

Ordinary Council Meeting Business Paper

22 September 2020



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6. REPORTS**a. GENERAL MANAGER**

ITEM	6a.20.034	LOCAL TRAFFIC COMMITTEE
Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Yes	

SUMMARY

This report lists the recommendation made at 2 September 2020 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 2 September 2020 meeting be noted and adopted by Council.

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 2 September 2020.

Item: 024/20 GRAFTON HOTEL NOSE IN PARKING

That:

1. Council formalise the existing reverse in parking arrangement with line markings that align with the columns of the building.
2. A further report be provided should Council wish to proceed with a trial once the Grafton parking study commence.

Item: 025/20 SPEED ZONE REVIEW YAMBA ROAD MACLEAN TO HARWOOD BRIDGE

That:

1. The request for a speed zone review for extending the 50km/hr zone to the east from Maclean not be forwarded to Transport for NSW, and;
2. The committee support an application for a proactive safety grant to implement a rural threshold treatment in this location.

Item: 026/20 MODIFICATION TO TIMED BUS ZONES

That the following timed bus zones be updated to untimed bus zones.

- Prince Street, Market Square
- Fitzroy Street (St George Bank)
- Coldstream Street, Ulmarra
- Craig Street (Motel)

Item: 027/20 DRIVEWAY WARNING SIGNAGE YAMBA ROAD

That approval for a concealed driveway sign not be provided and that relocation of the driveway by the applicant be considered.

Item: 028/20 MARANDOWIE DRIVE, ILUKA – SPEED ZONE EXTENSION

That

1. The request for speed zone extension not be forwarded to TfNSW.
2. Council collect updated traffic count and speed data, and if warranted report back to a future meeting, and;
3. An update to the pedestrian access and mobility plan (PAMP) for Iluka be considered by Council

Item: 029/20 COVID-19 TESTING LOCATION

That in principle support be given for the provision of a drive-thru Covid-19 testing facility, pending a suitable Special Event Application being submitted.

KEY ISSUES

The minutes are attached.

COUNCIL IMPLICATIONS**Budget/Financial**

As noted in the minutes.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple – Manager Civil Services
Attachment	Traffic Committee Minutes

ITEM 6a.20.035 WORKS REPORT

Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Yes	

SUMMARY

Reports on capital and major maintenance works carried out by the Works and Civil Group until late August 2020.

OFFICER RECOMMENDATION

That the Works Report be received and noted.

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 projects below highlight capital projects that were undertaken during August.

Project:	PJ 540117 – Rushforth Park Sports Facility	 
Project Description:	Design and Construction of a new sporting clubhouse comprising: <ul style="list-style-type: none"> • 2 Change Rooms • 2 Referee Rooms • Competition Office • First Aid Room • 2 Canteens including Store Rooms • Social / Community Room • Installation of new Sewer Pump Station • Installation of new Grease Arrestor 	
Budget:	\$1,611,751 (project commenced in 19/20)	
Expenditure:	Actuals To Date: \$1,421,101 \$745,217 in 19/20 Commitments: \$169,230 Estimate At Completion (EAC): \$1,605,000	
Status:	On schedule for completion on time. 22 nd September 2020 and within Budget. Building certification paperwork completed with issuance of Occupation Certificate anticipated in the near future.	

Project:	Middle Creek Bridge Replacement, Sherwood Creek Road	
Project Description:	Replacement of single lane timber bridge with single lane reinforced concrete bridge	
Budget:	\$570,750	
Expenditure:	\$240,948	
Status:	<ul style="list-style-type: none"> • Piled foundations are complete • Construction of both abutments is underway • Abutments are over 6 metres in height and will be poured in three stages 	

Project:	Townsend Sewer	
Project Description:	Installation of a 300mm gravity sewer main in Diamond St Townsend to allow the removal of an aging sewerage pump station	
Budget:	\$201,000 (19/20 budget – project commenced in June)	
Expenditure:	\$53,000 in 19/20 \$108,000 (+\$16 commitments) in 20/21	
Status:	<ul style="list-style-type: none"> • Construction of gravity sewer in Diamond Street completed • Manhole in Jubilee Street to be completed to prevent sewer overflows • Work in Re Road to bypass temporary pump station is being designed 	

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

Maintenance standards are undertaken in accordance with that detailed in the relevant Asset Management Plan. Capital works are as detailed in the Delivery Plan and Operational Plan.

Policy or Regulation

There are no policy or regulation implications.

Consultation

Consultation has been held internally with Civil Services Section and Water Cycle Section and Open Spaces and Facilities Section.

Legal and Risk Management

There are no legal or risk management implications.

Climate Change

There are no climate change implications.

Prepared by	Alex Dalrymple – Manager Civil Services, Peter Birch – Manager Open Spaces Greg Mashiah – Manager Water Cycle
Attachment	Works program

ITEM	6a.20.036	NSW LEGISLATIVE COUNCIL INQUIRY INTO THE RATIONALE FOR, AND IMPACTS OF, NEW DAMS AND OTHER WATER INFRASTRUCTURE IN NSW
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Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

The NSW Legislative Council's Portfolio Committee No. 7 – Planning and Environment is currently conducting an inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW. One of the Inquiry's Terms of Reference is to give "consideration of other options for ensuring water security in inland regions".

OFFICER RECOMMENDATION

That Council

1. Reiterate its policy position of opposition to any proposal that would result in any diversion of water from Clarence catchments, as previously resolved by Council resolutions 12.005/06, 05.006/07, 10.017/10 and 15.081/16.
2. Endorse the attached submission to the Legislative Council's Portfolio Committee No. 7 – Planning and Environment "Inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW".

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

The terms of reference for the Legislative Council Inquiry are attached. Of particular relevance to Clarence Valley Council is the second part of 1(a):

...give consideration of other options for ensuring water security in inland regions

KEY ISSUES

Council has affirmed by resolution its policy position opposing diversion of Clarence River catchments on four previous occasions, as outlined in the "Policy or Regulation" section below. The attached submission was made to the Inquiry in accordance with Council's adopted policy position.

As the current term of Council has not considered this issue it is recommended that, in order to support the inquiry submission, Council reaffirms its current policy position of opposing any diversion of Clarence River catchments.

COUNCIL IMPLICATIONS**Budget/Financial**

Nil

Asset Management

N/A

Policy or Regulation

Council has established its policy position on proposals to divert the Clarence River through four previous resolutions. At its meeting of 18 October 2006 Council resolved (Resolution 12.005/06):

That Council oppose the diversion, damming or re-directing of water from the Clarence River.

Council again resolved at its meeting of 17 April 2007 (Resolution 05.006/07):

That the report on the Clarence River diversion proposal be received and noted and that Clarence Valley Council reiterates its policy position of total opposition to any proposal that would result in any diversion of water from Clarence catchments.

When the issue of diversion was proposed to be debated at the Local Government & Shires Association (LGSA) Conference in 2007, Council resolved at its meeting of 15 May 2007 (Resolution 05.008/07):

That the following late Motion be placed before the forthcoming Annual Conference of the Shires Association of New South Wales.

“That the Associations approach both the State and Federal Governments expressing their total opposition to any proposal for river diversion.”

As outlined in Report 05.009/07 to the Council meeting of 19 June 2007, it was not possible to put the late motion as the LGSA Conference resolved “That the Association pursue with the Federal Minister for Environment and water, measures to address the current and future concerns with water shortages for inland cities, towns and communities posed by the current drought and future droughts, and that the National Water Initiative consider ways and means of so addressing”.

At its meeting of 18 August 2016, when considering a submission to the NSW Legislative Council General Purpose Standing Committee Number 5 Inquiry “Augmentation of water supply for rural and regional New South Wales”, Council resolved (Resolution 15.081/16):

That Council reiterates its policy position of opposition to any proposal that would result in any diversion of water from Clarence catchments, as previously resolved by Council resolutions 12.005/06, 05.006/07 and 10.017/10.

Consultation

Nil

Legal and Risk Management

N/A

Climate Change

Item 1(d) in the Inquiry Terms of Reference is to consider:

the impacts of climate change on inland waterways, including future projections, and the role of dams and other mass water storage projects in ensuring security of water supply for social, economic and environmental outcomes

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Inquiry Terms of Reference
To be tabled	Submission to Inquiry

ITEM	6a.20.037	DEVELOPMENT APPLICATIONS
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Meeting	Council	22 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

This 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.

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

The calculation method for the numbers of days an application is held by Council includes all calendar days including weekends and public holidays. This method is consistent with the NSW Department of Planning *Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*. A small percentage of development applications (DAs) approved have been with Council for a substantial amount of time and hence, these applications upwardly skew the average processing time. Hence, the median (or middle score) processing time for DAs has been included to give an additional indication of the amount of time taken to approve development applications during the reporting period. As Council has commenced taking applications electronically through the NSW Planning Portal the received date and the total number of days often does not match. The reason for this being that the application number is generated once Council accepts the application through the portal and issues the proponent with an invoice, the clock starts once payment of the application fees has been received which is usually not on the same day. Council's reporting of elapsed days has been refined to ensure numbers presented are compliant with the Environmental Planning and Assessment Regulation 2000 (the Regulation). The received date is taken from the date of payment in accordance with Clause 50 of the Regulation. Furthermore, as per Clause 107 of the Regulation, the first two days after an application is lodged, being the received day and following day, are not included in the assessment period.

As of the start of 2020, Council is now collecting estimated cost of works for subdivisions including all civil and associated works to create the allotments, previously the only cost of works included in subdivision application were building works.

KEY ISSUES

The figures from 1 July 2020 to 31 August 2020 are:

No. of Applications Received	No of Applications Approved	Value of Approved Works	No of Lots Approved	Processing Times (including stop-the-clock days)
154	137	\$17,710,142.00	10	Average : 59 days Median: 42 days

Of the 137 approved Development Applications between 1 July 2020 and 31 August 2020, 61 (45%) were determined within 40 days or less.

Exceptions to Development Standards under Clause 4.6 of the LEP

The following table outlines the use of Clause 4.6 for determined Development Applications.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2020/0432	755 Kungala Road, Kungala	Clause 4.2B (3) (1) of CVLEP – minimum lot size for a dwelling	Clause 4.2B (3) (a) requires 40ha for a dwelling house. The extent of the variation is 2.2%.	Council staff assumed concurrence of the Planning Secretary as variation is within 10% - Planning Circular PS 18-003. Applicant's Justification: 1. The minor nature of the variation is considered to be within an appropriate degree of flexibility, 2. The land is of sufficient size to construct a dwelling and effluent disposal system, 3. The land is largely managed grassland with a low bushfire risk, 4. A dwelling on the property will not impact on the rural landscape and will assist in managing any future agricultural enterprise on the land, and 5. The land has suitable frontage to Kungala Road.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation*Environmental Planning and Assessment Act 1979**Environmental Planning and Assessment Regulation 2000**NSW Department of Planning Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes***Consultation**

Applicants with DAs exceeding 40 days would generally be aware of the reason/s why their DA has not been determined. Staff processing DAs are encouraged to maintain regular contact with Applicants and there remains room to improve this communication. Improvements such as this form one of the outcomes from Council's DA Review Project currently underway.

Correspondence acknowledging receipt of DAs or requesting additional information contains details of the staff member (including direct phone number) responsible for assessment of the DA. Hence, Applicants can easily make contact with the relevant officer if they require assistance or have any questions.

Legal and Risk Management

DAs that have not been determined within a period of 40 days (not including any 'stop-the-clock' days) can be considered by the Applicant to be deemed refusal. This factor is unlikely to apply to most of the DAs listed in the earlier table as the calculation of 40 days used for this report does not exclude 'stop-the-clock' days. However, when the appropriate circumstances apply to a DA then the *Environmental Planning and Assessment Act 1979* provides that an Applicant can lodge an appeal to the Land and Environment Court against the deemed refusal and request the Court to determine the DA. It is rare that Applicants pursue this course of action as the cost and time associated with pursuing Court action does not generally justify such action, especially if Applicants are confident that their DA will be approved when determined. DAs where a recommendation for refusal is possible are more likely to be subject to such appeal.

Climate Change

The matters discussed in this report have no direct impact on climate change or the effects thereof. Development or works proposed in individual DAs can have implications and these can be considered in assessment of DAs as relevant, eg development on land subject to long term sea level rise and/or coastal erosion.

Prepared by	James Hamilton, Development Planner
To be tabled	Undetermined Applications over 40 days

ITEM	6a.20.038	UNSUCCESSFUL LGA ARTS AND CULTURAL PROGRAM APPLICATION IMPLICATIONS
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Meeting	Council	22 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Confidential	

SUMMARY

The Regional Gallery has been unsuccessful for the first time ever for an annual program grant application from Create NSW. Normally Council gets around \$70,000 to help run programs from the NSW Government. These programs generally support local artists programs and outreach and are particularly important given the impacts of COVID to support the struggling local arts community.

OFFICER RECOMMENDATION

That Council write to the Premier of NSW, the local Member for Clarence and the NSW Minister for the Arts detailing the impact the change in funding support will have on regional NSW and for residents of the Clarence Valley and in particular the struggling local art movement due to the impacts of the drought, the 2019 bushfires which affected 50% of our local government area, a flood in February 2020 and the COVID-19 pandemic.

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

Over the past 20 years the Grafton Regional Gallery has successfully applied for annual program funding from the State Government through Create NSW. This grant funding has primarily enabled the Gallery to provide outstanding arts and cultural programs and events for the community.

The funds provided have directly engaged artists both locally and within NSW to create and present new artwork or present workshops/activities that benefit the local community. The Gallery supports a high percentage of artists who reside in our LGA through this funding, which has a positive impact on the economic development of creative industries in our region.

Over the past two years in line with the business plan, the Gallery has been on track to achieve long term sustainability as per the outcomes outlined in this plan. Through increased programs and events, the Gallery has achieved an increase in new audiences and revenue. This has been made possible through successful funding applications to Create NSW. Prior to this funding announcement the Gallery was on track to meet its long-term visitation and financial outcomes.

A two-and-a-half-year application was made for multi year funding to Create NSW in March 2020. The Gallery team developed a program in line with Council's community and cultural plans that addressed the NSW Government's key cultural priority areas. This application was well-planned, strategic and highly detailed, incorporating a two-and-a-half-year program of exhibitions, events and activities to activate the newly renovated Gallery space in a sustainable way. The Gallery team sourced independent input from strategic partners in order to present the best possible application outcome.

KEY ISSUES

- This year Create NSW changed the program of funding for Local Government Authorities. In the past Galleries could either submit an EOI and apply for multi-year funding or apply for annual program funding. There was a safety net for applicants who were unsuccessful with multi-year funding, who could then apply for annual program funding.

- As of this year Create NSW will not allow LGA's to apply for annual program funding if unsuccessful for triennial funding, the only opportunities available are for small project funding or multi-year funding; there is no safety net.
- The process for application assessment is no longer transparent and was not detailed in the funding guidelines. It was anticipated that successful applications were selected by a board of peers who were noted on the Create NSW website, however there was an additional selection process that was not detailed to applicants nor available in the guidelines.
- The funding guidelines clearly set out a timeline for notification to enable galleries to set programs and apply for further funding if unsuccessful. The notification was to be made in time to enable galleries to commence programming on 1 July 2020. This timeline was initially pushed back to the end of July due to COVID-19. Notification was not received until 15 September 2020 by both phone and email.
- Many of our local government sector peer organisations who regularly received Create NSW funding (Hawkesbury Regional Gallery and Museum, Blue Mountains Cultural Centre, Glasshouse Regional Gallery, Fairfield Regional Gallery and many more) were not successful; 29 of 62 applicants were successful in securing full or part funding for a limited time only.
- Feedback on unsuccessful submitted applications has been ambiguous and not detailed. It maybe that because Council is still constructing the new Gallery (we might add with \$7.6 million of support from the NSW Government which we are grateful for) that this influenced the decision but such feedback is not available.
- Regional and Public Galleries Association of NSW (RPG NSW) held a meeting on 17 September 2020 to compile feedback from the sector on this grant round with an aim to provide constructive feedback to Create NSW to ensure future equitable and transparent access to arts and culture funding for all LGA's in NSW. The Gallery has provided feedback to RPG NSW.
- In light of this the Gallery is now looking for alternative funding sources and will endeavour to submit a project funding application. In preparation for the next round the Gallery team will source independent feedback and review of the submitted application to provide guidance for the next triennial funding round. The Gallery director has submitted an application for a place on the funding peers' board to gain a more detailed insight into the processes involved.

COUNCIL IMPLICATIONS

Budget/Financial

Historically the Gallery was funded with \$70,000 from Create NSW for each calendar year. Funding of \$69,000 for year one of the proposed triennial program (1 Jan - 30 June 2021, 6 months) was intended to grow Gallery programs to align with financial year budgeting. Subsequently \$138,000 was requested each year for the following two years ending 30 June 2023.

As a result of the reduction of \$69,000 the Gallery team has been forced to significantly reduce its programming from January to June 2021 to ensure that it operates within current established budgets. This will mean that many local artists who rely on help from this funding will not be able to display their works in the new Gallery.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Arts and culture are crucial to the health and well being of communities, promoting resilience and addressing mental health, loneliness and connecting people to provide a sense of happiness and fulfilment.

The Regional Gallery had planned an extensive program of exhibitions and events to assist with the health and wellbeing of our community. The Gallery also provides economic support for developing business in the arts sector including artists, small business owners and other creative industry professionals

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Niomi Sands, Gallery Director
Confidential	Revised Gallery Program (January to June 2021)

b. ENVIRONMENT, PLANNING & COMMUNITY REPORT

MINUTES of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 15 September 2020 commencing at 3.30 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

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

PRESENT

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

Cr Peter Ellem, Cr Jason Kingsley, Cr Arthur Lysaught, Cr Karen Toms, Mr Ashley Lindsay (General Manager), Mr Des Schroder (Director – Environment, Planning & Community), Ms Laura Black (Director – Corporate & Governance) and Mr Jamie Fleeting (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 Novak	6b.20.075	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Has a current DA. Intended action: Leave the Chamber.

SUBMISSIONS RECEIVED

Item 6b.20.071 - Third Report Back to Council Following Council Resolution Items 6b.20.046, 6b.20.057 and 6b.20.067 – Re SUB2018/0004 – 11 Lot Subdivision – Lot 39 Bloodwood Grove, Gulmarrad	
Against the Officer Recommendation	Andrew Fletcher & Associates P/L (Applicant)
For the Officer Recommendation	<ul style="list-style-type: none"> • Jacqueline Franklin • Amanda Johnstone (Connor & Co Lawyers)

ITEM	6b.20.070	MODIFICATION OF DEVELOPMENT CONSENT D42/96 BY MOD2020/0025 – AMEND STAGE 2 OF MOTEL DEVELOPMENT – 5-13 VILLIERS STREET, GRAFTON
Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	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 – Two (2) submissions

Council has received an application under Section 4.55 (1A) of the *Environmental Planning and Assessment Act, 1979* to modify Stage 2 of D42/96 (as amended by MOD2018/0057) for the motel development approved on the subject site. The applicant has requested that the number of units approved be reduced from 53 to 48 units and that the Stage 2 building be reduced to single level from two storey. 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 two submissions were received during the notification period. The issue raised in submissions relates to the potential heritage impact as a result of demolishing a heritage listed dwelling and reconstructing with infill development.

The application is being reported to Council as the original application and previous modification application were 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 accept that MOD2020/0025 is substantially the same development as approved under D42/96 and approve MOD2020/0025 subject to amending Condition 1 to reflect the reduced car parking requirement and Condition 22 to update the approved plans.

COMMITTEE RECOMMENDATION

Simmons/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Modification Application MOD2020/0025 was received by Council on 5 June 2020 for the modification of approved Development Application D42/96 as granted by the former Grafton City Council for the 'Erection of a Motel Development Comprising 56 Motel Units, Restaurant and Conference Facilities' as modified by

Council at the March 2019 meeting under MOD2018/0057, Item number 14.022/19. A copy of the current modified consent and approved plans is provided in Attachment 1.

The development of the motel, restaurant and conference rooms was granted approval in two stages with the first stage consisting of 35 motel units, restaurant and conference facilities already built. Approval for Stage 2 permitted 21 motel units to be constructed; one single storey building containing seven units fronting Victoria Street requiring the demolition of two dwellings (30 and 32 Victoria Street) and a two storey building containing 14 units located behind the previously mentioned building. As a result of the proposed modification under MOD2018/0057, Stage 2 of the approved development was amended to reduce the number of rooms to 18, consolidate the two buildings into a single two storey building with provision of undercover parking and reorientation of the building to only require the demolition of 30 Victoria Street. Since the application was lodged, the dwelling located at 30 Victoria Street has been demolished, the applicant had submitted the required information as required by Conditions of Consent under D42/96 prior to works commencing.

The applicant has lodged a Construction Certificate to commence building the accommodation as modified under MOD2018/0057, however, has advised that due to the current circumstances surrounding COVID-19, the market needs and demands have shifted hence the lodgement of this modification application. In relation to Stage 2 the applicant has requested an amendment to the current modified development as follows:

1. Remove the undercover parking to make the building single storey,
2. Reduce the total number of units from 53 to 48 units, a reduction of 18 to 13 units for Stage 2,
3. As a consequence of the reduction in motel units, reduce the required parking on-site of 62 to 57, and
4. 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 and accommodate all parking on-site.

KEY ISSUES

1. Substantially the same development?

This fundamental question needs to be dealt with before any further assessment of the proposed modification. MOD2020/0025 has been lodged under Section 4.55 (1A) of the *Environmental Planning and Assessment 1979* which reads as follows:

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

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

Stage 2 of the development granted approval for two separate buildings. This was amended by MOD2018/0057 to consolidate the two buildings into a single two storey building.

Comment:

Council has no power under Section 4.55 (1A) to grant consent unless it is satisfied that the proposed modified development it relates to is substantially the same development as originally approved and that the modification will result in minimal environmental impact. Although the approved development is for a 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 reduction of the building to single storey and less motel rooms.

The proposed Stage 2 plans for the motel will contain a single storey structure containing two ground floor accessible units and 16 first floor units. In conclusion, there will be a reduction in total motel units from 53 to 48. As a result of the reduction in motel units, the applicant has reduced the number of car parks from 62 to 57. Furthermore, the total building footprint is to reduce from 510m² to 450m², a further decrease in the total building footprint of approximately 11%.

The major alteration to the approved layout is making the building single storey, in doing so the overall bulk and scale of the motel development as amended under MOD2018/0057 is further reduced which will have a lesser impact on the heritage significance and character of the area. Taking into account the changes to the development it is considered that Council has the ability to determine the application, Section 4.55 (1A), as the development is substantially the same development as approved, and the changes will result in minimal environmental impact.

2. Heritage Impacts

The dominant issue raised in the two 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 approves the removal of the existing dwelling at 30 Victoria Street to allow for Stage 2 to be constructed. At the time the application was considered and approved in 1996, the dwelling that has been demolished was not recognised for its individual heritage significance, although the subject land did fall under the Grafton Urban Conservation Area under the *North Coast Regional Environmental Plan 1988*.

Under the *Clarence Local Environmental Plan 2011* (the LEP) the six (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.

It remains the applicant’s intent to not demolish the residence at 32 Victoria Street due to reconfiguration of the layout. 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. The applicant does not intend to change the setbacks as part of this modification. The issue of reduced side setbacks in terms of compliance with the Building Code of Australia remains valid under this Application, however, was previously endorsed by Council at their meeting held March 2019, item number 14.022/19.



Figure 4: Southern elevation of approved motel units fronting Victoria Street.

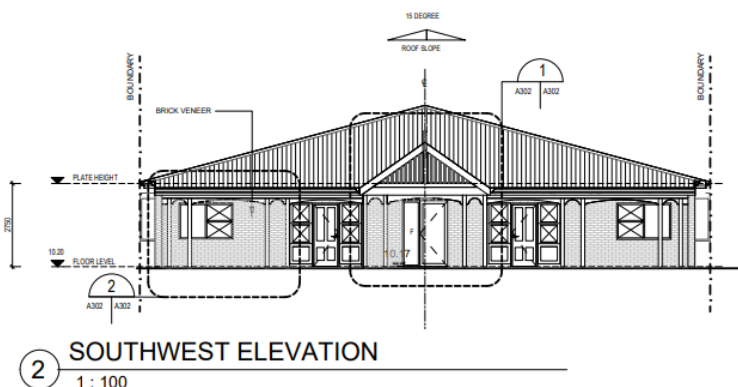


Figure 4: Southern elevation of proposed motel units fronting Victoria Street.

The current two storey accommodation as depicted in the southern elevation from Victoria Street does not replicate the roof design or character of the heritage listed dwellings in Victoria Street. By redesigning the proposal and reducing the single level is consistent with the original design and is in proportion with other buildings along the street. Furthermore, the overall visual dominance of the structure from Victoria Street is less as a result of the amended roof design to complement the adjoining dwellings and will mean that this infill development will not dominate the streetscape. Overall the impact to the heritage significance of Victoria Street will be further reduced as a result of the proposed redesign in comparison to the current approval.

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 developer's cost.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 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.

Climate Change

The change to the layout for Stage 2 is not considered to significantly result in impacts that would contribute to climate change in comparison to the already approved development.

Prepared by	James Hamilton, Development Planner
Attachment	<ol style="list-style-type: none"> 1. D42/96 Modified Consent and Approved Plans 2. Proposed Modification Plans 3. Submissions 4. Section 4.55 Modification Evaluation Report

ITEM	6b.20.071	THIRD REPORT BACK TO COUNCIL FOLLOWING COUNCIL RESOLUTION ITEMS 6B.20.046, 6B.20.057 AND 6B.20.067 – RE SUB2018/0004 – 11 LOT SUBDIVISION – LOT 39 BLOODWOOD GROVE, GULMARRAD	
Meeting	Environment, Planning & Community Committee	15 September 2020	
Directorate	Environment, Planning & Community		
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)		
Attachment	Yes		

SUMMARY

<i>Applicant</i>	A. Fletcher & Associates Pty Ltd
<i>Owner</i>	J.L. Construction Services Pty Ltd
<i>Address</i>	39 Bloodwood Grove (Lot 39 DP1218555), Gulmarrad
<i>Submissions</i>	Yes –17 objecting to the proposal

Development Application SUB2018/0004 for the subdivision of Lot 39 DP1218555 into 11 large-lot residential lots was reported to Council's June 2020 meeting (Item 6b.20.046) and Council made the following resolution:

That Council

1. *Receive at the July 2020 Meeting:*
 - a. *An assessment of the suitability for purpose of the new flood information/study advised as provided by the applicant and*
 - b. *An advice from a planning and environmental law professional consultant experienced in the NSW Land & Environmental Court on the veracity of the two competing final reports being one to Council and the other from the applicant in the DA.*
2. *Fund the expected \$2,500 plus GST cost of implementation of Point 1 (b) above from Cost Centre 920 Planning & Assessment – consultants (PJ994410).*

As per the resolution this information was not able to be obtained in the timeframe and after being received it was reported to the August 2020 meeting and Council made the following resolution in regard to Item 6b.20.067:

That Council defer its determination of this item to the next Council meeting to allow staff to provide draft conditions for approval, noting the following:

1. *The existing vegetation clearing footprint is accepted as submitted by the application and accepted the offsets would be calculated off this clearing footprint.*
2. *Acknowledge for safety that the speed limit on McIntyres Lane will need to be reduced and that the applicant would need to forward this to the Traffic Committee for review or an alternate intersection treatment is provided that meets site distance safety concerns on the present speed limits.*
3. *Accept that enough stormwater studies have been done and this is conditioned as per the recent information.*

This matter is reported back to Council to consider draft conditions of consent attached to this report. Comments are provided by staff in relation to the resolution to assist Council in making an informed decision on this development proposal. In reference to previous matters and issues raised in the June and August Council reports the officer's recommendation is unchanged and the application is again recommended for refusal.

OFFICER RECOMMENDATION

That SUB2018/0004 be refused on the following grounds:

- The proposed development will have an adverse and unacceptable impact on biodiversity (flora). Specifically the following points are relevant:
 - There will be more clearing of vegetation than identified by the applicant;
 - The applicant has not adequately considered the avoid or minimise options in regard to clearing and biodiversity (flora) impacts under Council's Biodiversity Management Strategy, Biodiversity Offset Policy and Residential Zones DCP (Parts E, S & Y);
 - Inadequate information has been provided on the impacts on vegetation clearance and biodiversity impacts, and hence conditions of consent requiring a biodiversity offset calculation and habitat restoration plan would be premature;
 - The proposal is inconsistent with the principles of ecological sustainable development and the precautionary principle;
 - A proposal to protect native vegetation by way of a Section 88B instrument cannot be supported where overruling legislation permits the removal of that native vegetation.
- The applicant has not sufficiently demonstrated that the stormwater impacts that the development will have on adjoining properties are no worse than pre-development conditions. Specifically the following points are relevant:
 - To address the assessment of stormwater and flooding impacts by way of a deferred commencement consent is not appropriate and not supported;
 - The new/updated flood assessment report / labelled 'Catchment & 1% Flow Plan' is inadequate in that the Plan is not accompanied with a Stormwater Management Report or Flood Impact and Risk Assessment Report;
 - The impacts on the adjoining lot from a change to a concentrated stormwater flow regime from two discharge points has not been fully considered; and
 - An easement is required on the adjoining Lot 38 for the new concentrated stormwater discharge points from the culvert and stormwater basin from the development; and for access to maintain the culvert infrastructure.
- The proposed access to McIntyres Lane for proposed Lots 7 and 8 does not meet the required minimum sight distances for road safety and as such is non-compliant with the relevant design standards. An engineering assessment has been undertaken by Council staff and it is considered unlikely that the proposed access can be feasibly designed to meet the required design standard.; and
- The proposed subdivision is considered to be an overdevelopment of the subject land due to the unresolved impacts identified above.

MOTION

Baker/Williamson

That Subdivision Application SUB2018/0004 be approved subject to the advices and conditions attached to report Item 6b.20.071 after amendment of:

- a) Condition 14 by the deletion of the first, fifth, sixth and seventh paragraphs.
- b) Condition 15 to delete 6.3 and replace with 6.0 and delete 0.85 and replace with 0.5 to match the existing Bloodwood Grove.
- c) Amend Condition 16 to delete the words "... of the road servicing the development..." and replace with "at intersection of Bloodwood Grove and Clyde Essex Drive and at the Lot 7 and 8 driveways access to McIntyres Lane be for a 60 kilometre per hour speed limit..."
- d) Deletion of Condition 28 to be replaced by: *The stormwater engineering plan to be designed so as to ensure no increase of concentration or flow of stormwater over Lot 38 is to occur.*
- e) Delete the words of Condition 50 and replace with "A habitat restoration plan and offset contribution be in accordance with the habitat restoration plan and offset assessment (provided by JWA Ecological Consultants September 2020 – attachment 5)."
- f) Condition 52 be altered to reflect the new habitat restoration plan.

Voting recorded as follows:

For: Baker, Williamson

Against: Clancy, Novak, Simmons

The Motion was put and declared LOST. The Foreshadowed Motion was then considered.

FORESHADOWED MOTION

Clancy/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Clancy, Novak

Against: Baker, Williamson, Simmons

The Foreshadowed Motion was put and declared LOST.

COMMITTEE RECOMMENDATION

Baker/Williamson

That this matter be deferred to the September Ordinary Council meeting.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

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 3.1.3 Provide land use planning that facilitates and balances economic growth, environmental protection and social equity

BACKGROUND

Draft conditions of consent have been drawn up in accordance with the resolution of Council should Council decide to approve the subdivision application SUB2018/0004.

The conditions proposed have been drafted in consideration of those provided for SUB2019/0002 (from the same applicant), 12 lot subdivision, Gardiners Road, James Creek, approved unanimously at Council's August meeting (Item: 6b.20.068).

KEY ISSUES

1. Council's resolution noted:

The existing vegetation clearing footprint is accepted as submitted by the application and accepted the offsets would be calculated off this clearing footprint.

The applicant has provided a subdivision layout plan in support of the application which shows trees that have a minimum trunk size of 300mm to be retained and trees that are to be removed. The plan was referred to in the NSW Rural Fire Service and an earlier revision of latest plan is referred to in the General Terms of Approval letter of the Service dated 7 August 2019.

Comments

Council is required to assess the full extent of cumulative environmental impacts of all development footprints as per Biodiversity Conservation legislation, Council's adopted Policies; Biodiversity Management Strategy; Biodiversity Offsets Policy and Development Control Plan provisions. Planning staff must also consider all relevant matters under Section 4.15 of the *Environmental Planning and Assessment Act 1979* including:

- any environmental planning instrument, and
- any development control plan, and,

- the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, and
- the suitability of the site for the development, and
- any submissions made in accordance with this Act or the regulations, and
- the public interest.

If these matters are not adequately considered Council would be failing in its duty as a Consent Authority to properly assess a development application.

As previously reported to Council, staff have advised that the applicant has considered some but not all of these impacts in only identifying trees to be removed with a trunk size greater than 300mm for building footprint areas, asset protection zones, effluent disposal areas and the proposed extension of Bloodwood Grove and road reserve. As a result, the full extent of native vegetation clearing from the development footprint will be greater than that identified by the applicant.

The following considerations are noted by staff in regard to the assessment of the application:

- Biodiversity Survey and Assessment Guidelines recommend that when an assessment of significance is undertaken for an ecological assessment the cumulative impacts of a proposal are to be considered.
- Similar to the requirements of NSW DPIE – Biodiversity and Conservation Division (DPIE-BC) for SUB2019/0002; 12 lot subdivision Gardiners Road, approved at the August meeting - Item 6b.20.068, who required that in the applicant's Biodiversity Development Assessment Report (BDAR) include: access roads to individual lots, establishing and maintaining individual lot boundaries and consideration of the 10/50 Vegetation Clearing Code of Practice (allowing residences to clear trees within 10m of a home and undergrowth within 50m of a home). The correspondence from DPIE-BC for SUB2019/0002 is attached to this report. Consistently, the applicant in this application has been asked by staff to consider the extent of clearing 3 metres either side of each new lot boundaries along with trees within 10 metres to future dwellings and trees that will shade effluent disposal areas in line with the advice from DPIE-BC.
- The applicant's deputation to Council has advised '*Even if we add Council's 70 trees (double that which our client has identified) then the number of trees to be removed greater than 0.3m dia is about 105 trees (or 31%) of the total. This leaves 69% (or over two thirds) of the surveyed trees to be retained.*' It is noted that there are also other trees on the site less than 0.3 dia that have also not been considered.
- Council staff are required to consistently consider development proposals in accordance with Council's adopted Biodiversity Management Strategy and Biodiversity Offsets Policy. The Policy directs that offsetting can only be considered when all means of avoiding the impacts from a development proposal on a site's biodiversity values have been exhausted. This involves following the mitigation sequence of avoidance, minimisation, and mitigation (restoration and compensation). Utilising the policy ensures that staff are consistent in their assessments in carrying out their duties as directed; Council staff have considered the development proposal as guided by the Policy. The applicant's request to require a habitat restoration plan and biodiversity offsets up front as a condition of consent is not consistent with Policy. By comparison the offsets for SUB2019/0002 have been identified and agreed upfront.
- The clearing of native vegetation identified by the applicant for up to 3.63Ha will be required to be offset by the planting of 18.15Ha of native local endemic species (offset rate of 5:1) and/or monetary contribution. For plantings to offset the removal of 3.63Ha of native vegetation, the applicant may offer to enter into a voluntary planning agreement (VPA) with Council to pay a monetary contribution of \$90,750.00 in accordance with Council's Biodiversity Offsetting Policy. If it is agreed that the development footprint is greater than the required offsets should be adjusted accordingly.
- Offset contributions to CVC Biodiversity Offset Trust Fund (as per the offset policy) delivers a fair basis through which offsets can be made into a fund managed by Council for which Council can invest back into biodiversity assets for the community. Funds from the Trust have been used in priority areas to acquire and 'lock up' land in Gulmarrad such as drainage reserves and significant vegetative reserve areas. It is noted that adopting a development footprint that underestimates the total biodiversity impacts will result in subsequent underestimated biodiversity offsets and offset contributions to be made or paid into Council's Biodiversity Offset Trust Fund. Undervaluing the biodiversity value of native vegetation and extent of native vegetation clearing is not likely to meet the community's expectation of Council's Offset Policy.

- The applicant has advised that there are significant areas for offset plantings on Lots 1, 2 & 11. If offset plantings are proposed as well as the payment of a contribution this will require referral back to the NSW RFS to consider their General Terms of Approval that are based on the plan of subdivision which shows trees to be removed and retained.
- The applicant also proposes that a restriction on the title be placed on the lots to protect non-impacted vegetation, including the vegetation along boundary fence lines and within 10m of dwellings. This directly conflicts with Council's vegetation controls which provide what vegetation can be removed without the requirement of a permit within 3m of a property boundary; furthermore State Environmental Planning Policy (Exempt and Complying Development Codes) allows fencing without consent in R5 zones. This is confirmed in the correspondence from DPIE-BC which advises that State Environmental Planning Policies take precedence over Section 88B restrictions. A proposal to protect native vegetation by way of a Section 88B instrument cannot be achieved where overruling legislation permits the removal of that native vegetation. The same applies to 10/50 Vegetation Clearing Code.
- The peer review report concluded that in principle there is agreement with the overall recommendation of Council officers to refuse the proposed development. Further, the review suggests Council's assessment report provides a thorough consideration of the implications of the proposal and the officer's recommendation is reasonable. Furthermore the review agreed that it would not be appropriate to grant consent in the absence of proper consideration of the full extent of impacts of future dwellings on the site consistent with the planning principle established by [then] Senior Commissioner Dr John Roseth in a decision *Parrot v Kiama* [2004] NSWLEC 77 that provides guidance on 'When a residential subdivision application should impose constraints on future development'.

2. Council's resolution has noted:

Acknowledge for safety that the speed limit on McIntyres Lane will need to be reduced and that the applicant would need to forward this to the Traffic Committee for review or an alternate intersection treatment is provided that meets site distance safety concerns on the present speed limits.

Comments

- Condition 14 has been drafted to meet Council's resolution, however, this condition is not supported by staff for the abovementioned reasons. A second review of the proposed access to McIntyres Lane has been provided in the attachments by a consulting engineer engaged by Clarence Valley Council.
- Requiring conditions on a consent that are uncertain may result in another hurdle that the applicant has to overcome or cannot overcome. The Newbury principles, supported by the Land & Environment Court of NSW, consists of three principles or tests which remain relevant today to help determine whether a condition imposed on a development consent is valid or not. The three principles are: 1 the condition must be imposed for a planning purpose; 2 the condition must fairly and reasonably relate to the development proposed in the application; and, 3 the condition must not be so unreasonable that no reasonable planning authority could impose it i.e. if the burden imposed by a condition or conditions is so great that it cannot reasonably be achieved it can be determined by the Court that it was not validly imposed. Requiring conditions to the effect *that the speed limit on McIntyres Lane will need to be reduced and that the applicant would need to forward this to the Traffic Committee for review or an alternate intersection treatment is provided that meets site distance safety concerns on the present speed limits* provides no certainty that it can reasonably be met by the applicant.
- A Traffic Impact Assessment is not available from a suitably qualified engineer to recommend a reduced speed or intersection treatment to address site distance safety deficiencies concerns. It is not the role of the Traffic Committee to make a decision without a professional recommendation and design criteria. Council will need to require that a formal Traffic Assessment Report be undertaken by a relevantly qualified engineer to provide recommendations as to speed limits and safe sight distances as well as alternate intersection treatments to meet site distance safety concerns before it can be put to the Local Traffic Committee that sits every three months. There is no guarantee that the recommendations will be supported and it is not clear if this can be adequately achieved.
- Council's professional engineering staff, including the Manager of Civil Services do not support the arguments put by the applicant as the sight distances do not meet the recommended standards. The applicant's deputation to Council in June admits that the Safe Inspection Sight Distance is not met. McIntyres Lane has a speed limit of 80km, reducing the speed limit along this section of road would

seem excessive to service two properties. Furthermore, no design for the dual access driveway to McIntyres Lane is available to show that the driveway can be adequately designed considering the service infrastructure in the road reserve.

- If the proposed vehicular access to Lots 7 and 8 cannot be constructed in accordance with the required standards due to sight distance and infrastructure constraints the access should not be approved. There is no certainty that this can be achieved. Any approval of the application with the access arrangement less than the recommended standard would increase legal liability to Council should an incident occur as a result of the departure from the road design/safety standard. Council should only support an emergency access track to McIntyres Lane for use in bushfire or other emergencies.

3. Council's resolution has noted:

Accept that enough stormwater studies have been done and this is conditioned as per the recent information.

- The draft stormwater management conditions 21 – 29 are drafted to meet Council's resolution, however, these conditions are not supported by Council staff for the following reasons.
- The current stormwater flows across the lot and onto the adjoining lot can be described as overland sheet flows. The former subdivision that created Lots 39 and 38 identified a 1:100 flow line to be required over the lots based on engineering calculations.
- The proposed subdivision will alter the existing overland stormwater flow and divert or funnel the stormwater to two discharge points, one being a culvert that runs under Bloodwood Grove directly onto the neighbouring Lot 38. The owners of Lot 38 have raised stormwater issues with Council following the construction of their dwelling and other outbuildings on the lot and have raised concern over the likely detrimental impacts that the subdivision will have on their property. If the culvert directed flows to Council's drainage system then capacity of the drainage system would be calculated and upgraded accordingly. This is not the case under the subdivision proposal; an agreement for an easement on the adjoining property has not been obtained for the redirection of concentrated stormwater flows. Without this Council will need to require as a condition of consent that an agreement be provided for the discharge of concentrated flows from the owners of Lot 38 and for access for maintenance of the scour protection infrastructure prior to the issuing of a subdivision works approval.
- Council cannot impose a condition of consent requiring an easement to be placed on an adjoining lot which is not part of this Development Application. An easement will require the adjoining owners' consent. Imposing conditions to this effect on a consent that are uncertain will result in another hurdle or burden that the applicant has to overcome or cannot overcome. Such a condition does not meet Newbury principles discussed above. It is preferable for a deed of agreement between the applicant and adjoining landowner to be negotiated prior to approval of a Development Application to gain certainty for the development.
- The owners of Lot 38 have expressed a willingness to appeal to the Land & Environment Court should Council approve the application in its current form without addressing the uncontrolled discharge of stormwater onto their property.
- In regards to the proposed detention basin on proposed Lot 11 an all weather access would need to be constructed as part of the proposed development to allow construction and access for Council to maintain. The basin and associated access would be required to have an easement over it.

Options

In considering this Development Application Council has the following options:

1. Refuse the DA (as recommended by officers and supported by peer review from an independent planning and environmental law professional consultant) – The June report highlights a range of issues that are deemed to individually and collectively warrant refusal of the application. It is considered that the applicant has been provided with adequate notice and opportunity to amend the proposal and/or to demonstrate that the likely impacts of the proposal are acceptable and that opportunity has not been taken. Further, the applicant has previously advised that they will be providing no further information. On this basis Council officers recommend refusal as there is insufficient information to make a determination

to grant consent with certainty that certain impacts will be acceptable. The former recommendation has been amended to strengthen the evidence base for the position reached by Council staff. This is the preferred option;

2. Request amendment of the proposal and additional justification to demonstrate the impacts are acceptable – This option has been provided to the applicant and they have not achieved this outcome. The applicant has previously advised that they will not be providing further information. Given the time that has elapsed since the DA was received this is not the preferred option; and
3. Approve the DA – The application as it stands presents a range of concerns that are individually and collectively significant. A decision to approve the DA is considered to carry significant risk (see also 'Legal and Risk Management' section). This option is not recommended.

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.

A suitably qualified consultant has been engaged to undertake the assessment and given advice as per the resolution. The cost to Council for this advice was \$5,390.

Asset Management

A substandard access to McIntyres Lane presents an unacceptable risk to the safety of road users and residents of the proposed Lots 7 and 8.

The impact of the revised road design for the proposed subdivision on stormwater runoff and flooding has been reviewed consistent with the recommendations of the applicant's civil engineer. Council has already received claims regarding the construction of Bloodwood Grove and impacts on local drainage. Hence, Council should not be accepting a design for the extension to Bloodwood Grove without adequate certainty that the road asset will not further compromise Council and nearby residents/landowners.

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 (Vegetation in non-rural areas) 2017

Clarence Valley Council Development Control Plan for Development in Residential Zones

Consultation

The application was advertised and notified in accordance with the Council's DCP. In response to the notification submissions were received (refer to Attachments). Many of these submissions raise concerns that have been highlighted and discussed in the 'Key Issues' section of the June report.

The following internal consultation with Council staff has also taken place:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Environmental Health	Council's On-Site Waste Water Management Strategy is met
Development Engineer	Not supported on engineering grounds
Natural Resource Management Officer (Biodiversity)	Not supported on ecological assessment requirements
Manager Civil Services	Not supported due to non-compliance with relevant standards relating to traffic safety and vehicular access as well as impact on Council and telecommunications infrastructure.

Legal and Risk Management

Should the applicant be dissatisfied with Council's decision, they have a right of appeal to the Land & 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*.

The peer review report concluded that in principle there is agreement with the overall recommendation of Council officers to refuse the proposed development. Further, the review suggests Council's assessment report provides a thorough consideration of the implications of the proposal and the officer's recommendation is reasonable.

For this reason it is considered that if Council refuses this DA and the applicant appeals that determination, Council would have stronger grounds to successfully defend an appeal. Also persons who have made submissions may appeal an approval if they believe proper process has not been followed.

The application has the added complexity of risk surrounding the existing claims against Council in relation to stormwater flooding and its effect on Lot 38 Bloodwood Grove. Any decision to approve this application in the absence of certainty that the impacts of stormwater flooding will not be made better or made no worse post-development is not considered to be prudent.

Proposed vehicular access to Lots 7 and 8 cannot be constructed in accordance with the required standards due to sight distance and infrastructure constraints. Any approval of the application with the access arrangement as proposed off McIntyres Lane would likely increase legal liability to Council should an incident occur as a result of the departure from the road design/safety standard. Again, Council officers recommend that this is one of several grounds that Council should use to refuse the DA.

Climate Change

There would be negative impacts on native vegetation which would contribute to climate change.

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none"> 1. Correspondence NSW PI&E – Biodiversity and Conservation Division re SUB2019/0002 2. Report and Minutes SUB2019/0002 Gardiners Road Item 6b.20.068 3. Engineering review – sight distances 4. Plan of proposed subdivision 5. Habitat Restoration Plan and Offset Assessment (received from A Fletcher & Assoc) 6. Addendum to report following submission of the Habitat Restoration Plan and Offset Assessment

Schedule 1
Draft Advices and Conditions of Consent for SUB2018/0004

Definitions

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

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)
- e Sewerage Code of Australia (WSA 02 - 2002)
- f Water Supply Code of Australia (WSA 03 - 2002)
- g Pressure Sewerage Code of Australia (WSA 07-2007)
- h Clarence Valley Council 'MUSIC' Guidelines (Draft)
- i Clarence Valley Council Street lighting Strategy

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

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

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

WSUD means Water Sensitive Urban Design

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

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

Civil Works may include -

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

SWC means Subdivision Works Certificate

Code MDef04

NATA means National Association of Testing Authorities

TfNSW means Transport for New South Wales

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

TCP means Traffic Control Plan in accordance with the **TfNSW** '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. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2020/21 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00). An additional fee of \$113.55 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.

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

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.

3. 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 **SWC** application.

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

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

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

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

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

The proposed development has been assessed as contributing an additional 12 ET demand on Council's water supply, and an additional 1.2 ET loading on Council's sewerage system. This includes an applicable credit of 1.2 ETs for pre-existing uses. The headworks charges at 2018/19 financial year rates are:

Water Headworks \$4,979.00 x 12 additional ET = \$59,748.00

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

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

6. 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.
7. 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.

8. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
9. The Earthworks Management Plan must include an initial site inspection report. This report should include:
 - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
 - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
 - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, hanging swamps, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.
- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.
- 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.

Conditions

- 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 the following plan(s) as amended in red, or where modified by any conditions of this consent.

Plan	Drawn by	Title	Plan Date	Revision
9238 DA Layout'	A Fletcher & Associates Pty Ltd	DASUB2018/0004: Plan of Proposed Subdivision of Lot 39 DP1218555 Bloodwood Grove, Gulmarrad	4.09.19	E

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

Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities

Rate per dwelling House or Lot

Coastal \$3,834.85 x 10 = \$38,348.50 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per dwelling House or Lot

Maclean surrounds \$3,834.85 x 10 = \$38,348.50 GL S94CVCCFMaclean

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Dwelling/Lot \$73.45 x 10 = \$734.50 GL S94CVCPoMDwell

Rural Road Upgrading Contributions Plan

Maclean Catchment: \$1560.43 x 10 = \$15,604.30 GL S94RdUpgdMacBhead

N.B.

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

The contributions are to be paid to Council prior to issue of the Subdivision Certificate.

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary and if so will become the contribution payable.

All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

Engineering Conditions

- A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
- The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
- The developer must design and construct all civil works, in accordance with **NRDC** and the approved **SWC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Subdivision Certificate. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.

Prior to commencement of works or issue of a **SWC**, 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 **SWC**. 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. Arrangements shall be made with the relevant supply authorities and companies for the servicing of all lots in the subdivision with underground electricity and underground telecommunications facilities. Prior to the issue of the Subdivision Certificate telecommunications, low voltage electricity and street lighting services must be provided to the development and/or all lots within the subdivision in accordance with the requirements and specifications of the relevant service authorities, Australian Standards, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.

- a All new services are to be provided within the service allocations within NRDC, unless an agreement has been obtained from Council for an alternative location.
- b Written agreement of non compliance with the service allocations will be required from the affected service authorities.
- c Service locations are to be clearly dimensioned on the **SWC** plans.
- d All service locations are to be approved by Council and the relevant service authority with regard to WSUD components of the proposed stormwater drainage system.
- e Council must be consulted, and agreement obtained, prior to any variation in location of services during construction due to field conditions.
- f Any variation to the service location from that approved with the **SWC** plans must be clearly documented on the work as executed plans. A surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.

8. Prior to the issue of the Subdivision Certificate, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.

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

areas:

Health and Safety

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

Environment

- a) Air quality management;
- b) Erosion and sediment control- base information, monitoring and management;
- c) Waste management;
- d) Material stockpiling;
- e) Vegetation management;
- f) No go zones;
- g) Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;
- h) Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;
- i) A construction personnel induction program shall be developed by the Proponent to highlight the presence of significant vegetation and habitat values on the site. The general induction of all construction personnel will cover such matters as:
 - Areas of the site in which significant vegetation and habitat values occur;
 - Threats to significant vegetation and habitat values associated with construction activities;
 - Requirement to report any incidents within the significant vegetation and habitat areas, and actions required;
 - Construction personnel are prohibited from bringing dogs onto the site; and
 - Requirements of any relevant Management Plan, particularly protocols for vegetation clearing and measures to protect all other native vegetation.

Quality

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

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

Associated **TCPs** must be prepared by a person authorised by **TfNSW** 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. 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.

Water Reticulation

11. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and NRDC.

12. Water Reticulation Design Plan must be submitted for approval with the application for a **SWC**.

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.

Roadworks

13. A Road Network Design Plan must be submitted for approval with the application for a **SWC**. Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**.

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

14. The design of the intersection for sight distance of the proposed access off McIntyres Lane can only be reduced to below a design speed of 90km/h if supported by a traffic classifier analysis which provides the traffic volumes and vehicle travel speeds for vehicle travelling in both directions along McIntyres Lane. The traffic classifier shall be located directly adjacent to the proposed intersection centerline in McIntyres Lane. The classifier results shall be taken over a period of not less than 2 weeks and the resulting 85th percentile speed in both east and west directions shall be used in undertaking the design of the intersection in accordance with the SISD for the design speed. Clarence Valley Council is to have the opportunity to review and verify the classifier results.

The design of the intersection of the dual access driveway with McIntyres Lane shall be suitable for the turning of a 12.5m rigid truck and a 19m semitrailer without the swept vehicle paths encroaching onto opposing traffic lanes.

The design standard of the proposed access off McIntyres Lane shall be compliant with **NRDC** and Austroads. This design is subject to verification and approval by Clarence Valley Council prior to the approval of the **SWC**.

The engineering design plans submitted with the **SWC** application shall show full details of the intersection including associated road pavement, road shoulders including drainage and adjustment to existing constructions in accordance with the provisions of the publications and standards identified in this consent.

In the absence of a relevant traffic classifier analysis supporting a reduced 85th percentile speed, the design speed for the intersection sight distance shall be 90 km/h.

If safe intersection sight distance can not be achieved for 85th percentile speed identified by a traffic classifier analysis, the applicant can seek a speed zone review from TfNSW. A report addressing

speed zone warrants and compelling safety reasons would need to be submitted to the Local Traffic Committee for endorsement prior to application for a speed zone review from TfNSW.

If safe intersection sight distance can not be achieved for vehicle access to proposed Lots 7 and 8, these lots are to be incorporated into other lots and the number of lots reduced accordingly as there is no provision of suitable access to lots. Emergency vehicle access shall still be provided if still required by NSW RFS. Public access shall be restricted by signage. A restriction as to user shall be placed on the lots adjacent to McIntyres Lane prohibiting access to McIntyres Lane.

15. The roads constructed within the proposed subdivision are to have a minimum width of 8 metre, consisting of a 6.3 metre seal with 0.85 metre shoulders.

Details of the location of existing trees and proposed tree removal, within the proposed road reserve are to be detailed and considered as part of the Subdivision Works Certificate. Where trees are not in conflict with the proposed swale and associated earthworks, they will be required to be retained.

16. All road intersections must satisfy safe intersection sight distance requirements for the current speed zone of the road servicing the development in accordance with NRDC. Sight distance diagrams must be provided with the **SWC** plans.

17. The engineering design plans submitted with the **SWC** application shall include details of linemarking and sign posting. All regulatory linemarking and sign posting on public roads shall be submitted to the Local Traffic Committee (LTC) for approval. The works shall not commence until approved by the Committee.

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

19. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **SWC** approval. The asphaltic concrete wearing surface must be a minimum 30mm (residential light to medium traffic) and 40mm (industrial, heavy residential and collector roads) compacted depth. Final pavement design will be subject to in-situ CBR tests.

20. No construction traffic is to access the site directly from McIntyres Lane.

Stormwater

21. The **SWC** application must include design calculations for any necessary upgrade of, existing stormwater drainage cross-culverts and affected services/utilities.

22. Prior to the issue of any **SWC** 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 4 except a more gentle batter will be required where safety is an issue in relation to headwalls being within the clear zone. 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 an all road frontages where there is no water main.

Prior to the release of the Subdivision Certificate for the subdivision, the stormwater facilities as generally identified in the Stormwater Management Plan 1 1 -3 by Structerre Consulting Engineers, Revision C 01.05.20 are to be provided, including the following:

- (i) The Water Sensitive Urban Design (WSUD) elements;
- (ii) Provide Council with the Maintenance Manual for Stormwater Management Devices to be

- incorporated into Council's Maintenance Schedule; and
(iii) Provision of detention storage located in the road reserve rather than on lot 11.

Maintenance of the Stormwater Management Devices is to be carried out by the Developer during the Maintenance Period in accordance with the Maintenance Manual.

23. A pavement condition report is to be provided for Bloodwood Grove and Clyde Essex Drive. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **SWC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction and operational phase of the development.
- Payment of a bond is required to ensure maintenance of Bloodwood Grove and Clyde Essex Drive, with the bond value to be determined in the pavement condition report, prior to commencement of works. Should the pavement condition become unsafe Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.
24. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**. A Stormwater Management Plan must be prepared to reflect these standards and guidelines. The Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**
- A Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**
- The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the **SWC**. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.
- The Stormwater Management Plan must include a management plan for any **WSUD** systems. The management plan must consider construction and operational phases.
- All inter-allotment and Council owned stormwater drainage systems must be located within drainage easements. Any stormwater conduit with an area of influence (measured by projecting a 45° angle from the invert of the conduit to finished surface level) extending outside of the easement, shall be covered by a 'restriction-as-to-user' requiring any structure within this area to be supported by piers to the conduit invert level. Engineer's design and certification must be provided. All costs shall be borne by the developer.
25. An easement is to be created to provide for conveyance of existing/proposed inter-allotment drainage through the subject land. The easements shall be provided as follows:
- Where there is no Council infrastructure contributing to the drainage scheme the easements shall be in favour of the properties requiring the benefit and not Council.
 - Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system then the easement must benefit Council only. This easement must be an easement in gross.
 - Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system and there are properties draining directly to the drainage system then the easement must benefit Council and these properties.
 - Easement widths must be in accordance with **NRDC**.
- The right to release, vary or modify the easement is to be assigned to Clarence Valley Council where Council has a benefit.
26. A flood assessment report for the proposed development must be submitted for approval by Council prior to issue of the **SWC**. The assessment must identify areas impacted by overland flow paths for 1 in 100 year ARI event. Proposed drainage easements and any proposed restrictions as to user

resulting from the above are required to be shown on the SWC plans.

27. A restriction on the use of land shall be placed on the title of lots that are impacted by the overland flow path from 1 in 100 year ARI event to the following effect:
- No development shall be undertaken on the 1:100 year floodway without the consent of Clarence Valley Council.
28. Suitable arrangements must be made with any other affected or adjacent property owners for the concentrated discharge of stormwater into Lot 38 and for access for maintenance of the scour protection infrastructure. A deed of agreement between the applicant and adjoining landowner is to be negotiated prior to approval of a **SWC**.
29. Maintenance Measures and Life Cycle Costing of stormwater infrastructure, including estimate of required maintenance measures (i.e. type & frequency) and annualised maintenance cost is required prior to **SWC**.

Subdivision Certificate

30. Prior to the release of any Subdivision Certificate which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
31. In accordance with **NRDC** and prior to the release of the Subdivision Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
- For the construction of **WSUD** systems the **WAE** shall include detailed records of the materials used, inspection and testing.
32. Prior to the issue of any Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
33. The submission of the 88B Instrument, and one copy thereof, to Council prior to the release of the Subdivision Certificate.
34. A restriction as to user shall be placed on the title of lots where the most distant part of any building envelope is more than 90 metres away from a fire hydrant to the following effect:
- Install a minimum of 10,000 litres water storage tank dedicated for bushfire fighting purposes in accordance with Table 4.2 of 'Planning for Bush Fire Protection 2006'. A suitable connection for the Rural Fire Service must be made available. In general a 65mm stortz outlet with a gate or ball valve shall be provided. Above ground tanks are to be manufactured out of concrete or metal. Plastic tanks are not to be used.

Lighting

35. Prior to release of the Subdivision Certificate, the development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and Council's Street lighting Strategy. 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 **SWC**.

Maintenance Bond

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

All work is subject to a maintenance period of twelve (12) months from the date of 'On Maintenance'

or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons or if a Subdivision Certificate approval is delayed beyond the maintenance period. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier approved stormwater management plan

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

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

Car Parks & Driveways

37. Driveway culverts or concrete lined table drain crossings are required to be constructed as part of the subdivision works. Culvert ends that face oncoming traffic are a traffic hazard and must not be located within the clear zone. The preferred solution is to provide concrete lined table drain crossings for property driveways.

Design plans and calculations for access culverts must be provided where culverts are proposed.

38. The driveway to the proposed building envelopes are required to be constructed as part of the subdivision works to minimise the impact on vegetation. Driveways are to be concrete lined in the areas where they traverse the table drain crossings / drainage easements.

A detailed plan of the proposed driveways including longitudinal sections, road levels, property boundaries and other site specific considerations must be submitted for approval with the **SWC** to demonstrate that access to the development is provided in accordance with **NRDC**.

Design plans and calculations for access culverts must be provided where culverts are required.

Earthworks

39. 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 **SWC**.

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

40. 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.

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

42. 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 **SWC** 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.

Erosion & Sedimentation Control

43. A detailed Erosion and Sediment Control Management Plan for the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **SWC** 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.

44. 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.
45. 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.
46. 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.

Integrated Development

47. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 7 August 2019, consisting of six (6) pages, and as attached to this Notice of Determination.

Heritage

48. Prior to the commencement of construction, an Unexpected Heritage Finds Procedure for Aboriginal and non-Aboriginal Heritage must be prepared should actual or potential items or areas of Heritage be discovered during construction activities. This procedure must be tool boxed with all work crews and implemented during construction works. Should any Aboriginal or non-Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and Heritage NSW shall be contacted immediately and any directions or requirements of the Service complied with.

Biodiversity & Environmental Management

49. A Biodiversity Offset Management Plan, in accordance with Council's Biodiversity Offsets Policy and Section 3A of the 'Biodiversity and Habitat Protection Requirements Information for Applicants' (BIFA), is to be submitted and approved by Council prior to any works commencing on site.
50. Offsets for the removal of bushland habitat/corridor values from the site are required in accordance with Council's Biodiversity Offsets Policy.

The clearing of native vegetation up to 3.63Ha is required to be offset by the planting of 18.15Ha of native local endemic species (offset rate of 5:1) and/or monetary contribution.

If plantings are proposed to offset the clearing of native vegetation of the proposal:

- A plan showing the proposed location, species of trees and number of trees; and a maintenance management plan is to be submitted to and approved by Council prior to any trees being removed, and
- The submission of a revised Bushfire Risk Management Plan is to be submitted addressing the impacts that the plantings will have in regard to bushfire impacts on the subdivision layout, for referral to the NSW Rural Fire Service's consideration.

Alternatively, in lieu of imposed conditions for plantings to offset the removal of 3.63Ha of native vegetation, the applicant may offer to enter into a voluntary planning agreement (VPA) with Council to pay a monetary contribution of \$90,750.00 in accordance with Council's Biodiversity Offsetting Policy. This figure has been calculated in accordance with Council's Biodiversity Offsets Policy

based on a ratio of 5:1 offset multiplier.

Council must be advised of the method of offsetting the removal of vegetation prior to any trees being removed. If a Voluntary Planning Agreement is entered into, pursuant to section 80(1) 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 and pay the monetary contribution prior to the removal of the subject trees and prior to issue of the Subdivision Certificate.

Offset plantings are to be planted prior to the issue of the Subdivision Certificate and maintained in accordance with an approved Maintenance Management Plan.

Please note that if a VPA is entered into, the applicant is required to pay Council's current costs of \$565.00 for the VPA preparation fee plus \$481.75 advertising fee (or fees as amended by Council's current fees and charges).

If the clearing of native vegetation is determined to be different to 3.63Ha the calculation is to be adjusted accordingly.

51. All vegetation that is to be retained as identified on the applicants Plan of Proposed Subdivision 'Drawing No. 9238 DA Layout' with trees identified in red to be removed and trees identified in green to remain, submitted with the Ecological Assessment is to be protected through the creation of a restriction-as-to-user via an 88E or 88B instrument on all allotments.

If the clearing of native vegetation is determined to be different to 'Drawing No. 9238 DA Layout' with trees identified in red to be removed and trees identified in green to remain the restriction is to be adjusted accordingly.

52. A Habitat Restoration Plan, as proposed in the applicant's Ecological Assessment, and required under Council's Development Control Plan, is to be prepared for all the areas of vegetation proposed to be retained on the subject site.
53. Building envelopes and primary effluent disposal areas shown on the approved plan are to be protected through the creation of a restriction-as-to-user via an 88B instrument on all allotments.
54. A Vegetation and Weed Management Plan (VMP) is to be submitted and approved by Council prior to issue of the Subdivision Works Certificate.

The VMP must be prepared by a suitably qualified ecologist and must include:

- a) Details of ongoing vegetation monitoring and reporting requirements.
 - b) Details of how the vegetation outside of the Asset Protection Zones including the vegetation on each new lot boundary is to be retained, managed and protected in perpetuity;
 - c) Specific actions to help restore the integrity of the Threatened Ecological Communities (TEC's) located on site.
 - d) Details on the number of trees containing hollows to be removed. The hollows to be removed are to be offset at a 1 to 1 offset ratio through the provision of nest boxes. The type, location and orientation of the nest box is to be determined and the installation supervised by a suitably-qualified Ecologist.
 - e) Habitat trees are to be retained in accordance with the plan 'Drawing No. 9238 DA Layout' drawn by Andrew Fletcher & Associates Pty Ltd Revision E 4.09.19.
 - f) The VMP and/or recommendations contained therein are to be given effect by a restriction/s as to user under section 88b of the Conveyancing Act 1919 registered on the titles of each allotment in the subdivision.
55. A Site Rehabilitation Plan outlining specific measures to allow for assisted natural regeneration and revegetation (where necessary) within the retained vegetation on the site including monitoring and reporting requirements after the construction phase of the development and once rehabilitation works have been completed. These will include, but not be limited to:
- a. Installation of permanent transects, plots and photo points;
 - b. Monitoring is to be completed by a suitably qualified ecologist.
Site visits should occur:
 - i. Six (6) weeks after primary weeding and initial plant-out;

- ii. Every six (6) months thereafter until groundcovers are sufficiently established (i.e. between 1-2 years); and then
- iii. Annually after establishment until specific completion criteria are met.

The Site Rehabilitation Plan must be approved prior to the issue of the SWC and any clearing of the site.

56. During construction activities, temporary high visibility fencing must be erected to assist in the protection of the retained vegetation from all construction activities by restricting access from machinery and contractors. This fencing will be erected in accordance with Australian Standard 4970-2009 Protection of Trees and any additional requirements of a Vegetation Management Plan to be prepared by a suitably qualified ecologist. Temporary signage will be provided along all temporary fencing during the construction phase stating "Environmental Protection Zone – No Unauthorised Entry".

No machinery, rubbish or spoil will be stored within retained vegetation during the construction phase of the development. Vehicle/equipment wash-down areas or access tracks will not be located in or immediately adjacent to retained vegetation.

ITEM	6b.20.072	PLANNING PROPOSAL - ULMARRA NYMBOIDA HERITAGE AMENDMENT - REZ 2020/0001
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Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

Council on 25 February 2020 adopted the recommendations of the Ulmarra Nymboida Community Based Heritage Study (UNCBHS) and resolved to prepare a Planning Proposal to include the proposed heritage items and Heritage Conservation areas in Clarence Valley Local Environmental Plan 2011 (CVLEP). This resolution deferred the proposed Woolli Heritage Conservation area for further consultation which will be carried out in due course.

The Planning Proposal received a Gateway Determination on 20 May and public exhibition was completed on 10 July 2020. All property owners were individually notified by letter (for a second time) and supplied with a new heritage advisory colour brochure. Sixteen (16) submissions were received including five in support, two neutral, and nine with some concerns. These submissions have been addressed in detail in the review of submissions report and this included several site meetings to discuss specific issues and the refinement of listing proposals as outlined in this report.

Subject to Council's review of the submissions received, the Planning Proposal may now be referred to the NSW Department of Planning, Industry and Environment with a request for the plan to be made.

OFFICER RECOMMENDATION

That:

1. Council refer the Planning Proposal REZ2020/0001 V1.3 and accompanying maps, updated with minor revisions to Part Lot and item descriptions, to the Department of Planning, Industry and Environment with a request that the amendments to the *Clarence Valley Local Environmental Plan 2011* be made.
2. All submitters be advised of Council's decision.

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

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

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.2 Respect the heritage of the region by highlighting and enhancing our unique characteristics

BACKGROUND

Cosmos Archaeology Pty Ltd in conjunction with Council's Strategic Planning section and community members prepared the UNCBHS for the former Ulmarra and Nymboida Shire areas. This was identified as a priority in Council's adopted Heritage Strategy 2013 as the missing link to the existing heritage studies carried out within other former Council areas of the Clarence Valley. The study was fully funded by Heritage NSW.

The brief, scope and funding of this study was directed towards non-Aboriginal (or European) heritage. A broad Valley-wide Aboriginal Heritage Study was completed for Clarence Valley Council in 2013, which was

also fully funded by Heritage NSW. Aboriginal cultural heritage sites are largely managed under a different legal system but may however be included in recommendations for listing on public registers subject to agreement from the Local Aboriginal Land Councils and/or other persons who are able to 'speak for country'.

The UNCBHS resulted in the identification of 120 heritage places. This includes the review and heritage assessment of 21 existing heritage items and one existing Heritage Conservation Area at Ulmarra, 99 proposed heritage items and five proposed Heritage Conservation Areas at the villages of Glenreagh, Minnie Water, Sandon, Woolli and Diggers Camp.

Council on 25 February 2020 adopted the recommendations of the Heritage Study and resolved to prepare a Planning Proposal to include the proposed heritage items and Heritage Conservation areas in Clarence Valley LEP 2011. This resolution deferred the proposed Woolli Heritage Conservation area for further consultation which will be carried out separately in due course.

The Planning Proposal received a Gateway Determination on 20 May and the public exhibition was completed on 10 July 2020. All property owners of proposed heritage items and proposed Conservation Areas were individually notified by letter and provided with a copy of a new heritage advisory colour brochure.

Sixteen (16) submissions were received including five in support, two neutral and nine with either objections or concerns about heritage listing or being included in a Conservation Area. These submissions are addressed in the 'Key Issues' section of this report. In addition, several site meetings, inspections and phone discussions were made to consider and address specific property issues. Additional information has been provided and refinement of heritage listings is recommended to some properties as outlined in this report such as Part Lot descriptions. The consultation with individual property owners was in excess of minimum statutory requirements.

Heritage significance and the NSW Heritage guidelines

All items, (existing and proposed) have been assessed using the NSW guidelines provided by Heritage NSW (formerly Office of Environment and Heritage). An item can be of significance if it meets one or more of the following criteria:

- *Historical* - the item is important in the course or pattern of NSW's history (cultural or natural) or of the history of the local area;
- *Social* - the item has special associations with the life or works of a person or group of importance in NSW's cultural or natural history or of the local area;
- *Aesthetic/architectural* - the item is important in demonstrating visual character or high degree of creative/ technical achievement;
- *Community* - an item has strong or special association with a community or cultural group in NSW or the local area for social, cultural or spiritual reasons; or
- *Scientific/Technical* - an item has potential to yield information that contributes to an understanding of NSW history or the local area important in demonstrating innovation and development.

In addition, an item is assessed as:

- *Rare* - or outstanding example, (eg the only one, or one of a limited number of Victorian, Federation or an interwar Bungalows in the precinct), and/or,
- *Representative* - (eg representative of a style, or type such as a Californian Bungalow/ Community Hall).

Understanding the significance of an item or place helps when making decisions about any changes in the future. The 'Statement of Significance' for an item or place summarises what is important about the item and provides a basis to compare the impact of proposed changes and then ensure that the changes are compatible or sympathetic with the reason/s for being significant.

Frequently Asked Questions

A *Is the owner required to carry out work as a result of heritage listing?*

Heritage listings under the CVLEP do not enable Council to require or force an owner to carry out works or maintenance. However, normal maintenance is required for any property. Annual heritage grants have been offered by Council since 2001 as a conservation incentive and this has encouraged and supported maintenance, restoration and conservation works. The recommended allocation of funding from the 2020/21 round of Clarence Valley Heritage Grants is subject to a separate report to this Council meeting. Heritage grants stimulate additional work and also contribute to the economy.

B Does Heritage listing stop an owner doing anything with the property?

Heritage listing does not prevent changes being made to an item providing that they are sensitive and will not adversely affect the significance of an item. Heritage listing applies to the external part of a building unless the interior is specifically included. Works to dwellings, such as replacing kitchens and bathrooms to meet Building Code requirements, and interior works such as floor polishing, carpets, and painting do not require development through a development application (DA) process (comparable to similar work to non-listed buildings). Well-designed additions which do not impact on important elements of a heritage item are not discouraged as they make a place more liveable and will extend the life of the property for many more years.

The heritage exemptions in Clarence Valley LEP allow a range of maintenance and minor works, to be approved in writing by Council, without the need for a DA. This might include verandah restorations, small structures, re-roofing and repainting works to the exterior.

Owners are encouraged to discuss proposals with Council staff before finalising proposals and this advice is provided at no cost. New extensions, pools, and additions all require consent whether an item is heritage listed or not, so there is not a great difference in DA or consent requirements.

C Can a heritage item be demolished?

The demolition or removal of a heritage item is not likely to be supported by Council officers as it is typically in direct conflict with the aim of conservation. However, the owner may lodge a DA which will be considered on its merits.

D Can heritage listing offer more flexibility?

The heritage incentives in clause 5.10(10) of CVLEP 2011 gives Council the ability to grant consent for any purpose of a building or the land upon which it is located which would normally not be permitted in the zone providing that it results in the conservation of the item, does not have an adverse effect on the heritage significance of the item or the amenity of the surrounding area and the proposal would result in implementation of conservation management outcomes documented in a heritage management document.

E Does heritage listing create another layer in the planning process?

Heritage listing does not create another layer as such and simply adds another issue in the 'environment' that needs to be considered in conjunction with development assessment. Heritage values need to be considered in the same way as water quality, flora and fauna, flooding, bushfire, access, provision of services or any other matter relevant to new development. The heritage items and heritage conservation areas recommended in the UNCBHS and Planning Proposal are considered important enough to be retained for both current and future generations.

KEY ISSUES

Consultation

Exhibition of the Ulmarra Nymboida CBHS

Public meetings and working groups were held in various locations throughout the study area and the UNCBHS was formally exhibited for public review and input for a two-month period between 25 October 2019 and 24 December 2019. A total of 454 letters were sent to owners of items recommended for individual listing or within a Heritage Conservation Area. This mail-out included dates of the exhibition period, the study findings and recommendations, and a copy of the Inventory sheet for the relevant property or Conservation Area. A dedicated web page was developed under Clarence Conversations, social media posts were uploaded and newspaper advertisements published. An article was included in the CVC Rates Newsletter that accompanied rate notices. The Ulmarra business community was provided with an update on the UNCBHS in relation to the future bypass of the village and economic activity promotion. Due to the scope and budget it was not possible to hold a public meeting in every area within the study area.

Exhibition of the Planning Proposal

The Planning Proposal was exhibited in accordance with the Gateway Determination from 5 June 2020 to 10 July 2020 (35 days). This exceeds the minimum exhibition period of 28 days.

Public advertisements were placed in the Daily Examiner and Coastal Views. The Planning Proposal and all related documents were placed on Council's website for the full exhibition period. This provided the opportunity for interested persons to view and read the Planning Proposal and other documentation at their leisure. No paper copies were displayed due to COVID-19 restrictions and some copies of reports were mailed out on request.

Landowners of proposed heritage items and land within the proposed Heritage Conservation Areas as well as relevant NSW Government agencies were consulted by letter with a new colour advisory brochure to explain the process for obtaining heritage approval (when applicable) and commonly asked key points.

Review of Submissions

A total of 16 submissions and five enquiries were received and a full discussion of points in each submission is outlined in Attachment B to this report. Copies of public submissions are provided at Attachment C.

Summary of Submissions

Support (5 submissions)	Supportive of recommendations of Planning Proposal consistent with UNCBHS recommendations.
Neutral /no objections (2 submissions)	Coronation Hall Coutts Crossing. Rural Fire Service - acknowledgment only
Objections/Concerns (9 submissions)	Post-exhibition discussions and site inspections and meetings have been made to address specific matters as outlined in the detailed submissions report. Heritage inventory details have been updated for some items and the recommended heritage listing restricted to part of some properties concerned in an effort to address concerns. General objections have been addressed in the review of submissions report.

Support for proposal

The submissions provided in support of the Planning Proposal and UNCBHS process recognise the positive outcomes and significance of completing this project in the former Ulmarra and Nymboida Shire (Pristine Waters) areas that now completes contemporary heritage studies for the LGA. Council has been commended for recognising the unique attributes of some villages through this project and how that recognition will assist in ensuring appropriate consideration of those values in future decision-making. It was also mentioned that protecting heritage values also encourages a greater understanding of the local history.

Officer comment - The UNCBHS and Planning Proposal has been completed in recognition of the various heritage values that had to date not been properly recognised in the former Pristine Waters LGA. The body of work now completed provides Council and landowners with more information on which to base future decisions and this is a very positive outcome. The inherent recognition in supporting submissions of the effort involved in getting to this point in the project is valued. Involvement of many people from the local community throughout the consultation phases of the Study and Planning Proposal and in an ongoing capacity will improve knowledge of local history and heritage values that will make a positive contribution to the Clarence Valley community overall.

Objections or concerns

Concern from property owners that places within Diggers Camp and Sandon are not 'heritage'

Officer comment - Heritage significance is not restricted to buildings of a certain historical era. A building or place can be considered to have heritage significance due to historic, social or aesthetic criteria as outlined in the study and includes landscapes, places, and social values and built heritage over a range of historical eras. Places such as Diggers Camp and Sandon are unique coastal holiday villages with strong landscape contexts, which have historic, social and aesthetic values.

The proposed Heritage Conservation Area for these villages will ensure that future development respects this character and context. No individual heritage listings are proposed to any particular property.

Concerns about impact on real estate values

Officer comment - Concern regarding the potential impact on real estate or property values is a common perception with heritage listing that is not supported by any economic evidence in the submissions. Whilst it is recognised that there may be some reluctance from potential buyers to invest in heritage listed properties, there is no evidence provided in submissions that sales prices are lower as a result. There are nearly 1,000 heritage items and nine existing Heritage Conservation Areas existing in the Clarence Valley LGA. 'Heritage' properties are being bought and sold on a regular basis. Whilst the real estate submission states that some purchasers may be reluctant to buy a heritage property, many purchasers actively seek out properties which have a historic character and localities which have an established and protected character. As new development increases, these precincts will become rarer and may become more, rather than less, valuable. Council's website contains several pages of heritage advice and there is a free advisory service available, to

<p>explain heritage implications to existing or potential owners.</p>
<p><i>Concern about controls over planning controls on future works and maintenance</i></p> <p>Officer comment - Owners were provided information in the exhibition and consultation material that works for maintenance and of a minor nature are processed under a 'no fee' Minor Works application. This is to ensure that works such as external paint schemes are sympathetic, and materials are appropriate, without the owner incurring additional Council fees. This gives landowners and communities in a Heritage Conservation Area a higher level of certainty about the desired future character of a precinct. This process reduces the potential for unsympathetic visual impacts which disrupt a cohesive group of heritage places or streetscape and serves to improve the amenity of a precinct for the long term.</p> <p>A Development Application is needed for new work such as additions, sheds or pools, in the way as such works to any non-heritage property. Discussions regarding specific items in the UNCBHS/Planning Proposal have been addressed in the submissions and the relevant inventory sheets have been updated to address specific concerns about some proposed future alterations to buildings that will provide greater certainty to the owners that the proposed listing will not affect their plans.</p>
<p><i>Applicability of heritage listing to non-significant areas of the property</i></p> <p>Officer comment - Heritage listing typically applies to the whole of a land parcel or property. Some submissions correctly mention that the proposed heritage item relates to only a part of the site. To recognise this, the inventory, and proposed amendment to the CVLEP, has been updated to a Part Lot description for some properties with clarification that the remainder of the property is not proposed to be affected by the relevant heritage listing.</p>
<p><i>Impact on future business operations</i></p> <p>Officer comment - This was the major concern of the owner of the Nymboida Coaching Station as other operational requirements (unrelated to proposed heritage listing) had negatively impacted on that business operation. Discussions with the owners acknowledged that the historic coaching station building/former wine shop is of heritage significance and is a key attraction of the property and it is reasonable that the heritage listing is not proposed to apply to the entire complex. It is recommended that this concern be resolved by a Part Lot description consistent with the earlier and abovementioned concern.</p>

A full discussion of points is outlined in Attachment B to this report.

Other Key Issues

Why heritage list a Heritage Conservation Area or particular heritage item?

The overall aim of a heritage listing or Heritage Conservation Area is to conserve places and objects from the past so they can be appreciated and enjoyed by future generations. Heritage provides a link between past, current and future generations and is integral to the identity and unique character of places. Protection of these values is recognised as having long term value.

Council's Local Strategic Planning Statement identifies the conservation of cultural heritage as an important part of its future goals. As explained in the information sent to owners, Council is primarily concerned with the retention of buildings, places and conservation of streetscapes and landscape elements which provide identity and historic character to places. Heritage listings and Heritage Conservation Areas are the most effective way to secure this value for current and future generations.

Links to our history and management of change

The former Ulmarra Nymboida Shire area is predominantly rural with dispersed villages and sits within a context of the North Coast region which is experiencing increased population growth and development. Places of heritage significance within this area should ideally be formally recognised, with policies that promote careful management of change to protect the heritage significance of these items and places.

Planning Policy (North Coast Regional Plan 2036)

Direction 19 of the Regional Plan states:

- *Historic heritage is a major contributor to the region's identity and character. It also has the capacity to generate economic value, particularly through tourism.*
- *Developing local heritage studies in consultation with the wider community will help to identify and secure the ongoing protection and management of heritage items.*
- *Regeneration of heritage assets through adaptive re-use can help preserve and restore heritage items and can deliver unique and exciting places that can be used well into the future. Where impacts from*

new development near heritage items and areas cannot be avoided, proposals that reduce impacts through sympathetic design should be developed, in accordance with relevant statutory processes.

Actions

- 19.1 Ensure best-practice guidelines are considered such as the Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance and the NSW Heritage Manual when assessing heritage significance.
- 19.2 Prepare, review and update heritage studies in consultation with the wider community to identify and protect historic heritage items, and include appropriate local planning controls.
- 19.3 Deliver the adaptive or sympathetic use of heritage items and assets.

The heritage study and Planning Proposal process utilised for the former Ulmarra Nymboida Shire areas is consistent with and promotes delivery on the Regional Plan direction and actions. Existing provisions in the CVLEP further consolidate these outcomes and enable adaptive re-use of heritage places where such outcomes will better achieve conservation of a heritage item.

Conclusion

The results of the exhibition and submissions received demonstrate overall support and acceptance of the Planning Proposal by the majority of owners consulted. Common issues which are often raised by protection of cultural heritage have been discussed and addressed in this report. Only nine objections/concerns were received of the 250 owners consulted and the wider community. (NB: the difference in total numbers of owners consulted from the first study exhibition (454) is due to the fact that properties within the existing Ulmarra Heritage Conservation Area were not re-consulted as there is no change proposed to this area, but they were included in the initial study for public consultation.

There is strong community acceptance of the value of heritage to this area and to our society and the strength it has in defining the identity of a place. The need to understand the significance of places, and record and protect such places is accepted as sound planning practice on a global scale. Once destroyed it cannot be replaced, therefore a precautionary approach must be taken in accordance with the ICOMOS Burra Charter 2013.

It is recommended that the Planning Proposal V1.3 (Attachment A) with included minor updates to Part Lot or property description in Schedule 5 and accompanying maps is adopted and forwarded to the NSW Department of Planning, Industry and Environment with a request for it to be finalised.

COUNCIL IMPLICATIONS

Budget/Financial

This project (Project 994398-07-8495) was fully funded by the Heritage NSW (formerly Department of Environment and Heritage) with a budget of \$40,000. The project has been completed within budget and managed by Council's Strategic Planning team.

Asset Management

The project has identified some Council-owned or managed assets such as cemeteries or community halls which are considered to have heritage significance. Council needs to be considerate of the heritage significance of these assets and appropriate practice in managing future works and maintenance. This process or practice is not new and is applicable to several heritage items in Council's control and management, such as the Glenreagh School of Arts premise.

Policy or Regulation

The Heritage Study was prepared and completed in accordance with the guidelines from Heritage NSW under the coordination and direction of an independent heritage consultant that was engaged by Council.

The Planning Proposal to include a range of heritage items and conservation areas in Schedule 5 of *Clarence Valley Local Environmental Plan 2011* has been prepared in accordance with the provisions of the *Environmental, Planning and Assessment Act 1979* and policy requirements of the NSW Department of Planning, Industry and Environment. The Planning Proposal was advertised for 35 days between 5 June 2020 to 10 July 2020 in accordance with the Gateway Determination of 20 May 2020.

The majority of potential Heritage Items and places within a Heritage Conservation Area are proposed as items of local significance and will be subject to the requirements under Clause 5.10 of the Clarence Valley LEP for which Council is the consent authority.

Six items considered to be of heritage significance to the State are recommended in the UNCBHS and Planning Proposal for State Listing. Five sites are Government owned. The Ramornie Meatworks archaeological site is the one exception. The six items nominated for inclusion on the State Heritage Register, if included, would be subject to the *Heritage Act 1977* and fall under the jurisdiction of the NSW Heritage Council or its delegate, the Department of Premier and Cabinet. These nominations for State significance have been forwarded to Heritage NSW in accordance with Council's previous resolution in February 2020 and a decision is awaited from the State Heritage Register Committee of Heritage NSW.

The UNCBHS and Planning Proposal implements Direction 19 of the North Coast Regional Plan 2036 as mentioned earlier in 'Key Issues'.

Consultation

A summary of the consultation and consideration of content in submissions is provided in the 'Key Issues' section earlier in this report. Copies of submissions and a summary is provided as attachments to this report.

Legal and Risk Management

The Planning Proposal is effectively a formal submission that seeks to include the recommended Heritage Items and Heritage Conservation Areas in Schedule 5 of the *Clarence Valley Local Environmental Plan 2011*. This process is compliant with all relevant legislative requirements of the *Environmental, Planning and Assessment Act 1979*.

Climate Change

Heritage conservation, and more particularly retaining buildings, is complementary to addressing climate change and reducing CO₂-equivalent emissions. Conserving buildings retains the embodied energy in existing buildings that generated through manufacture and procurement of building materials, transportation, labour and all CO₂-equivalent emissions associated with construction and maintenance. Replacing buildings with new buildings can be considered to be a waste of the embodied energy and also requires additional energy and emissions to be generated.

Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	A. Planning Proposal Ulmarra Nymboida Heritage Amendment V1.3 REZ 2020/0001 including LEP Amendment Maps. B. Review of submissions received to Planning Proposal
To be tabled	C. Copies of submissions

ITEM	6b.20.073	CLARENCE VALLEY LOCAL HERITAGE GRANTS 2020/21
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Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

Council has received 23 applications under the 2020/21 Local Places Heritage Grants program. The priority this year is to support works to Heritage Items, and contributory buildings within Heritage Conservation Areas in the former Maclean Shire area. Council is requested to allocate the funding amount of \$38,500 in accordance with the recommendations below.

OFFICER RECOMMENDATION

That

1. Council offer an allocation of Local Heritage Grant funding for 2020/21 to applicants in accordance with the amount shown in the 'Grant' column in the table at Attachment 1 to this report with each Applicant required to sign a written agreement and comply with any relevant conditions for payment and acquittal requirements.
2. The General Manager be authorised to reallocate any funding offers that are not taken up to other eligible projects listed in the Table at Attachment 1 within the 2020/21 year up to a maximum of 50% of the relevant project costs.

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.2 Respect the heritage of the region by highlighting and enhancing our unique characteristics

BACKGROUND

The Local Heritage Places Fund is a small grant incentives program to support and encourage owners of heritage items and contributory historic buildings in carrying out important maintenance and conservation works. The grant program is funded by Council with contribution from NSW Department of Premier and Cabinet (formerly NSW OEH). Each year available funds are prioritised to a different area and rotated around the Clarence Valley to provide some focus to the works and equitable opportunity for owners and managers of heritage items and places of heritage value. This year the priority area is the former Maclean Shire area and a total of 23 applications have been submitted; 18 within the priority area and 5 from other parts of the LGA.

Council's Operational Plan (2020/21) contains Action 1.1.2 for an ongoing commitment to implement the Heritage Assistance Program with a KPI to spend or commit 100% of funding before 30 June annually. The applications have been reviewed and a ranking of applications has been produced by applying the criteria set out by OEH guidelines. Twenty-one (21) applications were able to be supported with the available funding.

KEY ISSUES**Application Overview**

A summary of the applications and recommended funding is set out in Attachment 1 to this report.

The submitted projects include a range of valuable conservation works. Ongoing repair and maintenance is essential to heritage properties. Regular maintenance, especially to drainage and moisture ingress will avert and prevent accelerating deterioration. Restoration or reconstruction of elements is keenly taken up by many owners who are keen to reinstate properties to accurate historical details. The use of heritage colour schemes and appropriate materials is important to maintain an accurate aesthetic significance to the fabric of a property and streetscape settings. One grant application seeks to address previous unauthorised exterior painting to the Argyle Hotel (Maclean). The dark colour is inappropriate aesthetically and draws heat into the masonry which can be detrimental to the future conservation of the building fabric.

The heritage grants are essentially aimed to provide assistance or incentive for owners of heritage properties to maintain them such that they continue to contribute to the local heritage and associated values in the LGA. The grant program is typically fully subscribed and this year 21 projects have been allocated out of the available funding in accordance with the guidelines. This allocates funding up to the maximum of \$2,000 or approx. 50% of the project costs rounded off, whichever is the lesser. This enables more projects to be assisted by the grant program. Two applications were eligible but there was insufficient funding. Occasionally some projects do not complete and funding can be reallocated later in the year.

Proposed Works

The proposed projects include important maintenance, drainage works, guttering, repairs or reconstruction of damaged joinery, removal of unsympathetic elements and reconstruction to match or suit the era original details, installation of appropriate picket fences, and repainting in heritage colour schemes.

Economic Benefit

The total value of the proposed projects to be assisted by the grant fund is \$218,853. The grant fund of \$38,500 represents 17.5% of this value indicating that it has an economic multiplier effect of over five fold.

Public Education and Awareness

Heritage grants are an important tool for heritage conservation and deliver a positive message to the community of Council's support for its cultural heritage. The grants raise awareness of the need for ongoing and correct maintenance and stimulate projects for maintenance and restoration, which are essential for long term conservation of the heritage items, raise public awareness and increase education on the need for appropriate materials and approaches.

Assessment Process

Eligible projects that may be funded include:

- termite control, site stabilisation, stormwater and subsoil drainage
- protection of archaeological sites including protection of cemetery sites
- reinstatement of missing elements to original details, such as fences, verandahs, timber windows, decorative features
- removal of unsympathetic additions and restoration to original details
- emergency repairs and keeping buildings watertight pending longer term restoration
- re-roofing and guttering in authentic materials and profiles
- repainting in a traditional heritage colour scheme
- Building Code Australia upgrades (fire, services, and access) for ongoing and new uses.

Assessment

The applications were assessed against a number of criteria including the heritage value of the place/premises, the conservation merits of the proposed work and potential public benefit (refer to the selection criteria in the table below). This includes public access, the visibility of works, contribution to streetscapes and removal of unsympathetic elements and the relative value of the conservation works. The applications in the table at Attachment 1 are listed in ranked order with the priority area applications listed first followed by applications for non-priority areas. In this case all applications were supported for some funding.

Selection criteria	Points
Heritage Item	15
In a heritage conservation area	5

Public access and visibility	1-10
Located in well-maintained streetscape/setting	1-10
Located in a heritage group, complex or main street precinct	1-10
Degree of maintenance to avert risks to place/premises and conservation value of works.	1-20
Works additional to maintenance, eg remove unsympathetic alterations	1-10
Sustainable long term heritage benefits	5-10
Increases opportunities for learning, access, community involvement, employment, regional economy positive community attitudes	1-10
Total	Score out of 100

Allocation

- In accordance with the assessment criteria and principles, \$2,000 (or 50% of the project value rounded off) was allocated to each project in the priority area, in ranked order.
- Whilst some projects have a higher value, the public advertisement stated that “*Grants will generally be offered up to a maximum of \$2,000 per item, on a dollar for dollar basis*”.
- Heritage grants are an incentive and the objective is to provide support to as many projects as possible.
- Smaller projects are often reliant on the matching funding in order to carry out important maintenance works, therefore no change is recommended to this allocation.
- After allocation to the priority area the remaining applications were able to be supported.
- The proposed grant allocations are set out in Attachment 1 on the basis of this assessment.
- The lowest ranked application was allocated the remaining amount of funding.

COUNCIL IMPLICATIONS

Budget/Financial

Council’s Operational Plan (2020/21) contains Action 1.1.2 to implement the Heritage Assistance Program with a KPI to spend or commit 100% of funding before 30 June 2021. The recommendation of this report is to commit 100% of the available funding (\$38,500) for this program in the 2020/21 year.

Asset Management

None of the applications relate to Council owned assets.

Policy or Regulation

The proposed works will be assessed as ‘maintenance and works of a minor nature’ which can be approved under Clause 5.10(3) heritage exemption provisions, of the *Clarence Valley Local Environmental Plan 2011*, with the grant notice prior to works commencing. When development consent is required the applicants will be advised accordingly.

Consultation

The 2020/21 Clarence Valley Local Heritage Grants program was publicly advertised in the local press, through social media, and through Council’s website. Applications closed at midnight on 17 August 2020.

Legal and Risk Management

Not anticipated to create any potential issues.

Climate Change

Heritage conservation is very positive through conservation of existing resources and utilising the embodied energy of existing buildings.

Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	Summary of applications and recommended allocation of grant funding 2020/21

ITEM	6b.20.074	MACLEAN DISTRICT HISTORICAL SOCIETY LAWN MAINTENANCE REQUEST REPORT
Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Nil	

SUMMARY

A request from Carolyn Cameron, the President of Maclean District Historical Society to assist with lawn maintenance was emailed to the Councillors on 7 August 2020. A review of Clarence Valley Museums will be undertaken before June 2021 to provide clear guidelines for the local museum sector and their ongoing operations.

OFFICER RECOMMENDATION

That Council:

1. Provide lawn maintenance for a temporary period whilst the Clarence Valley Museum review is undertaken and an action plan is developed from the review findings.
2. Encourage Maclean District Historical Society to actively recruit volunteers to cover lawn maintenance and any other required operations.

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.2 Respect the heritage of the region by highlighting and enhancing our unique characteristics

BACKGROUND

Carolyn Cameron has recently taken over the role of President of Maclean District Historical Society. At the moment the Museum is closed due to COVID. The request detailed the Museum's current situation and the lack of volunteers willing to undertake lawn maintenance which has had an impact on their viability as they have had to pay for lawn mowing.

During the 2020/21 financial year a local Museums review is scheduled to be undertaken. The terms of reference for this review are currently in development. It is anticipated that the review will explore best practice museum management, process around this type of request and a number of other aspects in relation to the local Volunteer Museum sector and its ongoing operation.

The Museum Advisor program has continued throughout COVID. The advisor, Joan Kelly, has been in phone contact with each museum to provide support on their current projects and to discuss any issues. Over the past 18 months the Grafton Regional Gallery has presented the Museums Unpacked workshop series that has been designed to provide skills development across the sector. The workshops are provided to Clarence Valley museums and developed in collaboration with the sector to cater to their needs. Strategic volunteer recruitment and fundraising are an area of focus for upcoming workshops in 2021.

There are no CVC Grant programs that can cover these costs. Maintenance cannot be applied for as part of the Clarence Valley Council community grants initiatives.

KEY ISSUES

- Ongoing cost of lawn maintenance for Maclean Museum.
- Expectation of other community groups for lawn maintenance and equitable access to CVC resources.
- Strategic volunteer recruitment and museum review.
- Access to grant funding to cover lawn maintenance and operational costs.

COUNCIL IMPLICATIONS**Budget/Financial**

Each mow will cost \$250 and an estimated yearly cost of \$4,500 (during summer the service would occur every two weeks [10 times] and winter every four weeks [8 times]). This was not budgeted for in the year's Open Spaces delivery program.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

The Museum Review will consult with all museums of the Clarence Valley and MGNSW.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Niomi Sands, Gallery Director
Attachment	Nil

ITEM	6b.20.075	DEVELOPMENT APPLICATION PROCESS REVIEW – PROGRESS REPORT
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Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report provides a progress status update of the ongoing project to review Council's Development Application processes.

OFFICER RECOMMENDATION

That Council note the progress report on the development application process review.

Having declared an interest in this item, Cr Novak left the EP&C Committee meeting at 4.52 pm and returned at 4.54 pm.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Williamson, Simmons

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.1.3 Engage with the community to inform decision making

BACKGROUND

The Development Application (DA) Review Process Review Team was created to review Council's current application process to meet the following objectives:

- Streamline the development application process.
- Reduce time taken for approvals.
- More transparent, accountable and outcome focused.
- More consistent, easier and quicker for 'mums and dads' and developers.
- Simplify, standardise and automate the process.

Since the implementation of the DA Review Team, the DA process has undergone major changes including the introduction of electronic lodgement options to customers through the implementation of the NSW ePlanning Portal and acceptance of applications in electronic format such as USB's.

Clarence Valley Council implemented the DA, CDC, Section 4.55 and Division 8.2 Reviews component of the ePlanning Portal on 1 July 2019.

On 1 August 2020, Council went live with the Construction Certificate, Subdivision Certificate, Occupation Certificate and Principal Certifier component of the Planning Portal so now all types of development related applications are accepted electronically.

Council is now receiving nearly 70% of all Development Applications electronically via the Planning Portal and USB. This number can be expected to increase since the implementation of the online post consent certificates via the Planning Portal in August.

KEY ISSUES

1. DA Progress Report

The attached progress report summarises the project to date and upcoming milestones and changes.

The DA Infographic report contained in the attachments provides a snap shot of how many electronic applications were received, requests for additional information, estimated savings and impacts on Council's incoming calls to customer service since the introduction of electronic application lodgement.

The report shows that we are now accepting nearly 70% of all applications electronically and that assessment times have improved by approximately 9% in the April-June quarter.

2. NSW Government Mandate

The [NSW Government has introduced](#) a suite of reforms to deliver a timely, certain and transparent planning system for NSW. This includes a mandate that 100% of development applications are to be lodged and processed via the Planning Portal by 1 July 2021.

Council is well underway to meeting the mandate and staff are currently working with TechOne as one of the first regional councils to implement full integration between the Planning Portal with our Property and Rating System (P&R). The integration will automate the creation of applications, statuses and download/upload of documents and assist in the delivery of a timely transparent development assessment process.

COUNCIL IMPLICATIONS

Budget/Financial

The implementation of issuing electronic determinations and correspondence has resulted in savings related to the cost of postage and printing. The savings will continue to increase as more applications are lodged through the portal and through the implementation of Post Consent Certificates (CC's and Subdivision Certificates).

Council adopted an additional \$80 reformatting fee which will be applied to hard copy applications and electronic documents and plans that are not formatted, named correctly or adhering to the naming conventions rules.

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Consultation

There has been ongoing public communication promoting the implementation of electronic DA lodgement options through a weekly advertisement in the local newspapers.

Further consultation will be required to be undertaken with the community as part of the mandate to accept all applications via the Planning Portal.

Legal and Risk Management

The ePlanning movement provides for a more transparent planning process thereby reducing exposure to risk.

Climate Change

The movement towards an ePlanning environment has reduced the amount of paper use having positive benefits for climate change.

Prepared by	Carmen Landers, A/Development Services Coordinator
Attachment	A. Project Status Report - August 2020 B. DA Infographic Report - Quarter 4 2020

ITEM 6b.20.076 ILUKA LIBRARY - CHANGE OF HOURS

Meeting	Environment, Planning & Community Committee	15 September 2020
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Yes	

SUMMARY

Iluka library hours are changing from Monday, Wednesday and Friday to consecutive days, Wednesday, Thursday and Friday and the lunchtime closure is changing from 1:00 – 2:00pm to 12:30 – 1:30pm.

OFFICER RECOMMENDATION

That Council note the new Iluka library hours:

- Wednesday, Thursday and Friday
- With lunchtime closure 12:30 – 1:30pm
- To commence from 1 October 2020

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

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**Current open days:**

Monday, Wednesday and Fridays

Issues with this current spread of hours from a community perspective include the following:

- Mondays are generally quieter than later in the week - many community members have community activities later in the week and claim they prefer to visit the library while they are out, so opening Wednesday, Thursday and Friday would benefit the community.
- Library users who are working on local history, ancestry or other projects claim they find it disruptive, that the library is not open on consecutive days, so they must work one day then skip a day to continue.
- People using public computers to do TAFE, online courses, boat licences and other online tests, booking flights, concert tickets etc. claim it's frustrating; that they must wait for two days to continue if they can't finish that day. People say they don't want to drive to another library, they feel it will be more helpful planning to start these activities on Wednesday, knowing they have three consecutive days to achieve their goals.
- School children visit on Fridays and later in the week to collect resources and books relevant to school projects which need to be completed over the weekend; opening on a Thursday would benefit them, as they have two consecutive days open before the week end.
 - Since they visit the library later in the week, opening on a Thursday would also offer an opportunity to host events and homework help suited to school children.

- Community members frequently comment on how hard it is for them to remember which day the library is open and claim it would be easier to remember if the library was open on consecutive days.
- Iluka is a holiday destination so we get visitors using the library who tend to arrive at the end of the week, opening on a Thursday would benefit these customers.

Issues from the current spread of hours from an operational point include the following:

- Currently book and themed displays must be set up in the foyer every morning and then packed up each afternoon. If we open on Wednesday, Thursday and Friday; this only needs to be set up on Wednesday morning and taken down on Friday afternoon, reducing time and effort by two thirds. Displays change weekly, so this is efficient workflow.
- Quality and complexity of displays can be more engaging for customers as they do not need to be portable if they do not need to be removed daily.
- Library events and programs such as knitting, book club, crafters, chess club, and other events are on Wednesdays and Fridays, making the second half of the week busier and would benefit customers, if the library was open on Thursday rather than Monday.
 - Above events need to be set up in the shared and group room which involve moving tables and furniture. If we are open Wednesday, Thursday and Friday; the furniture only needs to be set up once on Wednesday and it can stay that way until Friday.
- Courier service does not deliver to Iluka on Mondays. Opening Wednesday, Thursday and Friday means borrowers can collect their reservations when they arrive.

Opening on consecutive days is more efficient to operational workflow and productivity as there is continuity when working on consecutive days.

In order to assess the validity of the anecdotal evidence from the community the library team had obtained over time, a *Community Engagement Plan* was prepared in which it was recommended that a survey be prepared for the community to indicate their preference for opening hours.

Current lunchtime closures:

Iluka lunchtimes have been from 1:00 – 2:00pm.

Lunchtime closure for Maclean and Yamba libraries is from 12:30 – 1:30pm.

KEY ISSUES

Clarence Regional Library Strategic Plan states:

1.1.2 Review the spread of library opening hours to address community and professional development needs outcomes:

- *Public access maintained or enhanced.*

The responsibility for this strategic item is identified as each Local Government area in the *Clarence Regional Library Agreement*.

The change of opening days offers a continuous and consecutive community service and workflow.

The lunchtime closure change will match up with Maclean and Yamba libraries providing consistency of service times across the Yaegl Country Libraries. Consistent lunch periods will also help community to remember closure times.

The 12:30 -1:30pm time straddles the common lunchtime period of between 12:00 and 2:00 ensuring a larger portion of the population wanting to access the library in their lunch hour can do so at least for a portion of their time.

With the same lunch closures the Yaegl Country Libraries will be able to better connect with each other during their opening hours.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

N/A

Consultation

A *Community Engagement Plan* was developed that recommended a community survey be undertaken to determine the community's wishes regarding the proposed changes. The *Iluka library hours survey* was conducted through Council's *Clarence Conversations* (3) and also in hardcopy format (115), a total of 118 surveys were completed during the period it was open (19 July – 17 August 2020). From the survey results it was clear the overwhelming majority approved of the move to consecutive days with only 4 participants indicating no to the change.

The Survey had only 4 questions:

1. What is your age?
2. Which days do you usually visit Iluka Library?
3. The library is considering changing its Monday opening to Thursday, is this ok?
4. Would you like to see the library open consecutive days?

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Kathryn Breward, Regional Librarian
Attachment	Survey result

CONFIDENTIAL BUSINESS – Nil**LATE ITEMS OF BUSINESS** – Nil**CLOSE OF COMMITTEE MEETING**

There being no further business the Environment, Planning & Community Committee closed at 4.55 pm.

c. CORPORATE GOVERNANCE AND WORKS COMMITTEE

MINUTES of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 15 September 2020, commencing at 2.00 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

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

PRESENT

Cr Karen Toms (Chair), Cr Peter Ellem, Cr Jim Simmons, Cr Arthur Lysaught, Cr Jason Kingsley

Cr Andrew Baker, Cr Greg Clancy, Cr Richie Williamson, Cr Debrah Novak, Mr Ashley Lindsay (General Manager), Ms Laura Black (Director – Corporate & Governance), Mr Des Schroder (Director – Environment, Planning & Community) and Mr Jamie Fleeting (Director – Works & Civil) were in attendance.

APOLOGIES - Nil

DISCLOSURE AND DECLARATIONS OF INTEREST - Nil

ITEM 6c.20.138 ENDLESS CREEK ROAD - S138 APPLICATION FEE WAIVER

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

Council has received a request from a property owner to undertake maintenance work on part of Endless Creek Road, Chambigne that is not maintained by Council. An application to undertake work within a road reserve (S138 of the NSW Roads Act 1993) would typically attract a fee. It is recommended that this fee be waived in this instance to allow the property owner to undertake the work at their expense.

OFFICER RECOMMENDATION

That Council waive the application fee of \$135 for a permit to undertake work within a road reserve for the purpose of maintaining Endless Creek Road to the south of Councils road maintenance limit.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

Endless Creek Road, Chambigne is an unsealed Council Public Road that extends south from Old Glen Innes Road. The first 600m of this road is maintained by Council, beyond which Council does not undertake any road maintenance work.

The unmaintained road serves as access to a number of rural properties including a number of lots that are part of the Shannon Creek Dam land holding. Most of these lots are either part of larger land holdings or have alternative access from other roads, or a Right of Carriageway from which they benefit. As such this road is infrequently used.

Council has received a request from a property owner to undertake maintenance work on part of Endless Creek Road that is not maintained by Council. The request is to grant the property owner permission to maintain the road at their cost and waive the application fee for this.

Typically permission for this sort of work would be granted under S138 of the NSW Roads Act 1993, the adopted fee for this work \$135.

KEY ISSUES

In this instance, it is recommended to waive the application fee. This is due to:

- The road reserve is under Councils care and control and therefore Council holds some liability for it
- The works will improve access to Council owned properties.
- The cost to the community for waiving the fee is considered low.

COUNCIL IMPLICATIONS**Budget/Financial**

The proposed fee waiver will forgo \$135 in revenue. This will not have a meaningful impact on our existing operational budgets.

Asset Management

The unmaintained part of the road is Council land, but is not maintained by Council.

Policy or Regulation

Section 138 of the Roads Act 1993

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services
Attachment	Nil

ITEM 6c.20.139 WATER CONNECTION FEE - PROPERTY 110751

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

This report considers how the Sewer and Water Capital Contribution Credits for Properties not Paying availability charges as at 28 June 2005 Policy is to be applied to properties which could not be charged an availability charge under the Local Government Act as at 28 June 2005. It is recommended the policy be amended to clarify how the policy applies in this instance. As the purchaser of Property 110751 followed the procedure in the Planning Certificate but, due to a corporate system upgrade, Council staff were unable to provide advice on the applicable water connection fee for the property, which denied them an opportunity to negotiate the connection cost in the sale price of the property, it is recommended that the applicable water connection fee (2020/21) be \$1433.

OFFICER RECOMMENDATION

That:

1. The Sewer and Water Capital Contribution Credits for Properties not Paying availability charges as at 28 June 2005 Policy be amended to recognise that properties which as at 30 June 2005 could not be charged a sewer and/or water availability charge under the Local Government Act are considered to have a contribution "credit".
2. As the purchaser of Property 110751 followed the Planning Certificate advice regarding enquiring with Water Cycle administration about the applicable connection fee but, due to system unavailability the requested advice was unable to be provided, the applicable water connection fee (2020/21) be \$1433.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Simmons

Against: Toms

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 *Sewer and Water Capital Contribution Credits for Properties not Paying availability charges as at 28 June 2005* ("the policy") was last adopted by Council at its meeting of 23 July 2019 (Resolution 6c.19.026). The policy outlines how Council charges water and sewer connection fees, and provides that each property which was paying a sewer and/or water availability charge as at 28 June 2005 is considered to have one existing "credit" for sewer and/or water connections. Properties which were not paying sewer and/or water availability charges as at 28 June 2005 do not receive any credit. An issue with interpreting the policy arises for properties where Council cannot charge availability charges under the Local Government Act. When the draft policy was first put to Council (Report 13.180/11 to the 20 September 2011 meeting), the report indicated that the higher connection fee applied when a property "was not paying a sewer and/or water charge". The Executive previously resolved at its meeting of 18 October 2017 that when interpreting the policy for properties where Council was legally unable to charge an availability charge, the policy intent as outlined in the Council report be followed and that these properties be considered to have a capital credit.

The Planning (and Section 603) certificates indicate that purchasers should contact Water Cycle administration to determine the appropriate connection fee if a property is a vacant lot, or is charged a water vacant and/or sewer vacant charge.

KEY ISSUES

For clarity, it is recommended that the policy be amended to recognise that properties which could not legally be charged an availability charge as at 30 June 2005 be considered to have a contribution "credit".

Property 110751 is a former church and could not therefore be charged for sewer or water availability. Planning Certificate 2020/1182 was issued for property 110751 on 17 June 2020. In accordance with the advice on the Certificate a prospective property owner contacted Water Cycle administration on 25 June 2020 to enquire about the water connection cost. Given the Executive resolution on interpretation of the policy and that Council staff were aware the property was previously a church, the property owner was advised further investigation would need to be undertaken to determine whether the property status had changed to "rateable".

Due to a corporate systems upgrade the corporate systems were unavailable. The investigation could not be completed and the advice provided until the upgraded corporate systems were restored one week later on 2 July 2020. Following the initial advice to the prospective purchaser that unfortunately Council would be unable to provide a response for one week, the prospective purchaser proceeded to purchase the property.

The investigation determined the property had changed ratings status to "rateable", and therefore that the higher water connection fee would apply. The property owner has requested that as they followed the procedure recommended in the Planning Certificate but Council were unable to provide advice on the appropriate water connection fee for a week, the lower water connection fee apply for the property. Without the advice from Council regarding the water connection fee they indicate they were unable to negotiate with the previous owner for a discount to recognise the higher water connection fee.

If Council staff incorrectly advised the prospective purchaser a higher water connection fee was applicable and they successfully negotiated a lower sale price on that basis, it potentially made Council liable for compensation to the previous owner from what may be considered negligent advice. The property owner's request that the reduced water connection fee apply in this instance is considered reasonable and is supported on the ethical basis that they followed the recommendation in the Planning Certificate by making the appropriate enquiries with Water Cycle administration and that the inability to provide advice due to the corporate system upgrade denied them any opportunity to negotiate the water connection fee with the owner.

COUNCIL IMPLICATIONS

Budget/Financial

The connection fee for a property without capital "credit" is \$6,312. Were Council to agree with the recommendation the lower connection fee of \$1,433 will apply for this property.

Asset Management

Nil

Policy or Regulation

Sewer and Water Capital Contribution Credits for Properties not Paying availability charges as at 28 June 2005 Policy

Consultation

Nil

Legal and Risk Management

Due to the specific circumstances regarding this enquiry being made at the start of a relatively lengthy system outage, this is considered a unique request and is not considered to set any precedent.

Climate Change

N/A

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Nil

ITEM 6c.20.140 WATER EFFICIENCY STRATEGIC PLAN - UPDATED

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Yes	

SUMMARY

A draft Water Efficiency Strategic Plan (WESP) and Water Efficiency Implementation Plan (WEIP) was placed on public exhibition from Wednesday June 24 2020 to Wednesday July 22 2020. Two submissions were received during the exhibition period. It is recommended that the draft WESP be adopted.

OFFICER RECOMMENDATION

That the Water Efficiency Strategic Plan (WESP) 2020 be adopted.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

The purpose of the WESP (and WEIP) is to implement ongoing water efficiency measures in both Clarence Valley and Coffs Harbour City Councils in order to minimise the impacts of urban water extraction on the ecology of the river system. This is a requirement of the water licence for Shannon Creek Dam.

The WESP provides an overall framework and identifies a range of possible water efficiency actions. The WEIP sets out specific tasks in more detail and provides direction on the allocation of responsibilities, time and resources to manage and complete the actions in the plans. The WEIP is a working/operational document that may be reviewed and updated on an annual basis by the Water Efficiency Working Group (as directed in the documents), and so is not adopted by Council resolution.

The WESP was first developed in 1997 with extensive community consultation and adopted in 1998. In 2007 and 2013 the WESP was revised and adopted by both Clarence Valley and Coffs Harbour City Councils, and the same process is being followed for the 2020 WESP.

KEY ISSUES

There are no foreseeable issues with the strategy or its implementation.

Although two submissions were received, no amendments to the WESP were required. The submissions included support for the WESP and WEIP, various queries and a number of concerns regarding issues not relevant to the WESP. Both submissions have been carefully considered and comprehensive responses prepared.

COUNCIL IMPLICATIONS**Budget/Financial**

The update of the WESP and WEIP was included in the 2019/20 water efficiency budget. WESP implementation will be included in the annual budget allocation for the water efficiency program.

Asset Management

One of the benefits of an effective water efficiency program is a delay in the need for new infrastructure and enlargement of Shannon Creek Dam due to reduced water demand.

Policy or Regulation

The Water Efficiency Rebate Policy will be subject to review upon adoption of the new WESP.

Consultation

Exhibition of the draft WESP and WEIP were advertised in the Council notices and water newsletter and copies were available at Council's Maclean and Grafton offices. Information and links to the document were also provided via Council's website, Clarence Conversations and on social media.

Legal and Risk Management

The WESP and WEIP (and their periodic review) are required in order to satisfy the licence conditions for the operation of Shannon Creek Dam.

Climate Change

Maximising water efficiency will help secure our water supply and ensure our preparedness for increasingly variable rainfall in the face of climate change.

Prepared by	Christopher Hellyer
Attachment	A: Water Efficiency Strategic Plan. B: Summary of WESP 2020 Submissions and Responses

ITEM 6c.20.141 CLARENCE AND LOWER CLARENCE SPORTS COMMITTEES

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Yes	

SUMMARY

This report provides a copy of the minutes of the meetings and recommendations from the Clarence and Lower Clarence Sports Committees for Council's information.

OFFICER RECOMMENDATION

That Council

1. Receive and note the Minutes from 10 August 2020 Clarence Sports Committee and Lower Clarence Sports Committee meetings.
2. Endorse the recommendation to appoint Grafton Touch Association as a member of the Clarence Sports Committee.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

Two Sports Committees operate within the Clarence Valley, the Clarence Sports Committee and the Lower Clarence Sports Committee. The Clarence Sports Committee met in Grafton Chambers at 4:30pm and the Lower Clarence Sports Committee met 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 that were held on Monday 10 August 2020.

KEY ISSUESSummary of General Business – Clarence Sports Committee

- Sports awards – report for the sub-committee
- Grant funding – update from Council
- Application for membership on Clarence Sports Committee – Grafton Touch Association
- Sports Committee funded projects – update from delegates
- 2020/21 Sports Committee Funding – Round 1
- Sports Committee Stimulus Funding
- COVID-19 Safety Plans
- Grant funding - NSW Government applications
- Combined Sports Committee meeting
- General Business and updates from sporting delegates

Summary of General Business – Lower Clarence Sports Committee

- Sports awards – report for the sub-committee
- Grant funding – update from Council
- Sports Committee funded projects – update from delegates
- 2020/21 Sports Committee Funding – Round 1
- Sports Committee Stimulus Funding
- COVID-19 Safety Plans
- Combined Sports Committee meeting
- 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 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.

Sports Committee Membership

Membership is available to the Sports Committees for all sports, as stated in their adopted Constitutions. The Clarence Sports Committee received one application for membership at the meeting held on Monday 10 August 2020. The committee recommended that Grafton Touch Association be accepted as a member of the Clarence Sports Committee.

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. The 2020-21 Sports Committee Funding (Round 1) applications opened on Monday 10 August 2020 and close on Sunday 1 November 2020.

Asset Management

Ongoing maintenance is required at many of Council's sporting facilities, however applications for funding through the sports committee must be made by the individual sports.

Policy or Regulation

- Sports Committees (Clarence and Lower) are committees of Council being appointed under s.355 of the Local Government Act 1993
- Asset Management Policy V 3.0
- Clarence Valley Sports Facilities Plan – November 2011
- Clarence Sports Committee Constitution
- Lower Clarence Sports Committee Constitution
- Guidelines for Funding

Consultation

Consultation occurred with delegates at the Clarence Sports Committee and Lower Clarence Sports Committee meetings on Monday 10 August 2020.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Gavin Beveridge, Parks and Recreation Officer
Attachment	Minutes – Clarence Sports Committee Meeting – 10 August 2020 Minutes – Lower Clarence Sports Committee Meeting – 10 August 2020

ITEM	6c.20.142	SUBMISSION TO THE ANNUAL NSW LOCAL GOVERNMENT CONFERENCE 2020	
Meeting	Corporate, Governance & Works Committee	15 September 2020	
Directorate	Corporate & Governance		
Reviewed by	General Manager - Ashley Lindsay		
Attachment	Yes		

SUMMARY

The Annual NSW Local Government Conference will be held online on Monday 23 November 2020.

The LGNSW Annual Conference is the pre-eminent policy making event for the local government sector, allowing councils to unite and use their collective voice to highlight the issues that matter most to communities, and direct action where it is needed.

This report presents a recommendation of the Audit Committee that Council submit a motion to the Conference relating to NSW Rural Fire Service assets. Motions must be submitted by Monday 28 September 2020.

OFFICER RECOMMENDATION

That Council support the Audit Committee's recommendation to make a submission to the 2020 NSW Local Government Conference requesting Local Government NSW to lobby the Office of Local Government to progress discussions to develop a plan for removal of all Rural Fire Service (RFS) assets from council asset registers before 30 June 2022, at no financial impediment to local government, by submitting the attached motion paper.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

Local Government NSW (LGNSW) has been advocating to the NSW Audit Office and the Office of Local Government for RFS assets to be recorded against state agency asset registers, as LGNSW believes those agencies have effective control of the assets.

The NSW Auditor-General in her report on the local government 2016/17 financial audit recommended that "the Office of Local Government should address the different practices across the local government sector in accounting for rural firefighting equipment before 30 June 2018. In doing so the Office of Local Government should work with NSW Treasury to ensure there is a whole-of-government approach".

KEY ISSUES

At the Audit Committee meeting held 29 July 2020, draft minutes attached.

Clarence Valley Council maintains NSW RFS assets valued at \$10.1M on its registers. The assets are not under the care and control of Council. The rate of depreciation of these assets is approximately \$100,000 annually.

Each year the Auditor (TNR) request a schedule of all RFS assets, which if provided to us by the RFS is reported as an unadjusted value as part of our annual audited statements.

The proposed motion does not conflict with the existing Fundamental Principles of the Conference:

Economic

- A. Local government must have control of its revenue raising and investment decisions and be fairly funded by the Commonwealth and State/NSW Governments to meet its infrastructure and service responsibilities.
- B. Local government promotes local and regional economic development and employment growth.

Infrastructure

- C. Local government is best placed to plan for, deliver and manage essential local infrastructure.

Planning

- D. Local government is best placed to lead and influence local and regional planning processes according to the needs and expectations of local communities.
- E. Our communities' quality of life is a priority of local government planning.

Environment

- F. Local government actions reflect Ecologically Sustainable Development (ESD). ESD requires the effective integration of economic, environmental and social considerations in decision making processes and is based on the following principles:
 - Intergenerational equity – today's actions maintain or enhance the environment for future generations
 - Precautionary principle – prevent environmental degradation and manage and mitigate risk
 - Conservation of biological diversity and ecological integrity
 - Improved valuation and pricing of environmental resources – recognising the value of the environment to the community.

Social and Community

- G. Local government is committed to the principles of:
 - Equity – fair distribution of resources
 - Rights – equality for all people
 - Access – to services essential to quality of life
 - Participation – of all people in their community
 - Recognition – of the unique place of Aboriginal people in NSW and the right of Aboriginal people to be involved in all decisions affecting Aboriginal communities
 - Health and Safety – for all in the community.

Governance

- H. Local government must be constitutionally recognised and respected as an equal sphere of government.
- I. Local government is democratically elected to shape, serve and support communities.
- J. Local government is committed to the principles of good governance.

Accountability

- K. Local government is responsible and accountable to the citizens and the communities it represents, through consultative processes, legislative accountabilities, efficient delivery of services and effective customer service.
- L. Local government is recognised as a responsible and place-based employer

COUNCIL IMPLICATIONS

Budget/Financial

There is no financial implication of adopting the recommendation of this report. However, should the matter of RFS assets be resolved and ownership and liability transferred from local government, Clarence Valley Council's financial position stands to improve as detailed in the Key Issues of this report.

Asset Management

There is no implication to asset management in adopting the recommendation of this report, however the recommendation seeks to progress removal of RFS assets from Council's responsibility.

Policy or Regulation

N/A

Consultation

The recommendation is one of the Audit Committee to Council.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Laura Black, Director Corporate & Governance
Attachment	A. Motion for submission to the Annual Local Government NSW Conference 2020 B. Draft Audit Committee Minutes 29 July 2020

ITEM	6c.20.143	ACQUISITION OF LAND FOR WATER SUPPLY AT LAWRENCE
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

Council resolved at its meeting of 26 May 2020 to acquire land for the purpose of water supply and to report back to Council the value for information.

OFFICER RECOMMENDATION

That:

1. Council proceed with the compulsory acquisition of the land described as part Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire part Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land is to be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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 Council's meeting of 26 May 2020, it was resolved to acquire Lot 2 DP 567494. At the time it was considered more practical to acquire the whole of the lot as it would involve a straight sale of land and would provide land for future use if required. Further investigation has been undertaken and it is now considered more appropriate to acquire part of the Lot surrounding the reservoir as shown in Figure 1.

As Council previously resolved to acquire the whole of the lot a new resolution is required to now acquire part of the Lot.

KEY ISSUES

Council initially considered acquiring the whole of the Lot as it was considered a straight sale of land would be preferable and would provide land for future use if required. However, the independent valuation obtained for the whole of Lot 2 was higher than expected. As such a review was undertaken and it is proposed to acquire only the land acquired for the construction of the new reservoir.

Council approached School Infrastructure NSW to proceed with the acquisition via a section 30 agreement, which would allow us to agree to the value to be paid in accordance with the *Land Acquisition (Just Terms*

Compensation) Act 1991. They have declined the section 30 agreement proposal, however will proceed based on Council following the processes for compulsory acquisition.

Council obtained two valuation reports, one for the whole of Lot 2 and one for part of Lot 2 and these are included as confidential attachments.

In accordance with the compulsory acquisition process, these values are only a guide and the final valuation will be determined by the Valuer Generals department.

In accordance with the *Local Government Act 1993* the proposal to classify the acquired section of land as operational will be advertised for public comment.



Figure 1 – part of Lot 2 DP 567494 proposed to be acquired for water supply purposes.

COUNCIL IMPLICATIONS

Budget/Financial

Acquisition and legal costs will be expended from the Water Fund PJ902037. The value of the land will not be known until the Valuer General issues their valuation report but should be similar to the independent value obtained for the part of the land to be acquired.

Asset Management

The land when acquired will be added to Council’s Water Cycle Assets register and be included in future management and maintenance.

Policy or Regulation

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Consultation

Consultation has been undertaken with our legal representative, Local Government Legal, and Council’s Water Cycle section.

Legal and Risk Management

Local Government Legal have been engaged to provide preliminary advice and to process the acquisition in conjunction with Council staff. There are no Native Title or land claim implications with the land.

Climate Change

N/A

Prepared by	Kylee Baker, Property Coordinator
Confidential	A – Valuation whole lot 2 B – Valuation part lot 2

ITEM	6c.20.144	2020/21 MONTHLY FINANCIAL REPORT – AUGUST 2020
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginness)	
Attachment	Yes	

SUMMARY

The purpose of this report is to provide financial data at the end of each month for actual income and expenditure, for all Funds and provide advance notice of potential budget variations.

This report is submitted to Council in addition to the statutory reporting requirements of the Quarterly Budget Review Statements.

Budget variations identified in this report impact the General Fund end of year result by \$142,493.

The reserve fund variations identified in this report will decrease the reserve funds by \$250,315.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the monthly financial information report for August 2020, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling \$142,493 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.
3. Endorse the proposed variations, which decrease Financial Reserves by \$250,315 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.

COMMITTEE RECOMMENDATION

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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 2020/21 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 identified since the adoption of the Original Budget in June 2020, during month of August 2020.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
344	Service – Waste Services Sub-Service – Waste and Sustainability <ul style="list-style-type: none"> Allocate North East Waste Group 2020/21 Budget \$941,950 funded from RA 31171 – CL – North East Waste (New) Group 	\$Nil	\$230,315	N/A
395	Service – Floodplain & Estuary Management Sub-Service – Floodplain Infrastructure & Operation <ul style="list-style-type: none"> New Project to track expenditure on power consumption. Based on estimated 19/20 expenditure Allocate OEH Grant - Lower Clarence Rural Flood Plain Management Program \$133,000 and CVC Contribution \$67,000 Allocate OEH Grant Alice Street Rehabilitation - investigation & design \$63,333 and CVC Contribution \$31,667 Allocate OEH Grant Woolli Flood Study & Management Plan \$40,000 and CVC Contribution \$20,000 	\$7,426 \$67,000 \$31,667 \$20,000	\$Nil \$Nil \$Nil \$Nil	N/A 15.063/19 N/A 15.063/19
420	Service – Library Services Sub-Service – Regional Library Services <ul style="list-style-type: none"> Fund COVID related purchases including Collection Marketing display shelving, camera equipment for online events, tension barriers and sneeze screens for COVID safe library spaces to be funded from RA 41125 - ER - Regional Library Accumulated Surplus Reserve 	\$Nil	\$20,000	N/A
421	Service – Library Services Sub-Service – Public Library Services <ul style="list-style-type: none"> Fund Upgrade Grafton Public Library security camera system 	\$16,400	\$Nil	N/A
	TOTAL Proposed General Fund / Reserve Balance Impact	\$142,493	\$250,315	

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.

The Quarterly Budget Review Statements, and subsequently the monthly financial income and expenditure statements, are presented in a new structure following the review of the Financial Chart to meet the needs of the Enterprise Asset Management System and Works Program currently being implemented and to better meet the direction that the organisation is taking in relation to the delivery of the Integrated Planning and Reporting Framework, and specifically the Operational Plan from 2021/2022.

COUNCIL IMPLICATIONS

Budget/Financial

General Fund Budget (Surplus)/Deficit

Original Budget Adopted by Council June 2020	(\$335,373)	Surplus
Q1 Proposed Budget Variations – July	\$189,750	Deficit
Q1 Proposed Budget Variations – August	\$142,493	Deficit
Proposed Movement of General Fund 2020/21 Budget Result August 2020	(\$3,130)	Surplus

Proposed Impact on External and Internal Financial Reserve Funds Result

Reserve Movements

Original Budget Adopted by Council June 2020	\$3,679,256	Decrease
Q1 Proposed Budget Variations - July	(\$43,963)	Increase
Q1 Proposed Budget Variations - August	\$250,315	Decrease
Proposed Movement of Reserve Funds 2020/21 Budget Result August 2020	\$3,885,608	Decrease

Asset Management

N/A

Policy or Regulation

Section 202 of the *Local Government (General) Regulation*

Consultation

This report has been prepared after consultation with the Management Accounting Team.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Christi Brown, Management Accountant Coordinator
Attachment	Income and Expenditure Statements by Service & Sub Service

ITEM	6c.20.145	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

This report updates Councillors on actions taken to implement resolutions of previous Council meetings.

OFFICER RECOMMENDATION

That the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete be removed from the checklist.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

A formal monthly report is required for each Council meeting to include the full checklist from the previous month and any outstanding actions from earlier meetings.

KEY ISSUES

A checklist is issued to Managers and relevant staff after each Council meeting to enable them to provide comments on the status of resolutions adopted by Council.

The attached checklist contains actions taken on all Council resolutions from the previous 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 S355 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	Checklist

ITEM	6c.20.146	POLICY REVIEW – RELATED PARTY DISCLOSURES AND CODE OF CONDUCT
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

A review of the Related Party Disclosures Policy has been undertaken with no changes recommended and the Code of Conduct is also presented following amendments by the Office of Local Government.

OFFICER RECOMMENDATION

That

1. The Related Party Disclosures Policy V4 be adopted as having been reviewed with no changes being made.
2. The Code of Conduct V8 be adopted as per advice from the Office of Local Government.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That

1. The Related Party Disclosures Policy V4 be adopted as having been reviewed with no changes being made.
2. The Code of Conduct V8 be adopted without the increase to the gifts and benefits provisions.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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**Related Party Disclosures Policy**

The Australian Accounting Standards Board (AASB) in AASB 124 Related Party Disclosures determined that from 1 July 2016, Council is required to disclose Related Party Relationships and Key Management Personnel (KMP) compensation in its annual financial statements.

The purpose of the attached Related Party Disclosures Policy is to define who are KMP, the parameters for Related Party Relationships and the level of disclosure and reporting required for Council to comply with AASB 124.

Code of Conduct

On 14 August 2020 the Office of Local Government released a Circular to Councils 20/32 on Amendments to the Model Code of Conduct for Local Councils in NSW and Procedures. The Circular advised the following points:

- The new Model Code of Conduct and Procedures take effect immediately. This is because the amendments to the Procedures largely reflect existing practice following the Supreme Court's decision and the amendments to the Model Code of Conduct are minor in nature.
- Councils should adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures as soon as possible.

- Councils' complaints coordinators should bring this circular to the attention of their Council's conduct reviewers. Complaints coordinators should also inform conduct reviewers when the Council has adopted a new code of conduct and procedures and provide copies.

KEY ISSUES

Related Party Disclosures Policy

The Policy states that it will be reviewed annually or when any of the following occur:

- a) the related legislation/documents are amended or replaced;
- b) other circumstances as determined from time to time by a resolution of Council; and
- c) as a result of changes to the OLG Local Government Code of Accounting Practice and Financial Reporting.

Council has conducted its annual review and there are no changes arising from the points mentioned above.

Code of Conduct

The Model Code of Conduct has been amended to:

- Remove as a breach, failure to comply with a Council resolution requiring action in relation to a code of conduct breach (because it is now redundant).
- Update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards.
- Include in the definition of Council committee and Council committee members, members of audit, risk and improvement committees (ARICs) in anticipation of the commencement of the requirement for all Councils to appoint an ARIC following the next local government elections.

Amendments have also been made to the gifts and benefits provisions of the Model Code of Conduct in response to feedback from some Councils. The amendments:

- lift the \$50 cap on the value of gifts that may be accepted to \$100
- clarify that items with a value of \$10 or less are not "gifts or benefits" for the purposes of the Model Code of Conduct and do not need to be disclosed
- clarify that benefits and facilities provided by Councils (as opposed to third parties) to staff and Councillors are not "gifts or benefits" for the purposes of the Model Code of Conduct, and
- remove the cap on the value of meals and refreshments that may be accepted by Council officials in conjunction with the performance of their official duties.

Councils are not obliged to amend their codes of conduct to lift the cap on the value of gifts that may be accepted if they do not wish to. It is open to Councils to retain the existing \$50 cap or to impose another cap that is lower than \$100.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

- Australian Accounting Standards Board - AASB 124 Related Party Disclosures
- Code of Accounting Practice and Financial Reporting
- Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW
- Local Government (General) Regulation 2005

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	OLG Circular 20/32
To be tabled	Code of Conduct V8

ITEM 6c.20.147 MONTHLY INVESTMENT REPORT – AUGUST 2020

Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginness)	
Attachment	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 31 August 2020 be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Toms, Simmons

Against: Ellem

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

This report has been completed in accordance with the *Local Government Act 1993*, Part 9, Division 5, Clause 212 of the *Local Government (General) Regulation 2005*, and Council's Investment Policy, which requires a monthly report to Council. The report is to include the source and amount of funds invested, terms of performance, and a statement of compliance in relation to the *Local Government Act 1993*.

KEY ISSUES**Source of Funds Invested**

The funds invested are funds held under internal and external restrictions. External Restricted Funds are primarily from Sewer & Water, Granting Bodies and Developer Contributions. Internal restrictions are primarily sourced from General Revenue Funding and Unspent Loans.

Based on the audited 30 June 2019 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	5.94%	Plant Equipment Reserve	9.88%
Water Supply Funds	22.85%	Regional Landfill Reserves	5.23%
Developer Contributions	16.35%	Fin. Assist Grants paid in advance	4.63%
Unexpended Grants	5.84%	Waste Mngmt / Commercial Waste	4.03%
Domestic Waste Management	0.88%	Infrastructure Assets Renewals	3.09%
Holiday Parks	2.24%	Clarence Care & Support	2.78%
Deposits, Retentions and Bonds	1.51%	Employee Leave Entitlements	2.64%
Other External	1.75%	Roads & Quarries Reserves	2.29%
		Strategic Building Reserve	1.13%

57.36%	Building Asset Renewals	0.92%
	Other (refer attachment for further detail)	6.02%
		42.64%
	Total External & Internal Reserves	100.00%

Portfolio Credit Limits

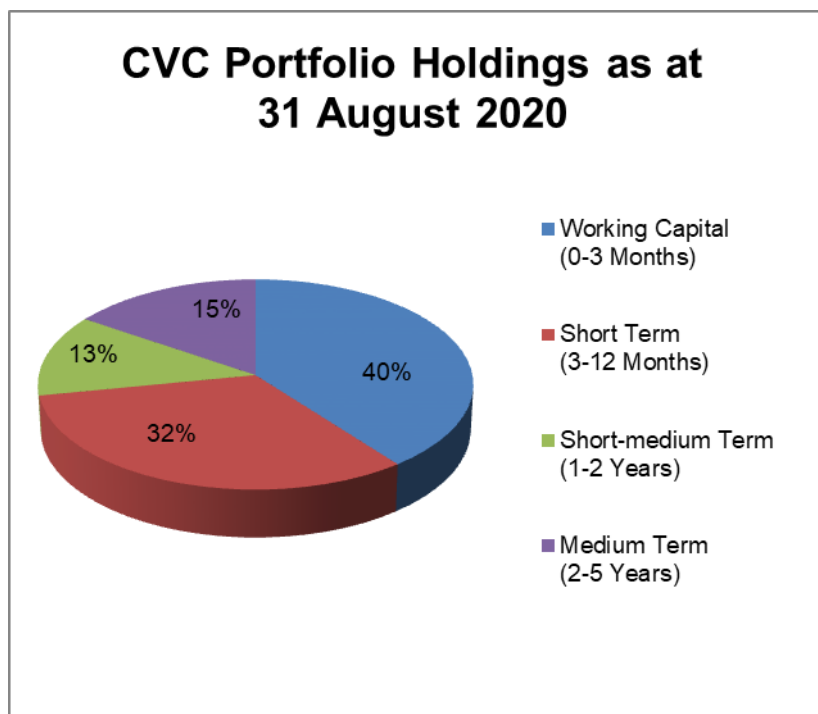
Tabled below is a summary of Council's investments as at 31 August 2020 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 August 2020				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,989,312	3.93%	Yes
AA	100.00%	36,019,899	28.40%	Yes
A	60.00%	37,250,000	29.37%	Yes
BBB	50.00%	48,587,632	38.30%	Yes
TOTAL INVESTMENTS		126,846,843	100.00%	

Note, a permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the *Financial Claims Scheme* and hence receives a rating of AAA.

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 August 2020. Excluding "at-call" working capital, 39.59% of Council's investments are maturing within the next twelve months.



Individual Institution or Counterparty Limits

Tabled below is a summary of Council's investments as at 31 August 2020 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 31 August 2020					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	8,000,000	6.31%	Yes
ANZ*	AA-	30.00%	2,041,620	1.61%	Yes
BoQ	BBB+	15.00%	18,000,000	14.19%	Yes
CBA*	AA-	30.00%	2,039,750	1.61%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.58%	Yes
Defence	BBB	15.00%	8,000,000	6.31%	Yes
ING Direct	A	15.00%	18,000,000	14.19%	Yes
Macquarie	A	15.00%	11,000,000	8.67%	Yes
ME Bank	BBB	15.00%	4,000,000	3.15%	Yes
NAB	AA-	30.00%	4,000,000	3.15%	Yes
NAB*			1,012,460	0.80%	
P&N	BBB	15.00%	3,000,000	2.37%	Yes
RaboDirect	A+	15.00%	9,000,000	7.10%	Yes
Westpac	AA-	30.00%	7,000,000	5.52%	Yes
Westpac*	AA-		1,539,758	1.21%	
TOTAL TERM DEPOSITS & FRNs*			98,633,588	77.76%	
MANAGED FUNDS					
TCorp	AAA	40.00%	489,312	0.39%	Yes
TOTAL MANAGED FUNDS			489,312	0.39%	
FUNDS AT CALL					
AMP	BBB+	15.00%	7,283,024	5.74%	Yes
AMP	BBB+	15.00%	1,054,608	0.83%	Yes
ANZ	AA-	30.00%	3,782,606	2.98%	Yes
CBA	AA-	30.00%	15,542,527	12.25%	Yes
CBA	AA-	30.00%	61,178	0.05%	Yes
TOTAL FUNDS AT CALL			27,723,943	21.86%	
TOTAL INVESTMENTS			126,846,843	100.00%	

Register of Investments - Clarence Valley Council as at 31 August 2020					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	489,312	0.39%	At-Call	0.60%	AAA
AMP Bank Ltd	7,283,024	5.74%	At-Call	1.05%	BBB+
AMP Bank Ltd	1,054,608	0.83%	At-Call	0.55%	BBB+
ANZ Banking Group Ltd	3,782,606	2.98%	At-Call	0.55%	AA-
Commonwealth Bank of Australia	15,542,912	12.25%	At-Call	0.10%	AA-
Commonwealth Bank of Australia	61,178	0.05%	At-Call	0.20%	AA-
AMP Bank Ltd	2,000,000	1.58%	16/11/2020	1.65%	BBB+
AMP Bank Ltd	2,000,000	1.58%	30/11/2020	1.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Credit Union Australia	2,000,000	1.58%	04/11/2020	1.55%	BBB
Defence Bank	2,000,000	1.58%	20/11/2020	3.00%	BBB
ING	1,000,000	0.79%	10/11/2020	2.92%	A
ING	2,000,000	1.58%	13/11/2020	1.55%	A
Macquarie Bank Ltd	5,000,000	3.94%	03/09/2020	1.70%	A
ME Bank Ltd	2,000,000	1.58%	06/11/2020	1.35%	BBB
National Australia Bank	2,000,000	1.58%	10/09/2020	1.35%	AA-
TOTAL WORKING CAPITAL (0-3 MONTHS)	50,213,640	39.59%		1.08%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	3,000,000	2.37%	05/03/2021	1.45%	BBB+
AMP Bank Ltd	1,000,000	0.79%	31/08/2021	0.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	12/01/2021	3.65%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	04/06/2021	1.15%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	06/07/2021	0.95%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	08/07/2021	0.95%	BBB+
Defence Bank	2,000,000	1.58%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.58%	04/03/2021	1.50%	BBB
Defence Bank	2,000,000	1.58%	09/03/2021	3.00%	BBB
ING	2,000,000	1.58%	03/02/2021	1.65%	A
ING	2,000,000	1.58%	02/03/2021	1.60%	A
Macquarie Bank Ltd	3,000,000	2.37%	16/12/2020	1.65%	A
Macquarie Bank Ltd	3,000,000	2.37%	11/05/2021	1.30%	A
ME Bank Ltd	2,000,000	1.58%	07/05/2021	1.35%	BBB
National Australia Bank	2,000,000	1.58%	11/08/2021	0.85%	AA-
P&N Bank	3,000,000	2.37%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.58%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.58%	05/03/2021	3.00%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	41,000,000	32.32%		2.10%	
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	03/08/2022	3.60%	BBB+
ING	2,000,000	1.58%	29/11/2021	1.55%	A
ING	3,000,000	2.37%	11/02/2022	1.60%	A
ING	2,000,000	1.58%	21/02/2022	1.60%	A
ING	3,000,000	2.37%	21/02/2022	1.60%	A
Westpac Bank	1,000,000	0.79%	16/11/2021	1.30%	AA-
Westpac Bank	2,000,000	1.58%	18/07/2022	1.15%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	16,000,000	12.61%		1.91%	

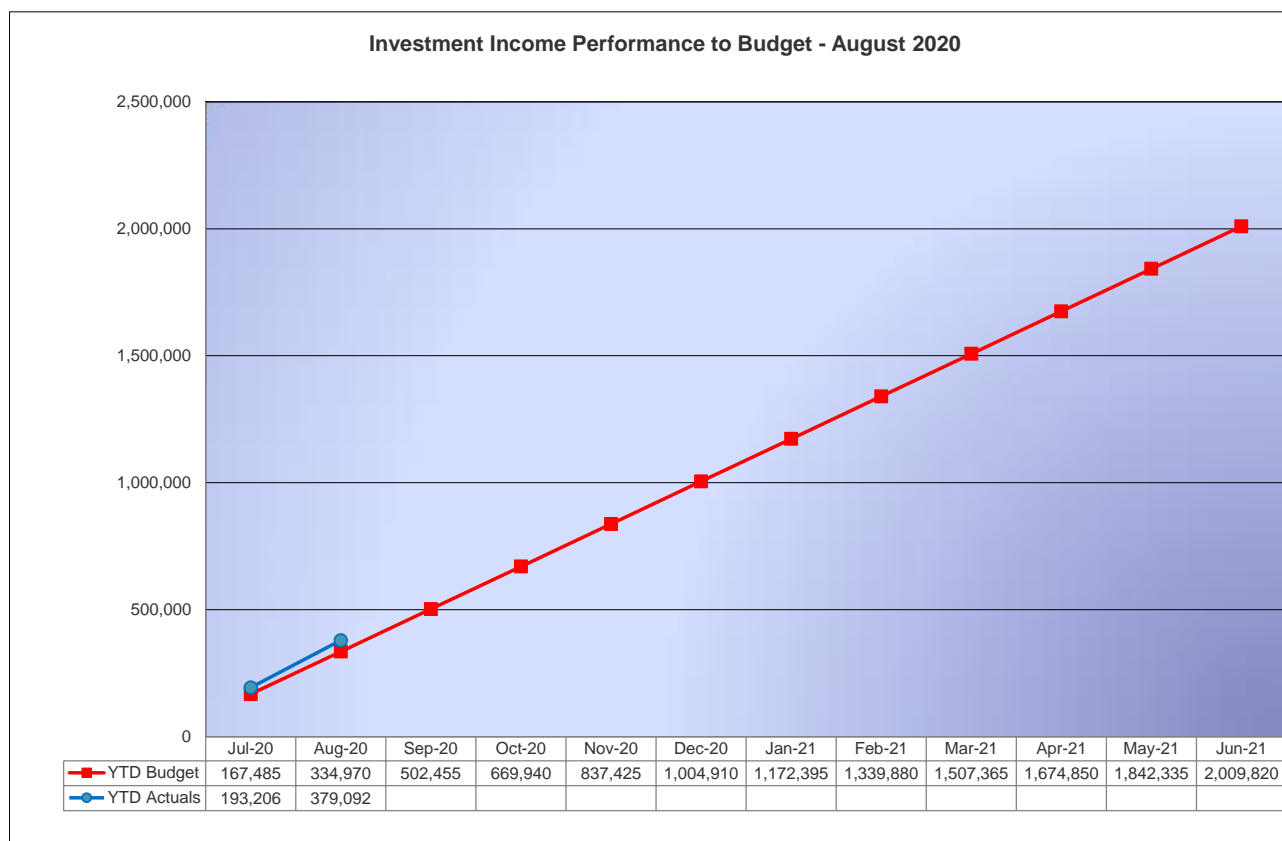
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	2,000,000	1.58%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.79%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.58%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.58%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.58%	13/03/2023	1.02%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,041,620	1.61%	06/12/2023	1.13%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,013,865	0.80%	25/04/2023	0.90%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,025,885	0.81%	11/01/2024	1.24%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,012,460	0.80%	10/02/2023	0.90%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,539,758	1.21%	24/04/2024	1.24%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	19,633,588	15.48%		2.42%	
TOTAL INVESTMENTS	126,847,228	100.00%		1.72%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 31 August 2020			
	Actual	Budget 2020/21	Over/(Under)
This Month			
Cash Deposits & FRNs	\$185,656	\$167,235	\$18,421
Managed Funds	\$230	\$250	(\$20)
	\$185,886	\$167,485	\$18,401
Year to Date			
Cash Deposits & FRNs	\$378,492	\$334,470	\$44,022
Managed Funds	\$600	\$500	\$100
	\$379,092	\$334,970	\$44,122

- Actual results have shown that total interest income to 31 August 2020 is \$0.044M above the 2020-21 YTD budget of \$0.335M.
- As at 31 August 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$128,452.

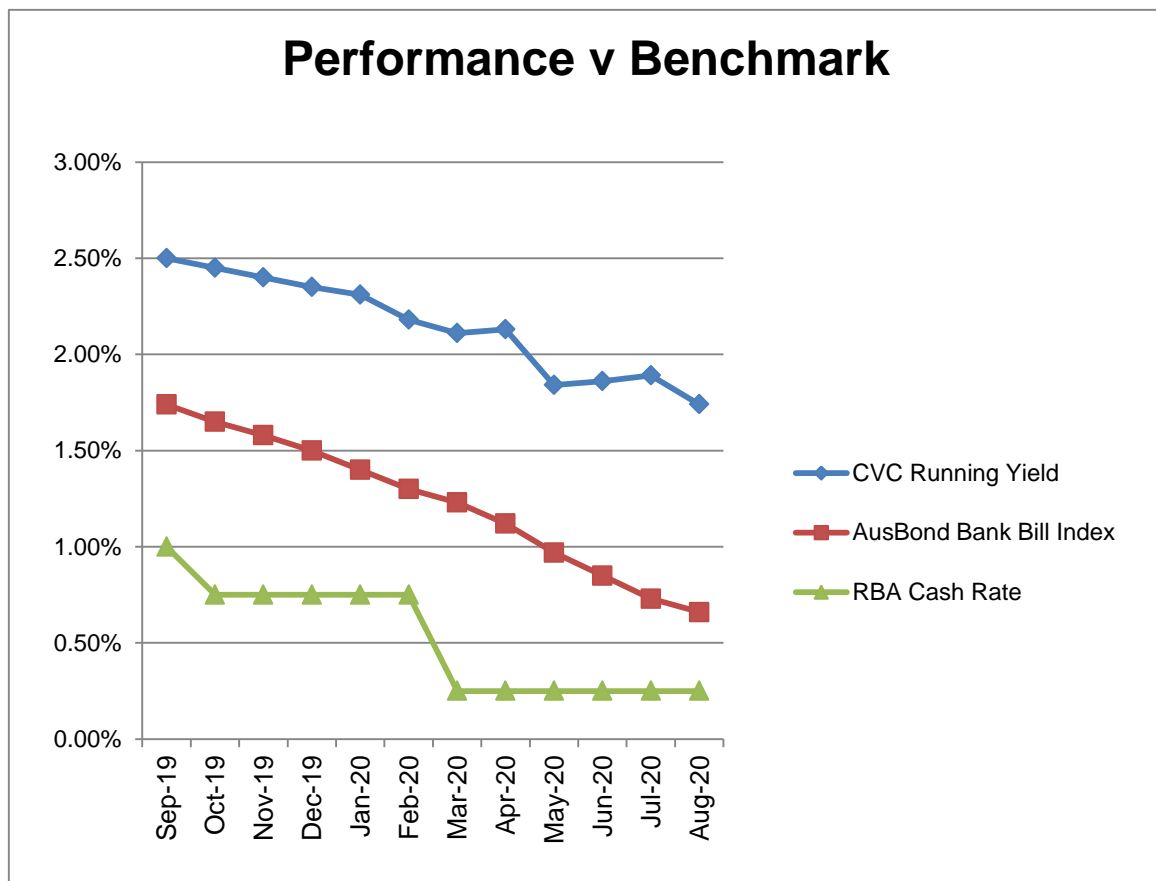


- Running yields* to 31 August 2020 have been:

AMP Business	0.75%
AMP 31 Day Notice	1.05%
ANZ Premium Business	0.55%
CBA General	0.10%
24hr Call Account	0.20%
T-CorpIM Cash Fund	0.60%
Floating Rate Notes	1.10%
Term Deposits	<u>2.16%</u>
Total	1.72%

*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 August was 0.25%. The benchmark AusBond Bank Bill Index was 0.66% for August.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +1.72% (July 1.89%).



The following investments were transacted during August:

- NAB \$2.0m TD matured 11/08/2020, reinvested for 365 days at 0.85% - matures 11/08/2021
- ING \$1.0m TD matured 21/08/2020, redeemed
- AMP \$1.0m TD matured 31/08/2020, reinvested for 365 days at 0.80% - matures 31/08/2021

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

Climate Change

Climate change impact of the current investment portfolio has not been undertaken. Investments are driven by the current Investment Policy.

Prepared by	Michael Salvestro – Financial Accountant
Attachment	Movement of Funds Between Months – August 2020

ITEM	6c.20.148	REGIONAL TOURISM BUSHFIRE RECOVERY GRANT
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Nil	

SUMMARY

This report provides an outline of the successful grant application with the Regional Tourism Bushfire Recovery Grant program operated by the Australian Trade and Investment Commission, a Commonwealth Government Department.

OFFICER RECOMMENDATION

That the report on the Regional Tourism Bushfire Recovery Grant be received and noted.

COMMITTEE RECOMMENDATION

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

On 11 February 2020, the Australian Government announced the Regional Tourism Bushfire Recovery Grants program (RTBR), a \$10 million grants program which has been drawn from the Bushfire Recovery Fund. The program was part of the Government's \$76 million tourism recovery package.

Austrade administers the program, which was developed in consultation with the National Bushfire Recovery Agency.

The program has two funding streams which, together, aim to support events, concerts, festivals and visitor attractions in fire affected regions to assist with recovery efforts and encourage visitors back to the regions.

Stream 2 of the RTBR program was only open to Local Government Authorities and Regional Tourism Organisations operating in Local Government Areas activated by state or territory governments for DRFA assistance during the 2019-20 fire season, which included Clarence Valley Council. The aim of Stream 2 is to support visitor attractions such as art installations and tourist walks, larger events (including the promotion of those events), concerts and festivals. Applicants were strongly encouraged to partner with community and industry groups where relevant.

Austrade have introduced flexibility into the original timelines due to the COVID-19 Pandemic.

The Grafton Jacaranda Festival Inc was approached as a potential project partner and they agreed.

On 8 May 2020 CVC submitted an application for a total of \$182,600 for an art installation project and an event as follows:

Art Installation: Lighting Up Grafton's Jacaranda Trees

This project will see Grafton's famous jacaranda trees illuminated as an art installation as part of the annual Jacaranda Season and Festival. The Grant funding will be used for electrical and architectural work, fencing and the tender process. The lighting installation will be in See Park, possibly extending to Market Square in the centre of Grafton.

The lighting of the trees will extend the season and festival operating time into the evening encouraging longer stays and overnight visitation. The illuminated trees will become a permanent installation for Grafton. The Grafton Jacaranda Festival Inc will partner with the Clarence Valley Council for the promotion and marketing of lighting of the trees as part of the festival.

Event: Grafton Jacarandas Alight

This project will celebrate the jacaranda tree illumination through an evening event, Jacaranda Trees Alight. This is a series of three evening concerts in See Park throughout the jacaranda season and festival. The funding will cover event production, entertainment, equipment and licences and fees. Clarence Valley Council and The Grafton Jacaranda Festival Inc will partner for the event with The Grafton Jacaranda Festival Inc will be responsible for production and promotion of the event series.

Lighting the Jacaranda trees to experience their beauty during the evening has been a long held intention, as a way to value add to one of our biggest tourism assets. The initiative is included in the Jacaranda Festival review report completed in 2016 'Taking Traditions into the Future'. It was also a suggestion made by a number of residents and community groups during Council's See Park community consultation in 2019.

KEY ISSUES

During July 2020, Austrade approved and Clarence Valley Council accepted a total of \$195,000 for the art installation and event. Initially an amount of \$145,000 was approved, however, an additional \$50,000 was granted after a number of conversations about the project.

Both projects will bring locals and visitors together, to celebrate nature, beauty and human creativity with 'light'. It will be a chance to remind us, now more than ever, it's important to stock up on feelings that remind us that life – and the world we live in – is beautiful.

Due to COVID-19 uncertainty in relation to public gatherings, there is flexibility in the implementation timeline.

As stated in the grant application, the projects provide an opportunity to further develop Grafton as the doorway to the Clarence Valley's other tourism attractions, such as the Canoe and Kayak Trail in the Grafton hinterland.

COUNCIL IMPLICATIONS

Budget/Financial

The additional grant funding of \$195,000 (excl. GST) from the Commonwealth Governments Regional Tourism Bushfire Recovery grants will fully fund the art installation (Light Up Grafton's Jacarandas) and event series (Grafton Jacarandas Alight). The funding will be included in the next QBR.

Asset Management

The lighting will be new assets and will need to be added to Council's asset register.

Policy or Regulation

Quotations will be sought consistent with the requirements of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

Consultation

Preparation and submission of the grant application was during a time of upheaval. In the middle of bushfire recovery and the height of the outbreak of COVID-19 it was beneficial to have a sound and researched visitor attraction initiative that met the grant criteria on hand. Council officers engaged with representatives from the Jacaranda Festival. The Jacaranda Festival provided a letter of support that was submitted with the application. Consultation also occurred with Council's Open Spaces team.

Legal and Risk Management

N/A

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change. Ways to minimise the impact will be part of the tender process.

Prepared by	Alicia Savelloni, Events Development Officer
Attachment	Nil

ITEM	6c.20.149	TFNSW FUNDING OFFER – FEDERAL STIMULUS ROAD SAFETY PROJECTS
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

Council has received a funding offer of \$6.479 million from Transport for NSW for a number of road safety projects under the federal stimulus package.

OFFICER RECOMMENDATION

That Council note the acceptance of the Australian Government stimulus package for road safety projects for delivery in the 2020/21 financial year.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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 Australian Government has committed an additional \$140 million for targeted road safety projects, building on the NSW Government's \$258 million investment in its Safer Roads Program in 2020-21. This funding is designed to prioritise the development and delivery of road safety infrastructure projects across regional NSW.

Transport for NSW has confirmed that Clarence Valley Council has been successful in securing funding for the following project(s) for the 2020/21 financial year.

Table 1- Successful Project Details

SR Portal ID	TfNSW Project number	Project Name	Road Name	Funding year	2020/21 Funding
Project-2151	P.0052345.05.001	Fed Stim- CVC- P2151 MR74 Armidale Rd	Armidale Road	2020/21	\$2,060,000
Project-2134	P.0052295.05.001	Fed Stim- CVC- P2134 MR150 Clarence Wy	Clarence Way	2020/21	\$1,447,000
Project-2147	P.0052296.05.001	Fed Stim- CVC- P2147 MR74 Armidale Rd	Armidale Road	2020/21	\$1,325,000
Project-2161	P.0052298.05.001	Fed Stim- CVC- P2161 MR7738 Wooli Rd	Wooli Road	2020/21	\$1,210,000
Project-2356	P.0052356.05.001	Fed Stim- CVC- P2356 Malabugilmah Commun	Clarence Way	2020/21	\$302,495
Project-2361	P.0052359.05.001	Fed Stim- CVC- P2361 Baryulgil Community	Clarence Way	2020/21	\$135,025
TOTAL					\$6,479,520.00

The successful projects had been nominated by council under the Safer Roads and/or Australian Government Blackspot program and endorsed by TfNSW Safe Systems Review Committee but have, up until now, remained unfunded.

A number of the projects had been nominated as multi-year projects, however the offer now requires the projects to be completed within this financial year. The clear intention is that the funding will facilitate the acceleration of larger scale infrastructure projects, at a time when the local economy needs it most.

KEY ISSUES

These projects are 100% funded and are not conditional on co-contribution. As such the funding will allow a number of safety issues identified across the network to be improved.

The addition of these projects to the works program, in a year with an already significant capital works program will create some constraints on resourcing and it is anticipated that external resources will be utilised to accelerate our delivery program and ensure completion. Staff are currently reviewing and adjusting our delivery program to incorporate these projects.

COUNCIL IMPLICATIONS

Budget/Financial

The projects are fully funded and do not require a co-contribution from Council.

Asset Management

Projects 2151, 2134, 2147 and 2161 are for the upgrade of existing Council assets.

Projects 2356 and 2361 are partially for the upgrade of Council Assets and partially for assets owned by the Malabugilmah and Baryulgil Communities. Assets will not transfer between Council or these communities under these projects.

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services
To be tabled	Diagrams of projects

ITEM	6c.20.150	QUARTERLY REPORT – REGIONAL WATER SUPPLY HEADS OF AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL, ESSENTIAL ENERGY AND NSW GOVERNMENT
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Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Yes	

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 September 2020 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

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 4 September 2020.

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.
Release of water for environmental and recreational purposes	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes i.e. canoeing and rafting.
Protection of heritage value of the power generation buildings (including equipment installed within the facility)	The buildings suffered minor damage in the Nymboida fire, mainly broken windows due to the heat. No internal damage was sustained. A large shed next to the switchyard suffered ember attack to frame timbers and superficial burning of Colourbond exterior cladding but has survived. The shed which encloses the Flap Valve also suffered heat damages. Remediation works are still in progress. Issues with

ITEM	STATUS
	contractor's availability currently.
Transfer of property rights for the ongoing ownership and operation of the Nymboida Canoe Centre	EE advises the land has been transferred to the Canoe Centre and this item is now complete.
Transfer of Tunnel Number One to Clarence Valley Council	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is still subject to further discussions between Essential Energy and the relevant Ministers.
Transfer of licences and other authorisations to support its ownership of Tunnel Number One	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is also still subject to further discussions between Essential Energy and the relevant Ministers.
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 2nd week of May 2018. Bridge signage (tonnage) has been updated and engineering certification issued.</p> <p>Engaged Contractor has recently completed a further round of maintenance and pest control, following several individual enquiries.</p> <p>Bridge #7 now requires replacing and designs and estimations have been completed. Various alternate options for access to the affected property are currently being investigated. A 3rd Party Consultant has been engaged by Essential to facilitate these confidential discussions with the affected land owners involved and the consultant has provided a recommended way forward. The recommendations have been given approvals in principle at this point; and are currently the subject of a full cost estimation and scoping process.</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 requested Council assistance in facilitating transfers of ownership to the respective parties involved.</p> <p>During the Nymboida fire event, the Station Bridge and Bridges #2 and #3 suffered damage. Bridge #2 remains open to foot-traffic only. Bridge #3 remains open at 15T with barricading in place to avoid damage areas. Station Bridge remains open with 4T limit. Contractors have been engaged to undertake repairs and are scheduled to commence the work in mid September. Work on Station Bridge is not scheduled to be undertaken until December.</p>
Investigate the possible construction of a 285ML 'surge tank' to provide recreational water flows for the operation of the Nymboida Canoe Club	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting.
Nymboida power generation buildings and ancillary infrastructure to be decommissioned and secured	Item complete. The infrastructure is now in a program of ongoing preservation and maintenance and, as noted above, remediation works are underway to repair fire damage to both buildings and bridges at the site. Whilst the site is now regarded as a preserved, decommissioned Hydroelectric

ITEM	STATUS
	power station, it should be noted that the HV switchyard and associated infrastructure remains in-service and operationally maintained, supplying power to the local distribution network. All power supplies used within the power station building itself are supplied from this same switchyard.

Due to the importance of the weir and Tunnel One for securing the regional water supply, and the lack of any recent progress with these issue (as outlined in these reports to Council), Coffs Harbour City Council has engaged Water Infrastructure Advisory consultancy Clearwater Australia to assist with progressing the issues with Essential Energy. Following a briefing from the two General Managers, Clearwater Australia met with senior Essential Energy officers on Thursday 3 September. Clearwater's notes from the meeting are attached.

COUNCIL IMPLICATIONS

Budget/Financial

N/A at this point.

Asset Management

N/A at this point.

Policy or Regulation

N/A at this point.

Consultation

N/A at this point.

Legal and Risk Management

N/A at this point.

Climate Change

At its meetings of 22 October 2019 and 25 February 2020 Council considered reports on the Nymboida Hydro Power Station (Resolution 6a.19.024 and 08.20.001 respectively).

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Clearwater Australia Minutes of Meeting with EE

ITEM	6c.20.151	ROAD NAMING OF EXISTING AND PROPOSED ASSETS AS A RESULT OF THE CONSTRUCTION OF THE NEW PACIFIC HIGHWAY - UPDATE
Meeting	Corporate, Governance & Works Committee	15 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

To report an update on the progress of the road naming process and consultation on the proposed closure of Old Six Mile Lane.

OFFICER RECOMMENDATION

That Council note the update on the consultation proposal to close part of Old Six Mile Lane along with a cost estimate for any associated alteration works with a further report to be brought back to Council.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

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

A report was considered at the March 2020 council ordinary meeting. Item 6c.20.025 was partially endorsed (refer point 2):

“Seek more suggestions form the community for the new link road between Avenue Road and Old Six Mile Lane, providing a connection to Chevalley Lane and running roughly parallel with Old Six Mile Lane.”

Council further resolved at its June 2020 meeting (Item 6c.20.089) to:

“Undertake consultation on the proposal to close part of Old Six Mile Lane and report the results along with a cost estimate for any associated alteration works to the August 2020 Council meeting.”

KEY ISSUES

Letters have been sent to property owners in the vicinity of Old Six Mile Lane but no responses to date have been received.

The current pandemic has meant that staff have been unable to undertake a public meeting which would have been a preferred way of conducting a consultation process. Staff will continue opportunities to communicate with these property owners.

A further report will be provided when suitable consultation has been completed.

COUNCIL IMPLICATIONS**Budget/Financial**

Converting Old Six Mile Lane to a cul-de-sac will require some immediate investment to construct turning nodes to meet RFS minimum standards. There may be a reduction in the recurrent operational expenditure for the reduction in unsealed road length and traffic volumes on Old Six Mile Lane.

Asset Management

Reducing the length of our road network will result in a reduction in the required recurrent expenditure

Policy or Regulation

Road Act 1993

Consultation

Consultation is ongoing with property owners in the vicinity.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services
Attachment	Nil

CLOSE OF COMMITTEE MEETING

There being no further business the Corporate, Governance & Works Committee meeting closed at 3.05 pm.

d. INFORMATION ITEMS

ITEM	6d.20.008	ITEMS FOR INFORMATION
Meeting	Council	22 September 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

OFFICER RECOMMENDATION

That the Items for Information as listed below be adopted:

1. Calliope Hall Committee: Minutes 12 August 2020
2. Clarence Regional Library Committee: Minutes 13 August 2020
3. Clarence Valley Transport Committee: Minutes 20 August 2020
4. Glenreagh School of Arts Inc: 2019-2020 Annual Report
5. Nymboida Hall Management Committee: Minutes 20 August 2020
6. Premier Queensland Government: Request for Quarantine exemption for B Wondergem

Prepared by	Samantha Leonard, Executive Support Assistant
Attachments	As listed above

e. TENDERS

ITEM 6e.20.019 TENDER RFT20-021 FLOODGATE FABRICATION

Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Confidential	

SUMMARY

Council called open tenders for Floodgate Fabrication for the renewal of Councils' Rural Floodplain Assets. The tender evaluation panel (TEP) considers the Tender, which having regard to all the circumstances (price and non-price) is the most advantageous to Council is the tender from Andrew Harris Engineering and recommends this Tender be accepted.

OFFICER RECOMMENDATION

That:

1. Council award Tender RFT20-021 (Floodgate Fabrication) to Andrew Harris Engineering at the Schedule of Rates tendered (excluding the optional item of floodgate refurbishment), to be funded from Financial Projects 941066 (Rural Floodplain Asset Renewal) and 941061 (Floodgate Replacements).
2. The General Manager be authorised to exercise the contract extension options, subject to satisfactory contractor performance.

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

Many of Council's Floodplain Assets are approaching the end of their useful life, and through condition assessments have been nominated for replacement (renewal) in 2020/21. An open tender process for the provision of newly fabricated floodgates, as well as an optional floodgate refurbishment component, was called on the 21st August 2020, and closed on the 4th September 2020. The tender is for a two year period with three one year extension options. Tenderlink was used to contact relevant contractors. The tenders were evaluated in accordance with a Tender Evaluation Plan with the goal of the process being to identify the most advantageous tender, i.e. the tender that offers best value for money to Council.

KEY ISSUES

The TEP comprised staff from the Water Cycle and Finance & Supply sections of Council. Tenders were assessed using a weighting of 70% price and 30% non-price criteria, and a detailed report from the TEP is included in the Confidential Attachments.

At the closing date and time Council received nine tenders. Tenders were received from:

Tenderer	Directors	'Local Supplier' as per Sustainable Procurement Policy
Andrew Harris Engineering	Andrew Harris, Ben Robertson, Lindsay Ryan	✓
Beltor Engineering Pty Ltd	Mark Beletich	✗
Big River Steel	<i>Not Supplied</i>	✓
Brolton Group Pty Ltd	Ben Lynch, Darren Kramer	✗
Casa Engineering Brisbane Pty Ltd	Peter Casa	✗
Global Factory Maintenance	Michael Telford, Gerard Telford	✗

Tenderer	Directors	'Local Supplier' as per Sustainable Procurement Policy
Hooklyn Six Pty Ltd	Mark Hooklyn, Amanda Hooklyn	✓
Van Mal Group Constructions Pty Ltd	Nico van Mal	✘
Wicks and Parker Pty Ltd	Anthony Wicks, Martin Wicks	✓

One late tender was received from ZV Joint Venture, however under Section 177(2) of the Local Government (General) Regulation the TEP could not consider this tender further.

The tender documents listed a variety of floodgate sizes/materials for tenderers to nominate the unit rates. Additionally there was an optional item for unit rates of floodgate refurbishment (repainting or metalizing old floodgates). Many of the tenderers did not nominate unit rates for refurbishment, and those that did nominated a variety of refurbishment methodologies and clarifications. The TEP therefore determined the best approach would be to not proceed with the optional item.

The TEP considers that, in accordance with Section 178(1)(a) of the Regulation, the Tender which having regard to all the criteria (price and non-price) appears to be the most advantageous to Council is from Andrew Harris Engineering and recommends this Tender be accepted.

COUNCIL IMPLICATIONS

Budget/Financial

Financial Projects 941066 (Rural Floodplain Asset Renewal) and 941061 (Floodgate Replacements) will fund floodgate procurement under this tender. The budgets for 2020/21 are \$553,794 and \$45,000 respectively. The contract provides access to a minimum quarterly (i.e. 3 month) price adjustment to tendered rates based on ABS Producer Price Index - Index Number 22 Fabricated Metal Product Manufacturing.

Asset Management

The floodgates which are being renewed are identified as being in poor condition.

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 fabrication companies were notified directly of the tendering opportunity via phone call and email.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

Consultation

N/A

Legal and Risk Management

Nil

Climate Change

Not applicable to this tender.

Prepared by	Kieran McAndrew (Floodplain Coordinator) and Greg Mashiah (Manager Water Cycle)
Confidential	Tender Evaluation Report

ITEM	6e.20.020	ABORIGINAL COMMUNITIES SEWER AND WATER PROGRAM – WATER QUALITY IMPROVEMENT WORKS AT JUBULLUM COMMUNITY
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Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

Council operates sewer and water services to the Aboriginal Community of Jubullum with funding administered by the Department of Planning, Industry and the Environment – Water (DPIE – Water). The Drinking Water Management System (DWMS) adopted by Council at its 26 May 2020 meeting identified urgent works required at Jubullum to meet the Australian Drinking Water Guidelines (ADWG).

Ecotechnology Australia Pty Ltd (Ecoteam) operate the water and sewer system at Jubullum under contract to Council, and were requested to provide a proposal to address the ADWG requirements. The Ecoteam proposal exceeds the amount stipulated in the Local Government Act for calling of Tenders. It is considered that extenuating circumstances are such that a satisfactory result would not be achieved in this instance by inviting tenders and, as the Ecoteam proposal is assessed by Council and DPIE-Water as providing value for money and DPIE-Water has indicated it approves and will fund the works, it is recommended that the proposal from Ecoteam be accepted.

OFFICER RECOMMENDATION

That:

1. Council consider, due to the need for continuity of water services to the Jubullum Community and the requirement for concurrence from the Local Aboriginal Land Council for undertaking the work, extenuating circumstances exist under Section 55 of the Local Government Act in that a satisfactory result would not be achieved by inviting tenders for undertaking the installation of a 100kl/day capacity ultra filtration unit in Jubullum.
2. The proposal from Ecotechnology Australia Pty Ltd to undertake water quality improvement works (excluding the warranty extension) in the amount of \$554,467.85 (including GST) be accepted, to be funded from Financial Project 902081.
3. The General Manager be authorised to approve variations totaling up to 20% of the contract sum.

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.3 We will have a diverse and creative culture

Strategy 1.3.2 Support a diverse and rich local Aboriginal and Torres Straight Islander Culture

BACKGROUND

In July 2008, the NSW State Government commenced a program to improve the standard of water supply and sewerage services in selected Aboriginal Communities. The program is jointly funded by the State and the NSW Aboriginal Land Council, and the parties agreed to commit \$200 million over a 25 year period. Under the program, Clarence Valley Council has been providing sewer and water services to the Jubullum Community since 2013 using contractor Ecoteam. At its meeting of 17 November 2015 Council awarded a two year operations contract (with three one year extension options) to Ecoteam (Resolution 12.054/15).

At its 26 May 2020 meeting Council resolved (Resolution 6c.20.069) to:

Endorse the recommended actions in the updated Drinking Water Management System, including the addition of the three Aboriginal Communities.

The only sources available to the Jubullum Community are pumping from the Timbarra River, or water carting to the community. Water carting is extremely expensive and can be impractical during extreme weather events and peak demand times. Under the DWMS, a “critical control point” for turbidity is set at 2 NTU and, as there is no filtration, extraction cannot be undertaken when turbidity exceeds this limit. During

2020 the turbidity in the river has been above 2 NTU for the majority of the time, requiring water to be carted to the Community from Casino. Accordingly, DPIE-Water requested that Ecoteam investigate installation of a 100kL/day capacity filtration system. Filtration also has a benefit of addressing other risks identified in the DWMS, and also facilitates treatment measures to address toxic blue green algae which was detected in the Timbarra River in late 2019.

KEY ISSUES

The proposal from Ecoteam exceeds the amount stipulated in Section 55 of the *Local Government Act* for calling of Tenders (\$250,000 including GST); however, Section 55(3)(i) provides the following exemption to calling Tenders:

a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders.

It is considered that the following extenuating circumstances exist for the water treatment works in the Jubullum Community:

- Ecoteam is currently engaged by Council under Contract 1500483, awarded in November 2015 to undertake operation of the Jubullum drinking water system.
- The Jubullum water reticulation system is owned by the Jubullum Local Aboriginal Land Council (LALC) and the Gungyah Ngallingee Aboriginal Corporation. The Owners have previously advised that, as the system is located on their property, they also have a concurrence role. It is therefore essential that the contractor have a good working relationship with the two Owners and be experienced with working in Aboriginal Communities. Ecoteam has established an excellent working relationships with the two Owners and, as they are currently undertaking the operation of the system, already have the Owner's concurrence,
- The Community is relatively remote. As Ecoteam are able to absorb some travelling costs in their current services contract, it is considered unlikely that calling Tenders would result in significant cost savings compared with the Ecoteam proposal,
- DPIE-Water has approved the Ecoteam proposal and agreed to fund the works, and
- There is a need to ensure continuity of water service to the Community during the works.

Council does not currently have resources to manage a contractor undertaking the installation of the Jubullum water quality treatment works.

DPIE –Water and Council staff have assessed the Ecoteam proposal and consider it provides value for money.

Directors of Ecotechnology Australia Pty Ltd are Keith and Lise Bolton.

As with all construction projects it is likely that some contract variations will be required during the work. Due to the remoteness of Jubullum it is recommended that the General Manager be authorised to approve variations of up to 20% of the contract sum.

COUNCIL IMPLICATIONS

Budget/Financial

The Aboriginal Communities Sewer and Water program aims to be “cost neutral” for Council, with DPIE-Water reimbursing Council's costs plus a 10% management fee for Council on the Contractor's costs. To date the management fee has more than covered Council's costs. DPIE-Water has concurred with the expenditure on the Ecoteam proposal (see confidential attachment).

Asset Management

Nil. Ownership of sewer and water assets under the program remains with the Aboriginal Communities.

Policy or Regulation

As outlined in the report, under Section 55(3)(i) of the *Local Government Act* Council can engage Ecoteam without calling Tenders, subject to the resolution indicating the reasons why a satisfactory result would not be achieved by inviting tenders. The local supply provisions of the Procurement Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

Consultation

DPIE-Water

Legal and Risk Management

N/A

Climate Change

An expected climate change impact is less frequent but more intense rainfall events. This is likely to increase the time that turbidity in the Timbarra River will be above the critical control point of 2NTU and thus unable to be extracted without treatment.

Prepared by	Greg Mashiah, Manager Water Cycle and Laurie Day, Water Cycle Project Coordinator
Confidential	Ecoteam Proposal Advice from DPIE Water approving funding

ITEM	6e.20.021	RFT20-24 - CONSTRUCTION OF AN AUTOMATIC IRRIGATION SYSTEM, FIELD DRAINAGE AND PLANT SHED AT NGAYUNDI YAMBA SPORTS COMPLEX ANGOURIE FIELDS YAMBA – ON CROWN LAND
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Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Confidential	

SUMMARY

This report considers the submissions received for Tender RFT20-024: Ngayundi Yamba Sporting Complex Field Irrigation and Drainage.

OFFICER RECOMMENDATION

That Council, as Crown Land Manager of Ngayundi Yamba Sports Complex (RE:98072), -

1. Subject to a satisfactory financial assessment, accept the tender from Synergy Resource Management Pty Ltd (ABN 57 120 757 299) for RFT20/024 for the construction of an automatic irrigation system, field drainage and plant shed at Ngayundi Yamba Sports Complex at a cost of \$704,073.70 (GST inclusive) to be funded from PJ 540118 (Ngayundi Yamba Sports Complex) (Sub-service 3200) and allocated funds from Council resolution 6c.20.095 (Federal Government's Local Roads and Community Infrastructure Program).
2. Authorise the General Manager to approve variations up to 10% of the contract value.

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.4 Manage and enhance our parks, open spaces and facilities

BACKGROUND

Following a tender process for RFT19-026: Yamba Sporting Complex Irrigation, Drainage and Field Levelling where tenders were over the available budget; Council resolved on 26 November 2019 (Item No 6e.19.019) as follows -

That

1. *None of the tenderers received in relation to the tender for RFT19/026: Yamba Sporting Complex Irrigation, Drainage and Field Levelling be accepted and that Council not call fresh tenders for the following reasons:*
 - a. *The time required to complete a new tender process with a reduced scope will result in the construction occurring when the grass growth is limited, extending the impact of work on community.*
 - b. *The original tender was open from which a suitable pool of Contractors is available for Council to enter into negotiations with, it is unlikely that a new tender process will attract additional Contractors.*
2. *Council enter into negotiations with Corbett Earthmoving Pty Ltd; Ledonne Constructions Pty Ltd; Nissrine Pty Ltd; and Synergy Resource Management Pty Ltd for the following reasons:*
 - a. *All companies have been assessed as capable of completing the works.*
 - b. *All companies submitted tenders or have completed like works for Council.*
3. *Council receive a report on the negotiations once complete.*

To meet the required budget Council officers have reduced the scope of works with the design plans modified as required by the designer.

Negotiations were undertaken through a selective tender with Corbett Earthmoving Pty Ltd; Ledonne Constructions Pty Ltd; Nisserine Pty Ltd; and Synergy Resource Management Pty Ltd for the construction of an automatic irrigation system, plant room and field drainage that opened on 14 August 2020. A non-mandatory site meeting was held on Thursday 20 August 2020 at 10.00am with tenders closed on Tuesday 8 September 2020.

The tenderers were given the opportunity to submit an alternate non-conforming tender on the basis that a conforming tender had been submitted.

Tenders were assessed by a Tender Evaluation Committee (TEC) consisting of three council staff. Prior to the evaluation process the TEC confirmed that the Tender Evaluation Plan (TEP) was appropriate and the Code of Conduct provisions were understood and signed off by the panel.

KEY ISSUES

Design

The Tender included detailed design drawings and technical specification for the automatic irrigation system and pump station works.

Tenders Received

Four submissions (listed in alphabetic order) were received in response to the Request for Tender:

1. Corbett Earthmoving PL
2. Ledonne Constructions PL
3. Nisserine PL
4. Synergy Resource Management PL

Summary and Recommendation

After consideration of the tender submissions, scoring, results of further clarification, interviews and project reference checks, the TEC considered the offer from Synergy Resource Management as the most advantageous and recommends this tender be accepted.

Details of the TEC's assessment is included in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this overall project is **\$728,928**.

Agency	Source	Amount
Australian Government	Local Roads and Community Infrastructure Program	\$400,000
Clarence Valley Council	Ngayundi Yamba Sports Complex (PJ540118)	\$328,928

Expenditure to date on the project is **\$4,495** for the Review of Environmental Factors.

Asset Management

The proposed automatic irrigation system is a new asset and will need to be included into Council's Asset Management Plans

Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

Consultation

The irrigation and field levelling works was informed by consultation at the time of the master plan development. Current sporting clubs and associations have been informed of the project status.

Legal and Risk Management

Four submissions were received in response to the Request for Tender process , the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Corbett Earthmoving Pty Ltd	29 062 304 205	Michael Corbett	Managing Director
Ledonne Constructions Pty Ltd	20 099 261 711	Tony Ledonne	Managing Director
Nisserine Pty Ltd	72 109 527 095	Scott Smythe	Director
Synergy Resource Management Pty Ltd	57 120 757 299	Matthew Paul Smith	Director
		Robert Matthew Sedon	Director
		Andrew Mark Reardon	Director

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change. The water resource will be treated water reused from the Yamba STP. Use of this water will reduce the reliance on potable water currently used. The application of water will be monitored through the use of total weather stations, ground water sensors in accordance with industry best practice to limit loss through wind drift and overwatering.

Prepared by	Justin Menzies, Open Spaces and Facilities Project Manager
Confidential	Tender Recommendation Report

ITEM	6e.20.022	EXPRESSION OF INTEREST – REFURBISHMENT OF 2 PRINCE STREET ADMINISTRATION CENTRE
Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

Expressions of Interest (EOI 20/23) were invited on 19 August 2020 for suitably experienced, skilled and competent construction contractors for the tender for the refurbishment of the 2 Prince Street Administration Centre.

The EOI closed on 9 September 2020 and the submissions were evaluated in accordance with the requirements of the Tender Evaluation Plan (TEP). Following the evaluation process this report recommends approval of the five shortlisted contractors.

OFFICER RECOMMENDATION

That Council invite the following contractors to submit tenders for the refurbishment of the 2 Prince Street Administration Centre:

- FDC Contracting P/L
- FK Gardener and Sons P/L
- Greg Clark Building (GCB) P/L
- O'Donnell Hanlon P/L
- Renascent P/L

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 has resolved to refurbish the 2 Prince Street office. In order to achieve best value for money a two stage tender process involving an initial Expressions of Interest (EOI 20/23) and then a selective tender has been adopted. The EOI was called for suitably experienced, skilled and competent construction contractors to tender for the refurbishment of the 2 Prince Street Administration Centre.

A Tender Evaluation Plan (TEP) was prepared and a Tender Evaluation Committee (TEC) assessed the submissions. The TEP stipulated the process, criteria and scoring that was used in assessing the applicants.

The EOI closed on 9 September 2020 with submissions received from seven contractors:

1. ACH Clifford
2. Built
3. FDC Contracting
4. FK Gardener and Sons
5. Greg Clark Building (GCB)
6. O'Donnell Hanlon
7. Renascent

KEY ISSUES

The TEC has undertaken an assessment of the conforming tenders taking into consideration the following factors:

- Experience and demonstrated capacity with similar work
- Qualified and experienced personnel

- Construction methodology and understanding of the project requirements
- Status of the legal entity
- Quality systems
- WHS systems
- Environmental systems
- Risk management
- Local content
- Capability to meet the timetable for completion (September 2021)
- Aboriginal and apprentice education and employment strategies

In order to ensure a competitive market is created for the selective tender the TEP recommended that the five highest rated contractors be selected.

The submissions were assessed and scored against the methodology detailed in the TEP. The scores are detailed in the attached confidential attachment to this report and the recommended shortlist of contractors is:

1. FDC Contracting
2. FK Gardener and Sons
3. Greg Clark Building (GCB)
4. O'Donnell Hanlon
5. Renascent

(noted in alphabetical order)

COUNCIL IMPLICATIONS

Budget/Financial

Council has allocated funding of \$6,356,000 for the project in the 2020/21 budget. The two stage tender process was considered to deliver the best value for money outcome for Council.

The project schedule, contract price and recommended tenderer will be reported back to the November ordinary council meeting.

Asset Management

N/A

Policy or Regulation

The EOI process that was conducted 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:

- EOI requirements were drafted such that local suppliers and/or contractors were considered as part of the responses.
- The assessment of selective tenders will also include consideration of local content as part of the assessment criteria as required under Council's Policy. That will include consideration for using local sub-contractors, purchase of materials and services, and employment outcomes for both locals trades, apprentices and aboriginal employment outcomes.
- The tenderers were required to demonstrate their skills, experience in competence in constructing and refurbishing similar buildings.

Consultation

N/A

Legal and Risk Management

The Tendering process has followed the requirements of the Local Government Act and Regulation.

The company directors for the shortlisted tenderers are -

Tenderer	ABN	Name of Partners and Directors
ACH Clifford	97 000 574 890	Gail Comino
Built	24 083 928 045	John de Smet (Director Small Works)
FDC Contracting P/L	72 608 609 427	Bentley Cottle (Managing Director)

Tenderer	ABN	Name of Partners and Directors
		Peter J McCable (Finance Director)
FK Gardener and Sons P/L	99 010 136 053	Nick Gardner (Managing Director)
Greg Clark Building (GCB) P/L	26 151 244 254	Trent Clark
O'Donnell Hanlon P/L	91 062 620 437	Trent O'Donnell (Construction Director)
Renascent P/L	53 109 220 760	Con Koulouris (Project Director)

Climate Change

The design includes a number of elements that consider reducing operational emissions including upgraded thermal comfort from new windows, insulation, upgraded heating, ventilation and air conditioning and solar power.

Prepared by	Peter Birch, Manager Open Spaces and Facilities
To be tabled	Confidential - EOI Tender Recommendation Report

7. NOTICE OF MOTIONS

ITEM	07.20.011	CYCLIST SAFETY AND IMPROVEMENTS TO CYCLEWAY NETWORK IN GRAFTON	
Meeting	Council		22 September 2020
Directorate	Notice of Motion		
Submitted by	Cr Greg Clancy		
Attachment	Nil		

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

With the completion of the new Grafton Bridge project, significant issues have been raised regarding the safety of its associated shared-use path along Iolanthe Street and Pound Street, and lack of a safe connection to other parts of South Grafton. These issues highlight ongoing problems with the connectivity and safety of the cycleway network across the Clarence Valley. Near-miss incidents due to motor vehicles cutting off cyclists who are forced to ride on roads are occurring. It is timely to amend the Bicycle Plan adopted in February 2016 and to work with Transport for NSW (TfNSW) to address immediate safety risks as a priority.

PROPOSED MOTION

That

1. Council report concerns regarding the shared-use paths in the vicinity of the new Grafton Bridge to Transport for NSW, requesting risks to pedestrian and cyclist safety be addressed as a priority.
2. Council work with Transport for NSW to complete a cycling connectivity and safety analysis of the cycleway / shared-use path network in the Clarence Valley including paths associated with the new Grafton Bridge, the Big River Way gateways and the new Pacific Highway interchanges at Ferry Park, Harwood and Yamba Road.
3. As a priority, Council prepare and publish updated maps on its website (Lifestyle & Recreation >> Walks & cycling) to promote safe cycling routes in its towns.
4. Council alert NSW Police of incidents impacting cyclist safety due to poor motorist behaviour (either actions or inaction).
5. The General Manager review the 2016 Bicycle Plan, incorporating changes to the road and cycleway network and making further recommendations where necessary so that cyclists can safely and conveniently access the facilities of the towns in the Clarence Valley.
6. A draft of the reviewed Bicycle Plan be placed on public exhibition to seek public feedback before being submitted to Council for adoption.
7. The General Manager report back to Council on item 1 by the November 2020 Council meeting, with progress on other matters reported in May 2021.

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 February 2016, Council adopted a Bicycle Plan for Grafton, South Grafton, Yamba, Maclean, Iluka, Woombah, Lawrence and Ulmarra. It also adopted a Pedestrian Access and Mobility Plan (PAMP) at the same meeting. At the time, the new Grafton Bridge project and Pacific Highway upgrade were still in development. The Bicycle Plan includes a recommendation that amendments should be made to the plan as the new Grafton Bridge project and Pacific Highway upgrade are finalised.

With the completion of these projects, it is timely to start the review the Bicycle Plan as each have new associated shared-use paths / cycleways.

However, a more immediate concern relates to the safety of the new shared-use paths, particularly for cyclists (see Key Issues below). These need to be communicated to TfNSW for them to address in a timely manner.

With the ongoing roadworks associated with these projects, many cyclists have been forced to use the roads in South Grafton as cycleway linkages have been blocked. The intersection of Bent Street with Ryan Street and Charles Street has been the site of several instances of vehicles not giving way to cyclists already on the roundabout. This is a clear breach of traffic rules. It is appropriate for Council to highlight this issue to NSW Police, so they are aware of these hazards and are prepared to respond appropriately when incidents are reported.

Together with TfNSW, all local councils in NSW have a responsibility to provide safe, convenient and connected pedestrian and cycling routes, which will encourage people to use active transport modes, rather than use their cars.

KEY ISSUES

Safety risks associated with new shared-use paths should be highlighted to TfNSW

The following hazards have been brought to my attention:

1. The existing pathway along the western side of Pound Street between Villiers Street and the new bridge is now a shared-use path. There is no safe entry point to this path for cyclists riding south from the Villiers Street and Pound Street roundabout. The kerb ramps remain designed purely for pedestrian use, being narrow and situated opposite the crossings from footpaths on which bikes are not permitted. There is also no point of entry for cyclists at the intersection of Pound and Clarence Streets.
2. The new shared-use path along Iolanthe Street crosses several busy driveways of the businesses fronting this road. Vehicles should be giving way to cyclists and pedestrians using the shared-use pathway but none of the driveways has any signage to remind drivers of this legal requirement. Several near misses have occurred on this stretch of the shared-use path.
3. There is currently no safe connection from the intersection of Spring Street and Iolanthe Street to Ryan Street.

These hazards should be communicated to TfNSW with a request that they be addressed immediately. Unlike the new cycleway between Townsend and Ferry Park (which terminates without a safe link to Maclean High School/TAFE) these matters should be the responsibility of TfNSW to fix.

Cycling is becoming more popular and should be recognised as a legitimate form of transport

Cycling is growing in popularity as a form of personal transport which is perceived to be safer than public transport in the COVID era and is both cheaper and healthier than commuting in motor vehicles. Bike shops in the Clarence Valley have reported strong sales in the past 6 months, unlike many other local businesses.

The growth in popularity of cycling is being embraced by many local governments across Australia and the world. As such, local support is logical when one considers a systematic review by the World Health Organisation (WHO) identified that the median benefit to cost ratio of providing cycling infrastructure was 5 to 1. That is, every dollar invested in cycling infrastructure could reap five dollars' worth of benefits.

However, despite these benefits, it is generally acknowledged that cycling for day-to-day commuting and transport in Grafton is not as popular as it used to be or could be. The main disincentives to cycling are concerns over safety and lack of safe routes – disincentives which (according to a City of Sydney report released in May 2020) disproportionately influence women's choices regarding transport.

COUNCIL IMPLICATIONS**Budget/Financial**

Staff time for the engagement with NSW Police and TfNSW. Staff time to renew maps on Council's website and to prepare an amendment to the 2016 Bicycle Plan. Funding may be available through the Local Government Road Safety Program.

Policy or Regulation

The amended Bicycle Plan will become Council Policy.

Consultation

It is recommended that a draft amendment to the Bicycle Plan be exhibited, to allow cyclists to provide feedback on the priorities it identifies.

Legal and Risk Management

Improving cyclist safety will encourage people to use active transport modes on short journeys, rather than their cars. As short journeys are the least fuel-efficient, this will reduce transport-related emissions.

ITEM	07.20.012	REPORT TO COUNCIL ON ADVERTISING EXPENDITURE DISCLOSED IN AUDITED FINANCIAL STATEMENTS FOR 2018 AND 2019
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Meeting	Council	22 September 2020
Directorate	Notice of Motion	
Submitted by	Cr Karen Toms	
Attachment	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

Each year Council prepares a draft Operational Plan and accompanying documentation under the Integrated Planning and Reporting Framework (IP&R), which is enacted under the Local Government Act 1993. The accompanying documents also include the annual budget.

Advertising costs are not identified in the draft budget council adopts for exhibition purposes, nor is it identified in the budget adopted by the Council at the June Meeting.

PROPOSED MOTION

That Council:

1. Receive a detailed report of council's advertising expenditure of \$477,000 for 2018 and \$438,000 for 2019 as disclosed in the Annual Audited Financial Statements
 - (a) The General Manager include in the above report what types of advertising was purchased e.g. print material, newspapers, commercial and community radio, internet, social media, email marketing, community newsletter, events, bill-boards, etc
 - (b) The General Manager also include which Council Services and Sub-Services the expenditure was allocated to.

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

While the general manager is accountable to the governing body for the council's financial performance, as members of the council's governing body councillors are accountable to the residents and ratepayers for the appropriate allocation of council monies. In order to discharge this responsibility, it is essential that councillors receive adequate financial reports from the general manager.

Submissions to council's draft Operation Plan included concerns regarding the advertising expenditure not being transparent. I undertook at June's council meeting to make enquires about those concerns. Advertising is not listed as a line item in council's expenditure statements by service or

It is reported to the Community in council's Annual Audited Financial Statements in Note 4. *Expenses from continuing operations*. This motion proposed to ensure the advertising expenditure is open and transparent to the residents and ratepayers and council's governing body who approve expenditure.

KEY ISSUES

Advertising expenditure has historically amounted to large amounts of money. In 2017 it was reported in the Annual Audited Financial Statements as \$561,000. In 2018, \$477,000 and in 2019, \$438,000.

Councillors as the members of the governing body are entitled to information on expenditure.

COUNCIL IMPLICATIONS**Budget/Financial**

Staff time to generate the reports.

Policy or Regulation

The Local Government Act 1993 prescribes principles of sound financial management. These are intended to guide councils in the exercise of these and other functions in a way that facilitates local communities that are strong, healthy and prosperous.

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Attachment:	N/A
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STAFF COMMENT

A report satisfying point A can be attained from Council's Finance system. However, a detailed report identifying the types of advertising purchased will require reviewing individual invoices for the years 2017/2018 and 2018/2019, this information is not retained against the financial ledger and therefore not attainable by reporting from the system. The 2017/2018 invoices are hardcopy and stored offsite and the 2018/2019 invoices are electronic following changed practice. A resource to undertake this in a timely manner will be required.

ITEM 07.20.013 NAMING OF ROAD "SHIRLEY ADAMS WAY"

Meeting	Council	22 September 2020
Directorate	Notice of Motion	
Submitted by	Cr Richie Williamson	
Attachment	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

To seek support to name a portion of unnamed road leading into Grafton after the first female Mayor of Grafton City Council and the first Deputy Mayor of Clarence Valley Council the "Shirley Adams Way".

PROPOSED MOTION

That Council

1. Support the proposal to name the roadway on the Summerland Way from the roundabout on Big River Way, South Grafton to the traffic lights at the Clarence Street intersection "Shirley Adams Way".
2. Place the proposed name on public exhibition for a period of 28 days.
3. Seek approval from Transport for NSW and the Geographic Names Board for this name.

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

As Councillors would know the late Shirley Adams OAM died on the 30 of June 2020 which was acknowledged by Mayor Simmons at the July Council meeting.

Shirley served on Grafton City Council from 1974 to 1987 and 1996 to 2004. She was the last Mayor of the City of Grafton before the council was amalgamated and when the Clarence Valley was formed, Shirley was the first deputy mayor of Clarence Valley Council, elected in 2005.

Shirley was a trailblazer in local government circles, being the only woman elected to the position of Mayor of Grafton City Council, serving on many committees and sub-committees at both local and state levels. This included being the first women elected to the role of Chair of the Country Mayors Association of NSW. She said to me on more than one occasion, "If you want something done, ask a woman!" and that was certainly true for Shirley.

Of course, being in danger of leaving out some organisations, Shirley was deeply involved in the NSW Girl Guides, the Hospital Auxiliary, Meals on Wheels, Jacaranda Festival, of which Shirley was Jacaranda Queen in 1952, Festival President 1976 - 1977, Guest of Honour 2008 and festival life member, Grafton Historical Society, CWA and many, many more. Shirley was awarded the Order of Australia Medal (OAM) in 1989.

Shirley and John almost single-handedly arranged the celebration for the sesquicentenary of the City of Grafton, painted the city purple with crepe paper for the Olympic torch relay and was also a fearless campaigner for better health services in Grafton. Just to name a few of Shirley's achievements.

Shirley's family have written to me seeking my and councils support to name the section of the Summerland Way from approximately the roundabout from Big River Way, South Grafton to the Clarence Street intersection "Shirley Adams Way". I've been informed by Transport of NSW that this section of the Summerland Way remains "unnamed" at the time of writing. No formal discussion has been had with Transport for NSW that I am aware of.

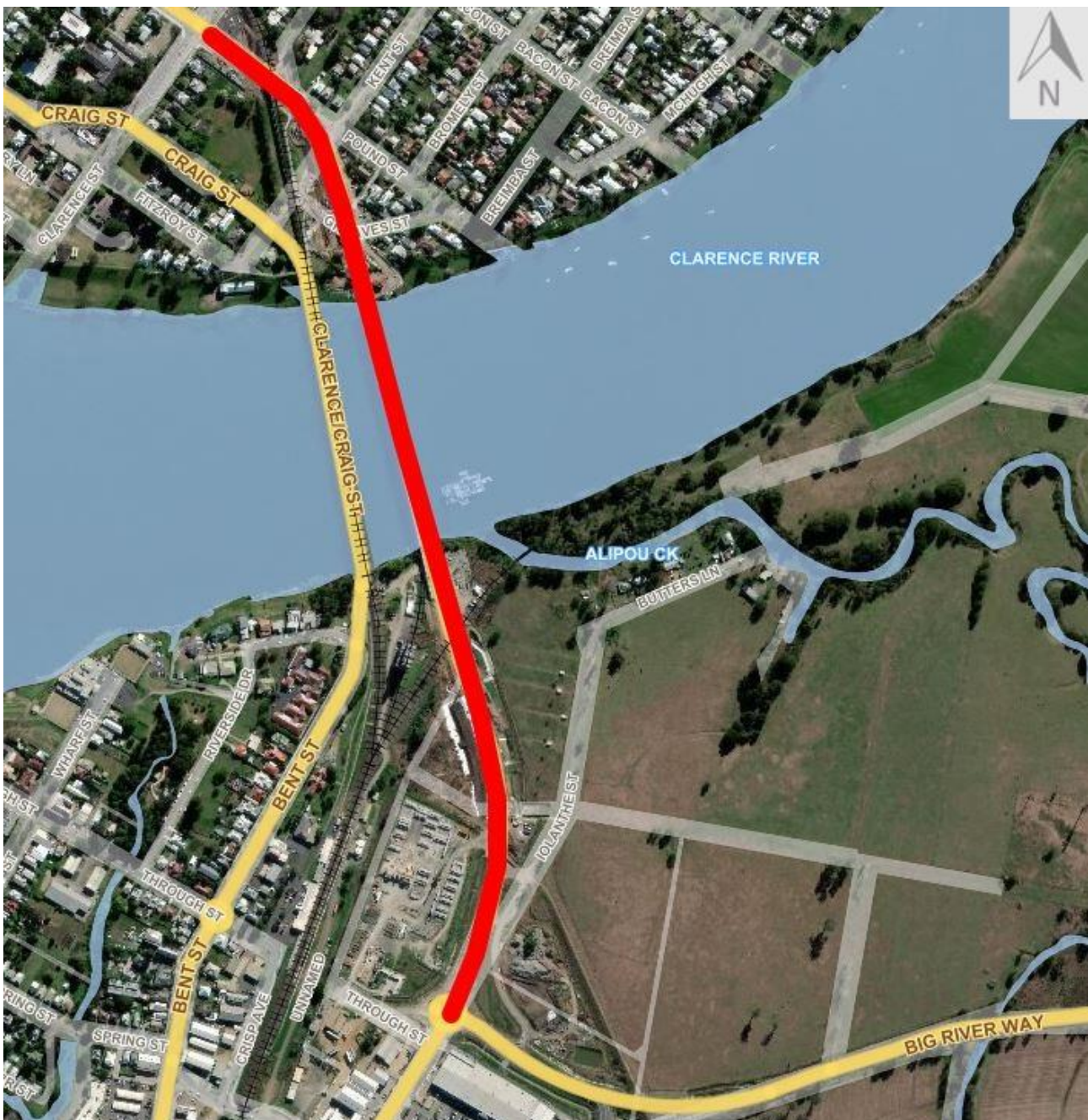


Figure 1 - Proposed Shirley Adams Way marked in red

KEY ISSUES

Councillors might also recall that Transport for NSW is undertaking community consultation regarding the naming of the new bridge, this proposal does not seek to name the new bridge nor make a submission to that process.

The Geographical Names Board Policy states that deceased persons are suitable for naming purposes if they have had two or more terms of office on the governing council and twenty or more years' association with a local community group or service club.

COUNCIL IMPLICATIONS

Budget/Financial

The cost of advertising and new signage could be met from existing funding allocations.

Policy or Regulation

Roads Regulation 2018

Roads Act 1993

Road and Street Naming Policy

Consultation

Community consultation would be invited through advertising on Council website and through any other means considered appropriate.

Legal and Risk Management

N/A

8. CONFIDENTIAL BUSINESS

ITEM	08.20.008	REQUEST FROM ACCOUNT 2057479 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT
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Meeting	Council	22 September 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	Confidential	

CONFIDENTIAL *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section: 10A 2 (b) The report contains information dealing with the personal hardship of a resident or ratepayer*

ITEM	08.20.009	RECEIPT OF WASTE FROM COFFS HARBOUR CITY COUNCIL
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Meeting	Council	22 September 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	To be tabled	

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 (c) The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

ITEM	08.20.010	CODE OF CONDUCT COMPLAINT INVESTIGATION REPORT
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Meeting	Council	22 September 2020
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

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 (i) The report contains information on alleged contraventions of any code of conduct requirements applicable under section 440*

9. LATE ITEMS OF BUSINESS AND MATTERS ARISING

10. CLOSE OF ORDINARY MEETING