



clarence  
VALLEY COUNCIL

2020

# Ordinary Council Meeting



**Business Paper**

**Maclean Chambers**

Tuesday, 24 March 2020

2.00 pm

## Agenda

01	OPENING OF ORDINARY MEETING		
	<ul style="list-style-type: none"> <li>• Opening Prayer</li> <li>• Acknowledgement of Country</li> <li>• Recording of Meeting Announcement</li> </ul>		
02	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE		
03	DISCLOSURES AND DECLARATION OF INTERESTS		
04	CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 25 FEBRUARY 2020 AND THE EXTRAORDINARY COUNCIL MEETING HELD 10 MARCH 2020		
05	MAYORAL MINUTES		
	<a href="#">05.20.003</a> Establishment of a COVID-19/Flu Testing Clinic in the Clarence Valley Council Area	1	N
	<a href="#">05.20.004</a> State Emergency Services Incident Control Centre Relocation to Lismore	3	N
	<a href="#">05.20.005</a> Grafton Base Hospital Redevelopment State Funding	5	Y
	<a href="#">05.20.006</a> General Manager's Mid Term Assessment 2019/20	7	Conf
06	REPORTS		
a	GENERAL MANAGER		
	<a href="#">6a.20.004</a> Bushfire Community Resilience & Economic Recovery Fund	9	Y
	<a href="#">6a.20.005</a> Bushfire Community Recovery Grants	12	N
	<a href="#">6a.20.006</a> Event Sponsorship, Donations and Waiving Rent Delegation	15	N
	<a href="#">6a.20.007</a> Update on Bushfire Emergency Potable Tank Water Replenishment	17	N
	<a href="#">6a.20.008</a> Submission to the NSW Independent Bushfire Inquiry and National Royal Commission into the "Black Summer" Bushfires	20	Y
b	ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE		
	<a href="#">6b.20.012</a> DA2019/0195 – Additions to Caravan Park – 33 Additional Manufactured Home Estate Sites at the Anchorage Holiday Park Iluka	23	Y
	<a href="#">6b.20.013</a> SUB2019/0024 – 32 Lot Residential Subdivision, 21 Jubilee Street, Townsend, Lot 2 DP1202603	41	Y
	<a href="#">6b.20.014</a> DA2019/0494 – Dual Occupancy (Attached) – 4 Moorhead Drive, South Grafton Being Lot 139 DP242614	58	Y
	<a href="#">6b.20.015</a> SUB2019/0033 – Boundary Adjustment and Consolidation– 900-1278 Laytons Range Road, Kangaroo Creek	71	Y
	<a href="#">6b.20.016</a> DA2020/0025 – Reglazing and Painting of Commercial Building – No. 42 Victoria Street, Grafton	76	Y
	<a href="#">6b.20.017</a> DA2019/0639 – Proposed Retail Development – 20 High Street (Fronting Coldstream Street), Yamba	83	Y
	<a href="#">6b.20.018</a> DA2019/0208 – Staged Redevelopment of Pacific Hotel - 16 Pilot Street, Yamba	89	TBT
	<a href="#">6b.20.019</a> Draft Local Strategic Planning Statement	128	Y
	<a href="#">6b.20.020</a> Public Art Policy	134	Y
	<a href="#">6b.20.021</a> Cultural and Sports Trust Fund	136	N
	<a href="#">6b.20.022</a> Clarence Valley Cultural Committee	139	Y
	<a href="#">6b.20.023</a> Removal of Overdue Library Fines	142	Y

	<a href="#">6b.20.024</a>	Development Applications	147	N
	<a href="#">6b.20.025</a>	Clarence Valley Local Environmental Plan 2011 (Amendment No 43)	155	Y
c	CORPORATE, GOVERNANCE AND WORKS COMMITTEE			
	<a href="#">6c.20.023</a>	2 Prince Street Administration Centre Upgrade	159	Y
	<a href="#">6c.20.024</a>	Yamba Access Project Steering Committee Member	164	Y
	<a href="#">6c.20.025</a>	Road Naming of Existing and Proposed Assets as a Result of the Construction of the New Pacific Highway	166	Y
	<a href="#">6c.20.026</a>	Iluka Soldiers Memorial Hall/Museum	170	Y
	<a href="#">6c.20.027</a>	Council Meeting Checklist – Update on Actions Taken	174	Y
	<a href="#">6c.20.028</a>	Monthly Investment Report – February 2020 and Investment Strategy Update	176	Y
	<a href="#">6c.20.029</a>	2019/20 Monthly Financial Report – February 2020	185	TBT
	<a href="#">6c.20.030</a>	Request from Account 2205979 for Consideration for Reduction in Water Account	190	Conf
	<a href="#">6c.20.031</a>	Classification of Lot 156 DP 1259959 as Operational	195	N
	<a href="#">6c.20.032</a>	Councillor Superannuation	197	TBT
	<a href="#">6c.20.033</a>	Update on Review of Beach Access Policy	200	Y
	<a href="#">6c.20.034</a>	The Australasian Local Government Performance Excellence Program FY19	208	TBT
	<a href="#">6c.20.035</a>	Works Report	211	Y
	<a href="#">6c.20.036</a>	Grafton Pool Master Plan Update – Located on Crown Land	214	N
d	INFORMATION ITEMS		217	Y
	<a href="#">6d.20.002</a>	1. Dundurrabin Public School 2. Dundurrabin Community Centre Committee 3. Calliope Hall Committee 4. Wooloweyah Parks & Reserves Committee 5. Clarence Regional Library Committee 6. Audit Committee 7. Strathfield Council		
e	TENDERS			
	<a href="#">6e.20.007</a>	T20/03 New Truck and Dog Trailer	218	
	<a href="#">6e.20.008</a>	RFT-10026901 North Grafton Sewage Treatment Plant Concept and Detailed Design	220	
	<a href="#">6e.20.009</a>	Expression of Interest – Construction of Roundabouts on Yamba Road	223	
	<a href="#">6e.20.010</a>	RFT20/09 Iluka Riverside Holiday Park Management Contract Tender – on Crown Land	226	
07	NOTICE OF MOTIONS			
08	CONFIDENTIAL BUSINESS			
09	LATE ITEMS OF BUSINESS AND MATTERS ARISING			
10	CLOSE OF ORDINARY MEETING			

**5. MAYORAL MINUTES**

ITEM	05.20.003	ESTABLISHMENT OF A COVID-19/FLU TESTING CLINIC IN THE CLARENCE VALLEY COUNCIL AREA
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Nil	

**SUMMARY**

At present, the Clarence Valley Council area has no dedicated COVID-19/flu (coronavirus) testing clinic; which are established jointly by the Northern NSW Local Health District and the North Coast Primary Health Network. Clinics have been established in the Tweed and Lismore Hospitals. It is understood as there were no identified cases of COVID-19 in the Clarence Valley the clinics were not set up here immediately. The advice now is that the local GP's are overrun with testing requests and it is essential that a clinic is established as soon as possible.

**PROPOSED MOTION**

That the Northern NSW Local Health District and the North Coast Primary Health Network

1. Be requested to establish immediately a COVID-19/flu testing clinic in the Clarence Valley.
2. Be encouraged to have mechanisms to support either remote testing or secure transport of potential affected residents in our isolated communities who have no access to private vehicles.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

The COVID-19 (Coronavirus) impacts on the world, Australian and local society and economy need no explanation here. Although at present, the Clarence Valley thankfully has no recorded cases of the virus (at the time of writing this Mayoral Minute); it is inevitable that cases will occur. At present, to get tested Clarence Valley residents have to contact their GP's who, we are informed, are now overloaded with inquiries and requests for testing. The nearest NSW Health Clinic is based at Lismore 1.5 hours away.

**KEY ISSUES**

It is inequitable that there is no NSW Health testing clinic in the Clarence Valley which has a very vulnerable community due to the ageing population and socio-economic disadvantage. It is urgent that a clinic is established in the Clarence Valley immediately.

Due to the great distance in the Valley it is also important that self-identified at risk residents have safe means to access the testing facilities, as many do not have access to their own car and to go by public transport, where available, puts more of the community at risk.

**COUNCIL IMPLICATIONS**

**Budget/Financial**  
N/A

<b>ITEM</b>	<b>05.20.004</b>	<b>STATE EMERGENCY SERVICES INCIDENT CONTROL CENTRE RELOCATION TO LISMORE</b>
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<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Nil	

**SUMMARY**

A meeting was held with local State Emergency Services (SES) volunteers where they raised serious concerns over the restructure of SES operations and its impact on the Clarence Valley. The impact now means incidents such as the recent flood are managed and run through incident controllers located in Lismore. Based on the issues raised during the recent event this is clearly not acceptable and raises unacceptable risks for our community.

**PROPOSED MOTION**

That Council advise the local State member Chris Gulaptis MP and the Minister for Police and Emergency Services, David Elliott MP of its strong opposition to the relocation of SES emergency and incident management to Lismore and seek the reinstatement of the resources and management to the Clarence Valley Incident Control Centre in South Grafton for all future emergency management events taking place in the Clarence Valley.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.5 Represent our community at Regional, State and Federal levels

**BACKGROUND**

The State Emergency Service has been going through a restructure over the last couple of years that has resulted in the reallocation of key resources and emergency management control to its operations centre in Lismore. Key staff managing flood and other natural events are now based in Lismore with little knowledge of the Clarence Valley as demonstrated in the last moderate flooding event on the Clarence in February.

**KEY ISSUES**

The SES volunteers I met raised a number of concerning issues –

- In 2013 we experienced one of the highest floods on record causing the north levee to be overtopped near the Fry Street residential area in Grafton. During such events the Clarence Nambucca Regional Headquarters in South Grafton was staffed 24/7 enabling management and planning to occur in case of evacuations.
- The recent moderate flood event on the Clarence was minimally managed from the remotely located Incident Control Centre (ICC) at Southern Cross University Lismore.

- There was no local incident management team within the Clarence Valley. This meant that emergencies in the Grafton, Tucabia, Coutts Crossing, Glenreagh, Copmanhurst, Maclean, Lawrence, Iluka and Yamba received little attention.
- Staff at the ICC included Queensland Fire and Emergency Services personnel had little knowledge and unaware of localities in the Clarence Valley and no knowledge of the local 9 SES units and the Clarence Nambucca Capability Unit. This was confirmed following different telephone exchanges between locally based people and the Lismore ICC.
- Radio interviews were conducted with the Incident Controller in Lismore who could only give sketchy information about flooding impacts along the Orara and Clarence Rivers.
- Our community is looking for more information about the impacts of minor, moderate and major flooding in our region.
- At one stage it was suggested that the Emergency Operations Centre (EOC) be established in Lismore. This was unacceptable to have the Police, Council's Local Emergency Management Officer (LEMO), NSW Ambulance, FACS, Fire and Rescue NSW, NSW Health, etc. representatives being away from their local communities.
- There was general feeling that the EOC needed to be established in Grafton as occurred recently during the recent bushfire event. During a major flood those agency representatives would be cut off with road closures and would be stuck in Lismore.
- Council's LEMO and senior staff are of the view that the changed arrangements within the SES are unacceptable and not serving our area.

The Clarence River is the largest on the east coast of Australia. It is my strong view that the Clarence Valley community is vulnerable and at risk if the current level of emergency management is not complimented with personnel who know the local area, know the behaviour of floods in our area and are based within the Clarence Valley so they can quickly respond to matters as they arise.

#### **COUNCIL IMPLICATIONS**

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

Nil

<b>ITEM</b>	<b>05.20.005</b>	<b>GRAFTON BASE HOSPITAL REDEVELOPMENT STATE FUNDING</b>
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<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Yes	

## SUMMARY

There is concern that the NSW State Government budget does not show funding for an election promise made by the Member for Clarence Chris Gulaptis, MP, for the \$263.8 million redevelopment of the Grafton Base Hospital.

## PROPOSED MOTION

That Council write to the NSW Premier, Treasurer, Minister for Health and Medical Research and the Deputy Premier asking that the election commitment of \$263.8 million for the redevelopment of the Grafton Base Hospital be honoured and included in the 2020/21 State budget.

## LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.5 Represent our community at Regional, State and Federal levels

## BACKGROUND

On 20 November 2018, Council resolved at its meeting under Item 11.016/18 to write to NSW government representatives in support of the redevelopment of the Grafton Base Hospital.

Since then, the local member Chris Gulaptis, MP announced that the NSW state budget confirmed key local election promises including an amount of \$263.8 million for the hospital.

Council has now been approached by the Grafton Chamber of Commerce to provide support by way of writing to our politicians to seek an answer as to why the promised \$263.8 million for the redevelopment of the Grafton Base Hospital has not been included in the current NSW state budget.

## KEY ISSUES

I believe it is very important and our duty to support our local community in every way possible to achieve positive outcomes for our community.

This redevelopment of the hospital is critical to the whole Clarence Valley with the Northern NSW Local Health District identifying it as a top capital investment priority.

The redevelopment will include expansion in the following areas:

- Emergency Department
- Intensive Care Unit/Close Observation Unit
- Inpatient Units for Integrated Maternity and Newborn Services



- Women’s Care
- Birthing Suites
- Neonatal Care
- Geriatric Evaluation Medicine
- Medical, surgical and child and adolescent services
- Perioperative Unit
- Inpatient and community based mental health services
- Pathology, Medical Imaging, Pharmacy

As can be seen from the above list, there is great benefit to the Clarence Valley community as a whole if this development was to go ahead as quickly as possible.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

N/A

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Attachment	Council Report 11.016/18
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<b>ITEM</b>	<b>05.20.006</b>	<b>GENERAL MANAGER'S MID TERM ASSESSMENT 2019/20</b>
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<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Confidential	

## SUMMARY

This Mayoral Minute is tabled in accordance with the Office of Local Government's Guidelines for the appointment and oversight of General Manager's, which states:

*"The panel should report back to the governing body of council in a closed session the findings and recommendations of its performance review as soon as practicable following any performance review. This should not be an opportunity to debate the results or re-enact the performance review of the general manager"*

## PROPOSED MOTION

That Council note the General Manager's Mid Term Assessment for 2019/20.

## LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.7 Undertake the civic duties of Council in an ethical manner

## BACKGROUND

The General Manager's mid term assessment for 2019/20 was conducted in accordance with the General Manager's Contract of Employment and the Performance Management – General Manager Policy, adopted by Council in October 2018. The assessment was facilitated by LG Management Solutions, Council's contract supplier of this service.

The General Manager's Performance Review Panel comprises the Mayor Cr Simmons, Deputy Mayor Cr Kingsley, Cr Williamson and Cr Ellem. Councillors who are not on the panel were invited to provide feedback on the General Manager's performance prior to the assessment. Feedback was received and discussed by the panel as part of the review. The Mid Term Assessment was conducted on Tuesday 25 February 2020.

## KEY ISSUES

Overall, the committee are more than satisfied with the performance of the General Manager, during a chaotic last 6 months with bushfires and the recent floods. The General Manager has demonstrated positive leadership of both the organisation and within the community. The General Manager is well respected by the staff.

The General Manager's Performance Review Panel is satisfied the Mid Term Assessment is complete. A confidential copy of the Mid Term Assessment with aggregated ranking is attached.

**COUNCIL IMPLICATIONS**

**Budget/Financial**  
N/A

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Confidential	General Manager's Mid Term Assessment Review
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**6. REPORTS****a. GENERAL MANAGER**

ITEM	6a.20.004	BUSHFIRE COMMUNITY RESILIENCE & ECONOMIC RECOVERY FUND
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**SUMMARY**

This report presents to Council a proposed expenditure plan for \$250,000 received from the joint Commonwealth-State Disaster Funding Arrangements to assist councils and communities to commence the recovery process following the unprecedented bushfires that devastated the state from August 2019.

**OFFICER RECOMMENDATION**

That Council endorse the proposed expenditure plan for the \$250,000 Phase 1 allocation from the NSW State Government's Bushfire Community Resilience and Economic Recovery Fund.

**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**

Funding for the Bushfire Community Resilience and Economic Recovery Fund (BCRERF) is being provided through the joint Commonwealth-State Disaster Funding Arrangements. This funding is being made available to bushfire affected Local Government Areas in NSW following the unprecedented bushfires from August 2019 onwards.

Council qualifies for \$250,000 from the Phase 1 funding as the Council area experienced in excess of 100 damaged or destroyed buildings within the local government area.

A copy of correspondence to the Mayor from the NSW Deputy Premier, The Hon. John Barilaro MP and the Phase 1 funding guidelines are attached.

**KEY ISSUES**

The funding guidelines specifically state that *"Phase 1 of the BCRERF is focused on delivering immediate, small-scale funding to local councils that will start the community and economic recovery following the bushfires. The funds are to deliver locally-led recovery activities led by councils in partnership with other organisations"*.

Councils are asked to undertake activities in the following two categories:

- Economic Recovery – events or initiatives to support local business and industry recovery.
- Community Resilience – events or initiatives to support community recovery and wellbeing.

The guidelines also state that projects will need to contribute to one or more of the following Disaster Recovery Outcomes:

- The needs of vulnerable groups are addressed in disaster recovery.
- The community is aware of the disaster recovery processes.
- The community can express its changing disaster recovery needs.
- Community members are aware of the risks of future disasters.
- The community has improved capacity to respond to future disasters.
- Business and not-for-profits have in place adequate mitigation practices for risks and threats.
- Government, private sector and civil society and organisations are engaged in plans for mitigation and management of the recovery.

Tabled below is a summary of the proposed projects to be funded by the \$250,000 allocation with some of this funding being allocated to support and assist with the projects identified by Council at the February meeting (refer Item 6c.20.006) for the \$1.416 million Bushfire Recovery & Resilience Funds.

Project	Allocation	Category
Consultant to work with community to identify community hall improvements to build community resilience and preparedness.	\$50,000	Community Resilience
Bushfire Community Recovery Events – Note 1	\$50,000	Community Resilience
Small Business Stimulus Package including small business continuity and contingency planning workshops, direct consultancy support to small business to prepare business plans and identify grant and no interest loan source funding, and direct engagement of affected businesses in delivering services that complement other event activities currently being organised – Note 2.	\$50,000	Economic Recovery
Rural & Tourism Impact Assessment and Recovery Strategy for the Clarence Valley.	\$100,000	Economic Recovery

Note 1 – See report elsewhere on the agenda which deals with the management of the Bushfire Community Recovery Grants via the Smarty-grants program.

Note 2 – This applies to events delivered once COVID-19 restrictions have been lifted.

## COUNCIL IMPLICATIONS

### Budget/Financial

Management of the project delivery for the \$250,000 will be from within existing staffing resources and budgets.

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

Report has been prepared following consultation with the Executive and Bushfire Disaster Recovery staff who have consulted with the community.

### Legal and Risk Management

N/A

**Climate Change**

N/A

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Prepared by	Ashley Lindsay – General Manager
Attachment	Correspondence from NSW Deputy Premier & Phase 1 Funding Guidelines

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ITEM	6a.20.005	BUSHFIRE COMMUNITY RECOVERY GRANTS
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	General Manager	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Nil	

## SUMMARY

Elsewhere on this agenda is a report outlining a proposal to allocate \$50,000 to Bushfire Community Recovery Events from the \$250,000 provided to Council as part of the NSW State Government's Bushfire Community Resilience and Economic Recovery Fund. This report outlines the processes and procedures to be followed to enable the community to make application for this funding to be known as the *Bushfire Community Recovery Grants* program. The funding administration and distribution is to be completed by 30 June 2020.

## OFFICER RECOMMENDATION

That the Council approve the proposed process for development and delivery for the *Bushfire Community Recovery Grants*.

## 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

Successful recovery is community-centred, responsive and flexible, engaging with community and supporting them to move forward (National Principles for Disaster Recovery).

The funding to support these grants was provided through the Bushfire Community Resilience and Economic Recovery Fund (BCRERF). Funding is available to bushfire affected Local Government Areas (LGAs) in New South Wales following unprecedented bushfires from August 2019 onwards.

The grants are focused on delivering immediate, small-scale funding to local communities that will start the community recovery following the bushfires. The funds will deliver locally-led recovery activities.

David Younger, clinical and consultant psychologist in his Disaster Recovery presentation to CVC on 21 February, stated that a strong connection within a community is paramount to its recovery.

*"Six months after a bushfire or major emergency is often a major milestone for impacted communities. It's when people start to realise there is still so much recovery work to do, which can lead to fatigue."*

Therefore, it is important to give bushfire affected communities an opportunity to connect and rejuvenate through events and/or activities that enhance recovery and build resilience. Current and completed examples include: [Ewingar Rising – Bushfire Recovery Event](#) and [Pamela Denise – Mosaic Recovery](#)

The proposed Bushfire Community Recovery Grants process is as follows.

Each community can apply for up to \$10,000 through Not-for-Profit organisations, S355 community hall committees or groups auspiced by a NFP/355 organisation.

Application form building	March	Community Grants Officer
Applications open	April-May	Applications assessed within 2 weeks
Co-management of grants	April-June	Community Grants Officer & Recovery Officer
Assessment of applications	April-early June	General Manager
Payment of grants	April-mid June	Recovery Officer
Final report	by 30 June	Recovery Officer & Community Grants Officer

## KEY ISSUES

Building forms and managing applications, through the SmartyGrants portal, requires time and knowledge. The Clarence Valley Council community grants officer will require additional work hours to develop process, forms and training. Additional work hours are approximately 70 hours from March-June to build, co-manage and train the Recovery Officer. The above proposed process is dependant on the recovery position being filled by early-mid April.

Having an awareness of other grant opportunities is essential to avoid duplication and ensure maximum community impact. Clarence Valley Council will be working, to assist in directing to the most appropriate source of funding.

### Individual Grants:

- loss of property, mental health, loss of work/business income, volunteer firefighter
- CVC /Service NSW – Rates Relief
- Create NSW quick response – creative development and small arts projects \$1500/\$5000

### Community Grants:

- FRRR – opens September TBC – outcomes not defined yet
- ClubGrants - Disaster readiness and community infrastructure \$10-\$200,000
- Volunteer equipment & training \$5000
- Repair/replace facilities not covered by insurance \$50,000

## COUNCIL IMPLICATIONS

### Budget/Financial

The additional hours for the Community Grants Officer will be funded from within the existing budget for Community Development.

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

N/A

### Legal and Risk Management

The delivery of the projects will now have to take into account requirements associated with minimising risk to comply with Federal and State Government requirements for the management of COVID-19 within the community.



**Climate Change**

N/A

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

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ITEM	6a.20.006	EVENT SPONSORSHIP, DONATIONS AND WAIVING RENT DELEGATION
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

## SUMMARY

This report gives consideration to providing the General Manager with the authority to make decisions about funding allocations and rental agreements during the current situation of the COVID-19 pandemic.

## OFFICER RECOMMENDATION

That Council:

1. Authorise the General Manager to make decisions about the funding already approved by Council for sponsorships and donations for events on a case by case basis.
2. Authorise the General Manager to waive rent for not-for-profit community groups that are ceasing and cancelling gatherings in, and use of, Council facilities due to the threat of the COVID-19 pandemic.

## 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

At the December 2019 Council meeting, Council approved sponsorship for events being held between February and August 2020 as part of Round 2 of the Special Event Sponsorship program. A number of donations were also approved for events from December to June 2020 as part of the Community Initiatives Program.

## KEY ISSUES

The COVID-19 pandemic and the resulting restrictions put into place by the Australian Federal Government on Sunday 15 March have impacted and will continue to impact our local events. Some events have spent a significant amount of their budget on promotion and various production elements and some may cancel without doing so.

The approach recommended is to assess on a case by case basis and to give the General Manager discretionary decision making power in regards to provision of the approved sponsorship and donations.

In addition to this we are receiving requests from not-for-profit community groups, to waive rent as they are ceasing operation for a set period of time while the COVID-19 pandemic is of concern. Allowing the General Manager discretionary authority to make decisions to waive monthly rent and refund contributions will streamline advice to these groups.

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

There will be no increase in the Special Event Sponsorship or Community Initiatives Program budget. There maybe unspent funds due to event cancellations where there has been no outlay to date. Conversely, there will be a minor loss of income if community groups cease operations and request a waiver of the monthly rent.

**Asset Management**

N/A

**Policy or Regulation**

Event Sponsorship Policy

**Consultation**

Consultation occurred between the Community and Industry Engagement

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Alicia Savelloni, Event Development Officer
Attachment	Nil

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<b>ITEM</b>	<b>6a.20.007</b>	<b>UPDATE ON BUSHFIRE EMERGENCY POTABLE TANK WATER REPLENISHMENT</b>
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<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Nil	

**SUMMARY**

This report summarises the status of the free 7,000 litre potable water replenishment program offered to fire affected households following the recent bushfires, and asks for an expiry date to be implemented for closure of this program.

**OFFICER RECOMMENDATION**

That Council:

1. Acknowledge the hardship that communities of the Clarence Valley have endured throughout the bushfire event and ongoing hardship as they rebuild.
2. Implement an end date of 31 May 2020 for water deliveries to fire affected residents, with an extension only granted to any resident who has not yet installed a replacement tank and provides evidence of a tank installation.
3. Increase the budget allocation from \$60,000 to \$100,000 from the General Fund available working funds.
4. Undertake a media campaign regarding the end date.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.2 We will have a safe, active and healthy region

Strategy 1.2.4 With our partners, promote community safety

**BACKGROUND**

As a result of Mayoral Minute 05.19.006 for 26 November 2019 Council meeting, "Support Package for Community Recovery as a Result of the Bushfires", part of the Council resolution was:

4. *Arranges to supply for free a one off potable water replenishment to fire affected households in the RFS mapped fire zones capped at 7,000 litres (estimated to be one months normal household water supply at a cost of around \$180 a load) with residents to register for the water delivery and Council allocate \$60,000 from accumulated general fund surplus for this purpose.*

Registrations were accepted from late November and closed on 24 December 2019.

Some cancellations were registered on Christmas Eve, after some rain/storms on 23 December, and more cancellations were received up to 20 January. At this point, deliveries were suspended and all 4 contractors were asked to confirm what deliveries had been completed and what was still outstanding.

On 23 January an update to residents was sent out which generated over 60 responses that water was no longer required. Cancellations came from most areas of the local government area.

Only 11 deliveries were made in early February before the rain/flooding event occurred. Since that time only 2 residents have requested water as they have had replacement tanks installed and were ready to accept delivery.

#### KEY ISSUES

Initially, there was a delay in deliveries due to areas being impassable (road damage, bridges burnt, dangerous trees near/on the roads, some areas still burning). Only two contractors, with the necessary approvals for potable water cartage, registered on Council's finance system. One of these was already heavily committed to roadworks and did not have the drivers to do the water deliveries.

In mid-December another water carter was sourced for local deliveries but this contractor also had commitments to roadworks. In early January, a contractor was sourced from Dorrigo who could supply the Dundurrabin/Tyringham area, although rain at this time made some roads impassable for that contractor.

The status of the 7,000L water tank replenishment as at 5 March 2020 is as follows:

Completed deliveries	<b>291</b>	
Cancellations following rain events	98	Received since 24/12/19
Registered customers and ready	114	Waiting on allocation to contractors
Registered customers <i>Not Ready</i>	68	Waiting on tank delivery/tank volume
Ineligible/Duplicates	44	
Total applications received	615	
Total cost of deliveries to date	<b>\$60,087.27</b>	x GST

Summary of areas waiting for supply:

	Ready	Not Ready
Nymboida	7	32
Coutts Crossing	21	5
Glenreagh-Orara Way	17	5
NW Upper Clarence	43	6
SW Dundurrabin area	25	7
NE/Lower Clarence	11	13
Uncertain/ineligible	10	
	<b>134</b>	<b>68</b>

Dependant on the contractor completing deliveries (based on current rates), the cost will be between:

- \$32,760 and \$63,700; if all registered residents are supplied, or
- \$12,240 and \$23,800 for those residents who are *not ready* (presumably because they do not have a replacement tank as yet).

The Council commitment was to supply all those who registered as needing a water tank refill. In updates to the community, residents were advised that if they were not ready they could delay delivery. Some residents have responded that their tanks are full, following the rain events, but they want to stay registered for delivery at a later date.

The intent of the water tank refills was to cover the immediate emergency fire response (as part of the ongoing drought). As the situation has moved from response to recovery, consideration is needed to avoid an indefinite hold on refills, particularly after so much rain and flooding. For that reason, it is proposed that

an end date of 31 May 2020 be announced for deliveries to be completed. This will allow finalisation of invoice payments to be completed by the end of the current financial year.

The only residents who would not have benefited from the rain events would be those who lost homes and tanks, and are still not ready for water for that reason. If they have not been able to get a new tank installed prior to 31 May Council could make a contingency for these in the 20/21 budget.

Other bushfire recovery initiatives are continuing, and will continue for some years.

## COUNCIL IMPLICATIONS

### Budget/Financial

It is likely, if the recommendation is adopted, that the additional cost above the original \$60,000 allocated would realistically be somewhere between \$20,000 to \$40,000 in addition. It is recommended the budget be increased from \$60,000 to \$100,000.

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

Ongoing communications have occurred with registered applicants.

### Legal and Risk Management

N/A

### Climate Change

N/A

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

<b>ITEM</b>	<b>6a.20.008</b>	<b>SUBMISSION TO THE NSW INDEPENDENT BUSHFIRE INQUIRY AND NATIONAL ROYAL COMMISSION INTO THE “BLACK SUMMER” BUSHFIRES</b>
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

## SUMMARY

The Federal Government has instigated a national Royal Commission into “Black Summer” bushfires and the NSW Government has also commissioned an independent expert inquiry into the 2019-20 bushfire season to provide input to the Government ahead of the next bushfire season. The attachment outlines a draft submission for Council to submit to the Royal Commission and the NSW Independent Bushfire Inquiry. Submissions close on 3 April and 27 March respectively.

## OFFICER RECOMMENDATION

That Council make a submission to the Royal Commission into National Natural Disaster Arrangements and the NSW Independent Bushfire Inquiry as outlined in the attached draft.

## LINKAGE TO OUR COMMUNITY PLAN

Theme	1 Society
Objective	1.2 We will have a safe, active and healthy region
Strategy	1.2.2 Improve outcomes for the Clarence Valley through partnerships with key agencies and community organisations

## BACKGROUND

The Clarence Valley Council area suffered extensive impacts from the 2019 bushfires which will have long lasting social (including mental health), economic and environmental impacts. As outlined in the draft submission over 50 percent, around 540,000 hectares, of the Council area was burnt in the fires, affecting 1,500 landholders, destroying 169 houses and 5 Council timber bridges. The combined impact of the drought and fires has led to a 50 percent reduction in agricultural output and a yet unquantified affect of the forestry sector which will be significant. In addition, the tourism sector was heavily impacted from August through to December. There are short and long term impacts on mental health which are significant. The long term impacts on bio-diversity are yet to be quantified but again this will be large.

## KEY ISSUES

The draft submission outlines 18 recommendations under the following headings:

- Impacts on the Clarence Valley
- Lessons from the Emergency Response
- Larger State Issues Coming out of the Emergency
- Recovery Lessons
- The Medium to Long Term Responses
- Monitoring Outcomes

The key message is that this is a marathon and the recovery will take years, which obviously is now complicated by the emergency response to Coronavirus. It’s important over the next few months that we

don't forget the important issue of supporting our communities in fire recovery as this new emergency unfolds.

The submission outlines numerous areas which impact on Council ranging from the need for better emergency co-ordination to ongoing financial support for the recovery, to the issues of betterment for bridge infrastructure from disaster assistance, to making our community halls more resilient. These have all been outlined in previous Council reports over the last six months.

## COUNCIL IMPLICATIONS

### Budget/Financial

The submission recommendation, if adopted, should have reduced impact on future Council emergency response budgets and recovery budgets due to greater resilience capability.

### Asset Management

The recommendations on 'betterment' replacing Council bridges through disaster assistance with concrete bridges and community hall upgrades has long term reduced risk and maintenance costs to Council.

### Policy or Regulation

N/A

### Consultation

The submission is based on the hundreds of meetings that Council has had with affected bushfire communities, Chambers of Commerce, key industry groups and State and Federal agencies over the last eight months in responding to the crisis.

### Legal and Risk Management

N/A

### Climate Change

The submission acknowledges that the climate has reached a new normal through an extended bushfire season and these impacts need to be factored into future emergency and resilience planning.

Prepared by	Des Schroder, Director Environment, Planning & Community
Attachment	Draft Submission to the NSW Bushfire Inquiry



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

**MINUTES** of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 17 March 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 Peter Birch (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 Toms	6b.20.012	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Contract Manager of Iluka Riverside Holiday Park Intended action: Leave the Chamber
Cr Novak	6b.20.024	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Is the applicant for the Farmers Market DA Intended action: Leave the Chamber

<b>ITEM</b>	<b>6b.20.012</b>	<b>DA2019/0195 – ADDITIONS TO CARAVAN PARK – 33 ADDITIONAL MANUFACTURED HOME ESTATE SITES AT THE ANCHORAGE HOLIDAY PARK ILUKA</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

**SUMMARY**

<i>Applicant</i>	A. Fletcher & Associates
<i>Owner</i>	G. J. & P. A. Lockyer
<i>Address</i>	Lot 43 in DP1048768, Marandowie Drive, Iluka
<i>Submissions</i>	23 submissions

Council has received Development Application DA2019/0195 for the expansion of the Anchorage Holiday Park. The proposal is to include an additional 33 long term manufactured home estate sites within the Park located on Lot 43 DP1048768.

The application has been lodged following an approval for an additional 29 camping/caravan/cabin sites and relocation of 24 camping sites under DA2012/0494, which also approved the clearing along the back of the caravan park for these sites.

The key differences with the current proposal and the approved development under DA2012/0494 are:

- the proposal is now for an additional 33 manufactured home estate sites instead of 29 camping/caravan/cabin sites,
- the relocation of the 24 camping sites is no longer proposed, and
- vehicle access to the additional sites is proposed off Conrad Close and not Marandowie Drive.

This application is submitted to Council for determination due to the substantial community interest received during the exhibition of the application. Twenty-four (24) submissions were received objecting to the application.

**OFFICER RECOMMENDATION**

That DA2019/0195 be approved subject to the draft advices and conditions in Schedule 1 of this report including the following requirement:

1. The development use the existing access to Marandowie Drive only and only use Conrad Close as an emergency access consistent with development consent DA2012/0494.

*Having declared an interest in this Item, Cr Toms left the EP&C Committee meeting at 3.32 pm returned at 3.54 pm.*

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That DA2019/0195 be approved subject to the draft advices and conditions in Schedule 1 of this report after amendment of conditions as follows:

1. Condition 34: remove the last 2 sentences to now read: Applicant to provide roadway/s car parks, driveways and vehicular accesses for the development in accordance with the requirements of the Roads and Traffic Authority, AS2890, the relevant parts of the applicable Clarence Valley Council

Development Control Plans and NRDC.

2. Condition 36 to be amended: The design of a Marandowie Drive Emergency Access is to be submitted to Council prior to any works commencing. Gate, locks and keys are to be provided in accordance with emergency services authorities and Council requirements. The access to Marandowie Drive is to be for emergency access only and not as a secondary access.
3. Condition 6: last sentence to be deleted.
4. Condition 8: last sentence to be deleted.

Voting recorded as follows:

For: Baker, Williamson, Simmons

Against: Clancy, Novak

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

### BACKGROUND

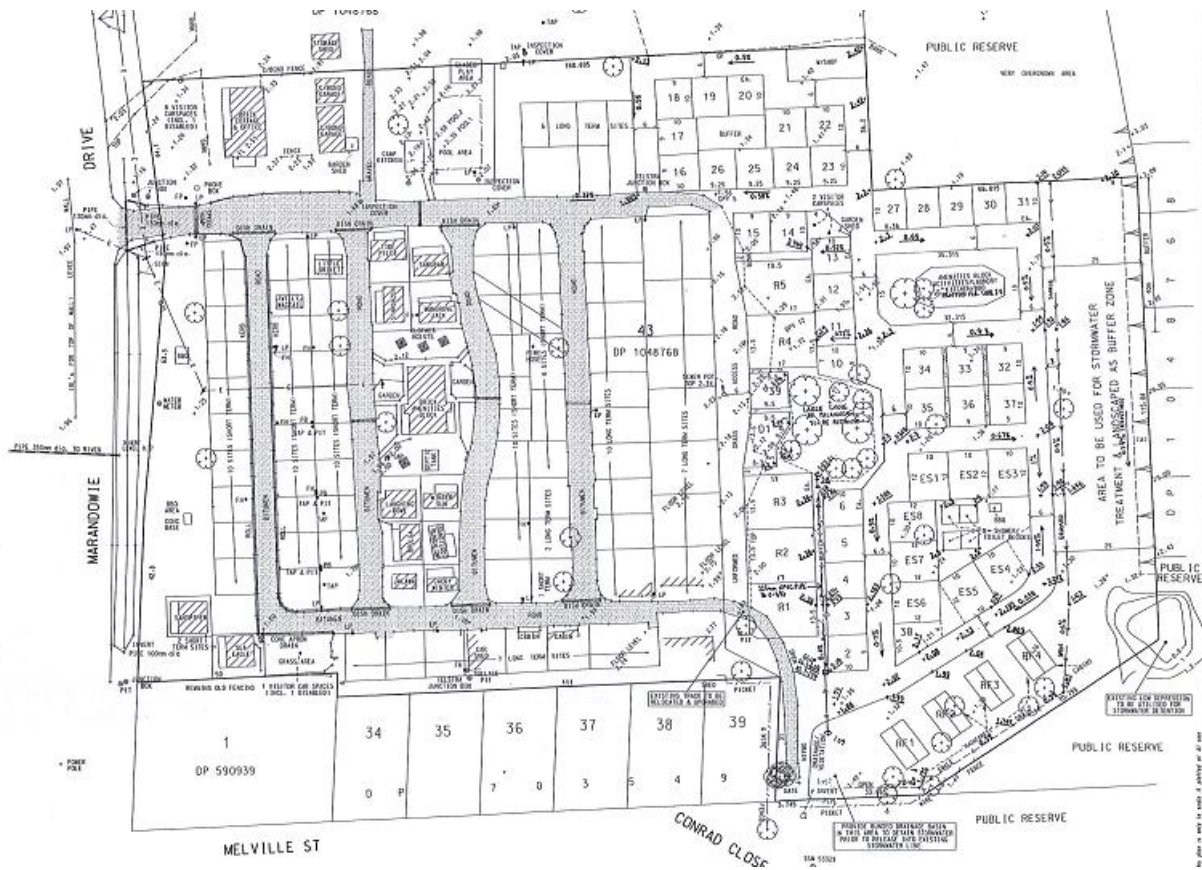
#### Existing Park

The current approval to operate the Anchorage Holiday Park is for a total of 116 sites, include 35 long term sites, 57 short term sites and 24 camp sites (on adjoining Lot 42).

#### Approved Development – DA2012/0494

Development Application DA2012/0494 for additions to the Caravan Park was approved by Council at its meeting of 16 April 2013. The approved development included clearing vegetation from the eastern part of the site, retaining a 25 metre buffer/landscaped area to the rear of the park, relocation of 24 camping sites within the park, and addition of 29 new camping/caravan/cabin sites. A total of 53 sites were approved to be located in the cleared area proposed. The development included retention of a 25m vegetation corridor along the eastern boundary. The total number of sites approved for the park increased to 145. Access to the site was approved from Marandowie Drive, with emergency access only permitted off Conrad Close.

Physical commencement of the application was achieved through construction of a driveway required by Condition 47 of consent. Earthworks and clearing of the site has commenced under this Application and issue of Civil Construction Certificate CC2019/0276.



Current Proposal – DA2019/0195

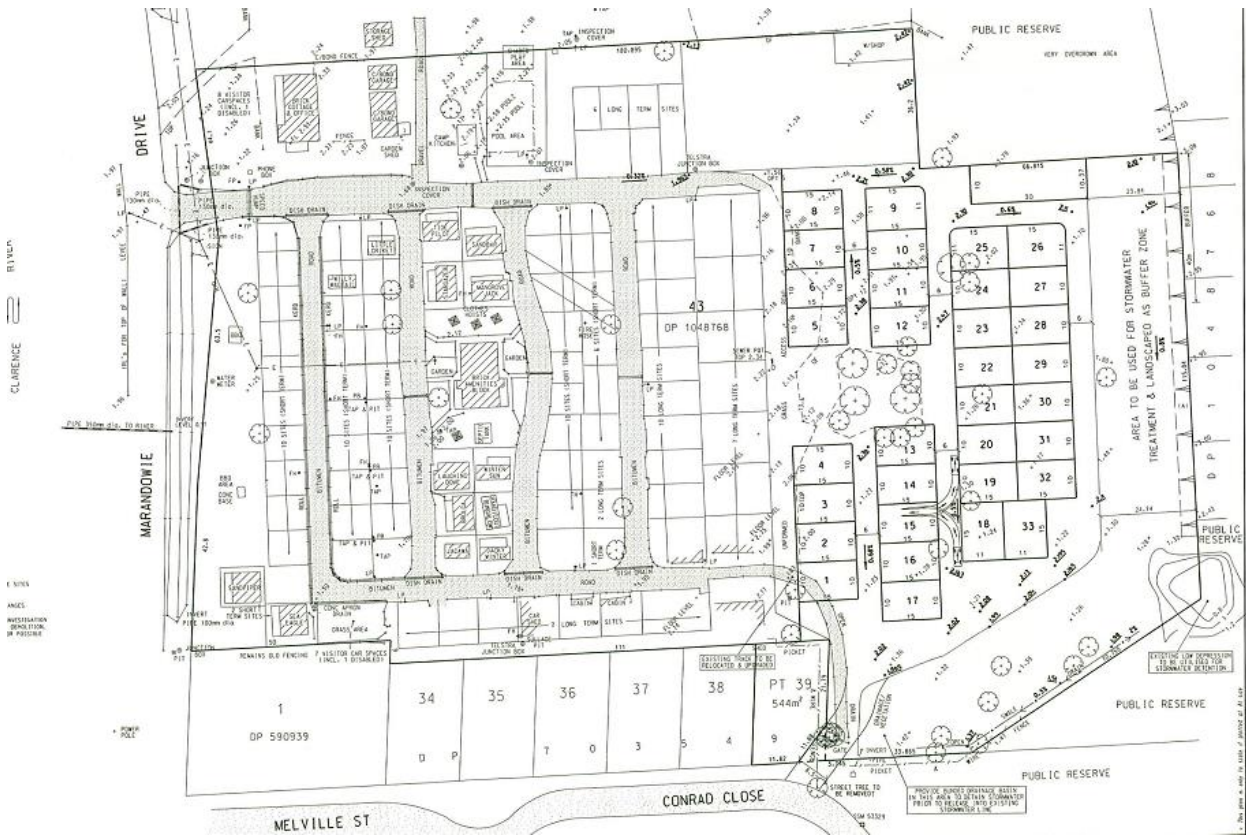
DA2019/0195 was lodged on 16 April 2019 for an additional 33 manufactured home estate sites for long term use at the Anchorage Holiday Park, Iluka.

The development of the site will be within the extension area approved under DA2012/0494, however is for 33 long term manufactured home estate sites within the area instead of 53 camping/caravan/cabin sites. The total number of sites for the park is now proposed to be 149.

A new vehicular access for most of the traffic to the additional 33 sites is proposed off Conrad Close, it is no longer proposed to be used for emergency access. A Traffic Impact Assessment has been submitted to support the proposed access arrangements and is discussed under the Key Issues section below.

As mentioned above, clearing of the land subject to this application has been approved and commenced under DA2012/0494. An amended ecological assessment was forwarded to Council on 18 December 2019 which advised that the Development Application did not require the removal of vegetation with the exception of a street tree in Conrad Close for access to the site.

The site is mapped as bushfire prone land and the application is integrated development requiring approval from the NSW Rural Fire Service. The Service requested additional information on 11 June 2019 regarding the integration of the proposal with previous approvals for the park, easements for asset protection zones (APZ) and confirmation from Council regarding the maintenance of the public reserve. A response from the applicant was forwarded on 8 May 2019 with a letter from the neighbour agreeing to have an APZ on their land and a copy of the Iluka Village Protection Strategy for bushfire which shows how the area around the caravan park is managed to reduce fuel loads for bushfire protection. The Rural Fire Service’s general terms of approval were provided by letter dated 3 September 2019.



**KEY ISSUES**

A detailed assessment of the development is contained in the attached s4.55 assessment. The key issues, including the issues raised in the submissions, with the proposal are discussed below.

**1. Clearing of vegetation**

Concerns raised in the submissions to the application relate to the associated impacts on fauna and flora on the site and impacts on adjoining residential areas.

Comment: Clearing of the subject land has been assessed, and works commenced, under DA2012/0494. The area proposed to be occupied under the current DA is the same area approved for extensions under DA2012/0494. It has been confirmed in the amended ecological assessment that the development did not require the removal of vegetation with the exception of a street tree in Conrad Close for access to the site. As such, no further assessment of the impacts of clearing on fauna and flora is required under this application.

It is noted that a buffer and vegetated area on the South Eastern area of the park is extended along this boundary. A restriction on this area is proposed similar to that required on the 2012 approval.

**2. Traffic impacts and access to Conrad Close**

Access to the additional 33 manufactured home sites is proposed from Conrad Close. Submissions to the application have raised concerns with the access and impacts from the additional traffic in the street.

Comment: The Traffic Impact Assessment (TIA) submitted with this DA is not considered adequate as it uses data collected from 2009 and has no data for Conrad Close. The TIA states that Conrad Close is an access street. Access streets have a Maximum Traffic Volume of 100 vehicles per day (VPD). According to the TIA Conrad Close currently has 243 VPD which exceeds Maximum Traffic Volume without the additional 69 VPD (33 x 2.1) attributed to the proposed 33 permanent sites.

Council staff do not support access to Conrad Close to service the proposed 33 sites as it was designed to have a limited width to be a low volume access street. Access to the road would be problematic and have an adverse impact on surrounding local traffic. Approval of the application is only supported if access is off Marandowie Drive and use of Conrad Close is for emergency access only as was required in the previous development consent 2012 approval. The existing access off Marandowie Drive will need to be upgraded to a minimum width of 8m as required by the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

Conditions of consent are proposed to ensure that the access road to Conrad Close and the batters for the development are wholly contained within the lot boundaries and do not encroach within the Public Reserves.

### 3. Stormwater Management

A number of submissions have raised concern over the filling of the land and associated stormwater impacts. The application has advised that the stormwater management proposal includes drainage to the detention/infiltration basin on the existing adjoining Council reserves.

Comment: A stormwater management plan has not been provided for the proposal. A detailed stormwater management plan is required with details and calculations to demonstrate that the control and mitigation of stormwater quality and flow-rate quantity to achieve a neutral or beneficial outcome for the post-development conditions when compared to pre-development conditions. Stormwater generated by the development will need to demonstrate that detention can be contained on-site and include an assessment of the effect on surrounding properties and infrastructure.

Due to legislative changes a construction certificate for the proposal cannot be required, hence, stormwater management details will need to be submitted prior to commencement of site works that have not already been approved.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

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

### **Asset Management**

Allowing a permanent access to Conrad Close will generate traffic movements above the design criteria for the access street and be detrimental to local traffic. The extra traffic loading is also likely to result in maintenance being scheduled to that than would otherwise occur.

### **Policy or Regulation**

- Environmental Planning and Assessment Act 1979
- Biodiversity Conservation Act 2016
- Environmental Planning and Assessment Regulation 2000
- Biodiversity Conservation Regulation 2017
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- State Environmental Planning Policy No. 36 – Manufactured Home Estates
- State Environmental Planning Policy No. 55 - Remediation of Land
- State Environmental Planning Policy (Coastal Management) 2018
- Clarence Valley Local Environmental Plan 2011

- Development Control Plan for Development in Environmental Protection, Recreation and Special Use Zones

### Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Comments and conditions provided – access from Conrad Close not supported without further justification
Building Surveyor	Conditions provided
Environmental Health	Conditions provided

External referral - An integrated development referral to the NSW Rural Fire Service was required and their General Terms of Approval have been issued for the development.

### Legal and Risk Management

Council's decision may be appealed to the Land and Environment Court.

### Climate Change

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

Prepared by	Pat Ridgway, Senior Development Planner and Sarah Sozou, Development Planner
Attachment	A. Proposed Plans B. Section 4.15 Evaluation C. Submissions D. Statement of Environmental Effects E. Photos of the site presently

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2019/0195**

**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.

**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 street lighting

**Advices**

1. If the premises requires or requests a larger water meter then the appropriate fee in Council's Fees and Charges will be applicable, less any capital contributions paid to date.
2. A suitably accredited private certifier may be engaged for all or part of the civil engineering works associated with this development other than water supply and sewer works. Accreditation of private certifiers for sewer and water supply works is not available under the Building Professionals Act 2005.
3. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work on the development. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) days before work commences.
4. A sign must be erected in a prominent position on any work site on which work is being carried out:
  - a Stating that unauthorised entry to the work site is prohibited, and
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work, and

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



5. 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.
6. Occupation of the road reservation is to be minimised and where absolutely necessary the appropriate approvals for traffic management, pedestrian access and construction traffic shall be obtained and shall be in accordance with the consent conditions of this approval. Any approval shall be in accordance with Section 138 of the Roads Act.
7. The Stormwater Management Plan shall consider the effect of stormwater on overland flowpaths (natural and diverted) and consider the affects on adjacent drainage flows / infrastructure. The design of internal civil infrastructure shall consider the effects of the development on adjacent properties and on Council owned and maintained infrastructure. With respect to stormwater design this shall include the effects of the major and minor stormwater flows upstream of the development site, adjacent to the development site, within the development site, through the development site and flowing from the development site.
8. Swale Drains
  - a Minimum longitudinal grade 1%.
  - b Less than 1% grade will require piping although swales can be used to convey the surface water to pits but still with a minimum swale grade of 1%.
  - c Swale batters to be maintainable by residents using domestic mowers.
  - d Road reservations to be of sufficient width to fit the infrastructure including a pedestrian trafficable footpath area at least 2.5 metres wide on each development frontage.
  - e For swale drains in sandy areas check groundwater levels and tidal affects.
9. Systems will need to be put in place to control the flows that do not place a burden on Council for maintenance. Systems that are easily maintained by the property owner are preferred.
10. Where rainwater tanks will be provided for any buildings a detention component in the rainwater tanks can be used to control the flows. The details must be specified on the Stormwater Management Plan.
11. Water Sensitive Urban Design (WSUD) using current engineering 'best practice' is encouraged by Council. Acceptable WSUD design guidelines may be found on the 'Water-By-Design' website.
12. It is the Developer's responsibility to make satisfactory arrangements with other property owners affected by the development to meet all costs associated therewith.
13. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
14. All building and construction work, which costs \$25,000 or more require the payment of the long service levy prior to a Section 68 Approval or Section 138 Approval 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 Section 68 Approval or Section 138 Approval Application form.
15. Prior to preparing a Management Plan for Stormwater, Sewerage or Water reticulation the applicant shall obtain advice from Clarence Valley Council to determine the requirements for connecting / discharging to any existing system.

16. All work shall be carried out in accordance with the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. (referred to as 'the Regulation').
17. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.

### Conditions of Consent

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with the Site Plan and Estate Site Plan, Dated 30 August 2017, Drawn by RaP Drawing, (2 sheets), as amended in red, or where modified by any conditions of this consent.
2. Payment to Council of the contributions pursuant to Section 7.12 of the Environmental Planning and Assessment Act:

\$46,200.00

GL S94ACVCOthResAcco

This amount is based on the following calculation

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
- b The value of development stated in the application was \$4,620,000.00

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

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary, and if so will become the contribution payable. A true estimate of the value of development must be provided when application is made for the Construction Certificate.

3. Caravan Park must comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 at all times.
4. The Notice of Determination issued under DA2012/0494 is to be surrendered prior to the issue of an Approval to Operate for the Manufactured Home Estate under this approval.
5. No dwelling site may be situated more than 90 metres from a fire hydrant.
6. A restriction-as-to-user is to be placed on landscaped buffer zone shown on the approved plans, prohibiting any development and the removal of any native trees other than those areas required for provision of asset protection zones approved by the NSW Rural Fire Service or other approval given by Council. Visitor car parking spaces shall not be provided within the buffer area.
7. No further clearing of native vegetation is to occur without the prior written consent of Council. Any trees that are required to be removed are to be supervised by a wildlife spotter or qualified ecologist.

8. The submission of an Environmental Management Plan and Landscape Plan by a person competent in the field, that identifies a strategy for habitat restoration, tree planting, re-vegetation and weed management is to be submitted and approved by Council, prior to commencement of any works. The Plan is to specify ongoing land management goals and have provisions for continued monitoring, review and reporting, identifying who will undertake further work if required and how it will be funded for a period of up to 20 years.
9. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional demand on Council's water supply and Council's sewerage system, as follows: Water 0.6 ET per 2 bedroom dwelling and 0.8ET per 3 bedroom unit Sewer 0.75 ET per 2 bedroom dwelling and 1.0 ET per 3 bedroom unit The headwork charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 per additional ET  
Sewer Headworks \$11,977.00 per additional ET

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment. The payment of the contributions must be made for each relevant stage prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993.

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

10. The developer shall design and construct all civil works, at own cost, in accordance with NRDC, the approved, dated and stamped Engineering Plans, Section 68 Approval and Section 138 Approval issued by Council or accredited private certifier and under the supervision of a suitably qualified and experienced engineer or land surveyor.
11. The supervising engineer / surveyor shall arrange for the hold point inspection and accompany Council or accredited private certifier inspection staff on the inspection unless alternative arrangements are agreed by Council or accredited Private Certifier. Where Clarence Valley Council is the Certifying Authority for Civil Engineering works the applicant must give Council 24 hours notice to permit hold point inspections of the following components of the construction process:
  - a Roadworks  
Generally 5 hold points are involved requiring inspection for roadworks:
    - i stripping with erosion controls in place
    - ii Subgrade
    - iii subbase (optional at discretion of Development Engineer)
    - iv completion of pavement ready for sealing
    - v final including stormwater.
  - b Stormwater
    - i Prior to backfilling of trenches and any other part of the works specific to the development that the Development Engineer may request inspection.
  - c Sewer
    - i Prior to commencement of work - contact Development Engineer for directions and hold points specific to the development.

- ii Prior to backfilling of trenches
- iii Pressure testing
- d Water
  - i Prior to commencement of work - contact Development Engineer for directions and hold points specific to the development.
  - ii Pressure testing
  - iii Prior to backfilling of trenches

Plus any other part of the works specific to the development that the Development Engineer may request inspection. Note that Council must be the Certifying Authority for water supply and sewer works.

12. The applicant is responsible for ensuring that all necessary inspections are undertaken during the course of the work. Failure to activate the necessary inspections both by Council or accredited private certifier and the applicant's consultants may jeopardise the issue of an Approval to Operate. The applicant should ensure that their consultants set up a program of hold points or events for inspection and that the inspections are undertaken.

Certification is to be provided by the supervising engineer to Council, that civil engineering works for the development have been constructed in accordance with the approved plans and NRDC, prior to issue of an Approval to Operate.

13. The developer is responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
14. The development is to be connected to all available services (water, sewerage, electricity and telephone) to the satisfaction of Council. Such connections, and any extension of services required to the development, are to be carried out at full cost to the applicant.
15. A **Construction Management Plan** documenting the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve must be submitted to and approved by Council prior to the commencement of any works. If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries this area must be identified in the Construction Management Plan. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.
16. A **Traffic Management Plan** showing the proposals for reducing any impact of the construction site on the adjacent traffic network must be submitted with the Construction Management Plan for prior approval by Council or accredited private certifier. This plan will also include traffic management of short term activities such as delivery of materials; accessing, exiting and parking in and near the work site by cranes, concrete agitator trucks; tradesmen work vehicles and the like. The Traffic Management Plan should include Traffic Control Plans detailing proposed methods to ensure safe vehicle access into and out of the general traffic stream, pedestrian control and safe transfer of materials from road reserve to construction site. The Traffic Management Plan should be, and any associated Traffic Control Plans must be, prepared by a person authorised by the RTA to prepare Traffic Control Plans. An estimate of the number of vehicles that will need to be accommodated at various stages of the construction and what arrangements have been made to accommodate that number of vehicles is to be included in the Traffic Management Plan.

## WATER RETICULATION

17. Prior to issue of an Approval to Operate under Section 68 of the Local Government Act 1993, the applicant is to provide water supply infrastructure to service the development, in accordance with

the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.

18. A detailed Water Reticulation Management Plan shall be submitted for assessment and approval by Clarence Valley Council, prior to any works commencing. This shall include an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows. 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.

#### **SEWERAGE RETICULATION**

19. Prior to issue of an Approval to Operate under Section 68 of the Local Government Act 1993, sewerage reticulation infrastructure is to be provided to service the development, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy, Pressure Sewerage Policy and **NRDC**.
20. A detailed Sewerage Reticulation Management plan shall be submitted for assessment and approval by Council, prior to any works commencing. Connection to the Council reticulation system shall be provided in accordance with the requirements of Council. Any upgrade to the existing sewerage service to the property will be subject to the costs outlined in Council's list of fees and charges.
21. The granting, free of cost to Council, of an easement for sewerage purposes over the Council's sewer mains within the development / any lots in the subdivision.

The width of the easement shall be;

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

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

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

#### **STORMWATER DRAINAGE & FLOODING**

22. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**.
23. Detailed plans of site drainage and a Stormwater Management Plan for the site and adjacent areas affected by the development shall be submitted for assessment and approval by Council or accredited private certifier prior to any works commencing. Building pads and structure designs shall consider stormwater overland flows and be located clear of defined gullies and 1 in 100 year ARI flow widths. Details of the local stormwater catchments and flow widths are to be provided in accordance with **NRDC**.

24. The stormwater management plan is to include calculations demonstrating that the pre-development flows and the post development flows from the property are in accordance with NRDC requirements and must consider/ mitigate the effects of the proposed development on adjoining property & infrastructure. All stormwater detention required for the development must be provided on the development site and not on the adjacent Council reserves. A detailed drainage analysis is required to be submitted for approval by Council prior to any works commencing which demonstrates that there will be no negative impact on the operation of the existing site detention due to developed flows and the proposed filling, including an assessment of the effect on surrounding properties and infrastructure. The drainage analysis must include a site evaluation in accordance with AS1547-2000 to determine the basin soil type, hydraulic conductivity, and groundwater details.
25. All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC. The Grafton and Lower Clarence Floodplain Risk Management Plan shows the subject property to be flood affected. The 1% Annual Exceedance Probability Water Level in the vicinity of the site is 2.51 m AHD and the Probable Maximum Flood Level is 3.68 m AHD. The primary habitable floor level adopted by Council for Iluka is 3.01m AHD. Any development on the site shall be undertaken in compliance with the floodplain management controls listed in the relevant Clarence Valley Council Development Control Plan.
26. The submission to Council of a Section 88B Instrument, and one copy thereof, to be approved by Council is required prior to issue of an Approval to Operate.
27. Easements for drainage are to be created to protect the interests of upstream properties. The easements should be in favour of the properties requiring the benefit and Council.

The right to release vary or modify the easement to be assigned to Council.

#### **APPROVAL TO OPERATE**

28. Submission of a completed asset register works return is required prior to issue of an Approval to Operate.
29. Submission of satisfactory Work as Executed Plans for all works covered within this consent and a certification from the supervising professional engineer or land surveyor that the works have been constructed in accordance with the approved plans and specifications, are required prior to issue of an Approval to Operate.
30. Certification is to be provided to Council or accredited private certifier by a Registered Surveyor, prior to issue of an Approval to Operate, that all infrastructure (including services, pipelines access ways and drainage paths) is wholly contained within the respective lots and/or easements.

#### **LIGHTING**

31. That the development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code). Details of how this will be achieved, including location and types of lighting devices, shall be approved by Council or accredited private certifier prior to any works commencing.

**MAINTENANCE BOND**

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

All work is subject to a maintenance period of six (6) months from the date of '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. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier approved Stormwater Management Plan.

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

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

**ROADWORKS, CAR PARKS & DRIVEWAYS**

33. All roadworks for the development are to have full road construction and bitumen sealing, in accordance with NRDC, comprising emulsion or cutback primer plus 2 coat seal 14 / 7 mm.
34. Applicant to provide roadway/s car parks, driveways and vehicular accesses for the development in accordance with the requirements of the Roads and Traffic Authority, AS2890, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC. Marandowie Drive is to be used as the sole access to the Manufactured Home Sites. The access within the Marandowie Drive road reserve is required to be upgraded in accordance with the requirements of the Local Government Regulation.
35. Visitor parking spaces are to be clearly identified as such with minimum dimensions complying with Clause 97 of the Local Government Regulation. One of these parking spaces must be for people with disabilities, provided in accordance with AS/NZS 2890.1:2004 *Parking facilities - Off street parking*. The design and location of the visitor parking spaces are to be approved by Council prior to any works commencing.
36. The design of the proposed Conrad Close Emergency Access is to be submitted to Council prior to any works commencing. Gate, locks and keys are to be provided in accordance with emergency services authorities and Council requirements.

The access to Conrad Close is to be for emergency access only and not as a secondary access.

37. The adequacy of parking, car parks, driveways and vehicular accesses for the development are to be demonstrated by the submission of standard scale plans with manoeuvring paths for the appropriate design vehicles for the caravan park shown in accordance with AS2890, to clearly demonstrate that the development will function as intended. The parking area plans are to be submitted and approved by Council or accredited private certifier prior to any works commencing.

**EARTHWORKS**

38. Detailed plans of earthworks including an **Earthworks Management Plan** shall be submitted to Council or accredited private certifier for assessment and approval prior to the commencement of works. The Earthworks Management Plan shall include a program of testing and documentation for the whole of the earthworks prior to any works commencing. The program of testing and documentation must be set out in detail in the plan but may be amended during the course of the project with approval by Council or accredited private certifier and must be completed to Council or accredited private certifier satisfaction as applicable and in accordance with the plan prior to each administrative stage of the work, that is prior to any works commencing and prior to issue of an Approval to Operate.

The **Earthworks Management Plan** must include;

- a Initial site inspection and verification of an appropriate preparation of the foundation for placement of fill, reuse or removal of any excavated material, 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 The initial site inspection report is to include certification that the land is suitable for its intended purpose including any parts of the land that will be left in its natural state or once suitably modified by the development
- c The initial site inspection report should identify any problem areas on or adjacent to the development land (e.g. very high water tables) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.
- d Identify options for disposal of any excavated material.
- e Details on the selection of fill type(s), the source/s of the fill, suitability for the intended use and its appropriate handling, placement and compaction, the area of the development to be filled and depth to be filled.
- f 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.
- g 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.
- h The acid sulfate status of the development land and where the development is subject to acid sulfate soils, the appropriate treatment of the works in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements.
- i 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.
- j Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.



- k 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.
- l Certification that excavated materials have been reused or disposed of in accordance with the POEO Act 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, Council or accredited private certifier 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.

- 39. A works-as-executed plan showing both original levels and finished surface levels after filling material has been placed and compacted is to be submitted to and approved by Council or accredited private certifier prior to issue of an Approval to Operate.
- 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. All earthworks are to be contained within lot 43 and not encroach onto adjoining properties.
- 42. Where earthworks are proposed for the site, professional details of the geotechnical authorities who will be involved in the project are to be submitted to Council or accredited private certifier for approval. Details of the geotechnical authorities involved in the design and details of the geotechnical authorities involved in the construction must be submitted prior to the commencement of works. The details to include NATA accreditation, qualifications and accreditations of the principle geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

The geotechnical authority to be engaged by the developer or supervising engineer/surveyor on behalf of the developer.

#### **EROSION & SEDIMENTATION CONTROL**

- 43. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.
- 44. A detailed Erosion and Sediment Control Management Plan for the development shall be submitted for assessment and approval by Council or accredited private certifier, prior to any works commencing. This shall include procedures for clean-up and restoration of public / private property and infrastructure, affected by any earthworks operations. All such remedial works are to be completed to the satisfaction of Council.

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

**BUILDING**

46. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.

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

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

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

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

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

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

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

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

50. All dwellings on the site shall have a minimum finished floor level of 3.01m AHD with all materials of construction below that height being of flood compatible materials.

51. All building construction for non-residential buildings on the site below 3.01m AHD shall be of flood compatible materials.

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

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

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

The notice:

- (a) must indicate the site identifier of the dwelling site on which the manufactured home or associated structure has been installed, and

- (b) must include the particulars contained on each compliance plate relating to the manufactured home or associated structure.

The notice must be accompanied by:

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

- 55. Full hydraulic details for all internal plumbing and drainage including internal sewer mains and fire services shall be prepared by an appropriately qualified hydraulic engineer and submitted to Council for approval prior to any work starting on that stage of the development.
- 56. The community centre shown on the plan is not approved under this notice of determination and will need to be applied for under a separate development application.
- 57. This approval does not approve any works on adjoining public reserves.
- 58. Separate approval is required for the Manufactured Home Estate (MHE) in addition to the existing Caravan Park (CP). The facilities for the MHE are to be provided separately to the existing CP.

#### **INTEGRATED DEVELOPMENT**

- 59. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 3 September 2019, consisting of three (3) pages, (Ref DA19/1392, DA19050118472 PC) and as attached to this Notice of Determination.

<b>ITEM</b>	<b>6b.20.013</b>	<b>SUB2019/0024 – 32 LOT RESIDENTIAL SUBDIVISION, 21 JUBILEE STREET, TOWNSEND, LOT 2 DP1202603</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

<i>Applicant</i>	Warwick Mawhinney (WV Developments Pty Ltd)
<i>Owner</i>	Warwick Mawhinney (WV Developments Pty Ltd)
<i>Address</i>	21 Jubilee Street, Townsend
<i>Submissions</i>	6 public submissions

Council has received a Development Application for the subdivision of Lot 2 DP1202603 into 32 residential allotments.

This matter is reported to Council to consider the issues raised in the public submissions on the Development Application and provides a recommendation for Council's consideration.

## OFFICER RECOMMENDATION

That Council approve SUB2019/0024 subject to the draft Advices and Conditions in Schedule 1 of this report.

## COMMITTEE RECOMMENDATION

Baker/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Society

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

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

## BACKGROUND

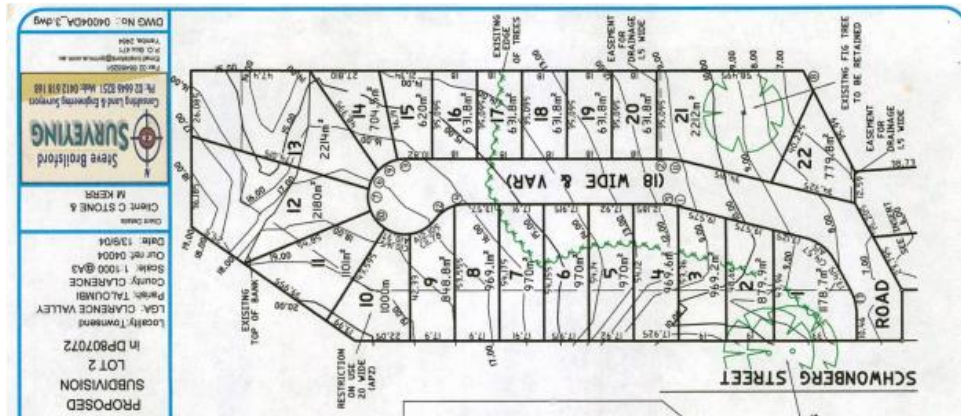
Subdivision SUB2019/0024 was submitted to Council on 10 July 2019 for a 32 lot subdivision. The application was notified and advertised and six submissions were received raising concerns about the development. Comments regarding the issues raised in the submissions are discussed in this report.

The layout of the current proposed subdivision SUB2019/0024 is shown overleaf.



Council issued consent for a 24 lot subdivision on the subject land under DA2004/0418 at its meeting of 16 November 2004. Notably the same issues regarding stormwater, traffic generation and retention of Fig tree were considered. This application was physically commenced and remains valid until it is surrendered or declared invalid by order of a court.

The layout of the approved subdivision DA2004/0418 is shown below.



SUB2019/0024 (the subject of this report) while similar to approved DA2004/0418 results in eight additional lots on the same parcel of land.

A Construction Certificate for the DA2004/0418 was issued on 20 October 2010 (CC2008/0028) and works have been undertaken on the site under that approval. This approved work includes predominantly the removal of vegetation.

In order to complete the assessment, Council staff requested additional information on any noise attenuation and stormwater management from Transport for NSW (TfNSW) in relation to the new Pacific

Highway upgrade. This was to ensure that SUB2019/0024 considered the development of the new highway (in particular drainage) in its plans. Council requested this information as the applicant had been unsuccessful in doing so.

The information obtained by Council from TfNSW in March 2020 enabled the assessment of this DA to be completed. Council is satisfied that the developer has used the stormwater management information from TfNSW in the revised design and supporting information for SUB2019/0024.

It should be noted that the information provided by TfNSW was for the detailed design. The as-constructed drawings for the new highway at this location are not yet available.

## KEY ISSUES

### 1. Stormwater Management

The submissions from surrounding residents have raised concerns about the stormwater impacts that the proposal is likely to have. The significant rainfall events earlier this year heightened community concerns about stormwater drainage and overland flow from the proposed development.

Comment: While Council is satisfied with the concept design for stormwater drainage for the development, the draft conditions require that a detailed stormwater management plan that demonstrates the development will achieve a neutral or beneficial outcome for the post-development conditions, when compared to pre-development conditions.

The stormwater management plan will also need to demonstrate that adjoining properties are not to be unreasonably impacted from stormwater events post construction of the development.

### 2. Increased traffic and road design

Some of the submissions received have raised concerns with the current condition of Schwonberg Street and Jubilee Street. Further submissions sought clarification on what improvements to the intersection of Schwonberg Street and Jubilee Street will be required to service the development.

Comment: The construction of the new cul-de-sac as well as Schwonberg Street and its intersection with Jubilee Street will be upgraded in accordance with Council Design Standards.

### 3. Traffic noise

Comment: The existing and proposed Pacific Highway will result in noise impacts on the future development.

The SUB2019/0024 was referred to TfNSW in accordance with State Environmental Planning Policy (Infrastructure) 2007. TfNSW did not object to the DA though advised that Council is responsible for considering the impact of road traffic noise on any future dwellings. TfNSW recommended that Council consider the design of the subdivision with respect to highway noise and vibration in accordance with the NSW Road Noise Policy 2011.

**The applicant has been advised by TfNSW that an Operational Noise Review has been undertaken. As a result of the Review the subject land is not identified as being eligible for consideration for at-house noise treatment.**

**Prior to the release of the construction certificate, the applicant will be required to submit a noise assessment containing recommendations for the treatment of future dwellings within the subdivision to**

ensure residential amenity for occupants. The details of the requirements are contained in the recommended conditions of approval at Schedule 1.

4. Retention or potential damage of Fig trees

One submission raised concerns regarding the likely detrimental impacts to a large fig tree in the Schwonberg Street road reserve.

Comment: There are two Fig trees potentially impacted by the development. One is located on the subject land and the other is located in the Schwonberg Street road reserve.

Consistent with the 2004 approval, a restriction on the removal or damage to the tree located on the subject land will be required. Similarly, this report recommends that all reasonable measures shall be put in place to avoid any damage to roots and the extended canopy of the Fig tree in the Schwonberg Street road reserve.

## 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

Works on the Jubilee Street and Schwonberg Street intersection will have a neutral or beneficial outcome for the post-development environment. The cost of the works will be at the developer's expense.

### Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy 55 - Remediation of Land

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Residential Zones

### Consultation

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

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

### Legal and Risk Management

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

**Climate Change**

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

Prepared by	Patrick Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none"><li>1. Section 4.15 assessment report</li><li>2. Subdivision plan</li><li>3. Submissions</li></ol>



**Schedule 1**  
**Draft Advices and Conditions of Consent for SUB2019/0024**

**Engineering 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.

**Code MDef02**

**WSUD** means Water Sensitive Urban Design

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

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

**Civil Works may include -**

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

**NATA** means National Association of Testing Authorities

**CC** is a 'Construction Certificate' and applies to each of the following as applicable to the project:  
Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;  
Roads Act 1993 Sections 138 & 139 - approval for works on a road issued by Council and/or **RMS**;  
Local Government Act Section 68 - drainage, water & sewer approval;  
Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C  
A **CC** may be issued by Council and/or accredited private certifier subject to the applicable NSW legislation.

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

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

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

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

### Advices

1. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
2. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2019/20 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00).
3. Construction Certificate (**CC**) approvals, issued by Council and/or accredited private certifier are required for this development.
  - a A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works.
  - b Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.
  - c Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
  - d Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.
  - e A **CC** application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
4. 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 **CC** application.

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

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

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

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

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

which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 31 ET demand on Council's water supply, and an additional 31 ET loading on Council's sewerage system. This includes an applicable credit of 1 ETs for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 31 additional ET = \$ 151,838

Sewer Headworks \$11,977.00 x 31 additional ET = \$ 371,287

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

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

7. 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.
8. 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.
9. 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.
10. 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.

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

- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.

- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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

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

### Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plan 'Digital Terrain Model & Detail Plan', numbered: 12425-01, Revision 5 dated 20.06.2019, (1) sheet, submitted/drawn by Bothamley and O'Donohue Pty Ltd, as amended in red, or where modified by any conditions of this consent.
2. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 6 March 2020, consisting of four (4) pages, (Ref DA20200121000266-Original-1) and as attached to this Notice of Determination.
3. **MACLEAN CATCHMENT:** Payment to Council of the contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act: **Street Tree Planting (residential subdivisions only)**

Maclean \$101.25 x 31 lots = \$3,138.75 GL S94TreePlantingMa

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 \$3,767.05 x 31 = \$116,778.55 GL S94CVCOSCoastal

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

Maclean surrounds \$3,767.05 x 31 = \$116,778.55 GL S94CVCCFMaclean

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

a Rate per Lot \$72.15 x 31 = \$2,236.65 GL S94CVCPoMDwell

N.B.

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

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

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary and if so will become the contribution payable. All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

4. Working hours on construction or demolition shall be limited to the following:

- **7.00 am to 6.00 pm Monday to Friday**
- **8.00 am to 1.00 pm Saturday**
- **No work permitted on Sundays and public holidays**

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

5. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate for each and every stage of the development. This may require payment of a fee.
6. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
7. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Subdivision Certificate. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.
8. An ITP must be submitted for approval with the application for a CC. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving

public infrastructure must be attended by Council officers.

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

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

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
- b Erosion & Sedimentation Controls
- c Earthworks
- d Roadworks
- e Stormwater Drainage
- f Sewer
- g Water
- h Other Services
- i 'On Maintenance' (Public Infrastructure)
- j Practical Completion (Works on Private Property)
- k 'Off Maintenance' (Acceptance of Public infrastructure by Council)

9. 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 Construction Certificate plans.
  - d All service locations are to be approved by Council and the relevant service authority with regard to WSUD components of the proposed stormwater drainage system.
  - e Council must be consulted, and agreement obtained, prior to any variation in location of services during construction due to field conditions.
  - f Any variation to the service location from that approved with the Construction Certificate plans must be clearly documented on the work as executed plans. A surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.
10. Prior to the issue of the Subdivision Certificate, Occupation Certificate or release of bond, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
11. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
12. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document workplace health and safety, traffic management (pedestrian & vehicular) and the proposed methods of work within the development work site and the associated public road network.

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

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

13. 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 and Sewer Reticulation**

14. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply and sewerage 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.

15. Water and Sewer Reticulation Design Plans must be submitted for approval with the application for a **CC**.  
Connection to the public water and sewerage reticulation systems requires the approval of Council under the NSW Local Government Act.

Any upgrade to the existing water and sewer services to the site will be subject to the costs outlined in Council's list of fees and charges.

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

The width of the easement must be;

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

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

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

**Roadworks**

17. A Road Network Design Plan must be submitted for approval with the application for a **CC**. 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.

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. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **CC** application for approval by Council. Road reservation widths are to be in accordance with **NRDC** plus additional width to contain proposed **WSUD** components as approved by Council.
20. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **CC** approval. The asphaltic concrete wearing surface must be a minimum 30mm (residential light to medium traffic) compacted depth. Final pavement design will be subject to in-situ CBR tests.

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

21. The **CC** application must include design calculations for any necessary upgrade of, existing stormwater drainage and affected services/utilities.
22. Prior to release of the Subdivision Certificate, street name signs are to be provided to all intersections in accordance with Council's specifications. The name of the proposed road(s) will require written approval from Council.
23. Kerb and gutter, together with road shoulder gravelling and sealing in accordance with NRDC standards are to be provided to the following: - Schwonberg Street: from site access to Jubilee Street such that it is compliant with 'Local Street' criteria (CVC Residential DCP Table J1). North of site access, taper back to existing. - Jubilee Street: from existing kerb and gutter system east of the site and tie into Schwonberg Street works.
24. Site and construction access is to be limited to the nominated access on Schwonberg Street.
25. A Dilapidation Report is to be provided for public and private infrastructure surrounding the development on Schwonberg Street and Jubilee Street. The report is to be submitted to Council prior to the issue of the **CC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development.

**Stormwater Drainage & Flooding**

26. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**. A Stormwater Management Plan must be prepared to reflect these standards and guidelines. The Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**



The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the **CC**. Design details must include detailed calculations assessing the capacity of the existing stormwater infrastructure and its suitability for the design stormwater flows from the development. 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.

On-site detention (OSD) and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot, but the Development Application must demonstrate **NorBe** by calculation and details acceptable to Council. A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title of the new allotments is required to ensure future building development compliance.

27. The legal and practical point of stormwater discharge of the development is nominated as the existing Council stormwater infrastructure located adjacent to the development on Jubilee Street.

#### **Subdivision Certificate**

28. 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.
29. 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.

The **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.

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

30. 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.
31. The submission of the 88B Instrument, and one copy thereof, to Council prior to the release of the Subdivision Certificate.

**Maintenance Bond**

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

All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' 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.

**Earthworks**

33. 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 **CC**.

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.

34. 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.
35. Prior to release of the Subdivision Certificate for any stage, certification from the Geotechnical Inspection And Testing Authority who undertook Level 1 inspection and testing, in accordance with AS3798, will be required confirming that each lot is suitable for the intended purpose. All testing as required in AS3798 and NRDC must be submitted.
36. 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.
37. 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 Construction Certificate whilst details of the Geotechnical Inspection And Testing Authority involved in the construction must be submitted prior to the commencement of works. The details are to include NATA accreditation, qualifications and accreditations of the principal geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

**Erosion & Sedimentation Control**

38. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued or the development is accepted 'Off Maintenance'.
39. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a CC for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
40. 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.
41. During dry weather, standard dust suppressions methods are to be used as often as it necessary to ensure that adjoining properties are not adversely affected by undue dust.
42. 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.
43. DA2004/0418 consent to be surrendered prior to the release of a subdivision certificate.
44. No part of a building is to impact on the extended canopy and root area of the Ficus on the Schwonberg Street road reserve. All reasonable measures are to be put in place to avoid any damage to roots and potential future conflicts resulting from likely requests for removal of limbs and pruning of the tree.
45. The ficus tree located on lot 6 must be carefully protected including sufficient areas for future root growth to ensure long term survival of the tree.  
  
A restriction-as-to-user is to be placed on lot 6 prohibiting the pruning, removal or damage of the ficus tree unless with the written permission of Clarence Valley Council has been obtained.
46. The gullies located with lots 15, 16, 25, 26, 29, 30 & 32 are to be clearly identified on the subdivision certificate plan and a restriction-as-to-user be placed on those lots preventing the construction of any structures or the removal or clearing of native vegetation within 5 metres of the top of the gully unless the written permission of Clarence Valley Council has been obtained.

47. The applicant is to submit a noise impact assessment report from a qualified consultant that demonstrates resulting lots proposed for future residential uses could equitably satisfy the following criteria:
- in any bedroom in the building - 35 dB(A) at any time between 10.00pm and 7.00am; and
  - anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time,
- for noise from the completed Pacific Highway to the satisfaction of Council, prior to the submission of a subdivision certificate. The report is to recommend noise mitigation measures that could be implemented to reduce impacts from the highway to an acceptable level.
48. A restriction-as-to-user is to be placed on all lots requiring that dwellings are to be designed such that noise levels from the Pacific Highway is mitigated if deemed required by the Noise Assessment Report submitted with the subdivision certificate. Details of acoustic testing and mitigation measures (if any) are to be submitted with the construction certificate.

<b>ITEM</b>	<b>6b.20.014</b>	<b>DA2019/0494 – DUAL OCCUPANCY (ATTACHED) – 4 MOORHEAD DRIVE, SOUTH GRAFTON BEING LOT 139 DP242614</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

<i>Applicant</i>	A. Fletcher & Associates
<i>Owner</i>	Adam Matthew Legg and Jessica Legg
<i>Address</i>	4 Moorhead Drive, South Grafton
<i>Submissions</i>	Two

Development Application DA2019/0494 seeks approval for an attached dual occupancy upon No. 4 Moorhead Drive, South Grafton. The matter is being reported to Council as the applicant is seeking a variation to the restriction on the use of land to which Council is the authority to release, vary or modify.

The restriction on the use of land requires the habitable floor level of any dwelling to be constructed at least 250 millilitres above the top of the sewer manhole located in the Moorhead Drive road reserve, no sanitary drainage points to be installed in the dwelling below this level and no fill except directly beneath the footprint of any dwelling constructed on the land.

The application is being reported to Council as the recommendation of Council staff is to refuse a variation to the restriction on the use of land.

The application was notified and 2 submissions were also received during the notification period raising stormwater and potential dilapidation of adjoining buildings as a concern.

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

## OFFICER RECOMMENDATION

That:

1. Council refuse a variation to the restriction on use of land numbered 2 in the section 88B instrument for DP1184468; and
2. Approve the application subject to compliance with the restriction and conditions contained in Schedule 1.

## MOTION

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Nil

Against: Williamson, Simmons, Baker, Clancy, Novak

The Motion was put and declared LOST.

**COMMITTEE RECOMMENDATION**

Baker/Novak

That:

1. Council accept a variation to the restriction on use of land numbered 2 in the section 88B instrument for DP1184468 in relation to the habitable floor area minimum height; and
2. Approve the application subject to compliance with the advices and conditions contained in Schedule 1.

Voting recorded as follows

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

The subject land is located at a localised low point on the western side of the South Grafton hill. The property has been subject to significant stormwater flows and sewer surcharges in the past during very heavy rain events resulting in the former dwelling being inundated above its floor level. As a result, the former Grafton City Council purchased the property. The former brick veneer dwelling on a slab was demolished prior to Council selling the property.

Prior to the sale of the property by Council, a restriction on the use of land was created under DP1184468 to ensure that any future dwellings would be built above the height of the potential inundation level from stormwater and sewer overflows. This application seeks to vary that restriction to allow the dual occupancy to be built 0.47m below the 17.17m AHD level required by the restriction. The proposed floor levels are 16.7m AHD. This matter is discussed within the Key Issues section of this report.

The subject land is zoned R1 General Residential under the provisions of the LEP and dual occupancies are permitted within consent within the zone. The development provides an opportunity to provide additional housing to meet the needs of the community with a variety of housing types and densities in accordance with the objectives of the zone.

**KEY ISSUES**

1. Variation to restriction as-to-user

Due to impacts on the property from historic overland stormwater flows and sewer surcharges in high rainfall events, Council created a restriction on title under DP1184468 that states:

*"As the lot burdened is subject to overland flow of surface water and sewer surcharges during significant rainfall events, the habitable floor level of any dwelling constructed or to be constructed on the lot burdened must not be less than 250 millilitres above the top of the sewer manhole located in the Moorhead Drive road reserve on the south eastern side of the lot burdened. No sanitary drainage points can be installed in the dwelling to be constructed on the lot burdened below this level and no fill can be placed on the lot burdened except directly beneath the footprint of any dwelling constructed on the lot burdened."*

The restriction on title requires a minimum habitable floor level of 17.17m AHD which is 250mm above the top of the sewer manhole located in Moorhead Drive. The proposal seeks to construct a dwelling with a floor level 0.47m lower than the restriction height of 17.17m AHD.

In support of the request for a variation to the restriction on use of land, the applicant submitted an assessment by Glenn Haig & Partners (Hydraulic and Fire Consultants) that proposed the following measures to minimise any potential impacts from overland stormwater flows and sewer surcharges:

- Roof water detention tanks with overflow directed to piped stormwater system in street.
- 2:1 grade swale on upstream side of proposed dwelling to direct overland flows around the site.
- Hydraulic calculations of existing 750Ø stormwater adjacent to site show surcharge in surrounding pit infrastructure. Maximum surcharge within vicinity of site being 190mm above top of kerb (RL 16.79m).
- Reflux valves to manage sewer flows through internal sewer lines.

A review by Council's Development Engineer does not support the proposed methods or justification provided with the applications on the following grounds:

- Historical overland stormwater and sewer flows in significant rainfall events.
- Floor height restriction on title was known to the purchaser prior to purchase of land.
- Grass swales silt up over time and capacity is reduced.
- Grass swale is nominated at 1,100mm wide, with a depth of 200mm and 2:1 batter. A fence line separating the two dwellings is shown on the plans being perpendicular to direction and located over the grass swale. Any obstructions to grass swale will significantly reduce capacity.
- Surcharging stormwater pit located in close proximity to sewer manhole adjacent to SE corner of site.
- Groundwater infiltration into sewer network makes quantifying flows and hydraulic grade in significant rainfall events difficult.
- Influence of stormwater and sewer surcharge events not considered.
- Reflux valves nominated for internal sewer infrastructure do not eliminate risk of surcharge of upstream sewer manhole located upstream of site in SE corner.
- Reflux valves have a service life and require regular inspection and maintenance.
- On-site detention will not provide a reduction in the stormwater flow from the upstream catchment.
- The proposed dual occupancy will increase the risk of impact compared to the original single dwelling-house.

### Options

It is recommended that a variation to the restriction on the use of land be refused and the development be approved subject to the following condition:

*The primary habitable floor level is to be a minimum of 17.17 metres Australian Height Datum (AHD). A certificate indicating the height of habitable floors on the ground floor (related to AHD) is to be forwarded to the Clarence Valley Council:*

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

*This certificate is to be provided by a Registered Surveyor. No further work is to be carried out on the building until such certificate is provided to Clarence Valley Council.*

If Council refuses to vary the restriction on user in accordance with the recommendation of this report and assessment undertaken by Council's Development Engineer, then amended plans complying with the floor height of the restriction will need to be submitted to Council for assessment with the Construction Certificate.

If Council supports a variation to the restriction, then it would be accepting significantly greater liability if the future dwellings are inundated with stormwater flows and sewer surcharges.

2. Issues raised within the submissions

The development application was notified in accordance with Part B of the Residential Zones DCP. Two (2) submissions were received during the notification period which raised the following issues:

a. Stormwater

Concerns were raised within both submissions that there may be potential impacts to any new development on the site from existing stormwater issues. The submissions stated that the site has previously experienced runoff issues during storm events that have flooded the previous dwelling and any new building on this site may result in that water encroaching on surrounding properties.

Comment

As stated above under Issue 1 of this report, Council is aware of the historic stormwater and wastewater issues that affect the site hence the imposition of the restriction on use of land prohibiting any dwelling to be built 250mm below the existing sewer manhole in Moorhead Drive. Further, the restriction prevents placement of fill outside the footprint of any dwelling and this component of the restriction limits potential to divert stormwater flows to adjacent properties. It is recommended that the variation to the restriction on use of land not be supported in this instance to ensure that any future development on the land and adjacent development on nearby land is not detrimentally affected by potential stormwater and sewer surcharges.

b. Dilapidation of adjoining buildings during construction and compaction of soil

One of the submissions raised the issue of the potential impacts to the structural integrity of adjoining dwellings during construction.

Comment

To ensure that the structural integrity of adjoining buildings is not adversely impacted during construction, a condition requiring the preparation and submission of a dilapidation report is to be submitted to Council for the two adjoining dwellings located at No. 42 McFarlane Street and No. 2 O'Brien Place. This will provide the basis for a comparison should any damage occur to these buildings as a result of the construction works.

c. Impacts from dust exposure during construction

One of the submissions raised concerns regarding impacts to the health of adjoining residents during construction caused from dust being generated from the site.

Comment

It is acknowledged that issues with dust arise during construction if the site is not managed properly. To ensure that this development minimises any potential impacts from dust conditions of consent have been imposed to ensure that erosion and sediment control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. This will require the implementation of dust suppression methods to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.



## d. Location of Driveways

Concerns were raised within one of the submissions regarding the proposed driveways off McFarlane Street due to cars speeding and location of bus stops.

Comment

An application for driveway access crossings are to be submitted and approved by Council's Civil Services section prior to any work commencing. This will ensure that the location of driveways meet the relevant specifications. With regard to speeding vehicles along this section of road, it is recommended that landowners raise their concerns with the NSW Police as the authority lawfully enabled to enforce speed zones.

Summary

It is considered that through appropriate conditioning of the consent and upholding the restriction on use of land to ensure that floor levels are constructed 250mm above the sewer manhole in Moorhead Drive, the development can be approved. Appropriate conditions of consent are provided in Schedule 1 of this report.

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

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

Section 7.11 and Section 64 Contributions will be payable to Council if the development is approved.

**Asset Management**

N/A

**Policy or Regulation**

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Clarence Valley Local Environmental Plan 2011*
- *Residential Zones Development Control Plan 2011*

**Consultation**

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Health & Building	Conditions provided if application approved
Development Engineer	Variation to restriction not supported
Water Cycle	Variation to restriction not supported

**Legal and Risk Management**

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

By upholding the restriction on use, the risk to Council is minimised should adverse impacts occur to any future dwellings on the land or adjacent land from overland drainage and sewer flows.

If Council does resolve to vary the restriction on the use of land and allow a lower floor level than that specified in the restriction, Council will be likely to incur greater liability for compensation sought by landowners and/or occupants when the property is adversely affected by overland stormwater flows or sewer overflows.

**Climate Change**

The proposed new buildings comply with the energy efficiency requirements of Basix and the Building Code of Australia ensuring any contributing factors to climate change are minimised.

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	A. Plans B. Copy of Plan and 88B Instrument creating restriction on use C. Supporting Hydraulic Engineering Report D. Submissions E. Section 4.15 Assessment

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2019/0494**

**Advices**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. All plumbing and drainage work must be in accordance with AS 3500 and the Plumbing Code of Australia. The main drain shall be located external to the building unless exceptional site conditions or unusual circumstances exist (Section 4.10 AS/NZS 3500.5.2012).
3. The street address No. 40 McFarlane Street has been allocated to the premises and shall be clearly displayed so it is visible from the road. Such action can reduce confusion and assist Australia Post, emergency services and the general community. Approval for the site and size of proposed householder mail boxes should be obtained from Australia Post.
4. All excavated or filled areas are to be battered to a slope of not greater than 45 degrees to the horizontal, or alternatively, be retained by a retaining wall. Where the height of the retaining wall exceeds 1m, a compliance certificate or other form of documentary evidence from a structural engineer stating the structural adequacy of the design is to be forwarded to the Principal Certifying Authority. All excavated and filled areas are to be drained to prevent surface water affecting neighbouring properties.
5. Prior to building work commencing approval under Section 68 of the Local Government Act shall be obtained from Council for sewerage work, water plumbing and stormwater work. Two copies of hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
6. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 1 ET demand on Council's water supply, and an additional 1 ET loading on Council's sewerage system. This includes an applicable credit of 1 ETs for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 1 additional ET	= \$4,898.00
Sewer Headworks \$6,700.00 x 1 additional ET	= \$6,700.00

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

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

7. 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.

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 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 The filling as proposed may cause ponding of stormwater in unfilled sections of the property, including beneath the existing residence. Measures to prevent adverse impact to local drainage, such as a swale at the toe of the fill, are to be identified in the Earthworks Management Plan and approved by Council prior to commencement of any work.
- 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.
- c Compatible with the works plans.

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**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with the following plans:
  - Sheet 2 Reference 9353 by Newnham Karl Weir & Partners dated 27 June 2018
  - Floor Plan Job No. 9353B by Perry Homes Sheet 3 dated 19 July 2018
  - Elevation Plan Job No. 9353B by Perry Homes Sheet 4 dated 19 July 2018

Three (3) sheets, as amended in red, or where modified by any conditions of this consent.

2. Payment to Council of the contributions pursuant to Section 94 of the Environmental Planning and Assessment Act:

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

Rate per other Residential Accommodation dwelling

Grafton and surrounds \$2,568.35 x 1 = \$2,568.35 GL S94CVCOSGrafton

**Clarence Valley Contributions Plan 2011 Community Facilities**

Rate per other Residential Accommodation dwelling

Grafton and surrounds \$2,568.35 x 1 = \$2,568.35 GL S94CVCCFGrafton

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

Rate per Other Residential Accommodation Dwelling \$48.45 GL S94CVCPoMOResAcco

N.B.

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

The contributions are to be paid to Council prior to release of the Construction 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.

**Building Conditions**

3. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
4. **Working/Construction Hours** Working hours on the construction project being limited to the following:

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

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

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

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

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

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

8. **Adjoining Building Work** A person who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land shall, at their own expense and where necessary:
  - a Preserve and protect the building from damage; and
  - b If necessary, underpin and support the building in an approved manner, details of which are to be submitted with the application for the Construction Certificate and certified by a professional engineer or an accredited certifier.

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

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

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

10. Prior to the issue of an Occupation Certificate the principal contractor responsible for the construction work shall provide Council with a certificate which states that **all commitments** listed within the current Basix Certificate (quoting number and date) have been installed in accordance with the requirements of that Basix Certificate.

11. The primary habitable floor level is to be a minimum of 17.17 metres Australian Height Datum (AHD). A certificate indicating the height of habitable floors on the ground floor (related to AHD) is to be forwarded to the Clarence Valley Council:
  - a In the case of timber floors, on completion of the floor framing;
  - b In the case of concrete slabs when formwork is in place but prior to pouring concrete.

This certificate is to be provided by a Registered Surveyor. No further work is to be carried out on the building until such certificate is provided to Clarence Valley Council.

12. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
13. All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by a registered surveyor prior to construction commencing. A copy of this survey shall be submitted to Council at the footing/slab inspection.
14. The vehicular crossing to the kerb and guttering and access to the allotment is to be constructed in accordance with the requirements of Council's Civil Services Section and completed prior to issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved prior to any work commencing.
15. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
16. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
  - a plumbing work prior to covering/lining walls
  - b sewer work prior to back filling/lining
  - c final inspection of plumbing and drainage work.

Inspections can be booked on line at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) until midnight the day before the inspection or by phoning 6643 0200. Please quote the DA number when booking inspections.

#### Engineering Conditions

17. 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.
18. The development is to be connected to all available services (water, sewerage, electricity and telephone) prior to issue of the Occupation Certificate. Such connections, and any extension of services required to the development, are to be carried out at the full cost to the development/applicant.
19. A separate property service with a single water meter servicing the whole property or individual meters for each dwelling unit (not both) shall be provided. The water meter(s) must be of a type approved by Council or purchased from Council and located in an accessible location at the property boundary for maintenance and reading purposes. Should the property in future decide to change the metering to multiple meters instead of a single meter (or vice versa) Council fees and charges will apply.

20. 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** and must consider any adjacent property or infrastructure affected by the development.

A minimum of 2,000L onsite stormwater detention is to be provided for each dwelling in addition to any Basix requirements. Design details of the on-site detention, drainage system and point of discharge must be submitted for approval by Council and/or accredited private certifier prior to issue of the Building Construction Certificate demonstrating that the required amount of stormwater detention can be achieved. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

21. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to commencement of works.

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.

22. 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.
23. Where earthworks are proposed for the site, professional details of the Geotechnical Inspection And Testing Authority involved in the project are to be submitted to Council or accredited private certifier for approval. Details of the Geotechnical Engineer involved in the design must be submitted prior to the issue of the Civil Construction Certificate whilst details of the Geotechnical Inspection And Testing Authority involved in the construction must be submitted prior to the commencement of works. The details are to include NATA accreditation, qualifications and accreditations of the principal geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

#### Erosion and Sedimentation Control

24. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC.
25. 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.
26. 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.
27. All erosion and sediment control measures are to be installed prior to the commencement of any work, including cutting and filling and are to be constructed and maintained to prevent sediment from leaving the site or entering downstream properties, drainage lines or watercourses.



28. A sediment control fence shall be installed at the down slope perimeter of the disturbed area to prevent sediment from leaving the site. Sediment fencing is to be trenched in at least 150mm and buried with the ends turned upslope.
29. Vehicular access is to be restricted to one stabilised access point during construction works.
30. All erosion and sediment control measures are to be regularly maintained in good working order at all times and inspected for adequacy following any rainfall event.

#### Dilapidation Report

31. A dilapidation report prepared by a suitably qualified engineer is to be submitted to Council prior to the issue of a Construction Certificate and must contain internal and external photographs for located at No. 42 McFarlane Street and No. 2 O'Brien Place that adjoin the boundary from 4 Moorhead Drive prior to construction works commencing. This will provide the basis for a comparison should any damage occur to these buildings as a result of the construction works.

#### Landscaping

32. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
33. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

<b>ITEM</b>	<b>6b.20.015</b>	<b>SUB2019/0033 – BOUNDARY ADJUSTMENT AND CONSOLIDATION– 900-1278 LAYTONS RANGE ROAD, KANGAROO CREEK</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

**SUMMARY**

<i>Applicant</i>	Andrew Fletcher on behalf of A. Fletcher & Associates Pty Ltd
<i>Owner</i>	Kylie Jackqueline George & Philip Andrew George
<i>Address</i>	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460
<i>Submissions</i>	Nil

Council is in receipt of Development Application SUB2019/0033 which proposes a boundary adjustment and consolidation to reduce four (4) lots to three (3) lots at 900-1278 Laytons Range Road, Kangaroo Creek (being Lots 7, 10 & 32 DP752845 and Lot 1 DP113804).

In accordance with Part B of the Rural Zones Development Control Plan the application was not notified and advertised, therefore, no submissions or comment was received. Council staff are recommending refusal of the application which is outside of Council staff delegations; therefore the application is forwarded to Council for a decision. The report provides an assessment of the application and a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council refuse Development Application SUB2019/0033 on the following grounds:

- Council does not have the necessary delegations under Clause 4.6 of the *Clarence Valley Local Environmental Plan 2011* to vary the minimum lot size by greater than 10%;
- The proposed development does not comply with Clause 4.1B of the *Clarence Valley Local Environmental Plan 2011*;
- The proposed development is inconsistent with the intent of Clause 4.1B; and
- The proposed development is inconsistent with the objectives of the RU1 Primary Production zone.

**COMMITTEE RECOMMENDATION**

Baker/Novak

That this item be deferred for a period of 2 months to allow the applicant to provide further information.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

Development Application SUB2019/0033 was lodged with Council on 20 August 2019. The subject land is zoned RU1 Primary Production under the provisions of the *Clarence Valley Local Environmental Plan 2011* (the LEP). The Applicant is proposing a boundary adjustment and consolidation of Lot 10 and 32 DP752845 to reduce four (4) lots to three (3) lots at 900-1278 Laytons Range Road, Kangaroo Creek. Certain boundary adjustments and subdivisions are permissible with consent under the LEP, consolidation of land does not require prior consent from Council. The minimum lot size of the subject land is 100ha for residential purposes. The overall effect of the proposal is to reduce the area of land that an existing dwelling on the land occupies (on existing Lot 7) from 113.3ha to approximately 25ha (on proposed Lot 702) to retain as much land as possible for the existing agricultural enterprise and create the small lot as a hobby farm.

The owners of the property attended a pre-lodgement Development Management Unit on 20 September 2017 (DMU2017/0096) to discuss options to adjust the boundaries between various properties in their ownership, however, the main objective was to reduce the size of land occupied by the current dwelling to between 16 hectares and 25 hectares. The owners were advised at the meeting the three options tabled were not considered to be permissible or achievable.

The current area of the lots is as follows (see Attachment A for plan):

- Lot 7 – 113.3ha (contains the existing house)
- Lot 10 – 129.5ha
- Lot 32 – 16.19ha
- Lot 1 – 1.1ha

The proposed area of the lots is as follows (see Attachment B for proposed plans):

- Lot 701 – 89.53ha
- Lot 702 – 24.88ha (contains existing house)
- Lot 703 – 145.6ha

Council staff have requested additional information on 20 September 2019 relating to ecological impacts associated with clearing required for provision of services and new boundaries, servicing of the proposal (road access and services to all lots), potential impacts on Aboriginal Cultural Heritage and potential land use conflicts. The Applicant is yet to respond to this request and consequently a full assessment of the proposal cannot be undertaken due to insufficient information being provided. The Applicant was also advised that Council staff had concerns that the proposal did not comply with Clause 4.1B of the LEP and required further assessment. Upon full review of the proposal Council staff wrote to the Applicant on 17 December 2019 advising that the proposal was not considered to comply with the provisions of the LEP and consequently Council staff could not support the proposal. The Applicant's response is provided at Attachment C.

Clause 4.1B is not a standard instrument clause prepared by Parliamentary Counsel and inserted into the LEP by the NSW Department of Planning. Clause 4.1B is the result of a locally specific planning proposal prepared in 2016 by Council staff. Planning Proposal REZ2016/0007 was an amendment made to the LEP to permit boundary adjustments between already undersize lots and subdivision of land containing multiple zonings. Council, at its meeting held on 9 August 2016 (Item No. 14.084/16), considered the proposal and resolved to support the planning proposal and request a Gateway Determination, and on 15 November 2016 (Item No. 14.104/16) resolved to endorse the amendment following receipt of the Gateway and exhibition period closing. The reason for the amendment being proposed was that Council staff had received numerous requests for the adjustment of boundaries where one or more of the lots were below the minimum lot size, however, the Standard Instrument Order and model clauses in the LEP at the time, as

well as the State Environmental Planning Policy (Exempt and Complying Development) 2008, did not allow for Council to consent to such applications regardless of the proposal's merit.

Under Part B of the Development Control Plan for Rural Zones (Part B now repealed) the application does not require notification as no additional lots or dwelling entitlements are being created, therefore no submissions or public comment have been received.

## KEY ISSUES

### 1. Compliance with *Clarence Valley Local Environmental Plan 2011*

Clause 4.1(3) of the LEP requires that the size of any lot created by subdivision must comply with the minimum lot size criteria applicable to the land. Notwithstanding that, Clause 4.6 of the LEP provides for a degree of flexibility to the application of development standards where an improved outcome can be achieved and where variation from the standard can be justified. In this instance, the Applicant would need to seek a variation to the minimum lot size of 100ha. However, in this case, Clause 4.6 (6)(b) does not permit issue of development consent for a subdivision that seeks to create an allotment that is less than 90% of the minimum lot size required.

The existing Lot 7 containing the dwelling house is 113.3 hectares and complies with the 100 hectare minimum lot size. The proposed Lot 702 that would contain the existing dwelling is proposed to be 24.88 hectares and 24.88% of the required minimum lot size.

Council does not have the necessary delegations under Clause 4.6 to vary the lot size by greater than 10%. This is reiterated in advice Council has recently received from the NSW Department of Planning, Infrastructure and Environment that concurrence will not be given under Clause 4.6 to create a new lot outside of 10% of the minimum lot size. As such Council does not have the ability to consider and approve the proposal. Ordinarily, the only way to permit the existing dwelling on an undersize lot would be for the Applicant to prepare a planning proposal to reduce the minimum lot size.

The Applicant has lodged the proposed development under Clause 4.1B of the LEP, Clause 4.1B (3) reads as follows:

- (3) *Despite clause 4.1, development consent may be granted for the subdivision of land to which this clause applies by way of an adjustment of boundaries between adjoining lots where the size of at least one of the adjoining lots is less than the minimum lot size shown on the Lot Size Map in relation to the land if the consent authority is satisfied that the subdivision will not result in—*
- (a) *an increase in the number of lots, or*
  - (b) *an increase in the number of lots that have an area that is less than the minimum size shown on the Lot Size Map in relation to that land, or*
  - (c) *an increase in the number of dwellings or opportunities for dwellings on each lot.*

Prior to Council preparing the planning proposal that resulted in Clause 4.1B being added to the LEP, the then State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specified that boundary adjustments involving lots below the minimum lot size could only result in an increase in area of the undersize lots. These provisions prevented boundary adjustments undertaken between two or more lots that are all below the minimum lot size. The intent of the new clause was and is to permit boundary adjustments where one or more allotments involved do not meet the minimum lot size whilst retaining any existing entitlements. In addition, the adjustment should not adversely impact on the ability to achieve the objectives of the relevant zones or create land use conflicts. The Applicant was aware of the planning proposal and was involved in the process through lodging a submission. Further, the Applicant was also advised of the outcome and intent of the new clauses upon adoption of the new clauses.

Upon assessment of the application Council staff have concluded that the proposal does not demonstrate strict compliance with Clause 4.1B (3)(c). The concern lies with the dwelling house being currently located on a lot that meets the minimum lot size of 100ha and as a result of the proposal, if approved, the dwelling will be located on an undersized lot. Currently there are two oversized lots included in this proposal that have an entitlement (Lots 7 and 10) and two undersized lots without an entitlement (Lots 1 and 32). The Applicant is proposing to undertake a boundary adjustment between Lot 7 (113.3 ha) and Lot 1 (1.13ha) and consolidate Lot 10 (129.5ha) and 32 (16.19ha). The Statement of Environmental Effects clearly states that the sole purpose of the consolidation being included in the proposal is to comply with Clause 4.1B so that there is no overall increase in lots below the minimum lot size. Based on this, the proposal is essentially in two parts, the boundary adjustment and the consolidation.

Council staff consider the proposal will result in an entitlement being transferred to proposed Lot 702 (a proposed lot that will be below the 100ha minimum lot size) that is proposed to contain the house. Furthermore, the boundary adjustment between Lot 7 and 1 will create two lots under the minimum lot size. Although the location of the dwelling is not changing and number of dwelling entitlements is not being increased, it is considered that the proposal will result in a dwelling opportunity being created on an undersized lot where there was previously no opportunity to build on the undersize lots subject to this proposal. This consequently results in the proposal being inconsistent with the abovementioned LEP provision as it is seeking approval to give opportunity to a proposed lot that would otherwise not enjoy that opportunity for a dwelling.

The objectives of the RU1 Primary Production zone under the LEP are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To prevent dispersed rural settlement.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To ensure development is not adversely impacted by environmental hazards.*

Although the Applicant is undertaking the proposal to maximise land for the existing agricultural operation on the land, the proposal will result in a small isolated largely cleared lot in an established agricultural area which is contrary to the objectives of the RU1 zone. The smaller lot will fragment agricultural land and could result in increased rural settlement of the locality which may inhibit the feasibility of primary industries in the locality. Furthermore, the creation of the 100ha minimum lot size for new lots is intended to increase the viability of larger scale rural industries whilst limiting the opportunities for dwellings on rural land not in closer proximity to major service centres like Grafton.

## 2. Options

Should Council determine that the application is consistent with the LEP, the application cannot yet be fully determined as the Applicant needs to submit additional outstanding information. The Applicant is aware of this and has requested that Council determine whether or not the DA is supported before they submit further details.

Further, should the Council accept the application complies with the LEP and determines to support the DA as submitted it is likely to set a precedent for other land owners to undertake boundary adjustments to create small lots, other than those already undersize, with existing houses or dwelling entitlements in rural areas resulting in further fragmentation of agricultural land, dispersed rural settlement and potential adverse impacts to the viability of rural industries.

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

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

**Asset Management**

N/A

**Policy or Regulation**

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Rural Zones

**Consultation**

The application has been referred internally to the Development Engineers, however, due to the insufficient information in the application and absence of the additional information requested from the Applicant, further assessment cannot be undertaken.

**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**

N/A

Prepared by	James Hamilton, Development Planner
Attachment	A. Current Lot Layout B. Proposed Plan C. Applicant Submission

<b>ITEM</b>	<b>6b.20.016</b>	<b>DA2020/0025 – REGLAZING AND PAINTING OF COMMERCIAL BUILDING – NO. 42 VICTORIA STREET, GRAFTON</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

<i>Applicant</i>	Michael Ware
<i>Owner</i>	Jumi Property Pty Ltd
<i>Address</i>	42 Victoria Street, Grafton
<i>Submissions</i>	Nil

Development Application DA2020/0025 seeks approval for the alteration to the glazing pattern and repainting of the commercial building located at No. 42 Victoria Street, Grafton. The matter is being reported to Council as both Council's Senior Strategic Planner (heritage specialist) and an independent review by a professional architect do not support the proposed works due to the impacts upon the significance and integrity of the original building. The building is a contributory element of the Grafton Heritage Conservation Area, as an example of the mid century International Style modernist movement. The alterations are likely to also impact upon visual setting of the adjacent State Heritage Listed Cathedral Complex and Civic Court House complex.

This report provides an assessment of the application and a recommendation is provided for Council's consideration. This application has been reported to Council for determination as it is recommended that the DA be refused.

## OFFICER RECOMMENDATION

That:

1. DA2020/0025 be refused as the proposed development is inconsistent with the objectives of the Heritage Conservation Clause 5.10 of the LEP.
2. No. 42 Victoria Street Lot 11 DP587320 be added to Schedule 5 of the LEP as an item of Environmental Heritage as it meets the heritage significance aesthetic criterion as a rare regional example of a building inspired by the mid-century International Style modernist movement, and demonstrates Historical and Social significance as the seat of the former Copmanhurst Shire Council with links to several citizens of prominence in the Clarence Valley.

## COMMITTEE RECOMMENDATION

Baker/Simmons

That DA2020/0025 be approved subject to the advices and conditions of Schedule 1 to reflect the approval.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

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 existing building was designed and built in 1961 and is located within the Grafton Heritage Conservation area. The building is not listed as an individual heritage item, however, the recent assessment demonstrates that it holds strong significance as an example of the International Style and would also hold historical and social significance as the former seat of Copmanhurst Shire Council.

The applicant firstly lodged a 'Minor Works and Maintenance Application' (a no fee application) seeking permission to remove the existing original windows from 42 Victoria Street (with each window consisting of 8 glazed panels arranged in a specific pattern) and replacing with a single glazed panel of glass. The Minor Works Application was not supported by Council's heritage specialist and the following advice was given to the applicant:

- *Further consideration should be given to the proposed glazing to maintain the integrity of the original design of the building and its presence in a key position in the Heritage Conservation Area.*
- *The replacement of glass to a more eco performance product is acceptable provided that the pattern of glazing is retained.*
- *The paint schedule should be expanded to provide a contrast between the elements of the building, and colours from the heritage palette are recommended given the position of the building and its relationship to the setting of the Civic Court group.*

Subsequent to the advice being given under the Minor Works Application, the applicant lodged a Development Application to enable full consideration of the matter at a Council meeting. The proposed works have not been altered or amended from the original Minor Works application.

Summary of proposed works is provided below:

- *Removal of current glass and internal Frame sections of all large windows (3550 X 2050) in both front (Victoria and Dukes Street) and rear areas of the building*
- *Original outer aluminium frames to be retained*
- *Replacement Glass to be single panel laminated "non reflective" shop front style glass (similar to Westlawn Investments recent works) - window specifications attached and compliant with AS/NZS 2208*
- *Maintenance painting works to be carried out commensurately due to deterioration of the current paint protection for the entire building and for the ongoing corrosion protection of current metal surfaces including awnings, metal supports, aluminium windows and door frames. Details as follows:*
  - *Window frames and remaining aluminium door and window frames to be painted "Granite Grey",*
  - *All yellow and green metal surfaces on the front and rear of the building, most of which has begun to peel and is due for repair, to be painted "Granite Grey" for continuity (Colour Swatch attached - same colour as recently repainted rear metal stairs and almost identical to the colour used at the adjacent 50 Victoria St)*

Staff have provided consistent feedback to the applicant regarding the replacement windows in that the current window arrangement should be maintained in lieu of a single panel as it forms part of the architectural design and form of the building. It is also important to keep in mind that the Cathedral and Court House are both heritage listed buildings and any changes should not result in an adverse impact to the visual setting of these buildings.



## KEY ISSUES

1. Inconsistencies with the objectives of the Heritage Conservation of Clause 5.10 of the LEP

Clause 5.10 of the LEP sets out the objectives for Heritage Conservation for items of heritage significance and development within heritage conservation zones. The objectives of Clause 5.10 are:

- (a) to conserve the environmental heritage of Clarence Valley,**
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,**
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

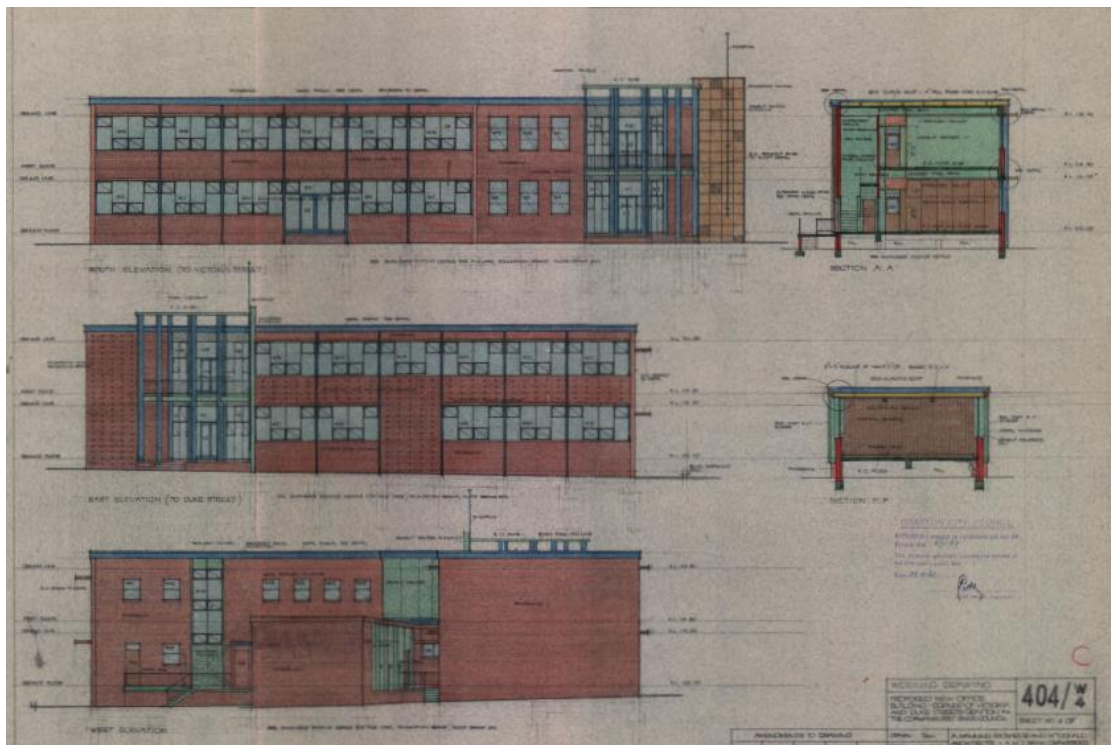
Comment

The proposed development in its current form is inconsistent with objective 5.10(1)(b) of the LEP as it would adversely impact upon the significance of the heritage conservation area, including the associated fabric, settings and views of the precinct. The building was designed and built in 1961 and is rare regional example of a building inspired by the mid-century International Style modernist movement. It is situated within the Grafton Heritage Conservation area in a prominent civic location opposite the State heritage listed Cathedral complex and the Civic Court House complex. The building is the only example of a civic building of this era within the Clarence Valley and a rare regional example.

Comments from Council's Senior Strategic Planner (heritage specialist) are provided below.

Glazing

*The glazing design has a distinct pattern of openings between vertical bays which are divided into 4 vertical elements with alternating subdivision of the glazing panes to upper and lower quadrants. This creates a rhythm to the articulation of the glazing and is an integral part of the original design of the building.*



*Replacement of the glass within the same configuration and pattern of glazing and retention of the existing framing would be acceptable. However alteration of the glazing to single panes within each opening would adversely impact upon the character and integrity of the original design.*

### Painting

*The colours of the building reflect a traditional colour palette with a light framework to the vertical framing, pale soffit to the eaves, and dark guttering and fascia. Changing of the dark green elements to grey is not likely to have an adverse impact but reflects a contemporary choice of colour rather than one of the era. The contrast between the framing and other elements should be maintained. Consideration of alternative colours is recommended.*



### Independent Peer Review

DRA Architects were also engaged to undertake a peer review of the Minor Works Application assessed by Council's Heritage Officer. A copy of the complete review is provided in the attachments. The independent review arrived at the same conclusion as the assessment undertaken by Council's Senior Strategic Planner. An extract of DRA Architects comments and recommendations are provided below:

*No. 42 Victoria Street is a rare regional example of a building inspired by the mid-century International Style modernist movement undertaken by a local architectural firm of the time. We believe the building is worthy of being Heritage listed, at the very least, at a local level.*

*The arrangement of the windows is a defining characteristic that links the building to the international style. Replacing the windows with a single piece of glass would not be sympathetic to the period of the building. Clear anodised aluminium and the proportions of the existing framing are also reminiscent of the architectural period and any replacement should replicate these features.*

### Conclusion

- 1. Any replacement windows should replicate the pattern of the existing window framing to preserve the connection with the building's architectural pedigree;*
- 2. The framing of any new windows should replicate the slenderness of the existing framing; and*
- 3. The finish to be clear anodised aluminium to match existing.*

### Summary

The existing building is a contributory building to the existing civic precinct and represents a rare example of this type of architecture. The distinctive pattern of the windows is a key feature of the building and to replace within single panes of glass will not maintain the significance of the building and its contribution to the conservation area. For the reasons provided it is recommended that the application be refused because the development is inconsistent with the objectives of Clause 5.10 of the LEP.

If Council resolves to approve the development, it is recommended that conditions contained in Schedule 1 be imposed requiring the replacement windows to replicate the pattern and slenderness of the existing window framing and the colour palette be sympathetic to the significance and setting of the Heritage Conservation Area with some differentiation of the painted surfaces

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

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

**Asset Management**

N/A

**Policy or Regulation**

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000*
- *Clarence Valley Local Environmental Plan 2011*
- *Business Zones Development Control Plan 2011*

**Consultation**

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Heritage	Not Supported
Health & Building	Conditions provided if application is approved

An independent peer review of the heritage assessment was also undertaken by DRA Architects which concluded that any replacement windows should replicate the pattern of the existing window framing to preserve the connection with the building's architectural significance.

**Legal and Risk Management**

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

**Climate Change**

Due to the age of the building, it is unlikely that the existing building is meeting the current energy efficiency requirements of Part J of the Building Code of Australia. If Council does approve the works then the applicant will be required to demonstrate compliance with Part J in respect of the new glazing.

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	A. Proposed works and supporting information documentation B. Independent Review by Warren Steele, DRA Architects C. Statement of Heritage Impact submitted with application D. Section 4.15 Assessment

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2020/0025**

**Advices**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.

**Conditions**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA), as amended in red, or where modified by any conditions of this consent.
2. Any replacement windows should replicate the pattern of the existing window framing to preserve connection with the building's architectural pedigree.
3. The framing of any new windows should replicate the slenderness of the existing framing. The finish is to be clear anodised aluminium to match existing.
4. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and Business Zones DCP 2011, are to be submitted to, and approved by Council prior to release of the Construction Certificate. Primary, bold, vivid and neon colours are not to be used. Corporate signage is to be restricted to the awning fascia and small areas of the building. The main colour of the building façade is to be in neutral colour.
5. **Working/Construction Hours** Working hours on the construction project being limited to the following:

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

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

6. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
7. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
8. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
  - a Stating that unauthorised entry to the work site is prohibited;
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work.

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

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

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

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

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

\$679.27

GL S94ACVCOthResAcco

This amount is based on the following calculation

- a Proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000 = value of development x 0.005
- b The value of development stated in the application was \$135,854.00

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

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary, and if so will become the contribution payable. A true estimate of the value of development must be provided when application is made for the Construction Certificate.

<b>ITEM</b>	<b>6b.20.017</b>	<b>DA2019/0639 – PROPOSED RETAIL DEVELOPMENT – 20 HIGH STREET (FRONTING COLDSTREAM STREET), YAMBA</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

### SUMMARY

<i>Applicant</i>	Stephen Mezes (Bela Building)
<i>Owner</i>	Payu Jupipit
<i>Address</i>	20 High Street (also fronts Coldstream Street), Yamba
<i>Submissions</i>	One public submission presenting parking concerns

The proposed retail premises is not significant in scale, however as proposed it presents a range of conflicts with the key building code, disability legislation, car parking standards and provision, use of Council land and hence, is deemed to be overdevelopment of the subject land in the circumstances. This report is submitted to Council for consideration as the application is recommended for refusal.

### OFFICER RECOMMENDATION

That DA2019/0639 be REFUSED on the following grounds:

- The development does not comply with the Building Code of Australia and disabled access requirements;
- There is not considered to be acceptable grounds for unjustifiable hardship in relation to disabled access provision;
- The proposed disabled access ramp is partly proposed on Council's road reserve;
- The development results in the car parking spaces on-site not complying with the headroom requirements under Australian Standard AS2890;
- The development has a parking shortfall of two car parking spaces and includes no proposal to offset this shortfall;
- Overflow parking into the nearby public street is likely to have unacceptable impacts on vehicle access to and from nearby private development;
- Proposed adjustments to the parking arrangements submitted since the DA was lodged will result in further and unacceptable non-compliance with vehicle manoeuvring standards in Australian Standard AS2890; and
- The proposed development is considered to be an overdevelopment of the subject land in the circumstances.

### COMMITTEE RECOMMENDATION

Baker/Novak

That this item be deferred for up to 2 Council meetings to allow the applicant to address non-compliance issues.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

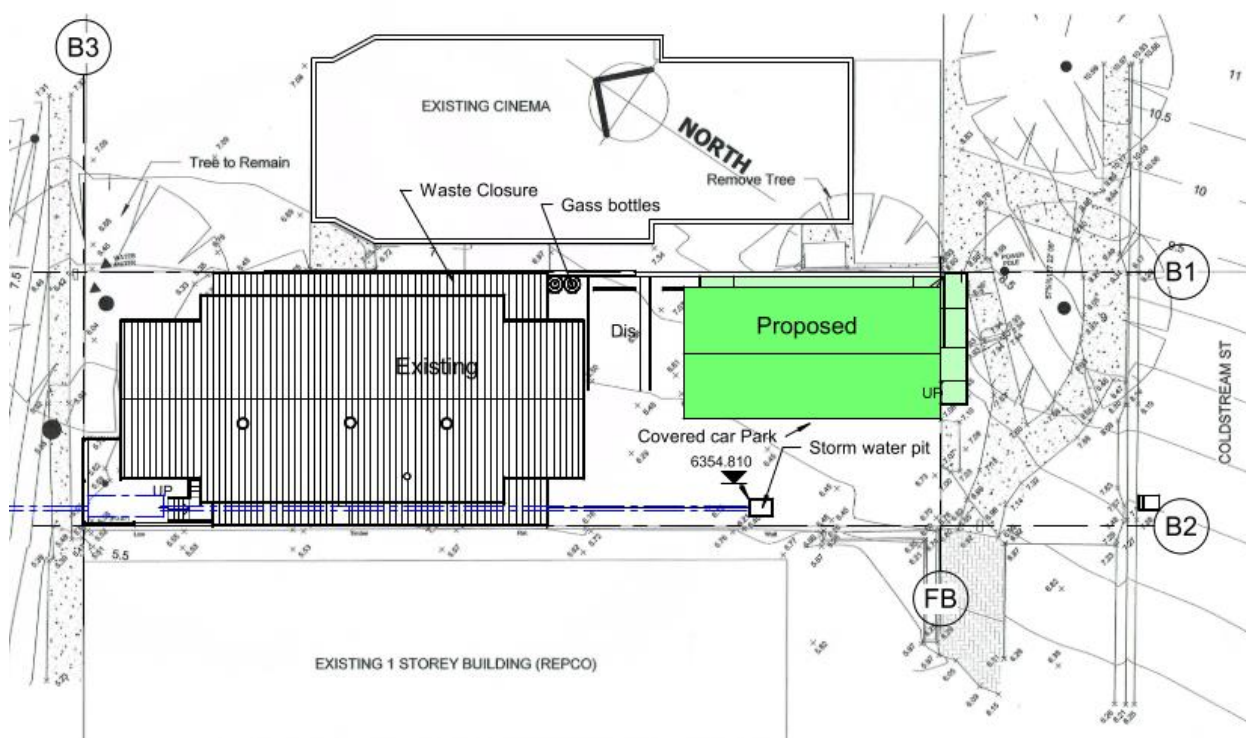
Against: Nil

**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**

This Development Application was received by Council on 25 November 2019 (see site plan below). Council advised the Applicant of concerns regarding BCA compliance, disabled access (including use of Council's footpath in Coldstream Street), potential claim for hardship, and parking non-compliances in December 2019 and January 2020. The Applicant provided response to some of these items.



Site Plan with the proposed retail building (and access ramp) shaded green.

A restaurant and dwelling was approved in 2015 under DA2015/0061. That consent was subsequently modified on two separate occasions in 2016 and 2017. The latest approval has been activated and the restaurant and dwelling recently constructed with the development being essentially complete at the time of preparing this report. Five (5) car parking spaces including one disabled car parking space are required and have been provided on-site.

The proposed retail building is located adjacent to the Coldstream Street frontage of the subject land and located above the on-site car parking spaces.

**KEY ISSUES**

The proposed retail development raises a number of critical issues that are individually and collectively problematic and result in the recommendation to refuse this development application. These issues are discussed below:

Compliance with Building Code of Australia (BCA) and Disability Standards – New building works must satisfy the fundamental requirement to be compliant with the BCA. Failure to meet the BCA is considered a critical deficiency in the proposed development.

Council's Building Services Coordinator offers the following comment - *The application is not supported in its present form due to the design not meeting the Building Code of Australia and the Disability (Access to Premises - Buildings) Standards requirements in regard to access for persons with a disability in that the proposed ramp access is non-compliant and the proposed accessible entrance is not via the principal pedestrian entrance. It is unlikely that compliance with accessibility requirements could be achieved at Construction Certificate stage without significant design changes to the building which would subsequently require a modification of the development consent.*

Potential claim for unjustifiable hardship – Council's Building Services Coordinator offers the following comment - *As the proposal entirely involves new building work any claim for unjustifiable hardship and relaxation of the building regulations is highly unlikely to be supported at Construction Certificate stage should the development application be approved.* The Applicant has been advised of this.

Building on Council road reserve – The proposed design of the retail premises seeks approval to utilise part of the Coldstream Street road reserve for construction of part of the disabled access ramp (refer to site plan earlier). Use of Council's road reserve for this purpose is not ordinarily acceptable. Provision of pedestrian access satisfying the requirements of the BCA and relevant disability discrimination legislation should be contained wholly on the development site where it serves the private development. The proposed ramp does not improve public accessibility along the Coldstream Street footpath. Further, the structure on Council land would be an added and unnecessary source of public liability for Council.

Car Parking and Vehicular Access – The proposed development would require the provision of two additional car parking spaces on-site. No additional parking and no voluntary planning agreement to offset the parking shortfall has been proposed. Development Consent No MOD2017/0067 approved of a restaurant and first floor dwelling and required the provision of five car parking spaces on-site. These spaces are proposed to be retained, however, the proposed new building over the on-site car park provides inadequate headroom and makes three of the five spaces non-compliant with the Australian Standard AS2890.

Council's Development Engineer offers the following comments - *The proposed additions will impact on the previously approved car parking area to service the restaurant and reduces the allowable headroom at 3 of the spaces.*

*The existing approved car parking layout was approved with non-compliant aisle width and wider parking spaces than standard at 3.2m to accommodate this. It is proposed that the residence parking space be moved approximately 1m into the aisle in order to accompany the reduced headroom.*

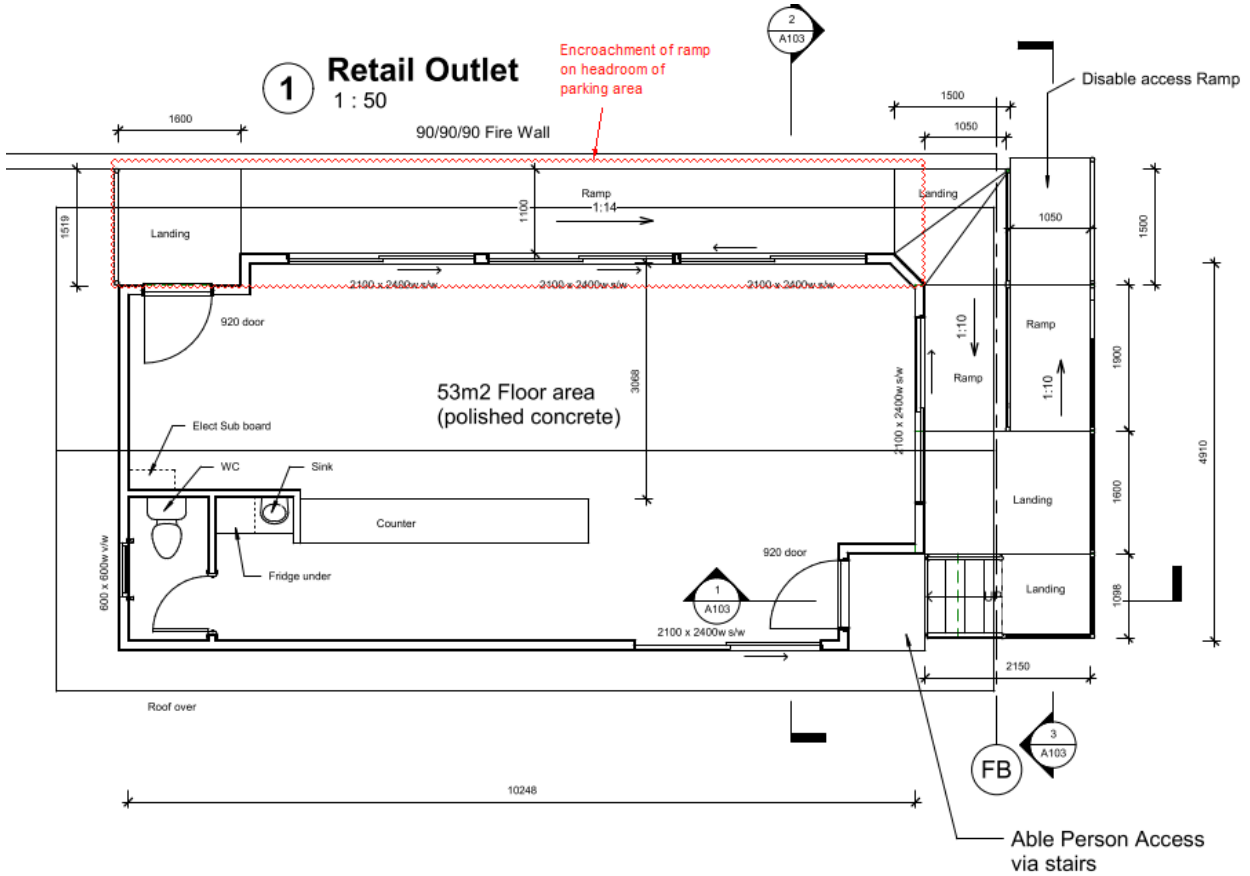
*The applicant claims that 'The private Residential parking falls under its own design criteria' and therefore does not apply in this circumstance. However, this standard is a requirement under the DCP and has been applied in the approval process of previous applications on the site, namely DA2015/0061, and applies to all off-street parking (including domestic).*

*The proposed change to the residential car parking space reduces the existing aisle width, which has already been approved as a variation of the standard and is non-compliant, and reduces the manoeuvrability of the space. The proposed relocation of the residential space is not supported as it will have a negative impact on the overall functionality of the existing car parking area. Furthermore, car parking space no. 4 is still non-compliant with the headroom requirements under section 5.3.1 of AS2890.1.*

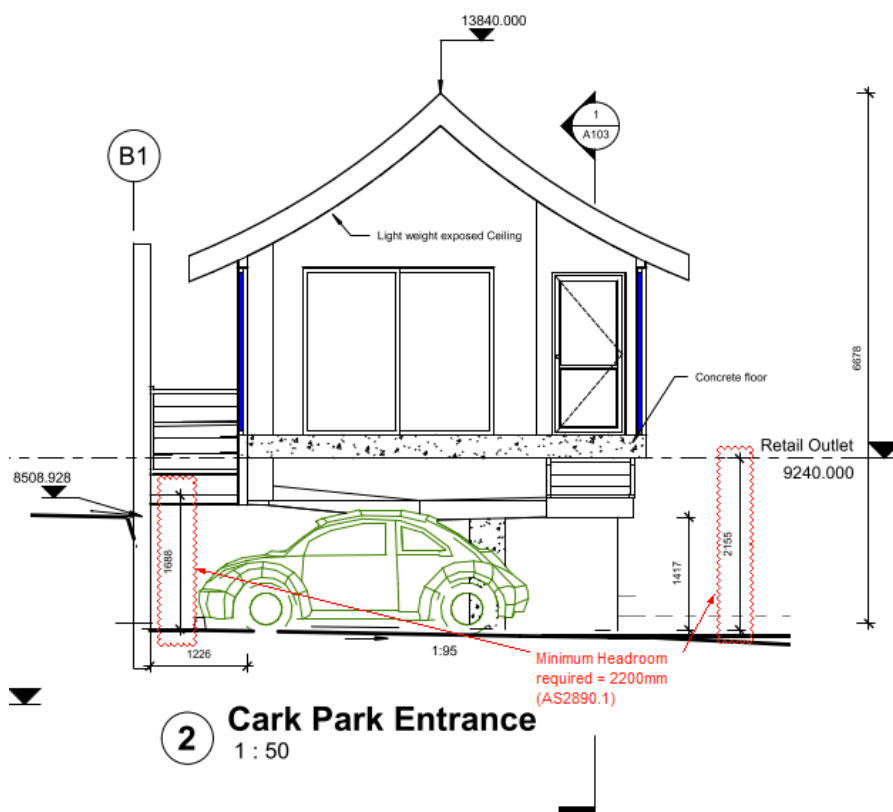
*It is also noted that the quoted figure for headroom has been taken from part 6 of AS2890, which applies to disabled parking spaces only.*



Plans showing where the headroom non-compliances occur are provided below. Amending the design of the retail building to raise the under floor height to satisfy the minimum headroom dimensions of 2.2 metres would result in the finished floor level of the retail floor space being higher than currently proposed. This would further exacerbate the difficulty of achieving compliant disabled access to serve the premises. Given the disabled access is already non-compliant in the proposed design, further amendments are not considered viable and for this reason it is recommended that Council refuse the application.



Plan view of the floor layout (and disabled access) for the proposed retail building.



Section view across the retail building showing headroom non-compliances.

Council received one public submission in response to notification of the application that raises inadequate existing supply of on-street parking in the vicinity of the development site to be compounded by the proposed retail development that does not accommodate extra parking on-site. The proposed new building over the car parking area on-site creates a situation where three existing parking spaces would not satisfy headroom requirements of AS2890. This further compounds the potential conflict for cars parking on-street and not being respectful of nearby resident needs to access driveways to/from their private properties.

## COUNCIL IMPLICATIONS

### Budget/Financial

The DA has been accompanied by prescribed fees. Processing of the application utilises recurrent staffing budgets.

### Asset Management

The application seeks approval to partial construction of an access ramp within the Coldstream Street road reserve. As this ramp services the private development it should be wholly contained on the private land. Council officers do not support the private ramp being located within the road reserve.

### Policy or Regulation

*Clarence Valley Local Environmental Plan 2011*

*Disability Discrimination Act 1992 (Commonwealth)*

Building Code of Australia

Clarence Valley Development Control Plan – Development in Business Zones

### Consultation

The DA was publicly advertised and notified to enable interested persons to make comment. One public submission was received and is attached to this report

Internal staff consultation was also completed as summarised below. More detailed comments are included in this report where relevant.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	The proposal is not supported on the grounds that it does not comply with the Australian Standard AS2890 for off street car parking.
Building Services Coordinator	Does not support the DA due to non-compliance with BCA and disabled access requirements.

### **Legal and Risk Management**

The Applicant may choose to seek a review of Council's determination if they are dissatisfied with the Council's decision. This would not ordinarily involve Court action in the first instance.

Construction of part of the disabled access ramp on the Coldstream Street footpath would create added public liability risk for Council. Providing such access wholly on the private land would remove that added risk.

The non-compliance with the BCA and disabled access provisions would increase the risk of a legal challenge against the development under the Disability Discrimination Act 1992 (Commonwealth) due to the access not being dignified and equitable.

### **Climate Change**

The development of land within the main business precinct for business purposes is considered more efficient in terms of limiting greenhouse gas (GHG) emissions associated with transport to/from places of business as customers can access multiple businesses in close proximity in a single trip. New building works will involve use of materials that require production of GHG emissions in production. Energy consumption in operation of the business will produce GHG. Given the scale and nature of the development these emissions are not considered substantial or unreasonable and the location would reduce transport-related GHG emissions.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	<ol style="list-style-type: none"> <li>1. Public submission (1 of)</li> <li>2. Proposed plans of the development</li> <li>3. Section 4.15 Assessment Report</li> </ol>

<b>ITEM</b>	<b>6b.20.018</b>	<b>DA2019/0208 – STAGED REDEVELOPMENT OF PACIFIC HOTEL - 16 PILOT STREET, YAMBA</b>
<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

<i>Applicant</i>	Redvat Pty Ltd (Jack McIntosh)
<i>Owner</i>	Redvat Pty Ltd
<i>Address</i>	Lot 1 DP 554606, 16 Pilot Street, Yamba NSW 2464
<i>Submissions</i>	Nine (9) public submissions

Council considered this development application at its 25 February 2020 meeting when it resolved to defer a further decision in order to obtain additional information through both a site inspection by Councillors, a Land and Environment Court standard photomontage and the erection of a profile of the northern wall of the proposed development to determine the effects of the proposal, particularly Stage 2 works, on the adjoining property at 14a Pilot Street, Yamba. The site inspection will also offer the opportunity to consider other key issues, including parking, variations to building height, side setbacks, landscaped area, as well as other issues highlighted in the report to Council's February meeting.

At the time of preparing this report the Applicant advised that the building profile had been erected on-site and the specified photomontages would be available for viewing prior to the Councillor inspection and for Committee and Council consideration.

The report as submitted to the February meeting of Council follows for Council's consideration of the development proposal under DA2019/0208.

Council is in receipt of Development Application DA2019/0208 that seeks approval to redevelop the Pacific Hotel, Pilot Street, Yamba. The redevelopment includes two stages of works comprising Stage 1 (extend and alter function room on lower ground floor, including refurbishment to remove a 2-bed unit and two motel units, and add a new deck above the function room and adjacent to the existing ground floor public bar) and Stage 2 (demolish the northern wing of the Pacific Hotel comprising 9 motel units and 5 undercover parking spaces, beachhouse/bunkhouse and nearby structures on the lower part of the site and construct 22 new motel units in two new buildings and provide 18 undercover parking spaces on three parking levels).

The application was notified and advertised. Nine (9) public submissions have been received from nearby landowners, business owners and interested persons. The submissions raise a range of issues of varying complexity and significance. The conclusions reached in various aspects of the assessment are not clear and will be subject to differing opinion due to the circumstances of the case. Council is requested to look at individual components of the development as well as the development as a whole when considering this matter.

The proposal seeks a variation to the maximum building height for the subject land as well as a number of variations to Council's Development Control Plan. The majority of these variations have been granted when previous DAs (and modifications) to redevelop the Pacific Hotel were considered by the Joint Regional Planning Panel and then Council. The significant variation to building height, combined with the range of DCP variations, issues raised in submissions, as well as the location and prominence of the subject land/development combine to warrant consideration and determination of this DA by Council.

Council staff are recommending approval of the application. The report provides an assessment of the application and a full recommendation for Council's consideration.

### OFFICER RECOMMENDATION

That Council:

1. Confirm that it is satisfied as to the matters it needs to be satisfied of in clause 4.6(4) of the Clarence Valley Local Environmental Plan 2011 in endorsing two exceedances to the 9m maximum building height for the subject land in relation to the northern accommodation wing, being a maximum height of 11.1 metres, and the accommodation building on the lower portion of the subject land, being 9.2 metres;
2. Endorse DCP variations to the maximum building height, top plate height, front, side and rear setbacks of zero for the front and northern side and 1.8 metres for the eastern or rear boundary, and landscaped area as sought for the proposed development;
3. Not accept the 15-space parking shortfall and request the Applicant to remove the proposed new deck over the function room space from the development;
4. Grant development approval to DA2019/0208 in accordance with the conditions and advices contained at the Schedule to this report once revised plans satisfying the request at item 3 above are received.

### COMMITTEE RECOMMENDATION

Baker/Williamson

That Council:

1. Confirm that it is satisfied as to the matters it needs to be satisfied of in clause 4.6(4) of the Clarence Valley Local Environmental Plan 2011 in endorsing two exceedances to the 9m maximum building height for the subject land in relation to the northern accommodation wing, being a maximum height of 11.1 metres, and the accommodation building on the lower portion of the subject land, being 9.2 metres;
2. Endorse DCP variations to the maximum building height, top plate height, front, side and rear setbacks of zero for the front and northern side and 1.8 metres for the eastern or rear boundary, and landscaped area as sought for the proposed development;
3. Accept the proposed deck above the proposed function room is a replacement deck and as such does not attract additional car-parking and the advices and conditions be amended accordingly;
4. That the section 64 headworks charges listed in Advice No. 2 for Stage 1 of the Pacific Hotel DA be amended by changing the water headworks charge from \$42,024.84 for 8.58 ETs to \$26,637.04 for 7.48 ETs and the sewer headworks charge from \$144,203.08 for 12.04 ETs to \$97,852.09 for 8.17 ETs. The Stage 2 water and sewer headworks charges to remain as recommended in Advice No. 2.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

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

Development Application DA2019/0399 was lodged with Council on 23 April 2019. The subject land is zoned SP3 Tourist under the provisions of the *Clarence Valley Local Environmental Plan 2011* (the CVLEP). The proposed function room, being ancillary to the pub, and hotel accommodation uses are permissible with consent under the CVLEP.

The land subject of this DA is occupied by the Pacific Hotel. The land is located at the southern end of Pilot Street and on the ocean side of Pilot Street. To the south of the subject land is a Crown Reserve (known as Flinders Park) managed by Council and to the east or ocean side of the subject land is a separate parcel of public land, being an unmade road reserve. Beyond that reserve is Main Beach, the Yamba Surf Club and the ocean pool. To the northern side of the subject land is private residential development comprising two detached dwellings on the immediately adjoining land. Dwelling-houses are located on land north of that along the ocean side of Pilot Street. On the west side of Pilot Street opposite the Pacific Hotel is a mix of holiday units and ground level commercial tenancies and a number of restaurants/cafes are located nearby in Clarence Street. The Star of the Sea development is located to the south-west of the subject land on the corner of Coldstream and Clarence Streets, Yamba. An aerial view of the subject land is shown in Figure 1.

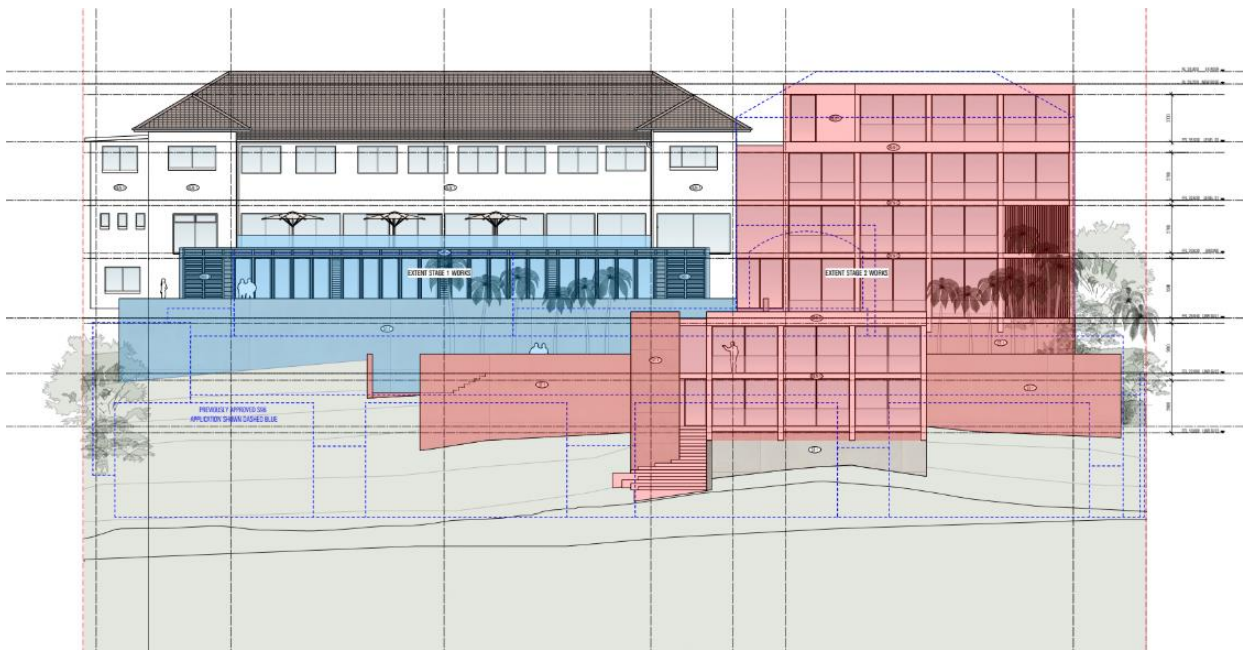


**Figure 1** – Location of the subject land in relation to surrounding lands

The Pacific Hotel site has been subject to a number of development proposals over the last 10 years or so commencing in 2010 with Development Application No. DA2010/0264 being for redevelopment and refurbishment of the hotel and an addition of 8 new residential units and 24 hotel accommodation rooms/units. That DA was approved subject to conditions by the Joint Regional Planning Panel. In both 2011 and 2013 the 2010 approval was subject to modification applications (MOD2011/0054 and MOD2013/0009). These modifications were each approved subject to conditions. The most contemporary approval (the 2013 modification) approves of a total of 26 hotel units, 8 new residential units, 20 car parking spaces and refurbishment of the southern portion of the existing hotel (including enlarged Ocean View room). Council has provided confirmation to the owners that physical commencement has occurred and hence, MOD2013/0009 is deemed to be a valid and active development consent. Many of the issues discussed in this report have been considered, assessed and found to be capable of being satisfactorily addressed in those proposals as evidenced through issue of conditional development consents. Plans lodged with the current DA include an outline of the extent of works approved under the 2013 modification (see Figures 2 and 3 below).



**Figure 2** – Site plan extract showing proposed Stage 1 (blue) and 2 (pink) works as well as extent of works approved in 2013 (blue dashed line).



**Figure 3** – East elevation showing proposed Stage 1 (blue) and 2 (pink) works as well as extent of works approved in 2013 (blue dashed line).

Submissions received in response to the public exhibition and notification of this current DA have referred to concerns and frustrations regarding the multiple applications in recent years and the uncertainty that this has created in the neighbourhood for nearby landowners. Nearby residents have actively sought suitable conditions to control nuisance associated with operation of the hotel during assessment of previous applications. There is a fear that those negotiated outcomes will not be upheld as a result of the current DA.

The long term and historical use of the hotel also means that it has a credit for car parking. Council has previously assessed, as part of the assessment of MOD2013/0009, that credit for the hotel accommodation component of the existing use to be 20 spaces. While that credit exists it is also reasonable that additional development of the site that generates demand for car parking is catered for either physically or through other offsetting.

The Pacific Hotel is a heritage listed building with the listing specifically referring to the 'Columns and 1950s façade fronting Pilot St'. The hotel structure is an iconic feature of Yamba, the coastal backdrop and is readily visible from a number of vantage points between the lighthouse and Yamba Point. Whilst this visual prominence is not a factor contained in the official 'statement of heritage significance' of this place this feature cannot be readily discounted in assessment of this current DA.

Geotechnical hazard, namely landslip, has been well-known and studied along the Yamba coastline between Yamba (Lovers) Point and Pilot Hill. The subject land is located within the potential landslip area. A range of management measures have been adopted and pursued to assist in reducing risk to life and property within the hazard area. This includes due attention to design of new structures, management of stormwater and other infrastructure, monitoring of slope movement and groundwater and notification of alerts at different levels dependent on pre-determined rainfall triggers.

This DA was lodged with Council on 23 April 2019. The DA was publicly notified and advertised for the period of time specified in Council's Development Control Plan after some additional details were sought from the Applicant. Some nearby landowners sought an extension of time to make a submission. No official extension was provided by staff, however, all submissions received are to be assessed and considered even though some submissions were received after the date of the advertising period closing. This is considered reasonable and prudent on Council's behalf.



A summary of submissions received was presented to the Applicant for their comment or response. Only one submission was supplied to the Applicant in full as the author of the submission (Mr and Mrs Hines who own the residential property directly adjoining the north side of the Pacific Hotel site) agreed to that disclosure. No other details of persons making submissions were released to the Applicant. The design of the development has been subsequently adjusted in an attempt to ameliorate the concerns raised in submissions. The Applicant's response to the submissions is included as an attachment to this report. The change to the proposal is considered to be minor, and hence in accordance with clause 90 of the *Environmental Planning and Assessment Regulation 2000* the DA was not renotified or advertised a second time. In accordance with the Regulation the Applicant needs to be informed of this decision at the same time or prior to a copy of the determination of the DA being provided to them.

## KEY ISSUES

The proposed development presents a range of key and significant issues for consideration by Council in determining this DA. The development is proposed to be completed in two stages and some issues have different levels of significance for each stage. The first stage comprises a function room (and related works) located at the lower floor level and rear of the hotel. The second stage seeks approval of demolition of the northern accommodation wing of the Pacific Hotel and the detached beach house, excavation and site earthworks, construction of tourist accommodation, a pool (and related works). Many of the key issues have been presented in one or more public submissions (refer to Attachments). Key issues for Council's consideration are presented and discussed below. In response to issues presented in public submissions the Applicant has proposed a change to the eastern setback of the Stage 2 works on the highest part of the site. The Applicant's response to various matters presented in the submissions is included in the Attachments.

The Applicant requests that Council apply considerable weight to the fact that the site has a current and valid Development Consent (being MOD2013/0009) for a larger scale redevelopment of the Pacific Hotel. Interestingly, some persons making submissions would like Council to uphold previously agreed conditions of consent, whilst others seek the current DA to be considered on its own merit.

1. Car parking requirements – Availability of car parking in the Pilot Hill precinct is a critical issue and provision of adequate parking for any new development in the area is a key factor for Council to consider. Submissions received from nearby landowners and business people highlight that there are times when parking in the precinct is in high or excess demand. This can create conflict and lead to overflow parking occurring on Crown land near the original lighthouse and heritage cottages. Demand for parking in the area is generated by a range of uses including residential/holiday accommodation, restaurants/cafes, tourist attractions (lighthouse and beach) and the Pacific Hotel itself. The existing Hotel site provides five (5) parking spaces with some on-street parking also available. The on-street parking adjacent to the northern wing of the Hotel property is compromised by driveway accesses, a bulk waste bin located on-street as well as delivery vehicles servicing the Hotel.

The Statement of Environmental Effects (SOEE) submitted with the DA and included in the Attachments provides detailed comment on parking requirements for Stages 1 and 2 (see pages 17-19 in the SOEE). The Stage 1 submission centres around the assessed additional requirement for 3 parking spaces for the increased floor area of the function room and how those parking spaces cannot be provided on-site. However, what the submission doesn't refer to is that the Stage 1 refurbishment to the existing hotel will result in a 2-bed unit as well as the equivalent of 2 hotel units being removed from the layout. This information is provided at Section 5 on pages 3-4 of the SoEE. These accommodation spaces would require the equivalent of 1 car parking space per unit, or 3 spaces. Hence, the increased floor space of the function room is offset by the reduction in accommodation in the existing hotel building. To uphold this outcome a condition should be included in any consent stating that the only accommodation provided in the southern portion of the hotel at the completion of Stage 1 shall be 7 hotel units, 5-bed backpackers accommodation and a manager's residence (with up to 5 rooms).

Notwithstanding the above, the Stage 1 works also include provision of a new timber deck at the Hotel Ground/Street level above the Lower Ground Level function room off the existing bar/restaurant area. The floor area of the deck is estimated to be 117.5m<sup>2</sup>. An existing deck of 15m<sup>2</sup> would be replaced by the more functional larger deck, being an increase of 102.5m<sup>2</sup>. The new deck would be licenced for consumption of alcohol. Council's DCP relevant to the SP3 zone does not contain a car parking requirement for licenced bar or similar. The RMS Guide for Traffic Generating Developments does not offer much guidance for parking rates for such uses and suggests a case by case assessment depending on the circumstances. Council's DCP for Development in Business Zones does however include a parking rate for a pub of 1 space per 4m<sup>2</sup> of licenced public floor area. If that rate is applied to the extra floor area of the new deck then it could generate the need for 26 parking spaces. A restaurant classification would attract a demand for 4 spaces based on 1/30m<sup>2</sup> floor area consistent with the DCP. The intent of the improvements to the Hotel is to increase patronage. Increased patronage raises the potential that at least a portion of patrons will want to drive to the hotel. The likely reality is that parking demand would quite reasonably be something in between restaurant and bar rates, especially if dining occurs on the deck area and giving some consideration for patrons that walk, catch a taxi, the Hotel's courtesy bus or use some other form of transport to get to the Hotel. Hence, an average between the two rates would be 15 additional parking spaces and clearly significantly more than the zero extra spaces that is proposed to be provided in conjunction with Stage 1. In the circumstances, the criteria for considering a variation to car parking provision are not deemed to be satisfied given on-street parking in this precinct is at highest demand after hours when peak patronage at the hotel would also be expected. This is a significant impediment to the Stage 1 proposal. The alternative is that the Stage 1 development does not include a deck above the function room space that is greater than 15m<sup>2</sup> (the size of the existing deck).

Stage 2 of the development results in 9 existing hotel units and 5 existing on-site car parking spaces being demolished/removed and replaced with 22 hotel units (13 additional to existing) and 18 parking spaces (13 additional to existing) spread over 3 levels. The ground floor level contains 2 accessible spaces directly accessed off Pilot Street, lower ground floor 01 contains 5 spaces accessed via a vehicle lift/hoist and lower ground level 02 provides 11 parking spaces also accessed via the vehicle hoist. Hotel units require 1 parking space per unit and 1 space for every 2 staff. As staff numbers are not expected to change compared to the existing hotel the 13 extra units would require an additional 13 parking spaces. With 5 existing spaces servicing the existing 9 units a minimum parking requirement for Stage 2 alone would be 18 spaces. Hence, the Stage 2 parking provision is satisfied both in numerical and manoeuvring design.

Closer examination of manoeuvring capacity within each of the parking levels has been completed by Council staff and the Applicant's consultants resulting in some changes to layout and capacity compared to the original DA plans. During this process it was confirmed that the final parking layout meets the design requirements of the relevant Australian Standard.

Adding the assessed Stage 1 (15 parking spaces) and Stage 2 (18 parking spaces) requirements results in 33 spaces being required for the total development. Only 18 on-site parking spaces are proposed. A 15-space parking shortfall is considered too significant for Council to waive in the circumstances. If Council is supportive of the DA overall then requiring the Stage 1 deck over the function room to be deleted from the proposal provides an option to ensure parking provision is adequate and reasonable.

Despite the challenges presented by limited on and off site parking for patrons of the Pacific Hotel and other developments, it appears as though parking for the existing development is functional most of the time. That is not to say, as stated in submissions, that there are times when parking is grossly under-supplied resulting in inappropriate/illegal parking arrangements. Patrons of the various traffic generators in this precinct will often be aware of the limited parking and because of that reason or other considerations, such as wanting to consume alcohol, they may chose alternative methods of transport to and from the precinct. This provides a type of self-management, however, it is considered reasonable that persons who are being accommodated at the expanded hotel facility and are likely to be attracted by the renewed function space and larger licenced public deck area are provided with adequate parking opportunity.

Documentation submitted with the DA has not demonstrated how this shortfall can be achieved, eg through offsetting the shortfall of parking provision through a Voluntary Planning Agreement.

2. Variation to 9m height limit under Clause 4.6 Exceptions to Development Standards

The Clarence Valley Local Environmental Plan 2011 (hereafter referred to as the CVLEP) includes a height of building map which designates a 9-metre maximum building height for the subject land under clause 4.3. Two buildings within Stage 2 of the proposed development exceed the 9-metre maximum height. The original plans submitted with the DA sought approval for a 13.4m maximum height for the new northern motel wing (some 4.4m above the height limit and a variation of nearly 50%). Revised siting of the northern wing in response to nearby landowner comments has reduced the maximum height of the same component of the development to 11.1m (being 2.1m or 23%).

In addition, a second proposed building containing six units at the rear or lower part of the site is proposed to be up to 9.2 metres at its highest point above existing ground level. This represents a 0.2m (or 2.2%) exceedance of the 9m maximum building height for the subject land.

Both of these variations relate to Stage 2 of the development.

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

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

*The objectives of clause 4.6 are as follows:*

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

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

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

As stated in Clause 4.6(3) development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard*

The applicant has submitted a written request as detailed below (extracted from the SOEE in the Attachments) providing the following reasons that compliance with the development standard is unreasonable or unnecessary and what environmental planning grounds justify contravention of the development standard, in this case the maximum building height, as follows:

#### ***Northern Elevation***

*It is contended that compliance with the maximum height standard in respect of the new northern sections is unreasonable or unnecessary in this case due to the development history of the building.*

*The hotel was originally constructed before planning controls of the type that exist today and as a result both the northern and southern sections are higher than currently permitted, with the northern section 700mm higher than currently proposed at its northern elevation at the peak height as distinct from maximum height measured from natural ground level.*

*Consent to DA 2010/0264 approved a major redevelopment, also involving the demolition of the northern section, including 15 new hotel units, 8 new residential villas and retention of the existing hotel plus 11 rooms. This was approved under Maclean LEP 2001, which zoned the site 2 (t) Residential Tourism and permitted tourist facilities. Maclean LEP 2001 did not include any Statutory (LEP) maximum building height standards, and these were contained in the Clarence Valley Residential Zones DCP.*

*The Statement of Environmental Effects (Coast plan Consulting April 2010) which accompanied DA2010/0264 acknowledged that the new structures did not comply with the relevant height controls in the DCP and argued this was justified as a redevelopment of an existing building and resulted in minimal impacts relevant to the objectives of the DCP. As the DCP is not a statutory document Council had the power to approve variations to the height standard, which it exercised in approving the application.*

*This proposal did not proceed by the consent is still valid.*

*Approval to DA2010/0264 was later modified by MOD2011/0054 and MOD2013/0009. The former has no issue with heights, while the latter approved a major redesign of the original redevelopment proposal. This also proposed the demolition of the northern section and its replacement with a building 0.7m higher than the current proposal at peak height.*

*When MOD2013/0264 was submitted CVLEP 2011, including the 9m height limit, was in force. Item 12.087/13 to Councils Environmental Economic & Community meeting on 14<sup>th</sup> May, 2013 reported MOD2013/0264 to Council with a recommendation for approval, which was granted. The report does not address the encroachments of the statutory height limit which suggests a justification based on the existence of the previous approved design.*

*It is submitted that compliance with the 9m maximum height limit is unreasonable or unnecessary on the following grounds:*

- the approved 2013 design exceeded the maximum height by 2.4m, and although less than the 4.4m exceedance of the current design, it set a precedent,*
- the encroachment extends for only 8.4m of the 37m long building (22.7%) and is the result of sloping site which also creates heights above the maximum permitted along the eastern facade of the existing hotel*
- the peak height of both the existing northern section and the 2013 design are 700mm higher than current design, but are located higher up the site and so not affected by the slope to the same degree.*
- the roofline of the new northern section is also 700mm below that of the existing southern section and so when viewed from public spaces to the north, east or south it is lower than that dominant building.*
- the encroachment to the height limit allows the new design to concentrate the majority of its bulk in the new north section. Compared to the 2010 and 2013 approvals this retains a large portion of the south east corner of the site as landscaping which provides unobstructed views to the iconic southern section of the hotel.*

#### **Rear Units**

*The maximum height of 9.2m occurs for only 2.3m of the 12.8m long building and along only 12m of the 60m rear boundary.*

*It is submitted that compliance with the 9m maximum height limit is unreasonable or unnecessary on the following grounds:*

- *the encroachment is of a minor nature and being located low on the site will not be apparent relative to relative height of existing and proposed building above.*

*Also in accordance with the requirements of Clause 4.3 (3), the northern rear height encroachments can be justified on the following environmental planning grounds:*

- *Yamba Hill west and south of the Hotel have maximum height limits of 12m and the majority of encroachments in this design are below 12m and so in keeping with potential heights in the vicinity.*
- *overshadowing of public spaces by the new northern section is reduced from that previously approved due to the minor reduction in height*
- *there are no coastal view issues related to the height of the new northern section. No views are available from the western side of Pilot Street due to the existing building, while the new building will be lower. Views from the residence to the north are determined by the line of the new buildings northern and eastern facades, not its height. The minor impact on views from Flinders Park caused by the rear units is not a result of the minor height encroachment as the whole building is involved*

*Approval is sought under Clause 4.6 CV LEP 2011 for the contravention of the maximum building height specified by the Height of Buildings Map in respect to the northern elevation.*

**Comment** - The Applicant's request relates to both buildings at the northern side of the site in Stage 2 of the redevelopment. The Statement of Environmental Effects (SOEE) submitted with the DA strictly applies to the original DA plans. Revised plans have since been prepared and submitted to Council and propose a reduced variation of 2.1 metres for the building closest to Pilot Street compared to the 4.4 metre variation contained in the SOEE.

As mentioned in the SOEE the 2013 modification (MOD2013/0009) [Note: Incorrectly referred to as MOD2013/0264 in the 5<sup>th</sup> paragraph on page 9 of the SOEE] included a building height exceedance of 2.4 metres. MOD2013/0009 is a valid consent and the owner or a future landowner could utilise that consent. The revised height of the current proposal has a 2.1 metre exceedance and that represents a marginally better outcome compared to the valid 2013 consent in terms of total height.

Council staff support a variation to the nine (9) metre height limit in this instance because the proposed additions are set within the context of an established hotel with existing buildings comprising heights already above the 9m limit. There will be no adverse impacts to the privacy or overshadowing to the adjoining property. While the increased height of the northern wall of the new accommodation buildings will present some visual impact, the views from the adjoining residential property will not be further or unreasonably disrupted compared to a building of compliant building height.

The development is consistent with the aims and objectives of the zone and allows for a land use that is consistent with the zone objectives and will not create unreasonable environmental, scenic or landscape impacts and a variation to the height limit in the circumstances will not create an undesirable precedent in the area. All applications seeking variation to building height need to be considered on their own merits as the circumstances are generally different in each case.

Overall, it is considered that there are sufficient planning grounds to justify contravention of the 9 metre height standard set by Clause 4.3 in this instance.

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

a) *The consent authority is satisfied that:*

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

**Comment** - Council staff are satisfied that the applicant's request has adequately demonstrated that compliance with the 9 metre height maximum is unnecessary or unreasonable in the circumstances. The additional building height at the two locations will not add any overshadowing of the immediately adjoining

property, they will not increase loss of views and they will not result in significant adverse visual impact when the development is viewed from the neighbouring property, nearby vantage points such as the lighthouse, Main Beach and ocean pool.

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

Comment - The objectives of the standard under Clause 4.3 Height of Buildings are:

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

The objectives of the SP3 Tourist zone are:

- (a) To provide for a variety of tourist-oriented development and related uses.  
(b) To enable a range of residential accommodation that is compatible with the provision of tourism uses to assist with the off season viability of tourist-based development.  
(c) To provide for tourist accommodation that does not compromise the environmental, scenic or landscape qualities of the land, and  
(d) To enable retail and business premises that complement tourism-based development without eroding the retail hierarchy of the area.

The proposed development is considered to be consistent with the objectives of the height standard as the development does not result in changing the existing scale character on Yamba Hill overall. Yamba Hill comprises a mix of building scales and character. Further, the split design of the hotel unit accommodation on the site is designed to minimise visual impact and loss of privacy on, and disruption to views from, neighbouring properties compared to the currently approved development. The site orientation means that solar access to adjacent properties will not be adversely impacted as a result of the height variation. The additional height in each of the proposed two buildings will not add to any adverse impacts of the type referred to above.

The development is consistent in use with the current development on the subject land which itself is consistent with the land use type and tourism-related objectives of the SP3 Tourist zone. Despite the visual prominence of the subject land and the environmental hazards that challenge the site the proposed development is considered to be consistent with the SP3 zone objective relating to environmental, scenic or landscape qualities of the land in the SP3 and surrounding Pilot Hill landscape. The photomontages visually represent the proposed development in the local landscape context and it is considered that the impact in these respects is acceptable and reasonable.

- iii) *The concurrence of the Secretary has been obtained.*

Comment - In accordance with Planning Circular PS08-0003, Council has assumed concurrence of the Secretary of NSW Department of Planning and Environment to grant approval to the variation of height required by Clause 4.3 of the LEP.

Clause 4.6(5) requires that in deciding whether to grant concurrence, the Secretary must consider:

- a) *Whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and*

Comment - The contravention of the standard does not raise any matters of significance for state or regional planning for the development. A variation to the height limit in this instance is supported to allow the efficient delivery of facilities to service the existing aged care facility.

- b) *The public benefit of maintaining the standard, and*

Comment - The public benefit in maintaining the maximum height standard at this site largely relates to the impact exceeding the height would have on public open spaces, views and vistas from public spaces. The photomontages indicate that the visual impact is acceptable in a neighbourhood landscape context. Further, the existing development occupies the northern side of the site and disrupts views from Pilot Street. The proposed new northern wing will not restrict this view opportunity any further than the existing development does. The proposed buildings that exceed the height limit will not create shadows over prime open space or the Main Beach during prime recreational daylight hours.

Rigid maintenance of the maximum building height in all circumstances would not necessarily be in the public benefit and variation considering the merits of the circumstances should be acceptable where the impacts have been adequately managed through sensitive placement and good design solutions.

c) *Any other matters required to be taken into consideration by the Secretary before granting consent.*

Comment - The shadows generated by the buildings proposed to exceed to building height will not generate unacceptable shadows to prime recreational zones in the adjoining coastal open space or Main Beach, especially during prime daytime recreational times.

Summary - Two height variations are sought that exceed the maximum height by 23% (building in Stage 2 closest to Pilot Street) and 2% (building in Stage 2 containing six units on lower part of site) above the 9m height limit. In the circumstances, the 23% variation to the building on the higher part of the subject land is the most significant in terms of both height and potential impact, especially to the immediately adjoining neighbour/landowner.

The additional building height at the two locations will not add any overshadowing of the immediately adjoining property, they will not increase loss of views and they will not result in significant adverse visual impact when the development is viewed from nearby vantage points such as the lighthouse, Main Beach and ocean pool. Given the circumstances of the case, the justification provided in the Applicant's submission and after consideration of relevant matters it is considered acceptable to vary the building height in accordance with the revised plans (refer also to 'Overshadowing', 'Visual impact and heritage' and 'Impact on views' later in the Key Issues).

3. Maximum height and top plate height variation under Clause P6 of the DCP – The maximum building height reflects the same height criteria as in the CVLEP. Hence, consideration is not again repeated here.

The DCP, however, also contains a criteria for maximum top plate height of 6.5 metres on the subject land. The flat roofed design of the two Stage 2 buildings means that the top plate height is essentially equivalent to the maximum roof height of 11.1 metres and 9.2 metres, respectively. Hence, the requested variations are numerically significant at 4.6m (or 71%) and 2.7 (or 41%), however, a key factor in setting the top plate height is to reduce the impact of shadows on adjacent development. The two proposed buildings will not cast shadows on to the adjacent residential property or its private open space during prime solar access hours through the day.

The DCP does suggest that buildings should be stepped down the slope of any hill in order to maximise compliance with the top plate criteria. The buildings in the redevelopment that contain the proposed variations are not individually stepped, however, the lower building is stepped down from the other. The Applicant has retained a flat top plate and roof line to maximise the provision of units within each of the proposed buildings.

Whilst the variation is reasonably large some of the external treatment details shown in Figure 5 later in this report can be included on external walls adjacent to the neighbouring residential property to soften visual impact.

4. Setback variations (front, side and rear) – The proposed design seeks variations to setbacks to Pilot Street (front), northern side and eastern/rear setbacks. The Applicant makes a request for these variations on pages 15-16 of the SOEE (refer to Attachments) and has also provided a more detailed submission with respect to external treatment of the Pilot Street façade to justify that part of the proposal. The existing Pilot Street setback is significantly less than the 6 metre standard. The existing building has an eave located 0.3 and 0.7 metres from the Pilot Street boundary. The proposal seeks to have a zero setback with the SOEE stating that the variation is only minor. The small existing front setback is not a functional space in terms of its use. The setback of the adjacent residential dwelling immediately north is also small and the solid fencing of that property dominates on a zero setback line. Hence, in the circumstances and given the intention to soften the Pilot Street façade of the northern accommodation wing a zero setback is considered to be a reasonable and acceptable variation.

The zero setback proposed to the northern side boundary is consistent with the development approved under MOD2013/0009. The standard DCP setback in this case would be 3 metres for a building exceeding 9 metres in height (this proposed building is up to 11.1 metres at the eastern side). The zero setback was requested in association with assessment of MOD2013/0009 by the previous landowner of the adjoining residential land to remove a narrow access alongside the common boundary that Hotel staff would have used. The requested change sought to limit potential impacts from pedestrian movements. The current owner of the adjoining residential property does not support the proposed zero setback due to negative impacts.

The northern (side) wall of the existing northern accommodation wing has an established 1.0 metre setback to the side boundary. The new northern wing more than doubles the existing length of wall facing the adjacent property at 14A Pilot Street. The proposed northern wall will have no openings, will not create overshadowing to the adjoining residential land and has been revised in position (compared to the original DA plans) such that the seaward extent of the wall/building is proposed to be 3m closer to Pilot Street. This reduces the visual impact of the wall and further reduces loss of views. External construction materials and treatment of the wall can further reduce the visual impact of the wall on neighbours. The adjoining landowner has been provided with a copy of revised plans showing the adjusted building position and has decided to maintain their objection to the DA (refer to detailed submission from Paul and Jodie Hines in Attachments).

Due to the approved plans for MOD2013/0009 showing a zero setback and the revision to 'pull-back' the building/wall positioning to reduce visual impact the variation is supported by staff. Any approval will require details of building materials and colour to reduce potential glare and heat nuisance to neighbours.

At the rear or seaward side of the subject land the existing beach house has a setback of 1.0 metre. The height of the proposed building at that part of the site would usually require a 3.0 metre setback. The proposed building containing six units adjacent to the rear boundary is proposed to be setback 1.8-2.0 metres and while it is less than the DCP requirement it is more than the existing building. The impacts on amenity of the adjacent public land, being an unmade road reserve, are not significant given the transient nature of use by pedestrians as they use the existing track/path to access the beach and Surf Club from Pilot Street adjacent to the Pacific Hotel. The setback to the rear boundary of 1.8-2.0 metres is supported by staff in the circumstances.

5. Landscape area variation – The Council's DCP specifies a landscaped area target of 35% for development in the SP3 zone. The proposed development achieves 25.7% which is stated by the Applicant to be in-excess of the landscaped area achieved for the development approved under MOD2013/0009.

The Applicant's submission on page 14-15 of the SOEE places weight on the existing 2013 approval containing less landscaped area than now proposed as well as the generous amount of open landscaped



space in the adjacent public lands creating a sense of space to offset the non-compliance with this standard. Whilst the objective of the landscaping area is not described in the DCP it would be reasonable to expect the standard is applied to limit overdevelopment and to enable infiltration of water into the soil profile the latter of which is usually a sound objective. However, in the case of the subject land there is a desire to keep water out of the soil profile to reduce risk of landslip. At the same time, some of the hard surfaces around the pool area are low set structures that maintain a sense of open space for persons using these spaces as well as viewing over them from both the Hotel and nearby public spaces.

Available land for landscaping will need to be suitably landscaped to offset loss of vegetation and to ensure reasonable amenity. Detailed plans will be required prior to issue of a Construction Certificate for Stage 1 and 2. Construction planning needs to consider how site access can be efficiently achieved while retaining existing trees where practical. It appears as though the 3 southernmost Pandanus palms on the lower part of the site can be retained.

The requested variation is supported in the circumstances.

6. Geotechnical hazard – Demolition, construction and operational phases of any development on the subject land need to be very considerate of, and minimise the level of risk from, geotechnical hazard such that a low or acceptable level of risk is achieved. Information provided with the DA advises that without suitable measures for each stage of development the level of risk is unacceptable. The geotechnical report concludes that an acceptable level of risk can be achieved, however, this will necessitate additional studies, reports and design if the development is approved prior to issue of Construction Certificate/s and prior to any demolition work. In light of the geotechnical issues at this site and on other lands that may be impacted by the development, concerns about slope stability in public submissions, and in the absence of suitable geotechnical expertise on Council staff it is to be recommended that any approval contain a condition requiring independent review of geotechnical documentation and for the relevant recommendations of the review to be included in plans and pre-work documentation. For the review to be independent the reviewing consultant will need to confirm they have no conflict of interest due to current or past commercial or personal dealings with the developer, Applicant or other project consultants.

The potential for landslip is likely to be exacerbated by water entering the soil profile and hence, it is critical that storm water is intentionally managed to reduce this potential where practical. For example, any roofwater that can be discharged into the Pilot Street drainage system will flow west towards the Yamba CBD and away from the landslip area. In addition, existing stormwater pipes and infrastructure serving the Pacific Hotel should be audited and repaired, replaced and/or removed where such infrastructure is damaged or not being utilised.

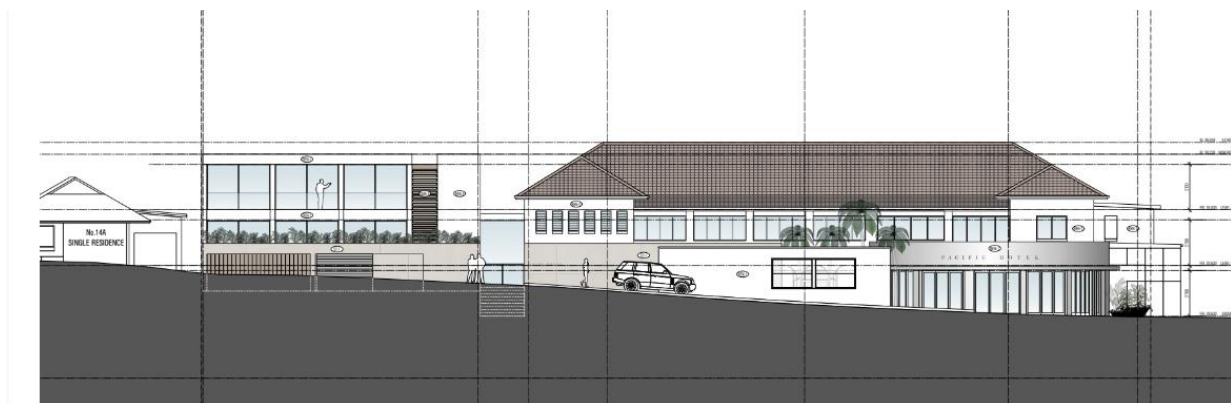
The current warning system for potential landslip administered by Council will continue under the current management arrangements. This system provides advice to landowners/occupants of properties within the landslip hazard area when, based on recorded rainfall, there is deemed to be an increased risk of landslip. Under each of the yellow, orange and red alert categories there are a different set of advices and management that occur. For example, the orange alert level was achieved and relevant advices were issued to landowners in January this year due to significant rainfall occurring at that time.

Excavation of parts of the site, in particular deep excavation up to the northern and western boundaries and well below the foundations of a private dwelling/residential accommodation at 14A Pilot Street, the Pilot Street road and services within the road reserve as well as the existing and remaining hotel premises means that support for all of those adjoining structures must be provided. In this circumstance, the *Environmental Planning and Assessment Regulation 2000* includes a prescribed condition at clause 98E that must apply to any development consent granted.

7. Visual impact, design and heritage – The potential for visual impact and impact on heritage values of the site is mostly relevant to the Stage 2 component of the proposed development.

The Part P Yamba Hill Controls in the Council’s DCP provide objectives and design considerations for new development. The proposed northern accommodation wing adjacent to Pilot Street pushes the design envelope more than any other component of the proposed development. Notwithstanding that, it is submitted in this report that the objectives of Part P and the general guidelines of the Coastal Design Guidelines contained in the DCP are essentially satisfied. Further, in terms of impact on heritage values the new building does not detract from the components of heritage significance of the Pacific Hotel and when viewed from a wider context from nearby public spaces does not present an unreasonable introduction into the existing built and modified coastal landscape. However, it is acknowledged that some people will not agree with this conclusion.

A number of the public submissions present concerns with the design of the development. Council’s Senior Strategic Planner also presents a case in considering heritage aspects that the building could have improved articulation with Pacific Hotel, the streetscape, the adjoining residential development and the wider Pilot Hill landscape as viewed from nearby public spaces. This report concludes that the design, whilst relatively bold and challenging in some respects, is not unacceptable. The context of the new additions as they front Pilot Street in relation to the southern section of the Hotel and the adjacent dwelling at 14A Pilot Street is shown in Figure 4 below. From this perspective the height of the new accommodation wing and the design is not considered to be unreasonably out of character with these adjacent built forms.



**Figure 4** – Streetscape context of the proposed development for the immediate eastern side of Pilot Street.

To illustrate the design and finish intentions the Applicant has provided further detailed plans and content with regard to the Pilot Street (or west) elevation (see **Figure 5** and details thereafter):



**Figure 5** – Detailed west elevation of the proposed development with samples of proposed external surface treatments.

*Additional Information on treatment of new hotel wing's Pilot St façade includes:*

- *Reference images on materiality*
- *Detail of timber louvers to break up and soften the bulk*
- *Set-back upper levels behind roof garden will screen majority of bulk when viewed from Pilot St*
- *Glass foyer detail proving a refined and clean connection between the old and new hotel buildings*
- *Glass foyer detail creating a view corridor from Pilot St to the Pacific Ocean through the site for public amenity*
- *Textured rammed earth and stone materials to Ground Level podium to create warmth and distinction with upper hotel levels*
- *High quality finishes, signage, and integration with existing hotel building*
- *Colour palette to complement existing buildings on Pilot St*

*All the above architectural approach aims to achieve a new hotel wing that is refined and highly detailed. A clear distinction is made between the historic Mediterranean Art Deco style of the original Pacific Hotel building, and the new refined minimalist addition. This highlights and helps to frame the significance of the original structure, not detracting from it. The two elements relate subtly though their materiality and palette. And the new glass Entry Foyer creates a bold yet subtle connection between them. The addition of the new roof garden above the podium of new addition will further soften and filter the hotel room levels above, which are also set back behind the original facade.*

The NSW Heritage Inventory contains the following 'statement of significance' for the Pacific Hotel – *The hotel is considered the last identifiable tourist icon from the 1930s in Yamba. The guesthouses "Craigmore" and "The Ritz" have gone. Yamba has no other surviving hotels. The hotel has landmark qualities and has dominated Main beach for 70 years. It is socially significant to both locals and tourists. It has become a cultural icon as over the years so many musicians and bands have played there. Despite numerous renovations it has retained some original art deco features. The physical fabric considered to be*

*significant comprises the remaining interwar Mediterranean columns and the adjoining 1950s façade fronting Pilot Street. The remaining part of the physical building fabric is not covered by this heritage listing.*

The main consideration from a heritage perspective is the impact of the new building works, particularly Stage 2 hotel units, on the significance and setting of the original Hotel including the views and vistas to the iconic hotel. Further, it is recognised that the two elements of the listed fabric are importantly not directly impacted by the proposed development. The photomontages provided with, and since submission of this DA, indicate that the original Hotel building will continue to be prominent when viewed from popular vantage points like the lighthouse, Main Beach and ocean pool, as well as from the public street at the top of Coldstream Street.

The additions to the north of the main Hotel building are modern in design and do not borrow design features like roof form, setback and colour from the main Hotel building. This rather stark difference provides a clear distinction between the original Hotel premises and the new and could be suggested by some to be too drastic. It is considered that appropriate use of colour on external surfaces as well as the finishes of the new additions has potential to differentiate the new buildings without being incompatible with the remaining Pacific Hotel premises and the adjoining residential development. The flat roof form and height of the new northern wing adjacent to Pilot Street provides a scale that could be considered excessive in the current setting. However, the owners of the Pacific Hotel site enjoy a SP3 zoning and hence, can expect that they should obtain a reasonable potential from the site. That is not to suggest that the whole of the site can be developed and that certainly isn't the outcome proposed. Once away from the upper northern slope of the site the grounds and new development are proposed to be integrated, landscaped, modernised and sited such that the recreational enjoyment of the public lands is not unreasonably affected by impacts like overshadowing, while views across the site from nearby residential properties will not be unreasonably impacted.

When considering the visual impact of the development it is necessary to consider the identified heritage values on the subject land as well as the setting of the site at both close and wider scales, especially in light of the prominence of the site as viewed from key sites such as Yamba Lighthouse, Main Beach and the ocean pool. The Applicant has supplied photomontages from these nearby vantage points to indicate what the impact will be in a landscape context. Revision of the rear alignment of the proposed northern wing further reduces visual impact and disruption to views. The submission by Mr and Mrs Hines correctly states that the location of the point used in the photomontages to represent the rear deck is not at the worst affected part of the deck. Hence, Council officers requested that when the rear alignment was revised that pegs to mark the adjusted building position were installed. Subsequent site inspection by Council staff has enabled assessment of potential impact on the adjacent dwelling and views therefrom (refer also to 'Impact on views' issue below).

Refer also to the 'Building Height variation' issue earlier.

8. Overshadowing - Shadow diagrams for the proposed development have been submitted to show shadows expected on the winter solstice (21 June) for each hour between 10am and 2pm inclusive (refer to plans in Attachments). Shadows from the existing Hotel premises fall onto the adjacent Crown Reserve (Flinders Park) south of the subject land (biggest shadow at 2pm) and to a minor extent onto Pilot Street (biggest shadow at 10am), however, as these are existing they are acceptable. Shadows from the Stage 1 works fall onto the Crown Reserve south of the subject land with the largest shadow occurring at 1pm. At 2pm the shadow from the existing Hotel covers the Stage 1 works and so they do not cast their own shadow. Shadows onto the Crown Reserve south of the Hotel site are acceptable due to the existing nature of the shadows or the fact that only minor shadowing arises from the Stage 1 works. Further, the public use of the Reserve immediately south of the Hotel land is either non-existent or transient as people use the zig-zag footpath to access the Surf Club and Main Beach from Pilot and Clarence Streets.

Stage 2 works comprise works at the upper and lower parts of the site and hence, the effects of shadows differ for each component. For the works at the upper level adjacent to Pilot Street the largest offsite shadow falls onto Pilot Street at 10am. The transient nature of the use of that public space is not significant and hence, the shadow impact is considered acceptable. The works in Stage 2 at the lower part of the subject land only cast a shadow off-site onto the public land east of the subject land between 12noon and 2pm with the 2pm shadow being the biggest. The 2pm shadow covers part of the public land east of the subject land that is not commonly used by the public, other than for transient pedestrian access to and from the beach. In addition, the 2pm shadow carries to the upper/back portion of the beach north of the Surf Club where the Applicant submits that the shadow would fall onto a section of exposed rock rather than sand. The slope above the beach contains brushy vegetation and it is likely that shadow shown on the shadow diagram is theoretical or worst case. If in fact a shadow reaches the back of the beach it is observed that section of 'beach' is not commonly used and if beach users were chasing the winter sun there is likely to be other space on Main Beach with good solar access. In view of the circumstances and the low level or transient public use of the public land on which shadows are expected from the development it is concluded that the impacts of overshadowing are acceptable.

9. Impact on views – The second stage of the proposed development has greatest potential to impact on views particularly those views from the property at 14A Pilot Street immediately north of the subject land. Loss of views from the first stage works is not unreasonable due to the siting of the works below the existing hotel and adjacent to the rear thereof and is not discussed further in this part of the report.

In response to concerns presented in public submissions the design of the Stage 2 works has been changed. The key purpose of the change is to ameliorate the impact on views for the landowner immediately north of the subject land. The owner of that land has made a submission that cites relevant planning case law and planning principles with respect to assessing the impact of proposed development on views. The siting of other dwellings further away from the development site means that the loss of views for those owners/residents is significantly less and is considered acceptable. The Applicant has submitted a detailed response to the concerns regarding impact on views (refer to Attachments). The change to the seaward setback of part of the development will reduce the impact on loss of views. The Applicant has provided the adjoining landowners with a copy of the revised plans and those owners have decided not to revise their original submission. The issue for Council to determine with respect to views is whether or not the changed design adequately reduces the impact on loss of views for the neighbours.

Key items for Council's consideration in this regard are the changed plans, the neighbours' submission, the Applicant's response to submissions and site context.

After considering the neighbours' submission, the Applicant's response and completing a site inspection it is the opinion of staff that the impact on views as a result of the proposed development is acceptable and not unreasonable.

Refer also to 'Building height variation' and 'Visual impact, design and heritage' items above.

10. Noise Management – The potential for noise both during demolition, construction and through operational phases is significant. A noise assessment has been provided with the DA. Council staff are of the opinion that noise can be adequately mitigated and managed, however, the details of how that is to be achieved cannot be fully detailed based on information lodged with the DA. Hence, staff are recommending a range of conditions if Council resolves to approve the DA including acceptable noise outcomes that will need to be achieved. Additional report/s will be required to demonstrate how these outcomes will be achieved and recommended measures incorporated into the building design prior to issue of any Construction Certificate for building work. There is a range of building materials, technologies and on-site management practices that could be used to achieve the required criteria and hence, the recommended noise outcomes can be achieved.

11. Demolition and construction – The existing buildings on the subject land contain asbestos materials. The proposed removal of those buildings in whole or part for both Stage 1 and 2 means that appropriate management of asbestos material is required. Prior to removal of soils from the subject land there needs to be testing to determine the soil is classified as either ENM or VENM.

Whilst plans lodged with the DA indicate that access to the subject land during construction of Stage 1 and/or 2 will be via the Crown Reserve and public land east and south of the subject land the Applicant has since advised that all access to the site will be via Pilot Street (including use of a crane/s to transport building materials and the like). Plans for erosion and sediment control have been submitted for assessment, however, more detailed plans would be needed prior to any demolition and construction commencing.

No permanent vehicular access to the subject land via the Crown Reserve is permitted as such access would be contrary to the public use of the adjacent Crown land.

Refer also to 'Geotechnical hazard' and 'Noise management' issues above.

12. Impact on privacy/overlooking – The existing Hotel premises promotes views over the Public Reserve, adjacent public land and the beach. Views from the existing Hotel dining room and hotel units towards the rear yard of 14A Pilot Street exist. A privacy screen is already located at the southern end of the lower deck on the adjoining residential development to manage overlooking and privacy impacts to the deck, being the prime outdoor space for that residential property. This demonstrates there is an existing privacy concern for the neighbours.

The proposed Stage 2 accommodation units extend beyond the eastern extremity of the residence to the north and the lack of windows in the northern wall of those units provides effective protection against overlooking the rear decks and indoor living space of the adjoining premises. The adjoining land also has a detached dwelling at the seaward side of the property and the proposed Stage 2 units at the upper part of the Pacific Hotel site will have views towards that house, although it is likely that patrons would ordinarily be focussed on the views to the beach and Pacific Ocean. Notwithstanding that, fixed blade walls at the northern side of the units closest to 14A Pilot Street (as proposed in the Applicant's response to objection) will reduce overlooking to the north and vice versa. In addition, the physical distance between the new units and that dwelling on the upper section of 14A Pilot Street will reduce potential impacts. In contrast, the proximity of the pool area to the lower dwelling on 14A Pilot Street increases the risk of privacy (and noise impacts) and amelioration is a reasonable requirement with screening to 1.8m high required along the northern side of the pool area to prevent overlooking to the adjacent dwelling and surrounds. Such screening would also benefit users of the pool and surrounds.

In order to assist in controlling movement of patrons, in particular of the Stage 2 development, it is suggested that a fence or other barrier such as a landscaped hedge be provided along the northern boundary of the subject land to reduce the risk of patrons straying into the adjoining property.

Options – The discussion above, the public submissions and the Applicant's proposal (including plans and related documentation) demonstrate that the DA is not straight forward and contains a number of challenging issues to consider. Hence, one of the reasons for referring this DA to Council for a determination.

The current DA seeks approval for both stages of the development. Each stage is not subject to a separate DA, hence Council's decision needs to be based on the development as a whole. Any thought towards approval or refusal of one part or the other is not considered reasonable. For each stage to be considered independently of each other they would need to be submitted in separate DAs or as a concept DA to separate into formal stages. Only the Applicant can make a decision to adjust scope of development for which consent is sought.

The following options are available to Council:

- A. Approve with conditions as determined by Council.
- B. Defer a decision to a future meeting to enable additional discussion either with or without a request for additional information. If additional information is required then Council needs to specify what information it requires and a timeframe for its provision. In the event of the latter Council needs to ensure adequate time for the information to be provided, assessed (including potential public notification) and a report to be prepared for Council by staff.
- C. Refuse the DA. A refusal needs to include the ground/s for refusal. Such ground/s need to be carefully considered as they may be subject to review or legal appeal from the Applicant. This option is the recommended option (refer to the Officers Recommendation on this report).

## **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.

The requirement for independent review of the geotechnical reports associated with this development would need to be funded from a separate budget or a new budget created. Alternatively, Council could require the independent reviews to be funded by the developer.

Any approval of the development will require payment of a section 7.12 contribution applied in accordance with the Council's Contributions Plan 2011.

### **Asset Management**

The development will have some direct and indirect interface with Council assets such as Pilot Street and footpath, stormwater drainage and water and sewer services. In order to reduce the volume of stormwater discharging into the Pilot Hill landslip hazard area any approval will require stormwater from roofs above the Pilot Street gutter to discharge to the Pilot Street stormwater drainage system. This stormwater will then discharge to the west.

Stage 2 works adjacent to the Pilot Street frontage of the subject land will require renewal and making good of the adjacent footpath, kerb and gutter and construction of driveway crossings.

There is potential for direct and indirect damage to Council land and infrastructure assets due to construction and related traffic/transport movements. Such damages shall be repaired at the developers cost. A pavement condition report prior to commencement of site works (including demolition) for each stage of the development will be required to use as a baseline to determine what repairs are required to the adjacent road network. This is considered a reasonable requirement and reduces the liability for repair from the public purse where damage is attributed to a private development.

### **Policy or Regulation**

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy (Coastal Management) 2018

Clarence Valley Local Environmental Plan 2011

Clarence Valley Development Control Plan – Development in Environmental Protection, Recreation and Special Use Zones

Yamba Coastline Management Plan 2000

**Consultation**

Public exhibition and notification of the DA has been completed in accordance with Council's DCP (as applicable at the time the DA was lodged). Notification was sent to adjoining and nearby landowners.

All nine public submissions are included in full as attachments to this report. Submissions presented a wide range of issues and the 'Key Issues' of the report provides consideration of the more significant or critical issues in relation to this DA. The submissions offer valuable local context that adds to the proper assessment of issues associated with this DA. Most submissions present concerns requiring attention and one is in favour of the development.

Some interested persons sought an extension of time to provide submissions. While no formal extension was granted Council staff considered all submissions lodged whether received prior to and after the closing date.

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Supports subject to conditions
Health and Building	Supports subject to conditions
Strategic Planner (Heritage)	Requests redesign of main northern building
Environmental Officer	Supports subject to conditions

**Legal and Risk Management**

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

Persons making submissions may also seek a review/appeal of the determination through the Land and Environment Court if they believe Council has not followed correct procedure in determining the DA. Council staff undertake to properly consider and assess DAs against relevant legislative requirements.

The prominence of the site, the development and the issues it generates means that Council needs to be careful in its consideration.

**Climate Change**

The proposed development within an established urban area in Yamba will make some contribution to CO<sub>2</sub>-equivalent emissions through construction and operation which are considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. Notwithstanding that, in general terms the benefit of locating business in appropriate zones proximate to customers is considered to outweigh the negative effects of the development in terms of contribution to climate change. For example, relocating this business elsewhere or full redevelopment of the hotel use would have a greater impact in terms of CO<sub>2</sub>-equivalent emissions compared to the proposal currently before Council.

The proposed development is not expected to significantly be affected by or have implications for changed conditions related to climate change. More intense rainfall is a suggested feature of climate change and management of storm water is a key consideration for development on this site, especially given the landslip hazard.



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Prepared by	Scott Lenton, Development Services Coordinator
Attachment	<i>Refer to Item 6b.20.004 from February 2020 meeting for attachments.</i>
	<ol style="list-style-type: none"><li>1. Proposed Plans (including revised Stage 2 layout and parking arrangements)</li><li>2. Photomontages (from adjoining residence, near lighthouse, main beach and ocean pool)</li><li>3. Public submissions (9 of)</li><li>4. Applicant's response to objection DA2019/0208 (dated 6 September 2019)</li><li>5. Section 4.15 Report</li></ol>
Tabled at this meeting	<ol style="list-style-type: none"><li>6. Applicant's Statement of Environmental Effects (including additional photomontages and other supporting documentation)</li></ol>

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**Schedule – Draft Advices and Conditions of Consent for DA2019/0208****Definitions**

**Applicant** means Redvat Pty Ltd or any party acting upon this consent.

**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. Clarence Valley Council 'MUSIC' Guidelines (Draft)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage. WSA documents are subject to copyright and may be obtained from the 'Water Services Association of Australia'. For 'MUSIC' guidelines and policy documents contact Council's development engineer.

**Civil Works** may include:

- a. Roadworks (including car parking and/or driveways).
- b. Water & Sewerage Reticulation

**RMS** means Roads and Maritime Services

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

- Local Government Act Section 68 - drainage, water & sewer approval;

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

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

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

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

**Advices**

1. Demolition work is to be carried out in accordance with AS 2601.
2. 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.

Stage 1 of the proposed development has been assessed as contributing an additional 8.58 ET demand on Council's water supply, and an additional 12.04 ET loading on Council's sewerage system. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 8.58 additional ET = \$ 42,024.84

Sewer Headworks \$11,977.00 x 12.04 additional ET = \$ 144,203.08

Stage 2 of the proposed development has been assessed as contributing an additional 6.26 ET demand on Council's water supply, and an additional 10 ET loading on Council's sewerage system. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 6.26 additional ET = \$ 30,661.48

Sewer Headworks \$11,977.00 x 10 additional ET = \$ 119,770.00

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.

3. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
4. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
5. 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 development will be suitable for its intended purpose (commercial 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. land slip areas, 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 The filling as proposed may cause ponding of stormwater in unfilled sections of the property, including beneath the existing residence. Measures to prevent adverse impact to local drainage, such as a swale at the toe of the fill, are to be identified in the Earthworks Management Plan and approved by Council prior to commencement of any work.

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.

- 6. The access track from Queen Street to Main Beach, the Yamba Surf Club and the eastern side of the Pacific Hotel site is known as Marine Parade. Marine Parade is situated on Crown Reserve between Queen Street and the southern boundary of the Pacific Hotel site. Approval for any use of Marine Parade for the construction of the development must be obtained from Council and the NSW Land and Property Management Authority prior to any occupation of Marine Parade.

Any use of Marine Parade for the development will be subject to specific conditions issued when any such approval is granted. These will include but are not limited to:

Geotechnical assessment and control

Restricted to winter months and outside school holidays

Developer to be responsible for the maintenance of Marine Parade

Developer to bond maintenance of Marine Parade (\$600,000)

Steel track vehicles to use timber protection strips if walked

Survey of the control pins

Agreement from other stakeholders

Use to cease if orange or red alert is triggered

Public Liability Insurance

License fees

The applicant should discuss the requirements and conditions for use of Marine Parade with Council prior to planning for such use.

7. The finished floors of the car park levels should be finished in a manner that does not result in movement of vehicle tyres causing tyre-squeak or similar unacceptable sound transmission to adjacent properties and adjacent public streets.
8. Prior to commencement of building or excavation works the location of property boundaries for the subject land shall be determined and marked by a licenced surveyor. All buildings (including foundations) and excavation works shall be contained wholly on the subject land.
9. No construction is to be commenced until a Construction Certificate has been issued.
10. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
11. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
12. It is the developer's responsibility to make satisfactory arrangements with other property owners affected by the development, and to meet all costs associated with the development.

#### Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plan(s) listed below for Project 16007, submitted/drawn by Redgen Mathieson, as amended in red, or where modified by any conditions of this consent.

Drawing No.	Drawing Title	Revision	Date
DA.01	Site Staging	C	24/1/20
DA.02	East Elevation STAGING	A	19/3/19
DA.10	Site_Roof	D	24/1/20
DA.11	Hotel Lower Ground 03	A	19/3/19
DA.12	Hotel Lower Ground 02	D	31/1/20
DA.13	Hotel Lower Ground 01	D	31/1/20
DA.14	Hotel Ground (Street)	D	31/1/20
DA.15	Hotel Level 1	C	24/1/20
DA.16	Hotel Level 2	C	24/1/20
DA.21	East Elevation	A	19/3/19
DA.22	West Elevation	C	31/1/20
DA.23	North Elevation	B	19/3/19
DA.24	South Elevation	B	19/3/19
DA.25	Detailed West Elevation	B	31/1/20
DA.80	External Finishes Board	A	19/3/19

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

\$75,000

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This amount is based on the following calculation

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
- b The value of development stated in the application was \$7,500,000.00.

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

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary, and if so will become the contribution payable. A true estimate of the value of development must be provided when application is made for the Construction Certificate.

3. A dilapidation report, containing internal and external photographs, shall be submitted to Council for buildings located adjacent and within direct close proximity to the development site prior to demolition/construction works commencing.

A dilapidation report shall also be submitted to Council for Marine Parade (if applicable), Pilot Street and the Crown Reserve east of the Pacific Hotel, including services, land and infrastructure.

This will provide a basis for comparison should any damage occur to these buildings as a result of the demolition/construction works.

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

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

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

5. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.
6. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Heritage (formerly the Environment Protection Authority), including:
  - a Work Health and Safety Act 2011 and associated regulations
  - b SafeWork NSW Code of Practice - How to Safety remove Asbestos.
  - c Australian Standard 2601 (2001) - Demolition of Structures
  - d The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

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

7. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures. The Work Plan must include the following information (as applicable):

- a The name, address, contact details and licence number of the Demolisher/Asbestos Removal Contractor
- b Details of hazardous materials, including asbestos
- c Method/s of demolition and removal of asbestos
- d Measures and processes to be implemented to ensure the health & safety of workers and community
- e Measures to be implemented to minimise any airborne asbestos and dust
- f Methods and location of disposal of any asbestos or other hazardous materials
- g Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- h Date the demolition and removal of asbestos will commence

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days before commencing any demolition works involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

***Note** it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork NSW licences and permits.*

8. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
9. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot. Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
10. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
11. A waste minimisation plan shall be submitted to Council and approved prior to issue of the Construction Certificate for each stage demonstrating how demolition waste (including excess soil and vegetation), construction waste and waste (garden waste, general waste and recyclables) generated during occupation of the development will be collected from the subject land and disposed of to minimise the volume of waste going to landfill. Council may require provision of documentation verifying compliance with the approved waste minimisation plan/s for demolition and construction phase at any time prior to issue of the final Occupation Certificate for the final component of this development.
12. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Occupation Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
13. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the

Occupation Certificate. The Council will hold each Occupation 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 **CC**, A practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works :

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
- b will not be affected by landslip either above or below the works.
- c will not be affected by subsidence either above or below the works
- d includes adequate drainage to ensure the stability of the development

14. An **ITP** must be submitted for approval with the application for a **CC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
- b Erosion & Sedimentation Controls
- c Earthworks
- d Roadworks
- e Stormwater Drainage
- f Sewer
- g Water
- h Other Services
- i 'On Maintenance' (Public Infrastructure)
- j Practical Completion (Works on Private Property)
- k 'Off Maintenance' (Acceptance of Public infrastructure by Council)

15. Any soil taken from the subject land must be certified as ENM or VENM or disposed of to an appropriately licenced waste management facility. Council may require provision of documentation verifying compliance with this requirement at any time prior to issue of the final Occupation Certificate for this development.
16. Prior to issue of the **CC** a risk and maintenance management assessment of infrastructure must be undertaken and documented by a suitably qualified person. The written acceptance of the assessment from the infrastructure owner is required to be submitted with the **CC**.
17. Prior to the issue of the Occupation Certificate or Release of Bond, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
18. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.



19. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document and the proposed methods of work within the development work site and the associated public road network.

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

An estimate of the number of vehicles that will need to be accommodated at various stages of the construction and what arrangements have been made to accommodate that number of vehicles is to be included in the Construction Management Plan.

The Construction Management Plan must provide details of how legal and practical access to, around and through the site for vehicles, personnel and plant will be managed as the project progresses. The Construction Management Plan may be varied with Council approval during the course of works.

During the course of work on the development should it become necessary to occupy the road reservation for any reason not included in the approved Traffic Management Plan, even short term, then a specific Traffic Control Plan for the event or events, prepared by a person authorised by the RTA to prepare Traffic Control Plans, must be submitted to and approved by Council prior to the occupation. The submission must include the reasons that the occupation is required and any revision of the Construction Management Plan and/or Traffic Management Plan to accommodate the change in the construction methodology.

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.

20. Prior to release of the Occupation Certificate, the water supply infrastructure must be completed or arrangements made to Council's satisfaction for the provision of water services. The water supply must be available and operational prior to issue of any Occupation Certificate.
21. Prior to release of the Occupation Certificate sewerage reticulation infrastructure is to be provided to service all lots in the subdivision, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy and NRDC.
22. A Sewerage Reticulation Design plan must be submitted for approval with the application for a **CC**.

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

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

23. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
- a plumbing work prior to covering/lining walls
  - b sewer work prior to back filling/lining
  - c final inspection of plumbing and drainage work.

Inspections can be booked on line at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) <<http://www.clarence.nsw.gov.au>> until midnight the day before the inspection or by phoning 6643 0200. Please quote the DA number when booking inspections.

24. All **new** hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:
- a 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - b 50°C in all other classes of buildings.
  - c A higher hot water temperature is acceptable at all other fixtures, eg. laundry tub and kitchen sink.
25. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
26. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **CC** application for approval by Council. Road reservation widths are to be in accordance with **NRDC** plus additional width to contain proposed **WSUD** components as approved by Council.
27. A pavement condition report is to be provided for the surrounding road network. 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 **CC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development. Any pavement damage caused during the construction phase shall be repaired to Council standards at the Applicants cost.
28. All stormwater from roofed spaces higher than the Pilot Street gutter shall be collected and conveyed to the Pilot Street storm water drainage system. Stormwater from all other parts of the development and subject land shall be managed to incorporate **WSUD** requirements as required by **NRDC**. Details are to be included in Stormwater Management Plan/s.
29. 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** for each catchment. 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 **CC** Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.
- The Stormwater Management Plan must include a management plan for any **WSUD** systems. The management plan must consider construction and operational phases.
- 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.

On-site detention (OSD) and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot, but the Development Application must demonstrate **NorBe** by calculation and details acceptable to Council. A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title of the new allotments is required to ensure future building development compliance.

30. Car parking, driveways, manoeuvring and access areas must be constructed prior to an Occupation Certificate for Stage 2, a minimum of 18 car parking spaces (including two accessible parking spaces) in accordance with the DA approved plan and made available thereafter. The car parking is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B85 vehicles.
31. Any existing vehicular crossings rendered unnecessary by this development are to be removed, and the kerb restored to match the existing kerb profile.
32. Prior to the issue of the Stage 2 Construction Certificate/s, the adequacy of parking, car parks, driveways, garages and vehicular accesses for the development is to be demonstrated by the submission of standard scale plans with manoeuvring paths shown in accordance with AS2890. This must clearly demonstrate that the parking area will function as intended. The parking area plans are to be submitted and approved by Council or accredited private certifier.
33. Any doors/gates provided to the Pilot street frontage of the site situated less than 6 metres from the boundary must be provided with remote control gates or doors, which must be kept in an operational condition.
34. Accessible grades and paths of travel are to be provided from accessible carparking bays through to the main entrance of the building in accordance with AS1428.1 and the Building Code of Australia.
35. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1-2009.
36. Access for people with disabilities must be provided to and within the building by means of an accessway in accordance with AS 1428.1-2009:
  - a from the main points of a pedestrian entry at the allotment boundary;
  - b from another accessible building connected by a pedestrian link; and
  - c from any required accessible carparking space on the allotment.
37. 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 Construction Certificate.

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.

The Earthworks Management Plan must include:

The site is in a known geotechnical hazard zone and a detailed site assessment will be required examining both the proposed construction works and access to the site. This is to be provided by a competent specialist Geotechnical Authority.

Detailed site inspection and verification of an appropriate preparation of the foundation for cut or placement of fill, provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site.

The detailed site inspection report is to include certification that the land created by the development will be suitable for its intended purpose (e.g. residential buildings) including any parts of the land that will be left in its natural state or once suitably modified by the development. The detailed site inspection report should identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, 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.

An assessment of the geotechnical status and also the road pavement condition of Marine Parade. Access to the site is subject to physical limitations due to the narrow pavement width. Marine Parade is also in the geotechnical hazard zone and is currently subject to a 14-tonne load limit.

A program for attendance at the site of a suitably qualified and experienced specialist geotechnical engineer setting out the activities/events that require the specialist geotechnical engineer to be on site.

A list of the geotechnical hold points and details of the inspections required.

Details on the selection of fill type(s), the source/s of the fill, suitability for the intended use and its appropriate handling, placement and compaction, the area of the development to be filled and depth to be filled.

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.

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.

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.

Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.

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.

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.

38. 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.
39. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC.
40. A detailed Erosion and Sediment Control Management Plan for each stage of the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a CC for the relevant stage. This shall be compatible with the Stormwater Management Plan 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.

41. 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.
42. 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.
43. 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.
44. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to this building. Sufficient written documentation shall be submitted with the Construction Certificate application to indicate compliance with Section J in the following areas:
  - a Building fabric
  - b External glazing
  - c Building sealing
  - d Air movement
  - e Air conditioning and ventilation
  - f Artificial lighting and power
  - g Hot water supply
  - h Access for maintenance
45. A certificate of conformity from a suitably qualified building professional shall be submitted to the Principal Certifying Authority with the Construction Certificate application to confirm that the proposed building will comply with Section J of the BCA.
46. No vehicular access to or from the subject land shall occur over the Crown Reserve located to the south of the subject land, except where in accordance with a valid lease or licence agreement from the relevant authority.
47. Working hours on the construction project being limited to the following:

7:00am to 6:00pm Monday to Friday  
8:00 to 1:00pm Saturday

No work is permitted on Sundays or Public Holidays. The builder to be responsible to instruct and control sub-contractors regarding approved hours of work.
48. Any alterations to the road pavement in Pilot Street are to have full road construction, and 40mm minimum depth of compacted asphaltic concrete surface and kerb and guttering. The AC mix shall be designed in accordance with the estimated maximum traffic loading or the ESAs specified in NRDC whichever is the greater. A concrete road pavement suitable for the intended design loadings may be used.

49. Structural design of the proposed Function Centre to satisfy 'Acceptable Risk' guidelines as per CVC's Geotechnical Risk Management Policy, AGS2007 and supporting Geotechnical Report (#RGS30575.1) provided by Regional Geotech Solutions.

Works pertaining to the proposed Stage 2 of the development require a Geotechnical Investigation Report prepared by a suitably qualified Geotechnical Engineer to be submitted prior to submission of Construction Certificate.

An independent review of geotechnical information and design must be completed with any requirements of the review to be incorporated into either a revised geotechnical assessment and/or the design of foundations for buildings (as applicable) prior to issue of any Construction Certificate. Such details are to be included in CC plans for each stage. [NOTE: For the review to be independent the reviewing consultant will need to confirm they have no conflict of interest due to current or past commercial or personal dealings with the developer, Applicant or other project consultants.]

50. All noise control measures detailed in Section 7 of the *Acoustic Report* must be implemented.
51. On nights when entertainment is provided, the northern doors of the lounge/restaurant area are to be shut from 9.30 pm to prevent access to patrons and to reduce sound level emanating from the hotel to the north. The function/conference room must close all windows and doors when amplified music is provided.
52. The development must be designed and operated such that, with regard to music and patron noise, the following noise criteria are achieved:
- a. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.
  - b. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.
- Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.
53. Prior to the Construction Certificate being issued, compliance with this noise criteria must be verified by an acoustic assessment undertaken by a suitably-qualified person. This assessment must be provided to Council for review prior to the Construction Certificate being issued.
54. A noise assessment (incl. monitoring at the closest representative sensitive receiver) must be undertaken by a suitably-qualified person within the first month of operation and bi-annually thereafter. The intent of the noise assessment is to ensure the operational (actual) noise levels does not exceed those predicted in the above-mentioned acoustic assessment. A letter Report summarising the findings of this assessment must be submitted to Council for review.
55. All reasonable and feasible mitigation measures must be applied to reduce the potential noise impacts to sensitive receivers associated with the construction and operation of the development. At Council's request, additional noise assessment and mitigation may be required. This assessment and mitigation must be undertaken by a suitably qualified person.
56. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Item and/or Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and DCP 2011, are to be submitted to, and approved by Council prior to release of the Construction Certificate. Primary, bold, vivid and neon colours are not to be used.

Corporate signage is to be restricted to the awning fascia and small areas of the building. The main colour of the building façade is to be in neutral colour.

57. A detailed landscaping plan is to be submitted to Council for approval prior to the release of the Construction Certificate. The Stage 1 landscaping plan shall retain existing native trees on the rear of the subject land that are not required to be removed for Stage 1 works. The Stage 2 landscaping plans shall retain the native trees at the south-east part of the site that are not required to be removed for Stage 2 works. These plan/s must comply with the requirements of Council's Development Control Plan and is to indicate:
- a) proposed plantings [species, expected growth habits and size, function (eg shade, privacy, etc)]
  - b) container sizes for each planting
  - c) the edge treatment proposed where garden beds abut grass
  - d) planting specifications
  - e) irrigation/water management
  - f) management of deep soil zones
  - g) soil specifications for garden beds and landscaped areas above basement structures or other constructed foundations
  - h) a maintenance programme for the initial 6 months after planting
58. Any native trees or shrubs existing on the site and not directly in conflict with proposed building footprints are to be retained and protected during construction works.
59. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
60. Trees to be retained on-site shall be protected from damage during demolition and construction works.
61. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
62. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
63. **Retaining Walls** If the soil conditions require it:-
- a Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement to the soil must be provided; and
  - b Adequate provision must be made for drainage.
64. The development is to be connected to all available services (water, sewerage, electricity and telephone) to the satisfaction of Council prior to issue of the Occupation certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the applicant.
- Service locations are to be clearly dimensioned on the construction certificate plans.
- Any variation to the service location from that approved with the Construction Certificate plans must be clearly documented on the work as executed plans. A surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.
65. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

66. 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.

67. A separate Development Application will be required for any advertisements that are not defined as 'exempt development' and not shown on approved plans.

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

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

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

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

70. The installation and maintenance of the swimming pools child resistant barrier shall comply with the requirements of the Swimming Pools Act 1992 and AS 1926.1 and be fitted with a self-closing, self-latching, outward opening gate prior to filling the pool with water.

71. The swimming pool/spa pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- a before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
- b before 7.00 am or after 8.00 pm on any other day.

72. The swimming pool water recirculation and filtration system must comply with AS 1926.3-2010. The installation contractor shall provide Council with an Installation Certificate attesting to the products being selected and installed in accordance with the requirements of that standard.

73. The swimming pool waste water is to be disposed of to the sewer via a surcharge gully with a minimum 100mm air gap between the waste outlet and the top of the gully surrounds.

74. An approved CPR and pool safety sign is to be provided within the pool enclosure in accordance with the requirements of the Swimming Pools Act 1992 prior to the final inspection.



75. The pool shall be registered on the NSW Swimming Pool Register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) before issue of an Occupation Certificate.
76. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:
- bears a notice containing the words "This swimming pool is not to be occupied or used", and
  - is located in a prominent position in the immediate vicinity of that swimming pool, and
  - continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.
77. **Toilet Facilities** are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- A standard flushing toilet, connected to a public sewer, or
  - An approved temporary chemical closet.
- The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.
78. The maximum height of the Stage 2 northern accommodation building adjacent to Pilot Street shall be 11.1 metres above existing ground level and the maximum height of the Stage 2 northern accommodation building adjacent to the eastern boundary of the subject land shall be 9.2 metres above existing ground level.
79. The only accommodation provided in the southern portion of the hotel at the completion of Stage 1 shall be 7 hotel units, 5-bed backpackers accommodation and a managers residence (with up to 5 bedrooms).
80. That the proposed deck above the function room shall be no more than 15m<sup>2</sup> in area.
81. Fin wall extensions or fixed louvres shall be provided on the northern side of balconies at the eastern elevation of the main Stage 2 accommodation building closest to the adjoining residential property to reduce privacy impacts for the adjoining residents. Details are to be provided in Stage 2 Construction Certificate plans.
82. Screening shall be provided along the northern side of the pool terrace to reduce privacy impacts for the adjoining residents. Screening that allows light penetration and air movement and prevents views from the pool terrace towards the adjoining dwelling are required. Details are to be provided in Stage 2 Construction Certificate plans.
83. Bulk waste bins shall not be stored on Council's road reserve.

### Reasons

- To ensure that the development complies with the *Clarence Valley Local Environmental Plan 2011* and relevant Development Control Plan that is applicable to the proposed development.
- To ensure that the surrounding environment is not detrimentally affected as a result of the development.
- To comply with legislative requirements.
- To ensure works are completed to an appropriate standard and documented.

5. To comply with Council's Contributions Plan.
6. To comply with Council's Sewer and Water Development Services Plans.
7. To ensure that vehicular access and parking are provided in accordance with Council's Engineering Specifications for Development.
8. To ensure that the requirements of the Building Code of Australia are satisfied.

<b>ITEM</b>	<b>6b.20.019</b>	<b>DRAFT LOCAL STRATEGIC PLANNING STATEMENT</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

All regional councils across NSW are required to produce a Local Strategic Planning Statement (LSPS) by July 2020. An LSPS is a strategic planning document that needs to both implement the North Coast Regional Plan and must include or identify the planning priorities for the area consistent with the Community Strategic Plan. The LSPS sits above our Local Environmental Plan (LEP). The draft LSPS has been prepared with assistance from across the Council directorates and with advice from state government agencies. We need to further engage with the community and specific stakeholders to ensure it is a robust document that can be implemented as desired and provide a strategic vision for future land use, population growth and development in the Clarence Valley. This report seeks endorsement from Council to publicly exhibit the draft LSPS and undertake associated consultation.

**OFFICER RECOMMENDATION**

That Council:

1. Approve the draft Local Strategic Planning Statement for public exhibition and associated community consultation and engagement.
2. Delegate authority to the General Manager to make necessary amendments to the draft LSPS for publishing prior to public exhibition.

**COMMITTEE RECOMMENDATION**

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

The draft LSPS is required by legislation to implement the North Coast Regional Plan and must include the planning priorities in our Community Strategic Plan - *The Clarence 2027*. It needs to align with and help implement all of the objectives that are relevant to land use planning. The LSPS and CSP need to work together to ensure that the Clarence Valley is *a community full of opportunity* and to ensure efficient use of resources and coordination of Council activities. There are a wide range of Actions that link with our other strategic plans, including the Economic Development Plan, Biodiversity Strategy, Clarence River Way

Masterplan and many others. The structure of the draft LSPS follows the 5 themes of the Community Strategic Plan.

## BACKGROUND

Amendments to the Environmental Planning and Assessment Act in early 2018 put a renewed focus on strategic planning and the Act recognises the critical role of councils in strategic planning for their local area. The EP&A Act changes included amendment to reinforce and refocus efforts regarding:

- Community participation
- Better strategic planning
- Accountable decision making
- More efficient processes

The draft LSPS is driven by these aspirations, along with the need to implement the goals, directions and actions in the North Coast Regional Plan and our Community Strategic Plan. Internal discussions have shaped these with Council staff.

The LSPS will shape how the development controls in our Local Environmental Plan (LEP) evolve over time to meet the community's needs, along with our other plans and strategies.

The draft LSPS is designed to provide a front end “introductory summary” with an easy to follow vision and key outcomes that we want for the valley. The Priorities section includes context, justification and reasoning to inform decision makers. The LSPS is a legal document that needs to be used when undertaking strategic planning, updating our LEP, and for the Councillors, Land and Environment Court and other decision makers when considering rezoning, subdivision and development applications. Importantly, the strategic direction should also inform funding and infrastructure decisions, and increasingly large scale developers, state infrastructure projects and other funding decisions will be informed by the LSPS.

The LSPS highlights a range of actions that are considered necessary to inform our future planning and to encourage a growing population and job opportunities in the Clarence valley. Those aspirations can be achieved at the same time as protecting our stunning natural environment and living with nature and natural hazards.

The best economic, social, cultural and environmental outcomes will be achieved through more coordinated effort across Council and working together with the community, investors and government. The LSPS is a small but essential step towards a strategic plan, agreed shared vision and processes to co-design a Clarence Valley that is *a community full of opportunity*.

The LSPS builds on previous work undertaken by Clarence Valley Council, in particular our award winning *Sustainability Strategy*, the *Clarence Valley Settlement Strategy* and other strategic planning strategies and background studies.

## POLICY ‘LINE OF SIGHT’ CHECK

The LSPS needs to bring together the North Coast Regional Plan and our Council policies, strategies and plans relating to land use planning. This analysis is included in a 15 page spreadsheet, however, the key aspects are outlined below:

### North Coast Regional Plan

In 2017 the Department of Planning and Environment (now DPIE), set the vision of the North Coast to be:

***the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities***

To achieve this vision the NSW government has:

*acknowledged the importance of the environment and the opportunities of the Pacific Highway, South East Queensland and the regions cities and centres and...*

*set the following regionally focussed goals:*

- *The most stunning environment in NSW*
- *A thriving, interconnected economy*
- *Vibrant and engaged communities*
- *Great Housing choice and lifestyle options*

These goals then guide the more detailed Goals, Directions and Actions in the Regional Plan. The LSPS must implement the Regional Plan.

We have structured the LSPS using the themes of the Clarence Valley Community Strategic Plan “*Our Clarence 2027*”, being:

- Society
- Infrastructure
- Economy
- Environment
- Leadership

The intent of the LSPS is to align the Council’s land use planning and decision making processes to help achieve the aspirations of the vision of the Community Strategic Plan, which is:

### ***Clarence Valley, a community full of opportunity***

Drafting of the LSPS has therefore been influenced primarily by the North Coast Regional Plan and we have taken the directions and actions and provided more specific locally relevant priorities and actions for the Clarence Valley.

It is also written to align with our CSP and other Council strategies. We have also woven together the 27 or more strategies and plans for the Clarence, such as our Economic Development Strategy, Biodiversity Strategy and the like, together with state based strategies such as the *20 year economic vision for Regional NSW*, the *NSW State Infrastructure Strategy*, *Future Transport 2056* and the Regional Plan.



### **KEY ISSUES**

While the Priorities in the LSPS are driven by the goals, directions and Actions of the Regional Plan and other plans noted above, the *philosophy* of the document can be summarised in to some common threads that emerge from the patchwork of documents woven together in the draft LSPS.

The common threads/themes for the LSPS are around:

1. **Collaboration and working together** - across Council, with the community and with business and state government to create *a community full of opportunity*

2. A **growing population and jobs growth** to create opportunities for our community
3. **Community resilience** and the role of land use planning in managing natural hazards and creating great places to live
4. **Celebrating our stunning environment** and living with our sub-tropical climate

The key Actions from the draft LSPS are summarised below:

<b>Projects identified</b>	
<b>1. Contribute to a Resilience Strategy for the Clarence Valley</b>	<ul style="list-style-type: none"> <li>- Support the development of a strategy to help identify projects and actions for community resilience, to better inform land use and infrastructure planning and identify future funding sources.</li> </ul>
<b>2. Improve relationships with Aboriginal communities</b>	<ul style="list-style-type: none"> <li>- work with DPIE and LALC's on development opportunities</li> <li>- Engage with Aboriginal communities on strategic planning and caring for country</li> </ul>
<b>3. Complete a LEP &amp; DCP 'Health check'</b>	<ul style="list-style-type: none"> <li>- Ensure alignment with the Regional Plan and other Council priorities</li> <li>- Update the LEP &amp; DCP's as needed</li> </ul>
<b>4. Develop a Local Growth Management Strategy (LGMS)</b>	<ul style="list-style-type: none"> <li>- Update the Clarence Valley Settlement Strategy 1999, in line with current planning considerations and community expectations to support a sustainable population</li> </ul>
<b>5. Prepare a Housing Strategy (incl. social and affordable housing)</b>	<ul style="list-style-type: none"> <li>- Undertake a housing strategy driven by demand and supply assessment and working with the community and other stakeholders</li> </ul>
<b>6. Revise the CVC Contributions Plan</b>	<ul style="list-style-type: none"> <li>- Update the CVC Contributions Plan, in line with expected guidance from DPIE</li> </ul>
<b>7. Prepare an Integrated Freight Transport Strategy</b>	<ul style="list-style-type: none"> <li>- Work with Transport for NSW (TfNSW) to map and protect corridors, support freight &amp; logistics, and inform future planning decisions</li> <li>- Update to LEP &amp; DCPs as necessary</li> </ul>
<b>8. Prepare an Active Transport strategy</b>	<ul style="list-style-type: none"> <li>- Review Pedestrian Access and Mobility Plans (PAMPs) with TfNSW and other stakeholders to integrate 'placemaking' and transport strategies, including identifying funding opportunities</li> </ul>
<b>9. Support the Grafton CBD and other centres</b>	<ul style="list-style-type: none"> <li>- Develop a place making strategy to activate the CBD and celebrate our heritage, while considering car parking, PAMPs, festivals and markets and our sub-tropical climate, to attract more business and support the community and a growing population</li> <li>- subsequent LEP/DCP changes as needed</li> </ul>
<b>10. Work with relevant agencies (SES, RFS etc.) to update our natural hazard management approach, including emergency management arrangements and evacuation plans</b>	<ul style="list-style-type: none"> <li>- Ensure flood protection &amp; evacuation plans are appropriate to support population growth</li> <li>- Update evacuation plans in line with current guidance and to consider the M1 Pacific Highway, new bridges across the Clarence and other developments</li> <li>- Review bush fire management plans and update bush fire prone land mapping</li> </ul>
<b>11. Work with industry to attract employment generating activity</b>	<ul style="list-style-type: none"> <li>- Update demand and supply analysis for employment land with industry and develop a Clarence Valley Industrial Land Use Plan</li> <li>- Progress investigations, planning and zoning for land around the Airport, Koolkhan, South Grafton and other areas as needed</li> </ul>
<b>12. Support and grow the agricultural sector</b>	<ul style="list-style-type: none"> <li>- Protect important agricultural land and facilitate improvements in the supply chain to support economic activity, primary producers and the agri-food sector</li> </ul>
<b>13. Develop Local Character Statements for coastal villages</b>	<ul style="list-style-type: none"> <li>- Complete Heritage / Character studies and community engagement for coastal villages, in order of priority</li> <li>- subsequent changes to LEP/DCP's</li> </ul>
<b>14. Implement the Biodiversity Strategy 2020</b>	<ul style="list-style-type: none"> <li>- Update DCP's and GIS layers to implement the revised Biodiversity Strategy 2020 (when adopted)</li> </ul>

**15. Reinstate Grafton as a Regional City**

- Work with DPIE to recognise Grafton as a Regional City in the North Coast Regional Plan

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

Actions in the LSPS are divided in to short (1-2 years), medium (2-5 years) and ongoing timeframes. The development of a number of planning strategies and studies will require internal resourcing across the organisation. Other studies and development of strategies sit outside of the 2020-21 Operational budget, but do commit Council to undertaking work in the next few years.

Depending on Council priorities and the speed necessary for progressing Actions there may be additional budget/financial implications, however, as the draft LSPS stands at present it doesn't include additional financial commitments beyond that in the current operational budget.

**Asset Management**

The draft LSPS sets aspirations to plan for resilient infrastructure and utilise strategic land use planning to avoid natural hazards. However, there are no specific assets identified for upgrades or other firm commitments for asset management in the draft LSPS.

**Policy or Regulation**

The draft LSPS covers a wide range of topics that interact with land use planning, from population growth to economic development, to the safety of our community, and protecting our natural environment.

The LSPS therefore sets a broad policy direction for the Clarence Valley that will be taken as Council policy and have regulatory effect under the Environmental Planning and Assessment Act, 1979.

As stated above, the LSPS is consistent with our existing policies and strategies, and gives effect to the North Coast Regional Plan.

**Consultation**

A public information drop in session and a workshop about the LSPS process was held in September 2019. This has helped inform the preparation of the draft LSPS, along with extensive engagement across Council departments and with state government agencies. Further community engagement and targeted discussions are planned to ensure the community and all key stakeholders are engaged in the preparation of this important document.

The development of this draft LSPS has been built on previous community engagement activities and plan making for our other plans and strategies, particularly the Community Strategic Plan *'The Clarence 2027'*. There are around 27 different local plans and strategies that have been reviewed and informed the preparation of the draft LSPS, in addition to regional and state plans and national and international instruments. The Clarence 'conversations' in 2018 heard that the most desired attribute for the Clarence was to be 'safe', together with creating more inclusive communities and employment opportunities. This draft LSPS reflects those desired community outcomes.

Council have also been provided with informal advice via email and through conversations with government agencies including the Department of Planning, Industry and Environment (DPIE); Transport for NSW (TfNSW), Biodiversity Conservation Division (BCD) of DPIE; and the Department of Primary Industries (DPI). An extensive list of documents and sector policies was also provided to Council to consider and inform the draft LSPS covering demographics, economic development, environment, agriculture, renewables, transport and freight, education, tourism, urban design and others.

The informal comments received via DPIE were very supportive of the approach to the draft LSPS and its structure and content. DPIE suggested that a revision of population targets was needed on early

calculations, but they do not object to an aspirational approach to population growth. DPIE also suggested a supply/demand analysis for employment land be undertaken, which we agree with. DPIE will also review the Regional City status of Grafton in due course. Transport for NSW (TfNSW) is supportive of our approach to promote walking and cycling, support freight and revitalise our main centres.

Government agencies will comment formally on the exhibited draft LSPS in April/May.

Further engagement with the community is essential. All feedback from the community and other stakeholders will be reported to Council.

### Legal and Risk Management

The Local Strategic Planning Statement is a legal instrument under the Environmental Planning and Assessment Act, 1979 (like the LEP) and when adopted will have legal effect. The draft LSPS does not have statutory weight and does not raise any issues that cause legal issues for the Council. Prior to adoption of the final LSPS Council will take legal advice. The draft LSPS has been written to align with the North Coast Regional Plan and other state government guidance.

The Environmental Planning and Assessment Act, 1979 states that:

- (1) *The council of an area must prepare and make a local strategic planning statement and review the statement at least every 7 years.*
- (2) *The statement must include or identify the following—*
  - (a) *the basis for strategic planning in the area, having regard to economic, social and environmental matters,*
  - (b) *the **planning priorities for the area** that are **consistent with any strategic plan** applying to the area and (subject to any such strategic plan) **any applicable community strategic plan** under section 402 of the [Local Government Act 1993](#),*
  - (c) *the actions required for achieving those planning priorities,*
  - (d) *the basis on which the council is to monitor and report on the implementation of those actions.*

The draft LSPS complies with these requirements.

### Climate Change

The draft LSPS has been written to ensure that planning and decision making is informed by knowledge of natural hazards and living with our variable climate. Specific Actions to prepare a resilience strategy, promote the use of renewables and better design for our buildings, together with an approach to more efficiently plan for urban development, will collectively help to mitigate against climate change and provide for more efficient use of natural resources. Likewise there are a range of actions to ensure we adapt to a changing climate through a more strategic approach to avoiding natural hazards and making our economy, society and environment resilient to live with our variable climate, including climatic extremes.

Prepared by	Stephen Timms, Senior Strategic Planner
Attachment	Draft Local Strategic Planning Statement



<b>ITEM</b>	<b>6b.20.020</b>	<b>PUBLIC ART POLICY</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

This policy addresses the need to manage public art. Public art is an expression of diversity and supports a community in creating culture. It is an opportunity to increase awareness of Aboriginal cultural heritage, historic heritage and our continuing contemporary culture.

**OFFICER RECOMMENDATION**

That Council adopt the proposed Public Art Policy.

**COMMITTEE RECOMMENDATION**

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.3 We will have a diverse and creative culture

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

**BACKGROUND**

The Clarence has existing monuments and artworks and an ongoing program of temporary artworks. The creation of public art builds community identity, ownership and pride. It ranges from major works to integrated design (eg street furniture and interpretive signage) to community art projects to technology based public art (eg light and laser projections). It can be permanent or temporary. The works can be created for a space, and may tell a story.

**KEY ISSUES**

The current lack of a Public Art Policy precludes Council from accessing a range of grant opportunities. There are also missed opportunities to engage with local organisations who aim to use public art to tell our stories.

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

N/A

**Asset Management**

Ongoing maintenance is considered as part of the Asset Management Strategy, in line with the Public Art Policy.

**Policy or Regulation**

N/A

**Consultation**

The policy has been informed through engagement in developing the Clarence Valley Cultural Strategic Plan, reviewed through the Clarence Cultural Committee and internal review by Clarence Valley Council stakeholders.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Dan Griffin, Community Services Coordinator
Attachment	1. Draft Public Art Policy 2. Draft Public Art Procedure

ITEM	6b.20.021	CULTURAL AND SPORTS TRUST FUND
<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Nil	

### SUMMARY

This report summarises requests for assistance from the Clarence Valley Cultural and Sports Trust Fund on behalf of Keaton Stutt, Jake Lambeth, Martina Williams, Ashleigh Ensby and Mackenna Ensby.

### OFFICER RECOMMENDATION

That Council:

1. Approve a donation of \$300 allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Keaton Stutt who has been selected to represent NSW at the 2020 Australian National Hockey Championships from 14-23 April in Bathurst.
2. Approve a donation of \$300 allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Jake Lambeth who has been selected to represent NSW at the 2020 Australian National Hockey Championships from 16-24 April in Launceston.
3. Approve a donation of \$300 allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Martina Williams who has been selected to represent NSW at the 2020 Australian National Hockey Championships from 17-23 April in Bathurst.
4. Approve a donation of \$300 allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Ashleigh Ensby who has been selected to represent NSW at the 2020 Australian National Hockey Championships from the 16-24 in Launceston.
5. Approve a donation of \$300 allocated from the Clarence Valley Cultural and Sports Trust Fund to assist Mackenna Ensby who has been selected to represent NSW at the 2020 Australian National Hockey Championships from 16-21 April in Bathurst.

### COMMITTEE RECOMMENDATION

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.2 We will have a safe, active and healthy region

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

**BACKGROUND**

Keaton Stutt of South Grafton has been selected to represent NSW in the Hockey NSW Under 15's Boys Blues Team at the Australian National Championships to be held in Bathurst from 14-23 April 2020. This funding will assist with player levy, travel, accommodation and competition costs.

This is Keaton's third year representing NSW for hockey. He missed out in 2019 but made the selection two years in a row in 2017 and 2018.

Jake Lambeth of Grafton has been selected to represent NSW in the Hockey NSW Under 18's State Field Team at the Australian National Hockey Championships from 16-24 April in Launceston 2020. This funding will assist with player levy, travel, accommodation and competition costs.

Martina Williams of Grafton has been selected to represent NSW in the Hockey NSW Under 15's Girls State Field Team at the Australian National Championships to be held in Bathurst from 17-23 April 2020. This funding will assist with player levy, travel, accommodation and competition costs.

Ashleigh Ensby of Lower Southgate has been selected to represent NSW in the Hockey NSW Under 18's Women's State Field Team at the Australian National Hockey Championships from 16-24 April 2020 in Launceston. This funding will assist with player levy, travel, accommodation and competition costs.

Mackenna Ensby of Lower Southgate has been selected to represent NSW in the Hockey NSW Under 15's Girls Team at the Australian National Championships to be held in Bathurst from 16-24 April 2020. This funding will assist with player levy, travel, accommodation and competition costs.

**KEY ISSUES**

The Trust provides financial support, in any calendar year, to a maximum of \$300 for individuals to attend one event at National level and \$550 per individual for one event at International level.

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

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

The annual budget allocation for donations held in Cost Centre 930, Project 997113 Community Donations Programs is \$99,996. From this, \$5,000 has been reserved for Sport & Cultural Trust Fund donations during 2020/2021.

This recommendation for support totals \$1,500.00. Funds available as at 29/02/20 are \$5,000 (PJ 997113-58-7012-2534).

**Asset Management**

N/A

**Policy or Regulation**

Cultural and Sports Trust Fund

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

Nil

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

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ITEM	6b.20.022	CLARENCE VALLEY CULTURAL COMMITTEE
<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

## SUMMARY

The Clarence Valley Cultural Committee (CVCC) is working on the following projects and is seeking Council support. The CVCC would like to establish a CV Cultural Award to recognise achievements within the arts and culture sector. The CVCC supports the establishment of a Cultural Foundation within the Clarence Valley. The CVCC is supporting Council's Cultural and Creative Expo in May 2020 to promote resources, businesses and organisations available within the Clarence and our region to the community.

## OFFICER RECOMMENDATION

That Council:

1. Approve a \$5,000 budget to fund an annual Cultural Award in the Clarence Valley from 2020.
2. Note that CVCC support the investigation of a community run Cultural Foundation in the Clarence Valley and the public information meetings to be held in March 2020.
3. Note the Cultural and Creative Expo in May 2020 that will promote and connect our local community with local and regional organisations that support art and culture within our region.
4. Note the Minutes from the January 2020 meeting.

## COMMITTEE RECOMMENDATION

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

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

### 1. Clarence Valley Cultural Award:

In March 2019, the CVCC voted to create a Cultural Award, similar to the Clarence Valley Sport Awards. In June 2019, CVCC requested Council approve a budget of \$5,000 annually, for a cultural award to be delivered by the committee under their delegated authority.

The award delivers on the Clarence Valley Cultural Strategic Plan theme of: Cultural Community Development: build community pride and identity and inspire community and civic participation (items

2.1/2.2/2.3/2.4). Council Resolution 6b.19.010 approved a budget of \$5,000 as part of Council's 2019/2020 Budget to be allocated for the CVCC to implement a Clarence Valley Cultural Award in 2020, subject to a further report being presented to Council detailing the criteria for the Cultural Award. Further information is below.

Purpose of the award: To recognise individuals or groups in the Clarence Valley community who have made an outstanding contribution or achievement towards the advancement of culture in the Clarence Valley.

Award Categories: Open category and a Youth (up to 24 years of age) category. If the money available is \$5,000 we recommend the prize money is \$3,000 for Open and \$2,000 for Youth.

Judging: Judges will be people with experience in culture and the arts and a connection with the Clarence. Five judges will be approached, sample panel would be: Rhoda Roberts (visual and performing arts) / Peter Watt (local author) / Niomi Sands (GRG Director) / Adam Wills (CV Conservatorium) / Jade Dewi (professional dancer).

- Selection criteria:
  - Nominees must be Clarence Valley residents.
  - Nominations must come from Clarence Valley residents.
  - Nominees must have made a significant contribution to the cultural life of the Clarence Valley community.
  - Nominees may be an inspirational role model for the CV community.
  - Nominees should have demonstrated excellence in their field.
  - No weight is given to the number of times a person is nominated.
  - Nominees to be vetted by CVCC prior to judging panel.
- Examples of people who may be nominated:
  - An artist or musician who has gained, or is gaining, recognition in national and/or international arenas.
  - A teacher/educator/tutor that has a significant history of teaching within the CV and therefore contributing to the development and skills of artists, singers, musicians, etc.
  - Cultural groups who have a long history of establishment within the CV and have contributed to social connections, fundraising events and skills development.
  - A volunteer who has worked tirelessly for the cultural heritage of the CV.
  - A business person who has established and nurtured the cultural aspects of the CV.
  - An emerging artist, musician, actor etc, who is a rising star.
- Timeline:
  - Year One:
    - Launch April 2020 with a call for nominations. Nomination drive April – August.
    - Promote award through plunge festival and associated publicity.
    - Announce inaugural winner and call for nominations for 2021 Award at Lower Clarence Arts & Craft Fair in October 2020.
  - Year Two and ongoing:
    - Call for nominations in October and announce winners at the opening of the plunge Art & Culture Festival in March. This avoids additional costs for an awards event.

## **2. Clarence Valley Cultural Foundation:**

The committee supports the work of a community group whose intention is to establish an independent organisation to raise and distribute funds in support of the cultural life of the Clarence Valley. Public meetings are planned for March to gauge public interest. Further information is available in attachment *Cultural Foundation Info Sheet*.

## **3. CV Cultural and Creative Expo**

The Cultural Committee is supporting Council's Cultural and Creative Expo on 2 May 2020 as part of the plunge Art & Culture Festival. The event will be held at Vines@139, Fitzroy St, Grafton 2pm-5pm. The event will include Arts Northern Rivers' launch of Northern Rivers Creative website

(nothernriverscreative.com.au), the premier directory for the creative industries in the Northern Rivers and a resource for Clarence Valley cultural workers to promote their creative business. The Committee has invited local and national business and organisations to support the event by providing information.

**KEY ISSUES**

N/A

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

1. CV Cultural Award: \$5,000 budget allocation to be administered through Community Development.
2. CV Cultural Foundation – nil.
3. CV Cultural Expo will be funded through the plunge Arts & Culture Festival and Grafton Regional Gallery. Budget is \$1,000.

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

CV Cultural Foundation. Community consultation and public meetings to be held in March 2020.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Sarah Nash, Project Officer
Attachment	1. Cultural Foundation Info Sheet 2. Minutes from January 2020 meeting



<b>ITEM</b>	<b>6b.20.023</b>	<b>REMOVAL OF OVERDUE LIBRARY FINES</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report provides a discussion of the growing trend in public libraries to cease charging overdue fines and provides argument for the abolishment of overdue fines for the Clarence Regional Library service.

**OFFICER RECOMMENDATION**

That Council adopt the following in relation to overdue fines:

1. Stop charging overdue fees.
2. Suspend library membership privileges after 28 days when items move to a *lost* status.
3. Wipe all current overdue fines in a fines amnesty then implement a no overdue fine Overdue Policy as described in item 1 and 2 of this recommendation.

**COMMITTEE RECOMMENDATION**

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

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**

Public libraries ceasing to charge overdue fines for late items have, in the last few months, been in the media and discussed at the North East Zone Library Meeting of the NSWPLA in May and September 2019.

Randwick Council libraries are the latest public library service to announce in February that they will be abolishing overdue fees from 1 July 2020 (<https://www.randwick.nsw.gov.au/about-council/news/news-items/2020/february/a-fine-idea-late-fees-to-be-scraped-at-libraries>), while Tasmanian public libraries announced last November they would no longer charge for late items. In that time, more than 8,000 new members have signed up to Tasmanian libraries in stark contrast to the same period the previous year when they lost 900 members in the same timeframe. (<https://www.abc.net.au/news/2019-06-18/fee-free-overdue-policy-prompts-tasmanian-library-renaissance/11217590>).

Yarra Plenty - a group of 9 libraries in Victoria abolished overdue fines over 12 months ago and in a report from *The Age* they have seen a 57% increase in Young Adult items borrowed by members aged from 12 -15 years. (<https://www.theage.com.au/national/victoria/libraries-start-new-chapter-by-ditching-fines-for-late-returns-20190703-p523ks.html>)

Jane Cowell, CEO of the Yarra Plenty Regional Library, said fines undermined one of the core principles of public libraries: supplying universal access to information. "Library fines can contribute to significant financial hardship," she said. Those with more money simply paid the fines and kept their books longer. But for those who couldn't afford the risk, the fines served as a deterrent from borrowing at all. In Tasmania the new members were younger than expected. "Some of the people in our community who most need access to free information, books and access to our services are those that can least afford the fines," according to Tasmanian Executive Director Liz Jack.

In a trial of no overdue fees in 2017 the City of Sydney said that 3 times as many books were returned to their libraries. (<https://www.news.com.au/finance/money/costs/city-of-sydney-is-axing-fines-for-overdue-library-books-because-they-dont-work/news-story/9499de2a9a6b76be408b34177867ec4c>)

No fines encourage people to borrow books without worrying about a return date. It does take an element of worry away that some people have, particularly parents. However, on the other side, it can keep books in circulation longer so that when you reserve an item and are waiting for a popular book to be returned it can take longer and be frustrating. Dawn Wacek in her TED talk captures the case against overdue library fines:

[https://www.ted.com/talks/dawn\\_wacek\\_a\\_library\\_s\\_case\\_against\\_overdue\\_book\\_fines/transcript?language=en](https://www.ted.com/talks/dawn_wacek_a_library_s_case_against_overdue_book_fines/transcript?language=en).

In NSW according to the 2018/19 State Library Public Library Statistics, 26 public libraries currently do not charge overdue fines whilst a further 64 do. In an update from these figures, 3 libraries at the NE Zone meeting identified they had removed fines for overdues since the last meeting in May and other libraries were currently considering their options.

The *Clarence Regional Library Fines and Fee Waiving* policy has been reviewed with no changes introduced since the adoption date in 2014 (see current policy attached).

The Clarence Regional Library (CRL) currently charges overdue fines, 10c a day per item with a maximum charge per item capped at \$1.60 or on any membership card a cap of \$10.00 for overdues. Once the \$10.00 limit is reached the individual membership privilege is suspended until items are returned and/or their fines are under \$10.00. Lost/damaged items are charged for the replacement cost and incur a \$6.00 administration charge per item.

A 4 day *grace period* is provided for the borrower to return items prior to charges being accrued.

A *reminder notice* via SMS or email is issued where the borrower has set this up in their membership record, this is usually sent out 3 days prior to the due date (some times this period is shorter than this as these are not sent out over the weekend).

There are 2 *overdue notices* sent out at 14 days and 21 days, then a *lost loan notice* at 28 days with the full charges for the lost item included, this is issued via SMS, email or letter. These notices would still go out, this would not change if we went to no fines.

## KEY ISSUES

Table 1 below shows the last 6 years overdue item charges for the year and the amount still outstanding as of the 12 September 2019 when the report was generated. Of Note:

- Total charges have been decreasing each year (since 2013 the library started sending out reminders to borrowers to return or renew items either through SMS, email or paper reminders).
- Overall 37% of overdue fees remain outstanding.
- While we have less charges initially each year, the amount outstanding each year is increasing.

Table 1

Charges (overdues)		- Total charges, total paid, total outstanding for overdues - 6 years			
Charge Calendar				Outstanding	
Year	Charge Code	Total Charges	Total Paid	Amount	% outstanding
2015	Overdue item	15,214.70	8,572.44	4,276.06	28%
2016	Overdue item	14,411.00	8,583.35	4,498.65	31%
2017	Overdue item	13,817.20	7,998.80	4,803.65	35%
2018	Overdue item	12,787.50	7,095.00	4,718.80	37%
2019	Overdue item	11,772.90	4,869.80	6,281.60	53.4%
2020	Overdue item	1,021.90	124.40	879.10	
<b>TOTALS</b>		<b>69,025.20</b>	<b>37,243.79</b>	<b>25,457.86</b>	<b>37%</b>

Note the 2020 figures are for 1 month only.

Table 2 shows the amount of payments received in overdue fees for each year. These payments can be payments for years past overdue items so the amount received in a year does not correspond with what is owing in that same year. As seen in Table 2 the amount received each year averages \$8,472.

Table 2

Charges (overdue)		
- Total over counter payments for Overdues 6 years		
Payment Year		
(Circulation Receipts)	Charge Code (Charges)	Sum Total Paid (Charges)
2014	Overdue item	8,490.05
2015	Overdue item	8,833.10
2016	Overdue item	8,390.89
2017	Overdue item	8,232.45
2018	Overdue item	8,419.75
2019	Overdue item	5,452.05
<b>TOTALS</b>		<b>47,818.29</b>

If we use the draft 2019/20 budget for the CRL at \$1,098,733 (operating and capital expected expenditure) and the average income from overdue fines is \$8,472 (based on average of 5 years) then this income revenue amounts to 0.8% of the Regional Library's income.

The option of e-payments through the Spydus Library Management System (LMS) was investigated by the Regional Librarian in 2016 as a possible way to increase the revenue we received from our fines and fees. At the time it was not progressed as Clarence Valley Council's banking systems were not compatible with the systems used by our LMS provider.

To progress this option for an e-payment system to be in place with our LMS we would need:

- To purchase the Spydus LMS e-payment module (2016 quote):
  - Implementation \$1,450

- Annual fee \$2,061
- Subscribe to a monthly gateway service subscription, either:
  - Eway
  - Paypal
  - SecurePay
  - Payment express
    - In 2016 none of these were compatible with the Clarence Valley Council's Commonwealth Bank systems.
    - Today SecurePay is compatible with the Commonwealth Bank:
      - ❖ Fees structure is 1.75% of transaction value + \$0:30 per transaction +GST
      - ❖ No set up fees
      - ❖ No monthly or annual fees

Possible changes to the Regional Library Policy could include:

1. Cease charging for overdue fees for children under 15 years with a *Junior membership* – to encourage and support parents and children to borrow and read.
2. Cease charging overdue fees and suspend membership privileges after a 4 day *grace* period.
3. Cease charging overdue fees and suspend membership privileges after 28 days when items move to a *lost* status.
4. Wipe all current overdue fines in a fines amnesty then implement a no overdue fine overdue policy – (implements one of either items 1 -3).
5. Investigate implementation of e-payments for library Fines and Fees.
6. Or Remain unchanged in our fines for overdues.

Why would we do this?

- It takes the angst and agro out of the relationship between the library team and library borrowers.
- Time consumed at the service desk over overdues and fines could be better spent on positive experiences involving library services and our community members.
- Possibility of attracting more borrowers and new members to the library, particularly the young and socio economically disadvantaged.
- It is a good news story for our Council about social and economic inclusion for potentially marginalised members of our communities.
- Anecdotal evidence strongly suggests we will get more of our *lost* items returned more often if borrowers know they will not be charged any overdue fees.
- Libraries have reported a growth in membership and usage when overdue fines are discontinued.
- We have increased State funding in 2019/20 and this could be seen as a way to give back to our communities in an obvious way.

## COUNCIL IMPLICATIONS

### Budget/Financial

Budgeted *revenue from users* for 2019/20 is \$15,528.00 (in project 997435-05-6236-1299) and is based on revenue from: overdue fees, lost and damaged fees, Inter Library Loan fees. This budgeted amount has been increasing by CPI for the last 3 years, however, the actuals at quarter 4 each year has been lower than budgeted for the same 3 year period. See below:

Financial year	Budgeted Revenues for users	Quarter 4 Revenues for users - Actuals
2016/17	\$14,350.00	\$12,153.20
2017/18	\$14,709.00	\$9,915.83
2018/19	\$15,077.00	\$10,093.48

This revenue comes from fees received from both Clarence Valley Council and Bellingen Shire Council communities and feeds directly back into the Clarence Regional Library Service as *Revenue from Users* income. This change in fees will have no impact on the Clarence Regional Library current year budget and a minimal impact on the Clarence Regional Library 10 year financial plan, the increase in State Library Funding will offset this loss of income for the Clarence Regional Library service.

**Asset Management**

N/A

**Policy or Regulation**

Clarence Regional Library Fines and Fees Waiving Policy

**Consultation**

The Library Teams from Bellingen Shire Libraries, Clarence Valley Libraries and the Regional Services team and the CRL Committee have been consulted, as have the NE Zone of the NSW Public Library Association, both library managers and elected library delegates. A review of overdue fee charging of the state wide library network was undertaken also. As of 6 March reported to the NSWPLA North East Zone Library Managers meeting, Kempsey Shire Library, Central Northern Regional Library service, Inverell Shire Library and Gunnedah Library services have progressed the removal of overdue fines to commence 1 July 2020. Richmond Tweed Regional Library has also commenced the process of removal of overdue fees, a date to be determined.

**Legal and Risk Management**

N/A – this is a good news story for our community.

**Climate Change**

N/A

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Prepared by	Kathryn Breward, Regional Librarian
Attachment	CRL Fines and fee waiving Policy

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ITEM	6b.20.024	DEVELOPMENT APPLICATIONS
<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Nil	

## SUMMARY

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

## OFFICER RECOMMENDATION

That the update on Development Applications be noted.

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

## COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

## BACKGROUND

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

## KEY ISSUES

The figures from 1 July 2019 to 29 February 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)
491	459	\$104,804,750.00	240	Average : 72 days Median: 53 days

Of the 459 approved Development Applications between 1 July 2019 and 29 February 2020, 180 (39%) were determined within 40 days or less.

As of 1 March 2020 there were 162 outstanding development applications, which have been with Council for the following timeframes:

<b>Less than 40 days</b>	78
<b>41 - 60 days</b>	12
<b>61 - 80 days</b>	10
<b>81+ days</b>	62

The table below shows undetermined DAs that have been with Council for over 40 days with reasons for their current status.

## Reasons for Undetermined Applications over 40 days

Application No	Received Date	Days	Description	Property	Reason
DA2020/0023	20/01/2020	41	Swimming Pool & Deck	1469 Pacific Highway, ULMARRA NSW 2462	Currently being assessed*
DA2020/0014	14/01/2020	44	Caretakers dwelling	7 Henry Searle Drive, ILUKA NSW 2466	Awaiting additional information regarding further justification for caretaker dwelling
DA2020/0016	15/01/2020	44	Convert shed to dwelling	245 Sheehans Lane, GULMARRAD NSW 2463	Currently being assessed*
DA2020/0020	17/01/2020	44	Aircraft storage shed	229 Palmers Channel North Bank Road, PALMERS ISLAND NSW 2463	Currently being assessed*
DA2020/0022	17/01/2020	44	Shed and mound	153 Woodford Dale Road, WOODFORD ISLAND NSW 2463	Additional information required regarding potential impacts on flood, source of fill material and method to stabilise mound.
DA2020/0015	14/01/2020	45	Dwelling	9675 Clarence Way, ALICE NSW 2469	Additional information required (Amended Plans)
DA2020/0012	13/01/2020	48	Dwelling	241 McGills Road, KREMNOS NSW 2460	Additional information requested (Amended Plans) and external referral to RFS
DA2019/0701	19/12/2019	52	Alterations and additions to dwelling	136 Main Street, WOOLI NSW 2462	Submission received and variation to DCP currently being assessed*
DA2020/0007	8/01/2020	53	Dwelling	Donaldson Street, WOOMBAH NSW 2469	Submission received and additional information received (amended plans) currently being assessed*
DA2020/0004	6/01/2020	55	Equipment shed for pre-school	17 Dorrigo Street, GLENREAGH NSW 2450	Currently being assessed*
DA2020/0005	6/01/2020	55	Industrial shed	28A Hyde Street, SOUTH GRAFTON NSW 2460	Currently being assessed*
DA2020/0003	3/01/2020	58	Shed	7 Daphne Court, WOOLI NSW 2462	Currently being assessed*
DA2019/0702	20/12/2019	72	Refurbish existing commercial building	18-20 King Street, GRAFTON NSW 2460	Currently being assessed*

Application No	Received Date	Days	Description	Property	Reason
DA2019/0700	19/12/2019	73	Boundary adjustment and multi unit (3 additional residential units with existing building)	165-169 Cambridge Street, SOUTH GRAFTON NSW 2460	Awaiting internal referrals and currently being assessed*
DA2019/0691	16/12/2019	74	Shed on mound	16-22 Grafton Street, LAWRENCE NSW 2460	Awaiting external referral (NRAR).
DA2019/0659	3/12/2019	75	Two lot subdivision and attached dual occupancy	35 Coldstream Street, YAMBA NSW 2464	Awaiting internal referrals and issues in submission being assessed.
DA2019/0674	10/12/2019	76	Manufactured home estate	36 Golding Street, YAMBA NSW 2464	Awaiting internal referrals and currently being assessed*
DA2019/0690	16/12/2019	76	Proposed dwelling envelope	516 Iluka Road, WOOMBAAH NSW 2469	Concurrence from DPIE received 26/02 and currently being assessed*
DA2019/0684	12/12/2019	79	Dwelling	2509 Old Glen Innes Road, BUCCARUMBI NSW 2460	Currently being assessed*
DA2019/0686	13/12/2019	79	Shed	121 Yamba Road, YAMBA NSW 2464	DCP variation currently being assessed*
DA2019/0687	13/12/2019	79	Two patios	5 Melaleuca Drive, YAMBA NSW 2464	Currently being assessed*
DA2019/0682	12/12/2019	80	Dwelling	Warregah Island Road, WARREGAH ISLAND NSW 2469	Currently being assessed*
DA2019/0677	11/12/2019	81	Swimming pool and deck	553 Coldstream Road, ULMARRA NSW 2462	Currently being assessed*
DA2019/0679	11/12/2019	81	Alterations and additions	79 Yamba Street, YAMBA NSW 2464	Currently being assessed*
DA2019/0675	10/12/2019	82	As built dwelling	561 Parker Road, LANITZA NSW 2460	Currently being assessed*
DA2019/0671	9/12/2019	83	Sanitary facilities in existing shed	135 School Road, PALMERS ISLAND NSW 2463	Additional information requested (use of shed and facilities, potential that shed may be third dwelling on property)
DA2019/0672	9/12/2019	83	Alterations and additions to church hall	Wharf Street, SOUTH GRAFTON NSW 2460	Additional information requested (amended plans and parking).
DA2019/0673	9/12/2019	83	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	Currently being assessed*
SUB2019/0044	9/12/2019	83	Four lot subdivision	Micalo Road, MICALO ISLAND NSW 2464	Additional information requested (details of access to the site)
DA2019/0665	5/12/2019	87	Dwelling and Shed	55 Sullivans Road, YAMBA NSW 2464	Amendment to application submitted with revised plans and BASIX on 28/02.
DA2019/0670	5/12/2019	87	Two storey deck and alterations to dwelling	32 The Peninsula, YAMBA NSW 2464	Variation to DCP currently being assessed*
SUB2019/0043	3/12/2019	87	Six lot subdivision	250 North Street, GRAFTON NSW 2460	Additional information received 13/02 and currently being assessed*
DA2019/0651	28/11/2019	90	Two industrial sheds	160 North Street, GRAFTON NSW 2460	Applicant has amended proposal and currently being assessed*
SUB2019/0041	25/11/2019	93	Two lot subdivision	33 Spenser Street, ILUKA NSW 2466	Submissions received and further information to be requested regarding stormwater management from road upgrade and future buildings.
DA2019/0639	25/11/2019	97	New commercial building	20 High Street, YAMBA NSW 2464	Report to March Council meeting.
DA2019/0636	22/11/2019	100	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Additional information requested (amended plans)
DA2019/0626	19/11/2019	102	Alterations and additions to dwelling	7 Banksia Place, YAMBA NSW 2464	Amended Plans submitted 17/02 and currently being



Application No	Received Date	Days	Description	Property	Reason
					assessed*
DA2019/0623	18/11/2019	104	Shed	162 Coaldale Road, THE PINNACLES NSW 2460	Submission received and currently being assessed*
DA2019/0603	4/11/2019	118	Convert fuel depot to service station	119 Jubilee Street, TOWNSEND NSW 2463	Currently being assessed*
DA2019/0601	1/11/2019	121	Carport	64 River Street, MACLEAN NSW 2463	Additional information requested (location of stormwater pipe)
DA2019/0587	28/10/2019	125	Dwelling	1 Perch Road, WELLS CROSSING NSW 2460	Additional information requested (Site Plan).
DA2019/0584	25/10/2019	128	Dwelling	126 Lurcocks Road, GLENREAGH NSW 2450	Additional information requested (amended plans and ecological impacts)
DA2019/0570	21/10/2019	131	Dual Occupancy	Morelia Way, WOOMBAH NSW 2469	Proposal further amended and information (Amended Plans) submitted on 26/02 and currently being assessed*
DA2019/0568	18/10/2019	135	Shed and awning	38 Archer Street, SOUTH GRAFTON NSW 2460	Additional information requested (amended plans) or withdraw application.
DA2019/0539	3/10/2019	136	Monthly Twilight Markets	Clarence Street, YAMBA NSW 2464	Additional information requested (owners consent). Under CVC Market Policy applicant is going to trial alternate proposal before lodging Section 55 Amendment to change proposal.
DA2019/0562	17/10/2019	136	Deck and awning	526 Yamba Road, MACLEAN NSW 2463	Further amended plans submitted 18/02 and currently being assessed*
DA2019/0560	15/10/2019	138	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOOLOWEYAH NSW 2464	Currently being assessed*
DA2019/0530	1/10/2019	152	As-built dwelling and alterations and additions	271 Skinners Road, PILLAR VALLEY NSW 2462	Currently being assessed*
DA2019/0516	24/09/2019	159	Dwelling alterations and additions	4 Boronia Street, BROOMS HEAD NSW 2463	Additional information requested (submit OSM application to upgrade system)
DA2019/0513	23/09/2019	160	Dwelling (as built)	129 Featherstones Road, SHERWOOD NSW 2450	Currently being assessed*
DA2019/0514	23/09/2019	160	Retention of existing hardstand area and new earthworks	21 Through Street, SOUTH GRAFTON NSW 2460	Additional information requested (contamination assessment of existing site)
DA2019/0494	10/09/2019	173	Dual occupancy (attached)	4 Moorhead Drive, SOUTH GRAFTON NSW 2460	Report to March Council meeting.
DA2019/0489	6/09/2019	174	Dwelling	13 The Glen, MACLEAN NSW 2463	Awaiting external referral (RFS)
DA2019/0492	9/09/2019	174	Additional filling of land (20,000m3)	52-54 Miles Street, YAMBA NSW 2464	Awaiting external referral to NRAR
DA2019/0478	30/08/2019	181	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested (Revised Plans, OSM Application and Bushfire Report)
DA2019/0472	29/08/2019	184	As built shed and addition to shed	55 Nottingham Drive, GLENREAGH NSW 2450	Council staff to arrange time to inspect premises to complete assessment of proposal.
SUB2019/0034	28/08/2019	186	40 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Waiting on comments from Engineering and RFS before finalising request for further information on KPOM, Ecological Impacts and On-Site Sewerage Management.
DA2019/0459	22/08/2019	192	Coastal protection works (rock riverbank	383 North Street, WOOLI NSW 2462	Awaiting external referral (NRAR)

Application No	Received Date	Days	Description	Property	Reason
			protection)		
SUB2019/0033	20/08/2019	194	Boundary adjustment and consolidation of Lot 10 DP752845 & Lot 32 DP752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Report to March Council meeting.
SUB2019/0030	14/08/2019	200	305 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	Additional information requested (Compliance with DCP, Contamination Assessment, Revised Acid Sulfate Soil Assessment and various Engineering matters servicing, road layout)
DA2019/0436	13/08/2019	201	Deck	8 Clarence Street, ASHBY NSW 2463	Currently being assessed*
DA2019/0423	8/08/2019	202	255 manufactured home estate with community facilities	Brooms Head Road, GULMARRAD NSW 2463	Further information requested (Traffic Impact Assessment, Development Control Plan as per Part 6 of the LEP, Stormwater Management and Ecological Impacts)
DA2019/0429	9/08/2019	205	Dwelling	63 Warregah Island Road, WARREGAH ISLAND NSW 2469	Currently being assessed*
DA2019/0426	8/08/2019	206	Extension to Industrial Shed, Caretakers Dwelling and Carport	14 Uki Street, YAMBA NSW 2464	Council staff have inspected the premises with the applicant, an amendment is to be made to the proposal as requested by the applicant and additional information to be submitted to applicant regarding amending proposal and further justification for caretaker dwelling.
DA2019/0427	8/08/2019	206	Vehicle sales premises and shed	18-20 Clyde Street, MACLEAN NSW 2463	Additional information received 2 March and currently being assessed*
SUB2019/0024	10/07/2019	235	32 lot residential subdivision	21 Jubilee Street, TOWNSEND NSW 2463	To March Council meeting.
DA2019/0336	19/06/2019	248	Convert shed to dwelling	170 Bennetts Road, NYMBOIDA NSW 2460	Additional information required (site plan, BASIX Certificate and building details)
DA2019/0321	14/06/2019	261	Relocated dwelling	9 Lorikeet Place, GLENREAGH NSW 2450	Additional information requested (amended plans), third letter sent.
DA2019/0266	22/05/2019	284	Remediation of riverbank erosion, establish dwelling envelope, construction of two dams and two flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Revised Acid Sulfate Soil Management Plan to be submitted.
DA2019/0243	13/05/2019	293	Shipping container building with playground, cafe and rooftop restaurant	383 North Street, WOOLI NSW 2462	Section 55 Amendment to proposal, applicant to revise proposal and submit by 6 March.
DA2019/0208	23/04/2019	313	Redevelopment and refurbishment of Pacific Hotel (including demolition of beach house and northern section of hotel, construction of new tourist accommodation and ancillary works)	16 Pilot Street, YAMBA NSW 2464	Applicant to respond to February 2020 Council meeting, once information received and assessed, application to be reported to next available Council meeting.
SUB2019/0010	23/04/2019	313	Two lot subdivision (includes lot size variation)	401 Kungala Road, KUNGALA NSW 2460	Applicant to amend application to increase lot size to comply with LEP or withdraw application.

Application No	Received Date	Days	Description	Property	Reason
DA2019/0195	15/04/2019	321	Additions to caravan park - 33 cabins for long term use	42 Marandowie Drive, ILUKA NSW 2466	To March Council meeting.
DA2019/0152	26/03/2019	341	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Currently being assessed, staff currently liaising with applicant regarding access to the property.
DA2019/0126	19/03/2019	348	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Applicant has lodged Heritage Minor Works Application with an alternate way to manage vegetation, likely to withdraw DA.
DA2019/0128	19/03/2019	348	Machinery shed	1 Youngs Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated land assessment and geotechnical report of mound)
SUB2019/0002	6/02/2019	389	13 large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Revised BDAR submitted 2/03 and currently being assessed*
SUB2019/0001	24/01/2019	402	Seven lot subdivision (5 additional lots)	39/57 Chatsworth Road, CHATSWORTH NSW 2469	Being determined.
DA2018/0630	16/10/2018	502	Dual occupancy	1431 Pacific Highway, ULMARRA NSW 2462	Applicant to consider how/if this DA will be pursued. Geotechnical assessment of riverbank has determined there is an unacceptable factor of safety without substantial works to the riverbank. Applicant representative has advised they will meet Council staff, attempts to schedule meeting in February have been unsuccessful.
SUB2018/0030	16/10/2018	502	Boundary adjustment	Pacific Highway, TYNDALE NSW 2460	Awaiting additional information (Contaminated land assessment), third update for status of information request sent. RMS have advised information to be submitted by end of March.
SUB2018/0027	8/10/2018	510	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire)
DA2018/0449	6/08/2018	573	Viewing deck	26 Ocean Road, BROOMS HEAD NSW 2463	Third additional information sent (Amended plans, view sharing issues), should information not be received, applicant to be advised to withdraw application
SUB2018/0004	23/02/2018	737	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Further information required regarding ecological impacts of development and stormwater management.
DA2017/0671	18/10/2017	865	Caravan Park - Alterations and Additions (10 additional sites) and amenities	391 Goodwood Island Road, GOODWOOD ISLAND NSW 2469	Awaiting additional information (Building Certificate Application, plans and compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

\*Currently being assessed under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*

#### Exceptions to Development Standards under Clause 4.6 of the LEP

The following table shows the use of Clause 4.6 for DAs that were determined during the month of February 2020.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2019/0616	3-7 Rannoch Street, Maclean	Clause 4.3 – height of buildings map	Clause 4.3 Height of Buildings - 9m maximum. The height to the elevator overrun is 11.075m.	Clarence Valley Council at their meeting 25 February 2020. The lift shaft has a height of 11.075m; the building the lift shaft is attached to has a height of 10.93m. The lift shaft is only 0.145m or 145mm higher than the existing building. When observing the lift externally from the site, the height of the lift shaft will not dominate or excessively protrude from the existing skyline or above the existing building. The lift sits within the existing context of the site and the proposed development is not considered to impact on privacy or overshadowing of adjoining properties.

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

N/A

### Policy or Regulation

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

*NSW Department of Planning Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*

### Consultation

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

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

### Legal and Risk Management

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

**Climate Change**

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

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Prepared by	James Hamilton, Development Planner
Attachment	Nil

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<b>ITEM</b>	<b>6b.20.025</b>	<b>CLARENCE VALLEY LOCAL ENVIRONMENTAL PLAN 2011 (AMENDMENT NO 43)</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	17 March 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

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**SUMMARY**

This report advises of the recently completed Amendment No 43 to the Clarence Valley Local Environmental Plan 2011 (the LEP). Amendment No 43 relates to Lots 721 and 722 DP1148111, 72-74 River Street, Maclean.

**OFFICER RECOMMENDATION**

That Council note the report on Amendment No 43 to the Clarence Valley Local Environmental Plan 2011.

**COMMITTEE RECOMMENDATION**

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

Amendment No 43 (River Street, Maclean) was recently made by the Department of Planning and Industry and Environment and notified on 14 February 2020.

The finalisation of Amendment No 43 represents the culmination of a planning proposal to rezone the Council's "SES site" at 72-74 River Street, Maclean from IN4 Working Waterfront to B2 Local Centre. The amendment also applies a 9 metre building height on the land through an amendment to the Height of Buildings map.

A copy of Amendment No 43, as notified on the NSW legislation is in the attachments.

**KEY ISSUES**

Previous reports to Council (21 August 2018 and 26 November 2019) have dealt with the issues associated with the planning proposal and LEP amendment.

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

The report to Council's 26 November 2019 meeting dealt with budget/financial implications.

**Asset Management**

N/A

**Policy or Regulation**

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

**Consultation**

Council undertook statutory consultation with public authorities and other stakeholders as directed by the Gateway determination.

**Legal and Risk Management**

N/A

**Climate Change**

The report to Council's 26 November 2019 meeting dealt with climate change implications.

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Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	CVLEP 2011 Amendment No 43

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**CONFIDENTIAL BUSINESS – Nil**

**LATE ITEMS OF BUSINESS – Nil**

**CLOSE OF COMMITTEE MEETING**

There being no further business the Environment, Planning & Community Committee closed at 4.53 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, 17 March 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 Debrah Novak, Cr Greg Clancy, Cr Richie Williamson, Mr Ashley Lindsay (General Manager), Mr Des Schroder (Director – Environment, Planning & Community), Ms Laura Black (Director – Corporate & Governance) and Mr Peter Birch (Director – Works & Civil) were in attendance.

**APOLOGIES - Nil****DISCLOSURE AND DECLARATIONS OF INTEREST**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Toms	6c.20.026	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Contract manager of Holiday Park which adjoins this property. Intended action: Remain in the Chamber.

<b>ITEM</b>	<b>6c.20.023</b>	<b>2 PRINCE STREET GRAFTON ADMINISTRATION CENTRE UPGRADE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes plus Confidential Attachment	

**SUMMARY**

This report is seeking endorsement to proceed with the upgrade of the 2 Prince Street Grafton Administration Centre.

**OFFICER RECOMMENDATION**

That Council -

1. Endorse inclusion of \$6,356,701 in the 2020-21 Draft Budget for the upgrade of the 2 Prince Street administration centre to be funded by the Strategic Building Reserve IR 10520 of \$1,050,783.52, the Admin. Buildings Improvement Reserve – 2 Prince Street of \$305,917.48, and internal borrowings from both the Regional Landfill Reserve IR10815 \$2,500,000 and the Plant Reserve IR10010 of \$2,500,000 to be repaid over a maximum 10 year period commencing July 2021 with interest to be based on Council's average interest on investments for the preceding financial year .
2. Seek approval from the Office of Local Government under their capital expenditure guidelines.
3. Following approval from the Office of Local Government, seek tenders for the construction of the works.

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That Council -

1. Endorse inclusion of \$6,356,701 in the 2020-21 Draft Budget for the upgrade of the 2 Prince Street administration centre to be funded by the Strategic Building Reserve IR 10520 of \$1,050,783.52, the Admin. Buildings Improvement Reserve – 2 Prince Street of \$305,917.48, and internal borrowings from both the Regional Landfill Reserve IR10815 \$2,500,000 and the Plant Reserve IR10010 of \$2,500,000 to be repaid over a maximum 10 year period commencing July 2021 with interest to be based on Council's average interest on investments for the preceding financial year .
2. Seek approval from the Office of Local Government under their capital expenditure guidelines.
3. Following approval from the Office of Local Government, seek tenders for the construction of the works.
4. Establish a project steering committee responsible for administering and overseeing this project. The committee comprise a Councillor and the Mayor, the Council Executive (General Manager and 3 Directors). The Project Manager for the works would report to this steering committee at regular intervals.

Voting recorded as follows:

For: Ellem, Lysaught, Simmons, Toms

Against: Kingsley

## AMENDMENT TO MOTION – LAPSED FOR WANT OF A SECONDER

Simmons

That Council -

1. Endorse inclusion of \$6,356,701 in the 2020-21 Draft Budget for the upgrade of the 2 Prince Street administration centre to be funded by the Strategic Building Reserve IR 10520 of \$1,050,783.52, the Admin. Buildings Improvement Reserve – 2 Prince Street of \$305,917.48, and by reduction and transfer of funds from both the Regional Landfill Reserve IR10815 \$2,500,000 and the Plant Reserve IR10010 of \$2,500,000.
2. Seek approval from the Office of Local Government under their capital expenditure guidelines.
3. Following approval from the Office of Local Government, seek tenders for the construction of the works.
4. Establish a project steering committee responsible for administering and overseeing this project. The committee comprise a Councillor and the Mayor, the Council Executive (General Manager and 3 Directors). The Project Manager for the works would report to this steering committee at regular intervals.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

The depot and office rationalisation project has been previously before Council and included rationalisation of a number of offices and accommodation especially within Grafton. The priority was to consolidate depot and operational works facilities that occurred with the construction of the Rushforth Road Works Depot.

The design of the upgrade of the Administration Centre at 2 Prince Street Grafton completes the major works associated with the rationalisation project.

**KEY ISSUES**

The key issues with the building relate to the following areas.

**Building Constraints - Accessibility**

The current building had been constructed with a number of internal level changes across each floor. This makes the building to be completely inaccessible for persons with accessible needs. Many meetings can only be held with members of the public in the downstairs area and only part of these areas of the ground floor.

In addition staff with accessible needs can not work in certain parts of the building and this means that Council has to provide alternate arrangements for them to be accommodated now and in the future.

The current building does meet the objective of the Disability Discrimination Act (DDA), nor the requirements of Australian Standards for access. Amongst many design improvements the building will be provided with a personal lift and a small open lift to access the northern end of the building where the Council Chambers and multi-purpose meeting room are located.

**National Construction Code Non-Compliance**

The basement carpark is not compliant with the Code in that the personal egress to alternate exits does not exist and is a safety risk for staff and users of the building when in the basement.

The upgrade provides another internal staircase adjacent to the lift that will address this issue.

**Earthquake Standards Upgrade – Building Strengthening**

There have been recent updates to requirements for building design standards to withstand earthquakes. The engineering design includes strengthening works to meet those standards.

**The Roof**

The roof over the proposed Council Chambers area was replaced approximately two years ago prior to solar panels being placed over that section. The remaining roof over the main central portion and the Executive area is in fair to poor condition. There is a lack of overflow provision through a segmented box gutter design system that has caused water ingress and inundation in the past.

There is an opportunity to replace the roof in these areas and remove an old cooling tower support slab and replace with a lighter weight structure and provide improved communications mast head and infrastructure.

**Staff Feedback**

The recent staff survey for those staff using 2 Prince Street rated facilities low, with ageing amenities, and no lunch space.

**Construction Constraints**

It is not practicable to undertake renovations of any extent while staff are occupying the building. The noise disruption and Work, Health and Safety Risks are unacceptable.

**Opportunity to use 42 Victoria Street and Expedite Construction**

To achieve value for money to facilitate timely construction of the works there is the opportunity to relocate staff from 2 Prince Street to 42 Victoria Street up till September 2021 when the current lease expires.

The construction time period is expected to be in the vicinity of 6-9 months or even earlier. During the works all Council meetings will be held in Maclean till works are complete.

**Design and Implementation Program**

The design is 90% complete and near tender ready. An indicative program is summarised as –

- Submit request for approval to the Office of Local Government under their capital expenditure guidelines
- Tender release late April/early May 2020
- Tenders reported to Council in July 2020
- Staff to relocate to Victoria Street – August/September 2020
- Construction from September/October 2020 – completed by August/September 2021

**COUNCIL IMPLICATIONS****Budget/Financial**Construction Costs

A quantity surveyor (QS) has undertaken an assessment of the project and provided a cost estimate for the works at 90% detailed design at \$5,801,620 (base estimate) including a 3% contingency (\$174,000) (excluding project management, design fees and GST), (refer to Attachment). It is recommended to increase the contingency for budgeting purposes by an additional 5% (\$290,081). Upon receipt of tenders a

10% contingency would be recommended over the tendered amount to be delegated to the General Manager as has occurred with most construction type tenders.

At the time of writing this report design work provided for replacement of south western elevation windows that leak, to replace the main and Executive roof area as well as upgrading the existing box gutter system had not been completed. It is not certain if any roof structure support beams or rafters would need to be modified. As a consequence a provisional sum of approximately \$250,000 has been allowed for above the QS estimate and that may vary, however at this stage the design architect believes it is a reasonable provisional estimate. A provisional allowance for staff relocation costs has been allowed for.

**Table 1 - Project Budget Summary - 2 Prince Street Administration Centre Upgrade Construction**

Item	Description	Cost (ex GST)
1	Base QS estimate	\$5,801,620
2	5% contingency	\$290,081
3	<b>Sub Total</b>	<b>\$6,091,701</b>
4	Provisional Sum	\$250,000
5	Relocation and staff management	\$15,000
6	<b>Total</b>	<b>\$6,356,701</b>

#### Design and Project Management

Council has already provided a current budget of \$500,000 for design and project management with expenditure to date for design works is \$317,260 including actuals and commitments.

The QS cost also excludes project management fees. An initial quote has been received to externally project manage the delivery including preparation of tender documents. The current \$500,000 allocation can be used for project management and at this stage considered sufficient. This proposal and method of procuring and project managing the works is currently under review. As Council has already moved staff around various buildings that part of the project would be best managed internally by an internal project manager and line managers.

#### Funding Sources

The proposed funding sources to complete construction are outlined in Table 2.

**Table 2 – Proposed Funding Sources**

RA and Description	Expected RA Balance 30 June 2020	Project Funds
10010 IR Plant Reserve (non RFS)	\$6,470,051.24	\$2,500,000.00
10125 IR Admin Building Improvements – 2 Prince Street	\$305,917.48	\$305,917.48
10520 IR Strategic Building Reserve	\$1,441,953.56	\$1,050,783.52
10815 IR Regional Landfill General Reserve	\$4,358,759.52	\$2,500,000.00
<b>Total</b>		<b>\$6,356,701.00</b>

Apart from the building reserves it is intended to use the internal heavy plant reserve and landfill reserves through an internal loan borrowing to be repaid over a 10 year period commencing July 2021 with interest to be based on Council's average interest on investments for the preceding financial year. The capacity of the reserves is considered sufficient to still enable the program of plant replacement to proceed and landfill work to continue.

#### **Asset Management**

Elements of the building are to be considered in fair to poor condition. The project has been part of Council's Asset Management Plan for a number of years.

**Policy or Regulation**

Local Government Act 1993

**Consultation**

Internal consultation has been completed with various sections within Council and the Executive. The Finance Manager has provided the funding source restricted asset reserve balances.

The refurbishment and upgrade of the 2 Prince Street Administration building formed part of Council's Office and Depot Rationalisation project that was included in Council's Fit for the Future Plan endorsed by Council on 23 June 2015 and then was again included in Council's Fit for the Future Reassessment Proposal adopted by Council on 20 February 2018 (refer item 13.001/18).

The refurbishment of the Prince Street building and the associated savings from the property rationalisation project are key components of Council's adopted (refer Item 13.035/17 June 2017) 4 year Improvements Strategies and Efficiency Savings which supported Council's approved SRV application. All of which were adopted by Council after extensive public consultation with the community.

Detailed design has been undertaken by SHAC Architects who have coordinated the sub-consultancies.

**Legal and Risk Management**

The risk of not undertaking the project will mean continued lack of full access to the building, future water ingress and inundation to the building and future costs increases if a future Council decides to undertake the works.

**Climate Change**

To renovate the current building will have a net positive climate change impact over finding an alternate building or at a greenfield site.

The current building has a 20kW solar power system that offsets daytime power use while the air conditioning plant was upgraded to energy efficient Daiken VRV systems that also reduced energy consumption. There is potential to increase solar power generation once the roof over the main area is replaced.

Prepared by	Peter Birch, Director Works and Civil
Attachment	1. Plans of 2 Prince Street 2. Quantity Survey by WT Partnership (Confidential Attachment)

<b>ITEM</b>	<b>6c.20.024</b>	<b>YAMBA ACCESS PROJECT STEERING COMMITTEE MEMBER</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

## SUMMARY

Nominations are sought for a Councillor to be part of the Yamba Access Project Steering Committee following resolution at last month's Ordinary meeting.

## OFFICER RECOMMENDATION

That Council nominate a Councillor to be a member of the Yamba Access Project Steering Committee.

## COMMITTEE RECOMMENDATION

Kingsley/Simmons

That this item be deferred to the March Ordinary Council Meeting.

Voting recorded as follows

For: Kingsley, Lysaught, Toms, Simmons

Against: Ellem

## 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

Council resolved at the February Ordinary meeting to appoint a Councillor to the Yamba Access Project Steering Committee. The resolution was -

*That Council:*

....

*7. Establish a project steering committee responsible for administering and overseeing these projects. The Committee comprise a Councillor and the Mayor; the Council Executive (General Manager and 3 Directors). The Project Manager for the works would report to this steering committee at regular intervals.*

## KEY ISSUES

Nominations are sought from Council for a Councillor to be a member of the Committee. The Committee will meet as often as is required and progress reports can be distributed generally on a monthly basis.

A teleconference with the Project Steering Committee and Restart NSW was held on Friday 28 February 2020 and formal submission of variation to scope and time was forwarded to Restart NSW on 5 March 2020. A copy of the minutes of the Steering Committee is attached.

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

Nil

**Asset Management**

Nil

**Policy or Regulation**

Nil

**Consultation**

Reports are submitted generally to Restart NSW on a monthly basis. The Steering Committee will be provided with the progress reports and will meet as often as is required.

**Legal and Risk Management**

Nil

**Climate Change**

Nil

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Prepared by	Peter Birch, Director Works and Civil
Attachment	Minutes of the Yamba Access Project Steering Committee

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ITEM	6c.20.025	ROAD NAMING OF EXISTING AND PROPOSED ASSETS AS A RESULT OF THE CONSTRUCTION OF THE NEW PACIFIC HIGHWAY
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Peter Birch)	
<b>Attachment</b>	Yes	

## SUMMARY

The construction of the new Pacific Highway requires that the existing Pacific Highway and several new assets are named following the requirements of the NSW Geographical Names Board (GNB). This report presents the council with the details of the community consultation that has been undertaken to establish road names for new or existing roads that are affected by the construction of the new Pacific Highway. This report is in response to resolution 6.a.19.031 for the following roads:

- a. The existing Pacific Highway between Yamba Road Roundabout and Andersons Lane, including the existing Harwood Bridge (refer to Attachment 1)
- b. The existing Pacific Highway between Chatsworth Road and Iluka Road roundabout, including the existing Mororo Bridge (refer to Attachment 2)
- c. The new link road between the existing Pacific Highway at Harwood and Harwood Mill Road (refer to Attachment 3)
- d. 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 (refer to Attachment 4)

## OFFICER RECOMMENDATION

That Council:

1. Adopt the following road names and submit to the NSW Geographical Names Board for approval:
  - a. The existing Pacific Highway between Yamba Road Roundabout and Andersons Lane, including the existing Harwood Bridge be named Ulugundahi View.
  - b. The existing Pacific Highway between Chatsworth Road and Iluka Road roundabout, including the existing Mororo Bridge be named Wuyman Way.
  - c. The new link road between the existing Pacific Highway at Harwood and Harwood Mill Road be named Darhi Milgirr Road.
2. Seek more suggestions from 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.

## COMMITTEE RECOMMENDATION

Simmons/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 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

Clarence Valley Council is the authority for road naming of local roads. Council has undertaken consultation in renaming the above roads advertising in the local paper, discussions on Clarence Conversations and facilitated naming with the Yaegl Traditional Owners Corporation.

During the submission period, a total of 34 submissions were received. The suggested names are provided in the below table.

Local Road Name Suggestion	Submissions Received
<b>a. The existing Harwood Bridge and along the existing Pacific Highway to Andersons Lane</b> Ulugundahi Birrinba Bridge (Bridge only) Bridge View Road River View Road Bridges Road	5
<b>b. The existing Pacific Highway between Chatsworth Road and Iluka Road roundabout, including the existing Mororo Bridge</b> Wuyman Way	1
<b>c. Old Six Mile Lane on the western side for the new freeway connecting to Avenue Road</b>	0
<b>d. A new link road between the existing Pacific Highway at Harwood and Harwood Mill Road</b> Darhi Milgirr Island Link Sunshine Way Link road Slipway Road (3)	7
<b>e. The new link road between Avenue Road and Old Six Mile Lane, providing connection to Chevalley Lane and running roughly parallel with Old Six Mile Lane</b>	0
<b>Suggested Road Names but no identified road</b> Rody McRoadface Road Beckman Way Eskeetet Allstar Gotim Dank Mint Dab Stonks Papa Breath taking  Yeet Dewae Squad Fam Harambae Lit Lwiay Chungus Boomer Delphine Reeves	21

## KEY ISSUES

NSW Geographical Names Board

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

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

All of the suggested names have been checked for validity by staff, the outcome of this is shown in the below table.

Suggested Name	Valid	Reason
Ulugundahi	Yes	
Birrinba Bridge (Bridge only)	No	Suggested for the bridge only
Bridge View Road	No	Similar to <i>Bridge Street</i>
River View Road	No	Similar to <i>Riverview Street</i>
Bridges Road	No	Similar to <i>Bridge Street</i>
Wuyman Way	Yes	
Darhi Milgirr	Yes	
Island Link	No	Similar to <i>Island View Road</i> and <i>Islandview Close</i>
Sunshine Way	No	Appears to be similar to a business name
Link Road	No	Similar to <i>Link Street</i>
Slipway Road	No	Appears to be similar to a business name
Roady McRoadface Road	Yes	
Yeet	Yes	
Dewae	Yes	
Beckman Way	No	Similar to <i>Beckman Lane</i>
Eskeetet	Yes	
Allstar	No	Appears to be similar to a business name
Squad Fam	Yes	
Gotim	Yes	
Harambae	No	Appears to be similar to a business name
Dank	No	Appears to be similar to a business name
Lit	No	Appears to be similar to a business name
Mint	No	Appears to be similar to a business name
Lwiay	Yes	
Dab	No	Appears to be similar to a business name
Chungus	Yes	
Stonks	Yes	
Boomer	No	Appears to be similar to a business name
Pap	No	Appears to be similar to a business name
Delphine	No	Appears to be a reference to a living person
Breath taking	No	May cause confusion for emergency services
Reeves	No	Similar to <i>Reeves Lane</i>

Traditional Owners

The previous community consultation highlighted that there was broad support for names that recognise the traditional owners of the land. In recognition of this, we have facilitated name suggestions from the Yaegl Traditional Owners Corporation for roads that are clearly within their traditional area.

They have provided the following names:

- a. Ulugundahi View
- b. Wuyman Way
- c. Darhi Milgirr Road

As these have significance to the traditional owners, there appears to be broad support from the community and they appear to meet the GNB guidelines, these names are recommended for adoption.

Community Suggestions

Of the remaining name suggestions, most appear to be invalid and are unlikely to be supported by the GNB. Of those that appear to be valid, most appear to be pop-culture references and have little to no connection to the area. In light of this, it is recommended that further consultation be undertaken to identify a suitable name for the road requiring naming.

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

N/A

**Asset Management – N/A****Policy or Regulation**

Roads Act (1993)

**Consultation**

Council advertised in the local paper and set up an informational portal under “Clarence Conversations” and facilitated naming with the Yaegl Traditional Owners Corporation.

**Legal and Risk Management – N/A****Climate Change – N/A**

Prepared by	Alex Dalrymple, Manager Civil Services
Attachment	A, B, C, D and E – Maps of the road locations Copy of submissions

ITEM	6c.20.026	ILUKA SOLDIERS MEMORIAL HALL/MUSEUM
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

## SUMMARY

This report outlines current management of the Soldiers Memorial Hall Iluka and seeks a resolution from Council as to make application to the Department of Planning, Industry and Environment (Crown Lands) (DPIE) to become Crown Land Manager of the reserve.

## OFFICER RECOMMENDATION

That Council -

1. Receive and note the current management arrangements and use of the Soldiers Memorial Hall at Iluka.
2. Request the Minister for Department of Planning, Industry and Environment (Crown Lands) to favourably consider Council's application and appointment as Crown Land Manager of Reserve D540058 and,
3. If appointed Crown Land Manager of the reserve, request the Minister to assign the category of 'General Community Use' under the *Local Government Act 1993* to the reserve.

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

## BACKGROUND

The Iluka Soldiers Memorial Hall is Crown Reserve D540058 dedicated for the purpose of hall and war memorial. The memorial hall is located between the Iluka Riverside Tourist Park (R89830) and 'Jim Crummy' Park (R1037709) on Charles Street, Iluka - both managed by Council as Crown Land Manager.

Maclean Shire Council and then Clarence Valley Council have assumed management and maintained the hall following the resignations of the previous Trustees on 16 July 1973. Council has undertaken these tasks

assuming that it had the care, control and management of the reserve under s344 of the *Local Government Act 1919* and then as devolved manager under s48 of the *Local Government Act 1993*.

Council has granted occupation and use of the hall to the Iluka CWA and Iluka History Group in the absence of a lease or other formal arrangement required under the former *Crown Lands Act 1989*.

Council allows the public and visitors to the adjoining 'Jim Crummy' Park to use the toilets associated with the hall. The toilets are cleaned and maintained by Council and available for use during daylight hours and maintained on a 6/7 basis (i.e. Monday – Saturday).

Hire of the hall was managed by a booking system administered by the manager(s) of the adjoining Iluka Riverside Tourist Park with monies being deposited into Council's General Fund up until approximately October 2011.

In October 2011, the occupation and use of the hall was jointly handed to the Iluka CWA and Iluka History Group by Council's then Manager of Assets. No formal tenure or terms of occupation/use was established between Council and the Iluka CWA or Iluka Historical Group apart from a letter sent detailing that:

- *The History Group will have a lockable section at the back half of the hall for their permanent displays. ....*
- *The Iluka CWA will retain the side wing space they currently use, and the front half of the hall will remain as shared space for both groups, and for the RSL to conduct Anzac Day events.*

As part of an audit of Crown land managed by Council, Crown Lands have confirmed that a dedication for the purpose of "War Memorial Hall" does not fall within s344 of *Local Government Act 1919* or s48 of *Local Government Act 1993*.

In addition, Council as Crown Land Manager has allowed the adjoining holiday park to encroach on the Soldiers Memorial Hall reserve at the rear of the property.

This matter was previously reported to Council in October 2014 and the resolution was –

*That Council, as Corporate Manager of the Clarence Coast Reserve Trust:*

- 1. Receive and note the current management arrangements and use of the Soldiers Memorial Hall at Iluka.*
- 2. Request the Minister for Natural Resources, Lands and Water to favourably consider the Trust's application and appointment as Trustee of Reserve D540058.*

Subsequently Council staff met with Crown Lands at regular scheduled meetings to advance the application and in November 2016 Crown Lands informed Council that they do not support addition to CCRT or addition to adjoining reserve due to the notified purpose of the reserve. At the time Crown Lands preference was to add the reserve to another Trust in Iluka with a similar purpose such as the Iluka (R.97567) Community Centre Reserve Trust.

There are complications due to the encroachment by the holiday park over this reserve and there has also since been native title determined to exist. There is also a stormwater drainage pipe from Charles Street that crosses this reserve.

With the movement and change to the *Crown Land Management Act in 2016*, and its subsequent implementation that removed Trusts, if Council wishes to continue with the management of the Iluka (Soldiers) Memorial Hall, then we will need to again approach Crown Lands to be appointed the Crown Land Manager of the reserve.

The reserve and hall would then be managed as if it was 'community' land under the *Local Government Act 1993*.

## KEY ISSUES

A request has recently been received from the Iluka History Group to place a storage container on land to the rear of the Hall. The Group has sought advice from both Crown Lands and Council.

As it stands the care, control and management of the reserve and hall defaulted to the Minister on 16 July 1973 following the resignations of the Trustees. Council had no obligation to take on the maintenance or management of the reserve or authority to authorise the occupation and use of the hall by the Iluka CWA and Iluka Historical Group. Advice has been received from Crown Lands to that effect.

Under the new *Crown Land Management Act 2016* if and when Council becomes Crown Land Manager of this reserve, Council would first need to apply to the Minister to assign a category to the land under the *Local Government Act 1993* and then prepare a Plan of Management (POM) (either stand alone or inclusion in a generic POM) before Council can approve any requests or undertake any works on the land.

In the interim, Council has no legal basis to approve any requests or undertake any works on the land (include placement of a storage container or any other storage area) without first obtaining landowners consent (DPIE – Crown Lands). The addition of a storage container or additional storage area is likely to affect native title rights and interests in the land. All acts that affect native title rights and interests are compensable under the *Native Title Act 1993* (Cth).

Given that Council's manages the adjoining reserves, the encroachments on the reserve from the holiday park, the presence of the public toilets and stormwater drainage infrastructure, Council's interest and investment in the reserve would be best served as Crown Land Manager.

## COUNCIL IMPLICATIONS

### Budget/Financial

Maintenance and embellishment of the hall and toilets has been drawn from General Fund allocations. Expenditure on the hall is approximately \$7,500 per annum.

### Asset Management

The appointment of Council as Crown Land Manager of this reserve would mean that future management and embellishment requests can be funded from Crown Land reserved funds.

### Policy or Regulation

- *Crown Land Management Act 2016*
- *Local Government Act 1993*
- *Native Title Act 1993* (Cth)

Council is currently undertaking the development of a Public Halls Strategy that will guide Council in the future management of community halls and centres. The approach within the Strategy is not expected to affect consideration of this matter.

### Consultation

There is not a s355 Committee of Council managing the facility. Discussions have been held with the Iluka History Group concerning their recent request.

In consultation with the Group, Council has continued to undertake basic maintenance of the Hall including works to remove mould, painting and stormwater drainage beneath the hall.

Council has recently had a discussion with staff from DPIE (Crown Lands) who advised to make application under the Crown Land Management Act and confirm Council's position. They advised that there may be conditions they could impose on Council as part of the process to become a Crown Land Manager.

Council's Property Coordinator and Senior Strategic Planner (Public Land/Native Title) have been consulted.

**Legal and Risk Management**

There is currently no pending public liability or legal issue concerning the hall or the use of the reserve.

There are encroachments on the reserve from the adjoining holiday park that will need to be rectified.

**Climate Change**

Not relevant to the report.

Prepared by	Peter Birch, Director Works and Civil
Attachment	1. Appendices 1 and 2 - Map and Images of Reserve and Hall 2. Request from Iluka History Group



ITEM	6c.20.027	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

### SUMMARY

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

### OFFICER RECOMMENDATION

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

### COMMITTEE RECOMMENDATION

Kingsley/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 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

### BACKGROUND

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

### KEY ISSUES

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

The attached checklist contains actions taken on all Council resolutions from the prior month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented.

### COUNCIL IMPLICATIONS

#### Budget/Financial

N/A

#### Asset Management

N/A

#### Policy or Regulation

Local Government Act 1993 S335 (1)

**Consultation**

Staff and Managers

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Checklist

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<b>ITEM</b>	<b>6c.20.028</b>	<b>MONTHLY INVESTMENT REPORT – FEBRUARY 2020 &amp; INVESTMENT STRATEGY UPDATE</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	Yes	

## SUMMARY

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month and to present to Council a revised Investment Strategy which sets out current market conditions, how Council is responding to structure its investment portfolio, realistic objectives for the investment portfolio, and risk management.

## OFFICER RECOMMENDATION

That:

1. The report indicating Council's funds investment position as at 29 February 2020 be received and noted.
2. The revised Investment Strategy as detailed in and attached to this report be adopted.

## 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 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

## BACKGROUND

### Investment Report

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*.

### Investment Strategy

Council's current Investment Policy and Strategy was adopted by Council at its meeting on 23 July 2019 (Item 6c.19.026). The Strategy is now due for review. In accordance with contractual arrangements, Council's investment advisor, CPG Research & Advisory P/L, have reviewed Council's Investment Strategy, and a copy is attached (refer Attachment B).

**KEY ISSUES**

The overall purpose and objectives of Council's Investment Policy has not changed from the current Investment Policy adopted in July 2019. The revised Investment Strategy has not materially changed other than noting the continuing downward pressure on interest rates and the impact on future returns.

Council will need to assume returns declining below 2% for FY21, and remaining very low for the foreseeable future.

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

**Portfolio Credit Limits**

Tabled below is a summary of Council's investments as at 29 February 2020, which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 29 February 2020				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	6,486,980	4.83%	Yes
AA	100.00%	39,327,784	29.28%	Yes
A	60.00%	31,250,000	23.27%	Yes
BBB	50.00%	57,236,461	42.62%	Yes
<b>TOTAL INVESTMENTS</b>		<b>134,301,225</b>	<b>100.00%</b>	

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

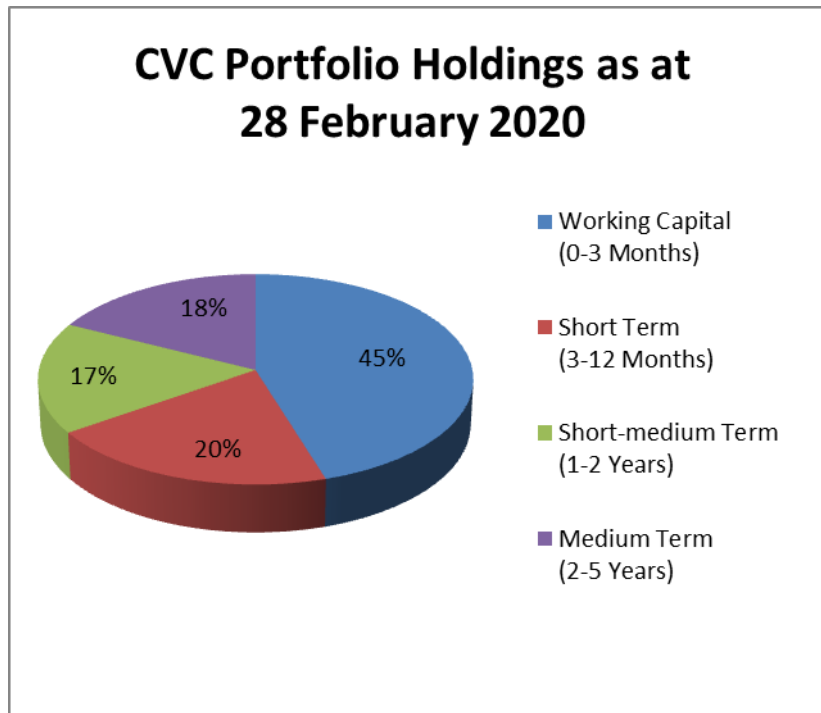
**Individual Institution or Counterparty Limits**

Tabled below is a summary of Council's investments as at 29 February 2020 which details compliance with Council's Investment Policy Counterparty Limits.

<b>Individual Institution or Counterparty Limits as at 29 February 2020</b>					
<b>Financial Institution</b>	<b>Credit Rating Long Term</b>	<b>Investment Policy Maximum Holding</b>	<b>Total Investments Held</b>	<b>% of Total Investments</b>	<b>Complies with Policy (yes/no)</b>
<b>TERM DEPOSITS &amp; FRNs*</b>					
AMP	BBB+	15.00%	8,000,000	5.96%	Yes
ANZ*	AA-	30.00%	2,025,290	1.51%	Yes
BoQ	BBB+	15.00%	16,000,000	11.91%	Yes
Bendigo	BBB+	15.00%	2,000,000	1.49%	Yes
Rural Bank			5,000,000	3.72%	
CBA*	AA-	30.00%	2,025,855	1.51%	Yes
Defence	BBB	15.00%	9,000,000	6.70%	Yes
G&C Mutual	BBB-	15.00%	1,000,000	0.74%	Yes
ING Direct	A	15.00%	19,000,000	14.15%	Yes
Macquarie	A	15.00%	4,000,000	2.98%	Yes
ME Bank	BBB	15.00%	4,000,000	2.98%	Yes
NAB	AA-	30.00%	16,000,000	11.91%	Yes
NAB*			1,006,235	0.75%	
P&N	BBB	15.00%	3,000,000	2.23%	Yes
RaboDirect	A+	15.00%	9,000,000	6.70%	Yes
Westpac	AA-	30.00%	7,000,000	5.21%	Yes
Westpac*	AA-		1,528,328	1.14%	
<b>TOTAL TERM DEPOSITS &amp; FRNs*</b>			<b>109,585,708</b>	<b>81.60%</b>	
<b>MANAGED FUNDS</b>					
TCorp	AAA	40.00%	1,986,980	1.48%	Yes
<b>TOTAL MANAGED FUNDS</b>			<b>1,986,980</b>	<b>1.48%</b>	
<b>FUNDS AT CALL</b>					
AMP	BBB+	15.00%	11,986,461	8.93%	Yes
ANZ	AA-	30.00%	275,187	0.20%	Yes
CBA	AA-	30.00%	10,466,889	7.79%	Yes
<b>TOTAL FUNDS AT CALL</b>			<b>22,728,537</b>	<b>16.92%</b>	
<b>TOTAL INVESTMENTS</b>			<b>134,301,225</b>	<b>100.00%</b>	

**Portfolio Holdings by Maturity**

Illustrated and tabled below is a summary of Council’s investments by maturity as at 29 February 2020. Excluding “at-call” working capital, 46.9% of Council’s investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 29 February 2020					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>WORKING CAPITAL (0-3 MONTHS)</b>					
T-CorpIM Cash Fund	1,986,980	1.48%	At-Call	1.08%	AAA
AMP Bank Ltd	11,986,461	8.93%	At-Call	1.30%	BBB+
ANZ Banking Group Ltd	275,187	0.20%	At-Call	1.05%	AA-
Commonwealth Bank of Australia	10,466,889	7.79%	At-Call	0.65%	AA-
AMP Bank Ltd	3,000,000	2.23%	06/03/2020	2.75%	BBB+
AMP Bank Ltd	2,000,000	1.49%	20/05/2020	1.80%	BBB+
Bendigo Bank	2,000,000	1.49%	27/04/2020	1.50%	BBB+
Defence Bank	1,000,000	0.74%	04/03/2020	2.80%	BBB
Defence Bank	2,000,000	1.49%	11/05/2020	3.00%	BBB
G&C Mutual Bank	1,000,000	0.74%	18/03/2020	4.00%	BBB-
ING	2,000,000	1.49%	02/03/2020	2.87%	A
Macquarie Bank Ltd	3,000,000	2.23%	07/05/2020	1.60%	A
Macquarie Bank Ltd	1,000,000	0.74%	21/05/2020	1.60%	A
ME Bank Ltd	2,000,000	1.49%	06/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.49%	08/05/2020	2.30%	BBB
National Australia Bank	2,000,000	1.49%	03/03/2020	1.70%	AA-
National Australia Bank	3,000,000	2.23%	03/03/2020	1.70%	AA-
National Australia Bank	2,000,000	1.49%	10/03/2020	1.58%	AA-
National Australia Bank	2,000,000	1.49%	11/03/2020	1.73%	AA-
National Australia Bank	3,000,000	2.23%	20/05/2020	2.25%	AA-
Rural Bank Ltd	2,000,000	1.49%	04/03/2020	2.80%	BBB+
Rural Bank Ltd	1,000,000	0.74%	04/03/2020	2.80%	BBB+
<b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>	<b>60,715,517</b>	<b>45.21%</b>		<b>1.74%</b>	
<b>SHORT TERM (3-12 MONTHS)</b>					
AMP Bank Ltd	2,000,000	1.49%	02/06/2020	1.80%	BBB+
AMP Bank Ltd	1,000,000	0.74%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	06/07/2020	3.00%	BBB+
Bank Of Queensland Ltd	2,000,000	1.49%	08/07/2020	1.65%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.49%	12/01/2021	3.65%	BBB+
Defence Bank	2,000,000	1.49%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.49%	17/12/2020	3.00%	BBB
ING	1,000,000	0.74%	21/08/2020	1.60%	A
ING	1,000,000	0.74%	10/11/2020	2.92%	A
ING	2,000,000	1.49%	13/11/2020	1.55%	A
ING	2,000,000	1.49%	03/02/2021	1.65%	A
National Australia Bank	2,000,000	1.49%	30/07/2020	1.80%	AA-
National Australia Bank	2,000,000	1.49%	11/08/2020	1.55%	AA-
Rural Bank Ltd	2,000,000	1.49%	09/06/2020	1.55%	BBB+
<b>TOTAL SHORT TERM (3-12 MONTHS)</b>	<b>27,000,000</b>	<b>20.10%</b>		<b>2.29%</b>	
<b>SHORT - MEDIUM TERM (1-2 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.74%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	02/12/2021	3.80%	BBB+
Defence Bank	2,000,000	1.49%	09/03/2021	3.00%	BBB
ING	2,000,000	1.49%	29/11/2021	1.55%	A
ING	3,000,000	2.23%	11/02/2022	1.60%	A
ING	2,000,000	1.49%	21/02/2022	1.60%	A
ING	3,000,000	2.23%	21/02/2022	1.60%	A
P&N Bank	3,000,000	2.23%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.49%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.74%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.49%	05/03/2021	3.00%	AA-
Westpac Bank	1,000,000	0.74%	16/11/2021	2.11%	AA-
<b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>	<b>23,000,000</b>	<b>17.13%</b>		<b>2.51%</b>	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>MEDIUM TERM (2-5 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.74%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.74%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.49%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.49%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.74%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.49%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.74%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.74%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.49%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.49%	18/07/2022	1.90%	AA-
Westpac Bank	2,000,000	1.49%	13/03/2023	2.95%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,025,290	1.51%	06/12/2023	1.93%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,006,705	0.75%	25/04/2023	1.68%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,019,150	0.76%	11/01/2024	2.03%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,006,235	0.75%	10/02/2023	1.71%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,528,328	1.14%	24/04/2024	2.03%	AA-
<b>TOTAL MEDIUM TERM (2-5 YEARS)</b>	<b>23,585,708</b>	<b>17.56%</b>		<b>2.86%</b>	
<b>TOTAL INVESTMENTS</b>	<b>134,301,225</b>	<b>100.00%</b>		<b>2.18%</b>	

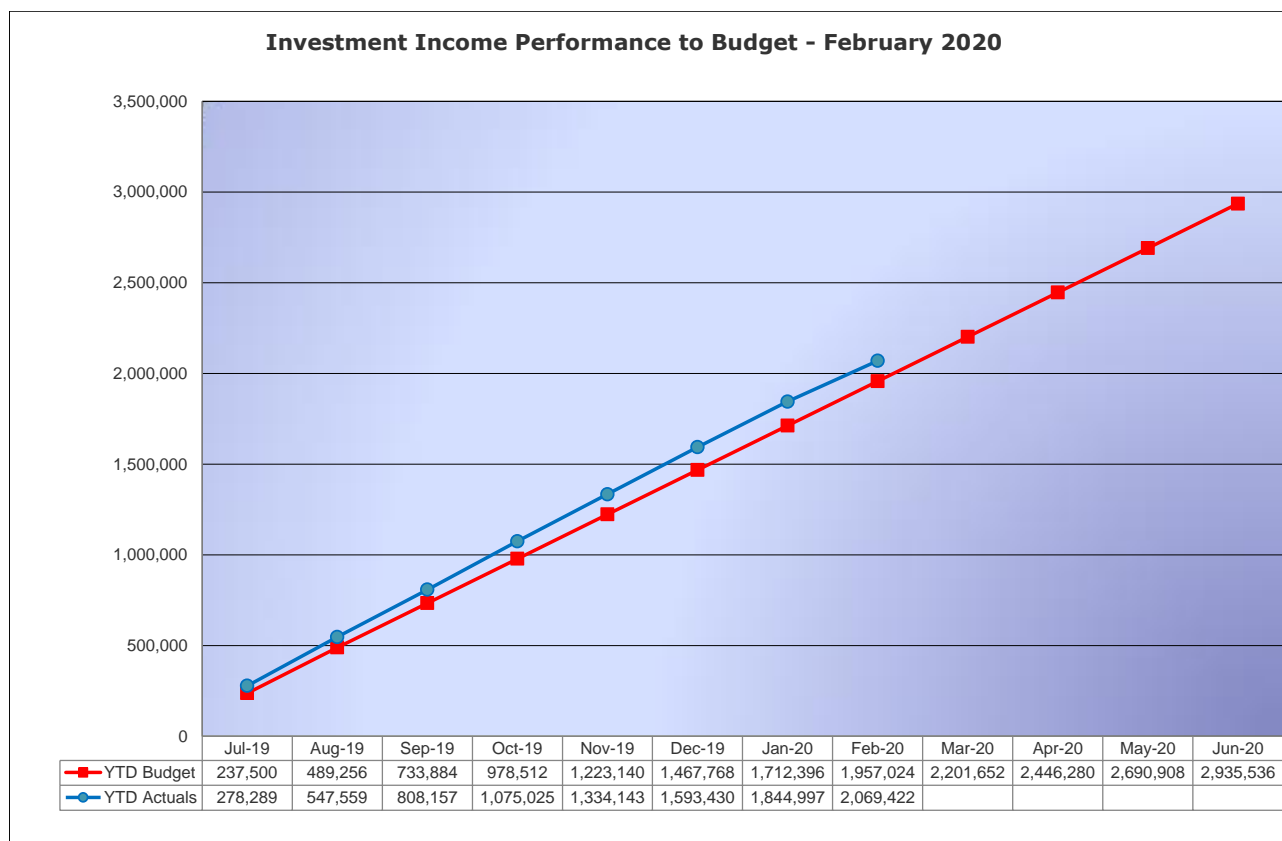
## COUNCIL IMPLICATIONS

### Budget/Financial

<b>Portfolio Investment Returns to 29 February 2020</b>			
	<b>Actual</b>	<b>Budget 2019/20</b>	<b>Over/(Under)</b>
<b>This Month</b>			
Cash Deposits & FRNs	\$222,735	\$243,128	(\$20,393)
Managed Funds	\$1,690	\$1,500	\$190
	<b>\$224,425</b>	<b>\$244,628</b>	<b>(\$20,203)</b>
<b>Year to Date</b>			
Cash Deposits & FRNs	\$2,053,256	\$1,945,024	\$108,232
Managed Funds	\$16,166	\$12,000	\$4,166
	<b>\$2,069,422</b>	<b>\$1,957,024</b>	<b>\$112,398</b>

- Actual results have shown that total interest income to 29 February 2020 is \$0.112M above the 2019-20 budget of \$1.957M. Note, the cumulative impacts of the RBA cuts (1%) to the Cash Rate (0.50%) since June 2019 are impacting on Council's return and whilst Council is currently above budget this will decline as the year progresses.
- As at 29 February 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$77,362.



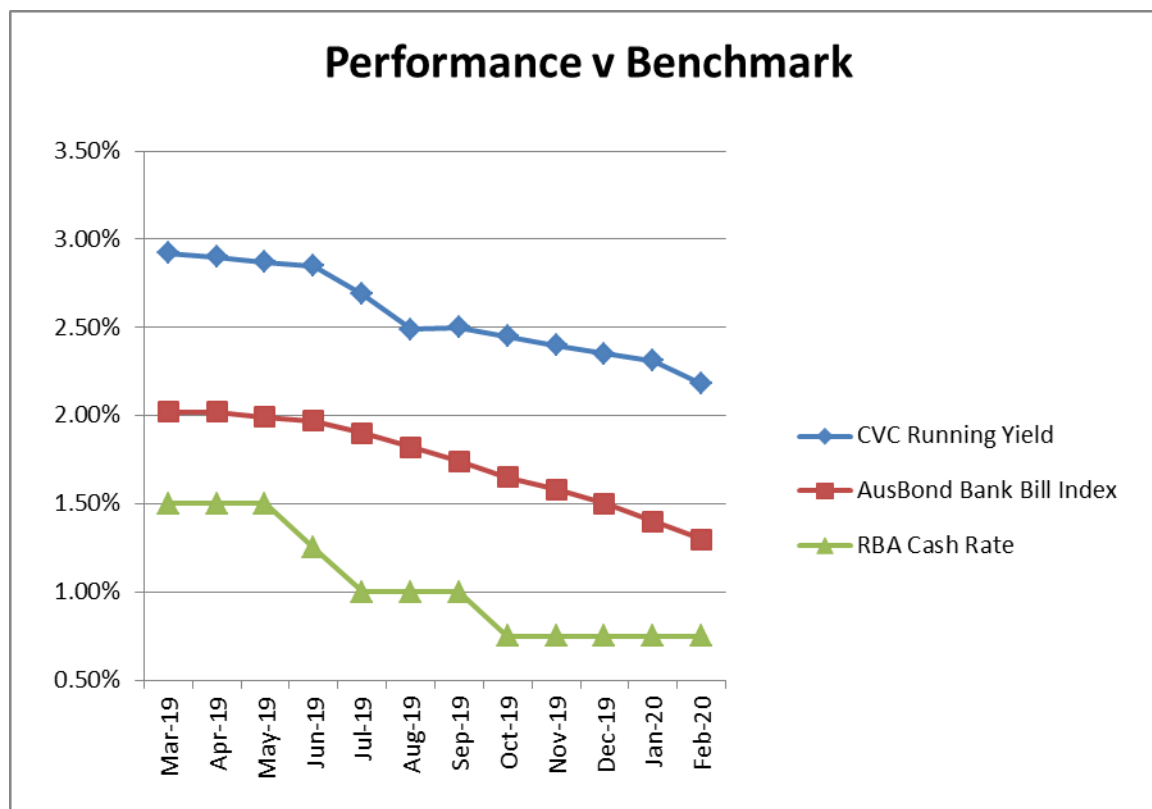


- Running yields\* to 29 February 2020 have been:

AMP Business	1.05%
AMP 31 Day Notice	1.55%
ANZ Premium Business	1.05%
CBA General	0.60%
24hr Call Account	0.70%
T-CorpIM Cash Fund	1.08%
Floating Rate Notes	1.90%
Term Deposits	<u>2.48%</u>
<b>Total</b>	<b>2.18%</b>

\*Running yield is a measure of the return (before costs) that would be earned from current positions if there were no trades and no fluctuation in market yields.

- The RBA cash rate at the end of February was 0.75%. The benchmark AusBond Bank Bill Index was 1.30% for February. Note, the RBA cut the cash rate by 25bps to 0.50% at its meeting on 4 March 2020.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.18% (January 2.31%). The running yield will continue to decline as previously higher yielding term deposits reach maturity.



The following investments were arranged during February:

- BoQ \$2.0m TD matured 03/02/2020, redeemed
- New ING \$2.0m TD invested 03/02/2020 for 12 months at 1.65% - matures 03/02/2021
- Rural Bank \$2.0m TD matured 10/02/2020, reinvested for 120 days at 1.55% - matures 09/06/2020
- New NAB \$2.0m TD invested 11/02/2020 for 6 months at 1.55% - matures 11/08/2020
- Rabo Bank \$2.0m TD matured 12/02/2020, redeemed
- ING Bank \$3.0m TD matured 14/02/2020, reinvested for 728 days at 1.60% - matures 11/02/2022
- ING Bank \$2.0m TD matured 20/02/2020, reinvested for 732 days at 1.60% - matures 21/02/2022
- New ING Bank \$3.0m TD invested 20/02/2020 for 2 years at 1.60% - matures 21/02/2022
- Bendigo Bank \$1.0m FRN matured 21/02/2020, redeemed

#### 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.

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Prepared by	Michael Salvestro – Financial Accountant
Attachment	Attachment A: Movement of Funds Between Months – February 2020 Attachment B: Revised Investment Strategy

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<b>ITEM</b>	<b>6c.20.029</b>	<b>2019/20 MONTHLY FINANCIAL REPORT – FEBRUARY 2020</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginnity)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

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

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

Budget variations identified in this report impact the General Fund end of year result, decreasing the deficit by (\$148,143) to an expected end of year surplus (\$382,390).

The reserve fund variations identified in this report will decrease the reserve funds by \$774,815.

**OFFICER RECOMMENDATION**

That Council:

1. Receive and note the monthly financial information report for February 2019, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling (\$148,143) for inclusion in the March 2020 Quarterly Budget Review Statement to be presented to Council in April 2020.
3. Endorse the proposed variations, which decrease Financial Reserves by \$774,815 for inclusion in the March 2020 Quarterly Budget Review Statement to be presented to Council in April 2020.

**COMMITTEE RECOMMENDATION**

Ellem/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 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Section 202 of the *Local Government (General) Regulation 2005* requires that the responsible accounting officer of a council must:

- a) *Establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

The **attachment** to this report incorporates a monthly transactional summary of operational and capital income and expenditure by sub service for all Funds. Included in this summary are actual loan repayments transacted and estimated accruals for depreciation, staff entitlements and interest, with these being confirmed at end of year. Reserve interest is excluded, as this is transacted annually.

The report table below highlights any proposed budget variations that staff have become aware of during the past month that may affect the 2019/20 budget. The mechanism for revising the adopted budget is the Quarterly Budget Review Statement (QBRS) in compliance with Clause 203 of the Local Government (General) Regulation 2005.

QBRS reports are submitted to Council in October, February (in the absence of a January meeting) and April of each year, with annual financial information being reported in October (Refer to Audit and Pre-Audit Budget V Actual Result) and November (Annual Financial Statements).

#### KEY ISSUES

##### **Major Budget Variations Proposed**

Following is a list of the major proposed variations for the month of February 2019.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
611	<b>Service – Organisation Performance &amp; Governance</b> <b>Sub-Service – Organisational Governance</b> <ul style="list-style-type: none"> <li>Fund new Delegations Compliance (Governance) Software from RA 10275 –IR - Statewide Risk Management Reserve</li> </ul>	\$Nil	\$21,900	N/A
801	<b>Service – Works &amp; Civil Management</b> <b>Sub-Service – Asset Management</b> <ul style="list-style-type: none"> <li>Reduction of budget - not required as no Land Revaluations to be undertaken, per Auditor's advice, pending changes to Accounting Standards</li> </ul>	(\$81,972)	\$Nil	N/A
817	<b>Service – Airports</b> <b>Sub-Service – Regional Airports</b> <ul style="list-style-type: none"> <li>Recognise 19/20 Improvement Strategy saving in reduction of Materials budget.</li> </ul>	(\$34,000)	\$Nil	N/A
841	<b>Service – Sporting Facilities</b> <b>Sub-Service – Sporting Facilities</b> <ul style="list-style-type: none"> <li>Grant funding and expenditure budget for Rushforth Park Redevelopment to be moved forward to 2020/21 for completion stage:</li> </ul>			

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	<ul style="list-style-type: none"> <li>➤ Council matching contribution \$250,000 NSW Government</li> <li>➤ Stronger Community Funding Program \$170,000</li> </ul>	(\$250,000)	\$Nil	6e.20.003
851	<p><b>Service – Natural Resource Management</b> <b>Sub-Service – Biodiversity</b></p> <ul style="list-style-type: none"> <li>• Biodiversity Offset Revenue to be transferred to RA 10245 – IR - Biodiversity Offset Reserve (\$46,085)</li> <li>• Allocate NSW Department of Planning, Industry and Environment – South Grafton Flying-fox Impact Project Grant (\$4,000)</li> </ul>	\$Nil	(\$46,085)	N/A
860	<p><b>Service – Buildings, Properties &amp; Leases</b> <b>Sub-Service – Administration Buildings</b></p> <ul style="list-style-type: none"> <li>• Additional cost of Asset Protection - implemented pest control program</li> </ul>	\$20,521	\$Nil	N/A
863	<p><b>Service – Buildings, Properties &amp; Leases</b> <b>Sub-Service Public Halls</b></p> <ul style="list-style-type: none"> <li>• Additional cost of Asset Protection - implemented pest control program</li> <li>• Rebuild of Maclean Showground to be funded from Insurance settlement \$1,032,000</li> </ul>	\$33,180	\$Nil	N/A
864	<p><b>Service – Buildings, Properties &amp; Leases</b> <b>Sub-Service – Buildings in Other Services</b></p> <ul style="list-style-type: none"> <li>• Additional cost of Asset Protection - implemented pest control program</li> </ul>	\$51,128	\$Nil	N/A
892	<p><b>Service – Sewerage Services</b> <b>Sub-Service – Sewer Construction</b></p> <ul style="list-style-type: none"> <li>• RFT19/041 STP &amp; Pump Station Epoxy Coating Renewal to be funded from RA 79025 – ER - Sewer Bank Account Reserve</li> </ul>	\$Nil	\$713,000	6e.20.006
920	<p><b>Service – Development and Environmental Services</b> <b>Sub-Service – Planning &amp; Assessment Services</b></p> <ul style="list-style-type: none"> <li>• Fund additional cost of Planning Levy - increased cost due to increase in DA activity \$78,000</li> </ul>	\$113,000	\$Nil	N/A
940	<p><b>Service –Libraries</b> <b>Sub-Service – Clarence Regional Library</b></p> <ul style="list-style-type: none"> <li>• Per Clarence Regional Library Committee Minutes 13.2.20: <ul style="list-style-type: none"> <li>➤ Increased freight/cartage expenditure – utilisation of old stocks meant lower recurrent budget required for last 2 years – old</li> </ul> </li> </ul>	\$Nil	\$184,000	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	<p>stock now depleted \$2,500</p> <ul style="list-style-type: none"> <li>➤ Spydus software contract changed from quarterly to annually with 19/20 being the transitional year. Delay in the first invoice from supplier resulting in 18/19 cost being met along with the current year \$37,500</li> <li>➤ Casual Staff Salaries/Wages for Regional Services \$27,000</li> <li>➤ Comprehensive Clarence Regional Library (CRL) Marketing Plan per adopted CRL Strategic Plan Item 1.3.1 \$15,000</li> <li>➤ Recurrent Book Maintenance cost not included in 19/20 budget due to oversight. This is a recurrent cost for general operations of the CRL Service \$77,000</li> <li>➤ Replace Radio Frequency Identification (RFID) Gates at Grafton Library with existing gates to be reused at other library \$25,000</li> </ul> <p>With above funded from RA 41125 – ER - Regional Library Accumulated Surplus Reserve</p>			
961	<p><b>Service – Land Use Planning</b> <b>Sub-Service – Land Use Planning</b></p> <ul style="list-style-type: none"> <li>• Precinct Planning for Highway Bypass Project delayed to 20/21. Funding to be returned to RA 14073- IR - PLAN.</li> </ul>	\$Nil	(\$98,000)	N/A
	<b>TOTAL Proposed General Fund / Reserve Balance Impact</b>	<b>(\$148,143)</b>	<b>\$774,815</b>	

**Explanation of Attachment**

Income and Expenditure Statements (**Attachment**) are included for the information of Councillors. It should be noted that the reports include actual monthly transactions with the exception of:

- Accruals for depreciation, staff entitlements and Reserve interest are estimated only based on adopted budget, with actual accruals calculated and adjusted end of year.

## COUNCIL IMPLICATIONS

## Budget/Financial

**General Fund Budget (Surplus)/Deficit**

Original Budget	\$140,398	Deficit
Q1 Revised Budget	\$256,829	Deficit
Q2 Revised Budget	(\$631,474)	Surplus
Q3 Proposed Budget Variations - February	(\$148,143)	Surplus
<b>Proposed Movement of General Fund 19/20 Budget Result February 2020</b>	<b>(\$382,390)</b>	<b>Surplus</b>

With respect to the above projected surplus position of \$382,390, it should be noted that the budget is yet to be varied for the Emergency Service Levy reduction. Recent advice from the NSW Government, confirmed a refund of \$176,778 and this was received by Council on the 3 February 2020. The original refund estimate of \$219,000 was based on the whole Emergency Services Levy increase however \$43,000 of this increase was attributed to plant and other operation costs for the RFS, SES and Fire & Rescue and therefore not refundable. The budget will be amended to reflect this payment in March 2020.

**Proposed Impact on External and Internal Financial Reserve Funds Result****Reserve Movements**

Original Budget	(\$2,329,333)	Increase
Q1 Revised Budget	\$18,071,663	Decrease
Q2 Revised Budget	\$320,752	Decrease
Q3 Proposed Budget Variations - February	\$774,815	Decrease
<b>Proposed Movement of Reserve Funds 19/20 Budget Result February 2020</b>	<b>\$16,837,897</b>	<b>Decrease</b>

**Asset Management**

N/A

**Policy or Regulation**Section 202 of the *Local Government (General) Regulation***Consultation**

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

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Christi Brown, Management Accountant Coordinator
To be tabled	Income and Expenditure Statements by Service & Sub Service



<b>ITEM</b>	<b>6c.20.030</b>	<b>REQUEST FROM ACCOUNT 2205979 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginness)	
<b>Attachment</b>	Confidential	

## SUMMARY

Council received a request from the Water Account Holder (Account 2205979) on 17 May 2018 for a further reduction on water usage charges due to Council failing to maintain the road reserve on which the meter is located. After consultation and negotiation with the water account holder this report presents to Council a negotiated outcome which will clear the outstanding arrears on the water account.

## OFFICER RECOMMENDATION

That

1. Council grant an additional Concealed Leak concession to a maximum of \$1066.50 on Account 2205979 in relation to the second leak which occurred in November 2016.
2. Should the Water Account Holder comply with the payment arrangements detailed in the Key Issues section of the report, Council approve the write-off of all interest and legal charges raised to date.
3. Should the Water Account Holder comply with repayment of the 2015 debt in accordance with the payment arrangement detailed in the Key Issues section of this report, Council move the water meter and connect to rate payer pipeline without charge to mitigate the ongoing issue.

## COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That this item be deferred to ordinary Council meeting.

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

The Water Account Holder (Account 2205979) has requested a further reduction on the water usage charges based on his presumption that Council failed to maintain the road reserve on which the meter is located.

Listed below is a list of the communications to date:

Date	Particulars	Attachment
22/05/2015	Council wrote to the owner advising of high consumption of Meter R8843. The higher than normal reading was detected during Council's normal water meter reading process	A
16/11/2016	Council wrote to the owner advising of high consumption on Meter CVE03135. The higher than normal reading was detected during Council's normal water meter reading process	B
26/05/2017	Council received a request from the owner of the property seeking Council to review the account and made an adjustment based on previous consumption history for the period in which the high consumption occurred. The owner advised that there was damage to mains at the meter located on Council land. The owner claimed that the meter had been driven over by a vehicle	C
29/05/2017	Council received a request from the owner for a concealed leak application form	D
26/06/2017	<p>Council wrote to the owner advising that:</p> <ol style="list-style-type: none"> <li>1. Council grant the maximum allowance under the Concealed Water Leak Allowance Policy at the time</li> <li>2. Council agreed to relocate the water meter to a position within the owner's property at the closest location to the existing meter location at no cost to the ratepayer.</li> <li>3. Council agreed that the water meter be repaired at no cost to the ratepayer</li> <li>4. Council advised that it is the responsibility of the ratepayer to provide protection to the water meter serving the property and that the location of the meter had been in its current location (approximately 20cm outside of the fence) since the service was installed. It was also noted that the meter location was chosen with the agreement of the property owner at the time.</li> <li>5. Council advised that if any pipework on the ratepayer's side of the water meter is located on a Council Road Reserve then Council will not be responsible for any damage caused by Council activities within the road reserve, nor for any consumption recorded as a result of any damage caused by Council. If the ratepayer was concerned that Council activities may damage the private water pipes within the road reserve the ratepayer should make arrangements for these pipes to be relocated to a more suitable location.</li> </ol>	E
17/05/2018	Council received a letter from the ratepayer seeking Council resolve this issue without the need for Courts to be involved	F
01/06/2018	Council sent the owner a letter re-iterating that Council has addressed all previous issues and that if there was no new information then Council was unable to offer any further adjustment. It was noted that Council had offered to relocate the meter at no cost to the ratepayer but to date this offer had not been taken up	G
15/08/2018	Council received a letter from the owner requesting an outcome to his grievance	H
29/10/2018	Council contacted the owner to advise that the matter had been escalated to the Manager Water Cycle for assessment	I
30/10/2018	Council advised that in order to waive additional charges on top of what had already been applied that a Council resolution would be required. The ratepayer was further informed that he would need to put his grievance in writing to enable Council to assess.	J

It is noted that during the period of time that this grievance has been unresolved all current water consumption accounts have been paid with the exception of the arrears and interest outstanding relating to the original incident.

In the meantime Council had continued to send reminder notices to the owner in regard to the outstanding debt in accordance with its Debt Recovery – Water Billing Policy. During December 2019 Council issued a Reminder Letter and an Outstanding Water Notice to the owner in regard to the outstanding balance on the water account.

On the 20 January 2020 a letter was sent to the ratepayer advising that if the account was not paid by the due date then a water limiter would be installed on the property in alignment with our debt recovery procedures. Advice was given that removal of the limiter would only occur once the account was paid in full together with the limiter installation and removal fees.

After discussion with the owner, Council agreed not to install a water limiter whilst the matter still remained unresolved. Resolution will be by way of this report, and implementation of the Council resolution.

The following is a breakdown of the consumption history on account 2205979 since 2013.

Meter ID	Reading Date	Consumption	Amount	Daily Average
CVE03135	28/01/2020	0	\$0.00	0.000
CVE03135	13/11/2019	353	\$878.97	3.879
CVE03135	14/08/2019	180	\$441.00	2.022
CVE03135	17/05/2019	159	\$389.55	1.728
CVE03135	14/02/2019	135	\$330.75	1.500
CVE03135	16/11/2018	95	\$232.75	1.022
CVE03135	15/08/2018	7	\$16.87	0.084
CVE03135	24/05/2018	35	\$84.35	0.361
CVE03135	16/02/2018	194	\$467.54	2.256
CVE03135	22/11/2017	327	\$788.07	3.371
CVE03135	17/08/2017	233	\$552.21	2.807
CVE03135	26/05/2017	547	\$1,296.39	5.470
CVE03135	15/02/2017	727	\$1,722.99	7.902
CVE03135	15/11/2016	1,854	\$4,393.98	20.600
CVE03135	17/08/2016	372	\$710.52	4.537
CVE03135	27/05/2016	890	\$1,699.90	8.990
CVE03135	18/02/2016	783	\$1,495.53	8.604
CVE03135	19/11/2015	191	\$364.81	2.616
R8443	7/09/2015	1	\$1.79	0.056
CVE03135	7/09/2015	0	\$0.00	0.000
R8443	20/08/2015	175	\$313.25	1.902
R8443	20/05/2015	1,658	\$2,967.82	18.220
R8443	18/02/2015	1,242	\$2,223.18	13.800
R8443	20/11/2014	797	\$1,426.63	8.758
R8443	21/08/2014	213	\$357.84	2.315
R8443	21/05/2014	1,062	\$1,784.16	11.800
R8443	20/02/2014	769	\$1,291.92	8.451
R8443	21/11/2013	186	\$312.48	2.044

Meter ID	Reading Date	Consumption	Amount	Daily Average
R8443	22/08/2013	78	\$122.46	0.907
R8443	28/05/2013	55	\$86.35	0.647

The owner seeks Council to make an additional reduction to his account based on the fact that Council has a duty of care to maintain the road reserve and this was not done.

#### KEY ISSUES

Water Meter CVE03135 is located within the road reserve. An offer was made to the owner to relocate the meter at no cost to him, and by not taking up this offer the owner accepts the risk of further damage to the meter.

An inspection highlighted that the new pipework arrangement after the new meter was installed does not comply with the relevant Australian Standards, and the meter remains unsupported and is liable to further damage in the present condition.

The owner has subsequently been advised that based on the information found in the inspection, if pipes in the owner's private water infrastructure are of unsuitable quality and not fit for purpose, then further leaks are to be expected.

Plan to resolve the matter:

In order to implement the Council resolution to move the water meter and write off interest and legal costs, the Water Account Holder (Water Account 2205979) is required to:

1. Pay the 2015 outstanding debt by 30 April 2020.
2. Enter into a payment arrangement for the remaining debt to ensure it is paid by 30 June 2020.

Normal debt recovery activity will be resumed from 1 July 2020 in the event the above arrangement is not met.

#### COUNCIL IMPLICATIONS

##### Budget/Financial

If no adjustment is granted there will be no impact on the income for the 2019/2020 financial year.

##### Asset Management

N/A

##### Policy or Regulation

Concealed Water Leak Allowance Policy

Debt Recovery – Water Billing Policy

##### Consultation

Consulted with the Manager Water Cycle re history of works and circumstances around prior advice given to rate payer.

##### Legal and Risk Management

N/A

**Climate Change**

N/A

Prepared by	Paula Krahe – Revenue Co-Ordinator
Confidential	<ul style="list-style-type: none"><li>A) Letter from Council dated 22/05/2015 advising of high consumption – Meter R8443</li><li>B) Letter from Council dated 16/11/2016 advising of high consumption – Meter CVE03135</li><li>C) Letter dated 26/05/2017 from the owner seeking an adjustment to the account</li><li>D) Email dated 29/05/2017 requesting a concealed leak application form</li><li>E) Letter from Council dated 26/06/2017</li><li>F) Letter dated 17/05/2018 from the owner seeking an additional adjustment to the account</li><li>G) Email from Council dated 01/06/2018</li><li>H) Letter dated 15/08/2018 seeking a resolution to the grievance</li><li>I) Email from Council dated 19/10/2018 advising that the matter had been referred to the Manager Water Cycle for assessment</li></ul>

<b>ITEM</b>	<b>6c.20.031</b>	<b>CLASSIFICATION OF LOT 156 DP 1259959 AS OPERATIONAL</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

## SUMMARY

This report seeks to classify recently acquired land, Lot 156 DP 1259959, as operational land. Lot 156 DP 1259959 was dedicated as a Drainage Reserve on registration of the plan.

## OFFICER RECOMMENDATION

That Council classify Lot 156 DP 1259959 located at Yamba as operational.

## 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 5 Leadership

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

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

## BACKGROUND

Lot 156 DP 1259959, being a subdivision of Lot 1 DP 1248516, in Yamba was registered on 9 January 2020. The Lot is owned and managed by Council as a dedicated drainage reserve.



**KEY ISSUES**

Section 31 of the *Local Government Act 1993* provides that land is automatically classified as community land, unless Council resolves prior to acquiring it, or within 3 months of acquisition, that it is operational.

Drainage reserves have an operational purpose.

If the land remained as Community land, an adopted plan of management would be required and unnecessary restrictions on the use of the land would apply. To change the classification after the three months would require a planning proposal to reclassify. In addition, many adjoining property owners apply to erect water recreation structures on the drainage reserve and Water Recreation Structures for private use are not permitted on community land.

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

The classification requires public notice to be given and costs for advertising will be covered by existing budget.

**Asset Management**

Lot 156 DP 1259959 will be added to Council's Land Register and Assets system and will be managed in conjunction with the other adjoining drainage reserves.

**Policy or Regulation**

Sections 25-27 and 31 of the *Local Government Act 1993* require land acquired after 1 July 1993 to be classified. Section 34 requires public notice to be given.

**Consultation**

In accordance with Section 34 of the *Local Government Act 1993*, 28 days public notice has been advertised. Submissions close on 16 March 2020. At the time of writing this report no submissions have been received.

**Legal and Risk Management**

To take no action and allow the classification to default to Community would require Council to incur the costs of preparing an adopted plan of management and impose unnecessary restrictions on the operational use of the land. To change the classification after the three months would require a planning proposal to reclassify.

**Climate Change**

N/A

Prepared by	Kylee Baker, Property Coordinator
Attachment	Nil

<b>ITEM</b>	<b>6c.20.032</b>	<b>COUNCILLOR SUPERANNUATION</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	To be tabled	

## SUMMARY

The report considers Council's response to the Office of Local Government's Discussion Paper titled 'Councillor Superannuation'.

## OFFICER RECOMMENDATION

That Council supports Option One: Maintaining the Status Quo, which does not oblige councils to make superannuation guarantee payments on behalf of the mayor and councillors, but enables it at the direction of elected members who choose to forego part of their fee in exchange for the council making contribution to a complying superannuation fund.

## MOTION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley

Against: Lysaught, Ellem, Toms, Simmons

The Motion was put and declared LOST.

## COMMITTEE RECOMMENDATION

Toms/Lysaught

That Council support Option 4 to amend the NSW Local Government Act 1993 to give councils the option to pay an amount equivalent to the superannuation guarantee into a complying superannuation fund nominated by the mayor and councillors in addition to the mayor's or councillors' fees.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Kingsley

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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



**BACKGROUND**

The Discussion Paper – Councillor Superannuation contemplates changing legislation to require councils to pay a portion of elected members' fees, or an amount in addition to the elected members' fees into complying superannuation funds nominated by the elected member.

The Discussion Paper considers whether NSW mayors and councillors are adequately remunerated and it should be noted the Council has previously resolved (6c.19.089 November 2019) to support the creation of a new category - Regional Centre that is halfway between the categories either side being, Regional Strategic Area and Regional Rural. If legislated, this will result in increased remuneration for Clarence Valley Council elected members.

The Discussion Paper also considers whether NSW mayors and councillors have been denied a financial benefit received by other members of the workforce through the payment of the superannuation guarantee. Whether payment of the superannuation guarantee will encourage more women or more young people to stand as candidates at council elections, associated costs and where those costs would be attributed.

While the Discussion Paper does not conclusively contemplate an increase in the number of women standing as candidates it does suggest the lack of payment may be an impediment. The Discussion Paper is also inconclusive in terms of whether the lack of payment is an impediment to young people standing, but suggests that young people are uninterested in superannuation or retirement planning.

The Discussion Paper discusses that if implemented as an additional cost this should be borne by individual councils and recommends a cost detailed based on the existing categories. Clarence Valley Council is currently classified as Regional Rural, but has proposed to become a Regional Centre.

**KEY ISSUES**

The Discussion Paper provides councils with the following 4 options.

*Option 1: Maintaining the status quo*

Under this option, councils will continue not to be obliged to make superannuation guarantee payments on behalf of the mayor and councillors. Mayors and councillors who wish to make concessional contributions to their superannuation funds can continue to enter into an arrangement with the council under which they agree to forego part of their fee in exchange for the council making contributions to a complying superannuation fund on their behalf on a pre-tax basis.

*Option 2: Amending the NSW Local Government Act 1993 to require councils to pay a portion of the mayor's and councillors' fees equivalent to the superannuation guarantee amount into a complying superannuation fund nominated by the mayor and councillors.*

Under this option, the Act would be amended to require councils to pay a proportion of the mayor's and councillors' fees equivalent to the superannuation guarantee amount into a complying superannuation fund nominated by the mayor and councillors.

*Option 3: Amending the NSW Local Government Act 1993 to require councils to pay an amount equivalent to the superannuation guarantee into a complying superannuation fund nominated by the mayor and councillors in addition to the payment of the mayor's and councillors' fees.*

Under this option, all councils will be required to pay an amount equivalent to the superannuation guarantee contribution payable with respect to the mayor's and councillors' fees, into a complying superannuation fund nominated by the mayor and councillors. The payment would be made in addition to the payment of the mayor's and councillors' fees. A supporting amendment would be required to exempt the additional payment from section 242A of the Act.

*Option 4: Amend the NSW Local Government Act 1993 to give councils the option to pay an amount equivalent to the superannuation guarantee into a Councillor Superannuation – Discussion Paper 14 complying superannuation fund nominated by the mayor and councillors in addition to the mayor's and councillors' fees.*

This option is based on the Queensland model. Under this option, the payment of an additional superannuation contribution in addition to the mayor's and councillors' fees would be optional for councils. Councils would also have the option to make a superannuation contribution on behalf of the mayor and councillors as a portion of the mayor's or councillors' fees. As with option 3, a supporting amendment would be required to exempt the additional payment from section 242A of the Act.

While the report recommends supporting option one, Council could equally support any of the other options presented in the Discussion Paper.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

Supporting Option 1 or 2 does not impact on the current budget. Option 3 would require an increase to the budget, while supporting Option 4 may depending on the will of the Council to implement.

### **Asset Management**

N/A

### **Policy or Regulation**

N/A

### **Consultation**

N/A

### **Legal and Risk Management**

N/A

### **Climate Change**

N/A

Prepared by	Laura Black, Director Corporate and Governance
To be tabled	Office of Local Government Discussion Paper Councillor Superannuation

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**ITEM 6c.20.033 UPDATE ON REVIEW OF BEACH ACCESS POLICY**


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<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (David Sutton)	
<b>Attachment</b>	Yes	

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**SUMMARY**

This report provides an update on the implementation of the *Beach Access and Vehicle on Beaches policy* as per point 8 and 9 of Council resolution 15.148/18.

**OFFICER RECOMMENDATION**

That Council

1. Receive and note the report on Beach Access and Vehicles on Beaches Policy over the past 18 months.
2. Adopt the administrative changes to the Beach Access and Vehicles on Beaches Policy.
3. Endorse the locking of the Wooli breakwater gate 24/7 at times when surf lifesaving patrols are in place during the relevant school and Easter holiday periods.

**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 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

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

**BACKGROUND**

Following a public meeting in February 2018, Council requested a review of the Beach Access and Vehicles on Beaches Policy. Changes to the policy to reflect public sentiment were adopted by Council at the September 2018 Ordinary meeting of Council [Item 15.148/18].

*That Council:*

1. *Adopt the recommended changes to the Beach Access and Vehicles on Beaches Policy including the addition of*
  - a. *Install boom gates and associated vehicle access prevention bollards at Brooms Head near Lake Cakora and at Wooli breakwater access locations*
  - b. *Prohibit motor vehicles on the beach (i) at Brooms Head main beach from the southern end boat launching ramp to Redcliff with the following exceptions: vehicles used in launching ocean craft for both recreational and professional fishing activities at the southern end boat ramp and*

*also from the access point near Lake Cakora, and essential service vehicles, and (ii) at Woolli beach north of the breakwater for 500 metres with exception of essential service vehicles*

2. *Cost of these works to be funded from CCRT financial reserves RA 79000.*
3. *Increase and monitor the levels of compliance and enforcement to be funded from beach permit revenue.*
4. *Assist NSW State agencies to monitor impacts on flora and fauna on beaches as a result of vehicle and general use.*
5. *Update and review signage at 4WD access points to reflect elements of Policy.*
6. *Promote the safe use of beaches by vehicles especially around NSW and Queensland school holiday periods.*
7. *In conjunction with the Yaegl Traditional Owners Aboriginal Corporation, monitor erosion and beach access at all Clarence Valley beaches, and where required provide a report recommending changes to the policy.*
8. *Provide a report on the changes and implementation of the Policy within 18 months of the date of adoption of this Policy.*
9. *Receive a report including an investigation into relocating the beach access at Lake Cakora in consultation with the community.*

## KEY ISSUES

The following presents the actions taken to implement the resolution, the outcomes achieved, and community feedback received following the implementation of the resolution. [Item 15.148/18]

### Point 1 – Changes to Beach Access

The installation of boom gates was completed 14 December 2018 at the Lake Cakora beach access point at Brooms Head, and the breakwater beach access point near Woolli River.

The boom gate located at Brooms Head appears to be having an effect on controlling illegal beach access. Anecdotal evidence from a number of local community members that continue monitoring the beach access point report that some 4WD owners are not complying with sign on gate; and some fisherman accessing with tractors tend to ‘drive through’ the gate without shutting. A surveillance camera was installed adjacent to the gate through the October and December school holidays, this camera has confirmed level of non-compliance (refer to Summary of Issues - Table 1 below).



Figure 1 – Broom Head beach access (gate closed)

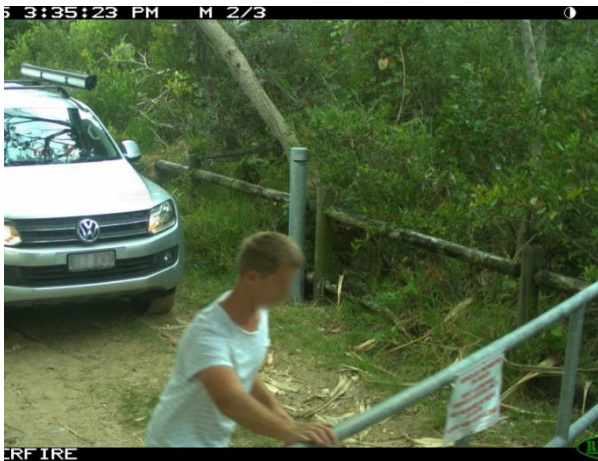


Figure 2 – Broom Head beach access (non-compliance)

The boom gate located at Woolli breakwater beach access appears to be non-functional as it is found to be left open too often to be effective. The gate is monitored and closed regularly by Australia Lifesaving Service during holiday periods when they are undertaking contracted beach patrols. No surveillance camera has been trialled at this location. It is proposed now to close and lock the gate 24/7 at times when surf lifesaving patrols are in place during the relevant school and Easter holiday periods.

The Woolli beach closure north of the breakwater has been ineffective, principally as there is non-compliance of the ‘No Right Turn’ sign at South Terrace 4WD access point. No surveillance camera has been trialled at this location and this could be considered in the future.



Figure 3 – Woolli Breakwater beach access (gate closed)



Figure 4 – Woolli Beach South Terrace access (non-compliance)Point 2 – Cost of implementation - gates

The cost to undertake the construction and installation of two gates as pictured above was funded from CCRT financial reserves RA 79000, the cost being \$9,976.

### Point 3 – Compliance and Enforcement Monitoring

Council Regulatory Services have provided patrols of beach access points since September 2018, with higher surveillance undertaken over school holiday periods. There has been no after hours work on compliance relating to beach access. A summary of compliance and monitoring actions is listed below:

- a. Number of complaints - CRMS entries re: illegal access (CRM027D) – 32 (from January 2019 to January 2020)
- b. Number of PINS enforced - nil
- c. Number of patrols – only undertaken inspections when on site for other duties

A surveillance camera was positioned at Brooms Head beach access gate between 25 September and 7 November 2019, and between 20 December 2019 and 3 February 2020. The camera identified a pattern of behaviours from local beach users that was not complying with the policy. Council Regulatory Services identified the owners of vehicles to which warning letters were issued advising owners of the breach of policy. A total of 11 letters were issued 2 in May 2019 and 9 in December 2019.

There is capacity for staff to continue surveillance camera monitoring over future school holiday periods to understand ongoing compliance response.

### Point 4 – Assist state agencies to monitor flora and fauna

Council staff have been in regular contact with National Parks & Wildlife Service (NPWS) and Crown Lands regarding the impact of flora and fauna on beaches. When required, information has been sought regarding the impact on shorebirds, the issue of dogs on beaches, as well as monitoring incipient dune vegetation on beaches.

There is anecdotal evidence of an increase in the shorebirds nesting since vehicles were prohibited from Brooms Head beach.



Figure 5 – Shorebird sitting on eggs

*(Photos by Steve Otton)*



Figure 6 – Shorebird nest with eggs

*(Photos by Steve Otton)*

### Point 5 – Update signage

Council staff undertook a review of signage and other policy implementation measures in October 2018. The review identified any abnormalities with regulatory and guidance signage, speed limits, permit requirements and adherence to regulations. In the case that deficiencies were identified actions such as updating signage, updating information brochures were taken as required to meet policy.

Monitoring of behaviours following the implementation of the policy has shown that compliance under the policy and other regulations is not being met. A summary of issues is listed in the Summary of Issues – refer to Table 1 in this report.

Point 6 – Promote safe use of beaches by vehicles

Council staff updated the brochure in December 2018 and July 2019 following amendments to the policy and actions from Council resolutions. Council's website and social media pages were updated as required to reflect changes in the brochure. The brochure is available through a range of outlets including Council offices, holiday parks, bait and tackles shops, and is provided to purchasers of the Council Beach Permit to provide a summary of policy requirements.

It is noted there is ambiguity with sections of the brochure and this will be reviewed before update for July 2020.

Point 7 – With Yaegl TOAC monitor erosion and beach access

Actions to monitor erosion are currently undertaken in accordance with various Coastal Zone Management Plans. This is an on going action as part of Council resolution and it is recommended that it be deferred as part of the development of an Indigenous Land Use Agreement. No direct input has been received from Yaegl TOAC to date although the review of this policy was briefly discussed and referenced for future feedback at our regular catch up meetings.

Point 8 – Report on changes and implementation of the policy

Over the past 18 months there have been specific queries regarding the beach access policy – noted in Table below:

**Table 1 – Summary of Issues**

ISSUE	RESPONSE	OUTCOME
Increased level of P plate drivers on Iluka Beach not adhering to speed limits around pedestrians (Michaela Burt)	Council to review resourcing Rangers, although difficulty of having them on site when offences undertaken. Also noted recommendations for signage to promote safe speeds on the beach.	Recommend increased resourcing for Rangers and improved signage regarding speed limits
No vehicles on Wooli Beach adjacent to village (James Watson)	Numerous emails to CVC and response from Governance section to adhere to policy	No change to policy. Consideration at next review
No vehicles on Back Beach Brooms Head (Susan Muir)	Back Beach identified as Crown Land managed in trust by Council - acknowledge no vehicle access north of Crown Land/NP boundary and signage placed to indicate as such	Recommend co-signage with NPWS input at Sandon access points Locate near unofficial 4WD access adjacent to NPWS boundary with Crown Land
Gate at Brooms Head – ongoing issue with non-compliance (Barbara Linley)	Although ongoing indiscretions by various users, mostly compliance occurring	Retain current status of unlocked gate
Illegal access via Brooms Head van park – newly repaired section with sand (Barbara Linley)	Action undertaken by Open Spaces staff and request forwarded to Regulatory Services – patrols of beach made when possible, have not carried out any after hours patrols	Repaired area fenced off to restrict vehicle and pedestrian access (Open Spaces 9/12)
Ambiguity with Brooms Head Back Beach (Steve Hodgson) - users not sourcing CVC permit - lack of on-ground advisory	Agreed – ongoing problem with particular area under policy	Update brochure to reduce ambiguity noting no vehicle access Back Beach adjacent to Crown Land area

ISSUE	RESPONSE	OUTCOME
signage of no vehicle back beach?		
Tenure – trafficable sections of beach is intertidal zone, generally Crown Land, how does NPWS permit come into effect?	All beaches regardless of tenure should require a CVC Beach Permit – shouldn't matter if accessing via Council, Crown Land or NP estate	Ensure this message reflected in policy and brochure with beach permits
Ongoing non-compliance with beach access points, particularly Wooli South Terrace	Non-compliance with signage needs to be addressed	Increased patrols by Rangers required. Lock the breakwater gate during surf lifesaving periods
Complaints – vehicles on beach perceived not having CVC Beach Access permit	Potentially not aware of policy, in particular no beach access and access points	Increased patrols by Rangers Education and awareness on requirements of policy
Perceived ambiguity about holding CVC permit as well as NPWS permit if entering beach through NP	Common problem for access to beaches refer to 5.2.7 of policy,	Update brochure to reflect that all beaches in CVC area require CVC beach permit (policy 3.1)
Land managers (Council, Crown, NPWS) need to improve signage at 4WD access points to provide consistent messaging	Agreed - ongoing problem with particular area under policy	Agencies to develop consistent co-signage for beach access points
Disabled access to beach – some ambiguity around policy	Policy states that vehicle must be removed from beach after exiting mobility impaired people	Update brochure to reflect policy

Feedback from the community has generally been positive in regards to the changes to the policy. Reference is made to an email addressed to mayor and councillors from Barbara Linley – 19 December 2019.

*Good morning to you all, on behalf of the “gate committee” I am emailing you as to how the newly installed gate has been working. There were issues initially however the majority of beach goers really enjoy walking with friends, family, their dogs without the worry of cars. And if they use the gate close it! People are feeling safer. From our observations the bird life is coming back.*

*90% of the public are using the gate as it was intended. Very few 4wheel drives are driving on to the beach. There have been a couple who have used the far end ramp to drive on to the beach and a couple of 4wheel drives who still decide to drive along to exercise their dogs. And the odd fisherman still leaves the gate open.*

#### Point 9 – Relocation of Lake Cakora beach access

Access to Brooms Head main beach is currently available through the Lake Cakora access point and two boat ramps within the holiday park which are controlled by Council. Alternative vehicle access on to Brooms Head beach was identified through adjacent land parcels - either using Crown Land Reserve 1010649, or through Yuraygir National Park via Red Cliff camping area.



Following investigation it was conclusive that both sites will not provide an alternative access, with the Crown Reserve cut off via a tidal creek running north from Lake Cakora. Discussions with NPWS were undertaken regarding an alternative access but it was determined to be incompatible with the Yuraygir National Park Plan of Management objectives.



Figure 7 -Access to Brooms Head main beach from Red Cliff deemed incompatible with Yuraygir NP Plan of Management

## COUNCIL IMPLICATIONS

### Budget/Financial

CC845 Beach Management - Beach Permits are not covering compliance activities required to meet satisfaction of policy. Income from beach permits for 2019/20 is currently at \$7,950.25; compared to previous financial years 2018/19 (\$12,240.52) and 2017/18 (\$13,920.65).

There is overwhelming evidence to support the need to increase Ranger presence to ensure compliance requirements of regulations and the policy.

### Asset Management

From CVC Asset Management Strategy – page 54 – critical risks – coastal parks and reserves – serious injury due to vehicle collisions with pedestrians. This remains a clear identifiable issue of concern with community members.

Beach Management – implication for beach permits; allowable activities.

### Policy or Regulation

- CVC Beach Access and vehicles on beaches policy (2018) – updated as part of report
- Coastal Zone Management Plans
- *Local Government Act 1993* - on the spot fines for non-compliance
- *Biodiversity Conservation Act 2016* - Impacts to threatened species
- *Crown Lands Management Act 2016* – management of access points
- Native Title Act

### Consultation

Internal – Open Spaces staff, Water Cycle staff involved in beach scraping project

External – NSW NPWS, Crown Lands, Lifeguard Services, SES, beach users, Yaegl Native Title Owners

### Legal and Risk Management

There is potential impact of Native Title determinations (Yaegl TOAC) over land required for beach access; risk of vehicle incidences on beaches leading to public liability claims.

**Climate Change**

The implications of beach access and climate change are inextricably linked. As Council contends with sea level rises, the impact of vehicles on beaches needs to be monitored closely over the coming years.

Further with the increase in nature based tourism in our Council area there is a growing trend in off-road usage, particularly interstate vehicles using beaches.

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Prepared by	Reece Luxton, NRM and Projects Co-ordinator
Attachment	A – Amended Policy v6.1 – administrative amendment refer resolution 15.148/18 B – Photos and media releases

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<b>ITEM</b>	<b>6c.20.034</b>	<b>THE AUSTRALASIAN LOCAL GOVERNMENT PERFORMANCE EXCELLENCE PROGRAM FY19</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	To be tabled	

## SUMMARY

This report presents the Australasian Local Government Performance Excellence Program FY19 outcomes for the information of Council and community.

## OFFICER RECOMMENDATION

That Council note the Australasian Local Government Performance Excellence Program FY19 – Clarence Valley Council report.

## COMMITTEE RECOMMENDATION

Simmons/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 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

## BACKGROUND

This is the fourth year Clarence Valley Council has participated in the PwC and Local Government Professionals NSW, benchmarking project.

The benefits to Council include the ability to monitor business performance over time by understanding the sectors comparative performance and make informed decisions that improve business process and service delivery outcomes.

56 NSW Councils participate in the project. The current report details performance through the 2018/19 financial year.

## KEY ISSUES

In summary the attached report indicates the following movement over the last four years.

Reduction in:

- Staff to ratepayer ratio

- Female staff turnover rate
- Baby boomer employees
- Reduction in unplanned leave
- Lost time due to injury

Increase in:

- Capital expenditure per resident
- Span of control (number of other staff)
- Female management
- Gen X employees
- Annual leave balance
- Duration of Council meetings

Trends across the sector:

- Improving technology to facilitate working remotely
- Online customer self service
- Cyber security implementation
- Water supply services, governance and administration and roads and bridges services are the most expensive to deliver
- Increasing number of councils undertaken formal review of services
- Reduction in duration Council meetings
- Increasing number of councils having implemented asset management systems

And the following challenges:

- Staff turnover rate that is higher than the State Survey population – introduction of the capability framework should see a decline as development opportunities are realised
- Increasing annual leave balances – leads to fatigue and low morale
- Increased financial operational transactional activity at the expense of strategic financial activity – a review of Finance and Supply activity commenced in 2019 with a plan of process and system improvements scheduled for 2019/20 – 2021/22, which aim to realise efficiencies
- Continuing trend of gender domination in traditional engineer and outdoor workforce and care and support type activities
- We have fewer visitors and less revenue, but higher swimming pool operating costs when compared to the State survey population
- Higher median gross processing days for determined DAs than when compared to the State survey population

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The annual budget for participation in the benchmarking program is \$18,000.

### **Asset Management**

N/A

### **Policy or Regulation**

N/A

### **Consultation**

N/A

### **Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Laura Black, Director Corporate & Governance
To be tabled	Australasian Local Government Performance Excellence Program FY19 – Clarence Valley Council

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**ITEM 6c.20.035 WORKS REPORT**

<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Peter Birch)	
<b>Attachment</b>	Yes	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the Works report be received and noted.

**COMMITTEE RECOMMENDATION**

Ellem/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 2 Infrastructure

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


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

**BACKGROUND**


Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.


**KEY ISSUES**



The summary of works undertaken in February is detailed in the attachment, however, Council staff also wish to highlight the projects below.


<b>Project:</b>	Orara Way/School Lane, Braunstone (Safer Roads)	
<b>Project Description:</b>	Upgrade of the intersection of School Lane and Orara Way at Braunstone	
<b>Budget:</b>	\$516,468	
<b>Expenditure:</b>	\$161,708	
<b>Status:</b>	<ul style="list-style-type: none"> <li>Preparation works complete</li> </ul>	

Shoulder widening in progress

	<ul style="list-style-type: none"> <li>• Earthworks and shoulder widening 15% complete</li> <li>• Drainage pipe upgrades are progressing 10% complete</li> <li>• Pavement works not commenced</li> <li>• Wet weather and the recent natural disaster has impacted the project with the site flooding twice</li> <li>• Foundation treatment is required as a result of the wet weather for approx. 80% of the shoulder widening.</li> </ul> <p>The natural disaster event has highlighted the need to upgrade the existing drainage system to achieve greater flood immunity which was not considered in the grant submission.</p> <ul style="list-style-type: none"> <li>• There is risk that the wet weather impacts will cause the project to exceed the budget.</li> </ul>	 <p>Shoulder widening in progress</p>
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<b>Project:</b>	Convent Beach Pump Station (Y3) Replacement	
<b>Project Description:</b>	Replace the existing gravity sewer system and pump station (Y3) at Convent Beach with a pressure sewer system	
<b>Budget:</b>	\$469,060	
<b>Expenditure:</b>	\$311,487.56	
<b>Status:</b>	<ul style="list-style-type: none"> <li>• Works being undertaken by contractor Ledonne Construction Pty Ltd with contract management by CVC staff</li> <li>• Pressure sewer reticulation mains and boundary kits have been installed</li> <li>• “On property” works (pressure sewer pump wells, discharge pipeline and electrical control system) currently being installed.</li> <li>• Existing gravity reticulation and pump station Y3 will be decommissioned and demolished when new pressure sewer system is commissioned.</li> </ul>	

<b>Project:</b>	Grafton Saleyard Truck Wash Upgrade	 <p>Temporary truck wash facility</p>  <p>New truck wash bay preparation</p>
<b>Project Description:</b>	Upgrade existing single-body truck wash bay & install new B-double truck wash bay; upgrade road entrance; install shower/toilet facility for truck drivers; upgrade lighting.	
<b>Budget:</b>	Restart NSW Grant funds - \$159,500 Federal Govt Grant funds - \$159,500 CVC contribution - <u>\$ 11,500</u> Project Total - <u>\$330,500</u>	
<b>Expenditure:</b>	Expenditure to 29 Feb 20 - \$116,197 Commitments - <u>\$168,739</u> Unspent funds - <u>\$ 45,564</u>	
<b>Status:</b>	<ul style="list-style-type: none"> <li>• Temporary truck wash installed</li> <li>• Existing truck wash demolished</li> <li>• New truck wash bays 60% complete</li> <li>• Shower/toilet facility 90% complete</li> <li>• Lighting upgrade 50% complete</li> </ul>	

	<ul style="list-style-type: none"> <li>• Sourcing quotes to expend remaining \$45,564:             <ul style="list-style-type: none"> <li>➤ Extend entrance road upgrades</li> <li>➤ Extend sediment pits</li> <li>➤ Additional lighting upgrades</li> <li>➤ Upgrade CCTV to cover new truck wash</li> </ul> </li> </ul>	 <p>New B-Double truck wash bay</p>
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**COUNCIL IMPLICATIONS**

**Budget/Financial**

Financial details are provided in the attached works summary.

**Asset Management**

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

**Policy or Regulation**

There are no policy or regulation implications.

**Consultation**

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

**Legal and Risk Management**

There are no legal or risk management implications.

**Climate Change**

There are no climate change implications.

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



ITEM	6c.20.036	GRAFTON POOL MASTER PLAN UPDATE – LOCATED ON CROWN LAND
<b>Meeting</b>	Corporate, Governance & Works Committee	17 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Nil	

## SUMMARY

This report addresses item 8 of Council resolution 6c.19.112 to provide a report on the repairs to investigate the water leaks, practicality of undertaking short term repairs and risk analysis associated with the potential failing structure and related infrastructure at the Grafton pool.

## OFFICER RECOMMENDATION

That Council, as Crown Land Manager of the Grafton Westward and General Douglas MacArthur Park Reserve (R540035) note that planning is underway to repair the infrastructure in the closure period to reduce water loss and undertake short term repairs to mitigate infrastructure failure.

## COMMITTEE RECOMMENDATION

Ellem/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 1 Society

Objective 1.2 We will have a safe, active and healthy region

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

## BACKGROUND

Council's resolution 6c.19.112 required -

*That Council, as Crown Land Manager of the Grafton Westward and General Douglas MacArthur Park Reserve (R540035):*

- 1. Receive and note the Grafton Aquatic Centre – Adjunct Report Master Plan (Rec A) dated 12 December 2018 and the Royal Lifesaving Desk Top Audit dated February 2019.*
- 2. Adopt Master Plan – Update (Option 2) as detailed on Liquid Blu Plan SK-03 (Rev B) dated 19 November 2018 as the Master Plan for the Grafton Olympic Pool, and supersede the previously endorsed Master Plan (Option 1) as detailed on Liquid Blu Plan MP-01 (Rev C) dated 22 May 2018.*
- 3. Seek quotations for the production of the detailed design and associated documentation for the development of Grafton Aquatic Centre and report these costs to its April 2020 meeting.*
- 4. Include the production of the detailed design and associated documentation for the Grafton Aquatic Centre in its 2020/2021 budget.*
- 5. Seek an estimate of cost for the construction of a new diving pool and associated infrastructure including towers and boards and report these costs to its April 2020 meeting.*

6. *Actively seek Government support for the project and apply for suitable external funding.*
7. *Allocate \$50,000 from the general fund to investigate the water leaks, and where practicable carry out short term temporary repairs to reduce water loss to the pool structures and associated services.*
8. *Receive a report to its March 2020 meeting which details the findings of the works undertaken in point 7, and provides a risk analysis of potential failure of the pool structure and associated infrastructure.*

To address item 8 information was gathered in preparation to repair the water leaks and potential failure of the infrastructure. Discussions were held with the pool management contractor and a review of past works undertaken.

## **KEY ISSUES**

Over the years, investigation and work has been undertaken on the pool structures regarding the water loss at the Grafton pool at various times. As part this process, the box gutters under the pool, the scum gutters, the pool basin, pipe work and balance tank were all blocked and tested. Where possible and practicable repairs were undertaken including sealing leaks around the pipework within the central base of the 50m pool. Further, a significant leak was detected on the shelf section of the dive pool on the construction joint as well as in the box gutter underneath the centre of the pool.

It is not practicable to undertake further investigation while the pool is in operation. To undertake the necessary repairs during the current pool season and when school carnivals have been traditionally held is difficult. A comprehensive investigation and temporary repairs are scheduled for the closure period when the pool will be accessible and works can be undertaken.

It is planned that the works to complete the temporary repairs will be completed before the 2020/21 swimming season commences in September.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

A budget of \$50,000 has been allowed to undertake these repairs.

### **Asset Management**

A report will be provided following further investigation in the closure period regarding the water loss and potential failing infrastructure.

The development of the detailed design for the Grafton Pool masterplan will address any issues with the inclusion of new infrastructure.

### **Policy or Regulation**

The following references are applicable to this report:

- Report Item 6c.19.112 – December 2019
- Report Item 15.099/18 – June 2018
- Report Item 15.257/17 – December 2017
- Report Item 15.112/17 – June 2017
- Report Item 13.016/17 – April 2017
- Report Item 15.152/16 – December 2016
- Report Item 15.054/16 – June 2016
- Sports Management Policy
- Asset Management Policy
- Clarence Valley Sports Facilities Plan
- Clarence Valley Aquatic Facility Strategy
- Disability Inclusion Action Plan 2017 – 2021

- NSW Disability Inclusion Act 2014
- Native Title Act 1993

**Consultation**

Consultation on the original Master Plan occurred with the community and pool stakeholders with results were reported to Council in December 2016 [Item 15.152/16].

Discussions have been held with the pool contract manager and initial consultation has occurred with aquatic specialists regarding the repairs required to address the water loss and potential infrastructure failure issues.

**Legal and Risk Management**

The commitment to proceed to the detailed design phase and construct new facilities will address the current legal and risk management issues, identified and outlined in Council report 6c.19.112.

Previous reports to Council identified the risks associated with the potential failure of the pool structure following chemical and structural analysis. The results of chemical testing indicated a decline in the pool structure and increasing annual maintenance costs.

**Climate Change**

The new design will incorporate some energy saving items like solar and rain water tanks to reduce the overall emissions of the facility.

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Prepared by	Rachelle Passmore – Senior Parks & Recreation Officer
Attachment	Nil

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**CLOSE OF CORPORATE, GOVERNANCE & WORKS COMMITTEE**

There being no further business the Corporate, Governance & Works Committee closed at 3.13 pm.

## d. INFORMATION ITEMS

ITEM	6d.20.002	ITEMS FOR INFORMATION
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**OFFICER RECOMMENDATION**

That

1. The Items for Information as listed below be adopted:
  - Dundurrabin Public School: Certificate of Appreciation
  - Dundurrabin Community Centre Committee: Minutes 14 November 2019
  - Calliope Hall Committee: Resignation of Committee Members
  - Wooloweyah Parks & Reserves Committee: Minutes February 2020
  - Clarence Regional Library Committee: Minutes 14 November 2019 and 13 February 2020
  - Audit Committee: Minutes 25 February 2020 – noting recommendation in Item 1.
2. The Strathfield Council letter received on 2 March, 2020 be noted and a thank you response sent.

Prepared by	Lesley McBay, Coordinator Support Assistant
Attachments	As listed above

## e. TENDERS

ITEM	6e.20.007	T20/03 NEW TRUCK AND DOG TRAILER
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Peter Birch)	
<b>Attachment</b>	Yes plus Confidential Attachment	

**SUMMARY**

Tenders were called for the supply of one new truck and dog trailer in accordance with the adopted plant replacement program. This report assesses the conforming tenders received and makes a recommendation to council for the purchase of the truck and dog trailer.

**OFFICER RECOMMENDATION**

That Council accept the tender from Southside Truck Centre for T20/03 for one new Volvo FM Truck and Dog Trailer at a cost of \$447,945.00 (GST inclusive), to be funded from PJ558500 Heavy Plant Reserve and that Council dispose of the current truck and dog trailer at public auction and the Council seal attached.

**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 truck and dog trailer operates predominantly on Council's road maintenance and construction projects. It was specified to suitably deliver gravel products onsite to work teams throughout all of Council's road networks.

The current truck and dog trailer is due for replacement and as such tenders were called using the Local Government Procurement Vendor panel Site under contract NPN115 and NPN04 Specialised Trucks and Bodies.

**KEY ISSUES**

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

- Operational requirements
- Tendered price offer (whole of life)
- Mechanical assessment
- Warranty offered, local service and parts backup

A Tender Evaluation Committee (TEC) evaluated the submissions against the criteria to ensure compliance with the Tender Evaluation Plan (TEP). The TEC recommendation is included in the tender evaluation report which is included as a confidential attachment.

The TEC recommends the Council accept the tender from Southside Truck Centre.

## COUNCIL IMPLICATIONS

### Budget/Financial

Council's adopted Uniqco Plant and Fleet Asset Management Plan has listed the truck and dog trailer for replacement in the 2019/20 financial year. Funds are available from PJ558500 Heavy Fleet Acquisitions to fund the purchase.

### Asset Management

Replacement of these plant items is in accordance with the adopted plant replacement program. Council's asset records will be updated upon receipt of the plant items.

### Policy or Regulation

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

### Consultation

Fleet Coordinator, Manager of Civil Services and Senior Civil Services Operational Staff have been consulted during the tender development Council and evaluation process.

### Legal and Risk Management

The tendering and evaluation process followed was consistent with the requirements of the local government Act and Regulations while the evaluation process was based on the evaluation criteria contained within the tender documentation. The confidential attachment provides details of the evaluation assessment.

The company directors are –

Tenderer	ABN	Name of Partners and Directors	Position
Southside Truck Centre	86 001 496 626	Steve Robinson	Director
MidCoast Trucks	67 082 673 596	Tony and Adrienne Smith	Directors

### Climate Change

The recommended tender is the most fuel efficient of the two tenders considered.

Prepared by	Paul Gallagher, Fleet Coordinator
Confidential	Tender Recommendation Report

<b>ITEM</b>	<b>6e.20.008</b>	<b>RFT-10026901 - NORTH GRAFTON SEWAGE TREATMENT PLANT CONCEPT AND DETAILED DESIGN</b>
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Peter Birch)	
<b>Attachment</b>	Confidential	

## SUMMARY

Public Works Advisory (PWA) North Coast Region, on behalf of Council, called open tenders, closing on 18 February 2020 for the North Grafton Sewage Treatment Plant (STP) concept and detailed design. Three tenders were received. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Public Works Advisory (Infrastructure Services) is the most advantageous for Council and recommends that this tender be accepted.

## OFFICER RECOMMENDATION

That:

1. Council accept the tender from Public Works Advisory (Infrastructure Services) for RFT-10026901 – North Grafton Sewage Treatment Plant Concept and Detailed Design at a cost of \$950,614 (including GST), to be funded from PJ910108 (North Grafton – EPA Licence Requirements).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

## BACKGROUND

At its meeting of 15 September 2015 Council noted the North Grafton STP Environment Protection Licence Pollution Reduction Program (PRP) requirements and timeline (Resolution 14.176/15) which requires calling for tenders for STP detailed design by 30 June 2020, and submitting the detailed design to the EPA by 30 June 2022. At its meeting of 18 June 2019 Council considered the Environmental Impact Statement (EIS) for this project (Resolution 6c.19.012) and resolved to proceed with the design in accordance with the EIS and recommendations in the Determination Report.

## KEY ISSUES

Tenders were assessed by a TEC comprising PWA North Coast Region and Water Cycle staff using a weighting of 60% price and 40% non price. A detailed report from the TEC is included in the Confidential Attachments.

The TEC considers that, in accordance with Clause 178(1)(a) of the *Local Government (General) Regulation*, the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from PWA (Infrastructure Services) and recommends that this tender be accepted.

It is likely that some contract variations will be required during the design work. It is therefore recommended that the General Manager be authorised to approve variations totalling up to 15% of the contract sum.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The design phase of the project will be undertaken over three financial years. The 2019/20 budget allocation for PJ910108 (North Grafton – EPA Licence Requirements) is \$177,907 and the 2020/21 draft capital budget includes an additional allocation for this project of \$479,000.

The PWA North Coast Region project management upper limit fee proposal accepted by Council at its meeting of 27 August 2019 (Resolution 6c.19.039) is in the amount of \$212,087 (ex GST), and the recommended design consultant's proposal is in the amount of \$864,195 (ex GST). Allowing for the recommended 15% variation allowance, the required allocation in the 2021/22 budget will be \$549,000.

### **Asset Management**

The PRP requires an upgraded/new STP to be in operation by 31 December 2027. Much of the existing North Grafton STP will be life expired by 2027 and require renewal, with some structures over 90 years old. The inlet works at the North Grafton STP was upgraded in 2010, and while the strategy considered reusing this part of the STP, it was not considered feasible and hence this component will be demolished as part of the scheme.

### **Policy or Regulation**

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

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

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the 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**

N/A

### **Legal and Risk Management**

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

The PWA Construction Tendering Procedures allows for a PWA business unit to tender on a project that another PWA business unit is managing. If one unit or section of PWA (Infrastructure Services) is submitting a competitive tender and another section PWA (North Coast Region) is evaluating the tenders, the process is managed so that effective separation between the tenderer and the evaluator is maintained in order to eliminate the potential for any conflict of interests, whether actual, perceived or potential. A formal separation is maintained between the two business units involved. Arrangements are put in place to ensure a structural and physical separation between the business units, and separate reporting lines to the Deputy Secretary.

As required by PWA's Construction Tendering Procedures:

- Clarence Valley Council (CVC) was notified during the procurement planning meeting that that a tender was likely to be submitted by PWA (Infrastructure Services). PWA (Infrastructure Services) intention to submit a tender was confirmed to CVC and the other tenderers at the mandatory pre-tender meeting.
- Security arrangements were put in place to ensure that intellectual property and confidential information from private sector tenderers were not accessed by the officers involved in the competing



in-house tender. All commercially sensitive documents were stored securely in TRIM, with access limited to the tender evaluation panel and selected PWA North Coast Region business support staff. All staff with access to the commercially sensitive documents signed Part 1 of the Tender Process Code of Conduct declaration.

- The tender opening and evaluation were conducted entirely by CVC and PWA-North Coast Region. No one from PWA (Infrastructure Services) participated in the Tender Opening Committee.

Permitting a PWA business unit to tender for a project being managed by another unit of PWA is considered analogous to a Council submitting a competitive tender for works where it has invited open tenders. Section 55(2A) of the Local Government Act 1993 indicates “Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders”.

### **Climate Change**

Climate change impact considerations were included in the EIS determination report.

Prepared by	Greg Mashiah, Manager Water Cycle
Confidential	Tender Recommendation Report

<b>ITEM</b>	<b>6e.20.009</b>	<b>EXPRESSION OF INTEREST – CONSTRUCTION OF ROUNDABOUTS ON YAMBA ROAD</b>
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Civil Services (Alex Dalrymple)	
<b>Attachment</b>	Yes plus Confidential Attachment	

## SUMMARY

Expressions of Interest (EOI) were invited on 7 December 2019 for suitably experienced, skilled and competent construction contractors wishing to be added to a panel of contractors to tender for the construction of three roundabouts on Yamba Road, Yamba. The project is being project managed by Clarence Valley Council (CVC) and their funding partner Restart NSW.

The EOI closed on 17 January 2020 and the submissions were evaluated in accordance with the requirements of the Tender Evaluation Plan (TEP). Following the evaluation process three contractors have now been selected to tender the works.

This report recommends approval of the three shortlisted contractors and one reserve contractor.

## OFFICER RECOMMENDATION

That Council approve the shortlisted and reserve contractors as detailed in this report.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

## BACKGROUND

Council has resolved at its February Ordinary meeting to proceed to tender the following intersection treatments along Yamba Road to roundabouts. These being:

- Treelands Drive and Yamba Road
- Carrs Drive and Yamba Road

In order to minimise the timeframe of the project, once the design was well advanced an Expressions of Interest (EOI 19/0040) was called for suitably experienced, skilled and competent construction contractors wishing to be added to a panel of contractors to tender for the construction of three roundabouts on Yamba Road, Yamba. This EOI was opened on 7 December 29019.

A Tender Evaluation Plan 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 17 of January 2020 with submissions received from seven contractors:

1. Chambers Constructions Pty Ltd
2. Civlec Pty Ltd (Traffic/GRC Civil)
3. Corbett Earthmoving Pty Ltd
4. Hazel Bros Group Pty Ltd

5. Ledonne Constructions Pty Ltd
6. Mid-North Coast Contractors Pty Ltd
7. See Civil Pty Ltd

The submissions have been assessed and scored against the methodology detailed in the Evaluation Plan. The normalised scores are detailed in the attached confidential attachment to this report and the recommended shortlist of contractors is:

- a. See Civil Pty Ltd
- b. Hazell Bros Group Pty Ltd
- c. Mid-North Coast Contractors Pty Ltd
- d. Reserve: Civlec Pty Ltd (Trading as Traffic/GRC Civil)

## KEY ISSUES

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

- Quality systems
- WHS systems
- Environmental systems
- Status of the legal entity
- Experience and demonstrated capacity with similar work
- Qualified and experienced personnel
- Construction methodology and understanding of the project requirements

In order to ensure a competitive market is created for the selective tender it is recommended that the three highest rated contractors be selected along with a reserve tenderer. A tender will only be sought from the reserve should one of the selected tenderers withdraw.

## COUNCIL IMPLICATIONS

### Budget/Financial

Funding for the project is to be managed in accordance with Council Resolution – 6c.20.022 at the Ordinary Council Meeting, 25 February 2020:

- Seek a variation of the Funding Deed to allocate the Restart NSW \$4,427,516 grant to the Treelands Drive and Carrs Drive roundabout projects.
- Allocate Council's \$1,300,189 Access Yamba contribution to the Treelands Drive and Carrs Drive roundabout projects.
- Investigate opportunities to use Section 94 contributions and other sources to fund any budget shortfalls and report to Council any shortfall with the Treelands Drive and Carrs Drive tender recommendations.

### Asset Management

N/A

### Policy or Regulation

The EOI 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:

- EOI requirements were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the 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 and criticality of the

nature of works that is working with live traffic. The tenderers were required to demonstrate their skills, experience in competence in constructing similar complex road works.

- The assessment of selective tenders will include Local Content and how they will meet that requirement under Council's Policy. That could include using local sub-contractors, purchase of materials and services, and employment outcomes.

**Consultation**

N/A

**Legal and Risk Management**

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

**Climate Change**

Assessment of climate change is not considered relevant to this tender. Climate change was considered in the February report to Council when considering treatment options for the project.

Prepared by	Phillip Noakes
Attachment	Confidential - EOI Combined Score Sheet

<b>ITEM</b>	<b>6e.20.010</b>	<b>RFT20/09 ILUKA RIVERSIDE HOLIDAY PARK MANAGEMENT CONTRACT TENDER – ON CROWN LAND</b>
<b>Meeting</b>	Council	24 March 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	A/Director - Works & Civil (Peter Birch)	
<b>Attachment</b>	Confidential	

## SUMMARY

This report considers the tenders received for Tender RFT20/09: Management and Operation of the Iluka Riverside Holiday Park and seeks Council's endorsement to accept the most advantageous tender.

## OFFICER RECOMMENDATION

That Council as Crown Land Manager:

1. Accept the tender from JKT & Sons Pty Ltd for RFT20/09: Management and Operation of the Iluka Riverside Holiday Park at a cost of \$284,000 (GST inclusive) to be funded from Caravan Park – Administration /Management (PJ996780 Cost Centre 882) with the Council seal attached;
2. Increase the 2019/20 budgeted allocation by \$13,408 (GST exclusive) to cover the shortfall to 30 June 2020, and;
3. Allocate \$258,182 (GST exclusive) in the draft 2020/21 budget.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.1 Promote the Clarence region as a wonderful place to invest, live, work and visit

## BACKGROUND

Council as Crown Land Manager has sought tenders for the management and operation of Iluka Riverside Holiday Park.

Tenders were called Tuesday, 4 February 2020 in accordance with the requirements of the Local Government Act 1993 and Local Government (General) Regulation 2005. The tender was advertised in the Daily Examiner and The Sydney Morning Herald, as well as on Tenderlink on Council's website.

A mandatory pre-tender meeting was held on Monday 17 February 2020 to allow tenderers to familiarise themselves with the park and reserve.

The original tender close date was Thursday 27 February 2020 however it was extended to allow extra time to respond to addenda. Tenders closed 3.00 pm on Tuesday 3 March 2020.

Tenders were assessed by a Tender Evaluation Committee (TEC) consisting of three staff, one being independent of the Open Spaces & Facilities section.

## KEY ISSUES

Four submissions were received in response to the Request for Tender process, all tenders were conforming and no alternate tenders were submitted. The four submissions being:

Tenderer	ABN	Address
Australian Tourist Park Management Pty Ltd	85 061 270 513	L218A/72-80 Marine Parade COOLANGATTA QLD 4225
JKT & Sons Pty Ltd	39 097 851 208	68 The Drive YAMBA NSW 2464
Sheattle Pty Ltd	24 618 672 236	10 Micalo Street ILUKA NSW 2466
Valley Pool Services Pty Ltd	93 127 693 065	15 Boundary Street GLENREAGH NSW 2450

*\*Listed in alphabetical order*

The TEC completed an initial evaluation of the submissions and determined that three tenders could be processed through to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

The tender submission received from Sheattle Pty Ltd did not meet the mandatory requirements of the TEP, specifically Section 3.3 Compliance with Legislation, Policies and Guidelines and was not processed through to the price criteria assessment.

Assessed as being compliant, the following tenderers were processed through to evaluation of criteria assessment:

- Australian Tourist Park Management Pty Ltd
- JKT & Sons Pty Ltd
- Valley Pool Services Pty Ltd

After consideration of the tender submissions, scoring, results of further clarification, and a financial assessment, the TEC are recommending that the offer from JKT & Sons Pty Ltd for Tender RFT20/09: Management and Operation of the Iluka Riverside Holiday Park.

Details of the tender assessment are contained in the confidential attachment.

## COUNCIL IMPLICATIONS

### Budget/Financial

The recommended tender price is \$284,000 (GST inclusive). This price is the annual fixed retainer only being fixed for the initial four year term of the contract. Additionally a revenue based commission structure will be paid as follows –

- On Site Holiday Accommodation Income – 20%
- Tourist Site Income – 10%
- Miscellaneous Income – 5%

The available budget for the tender is \$244,774 (ex GST) from Caravan Park – Administration /Management, PJ 996780 Cost Centre 882 and the GST exclusive tender price is \$258,182. If Council accepts the preferred tender, the budgeted sum will need to be increased by \$13,408 to 30 June 2020 and the draft 2020/21 budgeted sum will need to be \$258,182 as recommended.

### Asset Management

N/A

### Policy or Regulation

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

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

- Local suppliers, contractors and/or consultants were notified through local advertising.

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the 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**

Tenderer	ABN	Name of Partners and Directors	Position
Australian Tourist Park Management Pty Ltd	85 061 270 513	Matthew Bruckner Paul Davies	Director Director
JKT & Sons Pty Ltd	39 097 851 208	Jeff Toms Karen Toms	Director Director
Valley Pool Services Pty Ltd	93 127 693 065	Michelle Irwin	Managing Director

**Climate Change**

N/A

Prepared by	Julie Schipp, Holiday Parks and Saleyards Officer
Confidential	Tender Recommendation Report

**7. NOTICE OF MOTIONS - Nil****8. CONFIDENTIAL BUSINESS - Nil****9. LATE ITEMS OF BUSINESS AND MATTERS ARISING - Nil****10. CLOSE OF ORDINARY MEETING**