

Ordinary Council Meeting Business Paper

26 May 2020



Agenda

01	OPENING OF ORDINARY MEETING		
	<ul style="list-style-type: none"> • Opening Prayer by Mayor • Acknowledgement of Country • Recording of Meeting Announcement 		
02	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE		
03	DISCLOSURES AND DECLARATION OF INTERESTS		
04	CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 28 APRIL 2020		
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	6b.20.035 DA2019/0603 – Convert Fuel Depot to Service Station, Lot 8 DP810388, 119 Jubilee Street, Townsend	13	Y + Conf
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	6c.20.062 Code of Conduct Review Panel	95	Conf
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	6c.20.081	Monthly Investment Report – April 2020	154	Y
d		INFORMATION ITEMS		
	6d.20.004	1. Nymboida Hall Management Committee 2. Grafton Regional Gallery Advisory Committee 3. Response from Chris Gulaptis MP 4. Response from Chris Gulaptis MP	162	y
e		TENDERS		
	6e.20.012	RFT19/023 – Management & Operation of the Glenreagh Community Pool	163	Conf
07		NOTICE OF MOTIONS		
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	07.20.004	Cr Ellem – Bushfire Recovery Development Application Fees	169	N
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08		CONFIDENTIAL BUSINESS		
09		LATE ITEMS OF BUSINESS AND MATTERS ARISING		
10		CLOSE OF ORDINARY MEETING		

6. REPORTS**a. GENERAL MANAGER**

ITEM	6a.20.011	COVID-19 – REX AIRLINES REQUEST FOR 50% CREDIT FOR HEAD TAX CHARGES FOR FEBRUARY AND MARCH 2020
Meeting	Council	26 May 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

Rex Airlines have requested a 50% credit of \$8,908.90 for head tax charges for the months of February and March 2020 (which total \$17,817.80) due to the loss of business from the COVID-19 pandemic.

OFFICER RECOMMENDATION

That Council provide REX Airlines with a 50% credit on the head tax charges incurred at the Grafton Regional Airport for the months of February and March 2020 for an amount of \$8,908.90 as further support for the airline during the COVID-19 crisis.

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.2 Grow the Clarence Valley economy through supporting local business and industry

BACKGROUND

At Council's March meeting, Council resolved to waive head tax charges for REX Airlines from 1 April 2020 to 31 December 2020 with an option to extend this a further 6 months if required (Item 05.20.007).

Rex Airlines have now written to Council seeking to have a 50% credit on the head tax charges for February and March 2020 in the form of a credit note (refer attached letter).

KEY ISSUES

Rex Airlines currently owe Council \$17,817.80 in outstanding head tax charges from February 2020 to March 2020. They are seeking further support in the form of a credit note for half of this amount being \$8,908.90.

Rex Airlines issued a press release 29 April (refer Attachment B) confirming that following funding support from the Federal and State government that they were able to continue 88 weekly/return flights to regional areas which include three (3) flights a week from Grafton/Lismore/Sydney and return.

As the restrictions around COVID-19 begin to be relaxed by the Federal and State Governments the availability of flights to Sydney via the Grafton Regional airport will assist the Clarence Valley business community in their recovery.

COUNCIL IMPLICATIONS**Budget/Financial**

If Council resolve to provide the credit note the attached letter from REX advises that they will pay Council within 7 days the outstanding \$17,817.80 and then apply the Credit Note of \$8,908.90 towards the landing fees in 2021.

From the March resolution of 05.20.007, Council is not expecting any income from Rex for head tax charges for the period 1 April to 31 December 2020.

Council's 2019/20 Budget for landing fees is \$133,308 with income received to 31 March 2020 being \$98,705 which does not include any income from the Section 44 Bushfire emergency which occurred during the latter half of 2019.

Asset Management

N/A

Policy or Regulation

Fees & Charges

Consultation

Consultation has been undertaken with Finance & Supply Section.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	A - Letter from Rex B – Media Release from REX confirmation of continuation of Regional Services

ITEM	6a.20.012	CLARENCE CARE AND SUPPORT TRANSITION UPDATE
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Nil	

SUMMARY

This report provides an update of the transition of Clarence Care and Support services to the tenderer accepted in the Confidential session of the Ordinary Meeting, held 28 April 2020 (Item 08.20.004).

OFFICER RECOMMENDATION

That the Care and Support Transition Update report be noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.7 Undertake the civic duties of Council in an ethical manner

BACKGROUND

At its Ordinary Meeting held 28 April 2020, Council resolved to award a tender for the Clarence Care + Support (CCS) services. The matter was heard in, and the resolution remains, Confidential. Since the Council meeting a number of activities have been undertaken to progress the transition. At the time of writing the report the agreed joint media release announcing the successful tenderer had not been released.

KEY ISSUES

A Transition Project team comprising representatives of Clarence Valley Council, CCS and the successful tenderer has been formed to oversee implementation of key activities relating to the transition, with the following summary provided as an update:

- CCS staff have been advised of the successful tenderer.
- Unsuccessful tenderers have been notified.
- Transition Project team has met twice and now has an established weekly meeting schedule.
- Deed of Release, Novation and transfer documentation have been signed.
- Applications for transfer of individual services are either in preparation or have been submitted to relevant authorising departments.
- Property leases are under preparation.
- Face to face meetings between CCS staff teams and the successful tenderer are scheduled for the week commencing Monday 18 May.
- Independent asset valuations are being coordinated.

COUNCIL IMPLICATIONS**Budget/Financial**

There are no budgetary implications in adopting the recommendation of this report.

Asset Management

N/A relating to the recommendation of this report.

Policy or Regulation

N/A relating to the recommendation of this report.

Consultation

N/A relating to the recommendation of this report.

Legal and Risk Management

N/A relating to the recommendation of this report.

Climate Change

N/A

Prepared by	Laura Black, Director Corporate & Governance
Attachment	Nil

ITEM	6b.20.034	SUB2020/0003 – FOUR (4) LOT SUBDIVISION (2 ADDITIONAL LOTS) – NO. 13 AND 15 CLEAR WATER CLOSE, GRAFTON BEING LOTS 52 AND 53 DP1254388
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Jim O'Donohue C/o O'Donohue Hanna & Associates Pty. Ltd.
<i>Owners</i>	Cathy McLennan, Philip McLennan and Clarenza Super Pty Ltd (Sole Director James Patrick O'Donohue)
<i>Address</i>	13 and 15 Clear Water Close, Grafton
<i>Submissions</i>	Yes – 3

Council has received Development Application SUB2020/0003 for the subdivision of Lots 52 and 53 DP1254388 (No. 13 and 15 Clear Water Close, Grafton), to create 4 lots (2 additional residential lots).

The application was notified and 3 submissions were received during the notification period. This matter is reported to Council to consider the issues raised in the submissions and the report provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council approve Development Application SUB2020/0003 subject to the draft Advices and Conditions contained in Schedule 1 of this report.

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

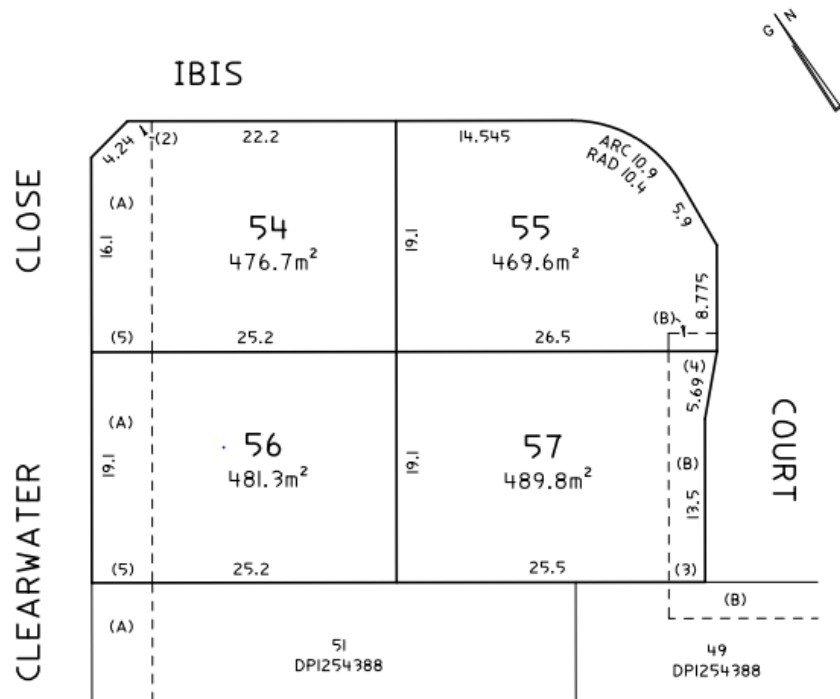
Development Application SUB2020/0003 was submitted to Council via the planning portal on 12 March 2020. The proposed development is for a subdivision to create 2 additional residential lots. The application was notified between 17 and 31 March 2020. An extension to the submission period was also granted to allow concerned property owners to comment on the proposal up until close of business on 3 April 2020. Three submissions were received as part of the notification process.

The subject land is zoned R1 General Residential under the provisions of the Clarence Valley Local Environmental Plan 2011 (herein referred to as the LEP). The proposed subdivision is permissible with consent within the zone and no minimum lot size applies to subdivision of the land under Clause 4.1 of the LEP. The development is consistent with the objectives of the R1 zone and will provide for the housing needs of the community and provide for a variety of housing types and densities.

The lands were created as part of an earlier 14 lot subdivision approved under Development Application SUB2006/0073. Existing Lot 52 comprises an area of 971.2m² and Lot 53 has an area of 946.3m². There are 2 easements located on the existing lots marked as (A) - Easement to drain sewage 5 wide and (B) -

Easement to drain sewage variable width. These easements do not hinder the proposed lots to enable subdivision. An extract of the proposed subdivision plan is shown below for information.

Extract of subdivision plan by O'Donohue Hanna and Associates Reference No. 12541 dated 7 June 2019



KEY ISSUES

1. Devaluation of surrounding properties and area

All 3 submissions raised concerns regarding the potential devaluation of the surrounding properties and area from the creation of two additional lots.

Comment

The impact of this development on the value of surrounding properties is difficult to quantify. Increase or loss of property value is not a matter that can be directly related to development proposals such as this because there are other factors that affect such values.

2. Lack of information on flora and fauna, threatened species and ecological communities

One of the submissions raised the issue that there was insufficient information in the application regarding the protection of flora and fauna and impacts to threatened species, populations and endangered ecological communities.

Comment

The subject land has been filled as part of a previous subdivision approval issued under SUB2006/0073 and Council staff conclude that there will be no significant impact to threatened species or ecological communities. The subject land is cleared and no vegetation removal is required for the subdivision or construction of future dwellings on the site.

3. Traffic impacts on Ibis Court

All 3 submissions raised the issue of impacts from an increase in traffic resulting from the proposed subdivision to create two additional lots.

Comment

Both existing lots have the ability to access their land via Clearwater Close or Ibis Court as they both enjoy dual street frontage. The construction of a dwelling on each of the existing lots could have resulted in each property having access via Ibis Court. Comparing this scenario with the proposed subdivision, the traffic impact would not be different.

It should be noted that the minimum site area for dual occupancies and semi-detached dwellings in the R1 zone is 600m². As both of the existing lots could potentially gain approval for a dual occupancy on each lot, the traffic impacts would also be considered similar to the traffic generation of the proposed subdivision. As the proposed lots are less than 600m² it is unlikely the proposed lots will be developed with more than a single dwelling or single dwelling and secondary dwelling/granny flat.

Given the above, the proposal is likely to result in an additional 2 lots/dwellings and therefore would result in approximately 9 additional vehicle movements per day per lot/dwelling. The impact of this is not considered to be significant and is acceptable in a residential cul-de-sac with low speed traffic environment.

4. Adverse impacts on the visual amenity and scenic character of area

Comment

The proposed subdivision of the land is not likely to have an adverse impact on the visual amenity or scenic quality of the area. The proposed subdivision will allow additional dwellings to be constructed on the land in the vicinity, which will over time, alter the built environment and this proposal is not considered to be inconsistent with the existing and expected future surrounding built environment.

In addition to the above, it should be noted that 2 dual occupancies have already been approved in the area at No. 1 and 9 Clearwater Close. Hence, the proposed development is not considered to be out of character of the surrounding area.

5. Impacts to the amenity of adjoining properties

Concerns were raised within the submissions regarding an increase in noise and disturbance, potential overlooking and loss of privacy from an increase in the number of lots within the subdivision.

Comment

The existing area has been recently subdivided and there are no existing dwellings located adjacent to the proposed subdivision. Any future dwellings will be required to comply with the requirements of the Residential Zones DCP which will ensure that any future building design respects the site access requirements set out in Clause C5 which includes privacy, views, the location and height of neighbouring buildings, including the location of facing windows and doors, fencing and differences in levels between the site and adjacent properties.

In terms of density, the proposed subdivision complies with the minimum lot size area for single dwellings expected within R1 General Residential Zones and will offer a mix of lot sizes to the area and the proposed subdivision is considered to be suitable use of vacant residentially zoned land. The creation of 2 additional lots will provide for a variety of housing types and densities in line with the objectives of the zone.

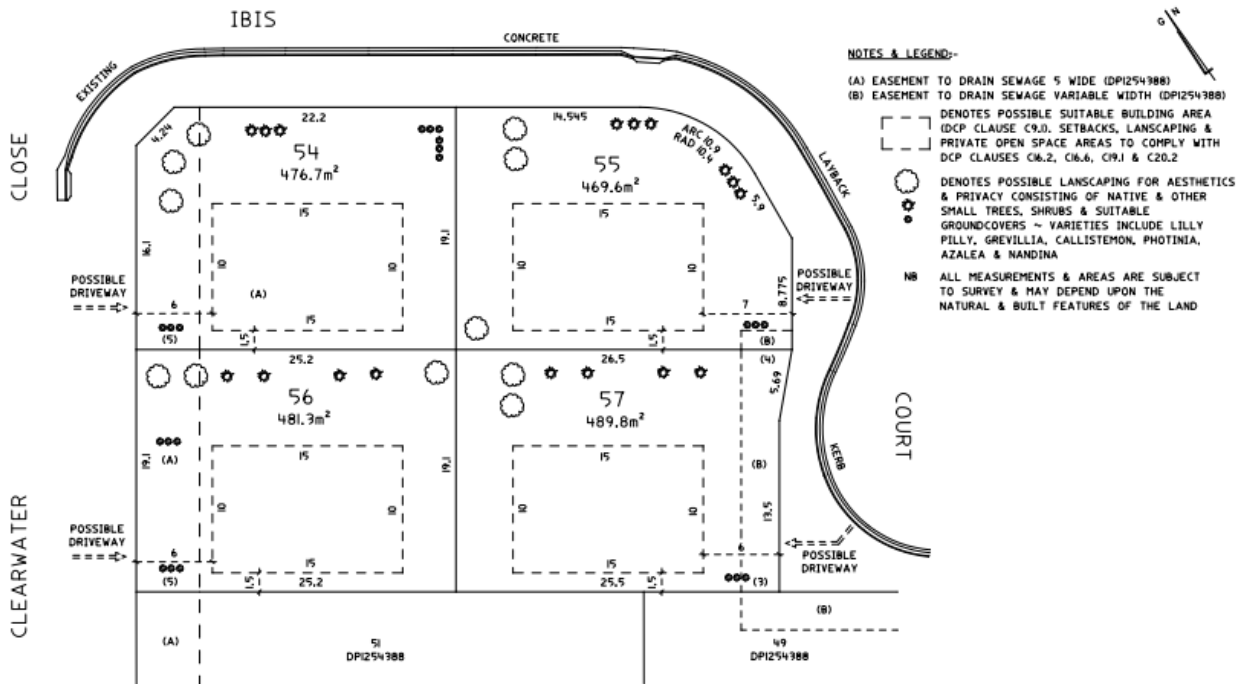
6. Lack of area for sufficient vegetation due to small lot size and footprint of dwellings

One of the submissions raised the issue that the proposed lots are of insufficient size to provide adequate area for vegetation/landscaping.

Comment

The proposed 4 lots will have an area of between 469.9m² and 489.8m². As stated earlier, there is no minimum lot size for subdivision of the land, however, Clause C9.1 of the Residential Zones Development

Control Plan (DCP) requires a minimum lot size of 400m² for single dwellings and within that area must be able to fit a building envelope 10m x 15m. The proposed lots comply with the requirements of the DCP. With regard to the submission concern about lack of area for vegetation/landscaping, the applicant was requested to submit a plan demonstrating that the lots can adequately provide for a building envelope with adequate landscaping and private open space areas in accordance with the DCP requirements. The indicative plan submitted by the applicant (extract below) demonstrates that any future dwellings on the lots can adequately comply with the DCP, however, any future dwellings on the site will be subject to the lodgment and assessment of a separate development application against the relevant DCP provisions.



7. Cost of review of proposed architectural plans for adjoining property owner

One of the submissions raised the issue that due to the proposed subdivision, the adjoining property owner will have to have their architectural plans reviewed at a significant cost to them.

Comment

As stated earlier in this report, a dwelling could be built on the existing lands in the same location as the proposed lots that front Ibis Court without this subdivision occurring. The cost of review of architectural plans for the submitter is unfortunate though not an issue for Council. There is an inherent risk in preparing architectural plans for dwellings in new residential estates that the design of new developments on adjacent vacant lots is unknown. This should have been considered by the building designer/architect and/or landowner at the time of drafting any building plans. In any case, any future dwellings on the subject or adjoining lands will be subject to consideration of Council’s Residential Zones DCP including building design requirements set out in Part C General Development Controls with regard to access, setbacks, landscaping, private open space and location of ancillary buildings such as sheds to name a few. Further, the ground levels of the land were raised or filled during the subdivision works phase to enable “slab on ground” construction and hence, single storey buildings may be constructed on the lots. Any 2 storey dwellings will require notification to adjoining property owners in accordance with Council’s Community Participation Plan which will enable any concerns from adjoining property owners to be considered as part of the development application process.

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

All allotments within the subdivision will have access to Council owned water and sewer infrastructure and Council maintained roads. The proposed development does not place any unreasonable demand on Council infrastructure or services.

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 (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Coastal Management) 2018

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>
Development Engineer	Supported with conditions

Legal and Risk Management

Should the applicant be dissatisfied with Council's determination of the DA, they may appeal to the Land 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. Further, any person may appeal the determination to the Land and Environment Court if they consider Council has not followed correct procedure in administration and assessment of the DA.

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	Carmen Landers, Development Planner (Systems)
Attachment	A. Plans B. Submissions C. Section 4.15 Assessment

Schedule 1
Draft Advices and Conditions of Consent for SUB2020/0003

Advices

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

The proposed development has been assessed as contributing an additional 2.0 ET demand on Council's water supply, and an additional 2.0 ET loading on Council's sewerage system. This includes an applicable credit of 2.0 ETs for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 2.0 additional ET	= \$9,796.00
Sewer Headworks \$6,700.00 x 2.0 additional ET	= \$13,400.00

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.

2. The submission of evidence that satisfactory arrangements have been made with service providers for the provision of utility services prior to issue of the Subdivision Certificate.
3. The submission of a further Development Application will be required for any further extension of development on the site.
4. 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).
5. The following street numbers have been allocated to the new lots:

Lot 54 - 13 Clear Water Close
 Lot 55 - 4 Ibis Court
 Lot 56 - 15 Clear Water Close
 Lot 57 - 6 Ibis Court

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

Plan No	Drawn by	Plan Date
12541	O'Donohue Hanna and Associates Pty. Ltd.	7 June 2019

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

Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities

Rate per dwelling House or Lot

Grafton and surrounds \$3,767.05 x 2 = \$7,534.10 GL S94CVCOSGrafton

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per dwelling House or Lot

Grafton and surrounds \$3,767.05 x 2 = \$7,534.10 GL S94CVCCFGrafton

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Dwelling/Lot \$72.15 x 2 = \$144.30 GL S94CVCPoMDwell

N.B.

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

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

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

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

3. 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.
4. Prior to the issue of the Subdivision Certificate, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
5. Prior to release of the Subdivision 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.
6. Sewer junctions must be provided to service all lots in accordance with the provisions of the Local Government (General) Regulation. Cutting in of sewer junctions can only be undertaken by Council. In respect to these works, contact Council's Water Cycle Section.
7. All stormwater falling on the property is to be collected within the property and discharged generally in accordance with the Stormwater Management Plan prepared by Geolink, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.

A minimum of 5,000 litres of on-site stormwater detention (OSD) is to be provided per lot. The OSD low flow outlet must be a maximum diameter of 50 millimetres. On-site detention and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot.

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.

8. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, pipelines and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
9. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

ITEM	6b.20.035	DA2019/0603 - CONVERT FUEL DEPOT TO SERVICE STATION, LOT 8 DP810388, 119 JUBILEE STREET, TOWNSEND
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

<i>Applicant</i>	A. Fletcher and Associates Pty Ltd
<i>Owner</i>	Graeme Nicholson & Meredith Page
<i>Address</i>	119 Jubilee Street, Townsend
<i>Submissions</i>	Two - One objection and one in support

Council is in receipt of a development DA2019/0603 as lodged on 2 November 2019 to convert an aboveground diesel fuel tank, refuelling area and canopy (fuel depot) to a service station to allow for the retail sale of fuel from the site.

The proposed change of use of the fuel depot to a service station for the retail of fuel will intensify use of the facility and will require an upgrade to the pavement of the on-site manoeuvring areas and maintenance of a short section of the Think Road pavement that is dilapidated. Wastewater from the forecourt will also need to be collected in a holding tank and removed from the site so it is not discharged to the environment.

This matter is reported to Council to consider the issues raised and the option of entering into a private deed of agreement and provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council:

1. Grant development consent to DA2019/0603 for a service station subject to the draft Advices and Conditions attached in schedule 1 to the report; and
2. Enter into a private deed of agreement as described in Option 1 of the confidential attachment to this report.

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

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

BACKGROUND

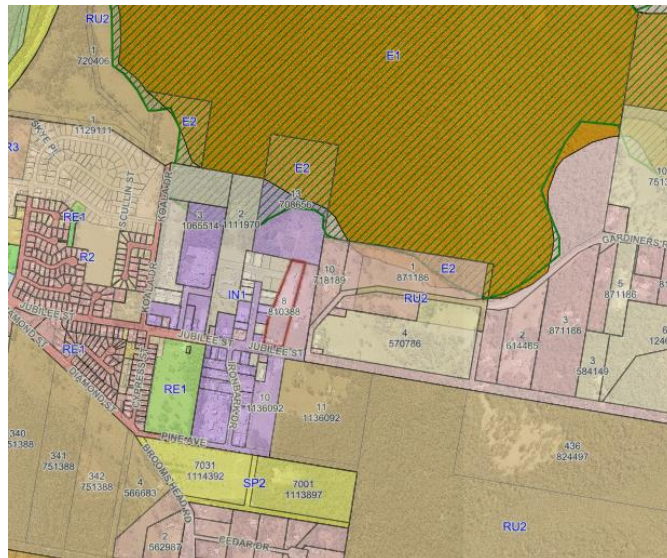
The fuel depot was approved and constructed under DA2016/0691 on 7 April 2017 for land owned by Graeme Nicholson & Meredith Page who operate their interstate transport trucking business Nicholson Page Transport from the site (see photos and map overleaf).

It was also observed at an inspection on 3 April 2019 that fuel was being sold from the site; Condition 24 of the consent requires the fuel tank to be for the exclusive use of the Nicholson Page Transport only with no retail sales of fuel. It appears that the owners were of the understanding that sales of fuel were allowable as long as the main use of the fuel tank was for Nicholson Page Transport. This new application has been

submitted to seek approval for the retail sale of fuel by converting use of the fuel depot to a commercial service station.



Aerial view (Access is via Think Road)



Site location showing nearby wetland and National Park



Constructed Fuel Depot



KEY ISSUES

Issue 1: Upgrade of the pavement of the manoeuvring areas and maintenance of the entrance pavement of Think Road

Council’s Development Engineer has provided the following comments:

The existing concrete access is considered acceptable for the proposed use of the site. It will be required, however, that the manoeuvring area identified in the provided Vehicle Manoeuvring Paths & Pavement Plan is to be adequately sealed in accordance with Council’s DCP. This will be required to be completed within a reasonable timeframe.

An inspection was undertaken on the 22/04/2020 of the existing pavement of Think Road from the site access to the intersection with Re Road. It was noted that there was significant damage to the road pavement. It was observed that tyre marks were visible through these locations of failure which trail to and from the development site access.

A dilapidation survey from the intersection of Think Road and Re Road and up to the access of the development was required to be undertaken annually under the original DA which does not appear to have been undertaken as no annual surveys have been submitted in accordance with the original consent Condition 16.

It is expected that once approved the development will attract a greater number of retail / commercial sales and traffic from both domestic and commercial patrons in addition to the haulage vehicles of Nicholson Page Transport that use the site. Entry and exit to and from the fuelling area will be to and from Think Road only.

No traffic impact assessment was provided with the application and there are obvious impacts from the current use of the site. The impact on Council's roads cannot be quantified as no information has been provided as part of the supporting documentation. The existing traffic movements have caused damage to the road and additional commercial vehicular traffic will further contribute damage to the road pavement and seal. It will be required that the applicant make repairs to the existing pavement failures attributed to the current and future use of the site.

The measures and improvements recommended by Council's Development Engineer will be required as conditions of consent to ensure that Council's roads are maintained to Council's standards and to ensure the safety of patrons using the service station. These requirements would be applied to any other development for a service station or similar business that will generate a significant increase in traffic movements. Given the retail sales of fuel has commenced on the subject land without approval and no further stage of approval or Construction Certificate is required Council officers have recommended that compliance timeframes for assessment, design and completion of the necessary works need to be included in relevant conditions of consent.

Issue 2: Submissions received

Two submissions were received following the notification of the application.

One submission was from a person living in a dwelling on the corner of Re Road and Jubilee Street who has objected on the grounds that the traffic and B-doubles accessing the development will increase the noise impacts on residential areas due to 24/7 access to the development.

Comment

Access to the industrial estate is via Jubilee Street and this will continue to be the only access to the site from the highway. Speed limits of 50km along the road currently provide some mitigation to traffic noise which will continue in the future. The applicant has commented on noise impacts and provided figures of current retail sales. It is submitted that most sales will be during working hours and only a small percentage would use the facility after 10pm. The impacts on residences that front Jubilee Street from traffic will not be significantly increased from the approval of this application.

Another submission has commented that 'This is an excellent use of this property and would bring about significant growth to the industrial area'.

Comment

The service station will provide an additional option for patrons to choose to purchase fuel from and provide increased competition to other fuel retailers with potential economic benefits to the area.

COUNCIL IMPLICATIONS

Budget/Financial

The application has been made with due payment of administrative fees for the application. Assessment of the application utilises recurrent staffing budgets.

Asset Management

Conditions of consent have been imposed to protect and maintain Council's road network that has been directly impacted by vehicular movements associated with the current use on the subject land.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Clarence Valley Local Environmental Plan 2011

Clarence Valley Development Control Plan – Development in Industrial Zones

NSW EPA's Practice Note – Managing run-off from service station forecourts

Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Comments and conditions provided
Trade Waste Officer	Recommend imposition of wastewater collection and disposal

Legal and Risk Management

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

Climate Change

Upholding the current requirements for the collection and removal of trade waste associated with the service station may result in minor additional emission of greenhouse gases due to the need to pump out the containment tank and associated transport. This negative impact is offset by the improved outcomes of reducing the risk of pollution through installation of an acceptable forecourt wastewater containment and management system.

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none"> 1. Applicant's Statement of Environmental Effects 2. Site plan and manoeuvring plans 3. S4.15 Assessment report 4. DA2016/0691 Notice of Determination and Approved Plans 5. EPA Practice Note: Managing run-off from service station forecourts 6. Submissions
Confidential	Confidential attachment

Schedule 1 – Draft Advices and Conditions for DA2019/0603**Definitions**

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

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

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

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

WSUD means Water Sensitive Urban Design

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

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

Civil Works may include -

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

RMS means Roads and Maritime Services

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

Application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.

2. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a Section 138 Approval has been issued by Council and/or accredited private certifier.

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

3. The proposed development is located within the development servicing plan area for water and sewer and has been assessed as potentially contributing an additional 0.8 ET for sewer in accordance with the adopted *Water Directorate Guidelines for Standard ET Figures - Commercial User Categories*. This includes an applicable credit for pre-existing connections.

While connection to sewer is available Council is not requiring connection for this development. Any further development of the site will require the payment of additional Section 64 headworks charges and a connection to the sewer in accordance with Council's Sewer and Water Connection Policy.

A Certificate of Compliance for water and or sewer works is not required.

4. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
5. 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.
6. This development consent does not authorise the use of the subject land as a truck or transport depot or similar. The submission of a further Development Application will be required for any further development on the site.

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

Job No	16-204	Title	Vehicle Manoeuvring Paths & Pavement plan	
Drawn by	McKenzie Burr ridge & Associates Pty Ltd	Plan Date	October 2016	
Drawing No	8783	Title	Survey / Site Plan	
Drawn by	Andrew Fletcher & Associates Pty Ltd	Plan Date	19/06/13	

2. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
3. Certification is to be provided by the supervising engineer to Council for the stormwater management works and internal vehicular access sealing works required by this approval to demonstrate the works have been constructed in accordance with the approved plans and NRDC within six (6) months of the date of development consent.

Roadworks

4. A pavement condition report is to be provided for Think Road from the development access to the intersection with Re Road. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council within three (3) months of the date of development consent.
5. All existing failures identified in the pavement condition report are to be rectified as per the Section 138 approval to the satisfaction of Council within three (3) months of the Section 138 approval being issued.
6. Preliminary road pavement designs, in accordance with NRDC, must be submitted to Council as part of the Section 138 Application within three (3) months of the date of development consent. The asphaltic concrete wearing surface must be a minimum 40mm (industrial, heavy residential and collector roads) compacted depth. Final pavement design will be subject to in-situ CBR tests.
7. An ITP must be submitted for approval with Section 138 Application within three (3) months of the date of development consent. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

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

- b Erosion & Sedimentation Controls
- c Roadworks
- d Stormwater Drainage
- e 'On Maintenance' (Public Infrastructure)
- f Practical Completion (Works on Private Property)
- g 'Off Maintenance' (Acceptance of Public infrastructure by Council)

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

Maintenance Bond

9. A maintenance bond will be required to be paid prior to acceptance of roadworks being 'On Maintenance' where the total value of works to become Council infrastructure is greater than \$10,000. The maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater.

All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons.

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**.

Stormwater Drainage

10. 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 account for additional runoff generated from the bitumen surfaced vehicular access areas and 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 within three (3) months of the date of development consent.

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

Car Parks & Driveways

11. The existing manoeuvring and access area shown on the Vehicle Manoeuvring Paths & Pavement Plan prepared by McKenzie Burridge & Associates Pty Ltd, dated October 2016 currently surfaced with aggregate is to be constructed, bitumen sealed and drained in accordance with the relevant parts of the applicable Council Industrial Zones Development Control Plan and **NRDC**. These works are to be completed within six (6) months of the date of development consent.

Erosion & Sedimentation Control

12. 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.
13. 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.
14. 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.
15. 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 the required works. 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.
16. Wastewater generated in the refuelling area is not permitted to discharge to Council's sewerage system or the environment. All wastewater generated in the refuelling area shall be collected for removal by a licensed contractor and be disposed of at an appropriate facility.

Details of the collection of wastewater, consistent with Section 4(a) - Option 3 for best management practice for high contamination risk zones of the EPA Practice Note - Managing run-off from service station forecourts is to be submitted to Council for approval within one (1) month of the date of this development consent. The approved works shall be fully installed within three (3) months of Council's approval being issued.
17. An aboveground containment tank will need to be installed in a roofed and bunded area with the bund capacity to be at least 110% of the volume of the collection tank or bunded under another suitable option. Details are to be submitted to Council for approval within one (1) month of the date of this development consent. The approved works shall be fully installed within three (3) months of Council's approval being issued.

ITEM	6b.20.036	MOD2020/0011 – MODIFICATION OF DA90/75 (MOUNTAIN VIEW RACING CIRCUIT) TO AMEND NUMBER OF PERMITTED DAYS FROM 30 TO 38 OVER 19 WEEKENDS PER YEAR – 262 CLARENCE WAY, MOUNTAIN VIEW
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Graham Merry on behalf of Grafton Sporting Car Club Inc.
<i>Owner</i>	Grafton Sporting Car Club Inc.
<i>Address</i>	262 Clarence Way, Mountain View NSW 2460 (being Lot 820 DP1046571)
<i>Submissions</i>	One (1) Submission

Council has received an application under Section 4.55 of the *Environmental Planning and Assessment Act, 1979* to modify DA90/75 to amend the number of permitted days of racing and/or practice at the Mountain View Hillclimb Circuit from 30 to 38 days over 19 weekends per year.

The application was advertised and notified, one (1) submission was received during the notification period. The primary issue raised in the submission related to noise levels associated with events and how Council police the issue. The application is being reported to Council as the original application was determined by the full Council. This report discusses the key issues with the application, and provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council accept that MOD2020/0011 is substantially the same development as approved under DA90/75 and approve MOD2020/0011 subject to amending Condition 1 as follows:

- 1. Frequency of operation is limited to ~~one (1) only scheduled meeting and one (1) practice session per month~~ 38 competition and/or practice days over 19 weekends per calendar year. ~~Saturdays not allocated for a scheduled meeting or practice day, may be used for practice.~~*

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Modification Application MOD2020/0011 was lodged on 19 March 2020 for the modification of approved Development Application D90/75 as granted by former Copmanhurst Shire Council (CSC) for the 'Extension of the Existing Hill Climb Circuit to Facilitate Go-Kart Racing and Driver Training' on 18 October 1990. The applicant seeks to amend Condition 1 to amend the number of events to be held at the circuit from 30 days to 38 over 19 weekends per year. Condition 1 reads as follows:

- 1. Frequency of operation is limited to one (1) only scheduled meeting and one (1) practice session per month. Saturdays not allocated for a scheduled meeting or practice day, may be used for practice.*

The applicant states the reason for the proposed amendment is to allow the circuit to hold events during the racing calendar. Typically, the motor sport season is between February and October. The applicant is concerned that by limiting the circuit to one (1) event per month the track is available for use, however, is out of season which make it difficult for the club to conduct a full program and remain compliant with the conditions of consent. A copy of the current modified consent and approved plans is provided in Attachment 1.

The Hill Climb Circuit was granted approval for racing in 1985, with application D90/75 lodged in September 1990 to extend the track to enable go-kart racing, approval was granted by former CSC on 17 October 1990 for a period of 12 months with the option to extend the consent further. A condition of the approval limited frequency of events to one (1) race and one (1) practice meeting per month. Subsequent extensions requested by the Grafton Sporting Car Club Inc. (GSCC), granted a further 12 month approval in 1991 and 1992. It was not until 1993 that the club was granted a five (5) year approval subject to review of the impacts. On 20 May 1998, CSC resolved to delete the time limiting condition and permit the circuit to operate indefinitely. However, in December 1998, the GSCC approached CSC to permit practice every Saturday where there was no scheduled meeting. CSC resolved in February 1999 to support the proposal and imposed a six month review on the consent. The terms of this resolution were not fully executed by Council staff at the time and were not reviewed until March 2000, where CSC resolved to impose another 6 month review based on the impacts of increased track usage. On 5 September 2000 the final modification of DA90/75 was approved by CSC which took away any review period and permitted practice on Saturdays if a meeting was not scheduled. This consent remains valid and in place for the circuit. Subsequent approvals have been granted for the circuit for extensions to the length of the track, facilities and pit areas.

During the initial phases of the circuit extensions numerous complaints were received regarding noise and consequently the NSW State Pollution Control Commission now known as the NSW Environment Protection Authority (the EPA) became involved in the operation of the premises and issued licences for the operation of the circuit. The licence issued by the EPA conflicted with the conditions of approval and permitted up to 30 events in any 12 month period and use of the track only on weekends between 10.00am and 5.00pm. The EPA informed Council in July 1999 that they no longer had an interest in regulation of the circuit.

KEY ISSUES

1. Substantially the same development?

This fundamental question needs to be dealt with before any further assessment of the proposed modification. MOD2020/0011 has been lodged under Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A) which reads as follows:

- (1A) *Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*
- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
 - (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

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

The original approval permitted usage of the track for one (1) meeting and one (1) practice session per month, from event calendars from the early 1990's these two events generally occurred over the same weekend, resulting in the track being used 12 weekends per year. The EPA licence over the facility for the majority of the 1990's permitted up to 30 events per year and took precedence over the Council conditions until they stopped licencing the circuit in 1999. Under the current modified approval the GSCC can operate the track at least every Saturday, with scheduled meetings generally occurring on a Sunday. Therefore, the track per annum could be used up to 64 times should all race meetings be held on a Sunday and every Saturday used for practice, however in reality this is not achievable.

The table below has been provided by GSCC and contains information on number of days the track has been used from previous years (2018 and 2019) in comparison to an expected schedule for 2021 for the various users of the track. The GSCC intends to consolidate competition and practice days to be held over 19 weekends per year and does not propose to retain the ability to hold practice every weekend.

Track Usage Types	Operation Time	Sunday only		Saturday & Sunday		Days		Weekends	
		2019	2021	2019	2021	2019	2021	2019	2021
Hillclimb	9 am – 3:30 pm	6	0	2	9	10	18	8	9
Karts	9 am – 4:00 pm	0	0	6	6	12	12	6	6
NCRR	9 am – 4:00 pm	0	0	4	4	8	8	4	4
Total		6	0	12	19	30	38	18	19

The approved use of the land is for a racing circuit and this modification application proposes the continued use of the circuit. However, comparison of the qualitative and quantitative changes is required to determine whether the proposed modification is substantially the same development. Focus is to be given on the particular elements that are being changed, especially where that component is an essential component of the development. The key difference proposed by the applicant is the change in number of days, in this case a reduction in overall number of days racing and/or practicing on the circuit. The dominant consequential impact of this change includes noise.

The applicant has demonstrated that noise generated by the operation of the circuit as discussed below under Point 2 will remain unchanged as a result of the proposed modification as the maximum noise emissions from vehicles using the circuit will remain unchanged. Taking into account the changes to the development and the reduction in impact (see Point 2 – Noise below) as a result of the proposal it is considered that Council has the ability to determine MOD2020/0011 under Section 4.55 (2) as the development is substantially the same development as approved.

2. Noise

The primary issue raised in the submission received relates to noise levels associated with events and how Council regulates this issue. Controls over noise emissions from the site were imposed by the EPA on the facility while under their regulation. Noise levels permitted from the circuit under the licence were 10 dB (A) above the background level measured at the boundary of the nearest residential receiver. The EPA licence also took into consideration the Confederation of Australian Motor Sport maximum permissible noise level of 92 dB (A) at 10 metres from the vehicle.

Further, Motorsport Australia (formerly known as Confederation of Australian Motor Sport (CAMS)) regulate the noise emitted from four wheeled motor vehicles to ensure it meets the maximum permissible noise level of 92 dB (A). Measures are in place to ensure Motorsport Australia guidelines are complied with for all vehicles participating in events to guarantee that a fair and even competition is undertaken. All vehicles are scrutineered by the course clerk and if found to exceed this limit are told to either alter the

motor vehicle to comply or leave the course. These controls will remain in place and will not be altered as a result of the proposed modification.

It is considered that overall the impact of noise will not be greater on the days that the circuit operates as the sound levels generated by motor vehicles racing on the track is governed by a national motor sport body which adopts worldwide standards for motor sport. Therefore, as a result of the reduction in number of days the circuit will be able to operate, the impact of noise will be less than currently experienced.

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Environmental Health	Supports change

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

In general terms, the proposed modification to reduce the permitted maximum number of days the circuit can be used will result in less vehicle emissions from the circuit which will have a beneficial impact on climate change.

Prepared by	James Hamilton, Development Planner
Attachment	<ol style="list-style-type: none"> 1. Original and Modified Consent for Circuit DA90/75 2. Submission 3. Section 4.15 Assessment Report

ITEM	6b.20.037	DA2019/0674 – MANUFACTURED HOME ESTATE, 36 GOLDING STREET, YAMBA LOT 1 DP596578
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Jo Waugh for Hometown Australia Holdings Pty Ltd
<i>Owner</i>	Gateway Lifestyle Investment Holdings
<i>Address</i>	36 Golding Street, Yamba, Lot 1 DP596578
<i>Submissions</i>	Yes six; one in support and five objecting to the proposal

Development Application DA2019/0674 was received by Council on 10 December 2019 for a Manufactured Home Estate (MHE) over the land currently occupied by Yamba Waters Caravan Park. It is proposed that the area currently approved for 119 long-term sites and 65 short-term sites be changed to make up a total of 149 manufactured home estate sites for long-term residential accommodation with community facilities. The new sites and facilities will replace short term powered sites, 5 tourist cabins, 10 motel sites, 2 villa sites, laundry, dump point and grassed areas.

This report provides an assessment of the application, a summary of the issues raised in the submissions and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Development Application DA2019/0674 be approved subject to the draft Advices and Conditions attached to Schedule 1 of this report.

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

Yamba Waters Caravan Park was originally approved under DA78/6 for 40 sites in 1978. The latest approval/modification amending the park to 119 permanent sites and 65 short term (with only 61 of these being established).

Under this Development Application the former caravan park will be changed to a MHE with a total of 149 sites being established over the same footprint as per the master plan for the site shown below (the yellow areas on the plan below showing the new sites. Note: sites are not consecutively numbered).



The site is almost entirely zoned R1 General Residential with a small portion of SP2 Infrastructure zone being part of the Deering Street, Yamba bypass corridor. Manufactured Home Estates are

permissible with development consent under the provisions of State Environmental Planning Policy 36 – Manufactured Home Estates (SEPP 36).

The proposal has been assessed as being compliant with SEPP 36 and the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (the Regulation) which details the minimum requirements of a MHE; compliance with the Regulation will be a requirement of condition of consent.

The applicant has provided a response to the issues raised in the submissions which is an attachment to this report.

The application has been referred to the NSW RFS as integrated development and a Bushfire Safety Authority (BSA) is required under Section 100B of Rural Fires Act 1997; the Service has issued their General Terms of Approval.

KEY ISSUES

Issue 1 – Adjoining land use conflicts with Industrial zoned land

The subject land is located adjacent to an industrial estate. Industrial land owners have raised concern that noise or other industrial use impacts that result from future industrial uses on long-term residents in the estate will generate noise complaints and/or restriction on industrial use.



Map 1 – Aerial view showing site location of canal and surrounding zones

Comment

The caravan park has been in its location since 1978. The adjoining industrial land was rezoned around 1999 and subdivided into seventeen smaller allotments in 2008. A 5 metre wide buffer/restriction is provided along the western boundary of the industrial zoned land which would act to protect riparian vegetation and provide a visual buffer to the industrial use.

The potential future land use conflicts are an important consideration in protecting the amenity of residences and not restricting the type of industrial uses on the adjoining land. The two zones are separated by a saltwater lagoon by a distance of about 35 to 50 metres and it is noted that noise can travel easier over water. The 'new' Yamba industrial zone is generally bounded to the north and west by residential zones.

It would seem fair and reasonable that the future development of the industrial lots will need to consider the impacts on the caravan park/MHE dwellings and other existing residential areas that have been constructed on these areas for many years. Minimising adverse effects can be achieved in the hours of use,

design, insulation and orientation of future industrial development towards Fairtrader Drive. Future industrial development would also need to consider the NSW Industrial Noise Policy and associated impacts on all surrounding properties to ensure that a reasonable level of amenity is maintained.

Issue 2 – Drainage in Golding Street and along common boundary

The adjoining neighbour has raised concern over existing stormwater issues that appears to be related to the maintenance of an open drain on the northern common boundary of the park and the park having been filled to a higher height of around 1m in the past. It appears that there is a depression in the section of Golding Street in which water pools after rain and a cut has been made in the gutter which drains onto the northern property.

Comment

The adjoining lot is similarly zoned R1 Residential and could be subdivided and redeveloped in the future. It is currently low lying and flat like surrounding lots on which water pools after significant rainfall. It is noted that the park could only drain stormwater to the adjoining land if there was an easement in place to do so.

Council requires that the stormwater impacts from the proposed development are to be neutral reduced compared to the existing pre-development situation. It is proposed that stormwater from the new manufactured home sites along the common boundary drain to an internal stormwater drain (in Mainbrace Boulevard) and to the adjoining lagoon. There is an opportunity for the development to rectify any stormwater drainage issues. The consent will be conditioned so that stormwater does not drain to the adjoining property.

The pooling of water that occurs along the Golding Street gutter of the adjoining property is an existing issue and not the responsibility of the developer. Conditions of consent will require that best stormwater management practices are adopted which will manage as much as is reasonable the stormwater drainage off-site and to Golding Street.

Issue 3 – Increase vehicle and pedestrian traffic on narrow road

Golding Street is bitumen sealed through to the entrance of the park and has a variable width. Generally there are grass verges past Deering Street except for small section adjoining the park that is kerb and guttered. There is no pedestrian footpath in Golding Street up to Yamba Road.

Comment

Golding Street is not a road identified as being an access route to increase the walking and cycling in Yamba under Council's Pedestrian and Mobility Plan. Council's Development Engineer has advised that it is not anticipated that the development will significantly increase the current traffic generation rates through peak periods. Overall there will be a reduction in the number of sites (185 to 149) due to a larger area being required for a MHE site reducing the amount of holiday period peak traffic and pedestrian volumes. No improvements to the Golding Street road formation or pedestrian areas are required for the proposal.

Issue 4 – Landscaping along property boundary is poorly maintained.

Comment

Council will be requiring the submission of a detailed landscape plan to be approved by Council for the strip adjacent to the common boundary of the adjoining Lot 1 DP527446. The plan will need to show how screening of MHE sites and facilities will be completed to protect the amenity of the adjoining lot.

Issue 5 – Loss of caravan sites and pet friendly caravan park

Comment

The applicant is seeking approval for a manufactured home estate under the provisions of SEPP 36. A manufactured home estate does not include the provision of tourist accommodation, and as such Council is

not required to consider the ratio of long-term and short term site numbers as is done with a caravan park use.

There may be some adverse economic impacts to the local economy from the removal of the tourist sites. Conversely there is also likely to be economic benefits from the development through the provision of additional affordable housing and from permanent residents utilising local services.

Short term and pet friendly accommodation is desirable to some visitors, however, the removal of this type of tourist accommodation will impact a small portion of Yamba's visitors. This impact is not considered to be significant.

Other caravan park or caravan-based accommodation options exist in and around Yamba for tourists and visitors in a range of other forms including motels, hotels, bed and breakfast accommodation and camping. The loss of 61 tourist sites is not considered to be significant in terms of overall tourist accommodation to the Yamba area.

The proposal has been applied for to address the demand for this type of affordable housing within the Yamba area. The estate will remain as being pet friendly to the occupants. The MHE is permitted in the R1 zone and the proposed use is consistent with the objectives of the zone being:

- To provide for the housing needs of the community;
- To provide for a variety of housing types and densities; and
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The site is considered to be suitable for the proposed use and not contrary to the public interest.

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 staff budgets.

Asset Management

Increased traffic to the site along Golding Street will not generate traffic movements above the design criteria for the access street nor result in maintenance being scheduled to what would otherwise occur.

Policy or Regulation

- *Environmental Planning and Assessment Act 1979*
- *Biodiversity Conservation Act 2016*
- *Environmental Planning and Assessment Regulation 2000*
- *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 Residential Zones*

Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Comments and conditions provided
Building Surveyor	Conditions provided
Environmental Health	Conditions provided

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 Yamba. Future manufactured homes 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">1. Plans2. Statement of Environmental Effects3. Section 4.15 assessment report4. Submissions5. Applicant's response to issued raised in submissions6. NSW RFS Approval7. Landscape Plans

Schedule 1 – Draft Advices and Conditions of Consent**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)

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

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

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

WSUD means Water Sensitive Urban Design

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

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

Civil Works may include -

- a Earthworks
- b Water & Sewerage Reticulation

NATA means National Association of Testing Authorities

RMS means Roads and Maritime Services

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**.

Advice:

1. A suitably accredited private certifier may be engaged for all or part of the civil engineering works associated with this development other than water and sewer supply works. Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.
2. 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.
3. Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act 1993.

4. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the *NSW Roads Act 1993*. 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.
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. 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.
7. 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 Approval to Operate. The levy is required under the Building and Construction Industry Long Service Payments Act 1986.
8. The Earthworks Management Plan must include an initial site inspection report. This report should include:
 - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
 - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
 - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, very high water tables, 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 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 The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements

The Earthworks Management Plan must :

- a Include details of how the works will comply with the Protection of the Environment Operations Act 1997.
- b 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.

- 9. Internal earthworks design to consider existing drainage issues regarding swale drain at northern boundary of site discharging to saltwater lagoon.
- 10. 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.
- 11. Prior to issuance of the approval to operate Council's Environmental Health Section must be satisfied that all relevant sections within the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 have been complied with. An inspection of the completed development will be undertaken by a Council Environmental Health Officer prior to issuance of an approval to operate.
- 12. An approval to operate a Manufactured Home Estate that may be issued by Council under Section 68 of the *Local Government Act 1993* is time limited to a period of five (5) years and therefore, the approval to operate is subject to periodic renewal or extension. A notice of installation, in accordance with clause 68 of the Regulation, shall be submitted to Council within 7 days of placement of any manufactured home or associated structure. The notice shall indicate the site number; details on the compliance plate; a copy of the engineer's certificate and a fully dimensioned diagram of the dwelling site sufficient to indicate whether or not the setback, density, open space and site delineation requirements of the Regulation have been complied with.
- 13. 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.
- 14. All dwelling sites and community buildings shall be located within 90 metres of a fully functioning double headed pillar type fire hydrant.
- 15. Demolition work is to be carried out in accordance with AS 2601.

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 Proposed Master Plan, Drawing No, CP.1, Revision P, and Landscape Plans LCP 1.0.1, 1.0.2 & 1.0.3, revisions dated 15/11/19, 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:

\$10,500.00

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 \$1,050,000.00

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. The submission of detailed Landscape Plan by a person competent in the field is to be submitted for the strip of land adjacent to the common boundary of the adjoining Lot 1 DP527446. The plan will need to show how screening of MHE sites and facilities will be completed to protect the amenity of the adjoining lot. The plan is to be submitted and approved by Council, prior to commencement of any works. Plantings are to be established prior to the issue of an Approval to Operate.

4. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 11 May 2020, consisting of four (4) pages, (Ref: DA20200406001205-Original-1) and as attached to this Notice of Determination.

5. Manufactured homes and associated structures must comply with Division 4 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

6. The operator of the manufactured home estate must hold a current approval to operate issued under Section 68 of the Local Government Act 1993 from Clarence Valley Council.

7. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to Approval to Operate. This may require payment of a fee.

8. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

9. The developer must design and construct all civil works, in accordance with **NRDC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to Approval to Operate.

Prior to commencement of works a practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works:

- a includes adequate drainage to ensure the stability of the development

10. 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.

11. 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.

12. 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.

13. Prior to issue of the Approval to Operate, the applicant is to provide water and sewer supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and NRDC.
14. 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.
15. 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.

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

17. 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**.

On-site detention (OSD) of no less than 3kL per dwelling is to be provided prior to issue of Occupation Certificate.

18. The legal and practical point of stormwater discharge of the development is nominated as Saltwater Lagoon as depicted in Inset 1 of Dwg 190352-02-AP-CI-01.

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

20. In accordance with **NRDC** and prior to issue of Approval to Operate, 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.

21. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the DA approved plan and made available thereafter. The car parking classification is Class 2 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.

22. 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.

23. 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**.

24. Prior to issue of Approval to Operate 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.
25. 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 Approval to Operate.
26. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until Approval to Operate is issued or the development is accepted 'Off Maintenance'.
27. 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.
28. 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.
29. 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.
30. **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.
31. 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.

32. Working/Construction Hours **Working hours on construction or demolition shall be limited to the following:**
- 7.00 am to 6.00 pm Monday to Friday**
 - 7.00 am – 1.00 pm Saturday**
 - 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.
33. Prior to granting the approval to operate, an amended scaled site plan shall be provided which clearly details the location of each double headed pillar type fire hydrant; ten percent of the site that is reserved for recreation or other communal activities; and the offsets between the lot boundaries and the new dwelling site boundaries and all the community buildings.
34. All new dwellings on the site shall have a minimum finished floor level of 2.8m AHD with all materials of construction below that height being of flood compatible materials.
35. All new building construction for non-residential buildings on the site below 2.8m AHD shall be of flood compatible materials.
36. 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 to operate the manufactured home estate.
37. Council must be given written notice of the installation of a manufactured home or associated structure within the site of 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.
38. 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.
39. The new amenities, communal room and new maintenance area shown on the proposed master plan are not approved under this notice of determination and will need to be applied for under a separate development application.
40. 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.
41. Prior to occupation of any new manufactured home the site number shall be prominently displayed.

ITEM	6b.20.038	DA2020/0046 – MANUFACTURED HOME ESTATE, LOT 1 DP816365, 598 SUMMERLAND WAY, GRAFTON
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Hometown Australia Holdings
<i>Owner</i>	Gateway Lifestyle Investments Holdings Pty Ltd as trustee for Grafton Gateway Trust
<i>Address</i>	598 Summerland Way, Grafton
<i>Submissions</i>	Yes

DA2020/0046 seeks approval for conversion of an existing caravan park to a manufactured home estate to contain 201 long-term sites, and includes the conversion of an existing 62 short-term sites (tourist sites) to 57 long-term sites.

The application was notified to adjoining land owners and advertised. At the completion of the exhibition period Council received 52 submissions (including a number of petitions). Of the submissions, 19 were in support of the development and 33 in opposition to the development.

This report provides a review of the development proposed; discusses the matters raised in the submissions; and makes a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That:

1. Council endorse the proposed 5 metre setback from the proposed community building to dwelling sites 201 and 400 on the basis that Council is satisfied, as required under the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*, that the community building has been or will be properly screened by landscaping between the building and these sites; and
2. DA2020/0046 be approved subject to the draft Conditions contained in Schedule 1 attached.

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

The development approval history over the land, being 598 Summerland Way, Grafton relate to the use of the land for a caravan park dating back to 1989. The site as a caravan park expanded on several occasions since the original consent and comprises a mix of short-term and long-term sites. The site currently has an Approval to Operate under the *Local Government Act 1993* for a caravan park with 206-sites, comprising 144 long-term sites and 62 short-term sites.

The proposal now being considered under DA2020/0046 is for the conversion of the existing caravan park to a manufactured home estate containing a total of 201 long-term sites, and no short-term sites. The development includes:

- the conversion of an existing 62 short-term sites to 57 long-term sites, including removal of existing tourist cabins;
- retention of existing long-term sites within the park;
- removal of an existing amenities block, communal building and maintenance shed;
- construction of a new community building (containing a kitchen, dining, amenities, games room and library), amenities and shed;
- removal of vegetation (native and introduced species), and provision of landscaping and offset planting;
- bulk earthworks to improve drainage through the site, including approximately 560m³ of filling to depths up to 0.8m and cutting depths of up to 0.6m;
- provision of a total of 45 parking spaces (including 3 disabled spaces), which is comprised of 29 existing spaces and 16 new spaces; and
- additional internal infrastructure to service the proposed long-term sites.

The applicant has stated that:

The proposal will provide an additional 57 homes, consistent with built form and character of the manufactured homes within the Caravan Park. The proposal will retain the current operating model, providing housing exclusively to residents aged over-50, wanting to buy their home and lease a house site in a secure, managed community.

The subject land is zoned SP3 Tourist under the *Clarence Valley Local Environmental Plan 2011 (CVLEP)*. The applicant is seeking approval for the development under the provisions of *State Environmental Planning Policy No. 36: Manufactured Home Estates (SEPP 36)*. The development is permissible with development consent under the provisions of SEPP 36.

The application was notified and advertised in accordance with Council's Community Consultation Plan. At the completion of the exhibition period Council received 52 submissions (including a number of petitions). In some cases, the submitters lodged more than one submission. Nineteen (19) of the submissions support the proposal as they believe it will provide residents with improved security, safety and housing options. There are 33 submissions opposing the development and they raise a range of issues or concerns, which are discussed in more detail under Key Issues. The applicant also lodged a late letter and petition in support of the development. A copy of all submissions and petitions is provided in Attachment C.

KEY ISSUES

A detailed assessment of the development is contained in the attached s4.15 assessment. The issues and concerns raised in the submissions opposing the proposal as well as other key issues are discussed below.

1. Loss of tourist sites

Objectors have concerns for the loss of tourist sites and associated negative flow-on impacts to the local economy, events and festivals from reduced tourists visiting the town, especially due to the limited number of caravan parks in the area. The tourist sites are also used by family and friends when visiting permanent residents of the park.

Comment – The applicant is seeking approval for a manufactured home estate under the provisions of SEPP 36. A manufactured home estate does not include the provision of tourist accommodation, and as such Council is not required to consider the ratio of long-term and short-term site numbers as is done with a caravan park use. The application has demonstrated compliance with SEPP 36. Council is required to assess the development against relevant legislation and the merits of the proposal. In order for the development to be a manufactured home estate consistent with the provisions of SEPP 36 no tourist or short-term accommodation sites can exist.

Although there may be some adverse economic impacts to the local economy from the removal of the tourist sites, there is also likely to be economic and socio-economic benefits from the development through the provision of additional affordable housing and from permanent residents utilising local services. Furthermore, recent events such as the bushfires, where people lost their homes, and the economic downturns from the COVID-19 pandemic may increase the demand for more affordable housing options.

The existing tourist sites at this property are considered by some persons making submissions to be the best quality of similar facilities in the Grafton area. Notwithstanding that, other caravan park or caravan-based accommodation options exist in both Grafton and South Grafton for tourists. Further, accommodation for visitors is provided in a range of other forms including motels, hotels, bed and breakfast accommodation, and even camping. The loss of 62 tourist sites is not considered to be significant in terms of overall tourist accommodation and further, any downward adjustment in such accommodation generated by approval of this application could be offset by provision of additional capacity by the private sector in either traditional caravan park developments or by other forms of short-term visitor accommodation.

Council's Community and Industry Engagement team concur with these conclusions noting that the loss of tourist accommodation in this instance is not significant in terms of the overall tourist accommodation across the Clarence Valley as a whole. Further, during Grafton's Jacaranda Season, a peak tourism event, there is available accommodation at surrounding towns and villages including Yamba, Iluka, Maclean, Woolli and surrounds.

2. Potential impacts of the development

Objectors raised several potential impacts from the development including impacts on existing homes and residents, impact on amenity, the development is too dense, and loss of jobs/staff who work at the site.

Comment – As mentioned above, some residents support the proposal as they believe the removal of the tourist sites and provision of long-term sites will provide residents with improved security, safety and housing options. The existing long-term sites are not proposed to be altered by the development, however, the application does seek to change the facilities provided at the estate (see below under item 5 for more detail). The amenity of the park will change with the removal of vegetation and changes to built structures. However, additional landscaping is proposed and new structures are proposed to be in keeping with the character of the existing park.

The development is compliant with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (Local Government Regulations) in terms of site sizes and the provision of community facilities. Most of the site sizes are well above the minimum required of 130m², with sites ranging in size of 192-307m² (average site being 234m²). Additionally, the overall number of sites is proposed to be reduced from 206 to 201. As such, the density of the proposed development is acceptable.

If there is a loss of any staff or jobs, whilst unfortunate, this cannot be used as justification to refuse the application. Staff will still be required for the maintenance of the estate and this is confirmed on the Applicant's response to submissions (as attached to this report).

3. Lack of consultation with residents and accuracy of information provided

The submissions stated an opposition to the content of Attachment M to the Statement of Environmental Effects and claims that the letter of support from the Residents Committee is misleading and misrepresentative as it does not represent the views of all residents of the park. Residents stated that they were not consulted before lodgement of the application.

Comment – In response to this matter, the applicant, Hometown Australia (HTA) has provided the following comments:

“The residents of Jacaranda Grove live in an independent living community, with a Resident Committee elected by the residents. Under s 97 of the Residential (Land Lease) Communities Act 2013 (“RLLC Act”), the function of the Resident Committee is to represent the interests of the residents and consult with HTA about both the day to day running of the community as well as any proposal about the operation of the community. At all relevant times, HTA engaged with and consulted the Resident Committee as it was required to do so under the RLLC Act.

HTA undertook consultation above and beyond what is required by any instrument and although resident opinion is divided (as shown in the submissions), the development application should not be assessed on those divided opinions about the consultation process undertaken, but on the merits of the application.

...

HTA discharged our internal procedure of engaging with the Committee in the months prior to the DA being submitted. The consultation between HTA and the Committee was above and beyond what is required by any statutory instrument. To remove any doubt:

- Our records confirm the Committee reviewed, discussed, edited and signed the letter of support on the clear understanding that it would be submitted to Council with the DA.
- The content of the letter is accurate. It confirms the Committee was consulted, reviewed the plans and provided comment – all of which is correct.
- The letter does not make any false claims regarding unanimous resident-support, nor does it overstate the level of community consultation.”

As part of the development application process, the application was notified to adjoining land owners and advertised. This provides any interested persons (including park residents) the opportunity to comment on the proposed development and as evidenced by the number of submissions this process could be considered effective. The assessment of the proposed development considers all the concerns raised in the submissions, and assesses the application against relevant legislation and the merits of the proposal.

4. Vegetation removal

The objectors are concerned with the proposed loss of trees and the associated potential impact on wildlife/fauna.

Comment – The application seeks approval for the removal of 21 native trees, in addition to exotic species. The application was submitted with a Tree Report to address the removal of the trees. The trees form part of the landscaping plantings in the park and they are not remnant vegetation. The report has confirmed that the development site does not include any significant habitat or ecological values, including that the trees to be removed are not koala feed trees. Offset planting is proposed at a rate of 5:1 (i.e. 5 trees are to be planted for each tree removed). A total of 105 native plants are proposed to be planted over an area of 7,500m² along the site frontage to Alumy Creek. The proposed offset planting along the creek is likely to improve overall habitat values for the site in the future. Further, rehabilitation of riparian areas along creek banks is generally considered good practice. In addition, some landscaping within the grounds of the estate will occur.

5. Suitability of site facilities and maintenance issues

The submissions raised a range of concerns with the suitability of the site facilities and maintenance/management related issues. These include that the existing pool facility is too small for the number of residents proposed; the development results in a loss of the tennis court; there are no extra BBQ facilities; the on-site community centre is too small; there is no extra visitor car parking; and that the Disclosure Statement issued to park residents is not satisfied in terms of the timing of provision of facilities.

Comment – In response to the submissions concerns, the applicant has acknowledged that the pool is small and is prepared to increase its capacity. The applicant stated that they would be supportive of Council imposing a condition of consent requiring a larger pool be provided and address the works as part of the Construction Certificate application process. Although supportive of the provision of a larger pool, as there

is no minimum requirement for the pool size under any relevant legislation, Council cannot impose such a condition to increase the size of the pool. Furthermore, a separate Development Application is required to increase the pool size. There are certain aspects that need to be considered as part of a Development Application process for a pool, such as any BASIX requirements that cannot be deferred until a Construction Certificate Application.

There are no specifications as to what community facilities need to be provided for a manufactured home estate under the relevant legislation, so there is no requirement to provide a tennis court for the development or any additional BBQ areas. There is a requirement under the Local Government Regulations for the community amenities to have a total land area of 10% of the total site area. The development exceeds this requirement. The new community building includes a kitchen, dining, amenities, games room and library and is approximately 560m² in area, including outdoor alfresco areas. The existing community building to be demolished is approximately 180m².

A total of 16 new visitor parking spaces (including 2 disabled spaces) are proposed to be provided as part of the development. The whole estate will have 45 visitor parking spaces (including 3 disabled spaces). In accordance with the Local Government Regulations, a total of 32 visitor parking spaces (including 3 disabled spaces) are required for the development. The proposal exceeds this requirement. The visitor parking is provided in addition to undercover parking provided on the long-term dwelling sites.

The agreement between management and residents provided in the Disclosure Statement is not a matter for Council to be involved in. Similarly, any existing issues or concerns with the level of maintenance provided by park management or other management issues are not a matter for Council. These are commercial matters for the residents and management to resolve.

6. Stormwater drainage

Objectors have stated that the development will have adverse impacts on local stormwater drainage and associated amenity (including odours).

Comment – The application is supported with an Engineering Services Report, which addresses stormwater management for the site. Stormwater captured on-site is to be directed to two points, the existing internal basin/pond and the existing discharge point to Alummy Creek. Upgrade to the existing pipe network and the existing discharge point to Alummy Creek is proposed to service the development, with infiltration/attenuation to manage quality and quantity requirements. Approximately 560m³ of fill will be provided over the site to improve local drainage, with a nominated maximum fill depth of 0.8m and a maximum cut depth of 0.6m. Swale drainage and retaining walls are nominated adjacent to the southern boundary, with drainage from the site maintained to the existing low point, discharging to Alummy Creek. Prior to commencing works, the applicant will need to submit a detailed Stormwater Management Plan demonstrating the post-development flows are equal to or less than pre-development flows.

As mentioned above, both the quality and quantity of stormwater drainage is addressed in the assessment of the application.

7. Flooding

There is concern from submitters that the extra development will increase impacts during a flood event.

Comment – The application is supported with a Flood Management Assessment. The report assesses the development against the Flood Management Controls in the relevant Development Control Plan (DCP). The development is not considered to increase flood impacts or reduce flood storage areas. Some earthworks are proposed to address drainage issues, as discussed above. The 1-in-100-year flood level for the site is 6.45m AHD. The finished ground level of the area to be developed is approximately 6m AHD post-filling. In accordance with the DCP, the manufactured homes to be constructed on the long-term sites will be required to have a minimum floor level height of 6.4m AHD (the Council adopted minimum residential main habitable floor level height for Grafton), although it is encouraged that the floor levels be increased to

above the 1-in-100-year level to increase flood protection. Short-term sites are not required to be built to comply with these controls, so there could be an argument that the proposed development is improving the flood protection of the structures and residents in this regard.

The development also reduces the overall site numbers by 5, which will reduce the likely number of occupants at risk in a flood event. A comprehensive flood emergency plan will be required to be prepared for the manufactured home estate. The plan is to provide for the safe and orderly evacuation of the site (in any size flood) without increased reliance upon the SES or other emergency services personnel.

Consideration of the proposal against flooding considerations has also comprised reference to the adopted Grafton and Lower Clarence Floodplain Risk Management Plan (2014). The proposed development, with conditions as recommended is considered to be consistent and compliant with the requirements of that Plan. The Plan was prepared in accordance with the requirements of the NSW Floodplain Development Manual.

8. Compliance with legislative requirements

Comment – The development is subject to the relevant requirements of *State Environmental Planning Policy No. 36: Manufactured Home Estates* (SEPP 36), and the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (Local Government Regulations). An assessment against the relevant requirements has been provided as part of the Development Application.

In regards to the Local Government Regulations, a variation is sought to the setback of the community building to a dwelling site. The Local Government Regulations requires a community building to be setback 10m to a dwelling site, however, it also states that a variation can be approved if Council is satisfied that the community building has been or will be properly screened, fenced, enclosed or otherwise treated, and the absolute minimum setback allowed is 2m. A 5m setback of the community building to sites numbered 201 and 400 is proposed. A 5m setback is considered sufficient to provide adequate screening for the dwelling sites. Landscape screening is proposed along the northern boundary of lot 201. If the variation is supported, the landscape screening should also extend along the northern boundary of site 400. This can be addressed in a condition of consent.

The Regulations also require all sites to be setback 3m to a boundary not facing a road. From the plans submitted it is not clear if site 257 is setback 3m to the boundary (although it measures close). A condition of consent should be imposed to require the site to be setback a minimum of 3m to the side boundary.

Overall, it is considered that the development satisfactorily addresses the provisions of SEPP 36 and the Local Government Regulations. A detailed assessment is provided in the attached s4.15 assessment.

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

N/A

Policy or Regulation

The following planning and legislative instruments were consulted.

- *Environmental Planning and Assessment Act 1979*
- *Biodiversity Conservation Act 2016*
- *Local Government Act 1993*

- *Environmental Planning and Assessment Regulations 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*
- *Clarence Valley Local Environmental Plan 2011*
- CVC DCP – Development in Environmental Protection, Recreation and Special Uses Zones
- Grafton and Lower Clarence Floodplain Risk Management Plan (2014)

Consultation

The DA was advertised and notified in accordance with Council's Community Participation Plan to adjoining and nearby landowners, a notice was published in the Daily Examiner, DA information uploaded for viewing on Council's website, and a notice was erected on the site of the development immediately adjacent to the main site entry. Persons who have responded to the public exhibition will have become aware of the DA through one or more of these mechanisms or even other methods such as word-of-mouth. In the circumstances the level of interest displayed through submissions indicates the exhibition process was a success and has contributed to a better understanding of the proposed development and assessment of the potential impacts.

Specific issues arising in public submissions have been highlighted in the 'Key Issues' section of this report.

Assessment of the DA has also involved assessment by a range of Council staff and referral to relevant NSW Government agencies as indicated below:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Comments and conditions provided
Building Surveyor	Comments and conditions provided
Environmental Health	Conditions provided
Environment	Comments and conditions provided
Trade Waste	Conditions provided
Community and Industry Engagement	Comment provided
<hr/>	
<i>External</i>	<i>Comment</i>
Transport for NSW (TfNSW)	Comments provided – no requirements
State Emergency Service (SES) (informal referral)	No response. <i>NOTE: Assessment of flood risk completed by CVC staff by referral to the Grafton and Lower Clarence Floodplain Risk Management Plan (2014) that has been prepared in accordance with the requirements of the NSW Floodplain Development Manual.</i>

Legal and Risk Management

Council's decision may be appealed to the land and Environment Court if the Applicant is dissatisfied with Council's determination. Any person may appeal the determination through the Land and Environment Court if they consider Council has made a procedural error in administering and assessing the DA.

Climate Change

Provision of additional long-term sites in a manufactured home estate will provide residential housing on the edge of Grafton, within proximity of existing services. This form of medium density housing is more efficient and generates less greenhouse gases for the full life cycle of the development compared to more dispersed, lower density and fragmented forms of development.

Prepared by	Sarah Sozou, Development Planner
Attachment	A. Proposed plans B. S4.15 Assessment
To be tabled	C. Submissions

Schedule 1
Draft Advices and Conditions of Consent for DA2020/0046

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 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.

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**.

DCP means the Development Control Plan that applies to the land.

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.

The proposed development has been assessed as contributing an additional 14.6 ET demand on Council's water supply, and an additional 17.94 ET loading on Council's sewerage system. This includes an applicable credit of 31 ETs Water and 39.06 ETs Sewer for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 14.6 additional ET	= \$ 71,510.80
Sewer Headworks \$6,700.00 x 17.94 additional ET	= \$ 120,198.00

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.

3. 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. The levy is required under the *Building and Construction Industry Long Service Payments Act 1986*.

4. The Earthworks Management Plan must include an initial site inspection report. This report should include:
- a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
 - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
 - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, very high water tables, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

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

The Earthworks Management Plan must :

- a Include details of how the works will comply with the *Protection of the Environment Operations Act 1997*.
- b 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.

5. Connection to Council drainage, water and sewer systems require the approval of Council under the NSW *Local Government Act 1993*.
6. The Stormwater Management Plan shall consider the effect of stormwater on overland flowpaths (natural and diverted) and consider the effects 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.
7. In relation to buildings this development consent includes the demolition of the existing community, amenities and maintenance buildings (three buildings) plus the erection of a new community building, amenities building within the pool enclosure and a 9 x 10m shed. The DA does not cover the actual manufactured homes as their installation can occur under the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (referred to hereafter as 'the Regulation').
8. An approval to operate a Manufactured Home Estate that may be issued by Council under Section 68 of the *Local Government Act 1993* is time limited to a period of five (5) years and therefore, the approval to operate is subject to periodic renewal or extension.
9. If the intended development involves manufacture or sale food the following plans are required to be submitted to Clarence Valley Council for review and approval prior to issue of a construction certificate:

The following plans are required to assess in detail your proposed food business.

Site plan - to a suitable scale (e.g. 1:100) (not needed for mobile food vehicles) - including car parking, refuse storage area, adjacent land uses and toilet facilities.

Floor plan - to a suitable scale (e.g. 1:50).

Sectional elevation drawings - to a suitable scale (e.g. 1:50) showing all fittings and equipment.

Hydraulic plans (plumbing details) - to a suitable scale (e.g. 1:50).

Mechanical exhaust ventilation drawings (i.e. plans, elevation and schematic diagrams, where applicable) - to a suitable scale (e.g. 1:50).

The following details for your premises should be included on the plans, drawings or as attached specifications to allow appropriate assessment:

- finishes to floors, walls and ceilings
- layout of all equipment, benches, fittings and fixtures, and mechanical ventilation
- door and window openings
- where seating is provided for diners, the number of square metres of floor space available for dining and the number of persons to be catered for in this area
- customer and staff toilet details (if detached, provide the distance to the facilities and the number available for use)
- mechanical exhaust ventilation
- process flow, from product received through to end-product delivered

10. A notice of installation, in accordance with clause 68 of the Regulation, shall be submitted to Council within 7 days of placement of any manufactured home or associated structure. The notice shall indicate the site number; details on the compliance plate; a copy of the engineer's certificate and a fully dimensioned diagram of the dwelling site sufficient to indicate whether or not the setback, density, open space and site delineation requirements of the Regulation have been complied with.
11. Prior to issuance of the approval to operate, Council's Environmental Health Section must be satisfied that all relevant sections within the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* have been complied with. An inspection of the completed development will be undertaken by a Council Environmental Health Officer prior to issuance of an approval to operate.
12. No building construction is to be commenced until a Building Construction Certificate has been issued.
13. The subject property is flood prone and receives a level of flood protection from the Grafton flood levee system. To meet Council's current Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 6.4 metres Australian Height Datum (AHD). However, you are advised that the latest BMT-WBM 'Lower Clarence Flood Model Update 2013' study indicates that the 1:100 year flood level (1% annual exceedance probability flood level) in the vicinity of the subject site is 6.45-6.56m Australian Height Datum (AHD) and the extreme flood level is 8.82-8.94m AHD. Council is currently reviewing the flood planning levels for North Grafton based on consideration of the revised flood model (Council resolution 13.043/14). Until that review is completed and a revised minimum floor level for primary habitable areas of dwellings in North Grafton is determined the current minimum of 6.4m AHD will continue to apply. It is recommended that you take into consideration the findings of the latest BMT-WBM 'Lower Clarence Flood Model Update 2013' when determining the floor level of the primary habitable areas of the proposed dwellings.

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

Plan No	Drawn by	Plan Date	Sheet No	Revision
Proposed Master Plan (100% LT) CP.1209	Hometown Communities Australia	13/12/19		H
Proposed Community Centre Site Plan, CP.1210	Hometown Communities Australia	9/1/20		A
Proposed Community Centre Concept Plan	Natural Homescapes	18/7/19		1
Amenities Floor Plan and Elevations, LCP 1-3	Hometown Communities Australia	8/1/20		A
Landscape Location Plan, LCP1.00	Hometown Communities Australia	7/1/20		A

Landscape Concept Plan, LCP1.1	Hometown Communities Australia	8/1/20		A
Section and Planning Information, LCP1.2	Hometown Communities Australia	8/1/20		A
Sundown Deluxe Skillion General Arrangement, GRFTN3-7324	Ranbuild	Undated	1 of 2	
GRFTN3-7324	Ranbuild	Undated	2 of 2	

2. Payment to Council of the contributions pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*:

\$38,840.00

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 \$3,884,000.00

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. The machinery shed is not to be used for human habitation or for any industrial or commercial purposes unrelated to the manufactured home estate.
4. 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.
5. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.
6. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to the Approval to Operate. This may require payment of a fee.
7. Prior to issue of the Approval to Operate, the applicant is to provide water and sewer supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy.
8. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual

Exceedance Probability (AEP) water level in the vicinity of the site is RL 6.35 - 6.56m. Development on the site must be undertaken in compliance with the flood plain management controls listed in the Council **DCP** for the relevant land use zone.

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

9. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the DA approved plan and made available thereafter. The car parking classification is Class 2 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
10. 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.
11. 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.
12. 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 Approval to Operate.
13. 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 Approval to Operate is issued.
14. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on public 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.
15. 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.
16. 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.
17. Prior to commencing the use of the site, an approval to operate a manufactured home estate must be obtained under Section 68 in Part 1 of Chapter 7 of the *Local Government Act 1993*.

18. Dwelling site 257 is to be setback a minimum of 3m to the southern boundary.
19. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**.

A Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC** and approved by Council prior to commencement of works.
20. 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.
21. Water, sewer and fire services (hose reels and hydrants) shall be extended to service the new dwelling sites and community building. Prior to work commencing approval under Section 68 of the *Local Government Act 1993* shall be obtained from Council for sewer work, water plumbing and stormwater work (Note: Application fees apply). Two copies of hydraulic plans prepared by a hydraulic engineer to AS 3500, AS2419 & AS2441 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
22. Prior to occupation of any new manufactured home the site number shall be prominently displayed.
23. The pool safety barrier shall comply with AS1926.1 -2012 at all times. Temporary fencing that complies with this standard shall be positioned around the pool during the erection of the new amenities building. Any enlargement/replacement of the existing swimming pool shall be subject to a separate development application.
24. A comprehensive flood emergency plan shall be prepared for the manufactured home estate by a competent person. The plan is to provide for the safe and orderly evacuation of the site (in any size flood) without increased reliance upon the SES or other emergency services personnel. A copy of the plan shall be submitted to the SES and Council for their information prior to occupation of the new community building. A copy is also to be available on site and residents shall be made aware of the document.
25. An application to discharge liquid trade waste to Council's sewerage system shall be submitted for assessment with the Construction Certificate application.
26. Approval to discharge liquid trade waste shall be obtained prior to issuing the Occupation Certificate.
27. All sinks and floor wastes in the food preparation area of the Community Centre shall contain basket arrestors.
28. All trade waste from the kitchen of the Community Centre shall discharge through a 1500L grease arrestor. The grease arrestor shall be installed in accordance with AS/NZS 3500 Plumbing and Drainage Part 2: Sanitary Plumbing and Drainage and the plumbing code of Australia. It shall be located in an area that is accessible for the pump out contractor.
29. Waste cooking oil containers shall be stored in a roofed and bunded area. The bunded area shall be designed in a manner that prevents the discharge of oil to the environment or sewer system in the event of a spill or rupture.

30. An approval to operate a manufactured home estate is subject to the condition that the manufactured home estate is designed, constructed, maintained and operated in accordance with the requirements of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
31. Manufactured homes and associated structures must comply with Division 4 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.
32. The trees retained on site must be protected during construction in accordance with the recommendations of the *Australian Standard AS 4970-2009 Protection of trees on development sites*.
33. Replacement planting of removed vegetation must be undertaken in accordance with Sections 7 and 8 of the Arboricultural Report prepared by Northern Tree Care, dated 2 December 2019, for the subject land and proposed development.

ITEM	6b.20.039	MOD2019/0053 – MODIFICATION OF DA2014/0586 FOR REDEVELOPMENT OF SERVICE STATION, 113 RIVER STREET, MACLEAN
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Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	TFA Project Group
<i>Owner</i>	BP Australia Pty Ltd
<i>Address</i>	113 River Street (cnr Bakers Lane), Maclean
<i>Submissions</i>	Yes. Ten (10) public submissions and Transport for NSW comment.

Redevelopment of the BP Service Station on the subject land was approved subject to conditions in June 2015 under staff delegated authority. That development application, DA2014/0586, was subject to public submissions raising concern with the proposal, however it was considered that the matters raised could be addressed through conditions of consent, and further the proposal did not include significant community interest, substantial community input, any major environmental issues, or any major issues of non-compliance and hence, was able to be determined under officer delegations.

Council has received an application to modify DA2014/0586 by changing various aspects of the proposed development and openly states that the proposed use seeks 24-hour operation. The proposal was publicly advertised in accordance with Council's procedure and submissions presenting similar issues to the original DA have been received with the additional concerns regarding 24-hour operation. Council staff have actively liaised with objectors and negotiated with the Applicant and BP Australia to ensure improvements to the determination that was issued in 2015. These improvements were generally sought in response to community feedback and to further reduce potential impact from the proposed development on residents of the adjoining caravan park. In light of these outcomes it was again proposed to determine the current application under delegated authority without referring the item to a Council meeting for determination.

Public representations have been made to the elected Council requesting this matter to be considered at a Council meeting and Council's Executive have directed that this matter must be reported to Council for determination.

OFFICER RECOMMENDATION

That:

1. In accordance with section 4.55(2) of the Environmental Planning and Assessment Act 1979 the Council is satisfied that the proposed modification is substantially the same development as that originally approved under DA2014/0586; and
2. Council determine MOD2019/0053 by granting consent subject to the Advices and Conditions under DA2014/0586 except for changes as detailed in the Schedule to this report.

LINKAGE TO OUR COMMUNITY PLAN

Theme	3 Economy
Objective	3.1 We will have an attractive and diverse environment for business, tourism and industry 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 3.1.3 Provide land use planning that facilitates and balances economic growth, environmental protection and social equity

BACKGROUND

DA2014/0586 was determined by issuing conditional development consent on 2 June 2015. The determination followed a number of concerns being presented by owners and residents of the adjacent caravan park. The concerns included noise, pollution (air, dust and odour), access and loss of the laundromat facility. The existing consent will lapse on 2 June 2020 unless building, engineering or construction work relating to the approved development is physically commenced on the land to which the consent applies before that date. This period cannot be extended.

The subject land is occupied by a service station, laundromat and detached dwelling. A caravan park borders the eastern and northern side of the land. Residential development is located on the southern side of Bakers Lane and otherwise in the vicinity of the subject land. The Clarence River and riverside public reserve is located west of River Street opposite the subject land.

The scope of the current modification proposal is stated in the Statement of Environmental Effects as follows:

Scope of Works Summary:

- *The service station shop is in a similar position to the current approved location, but has been increased in size from approximately 150sqm to approx. 192sqm. This is so as to provide a better retailing offering to customers, in line with current customer expectations.*
- *Two (2) x 90kL tanks are now proposed, the consent currently approves two (2) x 60kL tanks. The proposed fuel system will be a complete replacement of the fuel system and will include line leak detection and VR1. It is noted that the increase in tank sizing means less fuel tanker deliveries are required which is safer and more efficient.*
- *The fuel vents have been moved away from the south-eastern side of the development site to the north eastern side of the development site.*
- *There is no increase in the number of bowsers but the canopy no longer extends the full width of the site. The vehicle refuelling locations within the canopy remain similar to the current approved layout however, the fuel fill point has been placed in a more accessible location.*
- *The loading bay for service vehicle and waste storage area has been reduced in size as the previous extent of these areas was larger than it needed to be to function effectively, the proposed layout now makes better use of the available space in the south-eastern corner of the site.*
- *An air and water point and additional landscaping and car parking has been provided on the northern side of the site, to better utilise this portion of the development site, reduce unnecessary hardstand and formalise car parking along this side of the site.*
- *Additional car parking spaces have been added in front of the service station shop. The previous consent included provision for five (5) car parking spaces including disabled bay, the current proposal has provision for eight (8) car parking spaces including disabled bay.*
- *Landscaping has been increased along the northern and eastern sides of the site and reduced along River Street between the shop and the road, but overall the extent of landscaping is increased.*
- *Operating hours now proposed as 24 hours, 7 days a week.*

Council officers have attended two site inspections and meetings with caravan park management and residents to listen to and discuss their concerns with this application. These meetings have been beneficial to gain a greater appreciation of the concerns and ensure that the interests of these community members have been reasonably considered.

KEY ISSUES

Key issues in relation to the MOD2019/0053 are presented below. An extract of the latest proposed site plan for the redevelopment is provided at Figure 1 below.

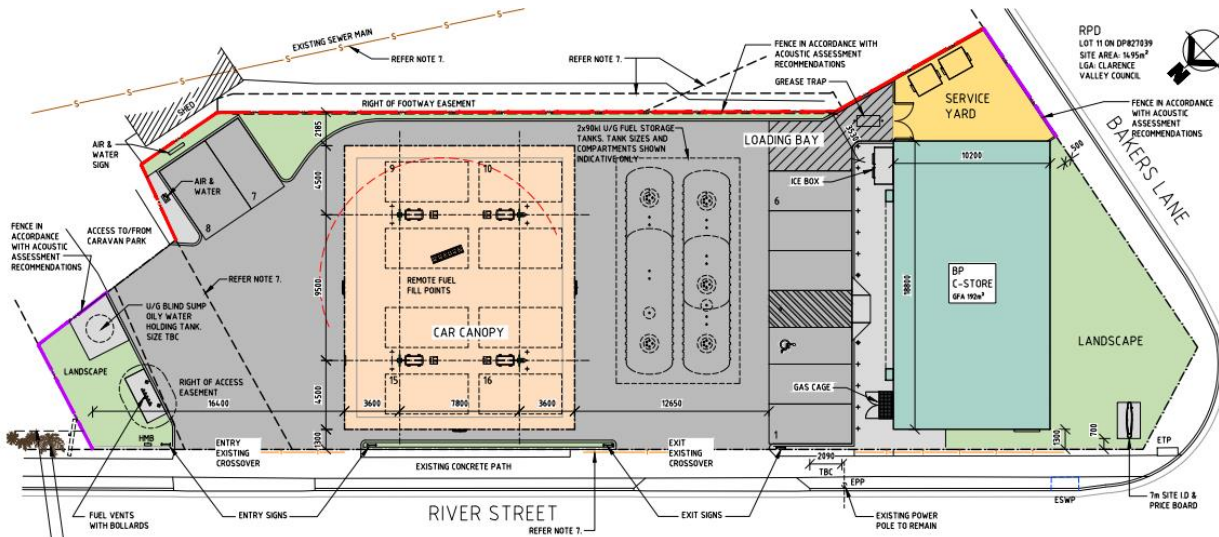


Figure 1 – Extract of proposed site plan showing proposed service station layout including sections of boundary fencing to be upgraded (coloured red and purple), fuel vent location (bottom left) and related features.

Modification – It is necessary to determine as part of Council’s assessment of this application to modify the consent issued for DA2014/0586 whether Council is satisfied that the modification sought is substantially the same development as the development approved in the original development consent.

The approved site layout plan for the service station approved under DA2014/0586 is shown in Figure 2 below.

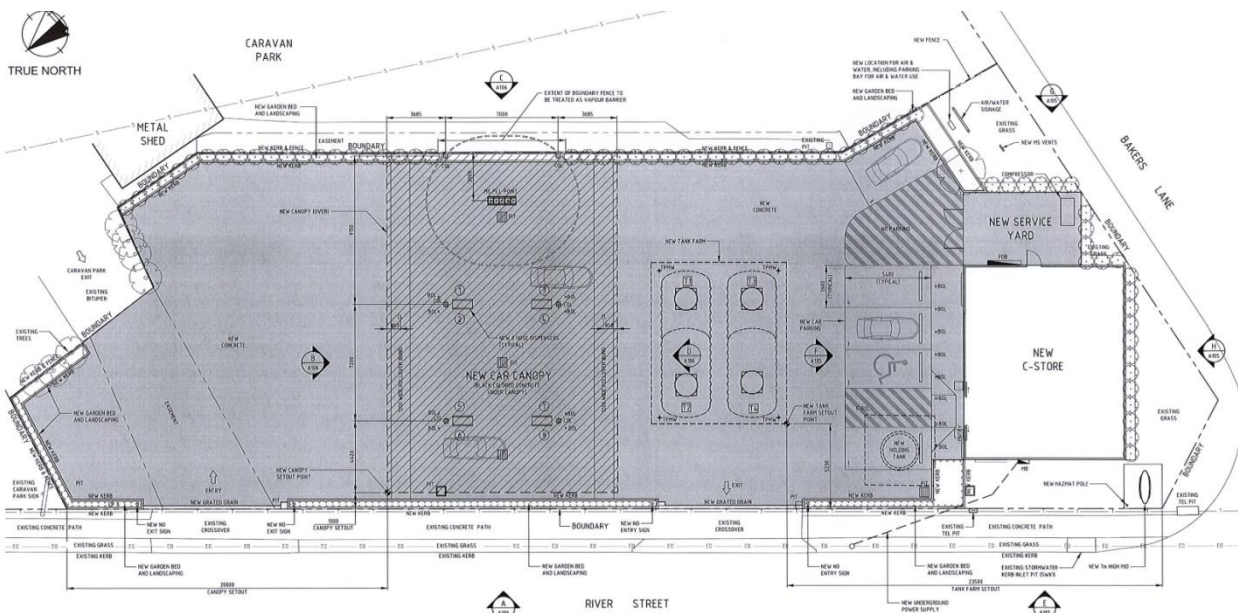


Figure 2 – Extract of approved site plan showing proposed service station layout including fuel vent location (top right).

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

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

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

The numerical aspects of the development, such as the canopy height, size of the convenience store, fuel storage capacity, number of parking spaces, landscaped area, etc are subject to change and in general terms each of the stated components are increasing, however the overall proposal remains as a service station consistent with the original development consent (see also Figures 1 and 2 above). The latest proposal seeks to provide much the same material and essential features of the service station development albeit in an adjusted form compared to the originally approved development.

The key matters for consideration are the non-numerical factors, such as change in potential nuisance (noise, odour, lighting, etc) and in general terms the range of issues is not changing, however, the specifics of how they may affect nearby land uses, residents and amenity is altered although arguably 'substantially the same'. In the assessment of this application it is suggested that after consideration of the non-numerical factors that there will be improved outcomes compared to the original consent as there will be a higher level of assessment and accountability. This will in turn offer all parties greater certainty for the construction and operational phases of the modified development.

It is recommended in the circumstances that Council find that the modification is 'substantially the same development'.

Typically in assessing and determining a modification whilst Council needs to again assess the proposal it is essentially assessing the components that differ from the original development as consented to unless otherwise agreed by the Applicant. The current modification, whilst being 'substantially the same development' is considered to differ in some aspects that enable certain issues to be opened for fresh investigation or assessment. These issues are assessed in the attached Section 4.55 Amendment Report and key aspects are presented and discussed below.

Hours of operation – The current modification openly proposes 24-hour operation. There were no hours of operation proposed in DA2014/0586 and the resultant development consent did not impose any limitations on hours of operation. Hence, it could be interpreted that the approved development has been granted consent for 24-hour operation already. Notwithstanding that, the existing consent does carry with it a requirement for noise generation to not exceed 5dB(A) above background noise level measured at the property boundary. This criteria would apply at any time of the day or night and is a typical measure of the amount of extra noise that can occur before noise is regarded as nuisance. Adherence to this criteria means that during daylight when background noise in the immediate environment is higher then noise generation can be higher, whilst at night the opposite would apply.

Submissions from the public have highlighted the 24-hour operation as a reason for opposing the proposal both due to direct impacts (noise, odour, lighting, privacy) on residents of the caravan park or the suggestion that a 24-hour service station and convenience store is best located on the Highway to serve Highway motorists. Some submissions do request that the times of fuel delivery by road tanker to the site should be limited, eg between 7.00am and 10.00pm, to reduce noise nuisance at night to nearby residents. The Noise Impact Assessment (refer to 'Noise' item below) does not recommend any limitation on the hours of fuel deliveries to the site. However, hours of deliveries to the on-site shop and rubbish collection are subject to limited hours.

Any approval for 24-hour operation will enable such operation, though not require it, hence for commercial or other reasons the owner or manager of the development may choose to operate on more restricted hours. This outcome is considered very likely. Notwithstanding that, good design and management of the development should ensure impacts are not unreasonable.

It should be noted that River Street and the Maclean Central Business District is not a gazetted B-Double route [\[https://www.rms.nsw.gov.au/business-industry/heavy-vehicles/maps/restricted-access-vehicles-map/map/index.html\]](https://www.rms.nsw.gov.au/business-industry/heavy-vehicles/maps/restricted-access-vehicles-map/map/index.html). This means that a large proportion of through highway heavy vehicles will not be permitted to access the proposed upgraded service station.

Noise – The existing development consent carries the condition limiting noise generation as described above. Further, a condition requires that a 1.8m high timber fence be erected along the common boundary with the adjoining caravan park to act as a noise and vapour barrier. As a result of concerns from the public and Council staff during assessment of this modification application that the 1.8m high fence would not be likely to adequately achieve that stated aims, whilst also contributing to other impacts (enabling light overspill and overlooking into the caravan park and residents homes) the Applicant has been asked to undertake a noise assessment and this has been completed and submitted to Council (refer to Attachments to this report for details).

The noise assessment considers operational aspects of the proposed use, including the cumulative worst case scenario of patron use, fuel unloading, garbage collection, etc and has been completed in accordance with the NSW Noise Policy for Industry (2017). Concerns have been raised by some objectors that the collection of background noise data on the caravan park site does not comply with the relevant Australian Standard. These concerns have been presented direct to the noise consultant on-site and to the Applicant by objectors and Council staff. In accordance with Council staff advice the Applicant has instructed the noise consultant to ensure the reasoning for any departure to the Australian Standard is explained in the noise report. Council's Senior Environmental Officer has considered the acoustic assessment and determined that it is satisfactory. In relation to the noise sampling location the following comment has been offered - *I'm comfortable with the noise monitoring location selected. It's representative of the surrounding area and in my opinion will return a lower RBL, which in term will set a lower intrusive noise criteria and therefore a lower Project Specific Noise Criteria.* [NOTE: RBL means relative background noise level]

In the course of negotiations with the Applicant the modification plans were revised to increase the height of the common boundary fence to 2.4m (a 0.6m increase) and improve the type of timber fence construction to be a lapped and capped style. It has been acknowledged that these changes will be beneficial for a range of reasons. The acoustic/noise assessment that has been completed recommends that the fence needs to be 2.8 metres high along the eastern boundary and 2.0 metres high along part of the southern boundary and on the northern boundary as shown in Figure 3. Section 6 of the Noise Impact Assessment also specifies a range of other measures that are required to manage noise emissions such that the impact on the closest residential receiver is acceptable. These requirements will be specified in proposed conditions in Schedule 1. Further, maintenance of the boundary fence to the required standard will be a requirement of the service station site landowner.

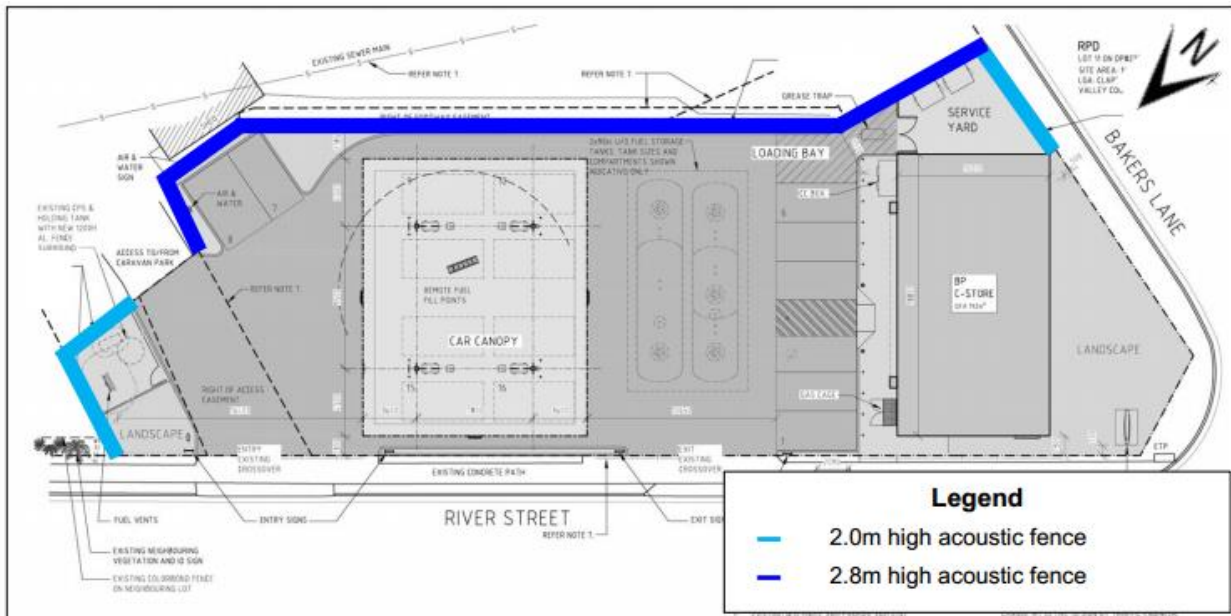


Figure 3 – Diagram showing the location and height of fencing required to be constructed for noise attenuation at the subject land (extract from Noise Impact Assessment, prepared by ATP Consulting Engineers, April 2020).

The existing service station development has the majority of buildings located along the common boundary with the caravan park and this provides a barrier against noise and other potential nuisances from the service station into the caravan park. Hence, the caravan park owners, managers and residents are comfortable with a fence or other barrier that is substantially higher than a typical dividing fence.

The original DA or consent did not include nor require a specific noise assessment to be completed. This is not considered desirable as it provides significantly less certainty for the objectors, Council, BP Australia and the future facility operator. For this reason, the proposed noise assessment procedure negotiated with the Applicant is considered to provide a superior outcome for all parties in the circumstances. The noise impact assessment has been assessed and approved by Council’s Environmental staff. The owner of the caravan park would prefer that a noise consultant of their choosing conducts a peer review of the noise assessment prior to the report being accepted, however, that is not considered necessary in the circumstances.

Lighting nuisance – The modified proposal seeks approval to a higher canopy over the fuel filling/bowser area compared to the original DA. Lighting installed on the canopy ceiling as well as associated with canopy signage and decals has potential to overspill into the adjacent caravan park, as do vehicles accessing the site at night. In recognition of this change to the proposal Council staff have also been able to negotiate a development-specific lighting assessment to be completed. This assessment has been completed (refer to Attachments to the report) and has determined that lighting can comply with the Australian Standard AS4282-1997, Council’s Environmental Officer has advised that - *The following is recommended for inclusion as a development condition:*

- (1) All new external lighting must--
 - (a) comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting , and
 - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill onto buildings on adjoining lots.

The Applicant has provided the following summary of the light spill analysis –
The Light Spill Analysis forms an Obtrusive Light – Compliance Report conducted in accordance with AS/NZS 4282:2019, A4 - High District Brightness, Curfew. The results of this analysis, for conservative measures were conducted at a lower eastern boundary fence height of 2.2m. The test results, as

expressed on the right-hand side of the plan, confirmed all lighting will achieve compliance against the relevant Australian standard.

This analysis will be refined during detailed design and with the provision of the recommended acoustic fencing put in place.

Given that the eastern dividing fence is now required to be 2.8 metres high to provide adequate noise attenuation the higher dividing fence is expected to provide even better reduction in transfer of lighting overspill to the adjoining caravan park than the analysis found.

In order to ensure night time neighbourhood amenity it is suggested that when the facility is not open for business all lighting, apart from security or essential lighting, should be turned off to further reduce potential nuisance.

Odour management – Operation of service stations inherently generate odours from time to time due to patron refueling activities, filling underground fuel tanks and other activities. Vent stacks exist at all service station sites to convey fuel vapours into the atmosphere in a manner that reduces nuisance. However, the placement of the vent stacks also influences the potential for odour nuisance. The modification application originally sought to locate the vent stack about 2 metres from the common boundary of the caravan park and some 20 metres to the caravan park's outdoor BBQ area. Submissions from caravan park management and residents requested the vents be moved closer to River Street or Bakers Lane. The Applicant has since revised the plans to locate the vent stack such that it is approximately 3 metres from River Street, 4.5 metres to one side boundary and 6 metres to another side boundary adjacent to the entry/exit driveway of the caravan park and closer to the outdoor BBQ area of the caravan park (refer to Figure 1).

The approved plans for DA2014/0586 (refer to Figure 2) show the vent stack located about 5 metres from the caravan park boundary and some 3 metres from Bakers Lane at the south-east corner of the subject land.

Objectors would prefer that the vent stack be relocated closer to the River Street and Bakers Lane intersection in the landscaped area and at a maximum distance from the caravan park boundary. The Applicant has advised that 'Preliminary fuel design review of alternate locations such as close to the Bakers Lane frontage, has proved impractical based on the layout as proposed.' Staff are satisfied that the revised location of the vent stacks is acceptable.

In an effort to further reduce potential odour nuisance Council staff have informed the Applicant that vapour recovery mechanisms will be required for fuel supply activities. This again, is a higher requirement than included on the original development consent and an improved level of odour/vapour management compared to the current service station.

Privacy of caravan park residents – Permanent residents and managers of the caravan park have presented concerns that the redevelopment will result in a loss of privacy compared to the existing situation whereby the service station buildings offer a visual barrier. The Noise Impact Assessment (as attached) recommends a fence between 2.0 and 2.8 metres high along the majority of the common boundary with the caravan park. This fence will provide superior privacy compared to the 1.8 metre high fence required in the 2015 consent.

Towards the northern end of the common boundary between the service station and the caravan park a right-of-way (ROW) traverses the boundary. The ROW enables exit or egress in favour of the caravan park. This gap in the fence will enable some vision between the two adjoining uses as existing. The caravan park sites adjacent to the ROW are short-term sites and hence, there is no additional impact for long-term residents.

Removal of contaminated soil – The redevelopment seeks approval to replace existing underground petroleum storage tanks with new tanks. It is common for soil and/or groundwater in the vicinity of existing storage tanks to be contaminated with residue elements and compounds from leakage associated with current or past fuel storage systems. Remediation of service station sites is commonly completed when these sites are redeveloped or underground tanks are replaced. Remediation traditionally involves removal of contaminated soil and/or groundwater to an approved disposal facility. Remediation can also involve on-site ‘land-farming’ techniques which involve excavation and management of contaminated soil on-site in order to allow volatile compounds such as hydrocarbons to ‘gas off’ or escape into the atmosphere. Hydrocarbons often produce odours and hence, with sensitive receivers such as the caravan park and residential dwellings located adjacent to the subject land it is recommended that on-site land farming is not accepted in conjunction with any necessary remediation works on the subject land.

The caravan park managers and residents are concerned that dust generated during site remediation will impact the park and residents. Dust control is a standard requirement of development involving site works and detailed plans of erosion and sediment control due to the action of wind or water are required prior to issue of the Construction Certificate. The potential for dust to be generated from any soil being land-farmed on the subject land, in addition to potential odour impacts, is another reason not to allow such remediation techniques in this circumstance.

Detailed assessment of the soil conditions and levels of chemical residues will be required and any remediation will need to be detailed in a remedial action plan (RAP) submitted to and approved by Council prior to commencement of any excavation works on parts of the site that are contaminated with chemical residue over the acceptable threshold. A validation report confirming that contaminated soil has been removed (as applicable) and appropriately disposed of will be required prior to occupation of the redeveloped facility.

Dewatering and pump noise – In association with any remediation of the subject land and installation of new underground fuel storage tanks it is likely that some dewatering, or removal of water from below the existing ground surface, will be required. This activity will require a separate permit to be issued by WaterNSW prior to any dewatering commencing.

Submissions present concern with the potential for noise generated by pumps used to remove water from the ground during this dewatering process. Whilst some noise is possible the period would be limited in duration. Further, management of pump/s and their siting to mitigate noise can be readily achieved and noise mitigation requirements are recommended in Schedule 1.

Operational impacts – General operation of the service station development has potential to generate nuisance. Such activities include re-fuelling operations by road tanker and emptying of refuse bins, etc. The Noise Impact Assessment and Light Spill Analysis (as attached) has assessed relevant operational activities and made recommendations to mitigate noise and lighting to acceptable levels. In general terms, conducting these activities during daylight hours after 7.00am when background noise levels are higher and people are awake is more likely to be acceptable. The draft conditions propose that a catch-all nuisance condition be applied, particularly for noise, that enables Council to require additional noise assessment and/or mitigation should the need arise.

Development consent DA2014/0586 requires that no liquid waste from the forecourt is discharged to the environment. This will necessitate such stormwater waste to be collected in a blind sump and collected periodically by a suitably accredited waste contractor. The modification application did seek to adjust this requirement, however, once the Applicant was advised of recent decisions by Council to uphold the conditioned requirement at other new or redeveloped service stations the Applicant agreed for the existing requirement to be retained. Potential for discharge of waste water to the Council’s stormwater system and into the Clarence River is not compatible with maintaining a viable commercial fishing industry and a sustainable natural environment.

Economic impacts – The owner of the caravan park contends that as a result of the proposed redevelopment that residents and visitors to the caravan park will be discouraged from staying at the accommodation. Any subsequent downturn in occupation will have flow-on effects to the local businesses that benefit from these customers according to the submission. These claims are difficult to demonstrate as while they are possible it is suggested that this potential is greater with present use and management of the subject land.

The existing site is occupied by a service station development with laundromat and dwelling and the management of the site and operational impacts is considered by Council staff to be at a lower standard compared to the requirements that have been negotiated as part of the current application. For example, the existing fuel vent stack is located at the south-east portion of the site and in the current plans the vent stack is proposed to be moved closer to River Street at the north-west portion of the site. Additionally, Council officers have advised that Stage 1 vapour recovery measures will need to be utilized when fuel deliveries are being unloaded. This will reduce odour nuisance compared to the existing situation.

OPTIONS

In general terms the options are as follows:

1. Endorse the staff recommendation to accept that the proposed modification is 'substantially the same development' as originally approved under DA2014/0586 and to conditionally approve MOD2019/0053. This is the preferred option; and
2. Not endorse either aspect of the staff recommendation and refuse application MOD2019/0053. Choosing this option will require Council to state what planning grounds are being given for refusing the application. This decision will not affect the validity of the 2014 development consent. This is not the preferred option.

COUNCIL IMPLICATIONS

Budget/Financial

The Applicant has paid application fees for processing the application, including advertising fees. Assessment of the application has been completed by a range of administrative and professional staff using recurrent staffing budgets.

Asset Management

N/A

Policy or Regulation

Assessment of the application MOD2019/0053 has taken account of the following legislation and policy as applicable:

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy (Coastal Management) 2016

State Environmental Planning Policy No 55 – Remediation of Land

Clarence Valley Local Environmental Plan 2011

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

NSW Noise Policy for Industry (2017)

NSW Practice Note for Managing run-off from service station forecourts (EPA, 2019)

Consultation

The MOD2019/0053 application was advertised and notified in accordance with the relevant legislation and Council's DCP. The Daily Examiner also wrote an editorial article focussed on the proposed 24-hour operation of the service station proposal that will have generated additional community knowledge of the proposal. Ten public submissions were received and a full copy of each submission is attached to this report. The key issues raised in submissions have been presented and addressed in this report.

Two on-site meetings were held with the management and interested residents of the adjoining caravan park to gain a better understanding of their concerns and to explain what the application proposed and Council's procedures.

The application was referred to Transport for NSW (formerly known as Roads and Maritime Services) for comment. This agency advises that they have no concerns with the proposal as the vehicular access arrangements are essentially the same of the original proposal that they also considered to be acceptable (refer to TfNSW reply in attachments).

The following consultation or referral to Council staff has taken place:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Recommend approval with conditions
Strategic Planner (Heritage)	Recommend approval with conditions
Senior Environmental Officer	Recommend approval with conditions
Trade Waste Officer	Recommend approval with conditions
Building Services Coordinator	Recommend approval with conditions

Legal and Risk Management

Council staff have actively liaised with the concerned community members and the Applicant in an effort to achieve an improved outcome compared to the approval issued for DA2014/0586. Despite the Officers Recommendation to this effect any determination by Council is subject to the option of appeal or review by the Applicant should they be dissatisfied with the determination.

The public may seek review or appeal through the Land and Environment Court if they consider that Council has made a procedural error.

Council staff are satisfied that the recommendation of this report presents an improved and fair outcome for the Applicant, adjoining residents/owners and the wider community.

Climate Change

The redevelopment of the service station does not present any significantly different climate change considerations compared to the original DA2014/0586.

Prepared by	Scott Lenton, Development Services Coordinator
Attachment	<ol style="list-style-type: none"> 1. Statement of Environmental Effects 2. Proposed plans 3. Development Consent Notice DA2014/0586 4. Public Submissions 5. Comment from Transport for NSW 6. Light Spill Analysis
To be tabled	7. Noise Impact Assessment (81 pages)

Schedule 1
Draft Advices and Conditions of Consent for MOD2019/0053

Definitions

Amend the following Definitions

Applicant means **TFA Group Pty. Ltd.** ~~GHD 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: ~~means Northern Rivers Design and Construction Manual~~

~~The current engineering standards are:~~

- a The Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b The Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c The Northern Rivers Local Government Handbook of Stormwater Drainage Design
- d The Northern Rivers Local Government Handbook for Driveway Access to Property (AUS-SPEC)
- e The Clarence Valley Council 'MUSIC' Guidelines (Draft)

AUS-SPEC documents can be obtained from a link under the 'Planning and 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.

~~The current version of NRDC can be obtained from the Clarence Valley Council webpage.~~

Advices

Delete the following Advices

2. Building Surveyors approve works on private property, whilst Development Engineers approve works on public property and Council infrastructure. A Building Construction Certificate and a Civil Construction Certificate are both required with this development.
11. Prior to preparing a Management Plan for stormwater, sewerage or water reticulation the applicant should obtain advice from Council to determine the requirements for connecting / discharging to any existing system and the use of SEQ WSUD.

Amend the following Advices

15. Effective measures are to be taken to prevent any nuisance being caused by noise, **light**, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.

Insert the following new Advices

17. Owners are advised of the consent requirements of Clause 5.10 of Clarence Valley LEP 2010 in relation to the need to obtain prior consent for works including tree removal, new fences, and any alterations to the fabric, finish and appearance of a heritage item or building in a Heritage Conservation Area. Many works can be approved through the 'no fee' minor works and maintenance heritage exemptions of Clause 5.10(3) but must be put in writing and approved prior to commencement.
18. Attention is directed to the NSW Heritage Act 1977 in relation to the exposure of relics. The Act requires that if;
 - i) A relic is suspected, or there are reasonable grounds to suspect a relic in the ground, that is likely to be disturbed, damaged or destroyed by excavation, or,

ii) Any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation,
Those responsible for the discovery must notify nominated personnel who will in turn notify the Heritage Council of NSW and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss 139, 146.)

19. The NSW Government made the Environmental Planning and Assessment (COVID-19 Development Construction Work Days) Order 2020 on 31 March 2020 which has extended construction site operating hours to Sundays and Public Holidays. On these extended days all feasible and reasonable measures to minimise noise are to be taken. This overrides Condition 42 for the duration of the pandemic or unless otherwise directed by the NSW Government. The head contractor/builder is responsible to ensure a copy of the order is made available onsite at all times (available at the following link <https://www.planningportal.nsw.gov.au/Orders>).

Conditions

Delete the following conditions

17. An easement is to be created to provide for conveyance of existing/proposed interallotment drainage through the subject land. The easements shall be provided as follows:
- Where there is no Council infrastructure contributing to the drainage scheme the easements shall be in favour of the properties requiring the benefit and not Council.
 - Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system then the easement must benefit Council only. This easement must be an easement in gross.
 - Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system and there are properties draining directly to the drainage system then the easement must benefit Council and these properties

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

18. The proposed exiting access arrangement must be amended by widening the driveway to cater for the manoeuvring of a 19m tanker truck. The existing power pole must be relocated. All cost must be borne by the applicant.

Amend the following Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulation thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans **as prepared by TFA project Group**:
- ~~SK-10360-A106, dated 13/05/2015 submitted for BP Australia;~~
 - ~~SK-10360-A105, dated 13/05/2015 submitted for BP Australia~~
 - ~~SK-10360-L001, dated 30/10/2014 submitted for BP Australia~~
 - ~~SK-10360-A102D, dated 30/10/2014 submitted for BP Australia~~
 - ~~SK-10360-A103, dated 30/10/2014 submitted for BP Australia~~
 - **Proposed Site Plan, Drawing No 17180-D03 (Rev A), dated 12 May 2020;**
 - **Proposed Floor Plan, Drawing No 17180-D04 (Rev A), dated 12 May 2020;**
 - **Building elevations Sheet 1, Drawing No 17180-D05 (Rev A), dated 12 May 2020;**
 - **Building elevations Sheet 2, Drawing No 17180-D06 (Rev A), dated 12 May 2020;**
 - **Canopy Elevations, Drawing No 17180-D07 (Rev A), dated 12 May 2020;**
 - **Tanker Unloading Path, Drawing No 17180-D08 (Rev A), dated 12 May 2020;**

- *Refuse/Delivery Truck Path, Drawing No 17180-D09 (Rev A), dated 12 May 2020;*
 - *Site Signage Plan, Drawing No 17180-D10 (Rev A), dated 12 May 2020;*
 - *Site Signage Elevations, Drawing No 17180-D11 (Rev A), dated 12 May 2020;*
 - *Concept Landscape Plan, Drawing No 17180-D12 (Rev A), dated 12 May 2020;*
 - *Conceptual Stormwater Management Plan, Drawing No 17180-D13 (Rev A), dated 12 May 2020;*
- except where amended in red* or where modified by any conditions of this consent.

3. Prior to commencement of any work associated with removal of the fuel tanks, **or any dewatering activity**, evidence must be provided to Council to demonstrate that concurrence approval has been granted by ~~NSW Office of Water~~ **NSW** under section 91 (aquifer interference approval) of the *Water Management Act 2000*. **A copy of the Dewatering Management Plan must also be provided to Council prior to any dewatering activity.**

~~Note of clarification: the application was lodged as a 'local development' application. It is, however, an 'integrated development' application, requiring the above concurrence approval. It is the applicant's responsibility to obtain this approval prior to the issue of any Construction Certificate.~~

4. The development site must be fenced in the following manner:
- (a) During demolition and construction works, the site must be enclosed with a chain wire fence, with shade cloth hoarding;
- (b) The fence along the common boundary between the service station site and the caravan park (except where traversing the right-of-way) shall be constructed in accordance with the recommendations at Section 6 of the Noise Impact Assessment, prepared by ATP Consulting Engineers, dated April 2020. The subject fence shall be maintained at the full cost of the owner of the service station.**

Details of fencing must be lodged prior to issue of the Building Construction Certificate, and the final fencing described in (b) above is to be completed **as soon as practical after demolition of the existing service station buildings to ensure visual privacy of neighbouring residents and visitors and** prior to issue of the **Occupation** Certificate.

5. The landscape concept plan submitted with the DA is acceptable. A detailed landscaping plan is to be submitted to Council for approval prior to the release of the Construction Certificate. This plan must indicate:
- **The strip garden along the front boundary to River Street adjacent to the car canopy shall be widened within the site compatible with vehicle manoeuvring requirements;**
 - **Suitable climbing plants in garden beds adjacent to the fence between the subject land and the caravan park;**
 - The type of plants to be used (ie. Shrubs, trees, groundcovers, including species **and mature dimensions**);
 - The purpose of each planting (ie shade, privacy etc); and
 - A maintenance programme for the initial 6 months after planting

6. All landscaping **and fencing** works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.

10. A Construction Management Plan must be submitted to and approved by the principal certifying authority prior to the issue of the ~~Civil~~ **Building Construction** Certificates. The plan must document 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. 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.

14. 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, SEQ-WSUD and SCA-WSUD. ~~A Stormwater Management Plan must be prepared to reflect these standards and guidelines. The Stormwater Management Plan must include a preliminary management plan for any proposed detention basin and wetland.~~ Onsite stormwater quality and quantity is to be managed in general accordance with the approved Stormwater Management Plan (SWMP) and must reflect these standards and guidelines.
15. ***The legal and practical point of discharge of the development is nominated as the south-western corner of the site, in general accordance with nominated discharge point on the approved Stormwater Management Plan DWG. 17180-D13 Rev. A Stormwater Quality Device to be located wholly within the subject lot.***
20. Driveways are to be constructed in accordance with NRDC standard drawings
- A separate driveway application must be submitted to, and approved by Council for each access crossing where the works have not been included in a ~~Civil~~ **Building** Construction Certificate Approval.
21. Prior to the issue of the Occupation Certificate, any existing vehicular crossings rendered unnecessary by this development are to be removed, and the kerb restored to upright kerb where the adjacent kerb is upright.
- A driveway application must be submitted and approved prior to removal of the vehicular access, where the works have not been included in a ~~Civil~~ **Building** Construction Certificate Approval.
24. ***Prior to the any dewatering or excavation works one (1) metre or more below existing ground level on site, a preliminary assessment and acid sulfate soils management plan must be prepared in accordance with the "Acid Sulfate Soil Manual" (Acid Sulfate Soil Management Advisory Committee, 1998) and the Acid Sulfate Soil management provisions identified in Part 7 of the Clarence Valley Local Environment Plan 2011. The requirement for an acid sulfate soil management plan may be avoided if Council has given written advice following consideration of a preliminary assessment that no such management plan is required.***
27. ~~A detailed Erosion and Sediment Control Management Plan must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a Construction Certificate 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, affected by any earthworks operations. All such remedial works are to be completed to the satisfaction of Council. This shall include WSUD components of the proposed drainage system.~~
- A detailed erosion and sediment control plan (ESCP) must be developed in accordance with the **Landcom / Department of Housing Managing Urban Stormwater: Soils and Construction Guidelines** [the "Blue Book"] and submitted to and approved by Council before the Building Construction Certificate is issued.
28. During dry weather, ~~standard~~ dust suppressions methods are to be used as often as is necessary to ensure that **dust is not seen leaving the site and/or adversely impacting on adjoining properties** ~~adjoining properties are not adversely affected by undue dust~~

31. *Removal of existing UPSS infrastructure:*

- (a) Prior to site works (**not including demolition of structures above ground**) commencing a Detailed Site Investigation Report prepared by duly qualified person/s is to be submitted to Council for assessment. The detailed site investigation report shall identify the nature and extent of any contamination that is present **in soils and groundwater**.
- (b) If contamination is present above acceptable levels a Remediation Action Plan prepared by duly qualified person/s shall be submitted to Council for assessment prior to remediation works commencing.
- (c) Remediation works on the site shall be conducted by duly qualified person/s in accordance with but not limited to:
 - Clause 174ZF of the Occupational health and Safety Regulation 2001: Cleaning or Decommissioning Plant, Equipment and Containers
 - Code of Practice: Storage and Handling of Dangerous Goods (NSW Workcover Authority 2005)
 - AS1940-2004: Storage and Handling of Flammable and Combustible Liquids
 - AS4976-2008: Removal and Disposal of Underground Petroleum Storage Tanks
 - Protection of The Environment Operations (Underground Petroleum Storage Systems) Regulation 2014
 - Industry Best Practice.
- (d) A Validation Report prepared by duly qualified person/s shall be submitted to Council after completion of remediation of the site or if remediation is not required, after completion of decommissioning the former UPSS. The Validation Report shall confirm that the site is suitable for its proposed use.

Construction of the proposed service station is not permitted until Council advises the applicant in writing that it concurs with the Validation Reports findings and conclusions.

32. *Service Station Design and Underground Petroleum Storage System:*

- (a) The applicant shall submit plans to Council which have been certified/endorsed by an appropriately qualified person/s showing that the service station design complies with all relevant standards, regulations and industry best practice prior to release of the Construction Certificate.
- (b) The installation and operation of the Underground Petroleum Storage System (UPSS) shall comply with the provisions of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* - the UPSS Regulation.
- (c) The UPSS shall:
 - be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation.
 - have minimum mandatory pollution protection equipment installed, consistent with the UPSS Regulation, comprising non corrodible secondary containment tanks and associated pipework and overflow protection devices
 - have groundwater monitoring wells installed and tested in accordance with the UPSS Regulation.
 - have a certificate showing that an equipment integrity test has been carried out in line with the written directions of duly qualified persons.
- (d) The site shall have an Environment Protection Plan implemented prior to commencing operations that includes loss monitoring and incident management procedures.
- (e) Council shall be furnished with certificates showing installation and commissioning of the UPSS has been completed in accordance with all relevant standards, regulations and industry best practice prior to issuing the occupation certificate.
- (f) Wastewater generated in the undercover refuelling forecourt shall not discharge to the environment or Council's sewerage system. It shall be collected for removal by an EPA licensed contractor and disposed of at an appropriate facility. **The design of the**

containment tank shall take into account relevant standards, the NSW EPA's Practice Note: Managing runoff from service station forecourts [section 4a (3)], Safework requirements and industry best practice.

35. No civil or building construction works shall be commenced until the ~~relevant~~ **Building** Construction Certificate has been issued.

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

Monday to Friday 7.00 am to 6.00 pm ~~6 days per week~~

Saturday 8.00am – 1.00pm

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.

Insert the following new Conditions

27a. 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.

27b. 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.

49. Bins must be emptied during daylight hours and no earlier than 7.00am.

50. All of the noise mitigation measures recommended in Section 6 of the Noise Impact Assessment prepared by ATP Consulting Engineers, dated April 2020, must be constructed as soon as practical during the construction of the development. The recommendations of the noise assessment shall be incorporated into the Construction Certificate plans and management of the service station.

51. 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.

52. Imported fill shall not come from a contaminated source. Any imported fill shall be free of building and other demolition waste and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the *Protection of the Environment Operations Act 1999*, excavated natural material or the relevant waste resource recovery exemption from the NSW Environment Protection Authority (EPA). Written details of the source of fill shall be submitted to Council prior to fill being imported to the site.

53. An application to discharge liquid trade waste to Council's sewerage system shall be submitted to Council for assessment with the Construction Certificate application. Detailed trade waste drainage plans shall be submitted with the application.

54. Approval to discharge liquid trade waste to Council's sewerage system shall be obtained prior to issuing the Occupation Certificate.

55. All sinks and floor wastes in food preparation areas shall contain basket arrestors.

56. All liquid trade waste from the kitchen shall discharge to a 1000L grease arrestor. The grease arrestor shall be installed in accordance with AS/NZS3500, the Plumbing Code of Australia and Council requirements. It shall be located in an area that is accessible for the pump out contractor.
57. The vent stacks shall be located on the site as shown on the Proposed Site Plan, being Drawing No 17180-D03 (Revision A), dated 12 May 2020, and prepared by TFA Project Group.
58. All new external lighting must--
 - (a) comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting , and
 - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots.
59. When the service station is not open for business all lighting, apart from security or essential lighting, should be turned off to reduce potential nuisance and impact on night time neighbourhood amenity.
60. Stage 1 vapour recovery control equipment (VR1) must be designed, installed, commissioned, inspected and maintained by a suitably qualified person in accordance with the requirements of the NSW EPA Standards and Best Practice Guidelines for Vapour Recovery at Petrol Service Stations 2017. A log book must be maintained in accordance with Section 4.3 of the NSW EPA Standards and Best Practice Guidelines for Vapour Recovery at Petrol Service Stations 2017 and made available to Council's Officers upon request.
61. No on-site land farming of soils will be permitted in conjunction with any necessary remediation works on the subject land.

Reasons

Renumber Reasons 49-55

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

ITEM	6b.20.040	(DRAFT) SMALL PARK PLAN OF MANAGEMENT AND (DRAFT) CAMPING MANAGEMENT STRATEGY
Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

A draft Plan of Management and a Camping Management Strategy has been prepared for Small Park, Ulmarra. The preparation of a Plan of Management for the park is a statutory requirement of the *Local Government Act 1993* for land classified as 'community' land. The Camping Management Strategy outlines the regulations for visitors using the proposed RV Camping area.

OFFICER RECOMMENDATION

That Council:

1. Note the preparation of a draft Plan of Management and Camping Management Strategy for Small Park, Ulmarra.
2. Place the draft Plan of Management and Camping Management Strategy on public exhibition for a period not less than 28 days as required under the *Local Government Act 1993*.
3. Accept submissions on the draft Plan of Management and Camping Management Strategy for a period not less than 42 days from the date the plan is placed on public exhibition.
4. Adopt the draft Plan of Management at the completion of the submission period if there are no submissions requiring amendment to the plan as exhibited.

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

Council resolved at its meeting held 27 August 2019:

That:

1. *DA2019/0078 be approved as a deferred commencement approval subject to the imposition of conditions contained in Schedule 1; and*
2. *A Plan of Management for Small Park be prepared and adopted as per the requirements of the Local Government Act 1993; and*
3. *A Camping Management Strategy for Small Park be prepared and adopted.*

Small Park, Ulmarra is 'community' land owned by Council in fee simple. It consists of one land parcel, being Lot 1 DP1155085 (area 40,470m²), and is zoned RE1 Public Recreation under the Clarence Valley LEP 2011.

The proposed development (DA2019/0078) on the park is for a primitive recreational vehicle (RV) camping area to accommodate a total of eight sites.

The development of the primitive RV camping area at Small Park meets the objectives highlighted in the *Ulmarra Bypass Community Economic Development Plan 2018* and the *Ulmarra Riverside and Village Precinct Plan 2019* to increase the vitality of Ulmarra after completion of the bypass as part of the Pacific Highway Upgrade.

However, the *Local Government Act 1993* (LG Act) requires that 'community' land to be used and managed in accordance with:

- a Plan of Management applying to the land;
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land; and
- the requirements of Part 2 Public land, Division 2 Use and Management of Community Land of the Local Government Act 1993 as they relate to the land.

Small Park is categorised as 'General Community Use' and managed under the *Clarence Valley Community Land, Crown Reserves and other Public Places Generic Plan of Management 2014-2023* (CV Generic PoM). RV camping however is outside of the current management objectives for the parks and reserves listed under the CV Generic PoM, therefore a site specific Plan of Management (PoM) is now required to outline management principles and permitted activities associated with the development and use of Small Park.

KEY ISSUES

The deferred commencement conditions of the DA consent are that:

1. A site specific Plan of Management for Small Park must be prepared and adopted by Council within 12 months of the date of this approval.
2. A Recreational Vehicle (RV) Camping Management Strategy for the site must be prepared and adopted by Council within 12 months of the date of this approval.

The DA approval date is recorded as being 2 September 2019. Consequently, the PoM for the park and the Camping Management Strategy (CMS) needs to be adopted by Council by 1 September 2020 (ie. by the Council meeting scheduled for 25 August 2020). If the deferred commencement condition is unable to be met then Council's Community and Industry Engagement section, as the DA proponent, will need to modify the consent via a formal (*Environmental Planning and Assessment Act 1979*) Section 4.55 amendment to extend the deferred commencement period.

Section 38 of the LG Act states that a council must give public notice of a draft PoM:

- The period of public exhibition of the draft plan must be not less than 28 days.
- The public notice must also specify a period of not less than 42 days after the date on which the draft plan is placed on public exhibition during which submissions may be made to the council.
- The council must, in accordance with its notice, publicly exhibit the draft plan together with any other matter which it considers appropriate or necessary to better enable the draft plan and its implications to be understood.

Council's Strategic Planning section has prepared the draft Small Park PoM and CMS on behalf of the Community and Industry Engagement section. If Council resolves to place the draft PoM and draft CMS on public exhibition, the exhibition period is proposed to be conducted from Friday, 29 May – Monday, 13 July 2020 with the draft PoM and draft CMS to be adopted at the end of this period if there are no submissions received requiring amendment to the draft plan. Alternatively, if there are minor amendments to the draft PoM and/or draft CMS they can be presented to the July meeting of Council for adoption, thus meeting the requirement of the deferred commencement conditions of the consent.

COUNCIL IMPLICATIONS**Budget/Financial**

The draft PoM has been prepared in-house using the resources of Council. A cost will be associated with the public notice and exhibition of the draft plan. However, this cost will be largely absorbed by Council's existing arrangement with media outlets in the provision of weekly public notices and the use of Council resources to prepare documents for public exhibition.

Asset Management

Small Park, Ulmarra is an existing Council asset.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Local Government Act 1993

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

Clarence Valley Local Environmental Plan 2011

Ulmarra Bypass Community Economic Development Plan 2018

Ulmarra Riverside and Village Precinct Plan 2019

Consultation

The following internal sections of Council were consulted during the drafting of the Small Park Plan of Management and the Small Park Camping Management Strategy

<i>Internal Section</i>	<i>Comment</i>
Community & Industry Engagement	Supported
Open Spaces and Facilities	Supported with comments
Property	Supported with comments
Strategic Planning	Supported with comments

External consultation was also undertaken with Clarence Valley Woodworkers Association representatives as the current lessee of the work shed at Small Park, and with current recreational user groups of the park: Ulmarra Show and Campdraft Society, Clarence River Cricket Association (Seniors), Clarence River Junior Cricket Association, Lower Clarence Cricket Association (Seniors and Juniors), Tucabia Copmanhurst Cricket Club and Ulmarra Tennis Club.

Legal and Risk Management

A Plan of Management is a statutory document that aims to satisfy the requirements of both the *Local Government Act 1993* and the *Local Government Amendment (Community Land Management) Act 1998*.

The (draft) Small Park Plan of Management details how Council will manage the land, and in particular, indicates how the land may be used and further developed.

The (draft) Small Park Camping Management Strategy will outline regulations for visitors using the proposed RV Camping area.

Climate Change

N/A

Prepared by	Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title); Jasmine Oakes, Plans of Management Officer
To be tabled	1. Small Park Plan of Management 2. Small Park Camping Management Strategy

ITEM	6b.20.041	DEVELOPMENT APPLICATIONS
Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Nil	

SUMMARY

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

OFFICER RECOMMENDATION

That the update on Development Applications be noted.

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

KEY ISSUES

The figures from 1 July 2019 to 30 April 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)
614	585	\$136,509,761.80	301	Average : 74 days Median: 51 days

Of the 585 approved Development Applications between 1 July 2019 and 30 April 2020, 235 (40%) were determined within 40 days or less.

As of 1 May 2020 there were 129 outstanding development applications, which have been with Council for the following timeframes:

Less than 40 days	53
41 - 60 days	24
61 - 80 days	8
81+ days	44

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
DA2020/0144	16/03/2020	41	Dwelling	Old Ferry Road, ASHBY NSW 2463	Submission received and currently being assessed*
DA2020/0156	19/03/2020	41	Dwelling (including variation to height) retaining wall & gate house	49 Yamba Street, YAMBA NSW 2464	Awaiting additional information (amended plans).
DA2020/0158	20/03/2020	41	Demolish three sheds at school and erect shed	2 Mookin Street, TUCABIA NSW 2462	Currently being assessed*
DA2020/0157	19/03/2020	42	Dwelling, retaining wall, swimming pool and front fence	12 Amaroo Place, YAMBA NSW 2464	Awaiting additional information (amended plan to show complying pool fencing).
DA2020/0146	16/03/2020	43	Swimming Pool	1A Bent Street, MACLEAN NSW 2463	DCP Variation currently being assessed*
DA2020/0154	18/03/2020	43	Advertising signs	68-72 River Street, MACLEAN NSW 2463	Additional information regarding refining signage and clarifying proposal submitted 17/04 and currently being assessed*
DA2020/0148	17/03/2020	44	Addition to dwelling	9 Edward Ogilvie Drive, CLARENZA NSW 2460	Currently being assessed*
DA2020/0149	17/03/2020	44	Alterations and Additions	42 Hiawatha Road, MINNIE WATER NSW 2462	Currently being assessed*
DA2020/0137	12/03/2020	48	Demolish existing shed and construct new shed and carport	3 Carraboi Street, WOOLI NSW 2462	Currently being assessed*
DA2020/0143	13/03/2020	48	Alterations and additions to dwelling	48 Coonawarra Court, YAMBA NSW 2464	Currently being assessed*
SUB2020/0003	12/03/2020	49	Four Lot subdivision	13 Clear Water Close, GRAFTON NSW 2460	Report to May Council meeting.
DA2020/0134	11/03/2020	50	As built carport	39 Bellengen Street, TUCABIA NSW 2462	Currently being assessed*
DA2020/0127	9/03/2020	51	Dwelling	30 Iron Bark Terrace, SOUTH GRAFTON 2460	Currently being assessed*
DA2020/0129	10/03/2020	51	Alterations and additions to dwelling	21 Westringia Place, YAMBA NSW 2464	Revised Engineering Drawings received 24/04 and currently being assessed*
DA2020/0130	10/03/2020	51	Demolition of jetty	23 Oyster Channel Road, MICALO ISLAND NSW 2464	Awaiting additional information (owners consent from Crown Lands).
DA2020/0131	10/03/2020	51	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Additional information requested (flood engineers report, existing and proposed ground levels and sediment and erosion control plan), extension of time granted to provide information until end of May 2020.
DA2020/0132	10/03/2020	51	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Additional information requested (flood engineers report, existing and proposed ground levels and sediment and erosion control plan), extension of time granted to provide information until end of May 2020.

Application No	Received Date	Days	Description	Property	Reason
DA2020/0133	10/03/2020	51	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Additional information requested (flood engineers report, existing and proposed ground levels and sediment and erosion control plan), extension of time granted to provide information until end of May 2020.
DA2020/0115	3/03/2020	52	Additions to Artisan Food and Drink Industry – Internal Additions, Storage Shed, Car Parking and as Built Awning	5 Re Road, TOWNSEND NSW 2463	Council to liaise with applicant regarding provision of parking on-site.
DA2020/0121	6/03/2020	52	Dwelling	13 Ager Street, YAMBA NSW 2464	Awaiting additional information (Amended Plans or DCP Variation)
DA2020/0120	6/03/2020	55	Second storey addition and alterations to dwelling	29 The Mainbrace, YAMBA NSW 2464	Currently being assessed*
DA2020/0112	2/03/2020	57	Upgrade of the Grafton Greyhound Racing Club including part demolition, alterations and additions, and associated work	70 Cranworth Street, GRAFTON NSW 2460	Awaiting additional information (parking).
DA2020/0113	3/03/2020	57	Swimming pool and deck	53A Rawdon Street, LAWRENCE NSW 2460	Awaiting additional information (amended plans showing structure outside of easement).
SUB2020/0002	25/02/2020	57	17 large lot residential subdivision	273-331 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (access, contaminated land, ecological assessment, cultural heritage assessment, water supply strategy and OSM report and stormwater management) and awaiting external referral from RFS.
DA2020/0071	17/02/2020	63	Dwelling and boundary adjustment	25 McPhee Street, MACLEAN NSW 2463	Awaiting additional information (access & clearing)
DA2020/0104	27/02/2020	63	Flood Mound and Shed	260 School Road, PALMERS ISLAND 2463	Awaiting additional information (amended plans showing setbacks).
DA2020/0103	26/02/2020	64	Relocate existing carport with minor alterations	155 Lakes Boulevard, WOOLLOWEYAH NSW 2464	Currently being assessed*
DA2020/0079	19/02/2020	65	Dwelling and fill mound	Watts Lane, HARWOOD NSW 2465	Currently being assessed*
DA2020/0082	20/02/2020	65	Funeral home (including mortuary facilities), consolidation and two lot subdivision	27 Cowan Street, SOUTH GRAFTON 2460	Currently being assessed*
DA2020/0046	20/02/2020	69	Manufactured home estate (201 long term sites)	598 Summerland Way, GRAFTON NSW 2460	Report to May Council meeting.
DA2020/0077	21/02/2020	69	Refurbishment of hotel	173 River Street, MACLEAN NSW 2463	Awaiting internal referrals (Environmental Health) and currently being assessed*
DA2020/0059	10/02/2020	80	Carport, swimming pool and alteration to dwelling	9 Admiralty Court, YAMBA NSW 2464	DCP Variation currently being assessed*
DA2020/0041	3/02/2020	87	Alternation to building and use as funeral home	68-72 River Street, MACLEAN NSW 2463	Second additional information requested 18/03 regarding land contamination.
DA2020/0035	28/01/2020	92	Twilight markets	Market Square, Prince Street, GRAFTON NSW 2460	Currently on exhibition until 28/05/2020.
DA2020/0038	29/01/2020	92	Demolish awning and erect awning	34-36 River Street, MACLEAN NSW 2463	Additional information requested (Compliance with Essential Energy Requirements)
DA2020/0028	23/01/2020	98	Two industrial sheds	Electra Crescent, SOUTH GRAFTON 2460	Additional information requested 29/01 (parking, use of building and landscaping details).
DA2020/0019	17/01/2020	100	Depot and construction of hardstand area for parking area	12 Mulgi Drive, SOUTH GRAFTON 2460	Awaiting additional information 23/01 (stormwater, manoeuvring and hours of operation).

Application No	Received Date	Days	Description	Property	Reason
DA2019/0701	19/12/2019	112	Alterations and additions to dwelling	136 Main Street, WOOLI NSW 2462	Coastal Erosion Risk currently being assessed*
DA2020/0007	8/01/2020	113	Dwelling	Donaldson Street, WOOMBAH NSW 2469	Submission received and additional information received (OSM) and currently being assessed*
DA2020/0009	8/01/2020	113	Swimming Pool	301 Brooms Head Road, GULMARRAD NSW 2463	Applicant to advise that they will withdraw application.
DA2019/0700	19/12/2019	133	Boundary adjustment and multi unit (3 additional residential units with existing building)	165-169 Cambridge Street, SOUTH GRAFTON 2460	Awaiting internal referral (building) and currently being assessed*
DA2019/0674	10/12/2019	136	Manufactured home estate	36 Golding Street, YAMBA NSW 2464	Report to May Council meeting.
DA2019/0690	16/12/2019	136	Staged dwelling - Stage 1 dwelling envelope	516 Iluka Road, WOOMBAH NSW 2469	Third additional information requested 16/04 regarding land contamination.
DA2019/0687	13/12/2019	139	Two patios	5 Melaleuca Drive, YAMBA NSW 2464	Additional information (amended plans to comply with setbacks).
DA2019/0675	10/12/2019	142	As built dwelling	561 Parker Road, LANITZA NSW 2460	Unable to complete site inspection under current COVID-19 circumstance and currently being assessed*
DA2019/0672	9/12/2019	143	Alterations & additions to church hall	Wharf Street, SOUTH GRAFTON 2460	Additional information requested 5/02 (amended plans and parking).
DA2019/0673	9/12/2019	143	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND 2463	Applicant to upgrade OSM or alternatively withdraw application.
SUB2019/0044	9/12/2019	143	Four lot subdivision	Micalo Road, MICALO ISLAND NSW 2464	Additional information requested (details of access to the site), applicant has requested extension to provide information which is being considered by staff.
SUB2019/0041	25/11/2019	153	Two lot subdivision	33 Spenser Street, ILUKA NSW 2466	Further information requested regarding stormwater management from road upgrade and future buildings.
DA2019/0639	25/11/2019	157	New commercial building	20 High Street, YAMBA NSW 2464	Further liaising with applicant regarding amended plans required and currently being assessed*
DA2019/0636	22/11/2019	160	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Currently being assessed*, staff currently liaising with applicant regarding access to the property.
DA2019/0603	4/11/2019	178	Convert fuel depot to service station	119 Jubilee Street, TOWNSEND NSW 2463	Report prepared for May meeting.
DA2019/0601	1/11/2019	181	Carport	64 River Street, MACLEAN NSW 2463	Additional information requested (location of stormwater pipe).
DA2019/0539	3/10/2019	196	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	196	Deck and awning	526 Yamba Road, MACLEAN NSW 2463	Waiting on Applicant to formally withdraw application.
DA2019/0560	15/10/2019	198	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOLOWEYAH 2464	Additional information to be submitted (Amended Plans).
DA2019/0514	23/09/2019	220	Retention of existing hardstand area and new earthworks	21 Through Street, SOUTH GRAFTON 2460	Being determined.
DA2019/0492	9/09/2019	234	Additional filling of land (20,000m3)	52-54 Miles Street, YAMBA NSW 2464	Waiting for NRAR response regarding additional information submitted.
DA2019/0478	30/08/2019	241	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested second letter 8/01 (Revised Plans, OSM

Application No	Received Date	Days	Description	Property	Reason
					Application and Bushfire Report).
SUB2019/0034	28/08/2019	246	41 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Additional information requested 27/03 (SEPP 44, Bushfire, Stormwater, Access, Traffic Impacts, Servicing, Ecological Impacts and On-Site Sewerage Management).
DA2019/0459	22/08/2019	252	Coastal protection works (rock riverbank protection)	383 North Street, WOOLI NSW 2462	NRAR have issued General Terms of Approval and currently being assessed*
SUB2019/0033	20/08/2019	254	Boundary adjustment & consolidation of Lot 10 DP752845 & Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Council staff to draft brief to seek legal advice on issue.
SUB2019/0030	14/08/2019	260	295 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	Submissions received and summary of issues provided to the applicant. Awaiting external referrals from RFS, NRAR and DPIE Biodiversity and Conservation Division on BDAR submitted. Council staff to review proposal and determine if further additional information is required for assessment following revised proposal.
DA2019/0423	8/08/2019	262	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).
DA2019/0427	8/08/2019	266	Vehicle sales premises and shed	18-20 Clyde Street, MACLEAN NSW 2463	Awaiting additional information (shed elevations) for heritage concerns.
DA2019/0266	22/05/2019	344	Remediation of riverbank erosion, establish dwelling envelope, construction of two dams & two flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Awaiting additional information (geotechnical report).
DA2019/0243	13/05/2019	353	Shipping container building with playground, cafe and rooftop restaurant	383 North Street, WOOLI NSW 2462	Submissions received on revised proposal, likely report to June Council meeting.
SUB2019/0010	23/04/2019	373	Two lot subdivision (includes lot size variation)	401 Kungala Road, KUNGALA NSW 2460	Applicant to withdraw application.
DA2019/0152	26/03/2019	401	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	408	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Heritage Minor Works Application approval issued as an alternate way to manage vegetation, likely to withdraw DA.
DA2019/0128	19/03/2019	408	Machinery shed	1 Youngs Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated land assessment and geotechnical report of mound).
SUB2019/0002	6/02/2019	449	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Awaiting additional information (access and traffic, stormwater management and BDAR).
SUB2018/0027	8/10/2018	570	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire).
DA2018/0449	6/08/2018	633	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	797	11 (reduced from 12) large lot	Bloodwood Grove,	Further information required

Application No	Received Date	Days	Description	Property	Reason
			residential subdivision	GULMARRAD NSW 2463	regarding ecological impacts of development and stormwater management.
DA2017/0671	18/10/2017	925	Caravan Park - Alterations and Additions (10 additional sites) and amenities	391 Goodwood Island Rd, GOODWOOD ISLAND 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 outlines the use of Clause 4.6 for Development Applications determined during the month of April.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2019/0208	16 Pilot Street, Yamba NSW	Clause 4.3 of CVLEP – height of buildings map	Clause 4.3 Height of Buildings - 9m maximum. The height to the ridge of the roof in two sections is 11.1m and 9.2m.	Clarence Valley Council at their meeting 24 March 2020. 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.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

NSW Department of Planning Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes

Consultation

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

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

Legal and Risk Management

DAs that have not been determined within a period of 40 days (not including any 'stop-the-clock' days) can be considered by the Applicant to be deemed refusal. This factor is unlikely to apply to most of the DAs listed in the earlier table as the calculation of 40 days used for this report does not exclude 'stop-the-clock' days. However, when the appropriate circumstances apply to a DA then the *Environmental Planning and Assessment Act 1979* provides that an Applicant can lodge an appeal to the Land and Environment Court

against the deemed refusal and request the Court to determine the DA. It is rare that Applicants pursue this course of action as the cost and time associated with pursuing Court action does not generally justify such action, especially if Applicants are confident that their DA will be approved when determined. DAs where a recommendation for refusal is possible are more likely to be subject to such appeal.

Climate Change

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

Prepared by	James Hamilton, Development Planner
Attachment	Nil

ITEM 6b.20.042 DEVELOPMENT APPLICATION PROCESS REVIEW – PROGRESS REPORT

Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

That Council note the progress report on the Development Application process review.

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

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

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

The DA process has also undergone changes to introduce online submissions for advertised Development Applications and online quotation services. Council's website has also been updated to provide a more user friendly format and there has been an overall increase in online views.

Council is now receiving nearly 70% of all Development Applications electronically via the Planning Portal and USB. This number can be expected to increase with the implementation of the online post consent certificates (Construction and Subdivision Certificates) via the Planning Portal in August 2020.

KEY ISSUES

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

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

The next part of the process review is to include the electronic lodgement of Post Consent Certificates such as Construction Certificates (CC's) (both building and engineering) and Subdivision Certificates via the planning portal. This is anticipated to be implemented by August 2020. We anticipate that the number of applications lodged electronically will substantially increase once Construction Certificates can be lodged online.

COUNCIL IMPLICATIONS

Budget/Financial

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

After 1 July 2020, an additional \$80 reformatting fee is proposed to be introduced that will be applied to hard copy applications and electronic documents and plans that are not formatted, named correctly or adhering to the naming conventions rules.

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Consultation

Two (2) information sessions were delivered in Grafton and Maclean to previous DA applicants and other interested parties to communicate the new electronic process.

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

The proposed \$80 reformatting fee is currently being exhibited as part of the public exhibition campaign for the Draft 2020/21 Schedule of Fees and Charges.

Legal and Risk Management

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

Climate Change

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

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	A. DA Infographic Report - Quarter 3 2020 B. Project Status Report - April 2020

ITEM	6b.20.043	PALMERS ISLAND MARINE INDUSTRIAL REZONING PLANNING PROPOSAL DETERMINATION – REZ2016/0001
Meeting	Council	26 May 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

The NSW Department of Planning, Industry and Environment issued a decision on 30 April 2020 for the rezoning application for a marine industrial precinct at Lot 2 DP598769, School Road, Palmers Island advising refusal of the rezoning proposal.

OFFICER RECOMMENDATION

That the report on the Palmers Island Marine Industrial Rezoning Planning Proposal Determination - REZ2016/0001, be noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

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

Strategy 1.2.3 Provide effective regulation of environmental legislation

BACKGROUND

This proposal has an extensive planning history spanning 4-6 years, during which it has met with two previous Gateway refusal determinations. The applicant then requested a Review of the Gateway Refusal. In April 2018, the Northern Joint Regional Planning Panel reviewed the decision and further information provided by the proponent, and recommended that the Planning Proposal proceed. Based on the Panel's advice, an amended conditional Gateway Determination was issued on 14 August 2018 allowing the proposal to proceed to exhibition.

Additional studies were required and once submitted, the formal exhibition of the draft Planning Proposal occurred from 13 May to 12 July 2019. Over 200 submissions were received, including opposition and support for the proposal. These were assessed by an external planning consultant to provide a fresh and independent assessment to the matter.

Following exhibition, Council did not resolve to support or reject the application, but forwarded it to the Department of Planning Industry and Environment (DPIE) for its determination. The DPIE also commissioned an independent planning report to review the matter in detail. As a result DPIE refused the application on multiple grounds as set out below in its determination dated 30 April 2020. A copy of the advice is attached at Appendix 1.

'I have decided not to make the plan under section 3.36(2)(b) of the Environmental Planning and Assessment Act 1979. This decision was reached after considering all the information provided by Council and an independent assessment commissioned by the Department. It was determined the rezoning of the site should not proceed as:

- it is not consistent with the Marine-Based Industry Policy - Far North Coast & Mid North Coast NSW;*

- *it is not consistent with North Coast Regional Plan 2036;*
- *it is not consistent with the Clarence Valley Council's Industrial Lands Strategy (2007);*
- *it has unresolved inconsistencies with several State Environmental Planning Policies and Ministerial Directions;*
- *the need to augment marine industry land supply in this location is not strategically justified.*

The Department recognises the importance of marine based industries to Clarence Valley's local economy and note that Council's draft Local Strategic Planning Statement identifies the opportunity to grow and support this sector. Council is encouraged to work with this proponent to identify an appropriate location that has suitable strategic and site merit to support the growth of this sector in the Clarence Valley'.

KEY ISSUES

The fundamental issue which relates to this application is the strategic planning policy framework in relation to the location of marine industry uses on the Clarence River. In addition, the potential environmental issues of noise and vibration and potential impacts on rural and residential property in the locality in terms of amenity, noise, and change to the existing rural character of the area were repeatedly raised as well as access, transport and traffic impact on local roads by traffic generated by the proposed future development. Whilst employment generation and economic development were important issues considered as part of the application, the planning assessment by State Government has determined that the statutory planning policy framework does not support this application.

COUNCIL IMPLICATIONS

Budget/Financial

The applicant paid a fee of \$3,200 in 2016 when lodging this Planning Proposal pre Gateway and Council advised that the applicant would be responsible for any additional studies required for the proposal and subsequent levels of processing. Council's 2019 fees and charges set a fee of \$5,432 for post Gateway assessment plus advertising fee of \$336 (x 2) and staff time @ 157.60 per hour. In addition, considerable resources have been applied to the post Gateway assessment of this complex Planning Proposal with the amendments to this proposal, the extensive public consultation requirements and additional consultancy and legal fees. An additional \$16,887 of costs was incurred by Council, totalling \$22,319.

Asset Management

N/A

Policy or Regulation

The rezoning assessment was carried out in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and the policy documents of the Department of Planning, Industry and Environment. Legal planning requirements and procedures were strictly adhered to throughout the planning process to ensure compliance with relevant legislation and transparency to the community.

Council and NSW Department of Planning Industry and Environment both engaged external planning consultants and legal advice to provide additional transparency and independence as part of the assessment process.

Consultation

Extensive public consultation was carried out as required by the Gateway Determination with public exhibition of the proposal 13 May to 12 July 2019 and all landowners within 2 km of the site being individually notified.

Legal and Risk Management

There are no opportunities for an appeal against a rezoning decision through the EP&A Act 1979. The applicant has exercised a Review of the Gateway Determination refusal through the Joint Regional Planning Panel in 2018.

Climate Change

N/A

Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	Letter of Determination from Department of Planning Industry and Environment dated 20 April 2020

b. CORPORATE GOVERNANCE AND WORKS COMMITTEE

ITEM	6c.20.059	REVIEW OF DELEGATIONS FOR THE GENERAL MANAGER
Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report sets out the authorities, other than those empowered by statute, delegated by Council to the General Manager.

OFFICER RECOMMENDATION

That Council adopt the amended General Manager's Delegation as attached to cover temporary legislation and regulations in response to state and federal declared disasters, emergency responses and recovery activities.

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

Local government has been experiencing many crises over the last 8 months including drought, bushfires, flood and now the COVID-19 pandemic.

These crises have caused our Council, in particular, to act quickly in response to these varying conditions for the safety and well-being of our community.

Currently the state and federal governments have also responded quickly to the COVID-19 pandemic and to this end have been establishing new guidelines, regulations and legislation for councils to enact.

KEY ISSUES

The state government is passing legislation in response to the current health pandemic that assists local government to manage various activities under current conditions. The amended delegation enables the General Manager to implement legislative changes in a timely manner, where there is no conflict with the limitations identified in Schedule 2, which will be reported to Council for consideration.

COUNCIL IMPLICATIONS

Budget/Financial
N/A

Asset Management

N/A

Policy or Regulation

Local Government Act 1993

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	Delegation Schedule with tracked changes

ITEM	6c.20.060	GRAFTON WATERFRONT PRECINCT PLAN – PURCHASE OF LAND
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

This report calls for consideration of easement over the levee associated with the purchase of land for the Grafton Waterfront Precinct Plan.

OFFICER RECOMMENDATION

That Council proceed with purchase of the land as listed in the confidential attachment without acquisition of an easement over the levee.

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

Objective 3.1 We will have an attractive and diverse environment for business, tourism and industry

Strategy 3.1.1 Promote the Clarence region as a wonderful place to invest, live, work and visit

BACKGROUND

Council resolved at its meeting on 17 December 2019 to proceed with the purchase of land for the Grafton Waterfront Precinct Plan. As part of the purchase of the land it was also desired to obtain an easement over the levee.

KEY ISSUES

An adjoining landowner has provided further information in relation to the proposed easement and as such Council should give further consideration to the acquisition of the easement.

COUNCIL IMPLICATIONS

Budget/Financial

The land purchase will be funded from Reserve 92040. There is not adequate funding available for the acquisition of the easement.

Asset Management

Not Applicable

Policy or Regulation

Not Applicable

Consultation

Negotiations are in process with the land owner.

Legal and Risk Management

Not Applicable

Climate Change

Not Applicable

Prepared by	Kylee Baker, Property Coordinator
Confidential	Land details

ITEM	6c.20.061	ACQUISITION OF LAND FOR ROAD PURPOSES - HARWOOD
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Nil	

SUMMARY

Council has received funding for the upgrading of roads in the Harwood area as part of the Harwood Marine Precinct. This report presents an update on the land acquisitions.

OFFICER RECOMMENDATION

1. That Council:
 - i) Engage a Valuer to prepare an independent valuation report for the required part Lot 5 DP 746328.
 - ii) Authorise the General Manager to negotiate acquisition by agreement.
 - iii) That the compensation payment for part Lot 5 DP746328 be determined by the General Manager using the independent valuation report for the property and the project budget as a price guide.
2. In the event the acquisition by agreement is unsuccessful, that Council:
 - i) Proceed with the compulsory acquisition of the land described as part Lot 5 DP 746328 for the purpose of road in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
 - ii) Make an application to the Minister and the Governor for approval to acquire part of Lot 5 DP 746328 by compulsory process under section 177(1) of the *Roads Act 1993*.
 - iii) Delegate authority to the General Manager to execute documents associated with the acquisition of part of Lot 5 DP746328.

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 received funding for upgrading a number of roads in the Harwood area to provide better heavy vehicle access for the Harwood Marine Facility. This work has been funded through a Restart NSW grant (88%) and contributions from the Harwood Marine business (12%)

Council resolved at its meeting on 17 December 2019 to proceed to acquire land at Harwood for the purpose of road. There were four affected landowners. Three of the landowners have consented and the acquisitions are proceeding. Consultation is still being undertaken with the other landowner.

KEY ISSUES

Staff have been consulting with the landowner of Lot 5, although the landowner has not yet agreed to the acquisition.

The *Land Acquisition (Just Terms Compensation) Act 1991*, provides a period of six months from the date of an opening letter being sent to negotiate acquisition before an application for compulsory acquisition can be made.

While it is in the Council's interest to try and reach acquisition by agreement, negotiation can continue simultaneously while the process for compulsory acquisition is commenced and for this reason it is recommended that the General Manager be provided delegation to negotiate acquisition of part of Lot 5. Council has engaged Local Government Legal to now continue negotiations with the landowner and to commence compulsory acquisition if required.

In the event acquisition by negotiation is not met, this report recommends commencement of the compulsory acquisition by way of seeking the approval of the Minister for Local Government and the Governor. On receipt of approval by the Minister, Council will be required to issue a Property Acquisition Notice (PAN) and the cost of compensation will be determined by the NSW Valuer General. Council will then publish the gazette for acquisition of the land within 90-120 days of issuing the Property Acquisition Notice. Once the gazette is published Council will own the land as road. The compensation will be paid at a later stage once the Valuer General has finalised their assessment.

COUNCIL IMPLICATIONS**Budget/Financial**

The value of the compensation to be paid will be determined by an independent valuation or if the matter proceeds to compulsory acquisition then it will be determined by the valuer general.

Costs for legal fees, associated survey and compensation will be expended under the following budgets:

Project Description	Project Number
Harwood Precinct Upgrade – Eggins Lane – Beckmans Lane	530292
Harwood Precinct Upgrade – Careys Lane – Eggins Lane	530293

Asset Management

The land acquired during the project to facilitate the road constructions will be recorded in Council's asset register.

Policy or Regulation

Land Acquisition (Just Terms Compensation) Act 1991
Roads Act 1993

Consultation

Consultation has been undertaken with the affected landowners in conjunction with Council's Civil Services section.

Legal and Risk Management

Acquisition of this land is essential to complete the construction of Eggins and Careys Lanes, to the relevant design and safety standards. Works have been proceeding but cannot be completed until Council has legal access to this land.

Temporary works have been installed on the corner awaiting resolution of this matter.

Climate Change

Not applicable to this report.

Prepared by	Kylee Baker, Property Coordinator
Attachment	Nil

ITEM	6c.20.062	CODE OF CONDUCT REVIEW PANEL
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

The purpose of this report is to present the results of the Expression of Interest (EOI) for Code of Conduct Review Panel for MIDROC Councils and seek appointment of the nominated recommended members to the panel. On appointment, the Panel will be available for engagement, with selection being at the discretion of the individual Council.

OFFICER RECOMMENDATION

That

1. Council adopt the recommendation regarding the appointment of a panel of Conduct Reviewers for Local Government Code of Conduct matters as detailed within the Confidential Attachment.
2. Panel membership remain confidential until each MIDROC Council has adopted the recommendation for their individual council.

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 Office of Local Government issued the model Code of Conduct and Procedures in December 2018 and Council adopted the new Code of Conduct and Procedures on 23 May 2019. These procedures detail the requirements for Councils to appoint a conduct review panel using a prescribed process. The purpose of the panel is to have suitably qualified and experienced persons available to review and investigate Local Government Code of Conduct matters.

Coffs Harbour City Council coordinated the EOI on behalf of Bellingen Shire, Clarence Valley and Nambucca Valley Councils. The purpose of the EOI was to seek applications from suitably qualified independent persons to serve as Conduct Reviewers of Local Government Code of Conduct for the four councils. The EOI period commenced Tuesday 25 February 2020 and closed Wednesday 18 March 2020. During this time, the EOI was advertised through Tenderlink and an advertisement was placed in the Daily Examiner, Coffs Harbour Advocate and the Sydney Morning Herald. During this period, 18 applications were received.

The applications were evaluated by staff from Bellingen Shire, Clarence Valley, Coffs Harbour City and Nambucca Valley Councils on Tuesday 5 May 2020.

The evaluation of applications was completed against the following criteria:

1. Demonstrated understanding and experience in local government, the principles of procedural fairness and ethical decision making and the requirements of the Public Interest Disclosures Act 1994;
2. An understanding of the Model Code of Conduct for Local Councils in NSW and the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW
3. Ability to conduct investigations, review conduct matters and prepare reports outlining findings and recommendations
4. Knowledge and experience of one or more of the following:
 - a) law
 - b) public administration
 - c) public sector ethics
 - d) alternative dispute resolution
5. Compliance with eligibility requirements for membership of a panel of conduct reviewers under clause 3.6 of Procedures for the Administration of the Code of Conduct
6. Ability to communicate effectively and work in partnership with officers of Council

Appointment is for up to 4 years, after which, Council will need to conduct another EOI and establish a new panel.

KEY ISSUES

Previously, membership on a panel was by person only. The new procedures now allow incorporated or other entities to be appointed to a council's panel. However, council must be satisfied that all persons, who will conduct the functions of a conduct reviewer for the entity, meet the selection and eligibility criteria under clause 3.6 of the Procedures.

A number of recommended conduct reviewers meet the above criteria.

OPTIONS

It is considered that the following options are available to Council:

1. Adopt the recommendation provided.
2. Amend the recommendation, noting that care should be taken with this option to ensure Council is not at risk of breach for any legislative requirements.
3. Reject recommendation, which potentially places Council in difficult situation where it may not comply with the Procedures.

COUNCIL IMPLICATIONS

Budget/Financial

This EOI provides Council with a panel of Conduct Reviewers at competitive market tested pricing. There are no broad economic impacts associated with the implementation of the recommendation.

Asset Management

N/A

Policy or Regulation

The requirements for establishing Conduct Review Panels is detailed in Part 3 of the Procedure for the Administration of the Code of Conduct.

Consultation

Throughout the EOI process, Clarence Valley Council has been in discussion with representatives of Coffs Harbour City, Bellingen Shire and Nambucca Valley Councils.

Legal and Risk Management

Adopting a Code of Conduct Review Panel is a risk mitigating strategy.

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
Confidential	Contract No. EOI-1227-TO - Code of Conduct Review Panel (Assessment of Submissions)

ITEM	6c.20.063	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Council	26 May 2020
Directorate	Office of General Manager	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

That

1. The schedule of actions taken on Council resolutions be adopted and those resolutions marked as complete be removed from the checklist.
2. Council consent for the Condolence Book for the Mayor of Christchurch to be sent by post due to the current pandemic situation and the inability of being able to present it in person (Item 11.001/19).

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.

On 19 March 2019, Item 11.001/19, Council resolved in point 3 to:

3. *Approve the Mayor and General Manager to attend a memorial service in Christchurch at the appropriate time at which the "Book of Condolence" be presented to the Mayor of Christchurch.*

Due to the current pandemic situation it is not possible to physically present the condolence book to the Mayor of Christchurch, New Zealand, so it is proposed to send the book directly by post to the Mayor instead before too much more time passes.

COUNCIL IMPLICATIONS

Budget/Financial

There will be a substantial saving made by sending the condolence book by registered post rather than physically delivering it.

Asset Management

N/A

Policy or Regulation

Local Government Act 1993 S335 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Checklist

ITEM	6c.20.064	2019/20 MONTHLY FINANCIAL REPORT – APRIL 2020
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

SUMMARY

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

This report is submitted to Council in addition to the statutory reporting requirements of the Quarterly Budget Review Statements. Variations reported in this monthly financial report will be included in the 2019/20 General Purpose Financial Statements Refer to Audit report (to be tabled in October), as this replaces the fourth Quarter Budget Review Statement, in the Integrated Planning & Reporting cycle.

Budget variations identified in this report impact the General Fund end of year result by \$42,894, resulting in an expected end of year surplus (\$457,784).

The reserve fund variations identified in this report will increase the reserve funds by (\$1,023,072).

OFFICER RECOMMENDATION

That Council:

1. Receive and note the monthly financial information report for April 2020, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling \$42,894, which will be included in the 2019/20 General Purpose Financial Statements Refer to Audit report.
3. Endorse the proposed variations, which increase Financial Reserves by (\$1,023,072), which will be included in the 2019/20 General Purpose Financial Statements Refer to Audit report.

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 April 2020.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
815	<p>Service – Floodplain Infrastructure & Operation Sub-Service – Floodplain Infrastructure & Operation</p> <ul style="list-style-type: none"> Reduce budget - Ulmarra Bank Protection Vol Purchases to align with actuals to date as project delayed by contractor until 2020/21, due to COVID-10 impact. Funds returned to RA 80263 - UG - Dept Nat Resources Ulmarra Bank Protection Works 	\$Nil	(\$38,726)	N/A
817	<p>Service – Airports Sub-Service – Regional Airports</p> <ul style="list-style-type: none"> Recognise reduced Head Tax April - June 2019/20 due to COVID-19 Impacts. 	\$26,667	\$Nil	6a.20.010
830	<p>Service – Emergency Services and Natural Disasters Sub-Service – Natural Disaster Management</p> <ul style="list-style-type: none"> Fund additional cost of potable water deliveries to fire effected households. 	\$40,000	\$Nil	6a.20.007
840	<p>Service – Parks & Open Spaces Sub-Service – Parks & Open Spaces</p> <ul style="list-style-type: none"> Bring forward from 2020/21 the design element of the Zig Zag Pathway Yamba to be funded from RA 70227 - ER – Flinders Park - Zig Zag Pathway Detailed Design Reserve. Corresponding adjustment made to 2020/21 Capital Works Program. Allocate additional Ulmarra Riverside & Village Precinct budget commencing 2019/20 to be funded from RA 79025 –S94 – 	\$Nil	\$22,000	N/A
		\$Nil	\$100,000	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Ulmarra Riverside & Village Precinct Reserve. <ul style="list-style-type: none"> Allocate NSW Government Community Builders Partnership Grant Program to fund: <ul style="list-style-type: none"> Brushgrove Recreation Triangle Playground (\$20,000) Grevillia Park Playground (\$15,000) 	\$Nil	\$Nil	6c.20.046
841	Service – Sporting Facilities Sub-Service – Sporting Facilities <ul style="list-style-type: none"> Remove budget – UCSC 2017/18 – Stage 3 New Change Rooms & Disabled Toilets - project completed in a prior year. Funds returned to RA 10457 – IR – Upper Clarence Sports Council Reserve. Increase Crown Reserves Improvement Fund Program Grant funding to align with 2019/20 agreement: <ul style="list-style-type: none"> Noxious Weed on Vacant Crown land Project (\$4,091) Upgrade of Maclean Showground Stables (\$2,727) Allocate NSW Office of Sport Funding - NSW ICC T20 World Cup 2020 Legacy Fund to fund purchase of: <ul style="list-style-type: none"> Yamba Oval Practice Net Upgrade (\$21,300) Barry Watts Oval Maclean Practice Net Upgrade (\$21,300) 	\$Nil	(\$9,154)	N/A
		\$Nil	\$Nil	N/A
		\$Nil	\$Nil	N/A
851	Service – Natural Resource Management Sub-Service – Biodiversity <ul style="list-style-type: none"> Fund Gulmarrad Drainage & Biodiversity Corridor Project from S94 - Drainage Gulmarrad. Increase NSW Department of Planning, Industry and Environment – South Grafton Flying-fox Impact Project Grant (\$2,400) 	\$Nil	\$3,300	N/A
		\$Nil	\$Nil	N/A
854	Service – Beaches Sub-Service – Coastal & Estuary Management <ul style="list-style-type: none"> Allocate NSW Department of Planning, Industry & Environment - Coastal and Estuary Grant 2019/20 (\$40,000) Allocate budget for Woolli Beach Nourishment project to be funded from RA 14032 – IR – PLAN – Woolli Beach Nourishment Design & EIA with matching Council funds. Allocate budget for Broom Head Revetment Extension project to be funded from RA 14032 – IR – PLAN – Brooms Head 	\$Nil	\$Nil	N/A
		\$75,000	\$75,000	13.006/19
		\$50,000	\$50,000	13.006/19

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Revetment Extension with matching Council funds.			
866	Service – Buildings, Properties & Leases Sub-Service – Council Property Management <ul style="list-style-type: none"> Fund 2019/20 Legal Fees for sale of Gurrangang & Fineflower properties from RA 10520 – IR – Strategic Building Reserve. 	\$Nil	\$1,374	N/A
870	Service – Public Amenities Sub-Service – Public Amenities <ul style="list-style-type: none"> Remove budget from Memorial Park Grafton Amenities Upgrade to be utilised in 2020/21 Capital Works Program - Maclean Pool Plant Room. 	(\$180,000)	\$Nil	6e.20.011
871	Service – Aquatic Facilities Sub-Service – Aquatic Facilities <ul style="list-style-type: none"> Allocate Department of Planning Industry and Environment - My Community Projects 2019 grant to fund purchase of Solar Blankets - Maclean Olympic Pool (\$70,070) 	\$Nil	\$Nil	N/A
882	Service – Holiday Parks Sub-Service – Holiday Parks <ul style="list-style-type: none"> Increase contractor budget for Management & Operation of the Iluka Riverside Holiday Park Tender RFT20/09 to be funded from RA 79000 – ER – Holiday Parks Bank Account Reserve Recognition of impact of COVID-19 (as at 30 April) to Holiday Parks revenue to be funded from RA 70010 – ER – Holiday Parks Maintenance Reserve 	\$Nil	\$13,408	6e.20.010
886	Service – Water Supply Sub-Service – Water Operation Maintenance and Renewals <ul style="list-style-type: none"> Allocate funds to engage consultant to review/prepare Development Servicing Plan for West Yamba to be funded 50/50 from RA 79010 – ER - Water Bank Account Reserve and RA 79025 – ER - Sewer Bank Account Reserve. Fund Yamba Roundabout Water Relocation from RA 79010 – ER - Water Bank Account Reserve. Reported elsewhere in these business papers. 	\$Nil	\$50,000	6b.20.029
887	Service – Water Supply Sub-Service – Water Construction <ul style="list-style-type: none"> Reduce budget: <ul style="list-style-type: none"> ➤ Scope, Design Rushforth Rd 32ML replacement reservoir staged 	\$Nil	(\$1,311,321)	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	<p>project included in 2020/21 (\$135,000)</p> <ul style="list-style-type: none"> ➤ Rushforth Road Reservoir - Additional Treatment Barrier to align with actual spend as project completed under budget (\$1,176,321) <p>Funds above to be returned to RA 79010 – ER - Water Bank Account Reserve.</p>			
891	<p>Service – Sewerage Services Sub-Service – Sewer Operation Maintenance and Renewals</p> <ul style="list-style-type: none"> • Fund Yamba Roundabout Sewer Relocation from RA 79025 – ER - Sewer Bank Account Reserve. Reported elsewhere in these business papers. • Remove budget - Sewer - Treatment - Update Biosolids Management Plan. Funds to be returned to RA 79025 – ER - Sewer Bank Account Reserve and utilised in a future period. 	\$Nil	\$115,000	Foreshadowed
892	<p>Service – Sewerage Services Sub-Service – Sewer Construction</p> <ul style="list-style-type: none"> • Reduce budget: <ul style="list-style-type: none"> ➤ North Grafton - EPA Licence requirements, as surplus not required. ➤ STP and Pump Station Epoxy Coating Renewal - staged project included in 2020/21 (\$731,500) ➤ Sewer Pump Stations 1,400 units to align with actual spend, surplus not required (\$124,000) • Remove budget -Reticulation Construction as no longer required (\$51,000) <p>Funds above to be returned to RA 79025 – ER - Sewer Bank Account Reserve.</p> <ul style="list-style-type: none"> • Increase budget to fund Convent Beach Pump Station (Y3) Replacement to be funded from RA 79025 – ER - Sewer Bank Account Reserve: \$60,000. • Fund Yamba STP Construction from: <ul style="list-style-type: none"> ➤ Contribution to Works \$19,000 ➤ RA 79025 – ER - Sewer Bank Account Reserve 	\$Nil	(\$77,907)	6e.20.008
930	<p>Service – Community Development Sub-Service – Community Development</p> <ul style="list-style-type: none"> • Allocate funds towards Cultural Award in the 	\$5,000	\$Nil	6c.19.076 Foreshadowed N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Clarence Valley 2020. <ul style="list-style-type: none"> Allocate NSW Stronger Country Communities Fund Round 3 - Building Bridges Project (\$89,360) 	\$Nil	\$Nil	6a.19.015
931	Service – Community Development Sub-Service – Youth Services <ul style="list-style-type: none"> Allocate NSW Stronger Country Communities Fund Round 3 - Out of the Box Relocation & Activation (\$78,000) Allocate NSW Office of Community - Youth Week Funding to offset existing budget 	\$Nil (\$2,259)	\$Nil \$Nil	6a.19.015 N/A
934	Service – Community Development Sub-Service – Indigenous Services <ul style="list-style-type: none"> Allocate NSW Stronger Country Communities Fund Round 3 - Our Language Connection (\$80,000) 	\$Nil	\$Nil	6a.19.015
940	Service – Libraries Sub-Service – Clarence Regional Library <ul style="list-style-type: none"> Align budget for Library Overdue Fees to actual fees received to date as fee no longer charged with reduction in revenue funded from RA 41125 – ER - Regional Library Accumulated Surplus Reserve. Allocate NSW Public Libraries Association - COVID-19 eResources Fund Grant to purchase additional eResources as a COVID-19 response (\$844) Fund increased cost of replacement Radio Frequency Identification (RFID) security gate at Grafton Library, from RA 41125 – ER - Regional Library Accumulated Surplus Reserve. 	\$Nil \$Nil \$Nil	\$8,700 \$Nil \$10,000	6b.20.023 N/A N/A
941	Service – Libraries Sub-Service – Public Libraries <ul style="list-style-type: none"> Allocate: <ul style="list-style-type: none"> ➤ Good Things Foundation - Be Connected Grant - Building Digital Skills Round 12 (\$2,500) ➤ Good Things Foundation - Be Connected Grant - Community Engagement Round 6 (\$6,000) 	\$Nil	\$Nil	N/A
961	Service – Land Use Planning Sub-Service – Land Use Planning <ul style="list-style-type: none"> Allocate Office of Environment and Heritage Coastal & Estuary Grants Program - Implementation 2019/20 Allocation (\$3,500) 	\$Nil	\$Nil	14.076/17
965	Service – Economic Development Sub-Service – Economic Development			

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"> Allocate additional Federal Government Disaster Recovery Fund to assist community recovery and increase community resilience to disaster (\$250,000) 	\$Nil	\$Nil	6a.20.004
966	Service – Economic Development Sub-Service – Sponsored Events and Festivals <ul style="list-style-type: none"> Correct Events & Festivals Salaries & Wages budget to match adopted Organisation Staff Chart. 	\$28,486	\$Nil	N/A
	TOTAL Proposed General Fund / Reserve Balance Impact	\$42,894	(\$1,023,072)	

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 Revised Budget	(\$266,431)	Surplus
Q4 Proposed Budget Variations - April	\$42,894	Deficit
Proposed Movement of General Fund 2019/20 Budget Result April 2020	(\$457,784)	Surplus

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 Revised Budget	\$464,648	Decrease
Q4 Proposed Budget Variations - April	(\$1,023,072)	Increase
Proposed Movement of Reserve Funds 2019/20 Budget Result April 2020	\$15,504,658	Decrease

Asset Management

N/A

Policy or Regulation

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

Consultation

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

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Christi Brown, Management Accountant Coordinator
To be tabled	Income and Expenditure Statements by Fund & Sub Service

ITEM	6c.20.065	POLICY REVIEW – UNREASONABLE COMPLAINANT CONDUCT POLICY
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes	

SUMMARY

This report recommends adoption of a policy which has been reviewed.

OFFICER RECOMMENDATION

That Council adopt, as having been reviewed with little or no substantial change, the Unreasonable Complainant Conduct Policy.

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

All Council policies are scheduled for review at least once during the term of the elected body.

KEY ISSUES

The Unreasonable Complainant Conduct Policy has been reviewed by staff and minor changes made to the structure of the policy document. These changes have not altered the intent of the policy and information supporting the policy direction is now contained as a procedural attachment.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Unreasonable Complainant Conduct Policy V1.0

Consultation

The policy has been reviewed in consultation with relevant staff.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
Attachment	Revised Unreasonable Complainant Conduct Policy V2.0

ITEM	6c.20.066	ACCESS YAMBA - PROGRESS UPDATE ON FUNDING AND EASEMENTS
Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

This report provides an update on the status of this project and requests confirmation of budget variations for the water and sewer relocation works.

OFFICER RECOMMENDATION

That Council:

1. Receive and note that Council has received approval from Restart NSW to vary the scope and time of the Access Yamba grant funding to fund two roundabouts at Treelands Drive/Yamba Road and Carrs Drive/Yamba Road.
2. Approve new allocations of \$115,000 from the sewer fund for sewer relocation works and \$276,000 from the water fund for water relocation works associated with the Access Yamba project.
3. Proceed with the acquisition of an easement to drain water and water supply over part Lot 1 DP 597075.
4. Delegate authority to the General Manager to execute the survey plan and associated documents to enable registration of the easement over Lot 1 DP597075.

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 resolved at the February Ordinary meeting to submit a scope and time variation to Restart NSW. The resolution was –

That Council:

...

5. *Not proceed with roundabouts at Shores Drive and Yamba Road, and at Yamba Street and Yamba Road, Palmers Island, and with Restart NSW approval, 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.*
6. *Proceed with tendering for the construction of roundabouts at Treelands Drive and Carrs Drive, and if required, with Restart NSW approval, seek a variation of the Funding Deed's current completion timeline of January 2021 and of reporting milestones.*

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. Notification that these variations were approved was received on the 29 April 2020.

In the meantime the project documentation has been completed and services relocation works, including water and sewer services, are ready to commence.

The report to the February Ordinary meeting highlighted that the costs of these relocations could be funded from the Water and Sewer fund, this report seeks approval for the associated budget variation.

A further confidential report was provided to the March meeting on land acquisitions.

KEY ISSUES

Budget - Water and Sewer Costs

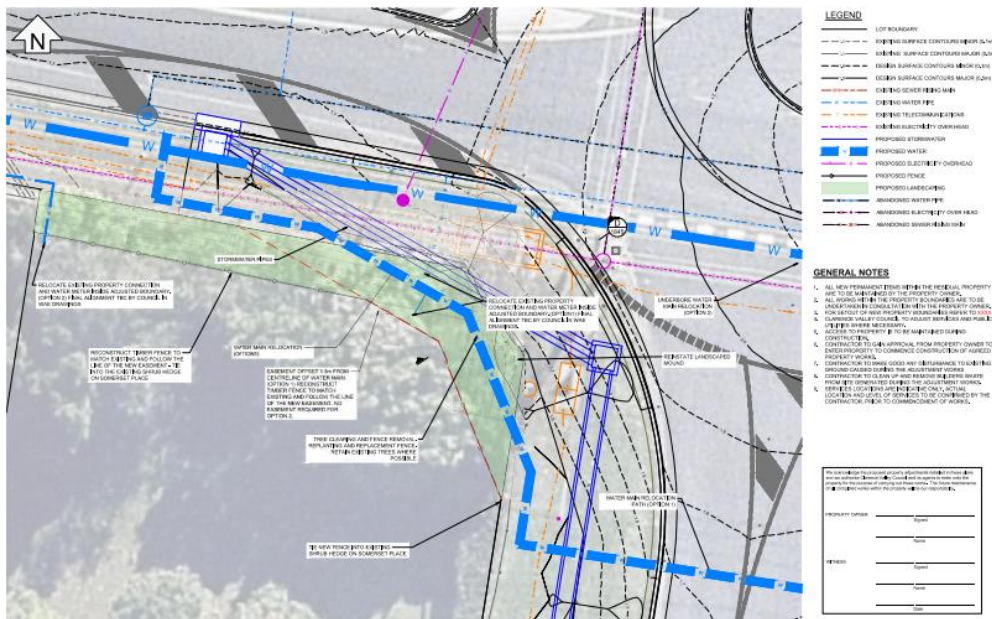
Table 1 provides a breakdown of the recommended budget variations. At all of the locations these services are not due for replacement in the near future and are not currently in the forward works program.

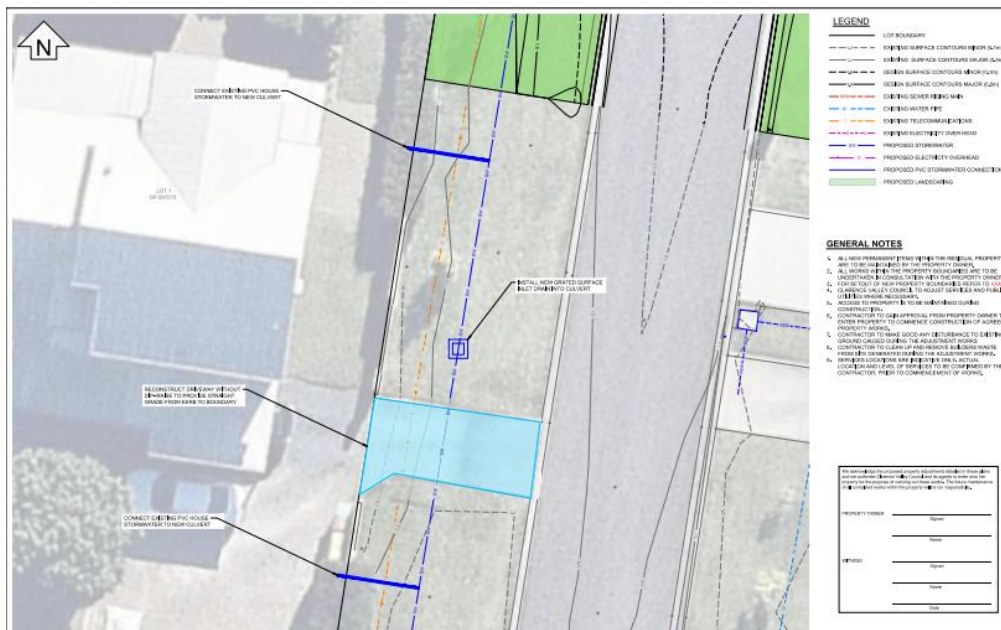
Table 1 - Costs associated with Water and Sewer Relocations

Project Location	Water Realignment Cost	Sewer Realignment Cost
Treelands Drive and Yamba Road	\$178,000	\$ 22,000
Carrs Drive and Yamba Road	\$ 98,000	\$ 93,000
Total	\$276,000	\$115,000

Further works has been undertaken on the design of the roundabout and required services. Due to restrictions in space, stormwater and water supply lines need to be located under the north east corner of Lot 1 DP 597075. An easement will be required over Council’s infrastructure.

Negotiations have commenced with the landowner. Council will install the infrastructure and will undertake works to return the landowners land to a satisfactory condition. Works and compensation are currently being negotiated with the landowner.





Figures 1 and 2 – Proposed Property Works Plan and estimated area of easement

Restart NSW Funding

As stated earlier the variation to Restart NSW to vary the funding agreement was approved on 29 April. Advice from Restart NSW is that they have reviewed the scope and time change proposal for RNSW1973 Improving Access to Yamba project and concur with the proposal to vary the project scope (reduce number of intersection upgrades). (INSW ref: IP-RNSW1973-01).

The approved scope variation is:

1. Revise the current scope to remove the construction of (2) intersection upgrades at:
 - a. Shores Drive and Yamba Road, and
 - b. Yamba Street and Yamba ROAD, Palmers Island.
2. Transfer funds from deleted scope to cover budget increase \$4,427,516 to the construction of (2) roundabouts at:
 - a. Treelands Drive and Yamba Road, and
 - b. Carrs Drive and Yamba Road.
3. Request Extension of time for the completion of the revised scope to 30/6/21.
4. Revised Budget
 - Restart: \$4,427,516
 - Council: \$1,642,917
 - Revised Total Budget: \$6,070,433'

COUNCIL IMPLICATIONS

Budget/Financial

The water and sewer relocations could be funded from the water and sewer funds respectively as “early” renewal of these assets. Updated financial modelling of the sewer and water funds has indicated that the relocation works will not require deferral of other projects.

Works to the landowners property, any compensation and survey and legal fees will be expended from PJ’s530297 and 530298.

Asset Management

The relocated services will remain Council assets.

Policy or Regulation

- *Local Government Act 1993*
- *Conveyancing Act 1919*

Consultation

Consultation has taken place with the affected landowner and between Council's Civil Services, Water Cycle and Property sections.

Legal and Risk Management

An easement formalises the location of and protects access to Council's infrastructure.

Climate Change

Not applicable.

Prepared by	Alex Dalrymple – Manager Civil Services
Attachment	Nil

ITEM	6c.20.067	ACQUISITION OF LAND FOR ROAD PURPOSES - MIDDLE CREEK BRIDGE UPGRADE, KUNGALA ROAD
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

The construction of the replacement bridge over Middle Creek on Kungala Road requires the partial acquisition of approximately 530m² of land from the owners of Lot 24 DP752841 Kungala Road, Halfway Creek.

OFFICER RECOMMENDATION

That Council

1. Offer a compensation amount of \$1,500 plus survey and legal costs for the area to be acquired (approximately 530m²) of Lot 24 DP752841 Kungala Road, Halfway Creek for the road re-alignment to the new bridge over Middle Creek, Kungala Road, Halfway Creek.
2. Delegate authority to the General Manager to execute all documents associated with the land acquisition.

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The road approaches to the replacement bridge over Middle Creek, Kungala Road have been designed to match the wider bridge and to achieve improved road geometry and site distance which will improve the safety of road users. Construction of the replacement bridge and approaching road requires the acquisition of approximately 530 m² of land from the owner of Lot 24 DP 752841 Kungala Road, Halfway Creek.

A registered surveyor will be engaged by Council to determine the position of the new boundary fence, once erected, for finalisation of the property acquisition.

KEY ISSUES

The land to be acquired is required for the new bridge and road approaches to the bridge. The new alignment and increased bridge width will improve the safety to road users.

COUNCIL IMPLICATIONS**Budget/Financial**

The acquisition of the land will be processed by Council's solicitor in conjunction with our property section and there will be professional costs involved accordingly. There will also be costs associated with survey

and plan preparation and land registration fees. The total acquisition cost, including land costs, is estimated to be \$10,000.

The existing property fence within the area of land to be acquired will be removed and an equivalent fence shall be erected along the new boundary at the completion of the work at Council's cost.

The overall costs will be met from Council's budget allocation for the bridge replacement (PJ937011).

Asset Management

Replacement of the bridge over Middle Creek and the associated road realignment will address the following specific objective stated in Council's Asset Management Strategy for Transport -

- To manage bridges in a safe and serviceable condition.

Policy or Regulation

Roads Act 1993 – Part 12 Division 1 authorises Council to acquire land for road

Local Government Act 1993- In accordance with Section 31, land that is required for road is not required to be classified.

Consultation

The landowner of Lot 24 DP 752841 Kungala Road, Halfway Creek has been consulted and agreed to Council's acquisition of the land for the compensation amount of \$1,500 plus survey and legal costs.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Adele McGeary, Bridges Engineer
Attachment	Nil

ITEM	6c.20.068	ACQUISITION OF LAND FOR WATER SUPPLY AT LAWRENCE
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

At its meeting of 28 May 2019 Council resolved (Resolution 16.016/19) to accept a tender for demolishing the Lawrence reservoir. The report foreshadowed that a replacement 0.75ML reservoir would be constructed on the site. Subsequent water supply network modelling has taken into account demand which occurred during the late 2019 bushfires for refilling water tankers and has suggested a 1.7ML reservoir at Lawrence is optimal. The current reservoir site is insufficient in size to provide for a 1.7ML reservoir. It is proposed that land be acquired from the Department of Education adjacent to the Lawrence Reservoir site to facilitate construction of a replacement 1.7ML reservoir.

OFFICER RECOMMENDATION

That:

1. Council proceed with the compulsory acquisition of the land described as Lot 2 DP 567494 for the purpose of water supply in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Council make an application to the Minister and the Governor for approval to acquire Lot 2 DP 567494 by compulsory process under section 186(1) of the *Local Government Act 1993*.
3. The land be classified as operational.
4. Authority is delegated to the Mayor and General Manager to sign any documentation necessary to complete the acquisition.
5. Council enter into a lease agreement with the Minister for Education (School Infrastructure NSW) for occupation of Lot 2 DP 567494 until the land acquisition has been completed for the purpose of reservoir construction.
6. When a valuation for the site is obtained, the valuation be reported back to Council for information.

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 owns Lot 1 DP 567494, and the recently demolished Lawrence Reservoir was located on this lot. Surrounding Lot 1 is Lot 2 DP 567494 owned by the Minister for Education. The pipelines to the reservoir site are located in easements over Lot 2.

The recently demolished reservoir at Lawrence was of 1.14ML capacity and was a “standpipe” type reservoir 24.4m in height but only 7.6m in diameter. Hydraulic modelling has indicated that, to service the ultimate development peak and fire fighting demand a 1.7ML reservoir is desirable, but there is insufficient area on Lot 1 to construct a reservoir of greater diameter than the recently demolished reservoir.

An issue with “standpipe” type reservoirs is that at times of high flow, pressure reduces quickly as water is consumed. If additional land can be obtained, it is proposed the new 1.7ML reservoir be 15m in height and 12m in diameter. The design life of a new reservoir is 70 years, therefore ensuring the optimum size and shape reservoir can be built is essential.

KEY ISSUES

As part of the upgrade to the Lawrence Reservoir it was initially identified that an easement was required across Lot 2 DP 567494 for electrical work. Initial consultation was undertaken with School Infrastructure NSW for the granting of an easement. Further into the design of the reservoir upgrade it was established that more area was desirable to enable a 1.7ML reservoir to be constructed and negotiations were then commenced with the Department of Education to acquire part or whole of Lot 2.

School Infrastructure NSW has advised Council that their consultation process to dispose of land requires placement of the land on the open market and it was suggested that Council compulsorily acquire the land as the process would provide the certainty of ownership and control of the matter to a resolution.



As the acquisition process can take a minimum of 9 months to complete, it is proposed that a lease is to be entered into in the interim so that the reservoir upgrade works can be commenced by tender after current travel restrictions are lifted.

COUNCIL IMPLICATIONS

Budget/Financial

The draft 2020/21 budget has included an allocation of \$650,000 from PJ902037 (Reservoir Rehabilitation) for a new 0.75ML Lawrence reservoir. Increasing the size of the reservoir to 1.7ML will increase the estimated cost of reservoir construction to \$925,000, and the cost of property matters is estimated to be \$150,000.

It is therefore proposed that, following public exhibition, the 2020/21 capital budget for PJ902037 be increased to \$1.075 million to enable construction of a 1.7ML reservoir. Financial modelling of the Water Fund indicates that the proposed capital budget increase can be accommodated, there are similar operating and maintenance costs between the smaller and proposed larger reservoir while the project wouldn't have any adverse impact on payment of a dividend from the water fund. Life cycle costs are taken into account within the financial modelling.

Acquisition and legal costs will be expended from PJ902037. It is proposed to obtain an independent valuation and agree on an acquisition price with School Infrastructure NSW.

If an agreement cannot be reached then compensation will be determined by the Valuer Generals department as part of the acquisition process.

Asset Management

The land would be added to Council's Water Cycle assets register and be included in future management and maintenance.

Policy or Regulation

- *Local Government Act 1993*
- *Land Acquisition (Just Terms Compensation) Act 1991*

Consultation

Consultation has been undertaken between Council's Water Cycle and Property sections and negotiations have commenced with staff from School Infrastructure NSW.

Legal and Risk Management

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

Climate Change

With climate change forecast to result in an increasing incidence of severe bushfires, and with reservoirs having a design life of 70 years, the recent bushfires highlighted the desirability of 1.7ML reservoir at Lawrence.

Prepared by	Greg Mashiah, Manager Water Cycle.
Attachment	Nil

ITEM	6c.20.069	DRINKING WATER MANAGEMENT SYSTEM
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

Council first adopted a Drinking Water Management System (DWMS) at its meeting of 19 August 2014 (Resolution 13.167/14) which has been implemented and adhered to since this time. Recently, with the addition of Ultra Violet (UV) disinfection at all our water treatment plants and other changes that have occurred in the following 6 years it was determined that an updated DWMS was required. It is mandatory to develop, implement and adhere to a DWMS under the *Public Health Act 2010* and the *Public Health Regulation 2012*. DWMS address the twelve elements of the *Framework for Management of Drinking Water Quality* as set out in the Australian Drinking Water Guidelines (ADWG).

Under the Aboriginal Communities Water and Sewerage Program (ACWSP), Council is contracted to maintain water and sewer services to the three Aboriginal Communities of Baryulgil, Malabugilmah and Jubullum. Operations of water services within these three Communities are also required to adhere to a DWMS for each water supply.

OFFICER RECOMMENDATION

That Council endorse the updated *Drinking Water Management System*, including the addition of the three Aboriginal Communities.

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's original DWMS was adopted following a formalised water quality risk assessment and development process. To maintain existing drinking water quality barriers the DWMS uses the concept of "critical control points", or CCP. A CCP is a point in the system where failure of standard operating procedures could result in a substandard quality of water, and where controls can be applied which prevent, eliminate or reduce the hazard to acceptable levels. The recent UV disinfection system installation at each chlorination plant has triggered the need for additional CCPs to be devised and implemented to ensure the systems provide a robust water quality treatment barrier.

In early 2019, DPIE Water approached Council insisting that Council adopt out of date DWMS for each of the three Aboriginal Communities into Council's current DWMS. Council was hesitant to adopt out of date and irrelevant DWMS into Council's own DWMS as the format was completely different and the Aboriginal Community DWMS contained operational information that was not usually included in a DWMS.

After discussion, it was determined that NSW Health would engage and fund a Water Quality Risk Consultant, Bligh Tanner, to review the Aboriginal Communities as well, as Clarence Valley Council's, DWMS. This engagement would involve a full water quality risk assessment of each water supply, updating CCPs and formulating a new DWMS for each water supply. The intention was to ensure all four DWMS are relevant, consistent and living documents that will ensure drinking water risks are controlled. When completed it was intended that Clarence Valley Council DWMS would include appendices for each Aboriginal Community DWMS.

KEY ISSUES

A full water quality risk assessment workshop with all stakeholders was completed for each water supply. Stakeholders included Council water cycle operations staff, Senior Management, Northern Rivers Public Health Unit, NSW Health Water Unit, staff from Department of Planning, Infrastructure and Environment – Water (DPIE) and, in addition, for the Aboriginal Communities the Manager of the ACWSP and the contractor who delivers the on ground service.

The methodology specified in the ADWG to ensure drinking water quality is the “multi barrier” concept, which provides redundancy to ensure water quality even if a barrier fails. Examples of water quality barriers are catchment protection, chlorination, UV disinfection and filtration. The type and assessed level of water quality risk determines whether alternative or additional barriers are required.

Each DWMS contains a continuous improvement plan outlining items that have been identified after reviewing the risk assessment against a gap analysis. The UV system at Council's water supplies was installed based on the previous risk assessment which outlined no treatment barrier against protozoa, namely cryptosporidium. As summarised in the attachment, for the Clarence Valley Council system a total of 62 drinking water risks were identified and assessed and there are 30 improvement items which have been grouped into “short term”, “medium term” and “long term”.

Council will continue to work towards improving the water quality barriers identified in the new risk assessment. It is likely, for example, that some form of filtration on the Rushforth Road system will be necessary within the next 5 years based on the new risk assessment of under mitigated risk from virus contamination as well as turbidity issues affecting the chlorination disinfection process.

Water Cycle Staff also work closely with the Aboriginal Communities to ensure the works contractors engage by Council are complying with each DWMS. The continuous improvement plan for the Aboriginal Communities is approved using funding from ACWSP.

COUNCIL IMPLICATIONS

Budget/Financial

The DWMS review has been fully funded by NSW Health, but any operational changes required to Council's system to address risks will need to be funded by Council as part of its water operations budget. For example, increased monitoring required to demonstrate continuous compliance with CCPs potentially requires increased resourcing of water treatment. As noted in the key issues section of this report, continuous improvement actions identified through the risk assessment process include investigations that may identify capital works. Any such capital works will be subject to further Council reports.

Any changes required to the three Aboriginal Communities to address drinking water quality risks will be subject to DPIE Water approval and, if approved, will be fully funded by DPIE Water. As one example, DPIE Water has already approved an increase in operator attendance at the communities from twice weekly until three times per week until on-line monitoring can be installed.

Asset Management

Nil at this stage.

Policy or Regulation

- *Public Health Act, 2010* and
- *Public Health Regulation, 2012*

Consultation

Drinking water regulators NSW Department of Health and DPIE - Water have been involved in the drinking water quality risk assessment review and development of Council's DWMS. The Contractor responsible for operation of drinking water services at the three Aboriginal Communities (Ecotechnology P/L) was involved in the risk assessment for the communities.

Legal and Risk Management

Council has a legislative requirement to develop, and adhere to its DWMS and also to ensure the DWMS of the Aboriginal Communities are also adhered to. The DWMS provides a risk management approach for water utilities to produce drinking water which consistently meets the ADWG requirements.

Climate Change

The risk assessment included consideration of possible impacts on drinking water from climate change.

Since the bushfires and the subsequent heavy rainfall, the source of Council's water supply has been restricted to predominately Shannon Creek Dam due to potential of dangerous fire contaminates in the river as well as the increase in sediment run off. Since the bushfires there has also been a noticeable change in the drinking water catchment "behaviour" in terms of turbid runoff compared with previous events.

Prepared by	Laurie Day, Water Cycle Project Coordinator
Attachment	Bligh Tanner <i>DWMS Implementation Support – Final Report</i>
To be tabled	Drinking Water Management System

ITEM	6c.20.070	DRAFT CEMETERY POLICY
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Yes	

SUMMARY

The NSW Government introduced new legislation that has resulted in a number of changes to the way Cemeteries and Crematoria are to be managed in NSW. These changes together with standard management practices have been incorporated in the attached draft Cemetery Policy. This report seeks Council's endorsement to place the draft Cemetery Policy on public exhibition.

OFFICER RECOMMENDATION

That Council

1. Endorse the continuation of perpetual interment rights.
2. Endorse the draft Cemetery Policy for the purpose of public consultation for a period of 28 days.
3. Adopt the Cemetery Policy if after exhibition there are no submissions or only minor changes that do not substantially alter the intent of the document.

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.3 Provide strategic asset management planning

BACKGROUND

Council has responsibility for the management and operation of thirteen active cemeteries. The Clarence Lawn Cemetery located in South Grafton and Maclean Lawn Cemetery located in Townsend being the largest and most active.

In 2019 Part 4 of the Cemeteries and Crematoria Act 2013 (Act) came into effect. This introduced a number of changes to administrative practices, interment registers and record keeping that Council was required to and has implemented. It also required the development of a Council Policy that documents the principles, guidelines, and legislative framework related to the management and operation of Council Cemeteries.

Interments (burials) at cemeteries in the Clarence Valley have always been on the basis of perpetuity. The Act now allows interments in cemeteries to occur on a perpetual or renewable basis, enabling Council's the opportunity to determine to adopt renewable interments or maintain current practice of perpetual interments. A key issue for the draft policy (attachment A) is the concept of renewable interment rights which has been introduced by the new legislation.

KEY ISSUESInterment Rights

Prior to the interment of human bodily remains or ashes at a cemetery an application must be made to Council for an interment right. The interment right when issued identifies the particular site within a cemetery, and the interment right holder or holders that may be interred at the site. Under the Act the interment right may be issued as a perpetual or renewable term.

Council has historically approved burials on a perpetual term basis. The Act now provides Council with the option to approve renewable interments rights for a term of 25 years which can be renewed up to a maximum term of 99 years. This enables the grave or ashes interment site to be reused after a minimum period of 25 years subject to the provisions of the Act.

The renewable interment right option reflects the shortage of burial space available in metropolitan NSW. This is not the situation in the Clarence, both the Clarence Lawn and Maclean Lawn Cemeteries have available space for over 100 years based on current population (Clouston Associates 2012). Rural cemeteries in the Clarence have capacity for an even longer period. There is also a growing trend towards cremations that will further extend the active life of the cemeteries.

Council has not received any enquiries regarding renewable interments and is not aware of any other Council in NSW that has adopted the practice; the demand therefore is expected to be very low if at all. Introducing renewable interment rights will create an additional administrative burden for Council.

In consideration of the available space, no community demand, and increased administration burden the draft cemetery policy has been prepared on the basis of Council maintaining the current practice of issuing perpetual term rights only. However should Council wish to introduce renewable interment rights, the addendum (attachment B) to the draft policy provides the additional clauses that can be inserted into the draft policy to introduce renewable interment rights.

COUNCIL IMPLICATIONS**Budget/Financial**

If Council wish to introduce renewable interment rights a new schedule of fees and charges will need to be introduced to reflect the limited tenure and the associated administration. Fees to renew interment rights will not be required until 2045/46 when the first renewable interment rights would be up for renewal.

Asset Management

N/A

Policy or Regulation

- *Cemeteries and Crematoria Act 2013*
- *Cemeteries and Crematoria Amendment Regulation 2018*
- *Local Government Act 1993*

Consultation

Council is recommended to place the draft cemetery policy on public exhibition for a period of 60 days. The extended time period is to allow for consultation with interested parties and key stakeholders.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Ken Wilson, Waste & Sustainability Coordinator
Attachment	A. Draft Cemetery Policy B. Addendum

ITEM	6c.20.071	SOLID WASTE MANAGEMENT STRATEGY 2020-27
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	To be tabled	

SUMMARY

At its meeting held in March 2019 Council resolved to place the draft Solid Waste Management Strategy 2019-25 on public exhibition for a period of 60 days [Item 15.037/19]. The draft Strategy has now been reviewed and updated to take into account community submissions and more recent issues such as the 2019/20 bushfires and the COVID-19 pandemic. The term of the Strategy has been extended to 2027 to better align with other planning document and is now submitted for Council adoption.

OFFICER RECOMMENDATION

That Council adopt the Solid Waste Management Strategy 2020-27.

LINKAGE TO OUR COMMUNITY PLAN

Theme	4 Environment
Objective	4.2 We will foster a balance between development and the environment considering climate change impacts
Strategy	4.2.3 Provide efficient and effective solid waste management services which prioritises resource recovery and minimises environmental impacts

BACKGROUND

Waste management services implemented in the Clarence Valley are considered to be industry best practice however despite the comprehensive nature of the resource capture measures implemented and the quality of service provided there is a worrying trend of an increased quantum of waste ending up in landfill.

Anecdotal evidence to explain this growth points to the unprecedented level of infrastructure projects under construction in the region over the last few years and an increase in waste received from outside of the Council area. While these factors may change it is evident that additional measures are required to recover more valuable resources so to limit to the greatest extent possible waste ending up in landfill.

The draft Solid Waste Management Strategy documents Council's waste management direction to at least 2027, in this period a new domestic waste collection contract will be due to go to market. The domestic waste collection contract is the key driver for waste management services provided by Council. Contracts of this nature are long term (10 years) making it critical that rigorous planning is undertaken early.

At its meeting held in March 2019 Council resolved '*That the draft Solid Waste Management Strategy 2019-25 be placed on public exhibition for a minimum period of 60 days*' [Item 15.037/19].

The draft Solid Waste Management Strategy 2019-25 was exhibited from 10 May 2019 until 8 July 2019. Exhibition methods included Council's website, Clarence Conversations, printed documents available at Council's Grafton and Maclean administration offices and Grafton and Yamba shopping centre displays.

As part of the exhibition a specific focus area requiring community engagement was identified being the way the annual bulky waste collection is delivered. Community engagement was sought through an online and written survey to assess the community's appetite for changes.

A total of 115 surveys completed. A total of 5 comprehensive replies were received addressing the Solid Waste Management Strategy.

The draft Strategy has now been reviewed and updated taking into account feedback during the community exhibition period and more recent issues such as the 2019/20 bushfires and the COVID-19 pandemic.

KEY ISSUES

Strategically Clarence Valley is in the fortunate position of having quality waste services and key waste infrastructure in place. The Solid Waste Management Strategy 2020-27 is therefore as much about continuous improvement as it is about new initiatives. The Strategy describes waste management success stories and the challenges facing the waste industry including; the China National Sword Policy, contamination of recycling, problem wastes such as asbestos and the difficulties of further improving the percentage of waste diverted from landfill. Despite the short and medium term problems caused by China's National Sword Policy there is some confidence that industry will respond with more on-shore processing that will support a more circular and sustainable economy.

The Strategy has a strong emphasis on resource recovery and includes an action plan containing 59 actions across a wide spectrum of waste issues. Communication and education is a key action area and a communications framework (Attachment B) has been developed to document and guide waste and environmental education and promotion programs. The Clarence Valley is extremely fortunate to have the fabulous 'dirtgirl' as our ambassador spreading the 'rubbish handle with care' message. Council also has the Environmental Learning Facility (ELF) located at the regional landfill and resource recovery centre; a purpose built venue for environmental and waste learning which is available to school and community groups.

There are many challenges facing the waste industry that require action from all levels of government and commitment from industry and our community. The Solid Waste Management Strategy 2020-27 details the direction and actions identified for Clarence Valley Council to play its part in improving waste management outcomes, reducing landfill and increasing resource recovery.

COUNCIL IMPLICATIONS

Budget/Financial

The Strategy does not have any direct budget impact. Implementing actions within the Strategy will be funded from existing resources or will be subject to the standard budget reporting process.

Asset Management

N/A

Policy or Regulation

The key NSW waste management legislation and policy include the Protection of the Environment Act 1997 (POEO), POEO (Waste) Regulation 2014, Waste Avoidance & Resource Recovery Act 2001 and the NSW Waste Avoidance and Resource Recovery Strategy 2014-2021.

Consultation

The draft Solid Waste Management Strategy 2019-25 was placed on public exhibition for a period of 60 days. As part of the consultation process a community survey was undertaken to assess the community's appetite for changes to the way the annual bulky waste collection service is delivered. There were five detailed submissions received addressing the Strategy, the submissions generally supported the Strategy while seeking to improve measures aimed at reducing waste generation.

There were 115 surveys completed generally targeting the bulky waste collection service, there was strong support for Council's domestic waste collection services including the bulky waste service. 85.5% of respondents wanted Council to continue with the current kerbside bulky waste service.

Further details of the submissions and survey results received are included under the consultation section of the Strategy (Attachment A).

Legal and Risk Management

The Strategy is a tool to manage risk associated with waste management.

Climate Change

The provision of waste management services is one of Council's largest greenhouse gas generators (100% Renewables 2018). Waste minimisation and resource recovery is a fundamental component of the Solid Waste Management Strategy 2020-27 aimed at recovering valuable resources and reducing landfill gas emissions.

Prepared by	Ken Wilson, Coordinator
To be tabled	A: Solid Waste Management Strategy 2020-27 B: Environmental Education & Communication Framework

ITEM	6c.20.072	DRAFT WATER EFFICIENCY STRATEGIC PLAN 2020 AND DRAFT WATER EFFICIENCY IMPLEMENTATION PLAN 2020 FOR EXHIBITION
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	To be tabled	

SUMMARY

A draft Water Efficiency Strategic Plan (WESP) and draft Water Efficiency Implementation Plan (WEIP), which are joint Clarence Valley Council and Coffs Harbour City Council documents, have been prepared for public exhibition following a periodic review of the existing plans. The preparation and update of these plans is a licence condition for the operation of Shannon Creek Dam. These two documents will assist both Councils to continue to deliver comprehensive and effective water conservation programs throughout the region.

OFFICER RECOMMENDATION

That Council place the draft Water Efficiency Strategic Plan 2020 and the draft Water Efficiency Implementation Plan 2020 on public exhibition for a period of 28 days and a report be brought back to Council following exhibition.

LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

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

BACKGROUND

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

The WESP provides an overall framework and identifies a range of possible water efficiency actions. The WEIP sets out specific tasks in more detail and provides direction on the allocation of responsibilities, time and resources to manage and complete the actions in the plans.

The WESP was first developed in 1997 with extensive community consultation and adopted in 1998. Periodic reviews of the WESP were undertaken by Clarence Valley and Coffs Harbour City Councils in 2007 and 2013.

KEY ISSUES

Review of the WESP and WEIP is overseen by an advisory Clarence Valley Council committee, the Water Efficiency Working Group (WEWG), which comprises community and industry representatives from Clarence Valley and Coffs Harbour City Councils. At its meeting of 18 September 2018 Councillor Toms was nominated as the Councillor representative on the WEWG. The WEWG is involved in reviewing the year's work and timelines, reporting on financial and partnership aspects, and identifying budget requirements.

The 2013 review of the WESP and WEIP was undertaken by Clarence Valley staff, and the WEWG concurred with engaging an external consultant to undertake the 2020 review. The review has been undertaken by Hydrosphere Consulting, who have extensive industry experience particularly in the North Coast area.

COUNCIL IMPLICATIONS

Budget/Financial

The water efficiency program is an ongoing program for both Clarence Valley and Coffs Harbour City Councils. Table 1 in the WEIP proposes the following four year implementation budget for water efficiency (i.e. not including salary costs of the Education Water Efficiency Officer):

2020/21	2021/22	2022/23	2023/24
\$88,000	\$110,000	\$110,000	\$110,000

The 2019/20 water efficiency budget (PJ905155) has an allocation \$112,000 for implementation, but the draft 2020/21 budget has only allowed \$19,500 based on actual expenditure in the previous year. It is proposed when the final budget is considered by Council that the allocation for water efficiency be changed to reflect the WEIP. Financial modelling of the water fund using FINMOD software has indicated that the proposed WEIP budget will not have an adverse impact on Council's ability to pay a dividend.

Asset Management

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

Policy or Regulation

Relevant policies which may be subject to subsequent review are the Water Restriction and Water Efficiency Rebate policies.

Consultation

WEWG members (including Coffs Harbour City Council) were briefed by the consultant at the 28 November 2019 committee meeting and have also had opportunity to comment on the draft WESP and WEIP.

Legal and Risk Management

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

Climate Change

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

Prepared by	Christopher Hellyer, Environmental Officer (Education Water Efficiency)
To be tabled	WESP and WEIP

ITEM	6c.20.073	DOMESTIC BULKY GOODS KERBSIDE COLLECTION
Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

This report provides an update for Council on the 2019/20 bulky goods kerbside collection service that has been postponed due to COVID-19 restrictions and seeks Council's endorsement to cancel the service while seeking to reduce the draft 2020/21 domestic waste fees by \$12.50 to offset any financial impact of not undertaking this service in 2019/20.

OFFICER RECOMMENDATION

That Council

1. Endorse the cancellation of the domestic bulky goods kerbside waste collection service for the 2019/20 financial year.
2. Reduce the draft 2020/21 domestic waste fees by \$12.50 to offset any financial impact of not undertaking this service in 2019/20.

LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

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

Strategy 4.2.3 Provide efficient and effective solid waste management services which prioritises resource recovery and minimises environmental impacts

BACKGROUND

Coronavirus pandemic (COVID-19) and the Federal and State Government enforced social distancing, non-essential gathering, non-essential service restrictions has effected many of the services provided by Council to varying degrees.

The annual domestic bulky goods kerbside waste collection service is typically undertaken as part of the domestic waste collection services provided by Council. The service is scheduled around the availability of the specialist Contractor, school holidays and weather conditions, typically being undertaken during May-June of each year. In response to the COVID-19 restrictions Council officers advised the community in March that the service would be postponed. Many householders have already taken advantage of the additional time at home (due to COVID-19) to clean-up. Our network of waste transfer stations and landfill has had a substantial increase in customers over the past month.

The Waste Management Strategy is being reported to Council as a separate item in the agenda and the Strategy provides background to consultation and community preference for the way in which the domestic bulky goods kerbside waste collection service is provided.

KEY ISSUES

The domestic bulky goods kerbside collection is normally scheduled to be undertaken during May-June annually however has been unable to be held in 2019/20 due to COVID-19 restrictions. Alternative methods (vouchers, single pickup options) and time periods have been canvassed and considered not acceptable -

1. Voucher System

A self haul voucher system was not the preferred method of dealing with bulky goods from the consultation undertaken for the Waste Management Strategy. Administration of a voucher system to enable self haul for households is difficult to manage, is less equitable, and would significantly increase cost to Council.

2. Dial Up Service - Pick up by Contractor

The contractor is not able to meet a single load booking system approach.

3. Alternative Time

A possible collection around Christmas was suggested however that is not a desirable time period due to impending Christmas and the holiday period. The next scheduled bulky goods collection service would be held during May-June 2021.

Actions by other Councils

Midcoast Council has cancelled their 2020 bulky waste collection across the MidCoast region as a consequence of the COVID-19 pandemic following discussions between Council and its waste collection contractor, JR Richards. The collection was suspended in mid-March, just days before it was due to start in the Gloucester area as it was deemed to be a non-essential service, that undertaking the collection raised serious health risks for both the general public and waste contractors under pandemic conditions.

COUNCIL IMPLICATIONS**Budget/Financial**

The preferred approach is to defer the collection pick up to 2020/21.

The current approach to the service is the most cost effective for Council and ratepayers. The cost of the service is \$12.50 per household under the current domestic waste collection contract. That fee is proposed to be reduced from the exhibited draft domestic waste fees and charges in 2020/21 to offset the impact of not undertaking the service in the current year and to recommence in the 2020/21 year.

Asset Management

N/A

Policy or Regulation

- *Protection of the Environment Act 1997 (POEO),*
- *POEO (Waste) Regulation 2014, Waste Avoidance & Resource Recovery Act 2001 and the*
- *NSW Waste Avoidance and Resource Recovery Strategy 2014-2021.*
- *CVC Waste Management Strategy*

Consultation

The draft Waste Management Strategy 2019-25 was exhibited from 10 May 2019 until 8 July 2019. As part of the exhibition a specific focus area requiring community engagement was identified being the way the annual bulky waste collection is delivered. Community engagement was sought through an online and written survey to assess the community's appetite for changes.

Legal and Risk Management

Nil

Climate Change

The provision of waste management services is one of Councils largest greenhouse gas generators (100% Renewables 2018). Waste minimisation and resource recovery is a fundamental component of the Waste Management Strategy 2020-27 aimed at recovering valuable resources and reducing landfill gas emissions.

Prepared by	David Sutton, A/Manager Open Spaces and Facilities, and Ken Wilson, Waste and Sustainability Coordinator
Attachment	Nil

ITEM	6c.20.074	CLARENCE VALLEY POOLS - REFUNDS AS A RESULT OF COVID-19
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Nil	

SUMMARY

In March 2020, the coronavirus pandemic (COVID-19) caused the closure of the Clarence Valley swimming pools. Season ticket holders at Grafton Olympic Pool, South Grafton Indoor Pool and Yamba Community Pool were impacted by the closure. This report seeks endorsement to issue refunds or credit based on a pro-rata payment of remaining days of the purchased ticket.

OFFICER RECOMMENDATION

That Council:

1. Note the financial impact of the early season closure for season ticket holders at Clarence Valley pools.
2. Where requested by the customer –
 - a. refund the pro-rata value of the season ticket to the pool manager to disperse to the customers of the Yamba Community Pool, the South Grafton Indoor Pool and the Grafton Olympic Pool or,
 - b. work with the pool managers to extend the number of days for season ticket holders to reflect those that could not be used at the Yamba Community Pool, South Grafton Indoor Pool and the Grafton Olympic Pool.

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

Due to the impact of COVID-19 on 22 March, 2020 the NSW Government imposed a mandatory closure of non-essential services and introduced restrictions on social gatherings.

Due to the unfolding events, Council officers liaised with the pool managers instructing the closure of the Grafton Olympic Pool, Maclean Olympic Pool and the Glenreagh Community Pool at close of business on 22 March, 2020.

Following further Government announcements, Council officers instructed the closure of the Yamba Community Pool and the South Grafton Indoor Pool on 23 March, 2020.

As a result of the forced closures, season ticket holders at Grafton, South Grafton and Yamba pools are financially impacted.

Maclean and Glenreagh utilise a 10 or a 20 entry pass so are not impacted by the forced closure. Any remaining visits on these passes can be redeemed when the pool season opens.

KEY ISSUESKey dates – Closures

The following table details the number of days impacted per pool as a result of the forced closure.

Pool	Date Closed	Season Close	Days Impacted
Grafton Olympic Pool	Sunday 22 March, 2020	Thursday 9 April, 2020	18 days
South Grafton Indoor Pool	Monday 23 March, 2020	N/A	Ongoing
Yamba Community Pool	Monday 23 March, 2020	Friday 5 June, 2020	73 days

Type of Season Ticket Impacted

The following tables details the number and type of ticket impacted at Grafton and Yamba pools and financial impact.

Grafton Olympic Pool	Tickets Impacted	Financial Impact
Family season ticket	18	\$31.32
Single season ticket	20	\$14.94
Concession season ticket	11	\$12.78
		\$59.04

Yamba Community Pool	Tickets Impacted	Financial Impact
Family 10 month season ticket	8	\$1,041.60
Adult 10 month season ticket	10	\$712.50
Concession 10 month season ticket	25	\$992.50
Family 6 month season ticket	38	\$1,468.25
Adult 6 month season ticket	9	\$328.95
Concession 6 month season ticket	24	\$620.20
		\$5,164.00

South Grafton pool offers a 12 month annual season ticket, valid from the date of purchase for the following 12 months. The pool manager has advised that most of the customers who hold these tickets would prefer to have the days added onto their current pass and continue to use the facility once re-opened.

Refund or Credit Options

It is foreseen that different options should be offered to the impacted customers, as some would prefer a refund while others would favour a credit when the swimming pools re-open following the end of the COVID-19 pandemic.

Contracts

Under the management contracts with the Grafton, South Grafton and Yamba pools, the pool manager retains 50% of takings for pool entries while the other 50% is retained by Council. This means that all potential refunds/credits for season ticket holders include both Council and the pool manager. As the pool manager maintains the relationship and contact details with the customers, it is recommended that Council pay their portion of all refunds to the pool manager for payment to the customer.

Summary

It is recommended that Council, in conjunction with the pool managers offer customers a refund or credit on their season tickets. Any refunds would be paid by the pool manager to the customer with Council reimbursement. Any credits would be applied when the pools reopen for the number of days that the pool was out of service.

COUNCIL IMPLICATIONS**Budget/Financial**

The financial impact is summarised as follows:

Pool	Financial Impact	Impact to Council
Grafton Olympic Pool	\$59.04	\$29.52
South Grafton Indoor Pool	Not yet known	Not yet known
Yamba Community Pool	\$5,164.00	\$2,582.00

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Consultation has occurred with the affected pool managers, Soyuvu Pty Ltd and RYDJ Pty Ltd as well as Council's finance team.

Legal and Risk Management

RYDJ Pty Ltd has advised that their accountant has instructed that they need to offer customers a choice of a refund or credit note in this instance.

Climate Change

N/A

Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	Nil

ITEM	6c.20.075	MY COMMUNITY PROJECT FUNDING - MACLEAN OLYMPIC SWIMMING POOL SOLAR BLANKETS GRANT
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Nil	

SUMMARY

A representative from Valley Pool Services applied for a My Community Project funding grant to purchase solar blankets for the Maclean Olympic Swimming Pool with Council as the project sponsor. The funding was successful and this report seeks Council approval to accept the funds and complete the project.

OFFICER RECOMMENDATION

That Council accept the My Community Project funding grant for \$70,070 and purchase solar blankets and associated aids for the Maclean Olympic Swimming Pool.

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

My Community Project funding was released by the NSW Government to improve the wellbeing of people and communities in New South Wales. By having the ability to propose and vote on local projects, the people of Clarence selected the winning projects for the area through their Service NSW accounts.

Any individual with a valid Service NSW account could nominate a project, but required a project sponsor to support the nomination through project management including finances.

Several projects were nominated with Council support, with a successful one being the Maclean Olympic Swimming Pool solar blankets project.

KEY ISSUES

Project Inclusions

This project includes the purchase of new pool blankets for the 50m, toddler and slide pools. It also includes a super slave to mechanically assist with the removal of the blankets and a compatible roller system.

Healthy Communities

The project was nominated under the healthy communities section which will support the physical and mental well-being of the community, by enabling healthy and active lifestyles. This will be achieved through the extension of the swimming season by keeping the water at a warmer temperature, encouraging greater use at the beginning and end of the swimming season.

Community Voting Process

The community were encouraged to vote for up to five projects through their Service NSW account. The successful projects were determined through this process based on the highest number of votes.

COUNCIL IMPLICATIONS**Budget/Financial**

The Maclean solar pool blankets program is funded 100% externally through the My Community Project grant with no financial impact to Council. The total grant funding for the project is \$70,070.00. On endorsement of Council the grant funds to be allocated to PJ 540647 Maclean Olympic Swimming Pool Solar Blankets.

The expected life span of the blankets is 20 years if stored and cared for in line with the manufacturer's recommendations. An estimated cost for repairs is \$1,000 per annum after 5 years for seams and roller maintenance.

Asset Management

The purchase of the blankets and roller system will be a new asset, be recorded in the register and maintained as required.

Policy or Regulation

N/A

Consultation

Consultation has occurred with grant recipient, who is also the contract pool manager for the Maclean Olympic Swimming Pool.

Legal and Risk Management

N/A

Climate Change

The purchase of the solar blankets will provide a natural heating system with the aim to reduce energy loss and enable consideration to extend the pool season at the Maclean Olympic Swimming Pool.

Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	Nil

ITEM	6c.20.076	GRANT FUNDING – NSW ICC T20 WHERRET PARK, MACLEAN AND YAMBA OVAL & SKATE PARK, YAMBA
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Nil	

SUMMARY

This report seeks Council's endorsement to accept an offer of \$23,430 (incl. GST) to upgrade the cricket practice nets at Wherret Park, Maclean and Council's endorsement as Crown Land Manager to accept an offer of \$23,430 (Incl. GST) to upgrade the cricket practice nets at Yamba Oval & Skate Park, Yamba from the NSW Government Office of Sport's NSW ICC T20 World Cup 2020 Legacy Fund.

OFFICER RECOMMENDATION

That Council

1. Accept an offer of \$23,430 (Incl. GST) to upgrade the cricket practice nets at Wherret Park, Maclean from the NSW Government Office of Sport's NSW ICC T20 World Cup 2020 Legacy Fund.
2. as Crown Land Manager, accept an offer of \$23,430 (incl. GST) to upgrade the cricket practice nets at Yamba Oval & Skate Park, Yamba from the NSW Government Office of Sport's NSW ICC T20 World Cup 2020 Legacy Fund.

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 existing cricket nets and synthetic grass wickets located in Wherret Park, Maclean and Yamba Oval & Skate Park, Yamba, have reached the end of their useful life and require renewal. The work is consistent with Council's Open Space Strategic Plan and Open Space Asset Management Plan.

KEY ISSUES

The NSW ICC T20 World Cup 2020 Cricket Legacy Fund is an initiative established by the NSW Government to be administered in the lead up to the ICC T20 World Cup tournament in 2020 to improve cricket facilities and supporting infrastructure, increase participation opportunities, improve female player pathways and enable hosting of elite cricket content in Regional NSW.

Council encourages and facilitates participation in sport and active recreation, and the provision of safe, compliant and operational infrastructure is a key enabler of this. The following outlines the two projects Council was successful in receiving funding for.

Wherret Park, Maclean

The project proposes the upgrade of the existing practice nets and increasing the facility from 2 to 3 nets. The work includes the replacement of gabba grass on 2 existing wickets and installation of new gabba grass

on a 3rd wicket, and the replacement of existing chain wire mesh and reinforcement of posts and rails on 2 existing and installation of new nets (posts/rails/chain wire mesh) around the 3rd wicket. The proposed project will complete a project commenced by the Lower Clarence Cricket Association delivering the facilities they require for training and pre match preparation.

Yamba Oval & Skate Park, Yamba

The project proposes to upgrade of the existing practice nets, returning the 3 nets to a playable condition. The work includes levelling the joints in the concrete base, replacement of the gabba grass and replacement of existing chain wire mesh (posts/rails/chain wire mesh) on all 3 wickets. The proposed project will realise a long planned upgrade by the Yamba Cricket Club and deliver the facilities they require for training and pre match preparation. The improved facilities will help build confidence in young players increasing the chase the will continue to play.

COUNCIL IMPLICATIONS

Budget/Financial

Council allocates funding for the renewal of Cricket Assets and Sports Courts - Surfaces/Fittings annually, the 2019/20 allocations being \$10,000 (Ex GST) against PJ 541200 (Sports - Cricket Assets Renewal) and \$10,000 (Ex GST) against PJ 945236 (Sports Courts - Surfaces/Fittings). This funding is sufficient to renew two gabba grass wickets and two nets or other like sports court infrastructure.

Wherret Park, Maclean

The total cost for the supply and installation of the new nets and gabba grass is \$40,200.00 (Ex. GST). Council funding being \$5,000 (Ex GST) PJ 541200 (Sports - Cricket Assets Renewal), \$5,000 PJ 945236 (Sports Courts - Surfaces/Fittings) and \$8,900 PJ 541198 (Sports Buildings – Renewals). The \$21,300 (Ex. GST) from grant funding and Council funding will enable the renewal of the nets.

Yamba Oval & Skate Park, Yamba

The total cost for the supply and installation of the new nets and gabba grass is \$40,200.00 (Ex GST). Council funding being \$5,000 (Ex GST) PJ 541200 (Sports - Cricket Assets Renewal), \$5,000 PJ 945236 (Sports Courts - Surfaces/Fittings) and \$8,900 PJ 541198 (Sports Buildings – Renewals). The \$21,300 (Ex. GST) from grant funding and Council funding will enable the renewal of the nets.

Asset Management

Wherret Park, Maclean

The existing gabba grass is assessed to be condition 5 (poor), the nets condition 4, the concrete wicket condition 2 (good). The recently completed additional wicket constructed as offset for the soccer storage shed has neither gabba grass or nets, the concrete wicket is condition 1.

Yamba Oval & Skate Park, Yamba

The existing gabba grass is assessed to be condition 5, the nets condition 4, the concrete base slab is moving and requires grinding to level, it is assessed to be condition 3.

The funding will assist in bringing the cricket nets up to date with the latest Australian Standards for safety, as well as to improve the play experience, accessibility, and increase participation opportunities, and improve female player pathways.

Policy or Regulation

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

Consultation

Council officers engaged with the Lower Clarence Cricket Association being the peak body representing the cricket community at these locations. The Association supported the projects financially and theoretically providing a letter of support that was submitted with the application.

Legal and Risk Management

The Yamba Oval & Skate Park, Yamba project is located on Lot 7301 DP 1147287 being part Reserve 82747. Council has care, control and management over this land being the Crown Land Manager. Native Title has been determined to exist over this Lot. The project renews existing infrastructure only, no additional land or vegetation will be constructed on, accordingly Council will notified Yaegl TOAC for information in accordance with the Native Title Act.

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change, to offset the impact of the concrete bases will be retained, and the existing steel post / mesh that forms the nets and the synthetic grass that forms the playing surface of the wicket will be recycled.

Prepared by	David Sutton, Manager Open Spaces & Facilities
Attachment	Nil

ITEM	6c.20.077	SPORTS COMMITTEE STIMULUS FUNDING
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Yes	

SUMMARY

Council makes an annual allocation to the Sports Committees. The representative sporting groups on the Sports Committee distribute the funds to sporting groups for approved projects through a Council process.

In response to the Coronavirus (COVID-19) pandemic, Council officers recommend that the remaining available funds in the 2019/20 Sports Committee allocation be distributed to approved sporting organisations as a stimulus payment to assist their sport.

OFFICER RECOMMENDATION

That Council:

1. Approve the distribution of the remaining 2019/20 sports committee allocations of \$24,505.50 from PJ 540112 (*Lower Clarence Sports Council*) and \$28,397.73 from PJ 541500 (*Upper Clarence Sports Council*) to sporting groups via an online application as a one off stimulus payment.
2. Delegate to the General Manager to have final discretion on applications received in the stimulus funding round.

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

Coronavirus (COVID-19) has affected sporting groups at all levels through the closure of facilities and the restrictions of social distance and non essential gatherings and travel in place.

These restrictions have impacted sports as their usual sources of income including registrations, canteen takings and hire fees (where applicable) have been zero since March 2020. These facilities remain closed with an expected winter season commencement in mid July 2020.

Several sporting groups have advised council of their uncertain position at this time and have requested assistance through the waiving of ground fees, lighting costs, rent reductions etc.

To assist sporting groups with some of the challenges as a result of COVID-19, it is recommended that the funds remaining in PJ 540112 (*Lower Clarence Sports Council*) and PJ 541500 (*Upper Clarence Sports Council*) allocated to the sports committee funding be redistributed to sporting groups as a one off stimulus payment in line with the proposed funding guidelines (Attachment A).

KEY ISSUESEligible Projects

It is anticipated that eligible projects will not be limited to infrastructure and/or capital works as defined in the current guidelines, enabling sporting groups to utilise the funds in a manner that suits their position. Categories for eligible projects include but are not limited to:

- Infrastructure – including repairs and maintenance eg: painting, building improvements, plumbing and electrical work, water tank.
- Utility costs – including electricity, field lighting, gas expenses.
- Ground fees – including costs associated with field hire fees.
- Equipment – including canteen appliances, uniforms, goals, balls.
- Programs / events – including open days, come and try days, carnivals.
- Advertising and marketing – including print, radio, social mediums, graphic design.

Criteria

The Sports Committee stimulus fund is intended to meet the requirements of a range sporting groups and organisations that have been adversely affected by COVID-19.

The mandatory criteria includes:

- Current Member – the applicant must be represented by a delegate on the Sports Committee.
- Impacted by COVID-19 – the applicant must be impacted in some manner by COVID-19.

Funding Amount Determined by Participants

To ensure a fair and equitable distribution of the funds, it is recommended that the participation numbers be used in the assessment criteria to determine the allocation. It is proposed:

Total Participants	Funding Allocation
<50	\$100.00*
50 – 200	\$300.00*
201 – 500	\$400.00*
500+	Up to \$500.00*

*If required, this would be adjusted depending on the volume of applications received.

Proposed funding Guidelines

- A maximum of up to \$500* will be awarded for each eligible application. Exact amount will be determined based on participation numbers, the volume of applications received and the available funding.
- Organisations can only submit one (1) application through this funding package.
- All applications are to be lodged via Smarty Grants. No other form of application will be accepted.
- The application must be completed in full and lodged by the due date. No late applications will be accepted.
- No application will be guaranteed funding support. The decision by the General Manager is final and no correspondence will be entered into.
- The General Manager will have final discretion for all funding applications.

Applications Received for 2019/20 Round 2

A total of five (5) applications have been received for the current round, summarised as follows:

Clarence Sports Committee	\$ Amount	Total Project	Project Title	Officer Recommendation
Clarence Cricket Club Association	\$ 7,231.40	\$11,831.40	AG Murray Oval Fence	No Support. Does NOT meet criteria for 1:1 funding or consist of a minimum of 30% cash contribution.
Clarence Cricket Club Association	\$ 386.91	\$ 946.91	Ellem Oval Cricket Practice Net Stumps	No Support. Does NOT meet criteria of a minimum of 30% cash contribution.
Big River Canoe Club	\$ 997.97	\$ 1,995.93	Boat Storage Racks	No Support. Does NOT meet constitutional requirements of 0% attendance.
Lower Clarence Sports Committee				
Yamba Football Club	\$ 1,268.18	\$ 2,536.36	Senior & Junior	Support.
Harwood Cricket Club	\$12,500.00	\$ 25,000.00	Harwood Oval Top Dressing	Project generally meets application guidelines, except constructs fixed asset constructed on land CVC does not own or manage. No supporting documentation.

It is recommended that these applications are carried over and considered for funding in Round one 2020/21 Sports Committee funding.

COUNCIL IMPLICATIONS**Budget/Financial**

There is a current balance of \$28,397.73 in PJ 541500 (*Clarence Sports Council*) and \$24,505.50 in PJ (*Lower Clarence Sports Council*). It is recommended to utilise these remaining funds for the Sports Committee stimulus fund.

If insufficient applications are received it is recommended to return any surplus funds to Council's Sportsground Income Reserve Account (RA11035).

Asset Management

NA

Policy or Regulation

N/A

Consultation

Consultation has occurred with Open Spaces & Facilities section.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	Proposed Sports Committee Stimulus Funding Guidelines

ITEM 6c.20.078 WORKS REPORT

Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

That the Works report be received and noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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


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


BACKGROUND


Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.

KEY ISSUES

The summary of works undertaken in April. Council staff also wish to highlight the projects below.

Project:	Burnt Hut Creek Bridge Upgrade, Bald Hills Road, Hernani	
Project Description:	Replacement of the existing timber superstructure with InQuik reinforced concrete deck units	
Budget:	\$232,032	
Expenditure:	\$56,507	
Status:	<ul style="list-style-type: none"> • Timber elements removed • Concrete sill beams constructed on existing abutments • Prefabricated InQuik deck units will be installed 18 May 2020 • Following concrete placement in deck units road construction works will tie in to new bridge deck level • Completion expected by mid-June 	

Project:	Solar PV project at the Maclean Sports Centre	
Project Description:	The installation of a 26.6kW solar PV system with a 29kWh battery storage at the Maclean Sports Centre	
Budget:	\$52,047	
Expenditure:	\$0	
Status:	<ul style="list-style-type: none"> • 76 Solar panels installed • Battery storage to be installed by end of May 2020 • System to be fully operational by end June 2020 • Project part of larger program of Solar PV systems 	

Project:	Malabugilmah Aboriginal Community Raw Water Intake Structure Stabilisation Works	
Project Description:	Undertake stabilisation works to address riverbank erosion which is affecting the community's water supply pump well and ancillary WHS upgrading works on the pump station.	
Budget:	\$290,750 (ex GST), funded 100% by the State Government's Aboriginal Communities Sewer and Water Program	
Expenditure:	\$72,627.80	
Status:	<ul style="list-style-type: none"> • Riverbank restoration works 99% complete • Concrete for davit arm and handrail scheduled for installation in week commencing 11/05 	

COUNCIL IMPLICATIONS

Budget/Financial

Financial details are provided in the attached works summary.

Asset Management

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

Policy or Regulation

There are no policy or regulation implications.

Consultation

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

Legal and Risk Management

There are no legal or risk management implications.

Climate Change

There are no climate change implications.

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

ITEM	6c.20.079	SCOTTISH STATUE PROMOTION COMMITTEE - PROPOSAL FOR A PUBLIC ART FEATURE AND DIRECTIONAL SIGNAGE FOR MCLACHLAN PARK, MACLEAN – ON CROWN LAND – STATUS REPORT 1
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Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Yes	

SUMMARY

At its November 2019 meeting Council as Crown Land Manager considered a report regarding the Maclean Cultural Art Scottish Statue Promotion Committee's proposal to donate a piece of public art and decorative pole with multi directional finger board signage for installation on McLachlan Park, Maclean [Item 6b.19.053]. This report provides a status update for Council's information.

OFFICER RECOMMENDATION

That Council

1. Note that planning to install the decorative pole with multi directional finger board signage and three banner poles within the road reserve is in progress.
2. as Crown Land Manager of McLachlan Park:
 - a) note that there has been no significant consultation or agreement made between interested parties regarding a piece of public art for installation on McLachlan Park, Maclean.
 - b) note that a further status report will be presented to the September 2020 meeting or earlier if significant change has occurred.

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

At its November 2019 meeting Council as Crown Land Manager considered a report regarding the Maclean Cultural Art Scottish Statue Promotion Committee's proposal to donate a piece of public art and decorative pole with multi directional finger board signage for installation on McLachlan Park, Maclean [Item 6b.19.053] resolving to *'Defer until February 2020 to allow further consultation between interested parties.'*

McLachlan Park, Maclean consists of Lots 274, 364-365 DP 751388, Lot 7025 DP 1035703, Lot 7026 DP 1053778, Lot 7027 DP 1057265, Lot 7028 DP 1057266 and Lot 7022 DP 1113908 being Reserve 35921. Council has care, control and management over this land being the Crown Land Manager. Native Title has been determined to exist over these lots.

KEY ISSUES

A piece of public art

A Council officer discussed the status of further consultation with the interested parties, being a representative of the Yaegl TOAC board and a representative of the Maclean Cultural Art Scottish Statue

Promotion Committee, and received advice that no further consultation has occurred at this time due to other commitments such as the Indigenous Land Use Agreement (ILUA) negotiation with the Crown and the COVID-19 pandemic restrictions.

Further, during the discussions with a representative of the Maclean Cultural Art Scottish Statue Promotion Committee, it was noted that funding has been identified in the 2020/21 draft budget to enable the development of a new master plan for Cameron Park and that this process may create an opportunity to identify a suitable location within that Park for the statue.

Decorative pole multi directional finger board signage

The General Manager, Mr Ashley Lindsay and a representative of the Maclean Cultural Art Scottish Statue Promotion Committee met to discuss and confirm details of the signage. At the meeting the following was agreed:

- That the pole would be located within the road reserve replacing one of the existing bollards that define car parking.
- That the decorative pole be modified from the proposal removing the Scottish Thistle crest.
- That the wording acknowledging the donation would be amended from the proposed to 'Donated by The Scottish Town In Australia Association'.
- That the colour of the pole would be navy blue.

Council officers have discussed the above and the installation requirements with the fabricator to enable production and installation by the Maclean Cultural Art Scottish Statue Promotion Committee or its appointed contractor.

Other works requested by Maclean Cultural Art Scottish Statue Promotion Committee

Further to the above items the while in discussion with the General Manager, Mr Ashley Lindsay the Maclean Cultural Art Scottish Statue Promotion Committee made representation for other works, these are outlined below with actions taken:

Scottish Town Banner Poles

Maclean Cultural Art Scottish Statue Promotion Committee request the reinstallation of three banner poles that were blown over in the January 2018 storm in the River Street road reserve along the frontage of McLachlan Park.

In principle support and approval for the proposal has been provided. Council officers are undertaking the required investigation to determine the requirements to enable production and installation by the Maclean Cultural Art Scottish Statue Promotion Committee or its appointed contractor.

Flag Poles

Maclean Cultural Art Scottish Statue Promotion Committee requested the removal and reinstallation the three existing flag poles in McLachlan Park with drop-down bases.

The proposal has been considered and determined that the works required to complete the request will have limited benefit with high impact to the Park due to the need to demolish sections of recently completed concrete footpath and damage areas of turf, hence the request is not approved at this time.

COUNCIL IMPLICATIONS

Budget/Financial

The Maclean Cultural Art Scottish Statue Promotion Committee has indicated that there would be no cost to Council in the procurement of the proposed artwork. However, it is not clear whether the Committee is also proposing to fund the installation of the artwork on McLachlan Park or that this would be a cost that

Council would bear. If the installation and site remediation costs are to be borne by Council this money would be drawn from Council's Crown Reserves fund.

The Maclean Cultural Art Scottish Statue Promotion Committee have indicated that there would be no cost to Council in the procurement of the proposed signage and banner poles, however they have indicated that they would need assistance from Council (planning and approvals only) to install the signage and banner poles. Costs would need to be drawn from Council's general fund.

Asset Management

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

Policy or Regulation

- *Native Title Act 1993 (Cth)*
- *Crown Land Management Act 2016*
- *Local Government Act 1993*
- *McLachlan Park Maclean Plan of Management Reserve No.35921*
- *Donated facilities on public land policy*

Consultation

A piece of public art

The interested parties referenced in the Council resolution [Item 6b.19.053] being Yaegl TOAC and Maclean Cultural Art Scottish Statue Promotion Committee. To inform this report Council officers have discussed the status with the interested parties being a representative of the Yaegl TOAC Board and a representative of the Maclean Cultural Art Scottish Statue Promotion Committee.

Decorative pole multi directional finger board signage

The interested parties referenced in the Council resolution [Item 6b.19.053] being Clarence Valley Council and Maclean Cultural Art Scottish Statue Promotion Committee. The General Manager, Mr Ashley Lindsay and a representative of the Maclean Cultural Art Scottish Statue Promotion Committee met and agreed a way forward. The outcome of that meeting informs the status of works regarding the decorative pole multi directional finger board signage.

Scottish Town Banner Poles

The General Manager, Mr Ashley Lindsay and a representative of the Maclean Cultural Art Scottish Statue Promotion Committee met and agreed a way forward.

Legal and Risk Management

A piece of public art

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

The compensation liability for the extinguishment of native title in McLachlan Park for the proposed piece of public art is also unknown, but would be based on the formula determined by the High Court in the Timber Creek case, being:

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

Decorative pole multi directional finger board signage

The signage will be installed in accordance with Austroads Guides (Guide to Traffic Management) and Australian Standards (AS 1742, 1743 & 2890) to provide suitable clearance of pedestrians as it is located within the road reserve and the blades overhang the footpath.

Scottish Town Banner Poles

The banner poles will be installed in accordance with Austroads Guides (Guide to Traffic Management) and Australian Standards (AS 1742, 1743 & 2890) to provide suitable clearance of pedestrians as it is located within the road reserve and the blades overhang the footpath.

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change, to offset the impact of the materials used will be either recycled or able to be recycled at the end of useful life.

Prepared by	David Sutton, Manager Open Spaces & Facilities
Attachment	1 – Banner Pole Detail 2 – Banner Pole Locations

ITEM	6c.20.080	QUARTERLY REPORT – REGIONAL WATER SUPPLY HEADS OF AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL, ESSENTIAL ENERGY AND NSW GOVERNMENT
Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	A/Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

At its meeting of June 2015 Council considered and subsequently signed a Heads of Agreement to progress a number of matters associated with the Regional Water Supply. This report provides an update of progress regarding the agreement.

OFFICER RECOMMENDATION

That the May 2020 Quarterly Report on the Regional Water Supply Heads of Agreement be received and its contents noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

At its June 2015 meeting Council resolved (14.119/15) to receive quarterly reports with regard to progress of the agreement. This report provides progress to 30 April 2020.

At its meetings of 22 October 2019 and 25 February 2020 Council considered reports on the Nymboida Hydro Power Station that relate to discussions held with Essential Energy (Resolutions 6a.19.024 and 08.20.001 respectively).

KEY ISSUES

The table below provides a status report on each of the items.

ITEM	STATUS
Transfer of Weir and Tunnel Number Two to the relevant government agency	EE advises that, following discussions with Infrastructure NSW, formal documentation has been delivered but a response is yet to be received.
Release of water for environmental and recreational purposes	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes i.e. canoeing and rafting.
Protection of heritage value of the power generation buildings (including equipment installed within the facility)	The buildings suffered minor damage in the Nymboida fire, mainly broken windows due to the heat. No internal damage was sustained. A large shed next to the switchyard suffered ember attack to frame timbers and superficial burning of

ITEM	STATUS
	Colourbond exterior cladding but has survived. The shed which encloses the Flap Valve also suffered heat damages. Remediation works are still in progress. Issues with contractor's availability currently.
Transfer of property rights for the ongoing ownership and operation of the Nymboida Canoe Centre	EE advises the land has been transferred to the Canoe Centre and this item is now complete.
Transfer of Tunnel Number One to Clarence Valley Council	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is still subject to further discussions between Essential Energy and the relevant Ministers.
Transfer of licences and other authorisations to support its ownership of Tunnel Number One	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is also still subject to further discussions between Essential Energy and the relevant Ministers.
Transfer of Goolang Creek Bridges to Clarence Valley Council	<p>The Essential Energy contract for bridge restoration achieved practical completion for all bridges other than bridge #7 in the 2nd week of May 2018. Bridge signage (tonnage) has been updated and engineering certification issued.</p> <p>Engaged Contractor has recently completed a further round of maintenance and pest control, following several individual enquiries.</p> <p>Bridge #7 now requires replacing and designs and estimations have been completed. Various alternate options for access to the affected property are currently being investigated. A 3rd Party Consultant has been engaged by Essential Energy to facilitate these confidential discussions with the affected land owners involved and the consultant has provided a recommended way forward. The recommendations have been given approvals in principle at this point; and are currently the subject of a full cost estimation and scoping process.</p> <p>At a meeting in November 2017 Council reiterated its position that it will not 'own' any bridges which do not provide a critical service link for Council's water supply. Essential Energy has requested Council assistance in facilitating transfers of ownership to the respective parties involved.</p> <p>During the Nymboida fire event, the Station Bridge and Bridges #2 and #3 suffered damage. Bridge #2 remains open to foot-traffic only. Bridge #3 remains open at 15T with barricading in place to avoid damage areas. Station Bridge remains open with 4T limit. Essential Energy has re-engaged Public Works Advisory to call tenders for the required remediations. Station Bridge is to be replaced as it requires</p>

ITEM	STATUS
	25T capacity due to access to switchyard. Recommendations have been received, these recommendations now the subject of internal approvals before the awarding of contracts.
Investigate the possible construction of a 285ML 'surge tank' to provide recreational water flows for the operation of the Nymboida Canoe Club	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting.
Nymboida power generation buildings and ancillary infrastructure to be decommissioned and secured	Item complete. The infrastructure is now in a program of ongoing preservation and maintenance and, as noted above, remediation works are underway to repair fire damage to both buildings and bridges at the site. Whilst the site is now regarded as a preserved, decommissioned Hydroelectric power station, it should be noted that the HV switchyard and associated infrastructure remains in-service and operationally maintained, supplying power to the local distribution network. All power supplies used within the power station building itself are supplied from this same switchyard.

No further feedback has been received regarding the matters discussed between Council, Local Member Chris Gulaptis and Essential Energy in November 2017.

COUNCIL IMPLICATIONS

Budget/Financial

N/A at this point.

Asset Management

N/A at this point.

Policy or Regulation

N/A at this point.

Consultation

N/A at this point.

Legal and Risk Management

N/A at this point.

Climate Change

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

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Nil

ITEM	6c.20.081	MONTHLY INVESTMENT REPORT – APRIL 2020
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Meeting	Council	26 May 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	Yes	

SUMMARY

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month.

OFFICER RECOMMENDATION

That the report indicating Council's funds investment position as at 30 April 2020 be received and noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

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

KEY ISSUES**Source of Funds Invested**

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

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

External Reserves		Internal Reserves	
Sewerage Funds	5.94%	Plant Equipment Reserve	9.88%
Water Supply Funds	22.85%	Regional Landfill Reserves	5.23%
Developer Contributions	16.35%	Fin. Assist Grants paid in advance	4.63%
Unexpended Grants	5.84%	Waste Mngmt / Commercial Waste	4.03%
Domestic Waste Management	0.88%	Infrastructure Assets Renewals	3.09%
Holiday Parks	2.24%	Clarence Care & Support	2.78%
Deposits, Retentions and Bonds	1.51%	Employee Leave Entitlements	2.64%
Other External	1.75%	Roads & Quarries Reserves	2.29%
		Strategic Building Reserve	1.13%
		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 30 April 2020 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 30 April 2020				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,987,904	4.07%	Yes
AA	100.00%	24,650,696	20.13%	Yes
A	60.00%	43,250,000	35.32%	Yes
BBB	50.00%	49,557,606	40.47%	Yes
TOTAL INVESTMENTS		122,446,206	100.00%	

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

Individual Institution or Counterparty Limits

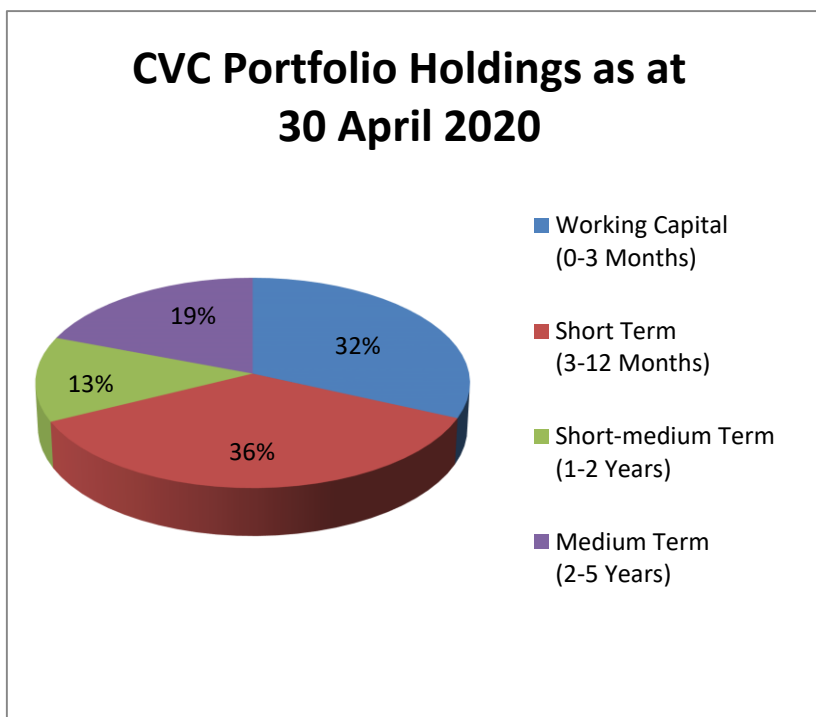
Tabled below is a summary of Council's investments as at 30 April 2020 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 30 April 2020					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	8,000,000	6.53%	Yes
ANZ*	AA-	30.00%	2,025,620	1.65%	Yes
BoQ	BBB+	15.00%	16,000,000	13.07%	Yes
Bendigo Rural Bank	BBB+	15.00%	-	0.00%	Yes
			2,000,000	1.63%	
CBA*	AA-	30.00%	2,019,550	1.65%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.63%	Yes
Defence	BBB	15.00%	10,000,000	8.17%	Yes
ING Direct	A	15.00%	19,000,000	15.52%	No
Macquarie	A	15.00%	16,000,000	13.07%	Yes
ME Bank	BBB	15.00%	4,000,000	3.27%	Yes
NAB	AA-	30.00%	9,000,000	7.35%	Yes
NAB*			1,003,560	0.82%	
P&N	BBB	15.00%	3,000,000	2.45%	Yes
RaboDirect	A+	15.00%	9,000,000	7.35%	Yes
Westpac	AA-	30.00%	7,000,000	5.72%	Yes
Westpac*	AA-		1,521,255	1.24%	
TOTAL TERM DEPOSITS & FRNs*			111,569,985	91.12%	
MANAGED FUNDS					
TCorp	AAA	40.00%	487,904	0.40%	Yes
TOTAL MANAGED FUNDS			487,904	0.40%	
FUNDS AT CALL					
AMP	BBB+	15.00%	7,254,939	5.93%	Yes
AMP	BBB+	15.00%	52,667	0.04%	Yes
ANZ	AA-	30.00%	275,441	0.22%	Yes
CBA	AA-	30.00%	2,745,514	2.24%	Yes
CBA	AA-	30.00%	59,756	0.05%	Yes
TOTAL FUNDS AT CALL			10,388,317	8.48%	
TOTAL INVESTMENTS			122,446,206	100.00%	

Note: Whilst ING shows non-compliance with the current investment policy, at the time of investing funds, it was within the approved limit. Variations in the balance of the cash at-call accounts directly affect the total investment percentage for each ADI.

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council’s investments by maturity as at 30 April 2020. Excluding “at-call” working capital, 58.8% of Council’s investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 30 April 2020					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	487,904	0.40%	At-Call	3.12%	AAA
AMP Bank Ltd	7,254,939	5.93%	At-Call	1.30%	BBB+
AMP Bank Ltd	52,667	0.04%	At-Call	0.75%	BBB+
ANZ Banking Group Ltd	275,441	0.22%	At-Call	0.55%	AA-
Commonwealth Bank of Australia	2,745,514	2.24%	At-Call	0.10%	AA-
Commonwealth Bank of Australia	59,756	0.05%	At-Call	0.20%	AA-
AMP Bank Ltd	2,000,000	1.63%	20/05/2020	1.80%	BBB+
AMP Bank Ltd	2,000,000	1.63%	02/06/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	06/07/2020	3.00%	BBB+
Bank Of Queensland Ltd	2,000,000	1.63%	08/07/2020	1.65%	BBB+
Defence Bank	2,000,000	1.63%	11/05/2020	3.00%	BBB
Macquarie Bank Ltd	3,000,000	2.45%	07/05/2020	1.60%	A
Macquarie Bank Ltd	1,000,000	0.82%	21/05/2020	1.60%	A
Macquarie Bank Ltd	2,000,000	1.63%	03/06/2020	1.70%	A
Macquarie Bank Ltd	2,000,000	1.63%	03/07/2020	1.70%	A
ME Bank Ltd	2,000,000	1.63%	06/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.63%	07/05/2020	2.30%	BBB
National Australia Bank	3,000,000	2.45%	20/05/2020	2.25%	AA-
National Australia Bank	2,000,000	1.63%	30/07/2020	1.80%	AA-
Rural Bank Ltd	2,000,000	1.63%	09/06/2020	1.55%	BBB+
TOTAL WORKING CAPITAL (0-3 MONTHS)	38,876,221	31.75%		1.76%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	1,000,000	0.82%	31/08/2020	1.80%	BBB+
AMP Bank Ltd	3,000,000	2.45%	05/03/2021	1.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.63%	12/01/2021	3.65%	BBB+
Credit Union Australia	2,000,000	1.63%	04/11/2020	1.55%	BBB
Defence Bank	2,000,000	1.63%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.63%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.63%	04/03/2021	1.50%	BBB
Defence Bank	2,000,000	1.63%	09/03/2021	3.00%	BBB
ING	1,000,000	0.82%	21/08/2020	1.60%	A
ING	1,000,000	0.82%	10/11/2020	2.92%	A
ING	2,000,000	1.63%	13/11/2020	1.55%	A
ING	2,000,000	1.63%	03/02/2021	1.65%	A
ING	2,000,000	1.63%	02/03/2021	1.60%	A
Macquarie Bank Ltd	5,000,000	4.08%	03/09/2020	1.70%	A
Macquarie Bank Ltd	3,000,000	2.45%	16/12/2020	1.65%	A
National Australia Bank	2,000,000	1.63%	11/08/2020	1.55%	AA-
National Australia Bank	2,000,000	1.63%	10/09/2020	1.35%	AA-
P&N Bank	3,000,000	2.45%	11/03/2021	3.82%	BBB
Westpac Bank	2,000,000	1.63%	05/03/2021	3.00%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	44,000,000	35.93%			
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.82%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	02/12/2021	3.80%	BBB+
ING	2,000,000	1.63%	29/11/2021	1.55%	A
ING	3,000,000	2.45%	11/02/2022	1.60%	A
ING	2,000,000	1.63%	21/02/2022	1.60%	A
ING	3,000,000	2.45%	21/02/2022	1.60%	A
RaboDirect (Australia) Ltd	2,000,000	1.63%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.82%	21/06/2021	3.07%	A+
Westpac Bank	1,000,000	0.82%	16/11/2021	2.11%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	16,000,000	13.07%		2.15%	

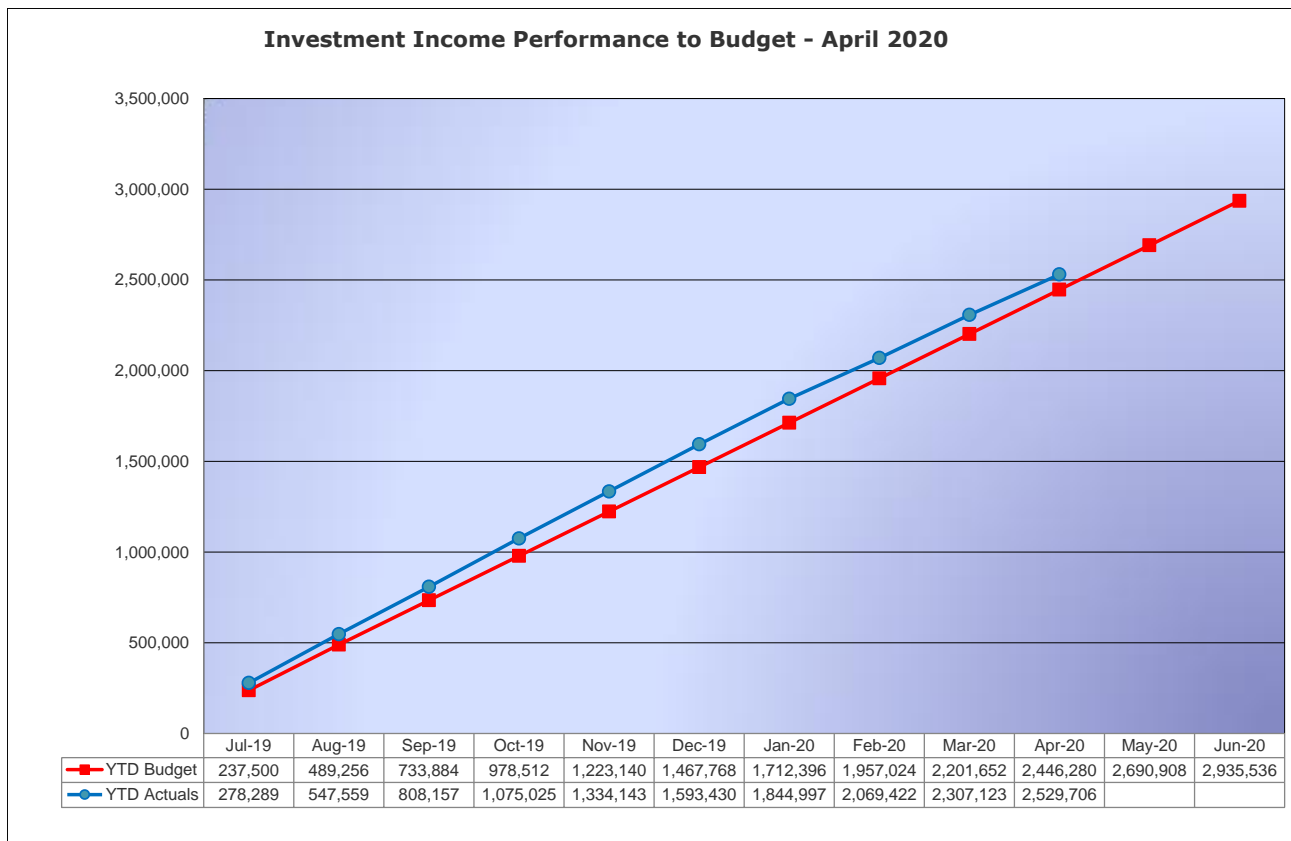
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.82%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.82%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.63%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.63%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.82%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.63%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.82%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.82%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.63%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.63%	18/07/2022	1.18%	AA-
Westpac Bank	2,000,000	1.63%	13/03/2023	1.49%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000)					
Market Value	2,025,620	1.65%	06/12/2023	1.58%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,004,375	0.82%	25/04/2023	0.91%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000)					
Market Value	1,015,175	0.83%	11/01/2024	1.34%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,003,560	0.82%	10/02/2023	1.71%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000)					
Market Value	1,521,255	1.24%	24/04/2024	1.26%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	23,569,985	19.25%		2.54%	
TOTAL INVESTMENTS	122,446,206	100.00%		2.13%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 30 April 2020			
	Actual	Budget 2019/20	Over/(Under)
This Month			
Cash Deposits & FRNs	\$219,132	\$243,128	(\$23,996)
Managed Funds	\$3,451	\$1,500	\$1,951
	\$222,583	\$244,628	(\$22,045)
Year to Date			
Cash Deposits & FRNs	\$2,512,615	\$2,431,280	\$81,335
Managed Funds	\$17,091	\$15,000	\$2,091
	\$2,529,706	\$2,446,280	\$83,426

- Actual results have shown that total interest income to 30 April 2020 is \$0.083M above the 2019-20 YTD budget of \$2.446M. Note, the cumulative impacts of the RBA cuts (1.25%) to the Cash Rate (0.25%) since June 2019 are impacting on Council's return and whilst Council is currently above budget this will decline as the year progresses and trend back towards budget.
- As at 30 April 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$63,785.

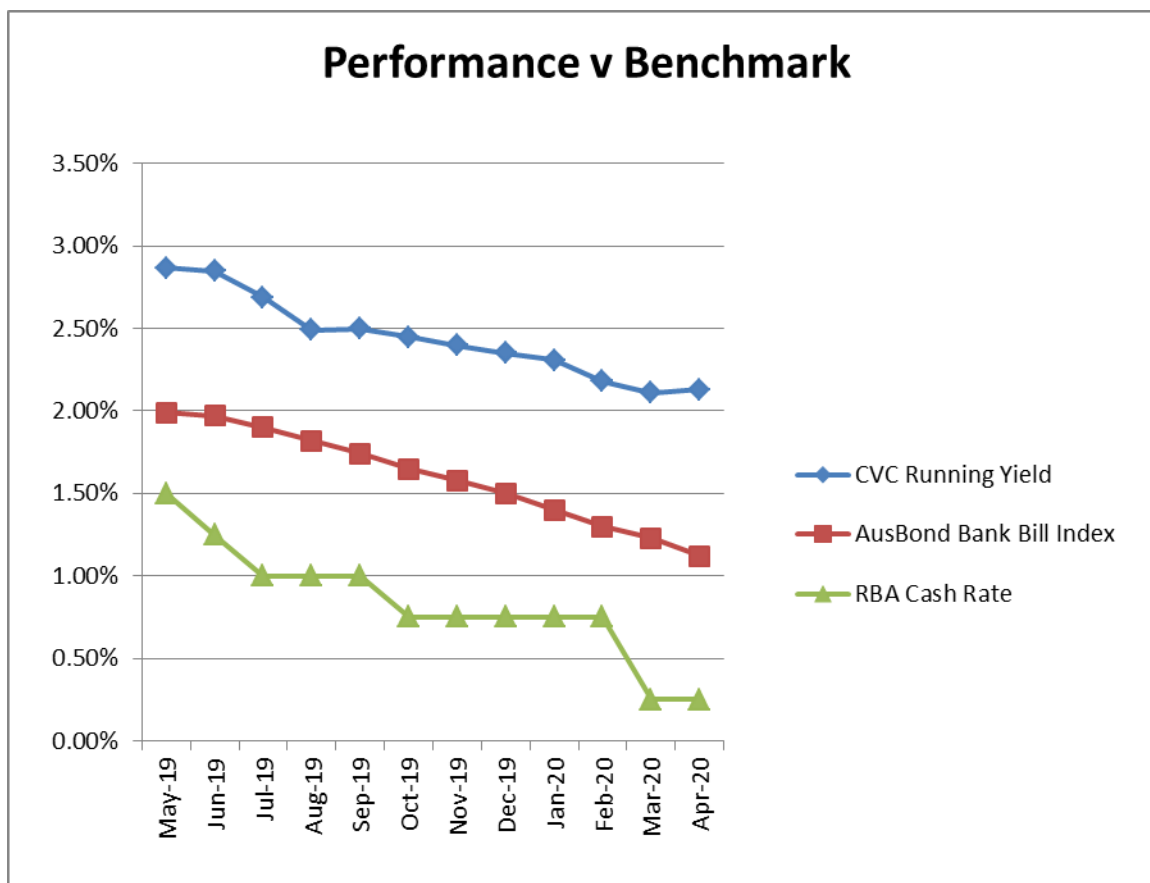


- Running yields* to 30 April 2020 have been:

AMP Business	0.75%
AMP 31 Day Notice	1.30%
ANZ Premium Business	0.55%
CBA General	0.10%
24hr Call Account	0.20%
T-CorpIM Cash Fund	3.12%
Floating Rate Notes	1.39%
Term Deposits	2.29%
Total	2.13%

*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 April was 0.25%. The benchmark AusBond Bank Bill Index was 1.12% for April.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.13% (March 2.11%). The running yield will continue to decline as previously higher yielding term deposits reach maturity.



The following investment was transacted during April:

- Bendigo Bank \$2.0m TD matured 27/04/2020, 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.

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

c. INFORMATION ITEMS

ITEM	6d.20.004	ITEMS FOR INFORMATION	
Meeting		Council	26 May 2020
Directorate		Office of General Manager	
Reviewed by		General Manager - Ashley Lindsay	
Attachment		Yes	

OFFICER RECOMMENDATION

That the Items for Information as listed below be adopted:

1. Nymboida Hall Management Committee: Minutes 23 March 2020
2. Grafton Regional Gallery Advisory Committee: Minutes 30 March 2020
3. Response from Chris Gulaptis - Maclean District Hospital: 6 May 2020
4. Response from Chris Gulaptis - Grafton Hospital Redevelopment: 7 May 2020

Prepared by	Karlie Chevalley, Executive Support Assistant
Attachments	As listed above

d. TENDERS

ITEM	6e.20.012	RFT19/023 – MANAGEMENT & OPERATION OF THE GLENREAGH COMMUNITY POOL
Meeting	Council	26 May 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Confidential	

SUMMARY

Tenders were called for the management and operation of the Glenreagh Community Pool and included optional services in the surrounding Crown Reserve 56448, being Shannon Park, Glenreagh. This report presents the outcome of the tender process and seeks Council's endorsement to accept the most advantageous tender enabling the appointment of a pool management contractor.

OFFICER RECOMMENDATION

That Council as Crown Land Manager of Reserve 56448:

1. Accept the tender from Valley Pool Services (ABN 93 127 693 065) for RFT19/023 for the management and operation of the Glenreagh Community Pool for \$60,665.00 (GST inclusive) to be funded from PJ 996750 (Pool - Management).
2. Allocate an annual budget of \$65,000 from the Crown Reserve funding from the Clarence Coast Holiday Park fund.
3. Accept the optional service from Valley Pool Services (ABN 93 127 693 065) of the cleaning and provision of the public amenities in Shannon Park, Glenreagh for \$7,680.00 to be funded from PJ 460300 (Grafton public amenities).
4. Accept the optional service from Valley Pool Services (ABN 93 127 693 065) for the cleaning of the shade shelters and barbecues located in Shannon Park, Glenreagh for \$5,120.00 to be funded from PJ 945011 (Park building, cleaning).
5. Authorise the General Manager to approve variations up to 10% of the contract value.

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 considered the management of the Glenreagh Pool at its June 2019 meeting (Item 6c.19.006) and resolved as follows:

That Council as Crown Land Manager of the reserve:

1. *Receive and note the Glenreagh Progress Association's updated proposal for the future management of the Glenreagh Community Pool and thank them for their work.*
2. *Decline the Glenreagh Progress Association's proposal but resolve to continue the operations of the pool and tennis courts by Council as Crown Land Managers through the usual contract management method,*

ensuring public safety by conforming with NSW Government Practice Note (PN) 15 -- Water Safety October 2017 and Royal Life Saving Society Australia Guidelines for Safe Pool Operation (GSPO).

3. *Investigate the installation of a solar electricity system to reduce expenditure and fund through the Sustainability Reserve.*
4. *Cover the estimated \$65,000 annual cost of managing and maintaining the Glenreagh Pool, by way of a transfer from the Crown reserve funding from the Clarence Coast Holiday Park Fund.*

To ensure continuity of management services at the facility, a short term license was put in place, pending the normal contract management method of tendering for the service. The current short term contract for the management and operation of the Glenreagh pool will expire on 30 June, 2020.

Council called for tenders on 31 January, 2020 for the Management and Operation of the Glenreagh Community Pool.

A non-mandatory site meeting was scheduled for Wednesday 12 February 2020, however this was cancelled due to the issue of a major flood warning for the Orara River. An addendum was issued through tenderlink and all registered parties were notified. Tenderers were invited to arrange an inspection by appointment with Council with all inspections to be finalised by Wednesday 4 March 2020. Tenders closed at 3pm, Friday 20 March, 2020.

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

KEY ISSUES

Key efficiencies included in the new contract:

The new contract includes some key efficiencies which will align with other Clarence Valley pool contracts. These include:

- Contract period – the new contract will commence on 1 July 2020 and conclude on 30 June 2022. This conclusion date will align with other Clarence Valley pool contracts.
- Operating hours - under the new contract, the Glenreagh pool will be opened for the summer swimming season every day with the exception of Christmas Day, Boxing Day, New Years Day and Good Friday. The pool was closed on Mondays under the previous contract.
- Chemicals / Electricity - under the new contract, the contractor will be responsible for all operating costs including electricity and all pool chemicals. Previously these items were organised and paid for by Council.

Optional Additional Services

The tender included optional additional services including the cleaning and provision of the public amenities, the cleaning of the barbeque and shade shelters and the management and maintenance of the tennis courts all located in Shannon Park, Glenreagh. These items were all considered individually by the tender evaluation panel with advice sought from the Manager of Open Spaces and Facilities.

The amenities and BBQ's are currently serviced weekly by staff based at Rushforth Works Depot, the cumulative travel time to / from Glenreagh being 2.5 hours, while the time required to complete the service is 0.5 hours. To increase efficiencies, it is recommended to appoint the contractor for the provision of the cleaning of the public amenities, shade shelters and barbeques at Shannon Park, Glenreagh. It is not recommended to appoint the tenderer for the management & operation of the tennis courts.

Submissions Received

One submission was received in response to the Request for Tender process, which was conforming to the Request for Tender documentation. The tenderer was Valley Pool Services Pty Ltd.

Summary and Recommendation

Based on the submission received, the Tender Evaluation Committee recommends the appointment of Valley Pool Services Pty Ltd for the management and operation of the Glenreagh Community pool, the cleaning and provision of the public amenities and the cleaning of the shade shelters and barbeques.

Details of the tender assessment are contained in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this management contract is \$65,000 to be transferred from the Crown Reserve funding from Fund 4 to PJ 996750 (*Pool - Management*) [Item 6c.19.006]. The submission from Valley Pool Services is \$60,665 which is within budget.

Optional Additional Services:

In consultation with the Manager Open Space and Facilities, the following additional services are recommended by TEC:

- Public Amenities - \$7,680.00 to be funded from 460300 (*Grafton public amenities*)
- Park furniture and barbeques - \$5,120.00 to be funded from 945011 (*Park building, cleaning*)

Native title has not been determined over the Crown Reserve 56448.

Asset Management

The Glenreagh pool is in good condition. The equipment is serviced annually and works are completed in the season closure to maintain the asset.

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 contractors were not excluded.
- The tender assessment included a 15% weighting of the total tender score for local supplier content.

Consultation

Prior to the tendering process, the current contract manager was consulted to advise of the tendering process. All consultation regarding the tender and specification including requests for information and queries were raised through the tenderlink portal in the open forum to ensure transparency in the process.

Legal and Risk Management

One submission was received in response to the Request for Tender process, the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Valley Pool Services	93 127 693 065	Michelle Irwin	Managing Director

Climate Change

Solar energy will be considered in 2020/21 at Glenreagh pool through Council's sustainability team.

Prepared by	Rachelle Passmore – Senior Parks & Recreation Officer
Confidential	Tender Recommendation Report

7. NOTICE OF MOTIONS

ITEM	07.20.003	AMEND CLARENCE VALLEY LOCAL ENVIRONMENTAL PLAN 2011 SUB-CLAUSE (3) OF CLAUSE 4.1B OF PART 4 – TO DELETE WORDS PREVENTING BENEFICIAL BOUNDARY ADJUSTMENT TO NON-ADJOINING LOTS
Meeting	Council	26 May 2020
Directorate	Notice of Motion	
Submitted by	Cr Andrew Baker	
Attachment	Nil	

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

SUMMARY

The proposed amendment seeks to correct a detrimental provision of the LEP where boundary adjustments that would otherwise result in a net benefit to farming and rural industry are prevented merely due to lots being non-adjoining. If this motion is adopted, all of the remaining provisions of LEP2011 Part 4 remain as substantial protection of the objectives and land described in the clauses of Part 4 Principal development standards.

PROPOSED MOTION

That Council do all things necessary to cause:

1. Clarence Valley Council LEP 2011 Part 4 to be amended at Clause 4.1B sub-clause (3) by deleting the word 'adjoining' in 2 places shown 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.
2. Amendment to any other LEP part or other instrument in such a way to ensure no conflict is caused with sub-clause (3), after amendment, as described above.

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

Boundary adjustments between non-adjoining Lots or part-Lots to create larger farms have proven to be beneficial to farm enterprise viability and important to protection of prime agricultural land where small

lots with an existing dwelling are approved for subdivision to create a small residential Lot with the residue agricultural land then being attached to a farm Lot within the same general area. Where subdivision and aggregation occurred that did not result in additional dwelling eligibility, the farm owner gained the benefit of the agricultural land without the necessity to apply capital to an unwanted dwelling or dwelling eligibility while the small-Lot owner gained the benefit of retaining the dwelling or dwelling eligibility without the burden of a small non-viable, or hobby, area of agricultural land. The recent change (date unknown to me) to the CVLEP 2011 to require land to be adjoining now acts to prevent otherwise beneficial aggregations in situations where separation is created by road reserve, unformed Crown road and short distances between land holdings.

KEY ISSUES

My recent observations at three 'proposed boundary adjustment' DMU meetings has resulted in my identification of an impediment to Council consideration of sugar cane farm boundary adjustments that would, save for the word 'adjoining' occurring in the extensive list of other considerations needed to satisfy the provisions of the LEP, and if approved, result in:

- a) substantially increased protection of the prime agricultural land for farming purposes and,
- b) increased viability of the continuing farming enterprise together with,
- c) a level of protection of the sugar milling and refining industry that relies heavily upon a critical level of production for continuing viability and,
- d) no identifiable adverse impact on the subject land, other land, the environment, local amenity or on existing farming operations.

If adopted, the removal of 'adjoining' will leave all of the 'protection of land' provisions of Part 4 to be considered as part of any application for boundary adjustment.

COUNCIL IMPLICATIONS

Budget/Financial

Cost of implementation to be advised by way of staff report.

Policy or Regulation

Clarence Valley Local Environmental Plan 2011

Consultation

My external consultation on the subject with farmers and sugar industry representatives has produced no adverse comment to the issue of aggregation of non-adjoining land parcels where no additional dwelling eligibility results.

Legal and Risk Management

N/A

STAFF COMMENT – DIRECTOR ENVIRONMENT, PLANNING & COMMUNITY

Clause 4.1B was added to the Clarence Valley Local Environmental Plan 2011 (LEP) via a planning proposal initiated by Council staff in order to overcome a barrier in the State Environmental Planning Policy (Exempt and Complying Codes) 2008 that prevented boundary adjustments between allotments when one or more of those allotments was under the required minimum lot size. The legal drafting of the clause was prepared by NSW Parliamentary Counsel (PC) and the amendment to the LEP, known as Amendment No. 29, was notified in the NSW Government Gazette on 10 February 2017.

The planning proposal was silent on whether allotments subject to the clause needed to be adjoining or not. However, a diagram giving an example of such a boundary adjustment within the planning proposal did show the subject lots being adjoining. Given the planning proposal was silent on the issue of 'adjoining'

it would appear that the PC inserted the word ‘adjoining’ during legal drafting and it appears Council staff did not seek to have the word removed.

Without the word ‘adjoining’ there is certainly potential for boundary adjustments authorised by the clause to occur between allotments that are separated by a substantial distance and this is not considered ideal as it would open the potential for such adjustments where each allotment has no relationship to the other. Advice has been provided in the DMU or Pre-DA meeting that individual applicants may seek to amend the LEP for the individual case and demonstrate the merit of the change. The LEP clauses cannot and should not necessarily cater for or enable every possible planning scenario and that is why there is a process of enabling planning proposals to be submitted and considered on their merit. For private benefit these planning proposals are typically prepared and submitted at the applicants cost on a user pays basis. Council’s current fees for a planning proposal are:

Rezoning Applications

Pre Gateway Assessment – Initial Application	Rezoning	\$3,551.00	R	N
Post Gateway Assessment	Rezoning	\$5,432.00	R	N
Advertising	Rezoning	\$336.00	R	N
Legal Drafting	Rezoning	\$1,076.00	R	N
Fee – staff time – per hour (after first 20 minutes)	Rezoning	\$157.60	R	N

The examples cited in the Notice of Motion relate to sugar cane farm boundary adjustments. With this industry in mind, and in the event that Council supported a change to clause 4.1B, it is suggested that the word ‘adjoining’ may be best retained and further provisions added that enable boundary adjustments between no more than two allotments, whether adjoining or not, where at least one of the allotments is subject to a ‘contractual arrangement between the Sugar Milling Cooperative and a grower member for the production of sugar cane being in force in respect of the land when the works are carried out’ in much the same way as the relaxation for the sugar cane industry contained in the LEPs acid sulfate soils clause (sub clause 7.1(7)(a) of the LEP). In this way the added flexibility is limited to an industry and to a particular geographical area, ie the lower Clarence floodplain.

On this matter it would be better if the sugar industry applied for the rezoning process. This would add industry support as at present the DPI guideline (attached) does not support the addition of residential housing in agricultural zones. They would need to be consulted as per the Ministerial 117 Direction and are likely to object to this proposal as it would add more potential conflict into agricultural areas due to non-farming residents occupying houses in the new small lots. If the objection can’t be overcome the Department is likely to reject the proposal at the Gateway stage.

To be tabled	Letter from Sunshine Sugar Letter from Clarence Canegrowers Association Section 9.1 Directions Farm Subdivision Assessment Guideline
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ITEM	07.20.004	BUSHFIRE RECOVERY DEVELOPMENT APPLICATION FEES
Meeting	Council	26 May 2020
Directorate	Notice of Motion	
Submitted by	Cr Peter Ellem	
Attachment	Nil	

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

SUMMARY

This NOM proposes that Council waive fees for existing lawful dwellings that were insured and uninsured due to the bushfire disaster. Council's position currently is only to waive fees for non-insured.

PROPOSED MOTION

That Council amend Council Resolution – 6b.19.057 to read:

That Council waive the following fees for rebuilding existing lawful dwellings that were uninsured and insured at the time of the bushfire disaster declared on 31 August, 2019:

- DMU fees
- Development Application (including Plan First fee)
- DA archiving
- Construction Certificate
- Principal Certifier (inspections)
- Construction Certificate archiving
- Plumbing Inspection
- On-site sewage
- Live on site
- Rural road number plaque

That Council recognise negotiations between its planning staff and State Planning to remove the need to enforce the LEP sunset clause deadline of 23 December 2021 for such applications to be lodged.

LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

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

Strategy 4.2.2 Plan, resource and respond to natural hazards and disasters taking into account impacts from climate change

BACKGROUND

Council staff in a report to Council's Ordinary Meeting of December 17, 2019, recommended limiting DA fee waivers to uninsured property owners.

This NOM would extend DA free waivers to partly insured and fully insured property owners based on the principle that all 180 property owners who lost homes in the fires be treated equally.

KEY ISSUES

The real costs of rebuilding from mega fires, as shown in the 2009 Black Saturday fires in Victoria and subsequent fires nationwide, can far exceed insurance cover based on market value. New building codes in fire-prone localities like Nymboida, Ewingar, Tyringham, Dundurrabin, Billys Creek and Ashby potentially could add 20 per cent or more to the cost of rebuilding. Banks can also draw on insurance payouts to pay out mortgages, leaving property owners with cleaned-up land, in this case paid for by the NSW Government, and little or no capital. Being 'fully insured' can actually mean being 'under insured' in such circumstances. CVC ratepayers' recent evidence to the NSW Independent Bushfire Inquiry indicated many of them were struggling to deal with clean-up and recovery, let alone rebuilding.

Some displaced residents are still living in tents six months after the Nymboida fire, emotionally scarred from only just surviving the firestorm, losing their homes and possessions. The tragedy is that an unknown proportion of the 180 property owners will decide not to rebuild, leaving our local communities for a safer haven or a new start.

Richmond Valley Council on 19 November 2019 waived DA fees for all of its 44 property owners who lost homes in the bushfires. Based on those homes having an average value of \$250,000, Richmond Valley Council will waive a total of \$285,780.

In the Clarence Valley, based on staff's early assumption that 150 uninsured and insured property owners wanted to rebuild, Council would be waiving approximately \$547,200 in fees. This is an opportunity for Clarence Valley Council to offer a real incentive to people who have lost everything through natural disaster to remain local and build resilience over the longer term. The fact that no DAs have been lodged for rebuilds as yet indicates that this almost certainly will be a very slow process, where an unprecedented level of assistance will be required.

COVID-19 restrictions have added further complexity to this process.

COUNCIL IMPLICATIONS

Budget/Financial

Waiving an estimated \$547,200 in DA fees is, in effect, forgoing revenue which would not have been included in forward budgets due to what was an unforeseen natural disaster. Noting the December 2019 staff report which flags the likely need for extra staff to process additional DAs.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

Hard to quantify but modern buildings, while having some impact during construction, could also be made from more fire-resistant materials and take advantage of solar or off-the-grid power.

STAFF COMMENT – DIRECTOR ENVIRONMENT, PLANNING & COMMUNITY

It is still unknown how many properties have insurance or not. From the database's records by Laing O'Rourke, as part of the clean up, it appears around 50 percent of all buildings burnt down were covered by insurance these include houses and sheds. This figure will become more accurate once all the assessments by Laing O'Rourke are complete.

On the issue of the sunset clause in the Clarence Valley LEP for dwelling eligibility, concern has been raised by property owners they may not get DA's in before the changes in December 2021 where in the Nymboida minimum lot sizes in the rural zone will go from 10 ha to 40 ha, and in the Ewingar area 40 ha to 100 ha. This concern has been raised with the Department of Planning and they are putting together a special natural disaster provision to enable these eligibilities to be extended for affected properties from the bushfires past December 2021. There are other councils in a similar situation to CVC.

Resolution 6b.19.057 from December 2019 Council meeting:

That Council waive the following fees for rebuilding existing lawful dwellings that were uninsured at the time of the bushfire disaster declared on 31 August 2019, if lodged prior to 23 December 2021:

- *DMU fees*
- *Development Application (inc Plan First fee)*
- *DA archiving*
- *Construction Certificate*
- *Principal Certifier (inspections)*
- *Construction Certificate archiving*
- *Plumbing inspection*
- *On-site sewage*
- *Live on site*
- *Rural road number plaque*

ITEM	07.20.005	RESCISSION MOTION FOR COUNCIL RESOLUTION - 6C.20.048 GRAFTON POOL MASTER PLAN UPDATE – LOCATED ON CROWN LAND
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Meeting	Council	26 May 2020
Directorate	Notice of Motion	
Submitted by	Cr Jason Kingsley	
Attachment	Nil	

To the General Manager, Clarence Valley Council, we, the undersigned, propose that the following rescission motion be submitted to Council.

PROPOSED MOTION

That Council rescind the decision of Item 6c.20.048, Grafton Master Plan Update – Located on Crown Land resolved at the Ordinary Council Meeting of 28 April 2020 and replace it with the following.

PROPOSED MOTION

That Council, as Crown Land Manager of the Grafton Westward and General Douglas MacArthur Park Reserve (R540035):



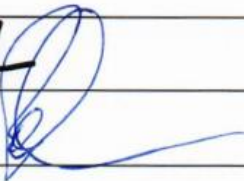
1. Allocate \$600,000 for the development of the detailed design documentation for the Grafton Pool Masterplan in the draft 2020/21 capital works program which is to be incorporated into Council's Draft 2020/21 Budget to be considered by Council for formal adoption at the 23 June 2020 Council meeting, noting the impact on the NET RESULT General Fund surplus being a reduction of \$600,000.
2. Note the price estimate for a new purpose built diving pool and associated infrastructure.
3. Include a new purposed built diving pool in the facility plan.
4. Investigate as part of the detailed design scope the required facility changes and the capital and operational cost impacts of including a low height diving board within the 50m pool, with the outcomes reported back as part of a project status report.

BACKGROUND

Council has by previous resolution recognised to need to plan for a replacement Grafton Pool facility. Referring to minutes of 28 April 2020 meeting: The consideration and decision of the original motion to 6c.20.048, after rejection of an amendment, resulted in rejection of the original. The outcome is; no implementation or further action is instructed by the motion.

To enable certainty of long term strategic planning up to 'shovel-ready' status required to attract grant and external funding, this proposed rescission and replacement is designed to allow planning and fund-seeking to continue. Adoption of a replacement motion will enable the production of shovel-ready project capable of attracting funds. The motion does not seek to direct construction of the project.

Signed:

Cr Jason Kingsley		14/5/2020
Cr Richie Williamson		14/5/2020
Cr Andrew Baker		14/5/2020

8. CONFIDENTIAL BUSINESS - Nil

9. LATE ITEMS OF BUSINESS AND MATTERS ARISING - Nil

10. CLOSE OF ORDINARY MEETING