Plans</li> <li>2. Biodiversity Development Assessment Report</li> <li>3. Submissions</li> <li>4. External Referrals – Office of Environment and Heritage and Roads and Maritime Services</li> <li>5. Section 4.15 Assessment</li> </ol> |

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2018/0373**

**Advices****Building Advices**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
3. The car parking area has been included in the minimum 10% area as community amenities which is not in accordance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. The design must be altered to comply with the regulation.

**Engineering Advices**

4. Civil Construction Certificate (**Civil CC**) approvals, issued by Council and/or accredited private certifier are required for this development.
  - a A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works.
  - b Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.
  - c Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
  - d Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
  - e A **Civil CC** application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
5. A completed 'Design Certification Report' with supporting documentation, in accordance with the requirements of **NRDC** must be submitted to Council and/or accredited private certifier with the submission of the **Civil CC** application.
6. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **Civil CC** has been issued by Council and/or accredited private certifier.

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

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

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

The proposed development has been assessed as contributing an additional demand on Council's water supply and Council's sewerage system, as follows:

Water 0.6 ET per 2 bedroom dwelling and 0.8ET per 3 bedroom unit  
Sewer 0.75 ET per 2 bedroom dwelling and 1.0 ET per 3 bedroom unit

The headwork charges at 2018/19 financial year rates are:

Water Headworks \$4,817.00 per additional ET  
Sewer Headworks \$11,779.00 per additional ET

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. The payment of the contributions must be made for each relevant stage prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993.

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

8. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
9. 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.
10. 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.
11. The Earthworks Management Plan must refer to the information contained in the Preliminary Geotechnical and Environmental Assessment Revision 2.

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.
- d The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements.

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.

12. If an 'uncompleted works' bond is required, payment of the bond is the responsibility of the developer and in accordance with Council's 'Fees & Charges'.
13. Council requires a servicing strategy for the whole of the West Yamba Urban Release Area (WYURA) to ensure there is orderly and logical servicing of development in the West Yamba area. A draft strategy has been adopted, and the final version will identify developer contributions from the developers in WYURA. Subject to the acceptance of a final servicing strategy by Council, development of the Manufactured Housing Estate may require construction of a rising main to the sewerage treatment plant (STP). If this is required to be constructed, the developer would be liable to pay the full cost unless initial or "early stage" West Yamba developer parties can negotiate cost sharing arrangements with each other.

Existing water mains do not have adequate capacity for the potential number of residential lots in the WYURA. Subject to the acceptance of a final servicing strategy by Council, development of the Manufactured Housing Estate may require construction of a trunk supply main as part of making a connection to Council's water supply.

This advice should be read in conjunction Condition 44 Voluntary Planning Agreement Alternative.

Other infrastructure such as energy/electricity and telecommunication services/NBN will also need to be planned and provided for the developed WYURA. Satisfactory arrangements will need to be made with designated State and Local Authorities to determine availability, timing and cost arrangements, including the payment of contributions where required.

**Conditions**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans numbered:
  - Aerial/Site Analysis Plan Drawing No. DAS100 by Zoran Architecture Revision C1 dated 29 June 2018
  - Master Site Plan Drawing No. DAS101 by Zoran Architecture Revision C1 dated 29 June 2018
  - Site Setout Plan Drawing No. DAS105 by Zoran Architecture Revision C1 dated 29 June 2018
  - Staging Plan Drawing No. DAS106 by Zoran Architecture Revision C1 dated 29 June 2018
  - Ground Floor Plan (Clubhouse) Drawing No. SKC201 by Zoran Architecture Revision C1 dated 29 June 2018
  - Elevations (Clubhouse) Drawing SKC301 by Zoran Architecture Revision C1 dated 29 June 2018
  - Statement of Landscape Intent dated June 2018 Issue B,

Seven (7) sheets, as amended in red, or where modified by any conditions of this consent.

**Engineering Conditions**

2. A **CivilCC** is required for this development. The assessment and issue of a **CivilCC** may be made for the entire project, or the earthworks may be separated from the other works.

The issue of a **CivilCC** that includes bulk earthworks is subject to provision of a 'Bulk Earthwork Bond' (BE Bond) in the amount of \$100,000 as security to guarantee the following:

- a) Bulk earthwork and preparatory construction works are completed by the applicant, to the approval of Council, within a twelve (12) month period from the date of approval of the Construction Certificate;
- b) The BE Bond may be called up by Council at its discretion and used to fund completion of and/or remedial works related to the 'Bulk Earthwork and Preparatory Works' Construction Certificate approval. Costs will be as determined by Council. Council will provide the developer with notice of its intention to call up the bond;
- c) If the BE Bond is used by Council to complete any remedial works, the BE Bond amount must be reinstated to the total of \$100,000 prior to any bulk earthworks continuing for this development;
- d) The developer complies with all requirements of this consent relating to earthworks;
- e) The developer, concurrently with the bulk earthworks operations, proceeds with preparation of an engineered design for the road, drainage and associated infrastructure systems along the development's Carrs Drive frontage. The design requires the approval of Council and must comply with NRDC and 'AustRoads' engineering guidelines including consideration of the horizontal and vertical centreline geometry, the impact on existing property and infrastructure and the current alignment of Carrs Drive to the north and south of the development;
- f) Provision of a Vibration Impact Management and Dilapidation Report for St James School and buildings located on Lot 3 DP733507 for the endorsement of Council and;
- g) Provision of a road condition audit report and maintenance / repair management strategy for the approval of Council.

The BE Bond will be returned by Council following submission of the required Carrs Drive design for Council approval, a successful bulk earthwork and preparatory works completion inspection and the submission of all related NRDC certification, as required by this consent.

3. A Certificate of Compliance for Water and or Sewer works must be obtained from Council for each and every stage of the development. This may require payment of a fee.



4. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
5. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **Civil CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Subdivision Certificate / Occupation Certificate. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.

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

- a including earthwork batters and retaining walls, have been designed to be structurally adequate
  - b will not be affected by landslip either above or below the works
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
6. 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)
7. Prior to the issue of the Approval to Operate under Section 68 of the Local Government Act 1993 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.
  8. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
  9. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document workplace health and safety, traffic

management (pedestrian & vehicular) and the proposed methods of work within the development work site and the associated public road network.

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

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

10. For any part of the site that comes under the jurisdiction of another Government department, a Controlled Activity approval (or similar approval) may be required. Any such approval must be obtained and provided to Council prior to issue of the Construction Certificate.
11. Prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993, the applicant is to provide water supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
12. A Water Reticulation Design Plan must be submitted for assessment and approval by Council, prior to the issue of a **Civil CC**. The proposed location of the water service and meter must be shown on the drawings. Connection to the public water reticulation systems requires the approval of Council under the NSW Local Government Act 1993.
13. A single property service shall be provided in an accessible location for maintenance and reading purposes. The water meters must be of a type approved by Council or purchased from Council.
14. Prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993, sewerage reticulation infrastructure is to be provided to service the development, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy, West Yamba Development Servicing Strategy and NRDC.
15. A Sewerage Reticulation Design plan must be submitted for approval with the application for a **Civil CC**.

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

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

16. 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.

17. Benkelman beam testing of the constructed road pavement in Carrs Drive 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.
18. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **Civil CC** application for approval by Council. Road reservation widths are to be in accordance with **NRDC** plus additional width to contain proposed **WSUD** components as approved by Council.
19. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **Civil CC** approval. 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.

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.

20. 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.

Batters on table/swale drains must be suitable for mowing by domestic mowers which will generally require a batter with a maximum grade of 1 in 6 unless approved by Council. The width of road reservations must account for any batters and an area suitable for pedestrians at least 2.5 metres wide at all road frontages where there is a water main, and at least 2 metres at all road frontages where there is no water main.

21. The Applicant is to prepare a detailed design of Bike and Pedestrian facilities along Carrs Drive frontage to the site and within the development site and connecting to existing facilities for approval prior to application for **Civil CC**. The minimum width of all shared bicycle/footpaths shall be 2.5m.
22. 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 generally consistent with the Stormwater Management Report by GeoLINK Reference 3056-1010 dated 25 June 2018.

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** Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

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

23. 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 2.09m AHD and the Extreme Flood Level is RL 3.8m AHD. 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**.

24. An easement is to be created to provide for conveyance of drainage through the subject land, where there is water draining off roads, Council land or Council drainage infrastructure in upstream drainage systems, then the easement must benefit Council only.

The right to release, vary or modify the easement is to be assigned to Clarence Valley Council where Council has the benefit.

25. Prior to the release of the Approval to Operate or acceptance of works 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.

26. In accordance with **NRDC** and prior to the release of the Approval to Operate under Section 68 of the Local Government Act 1993, 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.

27. Prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993, the pedestrian pathway / cycleway / development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) 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.

28. Prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development.

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

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.

29. 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 **Civil CC**.

The Earthworks Management Plan is to be prepared in accordance with Council's guidelines and is to be generally consistent with the drawings by Manage Design Engineer Pty. Ltd. The guidelines are listed in the Advices section of this Notice.

30. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
31. Prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993, certification from the Geotechnical Inspection and Testing Authority who undertook Level 1 inspection and testing, in accordance with AS3798 will be required confirming that the land is suitable for the intended purpose. All testing as required in AS3798 and NRDC must be submitted.
32. 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 Approval to Operate under Section 68 of the Local Government Act 1993.
33. Any excavation resulting in disturbance of more than one tonne of soil at a depth of greater than 1m below natural ground surface, or work that is likely to lower the watertable 1m below natural surface shall comply with Council's Acid Sulfate Soil management provisions.
34. 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 Civil Construction Certificate 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.
35. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued or the development is accepted 'Off Maintenance'.

36. 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** for the relevant stage. 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
37. 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.
38. 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.
39. 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.
40. The boom gate at the entry to the site must be located to ensure adequate storage for vehicles waiting to enter is available, without any vehicles waiting in any part of the Carrs Drive road carriageway. Details of the placement of the boom gate are to be provided with the **CivilCC** design.
41. Road upgrading for the full frontage of the development site to Carrs Drive is required. The upgrading is to consist of:
- construction of the road carriageway to provide 2 x 3.5m travel lanes;
  - a 1.0m sealed shoulder with a flush concrete edge strip on the western side;
  - a BAR intersection treatment in accordance with AUSTROADS Guidelines at the entrance to the site, which will incorporate 2.5m widening on the eastern side of Carrs Drive, generally as identified in the Traffic Impact Assessment in Appendix J submitted with DA2018/0373.
  - allow for table drains, services corridor (considering maintenance access) and pedestrian / bicycle pathways.
- The centreline level of Carrs Drive is to be no lower than the 1:20 ARI flood level in the area (R.L. 1.66m AHD). Details of the Carrs Drive works are to be provided with the **CivilCC** design.
42. Council has been provided with concept engineering designs for intersection treatments at Treelands Drive - Yamba Road Intersection, Shores Drive - Yamba Road Intersection and Carrs Drive - Yamba Road Intersection.
- Subject to Council approval, these designs will be used to determine works required, apportionment of costs to construct and a program for construction.
- The developer must construct the required works as per the approved program, or alternatively, may seek to enter into a Voluntary Planning Agreement with Council prior to the issue of a Civil Construction Certificate.

Any contribution amounts that form part of a VPA are required to be paid prior to the issue of any Occupation Certificate and are to be based on the number of allotments to be released in the relevant stage.

43. The haulage of fill and other construction materials must be via Yamba Road and Carrs Drive. For the duration of the construction program the developer will be responsible for the repair of any development related damage to Carrs Drive, including the existing intersections with Yamba Road, O'Gradys Lane and Harold Tory Drive.

An existing road seal and pavement condition report is to be provided for Carrs Drive. The report must be completed by a suitably qualified and independent engineer or Geotechnical Testing Authority (NATA), and is to be submitted to Council prior to the issue of the first Civil Construction Certificate. 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 phase of the development.

A program of regular inspection and maintenance activity must be included in the report. Council will undertake random audits and visual inspections of the existing road network during the construction and maintenance period.

44. In lieu of imposed conditions to construct strategic infrastructure within this consent, the applicant may enter into a Voluntary Planning Agreement (VPA) with Council for the provision of strategic road, drainage, water and sewerage infrastructure. Funding shall be based on a negotiated apportionment that must consider (but not be limited to):

- The total contributing catchment of the West Yamba Urban Release Area (WYURA) compared to the number of dwellings within the development.
- The cost of the land resumption, services relocations and traffic management during construction for the design and construction of upgraded traffic treatments or roundabouts at Shores Drive - Yamba Road Intersection, Carrs Drive - Yamba Road Intersection and Treelands Drive - Yamba Road Intersection
- The requirements determined by the water and sewerage 'Servicing Strategy', as conditioned
- The cost of upgrading and / or maintaining the existing road, drainage water and sewerage networks due to the impacts of the proposed development

The VPA must be completed, or the infrastructure required constructed, prior to the issue of the Occupation Certificate for each and every stage.

If a Voluntary Planning Agreement is entered into, pursuant to section 7.4 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the applicant is to execute and deliver to the Council the Planning Agreement, in accordance with Subdivision 2, Division 6 of Part 4 of the EP&A Act, which the applicant/developer has offered to enter into.

Council will consider a reduction of 7.12 Contributions where it can be demonstrated by the developer that works in-kind and other material benefits have been provided that serve the West Yamba Urban Release Area, under the provisions of the Clarence Valley Contributions Plan 2011, Clause 2.18.

## Contaminated Land Conditions

45. The revised Environmental Assessment prepared by RGS on 5 October 2018 must be amended to include detailed information on sampling and remediation of the dip site. The following information must be provided and approved by Council prior to release of the Construction Certificate (CC):
- RGS sampling identified some elevated levels of Arsenic around the dip site. These elevated levels coincide with the elevated levels identified in the NSW Department of Agriculture sampling on this dip site in 1998 (copy provided to RGS on 20/11/2018). These elevated levels likely indicate the location of the Dip bath, Drain pen, Waste sump and/or Drain yard. Further sampling must be undertaken to identify any further elevated levels in and around these areas and the sampling must be undertaken at least two depths for each sample site (0-150mm and 600-1000mm).
  - The process for removing the concrete capping and undertaking further sampling under the capping in and around the exposed dip bath must be outlined.
  - Stage 2 report must follow the removal of the capping and the additional sampling. This report will detail the results of the additional sampling and the remediation and validation of the dip site.
  - The remediation works are to be completed and site validated prior to commencement of any works in the affected area of the site. Evidence that this has been completed shall be submitted to Council upon completion.

## Acid Sulfate Soils

46. A detailed Acid Sulfate Soil Management Plan is to be submitted to Council for review prior to issue of a Civil CC.

## Building Conditions

47. The community buildings and amenities are not to be occupied or used until such time as an Occupation Certificate has been issued.
48. **Working/Construction Hours** Working hours on the construction project being limited to the following:

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

The builder 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.

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

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

50. Where the work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves enclosure of a public place, the following must be provided:
- a A hoarding or fence must be erected between the work site and the public place.
  - b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to



persons in the public place.

- d Any such hoarding, fence or awning is to be removed when the work has been completed.

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

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

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

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

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

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

53. 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.

54. All building construction for non-residential buildings on the site below 3.0m AHD shall be of flood compatible materials.

55. All dwellings on the site shall have a minimum finished floor level of 3.0m AHD with all materials of construction below that height being of flood compatible materials.

56. An Emergency Response Plan for a major flood event of the site shall be prepared by an appropriately qualified person and incorporated into emergency procedures for the development. A copy of that plan is to be provided to Council prior to the issue of the approval of the park to operate.

57. A manufactured home must not be installed on a dwelling site unless each major section of the home has been constructed and assembled at, and transported to the manufactured home estate from, a place of manufacture outside the manufactured home estate.

58. Council must be given written notice of the installation of a manufactured home or associated structure within the site within 7 days after its completion.  
The notice:

- (a) must indicate the site identifier of the dwelling site on which the manufactured home or associated structure has been installed, and
- (b) must include the particulars contained on each compliance plate relating to the manufactured home or associated structure.

The notice must be accompanied by:

- (a) a copy of the engineer's certificate for the manufactured home or associated structure, and
- (b) a fully dimensioned diagram of the dwelling site on which the manufactured home or associated structure is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this part have been complied with.

59. Full hydraulic details for all internal plumbing and drainage including internal sewer mains and fire services shall be prepared by an appropriately qualified hydraulic engineer and submitted to Council for approval prior to any work starting on that stage of the development.

#### Section 7.12 Contributions

60. Payment to Council of the contributions pursuant to Section 7.12 of the Environmental Planning and Assessment Act:

\$127,250.00

GL S94ACVCOthResAcco

This amount is based on the following calculation:

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
- b The value of development stated in the application was \$12,725,000.00

The contributions are to be paid to Council prior to release of the approval to Operate under Section 68 of the Local Government Act 1993 for each and every stage. All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

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. A true estimate of the value of development must be provided when application is made for the Construction Certificate.

#### **Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005**

- 61. The proposed development must comply with Part 2 Division 3 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*. This must be demonstrated prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993.
- 62. An approval to operate under Section 68 of the Local Government Act 1993 must be issued prior to use of the site as a manufactured homes estate for each and every stage.
- 63. Community buildings and amenities are to be provided in accordance with the Staging Plan by Zoran Architecture as submitted with the application.

**Swimming Pool**

64. The Public Health Act 2010 and Public Health Regulation 2012 require notification of public swimming pools and spas be made to Local Government (Clarence Valley Council) prior to operation.
65. The operation of the swimming pool must comply with the NSW Public Health Regulation 2012 Schedule 1 Requirements for public swimming pools and spa pools (Clause 15).

**Heritage**

66. Should any Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and all directions of the Office of Environment and Heritage be complied with.

**Environment**

67. For all trees at the interface with any development related works, compliance with the provisions of Australian Standard *AS4970-2009 Protection of Trees on Development Sites*.
68. A Vegetation and Weed Management Plan is to be submitted and approved prior to any works commencing for the ongoing management of:
- The retained vegetation in the 15m APZ buffer within the development footprint; and
  - The residual land contained within the E2 and E3 zones;
  - Bioretention areas.
69. Prior to any construction (including clearing and earthworks) commencing on the site, temporary fencing must be erected around the boundary of the development site to distinguish the development site from adjacent environmental conservation/management land.
70. Site sheds, materials, machinery and waste are to be located and stored or deposited, temporarily or otherwise on the development site so that no impacts occur on retained vegetation.
71. Prior to any works commencing on site, evidence must be provided to the consent authority demonstrating that:
- The applicable 221 credits for PCT 1230 based on the like-for-like basis have been retired. This shall be in the form of a credit retirement report issued by OEH confirming credit transactions; or
  - The applicable payment into the Biodiversity Conservation Trust (BCT) has been paid. The Biodiversity Offset Payment Calculator has estimated that 221 credits for PCT 1230 which requires the payment of **\$1,055,869.95 into the Biodiversity Conservation Trust (BCT). This shall be in the form of a 6.33 Statement Confirming Payment into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust.** The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference.

**Landscaping**

72. Landscaping shall be carried out in the accordance with the Statement of Landscape Intent dated June 2018 Issue B.

|             |                  |                                                                                                                                |
|-------------|------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.025/19</b> | <b>DA2018/0557 HEALTH SERVICES FACILITY (MEDICAL CENTRE AND AUXILIARY PHARMACY), 202 QUEEN STREET, GRAFTON, LOT 1 DP400843</b> |
|-------------|------------------|--------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                        |               |
|--------------------|------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                            | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                      |               |
| <b>Reviewed by</b> | Manager Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                    |               |

**SUMMARY**

|                    |                                            |
|--------------------|--------------------------------------------|
| <i>Applicant</i>   | Planit Consulting Pty Ltd                  |
| <i>Owner</i>       | Centrel Pty Ltd                            |
| <i>Address</i>     | 202 Queen Street, Grafton (Lot 1 DP400843) |
| <i>Submissions</i> | 2 objections                               |

Development Application DA2018/0557 seeks approval for a Health Services Facility (Medical Centre and Ancillary Pharmacy) to be constructed on the vacant lot at 202 Queen Street, Grafton.

The proposal seeks variations to front and side setbacks and landscaped areas required by Council's Residential Zones Development Control Plan (the DCP). The proposed variations are outside of staff delegations and are reported to Council for consideration.

This report discusses the merits of the proposed variations and the issues raised in the submissions and makes a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That:

1. Council agree to vary the front and secondary setback as well as the landscaping requirements proposed by the development, and
2. DA2018/0557 be approved subject to the imposition of conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Novak/Baker

That Council:

1. Agree to vary the front and secondary setback as well as the landscaping requirements proposed by the development, and
2. Approve DA2018/0557 subject to the imposition of conditions contained in Schedule 1 with an amendment to condition 51 to allow the operation of hours to be 7.00 am to 9.00 pm seven days a week.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

## MOTION

Williamson/Lysaught

That Council:

1. Agree to vary the front and secondary setback as well as the landscaping requirements proposed by the development.
2. Approve DA2018/0557 subject to the imposition of conditions contained in Schedule 1 with an amendment to condition 51 to allow the operation of hours to be 7.00 am to 9.00 pm Monday to Saturday inclusive and 8.00 am to 4.00 pm Sunday.

## AMENDMENT TO MOTION

Toms/Kingsley

That Council:

1. Agree to vary the front and secondary setback as well as the landscaping requirements proposed by the development, and
2. Approve DA2018/0557 subject to the imposition of conditions contained in Schedule 1 with an amendment to condition 51 to allow the operation of hours to be 7.00 am to 9.00 pm seven days a week.

Voting recorded as follows:

For: Novak, Baker, Kingsley, Toms, Clancy, Simmons

Against: Ellem, Williamson, Lysaught

The Amendment to Motion was put and declared CARRIED. The amendment became the motion.

**COUNCIL RESOLUTION – 14.025/19**

**Williamson/Lysaught**

**That Council:**

1. **Agree to vary the front and secondary setback as well as the landscaping requirements proposed by the development, and**
2. **Approve DA2018/0557 subject to the imposition of conditions contained in Schedule 1 with an amendment to condition 51 to allow the operation of hours to be 7.00 am to 9.00 pm seven days a week.**

**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

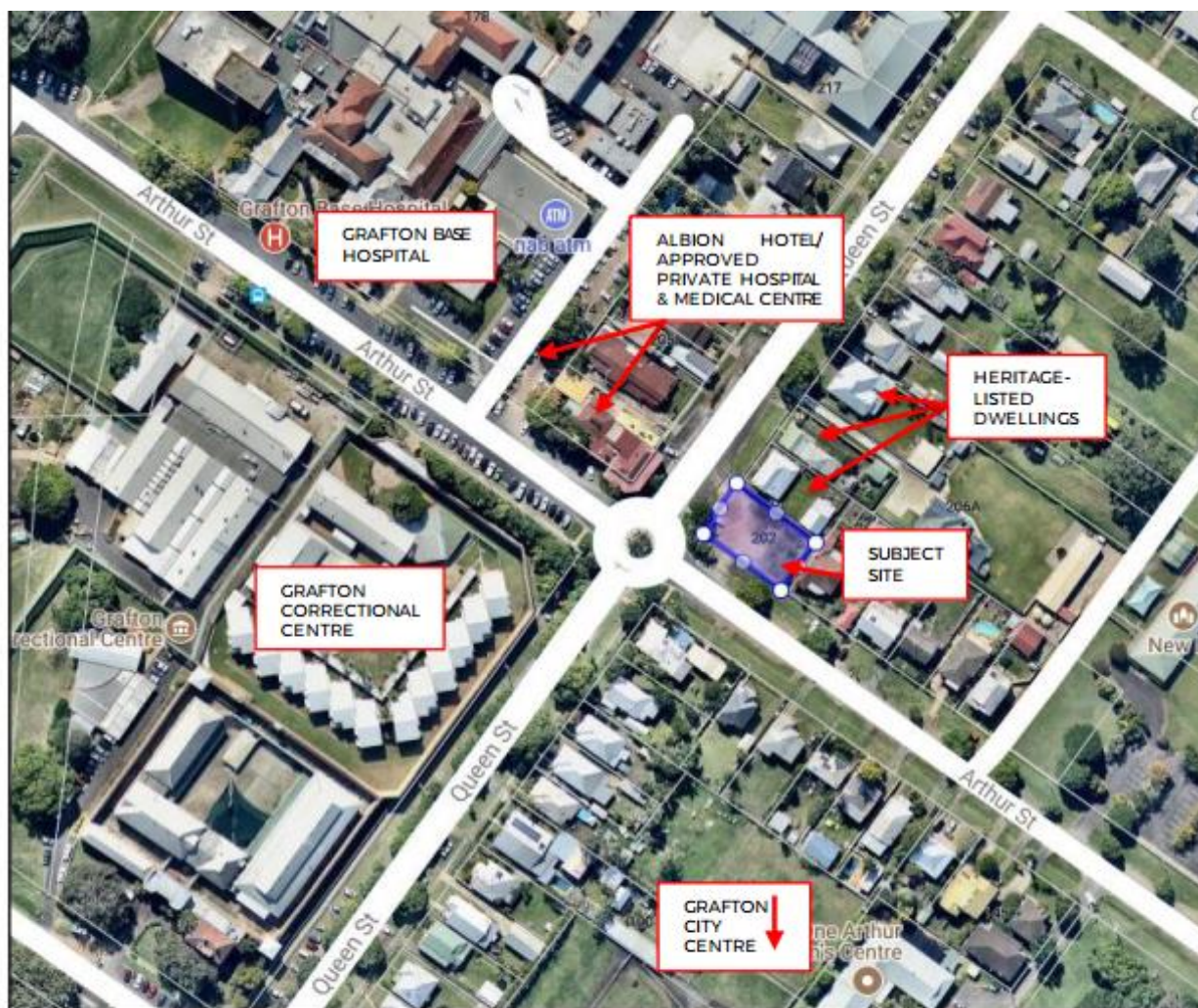
Strategy 5.1.4 Provide open, accountable and transparent decision making for the community

## BACKGROUND

DA2018/0557 for a Health Services Facility (Medical Centre) with an ancillary pharmacy was lodged with Council on 13 September 2018. The application was notified to adjoining and nearby property owners and advertised in accordance with requirements of the *Environmental Planning and Assessment Regulation 2000* and the Development in Residential Zones Development Control Plan (the DCP.)

The subject land is zoned R1 General Residential under the Clarence Valley Local Environmental Plan 2011. State Environmental Planning Policy (Infrastructure) 2007 allows for Health Service Facilities to be constructed within the residential zone.

The building will be single storey with a pitched roof on the corner allotment within the Heritage Conservation Area which is adjacent to heritage listed items including the Grafton Gaol, Albion Hotel and dwellings on 204, 206 and 208 Queen Street.



**Figure 3: Surrounding Development**

### Location Plan

It is proposed that the building be set back 1.7m from Queen Street and 1.6m from Arthur Street. The side and rear setbacks are greater than that normally required for residential development. It will have a floor area of 234m<sup>2</sup> containing 5 consulting rooms, a pathology room, treatment room, meeting room, office, amenities reception and ancillary pharmacy. The facility will be staffed with up to 10 staff. Nine parking spaces, including a disabled parking space and ambulance bay are to be provided at the rear of the building. The vehicular entry will be via Arthur Street (refer to the site plan and elevations on the following page of this report).





Site Plan



### Elevations

The proposal requires the removal and replacement planting of a Jacaranda tree on the Arthur Street road reserve which is heritage listed. Council's Open Space Coordinator has supported the replacement planting.

The DA was referred to Roads and Maritime Services (RMS) for comment and provided comments for Council to consider in its assessment of the proposal. Through the imposition of suitable conditions, Council staff are satisfied that the concerns of the RMS have been addressed.

Overall, the development and the proposed variations are considered to be acceptable subject to the imposition of suitable conditions of consent to mitigate the impacts on the streetscape and amenity of the adjoining residents including:

- A reduction in the proposed hours of operation from 24 hours, 7 days a week to between 7.30am and 6.00pm Mondays to Friday, 8.00am to 1.00pm Saturdays and no opening hours on a Sunday.
- Adoption of the recommendations of the Noise Assessment Report; waste collection between 7.00am and 6.00pm; construction of 2m to 2.2m high acoustic fencing; finished coatings of the carpark areas to prevent tyre squeal; secured drainage grating; and location of and acoustic screening of mechanical plant (air conditioning and refrigeration etc), and
- Front fence and landscaping on Queen Street.
- Inclusion of an eave on the Northern elevation.

A detailed assessment has been undertaken against the provisions of the LEP, other relevant Environmental Planning Instruments and the Clarence Valley Council Residential Zones Development Control Plan 2011 (DCP). A detailed assessment is contained in the s79C assessment which is an attachment to this report.

It is recommended that the proposed development be approved subject to the conditions listed in Schedule 1 to this report.

### KEY ISSUES

#### Issue 1. Variations to the setback requirements of the Residential Zones DCP

##### Setbacks

The development provides a reduced front and side setback to that normally required for residential areas.

The setback to Queen Street is reduced to ~1.7m and the setback on Arthur Street reduced to ~1.6m which does not comply with setbacks required by Clause C16 (6m front setback and 3.5m side setback for corner lots). It is noted variations to setbacks can be considered under the provisions of Clause C17 of the DCP.

The side and rear setbacks are compliant to that required in residential zones i.e. >900m.

##### Comment

Clause C17 of the DCP allows Council to consider variations to the setbacks. Variation of the front setback can be considered on merit where the existing setback is not 6m and should address the following:

- Position of adjacent buildings and their residential character
- Location of existing vegetation
- Effect on sightlines and visibility for pedestrians and vehicles
- Size shape and grade of the lot
- Façade of the proposed building and proposed landscaping which is visible from the street.



Consistent with the applicant's justification, the proposed variation to the front and side setbacks can be supported in this instance because:

- They meet the setback objectives by allowing sufficient separation of buildings to provide privacy and sunlight access to neighbouring dwellings; the building setback provides for an acceptable streetscape compatible with the mixed setbacks of the Grafton Gaol (zero setback), Albion Hotel (zero setback) and adjoining residential properties (two to three metres).
- Landscaping will be provided in front, side and rear setbacks.
- The positioning of the building allows for the parking area to be essentially hidden from the streetscape.
- The width of the road reserve in Arthur Street provides sufficient separation from the street.
- The reduced setback does not result in an unreasonable overshadowing of buildings with no reduced sunlight on the northern or eastern aspects of surrounding properties,
- The proposal is for a medical centre and the setbacks are sympathetic to the mixed land uses in the immediate area.

Setbacks for the Medical Centre building provide a sufficient setback similar to adjoining setback patterns in Queen Street and Arthur Street. The reduced setbacks for the development incorporate landscaping within the front and side setbacks and is considered to have an acceptable impact.

By comparison, it is noted that Council's Business Zones DCP requires that for land where a business zone adjoins a residential zone development in the business zone must be set back 900mm along the boundary to the residential zone (see Clause C8.6). The setbacks to adjoining residences are 950mm and 1,000mm and achieve the desired outcome to what would be normally required between a business and residential zone.

The requirement for a 2m to 2.2m high acoustic fence will not overshadow the northern or eastern solar aspects of the adjoining residences and will prevent overlooking and privacy issues from the Medical Centre and the car park area.

The proposed development is located on the corner of Queen and Arthur Streets. The setting of the Medical Centre to the front of the lot along with the carpark area at the rear of the lot is considered to be a better outcome than having parking area adjoining both road frontages. The driveway on Arthur Street will provide for safe entry and exit for vehicles and pedestrians to the development.

## **Issue 2. Variations to the landscape requirements of the Residential Zones DCP**

Clause 19.1 of the DCP requires that all development in the R1 General Residential Zone be provided with a minimum landscaped area of 45%. The proposed development provides a reduced area of approximately 19% landscaped area (following the amendments to the front setback the area has slightly increased) and the applicant has requested a variation to the DCP Controls on the following basis:

- Surrounding commercial development (Grafton Base Hospital, Grafton Correctional Facility and the recently approved Grafton Private Hospital) are of a similar commercial use and provide comparable levels of landscaping on site.
- Landscaping is focused on the interface with the street and interface with the adjoining residential properties ensuring the intent for the provision of landscaping is maintained.
- The controls are intended to guide development of residential uses, the proposal being a 'health services facility' is somewhat unique in its application and assessment of the landscaping area on its merit will not set a negative precedent.

The reasons to vary the proposed development are supported in this instance because the overall design of the Medical Centre has been set out to maximise the use of the land for this type of development while

being sympathetic to adjoining properties and the heritage significance of the area. The proposed development is set within the nearby medical centre precinct and the development is not considered to be an overdevelopment of the site for this type of development.

A requirement for kerb and guttering and removal of the old cement service station driveways will add to the overall appearance of the corner site as well as increasing available on-street landscaped areas.

### **Issue 3. Heritage Impacts**

This site is located in close proximity to several heritage listed items including the Grafton Gaol which is an item of State significance listed on the State Heritage Register, the Albion Hotel and 3 historic dwellings. The provisions of clause 5.10 of the CVLEP 2011 apply in relation to impacts upon the setting of heritage items.

The proposal requires the removal and replacement planting of a Jacaranda tree on the Arthur Street road reserve which is heritage listed. Council's Open Space Coordinator has supported the replacement planting.

The development is considered to be responsive to the site constraints to surrounding developments and generally meets the aims and objectives of designing development in residential zones. Amendments to the roof pitch, increase setback to Queen Street and landscaping have improved the presentation to the street compared to the plans originally submitted with the development application.

A Statement of Heritage Impact was undertaken by the applicant and accompanied amended plans to address concerns that Council staff raised. There are a number of improvements that have been raised with the applicant which can be made to the overall design of the building through conditions of consent. These are not considered to be onerous and include:

- The use of custom orb metal sheeting on the roof instead of a colorbond tray roof sheeting,
- The design of the perforated metal screens fronting Queen Street,
- The inclusion of an eave on the northern elevation of the building,
- Front fencing and an updated landscape plan including replacement plantings for the Jacaranda tree on Arthur Street,
- Submission of a schedule of external finishes and colours that are to be sympathetic to adjoining heritage items and the Heritage Conservation Area.

These recommended improvements to the design will reduce adverse impacts upon the aesthetic qualities of the Heritage Conservation Area, adjacent heritage listed buildings and dwellings on Queen Street, when viewed from the main vantage point on the corner of Queen and Arthur Streets.

The proposed development is considered to meet the objectives of Clause 5.10 of the LEP, the development results in conservation of environmental heritage and conserves the significance of the associated fabric and setting.

### **Issue 4. Issues raised in the objections**

Proposed hours of operation 24 hours, 7 days a week

#### *Comment*

To allow the operation of the facility for 24 hours, 7 days a week is likely to have a significant impact on the adjoining residential areas and occupants of nearby dwellings. The applicant has been advised of the recommended changes to the hours of operation.

It is proposed that the operational hours of the Medical Centre be restricted to 7.30am to 6.00pm on week days, 7.30am to 1.00pm Saturdays and no opening hours on a Sunday. These hours are considered reasonable to limit the impact on the amenity of nearby residences from traffic and noise.

#### Loss of privacy

##### *Comment*

The building will be only single storey and no windows face to the adjoining residence at 204 Queen Street. The building is well separated to the adjoining dwelling on Arthur Street. The requirement for a 2m to 2.2m high acoustic fence (details to be finalised with the Construction Certificate) will not overshadow the northern or eastern solar aspects of the adjoining residences and will prevent overlooking and privacy issues from the Medical Centre and the carpark area.

#### Width of landscaping areas

##### *Comment*

The setbacks to adjoining residences are 950mm and 1,000m and achieve the desired outcome to what would be normally required between a business and residential zone. Minus the width of a fence there is sufficient area for landscaping.

#### Noise eg air conditioner, hot water system

##### *Comment*

Adoption of the recommendations of the Noise Assessment Report including times for waste collection between 7.00am and 6.00pm, construction of 2m to 2.2m high acoustic fencing, finished coatings of the carpark areas to prevent tyre squeal, secured drainage grating, location of and acoustic screening of mechanical plant (air conditioning and refrigeration etc) and reduced hours of operation will sufficiently mitigate the noise impacts from the Medical Centre.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

N/A

#### **Asset Management**

N/A

#### **Policy or Regulation**

The following planning and legislative instruments were consulted.

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulations 2000.
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- State Environmental Planning Policy (Infrastructure) 2007
- Clarence Valley Local Environmental Plan 2011
- Clarence Valley Council Residential Zones Development Control Plan 2011

**Consultation**

| <i>External Agencies</i>                | <i>Comment</i>                             |
|-----------------------------------------|--------------------------------------------|
| Roads and Maritime Services (RMS)       | Comments received - see comments in report |
| <i>Internal Section or Staff Member</i> |                                            |
| Engineering                             | Supported with conditions                  |
| Health and Building                     | Supported with conditions                  |
| Trade Waste                             | Supported with conditions                  |
| Heritage                                | Supported with conditions                  |
| Environmental Health                    | Supported with conditions                  |

**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.

|             |                                                                                                                                                                              |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Pat Ridgway, Senior Development Planner                                                                                                                                      |
| Attachment  | <ol style="list-style-type: none"> <li>1. Plans</li> <li>2. Section 4.15 Assessment Report</li> <li>3. Statement of Environmental Effects</li> <li>4. Submissions</li> </ol> |

**SCHEDULE 1: DRAFT ADVICES AND CONDITIONS****Definitions**

**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 Roadworks (including car parking and/or driveways)
- b Flood, Drainage works including **WSUD** and flood mitigation measures,

**RMS** means Roads and Maritime Services

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

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

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

**Advices**

1. 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.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.

**Building Advices**

3. No construction is to be commenced until a Construction Certificate has been issued.
4. All plumbing and drainage work to be in accordance with AS 3500 and the Plumbing Code of Australia.
5. Prior to building work commencing approval under Section 68 of the Local Government Act shall be obtained from Council for sewer work, water plumbing and stormwater work. Two copies of hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
6. The building shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineer's certificate shall be submitted prior to issue of the Construction Certificate to verify the building will withstand the likely forces imposed on it by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions.

7. The subject property is flood prone and receives a level of flood protection from the Grafton flood levee system. To meet Council's current Floodplain Management Controls the floor level of the primary habitable floor levels are a minimum of 6.4 metres Australian Height Datum (AHD). However, this minimum floor level does not apply to commercial development. For your information the latest BMT-WBM 'Lower Clarence Flood Model Update 2013' study indicates that the 1:100 year flood level (1% annual exceedance probability flood level) in the vicinity of the subject site is 7.08m Australian Height Datum (AHD) and the extreme flood level is 8.94m AHD.
8. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to all new building work. A Section J report shall be submitted with the Construction Certificate application.
9. The property has been known as 202 Queen Street, but as its vehicular and pedestrian access will be off Arthur Street it is more appropriate to re-address the property to be known as 166 Arthur St, Grafton. This number shall be prominently displayed on the Arthur Street frontage prior to occupation.
10. Access for people with disabilities must be provided to and within the building by means of an access way in accordance with AS 1428.1-2009:
  - a from the main points of a pedestrian entry at the allotment boundary; and
  - b from any required accessible carparking space on the allotment.

#### Engineering Advices

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

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

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

12. 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 2.53 ET demand on Council's water supply, and an additional 3.68 ET loading on Council's sewerage system. The headworks charges at 2018/19 financial year rates are:

Water Headworks \$4,817.00 x 2.53 additional ET = \$ 12,187.00

Sewer Headworks \$11,779.00 x 3.68 additional ET = \$ 43,346.70

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be

adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

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

13. 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.
14. 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.
15. The applicant is advised that Council has an adopted Pedestrian and Access Mobility Plan (PAMP) for Grafton. Should the location of any future on-street car parking be located adjacent to the adopted alignment of the PAMP, then the PAMP alignment must be adopted.
16. The concept plan identifies 5 trees between the proposed carpark and the dwelling located on 162 Arthur St, consideration should be made of the tree species selection so to not impact on the adjoining property or the carpark be reduced to provide adequate planting area / growth area. (see south elevation)
17. The concept plan identifies 4 trees between the proposed Medical Centre and the dwelling located on 204 Queen St, consideration should be made of the tree species selection so to not impact on the adjoining property or the Medical Centre be redesigned to provide adequate planting area / growth area or redesigned such that these trees are not required.

### 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(s) numbered: DA-01, DA-02, DA-03, DA-04, DA-05, DA-06 & DA-07, Project No: 18302, Revision C, Dated 12.02.2019, Drawn by Alleanza Architecture, 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:

\$5,000.00

GL S94ACVCOthResAcco

This amount is based on the following calculation:

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
- b The value of development stated in the application was \$500,000.00

The contributions are to be paid to Council prior to release of the Construction Certificate. All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

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. A true estimate of the value of development must be provided when application is made for the Construction Certificate.

Building Conditions

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

4. Working hours on the construction project being limited to the following:

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

The builder 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.

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

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

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

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

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

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

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

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

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

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



9. 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.
10. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.
11. All glazing shall comply with AS3671 "Acoustics-Road traffic noise intrusion-Building siting and construction". This is to meet the requirements of Clause 101 of the Infrastructure SEPP 2007 as Queen Street is a classified road.
12. All building construction below 6.4m AHD shall be of flood compatible materials.

#### Engineering Conditions

13. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Occupation Certificate.
14. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
15. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **Building CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Occupation Certificate. The Council will hold 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'.
16. 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 'On Maintenance' (Public Infrastructure)
- g 'Off Maintenance' (Acceptance of Public infrastructure by Council)

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

Associated Traffic Control Plans (TCP's) must be prepared by a person authorised by the RMS to prepare TCP's.

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.

18. 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.

19. 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 or any new connection to the property will be subject to the costs outlined in Council's list of Fees and Charges and Council's Sewer and Water Connection Policy. Cutting in of sewer junctions can only be undertaken by Council. In respect to these works, contact Council's Water Cycle Section.

20. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **Building CC** application for approval by Council.

21. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **Building CC** approval. The asphaltic concrete wearing surface must be a minimum 40mm compacted depth. Final pavement design will be subject to in-situ CBR tests.

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.

22. Kerb and gutter, road shoulder must be constructed across the full frontage of the development site in Arthur Street, on an alignment to suit the existing stormwater inlet

23. 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, and the Stormwater Conveyance and Quantity, and Stormwater Quality sections of the Planit Site Engineering Assessment for the proposal.

Design details of the drainage system and point of discharge must be submitted for approval by Council and/or accredited private certifier prior to issue of the Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

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

24. The legal and practical point of stormwater discharge of the development is nominated as the stormwater inlet adjacent to the development in Arthur Street.
25. Prior to the release of any Occupation Certificate, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
26. In accordance with **NRDC** and prior to the release of the Occupation Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

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

27. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained for a minimum of 9 car parking spaces in accordance with the DA approved plan and made available thereafter. The car parking classification is Class 3 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
28. A detailed plan of the proposed driveway including longitudinal section, road levels, property boundaries and other site specific considerations must be submitted for approval with the Building Construction Certificate to demonstrate that access to the development is provided in accordance with **NRDC**.
29. Any existing vehicular crossings rendered unnecessary by this development are to be removed, and the kerb restored to match the existing kerb profile.
30. Accessible grades and paths of travel are to be provided from carparking bays through to the main entrance of the building in accordance with AS1428.1 and the Building Code of Australia.
31. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and **NRDC**. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued or the development is accepted 'Off Maintenance'.
32. 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.
33. 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.

Heritage Conditions

34. The proposed roofing is to be carried out in custom orb.
35. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Item and/or Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and DCP 2011, are to be submitted to, and approved by Council prior to release of the Construction Certificate.
36. Should any item of heritage significance be uncovered during works on the site, all work is to cease and the Office of Environment & Heritage shall be contacted immediately and any directions or requirements of the Office complied with.
37. Landscaping in the front setback and an appropriate low fence up to 1.2m in height is to be installed to continue the established pattern of development to the heritage precinct in Queen Street. Details of the front fence are to be submitted to Council for approval prior to issue of a Construction Certificate.
38. The roof design is to include an eave to the roof on the northern end of the building. Details of the eave are to be submitted to Council for approval prior to issue of a Construction Certificate.

Environmental Health Conditions

39. Construction of the 2.0m to 2.2m high acoustic barriers/fence as detailed in the Environmental Noise Impact Report, 23 March 2018 by CRGACOUSTICS is required to mitigate on-site carpark activity noise emissions to the adjacent offsite dwellings. Barriers are to be constructed above the finished or existing ground, whichever is higher and be free of gaps and holes. Typical acoustic barrier materials include 19mm lapped timber fence (40% overlap), 9mm FC sheet, masonry, or a combination of the above (a minimum surface mass of 11kg/m<sup>2</sup> is required). Details of the acoustic barriers/fence are to be submitted to Council for approval prior to issue of a Construction Certificate.
40. Driveway and carpark areas be finished with surface coatings which prevent tyre squeal (an uncoated rough concrete or bitumen surface is acceptable).
41. Drainage grating over trafficable areas be well secured to prevent rattling.
42. The  $L_{Aeq(15\text{ mins})}$  noise level emitted from the premise (inclusive of mechanical plant) shall not exceed the background noise level by more than 5 dB at any time at the nearest residential receiver who has not given written permission for an exceedance of this condition.
43. Mechanical plant is to be designed and installed to comply with the relevant noise criterion. Mechanical plant should not be located along the north-eastern boundary of the site, given the proximity of the adjacent dwelling. Rooftop plant may require acoustic screening to mitigate plant noise to the nearest dwellings.  
  
An additional acoustic assessment is to be undertaken once plant selections are finalised and submitted to Council for approval prior to issue of a Construction Certificate.  
  
Details of the Rooftop plant and proposed acoustic screening are to be submitted to Council for approval prior to issue of a Construction Certificate.
44. Waste collection and deliveries are to be take place between the hours of 7am and 6pm. No collection on Sundays.

45. The design and function of the water distribution system must take into consideration the risk of contamination and microbial colonisation of legionella bacteria. To this end, provide hydraulic plans (plumbing details) to a suitable scale (e.g.1:50) that have been designed and reviewed by a suitably qualified person in legionella control for the water distribution system within the proposed aged care facility from the initial water supply input through to the final use.

#### Landscaping

46. An updated landscape plan, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of a Construction Certificate. The plan shall indicate the mature height, location, quantity and species of all plantings and shall provide details of soil conditions, the planting method and maintenance program.
47. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
48. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
49. The concept plan does not identify the palms located on the corner of Queen / Arthur Street, these need to be shown and any impact noted. The concept plan does not identify the tree located on the corner of Queen Street, this needs to be shown and any impact noted.
50. A 100 litre Jacaranda shall be re-planted to replace the Jacaranda tree to be removed. The tree should be grown to Australian Standard AS2303:2015 - Tree stock for landscape use; bag size being 100 litre; species being Jacaranda mimosifolia - Jacaranda; supported after planting using 2x50x50mm Hardwood Stakes & 2 x Hessian ties; 1,000mm diameter 75mm depth mulch (per tree); and slow release fertiliser to be added to each planting hole.

#### Operational

51. The hours of operation of the Medical Centre and Ancillary Pharmacy is to be between:
- 7.30am and 6.00pm Mondays to Friday,
  - 8.00am to 1.00pm Saturdays, and
  - No opening hours on a Sunday.
52. External or internal lighting is not to shine directly onto adjoining residences. Any internal or external lighting installation shall comply with Australian Standard 4282-1997 'Control of the obtrusive effects of outdoor lighting'. A certificate signed by the installer, engineer or other competent person shall be submitted to Council upon completion of the lighting installation to verify this condition has been met.

#### 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 ensure that adequate infrastructure and services are provided in accordance with Council's Engineering Specifications for development.
7. To ensure that vehicular access and parking are provided in accordance with Council's Engineering Specifications for Development.
8. To ensure compliance with Australian Standards.
9. To ensure that the development is adequately landscaped and maintained, and in accordance with the approved plans.

|             |                  |                                                                                                                                                                                         |
|-------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.026/19</b> | <b>MOD2019/0013 - REQUEST TO MODIFY DA2016/0540 AND MOD2017/0074 - RECREATION FACILITY (OUTDOOR) – PRIVATE MOTOCROSS TRACK – 436 TALLAWUDJAH CREEK ROAD, GLENREAGH (LOT 2 DP264272)</b> |
|-------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                          |               |
|--------------------|--------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                              | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                        |               |
| <b>Reviewed by</b> | Manager - Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                      |               |

**SUMMARY**

|                    |                                       |
|--------------------|---------------------------------------|
| <i>Applicant</i>   | Bayden Blanchette                     |
| <i>Owner</i>       | Bayden Blanchette                     |
| <i>Address</i>     | 436 Tallawudjah Creek Road, Glenreagh |
| <i>Submissions</i> | Yes – 7 objections                    |

A request has been received by the applicant, under MOD2019/0013, to remove the time limit imposed under DA2016/0540, as modified by MOD2017/0074, for a recreation facility (outdoor) - private motocross track on land at 436 Tallawudjah Creek Road, Glenreagh, being Lot 2 DP264272. DA2016/0540 was approved with a condition limiting the term of the consent to 12 months. That consent was modified by MOD2017/0074, which include an extension of the time for another year to 20 February 2019. The intent of limiting the consent period was to enable a review of the operation of the motocross track and compliance with conditions of consent.

Since approving the modification, Council has received ongoing complaints regarding the use, principally relating to offensive noise and alleged non-compliance with conditions of consent. During the notification period 7 submissions in objection to the proposal were received. This report discusses the key issues with the application and provides a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council :

1. Approve an amendment to condition 2 of DA2016/0540 to cease within 12 months of the date of a Modified Notice of Determination under MOD2019/0013.
2. Advise the applicant that Council requires the riding log as required by condition 9 of DA2016/0540 to be maintained and updated on each day of riding and record the start and finish times of each ride, including start and finish times of break, and the bike/s being used on each ride. Such log shall be submitted to Council at the end of each quarter or made available for inspection within 24 hours of a reasonable request by a Council officer.
3. Undertake noise level measurement of all bikes intended for use on the track.

*Having declared an interest in this item Cr Williamson left the EP&C meeting at 5.12 pm and returned at 5.38 pm.*

**COMMITTEE RECOMMENDATION**

Simmons/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Simmons, Baker

Against: Clancy, Novak

The motion was carried by the casting vote of the Chair.

**AMENDMENT TO MOTION**

Novak

That Council:

1. Approve an amendment to condition 2 of DA2016/0540 to cease within 12 months of the date of a Modified Notice of Determination under MOD2019/0013.
2. Advise the applicant that Council requires the riding log as required by condition 9 of DA2016/0540 to be maintained and updated on each day of riding and record the start and finish times of each ride, including start and finish times of break, and the bike/s being used on each ride. Such log shall be submitted to Council at the end of each quarter or made available for inspection within 24 hours of a reasonable request by a Council officer.
3. Undertake noise level measurement of all bikes intended for use on the track.
4. We arrange mediation if applicant and complainant approve.

Lapsed for want of a seconder.

**FORESHADOWED MOTION**

Clancy

Defer the decision on this DA until mediation has been carried out in accordance with Council's Mediation Policy.

*Having declared an interest in this item Crs Williamson and Kingsley left the Ordinary Council meeting at 3.19 pm and returned at 4.03 pm.*

**COUNCIL RESOLUTION – 14.026/19**

**Toms/Clancy**

**That Council**

1. **Refuse MOD2019/0013 on the grounds that**
  - a. **The applicant has not adequately demonstrated compliance with the hours of operation specified under conditions 3, 4 and 5.**
  - b. **The use of the track is generating unreasonable offensive noise impact on the locality.**
2. **Require the track to be returned to its previous state in accordance with condition 2 within three months.**

**Voting recorded as follows:**

**For: Toms, Novak, Ellem, Clancy**

**Against: Baker, Lysaught, Simmons**



## FORESHADOWED MOTION

Baker

That Council :

1. Approve an amendment to condition 2 of DA2016/0540 to cease within 12 months of the date of a Modified Notice of Determination under MOD2019/0013.
2. Advise the applicant that Council requires the riding log as required by condition 9 of DA2016/0540 to be maintained and updated on each day of riding and record the start and finish times of each ride, including start and finish times of break, and the bike/s being used on each ride. Such log shall be submitted to Council at the end of each quarter or made available for inspection within 24 hours of a reasonable request by a Council officer.

**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**

DA2016/0540 for a recreation facility (outdoor) - private motocross track at 436 Tallawudjah Creek Road, Glenreagh was approved by Council at its ordinary meeting on 13 December 2016. The motocross track subject to the application had been constructed and used prior to lodgement of DA2016/0540. Council became aware of the track after complaints from neighbours in early February 2016 regarding noise, dust, the construction of earth mounds on the property and the possible unlawful use of the land. It was determined that the use of the land for a private motocross track required development consent from Council under the Clarence Valley Local Environmental Plan 2011 (LEP) as a *recreation facility (outdoor)*. The earthworks, including construction of mounds up to 2m high, also required development consent. The landowner had not sought consent for the use or works on the land prior to commencing the use.

The landowner subsequently lodged DA2016/0540 for the private motocross track with Council on 27 September 2016. Eleven submissions in objection to the development application were received during the notification/advertising period. The key issues raised in objections were noise, dust, erosion and sediment control, potential commercial use of the track and impact on rural landscape / visual amenity of the area.

Council resolved to approve DA2016/0540 on 13 December 2016 but placed a number of restrictions on the operation of the private motocross track to limit the impacts on nearby residences and the environment. These included:

- limiting the duration and frequency of riding (conditions 3, 4, and 5);
- limiting the number of motorcycles used on the track at any one time to two (condition 6);
- requiring motorcycles to be fitted with exhaust silencers (condition 7);
- restricting the use of the motocross track to private use only i.e. commercial use not permitted (condition 8);
- requiring the applicant to maintain records of the dates and times of use of the motocross track (condition 9);
- requiring the implementation of sediment and erosion controls and dust suppression measures (conditions 10 and 11);
- limiting the term of the consent to 12 months (i.e. to 13 December 2017), with the option to lodge a Section 96 application before the conclusion of this period to extend the term of the consent and permit the continued use of the track (condition 2). The purpose of the 12 month 'trial' period was to enable a review of the operation of the motocross track, including the suitability of the conditions of

consent, to occur after the use has been operating for 12 months and when the extent of impacts is better understood. In the event that the term of the consent is not extended, condition 2 requires the land to be returned to its condition before the track was constructed.

Subsequently after 12 months of operating, an application to modify the consent was lodged with Council. MOD2017/0074 sought approval to:

- modify condition 2 to remove the 12 month time limit on the consent and permit the continued use of the motocross track indefinitely;
- modify conditions 3, 4 and 5 to permit use of the track on additional days and times and increase the permitted duration of riding.

The modification was considered by Council on 20 February 2018. Approval was granted to extend the use for a further 12 months, and not indefinitely as proposed. The reason being that at the time of assessment the applicant's record of compliance with conditions was not considered sufficient for Council to remove the time limit on the consent and permit the use of the motocross track indefinitely. It was stated that the applicant needed to demonstrate greater commitment to complying with the conditions, with a further review at the conclusion of the 12 month period. A copy of the development consent and approved plan is contained in Attachment 1.

Since approving the modification, Council has received ongoing complaints regarding the use, largely relating to offensive noise and non-compliance with conditions of consent.

A written request to amend condition 2 of DA2016/0540, as previously modified by MOD2017/0074, from the applicant was received by Council on 6 February 2019.

Condition 2 of consent reads:

2. This development consent will cease to operate one year from the date of this **Modified** Notice of Determination, ***unless a further written approval is granted by Council.*** ~~and at which time~~ ***On cessation of the use*** the land is to be returned to its condition prior to the track being constructed.

~~Note: A s96 modification application could be lodged to remove this condition prior to the approval ceasing to operate. If a s96 modification is lodged, the assessment is to include a review of the conditions of consent to ensure they are suitable for the continued operation.~~

***As a point of clarification: For Council to agree to a continuance of the use, consideration will be given to compliance with all conditions of this approval; any legitimate complaints received; and consultation with others affected by the activity.***

***Amended by MOD2017/0074 on 20 February 2018***

The applicant has requested to remove the part of the condition that reads "This development consent will cease to operate one year from the date of this **Modified** Notice of Determination, ***unless a further written approval is granted by Council***". The proposed amendment is to effectively remove the time limit imposed on the approved motocross track.

The request was notified to adjoining land owners and previous submitters to the applications. Seven submissions in objection to the request were received during that time (see Attachments).

The applicant has submitted a petition with 85 signatures in support of the continued use. He has also initiated an on-line petition which he will run until the Council meeting.

The applicant has also amended his modification application to request removal of the requirement to keep a log of riding times (condition 9).

## KEY ISSUES

Compliance with conditions of consent

As part of the assessment of the previous modification it was stated that the applicant was not diligent in complying with some fundamental conditions of his approval. The record of compliance was not considered sufficient for Council officers to recommend removal of the time limit on the consent in condition 2 and permit the use of the motocross track indefinitely. It was stated that the applicant needed to demonstrate greater commitment to complying with the conditions, which are not considered to be unreasonable.

Subsequently, the last modification granted approval for a 12 month extension of the use but stated that "For Council to agree to a continuance of the use, consideration will be given to compliance with all conditions of this approval; any legitimate complaints received; and consultation with others affected by the activity".

The information submitted by the applicant to address compliance with the conditions of consent is not considered to demonstrate any greater commitment of compliance. The applicant's most recent ride register is not detailed and provides limited information. Dates and times of the rides are provided but no record of exact ride times or breaks taken has occurred. There are also inconsistencies between the applicant's ride register and the complaints received regarding the use (this is discussed in more detail below).

The ongoing complaints and submissions to the request state numerous alleged non-compliances with the conditions of consent as tabled below.

| Condition                                                        | Alleged non-compliance                                                                                                                                                                                                                                   | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Condition 1 – development to be in accordance with approved plan | Extensions to track No. 2 (BMX track) and works not in accordance with approved plan                                                                                                                                                                     | The BMX track is a matter that can be addressed separate to this DA, and may not require consent.<br><br>A site inspection by Council officers is needed to determine compliance.<br><br>Maintenance work to the track can be undertaken provided the track is generally in accordance with the approved plan.                                                                                                                                                                                                                                                                                                                                                             |
| Conditions 3, 4 & 5 - Riding duration and frequency              | 2 occasions of riding more than 2 weekdays in a week.<br><br>3 occasions of riding on a Sunday recorded.<br><br>3 occasions of riding outside of permitted times.<br><br>30 ride days when the required 15 minute breaks every 45minutes were not taken. | Compliance uncertain.<br><br>In regards to riding on Sunday, the log states that on one occasion it may have been kids on the BMX track, and another Sunday the riding was for 10 minutes.<br><br>The applicant has responded and stated that no riding occurred on a Sunday or more than 3 times a week. The applicant has admitted that break times were not recorded but advised that the riders are not physically fit enough to ride for longer than 45 minutes without a decent break.<br><br>It is not considered onerous for the applicant to have a log book on-site to record specific times of when riding stops and starts and the break length and frequency. |

| Condition                                                                              | Alleged non-compliance                                                                                                                                      | Comments                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Conditions 6 & 7 -<br>Maximum of 2<br>bikes on track,<br>exhaust silencers<br>required | 1 occasion of 3 riders on the<br>track<br><br>Complaints indicated that<br>silencers might not always be<br>fitted to bikes.                                | Compliance uncertain.<br><br>In response the applicant stated that all bikes are<br>fitted with silencers and it actually impedes the<br>running of a bike to ride one with out one.<br><br>The ride register should be expanded to detail the<br>number of riders and type of bike used. |
| Condition 9 -<br>Records of track<br>use (riding log<br>book)                          | The applicant has submitted a<br>register, however, there are a<br>number of inconsistencies<br>between the applicant's and<br>neighbour's riding register. | The applicant's register is limited in the detail<br>provided.<br><br>The neighbour's register is more comprehensive and<br>supported with sound monitoring data and a<br>statutory declaration.<br><br>See further discussion below.                                                     |
| Condition 10 & 11<br>– Erosion &<br>sediment control &<br>dust suppression             | Inadequate erosion &<br>sediment control measures.<br>12 occasions of inadequate<br>dust suppression.                                                       | The applicant has previously stated dust is managed<br>using a water truck.                                                                                                                                                                                                               |

In summary, the permitted days and times are largely complied albeit there are some breaches. The main alleged non-compliance is that the regular breaks aren't being taken, which the applicant is disputing. It is not onerous for the applicant to record break times and more detailed record keeping is needed.

#### Inconsistency between the applicant's and neighbour's ride registers

The applicant has provided a riding register on 2 occasions since the modification was approved. One of the neighbours has also been keeping a register of the use (submitted monthly to Council) and has supported their register with sound monitoring data and a Statutory Declaration as to the authenticity of the records. The neighbour stated that they also registered days when no riding occurred. Copies of the registers are provided in the attachments. There are differences in the two registers including:

- The applicant's total recorded ride days since 20 February 2018 = 43 days
- The neighbour's total recorded ride days since 20 February 2018 = 50 days
- The number of days the neighbour recorded riding that wasn't in the applicant's register = 24 days
- The number of days the applicant recorded riding that wasn't in the neighbour's register = 19 days

The applicant has responded to the inconsistencies in the registers by stating that the neighbours records are not factual and that he has evidence to contradict some of the days stated. The evidence has not been presented to Council.

If continued use, in any form, is permitted the applicant should be required to provide a more detailed riding log. The log should include exact start and finish times, break times, rider numbers and details of the bikes ridden. The ride log should be submitted to Council quarterly, as well as within 24 hours of any additional request by Council.

#### Offensive noise

Most of the ongoing complaints received since the modification was approved in February 2018 and the objections received during the notification period raise the issue of offensive noise as the key issue of the development. One submission stated that of the 46 ride days they recorded in 2018, excessive, intrusive and offensive noise was recorded on 22 occasions.

Council staff proposed the original conditions of consent and restrictions on the use based on the EPA Noise Guide and other Council policies for similar uses in an aim to reduce the offensive and intrusive noise impacts of the development to an acceptable level. On average the track is being used once a week. Riding at that frequency would unlikely result in offensive noise. However, even when the conditions of consent regarding operation times are complied with, complaints are still being received regarding offensive noise.

It is difficult for Council staff to inspect the site when the track is operating due to the irregular use of the track (no prior knowledge of operation), location of the track (50km from Grafton) and operations outside of normal office hours.

It is common practice to address offensive noise complaints through mediation. Due to the number of complaints, there is benefit in offering all affected parties, the applicant and submitters, an opportunity to undertake mediation facilitated by an independent mediator prior to making a determination of MOD2019/0013. This would allow all concerns to be aired and may facilitate negotiation to reach an agreed outcome.

#### Options

There are 3 options to consider in determining the request:

1. *Defer determination of the matter until the applicant and submitters have been provided with an opportunity to undertake mediation in accordance with Council's Mediation Policy. Once completed, the matter is to be reported back to Council for consideration.*

Comment - Deferring the determination and allowing the affected parties an opportunity to discuss the use through mediation may result in an agreed outcome for the ongoing operation of a track. Mediation has the benefit of the restrictions of the use being openly discussed and investigating if there may be any alternatives that could be proposed that could further mitigate potential noise impacts. Council has an adopted Mediation Policy to facilitate this process, which involves an independent mediator appointed and engaged by Council. Whilst potentially useful to explore if there is any common grounds, the contentious nature of this application casts doubts as to whether it will be successful.

2. *Permit the use for an additional 12 months but require increased governance by the applicant and increased monitoring by Council.*

Comment - Another option is to permit the use for a further 12 months with additional requirements for record keeping. As stated above, the applicant's log should include exact start and finish times, break times, rider numbers and details of the bikes ridden. The ride log should be submitted to Council quarterly, as well as within 24 hours of any additional request by Council. The log should be completed contemporaneously with each ride.

Council should commit to more frequent independent monitoring of the operation including inspection of bikes being ridden and monitoring of noise during riding.

Although it would be ideal to make a final determination and not require a further review in 12 months time, there is still too much contradicting information to make an informed decision regarding the indefinite continued use.

3. *Refuse the written request to remove the time limit on the consent.*

Comment - Refusing the request and not permitting the use at all is not reasonable. It is not out of character for rural land to be used for motorbike riding, provided it is undertaken in a sustainable manner. If the request is refused the development application would not operate over the land, unless further development consent is sought. In accordance with the conditions of consent, the applicant

would need to discontinue the use and re-instate the land to its original state. If the use continues without development consent, Council would need to investigate and decide if compliance action is required under the *Environmental Planning and Assessment Act 1979* and / or the *Protection of the Environment Operations Act 1997*.

4. *Support the written request as proposed and allow the use to continue indefinitely in accordance with the existing conditions of consent under DA2016/0540 & MOD2017/0074.*

Comment - There are concerns with supporting the continued use indefinitely in accordance with the current approval due to the extent of complaints received and concerns of offensive noise impacts.

Option 2 is recommended. Whilst the noise level of any individual bike may potentially cause a nuisance by being over normal background noise levels, there are many normally occurring activities in a rural environment which do likewise. Whether they can be substantiated to be a nuisance also requires a consideration of the frequency and duration of the noise being emitted. Notwithstanding the differences between the applicant's and objectors' "riding logs", the frequency of use since February 2018 by both accounts approximates at one ride per week, for a maximum of 4 hours duration (although some weeks may have up 3 to 4 rides and others nil). On this basis the use, if managed in compliance with the conditions, is not considered to be an unreasonable use of the land.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

N/A

##### Policy or Regulation

Environmental Planning and Assessment Act 1979

Clarence Valley Local Environmental Plan 2011

Rural Zones Development Control Plan 2011

Protection of the Environment Operations Act 1997

EPA Noise Guide for Local Councils

##### Consultation

| <i>Internal Section or Staff Member</i> | <i>Comment</i>    |
|-----------------------------------------|-------------------|
| Environmental Health Officer            | Comments provided |

##### Legal and Risk Management

An issue has been previously raised regarding whether the use of this land requires development consent or whether it is incidental to the rural use. Legal advice has been obtained confirming that, given these particular circumstances, the use is such that requires a development consent (see Confidential Attachment).

Should the applicant be dissatisfied with Council's determination of the modification application, they may appeal to the Land & Environment Court.

|                         |                                                                                                                                                                                                                                   |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by             | David Morrison, Manager Environment, Development and Strategic Planning                                                                                                                                                           |
| Attachment              | <ol style="list-style-type: none"> <li>1. Notice of Determination and Approved Plan DA2016/0540 &amp; MOD2017/0074</li> <li>2. Applicant's ride register</li> <li>3. Neighbour's ride register</li> <li>4. Submissions</li> </ol> |
| Confidential Attachment | Legal advice                                                                                                                                                                                                                      |

|                    |                                                                          |                                                                                      |
|--------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>ITEM</b>        | <b>14.027/19</b>                                                         | <b>PLANNING PROPOSAL REZ2018/0003 HOUSEKEEPING CVLEP AMENDMENT – POST EXHIBITION</b> |
| <b>Meeting</b>     | Environment, Planning & Community Committee                              | 19 March 2019                                                                        |
| <b>Directorate</b> | Environment, Planning & Community                                        |                                                                                      |
| <b>Reviewed by</b> | Manager - Environment, Development & Strategic Planning (David Morrison) |                                                                                      |
| <b>Attachment</b>  | Yes                                                                      |                                                                                      |

### SUMMARY

This report seeks a Council resolution to support the finalisation of the Planning Proposal to amend Clarence Valley Local Environmental Plan 2011 (CVLEP) to correct minor errors and make administrative updates. The Planning Proposal has been publically exhibited with one submission received from NSW National Parks and Wildlife Service, requesting one minor change. It is therefore recommended that the proposal be supported as exhibited with these minor changes made and an Altered Gateway Determination be requested. Attachment 1 shows the updated Planning Proposal in full.

### OFFICER RECOMMENDATION

That Council:

1. Support the Planning Proposal, as exhibited with a minor mapping change.
2. Request an Altered Gateway Determination due to a minor mapping change.
3. Exercise its delegated authority pursuant to section 3.36(2) of the Environmental Planning and Assessment Act 1979 to finalise the amendment to the Clarence Valley LEP 2011 to make minor housekeeping amendments.

### COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

### COUNCIL RESOLUTION – 14.027/19

Lysaught/Kingsley

That Council:

1. Support the Planning Proposal, as exhibited with a minor mapping change.
2. Request an Altered Gateway Determination due to a minor mapping change.
3. Exercise its delegated authority pursuant to section 3.36(2) of the Environmental Planning and Assessment Act 1979 to finalise the amendment to the Clarence Valley LEP 2011 to make minor housekeeping amendments.

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 proposed CVLEP Housekeeping Amendments 2018 contains 5 matters that, once adjusted, will ensure more efficient and effective implementation of the CVLEP. The Planning Proposal at Attachment 1 describes these changes in full.

Council resolved on 17 July 2018 to:

- 1. Prepare a Planning Proposal for CVLEP Housekeeping Amendment 2018 for the matters described in Schedule 1 and place them on public exhibition for a period of 28 days.*
- 2. Forward the Planning Proposal to the Department of Planning and Environment requesting a Gateway Determination, pursuant to Section 3.34(1) of the Environmental Planning Assessment Act 1979.*
- 3. Advise the Department of Planning and Environment that it will accept any plan making delegations that may be offered.*

Throughout the Gateway process, a couple of errors were discovered. The original proposal was therefore altered to:

- update the land parcels details for 17 Riverside Drive, South Grafton, to Lot 102 DP1246282, to reflect a recent subdivision of the land.
- remove the proposal to delete Item 887 from Schedule 5 to the CVLEP for the Tin Bridge. This was a result of an addressing error. Therefore, it was found that the current listing is accurate and should be retained.

A Gateway Determination was issued on 18 December 2018. This stated that the public exhibition should be a period of 14 days, the NSW Rural Fire Service and NSW National Parks & Wildlife Service were to be notified and that Council is authorised as the local plan-making authority.

### KEY ISSUES

It is proposed to amend the Planning Proposal to reflect one change requested by NPWS and to therefore request an Altered Gateway Determination. This will improve the accuracy of the zoning of recently acquired NPWS land to the E1 zone. The change requested is to remove Lot 132 DP752828. This land, due to become part of Koukandowie Nature Reserve, was purchased by NPWS last year but has not yet progressed to Gazettal. Council will be notified as part of the Gazettal process.

Clarification on 2 further lots were given in the submission, however this information does not alter the Planning Proposal.

The NPWS submission at Attachment 2 outlines these changes in more detail.

### Options

The recommended option is for Council to support the Planning Proposal with the recommended changes from NPWS to enable rectification of the CVLEP minor errors and updates described in Attachment 2 of this report. This option is consistent with the adopted Council Delivery Program 2017-2021.



Another option for Council is not to support the Planning Proposal, maintaining the status quo, not addressing the outdated and erroneous issues will retain unnecessary uncertainty and complexity for users of the planning system and may lead to less than optimal planning outcomes.

## COUNCIL IMPLICATIONS

### Budget/Financial

Preparation of the Planning Proposal and administration of the CVLEP amendment process are accommodated within the existing recurrent budget for Council's Strategic Planning team.

### Asset Management

N/A

### Policy or Regulation

Clarence Valley Local Environmental Plan 2011  
Environmental Planning and Assessment Act 1979

### Consultation

The Planning Proposal was placed on public exhibition for 14 day from 1-15 February 2019. The RFS and NPWS were given until 15 February to respond to make up the required 21 days for authorities.

No submissions from the public were received.

The NPWS submitted a letter, resulting in one alteration to the proposal. The details are outlined in the Key Issues section above.

While the Rural Fire Service responded with an acknowledgement letter, no submission to the Planning Proposal followed.

### Legal and Risk Management

The proposed amendments are individually minor matters that present a low legal risk to Council in terms of the amendment process. The existence of these anomalies in the CVLEP is deemed to present a higher, although still very minor, legal risk for Council. It is considered prudent to periodically correct these errors and anomalies, as envisaged by Council's Delivery Program, and reduce the overall level of risk for Council.

|             |                                                                        |
|-------------|------------------------------------------------------------------------|
| Prepared by | Maya Dougherty, Strategic Planner                                      |
| Attachment  | 1. Amended Planning Proposal (to be tabled)<br>2. Submission from NPWS |

---

**ITEM 14.028/19 MACLEAN COMMUNITY PRECINCT – CONCEPT PLANS**


---

|                    |                                                             |               |
|--------------------|-------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                 | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                           |               |
| <b>Reviewed by</b> | Director - Environment, Planning & Community (Des Schroder) |               |
| <b>Attachment</b>  | Yes                                                         |               |

---

**SUMMARY**

Council resolved (Item 14.137/17) to investigate options for development of a *Maclean Community Precinct Concept Plan*. The attached options consider consolidation of Council facilities in Maclean. It creates the foundation of a business case for funding opportunities. The concept is focused on delivering improved community services within the area, through a unified space.

**OFFICER RECOMMENDATION**

That Council:

1. Note *Maclean Community Precinct Concept Plan* options.
2. Undertake focused community engagement on these options as per the attached Community Engagement Plan.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

---

**COUNCIL RESOLUTION – 14.028/19**

Lysaught/Kingsley

That Council:

1. Note *Maclean Community Precinct Concept Plan* options.
2. Undertake focused community engagement on these options as per the attached Community Engagement Plan.

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 1.4.3 Foster an inclusive and equitable community

## BACKGROUND

Recent infrastructure grant opportunities create an environment that warrants the investigation of possibilities for redevelopment of community owned assets.

*Maclean Community Precinct Concept Plan* addresses the current and future usage of Council buildings and the cost of improving the assets to benefit the community. The concept brief called for a unified Maclean Library, Council offices, Civic Hall and community services hub to establish a focal point for Maclean. Funds provided by Council were utilised to contract a suitable architect through an expression of interest.

The design brief called for a multipurpose community space for the residents of Maclean, and surrounds, to consider:

- Links with existing Council office to include Library and redeveloped Civic Hall.
- Offer spaces that are responsive to the diverse needs of the community and Council to reflect the community's priorities.
- Function as a community hub, where people gather for a range of community activities, programs, services and events.
- Offer a welcoming, active and dynamic environment that fosters a sense of belonging and inviting community ownership.
- Offer an accessible 'one-stop-shop' approach to service delivery through the co-location of a range of services and activities at the facility.
- Be a dynamic and multigenerational centre where a diverse range of groups including children, young people, families and seniors from different backgrounds and cultures can engage in safe and constructive activities.
- Build community capacity by developing partnerships with the community.

Two concepts were presented to Council's Workshop in December 2018 for review. The feedback was assessed and incorporated into *Option C - Maclean Community Precinct Concept Plan*.

## KEY ISSUES



Maclean Library

The Maclean Library is currently isolated from the other Council services and, while providing level access and a central position, is not a suitable size for Maclean's population. The building is not ideal for the purpose; it is a renovated former residential dwelling.

- The floor area is 265m<sup>2</sup>, no longer supports the increasing population/community and is inadequate. (*People, Places, a guide for public library buildings in NSW*. P62).  
[http://www.sl.nsw.gov.au/sites/default/files/people\\_places\\_0.pdf](http://www.sl.nsw.gov.au/sites/default/files/people_places_0.pdf)
- The site is not highly visible on a main street location and is not visible from a main shopping area. (*People, Places, a guide for public library buildings in NSW*. P73).  
[http://www.sl.nsw.gov.au/sites/default/files/people\\_places\\_0.pdf](http://www.sl.nsw.gov.au/sites/default/files/people_places_0.pdf)



Maclean Civic Hall

The Maclean Civic Hall is valued as a community asset, which is utilised for several key community events but not booked extensively. The current facade is the latest of many additions made to the original structure. The building is not listed with NSW State Heritage. Identified issues include:

- Limited parking and disability access
- Kitchen needs refurbishing
- Limited customer service or set up assistance
- Unsuitable for its primary purpose
- Existing buildings are old and are not considered ecologically sustainable

The issue of sustainability would need to be considered with the development of an entertainment facility within the area.



Maclean Council Building - 48 River Street

The original Council offices are not currently occupied by Council staff but do provide space for several valuable community services. Disability access is a major issue and street frontage is limited. The rear of the building has an area of unutilised space and the arrangement of the buildings does not allow for general access to river views.

Due to the age of the building, and the need for compliance, the cost of maintenance is escalating.



Maclean Offices – 50 River Street

The main Council offices are a vital service centre for the Lower Clarence community. The current layout of the office space is not optimal and limits the ability of external agencies or community groups in utilising vacant areas. The award-winning design allows the internal layout to be reconfigured, making a large, strategic review feasible. Developing a second level or extending the structure was a consideration in the original design and build. The building does have some maintenance related issues, the roof is damaged and gutters that are unable to support the surface run-off and these issues could be addressed in redevelopment.

## COUNCIL IMPLICATIONS

### Budget/Financial

The cost to Council will be dependent on the ability of the organisation to access funding to support the redevelopment. This will be subject to a future Council decision based on funding opportunities and the preferred Concept Plan. There is an opportunity to stage various aspects of the development. At this time the financial implications are purely strategic.

### Asset Management

The current asset management requires the upkeep of 3 properties and 4 facilities. The finalised proposal would reduce this to 2 properties and 2 facilities. Several emerging issues would also be addressed in the redevelopment.

### Policy or Regulation

N/A

### Consultation

The *Concept Plan* brief was developed after a review of building usage, purpose, developing issues and with regard to community feedback, collected as part of the *Community Strategic Plan* development. The *Concepts* presented are for the purpose of seeking grant funding. Prior to any works taking place, further community engagement and situational review (facility usage, sustainability, community need etc.) would be required to inform final design decisions, as per the attached community engagement plan.

### Legal and Risk Management

N/A

|             |                                                                                                                      |
|-------------|----------------------------------------------------------------------------------------------------------------------|
| Prepared by | Dan Griffin, Coordinator Community Development                                                                       |
| Attachment  | 1. Concept Design – Maclean Community Precinct Proposal and Option Pricing Summaries<br>2. Community Engagement Plan |

**ITEM 14.029/19 CULTURAL & SPORTS TRUST FUND**

|                    |                                                             |               |
|--------------------|-------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                 | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                           |               |
| <b>Reviewed by</b> | Director - Environment, Planning & Community (Des Schroder) |               |
| <b>Attachment</b>  | Nil                                                         |               |

**SUMMARY**

Council has received requests for assistance from the Clarence Valley Cultural and Sports Trust Fund on behalf of Tyler Hogden and Rhys Cropper.

**OFFICER RECOMMENDATION**

That Council approve:

1. A donation of \$500 be allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Tyler Hogden who has been selected to represent Australia in the Junior Auroras Dragon Boat Team at the 14<sup>th</sup> International Dragon Boat Federation World Nations Championships to be held in Thailand from 20-25 August 2019.
2. A donation of \$250 be allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Rhys Cropper who has been selected to represent NSW in the Hockey NSW Under18 Men's Blues team at the Australian National Hockey Championships in Tasmania from 9-17 April 2019.

**COMMITTEE RECOMMENDATION**

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.029/19**

Lysaught/Kingsley

That Council approve:

1. A donation of \$500 be allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Tyler Hogden who has been selected to represent Australia in the Junior Auroras Dragon Boat Team at the 14<sup>th</sup> International Dragon Boat Federation World Nations Championships to be held in Thailand from 20-25 August 2019.
2. A donation of \$250 be allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Rhys Cropper who has been selected to represent NSW in the Hockey NSW Under18 Men's Blues team at the Australian National Hockey Championships in Tasmania from 9-17 April 2019.

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 1.2.1 Provide, maintain and develop sport and recreational facilities and encourage greater utilisation and participation

**BACKGROUND**

Tyler Hogden of Waterview Heights has been selected to represent Australia in the Junior Auroras Dragon Boat Team at the 14<sup>th</sup> International Dragon Boat Federation World Nations Championships to be held in Pattaya, Thailand from 20-25 August 2019. This funding will assist with player levy, travel, accommodation and competition costs.

Rhys Cropper of Grafton has been selected to represent NSW in the Hockey NSW U18 Men's Blues team competing at the Australian National Hockey Championships in Hobart, Tasmania from 9-17 April 2019. This funding will assist with player levy, travel, accommodation and competition costs.

**KEY ISSUES**

The Trust provides financial support, in any calendar year, to a maximum of \$250 per individual to attend one event at National level and \$500 per individual for one event at International level.

The applications as submitted meet the criteria for financial assistance from the Fund.

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

This recommendation for support totals \$750.00. The available budget held in Cost Centre 930 (PJ 997113-58-7012-2534) is:

|                                                     |                |
|-----------------------------------------------------|----------------|
| Funds reserved for Sport & Cultural Trust 2018/2019 | \$5,000        |
| Less previous allocations during 2018/2019          | \$3,000        |
| Funds available as at 28/02/2019                    | <b>\$2,000</b> |

**Asset Management**

N/A

**Policy or Regulation**

Cultural & Sports Trust Fund

Financial Assistance to the Clarence Valley Sporting Community

**Consultation**

N/A

**Legal and Risk Management**

N/A

|             |                                                              |
|-------------|--------------------------------------------------------------|
| Prepared by | Sammy Lovejoy, Community Projects Officer – Community Grants |
| Attachment  | Nil                                                          |

**ITEM 14.030/19 CLARENCE VALLEY CULTURAL COMMITTEE MEMBERSHIP**

|                    |                                                             |               |
|--------------------|-------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                 | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                           |               |
| <b>Reviewed by</b> | Director - Environment, Planning & Community (Des Schroder) |               |
| <b>Attachment</b>  | Yes                                                         |               |

**SUMMARY**

This report requests endorsement of a new member application for the Clarence Valley Cultural Committee (CVCC) and Minutes from their December 2018 meeting.

**OFFICER RECOMMENDATION**

That Council accept:

1. The membership application for the Clarence Valley Cultural Committee for Steve Pickering, Coldstream Gallery.
2. The Minutes from 10 December 2018 Clarence Valley Cultural Committee meeting.

**COMMITTEE RECOMMENDATION**

Simmons/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.030/19**

Lysaught/Kingsley

**That Council:**

1. **Accept the membership application for the Clarence Valley Cultural Committee for Steve Pickering, Coldstream Gallery.**
2. **Note the Minutes from 10 December 2018 Clarence Valley Cultural Committee meeting.**

**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 membership of the CVCC allows for 12 people. There are currently 5 vacant seats on the Committee. Membership rules are detailed in the approved Committee constitution. In summary, members can be appointed until the day before the next Council election and up to 6 persons will be from the Clarence Valley Coastal area (lower river) and up to 6 persons from the Clarence Valley Hinterland (upper river).

Steve Pickering is the current owner of the Coldstream Gallery in Ulmarra, the largest privately-owned gallery in the Clarence Valley. The gallery aims to promote local artists and artisans with a focus on promoting youth. The gallery strives for variety and owners Steve and Marc McIntyre believe there is a piece of art for everyone. Steve's previous career at Toshiba has given him a firm understanding of digital visual art and colour space. He was the first *Colour Specialist* ever at Toshiba, Australia.

**KEY ISSUES**

If the new member in this report is approved, members will be from the below areas:

|                     |              |                          |
|---------------------|--------------|--------------------------|
| Northern Rivers – 1 | Ilarwill – 1 | Ashby – 1                |
| South Grafton – 1   | Cowper – 1   | Ulmarra – 1 (new member) |
| Grafton – 1         | Yamba – 1    |                          |

New member approval will result in 4 vacant seats on the Clarence Valley Cultural Committee with a total of 8 members, out of 12 potential members.

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

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

|             |                                                 |
|-------------|-------------------------------------------------|
| Prepared by | Sarah Nash, Community Project Officer (General) |
| Attachment  | CVCC Minutes 10 December 2018                   |

---

**ITEM 14.031/19 DEVELOPMENT APPLICATIONS**


---

|                    |                                                                          |               |
|--------------------|--------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                              | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                        |               |
| <b>Reviewed by</b> | Manager - Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | 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/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

---

**COUNCIL RESOLUTION – 14.031/19**

Lysaught/Kingsley

**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 has been changed to include all calendar days including weekends and public holidays. The method is now consistent with the NSW Department of Planning *Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*.

The figures from 1 July 2018 to 28 February 2019 are:

| No. of Applications Received | No of Applications Approved | Value of Approved Works | No of Lots Approved | Average Processing Times                |
|------------------------------|-----------------------------|-------------------------|---------------------|-----------------------------------------|
| 531                          | 539                         | \$70,035,907.00         | 72                  | 56 days (including stop-the-clock days) |

Of the 539 approved Development Applications between 1 July 2018 and 28 February 2019, 242 were determined within 40 days or less (45%).

As of 1 March 2019 there were 98 outstanding development applications, which have been with Council for the following:

|                          |    |
|--------------------------|----|
| <b>Less than 40 days</b> | 46 |
| <b>41 - 60 days</b>      | 11 |
| <b>61 - 80 days</b>      | 6  |
| <b>81+ days</b>          | 35 |

A detailed table outlining the reasons for each outstanding Development Application over 40 days is provided in the table on page 2 of this report.

Exceptions to Development Standards under Clause 4.6 of the LEP - Nil

Reasons for Undetermined Applications over 40 days

| Application No. | Received Date | Days | Description                                                                          | Property                                                | Reason                                                                                   |
|-----------------|---------------|------|--------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------|
| DA2019/0022     | 18/01/2019    | 41   | Second storey addition to dwelling                                                   | 75 Melaleuca Drive, YAMBA NSW 2464                      | Currently being assessed*                                                                |
| DA2019/0023     | 18/01/2019    | 41   | Deck, carports & awning to dwelling                                                  | 15 Binnacle Court, YAMBA NSW 2464                       | Currently being assessed*                                                                |
| DA2019/0017     | 17/01/2019    | 42   | Renovate amenities (including new roof)                                              | Maclean Centenary Pool, Argyle Street, MACLEAN NSW 2463 | Additional information received and on exhibition until 21/3/2019.                       |
| DA2019/0019     | 17/01/2019    | 42   | Dwelling                                                                             | Marengo Road, HERNANI NSW 2453                          | Determination being processed.                                                           |
| DA2019/0020     | 17/01/2019    | 42   | Alterations and additions to industrial building (including new caretakers dwelling) | 11 Henry Searle Drive, ILUKA NSW 2466                   | Awaiting additional information (contaminated land assessment)                           |
| DA2019/0015     | 16/01/2019    | 43   | New amenities block at Greyhound Club                                                | 70 Cranworth Street, GRAFTON NSW 2460                   | Determination being processed.                                                           |
| DA2019/0011     | 11/01/2019    | 48   | Primitive Camp Ground                                                                | Stockyard Creek Road, COALDALE NSW 2460                 | Awaiting additional information (Baseline ecological assessment and bushfire assessment) |
| DA2019/0012     | 11/01/2019    | 48   | Shed                                                                                 | South Arm Road, SOUTH ARM NSW 2460                      | Additional information received (amended plans) and currently being assessed*            |
| DA2019/0008     | 8/01/2019     | 51   | Dwelling                                                                             | 281 Frickers Road, NYMBOIDA NSW 2460                    | Awaiting additional information (Engineering detail, BASIX and amended plans)            |
| DA2019/0002     | 4/01/2019     | 55   | Dwelling                                                                             | Old Murrayville Road, ASHBY HEIGHTS NSW 2463            | Awaiting additional information (Baseline ecological assessment)                         |
| DA2019/0001     | 2/01/2019     | 57   | Artisan food and drink industry and addition to existing building                    | 5 Re Road, TOWNSEND NSW 2463                            | Additional information received and currently being assessed                             |
| DA2018/0785     | 21/12/2018    | 69   | Alterations and additions to existing indoor recreation facility                     | 300 Powell Street, GRAFTON NSW 2460                     | Additional information received and on exhibition until 21/3/2019                        |
| DA2018/0787     | 21/12/2018    | 69   | Alterations and Additions to existing dwelling and secondary dwelling                | 21 The Crescent, ANGOURIE NSW 2464                      | Awaiting additional information (Amended design and Photomontages)                       |

| Application No. | Received Date | Days | Description                                                                         | Property                                                       | Reason                                                                                                  |
|-----------------|---------------|------|-------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| DA2018/0783     | 20/12/2018    | 70   | Alterations and additions including part demolition of the Grafton Regional Gallery | 158 Fitzroy Street,<br>GRAFTON NSW 2460                        | Report to JRPP in March 2019.                                                                           |
| DA2018/0777     | 17/12/2018    | 73   | Shop top housing in existing premises                                               | 80 River Street,<br>MACLEAN NSW 2463                           | Awaiting additional information (BASIX)                                                                 |
| DA2018/0770     | 14/12/2018    | 76   | Covered deck                                                                        | Island View Road,<br>WOOMBAH NSW 2469                          | Awaiting additional information (Bushfire Assessment/BAL rating)                                        |
| DA2018/0763     | 13/12/2018    | 77   | Dwelling                                                                            | 829 Rogan Bridge Road,<br>THE WHITEMAN NSW 2460                | Awaiting additional information (Nominate finished floor height of dwelling and BASIX)                  |
| DA2018/0747     | 4/12/2018     | 86   | Shed                                                                                | 77 Palmers Channel North Bank Road,<br>PALMERS ISLAND NSW 2463 | Applicant has requested application be withdrawn and currently being processed                          |
| DA2018/0738     | 29/11/2018    | 91   | Asphalt Plant                                                                       | Tyson Street,<br>SOUTH GRAFTON NSW 2460                        | Awaiting additional information (Noise and odour assessment)                                            |
| DA2018/0731     | 27/11/2018    | 93   | Two additional dwelling houses (multi dwelling housing)                             | 36 Park Avenue,<br>YAMBA NSW 2464                              | Additional information received (Sewer setback and parking) and currently being assessed*               |
| SUB2018/0036    | 26/11/2018    | 94   | Two lot rural subdivision                                                           | 157 Poley House Road,<br>BRAUNSTONE NSW 2460                   | Additional information submitted 18/2/2019 (Contaminated Land assessment) and currently being assessed* |
| DA2018/0725     | 22/11/2018    | 98   | Dwelling                                                                            | 69 Dianella Drive,<br>GULMARRAD NSW 2463                       | Awaiting additional information (OSM)                                                                   |
| SUB2018/0035    | 19/11/2018    | 101  | Staged DA - Dwelling envelope and consolidation of lots                             | 85 Exmouth Street,<br>LAWRENCE NSW 2460                        | Report to March Council Meeting.                                                                        |
| DA2018/0689     | 9/11/2018     | 111  | Dwelling                                                                            | 3 Bluegum Way,<br>SOUTH GRAFTON NSW 2460                       | Determination being processed.                                                                          |
| DA2018/0678     | 5/11/2018     | 115  | Telecommunications facility - monopole & ancillary structures                       | Hiawatha Road,<br>MINNIE WATER NSW 2462                        | Additional information received and currently being assessed*                                           |
| DA2018/0634     | 18/10/2018    | 133  | Upgrade saleyards truckwash & new amenities                                         | 267-287 Armidale Road,<br>SOUTH GRAFTON NSW 2460               | Additional information requested by DPI – Water                                                         |
| DA2018/0632     | 17/10/2018    | 134  | Demolish shed & erect shed                                                          | 128 Golf Links Road,<br>ILARWILL NSW 2463                      | Awaiting additional information (Amended plans)                                                         |
| DA2018/0630     | 16/10/2018    | 135  | Dual occupancy                                                                      | 1431 Pacific Highway,<br>ULMARRA NSW 2462                      | Awaiting additional information (Geotechnical assessment of riverbank and OSM)                          |
| SUB2018/0030    | 16/10/2018    | 135  | Boundary adjustment                                                                 | Pacific Highway,<br>TYNDALE NSW 2460                           | Awaiting additional information (Contaminated land assessment)                                          |
| DA2018/0615     | 11/10/2018    | 140  | Replace car showroom building (including demolition of existing) and new pylon sign | 37 Turf Street,<br>GRAFTON NSW 2460                            | Awaiting additional information (Heritage and amended plans)                                            |
| SUB2018/0027    | 8/10/2018     | 143  | Two lot subdivision                                                                 | 20 The Glen,<br>MACLEAN NSW 2463                               | Awaiting additional information (Biodiversity and bushfire)                                             |
| DA2018/0579     | 24/09/2018    | 157  | Cut and fill of land (to create house pad)                                          | Pacific Highway,<br>COWPER NSW 2460                            | Awaiting external referral (NRAR)                                                                       |
| DA2018/0574     | 20/9/2018     | 161  | Dwelling                                                                            | 61 Williams Crescent,<br>WOOLI NSW 2462                        | Awaiting additional information (Amended plans and Basix)                                               |
| DA2018/0567     | 18/9/2018     | 163  | Aged care facility (144 beds)                                                       | 425 Bent Street,<br>SOUTH GRAFTON NSW 2460                     | Additional information received and referred back to OEH and RFS.                                       |
| DA2018/0557     | 13/9/2018     | 168  | Health services facility (Medical centre and auxiliary pharmacy)                    | 202 Queen Street,<br>GRAFTON NSW 2460                          | Report to March Council Meeting                                                                         |
| SUB2018/0021    | 7/9/2018      | 174  | Four (4) lot industrial subdivision                                                 | Federation Street,<br>SOUTH GRAFTON NSW 2460                   | Awaiting additional information (Status of dip site and stormwater)                                     |
| DA2018/0537     | 6/9/2018      | 175  | Dwelling                                                                            | 21 Fat Duck Road,<br>WOOMBAH NSW 2469                          | Awaiting additional information (Baseline ecological assessment)                                        |
| DA2018/0512     | 24/8/2018     | 188  | Storage shed                                                                        | 75-79 Spenser Street,<br>ILUKA NSW 2466                        | Awaiting additional information (non compliant setbacks)                                                |
| SUB2018/0018    | 10/08/2018    | 202  | Consolidation to create two lots                                                    | 3 Blaxlands Flat Road,<br>BLAXLANDS CREEK 2460                 | Awaiting additional information (Aboriginal Local Land Council Site Assessment)                         |
| DA2018/0445     | 6/08/2018     | 206  | Seniors independent living (24 villas)                                              | 4 Freeburn Street,<br>YAMBA NSW 2464                           | Awaiting additional information (Flooding and floor heights)                                            |

| Application No. | Received Date | Days | Description                                                                | Property                                              | Reason                                                                                                                                                                                                                    |
|-----------------|---------------|------|----------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DA2018/0449     | 6/08/2018     | 206  | Viewing deck                                                               | 26 Ocean Road,<br>BROOMS HEAD NSW 2463                | Second additional information sent (Amended plans, view sharing issues)                                                                                                                                                   |
| DA2018/0419     | 26/07/2018    | 217  | Shed                                                                       | 302 Gwydir Highway,<br>WATERVIEW NSW 2460             | Awaiting additional information (Amend Plans to comply with Essential Energy or applicant to withdraw application)                                                                                                        |
| DA2018/0407     | 23/07/2018    | 220  | Demolition and extension to car dealership                                 | 34-40 Ryan Street,<br>SOUTH GRAFTON NSW 2460          | Additional information received and on exhibition until 21/3/2019                                                                                                                                                         |
| DA2018/0373     | 4/07/2018     | 239  | 200 Dwelling manufactured home estate and communal facilities              | Carrs Drive,<br>YAMBA NSW 2464                        | Report to March Council Meeting                                                                                                                                                                                           |
| DA2018/0102     | 5/03/2018     | 360  | Speedway practice track                                                    | 334 School Lane,<br>SOUTHGATE NSW 2460                | Awaiting external referral (EPA)                                                                                                                                                                                          |
| SUB2018/0004    | 23/02/2018    | 370  | 12 lot large lot residential subdivision                                   | Bloodwood Grove,<br>GULMARRAD NSW 2463                | Additional information received application to be renotified                                                                                                                                                              |
| DA2017/0671     | 18/10/2017    | 498  | Caravan Park - Alterations & Additions (10 additional sites) and amenities | 391 Goodwood Island Road,<br>GOODWOOD ISLAND NSW 2469 | Awaiting additional information (Building Certificate Application, plans and compliance with <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</i> ) |
| DA2017/0596     | 20/09/2017    | 526  | Bed & Breakfast (Health Retreat)                                           | 73 Martin Road,<br>NYMBOIDA NSW 2460                  | Report to March Council Meeting                                                                                                                                                                                           |
| DA2017/0527     | 22/08/2017    | 555  | Dwelling                                                                   | Bostock Road,<br>TUCABIA NSW 2462                     | Additional information received and currently considering Biodiversity Offsets                                                                                                                                            |
| DA2017/0528     | 22/08/2017    | 555  | Five lot rural subdivision & five dwellings                                | Bostock Road,<br>TUCABIA NSW 2462                     | Awaiting additional information (Biodiversity Offsets)                                                                                                                                                                    |
| SUB2015/0034    | 11/12/2015    | 1175 | 162 lot Residential Subdivision and new roads                              | Hickey Street,<br>ILUKA NSW 2466                      | Application on exhibition under EPBC Act until 4 February 2019 as controlled action by Department of Environment and Energy. Awaiting comments/referral.                                                                  |

\*Currently being assessed under Section 79C of the *Environmental Planning & Assessment Act, 1979*

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

N/A

### Legal and Risk Management

N/A

|             |                                                |
|-------------|------------------------------------------------|
| Prepared by | James Hamilton, Development Assessment Planner |
| Attachment  | Nil                                            |

|             |                  |                                                                                                                                                                                                                                                                           |
|-------------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>14.032/19</b> | <b>DA2018/0783 – PROPOSED ALTERATIONS AND ADDITIONS TO GRAFTON REGIONAL GALLERY (INCLUDING UPGRADES AND PART DEMOLITION) - ASSESSMENT TO JOINT REGIONAL PLANNING PANEL – LOT B DP359677 AND LOT 3 DP38033, 158 FITZROY STREET, GRAFTON AND 5 ROBINSON AVENUE, GRAFTON</b> |
|-------------|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                                                          |               |
|--------------------|--------------------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                              | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                                        |               |
| <b>Reviewed by</b> | Manager - Environment, Development & Strategic Planning (David Morrison) |               |
| <b>Attachment</b>  | Yes                                                                      |               |

## SUMMARY

|                    |                                                   |
|--------------------|---------------------------------------------------|
| <i>Applicant</i>   | GeoLINK Consulting                                |
| <i>Owner</i>       | Clarence Valley Council                           |
| <i>Address</i>     | 158 Fitzroy Street and 5 Robinson Avenue, Grafton |
| <i>Submissions</i> | 4 public submissions                              |

Clarence Valley Council received Development Application, DA2018/0783, from GeoLINK Consulting for alterations and additions to the Grafton Regional Gallery (including upgrades and partial demolition) on Lot B DP359677 and Lot 3 DP38033, on 20 December 2018. Lot B accommodates the current Grafton Regional Gallery facility, whilst Lot 3 fronting Robinson Avenue contains a dwelling-house and ancillary structures.

The proposed development constitutes 'regional development' requiring referral to the Joint Regional Planning Panel (Northern Region) (JRPP) for determination as the development is on land owned by Clarence Valley Council and the value of the development exceeds \$5 million (estimated cost \$5.8 million). While Council officers are responsible for the assessment of the DA, the JRPP is the authority to determine the application.

Four public submissions were received during the exhibition period. Two submissions 'strongly support' the proposed development and the other 2 seek relatively minor clarifications or adjustments to ensure acceptable impact on neighbouring properties and amenity. No submissions state that they 'object' to the proposed development.

## OFFICER RECOMMENDATION

That the report to the Joint Regional Planning Panel for determination of the alterations and additions to the Grafton Regional Gallery (including upgrades and partial demolition) be noted.

## COMMITTEE RECOMMENDATION

Clancy/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.032/19****Lysaught/Kingsley**

**That the report to the Joint Regional Planning Panel for determination of the alterations and additions to the Grafton Regional Gallery (including upgrades and partial demolition) be noted.**

**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**

Regional Panel meetings to determine a DA are generally conducted in a public forum. The applicant and any person that has made a submission can make a presentation to the Regional Panel to provide their opinion on the development proposal. Comments made at the public meeting are considered by the Regional Panel members when determining the DA.

Briefing meetings may also be held, on request from the Chair. These meetings provide an opportunity for the Council to brief the Regional Panel on the key elements of a proposed development and planning controls that affect it.

A formal site visit by the Regional Panel will be arranged prior to the meeting at the discretion of the Chair.

For more information on the panel meeting assessment and determination process please refer to the operational procedures and the Code of Conduct as well as the FAQ's. Anyone wishing to address the Regional Panel at a determination meeting must register with the Regional Secretariat before the meeting. The meeting is scheduled to be held on 20 March 2019 at the Grafton Council Chambers, 2 Prince Street, Grafton. For more information telephone (02) 8217 2060 or email [enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au).

**KEY ISSUES**

The key elements of the proposal are:

- Upgrade of existing Gallery building to provide for:
  - Upgraded toilet and kitchen areas;
  - New studio/workshop;
  - New exhibition space;
  - Upstairs storage area;
- Two-storey addition of Gallery building onto rear lot (on Lot 3 DP38033) to contain additional Gallery space and art storage facilities. A lift and staircase will allow second storey access and a plant room is included on the first floor;
- Small addition to east of the existing building (within Lot B DP359677) to provide delivery area and storage space (including bin storage and garden shed). Above is a plant area with acoustic screen;
- Small first floor addition to existing Gallery building to connect to first floor of addition; and
- Small ground floor addition to existing Gallery building for toilets;

The proposal also entails:

- Demolition of existing dwelling, associated structures, small shed, mango tree and remove gate at front of existing Gallery
- Remove western driveway to Fitzroy Street and replace crossover with new kerb and gutter;
- Introduce new seating and landscaping for café in place of removed driveway;
- Additional parking (within existing parking area east of Gallery building and two additional car parks at rear of proposed addition, accessed from Robinson Avenue);
- Adjustment of services including relocation of sewer line to the northern boundary of the site;
- An internal walkway would allow internal access between the existing building and proposed addition;
- Installation of solar panels;
- Installation of new gates; and
- Introduction of an on-street accessible parking space and loading zone.

Council has the option to make a written or verbal submission to the JRPP at the meeting on Wednesday, 20 March 2019. Any written submission needs to be registered with the Panel Secretariat 7 days before the Panel meeting, while a verbal submission needs to be registered with the Panel Secretariat by 4pm Monday, 18 March 2019. The ability to provide earlier notice to Council of these options without delaying consideration of the DA has been constrained by movement in the scheduling of Council meeting dates for the 2019 year.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

Processing of the DA has been undertaken under Council's recurrent budgets. Applicable DA fees have been paid.

### **Asset Management**

The proposed development seeks to extend and upgrade the Grafton Regional Gallery.

### **Policy or Regulation**

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Clarence Valley Local Environmental Plan 2011

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy No 55 – Remediation of Land

CVC DCP for Development in Residential Zones

### **Consultation**

Public consultation has complied with the requirements of the planning legislation and Council's DCP. Public submissions have been received and have been provided to the JRPP with the assessment report. No significant issues for the proposed development were raised. Some concerns have been managed through recommended conditions.

Consultation with Council staff and Council's Access Committee has been completed in assessing this DA and preparing the report for the JRPP's consideration.



**Legal and Risk Management**

Low risk. Any determination by the JRPP could be subject to appeal through the Land and Environment Court in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

---

|             |                                                                                        |
|-------------|----------------------------------------------------------------------------------------|
| Prepared by | Scott Lenton, Development Services Coordinator                                         |
| Attachment  | 1. JRPP Report and Submissions<br>2. Statement of Environmental Effects – To be tabled |

---

|             |                  |                              |
|-------------|------------------|------------------------------|
| <b>ITEM</b> | <b>14.033/19</b> | <b>ITEMS FOR INFORMATION</b> |
|-------------|------------------|------------------------------|

|                    |                                                             |               |
|--------------------|-------------------------------------------------------------|---------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee                 | 19 March 2019 |
| <b>Directorate</b> | Environment, Planning & Community                           |               |
| <b>Reviewed by</b> | Director - Environment, Planning & Community (Des Schroder) |               |
| <b>Attachment</b>  | Yes                                                         |               |

**OFFICER RECOMMENDATION**

That the Items for Information as listed below be adopted:

1. Clarence Valley Aboriginal Advisory Committee (CVAAC): Minutes of meetings held 15 November and 4 December 2018 (Extraordinary Meeting).
2. Clarence Valley Cultural Committee: Minutes of meeting held 21 January 2019.
3. CVC Grafton Regional Gallery Advisory Committee: Minutes of meeting held 17 October 2018.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

**COUNCIL RESOLUTION – 14.033/19**

Lysaught/Kingsley

That the Items for Information as listed below be adopted:

1. Clarence Valley Aboriginal Advisory Committee (CVAAC): Minutes of meetings held 15 November and 4 December 2018 (Extraordinary Meeting).
2. Clarence Valley Cultural Committee: Minutes of meeting held 21 January 2019.
3. CVC Grafton Regional Gallery Advisory Committee: Minutes of meeting held 17 October 2018.

Voting recorded as follows:

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

Against: Nil

|             |                                             |
|-------------|---------------------------------------------|
| Prepared by | Debbie McGilvray, Executive Support Officer |
| Attachment  | As above                                    |

**CLOSE OF COMMITTEE MEETING**

There being no further business the Environment, Planning & Community Committee meeting closed at 5.42 pm.

**CORPORATE GOVERNANCE & 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 March 2019 commencing at 2.19 pm.

**PRESENT**

Cr Karen Toms (Chair), Cr Jason Kingsley, Cr Arthur Lysaught, Cr Peter Ellem, Cr Jim Simmons (Mayor)

Cr Andrew Baker, Cr Debrah Novak, Cr Richie Williamson, Cr Greg Clancy, 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 Kingsley | 15.034/19   | <input checked="" type="checkbox"/> Pecuniary                     | Reason: My daughter is a member of the Grafton City Tennis Club. I have personal and professional involvement with the club, assisting with the organising of the Annual Wheelchair Tennis Tournament.<br>Intended action: Leave the Chamber |
| Cr Kingsley | 15.049/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: The Organisation I work for was the lead agency in organising the “We R One Day” social inclusion event mentioned in the report and I was chairperson of the organising committee.<br>Intended action: Remain in the Chamber         |
| Cr Simmons  | 15.032/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: One of the tenderers listed is married to Cr Simmons’ niece.<br>Intended action: Remain in the Chamber                                                                                                                               |
| Cr Ellem    | 15.033/19   | <input checked="" type="checkbox"/> Non-Significant Non Pecuniary | Reason: Wife on Committee<br>Intended action: Leave the Chamber                                                                                                                                                                              |

**DEPUTATIONS****15.028/19 Sealing of Clarence Way – Petition**

- Rod Watters

**REPORTS**

|             |                  |                                           |
|-------------|------------------|-------------------------------------------|
| <b>ITEM</b> | <b>15.028/19</b> | <b>SEALING OF CLARENCE WAY - PETITION</b> |
|-------------|------------------|-------------------------------------------|

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Yes                                      |               |

**SUMMARY**

Council has received a petition for the upgrading/sealing of Clarence Way. The following report provides information about Clarence Way, and includes and supplements details that were provided in a similar report that was presented to the October 2018 Council meeting (Item 15.169/18).

**OFFICER RECOMMENDATION**

That Council:

1. Prioritise a sealing program for Clarence Way based on the recommendations of the Road Safety Audit, assessment of road geometry and accident history, both reported and anecdotal.
2. Prepare designs and costings for the first two road segments as defined in the prioritised sealing program described in point 1.
3. Submit funding applications for the sealing of Clarence Way either in its entirety, or by individual segments, to all eligible funding programs as they become available.

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Toms, Kingsley, Lysaught, Ellem, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.028/19**

Lysaught/Kingsley

That Council:

1. **Prioritise a sealing program for Clarence Way based on the recommendations of the Road Safety Audit, assessment of road geometry and accident history, both reported and anecdotal.**
2. **Prepare designs and costings for the first two road segments as defined in the prioritised sealing program described in point 1.**
3. **Submit funding applications for the sealing of Clarence Way either in its entirety, or by individual segments, to all eligible funding programs as they become available.**

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**Petition

Council received a petition (with 547 signatures) on 31 January 2019 requesting the upgrade of the Clarence Way, the petition was tabled at the February 2019 Committee and Council meetings. In addition to the petition 17 individual letters (some in support of the petition, others in response to the Roads Management Policy consultation) have been received also requesting the full sealing of Clarence Way. This petition differs slightly from that which was previously reported to Council in October 2018, in that it seeks the upgrading of the Clarence Way in total, not just the section between Copmanhurst and Baryulgil. Some of the support letters in particular highlight a need to upgrade the sections north of Baryulgil for freight connectivity. The petition states:

*Subject of the petition: "The dreadful state of Clarence Way – a category 4 unsealed carriageway"*

*Action requested: "Let's finally 'seal' this council disgrace with which represents an ongoing safety, health and environmental hazard and roadblock to further economic development."*

*Let me deal with the most serious issues that we face with the woeful state of this critical link road in the context of the "draft new roads policy" now on exhibition.*

1. *Safety – as I read it, safety concerns are only implied as part of council's ongoing risk assessment of the Valley's roads. I could not see any plans to improve safety of our roads nor apparently, has council undertaken any research to identify 'accident statistics' that might underpin a longer term strategy and strengthen the CVC's case to secure specific government funding. Dust storms especially when it is dry, kicked up by trucks, many of them council's, make this a very dangerous road and, it is a bus route. You will recall council believes there has only been one recorded accident on Clarence Way in the last five years. We all know this is wrong so we have initiated GIPA searches with:*

- *New South Wales Police*
- *Ambulance Services New South Wales*
- *SES Northern Rivers*
- *RFS New South Wales*
- *NRMA and GIO to identify relevant insurance claims related to Clarence Way.*

*We will of course, share these responses with you.*

2. *Health – Council has recognised the presence of asbestos on just six roads in the entire valley, five of them in the Ewingar district. Sealing these roads seems to be taking preference I would assume because it was this Council that carried out maintenance using contaminated gravel from the Taylors quarry. These roads are Category 1b – low volumes, few trucks, no through road and no bus route. They are home to two goannas! This priority sits in sharp contrast to Clarence Way, the only category 4 unsealed road in the CV.*

- *A council crew late last year was putting a new drain across Clarence Way above Kungurrabar Station. The supervisor instructed the team to wear protective gear as "this road is full of asbestos"! And they did uncover a seam of asbestos. I assume this was reported/recorded?*

- A consultant to the EPA, Dr Keith Bolton, inspected a short section of Clarence way at my request, at the front of Keybarbin Station and confirmed surface rocks just 100 m from our main entrance contained asbestos. This information has been given to Ms Jillian Gallagher at the EPA.
  - Additionally, we have given her four names of people in this District who worked at the Baryulgil mine and/or drive trucks from the mine, who will attest to “asbestos tailings” being used as a base or for maintenance along Clarence Way for perhaps 20 years.
3. Environmental impact – the run-off into the waterways and our paddocks is therefor, of real concern.
4. Cost – the dreadful and ongoing state of this link road is now just out of hand in term si f dramatically increasing our operational costs: dust, excessive vibration, rocks all lead to front ends collapsing, headlight assemblies and windscreens smashed, tires all to be replaced within unacceptable cycle times.
5. An economic roadblock. I have yet to hear from one resident, grazier or entrepreneur of any plans to further develop or diversify their businesses. The opportunities are great:
- Eco-tourism
  - Additional cropping
  - Feedlots
  - Plantations
  - Commercial honey operations
  - Berry production.

Until this road is fixed nothing will happen.

In conclusion, it is interesting to contrast CVC and Kyogle Council with the latter clearly seeing Clarence Way as an “economic corridor”; a central plank in their economic growth platform. They have successfully worked with residents and investors to secure significant grants to upgrade Clarence Way. They joined forces also, very effectively, with their Federal and State members. So, where are we at?

I cannot see how the “new roads policy” document helps us get at some of these issues.

We, as a group want to work with you, and secure this districts future.

We commend this Petition to you.

#### Clarence Way

Clarence Way is a Regional road (MR 150) that commences at the Summerland Way near Koolkhan and extends to Council’s boundary towards Tabulam, a length of 103.5 km. There are currently nine unsealed sections of road on Clarence Way, as shown in the table below:

| Item | Chainage Start – Summerland Way |                   | Length (km) | Comment |
|------|---------------------------------|-------------------|-------------|---------|
|      | Start Chainage (km)             | End Chainage (km) |             |         |
| 1    | 38.4                            | 40.0              | 1.62        |         |
| 2    | 44.6                            | 47.2              | 2.59        |         |
| 3    | 47.3                            | 49.9              | 2.64        |         |
| 4    | 50.4                            | 51.2              | 0.75        |         |
| 5    | 52.8                            | 59.2              | 6.41        |         |
| 6    | 78.7                            | 80.2              | 1.50        |         |
| 7    | 80.6                            | 86.3              | 5.65        |         |

|              |      |      |              |                        |
|--------------|------|------|--------------|------------------------|
| 8            | 86.3 | 86.9 | 0.64         | Asbestos seal required |
| 9            | 87.1 | 88.8 | 1.73         | Asbestos seal required |
| 10           | 90.4 | 91.7 | 1.32         |                        |
| <b>TOTAL</b> |      |      | <b>24.85</b> |                        |

Baryulgil is located at approximate chainage 71.8 km. There is 14.01 km of unsealed road between Copmanhurst and Baryulgil and 10.84 km of unsealed road between Baryulgil and the Council boundary.

A road safety audit has been commissioned on the unsealed sections of the network. This assessment is due to be completed by end March 2019. This report will assist Council with determining a priority for works as well as funding submissions.

### KEY ISSUES

The issues presented in the previous report of the October 2018 Council meeting (copy attached) remain the same. Since this meeting a number of actions have occurred or commenced.

- Council, through the Mayor, has made representations to State and Federal Members seeking funding support for the upgrade of Clarence Way.
- A Road Safety Audit has been commissioned on the unsealed sections of Clarence Way. The report is to be completed by early March 2019.
- Council has proposed funding for 2018/19 for sealing of road sections previously nominated under the sealing asbestos contaminated gravel roads program. This includes funding to seal a further section of Clarence Way.

#### Representations to State and Federal Governments

As advised above, the Mayor has sent a number of State and Federal Government politicians a letter calling for government assistance. Letters have been sent to:

#### **Federal Government**

Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development - Michael McCormack

Minister for Regional Development, Territories and Local Government – Dr John McVeigh

Minister for Regional Services & Minister for Local Government and Decentralisation – Bridget McKenzie

Member for Page – Kevin Hogan

#### **NSW Government**

Deputy Premier and Minister for Regional NSW – John Barilaro

Minister for Local Government – Gabrielle Upton

Minister for Roads – Melinda Pavey

Minister for Transport and Infrastructure – Andrew Constance

Member for Clarence – Chris Gulaptis

#### Recommendations

In addition to the resolution of October 2018, it is recommended that the following actions be undertaken to continue the process currently commenced:

1. Council prioritise a sealing program for Clarence Way based on the recommendations of the Road Safety Audit, assessment of road geometry and accident history, both reported and anecdotal.
2. That designs be prepared and costed for the first two priority road segments.
3. That Council submit funding applications for these projects, subject to Council concurrence (noting that grant funding may only fund part of the total estimated construction cost).

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

Financial details are included above.

**Asset Management**

Any subsequent upgrade works will be included in Council's Asset Register.

**Policy or Regulation**

The Roads Maintenance Policy referred to details Council's proposed maintenance strategies for the road network. General principles for road upgrading are contained in Council's Transport Asset Management Plan. Outcomes from Council resolutions regarding to road upgrading, including road sealing, will be reflected in the Transport Asset Management Plan.

**Consultation**

Council staff have had discussion with the proponent of the petition.

**Legal and Risk Management**

N/A

|             |                                                                                                                   |
|-------------|-------------------------------------------------------------------------------------------------------------------|
| Prepared by | Tim Jenkins, Manager Civil Services                                                                               |
| Attachment  | Petition – to be tabled<br>Letters of support – to be tabled<br>Letters to State and Federal Government Ministers |



---

**ITEM 15.029/19 LOCAL TRAFFIC COMMITTEE**


---

|                    |                                         |               |
|--------------------|-----------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                           |               |
| <b>Reviewed by</b> | Manager - Civil Services (Tim Jenkins)  |               |
| <b>Attachment</b>  | Yes                                     |               |

---

**SUMMARY**

This report lists the recommendation made at 5 March 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 March 2019 meeting be adopted by Council.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.029/19**

Lysaught/Kingsley

**That the recommendations of the Local Traffic Committee included in the Minutes of its 5 March 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 March 2019.

**ITEM 006/19 DA2018/0172 – CONNECTED LEARNING CENTRE – TAFE, ROBERTS CLOSE, YAMBA**

That Council confirm:

1. the layout of the pedestrian refuge to be installed in Treelands Drive, north of Roberts Close, as required by the Development Consent for DA2018/0172, as shown in Attachment 1 to this report;
2. the relocation of the bus stop on the western side of Treelands Drive, between the existing driveways to Lot 44 DP 847738 and Lot 41 DP 841278, as shown in Attachment 2 to this report.

**ITEM 007/19 ROAD CLOSURES – MACLEAN HIGHLAND GATHERING 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.
  - 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 & 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  
Road Closures
  - 19 April 2019 - 6:00pm to 10:00pm  
River Street, Maclean from Argyle to Union Street
  - 20 April 2019 - 7:00am to 10:00am  
River Street, Maclean from Union Street to Stanley Street

**ITEM 008/19 GRAFTON TO INVERELL CYCLE CLASSIC 2019**

That Council approve the Special Events Management Plan for the Grafton to Inverell Cycle Race to be held on 11 May 2019, subject to the following conditions:

1. Conformance with NSW Police approval and conditions
2. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons
3. The event organiser notifies residents of the impact of the event/s by advertising in the local paper, at their expense, 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
4. That prior to the event consultation will be carried out with the Community and affected businesses and concerns raised shall be addressed,
5. Consultation will be carried out with affected bus and transport operators and arrangements made for provision of services during conduct of the event
6. Consultation will be carried out with emergency services and any identified issues addressed
7. Arrangements made for private property access and egress affected by the event
8. Adequate public liability insurance being held by the event organiser
9. Endorsement of the event by Bicycle NSW
10. The event be conducted and signposted in accordance with the Roads & Maritime Services Guidelines for Bicycle Road Races
11. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event
12. That the applicant organise for the events to be listed on council's web page
13. The submission and approval of Community Event applications and compliance with any conditions imposed therein
14. 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.
15. Approval of Roads and Maritime Services 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.

**ITEM 009/19 TRUCK PARKING – PACIFIC HIGHWAY, SOUTH GRAFTON**

Noted by the Committee – no offences appear to be made.

**ITEM 010/19 ANZAC DAY ROAD CLOSURES**

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, if required.
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.
  - 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 & 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
  - Road Closures
  - Prince Street, Grafton (Pound St to Kemp Street)
  - Pound Street, Grafton (Duke St to Prince St)
  - Wisemans Way, Grafton (Duke St to Pound St)
  - Spring Street, South Grafton (New Street to Skinner Street)
  - Skinner Street, South Grafton (Spring St to Through St)
  - Through Street, South Grafton (Skinner St to Wharf St)
  - River Street, Maclean (Union St to Taloumbi St)
  - Short Street, Maclean
  - Stanley Street, Maclean (Short St to River St)
  - Charles Street, Iluka (Young St to Riverview St)
  - River Street, Ulmarra

#### KEY ISSUES

Agenda, minutes and attachments are attached.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

N/A

##### Asset Management

N/A

##### Policy or Regulation

N/A

|             |                                     |
|-------------|-------------------------------------|
| Prepared by | Tim Jenkins, Manager Civil Services |
| Attachment  | Traffic Committee Minutes           |

---

**ITEM 15.030/19 ROADS MAINTENANCE POLICY REVIEW**


---

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Yes                                      |               |

---

**SUMMARY**

Council advertised the revised Roads Maintenance Policy on 22 December 2018 for community consultation. The following report reviews the submissions received and subsequent recommended amendments to the Policy.

**OFFICER RECOMMENDATION**

That Council:

1. Adopt the revised Road Maintenance Policy.
2. Review the adopted policy on an annual basis to reflect any revised road grading frequencies and other variations to roads and road lengths to be maintained resulting from Council resolutions.
3. Investigate the development of an Unsealed Road Dust Sealing Policy and present a report to a future Council meeting.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

---

**COUNCIL RESOLUTION – 15.030/19**

Lysaught/Kingsley

That Council:

1. **Adopt the revised Road Maintenance Policy.**
2. **Review the adopted policy on an annual basis to reflect any revised road grading frequencies and other variations to roads and road lengths to be maintained resulting from Council resolutions.**
3. **Investigate the development of an Unsealed Road Dust Sealing Policy and present a report to a future Council meeting.**

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

In November 2018 Council adopted the revised Roads Management Policy (Item 15.203/18) for the purposes of public exhibition. Specifically Council resolved in relation to the Policy, that:

3. *The Sundry Debtor Recovery Policy, the Riverbank Protection Policy and the Roads Policy be placed on public exhibition for a period of 28 days and:*
  - i) *subject to there being no public comment that changes the intent of the policy, the policy be adopted*
  - ii) *if submissions are received that change the intent of the policy, the policy and submission(s) will be reported to Council for consideration.*

The revised Policy was advertised for comment on 22 December 2018 with the submission period ending on 31 January 2019. 46 submissions were received. A brief summary of each submission is provided as an attachment, together with a copy of each submission. The Key Issues section of this report broadly groups the submission topics and provides a commentary. In many cases specific issues relating to the road (and not specifically the Policy) were provided and where required these will be followed up by staff with the submission writer.

In addition to the submissions, a petition has been submitted to Council regarding the sealing of Clarence Way, which also includes a further 14 supporting letters (giving 17 letters in total for Clarence Way). The matter of Clarence Way is separately reported to Council at this meeting.

## KEY ISSUES

The main issues that have been raised in the submissions have been summarised into groups and are addressed below.

### **Increased Maintenance and Gravel Quality**

Many submissions requested additional maintenance grading above that nominated in the attachment to the Policy while others requested improved gravel for the roads. These two issues are related. In general Council is proposing to maintain the grading frequency as initially proposed, acknowledging there needs to be an improvement in the gravel type used. The operations and material use associated with Council's unsealed road maintenance is currently under review. This has included the unsealed road material trial on Lawrence-Tullymorgan Road, reviewing the maintenance grading methods used by Council in undertaking maintenance grading, the road standards to be achieved, Council's proposed grading frequencies as compared to industry standards and existing road gravel on the unsealed roads.

What the analysis of Council's practices has indicated is that the proposed grading frequency is equal to or higher than the industry norm. Council's grading techniques and standards to be achieved are also correct. The most significant deficiency is with the road material. Council's past practice has been to use material from the closest quarry to resheet roads to minimise cost. However, because of the variable nature of gravel, some gravel types perform better than others and the properties of gravel change over time as fine material from the gravel is lost. What the unsealed road trial is confirming is that if more 'suitable' gravel material is used (whether this be natural or modified), the effects of maintenance grading should last significantly longer. There is an increased cost in providing this material but this is offset by reduced maintenance and improved road conditions. The present situation is that Council is receiving requests for increases in maintenance grading in response to the 'poorer' gravel that is on many roads.

One of the issues to be addressed by the introduction of the Special Rate Variation (SRV) was to increase expenditure on gravel resheeting of roads. Council has commenced increasing expenditure in this area as

the SRV is being introduced. Funding for this aspect of Council's work will increase as the amount of SRV funds generated increases. Gravel of a suitable quality is a finite resource so Council, in determining the most suitable treatment for a road, needs to examine the condition and needs of each road, which may include a combination of approaches currently being trialled. Council has commenced a process of examining roads and determining a strategy for road material improvement on a road-by-road basis. There are also other products/techniques that are currently being developed that Council are examining. The longer-term objective is to balance the provision of improved gravel with the maintenance grading cycle so that an adequate surface is provided year-round.

Review of this issue did identify two deficiencies in the Policy:

- A sentence has been included advising of inspection frequency of roads; and
- The road list with road classification and grading frequency has been added as an attachment to the Policy. The grading frequency in particular will be reviewed and amended as required.

### **Sealing Gravel Roads**

A number of requests were also received to seal various roads. A report was presented to the March 2018 Council meeting - Unsealed Road Network – Response to Notice of Motion, Research and Development and Levels of Service (March 2018 Council meeting) regarding sealing of unsealed roads. While this report dealt with a number of specific roads there are some general principles that can be extrapolated from this report. In summary:

- From an economic viewpoint the sealing of an unsealed road generally only begins to become economically viable when traffic volumes reach the 200-250 vehicles/day.
- Viability is dependent on costs to construct the road. Dependent on road geometry there may be significant construction costs which reduce the economic benefit for reconstructing the road. This can only be assessed on a case-by-case basis.

No recommendations have been made to seal roads as part of this report – noting the 'Clarence Way Sealing – Petition' report is due to be considered by Council.

### **Sealing Small Sections of Gravel Roads Adjacent to Residences**

The sealing of small sections of roads in front of residences will provide relief to those residences from issues such as dust, particularly during extended dry periods. However, operationally there are a number of issues with this approach to road management, including:

- Unless the road is prepared for sealing including the application of appropriate quality gravel, the spray seal becomes sacrificial and will break up over time. There will be an expectation that the seal will be repaired as this deterioration occurs. There will also be an eroding of the seal between the gravel/seal interface as maintenance activities are undertaken over time.
- Increases in sealing increases maintenance costs which is not currently budgeted for in future expenditure projections.
- Having short sections of seal and/or unsealed road segments increases maintenance grading costs due to less efficient grading practices.
- Establishing a standard as to where a road segment should be sealed/not sealed and the extent of sealing would be difficult to ascertain due to the number of variables involved (distance of residence from road, effect of wind generating dust, type of material used on road).

It is understood that some other Councils have adopted an Unsealed Road Dust Sealing Policy which is funded by contributions by adjoining landholders. It is recommended that council investigate the development of an unsealed road dust sealing policy and that the matter be reported to a future meeting of Council.

The following amendments have been made to the Policy that is recommended for adoption:

- A sentence has been included advising of inspection frequency of roads

- Removal of the Civil Liability legislation in detail and only retain a reference to the applicable clauses
- Adding the road list, road classification and grading frequency as an attachment.

## COUNCIL IMPLICATIONS

### Budget/Financial

There are no direct financial implications resulting from the revised policy. The long-term objective is however, to provide a level of service that provides an unsealed road network that provides two wheel drive access. Over the long-term this will require additional funding to provide material that meets specification or has been modified in some form. The outcome of the current trial will provide guidance with this decision making process. It is thought that as higher grade materials are used the grading frequency can be reduced as the gravel surface will remain in a satisfactory condition for a longer period of time. Any savings in maintenance grading can then be reinvested in gravel resheeting.

### Asset Management

The objective of the revised Policy is to lead, in the long-term, to an improvement in asset condition.

### Policy or Regulation

Roads Maintenance Policy

### Consultation

Revisions to the Roads Maintenance Policy were advertised for community comment from 22 December 2018 to 31 January 2019.

### Legal and Risk Management

N/A

|             |                                                                                                               |
|-------------|---------------------------------------------------------------------------------------------------------------|
| Prepared by | Tim Jenkins, Manager Civil Services                                                                           |
| Attachment  | Revised Roads Maintenance Policy – To be tabled<br>Submissions received – To be tabled<br>Summary Submissions |



---

**ITEM 15.031/19 CLARENCE VALLEY REGIONAL AIRPORT – ADOPTION OF MASTER PLAN**

---

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Yes                                      |               |

---

**SUMMARY**

At its November 2018 meeting Council adopted a draft master plan for the purposes of exhibition. Comments have not been received following public exhibition which have resulted in minor changes to the master plan document.

**OFFICER RECOMMENDATION**

That Council:

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.

**COMMITTEE RECOMMENDATION**

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Simmons

Against: Toms, Ellem

**FORESHADOWED MOTION**

Toms

That the item be deferred to the full Council meeting.

**COUNCIL MOTION (1)**

Clancy/Toms

That:

1. Council defer this item and to commission professional reports on the Aboriginal and ecological (threatened species 5 part test under the Biodiversity Conservation Act) significance of the south-eastern section of the site which is proposed for hangar construction.
2. These reports be presented to Council at a future meeting accompanied by the relevant officer's recommendation taking into account the findings of these reports.

Voting recorded as follows:

For: Novak, Ellem, Toms

Against: Williamson, Baker, Kingsley, Lysaught, Simmons

Speakers for the Council Motion (1) were Crs Clancy, Novak and Toms and speakers against were Crs Lysaught and Baker.

## MOTION

Williamson

That the motion be put.

Voting recorded as follows:

For: Williamson, Baker, Kingsley, Lysaught, Simmons

Against: Novak, Ellem, Toms, Clancy

Cr Williamson's Motion was declared CARRIED. (Note: A seconder is not required for a motion to "be put".)

The Chair adjourned the Ordinary Council meeting at 4.47 pm to clarify a point of order on a mover's right of reply. The meeting reconvened at 4.58 pm.

The Mayor apologised for any misunderstanding to Councillors and advised that under Council's Code of Meeting Practice Clause 3.21 (6), if a motion that the original motion be now put is passed, the Chairperson must, without further debate put the original motion to the vote immediately after the mover of the original motion has exercised their right of reply. However, Cr Clancy had left the Council meeting during the adjournment and was not able to exercise his right of reply and was absent for the remainder of the debate on this item and the meeting.

Council Motion (1) was put and declared LOST.

**COUNCIL RESOLUTION – 15.031/19****Ellem/Simmons****That Council:**

- 1. Note the submissions received during the consultation period.**
- 2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.**
- 3. Advise Grafton Ngerrie Local Aboriginal Land Council in writing that Clarence Valley Council will involve the Land Council in all areas of planning and construction (only works contained within the Master Plan) at the Clarence Valley Regional Airport to ensure the protection of all cultural aspects relating to the site with an independent cultural assessment prior to any development at the site.**

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

(1) AMENDMENT TO MOTION – LAPSED for want of a seconder

Baker

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.

(2) AMENDMENT TO MOTION - WITHDRAWN - INCORPORATED INTO CR ELLEM'S MOTION

Williamson/Lysaught

That Council:

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.
3. Advise Grafton Ngerrie Local Aboriginal Land Council in writing that Clarence Valley Council will involve the Land Council in all areas of planning and construction (**and works that may be contained within the Master Plan**) at the Clarence Valley Regional Airport to ensure the protection of all cultural aspects relating to the site, including funding an independent cultural assessment prior to any development at the site.

## (3) AMENDMENT TO MOTION – WITHDRAWN – INCORPORATED INTO CR ELLEM’S MOTION

Lysaught

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.
3. Advise Grafton Ngerrie Local Aboriginal Land Council in writing that Clarence Valley Council will involve the Land Council in all areas of planning and construction (and works that may be contained within the Master Plan) at the Clarence Valley Regional Airport to ensure the protection of all cultural aspects relating to the site **with** an independent cultural assessment prior to any development at the site.

## (4) AMENDMENT TO MOTION – WITHDRAWN – INCORPORATED INTO CR ELLEM’S MOTION

Toms

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.
3. Advise Grafton Ngerrie Local Aboriginal Land Council in writing that Clarence Valley Council will involve the Land Council in all areas of planning and construction (**only works contained within the Master Plan**) at the Clarence Valley Regional Airport to ensure the protection of all cultural aspects relating to the site with an independent cultural assessment prior to any development at the site.

## (5) AMENDMENT TO MOTION – WITHDRAWN

Novak/Toms

That:

1. Council note the submissions received during the consultation period.
2. Council adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.
3. Council advise Grafton Ngerrie Local Aboriginal Land Council in writing that Clarence Valley Council will involve the Land Council in all areas of planning and construction (only works contained within the Master Plan) at the Clarence Valley Regional Airport to ensure the protection of all cultural aspects relating to the site with an independent cultural assessment prior to any development at the site.
4. An ecological assessment be undertaken in a report to the Master Plan which provides a benchmark for future developments.

## FORESHADOWED MOTION

Williamson

That Council:

1. Note the submissions received during the consultation period.
2. Adopt the Clarence Valley Regional Airport Master Plan 2018 – 2033 dated February 2019.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

Strategy 2.1.3 Provide strategic asset management planning

**BACKGROUND**

At the November 2018 meeting (Item 15.197/18) Council adopted a Master Plan for the Clarence Valley Regional Airport (CVRA) for the purposes of public exhibition. The Master Plan was exhibited during the period 28 November 2018 – 18 January 2019 and 7 submissions were received.

**KEY ISSUES**Submissions

Seven submissions to the Master Plan were received and these submissions are included in the attachments to this report.

In summary, the submissions detailed the following items:

- Future consultation and involvement to ensure cultural awareness relating to the site
- Advice with regard to aviation options and future development of the airport
- Opportunity for advertising
- Road naming and distance corrections
- Requirement for inspection and evaluation of cultural, environmental and physical features of the site

Council's consultant, The Airport Group (TAG) has considered the feedback provided and has subsequently made amendments to the document to ensure that the intent of the items raised has been captured within the document. A summary of the amendments is provided in the attachments.

Master Plan

The Master Plan presents two options for the 15 year planning period at the CVRA. The Master Plan options are designed to provide flexibility for Council to accommodate future demand and development at the Airport. The plans are underpinned by consistent land use precincts and endeavour to complement the existing infrastructure through providing additional facilities for passengers (e.g. car parking and undercover walkway) as well as airport operations (e.g. additional office space) and provide the basis for future alternative development to stimulate ongoing operations at the Airport.

The point of difference in the two Master Plan options is the role of the location of the airport in future development. Option One focuses on building the general aviation operations at the airport and Option Two provides for more alternative uses of the land parcels at the aerodrome which can take advantage of proximity to the Pacific Highway corridor and utilise available land that is surplus to aviation operating requirements.

It is recommended that Council adopt the Master Plan document for the purposes of guiding future development and investment at the site.

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

Council allocated a budget of \$35,000 to develop the Master Plan.

**Asset Management**

Council's airport is covered by an Asset Management Plan.

**Policy or Regulation**

The CVRA is a certified airport and is audited on an annual basis by CASA under the Manual of Standards Part 139 of the Civil Aviation Regulation.

**Consultation**

The relevant documents were placed on exhibition on Wednesday, 28 November 2018 in accordance with the projects community engagement plan.

**Legal and Risk Management**

N/A

---

|             |                                                                                                                                                            |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Troy Anderson, Director (Works & Civil)                                                                                                                    |
| Attachment  | Submissions received<br>Consultant comment to received submissions (A3 under separate cover)<br>Clarence Valley Regional Airport – Master Plan 2018 - 2033 |

---

|             |                  |                                                                             |
|-------------|------------------|-----------------------------------------------------------------------------|
| <b>ITEM</b> | <b>15.032/19</b> | <b>KUNGALA-LANITZA RFS, COMMUNITY HALL COMMITTEE AND RELATED SITE WORKS</b> |
|-------------|------------------|-----------------------------------------------------------------------------|

|                    |                                                  |               |
|--------------------|--------------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                                    |               |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |               |
| <b>Attachment</b>  | Confidential                                     |               |

**SUMMARY**

This report is seeking endorsement from the Council to provide additional funds to repair the Kungala-Lanitza RFS and Community Centre to comply with the building regulations.

**OFFICER RECOMMENDATION**

That Council:

1. Allocate funding of \$43,290 from the Rural Fire Service RA10175 (RFS - B&C Shortfall Reserve) to undertake repair and related works to the Kungala-Lanitza Rural Fire Service Brigade Station.
2. Undertake renewal and other repair works to the Kungala-Lanitza Community Hall and increase the 2018/19 Community Hall renewal funding budget within Council's budget by \$23,128 to be funded from the IR10122 (Building/Assets Reserve) to undertake these works.
3. Thank the current Committee for the work that have managed the hall and seek interest from the community to establish a new s355 Committee to manage and operate the hall.

*Having declared an interest in this item, Cr Simmons left the CG&W Committee meeting at 2.57 pm and returned at 2.58 pm.*

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms

Against: Nil

*Having declared an interest in this item, Cr Simmons left the Council Ordinary meeting at 5.32 pm and resumed the Chair at 5.33 pm. The Deputy Mayor chaired the meeting for this item.*

**COUNCIL RESOLUTION – 15.032/19**

Williamson/Toms

That Council:

1. Allocate funding of \$43,290 from the Rural Fire Service RA10175 (RFS - B&C Shortfall Reserve) to undertake repair and related works to the Kungala-Lanitza Rural Fire Service Brigade Station.
2. Undertake renewal and other repair works to the Kungala-Lanitza Community Hall and increase the 2018/19 Community Hall renewal funding budget within Council's budget by \$23,128 to be funded from the IR10122 (Building/Assets Reserve) to undertake these works.
3. Thank the current Committee for the work that have managed the hall and seek interest from the community to establish a new s355 Committee to manage and operate the hall.

**Voting recorded as follows:****For: Kingsley, Baker, 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 2.1.4 Manage and enhance our parks, open spaces and facilities

**BACKGROUND**

The Kungala-Lanitza RFS and the adjacent Community Centre are an attached facility that services this area. A Community Committee has been managing the Hall for many years and some of those members have in the past also been members of the local RFS Brigade. Staff met with the remaining members of the Community Committee and indicated that they were unable to continue to manage the hall due to ill health and other family commitments. There is a large area of land around the facility that is regularly mown by the Committee members.

Recently identified termite damage was reported and has been treated, however upon inspection there are other significant incomplete building elements and maintenance repairs that require attendance. The current facilities are in fair to poor condition and there has been a lack of maintenance undertaken in recent years.

The former Community Committee had previously undertaken additional work programs to improve the facility, however some of the work is incomplete and does not meet the current building regulations and must be rectified.

Repair work is necessary to deal with termite damage in the kitchen-servery area and there is evidence of movement in the building concrete block walls that need repairing as soon as possible.

The Hall adjoins the Rural Fire Service (RFS) facility and there is similar wall movement within that area of the building. The RFS are funding and attending to these works along with other works in the toilet amenities. The RFS has a revised quotation for additional works to be undertaken.

**KEY ISSUES**

The recent inspection of this facility clearly identifies a backlog of outstanding maintenance issues which need to be addressed as soon as possible. These include as follows:

**1. Hall****External Envelope**

The roof edge line flashings and eaves linings are missing on both sides of the Hall; the concrete block walls have evidence of movement; external doors are missing weather seals, several window glazing seals on the fixed window panels are falling out; numerous flywire screens have holes and appeared damaged and drainage issue on the southern aspect of the building.

**Internal**

Part of the cornices is missing along the wall between the Hall and Rural Fire Service section; the exit double doors are missing both panic bars and the opposite side double doors is missing one side; the external single door lever set hardware and the internal doors between the Hall and Kitchen/Servery are damaged; the walls and ceiling have cracks and dirty wear marks.

**2. Hall Mud Brick Kitchen/Servery Section****External Envelope**

External doors are missing weather seals, several window glazing seals on the fixed window panels are falling out; the roof edge line flashings is missing on one side and the roof sheeting is not fully draining into the gutter and weathering the eave sheeting; the timber cladding above the mud-brick to the roof line has gaps; timber fascia's are showing signs of weathering and the building downpipes are damaged and not discharging from the roof into the tanks; numerous flywire screens have holes and several window glazing seals on the fixed window panels are falling out; the brick pavement at the back sliding door entrance is a potential tripping hazard.

**Internal**

Works include window quads, reveals and the entrance sliding door reveal have termite damaged; there is a difference in the height between the floor to the sliding door sill making it a potential tripping hazard; and the exposed ceiling space is not lined where food handling occurs.

**3. RFS Facility****External Envelope**

The concrete block walls on the South and East side of the RFS facility has evidence of movement varied from 30mm at the eave to 5mm at floor level; the movement has damaged the eave lining, façade/parapet above the roller door is missing fibro cladding, several window glazing seals on the fixed window panels are falling out; there appears to be drainage issue on the southern aspect of the building.

**4. Shared Toilet Amenities****Male**

The urinal cistern is not operating affectively; the lighting in this space is not adequate; the metal gate at the doorway entrance has a broken hinge; floor waste drain is higher than floor level; concrete block walls need painting/sealing; and partitions are marked and dirty.

**Female**

The lighting in this space is not adequate; the concrete block walls need painting/sealing; and partitions are marked and dirty.

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

The building repair works has been quoted as follows:

| <b>Hall &amp; Kitchen/Servery Area</b> |                 | <b>Rural Fire Service Facility</b> |                    |
|----------------------------------------|-----------------|------------------------------------|--------------------|
| <b>Budget/Financial</b>                | <b>Council</b>  | <b>Budget/Financial</b>            | <b>RFS Reserve</b> |
| Quoted works                           | \$21,025        | Quoted works                       | \$39,354           |
| 10% Contingency                        | \$2,103         | 10% Contingency                    | \$3,936            |
| <b>Total</b>                           | <b>\$23,128</b> | <b>Total</b>                       | <b>\$43,290</b>    |

(Note: All figures are Ex GST)

The former Committee has provided a brief financial statement which includes a funds balance of funds that that are less than \$200. The work of the former Committee was voluntary and included mowing of the substantial grounds at the facility.



**Asset Management**

This facility is covered by the Council's Asset Management Plans.

The repair works to this building is a result of incomplete works, termite damage, building movement and previous project works which are no longer in accordance to the building regulations.

**Policy or Regulation**

Local Government Act 1993

Local Government (General) Regulation 2005

**Consultation**

The former Community Management Committee has resigned due to limited number of members, ill health, and other family commitments. Interest for a new Committee will be sought from the community to operate as a s355 Committee.

**Legal and Risk Management**

N/A

---

|                          |                                               |
|--------------------------|-----------------------------------------------|
| Prepared by              | Tim Hall, Building and Facilities Coordinator |
| Confidential Attachments | Quotations received                           |

---

|                    |                                                  |                                                                                           |
|--------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------|
| <b>ITEM</b>        | <b>15.033/19</b>                                 | <b>WOLOWEYAH PARKS &amp; RESERVES 355 COMMITTEE - CHANGE TO CONSTITUTION (CROWN LAND)</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 19 March 2019                                                                             |
| <b>Directorate</b> | Works & Civil                                    |                                                                                           |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |                                                                                           |
| <b>Attachment</b>  | Yes                                              |                                                                                           |

### SUMMARY

This report requests Council endorse an amendment to Section 4.4 of the Wooloweyah Parks and Reserve s355 Management Committee constitution.

### OFFICER RECOMMENDATION

That Council:

1. Receive and note the Minutes of Meeting from 5 February 2019 Wooloweyah Parks and Reserve s355 Management Committee.
2. Endorse an amendment to Section 4.4 of the Wooloweyah Parks and Reserve s355 Management Committee constitution to allow the Committee to invite nominations from members of the public interested in being a member of the Committee to fill a casual vacancy.

*Having declared an interest in this item, Cr Ellem left the CG&W Committee meeting at 2.58 pm and returned at 2.59 pm.*

### COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Toms, Simmons

Against: Nil

*Having declared an interest in this item, Cr Ellem left the Ordinary Council meeting at 5.34 pm and returned at 5.35 pm.*

### COUNCIL RESOLUTION – 15.033/19

Toms/Kingsley

**That Council:**

1. Receive and note the Minutes of Meeting from 5 February 2019 Wooloweyah Parks and Reserve s355 Management Committee.
2. Endorse an amendment to Section 4.4 of the Wooloweyah Parks and Reserve s355 Management Committee constitution to allow the Committee to invite nominations from members of the public interested in being a member of the Committee to fill a casual vacancy.

**Voting recorded as follows:**

**For: Simmons, Kingsley, Baker, 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**

Wooloweyah Park & Reserve Committee is a committees of Council being appointed under s.355 of the Local Government Act 1993 and is appointed to assist Council with the management of Honeyman Park and the Foreshore Reserve in Wooloweyah including the hall and tennis court.

According to the Wooloweyah Park & Reserve Committee's constitution Section 4.4 Casual vacancies, the Committee shall:

*"Should a casual vacancy arise, the Committee Secretary should promptly advise Council. Council will invite nominations from members of the public interested in being a member of the Committee and shall fill the vacancy from the nominations received."*

**KEY ISSUES**

Two committee vacancies currently exist on the Wooloweyah Parks and Reserve s355 Management Committee.

The Minutes of Meeting from 5 February 2019 Wooloweyah Parks and Reserve s355 Management Committee included a recommendation for consideration as noted below:

Motion: Contact CVC with a proposal to change our constitution regarding how casual vacancies are appointed. Proposal as follows: "Should a casual vacancy arise, the Committee Secretary should promptly advise Council. The Committee will invite nominations from members of the public interested in being a member of the Committee and shall fill the vacancy from the nominations received and shall advise Council of the new member(s) to enable Council to endorse the appointment".

Comment: This approach to the filling of casual vacancies is already written into the constitutions of the following Council s355 committees:

- Calliope Community Reserve and Hall Management Committee
- Coaldale/Barretts Creek Community Centre Committee
- Dundurrabin Community Centre Management Committee
- Ewingar Hall Committee
- Ilarwill Hall Management Committee
- Jackadgery Hall Management Committee
- Nymboida Hall Management Committee

This proposed amendment to Section 4.4 will reduce the amount of Clarence Valley Council time and resources required to fill casual vacancies to the Wooloweyah Parks and Reserve s355 Management Committee and simplify the appointment process.

Recommendation:

Amendment to Section 4.4 of the Wooloweyah Parks and Reserve s355 Management Committee constitution to:

*Should a casual vacancy arise, the Committee Secretary should promptly advise Council. The Committee will invite nominations from members of the public interested in being a member of the Committee and shall fill the vacancy from the nominations received and shall advise Council of the new member(s) to enable Council to endorse the appointment.*

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

N/A

**Asset Management**

N/A

**Policy or Regulation**

Wooloweyah Parks &amp; Reserves s355 Committee - Constitution June 2017

Clarence Valley Council Handbook For s355 Committees

**Consultation**

Following the Wooloweyah Parks & Reserves s355 Committee meeting, the minutes of that meeting forwarded to Council and placed on the appropriate public webpage.

**Legal and Risk Management**

N/A

|             |                                                                                                                                         |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Gavin Beveridge, Parks and Recreation Officer                                                                                           |
| Attachment  | Wooloweyah Parks & Reserves 355 Committee - Minutes February 2019<br>Wooloweyah Parks & Reserves 355 Committee - Constitution June 2017 |

| ITEM               | 15.034/19                                        | CLARENCE AND LOWER CLARENCE SPORTS COMMITTEES - MINUTES OF MEETINGS |
|--------------------|--------------------------------------------------|---------------------------------------------------------------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 19 March 2019                                                       |
| <b>Directorate</b> | Works & Civil                                    |                                                                     |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |                                                                     |
| <b>Attachment</b>  | Yes                                              |                                                                     |

## SUMMARY

The Clarence and Lower Sports Committees met on Monday 11 February 2019 and considered the 2018/19 Sports Committee Funding applications (Round 2) in addition to other business. This report provides an overview of the applications, officer and committee recommendations. It also recommends a review of the process for allocation of grant funding to Clarence Sports Committee and Lower Clarence Sports Committee.

## OFFICER RECOMMENDATION

That Council:

1. Receive and note the Minutes of Meeting from Monday 11 February 2019 Clarence Sports Committee and Lower Clarence Sports Committee meetings.
2. Receive and note the recommendations of the Lower Clarence Sports Committee, however due to non-conformance with funding guidelines, not endorse the funding applications for Harwood Cricket Club, Iluka Aquatic & Rowing Club and the Lower Clarence Pony Club.
3. Endorse the following recommendations by Council staff to:
  - a. Approve the application for funding for \$4,599.00 (Ex GST) to Big River Sailing Club for the rooftop solar system.
  - b. Approve the application for funding for \$3,935.46 (Ex GST) to Maclean Show Society for the power supply boxes.
4. Endorse the following recommendation by the Lower Clarence Sports Committee to:
  - a. Accept the late application for funding from the Yamba Football Club and approve funding of \$2,087.50 (Ex GST) for Sports Equipment (goal posts x 4).
5. Endorse that the balance of the Lower Clarence Sports Committee funding being \$13,388.02 be returned to Council's Sportsground Income Reserve Account (RA11035).
6. Endorse the following recommendations by the Clarence Sports Committee to:
  - a. Approve the application for funding for \$4,650.00 (Ex GST) to Grafton City Tennis Club for the external painting of the clubhouse and pro shop.
  - b. Decline the application for funding to renew the perimeter boundary fence at Frank McGuren Field from the Grafton Ghosts Rugby League Football Club as there was no matched 1:1 funding provided.
  - c. Decline the application for funding for the shed fit out and kitchen from the Clarence River Yacht Club as the Club has not met the criteria of attendance at scheduled meetings of the Sports Committee.
  - d. Approve Council retain the remaining funding of \$11,917.00 (Ex GST) for the construction of perimeter fencing at Frank McGurran Field. The Grafton Ghosts Rugby League Football Club will contribute in-kind support to the value of \$3,636.36 (Ex GST) for the removal of the existing fence.
7. Receive a report at the July 2019 Ordinary meeting reviewing the process for allocation of grant funding to Clarence Sports Committee and Lower Clarence Sports Committee.
8. Not endorse or support the Lower Clarence Sports Committee to meet bi-monthly.

*Having declared an interest in this item, Cr Kingsley left the CG&W Committee meeting at 2.59 pm and returned at 3.07 pm.*

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That the item be deferred to the Ordinary Council meeting next week.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

*Having declared an interest in this item, Cr Kingsley left the Ordinary Council meeting at 5.35 pm and returned at 5.52 pm.*

**COUNCIL RESOLUTION – 15.034/19**

Ellem/Novak

**That Council:**

- 1. Receive and note the Minutes of Meeting from Monday 11 February 2019 Clarence Sports Committee and Lower Clarence Sports Committee meetings.**
- 2. Receive and note the recommendations of the Lower Clarence Sports Committee; however allow the committee to consider funding applications for the Big River Sailing Club, Iluka Aquatic & Rowing Club and the Lower Clarence Pony Club for the next available funding round.**
- 3. a. Approve \$17,987.02 (Ex GST) in funding towards Harwood Cricket Club's project to build a storage shed at Harwood Oval as part of Cricket NSW's long-term plan to establish a regional centre of excellence for junior cricket in the Clarence Valley.**  
**b. Approve the application for funding for \$3,935.46 (Ex GST) to Maclean Show Society for the power supply boxes.**
- 4. Endorse the following recommendation by the Lower Clarence Sports Committee to:**
  - a. Accept the late application for funding from the Yamba Football Club and approve funding of \$2,087.50 (Ex GST) for Sports Equipment (goal posts x 4).**
- 5. Endorse the following recommendations by the Clarence Sports Committee to:**
  - a. Approve the application for funding for \$4,650.00 (Ex GST) to Grafton City Tennis Club for the external painting of the clubhouse and pro shop.**
  - b. Decline the application for funding to renew the perimeter boundary fence at Frank McGuren Field from the Grafton Ghosts Rugby League Football Club as there was no matched 1:1 funding provided.**
  - c. Decline the application for funding for the shed fit out and kitchen from the Clarence River Yacht Club as the Club has not met the criteria of attendance at scheduled meetings of the Sports Committee.**
  - d. Approve Council retain the remaining funding of \$11,917.00 (Ex GST) for the construction of perimeter fencing at Frank McGurren Field. The Grafton Ghosts Rugby League Football Club will contribute in-kind support to the value of \$3,636.36 (Ex GST) for the removal of the existing fence.**
- 6. Receive a report at the July 2019 Ordinary meeting reviewing the process for allocation of grant funding to Clarence Sports Committee and Lower Clarence Sports Committee.**
- 7. Endorse the Lower Clarence Sports Committee's unanimous request to meet bi-monthly but limit staff support to four of those meetings and the constitution be varied accordingly if necessary. Committee Chair, Cr Debrah Novak, to liaise with member groups on a suitable venue for the additional two meetings.**

Voting recorded as follows:

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

Against: Nil

## AMENDMENT TO MOTION - WITHDRAWN – INCLUDED IN CR ELLEM'S MOTION

Baker

That Point 7 be amended as follows:

7. Endorse the Lower Clarence Sports Committee's unanimous request to meet bi-monthly but limit staff support to four of those meetings **and the constitution be varied accordingly if necessary**. Committee Chair, Cr Debrah Novak, to liaise with member groups on a suitable venue for the additional two meetings.

**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**

Two Sports Committees operate within the Clarence Valley, the Clarence Sports Committee and the Lower Clarence Sports Committee. The Clarence Sports Committee meet in Grafton Chambers at 4:30pm and the Lower Clarence Sports Committee meet in Maclean Chambers at 7:00pm on the second Monday of the month, at three month intervals. This report provides a copy of the minutes of the meetings and recommendations from the Sports Committees meetings that were held Monday 11 February 2019.

Council allocated an amount of \$35,000 grant funding to the Clarence Sports Committee and an amount of \$35,000 grant funding to the Lower Clarence Sports Committee to undertake capital works. Funding is on a dollar for dollar (1:1) basis. The sports organisations contribution can be made up of either cash, in-kind or a volunteer labour contribution. Applications for funding will be considered in 2 rounds. If funds remain unused after Round 1, notification will be given regarding the availability of funds for Round 2 applications. Any funding not allocated following Round 2 shall be returned to Council's Sportsground Income Reserve Account (RA11035).

Allocation of grant funding is currently governed by the Application Guidelines and Criteria for Sports Committee Funding Assistance, and by the applicable sports committee constitution.

**KEY ISSUES****Minutes of Meeting**

A summary of the matters discussed at each Committee is as follows –

Summary of General Business – Clarence Sports Committee

- Sports Awards 2019 – Report from Sub-Committee
- Grant Funding – update from Council
- Sports Committee Funded Projects – update from delegates
- Mental Health & Wellbeing in the Clarence – Our Healthy Clarence
- Online Booking System
- Sports Committee Funded Projects – 2018/19 Round 2 Projects for Consideration
- Funding applications Clubgrants Category 3 Fund
- General business and updates from sporting delegates

Summary of General Business – Lower Clarence Sports Committee

- Sports Awards 2019 – Report from Sub-Committee
- Grant Funding – update from Council
- Sports Committee Funded Projects – update from delegates
- Online Booking System
- Sports Committee Funded Projects – 2018/19 Round 2 Projects for Consideration
- General business and updates from sporting delegates

**Sports Committee Funding**

Council supports two Sports Committees in the Clarence Valley. The Clarence and Lower Clarence Sports Committee's make recommendations to Council for the annual allocation of funds (currently \$35,000) for projects of a capital nature that enable the participation in sport in the Clarence Valley. Received applications, after assessment by Council Officers against the Application Guidelines and Criteria for Sports Committee Funding Assistance, will be reported to, and considered at, the next available Sports Committee meeting. Recommendations made by the Sports Committees are then reported to Council for consideration and endorsement at the next available Meeting of Council.

Summary of Sports Committee Funding – Clarence Sports Committee

| <b>Application</b>                                                                                                                      | <b>Officer Recommendation based on assessment against Funding Guidelines</b>                | <b>Committee Recommendation</b>                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grafton City Tennis: External painting of club house and pro shop<br>Requested Allocation: \$4,650.00<br>Total Project Cost: \$9,300.00 | Funding guidelines met. Project recommended for funding.                                    | That Council provide funding of \$4,650.00(Ex GST) to Grafton.                                                                                                                                                                  |
| Grafton Ghost RLFC - Renew boundary fence<br>Allocation Requested: \$27,273.00<br>Total Project Cost: \$30,909.36                       | Funding guidelines not met (1:1 contribution ratio).                                        | That Council decline the application for funding from the Grafton Ghosts Rugby League Football Club.                                                                                                                            |
| Clarence River Yacht Club - Shed fit-out and kitchen<br>Allocation Requested: \$5,818.18<br>Total Project Cost: \$11,636.36             | Funding guidelines not met (0% meeting attendance).<br>Project not recommended for funding. | That Council decline the application for funding from the Clarence River Yacht Club.                                                                                                                                            |
| Outstanding annual allocation of \$11,917.00.                                                                                           | Not applicable.                                                                             | That Council retain the remaining funding of \$11,917.00 for the perimeter fencing at Frank McGuren Field. Council to match the funding and the Grafton Ghosts RLFC will contribute in-kind support to the value of \$3,636.36. |

The round 2 funding applications together with the officers assessment was tabled at the Clarence Sports Committee meeting, the Committee considered all applications in line with the Application Guidelines and Criteria for Sports Committee Funding Assistance and formed a recommendation that adhered to the guidelines and constitution.

As the Clarence Sports Committee adhered to the guidelines and constitution, it is recommended that Council endorse the Committees recommendations for the second round of funding.



## Summary of Sports Committee Funding – Lower Clarence Sports Committee

| Application                                                                                                                                          | Officer Recommendation based on assessment against Funding Guidelines                                                                                                                                                                                                                                                         | Committee Recommendation                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Big River Sailing Club - Rooftop Solar System<br>Allocation Requested: \$4,599.00<br>Total Project Cost: \$9,198.00                                  | Project meets application guidelines. Recommended for funding.                                                                                                                                                                                                                                                                | That Council decline the application for funding from the Big River Sailing Club and defer with priority to 2019/2020 Sports Committee Funded Projects.                                            |
| Harwood Cricket Club - Storage Shed<br>Allocation Requested: \$20,036.37<br>Total Project Cost: \$ 40,072.73                                         | Assessment: Project generally meets application guidelines, except raises questions of how the fixed asset will remain at all times the property of Council when constructed on land it does not own or manage. Additional 2 quotations required under the Purchasing and Tendering Procedure.<br>Not recommended for funding | That Council provide funding of \$19,922.48 to Harwood Cricket Club for Storage Shed.                                                                                                              |
| Iluka Aquatic & Rowing Club - Sports Equipment<br>Allocation Requested: \$2,000.00<br>Total Project Cost: \$4,000.00                                 | Project does meet application guidelines (0% meeting attendance, not capital works, no formal quotation). Not recommended for funding.                                                                                                                                                                                        | That Council provide funding of \$2,000.00 to Iluka Aquatic & Rowing Club for Sports Equipment (heavy weight scull).                                                                               |
| Maclean Show Society - Power supply boxes<br>Allocation Requested: \$3,935.46<br>Total Project Cost: \$7,870.91                                      | Project meets application guidelines. Recommended for funding.                                                                                                                                                                                                                                                                | That Council decline the application for funding from the Maclean Show Society and defer with priority to 2019/2020 Sports Committee Funded Projects.                                              |
| Late application: Yamba Football Club - Sports Equipment (Goal posts x4).<br>Allocation Requested: \$2,087.50<br>Total Project Cost: \$4,175.00      | Committee accept the late application from the Yamba Football Club due to technical issues with Smarty Grants discussed in consultation with Council. Project meets application guidelines.<br>Recommended for funding.                                                                                                       | That Council accept the late application for funding from the Yamba Football Club and provide funding of \$2,087.50 for Sports Equipment (Goal posts x4).                                          |
| Late application: Lower Clarence Pony Club - Sports Equipment (Goal posts x4).<br>Allocation Requested: \$2,087.50<br>Total Project Cost: \$4,175.00 | No recommendation due to lack of consultation with Council.                                                                                                                                                                                                                                                                   | That Council accept the late application for funding from the Lower Clarence Pony Club, decline the application for funding and defer with priority to 2019/2020 Sports Committee Funded Projects. |

The round 2 funding applications together with the officers assessment was tabled at the Lower Clarence Sports Committee meeting, the Committee considered all applications including an incomplete application that was presented directly to the meeting, while cognisant of the Application Guidelines and Criteria for Sports Committee Funding Assistance the committee formed a recommendation that generally did not adhere to the guidelines and constitution.

As the Lower Clarence Sports Committee recommendations generally did not adhere to the guidelines and constitution, it is recommended that Council not endorse the Committee's support for recommended projects for the second round of funding, rather that Council endorse the following officer recommendations:

- Approve the application for funding for \$4,599.00.00 (Ex GST) to Big River Sailing Club for the rooftop solar system.
- Approve the application for funding for \$3,935.46 (Ex GST) to Maclean Show Society for the power supply boxes and the following part recommendation from the Lower Clarence Sports Committee:
- Accept the late application for funding from the Yamba Football Club and approve funding of \$2,087.50 (Ex GST) for Sports Equipment (Goal posts x4).

#### **Process review to Sports Committee Funding**

Allocation of grant funding is currently governed by the Application Guidelines and Criteria for Sports Committee Funding Assistance Clarence Sports Committee, and by the applicable Sports Committee constitution.

The Sports Committees are aware of the Application Guidelines and Criteria for Sports Committee Funding Assistance, however due to the continual failure of the Lower Clarence Sports Committee to adhere to the guidelines and constitution in assessing applications, and the development of recommendations, it is recommended that Council review the process for allocation of grant funding to Clarence Sports Committee and Lower Clarence Sports Committee against other Council grant funding models.

#### **Additional Motions from Lower Clarence Sports Committee for Consideration**

The Lower Clarence Sports Committee also included a recommendation for consideration as noted below:

Motion: That Council endorse and support the Lower Clarence Sports Committee to meet bi-monthly.

Comment: Council resolved at its Ordinary meeting in April 2016 (15.024/16) following a review of the Sports Committees at the time to have no more than quarterly meetings and that the meetings generally be held on the same day/night. Further to this, Council resolved at its Ordinary meeting in December 2016 (15.158/16) to not support bi-monthly meetings for the Lower Clarence Sports Committee.

This motion from the Lower Clarence Sports Committee contradicts the general direction of Council, moving towards a one valley approach. The motion would require 2 additional meetings together with officer time to service these additional meetings, the motion would change the period between meetings resulting in a miss alignment of the meetings and a general reduction of efficiency of officer time in relation to sports committee administration. Additional costs would be incurred due to overtime payments to staff.

It is recommended to continue meetings in line with the previous resolutions of Council to ensure equity and support across both Sports Committees.

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

Council has allocated an amount of \$35,000 grant funding to the Clarence Sports Committee and an amount of \$35,000 grant funding to the Lower Clarence Sports Committee to undertake capital works. Funding is on a dollar for dollar (1:1) basis with applicants.

At its September 2018 meeting (Item 15.156/18) Council endorsed the Clarence Sports Committee recommendations to allocate \$18,433.20 funding and the Lower Clarence Sports Committee recommendations to allocate \$10,990.02 funding to first round projects. The remaining funding for the Clarence Sports Committee and Lower Clarence Sports Committee is \$16,566.80 and \$24,009.98, respectively.

The second round of funding applications for 2018/19 opened at the November 2018 meeting closing 1 February 2019 to enable consideration by the Committee at the February meeting. If Council endorse the Officers recommendation the balance of the Clarence Sports Committee funds being \$16,566.80 will be taken up. Of the \$24,009.98 Lower Clarence Sports Committee funds, \$10,621.96 of will be taken up leaving a balance of \$13,388.02. It is recommended that the balance of \$13,388.02 be returned to Council's Sportsground Income Reserve Account (RA11035) in accordance with Council's adopted Guidelines for Funding.

**Asset Management**

Ongoing maintenance is required at many of Council's sporting facilities, however applications for funding through the sports committees must be made by the individual sports.

**Policy or Regulation**

The following references are applicable to this report:

- Sports Committees (Clarence and Lower) are committees of Council being appointed under s.355 of the Local Government Act 1993
- Clarence Valley Council Handbook For s355 Committees
- Asset Management Policy V 3.0
- Clarence Valley Sports Facilities Plan – November 2011
- Clarence Sports Committee Constitution
- Lower Clarence Sports Committee Constitution
- Application Guidelines and Criteria for Sports Committee Funding Assistance

**Consultation**

Consultation occurred with delegates at the Clarence Sports Committee and Lower Clarence Sports Committee meetings on Monday 11 February 2019.

**Legal and Risk Management**

Sports Committees (Clarence and Lower) are committees of Council being appointed under s.355 of the Local Government Act 1993 and are appointed to make recommendations to Council on the sporting interests in the Clarence Valley area. The Clarence Valley Council Handbook For s355 Committees (June 2014) states that:

*"Your Committee is a Committee of Council. It is established under s.355 of the Local Government Act 1993, allowing Council to delegate under s.377 of the Act some of its functions to it. The delegations are set out in the Constitution adopted by Council for your Committee."*

*As such, Council is responsible for everything that your Committee does while it is acting within its Constitution. It is therefore important that your Committee only acts within the powers set out in its Constitution and keeps Council advised of what it is doing. Many of the guidelines in this Manual are there to ensure that Council is aware of your Committee's activities.*

*From a legal perspective, it is important for you to be aware that your Committee is acting on behalf of Council. Legally your Committee is 'Council', and anything your Committee does while it is acting within its Constitution is Council's responsibility. The actions of your Committee are actions of Council. Your Committee should not act independently of Council. If it does act independently and outside its Constitution, then its members may be liable for its actions."*

|             |                                                                                                                                                                               |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Gavin Beveridge, Parks and Recreation Officer                                                                                                                                 |
| Attachment  | Minutes – Clarence Sports Committee Meeting – 11 February 2019<br>Minutes – Lower Clarence Sports Committee Meeting – 11 February 2019<br>Sports Committee Funding Guidelines |

|             |                  |                                           |
|-------------|------------------|-------------------------------------------|
| <b>ITEM</b> | <b>15.035/19</b> | <b>REVIEW OF ALCOHOL PROHIBITED AREAS</b> |
|-------------|------------------|-------------------------------------------|

|                    |                                                  |               |
|--------------------|--------------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                                    |               |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |               |
| <b>Attachment</b>  | Yes                                              |               |

## SUMMARY

A review has been undertaken of Clarence Valley Council's Alcohol Prohibited Areas to ensure that the designated areas are operational under the Local Government Act 1993 and the Local Government Amendment Act 2010. The findings of the review are presented in this report, along with recommendations to ensure the designated areas are operational and do not restrict the freedom of the community.

## OFFICER RECOMMENDATION

That Council seek the approval of the Local Area Police Commander for changes to the Alcohol Prohibited Areas with the Clarence Valley Local Government area listed in the following table:

| <b>Park / Reserve</b>                   | <b>Suburb</b> | <b>Times</b>          |
|-----------------------------------------|---------------|-----------------------|
| Memorial Park                           | Grafton       | 9.00 pm until 9.00 am |
| Market Square                           | Grafton       | All hours (24/7)      |
| Corcoran Park                           | Grafton       | 9.00 pm until 9.00 am |
| See Park                                | Grafton       | 9.00 pm until 9.00 am |
| Fisher Park                             | Grafton       | 9.00 pm until 9.00 am |
| Jacaranda Park                          | Grafton       | 9.00 pm until 9.00 am |
| Pioneer Park                            | Grafton       | 9.00 pm until 9.00 am |
| Lane Boulevard                          | South Grafton | All hours (24/7)      |
| Bus Interchange and Silver Jubilee Park | South Grafton | All hours (24/7)      |
| Alex Bell Reserve                       | South Grafton | 9.00 pm until 9.00 am |
| Bob Liddiard Park                       | South Grafton | All hours (24/7)      |
| Cedar Park                              | South Grafton | All hours (24/7)      |
| Pilot Hill                              | Yamba         | 9.00 pm until 9.00 am |
| Hakea Park                              | Yamba         | All hours (24/7)      |
| Heron Park                              | Yamba         | All hours (24/7)      |
| Lions Park                              | Yamba         | 9.00 pm until 9.00 am |
| Flinders Park                           | Yamba         | 9.00 pm until 9.00 am |
| McLachlan Park                          | Maclean       | 9.00 pm until 9.00 am |
| Cameron Park                            | Maclean       | All hours (24/7)      |
| MacNaughton Place                       | Maclean       | All hours (24/7)      |
| Maclean Riverside Square                | Maclean       | All hours (24/7)      |
| Iluka Foreshore                         | Iluka         | 9.00 pm until 9.00 am |
| Spenser Street Boat Ramp                | Iluka         | 9.00 pm until 9.00 am |

and upon approval:

- Revoke the current network of Alcohol Prohibited Areas and adopt the approved network of Alcohol Prohibited Areas
- Allocate a budget of \$15,000 from RA10576 Parks BBQ Replacements to renew and upgrade the signage to make designated areas operational under the requirements of the Local Government Act

1993 section 632A(7).

- c. Update its Alcohol Free Zones and Alcohol Prohibited areas webpage to reflect the changes.

#### COMMITTEE RECOMMENDATION

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

#### COUNCIL RESOLUTION – 15.035/19

Lysaught/Kingsley

That Council seek the approval of the Local Area Police Commander for changes to the Alcohol Prohibited Areas with the Clarence Valley Local Government area listed in the following table:

| Park / Reserve                          | Suburb        | Times                 |
|-----------------------------------------|---------------|-----------------------|
| Memorial Park                           | Grafton       | 9.00 pm until 9.00 am |
| Market Square                           | Grafton       | All hours (24/7)      |
| Corcoran Park                           | Grafton       | 9.00 pm until 9.00 am |
| See Park                                | Grafton       | 9.00 pm until 9.00 am |
| Fisher Park                             | Grafton       | 9.00 pm until 9.00 am |
| Jacaranda Park                          | Grafton       | 9.00 pm until 9.00 am |
| Pioneer Park                            | Grafton       | 9.00 pm until 9.00 am |
| Lane Boulevard                          | South Grafton | All hours (24/7)      |
| Bus Interchange and Silver Jubilee Park | South Grafton | All hours (24/7)      |
| Alex Bell Reserve                       | South Grafton | 9.00 pm until 9.00 am |
| Bob Liddiard Park                       | South Grafton | All hours (24/7)      |
| Cedar Park                              | South Grafton | All hours (24/7)      |
| Pilot Hill                              | Yamba         | 9.00 pm until 9.00 am |
| Hakea Park                              | Yamba         | All hours (24/7)      |
| Heron Park                              | Yamba         | All hours (24/7)      |
| Lions Park                              | Yamba         | 9.00 pm until 9.00 am |
| Flinders Park                           | Yamba         | 9.00 pm until 9.00 am |
| McLachlan Park                          | Maclean       | 9.00 pm until 9.00 am |
| Cameron Park                            | Maclean       | All hours (24/7)      |
| MacNaughton Place                       | Maclean       | All hours (24/7)      |
| Maclean Riverside Square                | Maclean       | All hours (24/7)      |
| Iluka Foreshore                         | Iluka         | 9.00 pm until 9.00 am |
| Spenser Street Boat Ramp                | Iluka         | 9.00 pm until 9.00 am |

and upon approval:

- Revoke the current network of Alcohol Prohibited Areas and adopt the approved network of Alcohol Prohibited Areas
- Allocate a budget of \$15,000 from RA10576 Parks BBQ Replacements to renew and upgrade the signage to make designated areas operational under the requirements of the Local Government Act 1993 section 632A(7).
- Update its Alcohol Free Zones and Alcohol Prohibited areas webpage to reflect the changes.

**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**

An Alcohol Prohibited Area (APA) is designed to help Police and Council, in co-operation with the wider community, control anti social behaviour in the designated areas. Adoption of these areas does restrict the freedom of citizens and should only be considered where there are problems such as littering, obstruction or irresponsible behaviour associated with drinking in a public place.

Local Government Act 1993 Section 632A(4) enables Council to declare any public place or part of a place to be an Alcohol Prohibited Area, except those places (public roads, footpaths and car parks) which are to be dealt with under the Alcohol Free Zone (AFZ) provisions of the Act. An APA is created by resolution of Council and stands until such time as a further resolution is passed to revoke the declaration. The review of Council records identified twenty-four (24) APA's in the Clarence Valley Local Government Area. The existing APA's are listed in Table 1.

**Table 1: Alcohol Prohibited Areas in the Clarence Valley Local Government Area**

| Park / Reserve                          | Suburb        | Times                  | Council Resolution   | Resolution Date          |
|-----------------------------------------|---------------|------------------------|----------------------|--------------------------|
| Memorial Park                           | Grafton       | 7.00 pm until 7.00 am  | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Market Square                           | Grafton       | All hours (24/7)       | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Corcoran Park                           | Grafton       | 9.00 pm until 9.00 am  | 08.048/07            | Wednesday, 11 April 2007 |
| See Park                                | Grafton       | 9.00 pm until 9.00 am  | 08.048/07            | Wednesday, 11 April 2007 |
| Fisher Park                             | Grafton       | 11.00 pm until 9.00 am | 08.048/07            | Wednesday, 11 April 2007 |
| Jacaranda Park                          | Grafton       | 9.00 pm until 9.00 am  | 08.081/07            | Friday, 6 July 2007      |
| Pioneer Park                            | Grafton       |                        | CVC Website          |                          |
| Lane Boulevard                          | South Grafton | All hours (24/7)       | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Bus Interchange and Silver Jubilee Park | South Grafton | All hours (24/7)       | 08.048/07            | Wednesday, 11 April 2007 |
| Alex Bell Reserve                       | South Grafton | 9.00 pm until 9.00 am  | 08.048/07            | Wednesday, 11 April 2007 |
| Bob Liddiard Park                       | South Grafton | All hours (24/7)       | 08.081/07            | Friday, 6 July 2007      |
| Cedar Park                              | South Grafton | All hours (24/7)       | 08.081/07            | Friday, 6 July 2007      |
| Pilot Hill                              | Yamba         | 9.00 pm until 9.00 am  | 08.048/07            | Wednesday, 11 April 2007 |

| Park / Reserve                 | Suburb  | Times                 | Council Resolution   | Resolution Date          |
|--------------------------------|---------|-----------------------|----------------------|--------------------------|
| Hakea Park                     | Yamba   | All hours (24/7)      | 08.048/07            | Wednesday, 11 April 2007 |
| Heron Park                     | Yamba   | All hours (24/7)      | 08.157/09            | Tuesday, 14 July 2009    |
| Lions Park                     | Yamba   | All hours (24/7)      | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Flinders Park                  | Yamba   | All hours (24/7)      | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Ford Park<br>(Designated Area) | Yamba   | No times established  | 08.045/06            | Tuesday, 16 May 2006     |
| McLachlan Park                 | Maclean | All hours (24/7)      | Referenced 08.082/06 | Tuesday, 25 July 2006    |
| Cameron Park                   | Maclean | All hours (24/7)      | 08.048/07            | Wednesday, 11 April 2007 |
| MacNaughton Place              | Maclean | No times established  | 12.136/11            | Tuesday, 9 August 2011   |
| Iluka Foreshore                | Iluka   | 8.00 pm until 8.00 am | 12.4                 | Tuesday, 6 April 2004    |
| Spenser Street Boat Ramp       | Iluka   | 8.00 pm until 8.00 am | 12.4                 | Tuesday, 6 April 2004    |

## KEY ISSUES

### Current Network of Alcohol Prohibited Areas

The twenty-four (24) Alcohol Prohibited Areas in the Clarence Valley Local Government Area have been designated in a piecemeal manner. This is because designation of an area is generally a reaction to an identified problem at particular moment in time. This has resulted in the difficulty of determining origin of the designation of the APA's and in some circumstances the inability to demonstrate that the requirements of the Local Government Act 1993 Section 632A have been met.

This review provides the opportunity for Council to revoke the current network, propose changes and adopt a new network of APA's. This process will ensure that Council can demonstrate that it has met the requirements of the Local Government Act 1993 Section 632A.

### Proposed Changes to Alcohol Prohibited Areas

As previously advised an APA is designed to help Police and Council, in co-operation with the wider community, control anti social behaviour in the designated areas. As adoption of these areas is not meant to restrict the freedom of community it is important to review APA's as the issue behind the original designation may no longer be applicable, whilst the loss of freedom to the community remains.

The designation of APA's can create administrative issues for Council in the assessing of community organised events. This was recently demonstrated through the Optus River Feast Riverside (15.190/18 October 2018) and the Picnic Events at McLachlan Park (15.219/18 December 2018). The adjustment of time restrictions for designated areas has the potential to reduce future administrative issues for Council.

The review has proposed a number of changes to APA's in the Clarence Valley Local Government Area. These changes included:

- adjust the operation times of Memorial Park, Fisher Park, Pioneer Park, Iluka Foreshore & Spenser Street Boat Ramp for consistency, administration and operational purposes;
- revoking the designation of Ford Park (part) as the prohibition has never been implemented and there is no record of complaints of irresponsible behaviour associated with drinking in the public place.
- amending the operation times of Lions Park, Flinders Park and McLachlan Park to remove community restrictions and allow for the consumption of alcohol during day time hours.



In addition to the review of the existing APA's in the Clarence Valley Local Government Area it is proposed that one additional site be added in Maclean to incorporate the recently redeveloped land access by Munro Lane being Lot 3 DP 592739. The location is not named under the Geographical Names Board Act as such it is proposed that the current project name being Maclean Riverside Square be applied until naming proposals are received. The proposed changes to APA's within the Clarence Valley Council area are listed in Table 2.

**Table 2: Proposed Changes to Alcohol Prohibited Areas in the Clarence Valley Local Government Area**

| Park / Reserve                          | Suburb        | Times                  | Comment                                                                            |
|-----------------------------------------|---------------|------------------------|------------------------------------------------------------------------------------|
| Memorial Park                           | Grafton       | 7.00 pm until 7.00 am  | Adjust 9.00 pm until 9.00 am for consistency                                       |
| Market Square                           | Grafton       | All hours (24/7)       | Maintain                                                                           |
| Corcoran Park                           | Grafton       | 9.00 pm until 9.00 am  | Maintain                                                                           |
| See Park                                | Grafton       | 9.00 pm until 9.00 am  | Maintain                                                                           |
| Fisher Park                             | Grafton       | 11.00 pm until 9.00 am | Adjust 9.00 pm until 9.00 am for consistency                                       |
| Jacaranda Park                          | Grafton       | 9.00 pm until 9.00 am  | Maintain                                                                           |
| Pioneer Park                            | Grafton       | No times established   | Define operation times of 9.00 pm until 9.00 am                                    |
| Lane Boulevard                          | South Grafton | All hours (24/7)       | Maintain                                                                           |
| Bus Interchange and Silver Jubilee Park | South Grafton | All hours (24/7)       | Maintain                                                                           |
| Alex Bell Reserve                       | South Grafton | 9.00 pm until 9.00 am  | Maintain                                                                           |
| Bob Liddiard Park                       | South Grafton | All hours (24/7)       | Maintain                                                                           |
| Cedar Park                              | South Grafton | All hours (24/7)       | Maintain                                                                           |
| Pilot Hill                              | Yamba         | 9.00 pm until 9.00 am  | Maintain                                                                           |
| Hakea Park                              | Yamba         | All hours (24/7)       | Maintain                                                                           |
| Heron Park                              | Yamba         | All hours (24/7)       | Maintain                                                                           |
| Lions Park                              | Yamba         | All hours (24/7)       | Adjust 9.00 pm until 9.00 am, freedom of community, event administration           |
| Flinders Park                           | Yamba         | All hours (24/7)       | Adjust 9.00 pm until 9.00 am, freedom of community, event administration           |
| Ford Park (part)                        | Yamba         | No times established   | Revoke. Never implemented, no record of antisocial behaviour, freedom of community |
| McLachlan Park                          | Maclean       | All hours (24/7)       | Adjust 9.00 pm until 9.00 am, freedom of community, event administration           |
| Cameron Park                            | Maclean       | All hours (24/7)       | Maintain                                                                           |
| MacNaughton Place                       | Maclean       | No times established   | Define operation times of All hours (24/7)                                         |
| Maclean Riverside Square                | Maclean       | New Location           | Define operation times of All hours (24/7)                                         |
| Iluka Foreshore                         | Iluka         | 8.00 pm until 8.00 am  | Adjust 9.00 pm until 9.00 am for consistency                                       |
| Spenser Street Boat Ramp                | Iluka         | 8.00 pm until 8.00 am  | Adjust 9.00 pm until 9.00 am for consistency                                       |

Alcohol Prohibited Area Signage

Section 632A(7) of the *Local Government Act 1993* states:

*An alcohol prohibited area operates only so long as there are erected at the outer limits of the area, and at suitable intervals within the area, conspicuous signs:*

*(a) stating that the drinking of alcohol is prohibited in the area, and*

*(b) specifying the times or events, as specified in the declaration by which the area was established, during which it is to operate*

The review identified that the network of Alcohol Prohibited Areas do not have adequate signage which are at suitable intervals, make clear that the consumption of alcohol is prohibited in that public place, make clear any time restrictions. The majority of the designated areas are currently not operational due to non-conformance with Section 632A(7) and therefore the prohibition cannot be enforced.

A budget for \$15,000 has been estimated for the renewal of the APA's signage.

NSW Police Approval

Section 632A(8) of the *Local Government Act 1993* states that "an Alcohol Prohibited Area cannot be established without the approval of the Local Area Commander of Police for the area in which the proposed Alcohol Prohibited Area is situated". Council must seek and obtain this approval prior to establishing a new Alcohol Prohibited Area.

This process will allow the Local Area Police Commander to consult with the relevant Community Safety Precinct Committee or similar body to help ensure that the decision to declare an area as alcohol prohibited is done transparently and in consideration of the community's wishes.





Figure 1 – Existing APA Signage

## COUNCIL IMPLICATIONS

### Budget/Financial

Council currently has twenty-four (24) Alcohol Prohibited Areas that will require the installation of 100 signs to make operational under the requirements of the Local Government Act 1993 section 632A(7).

### Project Material Budget:

QTY100 – Alcohol Prohibited Area Signage: \$8,000  
 QTY100 - 3.25M x 50mm n.b. galvanised posts (Stock No 100155): \$2,990  
 QTY100 - c.w caps (Stock No 101475): \$122  
 QTY200 - 50mm n.b. TD 1 sign bracket (Stock No 100180): \$404  
 QTY100 - Large Ground Spikes (Stock No 100118): \$1,436  
 TOTAL: \$12,952 (inc GST)

Council's 2018/19 allocation of \$10,000 PJ550175 for Parks and Reserves Signage has \$9,019 of expenditure to date. It is recommended that funds from RA10576 Parks BBQ Replacements that has a balance of \$21,627 be reallocated for this project. Sufficient budget and funds remain to meet current future BBQ renewals.

### Asset Management

The on-going maintenance, operation and renewal of the Alcohol Prohibited Area signage will be planned for in the Open Spaces Asset Management Plan.

**Policy or Regulation**

The following references are applicable to this report:

- Local Government Act 1993
- Local Government Amendment (Confiscation of Alcohol) Act 2010
- Circular - 10-33 - Alcohol Prohibited Areas - Amendments to the Local Government Act 1993

**Consultation**

The provisions of section 632A(8) of the *Local Government Act 1993* require Council to seek the approval of the Local Area Police Commander with regard to the proposed changes to its network of Alcohol Prohibited Areas.

Finance has been consulted with regards the funding recommendation.

**Legal and Risk Management**

Alcohol Prohibited Areas allows Police and Council to manage anti-social behaviour, such as littering, obstruction or irresponsible behaviour associated with drinking in a public place. Council must have the ability to demonstrate that the requirements of the Local Government Act 1993 Section 632A have been met in the designation of these areas. Also, without the appropriate signage specified under Local Government Act 1993 Section 632A(7) designated areas are not operational and prohibition cannot be enforced which places Council and the community at an unacceptable level of risk.

---

|             |                                                    |
|-------------|----------------------------------------------------|
| Prepared by | Gavin Beveridge, Parks and Recreation Officer      |
| Attachment  | Example of Alcohol Prohibited Area Signage Artwork |

---

|                    |                                          |                                                                               |
|--------------------|------------------------------------------|-------------------------------------------------------------------------------|
| <b>ITEM</b>        | <b>15.036/19</b>                         | <b>TRENAYR PARK AND MARTIN CRESCENT RESERVE PLAN OF MANAGEMENT EXHIBITION</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019                                                                 |
| <b>Directorate</b> | Works & Civil                            |                                                                               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |                                                                               |
| <b>Attachment</b>  | Nil                                      |                                                                               |

## SUMMARY

This report is seeking additional time to report back to Council on the Trenayr Park and Martin Crescent Reserve Plan of Management (PoM).

## OFFICER RECOMMENDATION

That Council receive a report to its April 2019 Ordinary meeting to endorse the Trenayr Park and Martin Crescent Reserve Plan of Management.

## COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

## COUNCIL RESOLUTION – 15.036/19

Lysaught/Kingsley

**That Council receive a report to its April 2019 Ordinary meeting to endorse the Trenayr Park and Martin Crescent Reserve Plan of Management.**

**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 2.1.4 Manage and enhance our parks, open spaces and facilities

## BACKGROUND

Council's resolution 15.193/18 from the 20 November 2018 Ordinary meeting followed a report on the outcomes of community consultation for the PoM for Trenayr Park and Martin Crescent Reserve being -

*That Council:*

1. Receive and note the outcomes from the public consultation.



2. *Endorse the Trenayr Park and Martin Crescent Reserve Draft - Land Management Plan and, using this Plan as a basis, proceed with the revision of the Plan of Management.*
3. *Receive a report following the completion of the necessary processes to endorse the Plan of Management, with the report to be received no later than March 2019.*
4. *Note the maintenance savings from changes to mowing due to the implementation of the Land Management Plan.*

#### KEY ISSUES

Point 3 of the November resolution 15.193/18 requires a report to Council at the March meeting. The process to finalise the PoM, exhibit, endorse and give full consideration to the submissions, has not been able to be completed by the timeframes associated with the March 2019 meeting. The PoM is currently still on exhibition, and it is recommended that the matter is reported to the April 2019 Ordinary Council meeting of Council.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

N/A

##### Asset Management

N/A

##### Policy or Regulation

Local Government Act 1993

##### Consultation

Advice has been sought from the Reserves Planner and the report considers previous feedback from the community Working Group and broader Junction Hill community.

The PoM has been placed on public exhibition through Council's web site and advertised in the local papers. The Working Group has also been forwarded a copy of the PoM.

##### Legal and Risk Management

N/A

|             |                                                 |
|-------------|-------------------------------------------------|
| Prepared by | Peter Birch, Manager Open Spaces and Facilities |
| Attachment  | Nil                                             |

**ITEM 15.037/19 SOLID WASTE MANAGEMENT STRATEGY 2019-25**

|                    |                                                  |               |
|--------------------|--------------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                                    |               |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |               |
| <b>Attachment</b>  | Yes                                              |               |

**SUMMARY**

A draft Solid Waste Management Strategy has been developed and this report seeks Council approval to place the draft strategy on public exhibition.

**OFFICER RECOMMENDATION**

That the draft Solid Waste Management Strategy 2019-25 be place on public exhibition for a minimum period of 60 days.

**COMMITTEE RECOMMENDATION**

Kingsley/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.037/19**

Lysaught/Kingsley

**That the draft Solid Waste Management Strategy 2019-25 be placed on public exhibition for a minimum period of 60 days.**

**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 4.2.3 Provide efficient and effective solid waste management services which prioritises resource recovery and minimises environmental impacts

**BACKGROUND**

The draft Solid Waste Management Strategy 2019-25 documents Councils waste management direction to 2025 at which time a new domestic waste collection contract will be due to go to market. The domestic waste collection contract is the key driver for waste management services provided by Council. Contracts are long term (10 years) making it critical that rigorous planning is undertaken early.

Waste services in the Clarence Valley are considered industry best practice however despite the comprehensive nature and quality of service there is a worrying trend of more waste ending up in landfill. To an extent, this trend can be put down to the unprecedented level of infrastructure being constructed at this time, Grafton Bridge, Grafton Correctional Centre and the Pacific Motorway construction. However it is evident that additional measures are required to recover valuable resources and reduce waste to landfill.

## KEY ISSUES

The draft Solid Waste Management strategy 2019-25 describes waste management success stories and the challenges facing the waste industry including the China National Sword Policy, contamination of recycling, problem wastes such as asbestos and the difficulties of further improving the percentage of waste diverted from landfill. Despite the medium term problems caused by China's National Sword Policy there is some confidence that industry will respond with more on-shore processing that will support a more circular and sustainable economy.

The strategy has a strong emphasis on resource recovery and includes an action plan containing 59 actions across a wide spectrum of waste issues. Communication and education is a key action area and a communications framework has been developed to document and guide waste and environmental education and promotion programs. The Clarence Valley is extremely fortunate to have the fabulous 'dirtgirl' as our ambassador spreading the 'rubbish handle with care' message.

Council also has the Environmental Learning Facility (ELF) located at the regional landfill site; a purpose built venue for environmental and waste learning which is available to school and community groups.

There are many challenges facing the waste industry that require action from all levels of government and commitment from industry and our community. The draft Solid Waste Management Strategy details the direction and actions identified for Clarence Valley Council to play its part in improving waste management outcomes, reducing landfill and increasing resource recovery.

## COUNCIL IMPLICATIONS

### Budget/Financial

The development of the draft Solid Waste Management Strategy was completed "in-house" by Council staff and funded from 2018/19 operational Waste Management budget.

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

A community engagement plan has been developed to consult the community on the key aspects of the strategy in particular the future of the annual bulky waste collection service as per Council Resolution 15.155/18 September 2018.

|             |                                                                                                                                                                                                                                                                                                                                       |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Ken Wilson, Coordinator Waste & Sustainability Services                                                                                                                                                                                                                                                                               |
| Attachment  | <ol style="list-style-type: none"> <li>1. Draft Solid Waste Management Strategy 2019-25</li> <li>2. Appendix 1: Bulky Waste Collection Options</li> <li>3. Appendix 2: Environmental Communication &amp; Education Framework</li> <li>4. Appendix 3: Emergency Waste Management Plan</li> <li>5. Community Engagement Plan</li> </ol> |



|             |                  |                                                             |
|-------------|------------------|-------------------------------------------------------------|
| <b>ITEM</b> | <b>15.038/19</b> | <b>MAINTENANCE STRATEGY FOR RIVERBANK PROTECTION ASSETS</b> |
|-------------|------------------|-------------------------------------------------------------|

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Nil                                      |               |

## SUMMARY

This report is prepared in response to Council resolution 15.001/19 which requested a report outlining a proposed maintenance strategy for Council's existing riverbank protection assets be presented to the March 2019 Council meeting. The maintenance strategy nominates a proposed priority for undertaking maintenance and renewal of riverbank protection assets.

## OFFICER RECOMMENDATION

That:

1. Council endorse the proposed priorities as outlined in the report for maintenance and renewal of its existing riverbank protection assets.
2. The priorities as outlined in the report be applied for any new (proposed) riverbank protection works.

## COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Simmons

Against: Toms

## COUNCIL RESOLUTION – 15.038/19

Lysaught/Kingsley

That:

1. Council endorse the proposed priorities as outlined in the report for maintenance and renewal of its existing riverbank protection assets.
2. The priorities as outlined in the report be applied for any new (proposed) riverbank protection works.

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**

The topic of riverbank protection works has been the subject of several recent Council reports. The below table is provided as a summary of this recent history:

| <b>Council Meeting Date</b> | <b>Council Resolution Number</b> | <b>Detail</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21/8/18                     | 15.132/18                        | Council resolved to accept partial Natural Disaster Relief Assistance (NDRA) funding for three claim sites damaged in the March 2017 flood event subject to a decision of Council at the September 2018 meeting verifying that it is able to allocate the shortfall in funds.                                                                                                                                                                                                                                                                     |
| 18/9/18                     | 13.051/18                        | Council resolved to decline the NDRA partial funding offered of \$116,776.50 for claims 9, 10 and 15 and inform Public Works and property owners that the damage on the 3 rural floodplain assets which have not been approved in full by Public Works will not be repaired. Furthermore, Council resolved to develop a Policy on riverbank rock protection/armouring assets, with the draft policy to be considered at the November 2018 Council meeting.                                                                                        |
| 20/11/18                    | 15.203/18                        | Council resolved that the Riverbank Protection Policy be placed on public exhibition for a period of 28 days and if submissions are received that change the intent of the policy, the policy and submission(s) will be reported to Council for consideration.                                                                                                                                                                                                                                                                                    |
| 26/2/19                     | 15.001/19                        | An amended Riverbank Protection Policy was adopted. Council also resolved that a report be prepared for the March 2019 meeting outlining a proposed maintenance strategy for existing riverbank protection assets (this report). Also adopted was a request to seek a quotation from an appropriately qualified consultant to review the immediate impact line in the "Palmer's Island: Bank Erosion Assessment and Management Plan, July 1992" for the section of riverbank between River Road and the northern boundary of Lot 21 on DP1131567. |
| 26/2/19                     | 16.002/19                        | This tender report was on the NDRA funded works.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

**KEY ISSUES**

Noting the Council resolution indicated the strategy was for "existing" works, it is considered the proposed priorities are also appropriate for renewal and any new (proposed) works. The proposed strategy for riverbank protection works is hierarchical, with maintenance and renewal funding (plus grant applications for new works) prioritised in accordance with the strategy:

**Highest Priority:** Riverbank works where the purpose is to ensure an essential public asset is protected. Essential public asset is considered as per the definition used by the NSW Government natural disaster relief funding definition, being that the loss or damage of the asset "severely disrupts the normal functioning of the community". Examples include: roads, bridges, levees serving the general public. Water and sewer assets are not covered under the NSW Government definition as they are a business function (and therefore ineligible for disaster funding) but for the purposes of this report these Council assets are considered to be essential public assets. An example of this type of riverbank protection works would be works along the urban levee at Maclean, or works to protect the watermain along Goodwood Island.

**Medium Priority:** Riverbank works where the purpose is to ensure the protection of a Council owned asset that does not meet the definition of essential. Examples include sporting, recreational or community facilities (parks and playgrounds), but does not include Council owned land with no built infrastructure.

**Lowest Priority:** Riverbank works originally installed by Council (or a former Council prior to amalgamation) where the purpose is to ensure the protection of land or property not owned by Council or land or property owned by Council that does not have any built infrastructure. Not undertaking riverbank protection works will not introduce or increase a risk to public safety. Examples of this include the rock works previously installed by NSW Public Works at Palmers Island or the Oyster Cover Foreshore, located to the west of Orion Drive.

**No Priority:** Proposed new riverbank protection works where the purpose is to ensure the protection of land or property not owned by Council or land or property owned by Council that does not have any built infrastructure. This is consistent with Council's adopted policy position on riverbank protection. This would include the hundreds of kilometres of riverfront property where there are no Council assets but erosion is a concern for property owners. Examples include Great Marlow and parts of Micalo Island.

## COUNCIL IMPLICATIONS

### Budget/Financial

Council has previously claimed funding under Category B of the Natural Disaster Relief and Recovery Arrangements for repairing flood damage to its riverbank protection assets, but under the current funding guidelines only the proposed high (and potentially some medium) priority works would fit the definition of "essential public asset".

Category A assistance may be approved by the government for financial assistance to property owners who sustain damage to their riverbank protection assets which Council consider to be Low or No priority. It is considered the Riverbank Protection Policy adopted by Council at its meeting of 26 February 2019 would facilitate landowners seeking Category A assistance.

### Asset Management

This strategy will provide guidance for staff when determining the most appropriate assets to prioritise with asset renewal funding.

### Policy or Regulation

Section 42 of the *Civil Liabilities Act, 2002* provides that:

*The following principles apply in determining whether a public or other authority has a duty of care or has breached a duty of care in proceedings for civil liability to which this Part applies:*

- a) the functions required to be exercised by the authority are limited by the financial and other resources that are reasonably available to the authority for the purpose of exercising those functions,*
- b) the general allocation of those resources by the authority is not open to challenge,*
- c) the functions required to be exercised by the authority are to be determined by reference to the broad range of its activities (and not merely by reference to the matter to which the proceedings relate),*
- d) the authority may rely on evidence of its compliance with the general procedures and applicable standards for the exercise of its functions as evidence of the proper exercise of its functions in the matter to which the proceedings relate.*

This Section of the Act recognises that Council has limited funding to undertake works such as riverbank protection maintenance, and adopting a strategy for prioritising maintenance funding on riverbank protection is considered to assist with demonstrating that Council has taken into consideration Section 42(d).

### Consultation

The recommendation to prepare this report was in response to the feedback received from the exhibition of the Riverbank Protection Policy.

**Legal and Risk Management**

There is a financial risk of changing the above mentioned “Lowest” or “No” priorities. There is currently an equity issue between property owners who have riverbank protection installed (and maintained) by previous Councils which protects the private property and other property owners who historically were not so fortunate and have not had riverbank protection work installed by Council. The recommended priorities are designed to address this equity issue, and send a clear message to private property owners that riverbank protection that will only benefit them is not a priority for Council.

If Council decides that it will continue to maintain riverbank protection works on the basis that it has historically undertaken these works, it not only reduces the funds available for maintenance of riverbank works protecting essential public assets but also may be perceived as suggesting to property owners who currently do not have riverbank protection that Council will consider future extension of riverbank protection to other private properties. As outlined above there are hundreds of kilometres of riverbank to which this would potentially apply, and would potentially exposes Council to an undefinable financial risk.

---

|             |                                                                             |
|-------------|-----------------------------------------------------------------------------|
| Prepared by | Kieran McAndrew, Floodplain Coordinator & Greg Mashiah, Manager Water Cycle |
| Attachment  | Nil                                                                         |

---

| ITEM               | 15.039/19                               | AUSTRALIAN LOCAL GOVERNMENT WOMEN'S ASSOCIATION NATIONAL CONFERENCE |
|--------------------|-----------------------------------------|---------------------------------------------------------------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 19 March 2019                                                       |
| <b>Directorate</b> | Office of General Manager               |                                                                     |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay        |                                                                     |
| <b>Attachment</b>  | Nil                                     |                                                                     |

### SUMMARY

The purpose of this report is to seek approval for Cr Novak to attend the Australian Local Government Women's Association - 2019 National Conference to be held from Wednesday 15 to Friday 17 May 2019 in Sydney.

### OFFICER RECOMMENDATION

That Council approve Cr Novak's request to attend the Australian Local Government Women's Association - 2019 National Conference to be held Wednesday 15 to Friday 17 May 2019.

### COMMITTEE RECOMMENDATION

Ellem/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 15.039/19

Novak/Williamson

**That Council not send a delegate to the Australian Local Government Women's Association 2019 National Conference.**

Voting recorded as follows:

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

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.5 Represent our community at Regional, State and Federal levels

### BACKGROUND

Council considered a report at its February 2019 meeting (refer Item 13.003/19) regarding councillor attendance at conferences for 2019. Since this report was presented to Council Cr Novak has requested permission to attend the Australian Local Government Women's Association - 2019 National Conference to be held from Wednesday 15 to Friday 17 May 2019 in Sydney.

In accordance with Council's policy on Councillor Attendance at Conferences every Councillor is entitled to attend one conference in NSW or South East Queensland each year. That conference must directly relate to the business of Council and preferably to the business of a Committee on which the Councillor is currently serving. More than one Councillor may attend the same conference if Council considers that this will be beneficial for both Council and the Councillors concerned.

This will be the first conference that Cr Novak will attend for 2019.

No Councillor may attend any conference without the prior approval of Council. Before approving such attendance, Council must be provided with full details of the cost of the conference, including travel and accommodation as well as details of the conference program so that Councillors will be in a position to determine whether or not it directly relates to Council business.

## KEY ISSUES

The 2019 National Australian Local Government Women's Association (ALWGA) will be holding its annual conference in Sydney from 15 – 17 May 2019 at a cost of \$1000.00 per person for Early Bird – Full Conference (Member) registration and \$150.00 for the Gala Dinner.

The [program](#) includes sessions featuring:

- Libby Lyons - Director of Australia's Workplace Gender Equality Agency
- Victoria Weekes - Australian Gender Quality Council
- Discussion Panel: 'Equality at Work- The Ongoing Challenge'
- Kate Jenkins- Sex Discrimination Commissioner
- Deborah Thomas - 'Challenges & Opportunities: Careers, Motherhood and Dealing with Negative Publicity'

Registration includes 2 workshops:

1. Eleanor Shakiba- Dealing with Difficult People
2. Rosalie O'Neale- E-Safety: Managing Risk and Staying Safe Online.

The full program is available online at the [2019 ALGWA Conference](#).

The conference theme 'Celebrating 100 Years of Women' will focus on how far women in local government have come in the last 100 years.

## COUNCIL IMPLICATIONS

### Budget/Financial

It is estimated the cost for this conference would be as follows:

- Conference registration - \$1,000.00
- Gala Dinner - \$150.00
- Accommodation - \$478.00
- Travel - \$250.00 ( return flight fares)

The total cost of \$1,878.00 (approximately) would be allocated to budget PJ 991001 (Elected Member Operations).

### Policy or Regulation

[Councillor Attendance at Conferences Policy](#)

[Councillor Expenses and Provision of Facilities for Councillors Policy](#)

|             |                                               |
|-------------|-----------------------------------------------|
| Prepared by | Karlie Chevalley, Executive Support Assistant |
| Attachment  | Nil                                           |

---

**ITEM 15.040/19 COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN**


---

|                    |                                         |               |
|--------------------|-----------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 19 March 2019 |
| <b>Directorate</b> | Corporate & Governance                  |               |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay        |               |
| <b>Attachment</b>  | Yes                                     |               |

---

**SUMMARY**

This report updates Councillors on actions taken to implement resolutions of previous Council meetings.

**OFFICER RECOMMENDATION**

That the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete, i.e. C in the status column, be removed from the checklist.

**COMMITTEE RECOMMENDATION**

Simmons/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

---

**COUNCIL RESOLUTION – 15.040/19**

Novak/Williamson

**That the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete, i.e. C in the status column, be removed from the checklist.**

**Voting recorded as follows:**

**For: Simmons, Kingsley, Baker, Ellem, 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 items 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

---

|             |                                               |
|-------------|-----------------------------------------------|
| Prepared by | Karlie Chevalley, Executive Support Assistant |
| Attachment  | Checklist                                     |

---



| ITEM               | 15.041/19                                       | POLICIES REVIEWED |
|--------------------|-------------------------------------------------|-------------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee         | 19 March 2019     |
| <b>Directorate</b> | Corporate & Governance                          |                   |
| <b>Reviewed by</b> | Director - Corporate & Governance (Laura Black) |                   |
| <b>Attachment</b>  | Yes                                             |                   |

### SUMMARY

While the development or review of policy rests with the relevant sections of Council, reporting to Council is undertaken by the Corporate and Governance directorate. This report seeks the adoption of one existing policy (amended in line with the Model), rescission of two policies and the adoption of prescribed procedures for the administration of the Model Code of Conduct.

### OFFICER RECOMMENDATION

That:

1. The Code of Conduct be adopted by Council.
2. Council adopt the State Government's prescribed procedures for the administration of the Model Code of Conduct.
3. The Declarations of Interest Policy be rescinded.
4. The Gifts and Benefits Policy be rescinded.

### COMMITTEE RECOMMENDATION

Simmons/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 15.041/19

Lysaught/Kingsley

That:

1. The Code of Conduct be adopted by Council.
2. Council adopt the State Government's prescribed procedures for the administration of the Model Code of Conduct.
3. The Declarations of Interest Policy be rescinded.
4. The Gifts and Benefits Policy be rescinded.

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

All Council policies are scheduled for review at least once during the term of the elected body. The policies contained in this report have been reviewed and amended as required. Where there are material changes, or it is a new policy or the policy has a significant impact on community, the policies would normally be placed on public exhibition for 28 days.

## KEY ISSUES

### Policy under review

#### *Code of Conduct*

On the 18 December 2018, the Office of Local Government (OLG) advised (Circular No 18-44) that the new 2018 Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct) and the NSW State Government's Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (see attached) have now been prescribed under the Local Government (General) Regulation 2005.

OLG further advised that:

- Councils have six months from the date of prescription; (14 June 2019) to adopt a code of conduct and procedures for administration based on the prescribed Model Code of Conduct and Procedures.
- Council's existing code of conduct and procedures for administration remain in force until such time as the new code of conduct and procedures for administration is adopted.
- In adopting a new code of conduct and procedures for administration, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.

OLG identified that:

"the most obvious change is that the pecuniary interest provisions previously contained in the LGA and Regulation have now been included in the Model Code of Conduct. Other key changes include:

- new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- new rules governing the acceptance of gifts including mandatory reporting
- a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer."

Further details are available in the table Model Code of Conduct summary of key issues below.

Table 1: Model Code of Conduct summary of key changes

| Section                | Inclusions                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Part 1<br>Introduction | Clarifies that the Code of Conduct is made under the Local Government Act 1993 and the Local Government (General) Regulation 2005 and that Council's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.<br>Addition:<br>A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years. |

| Section                                                 | Inclusions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Part 3<br>Definitions                                   | Updated in line with new Mode Code of Conduct                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Part 4 General<br>Conduct<br>Obligations                | <p>Harassment and discrimination</p> <p>Addition:<br/>4.7 You must not harass, discriminate against, or support others who harass has been expanded to include:</p> <ul style="list-style-type: none"> <li>• or unlawfully discriminate against others on the grounds of</li> <li>• breastfeeding</li> <li>• domestic status</li> <li>• or political, religious or other affiliation.</li> </ul> <p>Provides definition of harassment<br/>4.8 For the purposes of this code, “harassment” is any form of behaviour towards a person that:</p> <ol style="list-style-type: none"> <li>a) is not wanted by the person</li> <li>b) offends, humiliates or intimidates the person, and</li> <li>c) creates a hostile environment.</li> </ol> <p>Introduces new sections dealing with:</p> <ul style="list-style-type: none"> <li>• Bullying (4.9 to 4.12),</li> <li>• Workplace Health and Safety (4.13) and</li> <li>• Obligations in relation to meetings (4.15 to 4.18).</li> </ul> |
| PART 5 & Part<br>6 CONFLICT<br>OF INTERESTS             | The changes to this Part 5 and Part 6 incorporate the information contained in Council’s Declarations of Interest policy. The adoption of the Model Code of Conduct will replace the Declarations of Interest policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| PART 5<br>Conflict of<br>Interests                      | <p>Introduces new sections 5.6 to 5.43 dealing with:</p> <ul style="list-style-type: none"> <li>• What is a pecuniary interest?</li> <li>• What interests do not have to be disclosed?</li> <li>• What disclosures must be made by a designated person?</li> <li>• What disclosures must be made by council staff other than designated persons?</li> <li>• What disclosures must be made by council advisers?</li> <li>• What disclosures must be made by a council committee member?</li> <li>• What disclosures must be made by a councillor?</li> <li>• Disclosure of interests in written returns</li> <li>• Disclosure of pecuniary interests at meetings</li> </ul>                                                                                                                                                                                                                                                                                                         |
| Part 6<br>Non-<br>pecuniary<br>conflicts of<br>interest | <p>Introduces new sections dealing with:</p> <ul style="list-style-type: none"> <li>• What is a non-pecuniary conflict of interests - 6.2 to 6.5</li> <li>• Managing non-pecuniary conflict of interests - 6.7 to 6.15</li> </ul> <p>Provides clarification on:<br/><i>Reportable political donations</i><br/>Clarification that a disclosure made under this clause must be recorded in the minutes of the meeting.</p> <p><i>Loss of quorum as a result of compliance with this Part</i><br/>Clarification on when a councillor, who would otherwise be precluded from participating in the consideration of a matter because they have a non-pecuniary conflict of interests may be permitted to participate in consideration of the matter.</p> <p><i>Other business or employment</i></p>                                                                                                                                                                                     |

| Section                                                        | Inclusions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                | Clarifies approvals required for engagement of private employment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Part 7<br>Personal<br>Benefit                                  | <p>The changes in this part incorporate the information contained in Council's Gifts and Benefits policy. The adoption of the Model Code of Conduct will replace the Gifts and Benefits policy.</p> <p>Introduces new sections:</p> <p><i>Personal Benefit</i><br/>7.1 advising what is not included as a gift</p> <p><i>Gifts and benefits</i><br/>7.3 to 7.6 Clarifies what must not be done, notification and when a gift or benefit should be surrendered to council.</p> <p><i>Gifts and benefits of token value</i><br/>7.7 Amends aggregated, amount over a 12 month period to a figure do not exceed a value of \$50. This is an increase from the current position of \$10</p> <p><i>Gifts and benefits of more than a token value</i><br/>7.8 to 7.12 Clarifies responsibilities and notes that gifts or benefits that exceed \$50 (in aggregate from a person or organisation) must not be accepted.</p>                                                                                                                                                                                                                |
| PART 8<br>Relationship<br>Between<br>Council<br>Officials      | <p><i>Provides clarification on:</i><br/><i>Obligations of councillors and administrators</i><br/>8.1 the responsibilities of the governing body of the council</p> <p><i>Obligations of staff</i><br/>8.3 the responsibilities of the general manager and staff</p> <p><i>Inappropriate interactions</i><br/>8.7 a), b), e) and g).<br/>Strengthens and clarifies what are regarded as inappropriate interactions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| PART 9<br>Access to<br>Information<br>and Council<br>Resources | <p>Introduces new information and clarifies:<br/><i>Councillor and administrator access to information</i><br/>9.6 addition:<br/>councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.</p> <p><i>Use and security of confidential information</i><br/>9.11 addition:<br/>a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions.</p> <p>g) not disclose any information discussed during a confidential session of a council meeting or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).</p> <p><i>Use of council resources</i><br/>9.15 addition:<br/>technology and electronic devices</p> |

| Section                                                           | Inclusions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                   | <p><i>Council record keeping</i><br/>9.21 to 9.24 addition: reinforces compliance with the State Records Act 1998 and clarifies what information is, how it is stored and destroyed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>PART 10<br/>Maintaining<br/>The Integrity<br/>of this code</p> | <p><i>Disclosure of information about the consideration of a matter under the Procedure</i><br/>10.10 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.</p> <p>10.11 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.</p> <p>10.12 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.</p> <p>10.13 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.</p> <p>10.14 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the Public Interest Disclosures Act 1994.</p> <p>Complaints alleging a breach of this part<br/>10.15 addition:<br/>complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are <i>to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures</i></p> |
| <p>Schedules 1, 2<br/>&amp; 3:</p>                                | <p>New addition.<br/>Schedule 1: Disclosures of interests and other matters in written submissions under Clause 5.25<br/>Schedule 2: Form of written return of interests submitted under clause 5.25<br/>Schedule 3 Form of special disclosure or pecuniary interest submitted under clause 5.41</p> <p>These schedules deal with the administrative functions and advice in completion of the respective. These are in line with council's current administrative procedures</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

The changes in Part 5 Conflict of Interest and Part 6 Non-Pecuniary Conflicts of Interest incorporate the information contained in Council's Declarations of Interest policy. The adoption of the Model Code of Conduct will make the Council's Declarations of Interest policy redundant. It is therefore recommended that it be rescinded.

The changes in this Part 7 Personal Benefit incorporate the information contained in Council's Gifts and Benefits policy. The adoption of the Model Code of Conduct will make the Council's Gifts and Benefits policy redundant. It is therefore recommended that it be rescinded.

The Model Code Procedures are prescribed for the administration of the Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct").

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisations to adopt procedures

for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct councils may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

It is proposed that Council adopt the Model Code of Conduct and the NSW State Government Procedures for the administration of the Model Code of Conduct for Local Councils in NSW. Therefore, draft Code of Conduct has been prepared on the basis of the prescribed model and a marked up revised copy of the Code of Conduct is not possible.

It is recommended that:

1. The Code of Conduct be adopted by Council.
2. Council adopt the State Government's prescribed procedures for the administration of the Model Code of Conduct.
3. Declarations of Interest V 4 policy be rescinded.
4. Gifts and Benefits V4 policy be rescinded.

## COUNCIL IMPLICATIONS

### Budget/Financial

There are no budgetary implications in adopting the recommendation of this report. Training in the Code of Conduct will be provided for all staff and elected members within existing budget allocations.

### Asset Management

N/A

### Policy or Regulation

The Model Code of Conduct and Procedures for administration were proscribed in legislation in December 2019. Councils have 6 months to amend their codes of conduct accordingly.

### Consultation

N/A

### Legal and Risk Management

Council's policies form part of the risk management framework.

|             |                                                                                                                                                                              |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Prepared by | Stephen McAlister, Governance Coordinator                                                                                                                                    |
| Attachment  | A - Model Code of Conduct Code<br>B - Procedures for the administration of the Model Code of Conduct<br>C - Declarations of Interest Policy<br>D - Gifts and Benefits Policy |

---

**ITEM 15.042/19 2018/19 MONTHLY FINANCIAL REPORT – FEBRUARY 2019**


---

|                    |                                            |               |
|--------------------|--------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee    | 19 March 2019 |
| <b>Directorate</b> | Corporate & Governance                     |               |
| <b>Reviewed by</b> | Manager - Finance & Supply (Matthew Sykes) |               |
| <b>Attachment</b>  | 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 that impact the General Fund end of year result, total (\$56,391). None of these variations have been reported to Council previously throughout January and February.

Of the reserve funded budget variations identified in this report, \$147,640 has previously been reported to Council throughout January and February. The variations identified in this report will decrease the reserve funds by \$2,156,455.

**OFFICER RECOMMENDATION**

That

1. The monthly financial information report for January and February 2019, attached to this report, be received and noted.
2. Council endorse the proposed General Fund variations as set out in this report totalling (\$56,391) for inclusion in the March 2019 Quarterly Budget Review Statement to be presented to Council in April 2019.
3. Council endorse the proposed reserve movements, as set out in this report totalling \$2,156,455 for inclusion in the March Quarterly Budget Review Statement to be presented to Council in April 2019.

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

---

**COUNCIL RESOLUTION – 15.042/19**


---

**Novak/Ellem**

That

1. The monthly financial information report for January and February 2019, attached to this report, be received and noted.
  2. Council endorse the proposed General Fund variations as set out in this report totalling (\$56,391) for inclusion in the March 2019 Quarterly Budget Review Statement to be presented to Council in April
-

2019.

3. Council endorse the proposed reserve movements, as set out in this report totalling \$2,156,455 for inclusion in the March Quarterly Budget Review Statement to be presented to Council in April 2019.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, 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

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 2018/19 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 December 2018.



| Sub Service | Variation Comments                                                                                                                                                                                                                                                                             | Net Impact to General Fund Decrease / (Increase) | Net Impact to Reserves Decrease / (Increase) | Previous Council Resolution |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------|-----------------------------|
| 611         | <b>Service – Organisation Performance and Governance</b><br><b>Sub-Service – Organisational Governance</b>                                                                                                                                                                                     |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Reduce subscriptions budget to align with actual 18/19 expenditure</li> <li>Increase revenue budget to reflect actual received</li> </ul>                                                                                                               | (\$5,000)<br>(\$10,950)                          | \$Nil<br>\$Nil                               | N/A<br>N/A                  |
| 733         | <b>Service – Human Resources</b><br><b>Sub-Service – Work Health &amp; Safety</b>                                                                                                                                                                                                              |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Increase rebates budget to align with WHS Incentive Rebates received 18/19</li> </ul>                                                                                                                                                                   | (\$53,554)                                       | \$Nil                                        | N/A                         |
| 840         | <b>Service – Parks &amp; Open Spaces</b><br><b>Sub-Service – Parks &amp; Open Spaces</b>                                                                                                                                                                                                       |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Fund the Jacaranda Park Redevelopment from the Stronger Country Community Grant (\$335,000) and the Rushforth Park Lighting – RA 80561 (\$160,022)</li> <li>Align See Park Renewal of Boardwalk and Landscaping to the capital works program</li> </ul> | \$Nil<br>\$30,000                                | \$160,022<br>N/A                             | N/A<br>N/A                  |
| 841         | <b>Service – Sporting Facilities</b><br><b>Sub-Service – Sporting Facilities</b>                                                                                                                                                                                                               |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Fund the Rushforth Park Lighting Upgrade from the Stronger Country Community Grant (\$201,720) and the Asia Cup Contribution (\$116,671)</li> </ul>                                                                                                     | \$Nil                                            | \$Nil                                        | N/A                         |
|             | <ul style="list-style-type: none"> <li>Fund the Yamba Sports Complex from the Stronger Country Community Grant (\$237,880) and the Australian Government Community Sport Infrastructure Grant (\$500,000)</li> </ul>                                                                           | \$Nil                                            | \$Nil                                        | N/A                         |
|             | <ul style="list-style-type: none"> <li>Fund the Sportsfields Signage Style Guide Design from RA 11037 – Sportsfields Signage Renewal</li> </ul>                                                                                                                                                | \$Nil                                            | \$37,930                                     | 15.010/19                   |
| 851         | <b>Service – Natural Resources Management</b><br><b>Sub-Service – Biodiversity</b>                                                                                                                                                                                                             |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Fund Hickey Island Rehab Plan from RA 70181 – CCRT Hickey Island Underground Boring</li> </ul>                                                                                                                                                          | \$Nil                                            | \$127,837                                    | N/A                         |
|             | <ul style="list-style-type: none"> <li>Budget to transfer Biodiversity Offset Income to RA 10245 – Biodiversity Offset Reserve</li> </ul>                                                                                                                                                      | \$Nil                                            | (\$16,264)                                   | N/A                         |
|             | <ul style="list-style-type: none"> <li>Align Implementation of Biodiversity Strategy budget to capital works program</li> </ul>                                                                                                                                                                | \$75,000                                         | \$Nil                                        | N/A                         |
| 853         | <b>Service – Natural Resources Management</b><br><b>Sub-Service – Bushfire Management</b>                                                                                                                                                                                                      |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Adjust the Bushfire Planning and Coordination works to align with the reduction to approved RFS Hazard Road Reduction grant funding (\$14,620)</li> </ul>                                                                                               | \$Nil                                            | \$Nil                                        | N/A                         |
| 855         | <b>Service – Urban Vegetation Management</b><br><b>Sub-Service – Urban Vegetation Management</b>                                                                                                                                                                                               |                                                  |                                              |                             |
|             | <ul style="list-style-type: none"> <li>Reverse the capital works program budget duplication for Street Tree Replacement</li> </ul>                                                                                                                                                             | (\$82,087)                                       | \$Nil                                        | N/A                         |

| Sub Service | Variation Comments                                                                                                                                                                                                                                                               | Net Impact to General Fund Decrease / (Increase) | Net Impact to Reserves Decrease / (Increase) | Previous Council Resolution |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------|-----------------------------|
| 878         | <b>Service – Waste Management</b><br><b>Sub-Service – Waste Transfer Stations and Other Waste</b> <ul style="list-style-type: none"> <li>Fund Early Childhood Waste Education from the Food Donation Grant income (\$14,700)</li> </ul>                                          | \$Nil                                            | \$Nil                                        | N/A                         |
|             | <ul style="list-style-type: none"> <li>Fund the Love Food Communities program from the Love Food Communities Grant income (\$20,000)</li> </ul>                                                                                                                                  | \$Nil                                            | \$Nil                                        | N/A                         |
| 881         | <b>Service – Environmental Sustainability</b><br><b>Sub-Service – Sustainability Projects/Climate Change</b> <ul style="list-style-type: none"> <li>Reverse the capital works program budget duplication for Bicycle Campaign</li> </ul>                                         | (\$9,800)                                        | \$Nil                                        | N/A                         |
| 882         | <b>Service – Caravan Parks</b><br><b>Sub-Service – Caravan Parks</b> <ul style="list-style-type: none"> <li>Fund the increase to Calypso Park Redevelopment design budget to coincide with successful tender from RA 70010 – CCRT Maintenance Reserve</li> </ul>                 | \$Nil                                            | \$109,710                                    | 16.029/18                   |
| 886         | <b>Service – Water Supply</b><br><b>Sub-Service – Water Operation</b> <ul style="list-style-type: none"> <li>Increase funding for Dams/Weirs Renewals from RA 79010 – Water Bank Account to coincide with expected 18/19 expenditure</li> </ul>                                  | \$Nil                                            | \$61,000                                     | N/A                         |
|             | <ul style="list-style-type: none"> <li>Increase funding for Water Pumping Station Renewals from RA 79010 – Water Bank Account to coincide with expected 18/19 expenditure</li> </ul>                                                                                             | \$Nil                                            | \$78,612                                     | N/A                         |
| 887         | <b>Service – Water Supply</b><br><b>Sub-Service – Water Construction</b> <ul style="list-style-type: none"> <li>Increase funding for Water Fund Heavy Plant Replacement from RA 50080 – NCW Plant Replacement Reserve to align with 18/19 expenditure</li> </ul>                 | \$Nil                                            | \$562,130                                    | N/A                         |
|             | <ul style="list-style-type: none"> <li>Increase funding for Water Fund Vehicle Replacement from RA 50080 – NCW Plant Replacement Reserve to align with 18/19 expenditure</li> </ul>                                                                                              | \$Nil                                            | \$115,344                                    | N/A                         |
| 891         | <b>Service – Sewerage Services</b><br><b>Sub-Service – Sewer Operation Maintenance &amp; Renewals</b> <ul style="list-style-type: none"> <li>Increase funding for Pumping Station Renewals from RA 79025 – Sewer Bank Account Reserve to align with 18/19 expenditure</li> </ul> | \$Nil                                            | \$96,531                                     | N/A                         |
| 892         | <b>Service – Sewerage Services</b><br><b>Sub-Service – Sewer Construction</b> <ul style="list-style-type: none"> <li>Increase funding for Sewer Heavy Plant Replacement from RA 60040 – Grafton SF Plant Reserve to align with 18/19 expenditure</li> </ul>                      | \$Nil                                            | \$689,257                                    | N/A                         |

| Sub Service | Variation Comments                                                                                                                                                                                                                                                                                                                                                                                | Net Impact to General Fund Decrease / (Increase) | Net Impact to Reserves Decrease / (Increase) | Previous Council Resolution |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------|-----------------------------|
|             | <ul style="list-style-type: none"> <li>Increase funding for Light Fleet Replacement from RA 60040 – Grafton SF Plant Reserve to align with 18/19 expenditure</li> </ul>                                                                                                                                                                                                                           | \$Nil                                            | \$130,846                                    | N/A                         |
| 931         | <b>Service –Community Development</b><br><b>Sub-Service – Youth Services</b> <ul style="list-style-type: none"> <li>Allocate 18/19 Youth Week Grant (\$2,227)</li> </ul>                                                                                                                                                                                                                          | \$Nil                                            | \$Nil                                        | N/A                         |
| 945         | <b>Service – Galleries &amp; Museums</b><br><b>Sub-Service – Gallery &amp; Museums</b> <ul style="list-style-type: none"> <li>Allocate the Arts &amp; Cultural Development Program (ACDP) Grant (\$70,000) to fund the Art Gallery 2019 Arts &amp; Cultural NSW Annual Program</li> <li>Fund upcoming artwork purchases from RA 41050 – Contributions for Future Art Purchases Reserve</li> </ul> | \$Nil                                            | \$Nil                                        | N/A                         |
|             | <b>TOTAL Proposed General Fund / Reserve Balance Impact</b>                                                                                                                                                                                                                                                                                                                                       | <b>(\$56,391)</b>                                | <b>\$2,156,455</b>                           |                             |

### 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          | (\$124,341)        | Surplus        |
| <b>Q1 Revised Budget</b> | <b>(\$228,730)</b> | <b>Surplus</b> |
| <b>Q2 Revised Budget</b> | <b>\$504,631</b>   | <b>Deficit</b> |

| Quarter 3 proposed budget variations | Council Minutes Actioned | Budget Review Variations | \$         | Net Impact |
|--------------------------------------|--------------------------|--------------------------|------------|------------|
| January & February                   | \$0                      | (\$56,391)               | (\$56,391) | Surplus    |

#### Reserve Movements

|                          |                    |                 |
|--------------------------|--------------------|-----------------|
| Original Budget          | (\$10,250,050)     | Increase        |
| <b>Q1 Revised Budget</b> | <b>\$2,260,630</b> | <b>Decrease</b> |
| <b>Q2 Revised Budget</b> | <b>\$3,673,535</b> | <b>Decrease</b> |

| Quarter 3 proposed reserve movements | Council Minutes Actioned | Budget Review Variations | \$          | Net Impact |
|--------------------------------------|--------------------------|--------------------------|-------------|------------|
| January & February                   | \$147,640                | \$2,008,815              | \$2,156,455 | Decrease   |

**Asset Management**

N/A

**Policy or Regulation**Section 202 of the *Local Government (General) Regulation 2005***Consultation**

This report has been prepared after consultation with the Corporate Business Team.

**Legal and Risk Management**

N/A

|             |                                                                        |
|-------------|------------------------------------------------------------------------|
| Prepared by | Christi Brown, Management Accountant Coordinator                       |
| Attachment  | Income and Expenditure Statements by Fund & Sub Service – To be tabled |

**ITEM 15.043/19 WORKS REPORT**

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Yes                                      |               |

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the Works Report be received and noted.

**COMMITTEE RECOMMENDATION**

Simmons/Ellem

That Council accept the late amended attachment emailed to Councillors today and the Works report be received and adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.043/19**

Williamson/Baker

**That Council accept the late amended attachment emailed to Councillors today and the Works report be received and adopted.**

**Voting recorded as follows:**

**For: Simmons, Kingsley, Baker, 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 2.1.5 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 February is attached.

**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**

N/A

**Consultation**

Consultation has been held internally with Civil Services Section and Water Cycle Section and Open Spaces and Facilities Section.

**Legal and Risk Management**

N/A

---

|             |                                        |
|-------------|----------------------------------------|
| Prepared by | Tim Jenkins, Greg Mashiah, Peter Birch |
| Attachment  | Works Program                          |

---

---

|             |                  |                                                                                                             |
|-------------|------------------|-------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>15.044/19</b> | <b>BRIDGE RENEWAL PROGRAM AND FIXING COUNTRY ROADS FUNDING APPLICATIONS FOR BRIDGE REPLACEMENT PROJECTS</b> |
|-------------|------------------|-------------------------------------------------------------------------------------------------------------|

---

|                    |                                         |               |
|--------------------|-----------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                           |               |
| <b>Reviewed by</b> | Manager - Civil Services (Tim Jenkins)  |               |
| <b>Attachment</b>  | Nil                                     |               |

---

**SUMMARY**

Funding applications have been submitted for Bridges Renewal Program Round Four and Fixing Country Roads Program funding for the replacement of three Council bridges. The bridges proposed for replacement are structures on Council's current replacement program for 2019-20.

**OFFICER RECOMMENDATION**

That Council note that funding applications have been submitted under the Australian Government Bridges Renewal Program Round Four and the NSW Government Fixing Country Roads Program for the replacement of bridge structures as summarised below:

| <b>Bridge</b>                            | <b>Fixing Country Roads</b> | <b>Bridges Renewal Program R4</b> |
|------------------------------------------|-----------------------------|-----------------------------------|
| Middle Creek Bridge, Kungala Road        | \$344,515                   | \$344,515                         |
| Middle Creek Bridge, Sherwood Creek Road | \$285,375                   | \$285,375                         |
| Burnt Hut Creek Bridge, Bald Hills Road  | \$156,841                   |                                   |
| <b>TOTAL</b>                             | <b>\$786,731</b>            | <b>\$629,890</b>                  |

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.044/19**

Lysaught/Kingsley

That Council note that funding applications have been submitted under the Australian Government Bridges Renewal Program Round Four and the NSW Government Fixing Country Roads Program for the replacement of bridge structures as summarised below:

| <b>Bridge</b>                            | <b>Fixing Country Roads</b> | <b>Bridges Renewal Program R4</b> |
|------------------------------------------|-----------------------------|-----------------------------------|
| Middle Creek Bridge, Kungala Road        | \$344,515                   | \$344,515                         |
| Middle Creek Bridge, Sherwood Creek Road | \$285,375                   | \$285,375                         |
| Burnt Hut Creek Bridge, Bald Hills Road  | \$156,841                   |                                   |
| <b>TOTAL</b>                             | <b>\$786,731</b>            | <b>\$629,890</b>                  |

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

### Bridges Renewal Program

The Australian Government announced round four of the Bridges Renewal Program (BRP) was open for applications on 7 January 2019 and applications were due by 5 February 2019. Under round four of the BRP the Australian Government will contribute up to 50% of the total projects costs for up to two timber bridges, each up to a maximum of \$700,000.

Projects must be scheduled to commence by 1 December 2019 and be complete by 31 December 2022.

The key criteria for the program are:

- Structural improvements contributing to productivity and access
- Evidence of economic and social benefits
- Construction readiness and risk
- State and Territory priority

### Fixing Country Roads Program

The NSW Government Fixing Country Roads (FCR) program provides funding for projects which target improved freight connectivity for Local and Regional Roads. Currently there is not an application window for FCR and submissions can be made at any time. The only requirements are that projects must be ready to commence construction within 12 months of the funding being made available and that FCR will only fund up to 50% of the project.

The key criteria for the program are:

- Access, productivity and safety benefits
- Growth and economic benefits
- Strategic alignment
- Deliverability and affordability

## KEY ISSUES

The current bridge replacement priorities have been reviewed and funding applications have been submitted for the projects summarised below.

### 1. Middle Creek Bridge, Kungala Road

Middle Creek Bridge on Kungala Road is a single lane timber bridge which has been prioritised for replacement due to the poor condition of several structural components. Due to the geometry of the site the road will need to be closed at the bridge location for construction of the new bridge. It is proposed that the InQuik bridge system be used for the new bridge as it involves the pre-fabrication of the reinforcement and formwork and is expected to shorten the construction time required, in comparison to in-situ formwork and reinforcement construction.



It is proposed that the bridge is replaced with a two lane wide, single span concrete bridge. An estimated cost of \$689,030 to replace the bridge is based on preliminary cost estimates from InQuik and the cost of similar bridge replacements completed by Council in recent years. This project has been included in the 2019/20 draft budget and is currently proposed to be funded from Roads to Recovery funds.

## 2. Middle Creek Bridge, Sherwood Creek Road

Middle Creek Bridge on Sherwood Creek Road is a timber bridge with tall abutments which are starting to show signs of failure. Due to the height of the abutments being over 7 metres above the usual water level, the maintenance and repair currently required for the existing timber piles retaining the abutments would require significant cost and excavation. Due to the advanced deterioration of several other components of the bridge it has been decided to prioritise complete replacement of the structure.

It is proposed that the bridge is replaced with a single lane, longer single span concrete bridge. An estimated cost of \$570,750 to replace the bridge is based on the cost of similar bridge replacements completed by Council in recent years. This project has been included in the 2019/20 draft budget and is currently proposed to be funded from Roads to Recovery funds.

## 3. Burnt Hut Creek Bridge, Bald Hills Road

Burnt Hut Creek Bridge currently comprises deteriorating timber girders and deck supported on mass concrete abutments. The detailed design of the replacement bridge is expected to involve complete replacement of the existing structure with a concrete InQuik bridge system including the deck system and new abutments.

The estimated cost of \$313,682 to replace the bridge is based on preliminary cost estimates from InQuik and the cost of similar bridge replacements completed by Council in recent years.

This project has been included in the 2019/20 draft budget and is currently proposed to be funded from SRV funds. The project in the budget is funded to \$232,034 which is sufficient to replace the bridge deck. The \$313,682 allows for the complete replacement of the bridge.

## COUNCIL IMPLICATIONS

### Budget/Financial

If Council is successful in securing funding under both BRP and FCR the funding arrangement of Council's contribution will be:

|                                        | Fixing Country<br>Roads | Bridges Renewal<br>Program | Roads to<br>Recovery | Total              |
|----------------------------------------|-------------------------|----------------------------|----------------------|--------------------|
| Middle Creek Bridge, Kungala Rd        | \$344,515               | \$344,515                  |                      | \$689,030          |
| Middle Creek Bridge, Sherwood Creek Rd | \$285,375               | \$285,375                  |                      | \$570,750          |
| Burnt Hut Creek Bridge, Bald Hills Rd  |                         |                            | \$156,841            | \$156,841          |
|                                        | \$156,841               |                            |                      | \$313,682          |
| <b>Total</b>                           | <b>\$786,731</b>        | <b>\$629,890</b>           | <b>\$156,841</b>     | <b>\$1,573,462</b> |

If Council's applications for either BRP or FCR are unsuccessful, it is proposed that the resultant gap in funding for the projects is allocated from the Australian Government Roads to Recovery funding.

If funding applications for both BRP and FCR are unsuccessful then the projects will be completed utilising funding as allocated in the 2019/20 capital works program.

Should any funding be received for these projects, the current funding proposed in the draft 2019/20 budget will be able to be reallocated to other Council projects.

**Asset Management**

Replacement of the bridges will address the following objectives stated in Council's Asset Management Strategy 2018-2028:

- To manage Council's bridges in a safe and serviceable condition

**Policy or Regulation**

N/A

**Consultation**

Civil Services staff have been consulted on projects that meet the criteria for the BRP and/or FCR funding programs, and that can be project-ready to commence construction within the timeframes required by each program.

External consultation with local industry stakeholders has been undertaken in order to seek evidence of their support for the projects for inclusion in the applications for the funding. Forestry Corporation of NSW have provided to Council a letter of Support for the upgrade of Middle Creek Bridge, Kungala Road and Middle Creek Bridge, Sherwood Creek Road which will be included in applications for funding for these bridges.

**Legal and Risk Management**

N/A

|             |                                 |
|-------------|---------------------------------|
| Prepared by | Adele McGeary, Bridges Engineer |
| Attachment  | Nil                             |

**ITEM 15.045/19 RMS FUNDING OFFER – SAFER ROADS PROGRAM – ORARA WAY**

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Nil                                      |               |

**SUMMARY**

Council had received a funding offer from Roads and Maritime Services for a road upgrading project on Orara Way near School Lane.

**OFFICER RECOMMENDATION**

That Council note the acceptance of the following Safer Roads Program funding offer for a project on Orara Way near School Lane for completion in the 2019/20 financial year.

**COMMITTEE RECOMMENDATION**

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.045/18**

Lysaught/Kingsley

**That Council note the acceptance of the following Safer Roads Program funding offer for a project on Orara Way near School Lane for completion in the 2019/20 financial year.**

**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 had received a funding offer from Roads and Maritime Services for a road upgrading project on Orara Way near School Lane under the Safer Roads Program to be completed in the 2019/20 financial year. Details of the funding offer are:

| Description                                 | Project Cost | 2019/20 Council Funding | 2019/20 RMS Funding |
|---------------------------------------------|--------------|-------------------------|---------------------|
| Orara Way near School Lane – road upgrading | \$516,465    | \$0                     | \$516,465           |

**KEY ISSUES**

Council was required to provide a response to the funding offer by 16 March 2019. As the project was fully funded, requiring no Council contribution, Council staff accepted the grant.

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

The financial implications are detailed above. All these projects are fully funded.

**Asset Management**

The upgraded details of the roads will be added to Council's asset register once completed.

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

|             |                                     |
|-------------|-------------------------------------|
| Prepared by | Tim Jenkins, Manager Civil Services |
| Attachment  | Nil                                 |

|                    |                                          |                                                                                                          |
|--------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>ITEM</b>        | <b>15.046/19</b>                         | <b>REHABILITATION OF FORMER MACLEAN, TOWNSEND &amp; ILARWILL SEWAGE TREATMENT PLANTS – UPDATE REPORT</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019                                                                                            |
| <b>Directorate</b> | Works & Civil                            |                                                                                                          |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |                                                                                                          |
| <b>Attachment</b>  | Nil                                      |                                                                                                          |

## SUMMARY

This report updates Council on progress with rehabilitation of the Maclean, Townsend and Ilarwill Sewage Treatment Plants (STP).

## OFFICER RECOMMENDATION

That Council receive and note the update report on rehabilitation of the former Sewage Treatment Plant sites at Maclean, Townsend and Ilarwill.

## COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

## COUNCIL RESOLUTION – 15.046/19

Lysaught/Kingsley

That Council receive and note the update report on rehabilitation of the former Sewage Treatment Plant sites at Maclean, Townsend and Ilarwill.

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

At its meeting of 15 November 2016 Council awarded a Tender for rehabilitation of Maclean, Townsend and Ilarwill Sewage Treatment Plants (STP) to Ledonne Constructions Pty Ltd and engaged Public Works Advisory to undertake Project Management services of the contract (Resolution 16.023/16).

The tender documents proposed that where possible material be reused on site on the basis that most of the material met the requirements of the New South Wales Environmental Protection Authority (NSWEPA) *Environmental Guidelines: Use and Disposal of Biosolids Products* ("The Guidelines").

The Tender accepted by Council in the amount of \$1,450,352.73 (ex GST) was prepared on that basis.

#### KEY ISSUES

##### a) Ilarwill STP

EPA has provided their concurrence to the elevated dissolved metals in groundwater for all three of the former STP sites. The site auditors' final site audit statement is scheduled to be issued to Council by the end of March.

##### b) Maclean STP

Remediation has been completed. The final round of site validation testing has been undertaken and the site remediation validation report is scheduled to be issued to Council by the end of April.

##### c) Townsend STP

The final round of site validation testing was undertaken in February and indicated elevated levels of contaminants which were considered attributable to the low groundwater due to the extremely dry weather. The contaminated land consultant has suggested additional groundwater testing at greater depth to demonstrate the contaminants are naturally occurring. It is now anticipated the site remediation validation report will be issued to Council by the end of April.

##### d) Rezoning of sites

The rezoning of the three STP sites has been completed.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

At its meeting of 15 November 2016 Council adopted a revised budget of \$1.950 million for this project, which included a 15% allowance for variations. As outlined in previous updates the major variation relates to additional testing, sampling and reporting required by the EPA accredited site auditor for approval of the Remediation Action Plans (RAP) for each site.

Project costs to date are summarised in the table below (ex GST):

| Item                                                                   | Cost                  |
|------------------------------------------------------------------------|-----------------------|
| Original Contract Sum (Ledonne Constructions)                          | \$1,450,353.00        |
| Approved Ledonne contract variations and increases in provisional sums | \$1,446,370.82        |
| Original project management sum (Public Works Advisory)                | \$146,853.00          |
| Approved Public Works Project Management variation                     | \$6,618.00            |
| Expert Biosolids Advice                                                | \$2,350.00            |
| <b>Total Expenditure and Commitments to date</b>                       | <b>\$3,052,544.82</b> |

Foreshadowed increases in provisional rate items and contracts variations are:

| Item                                                                              | Cost             |
|-----------------------------------------------------------------------------------|------------------|
| Public Works Project Management variation for 13 months extension to Mar 2019     | \$9,464          |
| Biosolids transport to landfill and supply and place additional imported material | \$488,782        |
| Fence at Pump Station 10 (former Maclean STP site)                                | \$6,500          |
| Townsend site - additional groundwater testing at greater depth                   | \$4,955          |
| <b>Total</b>                                                                      | <b>\$509,701</b> |

The project's current financial position is:

| Item                                                              | Cost                  |
|-------------------------------------------------------------------|-----------------------|
| Total Expenditure and Commitments to date                         | \$3,052,544.82        |
| Advised future variations and increases in provisional rate items | \$509,701             |
| <b>Estimated Project cost</b>                                     | <b>\$3,562,245.82</b> |
| Current approved project budget                                   | \$1,950,000           |
| <b>Projected project budget shortfall</b>                         | <b>\$1,612,245.82</b> |

The variation will be funded from the sewer fund. Modelling of the sewer fund indicates that a budget variation of this magnitude will not have an adverse impact on the performance of the sewer fund.

#### **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**

Public Works Advisory; Ledonne Constructions

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

The contract provides a delay rate to the Contractor of \$3,067.27 (ex GST) per day.

|             |                                   |
|-------------|-----------------------------------|
| Prepared by | Greg Mashiah, Manager Water Cycle |
| Attachment  | Nil                               |

|             |                  |                                                                                                                                         |
|-------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>15.047/19</b> | <b>QUARTERLY REPORT – REGIONAL WATER SUPPLY HEADS OF AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL, ESSENTIAL ENERGY AND NSW GOVERNMENT</b> |
|-------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------|

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Nil                                      |               |

## SUMMARY

At its meeting of June 2015 Council considered and subsequently signed a Heads of Agreement to progress a number of matters associated with the Regional Water Supply. This report provides an update of progress regarding the agreement.

## OFFICER RECOMMENDATION

That the Quarterly Report on the Regional Water Supply Heads of Agreement be received and its contents noted.

## COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

## COUNCIL RESOLUTION – 15.047/19

Lysaught/Kingsley

**That the Quarterly Report on the Regional Water Supply Heads of Agreement be received and its contents 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 2.1.1 Maintain and renew water and sewer networks

## BACKGROUND

At its June 2015 meeting Council resolved (14.119/15) to receive quarterly reports with regard to progress of the agreement. This report provides progress to 5 March 2019.



## KEY ISSUES

The table below provides a status report on each of the items.

| ITEM                                                                                                               | STATUS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transfer of Weir and Tunnel Number Two to the relevant government agency                                           | EE advises that, following discussions with Infrastructure NSW, formal documentation has been delivered but a response is yet to be received. Given that the State Government is now in caretaker mode until after the 23 March election, it is considered unlikely there will be any progress on this matter until after the election.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Release of water for environmental and recreational purposes                                                       | EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Protection of heritage value of the power generation buildings (including equipment installed within the facility) | Item complete.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Transfer of property rights for the ongoing ownership and operation of the Nymboida Canoe Centre                   | EE advised that a Formal agreement between the Canoe Centre and Essential Energy has been agreed to and is now commencing proceedings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Transfer of Tunnel Number One to Clarence Valley Council                                                           | EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is still subject to further discussions between Essential Energy and the relevant Ministers. Again given that the State Government is now in caretaker mode, it is considered unlikely there will be any progress on this matter until after the election.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Transfer of licences and other authorisations to support its ownership of Tunnel Number One                        | EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is also still subject to further discussions between Essential Energy and the relevant Ministers. Again given that the State Government is now in caretaker mode, it is considered unlikely there will be any progress on this matter until after the election.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Transfer of Goolang Creek Bridges to Clarence Valley Council                                                       | <p>The Essential Energy contract for bridge restoration achieved practical completion for all bridges other than bridge #7 in the 2<sup>nd</sup> week of May 2018. Bridge signage (tonnage) has been updated and engineering certification issued.</p> <p>Bridge #7 requires replacing and designs and estimations have been completed. The final design is yet to be vetted by the landowner involved, and NSW Fisheries. Currently Essential Energy is exploring alternate options prior to final approaches to parties involved. Essential Energy has sought a response from the Natural Resource Advisory Council (NRAC) on the requirement for reinstatement of Bridge #7 but is yet to receive a response. Again given that the State Government is now in caretaker mode, it is considered unlikely there will be any progress on this matter until after the election.</p> <p>At a meeting in November 2017 Council reiterated its position that it will not 'own' any bridges which do not provide a critical service link for Council's water supply. Essential Energy has</p> |

| ITEM                                                                                                                                           | STATUS                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                | requested Council assistance in facilitating transfers of ownership to the respective parties involved.                   |
| Investigate the possible construction of a 285ML 'surge tank' to provide recreational water flows for the operation of the Nymboida Canoe Club | EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting. |
| Nymboida power generation buildings and ancillary infrastructure to be decommissioned and secured                                              | Item complete. The infrastructure is now in a program of ongoing preservation and maintenance.                            |

No further feedback has been received regarding the matters discussed between Council, Local Member Chris Gulaptis and Essential Energy in November 2017.

### COUNCIL IMPLICATIONS

#### Budget/Financial

N/A

#### Asset Management

N/A

#### Policy or Regulation

N/A

#### Consultation

N/A

#### Legal and Risk Management

N/A

|             |                                   |
|-------------|-----------------------------------|
| Prepared by | Greg Mashiah, Manager Water Cycle |
| Attachment  | Nil                               |

|                    |                                          |                                                                               |
|--------------------|------------------------------------------|-------------------------------------------------------------------------------|
| <b>ITEM</b>        | <b>15.048/19</b>                         | <b>PROPOSED REVIEW OF PALMERS ISLAND RIVERBANK PLAN IMMEDIATE IMPACT LINE</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee  | 19 March 2019                                                                 |
| <b>Directorate</b> | Works & Civil                            |                                                                               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |                                                                               |
| <b>Attachment</b>  | Nil                                      |                                                                               |

### SUMMARY

At its meeting of 26 February 2019 Council resolved (Resolution 15.001/19) to seek a quotation to review the immediate impact line in the “Palmers Island: Bank Erosion Assessment and Management Plan, July 1992” and the quotation be reported to the March Council meeting. Due to the short timeframe a quotation was unable to be obtained and it is proposed to report a proposal to the April 2019 meeting.

### OFFICER RECOMMENDATION

That Council note the proposed timeframe for considering a proposal for reviewing immediate impact line in the “Palmers Island: Bank Erosion Assessment and Management Plan, July 1992”.

### COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 15.048/19

Lysaught/Kingsley

That Council note the proposed timeframe for considering a proposal for reviewing immediate impact line in the “Palmers Island: Bank Erosion Assessment and Management Plan, July 1992”.

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

The “Palmers Island: Bank Erosion Assessment and Management Plan, July 1992” (and the subsequent Palmers Island Riverbank Management Plan) covers an approximately 1.8km section of riverbank between the intersection of River Road and Yamba Road to Gillies Lane. Resolution 15.001/19 specified that the

review of the immediate impact line be for the section of riverbank between River Road and the northern boundary of Lot 21 on DP1131567. The resolution extends the immediate impact line study area by approximately 3.7km, for a total review length of 5.5km of riverbank.

#### KEY ISSUES

As part of DA2011/0743 the applicant was required to review riverbank erosion in front of their property (Fishing Haven Caravan Park). Council has sought the quotation from the same consultancy who undertook the work for DA2011/0743 as this consultancy has the most knowledge and experience of the Palmers Island riverbank issues. The applicant for DA2011/0743 has generously approved the consultant using all information available from their review to assist with Council's review.

As no baseline riverbank data exists for the additional 3.7km of riverbank north of Gillies Lane the consultant has needed to review additional information to that provided in the previous Palmers Island studies in order to prepare their quotation. In particular, geotechnical information will be required to undertake the bank stability geotechnical analysis. There was insufficient time between the Council meetings for the consultant to review this information and prepare a quotation for the March meeting. It is currently proposed to present a proposal to the April Council meeting.

The consultant has been requested to split their quote into two portions – review of the existing 1.8km immediate impact line as per the previous Palmers Island Riverbank Plan and extending the study area 3.7km to the northern boundary of Lot 21 on DP1131567.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

PJ994542 currently has an allocation of \$11,393 for monitoring of riverbank stability. There is also an additional \$11,398 in Restricted Account 10412 for monitoring of riverbank stability.

##### Asset Management

The Palmers Island Riverbank Plan indicates that no maintenance will be undertaken on the 1.8km section of riverbank covered by the Plan. A separate report to this Council meeting proposes a maintenance strategy which would apply to sections of riverbank which have rock protection included on Council's asset register in the 3.7km section north of Gillies Lane.

##### Policy or Regulation

Palmers Island Riverbank Plan

##### Consultation

N/A

##### Legal and Risk Management

N/A

|             |                                   |
|-------------|-----------------------------------|
| Prepared by | Greg Mashiah, Manager Water Cycle |
| Attachment  | Nil                               |

| ITEM               | 15.049/19                                       | PROGRESS OF THE DISABILITY INCLUSION ACTION PLAN |
|--------------------|-------------------------------------------------|--------------------------------------------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee         | 19 March 2019                                    |
| <b>Directorate</b> | Corporate & Governance                          |                                                  |
| <b>Reviewed by</b> | Director - Corporate & Governance (Laura Black) |                                                  |
| <b>Attachment</b>  | Yes                                             |                                                  |

### SUMMARY

This report provides an update on the progress of the Disability Inclusion Action Plan (DIAP)

### OFFICER RECOMMENDATION

That Council note the progress against the deliverables in the Disability Inclusion Action Plan.

### COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 15.049/19

Lysaught/Kingsley

That Council note the progress against the deliverables in the Disability Inclusion Action Plan.

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 1.4.3 Foster an inclusive and equitable community

### BACKGROUND

The NSW Disability Inclusion Act 2014 and Disability Inclusion Regulation 2014 require that local councils are required to have Disability Inclusion Action Plans (DIAP) in place.

Council adopted the Clarence Valley Council Disability Inclusion Action Plan 2017 – 2021 at its 16 May 2017 meeting (13.022/17).

The Disability Inclusion Action Plan (DIAP) provides a guide to how Council will meet its responsibilities in regard to the NSW Disability Inclusion Act 2014.

The plan has four focus areas:

- Positive Community Attitudes and Behaviours;
- Creating Liveable Communities;
- Access to Meaningful Employment;
- Improve access to systems and processes.

## KEY ISSUES

Council continues to move forward in addressing the DIAP deliverables within existing budget allocations.

The following is a snapshot of Council's progress in relation to the Disability Inclusion Action plan, since 1 July 2018.

### *Positive Community Attitudes and Behaviours*

Council facilitates the Access Committee and refers relevant work being undertaken to the Access Committee for comment and advice. The committee, which meets monthly and is comprised of 2 Councillors, 9 community members (one of them an Occupational Therapist, one a guide dog Orientation & Mobility Specialist):

- Provides advice to council on access matters.
- Provides feedback on draft planning documents.
- Lobbied Rotary Yamba to install a bench seat at a Taxi Pick up and Drop off area in Yamba.
- Is preparing mobility maps.
- Advocates for safer pedestrian crossings.

In relation to the Clarence Area Disability Network, Council staff provide a liaison role, organising the meeting venue, guest speakers, agendas and minutes. The Network:

- Meets quarterly informing the community on latest service update and providing a venue for information exchange
- Has a membership including the majority of disability employment agencies, disability service providers, disability advocacy services, Centrelink and some businesses providing a disability related service for example home maintenance and modifications.
- Is currently organising a large carers' forum for the community with information about NDIS coordination of support and plan management.
- Is creating a Facebook page to exchange information on disability services available in the area with community members.

In relation to Social Inclusion Week 2017 - 24 November 2017 – We "R" one event – an inclusive family event as part of Social Inclusion week, Council provided funding for the outdoor cinema and provided in-kind support for planning the event and running it on the day.

### *Creating Liveable Communities*

Council has undertaken a number of consultations and infrastructure projects to increase access to the built environment for people with disability. These include:

- Upgrading footpaths to meet Disability Discrimination Act (DDA) standards and considering continuous accessible paths. Also discussing this aspect with Roads and Maritime Services and the Contractor in the development of aspects of the new Grafton bridge and path connectivity.
- Upgrading five bus stops and connecting footpaths, which will meet DDA requirements.
- Commencing a review of the condition of Council's footpaths which will include an assessment of access related issues.
- Liaising with public utilities so that their infrastructure is not installed along building shore lines.
- New accessible parking spaces to be installed in new car park as part of the new Grafton Bridge at the instigation of Council.

- Inclusion of accessible features in amenities in Woolli Street Yamba, McLachlan Park Maclean, with works in progress for amenities next to Woolli Hall, and planning for Pippie Beach Yamba.
- MLAK keys available across key facilities in main towns and urban area.
- Planning for shared pedestrian/cycle pathway extension at Iluka is underway.
- Accessible furniture and support facilities being used in parks design and projects – e.g. McLachlan Park.
- Playgrounds at Regional and District level being designed to include inclusive elements – Jacaranda Park, Lions Park, Brooms Head playgrounds.
- Sports facilities being designed to be all accessible and inclusive – e.g. Rushforth Park Redevelopment, Ngayundi Yamba Sports Complex sports amenities, Rushforth Park sports amenities.
- Master plan upgrades for pools at Grafton and Maclean include improved access.
- Promotion of beach access for wheelchairs undertaken through Facebook.
- Review of accessible access to beaches across the local government area completed and reported to Council.
- Redevelopment plans for Calypso Yamba, and Brooms Head have been adopted. Woolli and Minnie Water parks redevelopment in planning stages and all will include improved and all accessible design.

#### *Supporting Access to Meaningful Employment*

Council is an equal opportunity employer (EEO) and has worked to increase employment opportunities for people with disability.

Council:

- Considers the needs of EEO groups in work re-organisation or structural changes.
- Reviews position descriptions to ensure that essential and desirable criteria and position conditions are non discriminatory .
- Has an on going commitment to EEO Committee forming part of Joint Consultative Committee
- Is undertaking a review of its recruitment and selection protocol, this includes whether the online recruitment tool meets accessibility requirements.
- Under the Equal Employment Opportunity Action Plan all staff are required to attend training every 3 years. Mental Health Awareness training is under development for supervisors and Senior Field Officers.

#### *Improve Access to services through better systems and processes*

Council:

- Is in the early stages of developing a style guide to go towards meeting disability inclusion action plan.
- Has continued to provide and promote new accessible technologies for customers to communicate with Council including web chat.
- Is working towards full compliance with Web Content Accessibility Guidelines with the inclusion of easy read versions.
- Continues to live stream Council's ordinary meetings.

Full details of progress are detailed in Attachment A Disability Inclusion Action Plan

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

It is a legislative requirement for Council to have a Disability Inclusion Action Plan in place by 1 July 2017. The DIAP has a number of actions that are met through current operational processes. Any additional areas outside current operational processes will be prioritised and funding arrangements will be examined through the normal budget arrangements

**Asset Management**

Disability Inclusion Action Plan

When non-compliant assets are identified and a process to upgrade to ensure access and inclusion for all is implemented.

**Policy or Regulation**

NSW Disability Inclusion Act 2014

NSW Disability Inclusion Regulation 2014

**Consultation**

Disability Inclusion Action Plan

The report has been compiled in consultation across all council directorates.

**Legal and Risk Management**

It is a legal requirement to have a Disability Inclusion Action Plan in place.

---

|             |                                               |
|-------------|-----------------------------------------------|
| Prepared by | Stephen McAlister, Governance Coordinator     |
| Attachment  | Disability Inclusion Action Plan Deliverables |

---



**ITEM 15.050/19 MONTHLY INVESTMENT REPORT – FEBRUARY 2019**

|                    |                                                 |               |
|--------------------|-------------------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee         | 19 March 2019 |
| <b>Directorate</b> | Corporate & Governance                          |               |
| <b>Reviewed by</b> | Director - Corporate & Governance (Laura Black) |               |
| <b>Attachment</b>  | Yes                                             |               |

**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 28 February 2019 be received and noted.

**COMMITTEE RECOMMENDATION**

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.050/19**

Lysaught/Kingsley

**That the report indicating Council's funds investment position as at 28 February 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 2018 figures, funds have been sourced from the following areas:

| External Reserves              |               | Internal Reserves                           |                |
|--------------------------------|---------------|---------------------------------------------|----------------|
| Sewerage Funds                 | 3.97%         | Plant Equipment Reserve                     | 12.00%         |
| Water Supply Funds             | 21.57%        | Regional Landfill Reserves                  | 7.44%          |
| Developer Contributions        | 15.72%        | Fin. Assist Grants paid in advance          | 5.00%          |
| Unexpended Grants              | 6.71%         | Infrastructure Assets Renewals              | 4.83%          |
| Domestic Waste Management      | 1.15%         | Clarence Care & Support                     | 3.45%          |
| Clarence Coast Reserve         | 2.85%         | Employee Leave Entitlements                 | 2.46%          |
| Deposits, Retentions and Bonds | 1.47%         | Roads & Quarries Reserves                   | 1.68%          |
| Other External                 | 1.69%         | Strategic Building Reserve                  | 1.21%          |
|                                |               | Building Asset Renewals                     | 0.91%          |
|                                |               | Waste Management Reserves                   | 0.75%          |
|                                |               | Other (refer attachment for further detail) | 5.14%          |
|                                | <u>55.13%</u> |                                             | <u>44.87%</u>  |
|                                |               | Total External & Internal Reserves          | <u>100.00%</u> |

**Portfolio Credit Limits**

Tabled below is a summary of Council's investments as at 28 February 2019 which details compliance with Council's Investment Policy Portfolio Credit Limits.

| Portfolio Credit Limits as at 28 February 2019 |                                   |                        |                        |                               |
|------------------------------------------------|-----------------------------------|------------------------|------------------------|-------------------------------|
| Credit Rating Long Term                        | Investment Policy Maximum Holding | Total Investments Held | % of Total Investments | Complies with Policy (yes/no) |
| AAA                                            | 100.00%                           | 6,456,065              | 5.26%                  | Yes                           |
| AA                                             | 100.00%                           | 40,625,540             | 33.10%                 | Yes                           |
| A                                              | 60.00%                            | 30,162,870             | 24.57%                 | Yes                           |
| BBB                                            | 50.00%                            | 45,504,140             | 37.07%                 | Yes                           |
| <b>TOTAL INVESTMENTS</b>                       |                                   | <b>122,748,615</b>     | <b>100.00%</b>         |                               |

Note, a permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the *Financial Claims Scheme* and hence receives a rating of AAA.

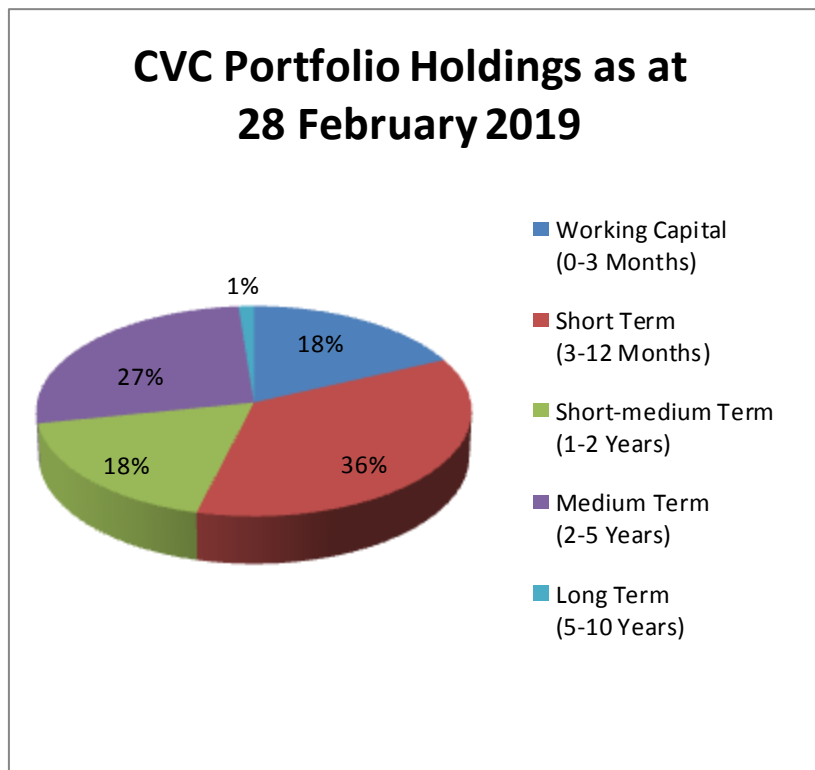
**Individual Institution or Counterparty Limits**

Tabled below is a summary of Council's investments as at 28 February 2019 which details compliance with Council's Investment Policy Counterparty Limits.

| Individual Institution or Counterparty Limits as at 28 February 2019 |                         |                                   |                        |                        |                               |
|----------------------------------------------------------------------|-------------------------|-----------------------------------|------------------------|------------------------|-------------------------------|
| Financial Institution                                                | Credit Rating Long Term | Investment Policy Maximum Holding | Total Investments Held | % of Total Investments | Complies with Policy (yes/no) |
| <b>TERM DEPOSITS &amp; FRNs*</b>                                     |                         |                                   |                        |                        |                               |
| AMP                                                                  | A                       | 15.00%                            | 3,000,000              | 2.44%                  | Yes                           |
| ANZ*                                                                 | AA-                     | 30.00%                            | 2,032,180              | 1.66%                  | Yes                           |
| BoQ                                                                  | BBB+                    | 15.00%                            | 15,000,000             | 12.22%                 | Yes                           |
| Bendigo                                                              | BBB+                    | 15.00%                            | 7,000,000              | 5.70%                  | Yes                           |
| Bendigo*                                                             |                         |                                   | 1,004,140              | 0.82%                  |                               |
| Rural Bank                                                           |                         |                                   | 5,000,000              | 4.07%                  |                               |
| CBA*                                                                 | AA-                     | 30.00%                            | 2,015,280              | 1.64%                  | Yes                           |
| Credit Union Australia                                               | BBB                     | 15.00%                            | 3,000,000              | 2.44%                  | Yes                           |
| Defence                                                              | BBB                     | 15.00%                            | 7,000,000              | 5.70%                  | Yes                           |
| G&C Mutual                                                           | BBB-                    | 15.00%                            | 1,000,000              | 0.81%                  | Yes                           |
| IMB                                                                  | BBB                     | 15.00%                            | 1,000,000              | 0.81%                  | Yes                           |
| ING Direct                                                           | A                       | 15.00%                            | 14,000,000             | 11.41%                 | Yes                           |
| ME Bank                                                              | BBB                     | 15.00%                            | 4,000,000              | 3.26%                  | Yes                           |
| NAB                                                                  | AA-                     | 30.00%                            | 16,000,000             | 13.03%                 | Yes                           |
| NAB*                                                                 |                         |                                   | 998,740                | 0.81%                  |                               |
| P&N                                                                  | BBB                     | 15.00%                            | 3,000,000              | 2.44%                  | Yes                           |
| People's Choice                                                      | BBB                     | 15.00%                            | 1,000,000              | 0.81%                  | Yes                           |
| RaboDirect                                                           | A+                      | 15.00%                            | 11,000,000             | 8.96%                  | Yes                           |
| Westpac                                                              | AA-                     | 30.00%                            | 7,000,000              | 5.70%                  | Yes                           |
| Westpac*                                                             | AA-                     |                                   | 1,519,740              | 1.24%                  |                               |
| <b>TOTAL TERM DEPOSITS &amp; FRNs*</b>                               |                         |                                   | <b>105,570,080</b>     | <b>86.01%</b>          |                               |
| <b>MANAGED FUNDS</b>                                                 |                         |                                   |                        |                        |                               |
| TCorp                                                                | AAA                     | 40.00%                            | 1,956,065              | 1.59%                  | Yes                           |
| <b>TOTAL MANAGED FUNDS</b>                                           |                         |                                   | <b>1,956,065</b>       | <b>1.59%</b>           |                               |
| <b>FUNDS AT CALL</b>                                                 |                         |                                   |                        |                        |                               |
| AMP                                                                  | A                       | 15.00%                            | 3,162,870              | 2.58%                  | Yes                           |
| ANZ                                                                  | AA-                     | 30.00%                            | 2,268,614              | 1.85%                  | Yes                           |
| CBA                                                                  | AA-                     | 30.00%                            | 9,790,986              | 7.98%                  | Yes                           |
| <b>TOTAL FUNDS AT CALL</b>                                           |                         |                                   | <b>15,222,470</b>      | <b>12.40%</b>          |                               |
| <b>TOTAL INVESTMENTS</b>                                             |                         |                                   | <b>122,748,615</b>     | <b>100.00%</b>         |                               |

**Portfolio Holdings by Maturity**

Illustrated and tabled below is a summary of Council's investments by maturity as at 28 February 2019. Excluding "at-call" working capital, 39.92% of Council's investments are maturing within the next twelve months.



| Register of Investments - Clarence Valley Council<br>as at 28 February 2019     |                        |                        |               |                   |                         |
|---------------------------------------------------------------------------------|------------------------|------------------------|---------------|-------------------|-------------------------|
| Financial Institution                                                           | Total Investments Held | % of Total Investments | Maturity Date | Investment Return | Credit Rating Long Term |
| <b>WORKING CAPITAL (0-3 MONTHS)</b>                                             |                        |                        |               |                   |                         |
| T-CorpIM Cash Fund                                                              | 1,956,065              | 1.59%                  | At-Call       | 3.00%             | AAA                     |
| AMP Bank Ltd                                                                    | 3,162,870              | 2.58%                  | At-Call       | 2.05%             | A                       |
| ANZ Banking Group Ltd                                                           | 2,268,614              | 1.85%                  | At-Call       | 2.15%             | AA-                     |
| Commonwealth Bank of Australia                                                  | 9,790,986              | 7.98%                  | At-Call       | 1.40%             | AA-                     |
| ME Bank Ltd                                                                     | 2,000,000              | 1.63%                  | 08/05/2019    | 2.80%             | BBB                     |
| National Australia Bank                                                         | 3,000,000              | 2.44%                  | 20/05/2019    | 2.76%             | AA-                     |
| <b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>                                       | <b>22,178,535</b>      | <b>18.07%</b>          |               | <b>2.02%</b>      |                         |
| <b>SHORT TERM (3-12 MONTHS)</b>                                                 |                        |                        |               |                   |                         |
| AMP Bank Ltd                                                                    | 2,000,000              | 1.63%                  | 23/07/2019    | 3.05%             | A                       |
| AMP Bank Ltd                                                                    | 1,000,000              | 0.81%                  | 30/08/2019    | 2.70%             | A                       |
| Bank Of Queensland Ltd                                                          | 1,000,000              | 0.81%                  | 17/06/2019    | 3.55%             | BBB+                    |
| Bendigo Bank                                                                    | 2,000,000              | 1.63%                  | 28/10/2019    | 2.95%             | BBB+                    |
| Bendigo Bank                                                                    | 1,000,000              | 0.81%                  | 21/11/2019    | 2.70%             | BBB+                    |
| Bendigo Bank                                                                    | 2,000,000              | 1.63%                  | 16/12/2019    | 2.85%             | BBB+                    |
| Bendigo Bank                                                                    | 2,000,000              | 1.63%                  | 18/12/2019    | 2.85%             | BBB+                    |
| Credit Union Australia                                                          | 1,000,000              | 0.81%                  | 29/07/2019    | 2.70%             | BBB                     |
| Credit Union Australia                                                          | 2,000,000              | 1.63%                  | 06/08/2019    | 2.78%             | BBB                     |
| IMB                                                                             | 1,000,000              | 0.81%                  | 03/06/2019    | 2.75%             | BBB                     |
| ING                                                                             | 1,000,000              | 0.81%                  | 06/11/2019    | 2.87%             | A                       |
| ING                                                                             | 2,000,000              | 1.63%                  | 08/11/2019    | 2.85%             | A                       |
| ING                                                                             | 2,000,000              | 1.63%                  | 10/12/2019    | 2.87%             | A                       |
| ING                                                                             | 3,000,000              | 2.44%                  | 14/02/2020    | 2.87%             | A                       |
| ING                                                                             | 2,000,000              | 1.63%                  | 20/02/2020    | 2.89%             | A                       |
| National Australia Bank                                                         | 2,000,000              | 1.63%                  | 29/07/2019    | 2.76%             | AA-                     |
| National Australia Bank                                                         | 2,000,000              | 1.63%                  | 05/09/2019    | 2.71%             | AA-                     |
| National Australia Bank                                                         | 3,000,000              | 2.44%                  | 05/09/2019    | 2.71%             | AA-                     |
| National Australia Bank                                                         | 2,000,000              | 1.63%                  | 13/09/2019    | 2.75%             | AA-                     |
| National Australia Bank                                                         | 2,000,000              | 1.63%                  | 11/11/2019    | 2.73%             | AA-                     |
| National Australia Bank                                                         | 2,000,000              | 1.63%                  | 11/12/2019    | 2.75%             | AA-                     |
| People's Choice Credit Union                                                    | 1,000,000              | 0.81%                  | 12/12/2019    | 2.77%             | BBB                     |
| RaboDirect (Australia) Ltd                                                      | 2,000,000              | 1.63%                  | 14/08/2019    | 2.85%             | A+                      |
| Rural Bank Ltd                                                                  | 2,000,000              | 1.63%                  | 10/02/2020    | 2.85%             | BBB+                    |
| Bendigo Bank (3m BBSW +110bps)<br>(Principal Value \$1,000,000)<br>Market Value | 1,004,140              | 0.82%                  | 21/02/2020    | 3.01%             | BBB+                    |
| <b>TOTAL SHORT TERM (3-12 MONTHS)</b>                                           | <b>44,004,140</b>      | <b>35.85%</b>          |               | <b>2.84%</b>      |                         |
| <b>SHORT - MEDIUM TERM (1-2 YEARS)</b>                                          |                        |                        |               |                   |                         |
| Bank Of Queensland Ltd                                                          | 1,000,000              | 0.81%                  | 06/07/2020    | 3.00%             | BBB+                    |
| Bank Of Queensland Ltd                                                          | 1,000,000              | 0.81%                  | 26/10/2020    | 3.20%             | BBB+                    |
| Bank Of Queensland Ltd                                                          | 1,000,000              | 0.81%                  | 26/10/2020    | 3.20%             | BBB+                    |
| Bank Of Queensland Ltd                                                          | 1,000,000              | 0.81%                  | 02/12/2020    | 3.60%             | BBB+                    |
| Bank Of Queensland Ltd                                                          | 2,000,000              | 1.63%                  | 12/01/2021    | 3.65%             | BBB+                    |
| Defence Bank                                                                    | 1,000,000              | 0.81%                  | 04/03/2020    | 2.80%             | BBB                     |
| Defence Bank                                                                    | 2,000,000              | 1.63%                  | 11/05/2020    | 3.00%             | BBB                     |
| Defence Bank                                                                    | 2,000,000              | 1.63%                  | 20/11/2020    | 3.00%             | BBB                     |
| Defence Bank                                                                    | 2,000,000              | 1.63%                  | 17/12/2020    | 3.00%             | BBB                     |
| G&C Mutual Bank                                                                 | 1,000,000              | 0.81%                  | 18/03/2020    | 4.00%             | BBB-                    |
| ING                                                                             | 2,000,000              | 1.63%                  | 02/03/2020    | 2.87%             | A                       |
| ING                                                                             | 1,000,000              | 0.81%                  | 10/11/2020    | 2.92%             | A                       |
| ME Bank Ltd                                                                     | 2,000,000              | 1.63%                  | 06/05/2020    | 3.11%             | BBB                     |
| Rural Bank Ltd                                                                  | 1,000,000              | 0.81%                  | 04/03/2020    | 2.80%             | BBB+                    |
| Rural Bank Ltd                                                                  | 2,000,000              | 1.63%                  | 04/03/2020    | 2.80%             | BBB+                    |
| <b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>                                      | <b>22,000,000</b>      | <b>17.92%</b>          |               | <b>3.11%</b>      |                         |

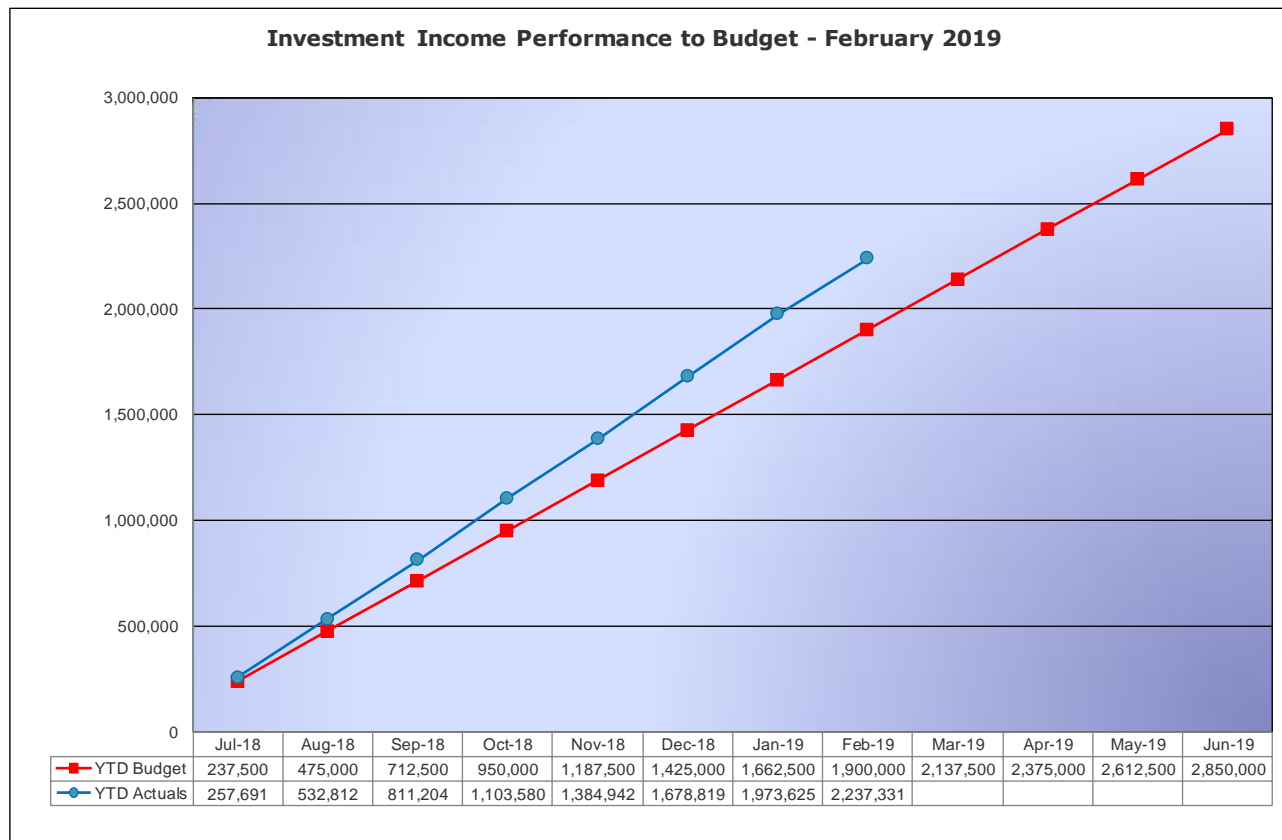
| Financial Institution                                                                     | Total Investments Held | % of Total Investments | Maturity Date | Investment Return | Credit Rating Long Term |
|-------------------------------------------------------------------------------------------|------------------------|------------------------|---------------|-------------------|-------------------------|
| <b>MEDIUM TERM (2-5 YEARS)</b>                                                            |                        |                        |               |                   |                         |
| Bank Of Queensland Ltd                                                                    | 1,000,000              | 0.81%                  | 29/06/2021    | 3.45%             | BBB+                    |
| Bank Of Queensland Ltd                                                                    | 1,000,000              | 0.81%                  | 02/12/2021    | 3.80%             | BBB+                    |
| Bank Of Queensland Ltd                                                                    | 1,000,000              | 0.81%                  | 09/05/2022    | 3.60%             | BBB+                    |
| Bank Of Queensland Ltd                                                                    | 1,000,000              | 0.81%                  | 03/08/2022    | 3.60%             | BBB+                    |
| Bank Of Queensland Ltd                                                                    | 2,000,000              | 1.63%                  | 08/02/2023    | 3.55%             | BBB+                    |
| Bank Of Queensland Ltd                                                                    | 2,000,000              | 1.63%                  | 21/08/2023    | 3.60%             | BBB+                    |
| ING                                                                                       | 1,000,000              | 0.81%                  | 04/10/2022    | 3.66%             | A                       |
| P&N Bank                                                                                  | 3,000,000              | 2.44%                  | 11/03/2021    | 3.82%             | BBB                     |
| RaboDirect (Australia) Ltd                                                                | 2,000,000              | 1.63%                  | 14/06/2021    | 3.02%             | A+                      |
| RaboDirect (Australia) Ltd                                                                | 1,000,000              | 0.81%                  | 21/06/2021    | 3.07%             | A+                      |
| RaboDirect (Australia) Ltd                                                                | 2,000,000              | 1.63%                  | 13/09/2022    | 3.40%             | A+                      |
| RaboDirect (Australia) Ltd                                                                | 1,000,000              | 0.81%                  | 05/12/2022    | 3.21%             | A+                      |
| RaboDirect (Australia) Ltd                                                                | 1,000,000              | 0.81%                  | 17/08/2023    | 3.40%             | A+                      |
| RaboDirect (Australia) Ltd                                                                | 2,000,000              | 1.63%                  | 19/09/2023    | 3.40%             | A+                      |
| Westpac Bank                                                                              | 2,000,000              | 1.63%                  | 05/03/2021    | 3.00%             | AA-                     |
| Westpac Bank                                                                              | 1,000,000              | 0.81%                  | 16/11/2021    | 3.15%             | AA-                     |
| Westpac Bank                                                                              | 2,000,000              | 1.63%                  | 18/07/2022    | 3.05%             | AA-                     |
| Westpac Bank                                                                              | 2,000,000              | 1.63%                  | 13/03/2023    | 2.95%             | AA-                     |
| ANZ Banking Group Ltd (3m BBSW +103bps)<br>(Principal Value \$2,000,000)<br>Market Value  | 2,032,180              | 1.66%                  | 06/12/2023    | 3.01%             | AA-                     |
| Commonwealth Bank (3m BBSW +80bps)<br>(Principal Value \$1,000,000)<br>Market Value       | 999,420                | 0.81%                  | 25/04/2023    | 2.88%             | AA-                     |
| Commonwealth Bank (3m BBSW +113bps)<br>(Principal Value \$1,000,000)<br>Market Value      | 1,015,860              | 0.83%                  | 11/01/2024    | 3.31%             | AA-                     |
| National Australia Bank (3m BBSW +80bps)<br>(Principal Value \$1,000,000)<br>Market Value | 998,740                | 0.81%                  | 10/02/2023    | 2.79%             | AA-                     |
| <b>TOTAL MEDIUM TERM (2-5 YEARS)</b>                                                      | <b>33,046,200</b>      | <b>26.92%</b>          |               | <b>3.31%</b>      |                         |
| <b>LONG TERM (5-10 YEARS)</b>                                                             |                        |                        |               |                   |                         |
| Westpac Bank (3m BBSW +114bps)<br>(Principal Value \$1,500,000)<br>Market Value           | 1,519,740              | 1.24%                  | 24/04/2024    | 3.22%             | AA-                     |
| <b>TOTAL LONG TERM (5-10 YEARS)</b>                                                       | <b>1,519,740</b>       | <b>1.24%</b>           |               | <b>3.22%</b>      |                         |
| <b>TOTAL INVESTMENTS</b>                                                                  | <b>122,748,615</b>     | <b>100.00%</b>         |               | <b>2.87%</b>      |                         |

## COUNCIL IMPLICATIONS

### Budget/Financial

| Portfolio Investment Returns to 28 February 2019 |                    |                    |                  |
|--------------------------------------------------|--------------------|--------------------|------------------|
|                                                  | Actual             | Budget 2018/19     | Over/(Under)     |
| <b>This Month</b>                                |                    |                    |                  |
| Cash Deposits & FRNs                             | \$258,843          | \$235,800          | \$23,043         |
| Managed Funds                                    | \$4,862            | \$1,700            | \$3,162          |
|                                                  | <b>\$263,705</b>   | <b>\$237,500</b>   | <b>\$26,205</b>  |
| <b>Year to Date</b>                              |                    |                    |                  |
| Cash Deposits & FRNs                             | \$2,198,738        | \$1,886,400        | \$312,338        |
| Managed Funds                                    | \$38,593           | \$13,600           | \$24,993         |
|                                                  | <b>\$2,237,331</b> | <b>\$1,900,000</b> | <b>\$337,331</b> |

- Actual results have shown that total interest income to 28 February 2019 is \$0.337M above the 2018-19 budget of \$1.900M.
- As at 28 February 2019 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$19,360.

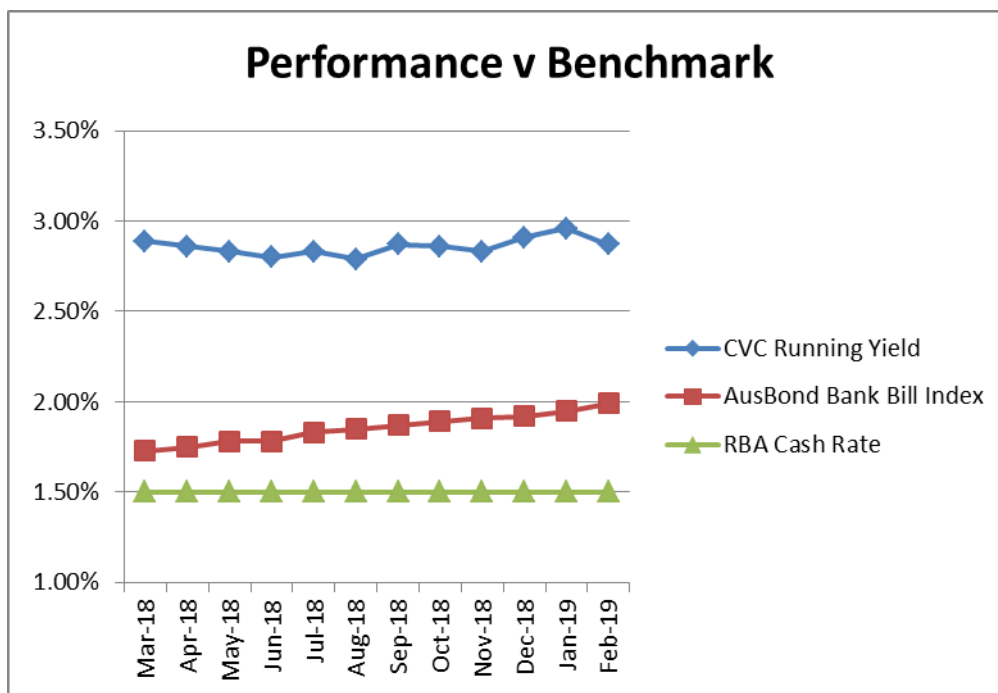


- Running yields\* to 28 February 2019 have been:

|                      |              |
|----------------------|--------------|
| AMP Business         | 1.80%        |
| AMP 31 Day Notice    | 2.30%        |
| ANZ Premium Business | 1.80%        |
| CBA General          | 1.35%        |
| 24hr Call Account    | 1.45%        |
| T-CorpIM Cash Fund   | 3.00%        |
| Floating Rate Notes  | 3.05%        |
| Term Deposits        | <u>3.04%</u> |
| Total                | 2.87%        |

\***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 February was 1.50%. The benchmark AusBond Bank Bill Index was 1.99% for February.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.87% (January 2.96%).



- The following investments were arranged since the previous report:
  - \$3.0M Term Deposit Credit Union Australia (BBB) matured 13/02/2019 – redeemed;
  - \$2.0M Term Deposit RaboDirect (A+) matured 14/2/2019 – reinvested for 6 months @ 2.85% maturing 14/08/2019;
  - New \$3.0M Term Deposit AMP Bank (A) invested 06/03/2019 for 1 year @ 2.95% maturing 06/03/2020; and
  - New \$2.0M Term Deposit Defence Bank (BBB) invested 07/03/2019 for 2 years @ 3.00% maturing 09/03/2021.

**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

|             |                                                                       |
|-------------|-----------------------------------------------------------------------|
| Prepared by | Michael Salvestro, Financial Accountant                               |
| Attachment  | Movement of funds between months and Other Internal Reserves (detail) |



|             |                  |                              |
|-------------|------------------|------------------------------|
| <b>ITEM</b> | <b>15.051/19</b> | <b>ITEMS FOR INFORMATION</b> |
|-------------|------------------|------------------------------|

|                    |                                         |               |
|--------------------|-----------------------------------------|---------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 19 March 2019 |
| <b>Directorate</b> | Office of General Manager               |               |
| <b>Reviewed by</b> | General Manager - Ashley Lindsay        |               |
| <b>Attachment</b>  | Yes                                     |               |

**OFFICER RECOMMENDATION**

That the Item for Information as listed below be adopted:

1. Nymboida Hall Management Committee - Minutes 18 February 2019.

**COMMITTEE RECOMMENDATION**

Simmons/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 15.051/19**

Lysaught/Kingsley

That the Item for Information as listed below be adopted:

1. Nymboida Hall Management Committee - Minutes 18 February 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 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.3 Engage with the community to inform decision making

|             |                                               |
|-------------|-----------------------------------------------|
| Prepared by | Karlie Chevalley, Executive Support Assistant |
| Attachment  | As above                                      |

## NOTICES OF MOTIONS

| ITEM                | 17.005/19                               | PROPOSED REVIEW OF THE CLARENCE VALLEY COUNCIL TOURISM LOGO |
|---------------------|-----------------------------------------|-------------------------------------------------------------|
| <b>Meeting</b>      | Corporate, Governance & Works Committee | 19 March 2019                                               |
| <b>Directorate</b>  | Notice of Motion                        |                                                             |
| <b>Submitted by</b> | Cr Greg Clancy                          |                                                             |
| <b>Attachment</b>   | Nil                                     |                                                             |

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

**SUMMARY**

The current Clarence Valley Council tourism logo is a cluster of helium balloons flying in the air. They have been described as 'bubbles of happiness'. The Clarence Valley Community Climate Change Committee is currently submitting a motion to ban balloons on all council lands and at council approved function centres. To have a logo that celebrates and thereby encourages the release of balloons is contradictory and hypocritical.

**PROPOSED MOTION**

That Council:

1. Undertake a review of the Clarence Valley Tourism logo to assess the cost of replacing it with a more appropriate logo.
2. Receive a report to the June 2019 meeting covering the costs and submitting possible alternative logos.

**COMMITTEE RECOMMENDATION**

Toms/Ellem

That the matter be deferred to the March 2019 Ordinary Council meeting.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 17.005/19**

Toms/Novak

**That the matter be deferred to the April 2019 Council meeting.**

Voting recorded as follows:

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

Against: Kingsley, Lysaught

**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**

Public concerns have been raised about the harm that helium balloons cause to the environment, in particular the impact on marine animals. The Clarence Valley Community Climate Change Committee is addressing this issue and council should be proactive in banning these balloons and discouraging them from being use and released.

## **KEY ISSUES**

Council can and should review policies, protocols and management procedures from time to time in particular where public interest indicates a need for review. Should the motion be adopted, Council will have the opportunity to consider the merits of phasing out the current logo and introducing a more appropriate one.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The General Manager might advise on likely costs associated with adoption of this motion and whether the costs are manageable within current budgets for operational matters.

### **Policy or Regulation**

Policy review

### **Consultation**

The issue has been raised by residents with the Clarence Valley Community Climate Change Committee and a motion is being forwarded to council.

### **Legal and Risk Management**

None known.

## **STAFF COMMENT**

The Clarence Valley Council Tourism Advisory Committee adopted the tourism brand and logo. The Committee consisted of tourism industry representatives (including some with marketing qualifications and skills) and the following Councillors; Cr Jeremy Challacombe (Chair), Cr Margaret McKenna (Deputy), Cr Richie Williamson and Cr Sue Hughes.

The logo was the final piece of the brand development process, which included workshops that determined the Clarence Valley attributes, values, target market and positioning.

The logo was launched in 2015. Ongoing and consistent use of a logo is key to customer messaging. It is therefore recommended that if there is a new logo a swift change over be implemented and all collateral updated; for example; website, signage, street banners, Aboriginal Tourist Drive signs, large maps perspex at hubs, brochures and maps, billboards, uniforms, guides, promotional material, airport promotion. It is estimated this would cost \$75,000. Cost and timeframe to design a new logo including consultation is estimated at \$5,000 and 3 – 4 months. Implementation would likely take a further 4 months with concerted effort and there may be additional costs required to launch the new brand (including new logo) to gain recognition the current brand has, these are unknown until take up and responsiveness is understood.

Budget allocation would be required.

**CLOSE OF COMMITTEE MEETING**

There being no further business the Corporate, Government & Works Committee meeting closed at 3.31 pm.

## TENDERS AND CONTRACTS FOR SUPPLY

| ITEM               | 16.004/19                                        | TENDER FOR CONSTRUCTION OF LANDFILL CELL 4B |
|--------------------|--------------------------------------------------|---------------------------------------------|
| <b>Meeting</b>     | Council                                          | 26 March 2019                               |
| <b>Directorate</b> | Works & Civil                                    |                                             |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |                                             |
| <b>Attachment</b>  | Confidential                                     |                                             |

**SUMMARY**

On the 4 February 2019 Council invited tenders from experienced companies to construct a new cell at the Grafton Regional Landfill known as Cell 4B. A total of 5 tenders were received and this report details the evaluation of each tender and makes a recommendation on the tender that provides the most value for money to Council.

**OFFICER RECOMMENDATION**

That Council:

1. Accept the tender from Valley Earthworks Pty Ltd for T19/001 the construction of Cell 4B at the Grafton Regional Landfill at a lump sum contract cost of \$1,910,794.77 (GST inclusive), to be funded from Regional Landfill Augmentation (PJ530217, Cost Centre 875) and the Council seal be attached.
2. Set the project construction budget at \$2,184,503 (ex GST) from IR 10790 (Regional Landfill Augmentation Reserve) to fund the lump sum contract which is inclusive of:
  - a. 20% construction contingency and
  - b. \$100,000 allowance for the provision of quality assurance services.
3. Authorize the General Manager to approve contract variations that are within the limit of the budget identified in Point 2.
4. Receive 2 monthly progress reports for the construction of the landfill cell, with those reports clearly identifying any incurred and forecast project variations.
5. Note that the project will carry over to the 2019/20 financial year.

**COUNCIL RESOLUTION – 16.004/19**

**Lysaught/Kingsley**

That Council:

1. **Accept the tender from Valley Earthworks Pty Ltd for T19/001 the construction of Cell 4B at the Grafton Regional Landfill at a lump sum contract cost of \$1,910,794.77 (GST inclusive), to be funded from Regional Landfill Augmentation (PJ530217, Cost Centre 875) and the Council seal be attached.**
2. **Set the project construction budget at \$2,184,503 (ex GST) from IR 10790 (Regional Landfill Augmentation Reserve) to fund the lump sum contract which is inclusive of:**
  - a. **20% construction contingency and**
  - b. **\$100,000 allowance for the provision of quality assurance services.**
3. **Authorize the General Manager to approve contract variations that are within the limit of the budget identified in Point 2.**
4. **Receive 2 monthly progress reports for the construction of the landfill cell, with those reports clearly identifying any incurred and forecast project variations.**
5. **Note that the project will carry over to the 2019/20 financial year.**

**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  | 4.2.3 Provide efficient and effective solid waste management services which prioritises resource recovery and minimises environmental impacts |

### BACKGROUND

The Grafton Regional Landfill commenced operations in 1998 and is currently consuming 39,000m<sup>3</sup> of landfill space annually. To facilitate future landfilling, a further footprint expansion is required. The new cell 4 is being constructed in 3 stages. Construction of Cell 4A was completed in March 2018. Cell 4B was initially planned to be constructed in 2019/20, however due to increase waste being received, Council at its December meeting resolved (Item 15.220/18 ) to bring forward construction.

Tender T19/001 was called on the 4 February 2019 for the construction of Cell 4B. A schedule of quantities was specified based on the consultant's design model, which formed the basis of the tender.

Any variation to actual quantities during construction will be subject to the tendered schedule of rates.

### KEY ISSUES

At the close of tenders there were 5 tenders received:

- CivilCS
- Ditchfield P/L
- O'Leary Infrastructure P/L
- Shamrock Civil P/L
- Valley Earthworks P/L

The confidential tender recommendation report attached details the evaluation of both financial and non-financial criteria.

#### Project Construction Period

Works are forecasted to take up to 20 weeks to complete and will require the project budget to be carried forward to the 2019/20 year.

#### Quality Assurance

In order to validate the construction, Council requires the provision of independent quality assurance services and is currently in the process of seeking quotations from qualified parties. Based upon previous engagements it is expected that these services will cost in the vicinity of \$100,000 and an allowance for this sum has been made within the recommended project budget.

#### Other Works

Other works outside of the contract will be required to be undertaken as the project progresses. The works will largely relate to access roads and storm water drainage modifications. Cost estimates will be prepared for these works as the project progresses, with the items reported to Council for the provision of additional funding at that point.

Project Reporting

Further, it is recommended that the project status, including incurred and forecast variations be reported on a 2 monthly basis to Council.

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

The project budget name for the tender is Regional Landfill New Cell Construction, PJ 530217 Cost Centre 875. Funds will need to be allocated to the project from IR 107910 Regional Landfill Augmentation Reserve. The GST exclusive tender price is \$1,737,086.16. The budget for the project which was included in the draft 2019/20 capital expenditure program will now be removed and brought forward to 2018/19 with a forecast carried forward due to the timing of the works.

The tender price is based on a fixed rate for the specified design quantities. Actual constructed quantities determined by survey may vary, with any additional or less quantities to be charged at the fixed tendered rates submitted by the tenderer.

To facilitate actual constructed quantities a 20% contingency sum is recommended, along with delegation to the General Manager to authorize project variations within the budget sum.

**Asset Management**

N/A

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the non price score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

**Consultation**

N/A

**Legal and Risk Management**

Refer confidential report for the names of the directors of each company that submitted a tender.

|             |                                           |
|-------------|-------------------------------------------|
| Prepared by | Ken Wilson                                |
| Attachment  | Confidential Tender Recommendation Report |

|             |                  |                                              |
|-------------|------------------|----------------------------------------------|
| <b>ITEM</b> | <b>16.005/19</b> | <b>T19/006 – SUPPLY OF TWO MOTOR GRADERS</b> |
|-------------|------------------|----------------------------------------------|

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Council                                  | 26 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Confidential                             |               |

### SUMMARY

Tenders were called (Tender T19/006) for the supply of two new Motor Graders in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to Council for the purchase of the new graders.

### OFFICER RECOMMENDATION

That Council

1. Accept the tender from Hitachi Construction Machinery Australia Pty Ltd for T19/006 of two John Deere 670G Motor Graders at a total cost of \$823,628.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.
2. Dispose of the two current fleet assets 3006.02 and 3010.02 at public auction and the Council seal be attached.

### COUNCIL RESOLUTION – 16.005/19

**Lysaught/Kingsley**

That Council

1. **Accept the tender from Hitachi Construction Machinery Australia Pty Ltd for T19/006 of two John Deere 670G Motor Graders at a total cost of \$823,628.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.**
2. **Dispose of the two current fleet assets 3006.02 and 3010.02 at public auction and the Council seal be attached.**

**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

Council currently operate John Deere 670G motor graders in both the maintenance and construction grading works programs. The graders are well equipped and are able to meet and exceed operational specifications during these works. Council staff rate them highly for ease of use with excellent reliability and ease of serviceability. The specifications for the supply of the new graders allow the continuation of this type of works within Council.



Tenders were call through the Local Government Procurement Vendor Panel site utilising contract LGP707-3 Heavy Plant and Equipment.

Tenders were received as follows

| <b>Tenderer</b>                                  | <b>Description</b> | <b>Conforming</b> |
|--------------------------------------------------|--------------------|-------------------|
| Hitachi Construction Machinery Australia Pty Ltd | John Deere 670G    | Yes               |
| Komatsu Australia Pty Ltd                        | Komatsu GD555-5    | Yes               |
| Earthmoving Equipment Australia                  | Case 865B          | No                |
| Westrac Pty Ltd                                  | Caterpillar 12M    | No                |

The tenders from Earthmoving Equipment Australia and Westrac Pty Ltd were deemed non-conforming as the tenders supplied did not meet the specification requirements detailed in the tender (refer to Tender Assessment attachment).

### KEY ISSUES

The evaluation team has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Operator assessment
- Warranty offered, Local service and parts backup

Following this review the evaluation team concluded that the John Deere 670G graders offered council a machine that is appropriate for our requirements.

### COUNCIL IMPLICATIONS

#### Budget/Financial

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed the graders Item No's. 3006.02 and 3010.02 for replacement in the 2018/19 financial year. The recommended tender is within the funds allocated for the replacement of these two plant items. Funds are available from the Heavy Plant Fleet Reserve to fund the \$748,753.00 GST exclusive price.

#### Asset Management

Replacement of this plant item is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant item.

#### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

#### Consultation

Council Plant Coordinator, Workshop Staff and Senior Operators have been consulted during the tender development and evaluation process

**Legal and Risk Management**

The tendering and evaluation process followed was consistent with the requirements of the Local Government Act and Regulations while the evaluation processed was based on the evaluation criteria contained within the tender documentation. The confidential attachment provides details of the evaluation assessment.

---

|             |                                  |
|-------------|----------------------------------|
| Prepared by | Paul Gallagher, Nathan Binns     |
| Attachment  | Confidential – Tender Assessment |

---

---

**ITEM 16.006/19 T19/008 – SUPPLY OF TWO WHEEL LOADERS**


---

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Council                                  | 26 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Confidential                             |               |

---

**SUMMARY**

Tenders were called (Tender T19/008) for the supply of two new Wheel Loaders in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to Council for the purchase of the new loaders.

**OFFICER RECOMMENDATION**

That Council

1. Accept the tender from Komatsu Australia Pty Ltd for T19/008 of two Komatsu WA150-5 Wheel Loaders at a total cost of \$399,300.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.
2. Dispose of the two current fleet assets 3206.01 and 3405.02 at public auction and the Council seal be attached.

**COUNCIL RESOLUTION – 16.006/19**

**Lysaught/Kingsley**

That Council

1. **Accept the tender from Komatsu Australia Pty Ltd for T19/008 of two Komatsu WA150-5 Wheel Loaders at a total cost of \$399,300.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.**
2. **Dispose of the two current fleet assets 3206.01 and 3405.02 at public auction and the Council seal be attached.**

**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**

Tenders were call through the Local Government Procurement Vendor Panel site utilising contract LGP707-3 Heavy Plant and Equipment.

Tenders were received as follows

| <b>Tenderer</b>                                  | <b>Description</b> | <b>Conforming</b> |
|--------------------------------------------------|--------------------|-------------------|
| Hitachi Construction Machinery Australia Pty Ltd | Hitachi ZW120      | No                |
| Komatsu Australia Pty Ltd                        | Komatsu WA150      | Yes               |
| Earthmoving Equipment Australia                  | Case 321F          | No                |
| Westrac Pty Ltd                                  | Caterpillar 910K   | Yes               |

The tenders from Hitachi Construction Machinery Australia Pty Ltd and Earthmoving Equipment Australia were deemed non-conforming as the tenders supplied did not meet the specification requirements detailed in the tender.

#### **KEY ISSUES**

The evaluation team has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Operator assessment
- Warranty offered, Local service and parts backup

Following this review the evaluation team concluded that the Komatsu WA150 Wheel Loaders offered council a machine that is appropriate for our requirements.

#### **COUNCIL IMPLICATIONS**

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

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed the loaders Item No's. 3206.01 and 3405.02 for replacement in the 2018/19 financial year. The recommended tender is within the funds allocated for the replacement of these two plant items. Funds are available from the Heavy Plant Fleet Reserve to fund the \$363,000.00 GST exclusive price.

##### **Asset Management**

Replacement of this plant item is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant item.

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

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

##### **Consultation**

Council Plant Coordinator, Workshop Staff and Senior Operators have been consulted during the tender development and evaluation process

**Legal and Risk Management**

The tendering and evaluation process followed was consistent with the requirements of the Local Government Act and Regulations while the evaluation processed was based on the evaluation criteria contained within the tender documentation. The confidential attachment provides details of the evaluation assessment.

---

|             |                                  |
|-------------|----------------------------------|
| Prepared by | Paul Gallagher, Nathan Binns     |
| Attachment  | Confidential – Tender Assessment |

---

**ITEM 16.007/19 T19/009 – SUPPLY OF ONE EXCAVATOR**

|                    |                                          |               |
|--------------------|------------------------------------------|---------------|
| <b>Meeting</b>     | Council                                  | 26 March 2019 |
| <b>Directorate</b> | Works & Civil                            |               |
| <b>Reviewed by</b> | Director - Works & Civil (Troy Anderson) |               |
| <b>Attachment</b>  | Confidential                             |               |

**SUMMARY**

Tenders were called (Tender T19/009) for the supply of one new Excavator in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to Council for the purchase of the new excavator.

**OFFICER RECOMMENDATION**

That Council

1. Accept the tender from Westrac Pty Ltd for T19/009 of one Caterpillar 325F Excavator at a total cost of \$348,423.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.
2. Dispose of the current fleet asset 3600.01 at public auction and the Council seal be attached.

**COUNCIL RESOLUTION – 16.007/19**

**Baker/Williamson**

That Council

1. Accept the tender from Westrac Pty Ltd for T19/009 of one Caterpillar 325F Excavator at a total cost of \$348,423.00 (GST inclusive) to be funded from PJ 558500 Heavy Fleet Reserve and the Council seal be attached.
2. Dispose of the current fleet asset 3600.01 at public auction and the Council seal be attached.

**Voting recorded as follows:**

**For:** Simmons, Kingsley, Baker, 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**

Tenders were call through the Local Government Procurement Vendor Panel site utilising contract LGP707-3 Heavy Plant and Equipment.

Tenders were received as follows

| <b>Tenderer</b>           | <b>Description</b>   | <b>Conforming</b> |
|---------------------------|----------------------|-------------------|
| Komatsu Australia Pty Ltd | Komatsu PC228USLC-11 | Yes               |
| Westrac Pty Ltd           | Caterpillar 325F     | Yes               |

|                    |                     |     |
|--------------------|---------------------|-----|
| Gato Sales Pty Ltd | Kobelco SK270SRLC-5 | Yes |
|--------------------|---------------------|-----|

The tenders received from all three tenderers were deemed to be conforming.

#### KEY ISSUES

The evaluation team has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Operator assessment
- Warranty offered, Local service and parts backup

Following this review the evaluation team concluded that the Caterpillar 325F is a machine that is appropriate for Council's requirements.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed excavator 3600.01 for replacement in the 2018/19 financial year. The recommended tender is within the funds allocated for the replacement of this plant item. Funds are available from the Heavy Plant Fleet Reserve to fund the \$316,748.00 GST exclusive price.

##### Asset Management

Replacement of this plant item is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant item.

##### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

##### Consultation

Council Plant Coordinator, Workshop Staff and Senior Operators have been consulted during the tender development and evaluation process

##### Legal and Risk Management

The tendering and evaluation process followed was consistent with the requirements of the Local Government Act and Regulations while the evaluation processed was based on the evaluation criteria contained within the tender documentation. The confidential attachment provides details of the evaluation assessment.

|             |                                  |
|-------------|----------------------------------|
| Prepared by | Paul Gallagher, Nathan Binns     |
| Attachment  | Confidential – Tender Assessment |

## FUNCTIONS ATTENDED AND REPORTS FROM COUNCIL DELEGATES

|             |                  |                                                                                      |
|-------------|------------------|--------------------------------------------------------------------------------------|
| <b>ITEM</b> | <b>18.004/19</b> | <b>FUNCTIONS ATTENDED BY MAYOR JIM SIMMONS – 1 FEBRUARY 2019 TO 28 FEBRUARY 2019</b> |
|-------------|------------------|--------------------------------------------------------------------------------------|

|                     |                                  |               |
|---------------------|----------------------------------|---------------|
| <b>Meeting</b>      | Council                          | 26 March 2019 |
| <b>Directorate</b>  | General Manager                  |               |
| <b>Reviewed by</b>  | General Manager - Ashley Lindsay |               |
| <b>Submitted by</b> | Cr Jim Simmons                   |               |

|          |                                                                                                                                 |
|----------|---------------------------------------------------------------------------------------------------------------------------------|
| 01.02.19 | Funding announcement by Chris Gulaptis MP for Yamba Access – Yamba                                                              |
| 06.02.19 | Gurehlgam Corporation Open Day – Grafton                                                                                        |
| 07.02.19 | Announcement by Trent Gilbert, Country Labour Candidate for future funding for the Grafton Main Street Revitalisation – Grafton |
| 08.02.19 | Meeting with resident and Cr Ellem – Maclean<br>Meeting with Scottish Town Committee – Maclean                                  |
| 09.02.19 | Grafton Regional Gallery Exhibition Opening – Grafton                                                                           |
| 12.02.19 | Councillors Workshop – Maclean                                                                                                  |
| 13.02.19 | Meeting with Minister Upton regarding Joint Organisations – Sydney                                                              |
| 14.02.19 | Meeting with Lawrence Museum members – Grafton                                                                                  |
| 15.02.19 | Clarence Valley Floodplain Risk Management Committee meeting – Grafton                                                          |
| 19.02.19 | Corporate, Governance & Works Committee meeting and Environment, Planning & Community Committee meeting – Maclean               |
| 21.02.19 | Clarence Valley Transport Committee meeting – Maclean                                                                           |
| 22.02.19 | MIDROC Board Meeting – Coffs Harbour                                                                                            |
| 23.02.19 | Wheelchair Tennis Tournament – Grafton<br>Grafton Girl Guides 95th Anniversary celebrations – Grafton                           |
| 25.02.19 | Funding announcement by Chris Gulaptis MP for the NSW Government's regional roads                                               |
| 26.02.19 | Ordinary Council Meeting – Maclean                                                                                              |
| 28.02.19 | Restorative Justice Conference follow up meeting – Grafton                                                                      |

**AUTHORITY TO AFFIX THE COMMON SEAL OF COUNCIL FOR ITEMS NOT INCLUDED IN REPORTS**

- Nil Items

**OPEN FORUM** – Mr Murray addressed the Council on behalf of the Glenreagh Rail and Station Preservation Society regarding the leasing of the site.

**FORWARD MEETING DATES**

| Description                                 | Date                  | Time   | Venue            |
|---------------------------------------------|-----------------------|--------|------------------|
| Corporate, Governance & Works Committee     | Tuesday 16 April 2019 | 2:00pm | Maclean Chambers |
| Environment, Planning & Community Committee | Tuesday 16 April 2019 | 3.30pm | Maclean Chambers |
| Council Meeting                             | Tuesday 23 April 2019 | 2.00pm | Maclean Chambers |



## CONFIDENTIAL BUSINESS

| ITEM               | 22.002/19                                                   | CLARENCE CARE + SUPPORT |
|--------------------|-------------------------------------------------------------|-------------------------|
| <b>Meeting</b>     | Council                                                     | 26 March 2019           |
| <b>Directorate</b> | Environment, Planning & Community                           |                         |
| <b>Reviewed by</b> | Director - Environment, Planning & Community (Des Schroder) |                         |
| <b>Attachment</b>  | 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) ii - The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*

## MOTION

Williamson/Novak

That Council move into confidential session to consider the following items in accordance with the Local Government Act 1993 10A 2 (d) ii:

- 22.002/19 Clarence Care + Support
- 13.005/19 Land Purchases for the Grafton Waterfront Precinct Plan (deferred from earlier in the meeting)

Voting recorded as follows:

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

Against: Nil

*Council moved into closed session at 6.25 pm. The microphones were turned off and the gallery and press excluded.*

## MOTION

Williamson/Toms

That Council move out of the confidential session and into open forum.

Voting recorded as follows:

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

Against: Nil

*Council moved into open forum at 7.25 pm. The microphones were turned on and the gallery opened to the public.*

MOTION

Williamson/Lysaught

That Council

1. Not make public the resolution for Item 22.002/19 Clarence Care + Support under the Local Government Act 1993 10A 2 (d) ii as it contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.
2. Make public the resolution for Item [13.005/19](#).

Voting recorded as follows:

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

Against: Nil

**CLOSE OF ORDINARY MEETING**

There being no further business the Ordinary Council meeting closed at 7.27 pm.



clarenc  
VALLEY COUNCIL

## CERTIFICATION OF MINUTES

I certify that the preceding 238 pages are the Minutes of the Ordinary Meeting of Clarence Valley Council held on Tuesday, 26 March 2019.

Signed by:

---

JIM SIMMONS  
Mayor / Chairperson