



clarence
VALLEY COUNCIL

2020

Ordinary Council Meeting



Minutes

Grafton Chambers

Tuesday, 25 February 2020

2.00 pm

Agenda

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MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL held in the Council Chambers, Grafton, 25 February 2020, commencing at 2.00 pm.

OPENING PRAYER – The opening prayer was said by Rev C Flanagan.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

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

PRESENT

Cr Jim Simmons (Mayor), Cr Andrew Baker, Cr Arthur Lysaught, Cr Peter Ellem, Cr Karen Toms, Cr Debrah Novak (until 6.43 pm), Cr Richie Williamson, Cr Greg Clancy, General Manager (Ashley Lindsay), Director Environment, Planning & Community (Des Schroder), Director Works & Civil (Peter Birch), Director Corporate & Governance (Laura Black) and Minutes Secretary (Lesley McBay).

APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

COUNCIL RESOLUTION – 02.20.001

Toms/Ellem

That leave for unavoidable absence be granted for Councillor Kingsley.

Voting recorded as follows:

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

Against: Nil

DISCLOSURES AND DECLARATIONS OF INTEREST – 03.20.001

Summary of Declarations to Committees

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6b.20.005	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Friends with Kahuna No. 1 Director Neil Garrard. Intended action: Will leave the chamber.
Des Schroder	6b.20.003	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Lives in the same block as the development. Intended action: Will remain in the chamber.
Cr Ellem	6c.20.006	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Wife is member of Wooloweyah Hall Committee Intended action: Remain the Chamber

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6c.20.002	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Graham East made deputation and both are members of ALP Branch Intended action: Remain in the Chamber

Declarations received at the commencement of the Ordinary Meeting

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Baker	6e.20.001	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Partner is a shareholder in a tendering entity Intended action: Leave the Chamber.

CONFIRMATION OF MINUTES

COUNCIL RESOLUTION – 04.20.001

Ellem/Toms

That the Minutes of the Ordinary Meeting of Council dated 17 December 2019, copies of which have been circulated, be taken as read and be confirmed.

Voting recorded as follows:

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

Against: Nil

5. MAYORAL MINUTES

ITEM	05.20.001	INVITATION TO THE DUKE AND DUCHESS OF CAMBRIDGE TO VISIT THE CLARENCE VALLEY
Meeting	Council	25 February 2020
Directorate	Mayoral Minute	
Submitted by	Cr Jim Simmons	
Attachment	Nil	

SUMMARY

It has been reported in the media that the Duke and Duchess of Cambridge are intending to visit bushfire-ravaged towns and communities as part of their royal visit to Australia. Councillors this Mayoral Minute is seeking your support for Council to write to the Governor-General inviting the Duke and Duchess of Cambridge to visit the Clarence Valley.

PROPOSED MOTION

That Council:

1. Write to the Governor-General's office seeking his support to extend an invitation to the Duke and Duchess of Cambridge to visit our Clarence Valley area as part of their royal visit to Australia if they accept an invitation from Australia's Prime Minister (Scott Morrison).
2. Seek the Federal Member for Page Kevin Hogan's support to lobby the Prime Minister for his support for the Duke and Duchess of Cambridge to visit the Clarence Valley.

COUNCIL RESOLUTION – 05.20.001

Mayor Simmons

That Council:

1. **Write to the Governor-General's office seeking his support to extend an invitation to the Duke and Duchess of Cambridge to visit our Clarence Valley area as part of their royal visit to Australia if they accept an invitation from Australia's Prime Minister (Scott Morrison).**
2. **Seek the Federal Member for Page Kevin Hogan's support to lobby the Prime Minister for his support for the Duke and Duchess of Cambridge to visit the Clarence Valley.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.5 Represent our community at Regional, State and Federal levels

BACKGROUND

There has been much speculation about a royal visit to Australia by the Duke and Duchess of Cambridge (Prince William and his wife Kate) through media outlets and on social media.

Newspapers are reporting that the Prime Minister, Scott Morrison, is soon to issue a formal invitation for a royal visit in the near future.

At the time of writing this Mayoral Minute no date and locations have been set regarding their tour, although it is expected to mainly centre on parts of Australia devastated by the recent bushfire crisis.

KEY ISSUES

While it is not clear if the royals will be visiting Australia, it is important that we keep the focus on our Clarence Valley area and not forget the tragedies that have devastated our communities.

As our valley has been the worst impacted local government area in northern New South Wales it is important that the spotlight that follows the royals would transfer to this area. It is hoped that a royal visit will help boost our local communities that have lost everything and suffered so much during this time.

Media outlets suggest that the royal visit will concentrate on areas in New South Wales and Victoria that have been worst hit by the bushfires and with over 1,500 land holders impacted, 169 homes destroyed and 57 damaged not to mention the loss of 2 lives, it would be extremely disappointing if a visit to the Clarence Valley was not included in their itinerary.

At this point in time, Nymboida would be the obvious choice of location, via helicopter, for the royals to visit, similar to the Governor-General David Hurley and his wife who were able to achieve a great understanding of the travesty that has happened to this area.

If advised that the royals will visit this area, then an invitation will be extended to all those involved in the bushfires to attend an event at Nymboida. Those included would be the Rural Fire Services, State Emergency Services, NSW Ambulance Service, NSW Police, the community and the numerous volunteers who worked tirelessly during this crisis.

COUNCIL IMPLICATIONS

Budget/Financial

At this stage the costs to Council of a Royal visit are unknown but I am sure a visit by Will and Kate would be tremendous for our community. It would provide worldwide exposure for the Clarence Valley, something which I know will help our tourism businesses in the Valley.

6. REPORTS – a. GENERAL MANAGER

ITEM	6a.20.001	SOUTH GRAFTON HIGH SCHOOL / RUSHFORTH ROAD WORKS DEPOT
Meeting	Council	25 February 2020
Directorate	General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes plus Confidential Attachment	

SUMMARY

A notice has been received from NSW Education requiring the razor wire atop a shared boundary fence between South Grafton High School and the Rushforth Road Works Depot (RRWD) be removed.

OFFICER RECOMMENDATION

That Council:

1. Remove the razor wire atop the boundary fence between South Grafton High School and its Rushforth Road Works Depot.
2. Construct a new fence complete with razor wire top parallel to the boundary fence.
3. Fund the works to the sum of \$34,818 (ex GST), that includes a 10% contingency, from the light fleet reserve (50%) and the heavy plant replacement reserve (50%).

MOTION – LOST

Clancy/Toms

That Council:

1. Remove the razor wire atop the boundary fence between South Grafton High School and its Rushforth Road Works Depot.
2. Install one or more security cameras and motion sensor security lights on or near to the existing fence.
3. Fund the works from the light fleet reserve.

Voting recorded as follows:

For: Ellem, Clancy, Novak, Toms

Against: Williamson, Lysaught, Baker, Simmons

AMENDMENT TO MOTION – RULED OUT OF ORDER

Baker/Williamson

That Council:

1. Remove the razor wire atop the boundary fence between South Grafton High School and its Rushforth Road Works depot.
2. Construct a new fence complete with razor wire top parallel to the boundary fence.
3. Install one or more security cameras and motion sensor security lights on or near to the existing fence.
4. Fund the works from the light fleet reserve.

Point of Order – Cr Toms called a point of order that the amendment to motion - point 2 is a negative of the motion not an amendment to it as the intent is to not construct a new fence.

The Chair ruled the Amendment to Motion out of order.

The Motion was then put and declared LOST on the casting vote of the Chair.

The Foreshadowed Motion was then considered.

FORESHADOWED MOTION

Baker/Lysaught

That Council:

1. Invite the neighbouring school property owner to resolve their concerns by appearance at the NSW Civil and Administrative Tribunal at their application or resolve by negotiation on a cost to them or cost sharing basis.
- ~~2. Construct a new fence complete with razor wire top parallel to the boundary fence.~~
3. Fund any costs associated with the direction of the Tribunal from the light fleet reserve.

Point of Order – Cr Baker called a point of order the point 2 should be removed as previously ruled.

The Chair ruled point 2 out of order as a consequence of the previous motion.

COUNCIL RESOLUTION – 6a.20.001 - CARRIED

Baker/Lysaught

That Council:

1. **Invite the neighbouring school property owner to resolve their concerns by appearance at the NSW Civil and Administrative Tribunal at their application or resolve by negotiation on a cost to them or cost sharing basis.**
2. **Fund any costs associated with the direction of the Tribunal from the light fleet reserve.**

Voting recorded as follows:

For: Simmons, Baker, Williamson, Lysaught

Against: Ellem, Clancy, Novak, Toms

The Motion was put and declared CARRIED on the casting vote of the Chair.

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

Currently there is razor wire atop the boundary fence between the RRWD and South Grafton High School.

At its August 2019 meeting Council considered a budget variation in the sum of \$37,400 for the purposes of removing razor wire to the shared boundary fence of the Rushforth Road Works Depot and erecting a new parallel fence, and resolved:

COUNCIL RESOLUTION – 6c.19.035

That

1. *The monthly financial information report for July 2019, attached to this report, be received and noted.*
2. *Council defer the proposed General Fund variation as set out in the report totalling \$37,400 to the September Corporate, Governance & Works Committee meeting in order to permit a site inspection prior to the meeting.*

At its September 2019 meeting Council resolved to not accept the budget variation as proposed at the August 2019 meeting.

KEY ISSUESNSW Education

The school, through NSW Education, has requested that the razor wire be removed from the dividing fence as they have concerns that a student who may climb the fence would be injured.

Following Council's decision, NSW Education were advised of the Council resolution and advised that no work was to be undertaken by Council. NSW Education have advised that they wish to pursue the matter and have held an onsite meeting with the General Manager and the former Director (Works & Civil). Further to the meeting Council has received a notice from NSW Education which is served under the provision of the *Dividing Fences Act 1991 (NSW)*. The notice (refer to attachment) requires Council to restore the fence to its pre-existing condition at its own cost and advises that NSW Education may commence proceedings in the NSW Civil and Administrative Tribunal without further notice should the works not be undertaken.

Council has responded to this notice requesting that no action be taken until Council has considered the matter at its February 2020 meeting.

Security

The razor wire fence is an important security measure at RRWD and provides essential protection to Council's mobile and fixed assets that are valued in excess of \$20M and employees motor vehicles during working hours. Although the request is to remove the razor wire, it is proposed to maintain the security cordon on RRWD and construct a parallel fence which includes razor wire top within the RRWD property. Attachment 1 depicts the proposed arrangement.

Quotes have been sought for the proposed works and the recommended quotation is attached for Councillors information. The quote received for the works is \$30,909 (ex GST) and it is recommended that a 10% contingency be made available in the case that any unforeseen circumstances arise.

COUNCIL IMPLICATIONS**Budget/Financial**

Costs for the works are not included in the current budget. It is recommended that the costs be funded 50% from the Light Fleet and 50% from the Heavy Plant reserve.

Asset Management

N/A

Policy or Regulation

Dividing Fences Act 1991 (NSW)

Consultation

N/A

Legal and Risk Management

NSW Education have advised that if no action is taken that they may pursue the matter through the NSW Civil and Administrative Tribunal.

Climate Change

N/A

Prepared by	Peter Birch - Director (Works & Civil)
Attachment	Proposed fence arrangement Letter to NSW Education in response to notice
Confidential	Notice from NSW Education Quotation for works

ITEM	6a.20.002	ROOFING OF GRAFTON SALEYARDS – GRANT FUND PROPOSAL
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Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Yes	

SUMMARY

Council has been deemed eligible to submit a proposal for \$1 million grant funding under the Drought Communities Programme Extension (DCPE). Roofing of the Grafton Saleyards would be considered an 'eligible activity' and would be able to satisfy the DCPE's desired project outcomes.

OFFICER RECOMMENDATION

That Council nominate 'Roofing of the Grafton Saleyards' as the project proposal for \$1 million grant funding under the Drought Communities Programme Extension.

COUNCIL RESOLUTION – 6a.20.002

Williamson/Baker

That Council nominate 'Roofing of the Grafton Saleyards' as the project proposal for \$1 million grant funding under the Drought Communities Programme Extension.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

The Grafton Regional Livestock Selling Centre (Saleyard), operated by Council, provides the region around the Clarence Valley and beyond with a venue for the buying and selling of cattle. Sales are held every Tuesday with additional sales also held on 3rd Thursday of the month and some Saturdays. During 2018-2019 a combined total of 59 sales were held.

The saleyard is run as a commercial operation and during 2018-2019 sales totalled \$23,741,003 and yard dues totalled \$301,529. The saleyard recorded an operating surplus of approximately \$43,000 resulting in a reserve closing balance of \$275,706 at 30 June 2019.

As well as generating cash flow the saleyard also provides less tangible benefits to the local community. By drawing a significant influx of people into Grafton it provides a stimulus to local business. It also provides an opportunity for social interaction between cattle farmers, something that is reinforced by the fact that the saleyards operates traditional ring based sales rather than pen selling as is done in other local yards. This social interaction has many mental health and community well being benefits for our rural community.

Clarence Valley Council's objectives in running the saleyard are to maintain the centre's utility to the local community whilst ensuring that the centre remains commercially viable.

KEY ISSUES

Roofing of the hardstand areas of the saleyards has been identified as a number one priority to remain competitive and relevant in the livestock industry. Saleyards across the state and country are either roofed or are in the process of becoming roofed. There are multiple benefits to roofing the hardstand yarding area:

- Construction of the saleyards roof enables economic, social and environmental benefits to be realised.
- Roofing the saleyards makes conditions safer and more comfortable for workers and livestock.
- Reducing stress to livestock is achieved with soft flooring and protection from the elements.
- Animal welfare has economic impacts as livestock lose condition (weight) when stressed or can be injured in wet, slippery conditions and suffer from heat stress in summer.
- Reduced stress on the cattle decreases their 'shrinkage' during curfew (decreased defecation and urination). This results in greater 'liveweight' at point of sale and therefore greater return for vendors.
- Roofing of the yarding area allows for soft flooring to be utilised which also reduces cleaning and maintenance costs.
- Harvested roof water could be used for livestock, irrigation and the truck wash resulting in water savings and environmental benefits.
- Roofing the saleyards reduces the quantity and improves the quality of stormwater runoff from the site and ensures we meet our Department of Water operating licence conditions.
- Compliance with trade waste and storm water management plans.

Drought Communities Programme Extension (DCPE) provides \$1 million grant funds for local community infrastructure projects and other drought relief projects. Roofing of the Grafton Saleyards meets the intended outcomes of the DCPE's project requirements and results in enduring benefits to the livestock industry in the Clarence Valley.

COUNCIL IMPLICATIONS

Budget/Financial

AGS Commercial, who completed stage 2 of the roofing of Casino Saleyards have provided a high level estimate of the cost to roof Grafton Saleyards (refer to Attachment 1). Estimates range from \$1,015,250 for partial coverage to \$2,042,397 for full coverage (refer to Attachment 2).

It is apparent that many saleyard roofing projects are funded or supplemented by grants due to high capital costs. For example Northern Rivers Livestock Exchange Casino, Hamilton Regional Livestock Exchange, Horsham Rural City Council, Scone Regional Livestock Selling Centre all received grants funding for roofing.

Clarence Valley Council has been deemed eligible to submit a proposal for \$1 million grant funding under the Drought Communities Programme Extension. This project would satisfy the desired outcomes by:

- leading to local employment for construction, indirect employment in the cattle industry and secondary benefits of increased spending in the local community;
- lead to growth by contributing to economic activity in our region during construction;
- retention of agents and vendors due to enhanced facilities comparable to neighbouring saleyard facilities;
- planning benefits of natural resource management and compliance with trade waste and storm water management plans.

Asset Management

Identified in the CVC Service Plan Saleyard 2020-2025 (draft) and would be added to the Saleyard Asset Management Plan.

Policy or Regulation

- Model Code of Practice for the Welfare of Animals at Saleyards. Australian Agricultural Council
- Australian Animal Welfare Standards and Guidelines – Livestock at Saleyards and Depots. Animal Health Australia
- National Saleyards Quality Assurance Program (NSQA)
- The National Standard for the Operation of Australian Saleyards
- Protection of the Environment Operations Act 1997
- Work Health and Safety Act 2011

Consultation

The Grafton Saleyards Advisory Committee met on 5 December 2019 and unanimously supported applying for the \$1 million drought funding to roof the saleyards.

Legal and Risk Management

N/A

Climate Change

Extreme weather conditions are currently being experienced and are predicated to intensify into the future. Roofing provides some protection to the elements.

Prepared by	Julie Schipp, Holiday Parks and Saleyards Officer
Attachment	1 AGS Commercial Grafton Sale Yards - New Roof Project 7-2-20 estimate 2 Grafton Regional Livestock Selling Centre - Roofing Options

VOTE BY EXCEPTION

Ellem/Novak

That the following Items be adopted:

- | | |
|------------------|------------------|
| 6b.20.001 | 6c.20.002 |
| 6b.20.002 | 6c.20.003 |
| 6b.20.003 | 6c.20.004 |
| 6b.20.006 | 6c.20.007 |
| 6b.20.009 | 6c.20.009 |
| 6b.20.010 | 6c.20.010 |
| 6b.20.011 | 6c.20.011 |
| | 6c.20.013 |
| | 6c.20.014 |
| | 6c.20.015 |
| | 6c.20.016 |
| | 6c.20.017 |
| | 6c.20.019 |
| | 6c.20.020 |
| | 6c.20.021 |

Voting recorded as follows:

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

Against: Nil

a. ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE

MINUTES of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 18 February 2020 commencing at 3.36 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

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

PRESENT

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

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

APOLOGY - Nil**DISCLOSURE AND DECLARATIONS OF INTEREST -**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6b.20.005	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Friends with Kahuna No. 1 Director Neil Garrard. Intended action: Will leave the chamber.
Des Schroder	6b.20.003	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Lives in the same block as the development. Intended action: Will remain in the chamber.

ITEM	6b.20.001	DA2019/0399 – STORAGE SHEDS, STORAGE BAYS AND CARETAKERS DWELLING – 21-25 BRICKWORKS LANE, SOUTH GRAFTON (LOT 12 DP 628068)
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Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Andrew Fletcher on behalf of A Fletcher & Associates Pty Ltd
<i>Owner</i>	Christopher Allan Skinner and Kylie Ann Skinner
<i>Address</i>	21-25 Brickworks Lane, SOUTH GRAFTON NSW 2460
<i>Submissions</i>	Nil

Council is in receipt of Development Application DA2019/0399 which proposes to construct 53 Storage Sheds, 15 Caravan Storage Bays and a Caretakers Residence at 21-25 Brickworks Lane, South Grafton.

The application was notified and advertised, no submissions or comment was received during the exhibition period. Council staff are recommending approval of part of the application which is outside of Council staff delegations, and refusal of the caretaker residence part of the proposal. The application is therefore forwarded to Council for a decision. The report provides an assessment of the application and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council:

1. Approve Development Application DA2019/0399, however, not consent to the caretaker residence component of the proposal as:
 - a. Under the provisions of the *Clarence Valley Local Environmental Plan 2011* residential accommodation is prohibited in the IN1 General Industrial Zone, and
 - b. The Applicant has not adequately demonstrated that the caretaker dwelling is fundamental to the industrial use of the land as required by Clause C12 of the Industrial Zones Development Control Plan.
2. Request the Applicant to amend plans by removing the caretaker residence from the proposal and upon receipt of the amended plans required by item 2 Council approve Development Application DA2019/0399 under delegated authority subject to appropriate conditions and advices.

COMMITTEE RECOMMENDATION

Williamson/Novak

That Council is satisfied the application meets the provisions of the DCP for a caretakers residence in IN1 general industrial zoned land and approves the application DA2019/0399 subject to advices and conditions in Schedule 1 of the Attachments.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.001**Ellem/Novak**

That Council is satisfied the application meets the provisions of the DCP for a caretakers residence in IN1 general industrial zoned land and approves the application DA2019/0399 subject to advices and conditions in Schedule 1 of the Attachments.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

Development Application DA2019/0399 was lodged with Council on 26 July 2019. The subject land is zoned IN1 General Industrial under the provisions of the *Clarence Valley Local Environmental Plan 2011* (the LEP). The proposed storage sheds and bays are permissible with consent under the LEP. Conversely, the residential dwelling is a prohibited use under the LEP, however, Clause C12 of the Development Control Plan – Industrial Zones (the DCP) has provisions that enable a caretaker dwelling where it is demonstrated to be ancillary to the use of the site and subject to satisfaction of a number of criteria.

Following receipt of DA2019/0399 on 26 July 2019, Council staff wrote to the Applicant on 2 August 2019 requesting additional information including further detail regarding stormwater management and additional justification for the reduced front setback and justification for the need for the caretakers residence. The initial DA documentation did not demonstrate compliance with Clause C12 of the DCP. A final response to the additional information request (2 August 2019) was submitted for consideration on 6 December 2019.

The Applicant provided the following justification for the need for the caretaker residence:

- Within the Statement Environmental Effects, the statement *'is to be subordinate to the dominant industrial use'*,
- In response to the additional information request, the statement *'the caretakers residence will be essential for the operational aspects and security of the storage units, particularly the caravan storage'*.

Council staff again wrote to the Applicant on 3 January 2020 advising the justification for the need for the caretakers residence was not considered to be adequate to demonstrate the need for an ancillary dwelling to be established onsite. Further, the Applicant was advised that based on the justification put forward staff are not in a position to support the caretakers residence component of the proposed development and gave the following options to the Applicant:

1. Proceed with the caretakers dwelling, Council staff will report the matter to the February 2020 Council meeting, however, will recommend that Council not support the caretakers dwelling and call for amended plans or refusal of the application in its entirety, or
2. Amend the proposal to remove the caretakers dwelling.

The Applicant informed Council in writing on 15 January 2020 of their intention to proceed with the application as submitted and have provided further justification for the proposed caretaker residence for

consideration. The application was notified following receipt in accordance with Part B of the Residential Zones DCP and no submissions were received during the exhibition period.

KEY ISSUES

1. Compliance with Clause C12 – Dwellings of the Industrial Zones Development Control Plan

Residential accommodation is a prohibited use under the LEP in the IN1 zone, however, Clause C12 of the DCP has provisions for a caretaker dwelling where a range of criteria in the clause are met. Clause C12 of the DCP reads as follows:

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

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

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

The following table identifies the provisions of the DCP and relevant comment made by the Applicant.

DCP Criteria/Conditions	Comment from Applicant
i. Only one dwelling per lot or holding.	Complies.
ii. The gross floor area of the dwelling is not more than 75m ² .	The enclosed floor area is 72.9m ² , with the two covered first floor balconies providing an additional 80m ² . Balconies do not form part of the gross floor area calculations if their outer wall (balustrades) is less than 1.4m high which is the case in this instance.
iii. The dwelling is attached to, and located above (i.e. not at ground level), an industrial or commercial building.	Attached to caravan storage bays with living areas on the first floor, carports and entry are located on the ground floor. Originally the laundry was located at ground floor. Council staff wrote to the Applicant requesting a variation to have laundry facilities at ground level or could be relocated, however, has been relocated to the first floor.
iv. The dwelling is for the owner of the business operating on the land, or an employee of that person.	The Applicant has indicated that the owner of the land/business will occupy the residence.
v. The dwelling is adequately insulated against sound penetration from surrounding industrial activities.	Details to be provided with Construction Certificate application if approved.
vi. The dwelling is not subdivided as a strata title.	Complies.
vii. A dedicated car parking space is available on the site for the	Two undercover spaces provided

DCP Criteria/Conditions	Comment from Applicant
dwelling.	
viii. Use of the dwelling must be fundamental, but subordinate to the dominant industrial / commercial use of the land.	The justification contained within the Statement Environmental Effects is as follows <i>'is to be subordinate to the dominant industrial use'</i> . Council requested further justification and the Applicant provided this statement - <i>'the caretakers residence will be essential for the operational aspects and security of the storage units, particularly the caravan storage'</i> . The Applicant has since provided further comment to justify the need for the dwelling in response to a further request from Council (refer to Applicant's submission at Attachment 2.

The additional justification provided by the Applicant on 15 January 2020 has stated that due to the nature of the open sided caravan storage, a caretaker for security reasons is essential for the operation of the business. It was further stated that the caretaker will be onsite to provide additional services to clients storing goods onsite, however, the details of what these services entail or how they provide justification for a caretaker is unknown.

The Applicant further states the initial economic cost of installing close circuit television surveillance (CCTV), security gates/doors and ongoing maintenance and software updates of these items is a significant burden when compared to a caretaker dwelling which will achieve the same level of security. It was further stated by having an onsite caretaker the level of break-ins would be lower where there is a physical presence onsite as compared to CCTV.

The apparent successful operation of storage facilities on other sites in the South Grafton industrial area, as well as other similar facilities without a caretaker dwelling in other industrial estates suggests that a caretaker dwelling is not essential or fundamental for the type of business proposed. Examples where storage sheds in South Grafton operate without a caretaker onsite include 7-9 Mulgi Drive, South Grafton (DA2008/0026), 1 Induna Street, South Grafton (D166/99) and 10B Induna Street, South Grafton (DA2008/0620).

The Applicant has not adequately demonstrated that the caretaker dwelling is fundamental to the industrial use of the land as required by Clause C12 of the Industrial Zones Development Control Plan.

2. Variation to Industrial Zones Development Control Plan

The Applicant has requested a 6m front setback for the development. This requires variation to Clause C7 of the DCP which requires new development to have a front setback for all buildings of 9m and does not apply a side and rear setback unless adjacent to residential development. The Applicant has provided the following justification for the variation:

- the proposed caretakers residence only has the verandah within the 9m as the wall of the dwelling is setback 10m.
- Adopting a standard residential setback of 6m is appropriate as the building will not house any industrial activities which may require a greater setback, and
- There are a number of structures on other lots in Brickworks Lane that are within the 9m, namely on Lot 13 DP 800834, Lot 11 DP 628068 and Lot A DP 369178.

The storage sheds, bays and the southern wall of the caretaker dwelling all have a front setback of 10m from the front boundary which satisfies the requirements of the DCP being 9m, with the only encroachment into the 9m being 3m of the southern balcony. The setbacks within Brickworks Lane for other sites vary from almost built to the boundary (south eastern side) to 8m from the front setback (see Figure 1 below), although it may set a precedent to allow for consideration of a reduced front setback

Council should not continue to vary its planning instruments on this basis and the variation sought should be assessed on merit. Although the proposal includes a residential component, the standard front setback under the Industrial Zones DCP is 9m regardless of the proposed use.

Figure 1 – Aerial image showing existing buildings in regards to approximate boundary lines, subject block is highlighted red.



Both balconies do provide for two (2) covered car spaces, however, it is not a requirement of the DCP that ancillary dwellings have a covered car space. The caretaker dwelling has a covered balcony on both the northern and southern side of the dwelling that total 80m² (greater in area than the actual dwelling), which on face value appear to provide additional living areas and undercover parking for those living in the dwelling. The other issue of having large balconies is that these areas cannot be protected from sound penetration from the surrounding industry in the locality, a requirement of the DCP, while these areas may only be utilised outside of business hours it may unnecessarily create additional exposure to noise. Council staff support the balcony to the north as it will obtain solar access and provide a private living area for residents but not the second balcony facing Brickworks Lane to the south as insufficient justification has been provided by the Applicant to vary the standard in the DCP.

Options

1. Council uphold the Council officer recommendation to not support the proposed caretaker dwelling component on the basis that residential accommodation is a prohibited use under the LEP and the Applicant has not adequately justified that the caretaker dwelling is fundamental to the use of the land. Council allow the Applicant to submit amended plans deleting the caretaker dwelling. Council then write to the Applicant requesting modified plan and upon receipt of these plans, the proposal be approved subject to appropriate conditions without the need for a further report to Council for consideration. Applying this option will make the proposed front setback variation irrelevant as the variation only relates to the caretaker dwelling structure.
2. Council approve the DA (including caretaker dwelling without the front setback variation being approved) if it considers that the caretaker dwelling is fundamental to the proposed use of the subject land and approve the development subject to conditions (including conditions necessary to uphold criteria in Clause C12 of the DCP and limiting use of the caretaker dwelling to the proposed use unless

separate written development approval from Council is obtained). An approval consistent with this option will require inclusion of a condition requiring deletion of the proposed southern balcony of the caretaker dwelling on the Construction Certificate plans. This option is not the Council officer's recommendation.

3. This option is similar to Option 2 above with the only difference being acceptance of the whole development as proposed, including the caretaker dwelling (on the terms mentioned in Option 2 above) with the front setback variation also being approved, see Attachment 3 for proposed draft Advices and Conditions. Should Council resolve to adopt the front setback variation sought then a condition should be included to require additional landscaping in the front setback. This option is not the Council officer's recommendation.

If Council resolves to determine the DA consistent with Option 2 or 3 it is recommended that appropriate conditions be included to ensure compliance with the criteria in Clause C12 of the DCP prior to issue of a Construction Certificate or during occupation (as relevant) and that should the business cease to operate the dwelling is to also cease occupation unless separate written development approval from Council is obtained. In addition, it is recommended in approving the development that appropriate condition be inserted so that the dwelling cannot be occupied until such time as the full proposal is built and a Final Occupation Certificate issued.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Industrial Zones

This DA has been assessed by applying the planning provisions that were current (and remain current) at the time the DA was submitted to Council.

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	Supports subject to conditions
Health and Building	Supports subject to conditions

Legal and Risk Management

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

Climate Change

The proposed development within an established industrial estate in South Grafton will make some contribution to CO₂-equivalent emissions through construction and operation which are considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. Notwithstanding that, the benefit of locating certain business in industrial areas is considered to outweigh the negative effects of the development in terms of contribution to climate change.

Prepared by	James Hamilton, Development Planner
Attachment	<ol style="list-style-type: none">1. Proposed Plans2. Applicant's submission regards compliance with Clause C123. Draft Advices and Conditions4. Section 4.15 Report

ITEM	6b.20.002	DA2019/0616 – ALTERATIONS AND ADDITIONS TO AGED CARE FACILITY (LIFTS AND SCOOTER STORAGE ROOM) – MAREEBA NURSING HOME - 3-7 RANNOCH AVENUE, MACLEAN
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Ardill Payne and Partners
<i>Owner</i>	Clonegal Holdings Pty Limited and Yirri North Investments Pty Limited
<i>Address</i>	3-7 Rannoch Avenue, Maclean
<i>Submissions</i>	Nil

Development Application DA2019/0616 seeks approval for alterations and additions to the existing residential aged care facility. The works involve modifications to an existing lift and construction of additions to accommodate a new lift and mobility scooter store. The matter is being reported to Council for consideration of a Clause 4.6 variation to the 9m height limit for the part of the building containing the lift shaft. The development proposes a new lift contained within a structure 11.075m in height which is 2.08m above the maximum height limit (23% variation). Staff delegations do not permit Clause 4.6 variations greater than 10% to be approved under delegated authority so the matter is reported to Council for determination.

This report provides an assessment of the application and Clause 4.6 Variation and a recommendation is provided for Council's consideration.

OFFICER RECOMMENDATION

That Council approve:

1. A Clause 4.6 variation to the 9m height limit and permit a 11.075m height for the proposed additions containing a new lift; and
2. DA2019/0616 subject to the imposition of suitable conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Novak/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.002

Ellem/Novak

That Council approve:

1. A Clause 4.6 variation to the 9m height limit and permit a 11.075m height for the proposed additions containing a new lift; and
2. DA2019/0616 subject to the imposition of suitable conditions contained in Schedule 1.

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

Theme 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 subject land has a split zoning of R2 Low Density Residential and R3 Medium Density Residential. The proposed alterations and additions to the facility are permissible with consent and are considered to be not inconsistent with the overall objectives of the zone.

The existing aged care facility provides for a range of aged care suites and ancillary facilities to service the needs of the residents as follows:

- 2 x 1 bedroom suite with ensuite and private lounge
- 14 x 1 bedroom with ensuite and kitchenette
- 64 x 1 bedroom with ensuite
- 1 x 1 bedroom with shared ensuite
- 2 x double room with ensuite and kitchenette
- 4 x double room with ensuite
- 13 x double room with shared ensuite

Consent was granted on 31 July 2019 under delegated authority to DA2019/0207 for other alterations and additions to the aged care facility which included:

- Demolition of internal partitions
- New servery
- Floor and wall finishes
- New lift, alterations to basement store room and realignment of 2 car spaces

There was no overall increase in the gross floor area of the building, no changes to bed numbers, staff or patron numbers proposed as part of the previous approval. The Construction Certificate for these works was issued by private certifier, 'Building Certifiers Australia' on 20 January 2020 (Certificate No. 30190403.1).

KEY ISSUES**1. Variation to 9m height limit under Clause 4.6 Exceptions to Development Standards**

A maximum height of 9m applies to development on the land under Clause 4.3 of the Clarence Valley Local Environmental Plan 2011. The proposed additions containing the lift will have a maximum overall height of 11.075m which is 2.075m over the maximum height limit permitted for the land. This is a 23% variation.

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

- (a) *That the applicant has made written request seeking to justify the contravention of the development standard and such written request has adequately demonstrated:*

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

The objectives of clause 4.6 are as follows:

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

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

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

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

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*

Comment

The applicant has submitted a written request providing the following reasons that compliance with the development standard is unreasonable or unnecessary:

- *The height exceedance relates to the lift shaft that is being provided to improve the access to/within the facility (including accessible access for seniors/aged persons).*
- *The top point of the lift shaft is only 145mm above the highest point (roof pitch) of the existing building to which it will be attached and thus the proposed lift shaft will not compromise and will maintain the low scale character of Maclean.*
- *The top point of the lift shaft is below the highest point of the existing plant room which sits in the middle of the building - see below in red.*



- *The proposed lift shaft will not have any adverse impacts on the natural or man-made environment and particularly on the amenity of neighbouring properties.*
- *The proposed height exceedance will NOT have any unreasonable visual impacts, disrupt views, result in a loss of privacy or solar access to existing adjoining development or any public land.*
- *The proposed lift is ancillary and incidental to an existing lawful seniors housing development that is consistent with the aims and objectives of the R2/R3 zones and Seniors Housing SEPP.*
- *The proposed works are not out of character or scale with the existing adjacent development in the locality.*

Comment

Council staff support a variation to the nine (9) metre height limit in this instance because the proposed additions are set within the context of an established aged care facility with existing buildings comprising heights already above the 9m limit. There will be no adverse impacts to the privacy or overshadowing to adjoining properties and the bulk and scale of the additions containing the lift component will not result in adverse visual impacts or disrupted views.

The development is not inconsistent with the aims and objectives of the zone and allows for a land use that provides facilities and services to meet the day to day needs of residents. A variation to the height limit in this instance will not create an undesirable precedent in the area.

The development is consistent with aims and objectives of the State Environmental Planning Policy (Infrastructure) 2007 to facilitate the effective delivery of infrastructure across the State by providing greater flexibility in the location of infrastructure and service facilities.

The benefits of providing more accessible facilities within the existing aged care facility to service the needs of its residents and visitors will improve the function and utility value of the aged care facility.

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

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

- a) *The consent authority is satisfied that:*
- i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment

Council staff are satisfied that the applicant's request has; adequately demonstrated that a variation to the 9 metre height maximum is reasonable in this instance due to it being a unique development within an existing aged care facility and there will be no unreasonable impact to the amenity of the area; and that there are sufficient planning grounds to justify the contravention of the standard in this instance.

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

Comment

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

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

The objectives of the R2 Low Density Residential zone are:

- a. *To provide for the housing needs of the community within a low density residential environment.*
- b. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The objectives of the R3 Medium Density Residential zone are:

- a. *To provide for the housing needs of the community within a medium density residential environment.*
- b. *To provide a variety of housing types within a medium density residential environment.*
- c. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- d. *To enable serviced apartments while maintaining the medium density residential character and amenity of a locality.*

The proposed development is considered to be not inconsistent with the objectives of the height standard as the development does not result in the loss of amenity, solar access or privacy to neighbouring properties. The proposed lift is ancillary to the aged care facility and will not alter the overall bulk, scale and character of the existing development within the locality.

The development is not inconsistent with the R2 or R3 zone objectives as the works will provide for additional facilities to meet the day to day needs of the residents and aged care housing needs of the community.

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

Comment

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

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

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

Comment

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

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

Comment

As stated earlier in this report, the public benefit in providing additional facilities to the existing aged care facility outweighs the benefits in maintaining the height limit standard as it allows the effective delivery of additional health services facilities within an existing medical precinct without jeopardising the amenity of the area.

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

Comment

There are no other matters of significance required to be taken into consideration by the Secretary before granting consent.

Summary

A 23% variation to the 9m height limit may seem excessive. However, the lift shaft has a height of 11.075m; the building the lift shaft is attached to has a height of 10.93m. The lift shaft is only 0.145m or 14.5cm higher than the existing building. When observing the lift shaft externally from the site, the height of the lift shaft will not dominate or excessively protrude from the existing skyline or above the existing building. The lift sits within the existing context of the site and the proposed development is not considered to impact on privacy or overshadowing of adjoining properties. To provide visual context to the height, an extract of a perspective plan by Thomson Adsett Architects is provided below showing the new lift in relation to the existing building.



Figure 1 - Extract of Plan by Thomson Adsett Architects Titled Perspective Lift 2 (Revision 1 dated 21 October 2019 Project No. 17.003)

COUNCIL IMPLICATIONS

Budget/Financial

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

The development being for seniors living is exempt from payment of section 7.11 and 7.12 contributions as per Clause 2.8 the Clarence Valley Contributions Plan 2011.

Asset Management

N/A

Policy or Regulation

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *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>
Health & Building	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.

Climate Change

Part J6 of the BCA for lighting and power control devices is applicable for the scooter room and lifts.

The building, including its services, must have features that facilitate the efficient use of energy appropriate to:

- (a) The function and use of the building; and
- (b) The level of human comfort required for the building use.

Compliance with Part J of the BCA will ensure that greenhouse gas emissions generated from the development will be minimised to reduce any potential impacts on climate change. The DA has been conditioned accordingly.

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	A. Plans B. Written request for Clause 4.6 Variation C. Section 4.15 Assessment

Schedule 1
Draft Advices and Conditions of Consent for DA2019/0616

Advices

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
3. Metal building components installed in coastal locations shall have corrosion protection measures complying with the Building Code of Australia. This applies to brick wall ties, steel framing, fixings and metal sheet roofing in locations within 10km of breaking surf or 1km of salt water not subject to breaking surf. Higher standards apply the closer the location is to breaking surf.
4. Demolition work is to be carried out in accordance with AS 2601.
5. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1-2009.
6. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
7. The submission of a further Development Application will be required for any further extension of development on the site.
8. A variation to the height of the lift shaft, being a maximum of 11.075m above ground level, was granted under Clause 4.6 of the Clarence Valley Local Environmental Plan.

Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans titled:
 - Site Plan & Key Plan - Revision 1 dated 21 October 2019
 - Lift 1 Plans - Revision 2 dated 31 October 2019
 - Lift 2 Plans - Revision 2 dated 31 October 2019
 - Elevations & Sections - Revision 2 dated 31 October 2019

Four (4) sheets, drawn by Thomson Adsett, as amended in red, or where modified by any conditions of this consent.

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

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

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

4. 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.
5. The roof covering is to be of a colour which does not produce glare which adversely affects the amenity of adjoining properties. White colorbond, galvanised iron and zincalume are not permitted.
6. Roof water, including overflow from a tank, is to be connected to the existing stormwater disposal system.
7. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to this building. Sufficient written documentation shall be submitted with the Construction Certificate application to indicate compliance with Section J in the following areas:
 - a Artificial lighting and power
8. A certificate of conformity from a suitably qualified building professional shall be submitted to the Principal Certifying Authority with the Construction Certificate application to confirm that the proposed building will comply with Section J of the BCA.
9. The building shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineers certificate shall be submitted prior to issue of the Construction Certificate to verify the building will withstand the likely forces imposed on it by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions.
10. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
11. 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.
12. All erosion and sediment control measures are to be installed and maintained in accordance with the Statement for Sediment and Erosion Control that was submitted with the Development Application.
13. All excavated materials must be treated in general accordance with the Management Guidelines detailed within the "Acid Sulfate Soil Manual, Acid Sulfate Soil Management Advisory Committee, August 1998". Agricultural Lime must be applied (and incorporated into the soil) at a rate of 50kg/m³ of soil.

14. Attention is directed to the NSW Heritage Act 1977 and the provisions in relation to the exposure of relics.
- a If 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; and/or,
 - b 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 or its delegate the Office of Environment and Heritage and Heritage NSW Heritage Branch 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).

ITEM	6b.20.003	DA2019/0303 – 74 BED BACKPACKERS ACCOMMODATION AND MANAGERS RESIDENCE – 26-28 WHARF STREET, SOUTH GRAFTON (LOT 1 AND 2 DP160590)
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Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Richard Bennell on behalf of Bennell & Associates
<i>Owner</i>	Maxwell Allan Watson and Faye Maree Watson
<i>Address</i>	26-28 Wharf Street, SOUTH GRAFTON NSW 2460
<i>Submissions</i>	Yes – three (3) submissions

Council is in receipt of Development Application DA2019/0303 which proposes to convert the existing former Nymboida Shire Council Office to 74 bed backpackers' accommodation and manager's residence at 26-28 Wharf Street, South Grafton.

The application was notified and advertised, three submissions were received during the exhibition period. The issues raised in submissions received predominantly revolve around parking and noise generation from the premises. As a result of the interest in the proposal and matters raised that are unable to be satisfactorily resolved through conditions of consent the application is forwarded to Council for a decision. The report provides an assessment of the application and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council approve Development Application DA2019/0303 subject to the draft advices and conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Novak/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.003

Ellem/Novak

That Council approve Development Application DA2019/0303 subject to the draft advices and conditions contained in Schedule 1.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Development Application DA2019/0303 was lodged with Council on 6 June 2019. The subject land is zoned B3 Commercial Core under the provisions of the *Clarence Valley Local Environmental Plan 2011* (the LEP). The proposal is to change the use of the former Nymboida Shire Council (NSC) Chambers to backpackers' accommodation. The proposed backpackers' accommodation and manager's residence are permissible with consent under the LEP.

The application was advertised and notified in accordance with Part B of the Business Zones Development Control Plan between 19 June and 4 July 2019 and three submissions were received during the exhibition period. The owner attended a pre-lodgement meeting with Council staff on 21 November 2018 to discuss a change of use of the building which included backpackers' accommodation and retail/commercial space on the ground floor. In the minutes for the pre-lodgement meeting, parking was discussed as a primary issue and the owner was advised that at least three car spaces had been previously paid for by NSC.

KEY ISSUES1. Parking

Parking on-site and within the road network is an issue raised in submissions received as the Australian Hotel does not have off-street parking and with the South Grafton RSL Club at the northern end of Wharf Street, driveway access to residential properties is often blocked and this will only be exacerbated by the backpackers' accommodation.

Under Clause L6 Parking of the Controls for Backpackers' Accommodation in the Business Zones Development Control Plan (the DCP) a minimum of one (1) space per five (5) beds and one (1) space per two (2) staff is to be provided on-site. With a total of 74 beds and a single manager on-site, the proposal generates a need to provide 16 car spaces on-site. The Applicant is proposing six (6) on-site car spaces, including one (1) accessible car space, and space is available for motorcycle and bicycle parking in addition to the three (3) that had been paid for by NSC, leaving the development seven (7) car spaces short. With this in mind the Applicant had prepared justification to vary the DCP.

The Applicant's submission included that a rate of one (1) space per five (5) beds is too onerous and should be more consistent with Byron Shire Council controls being one (1) per eight (8) beds, recognising that Byron Bay is a major backpacker destination with access to adequate transport and shows that the use can still function with the lower parking rate. Furthermore, the Applicant raises that backpackers' accommodation generally generates low traffic volumes as most tenants will arrive via public transport, share vehicle or bicycle. Additionally, taking into account the previous use being office space which generates one (1) space per 30m² of Gross Floor Area, the 766m² building would have generated the need for 26 car spaces and the issue of parking has been overlooked in the past.

Comment:

The subject site was previously occupied by the former Nymboida Shire Council (NSC) Chambers, Council records indicate the chambers were built in 1954. The chambers has undergone several renovations to the exterior and interior with a major extension approved by the then Grafton City Council (GCC) in 1995. The extension was built over the existing eight (8) on-site car spaces and would generate a need for the NSC to provide for an additional 11 car spaces on-site in addition to the seven (7) required for the existing office

space. NSC was only able to provide for a total of six (6) spaces on-site and it was proposed that NSC would park vehicles behind the residence at 22 Wharf Street. GCC permitted parking on this land during construction but did not accept this as a long term solution and required as a condition on the approval that a Section 94 Contribution for three (3) parks be made at a cost of \$2,000.00 and a plan showing the remaining nine (9) spaces off-street in another location acceptable to Council be submitted for review. NSC paid \$6,000.00 prior to issue of the Building Permit.

NSC lodged a modification application to seek a reduction in the parking requirements for the extension on the basis that there is suitable under utilised on-street car parking. Due to the nature of the business, long term customer parking is not required and despite the extension it was not foreseen that NSC would employ more people. GCC resolved to uphold the conditions and parking requirements, the planners report noted that in the current street network there was a shortage of parking and this development application was an opportunity to improve the situation. The report also noted that parking has been calculated in accordance with the GCC Off-Street Car Parking Code. The additional spaces were unable to be accommodated on-site or at an alternate location and consequently in July 1997 NSC paid GCC for the nine (9) car spaces as required by Condition 3 being \$18,000.00. Therefore the site has a credit of 12 spaces.

Taking into account the credits available to the site and those proposed to be retained on-site by the Applicant, the proposed development has one (1) parking credit. South Grafton has sufficient public transport both within Grafton and the Clarence Valley itself but also has links with a major bus and train terminal only a 10 minute walk from the subject site and readily available access to the Grafton airport. It is expected, as the Applicant raised, that the majority of tenants will arrive via public transport or will share vehicles with various others which will reduce the demand on on-street parking in the surrounding road network. Should issues arise where tenants are blocking neighbouring driveways and access, this issue can be raised with the on-site manager and should form part of the management plan for the accommodation.

2. Impact on Amenity of the Neighbourhood

The second issue raised in submissions is the potential impact on amenity of nearby residents. With the Australian Hotel across the road there is already an existing noise impact and occasional anti-social behaviour, there is the potential the backpackers' accommodation may further compound these issues. One submission raises the issue of privacy and overlooking from the outdoor communal courtyard, ground level eating areas and rooms on the first floor with the adjacent block to the west.

Comment:

As required by the Backpacker controls in the DCP, an on-site manager is to be present at the premise at all times. The presence of a manager on-site is expected to assist in implementation of the management plan and ensure the facility is run in a manner that minimises disturbance to adjoining land uses. Clause L7.1 of the DCP requires submission of a management plan for the premises. The Applicant has included in the draft management plan for the premises which has a set of requirements for the facility to not only ensure occupants enjoy their stay but minimise disturbance and conflict with adjoining land uses. The draft plan includes a curfew of 10.00pm, with no noise by 12 midnight for communal areas. In addition to the Applicant's proposal to minimise impacts of the proposal, ways in which noise generated from communal areas will be to place curfews and/or limits on use of amplified devices playing music, consumption of alcohol in common areas and number of people, especially in the western outdoor courtyard area can be input into the management plan.

Outdoor areas under the DCP are to be 2m from adjacent residential properties or physically separated. The DCP requires that 30% of outdoor areas be capable of growing substantial trees to provide shade and improve amenity, the Applicant has stated that due to the existing site is largely hardstand making it hard to plant large trees. Council acknowledges this may prove difficult to landscape with large trees given the limited space. Plans submitted show an area of communal open space on the western side directly adjacent to a residential use with only a 2m high existing block wall along western boundary of the property shown. The Applicant is proposing to grow a vine over this wall. This landscaping on its own is not acceptable to

separate the communal area from the adjoining residence and a form of physical barrier or screen in addition to the wall will be required. If additional landscaping to provide shade and improve amenity is not proposed to meet the DCP provisions, a shade structure or awning will be required.

While the proposed use may result in some additional noise experienced by adjoining land uses, it is anticipated that effective measures can be implemented into the draft management plan to mitigate the issues. Furthermore, the presence of an on-site manager will be able to actively deal with situations as they arise and should be contactable by those adjoining land owners should issues arise.

3. Compliance with Clause L4 Controls for Backpackers' Accommodation of the DCP

Clause L4 of the DCP has provisions for building design requirements for backpacker accommodation as follows:

Clause	Control	Applicant Comment
L4.1 Height and setbacks	Refer to Part C of DCP	Nil change to setbacks or height of building proposed.
L4.2: Building design requirements – Sleeping rooms	2m ² minimum floor area per person short term, 5.5m ² long term. Adequate space and secure storage in each sleeping room or alternate facilities in the building	Average being 3.76m ² . No long term accommodation proposed. Large storage rooms/lockers provided on each floor for guests to use.
L4.3: Building design requirements – Toilets and showers	Washbasins 1 per 20 guests Toilets 1 per 10 guests Bath/shower 1 per 10 guests	Nil comment provided.
L4.4: Building design requirements – Kitchen facilities	Minimum 1 communal self catering kitchen and 1 communal dining area, with a minimum combined floor area of 1m ² per person. Cooking facilities are to be capable of holding 20% of occupants.	Area for kitchen/dining facilities totals 149m ² .
L4.5: Building design requirements – Laundry and drying facilities	For every 30 guests 1 washing machine, 1 wash tub and 1 dryer is to be provided.	The proposal includes spaces for 3 washing machines, 3 wash tubs and 3 dryers.
L4.6: Building design requirements – Access for persons with a disability	20 or more rooms requires at least 2 disabled rooms.	Amended plans show two disabled access rooms with ground level access, no rooms have ensuites.
L4.7: Building design requirements – Communal recreation area	Minimum 1m ² per person for communal recreation area, with a minimum dimension of 3m and cannot be more than two locations. Common areas must be accessible. This is in addition to any dining/kitchen facilities. Outdoor communal area to be set back 2m from residential properties unless physically separated, minimum 30% of the outdoor area is capable of growing trees.	Area for communal recreation totals 291m ² . The western courtyard area has an existing 2m high brick wall on the boundary which will be covered by a vine and will provide some additional acoustic and visual privacy. Hardstand areas make it not suitable to plant substantial sized trees.

Clause	Control	Applicant Comment
L4.8: Building design requirements – Noise	Rooms that generate noise are to be located away from or soundproofed from boundaries in residential areas to prevent offensive noise.	Games/media room is separated from adjoining residence by solid masonry wall with no openings.

In terms of amenities and laundry facilities, the Applicant has shown on plans submitted that these facilities can be provided, further detail will need to be provided with Construction Certificate plans. The amount of area per sleeping rooms has an average of 3.76m², with the smallest average being 2.95m² which complies with the DCP for short term accommodation (less than 28 days), appropriate conditions are in Schedule 1 to restrict the length of stay as room size is below 5.5m² per person in all rooms as per the DCP.

The proposed development generates the requirement to provide 74m² of kitchen/dining facilities and 74m² of communal recreation area. The Applicant has included in their calculations of the communal areas upstairs areas which are not accessible, hallways and the service courtyard which are not considered to be appropriate for recreation and have been deleted from Council staff calculations. Council staff have calculated that an area of approximately 230m² available for communal recreation areas, kitchen and dining facilities which exceeds the DCP requirement of 148m². For communal common area, guests have access to the ground level film and media rooms (46m²), and adjoining lounge/common room (79m²) which meet the DCP provisions.

The proposed indoor kitchen and dining facility has a total area of 38m². The adjacent outside courtyard is also proposed as a dining area with a connecting doorway to be installed, this area totals 70m² but is unlikely to be used during adverse weather events. This leaves only the interior dining area which is unlikely to accommodate 20% of guests at one time preparing meals unless some form of coverage is provided to the courtyard space to be utilized in all weather events. In lieu of an awning or shade structure over the western courtyard, it is recommended that part of the ground level common/lounge room be dedicated as additional dining area and the outdoor courtyard becomes communal recreation area. Despite making these changes the proposal generally complies with the design requirements for backpackers' accommodation under Part L4 of the DCP.

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 Business 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 subject to conditions
Trade Waste	Supports subject to conditions
Development Engineer	Supports subject to conditions

Health and Building	Supports subject to conditions
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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 redevelopment of an existing vacant office building in the South Grafton commercial area with readily available access to infrastructure, services and transport routes will not significantly contribute to climate change.

Prepared by	James Hamilton, Development Planner
Attachment	<ol style="list-style-type: none">1. Proposed Plans2. Submissions3. Section 4.15 Report

Schedule 1
Draft Advices and Conditions of Consent for DA2019/0303

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)

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

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. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1-2009.
2. Accessible facilities for the use of the disabled shall be provided as specified in Clause F2.4 of the Building Code of Australia and shall be constructed to the requirements of AS 1428.1-2009.
3. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
4. In a building required to be accessible, braille and tactile signage complying with Specification D3.6 of the Building Code of Australia and incorporating the international symbol of access or deafness, as appropriate, in accordance with AS 1428.1-2009 must identify each sanitary facility; space with a hearing augmentation system and door with a required 'exit' sign.
5. Access for people with disabilities must be provided to and within the building by means of an accessway in accordance with AS 1428.1-2009:
 - a. from the main points of a pedestrian entry at the allotment boundary;
 - b. from another accessible building connected by a pedestrian link; and
 - c. from any required accessible car parking space on the allotment.
6. The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
7. For a building required to be accessible, tactile ground surface indicators must be provided to warn people who are blind or have a vision impairment that they are approaching:
 - a. a stairway (other than a fire isolated stairway) and
 - b. a ramp (other than a fire isolated ramp, step ramp, kerb ramp or swimming pool ramp); and
 - c. in the absence of a suitable barrier an overhead obstruction less than 2m above floor level or an accessway meeting a vehicular way as per D3.8 of the Building Code of Australia.

Tactile indicators shall comply with AS/NZS1428.4.

8. A unisex accessible toilet complying with AS 1428.1-2009 shall be installed in the building. Details

to be provided with the Construction Certificate plans.

9. An accessible path of travel shall have a maximum construction tolerance of 5mm at abutting surfaces (eg. lip at doorways) with a rounded or bevelled edge.
10. Stairways shall be constructed in accordance with AS1428.1-2009. At the nosing, each tread shall have a strip not less than 50 mm and not more than 75 mm deep across the full width of the path of travel. The strip shall have a minimum luminance contrast of 30% to the background. Handrails shall extend past the stairs and tactile ground surface indicators shall be installed as per AS1428.1.
11. Where there is no chair rail, handrail or transom, all frameless or fully glazed doors, sidelights, including any glazing capable of being mistaken for a doorway or opening shall be clearly marked for their full width with a solid contrasting line. The contrasting line shall be not less than 75mm wide and shall extend across the full width of the glazing panel and provide a minimum of 30% luminance contrast when viewed against the floor surface or surfaces within 2m of the glazing.
12. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 0.43 ET demand on Council's water supply, and an additional 3.47 ET loading on Council's sewerage system. This includes an applicable credit for pre-existing uses. The headworks charges at 2019/20 financial year rates are:

Water Headworks \$4,898.00 x 0.43 additional ET = \$ 2,106.14

Sewer Headworks \$6,700.00 x 3.47 additional ET = \$ 23,249.00

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.

13. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
14. The subject property is flood prone and receives a level of flood protection from the Grafton flood levee system. 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 6.76m AHD. The use and fitout of the ground floor of the building should have due regard to this.
15. The design and fit out of the food premises must comply with the Food Safety Standard 3.2.3 - Food Premises and Equipment of the Food Standards Code:
 - a. The design and construction of the food premises including fixtures, fittings and equipment must permit the food premises to be effectively cleaned and if necessary sanitised;
 - b. To the extent that is practicable the food premises design and construction must;
 - i. exclude dirt dust fumes smoke and other contaminants,

- ii. not permit the entry of pests,
 - iii. not provide harbourage of pests
16. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
17. Owners are advised of the requirements of Clause 5.10 of the *Clarence Valley Local Environmental Plan 2011* in relation to the need to obtain prior consent to move, alter, demolish, remove trees, construct fences and buildings, and make changes to the exterior, including changes to the fabric, finish and appearance of a Heritage Item and any building in the Heritage Conservation Area. Many works can be approved through a no fee application for maintenance and works of a minor nature under the Heritage Exemption clause 5.10 (3). Further information is available through Council's website.

Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with plans numbered SKD01 (Amendment B), SKD02, SKD03, SKD04 and SKD07, dated May 2019, five (5) sheets, submitted/drawn by Atelier 41 Architecture, 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:

\$2,500.00

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 \$250,000.00

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

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

3. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Item and/or Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and DCP 2011, are to be submitted to, and approved by Council prior to release of the Construction Certificate.
4. A separate Development Application will be required for any advertisements that are not defined as "exempt development".
5. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
6. A landscape plan, prepared by a person competent in the field is to be submitted to Council for

approval prior to the issue of a Construction Certificate. The plan shall indicate the mature height, location, quantity and species of all plantings and shall provide details of soil conditions, the planting method and maintenance program.

The landscape plan is to indicate, where appropriate, in the communal courtyard areas, the location of a 1m by 1m planter to be cut into the hardstand area for the planting of a tree capable of reaching 4m in height. Additionally, along the western boundary, a privacy screen of lattice or similar is to be installed atop the brick wall with the ability for a vine to grow against to provide screening to adjacent residential uses. Plans shall also indicate features that have the ability to shade areas of the courtyard whether this is by means of plantings or physical shade structures.

7. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
8. An approved fire blanket and fire extinguisher are to be located within 2m of the cooking area.
9. Building Construction Certificate Plans submitted are to demonstrate the laundry can accommodate three (3) washing machines, three (3) wash tubs and three (3) dryers.
10. Any exterior lighting installed shall be directed downwards so as to not cause a light nuisance. Lighting in outdoor communal areas is to be turned off by 10.00pm.
11. The applicant is to submit to Council for approval with the Building Construction Certificate a management plan for the premise in accordance with Clause L7.1 of the Business Zones Development Control Plan. The Plan is also to adopt the following points:
 - a. 24 hour contact details for the on-site manager
 - b. A noise curfew of 10.00pm for outdoor communal areas, with no noise by 12 midnight for interior communal areas
 - c. Amplified devices playing music shall not be audible from adjoining residences
 - d. Provision for/or restriction on consumption of alcohol in common areas,
 - e. Make recommendations on number of people in outdoor communal areas at any one time
12. The maximum stay for guests is twenty-eight (28) consecutive days.
13. The maximum number of occupants is 74 guests at any one time.
14. The on-site manager is to be over the age of 18 years old and is not to be a guest of the premises. The manager is to be on-site at all times, and must be contactable when away from the premises.
15. The register of bookings required by the Management Plan is to be regularly updated and maintained. Should Council request to view the register, it is to be made available to Council within seven (7) days.

Trade Waste

16. An application to discharge liquid trade waste to Council's sewerage system shall be submitted for assessment with the Construction Certificate. Detailed trade waste drainage plans shall be submitted with the application.
17. Approval to discharge liquid trade waste to Council's sewerage system shall be obtained prior to issuing the Occupation Certificate.
18. A grease arrestor with minimum capacity of 1500L shall be installed to treat the waste water from

the kitchen. The arrestor shall be installed in an area accessible for the pumpout service provider and also in accordance with the Plumbing Code of Australia and AS3500 Plumbing and Drainage, Part 2 Sanitary Plumbing and Drainage.

19. All sinks and floor wastes in food preparation areas shall contain basket arrestors.
20. A lint screen shall be provided for the washing machine. An internal factory fitted lint screen is acceptable.

Environmental Health

21. All food preparation and food storage areas shall comply with the requirements of Standard 3.2.3 of Chapter 3 of the Food Standards Code.
22. Detailed plans and elevations of the food preparation and food storage areas shall be submitted to Council for approval prior to issue of a Building Construction Certificate and must include the following:
 - a. Floor plan - to a suitable scale;
 - b. Sectional elevation drawings - to a suitable scale;
 - c. Mechanical exhaust ventilation drawings (i.e. plans, elevation and schematic diagrams, where applicable) - to a suitable scale
23. The following details for your premises shall be included on the plans, drawings or as attached specifications:
 - a. finishes to floors, walls and ceilings;
 - b. layout of all equipment, benches, fittings and fixtures, and mechanical ventilation;
 - c. door and window openings.
24. Mechanical ventilation systems complying with AS1668.1 and AS668.2 are required to be installed for all electrical and gas cooking appliances that exceed 8kW or 29MJ/h respectively. Full details from a mechanical engineer shall be submitted to the Principal Certifying Authority for approval together with a certificate to certify that the whole system complies.
25. The facility must be designed and operated so that noise levels generated at the facility do not exceed 5dB(a) above the background level when measured at the boundary with any sensitive receiver. This must be verified via noise monitoring and assessment undertaken by a suitably qualified person within the first 2 months of operation. This noise monitoring must be undertaken when the facility is in full use, using an appropriately calibrated and operated noise meter
26. All reasonable and feasible mitigation measures must be applied to reduce the potential noise impacts to sensitive receivers resulting from the operation of the facility. At Council's request, additional noise assessment and mitigation may be required. This assessment and mitigation must be undertaken by a suitably qualified person.

Engineering

27. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
28. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained for a minimum of 6 car parking spaces 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.

29. Prior to the issue of the Building Construction Certificates, the adequacy of parking, car parks, driveways and vehicular accesses for the development is to be demonstrated by the submission of standard scale plans with manoeuvring paths shown in accordance with AS2890. This must clearly demonstrate that the parking area will function as intended. The parking area plans are to be submitted and approved by Council or accredited private certifier.
30. Accessible grades and paths of travel are to be provided from carparking bays through to the main entrance of the building in accordance with AS1428.1 and the Building Code of Australia.
31. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued.
32. All on-site visitor parking spaces are to be clearly marked, and a sign or signs conspicuous and legible from the street are to be permanently displayed indicating that visitor parking is available on the site.

Health and Building

33. No construction is to be commenced until a Construction Certificate has been issued.
34. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.
35. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Heritage (formerly the Environment Protection Authority), including:
 - a. Work Health and Safety Act 2011 and associated regulations
 - b. WorkCover NSW Code of Practice for the Safe Removal of Asbestos
 - c. Australian Standard 2601 (2001) - Demolition of Structures
 - d. The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

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

36. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
37. In accordance with the provisions of Clause 93 and 94 of the Environmental Planning and Assessment Regulation 2000 Council requires that the building be upgraded in accordance with the following schedule:
 - a. The existing floor coverings shall be replaced with floor coverings that comply with the fire hazard properties as specified by Part C1.10 of the BCA, or, alternatively, demonstrate that the existing floor coverings comply
 - b. All existing and proposed new egress doors and doors in a path of travel to an egress shall comply with the relevant parts of Part D2 of the BCA

- c. The doors to the sole occupancy units shall comply with Part C3.11 of the BCA
- d. The existing exit and emergency lighting system shall be upgraded to comply with Part E4 of the BCA.
- e. The building shall be provided with an automatic smoke detection and alarm system complying with relevant parts of Part E2 of the BCA. The plans for the system shall be endorsed as being compliant by a competent fire safety practitioner
- f. The walls bounding public corridors and the walls and floors between or bounding sole occupancy units shall comply with BCA Specification C1.1 Part 5.1 for Type C Construction
- g. The maximum exit travel distance from sole occupancy units to exits or to a point of choice between two exits shall comply with Part D1.4 of the BCA. Note: this may require a revision of the proposed floor plan, or, alternatively a performance based solution prepared by an appropriately qualified person may be proposed
- h. Portable fire extinguishers shall be selected, installed and located throughout the building in accordance with Part E1.6 of the BCA.

Note: A Construction Certificate will be required for the works contained in the above schedule and that Construction Certificate shall contain sufficient information to demonstrate compliance with these requirements.

38. Prior to the commencement of works the applicant shall provide Council with a certificate prepared by a practising structural engineer confirming that the existing building and any proposed alterations and additions will be capable of supporting all loads likely to be imposed upon it as a result of the proposed change of use from an office to a backpackers facility.
39. The windows serving sole occupancy units on the first floor of the building shall be made comply with Part D2.24 of the BCA with details of how this is to be achieved being shown on the Construction Certificate documentation.
40. Lots 1 and 2 in DP 160590 shall be consolidated into a single allotment prior to the issue of the Occupation Certificate.
41. The requirements of the Part J BCA Energy Efficiency Evaluation report prepared by Partners Energy dated 02/05/2019 submitted with the development application shall be incorporated into the development with documents verifying compliance being submitted to the principal certifying authority prior to issue of the Occupation Certificate.
42. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
43. **Working/Construction Hours** Working hours on construction or demolition shall be limited to the following:

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

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

44. 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.

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

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

46. 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.

MOTION

Toms/Ellem

That the Ordinary Council meeting be adjourned for a short break at 3.25 pm. CARRIED.

The Ordinary Council meeting resumed at 3.32 pm.

ITEM	6b.20.004	DA2019/0208 – STAGED REDEVELOPMENT OF PACIFIC HOTEL - 16 PILOT STREET, YAMBA
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Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

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

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

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

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

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

OFFICER RECOMMENDATION

That Council:

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

4. Grant development approval to DA2019/0208 in accordance with the conditions and advices contained at the Schedule to this report once revised plans satisfying the request at item 3 above are received.

MOTION

Clancy/Novak

That Council defer item 6b.20.004 to the March Environment, Planning & Community Committee meeting to allow for a Councillor inspection of the DA site due to the number of issues to be considered, but not limited to, such as parking, variation to height limits, drainage and geotechnical hazard (landslip).

FORESHADOWED MOTION

Baker

This item be deferred to allow receipt by Council of a Land and Environment Court photomontage showing the effects from 14a Pilot Street, Yamba.

POINT OF ORDER – Cr Williamson objected to Cr Novak's question as the questions need to be on the motion.

The question was ruled out of order by the Chair.

AMENDMENT TO MOTION

Williamson/Simmons

That Council defer item 6b.20.004 to the March Environment, Planning & Community Committee meeting to allow for a Councillor inspection of the DA site due to the number of issues to be considered, but not limited to, parking, variation to height limits, drainage, geotechnical hazard (landslip) and the developer to provide a Land and Environment Court standard photomontage to Council showing the affects from 14a Pilot Street, Yamba.

Voting recorded as follows:

For: Novak, Clancy, Williamson, Simmons

Against: Baker

The amended Motion was put and declared CARRIED.

COMMITTEE RECOMMENDATION

Clancy/Novak

That Council defer item 6b.20.004 to the March Environment, Planning & Community Committee meeting to allow for a Councillor inspection of the DA site due to the number of issues to be considered, but not limited to, parking, variation to height limits, drainage, geotechnical hazard (landslip) and the developer to provide a Land and Environment Court standard photomontage to Council showing the affects from 14a Pilot Street, Yamba.

Voting recorded as follows:

For: Novak, Clancy, Williamson, Simmons

Against: Baker

COUNCIL RESOLUTION – 6b.20.004**Clancy/Ellem**

That Council defer item 6b.20.004 to the March Environment, Planning & Community Committee meeting to allow for a Councillor inspection of the DA site due to the number of issues to be considered, but not limited to, parking, variation to height limits, drainage, geotechnical hazard (landslip) and the developer to provide a Land and Environment Court standard photomontage to Council showing the effects from 14a Pilot Street, Yamba in conjunction with the erection of a profile indicating the height, location and extent of the proposed northern wall and that this be accompanied by a plan prepared by a qualified builder and certified by a qualified surveyor that they are an accurate representation of the height and location of the wall.

Voting recorded as follows:

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

Against: Nil

AMENDMENT TO MOTION – LAPSED FOR WANT OF A SECONDER

Novak

That

1. Council defer item 6b.20.004 to the March Environment, Planning & Community Committee meeting to allow for a Councillor inspection of the DA site due to the number of issues to be considered, but not limited to, parking, variation to height limits, drainage, geotechnical hazard (landslip) and the developer to provide a Land and Environment Court standard photomontage to Council showing the effects from 14a Pilot Street, Yamba and provide poles indicating the height, location and extent of the proposed northern wall and that this be accompanied by a plan prepared by a qualified builder and certified by a qualified surveyor that they are an accurate representation of the height and location of the wall.
2. Council's legal look over this application and report back to Council.

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

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

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

in Clarence Street. The Star of the Sea development is located to the south-west of the subject land on the corner of Coldstream and Clarence Streets, Yamba. An aerial view of the subject land is shown in Figure 1.



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

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

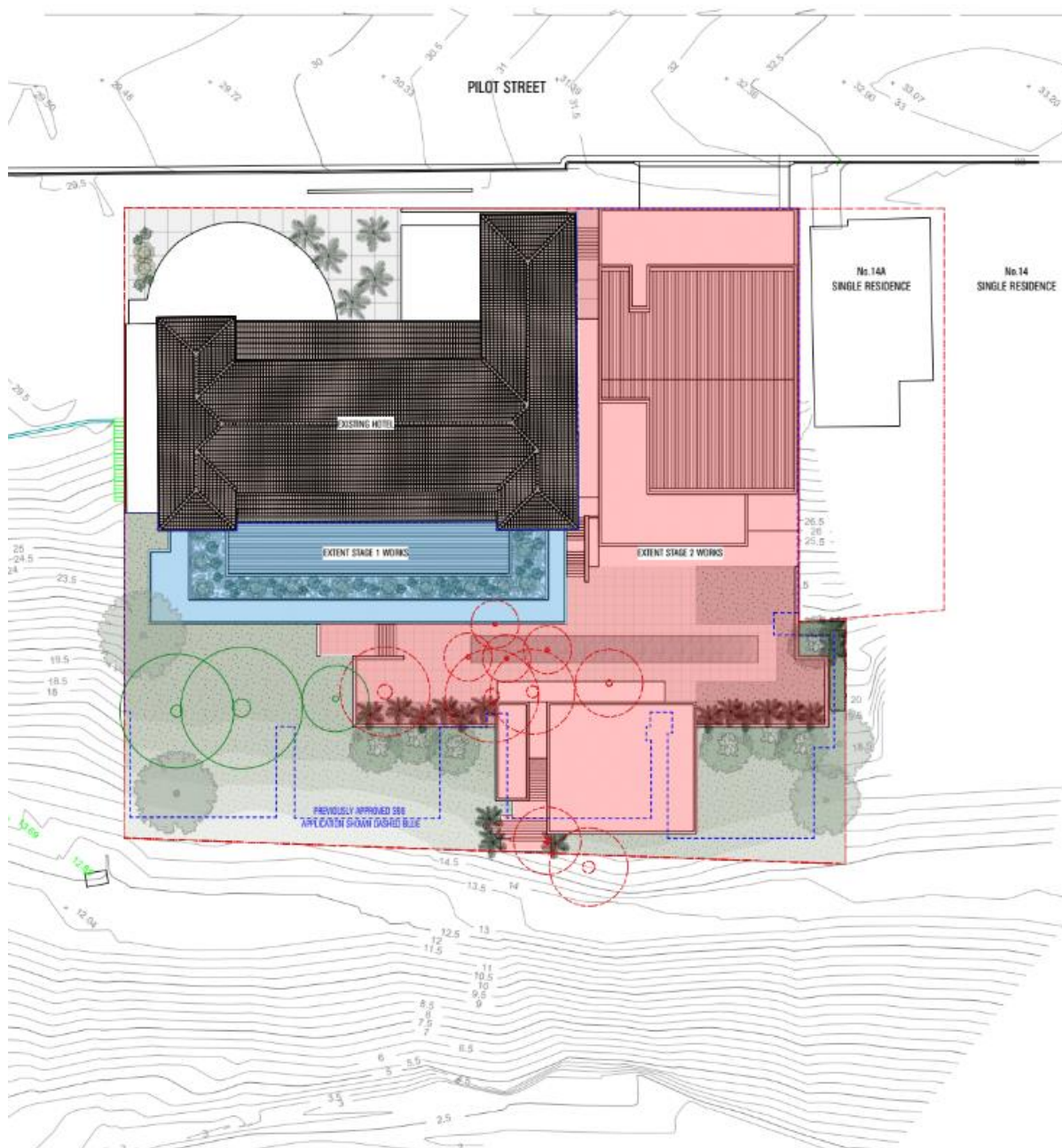


Figure 2 – Site plan extract showing proposed Stage 1 (blue) and 2 (pink) works as well as extent of works approved in 2013 (blue dashed line).

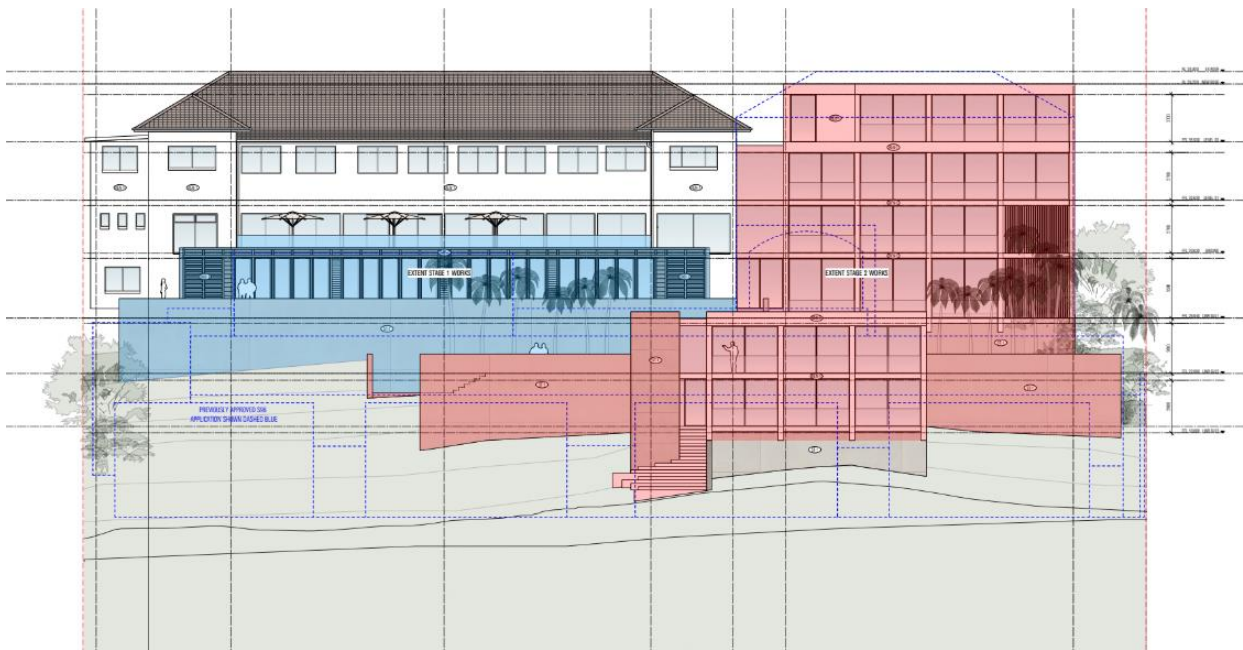


Figure 3 – East elevation showing proposed Stage 1 (blue) and 2 (pink) works as well as extent of works approved in 2013 (blue dashed line).

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

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

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

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

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

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

KEY ISSUES

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

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

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

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

Notwithstanding the above, the Stage 1 works also include provision of a new timber deck at the Hotel Ground/Street level above the Lower Ground Level function room off the existing bar/restaurant area. The floor area of the deck is estimated to be 117.5m². An existing deck of 15m² would be replaced by the more functional larger deck, being an increase of 102.5m². The new deck would be licenced for consumption of alcohol. Council's DCP relevant to the SP3 zone does not contain a car parking requirement for licenced bar or similar. The RMS Guide for Traffic Generating Developments does not offer much guidance for parking rates for such uses and suggests a case by case assessment depending on the circumstances. Council's DCP for Development in Business Zones does however include a parking rate for a pub of 1 space per 4m² of licenced public floor area. If that rate is applied to the extra floor area of the new deck then it could generate the need for 26 parking spaces. A restaurant classification would attract a demand for 4 spaces based on 1/30m² floor area consistent with the DCP. The intent of the improvements to the Hotel is to increase patronage. Increased patronage raises the potential that at least a portion of patrons will want to drive to the hotel. The likely reality is that parking demand would quite reasonably be something in between restaurant and bar rates, especially if dining occurs on the deck area and giving some consideration for patrons that walk, catch a taxi, the Hotel's courtesy bus or use some other form of transport to get to the Hotel. Hence, an average between the two rates would be 15 additional parking spaces and clearly significantly more than the zero extra spaces that is proposed to be provided in conjunction with Stage 1. In the circumstances, the criteria for considering a variation to car parking provision are not deemed to be satisfied given on-street parking in this precinct is at highest demand after hours when peak patronage at the hotel would also be expected. This is a significant impediment to the Stage 1 proposal. The alternative is that the Stage 1 development does not include a deck above the function room space that is greater than 15m² (the size of the existing deck).

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

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

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

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

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

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

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

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

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

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

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

The objectives of clause 4.6 are as follows:

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

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

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

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

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

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

Northern Elevation

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

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

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

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

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

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

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

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

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

Rear Units

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

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

- the encroachment is of a minor nature and being located low on the site will not be apparent*

relative to relative height of existing and proposed building above.

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

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

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

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

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

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

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

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

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

a) *The consent authority is satisfied that:*

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

Comment - Council staff are satisfied that the applicant's request has adequately demonstrated that compliance with the 9 metre height maximum is unnecessary or unreasonable in the circumstances. The additional building height at the two locations will not add any overshadowing of the immediately adjoining property, they will not increase loss of views and they will not result in significant adverse visual impact

when the development is viewed from the neighbouring property, nearby vantage points such as the lighthouse, Main Beach and ocean pool.

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

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

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

The objectives of the SP3 Tourist zone are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Applicant's submission on page 14-15 of the SOEE places weight on the existing 2013 approval containing less landscaped area than now proposed as well as the generous amount of open landscaped space in the adjacent public lands creating a sense of space to offset the non-compliance with this

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

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

The requested variation is supported in the circumstances.

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

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

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

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

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

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

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

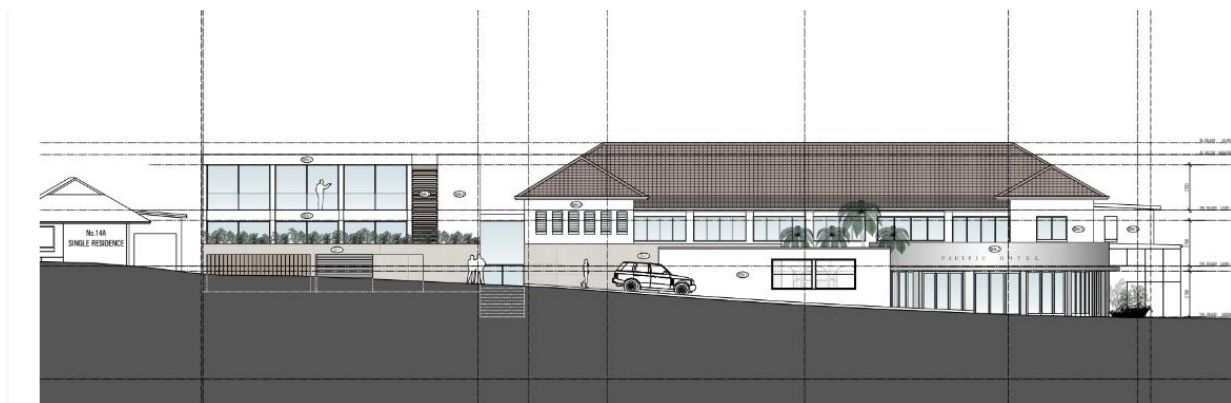


Figure 4 – Streetscape context of the proposed development for the immediate eastern side of Pilot Street.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following options are available to Council:

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

COUNCIL IMPLICATIONS

Budget/Financial

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

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

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

Asset Management

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

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

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

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy (Coastal Management) 2018

Clarence Valley Local Environmental Plan 2011

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

Yamba Coastline Management Plan 2000

Consultation

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

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

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

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

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

Legal and Risk Management

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

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

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

Climate Change

The proposed development within an established urban area in Yamba will make some contribution to CO₂-equivalent emissions through construction and operation which are considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. Notwithstanding that, in general terms the benefit of locating business in appropriate zones proximate to customers is considered to outweigh the negative effects of the development in terms of contribution to climate change. For example, relocating this business elsewhere or full redevelopment of the hotel use would have a greater impact in terms of CO₂-equivalent emissions compared to the proposal currently before Council.

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

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

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

Definitions

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

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

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

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

Civil Works may include:

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

RMS means Roads and Maritime Services

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

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

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

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

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

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

Advices

1. Demolition work is to be carried out in accordance with AS 2601.
2. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

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

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

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

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

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

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

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

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

3. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
4. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
5. The Earthworks Management Plan must include an initial site inspection report. This report should include:
 - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
 - b Certification that the development will be suitable for its intended purpose (commercial buildings) including any parts of the land that will be left in its natural state or modified by the development.

- c Identify any problem areas on or adjacent to the development land (e.g. land slip areas, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.
- c The filling as proposed may cause ponding of stormwater in unfilled sections of the property, including beneath the existing residence. Measures to prevent adverse impact to local drainage, such as a swale at the toe of the fill, are to be identified in the Earthworks Management Plan and approved by Council prior to commencement of any work.

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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

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

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

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

Geotechnical assessment and control
 Restricted to winter months and outside school holidays
 Developer to be responsible for the maintenance of Marine Parade
 Developer to bond maintenance of Marine Parade (\$600,000)
 Steel track vehicles to use timber protection strips if walked
 Survey of the control pins
 Agreement from other stakeholders
 Use to cease if orange or red alert is triggered
 Public Liability Insurance
 License fees

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

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

Conditions

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

Drawing No.	Drawing Title	Revision	Date
DA.01	Site Staging	C	24/1/20
DA.02	East Elevation STAGING	A	19/3/19
DA.10	Site_Roof	D	24/1/20
DA.11	Hotel Lower Ground 03	A	19/3/19
DA.12	Hotel Lower Ground 02	D	31/1/20
DA.13	Hotel Lower Ground 01	D	31/1/20
DA.14	Hotel Ground (Street)	D	31/1/20
DA.15	Hotel Level 1	C	24/1/20
DA.16	Hotel Level 2	C	24/1/20

DA.21	East Elevation	A	19/3/19
DA.22	West Elevation	C	31/1/20
DA.23	North Elevation	B	19/3/19
DA.24	South Elevation	B	19/3/19
DA.25	Detailed West Elevation	B	31/1/20
DA.80	External Finishes Board	A	19/3/19

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

\$75,000

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This amount is based on the following calculation

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

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

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

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

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

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

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

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

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

5. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.

6. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Heritage (formerly the Environment Protection Authority), including:
- a Work Health and Safety Act 2011 and associated regulations
 - b SafeWork NSW Code of Practice - How to Safety remove Asbestos.
 - c Australian Standard 2601 (2001) - Demolition of Structures
 - d The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

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

7. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures. The Work Plan must include the following information (as applicable):
- a The name, address, contact details and licence number of the Demolisher/Asbestos Removal Contractor
 - b Details of hazardous materials, including asbestos
 - c Method/s of demolition and removal of asbestos
 - d Measures and processes to be implemented to ensure the health & safety of workers and community
 - e Measures to be implemented to minimise any airborne asbestos and dust
 - f Methods and location of disposal of any asbestos or other hazardous materials
 - g Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
 - h Date the demolition and removal of asbestos will commence

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

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

8. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
9. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot. Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
10. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.

11. A waste minimisation plan shall be submitted to Council and approved prior to issue of the Construction Certificate for each stage demonstrating how demolition waste (including excess soil and vegetation), construction waste and waste (garden waste, general waste and recyclables) generated during occupation of the development will be collected from the subject land and disposed of to minimise the volume of waste going to landfill. Council may require provision of documentation verifying compliance with the approved waste minimisation plan/s for demolition and construction phase at any time prior to issue of the final Occupation Certificate for the final component of this development.
12. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Occupation Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
13. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **CC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Occupation Certificate. The Council will hold each Occupation Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.
Prior to commencement of works or issue of a **CC**, A practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works :
 - a including earthwork batters and retaining walls, have been designed to be structurally adequate.
 - b will not be affected by landslip either above or below the works.
 - c will not be affected by subsidence either above or below the works
 - d includes adequate drainage to ensure the stability of the development
14. An **ITP** must be submitted for approval with the application for a **CC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

Hold Point, Witness Point and Audit inspections must be documented by the ITP and include the following works (but not limited to):
 - a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
 - b Erosion & Sedimentation Controls
 - c Earthworks
 - d Roadworks
 - e Stormwater Drainage
 - f Sewer
 - g Water
 - h Other Services
 - i 'On Maintenance' (Public Infrastructure)
 - j Practical Completion (Works on Private Property)
 - k 'Off Maintenance' (Acceptance of Public infrastructure by Council)
15. Any soil taken from the subject land must be certified as ENM or VENM or disposed of to an

appropriately licenced waste management facility. Council may require provision of documentation verifying compliance with this requirement at any time prior to issue of the final Occupation Certificate for this development.

16. Prior to issue of the **CC** a risk and maintenance management assessment of infrastructure must be undertaken and documented by a suitably qualified person. The written acceptance of the assessment from the infrastructure owner is required to be submitted with the **CC**.
17. Prior to the issue of the Occupation Certificate or Release of Bond, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
18. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
19. Construction & Traffic Management Plans (C&MP's) are required to be endorsed by Council prior to commencement of work. These plans must document and the proposed methods of work within the development work site and the associated public road network.

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

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

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

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

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

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

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

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

23. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:

- a plumbing work prior to covering/lining walls
- b sewer work prior to back filling/lining
- c final inspection of plumbing and drainage work.

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

24. All **new** hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:

- a 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- b 50°C in all other classes of buildings.
- c A higher hot water temperature is acceptable at all other fixtures, eg. laundry tub and kitchen sink.

25. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.

26. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **CC** application for approval by Council. Road reservation widths are to be in accordance with **NRDC** plus additional width to contain proposed **WSUD** components as approved by Council.

27. A pavement condition report is to be provided for the surrounding road network. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **CC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development. Any pavement damage caused during the construction phase shall be repaired to Council standards at the Applicants cost.

28. All stormwater from roofed spaces higher than the Pilot Street gutter shall be collected and conveyed to the Pilot Street storm water drainage system. Stormwater from all other parts of the development and subject land shall be managed to incorporate **WSUD** requirements as required by **NRDC**. Details are to be included in Stormwater Management Plan/s.

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

A Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**

The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the **CC** Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

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

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

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

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

accessway in accordance with AS 1428.1-2009:

- a from the main points of a pedestrian entry at the allotment boundary;
- b from another accessible building connected by a pedestrian link; and
- c from any required accessible carparking space on the allotment.

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

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

The Earthworks Management Plan must include:

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

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

The detailed site inspection report is to include certification that the land created by the development will be suitable for its intended purpose (e.g. residential buildings) including any parts of the land that will be left in its natural state or once suitably modified by the development. The detailed site inspection report should identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

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

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

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

Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.

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

Details of geotechnical laboratory and in situ (principally dry density assessment) testing for each fill type and specified volume of placed fill including records of the date and time of all testing, the source of material tested in the laboratory, and the spatial distribution and reduced level of in situ tests. The latter must be correlated with results from the laboratory testing of similar material.

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

Certification of the completed earthworks (including cut, fill, earth retaining structures as far as the geotechnical aspects) that the work is suitable for the intended use.

Should there be any change in the source of fill material from that previously approved for the development, the Principal Certifying Authority must be notified and approval obtained to the

new source prior to the import of any of the material. A report from a practicing geotechnical engineer certifying that the new source material is suitable for the intended purpose must be provided. The report to include any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of fill type. The Earthworks Management Plan to be amended accordingly.

38. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
39. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC.
40. A detailed Erosion and Sediment Control Management Plan for each stage of the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a CC for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
41. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
42. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.
43. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of earthworks. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.
44. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to this building. Sufficient written documentation shall be submitted with the Construction Certificate application to indicate compliance with Section J in the following areas:
 - a Building fabric
 - b External glazing
 - c Building sealing
 - d Air movement
 - e Air conditioning and ventilation
 - f Artificial lighting and power
 - g Hot water supply
 - h Access for maintenance
45. A certificate of conformity from a suitably qualified building professional shall be submitted to the

Principal Certifying Authority with the Construction Certificate application to confirm that the proposed building will comply with Section J of the BCA.

46. No vehicular access to or from the subject land shall occur over the Crown Reserve located to the south of the subject land, except where in accordance with a valid lease or licence agreement from the relevant authority.

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

7:00am to 6:00pm Monday to Friday

8:00 to 1:00pm Saturday

No work is permitted on Sundays or Public Holidays. The builder to be responsible to instruct and control sub-contractors regarding approved hours of work.

48. Any alterations to the road pavement in Pilot Street are to have full road construction, and 40mm minimum depth of compacted asphaltic concrete surface and kerb and guttering. The AC mix shall be designed in accordance with the estimated maximum traffic loading or the ESAs specified in NRDC whichever is the greater. A concrete road pavement suitable for the intended design loadings may be used.

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

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

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

50. All noise control measures detailed in Section 7 of the *Acoustic Report* must be implemented.

51. On nights when entertainment is provided, the northern doors of the lounge/restaurant area are to be shut from 9.30 pm to prevent access to patrons and to reduce sound level emanating from the hotel to the north. The function/conference room must close all windows and doors when amplified music is provided.

52. The development must be designed and operated such that, with regard to music and patron noise, the following noise criteria are achieved:

a. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

b. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00

midnight and 07:00 am.

53. Prior to the Construction Certificate being issued, compliance with this noise criteria must be verified by an acoustic assessment undertaken by a suitably-qualified person. This assessment must be provided to Council for review prior to the Construction Certificate being issued.
54. A noise assessment (incl. monitoring at the closest representative sensitive receiver) must be undertaken by a suitably-qualified person within the first month of operation and bi-annually thereafter. The intent of the noise assessment is to ensure the operational (actual) noise levels does not exceed those predicted in the above-mentioned acoustic assessment. A letter Report summarising the findings of this assessment must be submitted to Council for review.
55. All reasonable and feasible mitigation measures must be applied to reduce the potential noise impacts to sensitive receivers associated with the construction and operation of the development. At Council's request, additional noise assessment and mitigation may be required. This assessment and mitigation must be undertaken by a suitably qualified person.
56. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Item and/or Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and DCP 2011, are to be submitted to, and approved by Council prior to release of the Construction Certificate. Primary, bold, vivid and neon colours are not to be used. Corporate signage is to be restricted to the awning fascia and small areas of the building. The main colour of the building façade is to be in neutral colour.
57. A detailed landscaping plan is to be submitted to Council for approval prior to the release of the Construction Certificate. The Stage 1 landscaping plan shall retain existing native trees on the rear of the subject land that are not required to be removed for Stage 1 works. The Stage 2 landscaping plans shall retain the native trees at the south-east part of the site that are not required to be removed for Stage 2 works. These plan/s must comply with the requirements of Council's Development Control Plan and is to indicate:
 - a) proposed plantings [species, expected growth habits and size, function (eg shade, privacy, etc)]
 - b) container sizes for each planting
 - c) the edge treatment proposed where garden beds abut grass
 - d) planting specifications
 - e) irrigation/water management
 - f) management of deep soil zones
 - g) soil specifications for garden beds and landscaped areas above basement structures or other constructed foundations
 - h) a maintenance programme for the initial 6 months after planting
58. Any native trees or shrubs existing on the site and not directly in conflict with proposed building footprints are to be retained and protected during construction works.
59. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
60. Trees to be retained on-site shall be protected from damage during demolition and construction works.
61. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
62. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.

63. **Retaining Walls** If the soil conditions require it:-
- a Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement to the soil must be provided; and
 - b Adequate provision must be made for drainage.

64. The development is to be connected to all available services (water, sewerage, electricity and telephone) to the satisfaction of Council prior to issue of the Occupation certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the applicant.

Service locations are to be clearly dimensioned on the construction certificate plans.

Any variation to the service location from that approved with the Construction Certificate plans must be clearly documented on the work as executed plans. A surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.

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

66. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:

- a Stating that unauthorised entry to the work site is prohibited;
- b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
- c Showing the name, address and telephone number of the principal certifying authority for the work.

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

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

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

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

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

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

70. The installation and maintenance of the swimming pools child resistant barrier shall comply with the requirements of the Swimming Pools Act 1992 and AS 1926.1 and be fitted with a self-closing, self-latching, outward opening gate prior to filling the pool with water.
71. The swimming pool/spa pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
 - b before 7.00 am or after 8.00 pm on any other day.
72. The swimming pool water recirculation and filtration system must comply with AS 1926.3-2010. The installation contractor shall provide Council with an Installation Certificate attesting to the products being selected and installed in accordance with the requirements of that standard.
73. The swimming pool waste water is to be disposed of to the sewer via a surcharge gully with a minimum 100mm air gap between the waste outlet and the top of the gully surrounds.
74. An approved CPR and pool safety sign is to be provided within the pool enclosure in accordance with the requirements of the Swimming Pools Act 1992 prior to the final inspection.
75. The pool shall be registered on the NSW Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au before issue of an Occupation Certificate.
76. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:
- a bears a notice containing the words "This swimming pool is not to be occupied or used", and
 - b is located in a prominent position in the immediate vicinity of that swimming pool, and
 - c continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.
77. **Toilet Facilities** are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a 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.
78. The maximum height of the Stage 2 northern accommodation building adjacent to Pilot Street shall be 11.1 metres above existing ground level and the maximum height of the Stage 2 northern accommodation building adjacent to the eastern boundary of the subject land shall be 9.2 metres above existing ground level.
79. The only accommodation provided in the southern portion of the hotel at the completion of Stage 1 shall be 7 hotel units, 5-bed backpackers accommodation and a managers residence (with up to 5 bedrooms).
80. That the proposed deck above the function room shall be no more than 15m² in area.
81. Fin wall extensions or fixed louvres shall be provided on the northern side of balconies at the eastern elevation of the main Stage 2 accommodation building closest to the adjoining residential

property to reduce privacy impacts for the adjoining residents. Details are to be provided in Stage 2 Construction Certificate plans.

82. Screening shall be provided along the northern side of the pool terrace to reduce privacy impacts for the adjoining residents. Screening that allows light penetration and air movement and prevents views from the pool terrace towards the adjoining dwelling are required. Details are to be provided in Stage 2 Construction Certificate plans.
83. Bulk waste bins shall not be stored on Council's road reserve.

Reasons

1. To ensure that the development complies with the *Clarence Valley Local Environmental Plan 2011* and relevant Development Control Plan that is applicable to the proposed development.
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 Contributions Plan.
6. To comply with Council's Sewer and Water Development Services Plans.
7. To ensure that vehicular access and parking are provided in accordance with Council's Engineering Specifications for Development.
8. To ensure that the requirements of the Building Code of Australia are satisfied.

ITEM	6b.20.005	JAMES CREEK URBAN GROWTH AREA ROAD INFRASTRUCTURE DEVELOPER CONTRIBUTIONS PLAN
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report considers the outcomes of the exhibition of a draft contributions plan for road infrastructure at James Creek. This is to be known as *James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan* or the *Plan* or draft plan in this report. The draft plan was exhibited with the title *James Creek (Stage 1) Urban Release Area (URA) Road Infrastructure Developer Contributions Plan*.

The draft plan was publicly exhibited from 31 May to 28 June 2019. It now remains for Council to again consider the draft plan in light of the one submission received and to decide how to finalise the draft plan. A copy of the exhibited draft contributions plan is at Attachment 1.

This report recommends Council adoption of an amended contributions plan. The amended contributions plan recommended for adoption is at Attachment 2. The amended contributions plan result in a per lot or dwelling contribution rate that is **9.5%** less than was in the exhibited draft plan.

OFFICER RECOMMENDATION

That Council:

1. Note the exhibition outcomes of the *James Creek (Stage 1) Urban Release Area (URA) Road Infrastructure Developer Contributions Plan*.
2. Note the post-exhibition changes to the Draft *James Creek (Stage 1) Urban Release Area (URA) Road Infrastructure Developer Contributions Plan* which includes a proposed change to the plan title to *Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan*.
3. Adopt the amended *Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan* at Attachment 2.
4. Authorise the General Manager to make appropriate amendments to the *Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan* which do not change the intent of the Plan.
5. Give notice of its decision in accordance with the Environmental Planning and Assessment Regulation 2000.

Having declared an interest in this item, Cr Ellem left the EP&C meeting at 4.23pm and returned at 4.23pm.

COMMITTEE RECOMMENDATION

Williamson/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

Having declared an interest in this item, Cr Ellem left the Council meeting at 3.45 pm and returned at 3.46 pm.

COUNCIL RESOLUTION – 6b.20.005

Toms/Novak

That Council:

1. Note the exhibition outcomes of the James Creek (Stage 1) Urban Release Area (URA) Road Infrastructure Developer Contributions Plan.
2. Note the post-exhibition changes to the Draft James Creek (Stage 1) Urban Release Area (URA) Road Infrastructure Developer Contributions Plan which includes a proposed change to the plan title to Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan.
3. Adopt the amended Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan at Attachment 2.
4. Authorise the General Manager to make appropriate amendments to the Clarence Valley Council James Creek Urban Growth Area Road Infrastructure Developer Contributions Plan which do not change the intent of the Plan.
5. Give notice of its decision in accordance with the Environmental Planning and Assessment Regulation 2000.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

Council on 16 October 2018 resolved (Council Resolution - 15.184/18) to “commence the development of the Section 94 plan for the upgrade of James Creek Road as per part 7 of the Council resolution 13.031/14 relating to the rezoning for the James Creek Urban Release Area”.

It also resolved that:

- At the time the plan is submitted to Council, the General Manager report on all funding options available for the plan, including but not limited to: Council’s internal reserves and State and Federal Government funding available for affordable housing.
- It consider Gardiners Road as part of any Section 94 planning.

Origins of urban rezoning at James Creek and probable need for upgrading of James creek Road can be traced back to at least 2011. On 19 July 2011 Council first resolved to support the preparation of a Planning Proposal over Lot 104 DP 751388, James Creek Road, James Creek. This culminated in Lot 104, which is now the subject of the current draft roads infrastructure contributions plan being zoned part R1 General Residential, R3 Medium Density Residential and B1 Neighbourhood Centre on 25 July 2014.

18 March 2014 Council resolved (13.031/14) to finalise the Planning Proposal. In particular it also resolved that:

“7. Upon rezoning of the land, Council proceed to prepare a:

- (c) DCP amendment (Residential Zones DCP) for the James Creek Urban Release Area consistent with the provisions of Part 6 Urban release areas/ clause 6.3 Development control plan of the Clarence valley LEP 2011.*
- (d) Section 94 roads contributions plan to guide and provide contributions towards local road works within the catchment of both the James Creek and Gulmarrad urban release areas.”*

On 16 August 2011 Council resolved to endorse/finalise an amended Maclean Urban Catchment Local Growth Management Strategy 2011 (MUCLGMS). This recognised James Creek as the 4th village in the Maclean Urban Catchment to provide for longer term urban housing demand. The MUCLGMS also recognised that James Creek Road will also require upgrading including raising a portion of Gardiners Road to provide flood protection and a cycleway connection to Townsend. In particular item 1 of Council’s resolution 14.006/11 was as follows:

- 1. That Council endorse the Maclean Urban Catchment Local Growth Management Strategy, as amended by the “Schedule of Recommended Amendments” at the end of the report 12.110/11 and further amend the strategy to include Lot 104 DP 751388 James Creek for residential development subject to adequate arrangements being made by developers in both James Creek and Gulmarrad to share the upgrading costs of the Woodford Island Treatment Plant and by the developers for James Creek for Gardiners Road and James Creek Road upgrading including cycle way and seek the Director-General, Department of Planning and Infrastructure’s endorsement as a residential Strategy under the North Coast Regional Environment Plan.*

The recent history of consideration of this matter is provided in the table at Attachment 3.

KEY ISSUES

The key issues are presented below. Other issues contributing to recommended minor amendments to the exhibited draft plan are contained in the table at Attachment 4.

Apportionment factor

The submitter disagrees with the following statement in the plan (page 14) which results in 100% apportionment of the cost of the roadworks being attributed to the future development of Lot 104, DP 751388:

“The proposed upgrade works are considered directly attributable to the future traffic generated by the residential development in James Creek (Stage 1) URA”.
All works, and hence costs, are attributable to the additional traffic volumes being generated by the new development.”

The submission objects to the 100% apportionment of the cost of the draft plans identified roadworks to the development of the Lot 104, which ignores existing and future development. In respect of the future development it makes reference to the 2014 rezoning process for Lot 104 and the predecessor and supporting documents which include the Council’s Maclean Urban Catchment Local Growth Management Strategy 2011 (Maclean LGMS) as well as the James Creek Infrastructure and Services Strategy (Servicing Strategy) prepared by Johnston Enterprises Australia Pty Ltd on behalf of the rezoning proponent.

In relation to the latter the submission states that:

“The Strategy included an Indicative Structure Plan for James Creek based on the Maclean LGMS which included 4 key lots:

- *Lot 104 DP 751388 (the subject lot)*
- *Lot 1 DP 1025045*
- *Lot 8 DP 876244*
- *Lot 10 DP 830112*

Together they were estimated to provide 500 dwellings in the James Creek Urban Release Area of which approximately 300 were on the subject land and 200 on the other 3 lots”.

The submission also correctly states that Council also still levies rural road upgrading contributions authorised under the still current (Maclean Shire) Section 94 Contributions Plan for Rural Roads for development within the now R5 zoned land in this locality.

Comment

According to the Department of Planning and Environment’s Development Contributions Practice Notes, July 2005 (2005 Practice Notes) the 2 key concepts of (section 7.11) development contributions are reasonableness and accountability. In turn reasonableness is underlain by 2 key principles, as follows:

- (i) **nexus** - the connection between development and demand created for new infrastructure or facility); and
- (ii) **apportionment** - the share (of demand or cost of new facility/infrastructure provision) borne by future development

In short apportionment is the share borne by future development. The concept of apportionment relates to the process which seeks to isolate demands to ensure that the contributing population only pays for its share of the total demand.

The 2005 Practice Notes also state that –

“Full cost recovering (i.e. 100% apportionment to new development) can only be used where the public facility is provided to meet the level of demand anticipated by new development only and there is no facility or spare capacity available in the area. If the proposed public facility satisfies not only the demand of new development, but also some regional demand, demand by people from outside the area, or makes up for some existing deficiency, only the portion of demand created by new development can be charged”.

The 100% apportionment of the infrastructure upgrade to the future residential development of Lot 104, DP 751388 in the exhibited draft contributions plan could be considered inequitable. A lesser apportionment factor of 50% or 0.5 will be recommended for a revised contributions plan in relation to the physical road upgrade works due to existing road usage. This will assist in reducing the per lot or dwelling contribution rate in the exhibited draft plan. Refer to proposed amendments to the draft contributions plan, below.

However, an apportionment factor of 100% is recommended in relation to plan preparation costs. This will result in the addition of a new section 4.1.5 Plan preparation and administration as well as an amendment to section 4.1.6.

Other identified roads upgrade projects

Council’s Manager Civil Services has identified the need to upgrade other parts of the road network in the vicinity of the James Creek Urban Growth Area. These other upgrades are:

James Creek Road (South) widening

Approximately 900m at the southern end of James Creek Road is constructed to half of the required formation width. This is insufficient to cope with the increased traffic generated by future development within the plan area. The total expected upgrade costs (to full width construction) would be \$315,000.

Gardiners Road/James Creek Road Intersection

The Gardiners Road/James Creek Road Intersection is located in the middle of a sweeping bend with limited visibility in both directions. This arrangement is unsatisfactory into the future, particularly with the projected 300 additional dwellings as a consequence of development in the plan area. Increased vehicles associated with additional development within the plan area would require an intersection upgrade at Gardiners/James Creek Roads to address the increased risk of harm with greater traffic volumes including:

- A widening of a 630 metre length of Gardiners Road.
- Sealed shoulders and sheltered turn lanes into and out of James Creek Road.

The total expected upgrade costs would be \$675,000.

It will be recommended that these additional road upgrade projects be added to the exhibited draft contributions plan. This will increase aggregate cost of all road projects, thus having an influence on the per lot or dwelling contribution rate in the exhibited plan. Refer to proposed amendments to the draft contributions plan, below.

Proposed amendments to the draft contributions plan

Some of the matters (apportionment and addition of other road upgrade projects) discussed above will result in a recommendation to amend the exhibited draft contributions plan. Other amendments are to be recommended, the most significant of which are outlined below. The table in Attachment 4 also outlines a range of other minor recommended amendments to tidy up the exhibited draft plan.

Section or Page No.	Matter/Issue
Section 4.1.4	<p>The cost of the following proposed road upgrade projects have been increased:</p> <ul style="list-style-type: none"> • Yamba Road/James Creek Road Intersection - change total expected upgrade cost from \$649,000 to \$1,224,040. • Gardiners Road - the total length of road to be raised to provide a 1:20 year flood level immunity is 900 metres. The total expected upgrade cost is increased from \$379,453 to \$702,000. <p>Amendments to section 4.1.4 have been proposed to reflect this.</p> <p><u>Reason</u> - this is recommended following further review of the proposed road upgrade projects by Council's Manager Civil Services who considers that the revised costs are more realistic than those in the exhibited plan.</p> <p>As mentioned in KEY ISSUES above, Council's Manager Civil Services identified the need to upgrade other parts of the road network in the vicinity of the James Creek Urban Growth Area resulting in the addition of 2 additional road upgrade projects, as follows:</p> <ul style="list-style-type: none"> • James Creek Road (South) widening - total expected upgrade cost of \$315,000. • Gardiners Road/James Creek Road Intersection - total expected upgrade cost

Section or Page No.	Matter/Issue												
	<p>of \$675,000.</p> <p>Again, amendments to section 4.1.4 are to be recommended to reflect this.</p>												
<p>Appendix A - Works Schedule</p> <p>Table E1 – Summary of works</p> <p>Table E2 – Summary of contributions rates</p> <p>Section 4.1.6</p> <p>Section 4.1.7</p>	<p>The following factors (already discussed) have resulted in a change to the exhibited per lot or dwelling contribution rate:</p> <ul style="list-style-type: none"> (i) an increase in the cost of proposed road upgrade projects in the exhibited plan; (ii) the addition of 2 additional road upgrade projects, with their associated costs; (iii) a reduction in the apportionment factor; (iv) a slight increase in the estimated additional population in the plan area catchment over the planning period. <p>The aggregate of the estimated cost of all road projects as a consequence of (i) and (ii) above increases from \$1,945,599 to \$3,599,587; that is an 85% increase (Appendix A).</p> <p>A proposed reduction of the apportionment factor from 100% (or 1) to 50% (or 0.5) reduces the “maximum cost met by development” by half; in the context of the revised aggregate of the estimated cost of all physical road upgrade projects, this figure or cost will now be \$1,799,793 (50% of \$3,599,587).</p> <p>A slight increase in the estimated additional population in the plan area catchment over the planning period (from 754 to 780) will assist in spreading the cost of the aggregate cost of all road projects across slightly more population. However, this does not have profound impact on the overall contribution quantum.</p> <p>It is also recommended that the draft contributions plan be amended to provide for the recoupment of plan preparation costs from contributions to development. This is permitted by Practice Notes issued by the former Dept. Planning & Environment. The direct consultant cost of preparing this plan is \$21,556. The apportionment factor that should be applied to this cost/component should be 100%.</p> <p>The above matters surprisingly contribute to a revision (reduction) in the quantum of the exhibited contribution rates (Table E2), as follows:</p> <table border="1" data-bbox="470 1473 1390 2074"> <thead> <tr> <th data-bbox="470 1473 874 1682"></th> <th data-bbox="874 1473 1129 1682">Exhibited Contribution rate (James Creek Urban Growth area catchment (per lot or dwelling))</th> <th data-bbox="1129 1473 1390 1682">Revised Contribution rate James Creek Urban Growth area catchment (per lot or dwelling)</th> </tr> </thead> <tbody> <tr> <td data-bbox="470 1682 874 1756">Residential lot/Dwelling house - 2.6 persons per lot/ dwelling</td> <td data-bbox="874 1682 1129 1756">\$6,708.96</td> <td data-bbox="1129 1682 1390 1756">\$6,071.13</td> </tr> <tr> <td data-bbox="470 1756 874 1861">Medium and high density residential* - 1.7 persons per lot/dwelling</td> <td data-bbox="874 1756 1129 1861">\$4,386.63</td> <td data-bbox="1129 1756 1390 1861">\$3,969.58</td> </tr> <tr> <td data-bbox="470 1861 874 2074">Self contained Seniors Housing and workforce accommodation; Manufactured homes in a manufactured home estate; moveable dwelling in a</td> <td data-bbox="874 1861 1129 2074">\$3,870.55</td> <td data-bbox="1129 1861 1390 2074">\$3,502.57</td> </tr> </tbody> </table>		Exhibited Contribution rate (James Creek Urban Growth area catchment (per lot or dwelling))	Revised Contribution rate James Creek Urban Growth area catchment (per lot or dwelling)	Residential lot/Dwelling house - 2.6 persons per lot/ dwelling	\$6,708.96	\$6,071.13	Medium and high density residential* - 1.7 persons per lot/dwelling	\$4,386.63	\$3,969.58	Self contained Seniors Housing and workforce accommodation; Manufactured homes in a manufactured home estate; moveable dwelling in a	\$3,870.55	\$3,502.57
	Exhibited Contribution rate (James Creek Urban Growth area catchment (per lot or dwelling))	Revised Contribution rate James Creek Urban Growth area catchment (per lot or dwelling)											
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Self contained Seniors Housing and workforce accommodation; Manufactured homes in a manufactured home estate; moveable dwelling in a	\$3,870.55	\$3,502.57											

Section or Page No.	Matter/Issue		
	caravan park - 1.5 persons per lot/dwelling, manufactured home, moveable dwelling		
	<p>Therefore, whilst the aggregate cost of all road projects increased dramatically (85%) the generous reduction in the apportionment (100% to 50%) has acted to reduce the per lot or dwelling contribution rate to below the exhibited rate; that is a 9.5% reduction.</p> <p>The matters raised above result in consequential amendments to the following parts of the exhibited plan:</p> <ul style="list-style-type: none"> • Works Schedule (Appendix A) • Summary of works (Table E1) • Summary of contributions rates (Table E2) • Section 4.1.6 - Apportionment • Section 4.1.7 - Calculation of contribution rate 		

Compliance with legislation and guidelines

A development contributions plan is required to comply with relevant legislation including the Environmental Planning and Assessment Act 1979 (the Act), Environmental Planning and Assessment Regulation 2000 (the Regulation) and relevant practice notes.

The Dept. Planning & Environment's Development Contributions Practice Notes (July 2005) states that Council should:

- Review all submissions thoroughly and make an assessment as to whether the submission has merit and, if so, whether there is a need for review of the exhibited draft plan.
- Assess whether any such amendments are likely to have any impact on the level of contribution (either increase or decrease) or the manner in which the contributions are set (eg how they apply to specific development).

The Practice Notes go on to say that where there are likely to be significant changes to the quantum of the contributions or the manner in which they are set in the draft plan, Council should consider the need for exhibition of these amendments.

In this context whilst the proposed changes to manner in which the contributions have been set can be considered reasonably significant, the recommended change to the level of the contribution has a favourable impact toward the future contributing party; that is, it is being recommended that Council adopt a contributions plan that sets a lower (**9.5%** decrease) per lot or dwelling contribution rate than was in the exhibited draft plan.

Therefore in these circumstances it is considered that the amended draft contributions plan does not need to be exhibited again.

COUNCIL IMPLICATIONS

Budget/Financial

The cost of preparing the draft contributions plan is \$21,556. Amendments recommended to the exhibited draft plan include provision to recoup plan preparation/administration costs via the proposed per lot/dwelling contribution rate.

Also, a range of recommended amendments discussed in KEY ISSUES above result in a lowering of the proposed per lot/dwelling contribution rate.

Based on a revised per lot/dwelling contribution rate of \$6,071.13, the plan has the potential to levy \$1,821,339.

Asset Management

Development contributions levied on development are applied to towards the capital funding of infrastructure projects/upgrades identified in the contributions plan. Development contributions cannot be used for on-going operational and maintenance costs.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Development Contributions Practice Notes, July 2005 (Dept. of Planning & Environment)

Consultation

The draft contributions plan was publicly exhibited from 31 May to 28 June 2019. One submission was received that being on behalf of the owner Lot 104, DP 751388 which is the sole land parcel the subject of this contributions plan. A copy of the submission is at Attachment 5. The submission raises issues relating mostly to the apportionment factor in the exhibited draft contributions plan; that is the 100% apportionment of the cost of the draft plan's identified roadworks to the development of the Lot 104. This matter is discussed in KEY ISSUES above.

Legal and Risk Management

Council needs to consider and adopt a contributions plan that is compliant with relevant legislation and practice notes. It is considered that the draft contributions plan that is recommended for adoption in this report is compliant with relevant legislation and practice notes.

Climate Change

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none"> 1. Exhibited draft James Creek contributions plan 2. Amended James Creek contributions plan 3. History of James Creek rezoning and contributions plan development 4. Minor recommended amendments to exhibited contributions plan 5. Submission to exhibited contributions plan

ITEM	6b.20.006	LOT SIZE ISSUE – MOUNTAIN VIEW ESTATE AND CRONIN ESTATE
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report considers whether Council should remedy a future “lot size” issue for a select number of lots in the Mountain View Estate and Cronin Estate developments in the former Copmanhurst Shire.

OFFICER RECOMMENDATION

That Council waive its rezoning application fees and the applicant prepare the planning proposal at their own cost.

COMMITTEE RECOMMENDATION

Baker/Simmons

That Council waive its rezoning application fees of approximately \$10,395 and the applicant prepare the planning proposal at their own cost.

Voting recorded as follows:

For: Williamson, Simmons, Novak, Baker

Against: Clancy

COUNCIL RESOLUTION – 6b.20.006

Ellem/Novak

That Council waive its rezoning application fees of approximately \$10,395 and the applicant prepare the planning proposal at their own cost.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

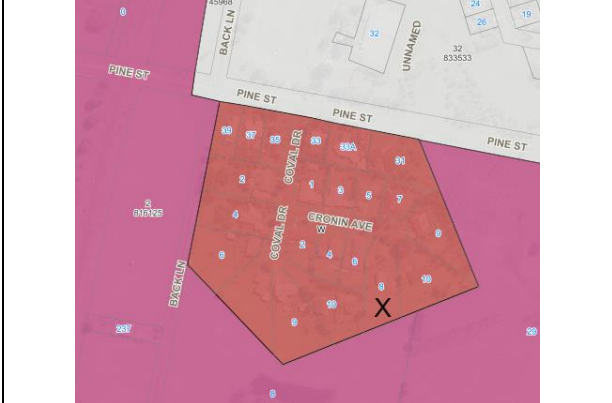
BACKGROUND

In November 2017 A. Fletcher & Associates (the Applicant) drew Council’s attention to a looming “lot size” issue associated with some lots in the Mountain View Estate and Cronin Estate developments. The particular issue is outlined further in KEY ISSUES below.

Currently, both estates are zoned R5 Large Lot Residential and subject to a Lot Size of 4,000m² on the Lot Size map. Prior to this both areas were zoned 1 (c) Rural (Small Holdings) under the former Copmanhurst Local Environmental Plan 1990. Further, clause 20 of the Copmanhurst LEP 1990 enabled the subdivision of 1(c) land into lots as small as 2,000m² provided that a majority of the allotments to be created had an area of not less than 4,000 square metres.

A copy of correspondence from the applicant in relation to this matter is at Attachment 1.

Mountain View Estate	
Zoning under CVLEP 2011	Zoning under CLEP 1990
Lot size under CVLEP 2011	Lot size under CLEP 1990
	clause 20 of the Copmanhurst LEP enabled the subdivision of 1(c) land into lots as small as 2,000m ² provided that a majority of the allotments to be created had an area of not less than 4,000 square metres.
Cronin Estate	
Zoning under CVLEP 2011	Zoning under CLEP 1990

Lot size under CVLEP 2011	Lot size under CLEP 1990
	<p>clause 20 of the Copmanhurst LEP enabled the subdivision of 1(c) land into lots as small as 2,000m² provided that a majority of the allotments to be created had an area of not less than 4,000 square metres.</p>

KEY ISSUES

The key issues include future dwelling permissibility on lots in the Mountain View Estate and Cronin Estate less than 4,000m² after 23 December 2021. The other principal issue is the question of strategic justification.

Dwelling permissibility after 23 December 2021

On 22 November 2017 the applicant wrote to Council to draw attention to a looming “lot size” issue associated with some lots in the Mountain View Estate and Cronin Estate developments.

The essence of the applicant’s principal concern is that some current lots and yet to be created lots in these estates will lose the ability to have a dwelling house to be approved upon them if a development application is not lodged before the 10 year sunset date specified in clause 4.2B(4) of the Clarence Valley LEP 2011. This situation is explained more in Comment below. The applicant has requested Council to take action to amend the LEP to remedy the situation. The applicant believes that the sunset provisions were not intended to affect these types of lots.

Comment

The situation can be summarised as follows:

- (i) Both the Mountain View Estate and Cronin Estate developments are zoned R5 Large Lot Residential and are subject to a Lot Size 4,000m² on the Lot Size map under the Clarence Valley LEP 2011 (CVLEP 2011). Refer to maps in the table above. The 4,000m² “development standard” on the Lot Size map applies to both subdivision and dwelling houses. In the case of dwelling houses it is expressed in clause 4.2B(3)(a) of the LEP, a copy of which is at Attachment 2.
- (ii) Prior to the CVLEP 2011 both areas were zoned 1(c) Rural (Small Holdings) under the former Copmanhurst Local Environmental Plan 1990 (CLEP). Further, clause 20 of the CLEP enabled the subdivision of 1(c) zoned land into lots as small as 2,000m² provided that a majority of the allotments to be created had an area of not less than 4,000m². Refer to maps in the table above. A copy of clause 20 is at Attachment 3.
- (iii) Both estates have been approved for subdivision and subdivided in accordance with the former CLEP provisions resulting in some cases with both current lots and future lots with areas between 2,000m² and 4,000m². These lots (current lots only) are marked with an X on the maps in the table above.
- (iv) Despite the current 4,000m² “development standard” on the CVLEP Lot Size map, Council is currently able to grant consent to dwelling houses on vacant lots in these estates that are less than 4,000m²

under the provisions of clause 4.2B(3)(b) and (c) of the CVLEP. However, the 10 year “sunset provision” in clause 4.2B(4) will prevent Council from granting consent to dwelling houses on vacant lots in these estates that are less than 4,000m² after 23 December 2021 if a development application (DA) has not been lodged before 23 December 2021.

Reason

The sunset provision in the exhibited draft Clarence Valley LEP 2010 was 5 years. The rationale for a sunset provision for dwelling entitlement is contained in the draft CVLEP Background Paper for Rural Zones. Although the land at Mountain View and Cronin Estates is now zoned R5 Large Lot Residential, the zoning under the former CLEP, as explained above was 1 (c) Rural (Small Holdings). Therefore, the proposed zoning and other provisions for the proposed CVLEP were discussed in a Rural Zones Background Paper.

The standard LEP did not address the issue of dwelling eligibilities in rural zones. Therefore, it was recommended that a local provisions clause be included in the CV Draft Integrated LEP 2007 based on the Council endorsed approach for dwelling eligibilities. In order to enable property owners to make use of existing provisions for dwelling houses for a limited time period, specific provisions were proposed to be included in the LEP clause to allow existing LEP controls for dwelling controls where the lot was approved by Council for a dwelling house to apply for up to 3 years (as was proposed in the Background Paper at the time). The inclusion of a time limit for the exercise of dwelling eligibilities for undersized rural lots appears to be more associated with the issues and difficulty with maintaining a dwelling entitlement that may have existing a long time ago including that a non-time limited dwelling eligibilities would keep facilitating rural settlement into inappropriate areas. Council supported a longer sunset period of 10 years when it resolved (in September 2010) to adopt the draft CVLEP 2010, which became the CVLEP 2011.

- (v) Mountain View Estate – in the current released stage (DP1244553) of 18 lots there are 10 lots less than 4,000m². Of these 10 lots, 9 of the lots already have approved DAs or complying development applications for dwelling houses on them. A further 25 approved lots remain to be released of which 9 will be less than 4,000m². This amounts to a total of 10 lots less than 4,000m² that will be affected by the lapsing of the LEP dwelling house “sunset provisions” on 23 December 2021 if a DA has not been lodged and/or approved before that date.
- (vi) Cronin Estate – only one lot (8 Cronin Avenue) will be affected by the lapsing of the LEP dwelling house “sunset provisions” on 23 December 2021 if a DA has not been lodged and/or approved before that date.

In October 2018 the applicant was advised that the situation he had raised had merit and it is something that “Council can tackle that an *in a house keeping amendment planning proposal, most likely in 2019*”. Due to competing priorities the housekeeping amendment was not undertaken in 2019 and the applicant has again questioned when the work will be undertaken.

In an effort to progress the matter, it was proposed to the applicant that his client has *the option of exercising clause 4.6 Exceptions to development standards of the LEP to request a variation of the lot size development standard in individual circumstances, after December 2021*.

It was further advised that other options include:

- (i) Council outsourcing the preparation of a planning proposal at the cost to yourself or client/s.*
- (ii) A planning proposal being prepared and lodged by you or your clients or on behalf of yourself or you client/s.*

In response to this the applicant advised that:

- It is unacceptable that (his) clients pay to have the LEP amended given that Council made the mistake by not including the 2,000m² minimum in the lot size mapping at the time the CVLEP 2011 was being prepared and gazetted.
- It is unacceptable that the purchasers of these lots have to go through the “lottery” of Clause 4.6. Council should accept that they’ve made a mistake (or oversight) and get it fixed asap. If Council haven’t got the resources to do the amendment then CVC should be outsourcing the preparation of the planning proposal at Council cost.

Strategic justification and addressing statutory requirements

A planning proposal that seeks a change to the LEP to permit the erection of dwelling houses on vacant lots in these estates that are less than 4,000m² after 23 December 2021 should provide adequate strategic justification, at least in the context of the following:

- (i) Department of Planning Industry and Environment’s *“A guide to preparing planning proposals”* December 2018
- (ii) Ministers section 9.1 Directions
- (iii) North Coast Regional Plan 2036
- (iv) State Environmental Planning Policies (SEPPs)

As adequate strategic justification is not apparent in this matter, a planning proposal is best prepared and lodged by a private proponent or applicant where the proponent can attempt to outline the strategic justification and also where the cost of any additional studies and investigations that may be required by a gateway determination is borne by the proponent/benefiting party or parties. Possible additional studies/investigations that might be required by the Department of Planning, Industry and Environment for a gateway determination could include, but may not be limited to, an Aboriginal cultural heritage assessment and Stage 1 Preliminary Investigation (Land Contamination).

It is also best that a privately lodged planning proposal:

- Outline the objectives or intended outcomes of the proposal (Part 1 of any planning proposal as per the DPIE guidelines);
- Provide the explanation of provisions (Part 2 of any planning proposal as per the DPIE guidelines); this is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing LEP.

A planning proposal would need to indicate how the LEP could be amended to achieve the desired or intended outcomes particularly for those lots at the Mountain View Estate that have not as yet been released/created.

Alternative solutions

A feasible solution that avoids the need for a planning proposal is the option of exercising clause 4.6 Exceptions to development standards of the LEP as part of the DA process to request a variation of the lot size development standard in individual circumstances, after December 2021.

This would apply in the case where the LEP is not amended to change the dwelling house lot size in respect of those lots with lot sizes of between 2,000m² and 4,000m². It would mean in such circumstances that a DA for a dwelling house for such lots would after 23 December 2021 also be accompanied by a “clause 4.6 objection” to the 4,000m² development standard. This would essentially comprise a written request (as part of the DA for a house) for Council to vary the 4,000m² development standard including the provision grounds of objection to the development standard.

Council staff have delegation to approve a variation of the development standard of up to 10% of a particular standard; therefore after 23 December 2021 Council development assessment staff will be able to readily approve, under delegation, a DA for a dwelling house on a lot of between 3,600m² and 3,999m²

in the Mountain View and Cronin Estates. For the lots that are between 2,000m² and 3,599m² DAs for dwelling houses will need to be referred to the Department of Planning, Industry and Environment (DPIE) for concurrence before Council can grant consent to such DAs.

The applicant has rejected this approach on the basis that it creates uncertainty on the applicable development standard for prospective purchasers of the impacted lots.

Options

The options available to Council include:

- Option 1 - That the applicant pay for the planning proposal (including Council rezoning application fees).
- Option 2 - That Council waive its rezoning application fees and the applicant prepare the planning proposal at their own cost.
- Option 3 - That Council take no action in respect of a planning proposal to amend the LEP.
- Option 4 - Council prepares the planning proposal and exempts the applicant from rezoning fees.

COUNCIL IMPLICATIONS

Budget/Financial

Below is an estimate of the costs associated with the options identified above.

Option	Cost components	Total cost (minimum)
Option 1	\$5,000 - basic planning proposal (excluding studies/investigations [#] that the gateway may require). \$10,395 - total of Council rezoning fees (initial lodgement fee is \$3,551).	\$15,395 cost to the applicant (Council fees plus estimate for a planning proposal#).
Option 2	\$5,000 - estimated as a bare minimum for a basic planning proposal, excluding studies/investigations [#] that the gateway may require.	\$5,000 is considered the minimum cost to the applicant.
Option 3	Nil	Minor costs would be absorbed through Council operational budgets.
Option 4	\$5,000 - basic planning proposal (excluding studies/investigations [#] that the gateway may require). \$10,395 - total of Council rezoning fees (initial lodgement fee is \$3,551) in lost revenue for Council.	\$15,395 cost to the applicant (Council fees plus estimate for a planning proposal#).
Note: [#] Indicative cost only excluding environmental studies, if required. The scope of the planning proposal would be determined by the Department of Planning, Industry and Environment, through the gateway process.		

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979
Clarence Valley Local Environmental Plan 2011
Copmanhurst Local Environmental Plan 1990

Consultation

Council staff and the applicant have exchanged several emails on this matter.

Legal and Risk Management

There is a risk that any planning proposal, regardless of whether it is prepared by Council or by a private party, may be refused at the planning gateway.

Climate Change

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none">1. Email correspondence from A. Fletcher & Associates2. Clause 4.2B, CVLEP 20113. Clause 20, Copmanhurst LEP 1990

ITEM	6b.20.007	FERRY PARK RESERVE PLAN OF MANAGEMENT
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report summarises the submissions received regarding the public exhibition of the draft plan of management for Ferry Park Reserve, Maclean and the subsequent changes made to the draft plan. It also seeks Council's endorsement and adoption of the amended plan.

OFFICER RECOMMENDATION

That Council:

1. Note the submissions made in regards to the exhibited draft plan of management for Ferry Park Reserve, Maclean and the subsequent changes made to the draft plan.
2. Note the consultant's report in regards to the public hearing held as to the proposed categorisation of land constituting the Ferry Park Reserve.
3. Adopt the draft plan of management for the Ferry Park Reserve, Maclean as amended.
4. Provide public notice of the adoption and of the terms of the amended plan of management, as soon as practicable after the adoption.

COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Clancy, Baker

Against: Simmons, Novak

FORESHADOWED MOTION

Novak

That Council:

1. Reject the current draft plan of management and include point 2 amend the draft plan of management to include point 1 provide for LCACA to be given first option on the lease of 10 or more years.
2. Remove reference to sub leasing as an option.
3. Place it back on public exhibition for a month.
4. Bring a report back to Council.

COUNCIL RESOLUTION – 6b.20.007

Novak/Williamson

That Council:

1. Note the submissions made in regards to the exhibited draft plan of management for Ferry Park Reserve, Maclean and the subsequent changes made to the draft plan.

2. Note the consultant's report in regards to the public hearing held as to the proposed categorisation of land constituting the Ferry Park Reserve.
3. Adopt the draft plan of management for the Ferry Park Reserve, Maclean as amended.
4. Provide public notice of the adoption and of the terms of the amended plan of management, as soon as practicable after the adoption.
5. Notify its intention to offer to lease the premises currently occupied by the Lower Clarence Arts and Crafts Association for a period exceeding 5 years.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

Council resolved at its meeting of 17 December 2019 [Item 6b.19.059] to:

1. Note the preparation of a draft plan of management for Ferry Park, Maclean.
2. Resolve to place the draft plan of management on public exhibition for a period not less than 28 days as required under the Local Government Act 1993.
3. Conduct a public hearing (in Maclean) in regards to the proposed categorisation as per the requirements of section 40A and s47G of the Local Government Act 1993.
4. Accept submissions on the draft plan of management for a period not less than 42 days from the date the plan is placed on public exhibition; and
5. Subject to any submission being received that requires review of the intent of the draft Ferry Park Plan of Management as exhibited, the Plan of Management be adopted on completion of the submission period.

The draft Ferry Park Reserve Plan of Management (POM) was placed on public exhibition on 18 December 2019. Hard copies of the POM were placed in the customer service areas of Council offices in Maclean and Grafton. A hard copy of the draft plan was also made available at the old tourist information desk in the Ferry Park Reserve Lower Clarence Arts & Craft Centre building. An electronic copy of the draft plan was also placed on Council's 'On Exhibition' webpage for review by the public in general.

The public exhibition period concluded on Friday, 31 January 2020 to coincide with the 42-day submission period, from the date the draft plan was put on public exhibition, as required under section 38(3) of the *Local Government Act 1993*. Council received nine submissions on the draft plan. These submissions are included as Attachments 1 & 2 to this report.

A public hearing as per the requirements of section 40A of the Act was conducted by an independent facilitator from *Locale Consulting* on 15 January 2019. The public hearing was conducted in the Maclean Council Chambers. Seven (7) people attended, all identifying as being members of the Lower Clarence Arts and Crafts Association. In addition, five (5) staff attended the public hearing. The consultant's report was submitted to Council on 10 February and put on public display (hard copy at customer service desk in Maclean and Grafton Council offices; and on Council's 'On Exhibition' webpage) on 12 February 2020 as per

the requirements of section 47G(3) of the Act. A copy of the consultant's report is also attached to this report (Attachment 3).

The matters raised at the public hearing and noted in the consultant's report, and those made within the submissions received has resulted in a number of amendments to the draft plan of management that was exhibited for the Ferry Park Reserve. As such, the amended draft plan is being brought back to Council for adoption or to be re-exhibited as per the requirements of section 40 of the *Local Government Act 1993*. The amended draft plan is included as Attachment 4.

[Note: For ease of reference, amendments to the draft plan of management are shown in red. A final edit for consistency will be completed once the amended draft has been adopted].

KEY ISSUES

Section 40 of the *Local Government Act 1993* states that:

40 Adoption of plans of management

- (1) *After considering all submissions received by it concerning the draft plan of management, the council may decide to amend the draft plan or to adopt it without amendment as the plan of management for the community land concerned.*
- (2) *If the council decides to amend the draft plan it must either—*
 - (a) *publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans, or*
 - (b) *if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.*
- (2A) *If a council adopts an amended plan without public exhibition of the amended draft plan, it must give public notice of that adoption, and of the terms of the amended plan of management, as soon as practicable after the adoption.*
- (3) *The council may not, however, proceed to adopt the plan until any public hearing required under section 40A has been held in accordance with section 40A.*

In addition, clause 114 of the *Local Government (General) Regulation 2005* states that:

114 Adoption of draft plan of management in relation to which certain submissions have been made

- (1) This clause applies if—
 - (a) a council prepares a draft plan of management, and
 - (b) the council receives any submission, made in accordance with the Act, concerning that draft plan that makes any objection to a categorisation of land under the draft plan, and
 - (c) the council adopts the plan of management without amending the categorisation that gave rise to the objection.
- (2) If this clause applies, the resolution by which the council adopts the plan of management must state the council's reasons for categorising the relevant land in the manner that gave rise to the objection.

Neither the public hearing held in regards to the proposed categorisation of the land [ie. foreshore area = natural area (foreshore); remaining area including ferry park complex and carpark = general community use] and the subsequent report or the submissions made in regards to the exhibited draft plan of management for the reserve objected to the proposed categories to be applied to the reserve area. Consequently, clause 114 of the Regulation is redundant.

Nonetheless, the public hearing report and the submissions received have resulted in a number of amendments to the exhibited draft plan of management. These amendments primarily being:

- The addition of text to provide further context or to clarify matters discussed (currently shown in red in the amended draft plan).
- Rewording and/or renumbering of sections.
- Minor sentence structure and grammar corrections.

Consequently, as per the requirements of section 40(2) of the Act, Council needs to resolve whether to:

- (a) publicly exhibit the amended draft plan in accordance with the provisions of this Division relating to the public exhibition of draft plans [ie. provisions of s38 of the Act], or
- (b) if it is of the opinion that the amendments are not substantial, adopt the amended draft plan without public exhibition as the plan of management for the community land concerned.

It is the opinion of Council staff involved in the preparation of the draft plan that the amendments to the draft do not constitute a ‘substantial’ change to the intent of the exhibited draft or to the use and management of the reserve as per the requirements of section 36 of the Act. While a change in the category of the land (eg. Changing area categorised as ‘Natural Area (Foreshore)’ to ‘General Community Use’ as well) would be deemed as being substantial [refer *Seaton and Ors v Mosman Municipal Council and The Bathers Pavilion Pty Ltd Matter No Ca 40709/97 [1998] NSWSC 75*] grammatical changes and the insertion of additional text to clarify or to provide context to prescriptions detailed in the plan are acceptable.

In contrast, the submission requests to amend the draft plan to include a statement that provided the Lower Clarence Arts and Crafts Association (LCACA) first preference on any contractual and/or leasing arrangements of the facility was rejected on the basis that:

- It would be deemed a substantial change to the draft plan as it changed the general nature of how leases and licences are to be issued thus requiring re-exhibition; and that
- It may be deemed as providing a right to a group in direct conflict with the general requirements of s46 of the Act thus making the plan of management void to the extent that it purports to authorise the grant of a lease, licence or other estate to the Association.

All submissions (9 in total) received were from members of the LCACA or made on behalf of the LCACA. A synopsis of the submissions received, and the actions taken are provided in the following table:

Submission Theme	Relevant POM Section	Staff Comment	Action Taken
Concern over the lack of consultation and short timeframe in preparing the draft PoM	Statement	Noted. The pressing need to have a compliant PoM adopted prior to expiry of the current lessees’ tenures meant that a shortened timeframe for consultation and review was required in the preparation and exhibition of the draft plan to meet time restrictions.	Staff met with LCACA officers during the submission period to discuss concerns and determine how best to accommodate issues raised. The amended draft Ferry Park Reserve PoM addresses many of the concerns raised by the LCACA
Draft PoM does not adequately recognise LCACAs contribution in raising funds and gaining grants to develop and provide an arts and crafts complex for the community on the reserve	s.1.0 – Introduction; and s.1.4 – Development of the Land	Noted. A general synopsis of the contribution that the LCACA had made to the development of the Ferry Park complex was noted in the exhibited draft PoM. This has been embellished and a new section detailing the history of the site has been added to the PoM.	PoM amended: <ul style="list-style-type: none"> • LCACA contribution embellished • Section 1.3.2 – ‘Land Use History’ added. • Appendix 3 – BA297/93 Ferry Park Site Plan and Building Plan added.

Submission Theme	Relevant POM Section	Staff Comment	Action Taken
<p>Concern regarding lack of security of tenure for LCACA:</p> <ul style="list-style-type: none"> LCACA want recognition in PoM – should be offered first preference to any lease agreements preference is for a long-term, low fee lease agreement (not a 5-year lease) lease agreements to be autonomous (ie. No sub-leasing – each tenant to have their own lease) an adopted PoM is required to issue a tenure 	<p>s.4.0 – Leases Licences and other Estates; and</p> <p>Table 6.1 (GCU management actions)</p>	<p>Noted. The use and management of community land must be specified in a PoM.</p> <p>The draft PoM allows for leases up to the maximum term (21 years) under the LG Act to be issued.</p> <p>The PoM is a statutory document written in the context of the overarching legislation.</p> <p>The PoM cannot be written in a manner that provides a strategic and/or economic advantage to any particular individual, group or organisation over another.</p> <p>The duration and terms of lease agreements between Council and lessees are considered on a case-by-case basis with reference to the requirements of the relevant legislation and Council procedures at the time.</p>	<p>The amended Draft Ferry Park Reserve PoM to be submitted to the February 2020 Council meeting for consideration for adoption prior to LCACA lease expiry on 29 March 2020.</p>
<p>Acknowledgement that Ferry Park is a unique gateway to Maclean and the Lower River:</p> <ul style="list-style-type: none"> the building and signage also has intrinsic value to local community 	<p>s.1.3 – Land Description</p>	<p>Noted. Information on the Woolgoolga to Ballina Pacific Highway upgrade, Maclean interchange and uncertainty over development of a service centre added to PoM.</p>	<p>PoM amended.</p> <ul style="list-style-type: none"> Sections 1.3, 1.4 and 3.2.1 amended as appropriate
<p>Consider including in PoM enhancements such as secure play areas for children to increase patronage of the site</p>	<p>s.1.4 – Development of the Land</p>	<p>Noted. The draft PoM contains a generic future development statement at section 1.4 that would include play areas for children. However, for clarity this section has been amended to include play areas as an option as part of the restoration of the cane punt and ferry areas once they are removed.</p>	<p>PoM amended.</p> <ul style="list-style-type: none"> Section 1.4 – ‘Development of the Land’ amended as appropriate
<p>Lack of storage space within area leased by the LCACA</p>	<p>s.3.2.1 – Community-based visitor and retail space</p>	<p>Noted. Provision of storage space is an operational issue to be resolved between Council as owner and LCACA as tenant. It is not a POM matter per se.</p>	<p>PoM amended.</p> <p>Section 3.2.1 amended to include acknowledgement that the LCACA have identified a lack of storage space as an issue.</p>

A summary of the submissions received is provided as Attachment 1. The submissions, as received, are included as Attachment 2.

COUNCIL IMPLICATIONS**Budget/Financial**

The amended draft plan of management has been prepared in-house using the resources of Council. The cost of the independent facilitator to conduct the public hearing and prepare a report was \$1,800 (excluding GST). A cost will be associated with the public notice detailing the adoption of the amended 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

The Ferry Park complex is an existing Council asset.

Policy or Regulation

Local Government Act 1993 & Regulations

Consultation

The draft plan of management was publicly exhibited and nine (9) submissions were received. Follow-up consultation was undertaken with Lower Clarence Arts and Crafts representatives to discuss their concerns with the exhibited draft and to identify the changes they would like made to the draft plan.

Internal consultation with Council's Strategic Planning, Property Section and Open Spaces & Facilities section was conducted.

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

Climate Change

N/A

Prepared by	Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title); Jasmine Oakes, Plans of Management Officer
Attachment	<ol style="list-style-type: none"> 1. Submissions Summary 2. Submissions 3. Public Hearing Report 4. Amended draft Ferry Park Reserve Plan of Management

ITEM	6b.20.008	ULMARRA-NYMBOIDA COMMUNITY BASED HERITAGE STUDY
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

Cosmos Archaeology Pty Ltd, in conjunction with Council's Strategic Planning section and community members, has undertaken a Community Based Heritage Study (CBHS) of the Ulmarra and Nymboida former shire areas. This was identified as a priority in Council's adopted Heritage Strategy 2013 as the missing link to the existing heritage studies carried out within Clarence Valley Council, of the former Maclean Shire, Copmanhurst Shire and Grafton City areas. The Ulmarra Nymboida study area is the remaining part of the Clarence Valley to be explored. The study is fully funded by Heritage NSW.

The brief, scope and funding of this study does not extend to Aboriginal heritage. A broad valley-wide Aboriginal Heritage Study was carried out for Clarence Valley Council in 2013, also fully funded by Heritage NSW. Aboriginal cultural heritage sites are managed under a different legal system but may, however, be included in recommendations for listing on public registers subject to agreement from the Local Aboriginal Land Councils.

The study has resulted in the identification of 120 heritage places. This includes the review and heritage assessment of 21 existing heritage items and one existing Heritage Conservation Area at Ulmarra, 99 potential heritage items and 5 proposed Heritage Conservation Areas at Glenreagh, Minnie Water, Sandon Village, Wooli and Diggers Camp. The study has been placed on general public exhibition for 2 months and 454 property owners of potential heritage items or within potential heritage conservation areas were consulted individually by letter. The results of the consultation are presented in this report and demonstrate an overall support for the findings of the study.

OFFICER RECOMMENDATION

That Council:

1. Adopt the exhibited Ulmarra Nymboida Community Based Heritage Study Final Report and Recommendations (Updated October 2019) and accompanying Contextual History 'From the Tablelands to the Sea', with the exclusion of the proposed Wooli Conservation Area to be deferred for further investigation and consultation.
2. Resolve to prepare a Planning Proposal based on the above Heritage Study reports and recommendations for inclusion of the identified heritage items and Conservation Areas in Schedule 5 of Clarence Valley LEP 2011, with the exclusion of the Wooli Conservation Area, and submits it to the Department of Planning, Industry and Environment with a request for a Gateway Determination.
3. Carry out further investigation and consultation with the local community in relation to the heritage significance of the Wooli Village precinct and returns the findings to a future Council meeting.
4. Upon receipt of a Gateway Determination, proceed to public exhibition in accordance with the requirements of the Department and re-consult individual property owners.
5. Consider the findings of the Ulmarra Nymboida CBHS in the assessment of any development applications lodged in relation to identified potential heritage items or heritage conservation areas.

COMMITTEE RECOMMENDATION

Clancy/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.008

Toms/Novak

That Council:

- 1. Adopt the exhibited Ulmarra Nymboida Community Based Heritage Study Final Report and Recommendations (Updated October 2019) and accompanying Contextual History ‘From the Tablelands to the Sea’, with the exclusion of the proposed Woolli Conservation Area to be deferred for further investigation and consultation.**
- 2. Resolve to prepare a Planning Proposal based on the above Heritage Study reports and recommendations for inclusion of the identified heritage items and Conservation Areas in Schedule 5 of Clarence Valley LEP 2011, with the exclusion of the Woolli Conservation Area, and submits it to the Department of Planning, Industry and Environment with a request for a Gateway Determination.**
- 3. Carry out further investigation and consultation with the local community in relation to the heritage significance of the Woolli Village precinct and returns the findings to a future Council meeting.**
- 4. Upon receipt of a Gateway Determination, proceed to public exhibition in accordance with the requirements of the Department and re-consult individual property owners.**
- 5. Consider the findings of the Ulmarra Nymboida CBHS in the assessment of any development applications lodged in relation to identified potential heritage items or heritage conservation areas.**
- 6. Refer the items listed on page 111 of the Ordinary Council meeting minutes to the State Government for listing on the State Heritage Register.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

The study area comprises an area of approximately 6,000 square kilometres including rural and coastal villages, National Parks, State Forests and rural lands and riverine areas of the Orara, Mann and Nymboida Rivers. It extends south from the Sandon River to Halfway Creek on the coastline including the coastal villages of Woolli, Minnie Water and Diggers Camp. The rural hinterland extends from the southern side of

the Clarence River to the boundary of the Nymboida River near Dorrigo and includes historic settlements at Ulmarra, Tucabia, Nymboida, Glenreagh, Ramornie, Jackadgery, Cangai, Seelands, Eatonsville, Lilydale and Newbold.

The project's scope was to address non-indigenous heritage including built, natural, landscapes and movable items within the study area.

The study is based upon a thematic and contextual history which assists in an understanding of the key events and factors which have shaped the development of the study area. This includes a historical review of the following themes as outlined in the report:

- First People: Yaegl, Gumbaynggirr, and Bundjalung.
- Environment: Coast, ranges, tablelands, rivers and creeks.
- Discovery: Voyagers, cedar, squatters and pastoralists.
- Municipal Matters: A history of the administration and governance of these areas.
- Settlement: Grafton, Glen Innes, Ulmarra, Nymboida.
- Industry: Agriculture, dairying, Dalmorton gold mining, timber, forestry, public works.
- Transport: Clarence River shipping, North Coast Rail, roads and bridges, hydro power.
- Twentieth Century: WW11, peace, sandmining, commercial fishing, recreation, camping and fishing, oyster leases, off roading, surfing, sea and tree changers.

The places identified by the community and study co-ordinator are referenced to these historical themes.

The Ulmarra Nymboida CBHS commenced in 2017 and has now completed formal public exhibition. There are three main components to the study documents:

Volume 1 - Former Ulmarra and Nymboida Shires Community Based Heritage Study Vol 1 Management updated October 2019 for public exhibition. (Attachment 1)

This summarises the study findings together with recommendations for future management.

Volume 2 - From the Tablelands to the Sea - A Contextual History

This is a historical overview which sets out the historic chronology and themes that have shaped the development of the Ulmarra and Nymboida former shires. This was completed by Historian Dan Tuck and the heritage items are linked to the themes in this report. (Attachment 2)

Volume 3 - State Heritage Inventory

A detailed inventory has been prepared for the existing and proposed Heritage Items and Heritage Conservation Areas. This has been prepared under heritage assessment guidelines and the State Heritage Inventory. Due to the volume of information and photographs, it is not practical to attach a copy of the heritage inventory to this report. However, the relevant inventory sheet was provided to owners at the time of consultation for review and copies of any item can be provided on request. A copy of the inventory was made available for public inspection at Council offices and at the Grafton Library.

Exhibition and consultation.

Public exhibition of 60 days was held. 454 consultation letters were sent to owners of existing and potential heritage items and all properties within the existing and proposed Heritage Conservation Areas. A total of 41 enquiries and submissions were received. The results of the consultation are in Attachment 3.

KEY ISSUES

Study Methodology

The community based heritage study process is the best practice model endorsed by Heritage NSW (formerly Office of Environment and Heritage). It has been used successfully by many NSW councils and was the basis of the heritage studies carried out for the former Grafton, Maclean and Copmanhurst Council areas. The aim of a community based heritage study is to reveal places, items or buildings that are

important to the local community. This process tends to identify a greater variety of places than items than those that are highly visible and mainly of architectural interest.

Consultation

As part of the study process, public meetings and working groups were held in various locations throughout the study area. Site inspections have been carried out in the company of key members of the community with historical knowledge and background, and revealed many places of historical interest and significance. Potential items were assessed and researched on the basis of information provided by the community, historical archives, photographs, web based resources, other heritage registers, and Council records.

The heritage study was placed on formal public exhibition for 2 months from 25 October 2019 to 24 December 2019. Owners of items recommended for individual listing or within a Heritage Conservation Area were individually consulted by letter of the study findings and recommendations and received a copy of the Inventory sheet for the relevant property or Conservation Area. A total of 454 consultation letters were sent to owners of existing and potential heritage items and all property owners within the existing Ulmarra Heritage Conservation Area and the 5 proposed Heritage Conservation Areas.

A web page was developed under Clarence Conversations, posts were sent out on social media and newspaper adverts. An article was included in the rates newsletter which goes to every ratepayer by mail. A study update was also provided as part of a public meeting with the Ulmarra business community in relation to the future bypass of the village and economic activity promotion.

Due to the scope and budget it was not possible to hold a public meeting in every area within the study area.

Results

A summary of enquiries and submissions received in relation to owner and public consultation is outlined in Attachment 3. 41 people responded with predominant support for the heritage study and its findings. The 22 submissions were dominated by supportive comments and feedback. Only a small number raised objections and these were mainly focussed upon the merit of the proposed Heritage Conservation Area at Wooli and need for more consultation with Wooli residents.

19 GENERAL ENQUIRIES, CORRECTIONS, AND ADDITIONAL INFORMATION	General enquiry phone calls, provision of additional historical information, and notations of corrections to heritage inventory data sheets.
22 SUBMISSIONS	
	16 SUPPORTIVE Submissions showed support for the heritage study and identified heritage values. Some included additional comments and issues.
	5 OPPOSED Opposition to a Heritage Conservation Area for Wooli, the Minnie Water Store as part of HCA, and one to houses being included at Diggers Camp
TOTAL 41	

Key Issues raised in Submissions

- Objection to the proposed Conservation Area at Wooli due to the mixed nature of built form in Wooli and perceived restrictions on rebuilding. Property owners should be given opportunity to consider proposed sympathetic and complementary development guidelines before any decision is made about whether the area should be subject to additional development controls.
- Objection to broad brush approach and believe that an itemised list of individual properties to be protected both inside and outside of the proposed Wooli Conservation Area boundary, should be listed in the final document.

- Perceived fear that heritage listing or Conservation Area removes the opportunity to renovate or extend it in the future and a financial setback. Concern about cost of maintaining and upgrading the dwelling.
- Additional historical information, and/or corrections to heritage inventories.
- Support for the findings of the study and identification of heritage values.
- Scope for more detailed research which may reveal more places of significance to Woolli, and the inclusion of Aboriginal and natural heritage items in the heritage study.
- General support for retention of character and scale of Sandon village.
- Support for protection of Diggers Camp Common.
- Support for hall and open space area at Minnie Water.
- Support for the study recommendations to Clarence Valley Council to undertake the listed actions to complete the Community Based Heritage Study.
- Support for the recommendation for establishment of a Heritage Committee and that Council continues the annual local heritage fund.
- After the disastrous consequences of the fires it is important to privilege the importance of local heritage against further/potential losses.
- Potential for education and awareness raising of heritage conservation and support from Council.
- Community groups such as Lions and Rotary and local historical groups to encourage development of cultural resources in the community.
- First people's heritage should also be recognised in the scope of the LEP.
- Fully support the recommendations and next steps of the study for Council to endorse the study and place items on the LEP.
- Further recommend that sites be examined in terms of heritage tourism value to the local economy and to work with local museum staff and community members to develop appropriately themed trails.

Limitations

The vast area (7,000km²), rural nature of the study area, and budget were limitations for the study. Site assessment was often restricted to places which were visible from public roads. Subsequently, there are likely to be many additional historical rural items on private properties that are not recorded or addressed by the study if they have not been proposed by the community.

FREQUENTLY ASKED QUESTIONS

Why heritage list a property or item?

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

Links to the past and managed change

Whilst the study area is rural and dispersed, it sits within a context of the North Coast region which is experiencing substantial population growth and development. Places of heritage significance within this area need to be formally recognised, with policies which enable carefully managed change whilst protecting the heritage significance of these items and places.

Planning Policy-North Coast Regional Plan 2036 - Direction 19 states:

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

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

Actions

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

Significance and the State guidelines

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

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

In addition an item is assessed as:

- **Rare** - or outstanding example, or
- **Representative** – example.

Why assess significance?

Understanding the significance of an item helps when making decisions about any changes in the future.

Proposed Heritage Items and Heritage Conservation Areas

The study has identified rural, domestic, commercial, civic, industrial recreational and ecclesiastical buildings and settings which are considered worthy of protection. The study also identifies several precincts as Heritage Conservation Areas established around parts of Diggers Camp, Glenreagh Village, Minnie Water, Sandon River Cabins, Ulmarra (existing) and Woolli to protect the collective values and settings of these areas.

Level of Significance

The majority of items identified in the study are assessed as having **local** significance and Council will be the consent authority if the items are added to the Clarence Valley LEP 2011. Five items (below), all of which are currently existing heritage items of local significance, are recommended for inclusion on the State Heritage register as items of State Significance:

- Nymboida Hydro Electric Power Station, weir and tail race
- Ramornie Meatworks site Archaeological site
- Ulmarra Courthouse and Police Station/official Residence
- Briner Bridge over the Upper Coldstream River, Tucabia
- Glenreagh Railway Station complex. This was referred to Heritage NSW by a community member and was not upheld, however, discussions with Heritage NSW outlined that no supporting information was submitted and there is a detailed Conservation Management Plan prepared by

Caldis Cook Group which concluded that it was an exemplary item representative of State significance.

The final decision for inclusion on the SHR rests with the Heritage NSW as delegate of the Heritage Council.

FREQUENTLY ASKED QUESTIONS IN RELATION TO HERITAGE CONSERVATION

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

Under the Local Environmental Plan level listings there are no policies which can enforce an owner to carry out works or maintenance. However, normal maintenance is required for any property and annual heritage grants have been offered since 2001 through the Clarence Valley as a conservation incentive which have encouraged and supported restoration and conservation works.

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

Heritage listing does not prevent changes being made to an item providing that they are sensitive and will not adversely affect the significance of an item. Heritage listing essentially applies to the external part of a building unless the interior is specifically included. Works for dwellings, such as replacing kitchens and bathrooms subject to meeting building code requirements and interior works such as floor polishing, carpets, and painting do not require consent, which would apply to any property. Sympathetically designed additions are not discouraged, as they often make a place more liveable and extend the life of the property for many more years.

The heritage exemptions in the Clarence Valley LEP allow a range of maintenance and minor works to be approved in writing by Council, without the need for a development application. This might include verandah restorations, small structures, re-roofing and repainting works to the exterior. Owners are encouraged to discuss proposals first and can gain free heritage advice on materials and conservation approaches for historic buildings from Council's heritage officer where appropriate.

New extensions, pools, and additions all require consent whether an item is heritage listed or not, so there is not a great difference in consent requirements.

C Demolition

The demolition or removal of a heritage item is not likely to be supported as it is in conflict with the aim of conservation, but the owner may lodge a Development Application which will be considered on its merits.

D Heritage listing can offer more flexibility

The heritage incentives clause 5.10(10) of CVLEP 2011 gives Council the ability to grant consent to 'any use' or development which would normally otherwise not be permitted in the zone providing that it results in the conservation of the item and does not have an adverse effect on the amenity of the surrounding area.

E Heritage is another layer in the planning process

Heritage is part of the environment. It needs to be considered in the same way as water quality, flora and fauna, flooding or access. The heritage items recommended in this study are considered important enough to be retained for future generations.

Conclusion

Generally there is a broad acceptance of the value of heritage to our society and the strength it has in defining the identity of a place. The need to understand the significance and record and protect such places is accepted as sound planning practice on a global scale. One destroyed it cannot be replaced, therefore, a precautionary approach must be held in relation to places of heritage significance.

COUNCIL IMPLICATIONS**Budget/Financial**

This project (Project 994398-07-8495) was fully funded by the Department of Environment and Heritage with a budget of \$40,000. The project has been managed by Deborah Wray, Senior Strategic Planner.

Asset Management

The project has identified some assets which are under Council management such as cemeteries or halls which are of assessed heritage significance and it will be necessary for relevant staff to have a clear understanding of appropriate practice and requirements in dealing with future works. This process is already applicable to heritage items which are in Council's control and management such as the existing heritage listing for Glenreagh School of Arts.

Policy or Regulation

The Heritage Study was carried out in accordance with the guidelines set out by the Heritage NSW under the co-ordination and direction of an independent heritage advisor.

A Planning Proposal is proposed to include the items in Schedule 5 of Clarence Valley LEP 2011. The majority of potential Heritage Items and places within a Heritage Conservation Area are proposed as items of local significance and will be subject to the requirements under Clause 5.10 of the Clarence Valley LEP for which Council is the consent authority.

Additional exhibition and consultation with owners will be required in accordance with a Gateway Determination on the Planning Proposal.

The five items nominated for inclusion on the State Heritage Register, if included, would be subject to the Heritage Act 1977 and under the jurisdiction of the Heritage Council or its delegate the NSW Department of Environment and Heritage.

The study is consistent with Direction 19 of the North Coast Regional Plan 2036 as outlined above.

Consultation

Addressed in Key Issues.

Legal and Risk Management

The Heritage Study is a non-statutory document which was placed on exhibition for public consultation. The study will form the basis of a draft Planning Proposal to include the recommended Heritage Items and Heritage Conservation Areas on Schedule 5 of the Clarence Valley Local Environmental Plan 2011. This process must meet all relevant legislative requirements of the Environmental Planning and Assessment Act 1979.

Prepared by	Deborah Wray, Senior Strategic Planner
To be tabled	<ol style="list-style-type: none"> 1. Cosmos Archaeology Pty Ltd - Former Ulmarra and Nymboida Shires Community Based Heritage Study Volume 1 Management Cosmos Archaeology Pty Ltd (updated October 2019) 2. From the Tablelands to the Sea - A Contextual History. Former Pristine Waters Council Area (Ulmarra and Nymboida Shires). April 2018. Cosmos Archaeology Pty Ltd
Attachments	<ol style="list-style-type: none"> 3. Summary of Enquiries and Submissions to Ulmarra Nymboida Community Based Heritage Study January 2020

ITEM	6b.20.009	FEE WAIVER FOR RAPID RELIEF TEAM EVENT
Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Yes	

SUMMARY

This is a request for a retrospective donation to waive the fees of hiring Market Square for the Operation Fire Relief, a bushfire recovery event, on 4 February 2020.

OFFICER RECOMMENDATION

That Council approve a one-off retrospective donation of \$130 to waive the fees of hiring Market Square for the Operation Fire Relief event on 4 February 2020.

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.009

Ellem/Novak

That Council approve a one-off retrospective donation of \$130 to waive the fees of hiring Market Square for the Operation Fire Relief event on 4 February 2020.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

The Rapid Relief Team is a global, charitable organisation that offers assistance to charitable and government organisations confronting some of humankind's greatest challenges, including natural disasters, heart disease, cancer research and the plight of the homeless.

On Tuesday 4 February the Rapid Relief Team hired an area of Market Square Grafton for a community event, where they gave away \$1000 gift cards, food hampers and provided a barbecue meal to approximately 66 people who lost their homes in the recent bush fires.

KEY ISSUES

This request does not comply with the Donations Policy V9.0 which states:

5.11 All donations require the PRIOR approval of Council. Council will not make retrospective donations. Donation applications can only be received via the SmartyGrants link on Council's website during the specified period for that Round.

However, an exception could be given due to the impromptu nature of the event in relation to the Clarence Valley's bushfire recovery.

COUNCIL IMPLICATIONS

Budget/Financial

Should Council approve this donation request from the Rapid Relief Team, there are sufficient funds remaining in the Donations budget held in (Service 4200 - Cost Centre 930 – PJ# 997113-58-7353-2534).

Approved budget 25 June 2019, 6b.19.008		\$ 99,996.00
Reserved funds for Cultural & Sports Trust Fund applications 19/20	\$ 5,000.00	\$ 94,996.00
Less June – 6b.19.008 Community Initiatives Round 1 – Rates	\$ 26,318.56	\$ 68,677.44
Less June – 6b.19.008 Community Initiatives Round 1 – Fee Waivers	\$ 7,654.80	\$ 61,022.64
Less June – 6.19.008 Community Initiatives Round 1 – Cash	\$20,996.18	\$ 40,026.46
Less: July - 09.19.001 Late Report (GM) Waanyji Yaegl Men's Group	\$ 2,425.00	\$ 37,601.46
Less Nov – Kangaroo Creek Coutts Crossing Charity Sports Club DA fee waiver	\$ 457.84	\$ 37,143.62
less: Dec - 6b.19.061 Community Initiatives Round 2 - Rates	\$ 2,418.76	\$ 34,724.86
less: Dec - 6b.19.061 Community Initiatives Round 2 - Fee waivers	\$ 1,935.30	\$32,789.56
less: Dec - 6b.19.061 Community Initiatives Round 2 – Cash	\$15,571.05	\$17,218.51
less: Dec - 6b.19.060 Lawrence Historical Society - DA Fee Waiver	\$ 321.00	\$16,897.51
Available funds remaining at 31 January 2020		\$16,897.51

Asset Management

N/A

Policy or Regulation

Donations Policy

Community Initiatives Program Guidelines

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Sammy Lovejoy, Community Projects Officer – Community Grants
Attachment	Rapid Relief Team event promotion

ITEM	6b.20.010	DEVELOPMENT APPLICATIONS
Meeting	Environment, Planning & Community Committee	18 February 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.

COMMITTEE RECOMMENDATION

Williamson/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.010

Ellem/Novak

That the update on Development Applications be noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

The calculation method for the numbers of days an application is held by Council includes all calendar days including weekends and public holidays. This method is consistent with the NSW Department of Planning *Development Assessment Best Practice Guide – to assist Council to improve delivery timeframes*. A small percentage of development applications (DAs) approved have been with Council for a substantial amount of time and hence, these applications upwardly skew the average processing time. Hence, the median (or middle

score) processing time for DAs has been included to give an additional indication of the amount of time taken to approve development applications during the reporting period. As Council has commenced taking applications electronically through the NSW Planning Portal the received date and the total number of days often does not match. The reason for this being that the application number is generated once Council accepts the application through the portal and issues the proponent with an invoice, the clock starts once payment of the application fees has been received which is usually not on the same day.

KEY ISSUES

The figures from 1 July 2019 to 31 January 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)
420	398	\$96,978,749.00	234	Average : 71 days Median: 50 days

Of the 398 approved Development Applications between 1 July 2019 and 31 January 2020, 160 (40%) were determined within 40 days or less.

As of 1 February 2020 there were 145 outstanding development applications, which have been with Council for the following timeframes:

Less than 40 days	39
41 - 60 days	28
61 - 80 days	13
81+ days	65

The table below shows undetermined DAs that have been with Council for over 40 days with reasons for their current status.

Reasons for Undetermined Applications over 40 days

Application No	Received Date	Days	Description	Property	Reason
DA2019/0704	23/12/2019	41	Storage sheds	8 Mill Road, KOOLKHAN NSW 2460	Awaiting internal referrals and currently being assessed*
DA2019/0702	20/12/2019	44	Refurbish existing commercial building	18-20 King Street, GRAFTON NSW 2460	Awaiting internal referrals and currently being assessed*
DA2019/0667	5/12/2019	45	Community facility (Extension to Lawrence Museum to house cane barge and ferry)	Havelock Street, LAWRENCE NSW 2460	Awaiting internal referrals and currently being assessed*
DA2019/0699	19/12/2019	45	Demolition of existing and construction of new plant room and amenities	Maclean Centenary Pool, Argyle Street, MACLEAN NSW 2463	Submission received and currently being assessed*
DA2019/0700	19/12/2019	45	Boundary adjustment and multi unit (3 additional residential units with existing building)	165-169 Cambridge Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (Manoeuvring Diagram and DCP Variation)
DA2019/0691	16/12/2019	46	Shed on mound	16-22 Grafton Street, LAWRENCE NSW 2460	Awaiting external referral (NRAR).
DA2019/0698	18/12/2019	46	Swimming pool	4666 Pringles Way, LAWRENCE NSW 2460	Currently being assessed*
DA2019/0659	3/12/2019	47	Two lot subdivision and attached dual occupancy	35 Coldstream Street, YAMBA NSW 2464	Submission received and currently being assessed*
DA2019/0692	17/12/2019	47	Carport and Deck	112 Wharf Street, MACLEAN NSW 2463	Submission received and DCP Variation currently being assessed*
DA2019/0674	10/12/2019	48	Manufactured home estate	36 Golding Street, YAMBA NSW 2464	Applicant to respond to issues raised in submissions.
DA2019/0690	16/12/2019	48	Proposed dwelling envelope	516 Iluka Road, WOOMBAAH NSW 2469	Additional information submitted and currently being assessed*

Application No	Received Date	Days	Description	Property	Reason
DA2019/0684	12/12/2019	51	Dwelling	2509 Old Glen Innes Road, BUCCARUMBI NSW 2460	Currently being assessed*
DA2019/0685	13/12/2019	51	Dwelling	210 Ellandgrove Road, ELLAND NSW 2460	Currently being assessed*
DA2019/0686	13/12/2019	51	Shed	121 Yamba Road, YAMBA NSW 2464	DCP variation currently being assessed*
DA2019/0687	13/12/2019	51	Two patios	5 Melaleuca Drive, YAMBA NSW 2464	Currently being assessed*
DA2019/0688	13/12/2019	51	Secondary dwelling and carport	195 Alice Street, GRAFTON NSW 2460	Heritage matters currently being assessed*
DA2019/0682	12/12/2019	52	Dwelling	Warregah Island Road, WARREGAH ISLAND NSW 2469	Currently being assessed*
DA2019/0683	12/12/2019	52	Swimming pool	30 King Parrot Parade, GULMARRAD NSW 2463	Currently being assessed*
DA2019/0677	11/12/2019	53	Swimming pool and deck	553 Coldstream Road, ULMARRA NSW 2462	Currently being assessed*
DA2019/0679	11/12/2019	53	Alterations and Additions	79 Yamba Street, YAMBA NSW 2464	Currently being assessed*
DA2019/0675	10/12/2019	54	As built dwelling	561 Parker Road, LANITZA NSW 2460	Currently being assessed*
DA2019/0671	9/12/2019	55	Sanitary facilities in existing shed	135 School Road, PALMERS ISLAND NSW 2463	Additional information requested (use of shed and facilities, potential that shed may be third dwelling on property)
DA2019/0672	9/12/2019	55	Alterations & additions to church hall	Wharf Street, SOUTH GRAFTON NSW 2460	Additional information requested (amended plans and parking).
DA2019/0673	9/12/2019	55	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	Currently being assessed*
SUB2019/0044	9/12/2019	55	Four lot subdivision	Micalo Road, MICALO ISLAND NSW 2464	Additional information requested (details of access to the site)
DA2019/0665	5/12/2019	59	Dual Occupancy, two sheds and swimming pool	55 Sullivans Road, YAMBA NSW 2464	Applicant has advised the proposal will be amended to remove second dwelling & shed.
DA2019/0670	5/12/2019	59	Two storey deck and alterations to dwelling	32 The Peninsula, YAMBA NSW 2464	Currently being assessed*
SUB2019/0043	3/12/2019	59	Six lot subdivision	250 North Street, GRAFTON NSW 2460	Additional information requested (Servicing Plan).
DA2019/0660	3/12/2019	61	Shed and awning	581 Palmers Channel North Bank Road, PALMERS ISLAND NSW 2463	Currently being assessed*
DA2019/0661	3/12/2019	61	Shed	50 River Street, BRUSHGROVE NSW 2460	Additional information requested (amended site plan)
DA2019/0651	28/11/2019	62	Two industrial sheds	160 North Street, GRAFTON NSW 2460	Awaiting external referral (NRAR).
DA2019/0648	27/11/2019	65	Dwelling and swimming pool	Campbell Lane, YAMBA NSW 2464	Proposal amended and currently being notified.
SUB2019/0041	25/11/2019	65	Two lot subdivision	33 Spenser Street, ILUKA NSW 2466	Submission received and currently being assessed*
DA2019/0643	26/11/2019	68	Verandah	3532 Armidale Road, NYMBOIDA NSW 2460	Currently being assessed*
DA2019/0646	26/11/2019	68	Earthworks cut and fill	1 Tyson Street, SOUTH GRAFTON NSW 2460	Awaiting internal referrals and currently being assessed*
DA2019/0639	25/11/2019	69	New commercial building	20 High Street, YAMBA NSW 2464	Additional information requested (parking and disabled access)
DA2019/0636	22/11/2019	72	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Additional information requested (amended plans)
DA2019/0630	21/11/2019	73	Decommission and fill pool	32 Blanch Parade, SOUTH GRAFTON NSW 2460	Currently being assessed*
DA2019/0626	19/11/2019	74	Alterations and Additions to dwelling	7 Banksia Place, YAMBA NSW 2464	Currently being assessed*
DA2019/0623	18/11/2019	76	Shed	162 Coaldale Road, THE PINNACLES NSW 2460	Submission received and currently being assessed*
DA2019/0616	12/11/2019	80	Alterations and additions to aged care facility (lifts and scooter storage room)	3-7 Rannoch Avenue, MACLEAN NSW 2463	Currently being assessed*

Application No	Received Date	Days	Description	Property	Reason
DA2019/0619	13/11/2019	81	Alterations and Additions	30 Riverview Street, ILUKA NSW 2466	Currently being assessed*
DA2019/0579	24/10/2019	83	Shed	36 River Street, BRUSHGROVE NSW 2460	Currently being assessed*
DA2019/0611	7/11/2019	87	Shed	14 North Street, WOOMBAH NSW 2469	Currently being assessed*
DA2019/0602	4/11/2019	90	Dual occupancy and two lot subdivision	71 Scullin Street, TOWNSEND NSW 2463	RFS referral received and DCP Variations requested currently being assessed*
DA2019/0603	4/11/2019	90	Convert fuel depot to service station	119 Jubilee Street, TOWNSEND NSW 2463	Additional information submitted and currently being assessed*
DA2019/0601	1/11/2019	93	Carport	64 River Street, MACLEAN NSW 2463	Additional information requested (location of stormwater pipe)
DA2019/0595	31/10/2019	94	Shed	347 Orara Road, LANITZA NSW 2460	Additional information submitted and currently being assessed*
DA2019/0589	29/10/2019	96	Two Awnings	72 Margaret Crescent, SOUTH GRAFTON NSW 2460	Currently being assessed*
DA2019/0587	28/10/2019	97	Dwelling	1 Perch Road, WELLS CROSSING NSW 2460	Additional information requested (Site Plan).
DA2019/0580	24/10/2019	100	Dwelling	249 Omega Drive, KUNGALA NSW 2460	Currently being assessed*
DA2019/0583	25/10/2019	100	Shed	47 Fernance Road, CLARENZA NSW 2460	Additional information requested (DCP Variation)
DA2019/0585	25/10/2019	100	Dwelling	Watts Lane, HARWOOD NSW 2465	Preliminary site investigation for contamination received (30/1/20) and currently being assessed*
DA2019/0581	24/10/2019	101	Carport	15 Ash Avenue, GRAFTON NSW 2460	Additional Information requested (setbacks).
DA2019/0570	21/10/2019	103	Dual Occupancy	Morelia Way, WOOMBAH NSW 2469	Amended Plans and OSM Location received and currently being assessed*
DA2019/0566	18/10/2019	107	Alterations and Additions	28 Barellan Avenue, YAMBA NSW 2464	Currently being assessed*
DA2019/0568	18/10/2019	107	Shed and awning	38 Archer Street, SOUTH GRAFTON NSW 2460	Additional information requested (amended plans) or withdraw application.
DA2019/0539	3/10/2019	108	Monthly Twilight Markets	Clarence Street, YAMBA NSW 2464	Additional information requested (owners consent)
DA2019/0562	17/10/2019	108	Deck and awning	526 Yamba Road, MACLEAN NSW 2463	Additional information submitted (amended plans) and currently being assessed*
DA2019/0560	15/10/2019	110	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOLOWEYAH NSW 2464	Currently being assessed*
DA2019/0557	14/10/2019	111	Dwelling	Stuart Street, LAWRENCE NSW 2460	Access issue currently being assessed*
DA2019/0552	11/10/2019	114	Alterations & additions to residential unit	2/27 The Crescent, ANGOURIE NSW 2464	Currently being assessed*
DA2019/0527	1/10/2019	122	Dwelling additions and alterations and new garage	18 South Terrace, WOOLI NSW 2462	Awaiting internal referral regarding coastal risk.
DA2019/0530	1/10/2019	124	As-built dwelling and alterations and additions	271 Skinners Road, PILLAR VALLEY NSW 2462	Additional information requested (engineers details, details of OSM system, extent of clearing and amended plans)
DA2019/0524	27/09/2019	128	Alterations and additions to dwelling	19 Golding Street, YAMBA NSW 2464	Currently being assessed*
DA2019/0516	24/09/2019	131	Dwelling alterations and additions	4 Boronia Street, BROOMS HEAD NSW 2463	Additional information requested (submit OSM application to upgrade system)
DA2019/0514	23/09/2019	132	Retention of existing hardstand area and new earthworks	21 Through Street, SOUTH GRAFTON NSW 2460	Additional information requested (contamination assessment of existing site)
DA2019/0494	10/09/2019	145	Dual occupancy (attached)	4 Moorhead Drive, SOUTH GRAFTON NSW 2460	Additional information requested (further justification to vary minimum finished floor

Application No	Received Date	Days	Description	Property	Reason
					level requirement)
DA2019/0489	6/09/2019	146	Dwelling	13 The Glen, MACLEAN NSW 2463	Awaiting external referral (RFS)
DA2019/0492	9/09/2019	146	Additional filling of land (20,000m3)	52-54 Miles Street, YAMBA NSW 2464	Awaiting external referral to NRAR
DA2019/0466	28/08/2019	151	Alterations and additions for metal fabrication business and boundary adjustment	20 Through Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (amended plans and details of trade waste processes)
DA2019/0478	30/08/2019	153	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested (Revised Plans, OSM Application and Bushfire Report)
DA2019/0468	28/08/2019	156	Additions to school (Performance centre)	68-86 Centenary Drive, CLARENZA NSW 2460	Currently being assessed*
DA2019/0472	29/08/2019	156	As built shed and addition to shed	55 Nottingham Drive, GLENREAGH NSW 2450	Council staff to arrange time to inspect premise to complete assessment of proposal.
SUB2019/0034	28/08/2019	158	40 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	DPIE comments received and revised KPOM to be provided.
DA2019/0459	22/08/2019	164	Coastal protection works (rock riverbank protection)	383 North Street, WOOLI NSW 2462	Awaiting external referral (NRAR)
SUB2019/0033	20/08/2019	166	Boundary adjustment & consolidation of Lot 10 DP752845 & Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Additional information requested (access and servicing of proposed lots, details of vegetation removal (if any) and liaise with Local Aboriginal Land Council)
SUB2019/0030	14/08/2019	172	305 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	Additional information requested (Compliance with DCP, Contamination Assessment, Revised Acid Sulfate Soil Assessment and various Engineering matters servicing, road layout)
DA2019/0423	8/08/2019	174	255 manufactured home estate with community facilities	Brooms Head Road, GULMARRAD NSW 2463	Additional information submitted and currently being notified
DA2019/0426	8/08/2019	178	Extension to Industrial Shed, Caretakers Dwelling and Carport	14 Uki Street, YAMBA NSW 2464	Council staff to arrange time to inspect premise to complete assessment of proposal, report to next available Council meeting thereafter.
DA2019/0427	8/08/2019	178	Vehicle sales premises and shed	18-20 Clyde Street, MACLEAN NSW 2463	Awaiting internal referrals and currently being assessed*
DA2019/0417	7/08/2019	179	Additions to Existing Shed and New Awning for Waste Transfer Station	704 Armidale Road, ELLAND NSW 2460	Additional information submitted and being notified.
DA2019/0399	26/07/2019	191	Storage shed/bays & caretakers dwelling	21-25 Brickworks Lane, SOUTH GRAFTON NSW 2460	Report to February 2020 Council meeting.
SUB2019/0024	10/07/2019	207	32 lot residential subdivision	21 Jubilee Street, TOWNSEND NSW 2463	Awaiting External Referral (RFS) and currently being notified.
DA2019/0336	19/06/2019	220	Convert shed to dwelling	170 Bennetts Road, NYMBOIDA NSW 2460	Additional information required (site plan, BASIX Certificate and building details)
DA2019/0334	19/06/2019	228	Install brewery in backpackers cafe	26 Coldstream Street, YAMBA NSW 2464	Additional information submitted (trade waste) and being assessed*
DA2019/0321	14/06/2019	233	Relocated dwelling	9 Lorikeet Place, GLENREAGH NSW 2450	Additional information requested (amended plans), third letter sent.
DA2019/0303	6/06/2019	241	Backpacker accommodation for up to 74 guests and managers residence	26-28 Wharf Street, SOUTH GRAFTON NSW 2460	Report to February 2020 Council meeting.
DA2019/0266	22/05/2019	256	Remediation of riverbank erosion, establish dwelling envelope, construction of two dams & two flood	Kings Creek Road, LAWRENCE NSW 2460	NRAR General Terms of Approval received and currently being assessed*

Application No	Received Date	Days	Description	Property	Reason
			mounds		
DA2019/0243	13/05/2019	265	Shipping container building with playground, cafe and rooftop restaurant	383 North Street, WOOLI NSW 2462	Applicant has amended proposal to remove rooftop deck area. Awaiting external comment from RFS on revised proposal.
DA2019/0208	23/04/2019	285	Redevelopment & refurbishment of Pacific Hotel (including demolition of beach house & northern section of hotel, construction of new tourist accommodation & ancillary works)	16 Pilot Street, YAMBA NSW 2464	Awaiting additional information (car parking), likely report to February 2020 Council meeting.
SUB2019/0010	23/04/2019	285	Two lot subdivision (includes lot size variation)	401 Kungala Road, KUNGALA NSW 2460	Applicant to amend application to increase lot size to comply with LEP or withdraw application.
DA2019/0195	15/04/2019	293	Additions to caravan park - 33 cabins for long term use	42 Marandowie Drive, ILUKA NSW 2466	Applicant to amend application regarding removal of vegetation from site.
DA2019/0152	26/03/2019	313	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Currently being assessed, staff to liaise with applicant regarding access to the property*
DA2019/0130	20/03/2019	319	Dual Occupancy	17 Taloumbi Street, MACLEAN NSW 2463	Currently being assessed*
DA2019/0126	19/03/2019	320	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Land to soon be transferred to CVC. Application likely to be withdrawn once land ownership changes.
DA2019/0128	19/03/2019	320	Machinery shed	1 Youngs Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated land assessment and geotechnical report of mound)
SUB2019/0002	6/02/2019	361	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Awaiting additional information (Applicant to respond to OEH comments regarding BDAR)
SUB2019/0001	24/01/2019	374	Seven lot subdivision (5 additional lots)	39/57 Chatsworth Road, CHATSWORTH NSW 2469	Contaminated land and OSM considerations currently being assessed*
DA2018/0630	16/10/2018	474	Dual occupancy	1431 Pacific Highway, ULMARRA NSW 2462	Applicant to consider how/if this DA will be pursued. Geotechnical assessment of riverbank has determined there is an unacceptable factor of safety without substantial works to the riverbank. Applicant representative has advised they will meet Council staff to discuss in the near future.
SUB2018/0030	16/10/2018	474	Boundary adjustment	Pacific Highway, TYNDALE NSW 2460	Awaiting additional information (Contaminated land assessment), third update for status of information request sent.
SUB2018/0027	8/10/2018	482	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire)
DA2018/0449	6/08/2018	545	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
DA2018/0102	5/03/2018	699	Speedway practice track	334 School Lane, SOUTHGATE NSW 2460	Currently being assessed*
SUB2018/0004	23/02/2018	709	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Reviewing information submitted by applicant to determine if further information is required.

Application No	Received Date	Days	Description	Property	Reason
DA2017/0671	18/10/2017	837	Caravan Park - Alterations & Additions (10 additional sites) and amenities	391 Goodwood Island Road, GOODWOOD ISLAND NSW 2469	Awaiting additional information (Building Certificate Application, plans and compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

*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

During the month of December 2019 and January 2020 there was no use of Clause 4.6 for any DAs that were determined.

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.20.011	CLARENCE VALLEY LOCAL ENVIRONMENTAL PLAN 2011 (AMENDMENT NO. 41)
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Meeting	Environment, Planning & Community Committee	18 February 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report advises of recently completed amendment to the Clarence Valley Local Environmental Plan 2011 (the LEP).

OFFICER RECOMMENDATION

That Council note the recent amendment to the Clarence Valley Local Environmental Plan 2011.

COMMITTEE RECOMMENDATION

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.011

Ellem/Novak

That Council note the recent amendment to the Clarence Valley Local Environmental Plan 2011.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

Amendment No. 41 (Housekeeping Amendments 2018) was made by Council under delegation and notified on 10 January 2020. It amends the LEP to correct minor errors and make administrative updates. These are summarised below:

1. Amend LEP Land Zoning Map so that land that is reserved under the National Parks and Wildlife Act 1974 but not currently zoned under Zone E1 National Parks and Nature Reserves is zoned to E1.

2. Amend LEP Land Zoning Map so that 435 Bent Street, South Grafton (Lot 401 DP1153969) is entirely within the R5 zone and the portion of the golf course (Lot 400 DP1153969) sharing that property boundary is not within the R5 zone.
3. Amend LEP Lot Size Map so that the Y 1.5 ha category aligns with the property boundary of 435 Bent Street, South Grafton (Lot 401 DP1153969).
4. Amend LEP Heritage Map to remove heritage item number 492 at 147 Bacon Street, Grafton (Lot 2 DP868616).
5. Amend LEP Schedule 5 to remove heritage item number 492 at 147 Bacon Street, Grafton (Lot 2 DP868616).
6. Amend LEP Land Zoning Map so that 15 Riverside Drive, South Grafton, (Lot 54 DP1196678) is entirely within the R1 zone.
7. Amend LEP Land Zoning Map so that 72 parcels of land in the National Parks estate are within the E1 zone.
8. Amend LEP Heritage Map to remove heritage item number 950 from Lot 12 DP1188458 so that it applies only to the relevant lot.
9. Amend LEP Schedule 5 so that the address details for heritage item number 950 refer only to Lot 11 DP118458 and not Lot 12 DP118458.

A copy of Amendment No. 41, as notified on the NSW legislation is in the attachments.

KEY ISSUES

Previous reports to Council (17 July 2018 and 26 March 2019) have dealt with the issues associated with the planning proposal and LEP amendment.

COUNCIL IMPLICATIONS

Budget/Financial

The planning proposal was prepared and processed by Council staff within normal operational budget.

Asset Management

N/A

Policy or Regulation

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

Consultation

Council undertook statutory consultation with public authorities and other stakeholders as directed by the Gateway determination.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	CVLEP 2011 Amendment No. 41

Schedule 1: Summary of proposed amendments to the Clarence Valley Local Environmental Plan 2011

No.	Land	Issue	Amendment required
1	Lot 401 DP1153969, 435 Bent St, South Grafton - adjoining Golf Club	Zoning and lot size maps don't align with property boundaries.	Amend zoning and lots size maps so Lot 401 DP1153969 is entirely within the R5 zone and the Y minimum lot size category (1.5 ha) and the small portion of land in the adjacent golf course (Lot 400 DP1153969) to be rezoned from R5 to RE2.
2	Lot 2 DP868616, 147 Bacon St, Grafton	Dwelling is heritage listed (I492) but is not of heritage significance. It is thought that the listing refers to 153 Bacon Street, which is listed under I495, therefore, I492 just needs to be deleted.	Remove heritage item number I492 from the LEP map and from Schedule 5 to the CVLEP.
3	Lot 54 DP1196678, Riverside Drive, South Grafton	Lot is privately owned but partly zoned RE1. There were previous concerns regarding contamination, however, this has since been investigated and resolved. Therefore, this portion of the land can now be rezoned to R1 to match the bulk of the lot.	Amend zoning map so Lot 54 DP1196678 is entirely within the R1 zone.
4	Federation Street Road reserve, South Grafton	The Tin Bridge I887 - Heritage item has been demolished - this has been corrected in the mapping in a previous housekeeping amendment, however, it was not deleted from Schedule 5.	Remove heritage item number I887 from Schedule 5 to the CVLEP.
5	Land added to the National Park estate, for example Everlasting Swamp and Wombat Creek	There are approximately 70 lots that have been gazetted as part of National Parks and Wildlife Service reserves within the Council area over the last few years. However, as rezoning is not part of the gazettal process, the land remains in various zones.	Rezone to E1 National Parks and Nature Reserves.
6	Lot 12 DP1188458, 1 Reserve Street, Grafton	The heritage listed Bunya Pine is now located on adjoining Lot 11 at 268 Pound Street. Due to a recent adjustment in the cadastral boundaries it is appropriate to remove the heritage listing that currently applies to Lot 12 on both the map and adjust Schedule 5 of the CVLEP to suit.	Remove heritage item mapping from Lot 12 and adjust legal description for the land containing the listed Bunya Pine in Schedule 5 of the CVLEP.

CLOSE OF COMMITTEE MEETING

There being no further business the Environment, Planning & Community Committee closed at 5.18 pm.

b. CORPORATE GOVERNANCE AND WORKS COMMITTEE

MINUTES of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 18 February 2020, commencing at 2.00 pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

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

PRESENT

Cr Karen Toms (Chair), Cr Peter Ellem, Cr Jim Simmons, Cr Arthur Lysaught (until 5.57 pm), Cr Jason Kingsley

Cr Andrew Baker (until 5.23pm), Cr Debrah Novak, Cr Greg Clancy, Cr Richie Williamson (until 5.23pm), Mr Ashley Lindsay (General Manager), Ms Laura Black (Director – Corporate & Governance), Mr Des Schroder (Director – Environment, Planning & Community) and Mr Peter Birch (Director – Works & Civil) were in attendance.

APOLOGIES – Nil**DISCLOSURE AND DECLARATIONS OF INTEREST**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6c.20.006	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Wife is member of Wooloweyah Hall Committee Intended action: Remain the Chamber
Cr Ellem	6c.20.002	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Graham East made deputation and both are members of ALP Branch Intended action: Remain in the Chamber

MOTION - WITHDRAWN

Toms/Lysaught

That Item 6c.20.022 be moved from the end of the agenda to the top of the agenda.

ITEM	6c.20.001	ROTARY CLUB OF YAMBA STORAGE REQUEST AT YAMBA WORKS DEPOT
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

The Rotary Club of Yamba (Yamba Rotary) have requested the use of the State Emergency Services (SES) storage shed at the Yamba Works Depot facility as their previous storage facility was subject to an arson attack.

OFFICER RECOMMENDATION

That Council work with Yamba Rotary to:

1. Develop an agreement to access part of the SES facility at the Yamba Works Depot until 30 June 2021.
2. Assist the Club to find an alternate location to construct a storage area to meet their needs.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.001

Toms/Novak

That Council support Yamba Rotary and acknowledge their enormous contribution over many years to the Clarence Valley community:

1. **Develop an agreement to access part of the SES facility at the Yamba Works Depot until 30 June 2021 at no cost.**
2. **Assist the club to find an alternate location to construct a storage area to meet their needs.**
3. **Report back to Council the details of Council's assistance and outcomes of point 2 by December 2020.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

Yamba Rotary lost all possessions in December 2019 when the storage facility that they occupied on Yamba Golf Club land was destroyed in an arson attack. An insurance claim has been lodged to cover the replacement of possessions and the facility, the outcome of this claim is not yet known. Funding was allocated by the NSW State Government to assist the Club to reacquire the possessions that they used in the support of community events.

A request has been received from Yamba Rotary to use the current SES facility that is part of the Yamba Works Depot property.

Council is in the process of completing the new Yamba SES facility in Fairtrader Drive, Yamba to enable occupation by the SES. On completion the SES will move their operation in its entirety from the Yamba Works Depot to the new facility in Fairtrader Drive, Yamba.

KEY ISSUES

Council has worked to provide an alternate facility for the SES to overcome a number of issues relating to the Yamba Works Depot property. These include –

- The current facility is too small for SES operations;
- There is a lack car parking space at the facility and within Neptune Place during the training and operations of SES.
- There is a lack of space for the covered storage of materials, vehicles, plant and equipment with the Yamba Works Depot.
- The need for additional storage of flood related equipment and signage at the Depot to meet operational needs.

The arson attack has resulted in Yamba Rotary being left with no dedicated storage facility or equipment, the Club is in the process of rebuilding and is seeking Council support initially and in the longer term. With the construction of the new Yamba SES facility, Yamba Rotary are seeking to use a portion of the SES storage shed at the Yamba Works Depot facility either as a short term solution or long term solution.

The handover of the current building and area of land will enable Council's operational needs to be met and address the space constraints of the site that have been experienced for a number of years, occupation of this space by another party will prevent the implementation of redevelopment and utilisation of the space and the continuance of the operational problems.

No allocation has been made in the 2020/21 financial year to commence the planning for or to undertake the alterations of the SES storage shed at the Yamba Works Depot facility and while the additional space is required to enable Council's operational needs to be met, the operational issues faced can be accommodated by Council for a short period of time so that Yamba Rotary's urgent need can be catered for.

It is recommended that Council work with Yamba Rotary to develop an agreement to access part of the SES facility at the Yamba Works Depot until 30 June 2021, to assist the Club to find an alternate location to construct a storage area to meet their needs. Following the exit of Yamba Rotary it is recommended that Council not provide the vacant shed and facility to another community group and proceed with the alterations required to cover operational need..

COUNCIL IMPLICATIONS**Budget/Financial**

There will be costs to de-establish the SES from the site and make alterations to the Yamba SES shed and surrounds to meet Council's operational needs. At this stage a full assessment of the scope of works required have not been completed or quotes obtained. That work will be completed once the SES vacate the facility.

Yamba Rotary have not indicated in their correspondence any financial implications involving their request for use of the shed.

Asset Management

The current Yamba SES shed is in fair condition and there have been some termite damage to an office/amenities area in the past that has been treated. From an initial assessment there is the ability to utilise and adapt the shed for Council use and storage through some alterations that would connect the facility to the Yamba Depot yard.

Access to the current Yamba SES facility is off Neptune Place and there is a fence/shed wall separating the SES from the Yamba Depot operational area.

Policy or Regulation

N/A

Consultation

Discussions have been held with Yamba Rotary on their request so that a clear understanding of their current situation can be obtained

Legal and Risk Management

There is a risk that Council plant, equipment and material will continue to not be able to be provided with suitable cover and will lead to a greater rate of deterioration. Having a community group access the SES shed will limit realising the full operational potential for Council of the constrained depot site.

Climate Change

Reusing and adapting the buildings will have a net positive benefit for the environment and climate.

Prepared by	Peter Birch, Director Works and Civil
Attachment	Letter from Rotary Club of Yamba

ITEM	6c.20.002	2019/20 QUARTERLY BUDGET REVIEW STATEMENT – DECEMBER 2019
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Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

SUMMARY

This report presents to Council the December 2019 Quarterly Budget Review Statement (QBRS) reports for the period 1 July 2019 to 31 December 2019.

Budget adjustments for the quarter ended 31 December 2019 (subject to Council resolution) result in a net General Fund surplus of (\$531,997) increasing the current year projected budget result to a (\$234,247) surplus.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the information in the Quarterly Budget Review Statement to December 2019, and
2. Approve General Fund variations detailed in this report totalling (\$531,997), which results in a projected General Fund budget Surplus of (\$234,247) for the year, and
3. Approve the variations for the Financial Reserves as detailed in this report totalling \$320,752, which results in a projected decrease in the External and Internal Reserves Funds of \$16,063,082.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.002

Ellem/Novak

That Council:

1. Receive and note the information in the Quarterly Budget Review Statement to December 2019, and
2. Approve General Fund variations detailed in this report totalling (\$531,997), which results in a projected General Fund budget Surplus of (\$234,247) for the year, and
3. Approve the variations for the Financial Reserves as detailed in this report totalling \$320,752, which results in a projected decrease in the External and Internal Reserves Funds of \$16,063,082.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.2 We will have an effective and efficient organisation
Strategy	5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

In accordance with Clause 203(1) of the Local Government (General) Amendment (planning and reporting) Regulation 2011, the Quarterly Budget Review Statement must be submitted to Council no later than two months after the end of the quarter.

The QBRS presents a summary of Council's financial position at the end of each quarter. It is the mechanism whereby Councillors and the community are informed and monitor Council's progress against the Operational Plan (original budget) and the last adopted revised budget.

The QBRS includes:

Attachments

1. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Fund (**Attachment A**):
 - Consolidated
 - General
 - Water
 - Sewer
 - Holiday Parks
 - Clarence Regional Library
 - Domestic Waste Management
 - Clarence Care and Support
2. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Sub-Service (**Attachment B**).
3. Statement of Restricted Cash Reserve Funds providing a projected year end position (**Attachment C**).
4. Statement of Material Contracts entered into by Council and details of Consultancies and Legal Expenses during the quarter (**Attachment D**).

Other Matters:

5. Quarterly Budget Review – Provides the proposed variations for the month of December. Summarises the General Fund budget variations during the quarter and the impact on the overall projected result and reserves.
6. Capital Budget Review – References to the Works Report reported elsewhere in this business paper.
7. Improvement Strategies – References a separate Improvement Strategies Status Update reported elsewhere in these Business Papers.
8. Key Performance Indicators – Provides a projected result against the benchmark for Council's General Fund key performance indicators.

KEY ISSUES

QUARTERLY BUDGET REVIEW

The report table below includes proposed budget variations for the month of December to be considered for inclusion in the 2019/20 budget. The mechanism for reporting the actual variation is this Quarterly Budget Review Statement (QBRs) in compliance with Clause 203 of the Local Government (General) Regulation 2005.

Major Budget Variations Proposed

Following is a list of the major proposed variations for the month of December 2019.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
550	Service – GM Management Sub-Service – Office of General Manager <ul style="list-style-type: none"> Preparation of tender documentation that supports the continuation or expansion and improvement of services currently provided by Clarence Care and Support in the local community, by a community based not for profit funded from RA 10240 – CCS – Administration Reserve. 	\$Nil	\$20,000	6a.19.037
	<ul style="list-style-type: none"> Allocate Federal Government Disaster Recovery & Resilience Fund Grant to be transferred to RA 80001 – UG - Fed Government Disaster Recovery & Resilience Fund Reserve to assist community recovery and increase community resilience to disaster. 	\$Nil	(\$1,000,000)	N/A
713	Service - Finance & Supply Sub-Service – Supply & Light Fleet Management <ul style="list-style-type: none"> Centralise all non-service specific stationery budgets to Procurement and Contract Management Project. 	\$19,974	(\$19,974)	6a.19.004
	<ul style="list-style-type: none"> Recognise 19/20 Improvement Strategy saving in reduction of centralised Stationery budget. 	(\$25,000)	\$Nil	6a.19.004
721	Service – Information Services Sub-Service – Information Technology <ul style="list-style-type: none"> Centralise all non-service specific printing budgets to Hardware and Infrastructure Project. 	\$19,974	(\$19,974)	6a.19.004
	<ul style="list-style-type: none"> Centralise all telephone and communication budgets to Hardware and Infrastructure Project. 	\$112,128	(\$112,128)	6a.19.004
	<ul style="list-style-type: none"> Recognise 19/20 Improvement Strategy saving in reduction of centralised Printing budget. 	(\$25,000)	\$Nil	6a.19.004
	<ul style="list-style-type: none"> Recognise 19/20 Improvement Strategy saving in reduction of centralised Telephone and Communications budget. 	(\$25,000)	\$Nil	6a.19.004

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"> Replace Hyper converged Nutanix server per the 10 financial and asset replacement plan funded from RA 10250 Computer Facilities Reserve. 	\$Nil	\$156,266	N/A
805	Service – Roads Sub-Service – Urban Roads <ul style="list-style-type: none"> Remove duplicate budget for Yamba Road Treelands Drive Intersection Construction. 	(\$300,000)	\$Nil	N/A
807	Service – Roads Sub-Service – Regional Roads <ul style="list-style-type: none"> Allocate additional RMS Safer Roads Program funding to Armidale Rd and McPhersons Crossing Rd intersection Upgrade (\$100,000). Remove Roads to Recovery Grant – to be allocated to a future project 	\$Nil \$13,500	\$Nil \$Nil	N/A N/A
810	Service – Bridges Sub-Service – Bridges <ul style="list-style-type: none"> Allocate Federal Government Bridges Renewal Grant to Pullalalong Bridge Replacement (\$267,000). Allocate Federal Government Bridges Renewal Grant (\$10,489) and Transport for NSW – Fixing Country Roads (FCR) Program Grant (\$10,489) to Endless Creek Bridge Replacement. Allocate Federal Government Bridges Renewal Grant to Romiaka Channel Bridge Replacement (\$440,192). 	\$Nil \$Nil \$Nil	\$Nil \$Nil \$Nil	N/A N/A N/A
830	Service – Emergency Services and Natural Disasters Sub-Service – Natural Disaster Management <ul style="list-style-type: none"> Allocate contribution from Office of Emergency Management (NSW Disaster Assistance Guideline) for running costs of BlazeAid at base-camp Nymboida to assist with disaster recovery activities (\$40,000). 	\$Nil	\$Nil	N/A
835	Service - Emergency Services and Natural Disasters Sub-Service – RFS Operations <ul style="list-style-type: none"> Align revenue and expenditure budget to align with 2019/20 funding allocation from RFS Maintenance and Repairs Grant. 	\$35,304	\$Nil	N/A
840	Service – Parks & Open Spaces Sub-Service – Parks and Open Spaces <ul style="list-style-type: none"> Fund Jacaranda Park Redevelopment: Tip Remediation costs from RA 11010 Tip 	\$Nil	\$688,850	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Rehabilitation Reserve \$102,341, RA 92011 S94 CVC Open Space/Rec Facilities – Grafton Reserve \$107,623 RA 92021 S94 CVC Community Facilities – Grafton & Surrounds \$266,647 \$53,230 Total S94 \$427,500 and, RA 10577 Upgrade Playground Equipment Reserve \$159,009.			
841	Service – Sporting Facilities Sub-Service - Sporting Facilities <ul style="list-style-type: none"> Allocate Community Development Program Grant to Ken Leeson Oval Stage 1 Upgrade (\$500,000). 	\$Nil	\$Nil	6c.19.110
871	Service – Aquatic Facilities Sub-Service - Aquatic Facilities <ul style="list-style-type: none"> Fund investigation and repair of leaks to the Grafton Swimming Pool. 	\$50,000	\$Nil	6c.19.112
875	Service – Waste Management Sub-Service – Regional Landfill <ul style="list-style-type: none"> Recognise additional Disposal revenue due to increase in waste being received at Grafton Landfill and transfer to RA 10815 Regional Landfill Reserve. Increase projected State Waste Levy due to additional waste received at Grafton Landfill \$400,000 to be funded from RA 10815 Regional Landfill Reserve. 	\$Nil	(\$1,000,000)	N/A
878	Service – Waste Management Sub-Service – Waste Transfer Stations & Other Waste <ul style="list-style-type: none"> Fund Minnie Water Waste Transfer Station from RA 10815 Regional Landfill General Reserve. 	\$Nil	\$345,761	N/A
945	Service – Galleries & Museums Sub-Service – Galleries & Museums <ul style="list-style-type: none"> Allocate Museum Advisor Program 2020 calendar year Grant (\$11,500) and transfer \$5,750 to RA 89221 M&GNSW - Museum Advisor Program 2020 - Year 8. Allocate matching CVC Contribution \$7,000 and transfer \$3,500 to RA 10683 Museum Advisor Program 2020 - Year 8. Allocate Arts & Cultural Funding Program 2020 calendar year Grant (\$70,000) and transfer Jul-Dec Funding to RA 83074 Arts NSW Annual Program Grant (\$35,000). Allocate expenditure budget to offset 	\$3,500	(\$2,250)	N/A
		\$Nil	(\$35,000)	N/A
		\$24,996	\$Nil	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	<p>Yulgilbar Friends of the Gallery contribution \$21,599 and decrease Yulgilbar Friends of the Gallery contribution to align with 19/20 actual \$3,397.</p> <ul style="list-style-type: none"> Allocate revenue budget for hire of 2018 JADA exhibit buy third party galleries to be transferred to RA 41070 Art Gallery – JADA Reserve (\$8,000). Allocate freight cost of JADA 2018 exhibition \$12,900 funded from RA 41070 Art Gallery – JADA Reserve. Allocate advertising budget for entries to 2020 JADA \$1,710 funded from RA 41070 Art Gallery – JADA Reserve. 	\$Nil	\$6,610	N/A
961	<p>Service – Land Use Planning Sub-Service – Land Use Planning</p> <ul style="list-style-type: none"> Allocate Salaries & Wages Budget for 2 new FTA Plans of Management Officers and fund from RA 79000 CCRT Bank Ac and remove contractor budget as not required per Executive Minute Items 18/134 & 19/42. 	(\$85,000)	\$101,272	N/A
965	<p>Service – Economic Development Sub-Service – Economic Development</p> <ul style="list-style-type: none"> Fund the Harwood Riverside & Village Precinct Plan. 	\$20,000	\$Nil	6c.19.103/19 14.028/18
Various	<ul style="list-style-type: none"> Recognise 19/20 Improvement Strategy saving in reduction of Seminar/Conference budget. Recognise 19/20 Improvement Strategy saving reduction to Meeting Expenses budget. Recognise 19/20 Improvement Strategy saving reduction to Protective Clothing and Equipment budget. Recognise 19/20 Improvement Strategy saving reduction to Uniforms budget. Recognise 19/20 Improvement Strategy saving reduction to Electricity budget. Recognise 19/20 Improvement Strategy saving reduction to Advertising budget. Recognise 19/20 Improvement Strategy saving reduction to Postage budget. 	<p>(\$60,000)</p> <p>(\$20,000)</p> <p>(\$3,108)</p> <p>(\$2,107)</p> <p>(\$50,432)</p> <p>(\$38,344)</p> <p>(\$14,212)</p>	<p>\$Nil</p> <p>\$Nil</p> <p>\$Nil</p> <p>\$Nil</p> <p>\$Nil</p> <p>\$Nil</p> <p>\$Nil</p>	<p>6a.19.004</p> <p>6a.19.004</p> <p>6a.19.004</p> <p>6a.19.004</p> <p>6a.19.004</p> <p>6a.19.004</p> <p>6a.19.004</p>
Various	<ul style="list-style-type: none"> Reduce workers compensation budgets to align with 19/20 premiums. 	(\$183,170)	(\$30,989)	6a.19.004
	TOTAL Proposed General Fund / Reserve Balance Impact	(\$531,997)	(\$501,556)	

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution

The table below summarises the General Fund budget variations endorsed during the quarter (Minutes 6c.19.035 July and 09.19.003 August) and the impact on the overall projected result.

December 2019 Quarter Budget Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
October	\$177,015	(\$220,432)	(\$43,417)	Surplus	6c.19.088
November	\$88,500	(\$144,560)	(\$56,060)	Surplus	6c.19.108
December Proposed	(\$224,297)	(\$307,700)	(\$531,997)	Surplus	
Total	\$41,218	(\$672,692)	(\$631,474)	Surplus	

Original Adopted Budget Movement			\$140,398	Deficit
September Quarter Proposed Variations	\$100,182	\$156,647	\$256,829	Deficit
December Quarter Proposed Variations	\$41,218	(\$672,692)	(\$631,474)	Surplus
Revised Budget as at 31 December 2019			(\$234,247)	Surplus

The table below summarises the External/Internal Reserve budget variations endorsed during the quarter and the impact on the overall projected result.

December 2019 Quarter Reserve Funds Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
October	\$365,004	\$58,860	\$423,864	Decrease	6c.19.088
November	\$23,057	\$375,387	\$398,444	Decrease	6c.19.108
December Proposed	(\$163,065)	(\$338,491)	(\$501,556)	Increase	
Total	\$224,996	\$95,756	\$320,752	Decrease	

Original Adopted Budget Reserve Funds Movement			(\$2,329,333)	Increase
September Quarter Proposed Variations	\$894,500	\$17,177,163	\$18,071,663	Decrease
December Quarter Proposed Variations	\$178,882	\$141,870	\$320,752	Decrease
Revised Budget as at 31 December 2019			\$16,063,082	Decrease

CAPITAL BUDGET REVIEW

For information on Council's capital works program and status, refer to the Works Report reported elsewhere in this business paper.

Any proposed changes that have a substantial impact on planned capital works, reserves or purchases and sales of capital assets during the current financial year will be notified to Council in this report.

IMPROVEMENT STRATEGIES

As per Council resolution Item 6a.19.004 dated 25 June 2019, Council will receive a separate progress report on a six monthly basis commencing on the first Ordinary meeting after December 2019. This report includes Improvement Strategies to the value of \$446,373. Further detail about these strategies can be found in the first six monthly update on Improvement Strategies which is reported elsewhere in this business paper.

KEY PERFORMANCE INDICATORS

The indicators adopted in the Financial Planning Policy measure Council's financial position and its financial performance and are categorised into the following framework:

- 1) Operational Liquidity (Short Term),
- 2) Fiscal Responsibility (Medium Term), and
- 3) Financial Sustainability (Long Term).

The operating performance ratio forecast is updated quarterly. The remaining indicators are reported as forecast against benchmark; the forecasts are derived from Council's adopted Long Term Financial Plan and the Asset Management Strategy (Asset Sustainability Ratio), unless a material variation in the indicator has occurred during the period. The variations proposed in the QBRs do not materially affect Council's end of year position against KPI's.

GENERAL FUND	Forecast Indicator	Benchmark
1. Operational Liquidity (Short Term)		
1.1 Unrestricted Current Ratio	3.50	> 1.5:1
1.2 Rates and Annual Charges Outstanding	6.92%	<= 5%
1.3 Cash Expense Cover Ratio	12.72	Min > 3 Months
2. Fiscal Responsibility (Medium Term)		
2.1 Operating Performance Ratio	(4.55%)	Min > 0%
2.2 Own Source Revenue Ratio	62.97%	Min > 60%
2.3 Debt Service Cover Ratio	6.38	Min > 2x
2.4 Debt Service Ratio	4.68%	< 12%
2.5 Real Operating Expenditure Per Capita	1.37	Declining Trend
3. Financial Sustainability (Long Term)		
3.1 Building & Asset Renewal Ratio	54.32%	Min > 100%
3.2 Infrastructure Backlog Ratio	4.10%	Max < 2%
3.3 Cost to bring assets to agreed service level (SS7 Est Cost to agreed service level/Gross replacement Cost per 18/19 Financial Statements)	4.13%	<= 4.5%
3.4 Asset Maintenance Ratio	84%	Min > 100%
3.5 Asset Sustainability Ratio	100%	Min > 90% but < 110%

COUNCIL IMPLICATIONS**Budget/Financial**

The proposed General Fund budget variations for the December 2019 quarter will result in a revised 2019/20 Budget as at 31 December 2019 of a (\$234,247) surplus. The approved Reserve Funds variations for the December 2019 quarter has resulted in a revised 2019/20 Budget Reserve Funds movement as at 31 December 2019 of a \$16,063,082 reduction.

Asset Management

N/A

Policy or Regulation

The reports presented are in accordance with the requirements outlined in the Code of Accounting Practice and Financial Reporting, and clause 203(1) of the Local Government (General) Regulations applicable from 1 July 2011 including the format required under the Integrated Planning and Reporting (IP&R) framework.

Consultation

Report has been prepared in consultation with the Management Accounting staff and Section budget managers.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Christi Brown – Management Accountant Coordinator
To be tabled	<ul style="list-style-type: none"> A. Quarterly Budget Review Income Statement by Fund B. Quarterly Budget Review Sub Service Summary C. Quarterly Budget Review Summary of Restrictions D. Quarterly Budget Review Contracts and Other Expenses

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 which are currently calculated and adjusted only at year end.

Appendix 1**Report by Responsible Accounting Officer – 2019/20 December Quarter Budget Review**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulation 2005.

It is my opinion that the Quarterly Budget Review Statement for Clarence Valley Council for the quarter ended 31 December 2019 indicates that Council's projected short term financial position at 30 June 2020 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The available working capital for Council's General Fund as at 30 June 2019 was \$4.842m.

For clarification, the available working capital is regarded as funds that are currently not restricted for any use by Council for either internal or external purposes. In summary, the estimated balance of available working capital as at 30 June 2020 is as follows:

Estimated Balance of Working Capital	Amount \$'000
General Fund working capital as at 30 June 2019	\$4,842
Adopted original budget for 2019/20 – Deficit	\$140
Variations for September 2019 Quarterly Review – Deficit	\$257
Variations for December 2019 Quarterly Review – Surplus	(\$631)
Estimated Balance of Working Capital at 30 June 2020	\$5,076

Council's adopted benchmark goal for the General Fund working capital is for it to be maintained above \$4m. The estimated balance of the working capital for General Fund at 30 June 2020 of \$5,076m is above Council's benchmark and can be considered a satisfactory result as at 30 June 2020. However, Council must continue to maximise its revenue and contain expenditure to budget expectations to ensure the forecast Working Capital for 2019/20 does not deteriorate to unsatisfactory level.

Signed Kate Maginnity, Responsible Accounting Officer, Clarence Valley Council
Date 7/02/20

ITEM	6c.20.003	REQUEST FROM ACCOUNT 2192425 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginness)	
Attachment	Confidential	

SUMMARY

Council received a request from the owner of Water Account 2192425 on 13 January 2020 seeking a reduction on water usage charges due firstly to the theft of their water meter and secondly due to a stolen ball valve to a trough that the water meter fed.

Council staff do not have any mechanism under which they can assess this request and as such require a resolution from Council.

OFFICER RECOMMENDATION

That Council grant a one off reduction for Water Account 2192425, which will reduce the account by \$791.82.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.003

Ellem/Novak

That Council grant a one off reduction for Water Account 2192425, which will reduce the account by \$791.82.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

On the 14 October 2019, the water meter attached to the owner's property was stolen. As the owner of the property was away, a neighbour informed them that water was gushing from where the water meter had previously been located. On the 15 October 2019 Council replaced the meter.

On the morning of the 22 October 2020 the ball valve was stolen from the trough and water was pouring out of the trough. Grafton Police were contacted and Incident Report E73058115 was recorded.

The incident occurred during a time when protesters were illegally entering farms to protest and Norco had warned dairy farmers that these protesters were becoming active. This has not been proven, however is worth noting.

KEY ISSUES

The water meter that was stolen has been replaced by Council. Whilst there was a significant increase in water usage as a result of the theft of the water meter, it is also noted that the owner has highlighted the fact that they were notified by Norco that protesters were becoming active in the area.

The previous consumption history is highlighted below and shows that the daily average consumption has jumped significantly from an average of 0.5 kilolitres per day to 16.174 kilolitres per day.

Meter ID	Reading Date	Consumption	Amount	Daily Average
CVE06858	28/01/2020	0	0.00	0.000
CVE06858	7/11/2019	372	926.28	16.174
CVE03368	7/08/2019	37	90.65	0.435
CVE03368	14/05/2019	84	205.80	0.875

In the absence of any policy or guidance documentation, and given the nature of the excess water usage is similar to that of a concealed leak, staff have used the calculation method as applied under the Concealed Water Leak Allowance Policy to calculate a reasonable adjustment value of \$791.82.

COUNCIL IMPLICATIONS**Budget/Financial**

If an adjustment is granted in line with the officer's recommendation there will be an impact on the income for the 2019/2020 financial year of -\$791.82 (PJ 902125-03-6218-1240, Water Usage Residential Income).

Asset Management

N/A

Policy or Regulation

N/A

Consultation

The Manager Water Cycle has been consulted to confirm Council's actions with respect to the replacement of the stolen water meter.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Paula Krahe – Revenue Co-Ordinator
Confidential	Letter from Owner of Water Account 2192425

ITEM	6c.20.004	POLICY REVIEWS
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Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes	

SUMMARY

The report recommends adoption of policies which has been reviewed and amended policy for adoption on completion of exhibition period.

OFFICER RECOMMENDATION

That Council adopt

1. The Farmland and Community Sporting Facilities Drought Rebate Water Policy.
2. As having been reviewed with little or no substantial change, the
 - a. Backflow Prevention and Cross Connection Control Policy, and the
 - b. Building in Close Proximity to Sewer Policy.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.004

Ellem/Novak

That Council adopt

1. The Farmland and Community Sporting Facilities Drought Rebate Water Policy.
2. As having been reviewed with little or no substantial change, the
 - a. Backflow Prevention and Cross Connection Control Policy, and the
 - b. Building in Close Proximity to Sewer Policy.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 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 Farmland Drought Water Rebate Policy was placed on exhibition for comment by the public. A request was received to extend the provisions of the Farmland Drought Water Rebate policy to community owned sporting facilities. This provision is in general accordance with the aim of the policy, which is to provide assistance to offset the impacts of intense drought. It gives equity with those sporting facilities able to be supplied with recycled water. As outlined in the submission, community sporting facilities attract visitors to the Clarence Valley, so the proposed change is also in accordance with Strategy 3.1.2 in the Community Plan "Grow the Clarence Valley economy through supporting local business and industry".

Some minor rewording of the policy is required to accommodate this change, as outlined in the revised version in the attachments. It is also proposed that the Farmland Drought Water Rebate Policy be renamed the Farmland and Community Sporting Facilities Drought Rebate Water Policy to reflect that assistance is being provided to community owned sporting facilities.

The Building in Close Proximity to Sewer Policy and the Backflow Prevention and Cross Connection Control Policy have 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 an attachment.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Building in Close Proximity to Sewer Policy V3.0

Backflow Prevention and Cross Connection Control Policy V1.0

Consultation

The policies were reviewed in consultation with relevant staff.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
Attachment	Revised Farmland Drought Water Rebate Policy V1.0 Backflow Prevention and Cross Policy V2.0 Building in Close Proximity to Sewer Policy V4.0

ITEM	6c.20.005	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
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 the schedule of actions taken on Council resolutions be noted and those resolutions marked as complete be removed from the checklist.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.005

Novak/Lysaught

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

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

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

KEY ISSUES

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

The attached checklist contains actions taken on all Council resolutions from the prior month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Local Government Act 1993 S335 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Checklist

ITEM	6c.20.006	RECOVERY & RESILIENCE FUND - \$1.416 MILLION (UPDATED)
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

SUMMARY

This report provides transparency around Council's intended expenditure of \$1,416,667 received from the Federal Government, via the Office of Local Government. Clarence Valley Council was one of 42 councils, nationally, to receive the funds following the recent Bushfire disasters.

OFFICER RECOMMENDATION

That Council endorse the proposed expenditure plan for the \$1,416,667 allocation from the Federal Government toward Recovery and Resilience Building activities following the recent Bushfire Disaster.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

MOTION

Kingsley/Ellem

That the Recovery & Resilient Fund report updated from \$1 million to \$1.416 million be accepted.

CARRIED

COUNCIL RESOLUTION – 6c.20.006

Williamson/Novak

That Council

1. Endorse the proposed expenditure plan for the \$1,416,667 allocation from the Federal Government toward Recovery and Resilience Building activities following the recent Bushfire Disaster.
2. Under the section listed as "Community Halls and Meeting Spaces" amend the list of halls to include the Coutts Crossing Coronation Hall.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

Recipient councils are required to develop a Program of Works within three months and report back to the Commonwealth in 12 months' time.

Acceptable recovery and renewal projects include:

- Rebuilding damaged or destroyed council assets such as key local roads, bridges, and community facilities;
- Employing additional local staff to take on specialist recovery or planning roles to help coordinate and plan the rebuilding effort;
- Hosting new public activities and events to bring communities together and attract visitors back to affected regions; and
- Immediate maintenance and repairs to relief and evacuation centres.

The projects identified below are split 60% recovery activities and 40% building resilience to position the Clarence better for future emergencies.

Project	Activity	Allocation
Community Halls and meeting spaces	<p>Implement community hall improvements in accordance with bushfire assessments, which considers AS 3959 'Construction in Bushfire Prone Areas' and take action to upgrade key community halls such as at Nymboida, Dundurrabin, Coaldale, Ewingar, Kungala/ Lanitza, Halfway Creek, Wooloweyah, Glenreagh, and Eatonsville.</p> <p>Initial works may include:</p> <ul style="list-style-type: none"> • Sealing roofing, external facades and insulation • Supplementing water tanks and supply/storz fitting connections • Providing, leafless gutters, and metal fly screens/barriers • Generator set connections • Amenities improvements • Communications package 	\$300,000
Grafton Regional Airport	Improve apron areas to build capacity for increased use by emergency related aircraft.	\$300,000
Disaster Recovery team	<p>Establishment of an 18 month fixed duration emergency recovery team. Team to comprise a recovery officer and support officer.</p> <p>Key functions include:</p> <ul style="list-style-type: none"> • Issues management and triage function • Government agency interface • Investigating governance framework for community grant applications and projects under Council auspice • Grant writing • Communications and coordination across Council and community recovery • Plan of action for next steps • Community engagement and support • Review of Council strategic plans • Facilitated review of opportunities for diversification to regain economic status in bushfire affected areas. • Undertake bio-diversity impact assessment and review existing plans and strategies 	\$400,000

Project	Activity	Allocation
	<ul style="list-style-type: none"> Develop a communication app specific to the LGA to create an avenue for getting messages to community for use in times of disaster recovery and rebuild Review of emergency/ recovery management activities and plans, with a view to recommending improvements to be undertaken including activities like upgrading evacuation facilities 	
Disaster Recovery	Implementation of outcomes from above investigation	\$416,667
	TOTAL	\$1,416,667

KEY ISSUES

Council is required to advise the Office of Local Government within 3 months of receipt of the funds the intention for expenditure. Expenditure is expected by the end of 2021.

It is considered that while there is need to utilise the funds in part to undertake immediate actions, it is prudent to also invest in activities that will build Council and the Clarence's resilience during future disaster and emergency situations, such as the recent bushfires.

COUNCIL IMPLICATIONS

Budget/Financial

The \$1 million has been received and is reflected in the Q2 Quarterly Budget Review Statement as transferred to RA80001 pending confirmation of expenditure.

The further \$416,667 will be reported in the March Q3 Quarterly Budget Review.

Asset Management

Any work undertaken on Council managed community facilities will be reflected in relevant Asset Management Plans and registers, and aims to extend end of life and improve resilience to extreme climatic conditions.

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

It is intended that some of the work undertaken by the recovery team better prepares the Clarence for disasters relating to changed climatic conditions.

Prepared by	Laura Black Director Corporate & Governance
Attachment	Letter from National Bushfire Recovery Agency

ITEM 6c.20.007 LOCAL TRAFFIC COMMITTEE

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	To be tabled	

SUMMARY

This report lists the recommendation made at 5 February 2020 meeting of the Clarence Valley Council Local Traffic Committee.

OFFICER RECOMMENDATION

That the recommendations of the Local Traffic Committee included in the Minutes of its 5 February 2020 meeting be adopted by Council.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.007

Ellem/Novak

That the recommendations of the Local Traffic Committee included in the Minutes of its 5 February 2020 meeting be adopted by Council.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The following items were discussed at the Local Traffic Committee held on 5 February 2020.

Item: 001/20 MACLEAN HIGHLAND GATHERING 2020 – ROAD CLOSURES

That this event be approved subject to the compliance to the relevant conditions below.

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000).
2. NSW Police approval is obtained.
3. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein.
4. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed:
 - a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours.
 - b. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites.
 - c. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
 - d. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons.
5. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Community and affected business consultation including adequate response/action to any raised concerns.
8. Arrangements made for private property access and egress affected by the event.
9. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
10. That the applicant organise for the events to be listed on Council's web page.

Road Closures

- 10 April 2020
6:30pm to 9:30pm
River Street, Maclean from Argyle to Union Street
- 11 April 2020
7:30am to 10:00am
River Street, Maclean from Union Street to Stanley Street

Item: 002/20 GRAFTON TO INVERELL CYCLE CLASSIC 2020

That Council approve the Special Events Management Plan for the Grafton to Inverell Cycle Race to be held on 9 May 2020, subject to the following conditions:

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Roads and Maritime asset such as a bridge, Motorway or viaduct).
2. Conformance with NSW Police approval and conditions.
3. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons.
4. The event organiser notifies residents of the impact of the event/s by advertising in the local paper, at their expense, a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.

5. That prior to the event consultation will be carried out with the Community and affected businesses and concerns raised shall be addressed.
6. Consultation will be carried out with affected bus and transport operators and arrangements made for provision of services during conduct of the event.
7. Consultation will be carried out with emergency services and any identified issues addressed.
8. Arrangements made for private property access and egress affected by the event.
9. Adequate public liability insurance being held by the event organiser.
10. Endorsement of the event by Bicycle NSW.
11. The event be conducted and signposted in accordance with the Roads & Maritime Services Guidelines for Bicycle Road Races.
12. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
13. That the applicant organise for the events to be listed on Council's web page.
14. The submission and approval of Community Event applications and compliance with any conditions imposed therein.
15. Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event.
16. Approval of Roads and Maritime Services is obtained by way of a Road Occupancy License where event is on a state road or where the event may impact the state road network.

Item: 003/20 ANZAC DAY ROAD CLOSURES

Recommendation approved in principle pending TCP's.

That this event be approved subject to the compliance to the relevant conditions below.

Valid public liability insurance being held by the event organiser (minimum \$20,000,000).

1. NSW Police approval is obtained, if required.
2. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein.
3. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed:
 - a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours.
 - b. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites.
 - c. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
 - d. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons.
4. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner.
5. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
6. Community and affected business consultation including adequate response/action to any raised concerns.
7. Arrangements made for private property access and egress affected by the event.
8. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
9. That the applicant organise for the events to be listed on Council's web page.

Road Closures

- Prince Street, Grafton (Pound St to Kemp Street)
- Pound Street, Grafton (Duke St to Prince St)
- Wisemans Way, Grafton (Duke St to Pound St)
- Spring Street, South Grafton (New Street to Skinner Street)
- Skinner Street, South Grafton (Spring St to Through St)
- Through Street, South Grafton (Skinner St to Wharf St)
- River Street, Maclean (Union St to Taloumbi St)
- Short Street, Maclean
- Stanley Street, Maclean (Short St to River St)
- Charles Street, Iluka (Young St to Riverview St)
- River Street, Ulmarra

Item: 004/20 GRAFTON CYCLE CLUB – 2020/2021 MANAGEMENT PLAN AND RACING PROGRAM

Recommendation approved in principle pending Traffic Management Plans.

That Council approve the Management Plan for the Grafton Cycle Club May 2020 to May 2021 Racing Program, subject to the following conditions.

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Roads and Maritime asset such as a bridge, Motorway or viaduct).
2. NSW Police approval is obtained.
3. Roads and Maritime Services approval is obtained by way of a Road Occupancy License where event is on a state road or where the event may impact the state road network.
4. National Heavy Vehicle Regulator approval is obtained as required where road closures of approved Restricted Access Vehicles routes require identification of new routes for traffic detours.
5. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein.
6. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed:
 - a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours.
 - b. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites.
 - c. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
 - d. Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event. Where local council is the roads authority, notification of any reduced speed limit should be forwarded to Roads and Maritime Service and NSW Police.
 - e. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Roads & Maritime Services accredited persons.
7. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner.
8. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
9. Community and affected business consultation including adequate response/action to any raised concerns.
10. Arrangements made for private property access and egress affected by the event.
11. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative

route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.

12. That the applicant organise for the events to be listed on Council's web page.
13. Endorsement of the event by Cycling NSW.
14. The event be conducted and signposted in accordance with the NSW Guidelines for Bicycle Road Races (where applicable this supersedes signposting in accordance with Roads & Maritime Services Guide to Traffic Control at Worksites).

KEY ISSUES

Agenda, minutes and attachments are attached.

COUNCIL IMPLICATIONS

Budget/Financial

As reported in the Minutes.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services
To be tabled	Traffic Committee Minutes

ITEM 6c.20.008 BALLOONS ON COUNCIL CONTROLLED LANDS – POLICY ADOPTION

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Yes	

SUMMARY

At the October 2019 Ordinary meeting, Council resolved to adopt the draft Gas Filled Balloons on Council Managed Land Policy for community exhibition purposes. This report details the results of the community exhibition.

OFFICER RECOMMENDATION

That Council:

1. Adopt the Gas Filled Balloons on Council Managed Land Policy.
2. Endorse the utilisation of existing education resources to undertake the public awareness campaign at a cost of approximately \$1,500 per annum from existing waste and sustainability education budgets.
3. Amend the following Policies to include an appropriate clause prohibiting the use, release, sale or distribution of gas filled balloons:
 - Market Policy
 - Sports Management Policy
 - Commercial Recreational Activities on Public Land Policy

COMMITTEE RECOMMENDATION

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Lysaught

COUNCIL RESOLUTION – 6c.20.008

Clancy/Toms

That Council:

- 1. Adopt the Gas Filled Balloons on Council Managed Land Policy.**
 - 2. Endorse the utilisation of existing education resources to undertake the public awareness campaign at a cost of approximately \$1,500 per annum from existing waste and sustainability education budgets.**
 - 3. Amend the following Policies to include an appropriate clause prohibiting the use, release, sale or distribution of gas filled balloons:**
 - **Market Policy**
 - **Sports Management Policy**
-

- **Commercial Recreational Activities on Public Land Policy**

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

In February 2019 the Climate Change Advisory Committee recommended that Council consider implementing a policy that bans the use of gas filled balloons on Council managed land. At its October 2019 meeting Council considered a draft Gas Filled Balloons on Council Managed Land Policy and resolved to place the Policy on public exhibition for a period of 28 days (Item 6a.19.026).

KEY ISSUES

The draft Gas Filled Balloons on Council Managed Land Policy establishes Clarence Valley Council's position to prohibit the use, release, sale or distribution of gas filled (helium) balloons from facilities and land under the care, control and management of Council. It seeks the support of members of the community utilising Council facilities to use alternative products with the aim of minimising the adverse environmental impacts of gas filled (helium) balloons.

Any released gas filled balloon, at best, becomes litter. They may also end up in the stormwater, rivers and oceans where they are ingested by aquatic animals. Balloons and balloon fragments are often mistaken for food and swallowed which can cause injury and death. The string attached to the balloon can also be dangerous as they can strangle or entrap animals. Birds have been found tangled in the strings of balloons making them unable to fly or search for food. A 2016 CSIRO study identified balloons among the top three most harmful pollutants threatening marine wildlife, along with plastic bags and bottles.

The Gas Filled Balloons on Council Managed Land Policy was on public exhibition for 28 days with comments closing 10 December 2019. At the conclusion of the exhibition period Council had received three written submissions as detailed in the following table.

Submissions	Detail	CVC comments/action
Submission 1	Overwhelming support for the policy. Regularly collects balloon debris from Angourie beaches. Submission included several images of balloon litter.	Note the submissions support for draft policy. Action: No action required.
Submission 2	Support for draft policy to protect marine life. Does not support the option of a major public awareness campaign or additional spending on enforcement.	Note the submission support for draft policy and support for a limited awareness and enforcement strategy be implemented from existing resources. Action: Consider implementation approach for staff recommendation.
Submission 3	Concern for the impact on businesses which currently have	Note the submissions concern regarding impact to retailers.

	balloon stocks.	Action: No action required as it is considered that these will be limited as retailers will still be able to sell balloons for use at home and on private properties. There are also opportunities to retail alternatives to balloons.
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Public Awareness Campaign

The October 2019 report to Council provided two options for a public awareness campaign, Option A was for an on-going campaign utilising existing education resources, being valued at \$1,500pa, and Option B being a more intensive 12 month campaign valued at \$30,000. One of the three submissions received specifically supported Option A.

It is recommended that the public awareness campaign be undertaken via Option A as it will utilise the existing resources from the waste and environmental education budget and achieve similar outcomes for significantly less cost. Option A includes using existing newsletters, limited paid advertising, media releases, social media, Council's website and the education of children and community attending the environmental learning facility.

Enforcement

Where there are breaches of the Policy and conditions of hiring a Council managed site, there will be follow-up action taken with the applicants, user groups, event organisers and the non-compliance will be considered with any future hire applications. Council's compliance officers will generally take an educative approach when dealing with minor breaches of the Policy. Blatant non compliance with the Policy may be met with compliance action within existing resources.

Alternatives to Balloons

There are many examples of alternatives to using gas filled balloons including: flags, banners, streamers, dancing inflatables, bunting, lighting of candles and luminaries, battery operated bubble blowing machines and plants or gifts in remembrance.

COUNCIL IMPLICATIONS

Budget/Financial

Implementation of a limited public awareness campaign can be undertaken under existing waste and sustainability education budgets. Anticipated regulatory action can also be funded from existing resources.

Asset Management

N/A

Policy or Regulation

Should Council adopt the Gas Filled Balloons on Council Managed Land Policy, the following Council policies should be updated to include a complimenting clause that prohibits the use, release, sale and distribution of gas filled balloons:

- **Market Policy:** Sections 7a and 7b include the following clause – the use, release, sale or distribution of gas filled balloons at markets on Council managed facilities and land is prohibited.
- **Sports Management Policy :** Clause 5 - Prohibited Activities, include the following - the use, release, sale and distribution of gas filled balloons at all matches, games, carnivals, shows, field days, events, picnics, fairs, ceremonies and the like activities on Council managed sporting fields, parks, reserves, halls and showgrounds is prohibited.
- **Commercial Recreational Activities on Public Land Policy:** Section 5.5 - Commercial recreational activities that will not be approved, include the following - the use, release, sale and distribution of gas filled balloons on Council managed facilities and land is prohibited.

Consultation

The Policy was placed on exhibition for 28 days until December 10. Council received three written submissions from community members during the exhibition period as detailed under key issues.

Legal and Risk Management

N/A

Climate Change

Regulating the use of helium balloons on Council land will have a minimal direct impact on climate change however the Policy does restrict the use of fossil fuels (balloons are normally produced from fossil fuel) and, importantly, will protect natural ecosystems which will help species endure changes to the climate.

Prepared by	Ken Wilson – Waste & Sustainability Coordinator
Attachment	Gas Filled Balloons on Council Managed Land Policy and submissions

ITEM	6c.20.009	NEW GRAFTON CORRECTIONAL CENTRE WATERMAIN – EASEMENT ACQUISITIONS
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

Infrastructure NSW (INSW) has constructed a watermain from Ulmarra to service the new Grafton Correctional Centre and engaged Council to undertake easement acquisitions over the pipeline. Public Works Advisory (PWA) was engaged by Council to assist with the easement acquisitions. PWA has undertaken negotiations with property owners regarding appropriate compensation, and a Council resolution is now required to acquire the easements for watermain purposes.

OFFICER RECOMMENDATION

That

1. Council acquire the following easements for water supply purposes:
 - a. 10 metres wide over Lot 2 in Deposited Plan 960616 and Lot 3 in Deposited Plan 650589 shown as A9 and A11 in Deposited Plan 1253670.
 - b. 10 metres wide over Lots 297, 298 and 311 in Deposited Plan 751390 and Lot 1 in Deposited Plan 1222353 shown as A5, A6, A7, & A8 in Deposited Plan 1253670
2. The easements be acquired under the terms of the *Land Acquisition Just Terms Compensation Act 1991* and by authority contained within the *Local Government Act 1993*.
3. The terms of the easements shall be as shown on Schedule A attached.
4. Council enter into a Deed of Agreement with the land owners ensuring that the easements are created and the agreed compensation as per the valuation report obtained from the registered valuer is paid.
5. Minerals are excluded from the acquisitions.
6. The Common Seal of Clarence Valley Council be affixed to any documentation necessary and the Mayor and General Manager be delegated authority to sign any related documents to give effect to this resolution.

COMMITTEE RECOMMENDATION

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.009

Ellem/Novak

That

1. Council acquire the following easements for water supply purposes:
 - a. 10 metres wide over Lot 2 in Deposited Plan 960616 and Lot 3 in Deposited Plan 650589 shown as A9 and A11 in Deposited Plan 1253670.
 - b. 10 metres wide over Lots 297, 298 and 311 in Deposited Plan 751390 and Lot 1 in Deposited

Plan 1222353 shown as A5, A6, A7, & A8 in Deposited Plan 1253670

2. The easements be acquired under the terms of the *Land Acquisition Just Terms Compensation Act 1991* and by authority contained within the *Local Government Act 1993*.
3. The terms of the easements shall be as shown on Schedule A attached.
4. Council enter into a Deed of Agreement with the land owners ensuring that the easements are created and the agreed compensation as per the valuation report obtained from the registered valuer is paid.
5. Minerals are excluded from the acquisitions.
6. The Common Seal of Clarence Valley Council be affixed to any documentation necessary and the Mayor and General Manager be delegated authority to sign any related documents to give effect to this resolution.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

The proposed watermain easements are shown on Deposited Plans 960616, 650589, 1222353 and 1253670 which are included in the attachments.

KEY ISSUES

PWA has advised the preferred approach is for the watermain easements to be acquired “by agreement” under the terms of the *Land Acquisition Just Terms Compensation Act 1991*. Agreement has been reached with two property owners regarding the easement acquisition and those easements are the subject of this report.

When agreement is reached with the other property owners their easement acquisitions will be reported to Council at that time.

COUNCIL IMPLICATIONS

Budget/Financial

INSW is reimbursing all Council costs (including compensation) related to the easement acquisitions.

Asset Management

The watermain to the Correctional Centre has become a developer-provided Council asset. Several property owners wished to relocate their existing connections to the new main to eliminate significant lengths to private mains across adjoining properties.

Policy or Regulation

- Land Acquisition Just Terms Compensation Act 1991
- Local Government Act 1993

Consultation

PWA has undertaken consultation with the property owners and formal offers of compensation have been agreed to by the two property owners.

Legal and Risk Management

Under Section 59A of the *Local Government Act*, Council has ownership of watermains constructed by or on its behalf regardless of whether the land is owned by Council. This section of the *Local Government Act* has effect despite Section 42 of the *Real Property Act, 1900*. Council also has powers of entry to maintain its watermains under Section 191A of the *Local Government Act*. Notwithstanding these provisions, it is preferred that easements be acquired over Council's watermains because they ensure property owners are aware of the presence of Council infrastructure on their property and hence provide a measure of protection to the infrastructure. If PWA is unable to come to agreement with all landowners regarding the easement acquisitions, the options for Council are either compulsory acquisition under the *Land Acquisition Just Terms Compensation Act 1991* or relying on the power of entry.

Climate Change

Not relevant to the easement acquisition.

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Schedule A – Terms of Easement Deposited Plans 960616, 650589, 1222353 and 1253670
Confidential Attachment	Valuation Reports

ITEM	6c.20.010	GRAFTON GOLF CLUB – REQUEST FOR “IN PRINCIPLE” APPROVAL FOR PRIVATE UNTREATED WATER CONNECTION TO REPLACE EXISTING POTABLE CONNECTION
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Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Nil	

SUMMARY

As a result of the drought, in late 2019 the Grafton District Golf Club Pty Ltd reinstated a 50mm potable water service at the course to assist in maintaining their facilities. Due to difficulties in accessing recycled water, they are requesting that Council give “in principle” approval to permit their potable connection to be changed to a private untreated water service. The “in principle” approval would enable the Club to apply for grant funding to construct the private connection. As Council has previously resolved not to permit private services or permit additional untreated water connections, the matter is being reported to Council.

OFFICER RECOMMENDATION

That Council give “in principle” approval for the Grafton District Golf Club Pty Ltd to change their current 50mm potable water connection to a private untreated water connection for the reasons outlined in the report.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.010

Ellem/Novak

That Council give “in principle” approval for the Grafton District Golf Club Pty Ltd to change their current 50mm potable water connection to a private untreated water connection for the reasons outlined in the report.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

At its meeting of 15 August 2017 Council considered an investigation into recycled water reuse at the Grafton Golf Club which had estimated that the capital cost exceeding \$2 million, with annual operational costs being approximately \$60,000, and resolved (Resolution 15.152/17):

That Council:

1. *Note the report on the viability of recycled water use at the Grafton Golf Club, and*
2. *Work jointly with the Grafton Golf Club should any future funding application become available to fund the necessary works.*

In accordance with point 2 of the resolution Council staff have assisted the Club with funding applications, but to date have been unsuccessful in securing funding for recycled water use.

With the impact of drought on the Club's facilities, a 50mm potable water service which was previously disconnected was reinstated in late 2019 to enable them to maintain their facilities to a minimum standard. Due to the cost of potable water (see submission from the Club to the *Farmland Drought Water Rebate Policy*) and the lack of success in funding for recycled water reuse, the Club has requested that Council provide "in principle" support to change their potable connection to an untreated water connection. As the untreated water system is more than 225 metres from the course, the connection would need to be accessed by a private water line with the meter located at the point of connection to the untreated water supply. The Club is proposing to seek grant funding to undertake construction of the private line, and requires "in principle" approval from Council to apply for a grant.

KEY ISSUES

1) Untreated Water Connection

Section 4.2.1 of Council's *Sewer and Water Connection Policy*, most recently considered by Council on 12 December 2017 (Resolution 15.253/17) specified that "*No new connections will be permitted to the untreated water supply*". The reason for not permitting new untreated connections is outlined in the *Water Quality Risk Assessment Review and Drinking Water Management System*, endorsed by Council at its meeting of 19 August 2014 (Resolution 13.167/14), which had a specific action of "no additional untreated connections due to increase in public health risk with additional connections".

The public health risk with additional connections is that customers may use untreated water for potable purposes. The request from the Grafton Golf Club is to change an existing potable connection to an untreated connection for a non-potable use and, as outlined above, recycled water has already been considered by Council for this purpose. It is considered there is no increase in public health risk from the proposal and, as the Club is proposing to substitute untreated water for potable water for a purpose which untreated water is suitable, a variation to the policy permitting "in principle" connection to the untreated water in this instance is supported.

The "in principle" approval would not be considered to set a precedent for additional untreated water connections on the basis that the Club is replacing an existing potable water connection with an untreated connection for an end use compatible with untreated water.

2) Private Water Service

At its meeting of 19 April 2016 Council resolved (Resolution 15.027/16) to revoke its Private Water Line Connection Policy permitting properties more than 225 metres from a Council main to connect to its reticulation. The report noted there were numerous ongoing issues with private water lines and that revoking the Private Water Line Connection Policy would "mean the scale of these issues will not continue to increase".

Council's water mains to the lower river area are located in an easement from the Rushforth Road Water Treatment Plant to the Golf Club land, and the Club is proposing that the "private" line be located in

Council's easement. The private line would be approximately 1300 metres in length. Locating the private line in the existing water main easement would address the on-going issues identified with private lines; the meter would be located at the connection point to the untreated water and the Club would be responsible for maintenance of the private line within the Council easement. As the issues with private water lines are addressed by this proposal, a variation to the Policy and giving "in principle" approval to a private line in this instance is supported.

This would not be considered to set a precedent for additional private lines on the basis that the "in principle" approval is for the Club to locate a private water line in a Council water supply easement.

COUNCIL IMPLICATIONS

Budget/Financial

The cost of relocating the water meter and constructing the private service would be borne entirely by the Club. Council staff have provided budget costs to the Club to assist with their grant application.

Were Council to agree to the Club's request and they were able to access grant funding to construct the private untreated water service, the Club's water consumption charges would be halved as the volumetric charge for untreated water is currently 50% of the treated water charge in recognition that Council does not have to treat the water. The reduction in water fund income were the Club's connection to change from potable to untreated is considered to be offset by the reduction in the production costs of treated water.

Asset Management

The private water main would be owned and maintained by the Grafton Golf Club.

Policy or Regulation

Sewer and Water Connection Policy

Consultation

Nil

Legal and Risk Management

N/A

Climate Change

There are embedded energy costs in constructing 1300 metres of new private water line; this is considered partially offset by chemical and energy savings from water being used by the Club not needing to be treated. Due to the cost of water (either potable or non-potable) the Club would only be using their connection when other sources of on-site water for facility maintenance is not available.

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Nil

ITEM 6c.20.011 COLDSTREAM STREET UPGRADE – PRIVATE WORKS

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Nil	

SUMMARY

The continuation of the upgrade to Coldstream Street, Yamba is a project on the works program for the current financial year. In order to complete this upgrade without creating a drainage issue on Lot 5 DP 340438 approximately 27m² of existing pavement on this property will need to be removed, regraded and replaced.

OFFICER RECOMMENDATION

That Council approve private works on Lot 5 DP 340438 involving the removal of approximately 27m² of existing pavement, regrading and replacement with a suitable alternative up to a cost of \$5,400.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.011

Ellem/Novak

That Council approve private works on Lot 5 DP 340438 involving the removal of approximately 27m² of existing pavement, regrading and replacement with a suitable alternative up to a cost of \$5,400.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

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

Strategy 1.2.4 With our partners, promote community safety

BACKGROUND

The scope of this project is to extend the paving, construction of planter beds and beautification works from where they currently finish to River Street, Yamba.

At present Council staff have undertaken detailed design work for these works that has identified an issue with 27 Coldstream Street Yamba (Lot 5 DP 340438). Essentially, as the property's floor level is lower than the top of the kerb and gutter, it is not possible to drain the footpath onto the road. This requires a grated drain within the footpath and the pavement under the private property awning to be regraded to fall to the grated drain.

Many options have been explored, however in order to create an acceptable result from the project, approximately 27m² of existing pavement under the private property awning will need to be regraded. In addition there are 4 stirrups for the posts supporting the awning that may need to be adjusted to remain compliant with building codes.

As this work is required to facilitate the upgrade of the main street it is recommended that the Council approve private works to be undertaken on the property to facilitate this upgrade at no cost to the property owner.

At this stage the property owner has been contacted about the issue, however no discussions have been had about the potential costs, nor what surface finishes they may require, or any other conditions they may have around this work. As such it is recommended that a budget of \$5,400 be approved for these works that would allow for a typical footpath and surface finish to be provided.

KEY ISSUES

The proposed works are wholly located on private land. Council is unable to undertake works on any private land unless either an approved fee is charged, or, the works are approved by resolution of the Council in an open meeting. This report seeks that latter approval.

COUNCIL IMPLICATIONS

Budget/Financial

The financial implications are detailed in the report. Costs for the works can be covered from the existing project budget.

Asset Management

Any constructed infrastructure will remain an asset of the property owner of Lot 5 DP 340438.

Policy or Regulation

N/A

Consultation

There been no discussion with the property owner about this issue at the time of writing.

Legal and Risk Management

N/A

Climate Change

There are no foreseen climate change impacts from these works.

Prepared by	Alex Dalrymple – Manager Civil Services
Attachment	Nil

COMMITTEE MOTION – 2.53pm

Toms/Lysaught

That Item 6c.20.022 be considered as the next item of business. CARRIED.

The Chairperson declared the meeting adjourned at 3.30 pm prior to debate on item 6c.20.022 to re-start after the Environment, Planning & Community Committee meeting.

The Corporate, Governance & Works Committee recommenced at 5.23 pm with the first Item being 6c.20.022 and then items 6c.20.012 to 6c.20.021.

Cr Lysaught left the meeting after consideration of Item 6c.20.022 at 5.57 pm and was not present for Items 6c.20.012 – 6c.20.021.

ITEM	6c.20.012	QUARTERLY REPORT – REGIONAL WATER SUPPLY HEADS OF AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL, ESSENTIAL ENERGY AND NSW GOVERNMENT
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Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	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 February 2020 Quarterly Report on the Regional Water Supply Heads of Agreement be received and its contents noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.012

Toms/Clancy

That the February 2020 Quarterly Report on the Regional Water Supply Heads of Agreement be received and its contents noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

At its June 2015 meeting Council resolved (14.119/15) to receive quarterly reports with regard to progress of the agreement. This report provides progress to 30 September 2019.

KEY ISSUES

The table below provides a status report on each of the items.

ITEM	STATUS
Transfer of Weir and Tunnel Number Two to the relevant government agency	EE advises that, following discussions with Infrastructure NSW, formal documentation has been delivered but a response is yet to be received.
Release of water for environmental and recreational purposes	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes i.e. canoeing and rafting.
Protection of heritage value of the power generation buildings (including equipment installed within the facility)	The buildings suffered minor damage in the Nymboida fire, mainly broken windows due to the heat. No internal damage was sustained. A large shed next to the switchyard suffered ember attack to frame timbers and superficial burning of Colourbond exterior cladding but has survived. The shed which encloses the Flap Valve also suffered heat damages. Remediation works are underway.
Transfer of property rights for the ongoing ownership and operation of the Nymboida Canoe Centre	EE advises the land has been transferred to the Canoe Centre and this item is now complete.
Transfer of Tunnel Number One to Clarence Valley Council	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is still subject to further discussions between Essential Energy and the relevant Ministers.
Transfer of licences and other authorisations to support its ownership of Tunnel Number One	EE advised that this matter had not progressed further and that the matter needs to be attended to as part of water licence matters. This issue is also still subject to further discussions between Essential Energy and the relevant Ministers.
Transfer of Goolang Creek Bridges to Clarence Valley Council	<p>The Essential Energy contract for bridge restoration achieved practical completion for all bridges other than bridge #7 in the 2nd week of May 2018. Bridge signage (tonnage) has been updated and engineering certification issued.</p> <p>Engaged Contractor has recently completed a further round of maintenance and pest control, following several individual enquiries.</p> <p>Bridge #7 now requires replacing and designs and estimations have been completed. Various alternate options for access to the affected property are currently being investigated. A 3rd Party Consultant has been engaged by Essential to facilitate these confidential discussions with the affected land owners involved and the consultant has provided a recommended way forward.</p> <p>At a meeting in November 2017 Council reiterated its position that it will not 'own' any bridges which do not provide a</p>

ITEM	STATUS
	<p>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 25T capacity due to access to switchyard.</p>
Investigate the possible construction of a 285ML 'surge tank' to provide recreational water flows for the operation of the Nymboida Canoe Club	EE advise that there is no plan by EE to invest in facilities to reinstate recreational purposes ie canoeing and rafting.
Nymboida power generation buildings and ancillary infrastructure to be decommissioned and secured	Item complete. The infrastructure is now in a program of ongoing preservation and maintenance and, as noted above, remediation works are underway to repair fire damage

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 meeting of 22 October 2019 Council considered a desktop investigation on the Nymboida Hydro Power Station and resolved (Resolution 6a.19.024) further investigate recommissioning of the station.

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Nil

ITEM	6c.20.013	WORKS REPORT
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

That the Works report be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.013

Ellem/Novak

That the Works report be received and noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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


BACKGROUND


Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.


KEY ISSUES


The summary of works undertaken in December/January.

Council staff also wish to highlight the projects below.

Project:	Demolition of Lawrence and Southgate Reservoirs	
Project Description:	Demolition of the disused steel reservoirs at Lawrence and Southgate (and replacement of Lawrence with a new reservoir)	
Budget:	\$856,728	
Expenditure:	\$752,386 (as at 05/02/20)	
Status:	<ul style="list-style-type: none"> As reported to the 26 November 2019 meeting, contractor MPG demolished the Southgate reservoir during October 2019 The Lawrence reservoir was demolished in January 2020, with work being completed during the first week of school. To address potential contamination issues, scaffolding had to be used instead of the originally planned elevating work tower to enable capture of paint material loosened by the oxy cutting. The hygienist has signed off the land as not being contaminated by the demolition works. The site has been levelled and is ready for a new reservoir to be constructed in 20/21. 	

Project:	Harwood Marine Precint Upgrade	
Project Description:	The reconstruction, widening and pavement strengthening of 4.4km of road to support heavy vehicle access to the Harwood Marine Precint.	
Budget:	\$5,150,030	
Expenditure:	\$733,000	
Status:	<ul style="list-style-type: none"> Construction has begun and is progressing well. The drainage adjustments are substantially complete Services relocations are substantially complete Construction of the new and strengthened pavements is progressing well 	

Project:	Jacaranda Park Redevelopment: Stage 1	
Project Description:	Redevelopment of Jacaranda Park, Grafton to a regional inclusive play space	
Budget:	\$1,323,869.83	
Expenditure:	\$1,323,869.83	
Status:	<ul style="list-style-type: none"> Project scope of works for Stage 1 completed with soft opening of park on 24 December 2019 Official opening held on 30 January 2020 well attended by MP for Clarence, Councillors, traditional custodians and community 	

	<ul style="list-style-type: none"> • Final report submitted to DPIE for payment of external Stronger Country Communities funding • Very positive response by media and community • Project proposal for Stage 2 works submitted for consideration for 2020/2021 CAPEX 	
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COUNCIL IMPLICATIONS

Budget/Financial

Financial details are provided in the attached works summary.

Asset Management

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

Policy or Regulation

There are no policy or regulation implications.

Consultation

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

Legal and Risk Management

There are no legal or risk management implications.

Climate Change

There are no climate change implications.

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

ITEM	6c.20.014	DAMAGE TO INFRASTRUCTURE AS A RESULT OF RECENT FIRES - UPDATE
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Nil	

SUMMARY

This report provides Council with an update of Council's activities to restore the damage that was sustained to Council's infrastructure as a result of the 2019 fires within the Local Government Area (LGA).

OFFICER RECOMMENDATION

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

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.014

Ellem/Novak

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

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.2 Ensure adequate natural disaster management

BACKGROUND

The fire activity since 5 September 2019 the Clarence Valley LGA resulted in a Natural Disaster Declaration which stood until it was revoked on 6 January 2020. Advice from the Rural Fire Service has indicated that an area of 548,698 ha within the Local Government Area (LGA) was burnt by the fires. The total area of the LGA is 1,044,996 ha, which means that 53.5% of the LGA was impacted, with widespread infrastructure impacts.

KEY ISSUES

Since the previous report to the November 2019 Council meeting, extensive work has been carried out to restore the damage.

The initial priority was to remove debris from roads to enable reopening to the public. This work was completed by 16 December. This involved nine contractors assessing the burnt trees and undertaking clearing work, sometimes in situations where some vegetation was not fully extinguished. As a result, some follow-up assessment and clearing may be required in the coming months.

The major impact on guardrail and signage was on Armidale Road. A guardrail contractor was engaged to replace the damaged sections and this work was completed prior to Christmas. Even though it was not possible for the damaged signs to be replaced at the same time, temporary signage and other restrictions were implemented which enabled Armidale Road to be reopened to the public on 23 December. This meant that all Council roads were open at that time.

A contractor has been appointed to replace the fire-damaged signs and guideposts and this work is well underway. At the time of drafting this report, it is expected that the sign replacement on Armidale Road will be completed before the Council meeting, and the guidepost replacement will follow. Sign and guidepost replacement on other Council roads will be carried out after completion of Armidale Road.

The three bridges that were destroyed by the fire (Armidale Road at Hortons Creek, Kangaroo Creek Road No 4 bridge, and Ramornie Station Road at Brickmakers Creek) are being replaced using the Inquik Modular Bridging System. This method expedites the construction of the bridge abutments and deck, however still requires appropriate foundations to be provided.

Due to the failure of these bridges being caused by the fires, no design had been carried out for the foundations of any of the structures. A contractor was engaged to remove the remnants of the bridges prior to Christmas. Survey, geotechnical investigation and foundation design activities have been coordinated and completed. This has enabled quotations for the replacement of the structures to be invited and it is anticipated that contractor(s) will be appointed to carry out the construction within the next two weeks.

Access around these structures is being provided by temporary side tracks at each location. These side tracks are single lane diversions that are located at lower levels than the permanent bridge structures that they are temporarily replacing. Due to their low height, they have relatively low flood immunity and with the rain that has fallen in January and early February, this is causing these roads to be submerged under flood water and damaged by the water flow. As such these side tracks have had to be closed and repaired a number of times to date. This remains a significant risk until the new structures are completed.

There are a further five bridges that were damaged by the fires. Some of the damage is substantial, and in other cases it is relatively minor. These bridges are:

- Armidale Road over Clouds Creek – substantial damage to three of five spans
- Coaldale Road over Fine Flower Creek (Chevalleys Bridge) – substantial damage at one in-stream pier
- Upper Fine Flower Road over Dry Creek – minor damage
- Collum Collum Road over Deep Creek – minor damage
- Old Glen Innes Road over Glens Creek – minor damage

With the exception of the Clouds Creek Bridge, all other structures remain in service (some restrictions have been placed on Chevalleys Bridge). A side track and temporary bridge has been installed over Clouds Creek consisting of a temporary bridge structure that Council owns. As for the other side tracks, this is at a lower level than the bridge structure, however to date has not been affected by flood waters. However, the catchment for Clouds Creek is large and this temporary bridge could be destroyed if a significant rain event

occurs within the catchment. Should this occur, it could potentially close Armidale Road until the permanent repairs or replacements are complete.

Assessment of the damaged bridge structures to determine the most suitable form of reinstatement is underway. These assessments are being carried out for Council by a team of four staff from Strathfield Council who have volunteered their structural engineering (Council contracts out structural engineering) skills and resources through the Local Government Bushfire Recovery Support Group. This Group is collecting and coordinating offers of support from councils so they can be matched to the areas where support is needed. CVC liaised with the Group and Strathfield Council had indicated it could provide the type of assistance to carry out the assessments.

At present their team have mobilised to the Council area and have undertaken detailed investigations of the structures. It is anticipated that they will return to their LGA and provide structural reports and options for repair and/or replacement of each structure. Once these reports are received further decisions about these structures will be made.

COUNCIL IMPLICATIONS

Budget/Financial

All costs associated with the emergency and restoration works will be claimed through the provisions of the Disaster Recover Funding Arrangements (DRFA). Council will be required to contribute to these works in accordance with the DRFA, however, at this point in time, the contribution sum is unknown. Council's claim is currently being prepared for the recovery activities that have been completed.

Asset Management

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

Policy or Regulation

- NSW Natural Disaster Essential Public Asset Restoration Guidelines
- Commonwealth Disaster Recovery Funding Arrangements

Consultation

N/A

Legal and Risk Management

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

Climate Change

N/A

Prepared by	Nigel Sutton – Bushfire Recovery Coordinator
Attachment	Nil

ITEM	6c.20.015	BENCHMARK AND REPORT CARD 2019/20
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

The Benchmark and Report Card report gives Council and community oversight of our services and how we compare against industry averages and, how we are tracking toward goals. It also provides some key information about the quantity of activity being undertaken. This report represents activity results for Quarter 2 of 2019/20.

OFFICER RECOMMENDATION

That the Quarter 2 Benchmark and Report Card for 2019/20 report be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.015

Ellem/Novak

That the Quarter 2 Benchmark and Report Card for 2019/20 report be received and noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

BACKGROUND

The Benchmark and Report Card document makes transparent our activity and our progress toward goals. Information is collated quarterly and is reported at the first Ordinary Meeting following the end of the quarter. This is the second year of such reporting and it provides oversight of trends as the reported quarter's activity can be comparable to previous quarters.

KEY ISSUES

Reports for some activity are not currently available without system, or system report writing, upgrade. As we improve systems and visibility of data, the document will become more comprehensive. The document includes some Key Performance Indicators that are also included in our quarterly report of achievement against the Delivery Program and Operational Plan. Over time it is anticipated as we review our Delivery Program and Operational Plan following the next local government election, the two will become integrated.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Laura Black – Director Corporate & Governance
Attachment	Benchmark and Report Card Q2 2019/20

ITEM 6c.20.016 MONTHLY INVESTMENT REPORT – DECEMBER 2019

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	To be tabled	

SUMMARY

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month.

OFFICER RECOMMENDATION

That the report indicating Council's funds investment position as at 31 December 2019 be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.016

Ellem/Novak

That the report indicating Council's funds investment position as at 31 December 2019 be received and noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 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 31 December 2019 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 December 2019				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	6,483,092	5.14%	Yes
AA	100.00%	31,255,829	24.77%	Yes
A	60.00%	28,250,000	22.39%	Yes
BBB	50.00%	60,210,034	47.71%	Yes
TOTAL INVESTMENTS		126,198,955	100.00%	

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

Individual Institution or Counterparty Limits

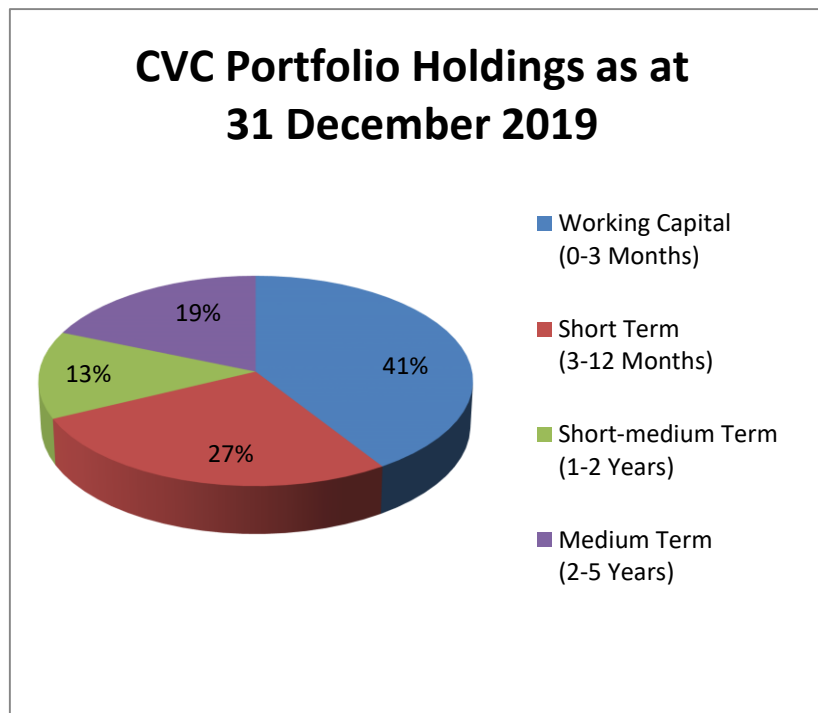
Tabled below is a summary of Council's investments as at 31 December 2019 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 31 December 2019					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	8,000,000	6.34%	No
ANZ*	AA-	30.00%	2,030,210	1.61%	Yes
BoQ	BBB+	15.00%	16,000,000	12.68%	Yes
Bendigo	BBB+	15.00%	2,000,000	1.58%	Yes
Bendigo*			1,003,440	0.80%	
Rural Bank			5,000,000	3.96%	
CBA*	AA-	30.00%	2,026,010	1.61%	Yes
Defence	BBB	15.00%	9,000,000	7.13%	Yes
G&C Mutual	BBB-	15.00%	1,000,000	0.79%	Yes
ING Direct	A	15.00%	14,000,000	11.09%	Yes
Macquarie	A	15.00%	4,000,000	3.17%	Yes
ME Bank	BBB	15.00%	6,000,000	4.75%	Yes
NAB	AA-	30.00%	14,000,000	11.09%	Yes
NAB*			1,008,255	0.80%	
P&N	BBB	15.00%	3,000,000	2.38%	Yes
RaboDirect	A+	15.00%	11,000,000	8.72%	Yes
Westpac	AA-	30.00%	7,000,000	5.55%	Yes
Westpac*	AA-		1,532,070	1.21%	
TOTAL TERM DEPOSITS & FRNs*			107,599,985	85.26%	
MANAGED FUNDS					
TCorp	AAA	40.00%	1,983,092	1.57%	Yes
TOTAL MANAGED FUNDS			1,983,092	1.57%	
FUNDS AT CALL					
AMP	BBB+	15.00%	11,956,594	9.47%	No
ANZ	AA-	30.00%	274,758	0.22%	Yes
CBA	AA-	30.00%	4,384,526	3.47%	Yes
TOTAL FUNDS AT CALL			16,615,878	13.17%	
TOTAL INVESTMENTS			126,198,955	100.00%	

Note: Whilst AMP shows non-compliance with the current investment policy (total 15.81%), 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. Council has taken action to rectify this position, which will take effect on 2 March 2020.

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 December 2019. Excluding "at-call" working capital, 53.09% of Council's investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 31 December 2019					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	1,983,092	1.57%	At-Call	0.96%	AAA
AMP Bank Ltd	11,956,594	9.47%	At-Call	1.30%	BBB+
ANZ Banking Group Ltd	274,758	0.22%	At-Call	1.05%	AA-
Commonwealth Bank of Australia	4,384,526	3.47%	At-Call	0.65%	AA-
AMP Bank Ltd	3,000,000	2.38%	06/03/2020	2.75%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	03/02/2020	1.85%	BBB+
Defence Bank	1,000,000	0.79%	04/03/2020	2.80%	BBB
G&C Mutual Bank	1,000,000	0.79%	18/03/2020	4.00%	BBB-
ING	3,000,000	2.38%	14/02/2020	2.87%	A
ING	2,000,000	1.58%	20/02/2020	2.89%	A
ING	2,000,000	1.58%	02/03/2020	2.87%	A
ME Bank Ltd	2,000,000	1.58%	08/01/2020	1.80%	BBB
National Australia Bank	2,000,000	1.58%	03/03/2020	1.70%	AA-
National Australia Bank	3,000,000	2.38%	03/03/2020	1.70%	AA-
National Australia Bank	2,000,000	1.58%	10/03/2020	1.58%	AA-
National Australia Bank	2,000,000	1.58%	11/03/2020	1.73%	AA-
RaboDirect (Australia) Ltd	2,000,000	1.58%	11/02/2020	1.95%	A+
Rural Bank Ltd	2,000,000	1.58%	10/02/2020	2.85%	BBB+
Rural Bank Ltd	2,000,000	1.58%	04/03/2020	2.80%	BBB+
Rural Bank Ltd	1,000,000	0.79%	04/03/2020	2.80%	BBB+
Bendigo Bank (3m BBSW +110bps) (Principal Value \$1,000,000) Market Value	1,003,440	0.80%	21/02/2020	1.99%	BBB+
TOTAL WORKING CAPITAL (0-3 MONTHS)	51,602,410	40.89%		1.90%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	2,000,000	1.58%	20/05/2020	1.80%	BBB+
AMP Bank Ltd	2,000,000	1.58%	02/06/2020	1.80%	BBB+
AMP Bank Ltd	1,000,000	0.79%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	06/07/2020	3.00%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2020	3.60%	BBB+
Bendigo Bank	2,000,000	1.58%	27/04/2020	1.50%	BBB+
Defence Bank	2,000,000	1.58%	11/05/2020	3.00%	BBB
Defence Bank	2,000,000	1.58%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.58%	17/12/2020	3.00%	BBB
ING	1,000,000	0.79%	21/08/2020	1.60%	A
ING	1,000,000	0.79%	10/11/2020	2.92%	A
ING	2,000,000	1.58%	13/11/2020	1.55%	A
Macquarie Bank Ltd	3,000,000	2.38%	07/05/2020	1.60%	A
Macquarie Bank Ltd	1,000,000	0.79%	21/05/2020	1.60%	A
ME Bank Ltd	2,000,000	1.58%	06/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.58%	08/05/2020	2.30%	BBB
National Australia Bank	3,000,000	2.38%	20/05/2020	2.25%	AA-
National Australia Bank	2,000,000	1.58%	30/07/2020	1.80%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	34,000,000	26.94%		2.30%	
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	2,000,000	1.58%	12/01/2021	3.65%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2021	3.80%	BBB+
Defence Bank	2,000,000	1.58%	09/03/2021	3.00%	BBB
ING	2,000,000	1.58%	29/11/2021	1.55%	A
P&N Bank	3,000,000	2.38%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.58%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.58%	05/03/2021	3.00%	AA-
Westpac Bank	1,000,000	0.79%	16/11/2021	2.10%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	17,000,000	13.47%		3.08%	

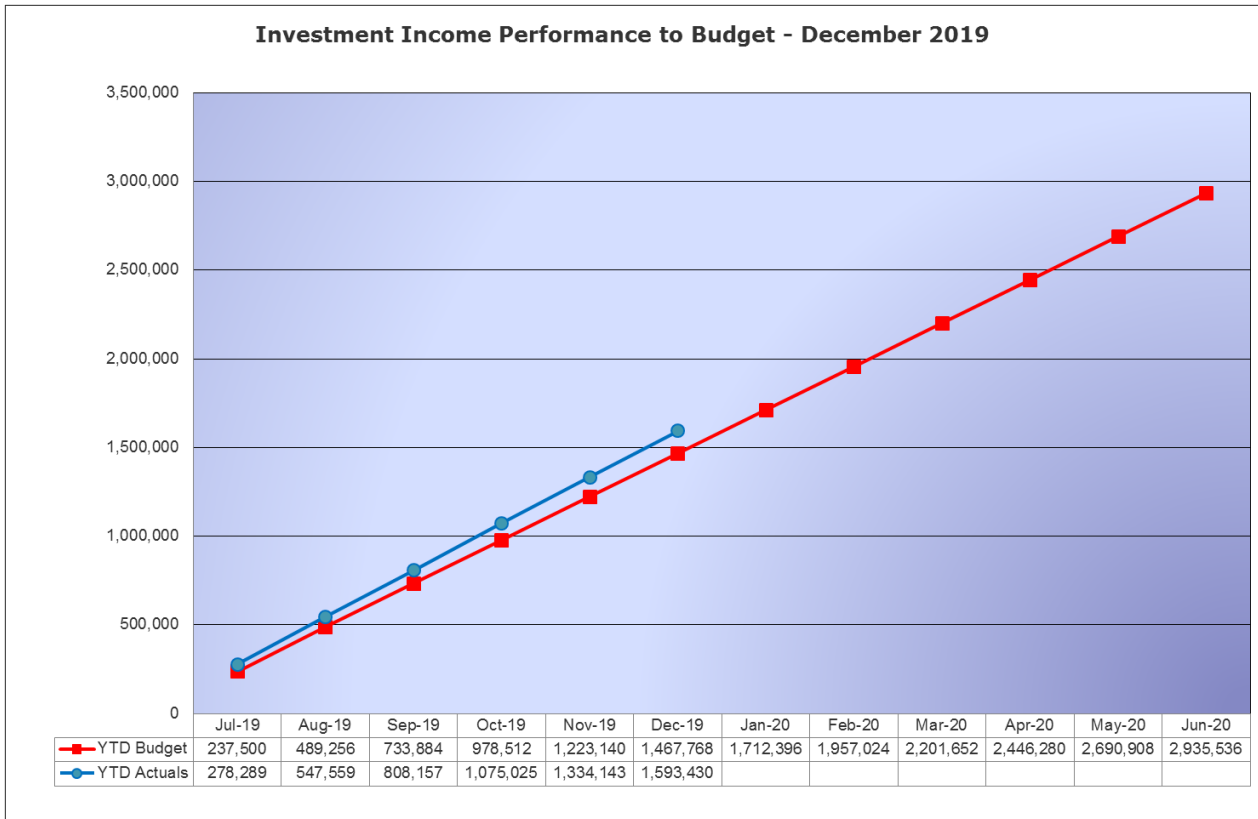
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.79%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.79%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.58%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.58%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.58%	18/07/2022	1.94%	AA-
Westpac Bank	2,000,000	1.58%	13/03/2023	2.95%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000)					
Market Value	2,030,210	1.61%	06/12/2023	1.93%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,009,285	0.80%	25/04/2023	1.68%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000)					
Market Value	1,016,725	0.81%	11/01/2024	1.97%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,008,255	0.80%	10/02/2023	1.73%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000)					
Market Value	1,532,070	1.21%	24/04/2024	2.02%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	23,596,545	18.70%		2.87%	
TOTAL INVESTMENTS	126,198,955	100.00%		2.35%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 31 December 2019			
	Actual	Budget 2019/20	Over/(Under)
This Month			
Cash Deposits & FRNs	\$257,703	\$243,128	\$14,575
Managed Funds	\$1,583	\$1,500	\$83
	\$259,286	\$244,628	\$14,658
Year to Date			
Cash Deposits & FRNs	\$1,581,151	\$1,458,768	\$122,383
Managed Funds	\$12,278	\$9,000	\$3,278
	\$1,593,429	\$1,467,768	\$125,661

- Actual results have shown that total interest income to 31 December 2019 is \$0.126M above the 2019-20 budget of \$1.468M. Note, the cumulative impacts of the RBA cuts to the Cash Rate (0.75%) since June 2019 are impacting on Council's return and whilst Council is currently above budget this will decline as the year progresses.
- As at 31 December 2019 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$82,435.

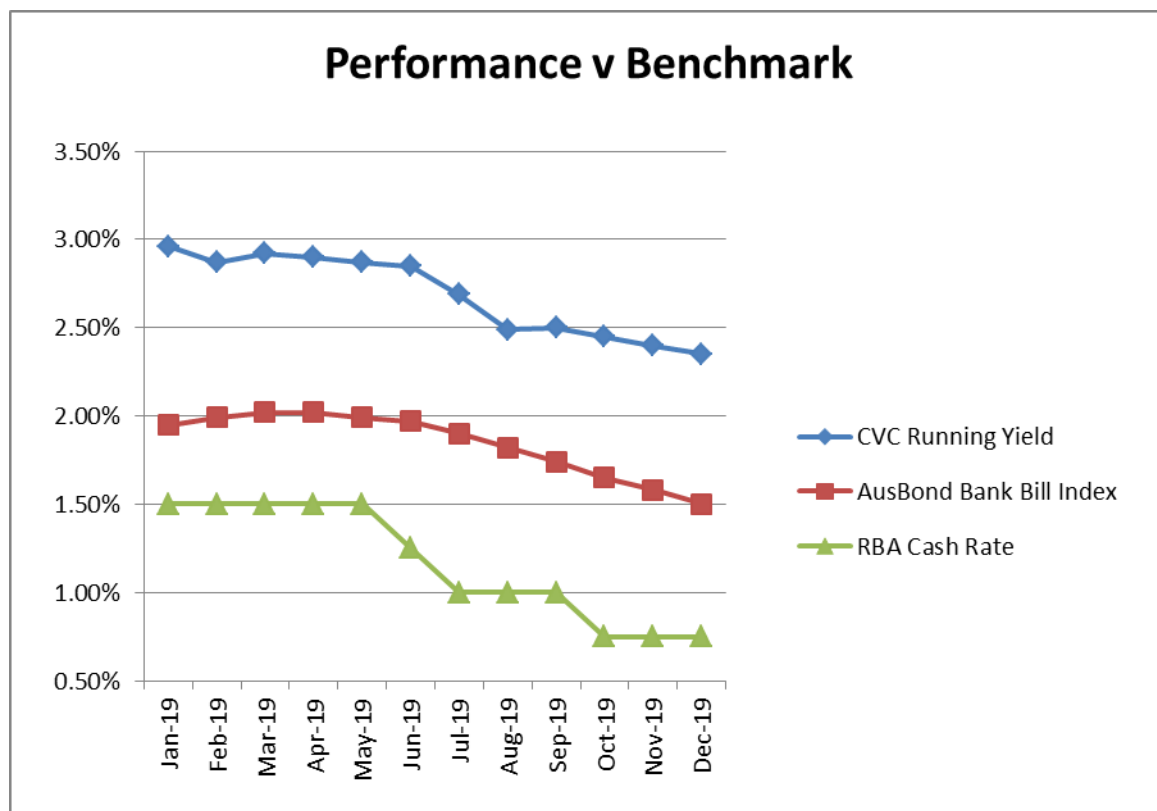


- Running yields* to 31 December 2019 have been:

AMP Business	1.05%
AMP 31 Day Notice	1.55%
ANZ Premium Business	1.05%
CBA General	0.60%
24hr Call Account	0.70%
T-CorpIM Cash Fund	0.96%
Floating Rate Notes	1.90%
Term Deposits	<u>2.61%</u>
Total	2.35%

*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 December was 0.75%. The benchmark AusBond Bank Bill Index was 1.50% for December.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.35% (November 2.40%). The running yield will continue to decline as previously higher yielding term deposits reach maturity.



The following investments were arranged during December:

- ING \$2.0m TD matured 10/12/2019, redeemed
- New AMP \$2.0m TD invested 10/12/2019 for 175 days at 1.80% - matures 02/06/2020
- New AMP \$2.0m TD invested 10/12/2019 for 162 days at 1.80% - matures 20/05/2020
- NAB \$2.0m TD matured 11/12/2019, redeemed
- People’s Choice \$1.0m TD matured 12/12/2019, redeemed
- Bendigo Bank \$2.0m TD matured 16/12/2019, redeemed
- Bendigo Bank \$2.0m TD matured 18/12/2019, redeemed

Quarterly Investment Report 31 December 2019 (provided by CPG Research & Advisory)

Key points from the CPG report include:

- The dominant share (79%) of the portfolio is held in term deposits (fixed and some floating) with the remaining assets diversified across liquid increased cash accounts (9%) and FRNs (6%), plus the cash notice account (6%).
- As at December, deposits yielded an excellent +2.63% p.a.; +188bp above the official cash rate. This return far exceeds the highest rates for any term at the time of writing.
- Given three official rate cuts since the budgets were set, coupled with very short asset duration, Council will likely need to revise FY20 and particularly the later year budgets and projections downwards given a new material inflow at a time when the cash rate is likely to be ½%.
- Investors everywhere face uncomfortable questions about their risk tolerance. 6% used to be a “normal” return from near-riskless assets but today, “normal” returns are 1.5% and falling. Where investment objectives are non-negotiable, they must take on far greater risk to target historical returns through the cycle.

- Council's investment portfolio of \$126.2m is primarily invested in fixed and floating rate term deposits (79%) with the remaining assets diversified across liquid increased cash accounts (9%) and FRNS (6%) plus the cash notice account (6%).

Overall, the portfolio is sufficiently liquid while very long, well rated and well diversified from a maturity perspective. A fuller range of credit ratings have been utilised recently, as more banks slipped into the BBB+ range where they are likely to converge. Most recently, this included a downgraded AMP Bank, which is a substantial allocation.

- As at the review date, Council had a small overweight position with AMP which includes both cash accounts (including at call) and TDs maturing from 1Q20. The overweight is less than 1%. Overall the portfolio is well diversified across the entire credit spectrum.
- The credit quality of the portfolio is fully invested and diversified to Policy limits, with approximately 52% of assets rated "A" or higher. The remaining 48% is all investment-grade (BBB).
- Council's portfolio has high liquidity, with 41% of assets maturing within 3 months and an additional 29% maturing within 12 months.
- There is a capacity to invest at all terms where value is available.

Asset Management

N/A

Policy or Regulation

- *Local Government Act 1993*
- Part 9, Division 5, Clause 212 of the *Local Government (General) Regulation 2005*
- Investment Policy

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

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

Prepared by	Vickie Stacey - Finance Officer (Accounting)
To be tabled	A: Movement of Funds Between Months - December 2019 B: CPG Quarterly Investment Report - December 2019

ITEM	6c.20.017	MONTHLY INVESTMENT REPORT – JANUARY 2020
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Meeting	Corporate, Governance & Works Committee	18 February 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 31 January 2020 be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.017

Ellem/Novak

That the report indicating Council's funds investment position as at 31 January 2020 be received and noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 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

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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%
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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>

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Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
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AA	100.00%	34,492,986	26.64%	Yes
A	60.00%	28,250,000	21.82%	Yes
BBB	50.00%	60,226,475	46.52%	Yes
TOTAL INVESTMENTS		129,454,751	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

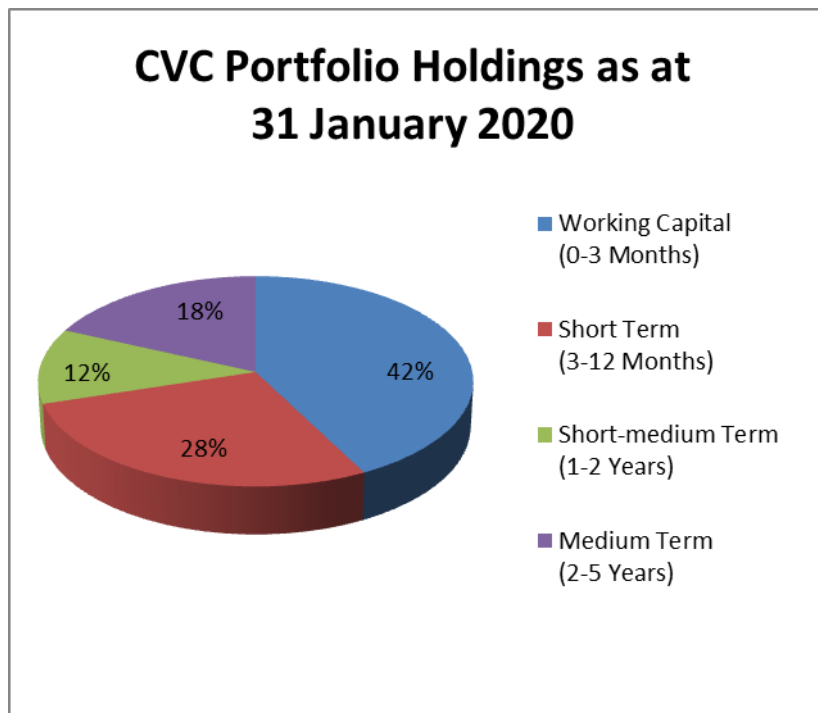
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Individual Institution or Counterparty Limits as at 31 January 2020					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	8,000,000	6.18%	No
ANZ*	AA-	30.00%	2,034,780	1.57%	Yes
BoQ	BBB+	15.00%	18,000,000	13.90%	Yes
Bendigo	BBB+	15.00%	2,000,000	1.54%	Yes
Bendigo*			1,004,460	0.78%	
Rural Bank			5,000,000	3.86%	
CBA*	AA-	30.00%	2,026,635	1.57%	Yes
Defence	BBB	15.00%	9,000,000	6.95%	Yes
G&C Mutual	BBB-	15.00%	1,000,000	0.77%	Yes
ING Direct	A	15.00%	14,000,000	10.81%	Yes
Macquarie	A	15.00%	4,000,000	3.09%	Yes
ME Bank	BBB	15.00%	4,000,000	3.09%	Yes
NAB	AA-	30.00%	14,000,000	10.81%	Yes
NAB*			1,006,260	0.78%	
P&N	BBB	15.00%	3,000,000	2.32%	Yes
RaboDirect	A+	15.00%	11,000,000	8.50%	Yes
Westpac	AA-	30.00%	7,000,000	5.41%	Yes
Westpac*	AA-		1,528,320	1.18%	
TOTAL TERM DEPOSITS & FRNs*			107,600,455	83.12%	
MANAGED FUNDS					
TCorp	AAA	40.00%	1,985,290	1.53%	Yes
TOTAL MANAGED FUNDS			1,985,290	1.53%	
FUNDS AT CALL					
AMP	BBB+	15.00%	11,972,015	9.25%	No
ANZ	AA-	30.00%	274,988	0.21%	Yes
CBA	AA-	30.00%	7,622,003	5.89%	Yes
TOTAL FUNDS AT CALL			19,869,006	15.35%	
TOTAL INVESTMENTS			129,454,751	100.00%	

Note: Whilst AMP shows non-compliance with the current investment policy (total 15.43%), 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. Council has taken action to rectify this position, which will take effect on 2 March 2020.

Portfolio Holdings by Maturity

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Register of Investments - Clarence Valley Council as at 31 January 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	1,985,290	1.53%	At-Call	1.32%	AAA
AMP Bank Ltd	11,972,015	9.25%	At-Call	1.30%	BBB+
ANZ Banking Group Ltd	274,988	0.21%	At-Call	1.05%	AA-
Commonwealth Bank of Australia	7,622,003	5.89%	At-Call	0.65%	AA-
AMP Bank Ltd	3,000,000	2.32%	06/03/2020	2.75%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	03/02/2020	1.85%	BBB+
Bendigo Bank	2,000,000	1.54%	27/04/2020	1.50%	BBB+
Defence Bank	1,000,000	0.77%	04/03/2020	2.80%	BBB
G&C Mutual Bank	1,000,000	0.77%	18/03/2020	4.00%	BBB-
ING	3,000,000	2.32%	14/02/2020	2.87%	A
ING	2,000,000	1.54%	20/02/2020	2.89%	A
ING	2,000,000	1.54%	02/03/2020	2.87%	A
National Australia Bank	2,000,000	1.54%	03/03/2020	1.70%	AA-
National Australia Bank	3,000,000	2.32%	03/03/2020	1.70%	AA-
National Australia Bank	2,000,000	1.54%	10/03/2020	1.58%	AA-
National Australia Bank	2,000,000	1.54%	11/03/2020	1.73%	AA-
RaboDirect (Australia) Ltd	2,000,000	1.54%	11/02/2020	1.95%	A+
Rural Bank Ltd	2,000,000	1.54%	10/02/2020	2.85%	BBB+
Rural Bank Ltd	2,000,000	1.54%	04/03/2020	2.80%	BBB+
Rural Bank Ltd	1,000,000	0.77%	04/03/2020	2.80%	BBB+
Bendigo Bank (3m BBSW +110bps) (Principal Value \$1,000,000) Market Value	1,004,460	0.78%	21/02/2020	1.99%	BBB+
TOTAL WORKING CAPITAL (0-3 MONTHS)	54,858,756	42.38%		1.83%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	2,000,000	1.54%	20/05/2020	1.80%	BBB+
AMP Bank Ltd	2,000,000	1.54%	02/06/2020	1.80%	BBB+
AMP Bank Ltd	1,000,000	0.77%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	06/07/2020	3.00%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	08/07/2020	1.65%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	12/01/2021	3.65%	BBB+
Defence Bank	2,000,000	1.54%	11/05/2020	3.00%	BBB
Defence Bank	2,000,000	1.54%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.54%	17/12/2020	3.00%	BBB
ING	1,000,000	0.77%	21/08/2020	1.60%	A
ING	1,000,000	0.77%	10/11/2020	2.92%	A
ING	2,000,000	1.54%	13/11/2020	1.55%	A
Macquarie Bank Ltd	3,000,000	2.32%	07/05/2020	1.60%	A
Macquarie Bank Ltd	1,000,000	0.77%	21/05/2020	1.60%	A
ME Bank Ltd	2,000,000	1.54%	06/05/2020	3.11%	BBB
ME Bank Ltd	2,000,000	1.54%	08/05/2020	2.30%	BBB
National Australia Bank	3,000,000	2.32%	20/05/2020	2.25%	AA-
National Australia Bank	2,000,000	1.54%	30/07/2020	1.80%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	36,000,000	27.81%		2.38%	
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.77%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	02/12/2021	3.80%	BBB+
Defence Bank	2,000,000	1.54%	09/03/2021	3.00%	BBB
ING	2,000,000	1.54%	29/11/2021	1.55%	A
P&N Bank	3,000,000	2.32%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.54%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.54%	05/03/2021	3.00%	AA-
Westpac Bank	1,000,000	0.77%	16/11/2021	2.10%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	15,000,000	11.59%		3.00%	

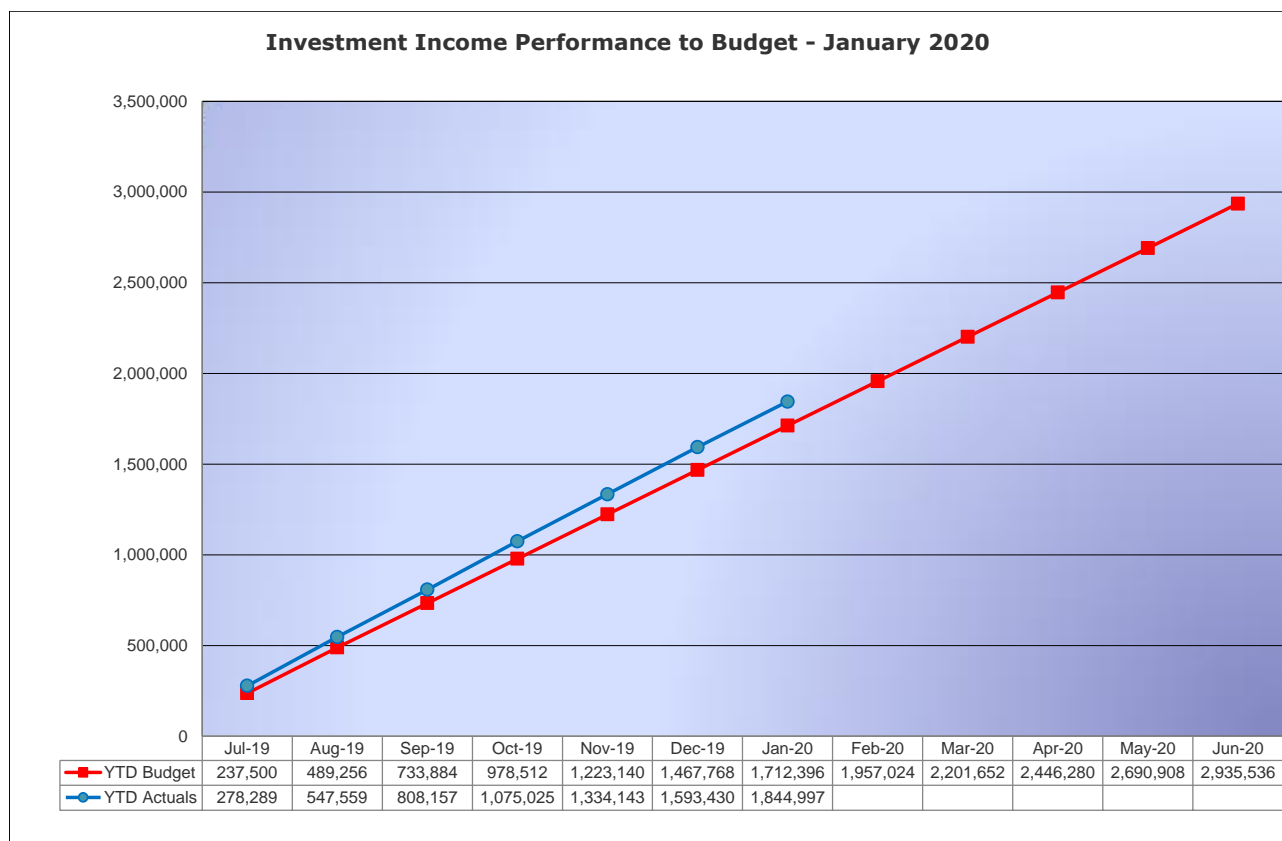
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.77%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.77%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.54%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.77%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.54%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.77%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.54%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.54%	18/07/2022	1.90%	AA-
Westpac Bank	2,000,000	1.54%	13/03/2023	2.95%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000)					
Market Value	2,034,780	1.57%	06/12/2023	1.93%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,007,155	0.78%	25/04/2023	1.68%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000)					
Market Value	1,019,480	0.79%	11/01/2024	2.03%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000)					
Market Value	1,006,260	0.78%	10/02/2023	1.73%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000)					
Market Value	1,528,320	1.18%	24/04/2024	2.03%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	23,595,995	18.23%		2.86%	
TOTAL INVESTMENTS	129,454,751	100.00%		2.31%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 31 January 2020			
	Actual	Budget 2019/20	Over/(Under)
This Month			
Cash Deposits & FRNs	\$249,370	\$243,128	\$6,242
Managed Funds	\$2,198	\$1,500	\$698
	\$251,568	\$244,628	\$6,940
Year to Date			
Cash Deposits & FRNs	\$1,830,521	\$1,701,896	\$128,625
Managed Funds	\$14,476	\$10,500	\$3,976
	\$1,844,997	\$1,712,396	\$132,601

- Actual results have shown that total interest income to 31 January 2020 is \$0.133M above the 2019-20 budget of \$1.712M. Note, the cumulative impacts of the RBA cuts to the Cash Rate (0.75%) since June 2019 are impacting on Council's return and whilst Council is currently above budget this will decline as the year progresses.
- As at 31 January 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$87,870.

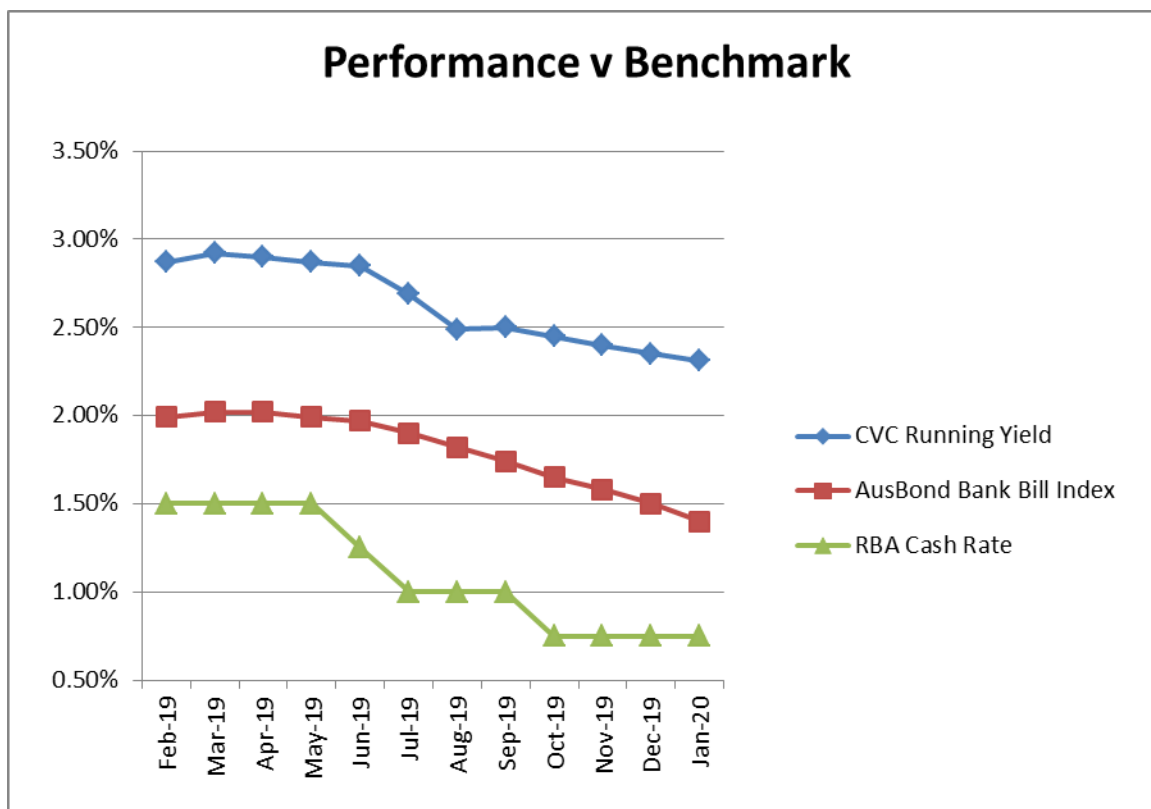


- Running yields* to 31 January 2020 have been:

AMP Business	1.05%
AMP 31 Day Notice	1.55%
ANZ Premium Business	1.05%
CBA General	0.60%
24hr Call Account	0.70%
T-CorpIM Cash Fund	1.32%
Floating Rate Notes	1.91%
Term Deposits	<u>2.61%</u>
Total	2.31%

*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 January was 0.75%. The benchmark AusBond Bank Bill Index was 1.40% for January.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +2.31% (December 2.35%). The running yield will continue to decline as previously higher yielding term deposits reach maturity.



The following investments were arranged during January:

- ME Bank \$2.0m TD matured 08/01/2020, redeemed
- New BoQ \$2.0m TD invested 08/01/2020 6 months at 1.65% - matures 08/07/2020

Asset Management

N/A

Policy or Regulation

- Local Government Act 1993
- Part 9, Division 5, Clause 212 of the Local Government (General) Regulation 2005
- Investment Policy

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

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

Prepared by	Vickie Stacey - Finance Officer (Accounting)
Attachment	Movement of Funds Between Months – January 2020

ITEM	6c.20.018	DISCLOSURE OF INTEREST RETURNS
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

This report details direction for compliance from the Information and Privacy Commission (IPC) in determining public disclosure of Disclosure of Interests.

OFFICER RECOMMENDATION

That Council

1. Note the procedure for compliance with Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interest of councillors and designated persons).
2. Note the tabled copy of disclosures for placement on the website.

COMMITTEE RECOMMENDATION

Toms/Simmons

That

1. Council note the procedure for compliance with Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interest of councillors and designated persons).
2. The declarations of interests of Councillors and designated persons with redacted information be placed on Council's website in accordance with GIPA Act and Information Access Guideline 1.

Voting recorded as follows:

For: Simmons, Toms

Against: Ellem, Kingsley

The Committee Recommendation was declared CARRIED on the casting vote of the Committee Chair.

COUNCIL RESOLUTION – 6c.20.018

Toms/Novak

That

1. Council note the procedure for compliance with Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interest of councillors and designated persons).
2. The declarations of interests of Councillors and designated persons with redacted information be placed on Council's website in accordance with GIPA Act and Information Access Guideline 1.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

The Office of the Information and Privacy Commission released Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interest of councillors and designated persons) – September 2019 and that all returns are to be made publicly available on Council's website.

KEY ISSUES

In response to an enquiry by the Information and Privacy Commission, a review of the content of [Information Access Guideline 1: For Local Councils on the disclosure of Information \(returns disclosing the interest of councillors and designated persons\) – September 2019](#) has been undertaken; in particular the following matters:

1. The definition of 'designated persons'. That Council should have regard to [Circular 19-21](#) issued by the Office of Local Government (OLG) which provides guidance on the intended purpose of the 'designated persons' category and the matters to be considered when determining which positions should be those of a 'designated person'. The advice contained in Circular 19-21 states:
 - *Positions of committee memberships involving the performance of low-level administrative or regulatory functions that carry limited or no discretion or financial delegations, should not be identified as positions of designated persons*

The threshold for who may be classified as a 'designated person' is high and this is highlighted at paragraphs 1.4 and 1.5 of Guideline 1.

Council's current list of 'designated persons' has been reviewed and the following positions identified as relevant for compliance with Information Access Guideline 1:

- Elected Council members (9 members)
- General Manager
- Directors (3 positions)
- Managers (8 positions)
- Building and Environment Services Coordinator
- Development Services Coordinator
- Strategic Planning Coordinator
- Regulatory Services Supervisor
- Bridges Engineer
- Works Program Coordinator
- Senior Maintenance Engineer
- Senior Projects Engineer
- Construction Engineer (2 positions)
- Waste & Sustainability Coordinator
- Fleet Coordinator

A total of 33 positions are identified as 'designated persons'.

As a consequence of this review consideration was also given to how compliance with the requirements of the *Government Information (Public Access) Act 2009* (GIPA), Guideline 1 and the Code of Conduct, will be achieved. In order to comply with its statutory obligations under the GIPA Act, a review of the current

procedure for the collection of Disclosure of Interests returns and fulfilment of Guideline 1 for publication to Council's website was undertaken.

A new administrative procedure for how Council implements the collection of Disclosure of Interest returns has been developed in light of the following:

Disclosure of interest returns may contain personal information. This is information which individuals may have concerns about disclosing publicly on a website and may object to publication following consultation under the GIPA Act. There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to reveal an individual's personal information.

Regard of [Information Access Guideline 4: Personal information as a public interest consideration under the GIPA Act](#) has been taken in considering the application of this public interest consideration against disclosure. Importantly, paragraph 1.8 of Guideline 4 sets out what is **not** personal information. This includes:

Information about an individual (comprising the individual's name and non-personal contact details) that reveals nothing more than the fact that the person was engaged in the exercise of public functions.

The new procedure is attached to this report for information. The new Return templates include a check box for 'designated persons' to request that personal information collected in the forms be kept private, by way of redaction in order to comply with the GIPA Act and Guideline 1, prior to any placement on Council's website and/or public viewing. Only information identified by the privacy principles of the *Privacy and Personal Information Protection Act 1998 (NSW)*, can be redacted.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Code of Conduct

Consultation

Internal and external stakeholders including the Information Privacy Commission.

Legal and Risk Management

May possibly be contentious if non compliant with Guideline 1 recommendations for access of Disclosure of Interests returns on Council's website.

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
Attachment	Disclosure of Interests – Reporting Responsibilities Procedure
To be tabled	Disclosure of interests for website (redaction applied)

ITEM 6c.20.019 IMPROVEMENT STRATEGIES PROGRESS

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report provides Council with a progress update in achieving the “Fit for the Future” improvement strategies identified for the 2019/20 financial year as adopted by Council at its June 2019 meeting (refer Item 6a.19.004).

OFFICER RECOMMENDATION

That Council:

1. Receive and note the report on progress against the 2019/2020 Operational Result Improvement Strategies Schedule.
2. Note that the next 6 monthly progress report will be provided in June 2020.

MOTION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.019

Ellem/Novak

That Council:

1. Receive and note the report on progress against the 2019/2020 Operational Result Improvement Strategies Schedule.
2. Note that the next 6 monthly progress report will be provided in June 2020.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

The improvement strategies schedule adopted in 2016, recognised the following financial Operational Expenditure (Opex) savings by year from 2017/18 to 2020/21:

Year	2017/18	2018/19 + previous years unrecognised	2019/20 + previous years unrecognised	2020/21
Planned savings against specific actions	\$3,794,870	\$2,505,131	\$2,669,591	\$1,294,481
Actual savings achieved against planned actions	\$3,415,527	\$1,218,795	-	-
Carry forward savings to be recognised in following year	\$379,343	\$1,286,336	-	-

Council received a report on improvement strategies in June 2019 (Item 6a.19.004), which provided an updated improvement strategies schedule (refer attachment). The updated schedule removed completed and/or problematic items and replaced these with updated potential improvement strategies providing greater scope to achieving identified operational savings.

Whilst recognising that Council still has to find improvement strategies to the value of \$3,964,072 by the end of 2020/21, this report additionally provided that cost savings are not to be apportioned to specific actions, but rather the goal be to achieve an annual total financial (Opex) saving in line with previous targets.

KEY ISSUES

Significant progress has been made in identifying, investigating and recording the financial savings that have resulted from various improvement strategies during 2019/20. To date improvement strategies to the value of \$446,373 have been recognised in current year. These are the direct result of intended action to reduce costs.

A full schedule of the individual improvement strategies and their progress to date can be found in the attachment. In general, the key initiatives leading to the \$446,373 saving can be summarised as follows:

- Procurement process review and implementation of strategic procurement
- Review insurance premiums and excesses
- Promotion of e-notices and reduction in postage
- Centralisation of a number of budgets to provide better control in order to gain efficiencies and ensure organisational benefit

The table below provides a summary of the progress to date, identifying that there is still \$2.2 million of improvement strategies to be realised in the 2019/20 financial year.

Item	Amount
Target Improvement Strategies Saving Value – 2019/20 (Item 6a.19.004)	\$2,669,591
Savings realised – July to December 2019	\$446,373
Remaining savings to be recognised in 2019/20	\$2,223,218

The remaining identified improvement strategies are currently being investigated. The Finance team has started the 2020/21 budget creation process and the team is monitoring all information for opportunities to further reduce costs and/or generate more revenue. In addition to the initiated improvement strategies and sought savings, it is anticipated that there will be further net improvements to the operational bottom line as the consequence and ripple effect of increased efficiencies across the organisation are realised. A progress update will be provided to Council in June 2020.

COUNCIL IMPLICATIONS

Budget/Financial

Budget variations for the entire \$446,373 have been processed and are included in the December Quarterly Budget Report also being presented at the February Council Meeting. These result in a total budgeted expenditure reduction of \$446,373 for 2019/20.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Discussions have been held with the Executive and relevant Managers to determine the financial savings resulting from each identified improvement strategy.

Legal and Risk Management

Council is required to meet the objectives of its Fit for the Future submission, which details the ways in which financial sustainability will be achieved.

Climate Change

N/A

Prepared by	Kate Maginness, Manager Finance and Supply
Attachment	2019/2020 Operational Result Improvement Strategies

ITEM	6c.20.020	GOVERNANCE REPORT
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Nil	

SUMMARY

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) applications and insurance claims in the period 1 October 2019 to 31 December 2019.

OFFICER RECOMMENDATION

That Council receive and note the Governance report for the period 1 October 2019 to 31 December 2019.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.020

Ellem/Novak

That Council receive and note the Governance report for the period 1 October 2019 to 31 December 2019.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

Legal Proceedings

The report on legal proceedings is to contain details of the legal proceedings that have been taken by or against Council, except in cases where:

- (a) the security of the Council, Councillors, Council staff or Council property may be threatened;
- (b) the privacy of the personal affairs of the person may be contravened by revealing the information;

- (c) the proceedings concern a personnel or industrial relations matter involving an individual staff member (for example, unfair dismissal claims, workers compensation claims and personal injury claims);
- (d) the proceedings concern the personal hardship of any resident or ratepayer, or
- (e) a not for publication order has been made by the relevant Court or Tribunal.

The report is also to contain details of the amounts, costs and expenses paid or received by the Council.

Complaints Management

Under Council's Complaints Management Policy a request for a service or for information about a service is not a complaint. However, they may escalate into a complaint if action is not taken within designated timeframes or is undertaken in an unprofessional or substandard manner.

The following are not complaints under Council's Complaints Management Policy:

- an objection to a Development Application (DA) or a submission made to Council in response to a call for public comment;
- a concern for service levels that are the result of limits set by Council Policy, and not the result of organisational or mechanical breakdown;
- Code of Conduct complaints.

Under the policy Council has committed to respond substantially to any complaint (other than a competitive neutrality complaint) within 21 calendar days after it is received.

Government Information (Public Access) Applications

The purpose of the Government Information (Public Access) Act 2009 (GIPA) is to open government information to the public by:

- (a) authorising and encouraging the proactive public release of government information by agencies, and
- (b) giving members of the public an enforceable right to access government information, and
- (c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

Information is not disclosed, if disclosing it would also disclose:

- private information about a third party
- details of legal action or law enforcement
- details that would undermine competitive neutrality in connection with any functions of Council or
- details that would endanger or prejudice any system or procedure for protecting the environment.

Insurance Claims

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

KEY ISSUES

Legal Proceedings

For the period the following legal proceeding taken by or against Council:

- LEC Class 1 Proceedings – defending a position – Iluka Road Woombah – clearing of native vegetation; directions hearing 14 October 2019.

Complaints Management

During the reporting period there were 4 complaints submitted. Of the complaints:

- One lodged due to lack of response from an initial complaint regarding a development. This was responded to within the time frame and no further action required.

- A complaint lodged seeking a potential claim for pain, suffering and monetary loss with regard to a development application process and bush fire zoning issues. An initial response has been forwarded to the complainant and this issue forwarded to our insurer for notification purposes.
- A complaint received regarding a perceived breach of the privacy act in respect to a petition utilised for a Marine Precinct Proposal. The petition information was utilised in accordance with notification of collection purposes and the complaint responded to within the allocated time frame.
- One complaint lodged with the Privacy Information Commissioner was referred to Clarence Valley Council as an initial complaint (stating that Council had not previously had the opportunity to respond to the complainant). On investigation Council had already responded to the complaint when initially raised regarding alleged clearing of native vegetation. However, re-investigation and visitation of the site occurred and the complainant and property owner formally responded to.

Government Information (Public Access) (GIPA) Applications

During the period six new GIPA applications were received. Of the six applications:

- one was transferred to another agency as the information requested was not held by Clarence Valley Council.
- one application was denied due to overriding public interest for non disclosure.
- one application requested open access information and was therefore treated as an informal request, the relevant information disclosed and fee refunded.
- three applications were granted access to the information requested.

Five applications were processed within the specified guidelines with one extension requested due to Council Christmas closure.

Insurance Claims

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

There were twenty five claims lodged, comprising of:

- Four motor vehicle claims. The claims fell under Council's insurance policies resulting in a cost to Council of \$4,000, which is the excess of \$1,000 per claim
- 21 public liability property claims of which 10 were declined and 4 settled at a cost of \$2,302.35; the remainder pending finalisation
- No public liability injury claims
- No property claims during the reporting period

There was one notification incident referred to the insurer – detailed in the previous complaints management section.

COUNCIL IMPLICATIONS

Budget/Financial

For legal proceedings taken by or against the Council any costs incurred or recovered are allocated to the budget areas for the respective matters.

The GIPA Act provides that requests are subject to an initial fee of \$30 to cover first hour of investigation. There is an additional processing fee of \$30 per hour, after the first hour. Fees can be reduced by 50% if the agency is satisfied:

- the individual making the application is suffering financial hardship, or
- the information applied for is of special benefit to the public generally.

Council's liability for insurance claims is limited to the excess under the respective policy. Claims up to the excess are allocated against the operational budget of the relevant directorate.

Asset Management

N/A

Policy or Regulation

Complaints Management Policy

Government Information (Public Access) Act 2009 (GIPA Act) Privacy and Personal Information Act 1998

Council's suite of insurance policies

Civil Liabilities Act 2002 No 22

Consultation

Insurance Officer, Managers and Directorates

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
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ITEM 6c.20.021 2019/20 OPERATIONAL PLAN – QUARTERLY REVIEW AS AT 31 DECEMBER 2019

Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report provides the second quarterly review on Council's performance of fulfilling its actions, services, projects and programs in the 2019/20 Operational Plan.

OFFICER RECOMMENDATION

That the Quarterly Operational Plan outcomes as at 31 December 2019 be noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.021

Ellem/Novak

That the Quarterly Operational Plan outcomes as at 31 December 2019 be noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

BACKGROUND

On 25 June 2019 Council adopted the 2019/20 Operational Plan, which specifies the objectives, strategies and activities to be achieved in this financial year.

The Clarence 2027 identified five themes which are then broken down into objectives for Council to aspire to when setting the strategies and activities for the 2019/20 financial year.

KEY ISSUES

The one year Operational Plan is a sub-plan of the 2017/21 Delivery Program, which identifies activities (programs, services and projects) to be delivered by Council during the 2019/20 financial year. The General Manager is required to ensure regular progress reports are provided to Council with respect to the principal activities.

Detailed progress updates for the final quarter are contained in the attached report.



The report shows that as at the end of December 2019, Council's programs, projects and services are 49% completed. This reflects that we are on target overall to achieve a 100% outcome at the end of the financial year due to a majority of the actions being due in the last quarter of the year.

COUNCIL IMPLICATIONS**Budget/Financial**

Actions contained in the 2019/20 Operational Plan that have a financial implication are included in the adopted budget, which is reported to Council each month.

Asset Management

N/A

Policy or Regulation

Section 404(5) of the Local Government Act 1993

Consultation

Outcomes based on information provided by all section Managers and Directors.

Legal and Risk Management

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Quarterly Progress Report

LATE ITEM

ITEM	6c.20.022	ACCESS YAMBA - PROGRESS UPDATE
Meeting	Corporate, Governance & Works Committee	18 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	To be tabled	

SUMMARY

At the December 2019 Council meeting a report providing an update on the status of this project was presented and noted (Item 6c.19.114). As detailed in that report a number of key issues have been identified, this report provides detailed cost estimates for the construction of each of the intersection treatments.

OFFICER RECOMMENDATION

That Council:

1. Construct a signalised intersection at Treelands Drive and Yamba Road subject to Restart NSW approval of a project scope variation to the Funding Deed.
2. Power the signalised intersections from mains power and investigate indirect emissions offsets with the outcome reported to Council at a later date.
3. Proceed with tendering for the construction of the roundabouts at Carrs Drive and Shores Drive.
4. Do not proceed with the intersection upgrade at Yamba Street and Yamba Road Palmers Island, and with Restart NSW approval, allocate the funds to the Carrs Drive and Shores Drive Projects.
5. Investigate opportunities to use S94 contributions and other sources to fund the remaining budget shortfall and report to Council any shortfall with the Shores Drive and Carrs Drive tender recommendations.

The Chairperson declared the meeting adjourned at 3.30 pm prior to debate on this item to re-start after the Environment, Planning & Community Committee meeting.

The Corporate, Governance & Works Committee recommenced at 5.23 pm.

COMMITTEE RECOMMENDATION

Ellem/Toms

That Council:

1. Receive and note the late report on Item 6c.20.022 Access Yamba – Progress Update.
2. Construct roundabouts at Treelands Drive and Yamba Road, and at Carrs Drive and Yamba Road, under the Restart NSW Funding Deed of Agreement signed by the General Manager on February 6, 2019.
3. 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.
4. 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.
5. Allocate Council's \$1,300,189 Access Yamba contribution to the Treelands Drive and Carrs Drive roundabout projects.

6. Investigate opportunities to use Section 94 contributions and other sources to fund any budget shortfalls and report to Council any shortfall with the Treelands Drive and Carrs Drive tender recommendations.

Voting recorded as follows

For: Simmons, Ellem, Toms

Against: Kingsley, Lysaught

FORESHADOWED MOTION

Lysaught

That the Officer Recommendation be adopted.

Cr Lysaught left the Corporate, Governance & Works Committee meeting at 5.57 pm.

COUNCIL RESOLUTION – 6c.20.022

Ellem/Novak

That Council:

1. Receive and note the late report on Item 6c.20.22 Access Yamba – Progress Update.
2. Construct roundabouts at Treelands Drive and Yamba Road (non-conforming), and at Carrs Drive and Yamba Road, under the Restart NSW Funding Deed of Agreement signed by the General Manager on February 6, 2019.
3. Do 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.
4. 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.
5. Allocate Council's \$1,300,189 Access Yamba contribution to the Treelands Drive and Carrs Drive roundabout projects.
6. Investigate opportunities to use Section 94 contributions and other sources to fund any budget shortfalls and report to Council any shortfall with the Treelands Drive and Carrs Drive tender recommendations.
7. Establish a project steering committee responsible for administering and overseeing these projects. The Committee comprise a Councillor and the Mayor; the Council Executive (General Manager and 3 Directors). The Project Manager for the works would report to this steering committee at regular intervals.

Voting recorded as follows:

For: Ellem, Novak, Clancy, Toms, Simmons

Against: Williamson, Lysaught, Baker

Point of Order – Cr Baker called a point of order on the motion to be ruled out of order under the Code of Meeting Practice Clause 10.9 which states that a motion must identify a source of expenditure. The Chair ruled against the Point of Order.

MOTION OF DISSENT - LOST

Cr Baker

Cr Baker moved a motion of dissent against the negative ruling of his point of order.

Voting recorded as follows:

For: Baker, Williamson

Against: Ellem, Novak, Clancy, Toms, Lysaught, Simmons

The Motion of Dissent was put and declared LOST.

FORESHADOWED MOTION

Baker

That Council; having reviewed the implications of potential intersection upgrade treatments to the Yamba Road intersections at Treelands Drive, Carrs Drive and Shores Drive and having identified the cost estimates differences, greenhouse gas emissions differences and comparative disruption to short and long term community amenity and traffic disruption during installation/construction, and subject to the approval of the Restart NSW funding authority:

1. Take all necessary steps to complete the installation of traffic lights to the 3 Yamba Road intersections at Treelands Drive at a cost of \$710,722, Carrs Drive at a cost of \$666,177 and Shores Drive at a cost of up to \$750,000 for a total cost of 3 traffic light installations of \$2,126,899.
2. Construct a roundabout at the Yamba Road intersection at Yamba Street Palmers Island at a cost as estimated of \$2,911,930.
3. Allocate funds of \$5,083,829 being \$4,427,516 from Restart NSW funding subject to approval and \$611,313 from Council funds already set aside as Council contributions to Yamba Road intersections upgrades.
4. Make every effort to expedite completion of Point 1. of this resolution by mid-December 2020.
5. Justification of this resolution when seeking approval of Restart NSW approval to be:
 - a. the \$7,193,882 cost advantage of 3 x traffic lights installations at \$2,126,899 versus \$9,320,781 for 3 x roundabouts construction and,
 - b. the significantly lesser greenhouse gas emissions resulting from 3 x traffic light installations and continuing 50-year-life operation, being 4,989 tonnes co2-equivalent, when compared to 3 x roundabout constructions and continuing 50-year-life operation, being 13,965 tonnes co2-equivalent emissions for total saved co2-equivalent greenhouse gas emissions of 8,976 tonnes attributable to traffic lights installations and,
 - c. the significant long term benefits of traffic lights operation to assisted-mobility and pedestrian users of each intersection when compared to roundabout operation.
 - d. the significant reduction in the short term of neighbourhood disturbance and traffic disruption during traffic lights installations when compared to roundabout constructions and,
 - e. the ability to complete 4 Yamba Road intersection upgrade treatments using currently available funds.

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 previously received a Restart NSW grant to contribute to the costs of the construction of four intersection upgrades on Yamba Road. The Funding Deed outlines the scope of works that the funding is tied to. The Funding Deed states that the scope of works is:

1. Construction of a roundabout at the intersection of Treelands Drive and Yamba Road
2. Construction of a roundabout at the intersection of Carrs Drive and Yamba Road
3. Construction of a roundabout at the intersection of Shores Drive and Yamba Road
4. Construction of a roundabout at the intersection of Yamba Street and Yamba Road



Figure 1 – The intersection treatment locations

The status, estimated cost and other issues at each of these locations is explored below.

1. Yamba Road and Treelands Drive Intersection Upgrade

There have been a number of Council resolutions that relate to this intersection upgrade. These resolutions and the subsequent actions by staff are provided below in chronological order.

- Item 15.134/18 – August 2018 – The resolution stated:
That Council:
 1. Receive and note the report and its attachments regarding options for the control of the intersection of Treelands Drive and Yamba Road, Yamba.
 2. Adopt Option 3 – signalised intersection as the control measure for the Treelands Drive/Yamba Road intersection
 3. Complete the detailed design for the signalised intersection of Treelands Drive and Yamba Road.
 4. Compile a construction cost estimate that is based upon the detailed design required in point 3 of this resolution and report this to Council by 30 March 2019.
 5. Amend its Growing Local Economies Funding application to reflect Council's preferred option for the upgrade of Treelands Drive/Yamba Road intersection.
- Item 17.009/18 – September 2018 – Extraordinary Meeting, the resolution stated:
That Council rescind Points 2 and 3 of resolution 15.134/18 on Yamba Road/Treelands Drive Intersection Upgrade.

and:

That Council replace Resolution 15.134/18 Points 2 and 3 with the following points:

2. Adopt a non-conforming roundabout with an estimated cost of up to \$500,000 as described in the last paragraph on Page 34 of the Planit Traffic Impact Assessment Report for the intersection at Yamba Road and Treelands Drive Yamba.
 3. Complete the detailed design for the non-conforming roundabout at the intersection of Treelands Drive and Yamba Road.
- Council staff submitted the grant application.

- Council received the Restart NSW grant for the construction of four roundabouts.
- Item 6c.19.008 – June 2019 – The resolution stated:
That Council
 1. *Note the preliminary estimates for the construction of the non-conforming roundabout at the intersection of Yamba Road and Treelands Drive Yamba will exceed the estimated cost of \$500,000 as referenced in Council resolution 17.009/18.*
 2. *Report, in any future costing report on Yamba Road roundabouts, the climate change affect when measured on the pavement surface proposed as against the effect of using traffic lights that are solar and battery powered with mains power back up.*
- Item 6c.19.114 – December 2019 raised the following issues with the design at this intersection:
 - Land acquisition will be required to allow adequate sight distance for a roundabout
 - Numerous services will need to be relocated to accommodate a roundabout, including; NBN, Telstra, electricity, street lights, sewer and water.
 - The roundabout design does not meet the recommended minimum standards as detailed in the Austroads Guide to Road Design.
 - There is a significant risk that the project cannot be delivered for the allocated budget or within the timeframe specified within the Restart NSW grant.

The resolution stated:

That the Access Yamba – Progress Update report be received and its contents noted.

At the time of writing this report a detailed cost estimate has been undertaken and is attached to this report, with the total estimated cost being \$2,714,033. The detailed estimate highlights that due to the significant difference in scope between the originally budgeted signalised intersection and the roundabout design, there is a \$2,003,261 shortfall in funding.

As there is insufficient funding in the currently adopted budget this project has not been put out to tender at this stage. As such, there remain options on how to proceed from here. The most appropriate treatment options for this intersection are as follows:

1. Fund the budget shortfall of \$2,003,261 and proceed with construction of a roundabout
2. Modify the treatment to a signalised intersection subject to Restart NSW approval for the variation in scope at a cost of \$710,772
3. Leave this intersection as is and do not proceed with this component or the entirety of the grant. Of all the intersections under the grant this is a high priority for improving access through Yamba so not proceeding is not recommended.

The Planit Consulting options report from Item 15.134/18 – August 2018 meeting explores the roundabout and signalised intersection solutions in detail and is attached to this report. Table 1 from page 14 of the option study provides a summary of the proposed intersection treatments.

Table 1 – Summary of the benefits and costs of each treatment option

Option	Significant Land Acquisition Required	Major Services Relocation Required	Low Cost Upgrade	Significant Improvement in Congestion	Improves Pedestrian and Cyclist Safety	Provides Significant Extended Life of Intersection
Option 1 Geometric & Line Marking Upgrade	No	No	Yes	No	No	No
Option 2 Roundabout Upgrade	Yes	Yes	No	Yes	Yes	Yes
Option 3 Signalised Upgrade	No	No	Yes	Yes	Yes	Yes
Option 4 Mini Roundabout Upgrade	No	No	Yes	No	No	No

On the basis of the information provided in the options study, and completion of the detailed design and cost analysis, it is considered that a signalised intersection (Point 2 above) is the most appropriate option for the upgrade of the intersection based on:

- Initial construction cost.
- Land acquisition level.
- Quantity of services relocations required.
- Minimises the inconvenience to the community and the timeframe for construction given that a roundabout at this location could take 6 months to construct.
- Ability to augment the option in the future.
- Potential future upgrades to cater for future traffic growth.
- Pedestrian safety is improved to allow safer access across, and for traffic and cyclists along, Yamba Road.
- Traffic flow is improved and congestion reduced.
- Initial layout design work has been undertaken by Planit for a signalised intersection and through the current design process we have information about services in this location.

It is anticipated that changing to a signalised intersection could still be constructed within the time and cost requirements of the original grant. This will require Restart NSW to approve a treatment variation to the scope of works funded by the grant and upon initial enquiries that variation is likely to be supported.

Treelands Drive and Yamba Road, Climate Change Assessment

Item 6c19.008 – June 2019 – Part 2 required that an assessment of the climate change impact be provided. Specifically the resolution requested that the climate change impact of the proposed pavement be compared against that of the traffic lights using solar power and battery storage.

In order to undertake this assessment, the *Greenhouse Gas Assessment Workbook for Road Projects* (the workbook) published by *Transport Authorities Greenhouse Group* was adopted. This methodology is used by state road authorities throughout Australia and appears appropriate for this assessment. The workbook outputs for the two scenarios are attached to this report.

The estimate for the roundabout scenario uses quantities and construction details from the roundabout detailed design. As there is no detailed design for the traffic light scenario, a number of assumptions have been made. These assumptions include:

- No pavement, drainage or kerb and gutter works will be required for the installation of traffic lights
- Some footpath modifications will be required for the traffic light installation
- Some traffic islands will be required for the traffic light installation
- Vehicle generated emissions of general road users, both during construction and during operation have not been assessed

- All operational and maintenance emissions are assessed over a 50 year horizon
The results of this analysis are summarised below:

Table 2 – Comparison of GHG Assessment for Intersection Treatments

Activity	Roundabout Scenario (t CO ₂ -e)	Traffic Light Scenario (t CO ₂ -e)
Construction	4565	1061
Operation	0	262 [#]
Maintenance	90	90*
Total	4655	1413

[#] The calculator does not support solar powered traffic lights so mains powered lights have been used. It is expected that lights powered from renewable sources would lower this figure.

* The calculator does not include the impact of facilities that already exist. This means the impact of the maintenance of the existing kerb and gutter, pavement and drainage are not calculated. In order to correct for this the maintenance values for the roundabout scenario have been added to the traffic light scenario.

As noted above, the operational emissions of the traffic light scenario does not use solar powered lights with a battery backup. A significant amount of time has been spent to try and establish what difference a solar powered scenario would make, however this has proved very difficult due:

- differences in the assessment boundaries of different methodologies
- lack of clear specifications for a solar power supply and what components would be required
- where the solar panels and batteries would be installed due to the lack of space in the road reserve

Further to this, signalised intersections in NSW are owned and operated by Transport for NSW (TfNSW) and must be constructed to their standards. From the research conducted it is considered unlikely that TfNSW would accept a small scale solar powered installation in such close proximity to mains power supply. If they were to accept the installation, it is unlikely that Council could compel them to retain a solar powered supply to perpetuity.

If the intention is to power a signalised intersection in from renewable generation, it is suggested that indirectly powering the installation is likely to be more appropriate and will remain in Councils control. Options include:

- constructing renewable generation capacity in excess of the demand of the signalised intersection
- purchasing offsets or credits in excess of the life cycle demand of the signalised intersection

This option would be consistent with the general intent of Council's 100% Renewables Energy Plan that has been adopted.

In light of the above it is recommended that signalised intersection be powered from mains power and alternative indirect emissions offsets be investigated.

2. Carrs Drive and Yamba Road Intersection Upgrade

The Carrs Drive intersection upgrade also received funding under the Restart NSW, as for Treelands Drive at the time of grant submission the budget estimate was submitted based on the installation of traffic lights at a value of \$666,177. In light of Council's decisions relating to Treelands Drive, it has been clear that the construction of traffic lights at this location would not likely be supported and as such this treatment has been designed as a roundabout.

Some of the issues at this location are similar to those of the Treelands Drive intersection; the roundabout requires a large footprint which in turn requires property acquisition, services relocations and significant pavement works. The total estimated cost of this roundabout is \$3,356,400. The detailed estimate highlights that due to the significant difference in scope between the originally budgeted signalised intersection and the roundabout design, there is approximately a \$2,690,223 shortfall in funding.

Property Acquisition

This cost estimate for the roundabout includes an allowance for the land required for road widening from Lot 10 and 11 DP 1257448. It is anticipated that these will need to be acquired as whole parcels, however the intersection upgrade to a roundabout does not require all of this land.

It is assumed that the residual land will become a Council asset and will be disposed of once the road widening is complete. This property acquisition would not be required for the construction of a signalised intersection.

Alternative options

As for the Treelands Drive intersection, at this stage this project has not been put out to tender.

The potential treatment options for this intersection are as follows:

1. Fund the budget shortfall of \$2,690,223 and proceed with construction of a roundabout
2. Modify the treatment to a signalised intersection at a cost of \$666,177 subject to Restart NSW approval for the variation in scope
3. Leave this intersection as is and do not proceed with this component or the entirety of the grant.

These options are explored in more detail below.

Option 1 – Roundabout

The design of the roundabout allows for much construction out of the main Yamba Road traffic flow and so the disruption to traffic is not as significant as a roundabout at Treelands Drive. The roundabout also provides a very good solution for the residents with driveways opposite Carrs Drive and provides safety improvements to pedestrians and cyclists. In light of this, this is considered the most appropriate solution at this location.

Further to this, as the design is complete for this roundabout and the EOI is almost complete, construction could commence rapidly and will prevent additional design and survey costs. Options on how to fund this are provided in the Budget section of the report.

Option 2 – Signalised Intersection

A signalised intersection is possible at this location, however there has been no design work on this potential option. Due to this, there remain a number of issues that create significant risk with this option:

- The cost estimate was based on a concept and is not a detailed estimate
- It is unclear how the driveways opposite Carrs Drive would be accommodated. This would be a difficult design consideration
- Property acquisitions and services relocation may still be required
- Design work will be started from scratch
- Delays in design may jeopardise funding under the grant from Restart NSW

Option 3 – Do Nothing

This option will not provide any improvement in the traffic arrangement at this intersection and the traffic safety, pedestrian safety and congestion issues will remain. This option also will not take advantage of the funds on offer from Restart NSW and would be difficult to justify that doing nothing was meeting the intent of the funding to Restart NSW.

3. Shores Drive and Yamba Road Intersection Upgrade

The Shores Drive intersection upgrade also received funding under the Restart NSW for a value of \$1,435,162. Since the grant award, detailed investigation and design work has been undertaken and the detailed cost estimate is \$3,250,348, which gives a funding shortfall of \$1,815,186.

The detailed cost estimate is attached and has highlighted a number of key areas where there was insufficient allowance in the original cost estimate. These key areas are; pavement construction costs, street lighting and services relocations and are explored in detail below.

Pavement construction

The original cost estimate assumed that the new roundabout could be constructed largely centred over the existing Yamba Road pavement. During detailed design this has been found to be incorrect and the detailed design has had to move the round about footprint to the north. This is to allow the annulus to be as large as possible (still less than the desirable minimum) and to prevent the angle between the western Yamba Road leg and the Shores drive leg being too small. This results in significantly more new pavement construction.

Street Lighting and Electrical Works

There was an allowance in the original estimate for street lighting; however detailed design of the street lighting has found that many more changes are required to meet the required standards. In addition, the existing power poles and overhead cables will need to be relocated to make space for the roundabout footprint.

Services Relocations

Moving the roundabout to the North has avoided most of the services (water, sewer and some electricity) however does result in impact on a significant Telstra cable. This cable will need to be relocated away from the roundabout footprint, and was not allowed for in the initial cost estimate.

Alternative options

As for the Treelands Drive and Carrs Drive intersection, at this stage this project has not been put out to tender. The most appropriate options are as follows:

1. Fund the budget shortfall of \$1,815,186 and proceed with construction of a roundabout
2. Consider modifying the treatment to a signalised intersection subject to Restart NSW approval for the variation in scope
3. Leave this intersection as is and do not proceed with this component or the entirety of the grant.

The options are explored in more detail below.

Option 1 – Roundabout

The design of the roundabout allows for much construction out of the main Yamba Road traffic flow and so the disruption to traffic is not as significant at a roundabout at Treelands Drive and will better address the traffic safety and conflict issues at this location.

Further to this, as the design is complete for this roundabout and the EOI is almost complete, construction could commence rapidly and will prevent additional design and survey costs. Options on how to fund this are provided in the Budget section of the report.

Option 2 – Signalised Intersection

While a signalised intersection is possible at this location, there has been no design work on this potential option. Due to this, there remain a number of issues that create significant risk with this option:

- No cost estimate has been produced for traffic lights at this location
- It is likely that much of the pavement works would still need to be constructed to improve the geometry of the intersection
- Design work will be started from scratch
- Delays in design may jeopardise funding under the grant from Restart NSW

Option 3 – Do Nothing

This option will not provide any improvement in the traffic arrangement at this intersection and the traffic safety, pedestrian safety and congestion issues will remain. This option also will not take advantage of the

funds on offer from Restart NSW and would be difficult to justify that doing nothing was meeting the intent of the funding.

4. Yamba Street and Yamba Road, Palmers Island Intersection Upgrade

The Yamba Street intersection upgrade also received funding under the Restart NSW for a value of \$2,915,595. Since the grant award, detailed investigation and design work has been undertaken and the detailed cost estimate is \$2,911,930.

Alternative options

At this location the options are:

1. Proceed with the construction of a roundabout
2. Modify the treatment to a channelized intersection treatment.
3. Leave this intersection as is and do not proceed with this component or the entirety of the grant.

These options are explored in more detail below.

Option 1 – Roundabout

The design of the roundabout allows for much construction out of the main Yamba Road traffic flow and so the disruption to traffic is not as significant at a roundabout at Treelands Drive. A roundabout also addresses the speed and traffic safety issues through the Palmers Island area and allows for much better access into and out of the general store.

In addition pedestrian access to and from the general store can be created, which at present is problematic.

Option 2 – Channelized Intersection

A channelized intersection is possible at this location, however it provides marginal benefit in the following areas:

- There is no improvement in access to or from the general store
- It achieves marginal benefit on the speed and traffic safety issues at this intersection
- It still requires a significant amount of drainage and earthworks to achieve and does not provide a significant saving over the construction of a roundabout
- It provides no benefit for pedestrians and cyclists
- The design for this work has not been undertaken and would delay the delivery of the project and grant funding

Option 3 – Do Nothing

This option will not provide any improvement in the traffic arrangement at this intersection and the traffic safety, pedestrian safety and congestion issues will remain. However, from a congestion stand point there is currently no clear need for this work to proceed. Also, there is potential to recover some of the cost of an upgrade at this intersection from future development.

As the Treelands Drive, Carrs Drive and Shores Drive intersections are within close proximity of each other there is a strong nexus with meeting the objectives of the funding program through Restart NSW. The same does not apply to the same extent with the Palmers Island intersection.

In light of this it is recommended to explore option 3 with Restart NSW and, with their approval, transfer the funds across to the Shores and Carrs Drive projects.

Summary of Intersection Options and Recommended Approach

The recommended approach is to –

- Adopt a signalised intersection at Treelands Drive
- Roundabouts at Carrs and Shores Drive intersection and
- Not proceed with Yamba Street and Yamba Road intersection at Palmers Island

KEY ISSUES

Budget

A summary of the original versus detailed cost estimates are shown in the below table.

Project	Original Budget	Required Budget	Variance
Treelands Drive and Yamba Road	\$710,772#	\$2,714,033	\$2,003,261
Carrs Drive and Yamba Road	\$666,177#	\$3,356,400	\$2,690,223
Shores Drive and Yamba Road	\$1,435,162	\$3,250,348	\$1,815,186
Yamba Street and Yamba Road	\$2,915,595	\$2,911,930	-\$3,665
Total	\$5,727,706	\$12,232,713	\$6,505,007

Based on signalised treatment of intersections

A breakdown of the grant funding and Councils contribution is detailed in the below table.

Funding Source	2018-19	2019-20	2020-21	Total
NSW Government (Restart NSW)	\$449,397	\$2,863,333	\$1,114,786	\$4,427,516
Council contributions	\$131,970	\$840,849	\$327,369	\$1,300,189
Sub-total	\$581,368	\$3,704,183	\$1,442,155	\$5,727,706

A breakdown of the budgets required for the recommended approach for each intersection in the report is in the below table.

Project	Cost
Treelands Drive and Yamba Road (Signalised Intersection)	\$710,772
Carrs Drive and Yamba Road (Roundabout)	\$3,356,400
Shores Drive and Yamba Road (Roundabout)	\$3,250,348
Yamba Street and Yamba Road (Abandon Works)	\$80,000
Total	\$7,397,520
Deduction of Water Costs at Carrs Drive	-\$98,000
Deduction of Sewer Costs at Carrs Drive	-\$93,000
Deduction of Restart Grant Value (includes Council's contribution)	-\$5,727,706
Remaining Shortfall	\$1,478,814

Note: A 20% contingency has been included in cost estimates for the roundabouts to address some of the unknowns in this report

Due to the shortfall in funding, the projects have not been put to tender at this stage however we have undertaken an EOI process and can proceed to tender for the roundabout solutions. This would allow the market value of the projects to be established and the true impact to be understood. It is not recommended to proceed to tender unless funding is likely to be committed to the projects.

As shown above part of the shortfall could be funded by the Water and Sewer replacement program which is discussed below. In addition as these projects are likely to span into the 2020/2021 financial year, the shortfall could be spread over these financial years and funded from general revenue.

It may also be possible to use some S94 contributions for the construction of these upgrades. It is recommended that this be further investigated and reported back to Council with the outcome of the tender process.

Council staff have contacted Restart NSW that have verbally indicated that there is no additional funding available. There is an opportunity to vary project scope on the treatment at each intersection as well as the number of intersections within the Deed of Agreement subject to their assessment of still achieving the

grant program outcomes. Any variation submitted could also consider any variation to the milestones to deliver the projects at the same time.

Water and Sewer Costs

The detailed cost estimates allow for the costs associated with relocation of the services including the water and sewer services which are Council assets. 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. However they could be brought forward and funded from the Water and Sewer fund, this would require the deferral of other water and sewer projects.

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
Yamba Street and Yamba Road	\$ 17,000	N/A
Total	\$293,000	\$115,000

Grant Expiry

Due to the nature of the works involved in roundabout construction it is unlikely that the construction work of roundabouts at Treelands Drive, Carrs Drive, Shores Drive and Yamba Street could all be completed within the timeframe set by the Restart grant (January 2021).

At this stage a formal extension of time request has not been submitted and there is a risk that an extension will not be granted and the grant funding withdrawn. This would further increase the funding shortfall by the value that had not been expended by that date. As stated earlier from initial verbal discussion NSW Restart is open to receiving a variation in milestones as well as the treatment and number of intersections within the Funding Deed.

The approach is being recommended as a means of satisfying the Funding Deed.

Residual Uncertainty

It must be noted that the cost estimates included in this report are just that and very few costs have been priced by the market and locked in. The key areas of uncertainty are the Telstra and NBN relocation costs and the construction contract value.

To account for this and some of the unknowns a contingency of 20% has been included in the detailed estimates, however there is residual risk that the actual construction cost could be higher than the estimate.

COUNCIL IMPLICATIONS

Budget/Financial

Anticipated costs for intersection upgrade options are detailed above. There is currently a significant funding shortfall of over \$6 million for the adopted roundabout projects in their current form.

The water and sewer relocations could be funded from the water and sewer funds respectively as “early” renewal of these assets should council proceed with the roundabout options. New allocations would be required for the services relocations at the two Yamba relocations; if the Palmers Island works proceed the services can be funded from existing water fund allocations.

With Restart NSW approval it is possible to move the funding allocations within the Funding Deed.

Asset Management

Ownership of signalised intersections is transferred to TfNSW after construction. As such the ongoing maintenance and operations expenditure is not borne by Council.

Policy or Regulation

Not applicable.

Consultation

There has been some community consultation on the draft designs for each of these intersections. This consultation has been focused on the adjacent property owners and residents.

As there has already been extensive community input into the Treelands Drive intersection treatments, it is felt that further community consultation is not required as it will cause time delays to this project and may put grant funding at risk.

Legal and Risk Management

Not applicable.

Climate Change

As discussed above, the construction of new road pavements releases a significant amount of greenhouse gas emissions. Over a 50 year horizon signalised intersections where appropriate will result in less emissions and lower climate change impact.

Prepared by	Alex Dalrymple – Manager Civil Services
To be tabled	Detailed Cost Estimates (Confidential) Planit Consulting Yamba Road and Treelands Drive Option Study Carbon Gauge Outputs for a Roundabout Scenario Carbon Gauge Output for a Signalised Intersection Scenario

CLOSE OF CORPORATE, GOVERNANCE & WORKS COMMITTEE MEETING

There being no further business the Corporate, Governance & Works Committee meeting concluded at 6.12 pm.

c. INFORMATION ITEMS

ITEM	6d.20.001	ITEMS FOR INFORMATION
Meeting	Council	25 February 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

OFFICER RECOMMENDATION

That the Items for Information as listed below be adopted:

1. Grafton Rowing Club: Certificate of Appreciation
2. Climate Change Advisory Committee: Minutes 27 September 2019
3. Clarence Valley Access Committee: Minutes October 2019 and November 2019
4. Jodi McKay MP: Letter of Support
5. Nymboida Hall Management Committee: Minutes December 2019

COUNCIL RESOLUTION – 6d.20.001

Ellem/Novak

That the Items for Information as listed below be adopted:

1. **Grafton Rowing Club: Certificate of Appreciation**
2. **Climate Change Advisory Committee: Minutes 27 September 2019**
3. **Clarence Valley Access Committee: Minutes October 2019 and November 2019**
4. **Jodi McKay MP: Letter of Support**
5. **Nymboida Hall Management Committee: Minutes December 2019**

Voting recorded as follows:

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

Against: Nil

Prepared by	Lesley McBay, Coordinator Support Assistant
To be tabled	As listed above

d. TENDERS

ITEM	6e.20.001	RFT19/032 SUPPLY OF HIRED PLANT FOR 2020/2021
Meeting	Council	25 February 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginnity)	
Attachment	Confidential	

SUMMARY

Tenders have been called for the supply of hired plant items for Council to use in its local government area for the 2019/2020 & 2020/2021 financial years. This report is to accept the tenders received to be included on a Panel of Suppliers for use as required.

OFFICER RECOMMENDATION

That Council accept the attached confidential List of Suppliers & Plant Categories (Attachment D) and the Schedule of Rates (Attachment C) as recommended by the Tender Evaluation Committee for RFT19/032 Tender – Supply of Hired Plant.

Having declared an interest in this Item, Cr Baker left the Council meeting at 5.46 pm and returned at 5.47 pm.

COUNCIL RESOLUTION – 6e.20.001

Williamson/Toms

That Council accept the attached confidential List of Suppliers & Plant Categories (Attachment D) and the Schedule of Rates (Attachment C) as recommended by the Tender Evaluation Committee for RFT19/032 Tender – Supply of Hired Plant.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

Council requires hire plant to supplement Council's own plant and equipment to complete construction and maintenance works throughout the year. This may require that Council:

- Engage a supplier to provide services that exceed \$250,000 in value for any single event;
- Engage a supplier to provide services that exceed \$250,000 in value over a number of events; or
- Engage a supplier to provide services that Exceed \$250,000 in value over a range of disciplines (e.g. plant supply and gravel supply).

To ensure that Council complies with the requirements of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, tenders have been called for the supply of hired plant for the 2019/2020 and 2020/2021 financial years. Tenderers who supplied the most favourable tenders will be added to a Panel of Suppliers for each plant category to be engaged by Council as and when required during the year.

KEY ISSUES

Tenders were called on 28 October 2019 and closed on 18 November 2019 for the supply of plant items to Council for the use in its local government area for the 2019/2020 and 2020/2021 financial years. An extension was asked for due to the bushfires and approved by General Manager Ashley Lindsay. This extended the tender closing date to the 2 December 2019. The tender advertising included advertisement in the Sydney Morning Herald and local newspapers. Submissions were accepted through Tenderlink e-tendering and the physical tender box at the Prince Street office.

A summary of the numbers of dry and wet hire plant responses received is outlined in the following table.

Plant Items	No. Dry Hire	No. Wet Hire
Backhoe	4	5
Excavator <10 tonne	18	18
Excavator >10 tonne	13	16
Trencher	2	1
Motor Grader	4	3
Loader	7	6
Skidsteer	16	18
Skidsteer/Excavator/Roller Combo	-	4
Skidsteer/Excavator Combo	-	4
Mower	4	2
Steel Drum Vibrating Roller 8t to 12t	4	
Steel Drum Vibrating Roller 13t to 14t	5	
Pad Foot Vibrating Roller 8t to 12t	3	
Pad Foot Vibrating Roller 13t to 14t	6	
Multi Tyre Roller	8	
Combination Vibrating Steel Drum and Multi Tyre Roller		
Prime Mover and Plant Trailer (Float)		9
Tractor Mower/ Slasher		5
Water Truck/Cart	12	14
Tip Truck		15
Tip Truck & Dog Trailer		15
Street Sweeper		2
Wood Chipper		1
Chipper Truck		1
Stump Grinder		1
Elevating Work Platform		2
Mobile Rock Crusher		2
Mobile Screen		2
Dozer		8
Tractor Mower/ Slasher	3	4
Dual Cab Utility	2	

No addendum/significant clarifications were issued. We had three non-conforming tenders which are:

- The Mining Pty Ltd
- Conplant Pty Ltd

- GJ Watercart Hire

There were 43 tenders received at the close of the tender at 3:00pm Monday 2 December, as per the confidential attachment. The tenderers were:

Tenderer	Director / Partner
Advance Sweepers Pty Ltd	James Reid
Arbpro Pty Ltd	Kayne Smith
Cable & Pipe Locations Pty Ltd	Shane Buckley
Cambuild Constructions	Cameron Wicks
Chambers Consutrctions Pty Ltd	Stephen Chambers
Clarence Earthmoving	Marten Hutchings
Jacques Earthmoving	Brad Jacques
Clarence Valley Haulage	Marten Hutchings
Coates Hire Operations	David Bradley
Corbett Earthmoving Pty Ltd	Michael Corbett, Michelle Corbett
CW & VJ Cooper Pty Ltd	Wayne Cooper
Damians Excavations	Damian Barrett, Deborah Barrett
North Coast Road Sweepers	Darren Turner, Sheree Turner
DC Civil Enterprises	Declan Small
Ellis Profiling (QLD) Ptd Ltd	Gregory Ellis
Ezyquip Hire Pty Ltd	Denis Gardner
G Child Earthworx P/L	Greg Child
Hayes Civil Pty Ltd	Tim Hayes
Hazell Bros Plant Hire (QLD) Pty Ltd	Robert G. Hazell, Geoffrey R. Hazell
Hyroll Hire Pty Ltd	Craig McColl
KBS Mackay	Ben Mackay, Sam Mackay
Keegan Civil Pty Ltd	Paul Keegan
Kennards Hire Pty Ltd	Angus Kennard
LLTA Jones BobCat Hire	Lex Jones, Tracey Jones
McLennan Earthmoving Pty Limited	Phil McLennan , Cathy McLennan
Mitchbrook Construction	Peter O'Shannessy, Greg Watkins
Newman Quarrying Pty Ltd	Mark Newman
North Coast Contracting Aust. Pty Ltd	Aaron Rae
Porter Excavations Pty Ltd	Timothy Porter
RM Earthmoving Pty Ltd	Rajan Oberoi
Rollers Australia Pty Ltd	Julian Oneil , Vicki Greentree
RT Kenny Pty Ltd	Ross Kenny, Tracey Kenny
Smith Plant Hire NSW Pty Ltd	Dean Smith
Stabilcorp Pty Ltd	Craig Pinson
The Mining Pty Ltd	Richard Sippel , Mark McDonald
Valley Earthworks Pty Ltd	Mark Mitchell, Paul Fuller
WDI Earthmoving	Aaron Howell
Wicks & Parker Pty Ltd	Anthony Wicks , Martin Wicks
Compass Equipment Hire Pty Ltd	Leah Beans , David McGeary
JM & Sons Pty Ltd	James Delaney
Michael Smidt	Michael Smidt

Tenderer	Director / Partner
Conplant Pty Ltd	Not Supplied
GJ Watercart Hire	Garry Fenner

COUNCIL IMPLICATIONS

Budget/Financial

Funds for the hire of plant are contained within capital and maintenance budgets.

Asset Management

Council occasionally requires additional resources at various times throughout the year to complete capital and maintenance works as identified in the Asset Management Plans.

Policy or Regulation

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

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

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

Consultation

Not Applicable.

Legal and Risk Management

Not Applicable.

Climate Change

Not Applicable.

Prepared by	Trevor Pate - Procurement Coordinator
Confidential	Attachment A – Tender Recommendation Report Attachment B – Evaluation Spreadsheet Attachment C – Schedule of Rates Attachment D – List of Suppliers & Plant Categories

ITEM	6e.20.002	RFT19/033 MAIN PAVILION MACLEAN SHOWGROUND
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Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Confidential	

SUMMARY

Tenders were called for the construction of a new pavilion at the Maclean Showground. This report presents the outcome of the tender process and seeks Council's endorsement to accept the most advantageous tender enabling the commencement of construction.

OFFICER RECOMMENDATION

That Council:

1. Accept the tender from AGS Commercial Pty Ltd for RFT19/033 Maclean Showground Pavilion for the construction of a new pavilion at a cost of \$961,115.00 (GST inclusive) to be funded from Main Pavilion Maclean Showground (PJ 570342 Cost Centre 863).
2. Authorise the General Manager to approve variations up to the amount of the insurance funds.

COUNCIL RESOLUTION – 6e.20.002

Simmons/Toms

That Council:

1. **Accept the tender from AGS Commercial Pty Ltd for RFT19/033 Maclean Showground Pavilion for the construction of a new pavilion at a cost of \$961,115.00 (GST inclusive) to be funded from Main Pavilion Maclean Showground (PJ 570342 Cost Centre 863).**
2. **Authorise the General Manager to approve variations up to the amount of the insurance funds.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The Maclean Showground Pavilion was damaged beyond repair in a severe storm on 2 January 2018. The building was over a hundred years old. Council lodged a claim for damages with the insurer to rebuild the building. A settlement of up to \$1,032,000.00 was reached. A Development Application [DA2019/0273] to demolish and rebuild the building was granted 3 September 2019, the building demolition commenced 13 September 2019. Conditions of the Development Application included the construction of a new pavilion utilising / featuring the salvaged trusses, windows, floor boards and wall cladding components of the building to acknowledge and preserve the heritage.

Tenders were called 23 October 2019 being set to close 3:00pm 28 November 2019. Through the tender period it was identified that some of the tender documents were missing from the online tender portal, consequently an extension was granted with tenders closing 3:00pm 20 December 2019. A non-mandatory tender meeting was held on 30 October 2019 10:00am at the Maclean Showground.

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

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

KEY ISSUES

Design

The tender included detailed design drawings and technical specification suitable to enable tenders to be established. The design and subsequent tender document were developed considering the conditions of the DA including utilising / featuring the salvaged trusses, windows, floor boards and wall cladding components of the building to acknowledge and preserve the heritage, and the provision of interpretive signage. Additionally the design included some other improvements to the site to enable better integration between the building and the site.

Tenders Received

Seven submissions were received in response to the Request for Tender:

1. AGS Commercial Pty Ltd;
 2. AGS Commercial Pty Ltd - Alternate (non-conforming);
 3. Andrew Toms Builder Pty Ltd (non-conforming);
 4. Ben Campbell Building Pty Ltd;
 5. Ben Campbell Building Pty Ltd - Alternate (non-conforming);
 6. Greg Clark Building Pty Ltd;
 7. Nanobuild Pty Ltd (non-conforming).
- (listed in alphabetic order)

Summary and Recommendation

The AGS Commercial Pty Ltd – Alternate; Andrew Toms Builder Pty Ltd; Ben Campbell Building Pty Ltd – Alternate; and Nanobuild Pty Ltd tenders were passed over by the TEC as being non-conforming. The three remaining tenders were progressed to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

After consideration of the tender submissions, scoring, results of further clarification, interviews and project reference checks, the TEC considered the offer from AGS Commercial Pty Ltd for the construction of a new pavilion at Maclean Showground to be the most advantageous and recommends this tender be accepted.

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

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this project is \$1,032,000 (ex. GST) Main Pavilion Maclean Showground, PJ 570342 Cost Centre 862, being funded from an insurance claim.

Expenditure and commitments to date on the project is \$77,048.96, comprising:

Employee costs	\$94.91
Detailed design	\$48,375.00
Tender advertising	\$157.00
Building Demolition	\$28,422.05

It is foreshadowed there is \$35,645.00 of works to be funded from this allocation which is not included as part of the contract works, comprising:

Internal project management costs	\$25,800.00
Interpretive signage	\$1,500.00
Access ramp works	\$8,345.00

Funding Summary

Item	Amount
Project Budget	\$1,032,000.00
Expenditure to date	\$77,048.96
Non-tender works to be funded from this allocation	\$35,645.00
Remaining balance for contract works	\$919,306.04
Recommended tenderer's price (ex GST)	\$873,740.91
Remaining contingency *	\$45,565.13

* Note – the contingency amount is calculated to be 5% of the recommended tenderer's price and being the maximum funds available from the insurance claim.

Asset Management

The facility replaces and upgrades an existing asset. The facility will be included into Council's buildings and facilities maintenance program.

Policy or Regulation

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

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

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

Consultation

Consultation was undertaken with the Maclean Show Society and user groups.

Legal and Risk Management

Seven submissions were received in response to the Request for Tender process, from five entities with the Company Partners and Directors as follows:

Tender	ABN	Name of Partners and Directors	Position
AGS Commercial Pty Ltd	37 602 997 606	Simon Booth	Managing Director
Andrew Tom Builder Pty Ltd	Not Provided	Andrew Tom	Owner
Ben Campbell Building Pty Ltd	96 151 257 582	Ben Campbell	Director
Greg Clark Building Pty Ltd	92 003 846 026	Greg Clarke	Director
Nanobuild Pty Ltd	43 151 612 001	Ronald Van Vyfeyken Elizabeth Bloomer	Director Director

(listed in alphabetical order)

Climate Change

The impacts of new construction will be minimised through the implementation of an energy efficient building design, the use of local contractors (reduced travel), specification and selection of renewable materials, the use of energy efficient appliances and the selection of energy efficient materials and systems.

Prepared by	Justin Menzies, Project Manager
Confidential	Tender Recommendation Report

ITEM	6e.20.003	RFT19/022 CONSTRUCTION OF SPORTS FACILITY RUSHFORTH PARK
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Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Confidential	

SUMMARY

Tenders were called for the construction of a sports facility including change rooms, amenities, canteen and ancillary space located at Rushforth Park, South Grafton.

OFFICER RECOMMENDATION

That

1. Council accept the alternate tender from AGS Commercial Pty Ltd for RFT19/022 for the construction of a sporting facility located at Rushforth Park at a cost of \$1,634,135.00 (GST inclusive) to be funded from PJ 540117 (Rushforth Park – Stage 2 new amenities and canteen).
2. Council authorise the General Manager to approve variations up to 5% of the contract value.
3. The budget allocation for PJ540117 be increased by \$320,745.00, funded from the S94 RA92011 CVC Open Spaces Rec Facilities Grafton & Surrounds and RA 11035 Sports Field Income, to cover the shortfall and provide for possible variations.

COUNCIL RESOLUTION – 6e.20.003

Simmons/Toms

That

1. Council accept the alternate tender from AGS Commercial Pty Ltd for RFT19/022 for the construction of a sporting facility located at Rushforth Park at a cost of \$1,634,135.00 (GST inclusive) to be funded from PJ 540117 (Rushforth Park – Stage 2 new amenities and canteen).
2. Council authorise the General Manager to approve variations up to 5% of the contract value.
3. The budget allocation for PJ540117 be increased by \$320,745.00, funded from the S94 RA92011 CVC Open Spaces Rec Facilities Grafton & Surrounds and RA 11035 Sports Field Income, to cover the shortfall and provide for possible variations.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

Council called for tenders on Friday 15 November, 2019 for the construction of a sporting clubhouse facility located at Rushforth Park, South Grafton.

A non-mandatory site meeting was held on Wednesday 27 November 2019 with tenders set to close on Friday, 17 January 2020. The tender remained open for a period of nine weeks to allow the Christmas / New Year closure period and allow for all interested tenderers to submit.

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

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

KEY ISSUES

Sporting Facility Design

The sporting facility was designed to include the minimum requirements for a local level football competition and includes change rooms x 2, referees rooms x 2, a first aid room, competition office, accessible public amenities, storage space, a social/community room as well as two canteens.

It was identified very early in the planning stages that two canteen spaces would be preferred by the user groups of the facility. The groups currently share the existing canteen facilities, however this is problematic as the stock and equipment needs to be packed away/shared.

To maximise space and ensure the inclusion of four full sized football fields in the masterplan design, the new facility is located between fields one and three and can be accessed at different points from both sides. The positioning limits the design, and due to space restrictions, battering down with a perimeter earth mound was not possible and terraced steps were required.

Tenders Received

Three submissions were received in response to the Request for Tender process, one conforming tender, one non-conforming tender and one alternate tender which is permitted under the Request for Tender and Tender Evaluation Plan. The tenderers include:

1. AGS Commercial Pty Ltd (submitted both a conforming and alternate submission)
2. Nanobuild Pty Ltd
(listed in alphabetic order)

Alternate Tender Submission

AGS Commercial Pty Ltd submitted an alternate tender in addition to a conforming tender. The primary difference which resulted in a cost saving for the project is the use of concrete tilt panels in place of blockwork. The TEC considered this submission to be the best value to Council.

Summary and Recommendation

Tender Evaluation Committee (TEC) evaluated the submissions against the criteria to ensure compliance with the Tender Evaluation Plan (TEP).

The tender submission received from Nanobuild Pty Ltd did not meet the mandatory requirements of the TEP and was not processed through to the price criteria assessment.

The remaining tenders including the conforming and alternate submission from AGS Commercial Pty Ltd were processed through to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

After consideration of the tender submissions, scoring, results of further clarification, a financial assessment and project reference checks, the TEC are recommending that the alternate offer from AGS Commercial Pty Ltd for the construction of a sporting clubhouse at Rushforth Park, South Grafton.

Details of the tender assessment are contained in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this project is \$1,560,577.00, which comprises the following funding sources:

Agency	Source	Amount
NSW Government	Stronger Country Communities Fund, Round 2 (PJ540117)	\$500,000.00
Clarence Valley Council	2019/20 capital works contribution	\$764,225.00
	PJ945235 Rushforth Park kiosk – replace aged facility (transferred to 540117)	\$ 26,781.00
	S94 RA92011 CVC Open Space Rec Facilities Grafton & Surrounds	\$245,745.00
	RA11035, Sports Field Income	\$75,000.00

Expenditure to date on the project is \$51,174.82, comprising:

Internal project management costs	\$9,000.00
Detailed design	\$25,460.00
Engineering design	\$9,400.00
Hydraulic design	\$4,540.00
Quantity surveyor	\$2,250.00
Tender advertising costs	\$524.82

Funding Summary:

Item	Amount
Project Budget	\$1,611,751.00
Expenditure to date	\$ 51,174.00
Remaining balance for contract works	\$1,560,577.00
Recommended tenderer's price (ex GST)	\$1,485,578.00

The remaining budget of \$75,000.00 will be allocated to contingency for the project and equates to 5% of the contract value. Any unused funds will be returned to RA11035, Sports Field Income.

Asset Management

The new sporting clubhouse facility will replace asset # 800075 which comprises of a canteen structure. The new asset will need to be included into Council's Asset Management Plans and maintained to the required standard.

Policy or Regulation

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

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

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

Consultation

Extensive consultation was undertaken with the community through a stakeholder group. Five soccer clubs that are based at Rushforth Park as well as North Coast Football were represented and contributed to the masterplan design as well as the clubhouse facility layout and design. Northern NSW Football also provided advice and recommendations on the football facilities.

Legal and Risk Management

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

Tenderer	ABN	Name of Partners and Directors	Position
AGS Commercial Pty Ltd	37 602 997 606	Simon David Booth	Director
Nanobuild	43 151 612 001	Ronald Van Vyfeyken	Managing Director
		Elizabeth Bloomer	Director

(listed in alphabetic order)

Climate Change

There are several environmental considerations incorporated in the facility design including rain water tanks, a solar system and energy efficient lighting. These inclusions will contribute positively towards the environment and climate change.

Prepared by	Rachelle Passmore – Senior Parks & Recreation Officer
Confidential	Tender Recommendation Report

ITEM 6e.20.004 RFT20/001 – MACLEAN POOL FILTRATION EQUIPMENT

Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (David Sutton)	
Attachment	Confidential	

SUMMARY

Tenders were called for the procurement and installation of filtration and related equipment for the Maclean Pool. This report presents the outcome of the tender process and seeks Council's endorsement to accept the most advantageous tender enabling the commencement of the construction phase.

OFFICER RECOMMENDATION

That Council:

1. Accept the alternate tender from Swimplex Aquatics ATF Aquatics Unit Trust for RFT20/001 for the procurement and installation of filtration and related plant at the Maclean Pool for \$445,748 (GST inclusive) to be funded from PJ 540646 (*Maclean Pool Amenities Upgrade Stage 2*).
2. Authorise the General Manager to approve variations up to 10% of the contract value.

COUNCIL RESOLUTION – 6e.20.004

Simmons/Toms

That Council:

1. **Accept the alternate tender from Swimplex Aquatics ATF Aquatics Unit Trust for RFT20/001 for the procurement and installation of filtration and related plant at the Maclean Pool for \$445,748 (GST inclusive) to be funded from PJ 540646 (*Maclean Pool Amenities Upgrade Stage 2*).**
2. **Authorise the General Manager to approve variations up to 10% of the contract value.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

Council called for tenders on Monday 6 January, 2020 for the procurement and installation of filtration and related equipment at the Maclean Pool.

A mandatory site meeting was held on Wednesday 15 January, 2020 with tenders closed on Tuesday, 11 February 2020.

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

KEY ISSUES

Filtration Plant Design

Council engaged an aquatic engineer to develop the specification documentation for the replacement of the filtration equipment at the Maclean pool. The design was based on a needs assessment and plan developed prior by Liquid Blu and Aquatic One. It is based on a two stage project, this being the first with an allowance made for the proposed equipment in stage 2.

The first stage includes only the equipment and pipework to the plant room and does not extend to the pipework connecting to the pool.

Tenders Received

Three submissions were received in response to the Request for Tender process, all of which are conforming to the Request for Tender documentation. The tenderers include:

1. Alto Pacific Pty Ltd
 2. Beau Corp Projects Pty Ltd
 3. Swimplex Aquatics ATF Aquatics Unit Trust
- (listed in alphabetic order)

Summary and Recommendation

An external aquatic engineer from Aquatic One evaluated the submissions against the Request for tender (RFT) documentation and Tender Evaluation Plan (TEP).

All submissions were conforming and were processed through to evaluation criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

After consideration of the tender submissions, scoring, results of further clarification, a financial assessment and project reference checks, the TEC are recommending that the offer from Swimplex Aquatics ATF Aquatics Unit Trust for the Maclean Pool Filtration Equipment.

Details of the tender assessment are contained in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this project is \$774,353.00, which comprises the following funding sources:

Agency	Source	Amount
Clarence Valley Council	PJ540646 Maclean Pool Amenities Upgrade Stage 2	\$ 803,363.00

Expenditure to date on the project is **\$29,010.00**, comprising:

Northern Rivers Structerre, engineering	\$ 7,900.00
Aquatic One, tender documentation	\$ 6,950.00
Kevin Plummer, contract preparation	\$ 900.00
Marco consultant, survey	\$ 2,350.00
Navfox Design, design services	\$ 8,500.00
Ardill Payne, engineering	\$ 1,265.00
Tendering and financial check	\$ 1,145.00

Funding Summary:

Item	Amount
Project Budget	\$ 803,363.00
Expenditure to date	\$ 29,010.00
Remaining balance for contract works	\$ 774,353.00
Recommended tenderer's price (ex GST)	\$ 445,748.00

The remaining budget (\$328,605.00) will be utilised on the secondary part of the project, being the construction of a plant room to house the new filtration plant, an accessible toilet and the demolition of the existing infrastructure.

Asset Management

The new filtration and pump equipment will replace asset # 510489. The new asset will be included into Council's Asset Management Plans and maintained to the required standard.

Policy or Regulation

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

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

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

Consultation

Extensive consultation was undertaken with aquatic designers, aquatic engineers, the pool manager, various sections of Council including Open Spaces and Facilities and Water Cycle.

Legal and Risk Management

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

Tenderer	ABN	Name of Partners and Directors	Position
Alto Pacific Pty Ltd	33 155 454 309	Geoffrey Balcobm	Director
Beau Corp Projects Pty Ltd	53 158 880 721	Michael Hoy	Director
		Matthew Harriden	Director
Swimplex Aquatics ATF Aquatics Unit Trust	92 513 840 499	Geoffrey Leaver	Director
		John Dangerfield	Director
		Mark McLaughlin	Managing Director

(listed in alphabetic order)

Climate Change

The new filtration system is more economical and efficient in comparison to the existing sand filters. They will utilise less energy, contributing to a positive result for sustainability.

Prepared by	Rachelle Passmore – Senior Parks & Recreation Officer
Confidential	Tender Recommendation Report

ITEM	6e.20.005	RFT19/037 - SEWER REHABILITATION TENDER
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Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Confidential	

SUMMARY

Council called Schedule of Rates tenders for sewer main rehabilitation services which closed on 24 January 2020. Four complying tenders were received.

OFFICER RECOMMENDATION

That:

1. Council accept the tender from Abergeldie Rehabilitation Pty Ltd for RFT19/037 Sewer Main Rehabilitation Services at a cost of \$809,123 (GST inclusive) to be funded from PJ910016 (Sewer Rehabilitation Relining).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.

COUNCIL RESOLUTION – 6e.20.005

Simmons/Toms

That:

1. Council accept the tender from Abergeldie Rehabilitation Pty Ltd for RFT19/037 Sewer Main Rehabilitation Services at a cost of \$809,123 (GST inclusive) to be funded from PJ910016 (Sewer Rehabilitation Relining).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

Council has extensive sewer main infrastructure that is required to be maintained and renewed on a maintenance schedule based on the design life of products used as well as the asset condition. Sewer main rehabilitation requires cleaning of sewer pipes, CCTV to determine asset condition and then the pipes are relined while in situ with minimal disturbance to customers. The last relining program was undertaken in 2015.

KEY ISSUES

Tenders were assessed by a panel comprising Water Cycle staff using a weighting of 70% price and 30% non price. A detailed report from the Tender Evaluation Committee (TEC) is included in the confidential attachment.

The TEP considers that, in accordance with Clause 178(1)(a) of the Local Government Regulation, the tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Abergeldie Rehabilitation Pty Ltd .

As with many construction projects it is likely that some contract variations will be required during the work. In particular, since the list of sewer lines proposed to be rehabilitated under the contract was prepared, several additional sewer lines which may require rehabilitation have been identified. The contract applies the tendered schedule of rates to a quantity range, and the additional lines are within the quantity range. It is therefore recommended that the General Manager be authorised to approve variations totalling up to 15% of the contract sum.

COUNCIL IMPLICATIONS**Budget/Financial**

The sewer relining budget was \$900,000 from PJ910016 (Sewer Rehabilitation Relining). Tender advertising costs were \$467. The recommended tenderer's price as per the quantities nominated in the tender is \$735,566.36 (ex GST); as this is a Schedule of Rates contract, payment will be based on actual quantities of cleaning, CCTV and relining. Council staff will undertake administration of this contract.

Asset Management

Relining of sewer mains renews the assets, and is identified in the Sewerage Asset Management Plan as renewal work. The relining is based on sewer mains identified as Condition 4 and 5.

Policy or Regulation

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

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

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

Consultation

N/A

Legal and Risk Management

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

Climate Change

Assessment of climate change is not considered relevant to this tender.

Prepared by	Laurie Day, Water Cycle Coordinator
Confidential	Tender Evaluation Committee Report

ITEM 6e.20.006 RFT19/041 – EPOXY COATING TENDER

Meeting	Council	25 February 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Peter Birch)	
Attachment	Confidential	

SUMMARY

Council called open tenders, closing on 31 January 2020, for renewal of some Sewage Treatment Plant (SPS) inlet works and sewer pump stations (SPS) using epoxy coating. As the tendered price exceeds the available budget, a budget variation will be required.

OFFICER RECOMMENDATION

That:

1. Council accept the tender from Ledonne Construction Pty Ltd for RFT19/041 Epoxy Coating of STP inlet Structures and SPS at a cost of \$1,399,351 (including GST), to be funded from PJ910131 (STP and Pump Station Epoxy Coating Renewal).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.
3. The budget allocation for PJ910131 be increased by \$713,000, funded from the Sewer Fund, to cover the shortfall and provide for possible variations.

COUNCIL RESOLUTION – 6e.20.006

Simmons/Toms

That:

1. Council accept the tender from Ledonne Construction Pty Ltd for RFT19/041 Epoxy Coating of STP inlet Structures and SPS at a cost of \$1,399,351 (including GST), to be funded from PJ910131 (STP and Pump Station Epoxy Coating Renewal).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.
3. The budget allocation for PJ910131 be increased by \$713,000, funded from the Sewer Fund, to cover the shortfall and provide for possible variations.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

Condition assessments have identified that epoxy coating on some STP inlet works and SPSs requires renewal to protect the underlying concrete structure. Concrete structures conveying raw sewage

deteriorate rapidly from exposure to hydrogen sulphide (“rotten egg” gas) generated in raw sewage. Epoxy coating renewal enables the underlying concrete structure to reach its design life.

Epoxy coating renewal work was originally included in the 2016/17 budget, but was subsequently deferred by Resolution 15.047/17 at Council’s 21 March 2017 meeting. While that Council report noted “as the deferral of renewal works is likely to be for about 2.5 years, it is not expected to have a significant adverse impact on asset condition”, the scope of this tender did increase from that originally proposed as condition assessments have identified additional assets that required epoxy coating renewal.

KEY ISSUES

Tenders were assessed by a Tender Evaluation Committee (TEC) comprising Water Cycle staff using a weighting of 60% price and 40% non price. A detailed report from the TEC is included in the confidential attachments. As outlined in the TEC report, the tender from Eywad Pty Ltd was received after the closing time. As the evidence Eywad supplied did not demonstrate that their tender was submitted in time for it to be received by tender close in the ordinary course of business, under Section 177(2) of the *Local Government (General) Regulation* (“the Regulation”) Council is unable to consider this tender further.

The TEC considers that, in accordance with Clause 178(1)(a) of the Regulation, the tender which, having regard to all the circumstances (price and non-price), appears to be the most advantageous to Council is from Ledonne Constructions Pty Ltd and recommends that this tender be accepted.

As with many construction projects it is likely that some contract variations will be required during the work. It is therefore recommended that the General Manager be authorised to approve variations totalling up to 15% of the contract sum.

COUNCIL IMPLICATIONS

Budget/Financial

The 2019/20 budget for PJ910131 (STP and Pump Station Epoxy Coating Renewal) is \$750,000 and was based on costs previously tendered for STP and SPS construction. The recommended tender is \$1,272,137.27 (ex GST). An analysis of tendered prices has indicated that the main reason for the difference between the budget estimate and tenders received is that in the construction tenders the cost of undertaking bypassing of the STP inlet works and SPS was absorbed in other components of the tenders, but has needed to be included in this “stand alone” tender.

As the recommended tendered price exceeds the available budget, options open to Council under Section 178 of the Regulation are:

1. Increase the budget for this project. This is the recommended approach for the reasons outlined below.
2. Postpone or cancel the proposal for the contract. This is not recommended as the structures will continue to deteriorate and the renewal cost will increase.
3. Re-tender the work using the same scope of work. As this was an open tender it is not considered re-tendering will give any lower priced tenders.
4. Reject all tenders and re-tender the work using a revised (reduced) scope of work. The renewal of all the STP inlet work and SPS epoxy coating identified in this tender is required in the near future. If the scope of work was reduced to the available budget the deferred work would need to be included in a future budget and re-tendered. The marginal cost of this option would be higher as there is efficiency of scale in tendering a larger volume of work. If the scope of the work was reduced so that Council undertook bypassing of the STP inlet works and SPS, the bypassing costs would still need to be funded.
5. Reject all tenders and enter into negotiation with any person to undertake some or all of the work. It is considered unlikely there would be any cost reduction if the work was directly negotiated.

6. Reject all tenders and Council undertake the work. The epoxy coating component of the work is a specialist area and Council would need to subcontract this work. The value of the subcontracting would exceed the threshold for calling tenders.

It is considered the best outcome for Council would be if the full scope of work was undertaken at this time and it is therefore recommended the budget allocation for PJ910131 be increased by \$713,000, funded from the sewer fund, to cover the budget shortfall plus the 15% variation allowance. Sewer fund modelling has indicated that the proposed budget increase will not adversely impact the sewer fund performance, and that following this variation Council will still have sufficient funds to pay the projected 2019/20 sewer fund dividend.

Asset Management

The renewal of assets as they begin to deteriorate implements the Sewerage Asset Management Plan. As noted above the rate of deterioration of the SPS inlet works and SPSs will increase if the epoxy coating is delayed, which will increase the cost of the future renewal works.

Policy or Regulation

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

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

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

Consultation

N/A

Legal and Risk Management

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

Eywad Pty Ltd has written to the General Manager requesting reconsideration of the TEP's decision to pass over their Tender. Sections 177(2) and 177(5) of the Regulation prohibits Council from considering this tender (emphasis added):

- (2) *A council **must not consider** a tender that is not submitted to the council by the deadline for the closing of tenders. This subclause is subject to subclauses (4) and (5).*
- (5) *A council must also consider a tender received within such period after the deadline for the closing of tenders as it decides to be reasonable in the circumstances if the tenderer satisfies the council that the tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency **in sufficient time to enable the documents to have been received by the council in the ordinary course of business before that deadline.***

(Section 177(4) relates to situations where Council requires submission of formal tender documents following electronic submission, which was not relevant in this case).

Climate Change

Assessment of climate change is not considered relevant to this tender.

Prepared by	Greg Mashiah, Manager Water Cycle
Confidential	Tender Evaluation Committee Report

7. NOTICE OF MOTIONS

ITEM	07.20.001	2019/20 SPECIAL EVENTS SPONSORSHIP GRAFTON WHEELCHAIR TENNIS TOURNAMENT
Meeting	Council	25 February 2020
Directorate	Notice of Motion	
Submitted by	Cr Jim Simmons	
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 Notice of Motion seeks approval for Council to provide \$1,000 financial sponsorship for the 2020 Grafton Wheelchair Tournament.

PROPOSED MOTION

That Council approve the payment of \$1,000 Special Events Sponsorship for the Wheelchair Tennis Tournament to be conducted by Grafton City Tennis Club over two days on 29 February and 1 March 2020.

COUNCIL RESOLUTION – 07.20.001

Simmons/Williamson

That Council approve the payment of \$1,000 Special Events Sponsorship for the Wheelchair Tennis Tournament to be conducted by Grafton City Tennis Club over two days on 29 February and 1 March 2020.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

Strategy 3.1.5 Attract and grow events which contribute to the economy with a focus on high participatory events

BACKGROUND

Grafton City Tennis Club has received event sponsorship funds for the Wheelchair Tennis Tournament for the past three years and President of the Grafton City Tennis Club, Ayesha Beckman, is on the mailing list for advice about the fund availability. I am informed by a Council Officer that the event attracted 13 competitors in 2017, 8 in 2018 and 8 in 2019. However, I am also informed by Ayesha Beckman that the 2019 tournament attracted almost double the number of entries to that of 2018. The event is one of only two played regionally between Tweed Heads and Sydney (Coffs Harbour being the other). Unlike the international wheel chair tennis event in Tweed Heads, this event received no financial support from Tennis NSW or Tennis Australia; it is funded solely by private sponsorship and the Club itself. All players come

from out of the area for a minimum two nights stay. Competitors come from locations such as Newcastle, Brisbane, the Sunshine Coast, Melbourne and Adelaide. Last year former paralympian Ben Weeks attended as the special guest. All competitors bring family members and stay in motels for a minimum of two nights. They go out for dinner both Friday and Saturday nights. A conservative guess on accommodation and other expenses for each competitor including their family members would be \$500 to \$600.

KEY ISSUES

Ayesha Beckman submitted a Community Initiatives Grant application to Council on 4 April 2019 for \$1,000 for the Wheelchair Tournament. On 23 April 2019 Ayesha received a response saying that the Wheelchair Tennis Tournament should stay with the same grant as the previous year, and unfortunately in the process of commencing full time employment Ayesha overlooked submitting an application for Special Events Sponsorship.

At Council's 26 November 2019 meeting, events funding of \$29,450 was approved for applicants in Round 2 of the 2019/20 Special Events Sponsorship Program, fully expending the fund budget of \$89,000.

COUNCIL IMPLICATIONS

Budget/Financial

If the Notice of Motion is successful, the amount approved can be sourced from the General Fund. Any funding approved will increase the General Fund budget deficit.

Climate Change

Nil affect

8. CONFIDENTIAL BUSINESS

MOTION

Williamson/Lysaught

That Council move into closed session in order to consider Item 08.20.001 Nymboida Hydro Power Station and Item 08.20.002 Proposed Purchase of Property for Water Quality Protection under the Local Government Act 1993 Section 10A (2) c that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Voting recorded as follows:

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

Against: Nil

Cr Novak left the Council Chambers at 5.53 pm returning at 5.55 pm and was not present for the vote on the above motion.

Council moved into closed session at 5.55 pm. The microphones were turned off and the gallery and press excluded.

During closed session Cr Novak departed the Ordinary Council meeting at 6.43 pm.

Moved Cr Ellem, seconded Cr Lysaught, that Cr Novak be granted leave of absence for the remainder of the meeting. Carried.

MOTION

Williamson/Baker

That Council move out of closed session at 7.00 pm.

Voting recorded as follows:

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

Against: Nil

Council moved out of closed session at 7.00 pm. The microphones were turned on.

MOTION

Williamson/Baker

That a 15 minute extension of the Council Ordinary meeting be approved to deal with the remainder of Item 08.20.001 and then Item 08.20.002.

Voting recorded as follows:

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

Against: Nil

MOTION

Williamson/Ellem

That Council move into closed session order to consider Item 08.20.001 Nymboida Hydro Power Station and Item 08.20.002 Proposed Purchase of Property for Water Quality Protection under the Local Government Act 1993 Section 10A (2) c That the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Voting recorded as follows:

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

Against: Nil

Council returned to closed session at 7.03 pm. The microphones were turned off.

MOTION

Williamson/Toms

That Council move out of closed session and into open forum.

Voting recorded as follows:

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

Against: Nil

Council moved into open forum at 7.15 pm. The microphones were turn on and the gallery opened to the public.

COUNCIL RESOLUTIONS – 08.20.001 & 08.20.002**Williamson/Lysaught**

That Council Resolutions 08.20.001 Nymboida Hydro Power Station and 08.20.002 Proposed Purchase of Property for Water Quality Protection which were passed in closed session be adopted but not made public under Section 10A (2)-c of the Local Government Act as the resolutions contain information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting business.

Voting recorded as follows:

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

Against: Nil

9. LATE ITEMS OF BUSINESS AND MATTERS ARISING - Nil**10. CLOSE OF ORDINARY MEETING**

There being no further business the Ordinary Council meeting closed at 7.17 pm.