

# Ordinary Council Meeting Minutes

25 August 2020



# Agenda

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**MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Council Chambers, Grafton, 25 August 2020 commencing at 2.00pm.**

**OPENING PRAYER** – The opening prayer was said by the Mayor.

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

I acknowledge the 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 Jason Kingsley (Deputy Mayor), Cr Peter Ellem, Cr Arthur Lysaught, Cr Karen Toms (until 6.25pm), Cr Debrah Novak (until 6.38pm), Cr Richie Williamson, Cr Greg Clancy, General Manager (Ashley Lindsay), Director Environment, Planning & Community (Des Schroder), Director Works & Civil (Jamie Fleeting), A/Director Corporate & Governance (Alex Moar) and Minutes Secretary (Lesley McBay).

**APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE - Nil****DISCLOSURES AND DECLARATIONS OF INTEREST – 03.20.007****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 Novak	6a.20.028	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: DA2019/0539, Monthly Twilight Markets Yamba Intended action: Leave the Chamber.
Mr Lindsay	05.20.010 & 05.20.011	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Report deals with employment contract with Council Intended action: Leave the Chamber.
Cr Toms	08.20.006	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Holiday Park Contractor for Iluka Holiday Park Intended action: Remain the chamber
Cr Novak	07.20.010	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Outstanding DA items Intended action: Leave the Chamber.

**Declarations received at the Committee meetings**

<i>Name</i>	<i>Item</i>	<i>Nature of Interest</i>	<i>Reason/Intended Action</i>
Cr Ellem	6b.20.066	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Councillor is a friend of applicant. Intended action: Leave the Chamber.
Cr Novak	6b.20.069	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: DA2019/0539, Monthly Twilight Markets Yamba Intended action: Leave the Chamber.

**4. CONFIRMATION OF MINUTES**

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**COUNCIL RESOLUTION – 04.20.005**

**Lysaught/Ellem**

**That the Minutes of the Ordinary Meeting of Council dated 28 July, 2020, copies of which have been circulated, be taken as read and be confirmed.**

**Voting recorded as follows:**

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

**Against: Nil**

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**LATE ITEMS OF BUSINESS**

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**COUNCIL RESOLUTION – 09.20.003**

**Kingsley/Lysaught**

**That the late item of business 6a.20.028 - Development Applications - 1 July to 24 August 2020 be accepted.**

**Voting recorded as follows:**

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

**Against: Nil**

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## 5. MAYORAL MINUTES

ITEM	05.20.010	GENERAL MANAGER'S ANNUAL PERFORMANCE ASSESSMENT 2019/2020
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<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Confidential	

**SUMMARY**

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

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

**PROPOSED MOTION**

That the General Manager's Annual Performance Assessment be noted.

*Having declared an interest in this item and the next, the General Manager left the Council meeting at 2.08pm.*

**COUNCIL RESOLUTION – 05.20.010**

**Mayor Simmons**

**That the General Manager's Annual Performance Assessment be noted.**

**Voting recorded as follows:**

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

**Against: Novak**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

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

The General Manager's Performance Review Panel comprises the Mayor Cr Simmons, Deputy Mayor Cr Kingsley, Cr Williamson and Cr Ellem. Councillors who are not on the panel were invited to provide feedback on the General Manager's performance prior to the assessment. Feedback was received and discussed by the panel as part of the review. The Annual Performance Assessment was facilitated by Christian Morris from LGNSW - Management Solutions and was conducted on Tuesday 18 August 2020.

Overall, the Panel is more than satisfied with the performance of the General Manager. During a chaotic last 12 months with bushfires, floods and Covid-19, the General Manager has demonstrated positive leadership of both the organisation and within the community. The community and staff have been reliably informed by the General Manager of progress throughout the pandemic with regular emails and correspondence. Throughout this unprecedented time the organisation has still managed to meet both community and Council expectations.

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

**ITEM 05.20.011 GENERAL MANAGER'S CONTRACT OF EMPLOYMENT**

<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Mayoral Minute	
<b>Submitted by</b>	Cr Jim Simmons	
<b>Attachment</b>	Confidential	

**SUMMARY**

This Mayoral Minute is tabled in accordance with the Office of Local Government's Guidelines for the Appointment and Oversight of General Managers, which are issued under section 23A of the Local Government Act 1993 and advise that any renewal of contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

**PROPOSED MOTION**

That

1. Council reappoint Mr Ashley Lindsay to the position of General Manager.
2. A Standard Contract of Employment for the General Manager be executed for a period of three (3) years, effective 31 August 2020.

**COUNCIL RESOLUTION – 05.20.011**

**Mayor Simmons**

**That**

1. **Council reappoint Mr Ashley Lindsay to the position of General Manager.**
2. **A Standard Contract of Employment for the General Manager be executed for a period of three (3) years, effective from 31 August 2020.**

**Voting recorded as follows:**

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

**Against: Novak**

*Having declared an interest in this and the previous items, the General Manager returned to the Council meeting at 2.37pm.*

**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**

Under section 5.1 of the Standard Contract of Employment for General Managers of Local Councils in New South Wales, the General Manager has applied in writing seeking re-appointment to the position of General Manager, Clarence Valley Council.

The General Manager's current contract expires on 23 July 2022 and the request has been made in an effort to assist the Council plan for the future and to support the General Manager's transition to retirement in late 2022.

Pending the approval of Council, it is the intention of the General Manager to enter into a Long Service Leave arrangement 52 weeks prior to retirement, with an agreed retirement date.

Under section 5.2 of the Standard Contract of Employment for General Managers of Local Councils in New South Wales, Council is required to respond to the request at least six (6) months prior to the termination date.



The terms of the Standard Contract of Employment for General Manager's cannot be less than 12 months and for this reason it is proposed a contract of employment be executed effective immediately for a period of three (3) years.

The contract is proposed to be executed at the existing annual Total Remuneration Package (TRP) (\$283,668.75), excluding provisions of the Statutory and Other Offices Remuneration Act post 1 July 2020.

As General Manager, Mr Lindsay has provided steady leadership to the organisation since July 2017, a period of time while Council implemented significant change that improved the financial position and continued future sustainability of the organisation. Having discussed the matter with the General Manager at his Annual Performance Assessment, held 18 August 2020, the Panel is supportive of this request.

A confidential letter from Mr Ashley Lindsay is attached to this Mayoral Minute explaining further the current situation.

**6. REPORTS****a. GENERAL MANAGER****ITEM 6a.20.028 DEVELOPMENT APPLICATIONS – AUGUST 2020**

<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Nil	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the update on Development Applications be noted.

*Having declared an interest in this Item, Cr Novak left the Council meeting at 2.38pm and returned at 2.43pm*

**COUNCIL RESOLUTION – 6a.20.028**

**Williamson/Lysaught**

**That the update on Development Applications be noted.**

**Voting recorded as follows:**

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

**KEY ISSUES**

The figures from 1 July 2020 to 24 August 2020 are:

No. of Applications Received	No of Applications Approved	Value of Approved Works	No of Lots Approved	Processing Times (including stop-the-clock days)
135	115	\$16,434,124.00	8	Average : 59 days Median: 43 days

Of the 115 approved Development Applications between 1 July 2020 and 24 August 2020, 53 (46%) were determined within 40 days or less.

As of 24 August 2020 there were 169 outstanding development applications, which have been with Council for the following timeframes.

<b>Less than 40 days</b>	86
<b>41 - 60 days</b>	25
<b>61 - 80 days</b>	9
<b>81+ days</b>	49

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	Total	Full Details	Primary Property	Reason
DA2020/0312	16/06/2020	41	Metal shade structure over existing playground equipment	466 Brooms Head Road, GULMARRAD NSW 2463	Being determined.
SUB2020/0017	13/07/2020	41	Boundary adjustment and addition of one new allotment	194 Gardiners Road, JAMES CREEK NSW 2463	Awaiting additional Information (additional justification for undersize lot, DCP Variation - battle axe length, Ecological Report and Contamination Report
CDC2020/0029	10/07/2020	44	Alterations and Additions	85 Whipbird Drive, ASHBY HEIGHTS NSW 2463	Currently being assessed*
DA2020/0375	10/07/2020	44	Shed	25 Waterview Crescent, WOOMBAAH NSW 2469	Awaiting additional information (DCP Variation - setback)
DA2020/0373	9/07/2020	45	Garage	1 Melaleuca Drive, YAMBA NSW 2464	Currently being assessed*
DA2020/0374	9/07/2020	45	Alterations and Additions	8436 Armidale Road, TYRINGHAM NSW 2453	Currently being assessed*
SUB2020/0016	9/07/2020	45	Five Lot Subdivision	439 Murrayville Road, ASHBY NSW 2463	Awaiting External Referral (RFS and DPIE - Biodiversity and Conservation comment on BDAR).
DA2020/0368	8/07/2020	46	Demolish shed, alterations and additions to dwelling and new garage	172 Turf Street, GRAFTON NSW 2460	Awaiting additional information (proposal is below flood height and requires redesign to comply with flood controls).
DA2020/0369	8/07/2020	46	Awning	38 Palm Terrace, YAMBA NSW 2464	Currently being assessed*
DA2020/0370	8/07/2020	46	Carport	16 The Glen, MACLEAN NSW 2463	Applicant has requested application be withdrawn.
DA2020/0359	3/07/2020	47	Shed and replacement of existing patio	2 Bayview Drive, YAMBA NSW 2464	Currently being assessed*
DA2020/0364	7/07/2020	47	Awning and carport	37 Duroux Road, JACKADGERY NSW 2460	Currently being assessed*
DA2020/0332	23/06/2020	48	Secondary Dwelling	4644 Pacific Highway, HALFWAY CREEK NSW 2460	Additional information requested (details regarding using Crown Road for access).
DA2020/0358	3/07/2020	48	Retaining wall	13 Ager Street, YAMBA NSW 2464	Being determined.
DA2020/0361	6/07/2020	48	Deck	3 Azalea Street, BROOMS HEAD NSW 2463	Awaiting external referral RFS.
DA2020/0362	6/07/2020	48	Carport	245 Prince Street, GRAFTON NSW 2460	Being determined.

Application No.	Received Date	Total	Full Details	Primary Property	Reason
DA2020/0351	2/07/2020	51	Rural Supply Building	38 Mulgi Drive, SOUTH GRAFTON NSW 2460	Additional information requested (amended driveway design, site history, signage detail and Essential Energy have requested information regarding setback to overhead powerlines)
DA2020/0345	25/06/2020	52	Dwelling	Ridgewood Drive, WOOMBAH NSW 2469	Concurrence from DPIE granted, clearing associated with dwelling being assessed.
DA2020/0354	2/07/2020	52	Addition of shops and arcade	25 King Street, GRAFTON NSW 2460	Additional information regarding parking and access received.
DA2020/0355	2/07/2020	52	Alterations and Additions to dwelling	17 Halcyon Drive, WATERVIEW HEIGHTS NSW 2460	Currently being assessed*
DA2020/0356	2/07/2020	52	Demolition balcony and store room and construct new balcony and stairs	7 Cook Street, YAMBA NSW 2464	Notification period finished 20/08 and currently being assessed*
DA2020/0336	25/06/2020	54	Dwelling	1 Wentworth Street, PALMERS ISLAND NSW 2463	Awaiting Additional information (SEPP 55 Assessment)
DA2020/0347	30/06/2020	54	Additions to dwelling	8 Nugget Street, DIGGERS CAMP NSW 2462	Awaiting additional Information (bushfire assessment)
DA2020/0348	30/06/2020	54	Dual occupancy (building envelope)	401 Kungala Road, KUNGALA NSW 2460	Additional information required (additional justification for variation and preliminary OSM investigation).
DA2020/0338	25/06/2020	59	Additions to dwelling	40 Kerry Street, MACLEAN NSW 2463	Awaiting external referral RFS.
DA2020/0333	23/06/2020	61	Secondary Dwelling	198 Wooli Road, TUCABIA NSW 2462	Additional information requested (amended plans and SEPP 55 assessment).
DA2020/0320	19/06/2020	62	Dwelling and Shed	196 Ashby Island Road, ASHBY ISLAND NSW 2463	Awaiting additional information (engineers report on mound).
DA2020/0330	22/06/2020	62	Shed with sanitary facilities	208 Loughmans Lane, SHARK CREEK NSW 2463	Awaiting additional information (amended site plan).
DA2020/0325	19/06/2020	65	Dwelling	21 The Crescent, ANGOURIE NSW 2464	Asbestos clearing certificate submitted 24/08 and currently being assessed*
DA2020/0317	18/06/2020	66	Retaining wall, covered area for caravan storage and associated stormwater works	10-11 Mulgi Drive, SOUTH GRAFTON NSW 2460	Additional information received 21/07 (Amended Plans). Applicant advised 28/07 that they will not be proceeding with the caretaker dwelling shown on plans as 'Future Cottage'. Awaiting external comment from ARTC.
SUB2020/0012	15/06/2020	69	12 lot subdivision	5 Bridge Street, GLENREAGH NSW 2450	Additional information requested (amended road design, ecological impacts of the development and concept stormwater management plan).
DA2020/0305	11/06/2020	73	Shade sails	229 Alice Street, GRAFTON NSW 2460	Being determined.
DA2020/0301	10/06/2020	74	Shed with sanitary facilities	4644 Pacific Highway, HALFWAY CREEK NSW 2460	Issue with Crown Road access and suitability/ adequacy of timber bridge to site being considered. Awaiting additional information (Amended Plans).
DA2020/0294	4/06/2020	79	Dwelling, sheds, spa and flood mound	546 Lawrence Road, ALUMY CREEK NSW 2460	Part of Additional information submitted (revised OSM application still outstanding).
DA2020/0291	3/06/2020	81	Site regrading and filling works	72-82 Swallow Road, SOUTH GRAFTON NSW 2460	Additional information requested (Status of contamination on-site and how site will be managed given historical uses of the site as a fuel depot). Essential Energy has requested further information regarding treatment around electrical infrastructure on-site.
DA2020/0288	2/06/2020	82	Alterations and Additions (roof over deck)	6 Pilot Street, YAMBA NSW 2464	Applicant to provide Clause 4.6 Variation; report to next available Council meeting upon receipt of request.
DA2020/0289	2/06/2020	82	Carport and front deck addition	54 Main Street, WOOLI NSW 2462	Awaiting external referral (essential energy).
DA2020/0290	2/06/2020	82	New shed and sales repair and storage of boats, cars and machinery	200 North Street, GRAFTON NSW 2460	Awaiting additional received 13/08 (access to sheds).

Application No.	Received Date	Total	Full Details	Primary Property	Reason
DA2020/0282	1/06/2020	83	Pergola Roof	51 Witonga Drive, YAMBA NSW 2464	Being determined.
DA2020/0277	29/05/2020	86	Dwelling and shed	335 Boundary Creek Road, NYMBOIDA NSW 2460	Awaiting additional information (regarding flood heights and submission of an OSM Application).
DA2020/0278	29/05/2020	86	Carport	20 Boronia Crescent, YAMBA NSW 2464	DCP variation sought (Setbacks) being considered.
DA2020/0265	20/05/2020	95	Dwelling and shed	70 Sussex Street, COPMANHURST NSW 2460	Applicant has amended design and awaiting additional information (Amended Plans).
SUB2020/0010	20/05/2020	95	Two lot subdivision	135 Adams Street, WOOMBAH NSW 2469	Revised Bushfire Report forwarded to RFS. Awaiting additional information as requested by NSW DPIE Biodiversity and Conservation Division - Aboriginal Cultural Heritage Assessment in accordance with National Parks & Wildlife Regulation 2019.
DA2020/0223	4/05/2020	96	Dwelling	24 Locksley Close, GLENREAGH NSW 2450	Further additional information requested (finished floor heights).
DA2020/0259	18/05/2020	97	Garage for PCYC	300 Powell Street, GRAFTON NSW 2460	Further revised plans show new location of shed on Crown Land, land owners consent required from Lands.
DA2020/0256	15/05/2020	100	Dwelling	6 Fig Tree Lane, CHATSWORTH NSW 2469	Currently being notified, exhibition to end 4/09.
DA2020/0251	13/05/2020	102	Storage yard	121 Jubilee Street, TOWNSEND NSW 2463	Awaiting additional information (amended plans).
DA2020/0250	12/05/2020	103	Dwelling	555 Laytons Range Road, NYMBOIDA NSW 2460	Additional information received 7/08 (floor heights in relation to localised flooding).
DA2020/0241	7/05/2020	108	Shed with care takers cottage and caravan storage	67 Johnsons Lane, ILUKA NSW 2466	Awaiting comment from RFS regarding setbacks to boundary in Flame Zone*
DA2020/0227	5/05/2020	110	Fence	66 Skinner Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (amended design to comply with heritage provisions). Meeting to be arranged to discuss information requested.
DA2020/0229	5/05/2020	110	Temporary outdoor dining deck	26 Coldstream Street, YAMBA NSW 2464	Amended Plans in response to Essential Energy requirements received 17/08 and referred to Essential Energy for comment. Application to be referred to Traffic Committee 5/08 regarding regulatory parking signage.
DA2020/0232	5/05/2020	110	Shed	17 Bayview Drive, YAMBA NSW 2464	Additional information received (amended plans) and awaiting comments from those that made submission.
DA2020/0224	4/05/2020	111	Machine Shed	189 Dandahra Road, CANGAI NSW 2460	Awaiting additional information (amended plans showing details of cut/fill, proposed colours and landscaping screen details to minimise impact on rural landscape – Mann River).
SUB2020/0007	29/04/2020	114	Two lot subdivision	1 Forest Way, WOOMBAH NSW 2469	Additional information Concept Stormwater Management Plan and Revised Ecological Report received 18/08.
DA2020/0218	30/04/2020	115	Convert existing out-building to dwelling	96 Banana Road, MORORO NSW 2469	Access requirements being assessed
DA2020/0220	30/04/2020	115	Redevelopment of caravan park	8A Harbour Street, YAMBA NSW 2464	Further consultation with NTS Corp in progress.
DA2020/0198	17/04/2020	117	House and shed pad and access road	Farlows Lane, MACLEAN NSW 2463	Additional information requested (site plan).
SUB2020/0006	16/04/2020	125	Three lot subdivision	115 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (preliminary intersection design). Legal advice requested in relation to satisfaction of Part 6 of the LEP.
DA2020/0188	7/04/2020	131	Dual Occupancy and two lot subdivision	4 Little River Close, WOOLI NSW 2462	Third request sent to Applicant regarding OSM for the development.
SUB2020/0005	3/04/2020	131	Two lot strata subdivision	96 Spenser Street, ILUKA NSW 2466	Awaiting external referral (RFS).
DA2020/0179	31/03/2020	145	Shed	64 Crisp Drive, ASHBY HEIGHTS NSW 2463	Applicant has requested application be withdrawn.

Application No.	Received Date	Total	Full Details	Primary Property	Reason
DA2020/0160	23/03/2020	146	Function centre (wedding venue)	151 Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access. Waiting on a response to access issue. Applicant has requested that the application be put on hold.
SUB2020/0002	25/02/2020	172	17 large lot residential subdivision	273-331 Centenary Drive, CLARENZA NSW 2460	Applicant has submitted part of the additional information (ecological details outstanding), stormwater management plan being assessed. Awaiting comments from external agencies for comment (RFS, Transport NSW and Crown Lands).
DA2020/0071	17/02/2020	178	Dwelling and boundary adjustment	25 McPhee Street, MACLEAN NSW 2463	Awaiting additional information (access and clearing). Applicant has advised that they are still liaising with Crown Lands to determine access arrangement.
DA2020/0038	29/01/2020	207	Demolish awning and erect awning	34-36 River Street, MACLEAN NSW 2463	Additional information requested (Compliance with Essential Energy requirements). Second additional information letter sent 4/08 requesting update.
DA2020/0028	23/01/2020	213	Two industrial sheds	9 Electra Crescent, SOUTH GRAFTON NSW 2460	Additional information requested 29/01 (parking, use of building and landscaping details).
DA2019/0672	9/12/2019	258	Alterations & additions to church hall	Wharf Street, SOUTH GRAFTON NSW 2460	Additional information received 21/08 (amended plans and parking).
DA2019/0673	9/12/2019	258	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	The applicant was going to withdraw the application however has now decided to amend the proposal. Awaiting additional information (Amended Plans and on-site wastewater report).
SUB2019/0044	9/12/2019	258	Four lot subdivision	Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access and are awaiting a response from applicant on how to progress the application. Applicant has requested a meeting regarding outstanding issues.
SUB2019/0041	25/11/2019	268	Two lot subdivision	33 Spenser Street, ILUKA NSW 2466	Further information requested regarding stormwater management from road upgrade and future buildings.
DA2019/0636	22/11/2019	275	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Council staff have advised that ownership of the adjacent road reserve is unclear and suggest that the applicant complete a title search and/or seek legal advice regarding ownership of the lane before determining what option to progress the application.
DA2019/0539	3/10/2019	311	Monthly Twilight Markets	Clarence Street, YAMBA NSW 2464	Additional information requested (owners consent).
DA2019/0560	15/10/2019	313	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOLOWEYAH NSW 2464	DCP variation (setbacks) being reported to DAP for consideration.
DA2019/0478	30/08/2019	356	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested second letter 8/01 (Revised Plans, OSM Application and Bushfire Report). Awaiting change of applicant details as property has recently been sold.
SUB2019/0034	28/08/2019	361	41 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Additional information requested 27/03 (Bushfire, Stormwater, Access, Servicing, Ecological Impacts and On-Site Sewerage Management). Amended KPoM received 18/08.
SUB2019/0033	20/08/2019	369	Boundary adjustment & consolidation of Lot 10 DP752845 & Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Legal advice received from Applicant 27/07. Council officers have questions over comments made in legal advice and will seek a second opinion from Council's legal representative, once received the application will be reported to the next available Council meeting.

Application No.	Received Date	Total	Full Details	Primary Property	Reason
SUB2019/0030	14/08/2019	375	295 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	NRAR have revised additional information request which will amend the proposal. Council staff have requested that the applicant prepare additional surveys to comply with the guidelines for preparing a BDAR to identify any threatened species on-site. Council staff to review proposal and determine if further additional information is required for assessment following revised proposal.
DA2019/0423	8/08/2019	377	255 manufactured home estate with community facilities	Brooms Head Road, GULMARRAD NSW 2463	Further information requested (Traffic Impact Assessment, Development Control Plan as per Part 6 of the LEP, Stormwater Management and Ecological Impacts). Recent discussions with applicant determined that the proposal will be amended, revised details yet to be lodged.
DA2019/0152	26/03/2019	516	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access and are awaiting a response from applicant on how to progress the application.
SUB2019/0002	6/02/2019	564	12 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Report to August Council meeting.
SUB2018/0027	8/10/2018	685	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire).
SUB2018/0004	23/02/2018	912	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Report to August Council meeting.
DA2017/0671	18/10/2017	1040	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

The following table outlines the use of Clause 4.6 for Development Applications determined thus far during the month of August.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2020/0156	49 Yamba Street Yamba NSW	Clause 4.3 of CVLEP – height of buildings map	Clause 4.3 Height of Buildings - 9m maximum. Maximum height of the building is 10.83m.	Clarence Valley Council at their meeting 28 July 2020. Slope of land, construction costs of the alternative, not out of character with surrounding development, non-compliance will have minimal detrimental impacts.
DA2020/170	140 Ski Lodge Road, Seelands	Clause 4.2D of the CVLEP - requires a maximum 100m separation distance for dual occupancies	Clause 4.2D(2) (c) requires a maximum 100m separation distance for dual occupancies, the approved distance is 135m being 35%.	Clarence Valley Council at their meeting 28 July 2020. Considering the development is proposed on the highest point on the undulating site and V*D values are significantly less than the criteria in the definition of floodways provided in Council's Floodplain Risk Management Plan; it can be viewed that the development location is not, by definition, located within a floodway.

**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



**VOTE BY EXCEPTION****Kingsley/Novak****That the following Items be adopted as recommended:**

<b>6b.20.064</b>	<b>6c.20.124</b>	<b>6d.20.007</b>
	<b>6c.20.125</b>	
	<b>6c.20.128</b>	
	<b>6c.20.129</b>	
	<b>6c.20.131</b>	
	<b>6c.20.132</b>	
	<b>6c.20.133</b>	
	<b>6c.20.134</b>	
	<b>6c.20.135</b>	
	<b>6c.20.136</b>	

**Voting recorded as follows:****For: Simmons, Lysaught, Baker, Clancy, Novak, Williamson, Toms, Ellem, Kingsley****Against: Nil****b. ENVIRONMENT, PLANNING & COMMUNITY REPORT**

**MINUTES** of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 18 August 2020 commencing at 3.30pm.

**PRESENT**

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

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

**APOLOGY** - Nil**DEPUTATIONS RECEIVED**

Item 6b.20.066 - SUB2016/0020 – 57 Lot Subdivision – Waive Part of Section 7.11 Contribution – Summerland Way, Koolkhan	
Against the Officer Recommendation	Rob Donges (Planning Consultant on behalf of Kahuna No. 1 Pty Ltd)
Item 6b.20.067 - Additional Report Following Council Resolution Items 6b.20.046 and 6b.20.057 Re SUB2018/0004 – 11 Lot Subdivision – Lot 39 Bloodwood Grove, Gulmarrad	
For the Officer Recommendation	Amanda Johnstone (Connor & Co Lawyers)
Against the Officer Recommendation	Andrew Fletcher & Associates P/L (Applicant)
Item 6b.20.068 - SUB2019/0002 – 12 Lot Subdivision – No. 208 Gardiners Road, James Creek – Lot 14 DP1262923	
Against the Officer Recommendation	Andrew Fletcher & Associates P/L (Applicant)

<b>ITEM</b>	<b>6b.20.063</b>	<b>DRAFT LOCAL STRATEGIC PLANNING STATEMENT</b>
<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

### SUMMARY

The Draft Local Strategic Planning Statement (LSPS) was placed on public exhibition from 24 April to 5 June 2020, and the deadline for submissions was extended to accommodate requests to make late submissions. Unfortunately public exhibition had to coincide with COVID19 lockdowns due to State Government timelines. However, effort was made to make information available online and to proactively email, call and meet with organisations and individuals. There have been a total of 31 written submissions received, 38 people completed surveys and there were more than 400 visits to the dedicated draft LSPS website.

The submissions have generally supported the draft LSPS, but have requested greater clarity and commitment to the implementation of Actions in the final LSPS. The LSPS has been updated accordingly, to reduce the number of Actions, streamline the commentary in the document and bolster the implementation. An extensive programme of strategic planning work is needed to support Council aspirations for a growing population, more job opportunities and to meet community expectations to protect the environment and retain the character and charm of the places we love in the Clarence Valley.

### OFFICER RECOMMENDATION

That Council:

1. Thank those people that took the time to review the Draft Local Strategic Planning Statement and provide comments to Council.
2. Note the report and amendments to the draft Local Strategic Planning Statement.
3. Approve the Local Strategic Planning Statement, subject to further improvements for publication.
4. Delegate authority to the General Manager to make final edits and necessary amendments and graphic design improvement to the final LSPS for publishing.

### 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.20.063

Novak/Kingsley

That Council:

1. Thank those people that took the time to review the Draft Local Strategic Planning Statement and provide comments to Council.
2. Note the report and amendments to the draft Local Strategic Planning Statement.
3. Approve the Local Strategic Planning Statement, subject to further improvements for publication.
4. Delegate authority to the General Manager to make final edits and necessary amendments and graphic design improvement to the final LSPS for publishing.

Voting recorded as follows:

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

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

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

The Environmental Planning and Assessment Act states that the LSPS must include or identify the planning priorities for the area that are consistent with the North Coast Regional Plan and (subject to the regional plan) the Community Strategy Plan and other strategic plans. Analysis of our IP & R framework, Community Strategic Plan - *The Clarence 2027* and all relevant plans and strategies across Council has informed the preparation of the draft LSPS. There are a wide range of Actions that link with our other strategic plans, including our Regional Economic Development Strategy (REDS), Biodiversity Strategy, Clarence River Way Masterplan and many others. The structure of the LSPS follows the 5 themes of our Community Strategic Plan.

**BACKGROUND**

Amendments to the Environmental Planning and Assessment Act in early 2018 put a renewed focus on strategic planning and the Act recognises the critical role of councils in strategic planning for their local area. The EP&A Act changes included amendment to reinforce and refocus efforts regarding:

- Community participation
- Better strategic planning
- Accountable decision making
- More efficient processes

The draft LSPS is driven by these objectives, along with the need to implement the goals, directions and actions in the North Coast Regional Plan and our Community Strategic Plan. Further discussions have shaped the LSPS with Council staff.

State Government has required councils across regional NSW to have a Local Strategic Planning Statement adopted by July 2020, to provide planning priorities - and actions to achieve those - for each council area. Most councils are still going through the processes to meet a September deadline or currently going through consultation.

The Draft LSPS was endorsed by Council for consultation at 24 March 2020 meeting (Item 6b.20.019) with support from all Councillors:

*That Council:*

1. *Approve the draft Local Strategic Planning Statement for public exhibition and associated community consultation and engagement.*
2. *Delegate authority to the General Manager to make necessary amendments to the draft LSPS for publishing prior to public exhibition.*

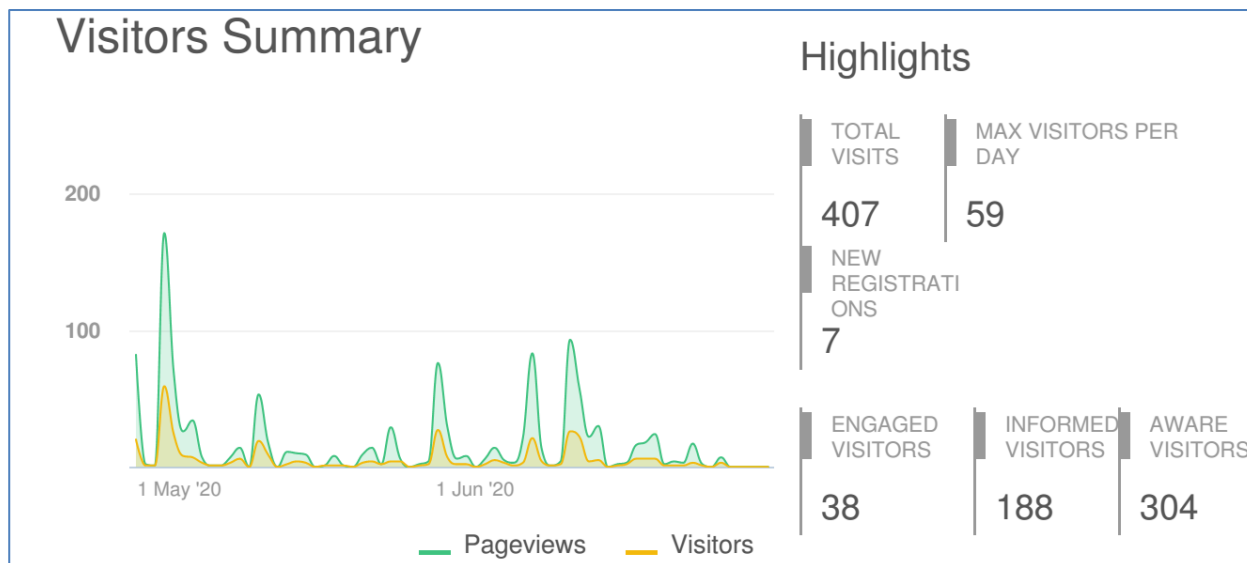
**FEEDBACK FROM COMMUNITY AND GOVERNMENT SUBMISSIONS**

The Draft Local Strategic Planning Statement (LSPS) was placed on public exhibition from 24 April to 5 June 2020, and the deadline for submissions was also extended to accommodate requests to make a submission after 5 June.

Timelines set by State Government meant that unfortunately public consultation coincided with COVID19 lockdowns, and public meetings, drop in sessions and proactive face to face engagement that would normally happen could not. While extra effort was made to make information available online and to proactively email and call organisations and groups across the Clarence, most groups or residents were understandably preoccupied with the COVID 19 pandemic and keeping businesses afloat, meeting family commitments, home schooling and other priorities.

Given the circumstances, further ongoing involvement with affected communities is recommended when implementing Actions of the LSPS. There is scope, and indeed statutory requirements, to work with our community in relation to policy setting and local growth management and land use decision making.

There have been a total of 31 written submissions received, 38 people completed surveys and there were more than 400 visits to the dedicated draft LSPS website. This generated around 240 pages of written submissions to be reviewed.



State Government agencies such as SES, RFS, DPIE, TfNSW and many others that have responsibility with regard to land use planning were contacted and asked to make a submission on the draft LSPS. A brief summary of the submissions and analysis is provided at Appendix A.

A summary of the key issues raised in submissions that affect the broader policy direction of Council, and therefore need the attention of Councillors, is provided below. Councillors are encouraged to review all submissions which are to be tabled.

### **SUMMARY OF MATTERS RAISED IN SUBMISSIONS**

The submissions have generally supported the Priorities highlighted in the draft LSPS, with many positive comments received in writing and through meetings and calls about the strategic planning priorities and proposed Actions in the LSPS. Positive feedback was also received on the quality of the LSPS report.

The submissions also included a range of suggestions to further improve the document. The LSPS has been updated accordingly, to reduce the number of Actions, streamline the commentary in the document and bolster the implementation.

All of the submissions and surveys have been considered in finalising the LSPS and this report. A summary of the submissions and proposed Council response is provided at Attachment A.

### **Key refinements to the LSPS**

A summary of key refinements to the LSPS as a result of submissions, where these relate to land use planning, include:

1. The number of actions has been decreased and made clearer and parts of the LSPS (for example, introductions to each theme and the commentary for Priorities) have been streamlined to improve readability.
2. Actions have been made clearer in relation to process oriented planning, to collaborate with expertise across the community regarding regenerating natural environments, regeneration of local language and stories, regenerative agriculture and a health and wellness culture that is unique to the Clarence.
3. There is a new commitment at the request of DPIE to undertake an audit of ready to develop employment land and progress its provision to provide job opportunities. Council need to work with industry and land owners to develop a clearer understanding of demand and supply to support opportunities for job creation and population growth.

4. The revised LSPS further highlights the importance of our natural environment, managing natural resources and ecologically sustainable development. It also more clearly articulates climate change considerations as a fundamental consideration for future land use decision making.
5. The LSPS elaborates on the importance of surfing and our coastal lifestyle and retaining the character of coastal villages, particularly Angourie. It also adds clearer support for the Tourism industry at the request of DPIE.
6. There are a range of specific word changes requested by submitters, including to reference recently released State Government guidance; capitalise on the progressive intent of the draft LSPS and take ideas further; support ecologically sustainable development; promote healthy and happy communities; promote active travel; support freight and transport planning; and, consolidate actions around a future Local Growth Management Strategy.

The changes made to the final LSPS are consistent with existing Council policy and relevant statutory guidance, particularly the Directions and Actions of the North Coast Regional Plan.

#### **Issues raised that do not align with Council Policy**

The strategic importance of Grafton and surrounding infrastructure and industry (Airport, Freight corridors, freight hub, industrial land and regional city status)

There were a number of well articulated concerns raised about the focus placed on Grafton and the apparent emphasis, and therefore Council spending, in and around Grafton. This included requests for no more spending on a number of areas, including the Airport, a possible freight hub, efforts to grow the population and promoting Grafton as a Regional City. Some submissions stated that Grafton is not an attractor for residents of the lower Clarence, who are more likely to utilise Ballina and Lismore for shopping, medical, air travel and other needs.

Despite these submissions, it is recommended that Council continue to support the promotion of Grafton as a Regional City, to provide for the community and grow the economy and provide job prospects and social opportunities. There are significant opportunities to improve the community in and around Grafton - from Health and Education, Tourism, Agriculture, Industry and manufacturing, Hospitality, Creative industries, Government sectors and many others.

It is considered that a growing economy and additional social and economic opportunities in Grafton is fundamentally important to the people of the Clarence Valley. A declining Grafton would be a further burden on ratepayers and pull resources from State Government for economic development, training, housing, income support, mental health, crime and other services, whereas a thriving Grafton as a regional city will provide a myriad of benefits, including for ratepayers and State Government.

There are opportunities for land use planning to lead a placemaking approach to make Grafton a more attractive place to invest in and visit which is appropriate to our climate and economic drivers. These include: progressing the rezoning of industrial land to provide job opportunities; promoting more sustainable housing and transport options; managing development in areas exposed to flooding and other hazards; and a wide range of initiatives across all of Council responsibilities.

There are also opportunities to look at land use around the Airport to help subsidise operations and grow the economy; for freight hubs and distribution to expand existing industries in road, rail, air and sea; capitalise on our existing attributes of fertile soil, water security and climate to substantially grow the agricultural sector; and adaptive re-use of the Grafton gaol and development of Grafton Base Hospital, among others. While these initiatives take time and effort from Council, they will support a growing economy and opportunities to decrease any *perceived* rate burden on lower river residents.

The LSPS has been updated in places to further acknowledge the importance of Maclean, Yamba and Iluka, along with all riverside villages, and coastal and hinterland settlements and growth areas. Substantial Council focus is already placed on managing growth and development in the lower river. Ongoing strategic planning projects such as an audit of industrial land availability, future housing needs, maintaining local character and design, managing natural hazards (flood, bushfire, coastal erosion and climate change etc.), protecting biodiversity and others will all take a holistic approach across the Clarence, but recognise the specific needs of the lower Clarence with regard to housing markets, travel patterns, community values and

the natural environment. We expect that further more substantive engagement with residents will continue as Actions are implemented.

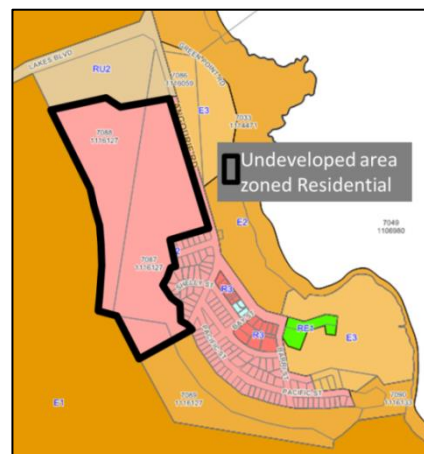
Development within and around Angourie

There were a number of submissions raising concerns about development within and around Angourie. Residents raised concerns about recent DA approvals in the village and threat of further development to change the character and vibe of the coastal villages, including Angourie, Wooloweyah and others.

There were also submissions raising concern about development on the north-west of the village being revisited. There is a parcel of land around 30ha that is zoned Residential 2 in the LEP, with no existing plans for development. This was zoned 2 (a) Residential by Maclean Shire Council and carried in to the Clarence Valley LEP 2011. The site is subject to an Aboriginal Land Claim and Council cannot change the zoning while that process is underway.

No changes are proposed to this zoning through the LSPS process.

The LSPS includes statements and an Action to prepare local character statements or character narratives for our coastal villages, to work through those communities and update DCP's and relevant provisions if needed, and as resources allow.



**Figure 1 - Angourie - illustrating R2 zoning (pink), including undeveloped land inside the black outline.**

**STRATEGIC PLANNING PROGRAMME**

As a result of preparing the LSPS, revising the draft Actions, considering existing Council strategies and plans and reviewing the submissions, particularly from the Department of Planning, Industry and Environment, a summary programme of work has evolved. It is recommended that the focus of efforts for strategic planning for Council should include, but not be limited to, the following:

**\*Timing** Immediate: 0-2yrs; Short term: 3-5yrs; Medium term: 5-10yrs; Long term: 10+yrs

Projects	Timing*	Notes
<p><b>Contribute to a Resilience Strategy for the Clarence Valley</b> Support the development of a strategy to help identify projects and actions for community resilience, to better inform land use and infrastructure planning.</p>	Immediate	Council's new Recovery and Resilience Team will lead preparation of a strategy and actions across Council, with land use planning one key consideration.
<p><b>Improve relationships and opportunities for First Nations People</b> Involve our three nations in strategic planning and managing land use in the Clarence. Work across Council and with DPIE and LALC's on development opportunities.</p>	Short term	Council is developing a Reconciliation Action Plan by June 2021.
<p><b>Audit of Employment (Industrial) land and progress rezoning as required</b> Although the supply of zoned land appears to meet expected demand for the foreseeable future, this is not always available due to various constraints or land ownership. Taking a more proactive approach to understand industry potential and job creation opportunities, and to progress investigations, planning and zoning for land around the Airport, (including revisit the Airport Masterplan), Koolkhan, South Grafton, and across the lower Clarence as needed.</p>	Immediate	To support jobs growth and a growing population we need to ensure land is available for development to continue to attract industry and manufacturing and other employment generating activity where this fits with our drivers for growth and ecologically sustainable development.

Projects	Timing*	Notes
<p><b>Support the Grafton CBD and other centres</b> Develop a Precinct Plan and Car Parking &amp; Transport Study for Grafton, focussed on Prince Street and links to the waterfront and other place making initiatives. Ensure Grafton, Maclean and Yamba enable appropriate urban development sympathetic to existing character, support jobs growth and community needs.</p>	Immediate	Work on these investigations will commence in 2020/2021.
<p><b>Promote Ecologically Sustainable Development</b> Implement Biodiversity Strategy, promote more sustainable housing design, update DCP's and mapping layers, ensure future strategic land use decisions and DA's consider cumulative impacts on the environment.</p>	Immediate	Submissions on the LSPS & the Biodiversity Strategy highlighted that various actions are needed to better protect our stunning environment and the natural places that we love, areas important for ecology, managing risk, health and wellbeing.
<p><b>Prepare a Local Growth Management Strategy (LGMS)</b> A range of studies, strategic planning and community engagement is needed to update where and how urban development should occur, particularly in response to Council priorities to promote population growth, growing pressure for affordable housing, need to provide job opportunities and ensure infrastructure is provided efficiently and effectively. A housing demand and supply assessment; employment land analysis; natural hazard and environmental considerations; sustainability, and other critical inputs will inform the LGMS.</p>	Short term	There is a need to update the 1999 Clarence Valley Settlement Strategy to respond to contemporary pressures and opportunities, particularly the new Pacific Motorway, growing the population in an ecologically sustainable way, dealing with natural hazards and maintaining the unique character and amenity of the Clarence Valley.
<p><b>Revise the CVC Development Contributions Plan</b> Update the CVC Contributions Plan, in line with expected guidance from DPIE.</p>	Immediate	State Government are updating the approach to Development Contributions and our Plans need to be updated to reflect ongoing demands.
<p><b>Prepare an Integrated Freight Transport Strategy</b> Work with Transport for NSW (TfNSW) and others to map and protect corridors, support freight and logistics, investigate freight hubs and distribution, and inform future planning decisions.</p>	Short term	Freight and logistics are integral to our economy, food security and other aspects of the Clarence, with links via the M1, Summerland Way and Gwydir Highway. Growing this industry appropriately is important for jobs and resilience.
<p><b>Prepare an Active Transport Strategy</b> Review Pedestrian Access and Mobility Plans (PAMPs) with TfNSW and other stakeholders to integrate 'placemaking' and transport strategies, including identifying funding opportunities.</p>	Short term	Reducing car dependency will have benefits for our health and wellbeing, addressing obesity and other issues, our sustainability, attractiveness of town centres and other aspects. TfNSW, Dept of Health and other submitters strongly support this approach.
<p><b>Work with emergency management and relevant agencies (SES, RFS etc.)</b> to update our natural hazard management approach, particularly:</p> <ul style="list-style-type: none"> <li>• Evacuation planning for Grafton.</li> <li>• Review bush fire management plans and update mapping of bush fire prone land.</li> <li>• Ensure decision making reflects exposure to risks (flooding, bushfire, coastal erosion etc.).</li> </ul>	Immediate	SES and other stakeholders have commenced work towards addressing flood risk across the Clarence, and Council are working with RFS and others to update bushfire mapping, along with recovery efforts.

Projects	Timing*	Notes
<b>Support and grow the agricultural sector</b> Protect important agricultural land and facilitate improvements in the supply chain to support economic growth, food security primary producers and the agri-food sector.	Short term	Appointment of NSW's first Agriculture Commissioner 5/8/20 to review the 'Right to Farm Policy' and focus on resolving land use conflict and identifying growth opportunities for industry, together with the importance of Agriculture to the Clarence economy, means Council need to focus on this issue.
<b>Develop Local Character Statements/narratives for smaller settlements, particularly coastal villages</b> Complete Heritage / Character studies and community engagement for coastal villages, in order of priority and make subsequent changes to LEP/DCP's.	Short term	Development pressure in our coastal areas needs to be managed, particularly places like Angourie.
<b>Reinstate Grafton as a Regional City</b> Work with DPIE to recognise Grafton as a Regional City as part of the review of the North Coast Regional Plan.	Immediate	State Government departments are guided by the North Coast Regional Plan and there are risks of services and effort being concentrated on regional cities of Coffs Harbour and Lismore at the expense of Grafton.
<b>Other ongoing tasks</b> LEP 'health check' to follow LGMS process. Rezoning proposals, DAs and other priorities informed by LSPS.	Short term	A range of other decision making will be informed by the LSPS.

## COUNCIL IMPLICATIONS

### Budget/Financial

Actions in the LSPS are divided in to timeframes of Immediate 0- 2 years, Short Term 3-5 years, Medium Term 5-10 years and Long Term 10+ years. The development of a number of planning strategies and studies will require internal resourcing across the organisation, but particularly within EDSP. Other studies and development of strategies sit outside of the 2020-21 Operational budget, but do commit Council to undertaking work in the next few years.

Depending on Council priorities and the speed necessary for progressing Actions there may be additional budget/financial implications, however, as the LSPS stands at present it doesn't include additional financial commitments beyond that in the current Operational Budget.

### Asset Management

The draft LSPS sets aspirations to plan for resilient infrastructure and utilise strategic land use planning to avoid natural hazards. It also includes priorities to integrate land use planning and infrastructure provision, including for social infrastructure to support our community. Council staff will continue to work together to identify efficient use of resources for infrastructure spending to support land use change, particularly where this promotes job opportunities, a growing population and ecologically sustainable development.

### Policy or Regulation

The draft LSPS covers a wide range of topics that interact with land use planning, from population growth to economic development, to the safety of our community, and protecting our natural environment.

The LSPS therefore sets a broad policy direction for the Clarence Valley that will be taken as Council policy and have regulatory effect under the Environmental Planning and Assessment Act, 1979.

As stated above, the LSPS is consistent with our existing policies and strategies, and gives effect to the North Coast Regional Plan, our Community Strategic Plan and other plans and strategies.



### Consultation

Details about consultation are outlined above, and submissions are summarised at Attachment A. Given the timing of public exhibition of the draft LSPS which coincided with a global pandemic, Council will need to pay particular attention to community engagement when progressing the Actions of the LSPS. Given the broad support from government agencies and the community to the LSPS, apart from the issues noted above, there is a general agreement on the LSPS with a range of improvements made.

Internal consultation with relevant staff was also undertaken.

### Legal and Risk Management

The Local Strategic Planning Statement is a legal instrument under the Environmental Planning and Assessment Act, 1979 (like the LEP) and when adopted will have legal effect. Advice from the Department of Planning Industry and Environment, along with advice from a range of other government departments have confirmed that the draft LSPS aligned with the North Coast Regional Plan and other State Government guidance, except where noted. The LSPS has been updated where necessary to ensure consistency with relevant advice.

The Environmental Planning and Assessment Act, 1979 states that:

- (1) *The council of an area must prepare and make a local strategic planning statement and review the statement at least every 7 years.*
- (2) *The statement must include or identify the following—*
  - (a) *the basis for strategic planning in the area, having regard to economic, social and environmental matters,*
  - (b) *the **planning priorities for the area** that are **consistent with any strategic plan** applying to the area and (subject to any such strategic plan) **any applicable community strategic plan** under section 402 of the [Local Government Act 1993](#),*
  - (c) *the actions required for achieving those planning priorities,*
  - (d) *the basis on which the council is to monitor and report on the implementation of those actions.*

The LSPS complies with those requirements.

### Climate Change

The Draft LSPS was written to ensure that planning and decision making is informed by knowledge of natural hazards and living with our variable climate. Specific Actions to prepare a Resilience Strategy, promote the use of renewables and more sustainable design for our buildings, together with an approach to make room for natural processes (floodplain, coastal processes, bushfires and the like) will collectively help our community to be more resilient and to live with natural environmental processes that can impact on our communities and environment. The LSPS includes a range of actions to ensure we adapt to a changing climate through a more strategic and long term approach to planning, for us and our children after us.

Prepared by	Stephen Timms, Senior Strategic Planner
Attachment	A. Summary of submissions table
To be tabled	B. Local Strategic Planning Statement C. Submissions by government agencies D. Submissions from community

<b>ITEM</b>	<b>6b.20.064</b>	<b>WEST YAMBA URBAN RELEASE AREA ROAD INFRASTRUCTURE DEVELOPER CONTRIBUTIONS PLAN</b>
<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	To be tabled	

### SUMMARY

This report considers the outcomes of the exhibition of a draft contributions plan for road infrastructure at Carrs Drive, West Yamba. This is to be known as West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan or the Plan or draft plan in this report.

The draft plan was publicly exhibited from 10 April to 8 May 2020. It now remains for Council to again consider the draft plan in light of the four (4) submissions 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 major takeout is that the amended contributions plan results in a per lot or dwelling contribution rate that is 67% less than was in the exhibited draft plan; that is a proposed reduction from \$2,609.65 per lot/dwelling (as exhibited) versus \$857.70 per lot/dwelling (recommended amendment).

### OFFICER RECOMMENDATION

That Council:

1. Note the exhibition outcomes of the draft West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan.
2. Note the post-exhibition changes to the draft West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan.
3. Adopt the amended West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan<sup>#</sup> at Attachment 2.
4. Authorise the General Manager to make appropriate minor amendments to the West Yamba Urban Release 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.

<sup>#</sup> - the amended contributions plan at Attachment 2 is provided in tracked changes mode to assist in interpreting recommended changes.

### COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker

Against: Novak, Clancy

### COUNCIL RESOLUTION – 6b.20.064

**Kingsley/Novak**

**That Council:**

1. **Note the exhibition outcomes of the draft West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan.**
2. **Note the post-exhibition changes to the draft West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan.**

3. Adopt the amended West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan<sup>#</sup> at Attachment 2.
4. Authorise the General Manager to make appropriate minor amendments to the West Yamba Urban Release 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.

<sup>#</sup> - the amended contributions plan at Attachment 2 is provided in tracked changes mode to assist in interpreting recommended changes.

**Voting recorded as follows:**

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

**Against:** Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Council on 23 April 2019 considered a report on a 200 dwelling manufactured home estate development application DA2018/0373. One of Council's resolutions was that a draft section 7.11 contributions plan for the Carrs Drive intersection works be prepared for the West Yamba Urban Release Area. The report is at Attachment 3.

One of the issues considered by the 23 April 2019 report was roads infrastructure. It stated:

*"Whilst the existing Carrs Drive intersection may be sufficient to cater for some individual developments in the WYURA, collectively this intersection will require upgrading to at least a roundabout standard.*

*More specifically the Traffic Impact Assessment submitted with the application indicated that the traffic generated from this development when combined with the adjacent 161 lot subdivision approved under SUB2014/0016, will require a roundabout to cater for the total impacts of the combined developments. Council does not currently have an adopted S7.11 plan for the WYURA infrastructure. Hence, it is appropriate that a proportional contribution towards the construction of this roundabout will be made by all developments within the R1 zone in the WYURA. Recently Council has received grant funding towards provision of the Carrs Drive - Yamba Road roundabout so the amount to be apportioned between the land owners is proposed to be the net amount after deducting the grant funds from the total cost of the project".*

Therefore the draft contributions relates to seeking development contributions towards the provision of a roundabout at the Carrs Drive - Yamba Road intersection.

**KEY ISSUES**

The key issues, as raised by the submissions to the exhibited contributions plan are outlined below. The issues raised by the submissions are presented and dealt within greater detail in the submissions assessment table at Attachment 4.

**Roundabout construction costs and the amount of the grant**

Submissions to the exhibited draft contributions plan took issue with the monetary amounts of the estimated base cost of construction of the roundabout and the approved grant, being \$3,250,348 and \$514,954, respectively.

One submission asserted that the roundabout construction base cost of \$3,250,348 included an allowance for the purchase of the house at 184 Yamba Road and the vacant lot next door (Lot 11, 186 Yamba Road); and further asserted that the resale of the residue of the vacant Lot 11 (186 Yamba Road) should be discounted from roundabout construction base cost.

Another submission considered that the matter of roundabout construction base cost should be determined more accurately through a tender process.

#### Response

Council's Manager Civil Services has advised that the construction cost estimate does not allow for the purchase of more land than what is required for the construction of the roundabout; and as such, the resale of any residual land has already been factored into the cost estimate.

Council recently considered tenders for the construction of roundabouts at Treelands Drive and Carrs Drive. Council's resolution in respect of the successful tenderer means that the roundabout construction base cost and the allocated grant amount for the Carrs Drive roundabout will, for the purposes of the contributions plan, now be as follows:

- Estimated base cost including contingency = \$2,935,982.08
- Grant to Council = \$1,664,662.48

A decrease in the roundabout construction base cost and an increase in the amount of grant allocated to the Carrs Drive project helps to contribute to a significantly lower per lot contribution rate for the West Yamba urban release area than was proposed in the exhibited draft contributions plan.

#### **Plan assumptions including dwelling density and apportionment factor**

Two submissions have questioned some of the plan assumptions including likely dwelling density in the urban release area and the apportionment factor. Other factors and assumptions that influence the per lot contribution rate include:

- (i) dwelling density - assumed to be 10 dwellings per hectare in the exhibited draft contributions plan
- (ii) apportionment factor - 100% of the maximum cost met by new development under the exhibited draft contributions plan

The submission provided examples of recent developments including an approved subdivision, a proposed subdivision and an MHE development which suggest that dwelling density in the urban release area could be higher and therefore help contribute to lowering the per lot contribution rate. The examples are:

- (i) SUB2014/0016 (approved) being a 161 lot subdivision of Lot 1722 DP1035524 (12.68ha of R1 zoned land); providing a lot/dwelling density of 12.7 lots/dwelling per ha.
- (ii) DA2018/0373 (approved) being a 200 lot Manufactured Home Estate (MHE) on Lot 1 DP568548 (7.82ha of R1 zoned land); the submitter claims a lot/dwelling density of 25.6 lots/ha or 19.3 lots/ha if a discount of 0.75 is applied in accordance with the Equivalent Tenement (2 bedroom) applied to sewerage contribution calculations, this still gives 19.3 lots/ha.
- (iii) Proposed 295 lot subdivision (DASUB2019/0030, currently under consideration) of Lot 46 DP751395 (21.39ha of R1 zoned land); proposing a lot density of 13.8 lots/dwelling per ha.

#### Response

A revised draft contributions plan has taken into account the concerns related to both the exhibited dwelling density and apportionment. This has been documented in Appendix B of the revised draft contributions plan at Attachment 2. In short, apportionment is the share (of demand or cost of new facility/infrastructure provision) borne by future development; therefore demand created by existing development is considered.

Firstly, the revised draft contributions plan will assume a dwelling density of 12 lots/dwelling per ha. The approved MHE example DA2018/0373 cannot be used as a valid representation of dwelling density for the wider urban release area. The area of the R1 zoned part of land to be developed under that DA will be excluded from the area of West Yamba URA R1 zoned land subject to development contributions under this plan. Similarly the area of the R1 zoned part of land to be developed under SUB2014/0016 will also be excluded from the area of West Yamba URA R1 zoned land subject to development contributions under this plan. These are subject to separate development contributions arrangements under their respective development consents.

Appendix B also illustrates how the apportionment factor has also reduced from the 100% to 71% for apportionment of infrastructure construction costs to new development in the urban release area. This has taken account of existing dwellings and dwelling equivalents which amounts to 305 dwellings/dwelling equivalents comprising:

- (a) 6 existing dwellings on land zoned R1 in the West Yamba URA
- (b) 25 existing dwellings on land not zoned R1 in Carrs Drive and Sullivan Lane
- (c) Potential for 35 dwellings on land not zoned R1 in Carrs Drive and Sullivan Lane
- (d) Approved 149 MHE development Goulding St at 0.6 dwelling/lot = 89 dwelling equivalents – see 1(b) of Appendix B
- (e) Approved 200 MHE development Carrs Drive at 0.6 dwelling/lot = 120 dwelling equivalents – see 1 (c) of Appendix B
- (f) Existing St James School (approx. 120 - 130 pupils) = 30<sup>#</sup> dwelling equivalents

Note 1 - (f) above is derived as follows including underlying assumptions:

- Assumed primary school peak person per trip generation rate = 1.66
- Assumed School enrolment – 130 students
- 1 dwelling = 7.4 daily vehicle trips

<sup>#</sup> - No. dwellings/dwelling equivalents =  $(130 \times 1.66)/7.4 = 30$

Note 2 - the draft contributions plan makes the following household occupancy rate assumptions:

- Residential lot/dwelling house - 2.5 persons
- Medium and High Density Residential - 1.7 persons (0.68 dwelling equivalent)
- Self contained Seniors Housing dwelling; workforce accommodation; manufactured home in a manufactured home estate; moveable dwelling in a caravan park - 1.5 persons (0.6 dwelling equivalent)

This means for instance that for the purposes of the draft contributions plan the approved 200 MHE development equates to 120 standard dwellings/lots.

### **Other matters**

One submission considers that the provision of traffic lights at the Carrs Drive/Yamba Road intersection would be a better option.

### Response

Council's Manager Civil Services advises that traffic lights have been considered for this intersection; however, the current Council resolution (6c.20.022) is to proceed with the construction of a roundabout at this location.

### **Compliance with legislation and guidelines**

A development contribution 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 the 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 contribution

plan that sets a lower (**67% decrease**) per lot or dwelling contribution rate than was in the exhibited draft plan. That is \$2,609.65 per lot/dwelling (exhibited) versus \$857.70 per lot/dwelling (recommended amendment).

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

### **Conclusion and proposed amendments to the draft contributions plan**

Some of the issues arising from submissions to the exhibited draft contributions plan warrant amendment to the plan. Based on the above consideration of issues the key changes can be summarised as follows:

1. Recognition that a dwelling density of up to 12 dwellings/lots per hectare may be possible in the urban release area - Executive Summary, page i; section 3.1 page 11; new Appendix B.
2. Revision of the following key \$ figures that influence the ultimate per lot/dwelling contribution rate:
  - estimated base cost
  - grant amount
  - total estimated cost after deducting grant
  - total estimated cost to be met by new development(refer to Executive Summary, page i; section 2.10.4, pages 9 & 10; section 4.1.5, page 15, section 4.1.9, page 16; works schedule Appendix A)
3. Revision of (cost) apportionment - section 4.1.8, page 15; section 4.1.9, page 16; works schedule Appendix A and new Appendix B.
4. Revision of main contribution rates (per residential lot/dwelling; medium & high density residential dwelling; Self contained Seniors Housing development dwelling; workforce accommodation; manufactured home in a manufactured home estate; moveable dwelling in a caravan park) - Table E-2, page ii; Table 4.2, page 17
5. Revision of per person contribution rate - section 4.1.9, page 16; works schedule Appendix A.
6. Provision of a detailed calculation of a revised apportionment factor in a new Appendix B.

A draft amended contributions plan is provided in tracked changes mode at Attachment 2 to assist in interpreting recommended changes.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Preparation of the initial draft contributions plan was outsourced to consultants GHD, Coffs Harbour. The cost of preparing the initial draft contributions plan was \$11,013. The plan has been drafted to 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 \$857.70, the plan has the potential to levy \$898,870. It should also be noted that Council will receive additional contributions from the already approved developments (SUB2014/0016 and DA2018/0373) within the urban release area referred to in KEY ISSUES above.

#### **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 10 April to 8 May 2020. Council wrote to all of the landowners of R1 zoned land in the West Yamba Urban Release Area to advise of the exhibition of the draft contributions plan.

Four submissions were received. A detailed summary of each submission and issues raised is included in the submissions assessment table at Attachment 4. The main issues raised in submissions are 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
To be tabled	<ol style="list-style-type: none"><li>1. West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan, as exhibited</li><li>2. Amended West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan</li><li>3. Report to Council DA2018/0373 - 200 dwelling manufactured home estate - Carrs Drive, Yamba - Lot 1 DP568545 (23 April 2019)</li><li>4. Submissions assessment table</li></ol>

**ITEM 6b.20.065 ROUNDABOUT AT WITONGA DRIVE, YAMBA**

<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report is seeking Council support to enable staff to enter into negotiations with the land owner of Lot 2 DP592312 to purchase a section of land zoned for the Yamba Bypass to facilitate the construction of a roundabout on Yamba Road off Witonga Drive to service the existing West Yamba area, the subject land and Yamba Quays development.

This report also seeks approval for the offsetting of Yamba Bypass Contributions payable for DA1973/92 in lieu of providing a fourth leg off the roundabout which will serve as the gateway entry into Yamba and provide an access point to the Yamba Bypass.

**OFFICER RECOMMENDATION**

That Council:

1. Provide "in principle" support to the location and preliminary design of the Witonga Drive roundabout including the provision for a fourth leg as an access point to the Yamba Bypass and Lot 2 DP592312;
2. Enter into an agreement with Clarence Property setting out provisions for them to meet all associated costs including the survey and plan registration dedicating the land as public road, valuation and legal costs;
3. Engage an independent valuer to determine the value of part Lot 2 DP592312 required for the roundabout construction;
4. Delegate authority to the General Manager to enter into negotiations with the land owner/s of Lot 2 DP592312 to acquire the section of land, based on the independent land valuation, either through monetary compensation or an offset towards future contributions for development, and to execute documents associated with the acquisition;
5. Offset payment of the Yamba Bypass Contribution payable for the remaining lots in the subdivision of DA1973/92 as the proposed roundabout design provides the entry point to the Yamba Bypass.

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Clancy, Baker

Against: Novak

**COUNCIL RESOLUTION – 6b.20.065**

Lysaught/Baker

That Council:

1. Provide "in principle" support to the location and preliminary design of the Witonga Drive roundabout including the provision for a fourth leg as an access point to the Yamba Bypass and Lot 2 DP592312;
2. Enter into an agreement with Clarence Property setting out provisions for them to meet all associated costs including the survey and plan registration dedicating the land as public road, valuation and legal costs;
3. Engage an independent valuer to determine the value of part Lot 2 DP592312 required for the roundabout construction;
4. Delegate authority to the General Manager to enter into negotiations with the land owner/s of Lot 2 DP592312 to acquire the section of land, based on the independent land valuation, either through monetary compensation or an offset towards future contributions for development, and



to execute documents associated with the acquisition;

5. Offset payment of the Yamba Bypass Contribution payable for the remaining lots in the subdivision of DA1973/92 as the proposed roundabout design provides the entry point to the Yamba Bypass.

Voting recorded as follows:

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

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

## BACKGROUND

A roundabout is required to be constructed to service the Yamba Quays subdivision approved under DA1973/92. To enable a compliant roundabout to be constructed in the preferred location, a section of land to the south of Yamba Road contained within Lot 2 DP592312 would be required to be dedicated as public road. The section of land required for the construction of the roundabout is zoned SP2 Infrastructure which is identified as land required for the Yamba Urban Bypass.

## KEY ISSUES

1. Purchase of SP2 land for roundabout

A roundabout is required to be constructed by the developer to service the Yamba Quays subdivision approved under DA1973/92. To enable a compliant roundabout to be constructed in the preferred location, a section of land (approximately 1,100m<sup>2</sup>) to the south of Yamba Road contained within Lot 2 DP592312 is required to be dedicated as public road. The section of land required for the construction of the roundabout is zoned SP2 Infrastructure and is designated for the Yamba Bypass.

There is no development potential for this land other than for road purposes. The proposed roundabout does not appear to encroach into the SP3 Tourist zone component of land in Lot 2 DP592312. A copy of the proposed roundabout with zoning overlay is provided in the attachments.

As part of the design considerations for the roundabout, Council staff requested the developer to consider and provide for a fourth leg off the proposed roundabout to provide an entry point to the Yamba Bypass and allow for the provision of future access to the land to the south of Yamba Road. This will enable a fourth leg to be constructed at such time as Lot 2 DP592312 is developed which will provide a viable access option for any future development of this land. Other roundabout design options considered were not feasible as they did not consider access to the Yamba Bypass or other properties.

The purchase or offsetting of contributions to obtain land zoned for the Yamba Urban Bypass land is consistent with past practices and other approvals dating back to 1989 where Council resolved to offset all open space contributions for future subdivision of Lot 2 DP790910 Carrs Drive, in lieu of land dedication for the Yamba Bypass. Please refer to DA87/1314 and correspondence contained in the attachments.

Council at its meeting in May 1993 also approved the offset of open space contributions payable for DA92/2881 in lieu of dedication of the Yamba Bypass land south of Harold Tory Drive now known as Lot 50 DP861895.

More recently under development approval SUB2014/0016 for a 161 lot subdivision off Carrs Drive, and in accordance with Council's Contributions Plan, a condition was imposed that allowed the developer to offer to enter into a voluntary planning agreement (VPA) with Council to offset contributions in lieu of imposed conditions to dedicate or construct strategic infrastructure to service the West Yamba Urban Release Area. This included dedication of land zoned for the Urban Bypass.

To facilitate the construction of a roundabout that will serve as the gateway to Yamba and the future bypass, it is appropriate that Council purchase the required section of land from the Yamba Urban Bypass Contributions fund. This will require negotiations with the land owner following an independent land valuation.

The construction of a roundabout in this location is essential in providing orderly development within West Yamba. The roundabout will provide the "gateway entry" point to Yamba and provide a long term benefit to all future development in this location. It may also help alleviate traffic congestion at Treelands Drive as the new roundabout can serve as an alternative access to the whole of the Crystal Waters residential area.

The land owners of Lot 2 DP592312 have advised that they are supportive of the sale of land subject to an agreed value.

It is proposed that the cost of the survey for land dedication will be met by the developer of the Yamba Quays as part of the roundabout works.

## 2. Offset of Yamba Bypass contributions payable for DA1973/92

The developers of land known as the Yamba Quays Estate are required to provide a roundabout off Yamba Road to service the development as per Condition 6 of DA1973/92. The design of the roundabout and its final location has been the subject of many design options over the years with the original location being off the end of Witonga Drive adjacent to Kolora Lake.

The current design and location is considered to be the most appropriate in terms of access to service the greater Crystal Waters area, the entry point of the Yamba Bypass and land to the south.

Given Council is investing significant funds in improving the safety and efficiency at critical locations along Yamba Road, it is important that the treatment of this intersection reflect its function as the gateway to the Yamba urban area. As such, it is considered that the Yamba Bypass contributions payable for DA1973/92 be offset against the development as the developer has designed the roundabout to provide the gateway entry point to Yamba and Yamba Bypass. The design also allows a suitable location for access to Lot 2 off Yamba Road when this land is developed so that it is not sterilised due to the location of the roundabout. The developer is only required to provide access to the Yamba Quays development, however, Council staff have negotiated with the developer to provide a design to allow construction of a fourth leg for future access to the Yamba Bypass and Lot 2 DP592312.

For this reason, it is considered the developer is providing a public material benefit to the community, and an offset of Yamba Urban Bypass Contributions is acceptable.

## COUNCIL IMPLICATIONS

### Budget/Financial

An independent valuation would be required to be undertaken to gauge the purchase cost of land required for the roundabout construction. Council could pay the owner a financial amount or depending on negotiations, could offer the owner an offset towards future contributions for development on the site.

The cost of providing the roundabout to service the Yamba Quays development is approximately \$1.536m.

The roundabout is considered to provide a material public benefit due to its location in relation to the entry of the proposed Yamba Bypass. The offsetting of the Yamba Bypass contribution for the remainder of the lots to be released under DA1973/92, in lieu of designing a 4 way roundabout to provide a future entry point to the Yamba Bypass is considered reasonable in this instance. Using the current 2020/21 figure of \$1,676.00 per lot, this equates to a minimum offset contribution of \$150,840.00 (\$1,676 x 90 lots) being waived.

### Asset Management

The works required to construct the roundabout will require approval under the *Roads Act 1993* as the works will occur on Yamba Road, a Council maintained road. The roundabout will become a Council asset once completed.

**Policy or Regulation**

Environmental Planning and Assessment Act 1979  
 Roads Act 1993  
 Local Government Act 1993  
 Yamba Urban Bypass & Urban Intersections Plan 2000

**Consultation**

The following sections of Council were consulted in the preparation of this report:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Roundabout location supported subject to final design
Civil Services	Roundabout location supported subject to final design

The following external agencies were consulted regarding the roundabout:

<i>Agency</i>	<i>Comment</i>
Transport for NSW	Roundabout location supported subject to final design

**Legal and Risk Management**

Section 7.11(5) of the *Environmental Planning and Assessment Act 1979* allows Council to accept the dedication of land in part or full satisfaction of a condition or the provision of a material public benefit (other than the dedication of land or the payment of a monetary contribution) in part or full satisfaction of a condition imposed on a consent.

**Climate Change**

N/A

Prepared by	Carmen Landers, Development Planner (Systems)
Attachment	A. Proposed roundabout location plan B. Notice of Determination for DA1973/92 C. Notice of Determination for DA87/1314 and correspondence D. DA92/2881 – Maclean Shire Council Minutes May 1993

<b>ITEM</b>	<b>6b.20.066</b>	<b>SUB2016/0020 – 57 LOT SUBDIVISION - WAIVE PART OF SECTION 7.11 CONTRIBUTION – SUMMERLAND WAY, KOOLKHAN</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director - Environment, Planning & Community (Des Schroder)	
<b>Attachment</b>	Yes	

**SUMMARY**

<i>Applicant</i>	Andrew Fletcher
<i>Owner</i>	Kahuna No 1 Pty Ltd
<i>Address</i>	Summerland Way, Koolkhan being Lot 102 DP1221192
<i>Submissions</i>	N/A

The developer of Lot 102 DP1221192, Summerland Way, Koolkhan is seeking to offset payment of a Section 7.11 Contribution towards Open Space/Recreational Facilities under the Clarence Valley Contributions Plan by the dedication of a public reserve to Council as required by conditions of consent under SUB2016/0020. This report provides an assessment of the request and is provided to Council to make a resolution regarding the offer.

**OFFICER RECOMMENDATION**

That Council accept:

1. The dedication of Public Reserves as required by SUB2016/0020 to be of material public benefit; and
2. The value of the Public Reserves to be dedicated in lieu of the Section 7.11 Contribution component towards the "Grafton and Surrounds" catchment area, being 37.30% of the applicable contribution.

*Having declared an interest in this item, Cr Ellem left the EP&C meeting at 3.43pm and returned at 3.44pm.*

**COMMITTEE RECOMMENDATION**

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

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

*Having declared an interest in this item, Cr Ellem left the Council meeting at 3.26pm and returned at 3.27pm.*

**COUNCIL RESOLUTION – 6b.20.066**

Williamson/Baker

That Council accept:

1. The dedication of Public Reserves as required by SUB2016/0020 to be of material public benefit.
2. The value of the Public Reserves to be dedicated in lieu of the Section 7.11 Contribution component towards the "Grafton and Surrounds" catchment area, being 37.30% of the applicable contribution.

Voting recorded as follows:

For: Simmons, Kingsley, Baker, 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

Council approved Development Application SUB2016/0020, being for a 57 lot residential subdivision and two (2) public reserves at their meeting on 15 August 2017. A modification application was approved under delegated authority on 21 December 2017 which amended the consent by including additional landowners, a recalculation of Section 64 Headwork charges and changed road reserve widths for Road 1, stormwater and geotechnical certificate requirements. Council has now received the Subdivision Certificate Application for Stage 1 being the creation of the 34 Residential Lots (plus residue lots) and three (3) Public Reserves.

Condition 3 requires the developer to make a contribution towards open space/recreation facilities pursuant to Section 7.11 (formerly Section 94) of the *Environmental Planning and Assessment Act 1979*. The relevant part of Condition 3 reads as follows:

3. Payment to Council of the contributions pursuant to Section 94 of the Environmental Planning and Assessment Act:
  - Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities**
  - Rate per dwelling House or Lot
  - a Grafton and Surrounds \$3,498.00 x 56 additional lots = \$195,888.00  
GL S94CVCOSGrafton

The value of the contribution adjusted to the current 2020/21 financial year has increased to \$3,834.85 per lot (\$214,751.60 in total).

Condition 5 of the consent requires the developer is to provide embellishment of the reserves to be dedicated to Council within the subdivision and adjacent to the Summerland Way. The embellishment will include provision of street trees and other vegetation within the reserves, a concrete footpath, bench seats and a barbecue shelter area.

## KEY ISSUES

1. Clarence Valley Contribution Plan 2011

Clause 2.18.1 of the plan provides that works in-kind and other material public benefits offered in part or full satisfaction of contribution requirements can be considered under the following terms:

### **2.18.1 Offer of a material public benefit made after the imposition of a Local Infrastructure Contribution condition under this Plan**

*The Consent Authority, other than an Accredited Certifier, may accept an offer made in writing to the Consent Authority by the applicant or any other person entitled to act on a Development Consent containing a Local Infrastructure Contribution condition imposed in accordance with this Plan that provides for:*

- *the provision of a material public benefit in part or full satisfaction of a condition imposed in accordance with this Plan; or*
- *the dedication of land free of cost in part or full satisfaction of a condition imposed in accordance with this Plan.*

*Where the Consent Authority accepts such an offer, it is not necessary for the Development Consent to be amended under Section 4.55 of the EP & A Act.*

The works to embellish the park are required by condition of Development Consent for SUB2016/0020 prior to release of the Subdivision Certificate, the nature of the works have been endorsed by Council's Open Spaces section. The Developer has advised that the total value of works within the park will exceed \$50,000.00, however, the final amount will not be known until such time as the works are completed. The Applicant has provided that the market value of the land is \$800,000.00 which has been valued by a real estate agent. The benefit of the dedicated public reserves and the embellishment therein will be limited to residents of the proposed subdivision and adjacent neighbourhood rather than the wider CV community, hence waiving the full value of the contribution is not appropriate.

The Contribution Plan identifies the need for the provision of local/district and regional areas of open space and sporting facilities. Under Section 4.3.5 it provides that regional facilities will be funded by the Clarence Valley Local Government Area (the LGA) catchment and local/district facilities will be funded by the respective catchment area identified in the Contribution Plan, in this case being 'Grafton and Surrounds'. The Contribution Plan does not specify how funds received through Section 7.11 Contributions are distributed, however, when the open space and sporting facilities contributions are paid Council's Finance section allocate 62.7% to the LGA fund and 37.3% is assigned to the relevant catchment area. Hence, of the \$214,751.60 contribution payable for this development the 37.30% to be allocated to the local open space catchment equates to \$80,102.35. Waiving this portion of the contribution should be considered.

Under Clause 2.18.3 when considering an offer to provide a material public benefit, the Consent Authority will take into account the following:

- *The extent to which the proposed land or material public benefit aligns with the objectives of this Plan, particularly the works schedule;*

Comment: The proposed reserve is identified within the master plan for the Junction Hill Urban Release Area and is consistent with the objective of providing suitable open space to the community. The Master Plan for Junction Hill (2012) was developed after the works schedule was adopted by Council into the Contribution Plan in 2011. The cost of the embellishment works and value of the land exceed the local infrastructure contribution that can be levied by Council for the provision of local Open Space in the Grafton and Surrounds catchment.

- *The extent to which the proposed land or material public benefit duplicates or overlaps with existing Local Infrastructure;*

Comment: There is no duplication or overlapping of existing infrastructure or proposed future works.

- *The extent to which the proposed land or material public benefit will satisfy community demand;*

Comment: The location and size of the park will satisfy the needs of the immediate neighbourhood and a larger regional park is identified in Master Plan for the Junction Hill Urban Release Area.

- *The extent to which the proposed land or material public benefit is likely to require public funds for operations and maintenance;*

Comment: The value of the land and embellishment exceeds the value of contribution payable. The cost of the proposed embellishment and provision of the reserve is the responsibility of the developer, there is no requirement to call on public funds for the up-front works. The ongoing operation and maintenance by Council, following the expiration of the maintenance period, will be minor when compared to the material public benefit for those in the locality.

- *In the case of land offered for open space, recreation or community purposes, whether the proposed land complies with any criteria, specifications or standards established by the Council and that are contained in a policy or strategy that it has adopted; the applicant's expressed intention as to ultimate ownership the proposed material public benefit;*

Comment: The land is currently privately owned by the developer. The provision of the reserve will provide much needed open space to service the residents of the subdivision and adjacent neighbourhood. The land will be made available for public open space, recreation and community purposes consistent with the adopted Plan of Management for the reserve.

- *The applicant's expressed intention as to ultimate ownership the proposed material public benefit*

Comment: Ownership and dedication of the reserve to Council was dealt with as part of the initial development application.

- *The program for provision of the land or material public benefit;*

Comment: The land and material public benefit through embellishment works will be provided at no cost to the community and will be dedicated to Council upon registration of the first stage of the subdivision.

- *The proposed material public benefit conforming to an acceptable standard of workmanship and materials;*

Comment: Prior to being accepted as 'on maintenance' Council officers will inspect the site and works carried out to ensure Council's standards are met.

- *An appropriate defects liability period;*

Comment: The infrastructure within the park will be subject to a maintenance period of six (6) months once an 'on maintenance' inspection has been carried out. Any damage during this time is the responsibility of the developer to repair, or alternatively Council can draw on a maintenance bond (yet to be paid as part of the Subdivision Certificate application).

- *An agreement as to the cost of the proposed material public benefit which is agreed by both parties;*  
Comment: The Applicant has provided a valuation from a real estate agent indicating that the value of the land to be dedicated as public reserve is \$800,000.00. This value is based on the current residential zoning and potential use/sale of land, however, as the land will become community land upon registration of the Stage 1 Subdivision Certificate this value is considered high. Council's Property Coordinator has advised that the Registrar General has placed values on nearby Public Reserves in Junction Hill, an estimate of the value has been made. It is considered the value of the two reserves is approximately \$110,000.00. The estimated value of works for the reserve embellishment is approximately \$50,000.00 (final amount to be determined upon completion of works). Overall it is considered that the value of works and land combined will total \$160,000.00.

The works in-kind, value of the land and material public benefits to the local community outweigh the contribution requirements of the development for the local catchment infrastructure. Council should accept the offer for works and material public benefits which is consistent with the Contribution Plan. Further, Council should waive the 37.3% portion of the open spaces and sporting facilities contribution that would be allocated to the 'Grafton and Surrounds' catchment. The adjustment of contributions payable will not require modification of the existing development consent and will be applied prior to issue of the relevant Subdivision Certificate application/s.

## COUNCIL IMPLICATIONS

### Budget/Financial

The cost of the embellishment will be borne by the developer, there is no requirement to call on public funds for the works and the ongoing operation and maintenance will be minor. More details contained in this report.

### Asset Management

The reserve and embellishment thereon will be a valuable asset for the local community and the ongoing operation and maintenance will be minor.

### Policy or Regulation

Environmental Planning and Assessment Act 1979  
Clarence Valley Contribution Plan 2011

### Consultation

N/A

### Legal and Risk Management

There is no risk to Council in making a decision consistent with the adopted Contribution Plan.

### Climate Change

N/A

Prepared by	James Hamilton, Development Planner
Attachment	1. Notice of Determination 2. Approved Plan

<b>ITEM</b>	<b>6b.20.067</b>	<b>ADDITIONAL REPORT FOLLOWING COUNCIL RESOLUTION ITEMS 6B.20.046 AND 6B.20.057 RE SUB2018/0004 – 11 LOT SUBDIVISION – LOT 39 BLOODWOOD GROVE, GULMARRAD</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

## SUMMARY

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

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

### *That Council*

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

The report from a planning and environmental law professional consultant, as requested in the resolution, was received by Council on 21 July 2020 and is referred to Council's August meeting.

A further submission and separate flood information and study from the neighbour's legal representative are also provided as an attachment to this report.

This matter is reported back to Council to consider the advice from a planning and environmental law professional consultant as well as Council officer assessment of the new flood information/study and provides a recommendation for Council's consideration.

## OFFICER RECOMMENDATION

That SUB2018/0004 be refused on the following grounds:

1. The proposed development will have an adverse and unacceptable impact on biodiversity (flora). Specifically the following points are relevant:
  - There will be more clearing of vegetation than identified by the Applicant;
  - The Applicant has not adequately considered the avoid or minimise options in regard to clearing and biodiversity (flora) impacts under Council's Biodiversity Management Strategy and Biodiversity Offset Policy;
  - Inadequate information has been provided on the impacts on vegetation clearance and biodiversity impacts, and hence conditions of consent requiring a biodiversity offset calculation and habitat restoration plan would be premature;
  - The proposal is inconsistent with the principles of ecological sustainable development and the precautionary principle.
2. The Applicant has not sufficiently demonstrated that the stormwater impacts that the development will have on adjoining properties are no worse than pre-development conditions. Specifically the following points are relevant:
  - To address the assessment of stormwater and flooding impacts by way of a deferred commencement consent is not appropriate and not supported;
  - The new/updated flood assessment report / labelled 'Catchment & 1% Flow Plan' is inadequate in that the Plan is not accompanied with a Stormwater Management Report or Flood and Impact and Risk Assessment Report;
  - The impacts on the adjoining lot from a change to a concentrated stormwater flow regime from two discharge points has not been fully considered; and



- An easement is required on the adjoining Lot 38 for the new concentrated stormwater discharge points from the culvert and stormwater basin from the development; and for access to maintain the culvert infrastructure.
3. The proposed access to McIntyres Lane for proposed Lots 7 and 8 does not meet the required minimum sight distances for road safety and as such is non-compliant with the relevant design standards. An engineering assessment has been undertaken by Council staff and it is considered unlikely that the proposed access can be feasibly designed to meet the required design standard.; and
  4. The proposed subdivision is considered to be an overdevelopment of the subject land due to the unresolved impacts identified above.

### COMMITTEE RECOMMENDATION

Clancy/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Novak, Simmons, Clancy

Against: Baker

### COUNCIL RESOLUTION – 6b.20.067

Williamson/Lysaught

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

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

Voting recorded as follows:

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

Against: Clancy, Ellem

### FORESHADOWED MOTION

Clancy

That the Officer Recommendation be adopted.

### MOTION

Kingsley/Cr Williamson

That the Council meeting adjourn for a 10 minute break at 4.20pm. CARRIED

*The Council meeting resumed at 4.32pm.*

### LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

## BACKGROUND

The background to this subdivision DA has previously been provided under the 'Key Issues' section of the original June 2020 report to Council. That Council report (and resolution) is an attachment to this report.

## KEY ISSUES

Issue 1.            An assessment of the suitability for purpose of the new flood information/study advised as provided by the Applicant

### Comment

Prior to the Council meeting, and after the Business Paper had been finalised, the Applicant provided an updated Flood Management Report in the form of a 'Catchment & 1% Flow Plan'. Council staff has now had the opportunity to review the information provided.

Council's Development Engineer's comments are provided below:

The flood assessment by McKenzie Burrige & Associates has been updated as requested. The 1:100 year flow lines have been checked in accordance with Dwg No. 18-214 Sheets 1 & 2 now that the road design has been completed.

The 1:100 year flow lines have been checked in relation to the cross section locations in the flood assessment by McKenzie Burrige & Associates. The report letter states "that there has been no change to the flow lines downstream of the road", however, when both the Structerre Plans and McKenzie Burrige & Associates Plans Version: 4, Version Date: 11/08/2020 Document Set ID: 1708220 are overlaid as below it can be seen that the 1:100 year flow line on McKenzie Burrige & Associates Plans is just outside the 1:100 flood limit in the top left corner on Lot 38. This is minor and it is noted that overlaying the 2 plans was done using pdf plans and not the original drawing files to provide an approximate comparison. It would have been beneficial for the Applicant to provide an overlay of the updated flood assessment on the Stormwater Management Plans, for a precise comparison.



**Diagram 1 – overlay showing differences in flow lines on adjoining Lot 38 between the two assessments and proximity to detention basin**

Two objections have been submitted regarding the updated flood assessment by McKenzie Burrige & Associates. Details of these objections are as follows:

1. The owner of Lot 39 DP1218555 does not have formal right to drain water across our client's land, Lot 38 DP1218555. The culvert in the road has scour protection that directly abuts the boundary of Lot 38 to reduce erosion.

2. The calculations for the pre and post developed flows contained in the proposed stormwater management plans are flawed as they fail to include any impervious areas within the lots.
3. The proposed stormwater management plans do not consider water quality as required by the Northern Rivers Local Government Handbook of Stormwater Drainage Design.
4. There has been no consideration of Neutral or Beneficial Effect (NorBE) demonstrated for the discharge of stormwater from the development as required in the Northern Rivers Local Government Handbook of Stormwater Drainage Design.
5. Two-dimensional modelling of the change in surface flows is required due to the proposed development.
6. The use of the Rational Method as design tool.
7. The discharge points of road culverts and the detention basin transfers flow from what was sheet flow regime to concentrated flow regime into the neighbouring property.
8. The documentation provided does not include an accompanying Stormwater Management Plan Report nor a Flood Impact and Risk Assessment Report.

The objectors have expressed a willingness to appeal to the Land and Environment Court should Council approve the application in its current form without addressing the uncontrolled discharge of stormwater onto their property from the proposed development. The objectors have requested that the above matters are considered as part of the assessment process so that a mutually beneficial outcome can be obtained for all parties.

In response to the above objections Council staff offers the following comments:

The Applicant would be required to enter into an agreement with the owner of Lot 38 regarding an easement to drain water and for access for maintenance of the scour protection on the boundary to benefit Council. Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system and there are properties draining directly to the drainage system then the easement must benefit Council and these properties. It is preferable for a deed of agreement between the Applicant and adjoining landowner to be negotiated prior to approval of a Development Application to gain certainty for the development.

In regards to the proposed detention basin on proposed Lot 11 an all weather access would need to be constructed as part of the proposed development to allow access for Council to maintain. It is likely additional trees would be required to be removed as a result. This proposed basin would also be required to be fenced. The basin and associated access would be required to have an easement over it.

*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. Stormwater Management Plans submitted do not sufficiently address *NorBE*.

The Applicant has submitted hydrology calculations in accordance with NRDC. NRDC references Australian Rainfall & Runoff 1987 (AR&R 1987) and the Rational Method. In development of stormwater guidelines, it is recognised that knowledge and information availability is not fixed and that future research and applications will develop new techniques and information. Therefore, where circumstances warrant, designers have a duty to use other procedures and design information more appropriate for their design flood problem. Council staff believe that the use of new or improved procedures should be encouraged, especially where these are more appropriate than the methods described in this publication.

Developments within Clarence Valley Council are to be designed in accordance with the technical specifications and standards contained within the Northern Rivers Local Government Development Design and Construction Manual (NRDC). NRDC is a regional approach to provide uniform development standards via a clear and comprehensive set of requirements for development infrastructure design and construction. The manual has been derived from the Aus-spec Development Specification series and modified to suit the specific needs of the Northern Rivers region. These are the current standards for Council, future NRDC will be updated to reflect current guidelines.

Issue 2.            Council resolution for request for independent advice from a planning and environmental law professional consultant

### Comment

In response to Council's June 2020 resolution advice from a planning and environmental law professional consultant has been provided through Council's legal representative Marsdens Law Group. Marsdens engaged Jeff Mead, Managing Director of Planning Ingenuity to undertake the assessment. A copy of Mr Mead's resume is also provided in the attachments.

The peer review provides an independent review of whether, in their opinion, Council's assessment of the proposal is appropriate in light of these requirements set out for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, taking into account the Applicant's contrary views. The review details the points of contention and reviews Council's comments against the Applicant's response.

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

### Options

In considering this development application Council has the following options:

1. Refuse the DA (as recommended by officers and supported by peer review from an independent planning and environmental law professional consultant) – The June report highlights a range of issues that are deemed to individually and collectively warrant refusal of the application. It is considered that the Applicant has been provided with adequate notice and opportunity to amend the proposal and/or to demonstrate that the likely impacts of the proposal are acceptable and that opportunity has not been taken. Further, the Applicant has previously advised that they will be providing no further information. On this basis Council officers recommend refusal as there is insufficient information to make a determination to grant consent with certainty that certain impacts will be acceptable. The former recommendation has been amended to strengthen the evidence base for the position reached by Council staff. This is the preferred option;
2. Request amendment of the proposal and additional justification to demonstrate the impacts are acceptable – This option has been provided to the Applicant and they have not achieved this outcome. The Applicant has previously advised that they will not be providing further information. Given the time that has elapsed since the DA was received this is not the preferred option; and
3. Approve the DA – The application as it stands presents a range of concerns that are individually and collectively significant. A decision to approve the DA is considered to carry significant risk (see also 'Legal and Risk Management' section). This option is not recommended.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

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

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

### **Asset Management**

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

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

**Policy or Regulation**

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

*Clarence Valley Local Environmental Plan 2011*

*State Environmental Planning Policy (Vegetation in non-rural areas) 2017*

Clarence Valley Council Development Control Plan for Development in Residential Zones

**Consultation**

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

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

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

**Legal and Risk Management**

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

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

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

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

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

**Climate Change**

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

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none"> <li>1. Peer review from a planning and environmental law professional consultant</li> <li>2. Curriculum Vitae of Jeff Mead</li> <li>3. Council Report July 2020 (Item 6b.20.046)</li> <li>4. Road design and stormwater management plans</li> <li>5. McKenzie Burrige &amp; Associates letter, Catchment &amp; 1% Flow Plan</li> <li>6. Deputation / submission Connor &amp; Co. Lawyers</li> <li>7. Flood Engineer's Report as supplied by the legal representative of adjoining neighbour</li> <li>8. Engineering comments from <i>flood – MDS</i> engineering consultants</li> </ol>

<b>ITEM</b>	<b>6b.20.068</b>	<b>SUB2019/0002 – 12 LOT SUBDIVISION – NO. 208 GARDINERS ROAD, JAMES CREEK – LOT 14 DP1262923</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	To be tabled	

## SUMMARY

<i>Applicant</i>	A Fletcher & Associates
<i>Owner</i>	Dobell Ave Pty. Ltd.
<i>Address</i>	208 Gardiners Road, James Creek
<i>Submissions</i>	Yes – 3

Development Application SUB2019/0002 seeks approval for a 12 lot large lot residential subdivision.

The proposed development was advertised and notified and 3 submissions were received during the submission period. Issues raised within the submissions include environmental impacts including removal of habitat trees, clearing of remnant vegetation and infill of dams, flooding of building envelopes, proximity of road to adjoining property and location of services.

Other major considerations of the application include contamination and potential biodiversity impacts from clearing. The development proposes to clear 5.74 hectares of native vegetation and therefore required the preparation of a Biodiversity Development Assessment Report (BDAR) to consider the impacts of the development under the *Biodiversity Conservation Act 2016*. Consideration of the impacts under the BDAR has triggered entry into the biodiversity offset scheme (BOS). The BDAR has been assessed by Council and Office of Environment and Heritage, and has been given conditional support subject to the imposition of suitable conditions requiring offsets under the BOS by retiring credits based on the like-for-like rules or making a payment to the Biodiversity Conservation Trust calculated using the offset payments calculator.

The applicant has also requested a 9.7% variation to the minimum lot size of proposed Lot 1 under the provisions of Clause 4.6 of the *Clarence Valley Local Environmental Plan 2011* (LEP).

A key aspect of the proposed subdivision is the inclusion of a new road off, and intersection with, Gardiners Road. Council has requested supporting traffic assessment and preliminary design to provide sufficient certainty that the intersection and associated road works can comply with relevant standards and that the associated impacts of the works, such as additional clearing of native vegetation, are understood and acceptable. At the time of writing this report a number of concerns with the report prepared by traffic consultants have been raised by Council and Transport for NSW staff. There remains a risk that the road works necessary to cater for the new road and intersection will not be able to meet the necessary standards. The applicant is aware of these concerns and as they want Council to make a decision on the DA the applicant has requested that this DA be appropriately conditioned and referred to the August Council meeting for determination.

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

## OFFICER RECOMMENDATION

That Council:

1. Approve a Clause 4.6 variation to the 1.5ha minimum lot size for proposed Lot 1 to allow a lot size of 1.354ha (9.7% variation);
2. Approve Development Application SUB2019/0002 subject to the imposition of suitable conditions contained in Schedule 1.

## MOTION

Clancy/Novak

That Council defer consideration of this item to the September Committee meeting to allow a site inspection

due to the outstanding traffic issues and the various biodiversity issues.

Voting recorded as follows:

For: Clancy

Against: Williamson, Novak, Simmons, Baker

The Motion was put and declared LOST. The Foreshadowed Motion was then considered and became the Committee Recommendation.

### COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Novak, Simmons, Baker

Against: Clancy

### COUNCIL RESOLUTION – 6b.20.068

Clancy/Lysaught

That Council:

1. Approve a Clause 4.6 variation to the 1.5ha minimum lot size for proposed Lot 1 to allow a lot size of 1.354ha (9.7% variation).
2. Approve Development Application SUB2019/0002 subject to the imposition of suitable conditions contained in Schedule 1 but with the following amended conditions:

**Condition 9**

The developer shall provide an electricity reticulation design for underground power within the subdivision. The design shall allow for the availability of underground power for Lot 14 DP1262923 at the expense of the owner of the Lot 14.

After completion of the new electricity connection to the existing dwelling, it is recommended that existing electricity easement referred to secondly in the plan of subdivision of DP1002238 and Part 1 of the Section 88b Instrument be extinguished.

**Delete last sentence of Condition 15**

The design speed for the intersection shall be 80 km/h over Lot 3 DP1002238 be extinguished.

**Replace sentence 1 paragraph 3 of Condition 22**

Batters on table/swale drains will require a batter with a maximum grade of 1 in 4 except a more gentle batter will be required where safety is an issue in relation to headwalls being within the clear zone.

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

**Condition 23 be amended to read:**

Access from Lots 9, 10, 11 and 12 to the right of carriageway registered under DP1038213 and DP1262923 is prohibited. The right of carriageway benefitting these lots must be extinguished prior to the release of the Subdivision Certificate for those lots.

**Proposed amendment to second paragraph of Condition 24**

Payment of a bond is required to ensure maintenance of Gardiners Road for a distance of 75 metres in both directions from the access, with the bond value to be determined in the pavement condition report, prior to commencement of works. Should the pavement

condition become unsafe Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.

The addition of a new Condition No. 58 – The keeping of cats is prohibited and an 88B restriction to this effect shall be placed on the title of Lots 2-12 and further that the developer be requested to consider the addition of a similar restriction on Lot 1.

Voting recorded as follows:

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

Against: Nil

#### AMENDMENT TO MOTION

Williamson/

That Council:

1. Approve a Clause 4.6 variation to the 1.5ha minimum lot size for proposed lot 1 to allow a lot size of 1.354ha (9.7% variation);
2. Approve Development Application SUB2019/0002 subject to the imposition of suitable conditions contained in Schedule 1 but with the following amended conditions:

##### Condition 9

The developer shall provide an electricity reticulation design for underground power to the subdivision within the proposed road reserve. The design shall be undertaken such that the existing pole and electricity line servicing the existing dwelling on Lot 14 DP1262923 is made redundant by a new underground line constructed within the subdivision road reserve to service the development.

After completion of the new electricity connection to the existing dwelling, it is recommended that existing electricity easement referred to secondly in the plan of subdivision of DP1002238 and Part 1 of the Section 88b Instrument

##### Delete last sentence of Condition 15

The design speed for the intersection shall be 80 km/h over Lot 3 DP1002238 be extinguished.

##### Replace sentence 1 paragraph 3 of Condition 22

Batters on table/swale drains will require a batter with a maximum grade of 1 in 4 except a more gentle batter will be required where safety is an issue in relation to headwalls being within the clear zone.

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

##### Condition 23 be amended to read:

Access from Lots 9, 10, 11 and 12 to the right of carriageway registered under DP1038213 and DP1262923 is prohibited. The right of carriageway benefitting these lots must be extinguished prior to the release of the Subdivision Certificate for those lots.

##### Proposed amendment to second paragraph of Condition 24

Payment of a bond is required to ensure maintenance of Gardiners Road for a distance of 75 metres in both directions from the access, with the bond value to be determined in the pavement condition report, prior to commencement of works. Should the pavement condition become unsafe Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.

As there was no seconder for the Amendment to Motion it LAPSED. The original Motion was then considered and became the Council Resolution.



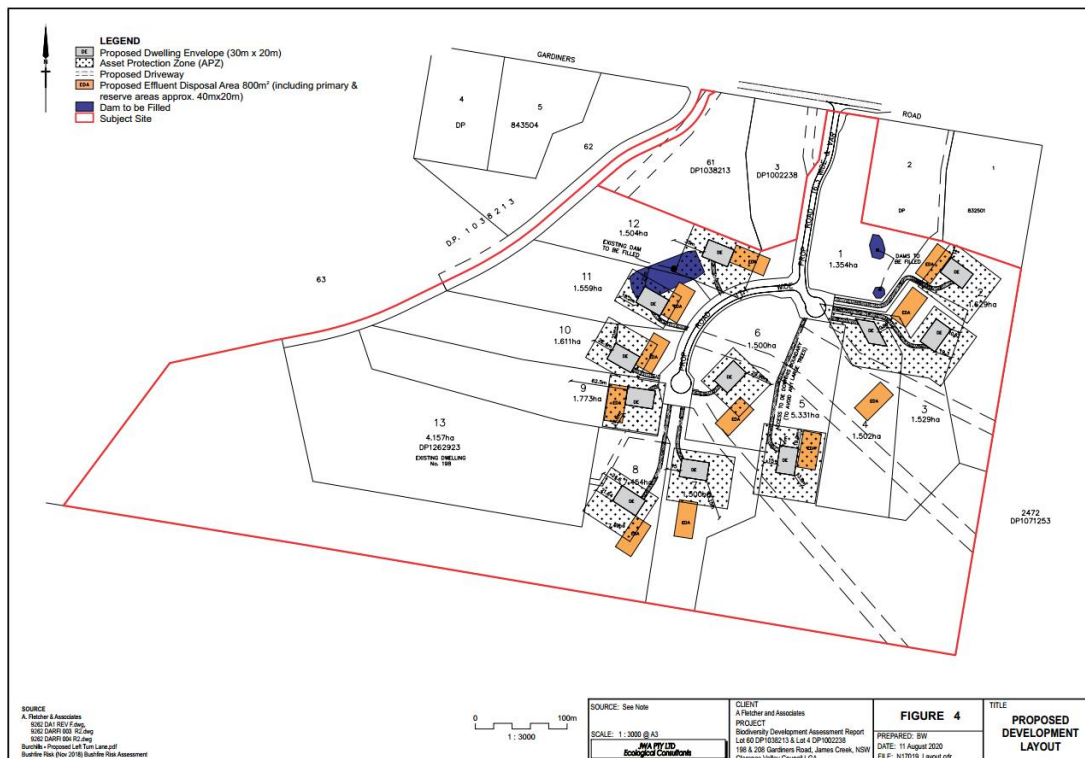
**LINKAGE TO OUR COMMUNITY PLAN**

- 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 SUB2019/0002 was received on 6 February 2019 for a 13 lot subdivision. The number of lots in the proposed development was reduced to 12 following the approval of a boundary adjustment between existing Lot 4 DP1002238 and Lot 60 DP1038213 to excise proposed Lot 13 from the development (Development Application SUB2019/0029). Following registration of the boundary adjustment plan, the land subject of this application became Lot 14 DP1262923.

The subject land is zoned R5 Large Lot Residential under the provisions of the LEP and has an area of 29.17ha. The proposed subdivision is permissible with consent within the zone and a minimum lot size of 1.5 hectares applies to subdivision of this land under Clause 4.1 of the LEP. The development is considered to be consistent with the objectives of the R5 zone and will provide for additional housing needs of the community. An extract of the proposed subdivision layout is provided below and the land subject to this application is shown outlined in red.



The application was advertised and notified in accordance with Council’s Residential Development Control Plan (the DCP) which contained the requirements for public participation for development applications at the time the application was lodged. The application was referred to the NSW Rural Fire Service as integrated development and Department of Planning, Industry & Environment (previously Office of Environment and Heritage) for comments on the Biodiversity Development Assessment Report. Three (3) submissions were received in response to the exhibition of the development application.

A detailed assessment has been undertaken against the provisions of the LEP, other relevant Environmental Planning Instruments and the Clarence Valley Council Residential Zones Development Control Plan 2011 (DCP). A detailed assessment is contained in the section 4.15 assessment forming part of the attachments to this report.

**KEY ISSUES**

## 1. Variation to 1.5 hectare lot size under Clause 4.6 Exceptions to Development Standards

The applicant has requested a variation to the 1.5ha minimum lot size under Clause 4.6 of the LEP for proposed Lot 1 which has an area of 1.354ha, a variation of 9.7%.

Clause 4.6 allows the approval of development even though it may contravene a development standard imposed by the LEP or any other environmental planning instrument (EPI). In this case, the development standard being contravened is the 1.5ha minimum lot size required by Clause 4.1 of the LEP.

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.*

Extract of applicant's written request

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

*Minimum lot size standards are intended to set an overall development density on the land subject to that standard, to reflect the character of the locality and to ensure there is sufficient space to provide dwellings, waste water disposal areas, access and setbacks from adjoining properties.*

*The site has a total area of 33.32 ha which represents an average size of 2.5ha for the 13 lot subdivision, so the inclusion of a slightly undersized lot does not detract from the overall development density both on the site and in this locality. Proposed Lot 1 also contains an existing dwelling and shed which will be retained, so its relationship with surrounding properties is unchanged irrespective of the lot size and all improvements fit comfortably onto the site.*

*In the circumstances, compliance with the 1.5ha minimum is considered unnecessary.*

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

*Proposed Lot 1 incorporates the Gardiners Road frontage of approximately 56m, in which the 15m wide internal road reserve is also located, so any increase in lot size would have to be achieved by pushing out its southern or eastern boundaries. If the southern boundary was relocated, the building envelope on proposed Lot 4 would need to be relocated, resulting in increased vegetation loss. If the eastern boundary were to be relocated the building envelopes and effluent disposal areas on proposed Lots 2 and 3 would be compromised.*

*The proposed lot arrangement seeks to minimise vegetation clearing and provide fully compliant effluent disposal areas, both of which are beneficial environmental outcomes and any boundary adjustments would have the potential to reduce those benefits.*

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 of 9.7% to the minimum lot size is acceptable as there is an existing dwelling located on the land with suitable area for existing services and onsite waste water disposal. Further to this, it is considered that the reduced lot size of proposed Lot 1 allows for reduced vegetation clearing than if it complied with the standard.

- 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 Clause 4.1 Minimum subdivision lot size are:

- (a) *to limit dispersed rural settlement,*
- (b) *to minimise the fragmentation of rural land,*
- (c) *to protect the scenic quality of the rural setting,*
- (d) *to ensure that lot sizes enable practical and efficient lot layout to meet the intended use of the land,*
- (e) *to ensure that lot sizes enable sufficient area for the effective on-site disposal of effluent.*

The objectives of the R5 Large Lot Residential Subdivision are:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure development is not adversely impacted by environmental hazards.*
- *To protect areas of vegetation and waterways with conservation value and scenic amenity.*

The variation to the lot size of proposed Lot 1 by 9.7% will not prejudice the public interest because the lot layout has been designed to retain areas of significant vegetation and habitat trees, where possible. The development is not inconsistent with the objectives of Clause 4.1 as the subdivision design does not result in the fragmentation of rural land and through the retention of areas of significant vegetation and habitat trees, the scenic quality is protected. The development is unlikely to result in conflict with adjoining land uses which is generally large lot residential lots with single dwelling houses. A variation to the lot size in this instance is unlikely to create undesirable precedents in the R5 zone and as such, a variation of 9.7% is supported.

- 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 the minimum lot size required by Clause 4.1 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 minimum lot size in this instance is supported to allow the development of land zoned for residential purposes in accordance with the designated zoning.

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

Comment

There is no public benefit in maintaining the standard in this instance as it is considered that the minor lot size variation of 9.7% will not create a precedent in the area. Due to the fact that there is an existing dwelling on the land, there is no potential loss of dwelling entitlement that would occur after 23 December 2021 due to the provisions of Clause 4.2B(4) of the LEP which protects future owners of proposed Lot 1.

- 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.

For the reasons provided above, it is considered that there are sufficient planning grounds to justify contravention of the 1.5ha minimum lot size standard set by Clause 4.1 in this instance.

## 2. Contamination and remediation of Land

Clause 7 of the *State Environmental Planning Policy No. 55 - Remediation of Land* (the SEPP) states that a consent authority must not consent to the carrying out of any development in land unless:

- a. *it has considered whether the land is contaminated, and*
- b. *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c. *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Preliminary Site Investigation (PSI) was prepared by Land & Fire Assessments (LFA) and determined that the site is suitable for HIL A - residential land use. However, the geotechnical report by Regional Geotechnical Solutions identified waste material containing possible asbestos (ACM) on the site. As such, the applicant was requested to undertake further investigations to identify the waste material and provide further advice regarding the suitability of the site for residential purposes.

A Remedial Action Plan prepared by ENV Solutions dated July 2019 was prepared and submitted in response to Council's information request. In their report, ENV stated that 2 previous environmental investigations have been conducted at the site by Land & Fire Assessments (LFA) and ENV. The results from the investigations indicated that there are 4 areas (TP3, TP4, TP16, TP23) containing asbestos fragments and 1 area (TP23) containing asbestos concentrations above screening levels from National Environment Protection (Assessment of Site Contamination) Amendment Measure ('NEPM'; NEPC, 2013) for residential use and, therefore, require remediation.

The extent of the asbestos contamination is considered to be in the surface soils of the south-eastern portion of the investigation area. The asbestos contamination has been identified as 'bonded' asbestos and calculated to be less than 10m<sup>2</sup> in total. The identified areas of contamination will be either hand raked, 'emu picked' or machine excavated directly into a HAZMAT bag before off-site disposal to an NSW EPA approved landfill. Following this, a visual asbestos clearance will be undertaken by a licenced asbestos assessor (LAA). Following completion of the asbestos removal program and associated environmental assessment, a validation report will be prepared and submitted to Council which provides details on the remedial works completed, the results of soil sampling conducted for validation and classification purposes and a statement regarding the suitability of the site for ongoing residential land use. Conditions to this effect are contained within the Draft Schedule.

Once the remediation works and site validation are complete, the subject land will be suitable for residential purposes in line with the provisions of the SEPP.

## 3. Biodiversity Development Assessment Report

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

The *Biodiversity Conservation Regulation 2017* sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The proposed development is intending to clear 4.78 ha and therefore triggers entry into the BOS.

TABLE 1: Area Clearing Threshold Triggering Entry into the BOS

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1000 ha or more	2 ha or more

### Biodiversity Development Assessment Report

JWA originally prepared a Biodiversity Development Assessment Report (BDAR) for the subject site in January 2019. Comments received from the Department of Planning, Industry and Environment (formerly Office of Environment and Heritage) and the assessment undertaken by Council staff led to additional site work and the preparation of a Revised BDAR (dated 26 February 2020). Following minor amendments to the development layout resulting in a small area of additional clearing required at the entrance to the site (within the road reserve) to allow for road widening/ turning lane, the BDAR has again been revised with the credit requirement increasing from 86 to 88 to include clearing within the road reserve. The BDAR by JWA dated August 2020 is considered to be the final report for consideration. A copy is contained within the attachments.

In conclusion of the report it was found that the proposed development will result in unavoidable impacts on 5.91ha of land (i.e. 17% of the total site area), including a small area required to be cleared in the adjoining road reserve. Of this area:

- 0.04ha is considered to be relatively intact native vegetation;
- 2.38ha is comprised of vegetation with modified midstorey and ground cover components; and
- the remaining 3.49ha is comprised of highly modified vegetation (i.e. regrowth and/or grassland with scattered trees). These impacts are not considered to be serious or irreversible.

As a requirement of the BAM, the environmental assessments and calculations undertaken in the BDAR, a total of 88 ecosystem credits have been calculated as applicable for the unavoidable loss of site vegetation as follows:

- PCT 837 - Forest Red Gum - Swamp Box of the Clarence Valley lowlands of the NSW North Coast Bioregion = 37 credits
- PCT 1064 - Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion = 10 credits
- PCT 1211 - Spotted Gum - Grey Ironbark - Pink Bloodwood open forest of the Clarence Valley lowlands of the NSW North Coast Bioregion = 41 credits

Note: A PCT or Plant Community Type is a vegetation community classification system that is used in the BC Act and BIONET. All vegetation types are currently being assigned a PCT number, and given associated credits.

A total of 20 species credits for threatened species have also been calculated as applicable for the unavoidable loss of site vegetation as follows:

- Spider orchid (*Dendrobium melaleucaphilum*) – assumed present = 9 credits
- Common Planigale (*Planigale maculata*) – recorded = 2 credits
- Swamp mint-bush (*Prostanthera palustris*) – assumed present = 9 credits

The BOS states the offset rules permit proponents to meet their offset obligation by:

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

The Biodiversity Offset Payment Calculator has estimated that 88 ecosystems credits and 20 species credits requires the payment of \$205,631.01 into the Biodiversity Conservation Trust (BCT).

The proponent has the choice to retire credits from stewardship sites, or if such credits are unavailable pay this amount to the BCT. The development application will be conditioned accordingly.

Entity	Credits	Cost
1211 - Spotted Gum - Grey Ironbark - Pink Bloodwood open forest of the Clarence Valley lowlands of the NSW North Coast Bioregion	41	\$77,138.18
837 - Forest Red Gum - Swamp Box of the Clarence Valley lowlands of the NSW North Coast Bioregion	37	\$46,153.82
1064 - Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion (Threatened Ecological Community)	10	\$55,288.10

Entity	Credits	Cost
<b>Subtotal</b>		<b>\$178,580.10</b>
GST		\$17,858.01
<i>Dendrobium melaleucaphilum/ Spider orchid (assumed present)</i>	9	\$2,599.36
<i>Planigale maculata/ Common Planigale (present)</i>	2	\$1,279.21
<i>Prostanthera palustris/ Swamp Mint-bush (assumed present)</i>	9	\$4,478.61
<b>Subtotal</b>		<b>\$8,357.18</b>
GST		\$835.72
<b>TOTAL COST (inc GST)</b>		<b>\$205,631.01</b>

The BDAR report also concluded that a subsequent increase in occupation of the subject land as it develops may contribute to the following potential indirect impacts:

- *Alteration to drainage and hydrological regimes in the study area and adjacent areas;*
- *Decline in water quality entering adjacent waterway areas (e.g. sediment load, pH, influx of pollutants, discharge of groundwater during any dewatering, nutrient loading);*
- *Increased opportunity for weeds to become established. Invasive landscape species may escape to adjacent areas of native vegetation;*
- *Increase in the opportunity for domestic animals such as dogs and/or cats to roam;*
- *In surrounding vegetation and alter the biophysical environment;*
- *Increased light, noise and activity may cause reclusive species to move away from habitat edges;*
- *Increased risk of rubbish dumping, creation of walking tracks and associated impacts within adjacent native vegetation communities; and*
- *Increased risk of fire spreading into the surrounding bushland.*

The indirect impacts that could potentially arise following future occupation of the individual lots have been mitigated and minimalised through the imposition of suitable conditions limiting building to the identified envelopes, restrictions on the keeping of domestic animals, identification of protected vegetation areas and corresponding restrictions on use to prohibit clearing outside of these areas to name a few.

Council staff consider that the proposed subdivision has been designed to occur mostly on already cleared land which has minimised the extent of clearing required for the subdivision. Through the retiring or payment of ecosystem credits to offset vegetation losses, preparation of a vegetation management plan and protection of remnant vegetation and significant habitat trees, the development is unlikely to result in irreversible environmental impacts.

#### 4. Traffic and Engineering Issues

As stated in the background section of this report, a key aspect of the proposed subdivision is the inclusion of a new road off, and intersection with, Gardiners Road. Council has requested supporting traffic assessment and preliminary design to provide sufficient certainty that the intersection and associated road works can comply with relevant standards and that the associated impacts of the works, such as additional clearing of native vegetation, are understood and acceptable.

At the time of writing this report a number of concerns were still outstanding with the Traffic Assessment Report prepared by Burchills Engineering. There remains a risk that the road works necessary to cater for the new road and intersection will not be able to meet the necessary standards. The applicant is aware of these concerns and as they want Council to make a decision on the DA, the applicant has requested that this DA be appropriately conditioned and referred to the August Council meeting for determination.

As such, the following condition of consent is recommended to be included in any approval of this DA:

- 15 *The design of the intersection of the proposed subdivision road with Gardiners Road shall be supported by a traffic classifier analysis which provides the traffic volumes and vehicle travel speeds for vehicles travelling in both directions along Gardiners Road. The traffic classifier shall be located directly adjacent to the proposed intersection centreline in Gardiners Road. The classifier results shall be taken over a period of not less than 2 weeks and the resulting 85<sup>th</sup> percentile speed in both east and west directions shall be used in undertaking the design of the intersection in accordance with the SISD for the design speed. Clarence Valley Council is to have the opportunity to review and verify the classifier results.*

*The design of the intersection of the proposed subdivision road with Gardiners Road shall be*

*suitable for the turning of a 12.5m rigid truck and a 19m semitrailer without the swept vehicle paths encroaching onto opposing traffic lanes.*

*The design standard of the intersection of the proposed subdivision road with Gardiners Road shall be compliant with **NRDC** and Austroads. This design is subject to verification and approval by Clarence Valley Council prior to the approval of the **SWC**.*

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

*The pavement design for the intersection shall include a geotechnical investigation to assess the capability of the existing pavement to accommodate any new turning movements and new traffic volumes. Any costs associated with the reconstruction and sealing of the existing pavement to meet the road design ESA's shall be borne by the developer.*

*The design speed for the intersection shall be 80 km/h.*

Design considerations regarding traffic safety, such as to ensure adequate visibility to view oncoming traffic prior to entering Gardiners Road from the proposed road, Safe Intersection Sight Distance and provision of adequate stormwater drainage at proposed intersection were raised with the applicant's Traffic Consultant. The Consultant was requested to provide an intersection design that reduces risk to road users and meets Austroads Standards.

The RFS General Terms of Approval state the following in condition 4(k).

*Public roads between 6.5 metres and 8 metres wide are "No Parking" on one side with services (hydrants) located on this side to ensure accessibility to reticulated water for fire suppression.*

The installation of parking control signs in a rural residential subdivision is not considered to be an appropriate outcome. Council staff consider the most appropriate solution to this condition to be construction of the roads with a width greater than 8 metres wide (7 metres seal with 0.5 metre shoulders). This would avoid the need for parking controls and would provide RFS with better access to water for fire suppression. It is noted that if the road is less than 8 metres wide, "No Parking" regulatory signage would have to be endorsed by the LTC.

Council staff do not support the provision of parking controls in a rural residential development; the preference is for a road width of greater than 8 metres wide to eliminate this requirement. Should parking controls be provided, it will be necessary to consider providing additional resources to allow enforcement of the regulatory signage.

Enforcement of "No Parking" areas on one side of the road is a potential risk to Council, as it transfers risk for ensuring access to fire hydrants to Council. An email received on 12/8/2020 from the applicant's Traffic Consultant confirmed the sealed width of the proposed access road to have a seal of 7m is in accordance with Council's requirements.

The implications of the carriageway having a minimum sealed width of 7 metres with 0.5 metre shoulders is that the road reserve widths may require to be increased accordingly which could impact on the lot size of Proposed Lot 1 which is already undersized.

A full designed assessment is required to be submitted for assessment as part of the Subdivision Works Certificate.

#### 5. Issues raised in the submissions

The proposed development was advertised and notified in accordance with Part B of the Residential Zones DCP. Three submissions were received during the notification period which raised concerns regarding the environmental impacts including removal of habitat trees, clearing of remnant vegetation and infill of dams, flooding of building envelopes, proximity of road to adjoining property, location of services and location of proposed effluent disposal areas in respect of ground water bores. A summary of the issues and a response to each is provided below:

Issue	Comment
<p>1. There is a new road corridor proposed in the DA adjacent to our property (200 Gardiners Road or DP1002238 Lot 3). Few details are given about the location of the road and any regulations that are required to be followed or will be followed, however the DA states that the proposed road is to be 7m wide and will follow the existing driveway. The corridor is proposed to be 15m wide. The existing driveway is within 1m of our current boundary with 208 Gardiners Road in places. A verge and adequate width for pedestrian access between DP1002238 Lot 3 and the proposed road should be provided in the new road corridor. It is noted that the two habitat trees at the northern end of the proposed road corridor should be retained at the expense of adequate verge if necessary</p>	<p>The access road off Gardiners Road that abounds Lot 3 DP1002238 has been located to obtain maximum sight distance to the east. The road reserve in this location is 16.3m wide and variable, however it has been conditioned that the sealed pavement width is 7m with 0.5m shoulders. There will be a grassed swale 4.5m wide and an additional verge area between the boundary of Lot 3 and the sealed road. Informal pedestrian access is available on the eastern side of the new access road. The final design of the road will be considered as part of the SWC.</p>
<p>2. Details are not specifically provided in the DA about which exact trees are to be removed to create the proposed new road (or services installation), however trees have been marked onsite with blue spray paint and appear to be the trees proposed for removal to create the proposed road. Of the marked trees one tree, a Grey Iron Bark, sits on the boundary of our property. Four more trees, one Bloodwood and three Grey Gums, are located between our property boundary and the existing driveway on 208 Gardiners Road. It is requested that the proposed road be moved away from DP1002238 Lot 3 property boundary adequate distance to ensure that the root zone of these five trees is not impacted by excavation or filling. Moving the proposed road away from DP1002238 Lot 3 boundary tallowwood with visible white ant nest, to be removed, however this one tree would be removed in place of the five currently proposed, and as such moving the proposed road would be a good outcome environmentally and also limit the visual impact of tree removal on DP1002238 Lot 3. Please see images of all listed trees below.</p>	<p>Where trees along the boundary of Lot 3 and the subject land are not in conflict with the proposed swale and associated earthworks, they will be required to be retained. Details of the location of existing trees and proposed tree removal, is to be detailed and considered as part of the Subdivision Works Certificate.</p> <p>As stated above, the location of the access road off Gardiners Road that abounds Lot 3 DP1002238 has been located to obtain maximum sight distance to the east and is considered to be the most appropriate location.</p>
<p>3. The proposed new road corridor splits and turns just south of our property. One section of the road forms a dead end to the east, and the other section heads west behind our property and then south. The corridor of the westerly road is placed such that it has maximum impact on the existing stand of mature native vegetation. The westerly road corridor should be moved a few metres to the south to align with the easterly road to minimise the number of mature trees that will require removal to construct the proposed new road, and the road within the corridor carefully placed to avoid the greatest number of trees. The vegetation within this stand of trees, although not listed as an endangered ecological community, is important to the movement of arboreal species between identified habitat trees.</p>	<p>The proposed road has been located to minimise clearing on the site and protect the areas of significant vegetation. All native vegetation to be removed has been accounted for in the BDAR calculations and an appropriate offset has been calculated in line with the requirements of the Biodiversity Offset Scheme.</p>
<p>4. The surface of the proposed new road and shoulders must be sealed to prevent operational dust impacts on the residents and existing landscaping of DP1002238 Lot 3.</p>	<p>The new road will be sealed to Council standards and the carriageway will be located a minimum of 5m from the boundary of Lot 3 DP1002238.</p>
<p>5. The new road should be speed limited to 50km/h to minimise road kill.</p>	<p>The internal road has been designed to a speed of 60km/hr. Currently this area is outside of the 50km/hr urban polygon. This matter was reported to the Local Traffic Committee who recommended an in principle speed zone review of the proposed road. This is currently being undertaken by TfNSW.</p>



Issue	Comment
6. No street lighting should be installed. Street lights would provide a large amount of new artificial light, and this is known to impact nocturnal ecology, including predators who use light to hunt, prey who use darkness as a cover, and in amphibians artificial light is known to interfere with reproduction and reduces populations. As the proposed road is being placed along a connectivity corridor between habitat trees, the impacts from street lighting would be significant. In addition street lighting would cause a direct visual impact to the residents of DP1002238 Lot 3, as our bedroom windows face east and south on to the proposed road.	Lighting is required to be provided in accordance with Australian Standard AS 1158 (Public Lighting Code) and Council's Streetlighting Strategy. This is likely to require one street light at the intersection of the new road and Gardiners Road and one at the end of each cul-de-sac.
7. All services, such as water and power, should be installed on the eastern side of the proposed road, between the proposed road and Lot 1 to ensure impacts to existing vegetation on the western side are limited.	Water is proposed to be installed on the eastern side of the new access road and not along the boundary of Lot 3 DP1002238. The location of future electricity services is unknown at this stage however, the development has been conditioned for underground electricity to be located in the proposed road reserve from Gardiners Road. Essential Energy is the consent authority for electricity and plans showing the location of underground electricity and streetlighting will be submitted for Council's approval.
8. Power lines should be placed underground along the proposed road corridor (eastern side) to ensure minimal future impacts to vegetation, such as lopping or tree trimming, to minimise impacts to the existing residents at DP1002238 Lot 3 from electric and magnetic fields being brought closer to the existing dwelling and bedrooms in particular, and to minimise the visual impact of powerlines in the once vegetated viewshed.	The development has been conditioned that underground electricity be provided for the development for all lots within the subdivision. The existing dwelling on the subject land is required to be serviced by underground power.
9. Any upgrade to the existing electricity supply should be made along the proposed road corridor, and not in the easement across DP1002238 Lot 3. The connection to the proposed Lot 1 should be altered to extend from the proposed road corridor when an upgrade takes place, and hence the easement abolished. The existing power line should be removed when an upgrade takes place. DP1002238 Lot 3 should also be made aware of the upgrade and the services installed to permit DP1002238 Lot 3 to be connected to any upgraded electricity supply.	The development has been conditioned that underground electricity be provided within the new road reserve. Council has no ability to extinguish the existing electricity easement or upgrade the adjoining property power supply.
10. Transformers, if required, should not be placed within 50m of DP1002238 Lot 3's existing dwelling to limit the impacts from electric and magnetic fields on the residents of DP1002238 Lot 3.	The location of future electricity services including transformers is unknown at this stage. Any location of these services will be required to meet the requirements of the service provider.
11. The location of the Effluent Disposal Area on proposed Lot 12 should be moved to cleared land on the western side of the proposed dwelling on that Lot. The location as shown on the DA would require the removal of a number of semi mature and mature trees, which currently form a corridor linking the habitat tree on Lot 12 to the other listed habitat trees depicted in Lot 1 and Lot 4.	The location of onsite waste water systems complies with Council's Onsite Waste Water Strategy. All vegetation removal has been considered as part of the BDAR and appropriate offsetting mechanisms including payment of contributions to the Biodiversity Offset Scheme are required.
12. Given the above concerns regarding services and utilities it is requested that the owners of DP1002238 Lot 3 are given the opportunity to review and comment on services and utility concept plans once drafted.	The review of service plans will be undertaken by Council's assessing development engineer as part of the Subdivision Works Certificate application. There is no opportunity for the public to comment on these types of

Issue	Comment
	plans. However the assessing engineer will ensure that all service location meets the provision of NRDC and Council Policies.
<p>13 Dividing the Vegetation Communities 1A and 1B between Lots 8, 13, 9, 10, 11, and 12 will cause these large sections of remnant bushland to be more prone to fragmentation, thinning and clearing of vegetation and loss of habitat value through such actions as marking of boundary lines (and subsequent weed invasion), access tracks through individual properties, poor or illegal management practices such as clearing and thinning of undergrowth, and uncontrolled removal of trees, particularly given the small area of cleared / developable land allotted to Lots 9, 10, 11 and 12 relative to the size of the lot. The remnant bushland would have a greater chance of remaining undisturbed and retaining (1A) or improving (1B) its habitat value if the bushland is under the care and management of one land owner, or potentially listed under a strata title or community land. It would be a better outcome for the remnant bushland if the protected vegetation areas were assigned to a single Lot, say Lot 13, with a conservation covenant or similar placed on the property title. I do not believe that for the sake of putting compliant property areas on a plan it is worth dividing up the remnant bushland and that it would be a better outcome if the development Lots on cleared land were smaller in area to save and protect the bushland.</p>	<p>Fragmentation has been minimised through the imposition of a Vegetation Management Plan that will protect vegetation in perpetuity, including restriction on the use of land and retention and protection of habitat trees, including those located in APZ's.</p> <p>The building envelopes have been largely located on previously cleared land to minimise clearing.</p> <p>The Clarence Valley Local Environmental Plan sets the minimum lot size of 1.5ha for this land. Whilst it would be ideal to have smaller lots within the already cleared areas, there is no ability under the current planning controls to permit more than 1 lot to be undersized by more than 10% (Clause 4.6(6) of LEP). Future building envelopes have been located in previously cleared areas to minimise clearing.</p>
<p>14. Similar to comment 12, and following review of the Asset Protection Zone plans, the proposed Lots 6 and 7 may be better used (as cleared land) to fit two additional properties, while ensuring protection of the listed endangered ecological communities (EEC) currently on proposed Lots 4 and 5. On the DA, EEC is divided between Lots 4 and 5 and the edges of Lots 6 and 7. The EECs would be more likely to be retained with less impact from fragmentation, access tracks /driveway (Lot 5), linkage from dwelling to Effluent Disposal Area (Lot 4) and Asset Protection Zone clearing, if say the proposed Lot 6 owned the entire upper EEC and proposed Lot 7 owned the entire lower EEC, and two dwellings (Lots 4 and 5) were sandwiched between Lots 6 and 7 as smaller lots on the cleared land.</p>	<p>Vegetation on all lots will be protected by a VMP, see above for details.</p> <p>The proposed development will occur on an area already affected by past clearing and cattle grazing activities. The development is therefore not considered to result in any additional impacts on connectivity between habitat areas.</p>
<p>15. Has the loss of vegetation due to Asset Protection Zone clearing been factored into the total vegetation losses if the proposed development arrangement proceeds?</p>	<p>Yes – CVC and the DPIE have directed the inclusion of the clearing of vegetation in the APZ's as part of the calculation of total vegetation loss.</p>
<p>16. There are a number of habitat trees located on the proposed dwelling lines, and within Asset Protection Zones. The trees are listed as habitat tree to be retained, however how will this retention be enforced, particularly as the trees are within the Asset Protection Zones? Dwellings should be moved from habitat trees to ensure their retention, and where it is not possible to move the dwellings away, loss of those habitat trees should be taken into account in the offset requirements.</p>	<p>All native vegetation to be removed has been accounted for in the BDAR calculations.</p> <p>Larger trees including hollow bearing trees are being retained and protected in the VMP, with radius of protection.</p>
<p>17. Large trees on proposed Lots 6, 12, 11 and 10 should be retained to provide linkage for arboreal animals and cover for ground dwelling animals between the 1B vegetation community on Lots 1, 12 and DP1002238 Lot 3 and the EECs on Lot 6 and 5 to remnant bushland.</p>	<p>Habitat trees are to be retained, and managed according to the VMP, see above for details.</p> <p>Habitat features such as fallen timber, hollow logs and/or rocks shall be retained if possible or relocated to an appropriate location within retained</p>

Issue	Comment
	vegetation or proposed Conservation Areas as replacement habitat for ground-dwelling fauna. The DA has been conditioned accordingly.
<p>18. All property title should include the restrictions as previously set for DP1002238 and DP1038213, being</p> <p>(a) No boundary fence shall be erected upon the subject lot so as to hinder the free passage of koalas or native ground animals through such lot.</p> <p>(b) No native tree over 4m in height, old growth tree containing hollows nor trees with a diameter of 60cm or greater nor native understoreys shall be cut down, damaged, destroyed or removed from any lot here by burdened without the prior written consent of (Clarence Valley Council) except for the purpose of clearing the site of any building and constructing an effective fire break around such site.</p> <p>(c) No dog nor other domestic animal which is hazardous to ground moving animals shall be kept upon the lots hereby burdened except when such animals are restrained or shall otherwise be kept in a secure compound upon the subject lot with such compound comprising an area not greater than 25% of the allotment thereby burdened.</p>	<p>The subject land is already bound by these restrictions under the 88B instrument for DP1002238. These restrictions will carry over to all new allotments created in the new subdivision.</p> <p>An additional restriction prohibiting any development on or clearing of vegetation within the remnant vegetation areas will be placed over all lots. A draft condition to this effect is provided within Schedule 1.</p>
<p>19. Infill of dams (particularly the large dam located on Lots 11 and 12) and impacts to aquatic birdlife that seek refuge during drought.</p>	<p>The vegetation that will be removed has been accounted for in the BDAR calculations.</p>
<p>20. Concerns were raised by one of the submitters that the proposed building envelopes will be affected by localised flooding after large storm events.</p>	<p>Part of the land is identified as being within a flood prone area subject to the 1 in 100 year river flood event. The habitable floor level of any future dwellings will be required to be constructed 500mm above the 1 in 100 year flood level.</p> <p>However, the site is also impacted by stormwater from the 1 in 100 year ARI overland flow paths.</p> <p>To ensure future owners are aware of drainage issues, the overland flow paths for 1 in 100 year ARI event are to be identified. Proposed drainage easements and any proposed restrictions to user resulting from the above are required to be shown on the SWC plans. Draft conditions to this effect are provided in Schedule 1.</p>
<p>21. Removal of habitat tree within the road reserve to provide suitable road access</p>	<p>During the assessment of the application, it became apparent that the location of the proposed new intersection with Gardiners Road will require the removal of a significant habitat tree within the road reserve to achieve adequate sight distance. If the habitat tree is retained then no suitable road access to the development site could be obtained. Whilst retention of this significant habitat tree is preferred, Council would be accepting a non-compliant intersection which is inconsistent with the Community Plan Strategy to provide safe and effective</p>

Issue	Comment
	<p>vehicular and pedestrian networks that balance asset conditions with available resources.</p> <p>The removal of this habitat tree and other vegetation within the road reserve has been considered as part of the final BDAR and appropriate offset calculations have been provided accordingly. Further to this, any removal of trees with hollows, are to be offset at a 1 to 1 offset ratio through the provision of nest boxes. The type, location and orientation of the nest box is to be determined and the installation supervised by a suitably-qualified Ecologist.</p>

## COUNCIL IMPLICATIONS

### Budget/Financial

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

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

### Asset Management

All allotments within the subdivision will have access to Council owned water and Council maintained roads. Once the new internal road is completed and accepted off maintenance, the road will become a Council asset and will require ongoing maintenance to be met by Council's road maintenance budget.

### Policy or Regulation

Environmental Planning and Assessment Act 1979  
 Environmental Planning and Assessment Regulation 2000  
 Biodiversity Conservation Act 2016  
 Biodiversity Conservation Regulation 2017  
 State Environmental Planning Policy No. 55 - Remediation of Land  
 Clarence Valley Local Environmental Plan 2011  
 Development Control Plan for Residential Zones Development Control Plan

### Consultation

The following internal sections of Council were consulted during the assessment of the application.

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Supported with conditions
Civil Services	Supported with conditions
Environmental Officer	Supported with conditions
Natural Resource Management Officer	Supported with conditions
Building Surveyor	Supported with no specific conditions

The following external agencies were consulted during the assessment of the application.

<i>Agency/Government Department</i>	<i>Comment</i>
Transport for NSW	Agreed to undertake an in principle speed zone review
NSW Rural Fire Service	General Terms of Approval granted
Department of Planning, Industry and Environment (previously Office of Environment and Heritage)	Issues raised addressed in revised BDAR and appropriate conditions imposed as per their advice

### 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**

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

Prepared by	Carmen Landers, Development Planner (Systems)
To be tabled	<ul style="list-style-type: none"> <li>A. Subdivision Plan</li> <li>B. Submissions</li> <li>C. Biodiversity Development Assessment Report August 2020</li> <li>D. Remedial Action Plan by ENV Solutions dated July 2019</li> <li>E. Traffic Assessment Report by Burchills Engineering Solutions Version 03 dated 7 August 2020</li> <li>F. Yaegl Local Aboriginal Land Council letter dated 18 July 2019</li> <li>G. Department of Planning, Industry &amp; Environment Correspondence on BDAR</li> <li>H. NSW Rural Fire Service General Terms of Approval</li> <li>I. Local Traffic Committee Report</li> <li>J. Conceptual Stormwater Management Plan by Burchills Engineering dated July 2020</li> <li>K. Section 4.15 Assessment</li> </ul>

**Schedule 1**  
**Draft Advices and Conditions of Consent for SUB2019/0002**

**Definitions**

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

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

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

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

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

**WSUD** means Water Sensitive Urban Design

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

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

**Civil Works may include -**

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

**SWC** means Subdivision Works Certificate

**Code MDef04**

**NATA** means National Association of Testing Authorities

**TfNSW** means Transport for New South Wales

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

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

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

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

**Advices**

1. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2020/21 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00). An additional fee of \$113.55 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.
2. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;
  - b Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or RMS;
  - c Local Government Act Section 68 - drainage, water & sewer approval;
  - d Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

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

3. A completed 'Design Certification Report' with supporting documentation, in accordance with the requirements of **NRDC** must be submitted to Council and/or accredited private certifier with the submission of the **SWC** application.

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

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

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

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

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

The proposed development has been assessed as contributing an additional 13.2 ET demand on Council's water supply, and an additional XX ET loading on Council's sewerage system. This includes an applicable credit of YY ETs for pre-existing uses. The headworks charges at 2018/19 financial year rates are:

Water Headworks \$4,979.00 x 13.2 additional ET = \$ 65,722.80

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

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

6. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
7. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to public infrastructure being accepted "on maintenance" and/or "practical completion" being granted for private property works
8. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
9. The Earthworks Management Plan must include an initial site inspection report. This report should include:
  - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
  - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
  - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, hanging swamps, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

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

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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



Protection of the Environment Operations Act 1997 and copies of receipts for disposal where relevant.

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

### Conditions

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with the following plan(s) as amended in red, or where modified by any conditions of this consent.

Plan No	Drawn by	Title	Plan Date	Revision
9262DA1	A Fletcher & Associates	Plan of Detailed Survey over Part of Lot 14 DP 1262923 & Proposed Subdivision 208 Gardiners Road, James Creek	24 July 2020	F

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

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

##### Rate per dwelling House or Lot

Coastal \$3,834.85 x 11 = \$42,183.35 GL S94CVCOSCoastal

#### **Clarence Valley Contributions Plan 2011 Community Facilities**

##### Rate per dwelling House or Lot

Maclean surrounds \$3,834.85 x 11 = \$42,183.35 GL S94CVCCFMaclean

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

Rate per Dwelling/Lot \$73.45 x 11 = \$807.95 GL S94CVCPoMDwell

#### **Rural Road Upgrading Contributions Plan**

Maclean Catchment: \$1560.43 x 11 = \$17,164.73 GL S94RdUpgdMacBhead

N.B.

The contribution(s) as assessed will apply for 12 months from the date of this approval.

Contributions not received by Council within 12 months of the date of this notice **will be adjusted** in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

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

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

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

### Engineering Conditions

3. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
4. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

5. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **SWC**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Subdivision Certificate. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.

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

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

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

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

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

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

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

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

8. Prior to the issue of the Subdivision Certificate, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
9. The developer shall provide an electricity reticulation design for underground power to the subdivision from the existing pole on the north side of Gardiners Road. The design shall be undertaken such that the existing pole and electricity line servicing the existing dwelling on Lot 14 DP1262923 is made redundant by a new underground line constructed within the subdivision road reserve to service the development.

After completion of the new electricity connection to the existing dwelling, it is recommended that existing electricity easement referred to secondly in the plan of subdivision of DP1002238 and Part 1 of the Section 88b Instrument over Lot 3 DP1002238 be extinguished.

10. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address [council@clarence.nsw.gov.au](mailto:council@clarence.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:
- Health and Safety
- Public safety, amenity and site security;
  - Traffic Control and Management;
  - Pedestrian management;
  - Construction hours;
  - Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
  - Contractor vehicle parking;
  - Locating existing utilities and services;
  - Health and Safety requirements.
- Environment
- Air quality management;
  - Erosion and sediment control- base information, monitoring and management;
  - Waste management;
  - Material stockpiling;
  - Vegetation management;
  - No go zones;
  - Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;
  - Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;
  - A construction personnel induction program shall be developed by the Proponent to highlight the presence of significant vegetation and habitat values on the site. The general induction of all construction personnel will cover such matters as:
    - Areas of the site in which significant vegetation and habitat values occur;
    - Threats to significant vegetation and habitat values associated with construction activities;
    - Requirement to report any incidents within the significant vegetation and habitat areas, and actions required;
    - Construction personnel are prohibited from bringing dogs onto the site; and
    - Requirements of the any relevant Management Plan, particularly protocols for vegetation clearing and measures to protect all other native vegetation.
- Quality
- Submission of current insurance certificates;
  - Work method description;
  - Construction equipment to be used;
  - Inspection and testing requirements;
  - Earthworks methodologies;

- f) Haulage routes;
- g) Retaining structure construction methodologies;
- h) Concrete jointing methodologies;
- i) Subsoil drainage installation methodologies;
- j) Stormwater drainage infrastructure installation methodologies;
- k) Stormwater Quality Improvement Device installation methodologies;
- l) Road construction methodologies;
- m) Accessways and footway construction methodologies;
- n) Landscaping installation methodologies;
- o) Utility and services installation methodologies
- p) Construction and installation methodologies of other structures not otherwise covered above.

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

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

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

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

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

### Water Reticulation

12. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and NRDC.
13. Water Reticulation Design Plan must be submitted for approval with the application for a **SWC**.

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

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

### Roadworks

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

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

15. The design of the intersection of the proposed subdivision road with Gardiners Road shall be supported by a traffic classifier analysis which provides the traffic volumes and vehicle travel speeds for vehicle travelling in both directions along Gardiners Road. The traffic classifier shall be located directly adjacent to the proposed intersection centerline in Gardiners Road. The classifier results shall be taken over a period of not less than 2 weeks and the resulting 85<sup>th</sup> percentile speed in both east and west directions shall be used in undertaking the design of the intersection in accordance with the SISD for the design speed. Clarence Valley Council is to have the

opportunity to review and verify the classifier results.

The design of the intersection of the proposed subdivision road with Gardiners Road shall be suitable for the turning of a 12.5m rigid truck and a 19m semitrailer without the swept vehicle paths encroaching onto opposing traffic lanes.

The design standard of the intersection of the proposed subdivision road with Gardiners Road shall be compliant with **NRDC** and Austroads. This design is subject to verification and approval by Clarence Valley Council prior to the approval of the **SWC**.

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

The pavement design for the intersection shall include a geotechnical investigation to assess the capability of the existing pavement to accommodate any new turning movements and new traffic volumes. Any costs associated with the reconstruction and sealing of the existing pavement to meet the road design ESA's shall be borne by the developer.

The design speed for the intersection shall be 80 km/h.

16. The roads constructed within the proposed subdivision are to have a minimum width of 8 metre, consisting of a 7 metre seal with 0.5 metre shoulders. The road reserve widths are required to be increased accordingly.

Details of the location of existing trees and proposed tree removal, within the proposed road reserve is to be detailed and considered as part of the Subdivision Works Certificate. Where trees along the boundary of Lot 3 and the subject land are not in conflict with the proposed swale and associated earthworks, they will be required to be retained.

17. All road Intersections must satisfy safe intersection sight distance requirements for the speed zone of the road servicing the development in accordance with NRDC. Sight distance diagrams must be provided with the **SWC** plans.
18. The engineering design plans submitted with the **SWC** application shall include details of linemarking and sign posting. All regulatory linemarking and sign posting on public roads shall be submitted to the Local Traffic Committee (LTC) for approval. The works shall not commence until approved by the Committee.
19. Benkelman beam testing of the constructed road pavement will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam in accordance with RMS Test Method T160.
20. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **SWC** approval. The asphaltic concrete wearing surface must be a minimum 30mm (residential light to medium traffic) and 40mm (industrial, heavy residential and collector roads) compacted depth. Final pavement design will be subject to in-situ CBR tests.
21. The **SWC** application must include design calculations for any necessary upgrade of, existing stormwater drainage cross-culverts and affected services/utilities.
22. Prior to the issue of any **SWC** engineering calculations must be provided which clearly indicate the capacity of table/swale drains, the maximum flow velocities and their resistance to scour. Where table/swale drains are used they must be designed to minimise velocity of flow to that necessary to achieve draining of the table/swale minimising ponding and must be treated to minimise scour.

Table/Swale drains within the road reservation must be designed to protect the road pavement from infiltration of surface water. This could be achieved by either a configuration that locates the water surface level from minor storm flows below the subgrade level, or other methods of protection acceptable to Council.

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

Prior to the release of the Subdivision Certificate for the subdivision, the stormwater facilities as generally identified in the Conceptual Stormwater Management Plan by Burchills Engineering dated July 2020 are to be provided, including the following:

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

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

23. Access from Lots 8, 9, 10, 11 and 12 to the right of carriageway registered under DP1038213 and DP1262923 is prohibited. The right of carriageway benefitting these must be extinguished prior to the release of the Subdivision Certificate for those lots.
24. A pavement condition report is to be provided for Gardiners Road adjacent to the site access and for a distance of 75 metres in both directions from that access. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **SWC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction and operational phase of the development.

Payment of a bond is required to ensure maintenance of Gardiners Road, with the bond value to be determined in the pavement condition report, prior to commencement of works. Should the pavement condition become unsafe Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.

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

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

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

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

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

26. An easement is to be created to provide for conveyance of existing/proposed inter-allotment drainage through the subject land. The easements shall be provided as follows:
  - a Where there is no Council infrastructure contributing to the drainage scheme the easements shall be in favour of the properties requiring the benefit and not Council.

- b Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system then the easement must benefit Council only. This easement must be an easement in gross.
- c Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system and there are properties draining directly to the drainage system then the easement must benefit Council and these properties.
- d Easement widths must be in accordance with **NRDC**.

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

27. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual Exceedance Probability (AEP) water level in the vicinity of the site is RL 1.99m AHD and the Extreme Flood Level is RL 3.80m AHD. Development on the site must be undertaken in compliance with the flood plain management controls listed in the Council **DCP** for the relevant land use zone.

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

28. A flood assessment report for the proposed development must be submitted for approval by Council prior to issue of the **SWC**. The assessment must identify areas impacted by overland flow paths for 1 in 100 year ARI event. Proposed drainage easements and any proposed restrictions as to user resulting from the above are required to be shown on the SWC plans.

29. A restriction on the use of land shall be placed on the title of lots that are impacted by the overland flow path from 1 in 100 year ARI event to the following effect:

No development shall be undertaken on the 1:100 year floodway without the consent of Clarence Valley Council.

#### **Subdivision Certificate**

30. Prior to the release of any Subdivision Certificate which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.

31. In accordance with **NRDC** and prior to the release of the Subdivision Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

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

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

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

34. A restriction as to user shall be placed on the title of lots where the most distant part of any building envelope is more than 90 metres away from a fire hydrant to the following effect:

Install a minimum of 20,000 litres water storage tank dedicated for bushfire fighting purposes in accordance with Table 4.2 of 'Planning for Bush Fire Protection 2006'. A suitable connection for the Rural Fire Service must be made available. In general a 65mm stortz outlet with a gate or ball valve shall be provided. Above ground tanks are to be manufactured out of concrete or metal. Plastic tanks are not to be used.

### Lighting

35. Prior to release of the Subdivision Certificate, the development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and Council's Streetlighting Strategy. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to issue of the **SWC**.

### Maintenance Bond

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

All work is subject to a maintenance period of twelve (12) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons or if a Subdivision Certificate approval is delayed beyond the maintenance period. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier approved stormwater management plan

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

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

### Car Parks & Driveways

37. Driveway culverts or concrete lined table drain crossings are required to be constructed as part of the subdivision works. Culvert ends that face oncoming traffic are a traffic hazard and must not be located within the clear zone. The preferred solution is to provide concrete lined table drain crossings for property driveways. Design plans and calculations for access culverts must be provided where culverts are proposed.
38. The driveway to the proposed building envelope on Lot 5 is required to be constructed as part of the subdivision works to minimise the impact on vegetation. The driveway is to be concrete lined in the area where it traverses the table drain crossings / drainage easements.

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

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

### Earthworks

39. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to the issue of a **SWC**.  
The earthworks Management Plan is to be prepared in accordance with Council's guidelines. The guidelines are listed in the Advices section of this Notice.
40. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
41. A Works-As-Executed plan prepared by a registered surveyor, showing both original levels and finished surface levels after filling material has been placed on the site and compacted, is to be



submitted to and approved by Council or accredited private certifier prior to the issue of the Subdivision Occupation Certificate.

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

#### **Erosion & Sedimentation Control**

43. A detailed Erosion and Sediment Control Management Plan for the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **SWC** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
44. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
45. During dry weather, standard dust suppressions methods are to be used as often as it necessary to ensure that adjoining properties are not adversely affected by undue dust.
46. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of earthworks. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.

#### **Integrated Development**

47. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 10 April 2019, consisting of four (4) pages, and as attached to this Notice of Determination.

#### **Heritage**

48. The tree of cultural significance identified in the Yaegl Local Aboriginal Land Council letter dated 18 July 2019 must be clearly identified and protected during construction works. The tree must also be identified on the subdivision plan and protected in perpetuity via a restriction on use on the 88B instrument.
49. An Aboriginal Site Officer or representative from Yaegl Local Aboriginal Land Council must be present onsite during ground breaking works.
50. Prior to the commencement of construction, an Unexpected Heritage Finds Procedure for Aboriginal and non-Aboriginal Heritage must be prepared should actual or potential items or areas of Heritage be discovered during construction activities. This procedure must be tool boxed with all work crews and implemented during construction works. Should any Aboriginal or non-Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and Heritage NSW shall be contacted immediately and any directions or requirements of the Service

complied with.

### Biodiversity

51. Prior to any works commencing on site, evidence must be provided to the consent authority demonstrating the following:

The Biodiversity Offset Payment Calculator has estimated that 88 ecosystems credits and 20 species credits requires the payment of \$205,631.01 into the Biodiversity Conservation Trust (BCT) and the applicable credits for the PCT's and species listed in Table 1 below, based on the like-for-like basis have been retired. This shall be in the form of either;

- i. A credit retirement report issued by DPIE confirming credit transactions; or
- ii. The applicable payment in the form of a 6.33 *Statement Confirming Payment* into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference.

**TABLE 1: Credit requirements**

Entity	Credits	Cost (ex GST)
1211 - Spotted Gum - Grey Ironbark - Pink Bloodwood open forest of the Clarence Valley lowlands of the NSW North Coast Bioregion	41	\$77,138.18
837 - Forest Red Gum - Swamp Box of the Clarence Valley lowlands of the NSW North Coast Bioregion	37	\$46,153.82
1064 - Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion (Threatened Ecological Community)	10	\$55,288.10
<i>Dendrobium melaleucaphilum</i> / Spider orchid (assumed present)	9	\$2,599.36
<i>Planigale maculata</i> / Common Planigale (present)	2	\$1279.21
<i>Prostanthera palustris</i> / Swamp Mint-bush (assumed present)	9	\$4,478.61
TOTAL COST		\$205,631.01 (inc GST)

### Environmental Management

52. A restriction-as-to-user is to be placed on all allotments prohibiting the development on or clearing of any vegetation within the retained habitat areas outside of Asset Protection Zones and beyond 3m of each new lot boundary.
53. A Vegetation and Weed Management Plan (VMP) is to be submitted and approved by Council prior to issue of the Subdivision Works Certificate.

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

- a) Details of ongoing vegetation monitoring and reporting requirements.
- b) Details of how the vegetation outside of the Asset Protection Zones including the vegetation beyond 3m of each new lot boundary is to be retained, managed and protected in perpetuity;
- c) Specific actions to help restore the integrity of the Threatened Ecological Communities (TEC's) located on site.
- d) Details on the number of trees containing hollows to be removed. The hollows to be removed are to be offset at a 1 to 1 offset ratio through the provision of nest boxes. The type, location and orientation of the nest box is to be determined and the installation supervised by a suitably-qualified Ecologist.
- e) Habitat trees (other than the two (2) within the new road access handle and intersection) are to be retained in accordance with the plan titled Figure 12 dated 11 August 2020 in the Biodiversity Development Assessment Report prepared by JWA Pty Ltd dated August 2020.
- f) The VMP and/or recommendations contained therein are to be given effect by a

restriction/s as to user under section 88b of the Conveyancing Act 1919 registered on the titles of each allotment in the subdivision.

54. A Site Rehabilitation Plan outlining specific measures to allow for assisted natural regeneration and revegetation (where necessary) within the retained vegetation on the site including monitoring and reporting requirements after the construction phase of the development and once rehabilitation works have been completed. These will include, but not be limited to:
- a. Installation of permanent transects, plots and photo points;
  - b. monitoring is to be completed by a suitably qualified ecologist.  
Site visits should occur:
    - i. Six (6) weeks after primary weeding and initial plant-out;
    - ii. Every six (6) months thereafter until groundcovers are sufficiently established (i.e. between 1-2 years); and then
    - iii. Annually after establishment until specific completion criteria are met.

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

55. Vegetation and rocky areas must be inspected for fauna by a suitably qualified ecologist immediately prior to the commencement of clearing/earthworks. Any fauna detected within proposed clearing areas must be relocated to suitable habitat outside of the subject site. Consideration will be given to appropriate release times and locations for specific fauna groups and a record kept of all species encountered/relocated. Habitat features such as fallen timber, hollow logs and/or rocks shall be retained if possible or relocated to an appropriate location within retained vegetation or proposed Conservation Areas as replacement habitat for ground-dwelling fauna.

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

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

57. Remediation of the site must be undertaken in accordance with the Remedial Action Plan prepared by ENV Solutions dated July 2019 prior to the issue of the Subdivision Works Certificate (SWC).

Remediation works on the site shall be conducted by a duly qualified person/s and completed prior to issue of the Subdivision Works Certificate.

A Validation Report prepared by a duly qualified person/s shall be submitted to Council after completion of remediation of the site and prior to the issue of the Subdivision Works Certificate. The Validation Report shall confirm that the site is suitable for its proposed residential use.

The remediation works are to be completed and site validated prior to commencement of any works in the affected area of the site. Evidence that this has been completed shall be submitted to Council upon completion.

**ITEM 6b.20.069 DEVELOPMENT APPLICATIONS – JULY 2020**

<b>Meeting</b>	Environment, Planning & Community Committee	18 August 2020
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
<b>Attachment</b>	Nil	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the update on Development Applications be noted.

*Having declared an interest in this item, Cr Novak left the EP&C meeting at 4.40pm and returned at 4.43pm.*

**COMMITTEE RECOMMENDATION**

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Clancy, Baker

Against: Nil

*Having declared an interest in this item, Cr Novak left the Council meeting at 5.05pm and returned at 5.06pm.*

**COUNCIL RESOLUTION – 6b.20.069**

Toms/Lysaught

**That the update on Development Applications be noted.**

Voting recorded as follows:

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

## KEY ISSUES

The figures from 1 July 2020 to 31 July 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)
78	62	\$8,877,128.00	3	Average : 63 days Median: 47 days

Of the 62 approved Development Applications between 1 July 2020 and 31 July 2020, 24 (39%) were determined within 40 days or less.

As of 1 August 2020 there were 158 outstanding development applications, which have been with Council for the following timeframes. An updated report will be presented to the August Ordinary Council meeting.

<b>Less than 40 days</b>	89
<b>41 - 60 days</b>	16
<b>61 - 80 days</b>	14
<b>81+ days</b>	39

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	Total	Full Details	Property	Reason
DA2020/0320	19/06/2020	41	Dwelling and shed	196 Ashby Island Road, ASHBY ISLAND NSW 2463	Currently being assessed*
DA2020/0329	22/06/2020	41	Shed with sanitary facilities	23 Frogmouth Drive, GULMARRAD NSW 2463	DCP Variation requested (side setback) and being reported to DAP for consideration.
DA2020/0330	22/06/2020	41	Shed with sanitary facilities	208 Loughmans Lane, SHARK CREEK NSW 2463	Awaiting additional information (amended site plan).
DA2020/0321	19/06/2020	44	Alterations and additions to dwelling	30 The Peninsula, YAMBA NSW 2464	Currently being assessed*
DA2020/0324	19/06/2020	44	Convert shed to dwelling and alterations & additions	Shipmans Road, GLENREAGH NSW 2450	Initial assessment completed.
DA2020/0325	19/06/2020	44	Dwelling	21 The Crescent, ANGOURIE NSW 2464	Currently being assessed*
DA2020/0317	18/06/2020	45	Retaining wall, covered area for caravan storage and associated stormwater works	10-11 Mulgi Drive, SOUTH GRAFTON 2460	Additional information received 21/07 (Amended Plans). Applicant advised 28/07 that they will not be proceeding with the caretaker dwelling shown on plans as 'Future Cottage'. Awaiting external comment from ARTC.
DA2020/0315	17/06/2020	46	Alterations and additions (house raising and new verandah with roof)	88 Ocean Road, BROOMS HEAD NSW 2463	DCP Variation requested (side setback) currently being assessed*
DA2020/0316	17/06/2020	46	Addition of two bedroom holiday apartment and managers residence	47 Charles Street, ILUKA NSW 2466	Additional information received and currently being assessed*
DA2020/0309	12/06/2020	48	Funeral home	38 River Street, MACLEAN NSW 2463	Awaiting additional information (parking and compliance with BCA).

Application No.	Received Date	Total	Full Details	Property	Reason
SUB2020/0012	15/06/2020	48	12 lot subdivision	5 Bridge Street, GLENREAGH NSW 2450	Additional information requested (amended road design, ecological impacts of the development and concept stormwater management plan).
DA2020/0303	11/06/2020	52	Shed	22 Yamba Road, YAMBA NSW 2464	Awaiting additional information 23/07 (Amended Site Plans and DCP Variation).
DA2020/0305	11/06/2020	52	Shade sails	229 Alice Street, GRAFTON NSW 2460	DCP Variation (setbacks) currently being assessed, report to next available DAP meeting.
DA2020/0301	10/06/2020	53	Shed with facilities	4644 Pacific Highway, HALFWAY CREEK NSW 2460	Issue with Crown Road access and suitability/ adequacy of timber bridge to site being considered. Awaiting additional information (Amended Plans).
DA2020/0294	4/06/2020	58	Dwelling, sheds, spa and flood mound	546 Lawrence Road, ALUMY CREEK NSW 2460	Additional information required (revised OSM application and acid sulfate soil assessment).
DA2020/0291	3/06/2020	60	Site regrading and filling works	72-82 Swallow Road, SOUTH GRAFTON NSW 2460	Additional information requested (Status of contamination on-site and how site will be managed given historical uses of the site as a fuel depot). Essential Energy has requested further information regarding treatment around electrical infrastructure on-site.
DA2020/0288	2/06/2020	61	Alterations and additions (roof over deck)	6 Pilot Street, YAMBA NSW 2464	Applicant to provide Clause 4.6 Variation; report to next available Council meeting upon receipt of request.
DA2020/0289	2/06/2020	61	Carport and front deck addition	54 Main Street, WOOLI NSW 2462	Additional information received 15/07 and being referred to Essential Energy.
DA2020/0290	2/06/2020	61	New shed and sales repair and storage of boats, cars and machinery	200 North Street, GRAFTON NSW 2460	Awaiting additional information (access to sheds).
DA2020/0282	1/06/2020	62	Pergola Roof	51 Witonga Drive, YAMBA NSW 2464	Currently being assessed*
DA2020/0277	29/05/2020	65	Dwelling and shed	335 Boundary Creek Road, NYMBOIDA NSW 2460	Awaiting additional information (regarding flood heights and submission of an OSM Application).
DA2020/0278	29/05/2020	65	Carport	20 Boronia Crescent, YAMBA NSW 2464	DCP variation received and memorandum to DAP to be prepared for DCP variation sought (Setbacks).
DA2020/0272	26/05/2020	68	Carport	25 William Avenue, YAMBA NSW 2464	DCP variation received and memorandum to DAP to be prepared for DCP variation sought (Setbacks).
DA2020/0273	26/05/2020	68	Relocate dwelling to create secondary dwelling	130 Armidale Street, SOUTH GRAFTON NSW 2460	Additional information received 31/07 (cost estimate report) not adequate & request further cost report from Applicant
DA2020/0265	20/05/2020	74	Dwelling and shed	70 Sussex Street, COPMANHURST NSW 2460	Awaiting additional information (Amended Plans).
SUB2020/0010	20/05/2020	74	Two lot subdivision	135 Adams Street, WOOMBAH NSW 2469	Part of additional information received 27/07 (Revised Bushfire Report). Awaiting additional information as requested by NSW DPIE Biodiversity and Conservation Division - Aboriginal Cultural Heritage

Application No.	Received Date	Total	Full Details	Property	Reason
					Assessment in accordance with National Parks & Wildlife Regulation 2019.
DA2020/0223	4/05/2020	75	Dwelling	24 Locksley Close, GLENREAGH NSW 2450	Additional information received 29/07 (finished floor heights and details of tree clearing) and currently being assessed*
DA2020/0259	18/05/2020	76	Garage for PCYC	300 Powell Street, GRAFTON NSW 2460	Further revised plans submitted to show new location of shed and being determined.
DA2020/0256	15/05/2020	79	Dwelling	6 Fig Tree Lane, CHATSWORTH NSW 2469	Internal comments received regarding heritage and currently being assessed*
DA2020/0255	14/05/2020	80	Dual Occupancy	9 Flame Street, GRAFTON NSW 2460	Additional information received 31/7, plans have not been amended to comply with DCP and no variation submitted. Council staff to request amended plans be submitted as per additional information letter dated 19/05.
DA2020/0251	13/05/2020	81	Storage yard	121 Jubilee Street, TOWNSEND NSW 2463	Awaiting additional information (amended plans).
DA2020/0250	12/05/2020	82	Dwelling	555 Laytons Range Road, NYMBOIDA NSW 2460	Awaiting additional information (floor heights in relation to localised flooding).
DA2020/0246	11/05/2020	83	Alterations and additions to dwelling	13 Link Street, YAMBA NSW 2464	Additional information received (shadow diagrams) currently being assessed*.
DA2020/0244	8/05/2020	86	Dwelling	1 Church Street, MACLEAN NSW 2463	Amended plans submitted and renotified 20/07, DCP Variation to front setback reduced but remain non-compliant. Report back to DAP to consider variation.
DA2020/0241	7/05/2020	87	Shed with care takers cottage and caravan storage	67 Johnsons Lane, ILUKA NSW 2466	Additional information (plans) submitted and being assessed*
DA2020/0227	5/05/2020	89	Fence	66 Skinner Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (amended design to comply with heritage provisions). Meeting to be arranged to discuss information requested.
DA2020/0229	5/05/2020	89	Temporary outdoor dining deck	26 Coldstream Street, YAMBA NSW 2464	Additional information received 30/07 and referred to Essential Energy for comment. Application to be referred to Traffic Committee 5/08 regarding regulatory parking signage.
DA2020/0232	5/05/2020	89	Shed	17 Bayview Drive, YAMBA NSW 2464	Awaiting additional information (Amended Plans). Council staff to write to Applicant requesting update on information.
DA2020/0224	4/05/2020	90	Machine Shed	189 Dandahra Road, CANGAI NSW 2460	Awaiting additional information (amended plans showing details of cut/fill, proposed colours and landscaping screen details to minimise impact on rural landscape – Mann River).
DA2020/0209	23/04/2020	93	Alterations and additions	57 Micalo Street, ILUKA NSW 2466	DCP variation to front setback not supported and amended plans requested to be submitted that increase front setback.

Application No.	Received Date	Total	Full Details	Property	Reason
SUB2020/0007	29/04/2020	93	Two lot subdivision	1 Forest Way, WOOMBAH NSW 2469	Additional information requested (Concept Stormwater Management Plan and Revised Ecological Report or BDAR if threshold triggered).
DA2020/0218	30/04/2020	94	Convert existing out-building to dwelling	96 Banana Road, MORORO NSW 2469	Internal comments being finalised and currently being assessed*.
DA2020/0220	30/04/2020	94	Redevelopment of caravan park	8A Harbour Street, YAMBA NSW 2464	Further consultation with NTS Corp in progress.
DA2020/0198	17/04/2020	96	House and shed pad and access road	Farlows Lane, MACLEAN NSW 2463	Additional information requested (site plan).
SUB2020/0006	16/04/2020	104	Three lot subdivision	115 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (preliminary intersection design). Legal advice requested in relation to satisfaction of Part 6 of the LEP.
DA2020/0188	7/04/2020	110	Dual Occupancy and two lot subdivision	4 Little River Close, WOOLI NSW 2462	Third request sent to Applicant regarding OSM for the development.
SUB2020/0005	3/04/2020	110	Two lot strata subdivision	96 Spenser Street, ILUKA NSW 2466	Awaiting external referral (RFS).
DA2020/0160	23/03/2020	125	Function centre (wedding venue)	151 Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access. Waiting on response to access issue. Applicant has requested that the application be put on hold.
SUB2020/0002	25/02/2020	151	17 large lot residential subdivision	273-331 Centenary Drive, CLARENZA NSW 2460	Applicant has submitted part of the additional information (stormwater and ecological details outstanding) and amended proposal. Re-notification period complete and awaiting comments from external agencies for comment (RFS, Transport NSW and Crown Lands).
DA2020/0071	17/02/2020	157	Dwelling and boundary adjustment	25 McPhee Street, MACLEAN NSW 2463	Awaiting additional information (access and clearing). Applicant has advised that they are still liaising with Crown Lands to determine access arrangement.
DA2020/0038	29/01/2020	186	Demolish awning and erect awning	34-36 River Street, MACLEAN NSW 2463	Additional information requested (Compliance with Essential Energy requirements). Second additional information letter sent 4/08 requesting update.
DA2020/0028	23/01/2020	192	Two industrial sheds	Electra Crescent, SOUTH GRAFTON NSW 2460	Additional information requested 29/01 (parking, use of building and landscaping details).
DA2019/0672	9/12/2019	237	Alterations and additions to Church hall	Wharf Street, SOUTH GRAFTON NSW 2460	Additional information requested 5/02 (amended plans and parking). Council staff have requested third update for information (21/07) and no response.
DA2019/0673	9/12/2019	237	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	The applicant was advised that the application was unlikely to be supported due to the offset from the effluent disposal area. The applicant was going to withdraw the application however has now decided to amend the proposal. Awaiting additional information (Amended Plans and on-site wastewater report).



Application No.	Received Date	Total	Full Details	Property	Reason
SUB2019/0044	9/12/2019	237	Four lot subdivision	Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access and are awaiting a response from applicant on how to progress the application. Applicant has requested a meeting regarding outstanding issues.
SUB2019/0041	25/11/2019	247	Two lot subdivision	33 Spenser Street, ILUKA NSW 2466	Further information requested regarding stormwater management from road upgrade and future buildings.
DA2019/0636	22/11/2019	254	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Council staff have advised that ownership of the adjacent road reserve is unclear and suggest that the applicant complete a title search and/or seek legal advice regarding ownership of the lane before determining what option to progress the application.
DA2019/0539	3/10/2019	290	Monthly Twilight Markets	Clarence Street, YAMBA NSW 2464	Additional information requested (owners consent). Council staff have wrote to the applicant requesting update on status of the application 6/07 following on from discussions with Open Spaces.
DA2019/0560	15/10/2019	292	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOLOWEYAH NSW 2464	Additional information received (Amended Plans) 3/8 including DCP variation and currently being assessed*
DA2019/0478	30/08/2019	335	Dwelling	191 Dirty Creek Road, DIRTY CREEK NSW 2456	Additional information requested second letter 8/01 (Revised Plans, OSM Application and Bushfire Report). Awaiting change of applicant details as property has recently been sold.
SUB2019/0034	28/08/2019	340	41 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Additional information requested 27/03 (SEPP 44 – amended KPoM, Bushfire, Stormwater, Access, Servicing, Ecological Impacts and On-Site Sewerage Management).
SUB2019/0033	20/08/2019	348	Boundary adjustment and consolidation of Lot 10 DP752845 & Lot 32 DP752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Report to August Council meeting.
SUB2019/0030	14/08/2019	354	295 lot staged residential subdivision	52-54 Miles Street, YAMBA NSW 2464	NRAR have revised additional information request which will amend the proposal. Council staff have requested that the applicant prepare additional surveys to comply with the guidelines for preparing a BDAR to identify any threatened species on-site. Council staff to review proposal and determine if further additional information is required for assessment following revised proposal.
DA2019/0423	8/08/2019	356	255 manufactured home estate with community facilities	Brooms Head Road, GULMARRAD NSW 2463	Further information requested (Traffic Impact Assessment, Development Control Plan as per Part 6 of the LEP, Stormwater Management and Ecological

Application No.	Received Date	Total	Full Details	Property	Reason
					Impacts). Recent discussions with applicant determined that the proposal will be amended, revised details yet to be lodged.
DA2019/0152	26/03/2019	495	Temporary use of land (function centre)	Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access and are awaiting a response from applicant on how to progress the application.
SUB2019/0002	6/02/2019	543	13 large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Report to Traffic Committee 5/08. Awaiting amended BDAR or confirmation amended proposal has not resulted in additional impacts.
SUB2018/0027	8/10/2018	664	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire).
SUB2018/0004	23/02/2018	891	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Report to August Council meeting.
DA2017/0671	18/10/2017	1019	Caravan Park - alterations and additions (10 additional sites) and amenities	391 Goodwood Island Road, GOODWOOD ISLAND NSW 2469	Awaiting additional information (Building Certificate Application, plans and compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

\*Currently being assessed under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*

#### Exceptions to Development Standards under Clause 4.6 of the LEP

During the month of July 2020 there has been nil use of Clause 4.6 for determined Development Applications.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

N/A

#### **Asset Management**

N/A

#### **Policy or Regulation**

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

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

#### **Consultation**

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

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

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

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

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

**Climate Change**

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

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Prepared by	James Hamilton, Development Planner
Attachment	Nil

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**CLOSE OF COMMITTEE MEETING**

There being no further business the Environment, Planning & Community Committee closed at 4.43 pm.

**c. CORPORATE GOVERNANCE AND WORKS COMMITTEE**

**MINUTES** of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 18 August 2020, commencing at 2.00 pm.

**PRESENT**

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

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

**APOLOGIES** - Nil

**DISCLOSURE AND DECLARATIONS OF INTEREST** – Nil

**DEPUTATIONS RECEIVED**

Item 6c.20.124 - Permanent Road Closure – Part Boormans Land and Unnamed Roads, Southgate (deferred from July)	
Against the Officer Recommendation	<ul style="list-style-type: none"> <li>• Stephen &amp; Anna Grimes</li> <li>• Dale &amp; Karen McIntosh</li> <li>• Kim &amp; Peter Connor</li> <li>• Alex McLeay</li> </ul>
Item 6c.20.126 - Policy Reviews – Code of Meeting Practice, Gathering Information and Cemetery Operation Policies	
Against the Officer Recommendation	Shaun Messer

<b>ITEM</b>	<b>6c.20.124</b>	<b>PERMANENT ROAD CLOSURE – PART BOORMANS LANE AND UNNAMED ROADS, SOUTHGATE (DEFERRED FROM JULY)</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Yes plus Confidential Attachment	

**SUMMARY**

Council considered this as Item 6c.20.105 at the July Council meeting where it was resolved to defer it to the August meeting. The report considers the permanent closure and sale of a section of unnamed roads off Boormans Lane, Southgate.

**OFFICER RECOMMENDATION**

That Council:

1. Approve the closure of the section of road marked A & B & C in Figure 1 subject to approval from Forestry Corporation NSW,
2. Endorse appropriate easement/s for access if required to Lot 78 DP 751386, Lot 1 DP 1223609, Lot 19 DP 751386 and/or Forestry Corporation NSW as part of the road closure process,
3. Classify the newly created lot/s (closed road/s) as "operational land",
4. Transfer the newly created lot/s (closed road A, B & C) to Forestry Corporation NSW if agreed as per the terms in Confidential Attachment A.

If Forestry Corporation NSW do not support transfer to them then,

5. Transfer the newly created lot/s (closed road A & B) to the owner of Lot 78 DP 751386 and Lot 1 DP 1223609 as per the terms in Confidential Attachment A.
6. Decline the application for closure of the section of road marked C in Figure 1 and retain as Council Unmaintained Public Road.
7. Delegate authority to the General Manager to execute all documents associated with the closure(s) and transfer(s).

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That Council not approve the closure of the section of road marked A & B & C in Figure 1.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 6c.20.124**

**Kingsley/Novak**

**That Council not approve the closure of the section of road marked A & B & C in Figure 1.**

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

Council considered this matter at its meeting on 28 July and deferred it to the August meeting so that Forestry Corporation NSW could provide further information. Forestry Corporation have advised that the matter will be considered when their resources permit, however, this will not be prior to the August Council meeting, hence the recommendation to support closure subject to the Forestry Corporations support.

Council has received an application from the adjoining landowner of Lot 78 DP 751386 and Lot 1 DP 1223609 to permanently close and purchase various sections of unnamed road reserves in the vicinity of Boormans Lane, Southgate. The applicant’s adjoining land (Lot 1) does not wholly adjoin the sections of road but it does about the sections of road under application.

The applicant would like to acquire the land so they can have at least 2 privately owned access areas to the property. In addition, their water pipe is located on the road reserve (Section B) toward the site of the old water tower and has previously been damaged from external factors, requiring the applicant to pay for repair of the pipes and the water lost due to the leakage. The area is also subject to public littering and the applicant believes both of these issues would be resolved by private ownership.

Lot 1 DP 1223609 was previously a road that was gazetted as closed on 9 December 2016 and transferred to the current landowner. Council supported the closure and transfer at that time (of the current Lot 1).

In accordance with the *Roads Act 1993*, the section of roads proposed to be closed, is to at some point, have had some form of construction for Council to be able to retain and sell the land. From the aerial photography, all parcels appear to have some form of access track in/across them.

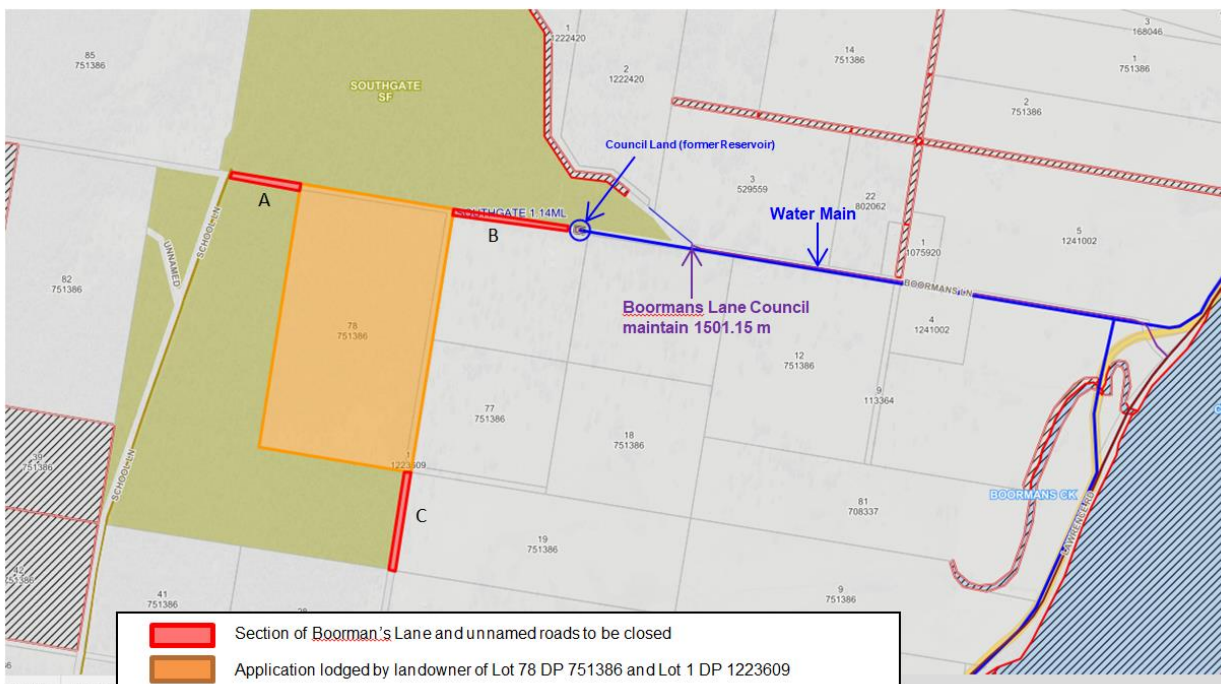


Figure 1

## KEY ISSUES



Figure 2  
 Yellow dashed line – access from Boormans Lane to School Lane  
 Blue dashed line – access from Boormans Lane to former Council Reservoir

In accordance with provisions of the *Roads Act 1993*, the proposed closure was advertised. Nine (9) objections were received. The main concern in the submissions was that the road was used as a secondary access in times of wet weather and extreme events (flood and bushfire) as Lawrence Road often becomes impassable.

The existing track is unformed and unmaintained. An unmaintained road does not provide reliable secondary access or reliable access for emergency purposes. Furthermore, Council is not required to provide secondary access to properties.

The unformed road (or access track) does not follow the road reserve alignment. As such the public are traversing what could be considered a private road or forestry road as it runs through Forestry Corporation NSW land. A small part (section B) adjoining Lot 76 follows the road reserve but it does not join with Council public road at either end.

The main affected adjoining landowners are Forestry Corporation NSW and the owner of Lots 19 & 76 DP 751386.

Forestry Corporation NSW has objected to the closures subject to further review by them. The adjoining landowner of Lot 19 & 76 has objected to the closure of Section C only as they require access to the rear of their property.

Section A – Whilst the main access track is out of alignment there are small tracks branching off it which would meet the 'constructed' requirements. The land has dwelling eligibility and to meet the requirements of the LEP the landowner will be required to have access to a Council maintained public road. It is therefore recommended to close section A shown in Figure 1 and transfer it to the applicant as this will allow them access to School Lane, which is a council maintained road. If Forestry Corporation NSW require the section to be transferred to them then an appropriate easement for access or Right of Way to Lot 78 DP 751386 and Lot 1 DP 1223609 should be granted.

Section B - is occupied by part of the access track that joins the private/forest road. It does not join Council public road at either end. (The western end joins/abuts Lot 1 DP 1223609 and the eastern end joins/abuts Council owned freehold land Lot 1 DP 623796 being the site of the former reservoir). The option for the landowner to have 2 legal property accesses is therefore not possible as there is no legal access across the section of State Forest. It is therefore recommended that Forestry Corporation NSW be approached and the section closed and added to State Forest as this would link their private/forest road. An appropriate easement could be granted for access to water infrastructure benefitting Lot 78 DP 751386 and Lot 1 DP 1223609 if supported by Forestry Corporation NSW. If Forestry Corporation NSW do not accept transfer then the closure and transfer to the applicant is therefore recommended.

Section C - appears to be heavily vegetated and aerial photography shows access tracks throughout. The adjoining landowner of Lot 19 DP 751386 has objected advising that access is required to the rear of their property. Access appears to be able to gained via School Lane and then along unnamed unmaintained road reserve. Due to the shape and location it is considered that this road if closed would be best suited to addition of the State Forest subject to the approval of the Forestry Corporation NSW with an appropriate

easement for access or right of way being granted to the adjoining land (Lot 19 DP 751386) if required. It is therefore recommended that Forestry Corporation NSW be approached and the section closed and added to State Forest. If Forestry Corporation NSW do not support the transfer then closure of this section is not supported.

If Council decides to retain sections A and B then it is recommended to close the section of road reserve and acquire the road in its actual alignment by undertaking a land swap with Forestry Corporation NSW. Council would also need to resolve the extent of maintenance that it would undertake on the road.

## COUNCIL IMPLICATIONS

### Budget/Financial

All costs associated with the road closure process are paid by the applicant. If Council does not support the road closure and the road is added to Council's maintenance schedule then there will be ongoing maintenance costs.

### Asset Management

If the closure is supported, then the section of closed road would be removed from Council's Asset Register.

### Policy or Regulation

Roads Act 1993  
Local Government Act 1993  
Conveyancing Act 1919

### Consultation

Consultation has been undertaken with notifiable authorities, adjoining landowners and relevant sections of Council. Council's Civil Services and Planning Sections support the closure and sale of Sections A and B.

Forestry Corporation NSW has advised that they will consider closure in due course but at the moment they object to the closure until they have had further time to investigate access and addition to the State Forest asset.

### Legal and Risk Management

Closure and sale of the road reserves will eliminate any liability for Council. Council will remain liable for Section C.

### Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services and Kylee Baker, Property Coordinator
Attachment	A: Landowner Application and Submissions from adjoining landowners
Confidential	B:Details of Acquisition



<b>ITEM</b>	<b>6c.20.125</b>	<b>TRANSFER OF LOT 119 DP 1047026 (YAMBA) TO COUNCIL AS OPERATIONAL LAND</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

**SUMMARY**

To consider transfer of Lot 119 DP 1047026 (Yamba) to Council as a drainage reserve and classify the land as operational land.

**OFFICER RECOMMENDATION**

That Council

1. Enter into an uncompleted works bond agreement for new works to be undertaken on Lot 119 DP 1047026 in accordance with CC2018/0688.
2. Accept the transfer of Lot 119 DP 1047026 for a nominal value of \$1.00, subject to appropriate provisions being in place to acknowledge the requirements of the existing deed relating to Stage 1 of the development and the deed proposed by the recommendation above. Classify Lot 119 DP 1047026 as operational land.
3. Delegate authority to the General Manager to execute documents associated with the transfer of the land.
4. Advise the developer, Beachside Pty Ltd, they are required to meet all of Council's costs associated with the above.

**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.20.125**

**Kingsley/Novak**

**That Council**

1. **Enter into an uncompleted works bond agreement for new works to be undertaken on Lot 119 DP 1047026 in accordance with CC2018/0688.**
2. **Accept the transfer of Lot 119 DP 1047026 for a nominal value of \$1.00, subject to appropriate provisions being in place to acknowledge the requirements of the existing deed relating to Stage 1 of the development and the deed proposed by the recommendation above. Classify Lot 119 DP 1047026 as operational land.**
3. **Delegate authority to the General Manager to execute documents associated with the transfer of the land.**
4. **Advise the developer, Beachside Pty Ltd, they are required to meet all of Council's costs associated with the above.**

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

## BACKGROUND

Development application SUB2017/0027 granted approval for a 19 lot subdivision plus road and drainage reserves over Lot 104 DP1047026 off River Street, Yamba. As part of the approval, it was proposed to dedicate Lot 119 DP 1047026 to Council as a drainage reserve. Lot 119 currently serves as a drainage basin for the Beachside area and Council holds a bond in the amount of \$27,880 for maintenance works.

It is noted that the bio basin within Lot 119 will not begin its maintenance period of six (6) months until the basin has been planted out as per Sheet 25 of approved CC2018/0688 plans. The planting out of the bio basin will occur after approximately 80% of building works are complete. The developer will be responsible to ensure the bio basin is maintained in accordance with the Stormwater Maintenance Management Plan prepared by Westera Partners dated 18 March 2020 until the completion of the maintenance period.

## KEY ISSUES

Lot 119 is not directly part of the development, as it is an existing lot currently used for drainage purposes. Lands Registry Service will not allow it to be dedicated as part of the subdivision of this stage and as such, a transfer is required to be processed to transfer the land to Council.

Under Section 377 (1) (h) of the *Local Government Act 1993*, the purchase and sale of Council land can only be made by Council. As this is effectively now a purchase then only the Council can make the decision to purchase it. As the land was to be dedicated upon subdivision, a nominal amount of \$1.00 has been recommended to enable the transfer.

Section 31 of the *Local Government Act 1993* provides that land is automatically classified as community land, unless Council resolves prior to acquiring it, or within 3 months of acquisition, that it is operational.

As the lots primary use is a drainage reserve and as a sewer pump station (Y25) already exists on this land, it is recommended to classify it as operational as it has an operational purpose. Other Council land used for similar purposes are classified as operational land.

If the land remained as community land, an adopted plan of management would be required and unnecessary restrictions on the use of the land would apply. To change the classification after the three months would require a planning proposal to reclassify.

A deed has already been entered into as part of a previous development (Stage 1), which sets out works to be undertaken on Lot 119 and provisions should be put in place to ensure the landowner is not released from their responsibilities in the deed upon transfer of Lot 119 to Council.



Figure 1 – Lot 119 DP 1047026

## COUNCIL IMPLICATIONS

### Budget/Financial

The classification requires public notice to be given and this will be placed on Council's website for comment. The developer should meet the costs of the transfer to Council.

### Asset Management

The land and associated infrastructure will be listed in Council's Asset Register and managed in accordance with other drainage reserves and infrastructure.

**Policy or Regulation**

Local Government Act 1993  
Conveyancing Act 1919

**Consultation**

In accordance with Section 34 of the *Local Government Act 1993*, the proposal requires 28 days public notice to be given advising of the proposal to classify the land as operational. If not submissions are received the classification as operational will be accepted. If submissions are received the matter will be reported back to Council for further consideration.

Council's Development Planner and Development Engineer have been consulted and contributed to the writing of this report.

**Legal and Risk Management**

To allow the developer to meet the conditions of the consent the transfer needs to take effect. Also to take no action and allow the classification to default to community land would require Council to incur the costs of preparing an adopted plan of management and impose unnecessary restrictions on the operational use of the land. To change the classification after the three months would require a planning proposal to reclassify.

**Climate Change**

Not Applicable

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Prepared by	Kylee Baker, Property Coordinator
Attachment	Nil

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<b>ITEM</b>	<b>6c.20.126</b>	<b>POLICY REVIEWS – CODE OF MEETING PRACTICE, GATHERING INFORMATION AND CEMETERY OPERATION POLICIES</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	To be tabled	

### SUMMARY

This report recommends adoption and/or rescission of policy which has been reviewed.

### OFFICER RECOMMENDATION

That

1. The Code of Meeting Practice Policy V13.0 be adopted as having been reviewed and incorporating a minor local change that does not effect the prescribed Code.
2. The Gathering Information Policy V3.0 be rescinded as no longer required.
3. The draft Cemetery Operation Policy V1.0 be adopted after being on exhibition and receiving one submission which was in support of the document.

### MOTION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Simmons

Against: Kingsley, Ellem, Toms

The Motion was put and declared LOST.

### COUNCIL RESOLUTION – 6c.20.126

Toms/Ellem

That

1. **The Code of Meeting Practice Policy V13.0 be adopted with the addition of Questions on Notice but not adopt the change regarding Committee Recommendations having first precedence at Council meetings the week after.**
1. **The Gathering Information Policy V3.0 be rescinded as no longer required.**
2. **The draft Cemetery Operation Policy V1.0 be adopted and the General Manager consider the following amendment to the Procedures: Point 6.2 REVOCATION OF A RESERVATION wording be replaced with the following: *“If the reserved site has not been exercised within 25 years Council can only revoke the reservation once all reasonable attempts have been made to contact the holder of the Internment Reservation Certificate via the contact details supplied. Only then can Council allocate the site to someone else. Prior to a reservation lapsing, the holder of the reservation can apply to extend it by another 25 years and pay the then current reservation fee.”***

Voting recorded as follows:

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

Against: Nil

**MOTION**

Toms/Kingsley

That Council move into a 5 minute adjournment at 5.10pm to enable the Mayor to consult Council's Code of Meeting Practice Clause 10.11 "*Amendments to Motions*". CARRIED.

*The Meeting resumed at 5.15pm.*

**AMENDMENT TO MOTION**

Baker/Lysaught

That

1. The Code of Meeting Practice Policy V13.0 be adopted with the addition of Questions on Notice and Committee Recommendations having first precedence at Council meetings the week after.
2. The Gathering Information Policy V3.0 be rescinded as no longer required.
3. The draft Cemetery Operation Policy V1.0 be adopted and the General Manager consider the following amendment to the Procedures: Point 6.2 REVOCATION OF A RESERVATION wording be replaced with the following: "*If the reserved site has not been exercised within 25 years Council can only revoke the reservation once all reasonable attempts have been made to contact the holder of the Internment Reservation Certificate via the contact details supplied. Only then can Council allocate the site to someone else. Prior to a reservation lapsing, the holder of the reservation can apply to extend it by another 25 years and pay the then current reservation fee.*"

Voting recorded as follows:

For: Baker, Williamson, Simmons, Lysaught

Against: Toms, Kingsley, Clancy, Novak, Ellem

The Amendment to Motion was put and declared LOST. The original motion was then considered and became the Council Resolution.

**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****Code of Meeting Practice**

The draft Code of Meeting Practice has been amended to include 3.7.4 (Local Policy) in Questions with Notice to provide the mechanism for including Councillors Questions with Notice on the Agenda and in the Minutes as follows:

"3.7.4 A councillor may ask a question with notice, about a business paper item on the published Agenda and have that question answered by way of a public written response to be noted at the Ordinary Meeting of Council, if the question is put in writing to the General Manager by 11am of the day preceding the meeting noting that the response is to be included in the Questions with Notice report to be tabled at the Ordinary Meeting under clause 8.1.1 (3.7.4 reflects Local Policy)"

Supporting 3.7.4, 8.1.1 has been amended to include Questions with Notice as item 10 on the Business Paper Agenda. The Code cover has also been updated to reflect the current template.

In addition Local Policy has been included at 10.3.5 to provide Guidance to the Chair of the Ordinary Meeting, in relation to committee recommendations as follows:

“10.3.5 The recommendation of a committee of council must be accepted by the chairperson, as the first motion to the item at the meeting of council, with the motion being moved and seconded before it can be debated. The committee recommendation may also be considered under 13.1.1. (10.3.5 reflects Local Policy)”.

The matter is not considered to have an effect on community, nor be a significant change to policy, but rather provides more guidance to administration of Council meetings and as such is being recommended for adoption by Council. The draft document is at the attachments and shows the proposed updates to the new version in red.

**Gathering Information Policy:** The Gathering Information Policy has been reviewed and on consultation is no longer required as a policy document. The claims function that this policy refers to is now managed as an operational function located on Council’s website and supported by the Information Management Policy, internal process and procedure.

**Cemetery Operation Policy:** One submission was received during the exhibition period for the draft Cemetery Operation Policy. The submission was in support of the Policy and did not necessitate any alteration to the intent of the Policy.

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

N/A

### Policy or Regulation

Code of Meeting Practice Policy V12.0  
Gathering Information Policy V3.0

### Consultation

Policies have been reviewed in consultation with relevant staff and stakeholders.

### Legal and Risk Management

N/A

### Climate Change

N/A

Prepared by	Alex Moar, Manager Organisational Development
To be tabled	Code of Meeting Practice V13.0 Gathering Information Policy Cemetery Operation Policy V1.0

<b>ITEM</b>	<b>6c.20.127</b>	<b>COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

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

**COMMITTEE RECOMMENDATION**

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 6c.20.127**

Toms/Williamson

**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, Kingsley, Baker, Ellem, Clancy, Novak, Williamson, Lysaught, Toms

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

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

**KEY ISSUES**

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

The attached checklist contains actions taken on all Council resolutions from the prior month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented.

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

N/A

**Asset Management**

N/A

**Policy or Regulation**

Local Government Act 1993 S335 (1)

**Consultation**

Staff and Managers

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Checklist

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<b>ITEM</b>	<b>6c.20.128</b>	<b>2020/21 MONTHLY FINANCIAL REPORT – JULY 2020</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginness)	
<b>Attachment</b>	To be tabled	

### SUMMARY

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

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

The General Fund end of year result adopted on 23 June, 2020 Item 6a.20.014 is a net surplus (\$335,373). Budget variations identified in this report impact the General Fund end of year result by \$189,750 resulting in an expected end of year surplus (\$145,623).

The reserve fund variations identified in this report will increase the reserve funds by \$42,047.

### OFFICER RECOMMENDATION

That Council:

1. Receive and note the monthly financial information report for July 2020, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling \$189,750 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.
3. Endorse the proposed variations, which increase Financial Reserves by \$42,047 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.
4. Note the new financial structure of the Income and Expenditure Statements, for reporting the Quarterly Budget Review Statement in October 2020.

### COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 6c.20.128

Kingsley/Novak

That Council:

1. Receive and note the monthly financial information report for July 2020, attached to this report.
2. Endorse the proposed General Fund variations as set out in this report totalling \$189,750 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.
3. Endorse the proposed variations, which increase Financial Reserves by \$42,047 for inclusion in the first quarter Quarterly Budget Review Statement to be reported in October 2020.
4. Note the new financial structure of the Income and Expenditure Statements, for reporting the Quarterly Budget Review Statement in October 2020.

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

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

Section 202 of the *Local Government (General) Regulation 2005* requires that the responsible accounting officer of a council must:

- a) *Establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

The attachment to this report incorporates a monthly transactional summary of operational and capital income and expenditure by sub service for all Funds. Included in this summary are actual loan repayments transacted and estimated accruals for depreciation, staff entitlements and interest, with these being confirmed at end of year. Reserve interest is excluded, as this is transacted annually.

The report table below highlights any proposed budget variations that staff have become aware of during the past month that may affect the 2020/21 budget. The mechanism for revising the adopted budget is the Quarterly Budget Review Statement (QBRS) in compliance with Clause 203 of the *Local Government (General) Regulation 2005*.

QBRS reports are submitted to Council in October, February (in the absence of a January meeting) and April of each year, with annual financial information being reported in October (Refer to Audit and Pre-Audit Budget V Actual Result) and November (Annual Financial Statements).

**KEY ISSUES*****Major Budget Variations Proposed***

Following is a list of the major proposed variations identified since the adoption of the Original Budget in June 2020, during month of July 2020.

<b>Sub Service</b>	<b>Variation Comments</b>	<b>Net Impact to General Fund Decrease / (Increase)</b>	<b>Net Impact to Reserves Decrease / (Increase)</b>	<b>Previous Council Resolution</b>
103	<b>Service – Office of General Manager</b> <b>Sub-Service – Elected Members</b> <ul style="list-style-type: none"> <li>• Increase remuneration for Councillors and the Mayor for 2020/21.</li> </ul>	\$97,588	\$Nil	6c.20.104
311	<b>Service – Roads</b> <b>Sub-Service – Local Roads</b> <ul style="list-style-type: none"> <li>• Allocate Federal Government Grant - Local Roads and Community Infrastructure Program and offsetting expenditure \$2,051,366.</li> <li>• Allocate NSW Government Grant – Fixing Local Roads Program and offsetting expenditure \$4,785,996.</li> </ul>	\$Nil	\$Nil	6c.20.095
		\$Nil	\$Nil	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
341	<b>Service – Parks &amp; Open Spaces</b> <b>Sub-Service – Open Spaces</b> <ul style="list-style-type: none"> <li>Allocate 19/20 deferred budget to be utilised in 20/21 Capital PJ Maclean Pool Plant room.</li> </ul>	\$180,000	\$Nil	6e.20.011 & 6c.20.064
395	<b>Service – Floodplain &amp; Estuary Management</b> <b>Sub-Service – Floodplain Infrastructure &amp; Operation</b> <ul style="list-style-type: none"> <li>Fund costs associated with flood monitoring project.</li> </ul>	\$10,000	\$Nil	N/A
443	<b>Service – Environment Development &amp; Strategic Planning</b> <b>Sub-Service – Strategic Planning</b> <ul style="list-style-type: none"> <li>Fund increased cost of contractors to remove backlog of engineering assessments for the West Yamba developments.</li> </ul>	\$35,000	\$Nil	N/A
Various	<b>Service –CVC–Wide</b> <b>Sub-Service – CVC-Wide</b> <ul style="list-style-type: none"> <li>Increase Council Insurance budgets to align with 2020/21 Insurance Premiums. Premium costs increased due to impact of recent natural disaster events resulting in a current "hard" insurance market. Costs funded from the following reserves: <ul style="list-style-type: none"> <li>➤ RA 10020 – IR - Light Fleet \$47</li> <li>➤ RA 10815 - IR - Regional Landfill \$861</li> <li>➤ RA 10801 - IR - Domestic Waste Management (DWM) \$47</li> <li>➤ RA 70010 - ER - Holiday Parks Maintenance \$3,395</li> <li>➤ RA 10910 - IR - Saleyards \$358</li> <li>➤ RA 79010 - ER - Water Fund \$2,698</li> <li>➤ RA 79025 - ER - Sewer Fund \$3,770</li> <li>➤ RA 41125 - ER - Regional Library Accumulated Surplus \$208</li> <li>➤ RA 10020 – IR - Light Fleet \$2,343</li> <li>➤ RA 10025 – IR - Small Plant \$647</li> <li>➤ RA 10010 – IR - Heavy Plant \$3,097</li> <li>➤ RA 50080 – ER - Water Plant \$143</li> <li>➤ RA 60040 – ER – Grafton SF Plant \$296</li> </ul> </li> </ul>	\$124,658	\$17,910	N/A
	<ul style="list-style-type: none"> <li>Reduce Salaries &amp; Wages budgets by 1% to match Award Increase of 1.5%. Original Budget calculated on estimated increase of 2.5%. Funds returned to the following Reserves: <ul style="list-style-type: none"> <li>➤ RA 50080 – ER – NCW Plant Replacement (\$149)</li> <li>➤ RA 79010 – ER – Water Fund (\$16,891)</li> <li>➤ RA 60040 – ER - Grafton SF Plant (\$92)</li> <li>➤ RA 79025 – ER – Sewer Fund (\$17,111)</li> <li>➤ RA 70010 – ER - Holiday Parks</li> </ul> </li> </ul>	(\$257,496)	(\$59,957)	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Maintenance (\$1,157) ➤ RA 41125 – ER – Regional Library Accumulated Surplus (\$5,678) ➤ RA 40000 – ER – Domestic Waste Management (\$2,057) ➤ RA 10880 Roads (SIC) Grafton (\$3,979) ➤ RA 10770 Quarry Operations (\$1,038) ➤ RA 10010 – Heavy Plant (\$5,981) ➤ RA 10815 - Regional Landfill (\$4,943) ➤ RA 10910 – Saleyard (\$881)			
	<b>TOTAL Proposed General Fund / Reserve Balance Impact</b>	<b>\$189,750</b>	<b>(\$42,047)</b>	

### Explanation of Attachment

Income and Expenditure Statements (attachment) are included for the information of Councillors. It should be noted that the reports include actual monthly transactions with the exception of:

- Accruals for depreciation, staff entitlements and Reserve interest are estimated only based on adopted budget, with actual accruals calculated and adjusted end of year.

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

### COUNCIL IMPLICATIONS

#### Budget/Financial

*General Fund Budget (Surplus)/Deficit*

Original Budget Adopted by Council June 2020	(\$335,373)	Surplus
Q1 Proposed Budget Variations – July	\$189,750	Deficit
<b>Proposed Movement of General Fund 2020/21 Budget Result July 2020</b>	<b>(\$145,623)</b>	<b>Surplus</b>

#### Proposed Impact on External and Internal Financial Reserve Funds Result

*Reserve Movements*

Original Budget Adopted by Council June 2020	\$3,679,256	Decrease
Q1 Proposed Budget Variations - July	(\$42,047)	Increase
<b>Proposed Movement of Reserve Funds 2020/21 Budget Result July 2020</b>	<b>\$3,637,209</b>	<b>Decrease</b>

#### Asset Management

N/A

#### Policy or Regulation

Section 202 of the Local Government (General) Regulation

#### Consultation

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

#### Legal and Risk Management

N/A

**Climate Change**

N/A

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

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<b>ITEM</b>	<b>6c.20.129</b>	<b>ACQUISITION OF LAND FOR ROAD PURPOSES – LOT 2081 DP 718868 ARMIDALE ROAD, BLAXLANDS CREEK</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Confidential	

**SUMMARY**

The reconstruction of Armidale Road at Blaxlands Creek requires the partial acquisition of adjacent privately owned land.

**OFFICER RECOMMENDATION**

That Council:

1. Offer a compensation amount as detailed in the confidential attachment for the area to be acquired of Lot 2081 DP 718868, Armidale Road, Blaxlands Creek.
2. Replace the affected fence to a standard agreed with the landowner.
3. Delegate authority to the General Manager to execute all documents associated with the land acquisition.

**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.20.129**

**Kingsley/Novak**

**That Council:**

1. Offer a compensation amount as detailed in the confidential attachment for the area to be acquired of Lot 2081 DP 718868, Armidale Road, Blaxlands Creek.
2. Replace the affected fence to a standard agreed with the landowner.
3. Delegate authority to the General Manager to execute all documents associated with the land acquisition.

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

Funding has been allocated for safety improvements to Armidale Road between approximately 1.5 km and 2.2 km south of Blaxlands Flat Road to widen the road consistent with previous upgrades in the area and realign the corner. A section of the road to be reconstructed is currently situated on private property; this is not uncommon in rural areas due to historical fence locations and road corridors evolving over time.

Additional land is also required to realign the corner and ensure the design satisfies contemporary design standards.

The acquisition consists of approximately 4,400m<sup>2</sup> of land from Lot 2081 DP 718868, Armidale Road, Blaxlands Creek.

A registered surveyor will be engaged by Council to confirm the position of the new boundary for finalisation of the property acquisition.

### KEY ISSUES

The land to be acquired is required to widen the road reserve as well as to ensure that the public road is situated on public land.

### COUNCIL IMPLICATIONS

#### Budget/Financial

The acquisition of the land will be handled by Council's solicitor and there will be professional costs involved accordingly.

The overall costs will be met from Council's budget allocation for the road construction (Project Number 131013). An estimation of costs is \$20,000.

#### Asset Management

The project involves the upgrade of Armidale Road between approximately 1.5 km and 2.2 km south of Blaxlands Flat Road intersection. This will address the following specific level of service objectives stated in Council's Transport Asset Management Plan:

##### Community Level of Service Objectives

- Sealed roads meet transport requirements without restriction.
- Sealed road geometry meets current design requirements.

##### Technical Level of Service Objectives

- Arterial roads upgraded to meet capacity requirements.

#### Policy or Regulation

Roads Act 1993 – Part 12 Division 1 authorises Council to acquire land for road  
Local Government Act 1993 - In accordance with Section 31, land that is required for road is not required to be classified.

#### Consultation

The landowner of Lot 2081 DP718868 has been consulted and agreed to Council's acquisition of the land for the compensation amount as detailed in the attachment.

#### Legal and Risk Management

N/A

#### Climate Change

N/A

Prepared by	Dylan Kelly, Construction Engineer
Confidential Attachment	Land Acquisition – Schedule

**ITEM 6c.20.130 JULY 2020 FLOODPLAIN RISK MANAGEMENT COMMITTEE MEETING**

<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Yes	

**SUMMARY**

At its meeting of 24 July 2020 Floodplain Risk Management Committee meeting made four recommendations for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Note the minutes of 24 July 2020 Floodplain Risk Management Committee meeting.
2. Make representation to the Bureau of Meteorology (BoM) and State Government to automate the Coutts Crossing flood gauge.
3. Express its concern regarding the response from Chris Gulaptis MP (dated 3 June 2020) to Council Resolution 05.20.004 from 24 March 2020 meeting (State Emergency Services Incident Control Centre Relocation to Lismore) which does not address the issues raised in the Mayoral Minute.
4. Prepare a formal voluntary house raising policy which applies only when 100% external funding is available for house raising.
5. Adopt the revised tangible and intangible prioritisation list for floodplain projects.

**COMMITTEE RECOMMENDATION**

Simmons/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

*Cr Kingsley excused himself from the Council meeting at 5.45pm and was absent for this voting, returning at 5.54pm.*

**COUNCIL RESOLUTION – 6c.20.130**

Novak/Toms

That Council:

1. **Note the minutes of 24 July 2020 Floodplain Risk Management Committee meeting.**
2. **Make representation to the Bureau of Meteorology (BoM) and State Government to automate the Coutts Crossing flood gauge.**
3. **Express its concern in writing regarding the response from Chris Gulaptis MP (dated 3 June 2020) to Council Resolution 05.20.004 from 24 March 2020 meeting (State Emergency Services Incident Control Centre Relocation to Lismore) which does not address the issues raised in the Mayoral Minute.**
4. **Prepare a formal voluntary house raising policy which applies only when 100% external funding is available for house raising.**
5. **Adopt the revised tangible and intangible prioritisation list for floodplain projects.**

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**

Council's Floodplain Risk Management Committee (FRMC) met on 24 July 2020 and the draft minutes are included in the attachments.

**KEY ISSUES**

The FRMC made four recommendations regarding floodplain management for Council's consideration.

Coutts Crossing Flood Gauge

The Coutts Crossing flood gauge, which is part of the Bureau of Meteorology's (BoM) flood forecasting, is currently manually read by SES volunteers and cannot always be safely accessed during a flood. The difficulty in accessing the gauge means accurate and timely flood information regarding the Orara River levels at Coutts Crossing is not always available. Council does not currently maintain any BoM flood gauges, although it does historically maintain some BoM automatic rain gauges used for flood warnings in the Wooli catchment and the average cost is around \$5,000 per year per gauge. Flood forecasting is a BoM responsibility. The FRMC therefore recommended that Council make representation to the BoM and State Government to automate the Coutts Crossing flood gauge.

State Emergency Services Incident Control Centre Relocation to Lismore

This issue was the subject of a Mayoral Minute at the 24 March 2020 meeting and Chris Gulaptis MP has responded to the Mayoral Minute by letter dated 3 June 2020 (refer attachments). The FRMC considered Chris Gulaptis' response and does not consider it adequately addresses the issues that were raised. The FRMC therefore recommended that Council expresses its concern that the response does not address the issues raised in the Mayoral Minute.

Voluntary House Raising

In 2017 Council resolved to revoke its *Voluntary House Raising* policy as in 2016 Council had resolved to remove its contribution towards floodplain grants for the purpose of house raising. Other councils facilitate voluntary house raising programs where the program is funded 100% externally (e.g. the property owner provides the one-third contribution towards the State Government funding (two-thirds) rather than Council). The FRMC therefore recommends that Council develop a formal voluntary house raising policy, which applies only when 100% external funding is available for house raising.

Prioritisation Lists for Floodplain Projects

Council last considered the prioritisation list for floodplain projects at its meeting of 23 April 2019 (Resolution 15.063/19). The list divides projects into two types – "tangible" ("on the ground" works) and "intangible" (plans and studies). The FRMC recommends that the updated priority list as included in the attachments be adopted.

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

Were Council to become responsible for maintenance of additional flood (or rainfall) gauges, the funding would need to be sourced from the floodplain maintenance budget, which would then decrease the funding available for maintenance of Council's existing assets.

The tangible and intangible prioritisation lists set the priority for grant applications under the State's Floodplain grant program. The State Government funds two-thirds of successful grant applications, with Council's contribution being one-third.

**Asset Management**

The recommended updates to the tangible floodplain prioritisation list is to prioritise renewal of assets which since the current list was prepared have been assessed as the highest renewal priority.

**Policy or Regulation**

Local Government Act, 1993

**Consultation**

Refer attached FRMC minutes (draft)

**Legal and Risk Management**

Under Section 733(1)(b) of the Local Government Act, Council has a statutory immunity for “anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.” Formerly considered the prioritisation of floodplain projects through the FRMC is considered to provide evidence of acting in good faith.

**Climate Change**

N/A for the FRMC recommendations.

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	<ol style="list-style-type: none"><li>1. FRMC 24 July 2020 Minutes</li><li>2. Chris Gulaptis MP response to Mayoral Minute 05.20.004</li><li>3. Floodplain Project Prioritisation list adopted on 24 April 2019</li><li>4. FRMC Recommended revised floodplain project prioritisation list</li></ol>

<b>ITEM</b>	<b>6c.20.131</b>	<b>LOCAL TRAFFIC COMMITTEE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Civil Services (Alex Dalrymple)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report lists the recommendation made at 5 August 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 August 2020 meeting be adopted by Council.

**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.20.131**

**Kingsley/Novak**

**That the recommendations of the Local Traffic Committee included in the Minutes of its 5 August 2020 meeting be adopted by Council.**

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

The following items were discussed at the Local Traffic Committee held on 5 August 2020.

**Item: 016/20 PROPOSED DECK FOR DINING AT YAMBA BACKPACKERS, COLDSTREAM STREET, YAMBA AND ASSOCIATED CHANGES TO REGULATORY PARKING ZONE SIGNAGE**

That:

1. If Council grant development consent to the proposed deck, subject to DA2020/0229, that the Local Traffic Committee endorse adjustment to the regulatory parking signage and designated parking zone to suit the revised parking opportunity and specifically that the regulatory signage be repositioned two spaces west of the current parking zone sign prior to any works commencing. Further, that once the temporary deck is removed then the regulatory signage and parking zone be returned to its present position and state; and

2. If Council refuse to grant development consent to DA2020/0229 then no change to the existing parking zone or signage shall take place.

**Item: 017/20 SPEED ZONE REVIEW BROOMS HEAD RD TALOUMBI**

That the request for a speed zone review be forwarded to Transport for NSW for review between the existing 80km/hr zone extending south to the existing 50km/hr zone at Brooms Head.

**Item: 018/20 YAMBA ROAD/SOUTH BANK ROAD INTERSECTION STOP SIGN REQUEST**

1. Council to check sight distance to see if it meets the warrants of the installation of a Stop sign.
2. If warrants are not met for the installation of a stop sign, Council to consider other intersection warning signage at this location

**Item: 019/20 CLARENCE VALLEY TRIATHLON CLUB - USE OF ROADS APPLICATION**

That approval be given for the Clarence Valley Triathlon Club to utilise the various adjacent local roads and Yamba Sports Complex environs as identified in the traffic management plan under the conditions proposed to undertake their monthly events.

**Item: 020/20 CLARENCE VALLEY TRIATHLON CLUB – Use of roads application (Annual)**

That

1. This event be approved subject to the compliance to the relevant conditions attached.
2. The applicant organise for the events to be listed on Council's web page.

**Item: 021/20 PROPOSED 12 LOT RESIDENTIAL SUBDIVISION GARDINERS ROAD, JAMES CREEK**

That this matter be deferred to the next meeting.

**Item: 022/20 GRAFTON HOTEL NOSE IN PARKING**

To be held off at the present moment, to give Council staff greater time to provide an assessment of all of the Grafton CBD car parking and pedestrian areas.

A number of safety issues have been raised relating to parking issues and recommend assessing other options to address the concerns raised.

**Item: 023/20 RIVERVIEW STREET ILUKA CONVERSION TO ONE WAY**

Council has received a request for a One-Way Street to be implemented on Riverview Street, Iluka between Spenser and Angourie Street. Council staff have investigated this issue and the level of support from adjacent residents.

**KEY ISSUES**

As per the minutes attached.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

As per minutes.

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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

<b>ITEM</b>	<b>6c.20.132</b>	<b>REGIONAL ROAD CLASSIFICATION AND TRANSFER REVIEW</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

The NSW Road Classification Review Board are calling for councils to nominate which council-owned roads they want considered for either reclassification.

**OFFICER RECOMMENDATION**

That Council:

1. Nominate the following Regional Roads for transfer to State Road classification:
  - a. Big River Way and Ulugundahi View
  - b. Armidale Road (MR74)
  - c. Tyringham Road (MR119)
  - d. Orara Way (MR151)
  - e. Eight Mile Lane and Wooli Road (RR7738)
  - f. Clarence Way (MR150)
  - g. Grafton to Yamba Road (MR152)
  - h. Iluka Road (RR7731)
  - i. Goodwood Island Road (RR7732)
2. Nominate the following priority list of 7 Regional Roads as required by Council's road reclassification submission:
  1. Grafton to Yamba Road (MR152)
  2. Eight Mile Lane and Wooli Road (RR7738)
  3. Armidale Road (MR74)
  4. Orara Way (MR151)
  5. Eight Mile Lane and Wooli Road (RR7738)
  6. Big River Way
  7. Ulugundahi View
3. Nominate the following roads for transfer to Regional Road Classification:
  - a. Angourie Road
  - b. Brooms Head Road
  - c. Gardiners Road, Amos Road and Palmers Channel South Bank Road
  - d. Coaldale Road
  - e. Rogans Bridge Road
  - f. Pringles Way
  - g. Ashby-Tullymorgan and Ashby-Jackybulbin Road
  - h. Old Glen Innes Road
  - i. Coldstream Road and Tucabia Road
  - j. Sherwood Creek Road
4. Seek support from adjoining councils to make joint submissions for roads that cross LGA boundaries.
5. The nominated list of roads contained in dot points (2), (3) and (4) are non binding and Council would consider a report detailing any subsequent recommendations of the road reclassification process that is conducted by the State Government.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

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### COUNCIL RESOLUTION – 6c.20.132

#### Kingsley/Novak

That Council:

1. **Nominate the following Regional Roads for transfer to State Road classification:**
  - a. Big River Way and Ulugundahi View
  - b. Armidale Road (MR74)
  - c. Tyringham Road (MR119)
  - d. Orara Way (MR151)
  - e. Eight Mile Lane and Wooli Road (RR7738)
  - f. Clarence Way (MR150)
  - g. Grafton to Yamba Road (MR152)
  - h. Iluka Road (RR7731)
  - i. Goodwood Island Road (RR7732)
2. **Nominate the following priority list of 7 Regional Roads as required by Council's road reclassification submission:**
  1. Grafton to Yamba Road (MR152)
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  3. Armidale Road (MR74)
  4. Orara Way (MR151)
  5. Eight Mile Lane and Wooli Road (RR7738)
  6. Big River Way
  7. Ulugundahi View
3. **Nominate the following roads for transfer to Regional Road Classification:**
  - a. Angourie Road
  - b. Brooms Head Road
  - c. Gardiners Road, Amos Road and Palmers Channel South Bank Road
  - d. Coaldale Road
  - e. Rogans Bridge Road
  - f. Pringles Way
  - g. Ashby-Tullymorgan and Ashby-Jackybulbin Road
  - h. Old Glen Innes Road
  - i. Coldstream Road and Tucabia Road
  - j. Sherwood Creek Road
4. **Seek support from adjoining councils to make joint submissions for roads that cross LGA boundaries.**
5. **The nominated list of roads contained in dot points (2), (3) and (4) are non binding and Council would consider a report detailing any subsequent recommendations of the road reclassification process that is conducted by the State Government.**

Voting recorded as follows:

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

Against: Nil

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### LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

## BACKGROUND

In February 2019, the NSW Government announced the initiation of a Road Classification Review to ensure the road classification framework is still fit for purpose and that roads across NSW are appropriately classified. Future Transport 2056 identifies the NSW Road Classification Review (Classification Review) as a key initiative to make adjustments to the classification policy framework and update the road network to align with the 'Hub and Spoke' Transport Network Model and the 'Movement and Place' Framework.

Also in February 2019, the Government announced that up to 15,000 kilometres of council-owned roads would be returned to State management as part of a broader package of support for local councils to better manage and maintain the rural road network.

Combining the transfer of council-owned Regional Roads with the classification review will ensure equity and transparency in all changes and support the development of an integrated road transport network. An Independent Panel, chaired by Ms Wendy Machin, has been established to make recommendations for consideration by the NSW Government.

## KEY ISSUES

### Road Classification

The process of classifying roads is a mechanism used by the NSW State Government to assist in the effective allocation of State Government road funds and the allocation of road management responsibility between State and Local Government jurisdictions.

The Roads Act 1993 provides for roads to be classified as Freeways, Controlled Access Roads, Tollways, State Highways, Main Roads, Secondary Roads, Tourist Roads, Transitways and State Works. These classified roads include all State Roads and some Regional Roads.

To simplify the administration of the various legal road classes, roads in NSW are also grouped into a three-tier administrative classification of State, Regional and Local Roads. These are not statutory categories but are agreed between levels of government and used to determine who is responsible for the management of a road and what type of funding it can receive.

### State Roads

State Roads are major arterial links throughout the State and within major urban areas which are the responsibility of the State Government to fund and prioritise. They are State Government assets and many councils are contracted to maintain them through RMCC contracts.

### Regional Roads

Regional Roads are routes of secondary importance between State Roads and Local Roads. Regional Roads are council assets and it is the responsibility of councils to fund, prioritise and carry out works on Regional Roads. However they do receive assistance through the Regional Road Block Grant and the Repair Grant programs.

### Local Roads

Local Roads are the remaining council-controlled roads which provide for local circulation and access. It is the responsibility of councils to fund, prioritise and carry out works on Local Roads. Local Roads attract Financial Assistance Grant funding through the Federal Government.

The Road Classification Review does not look at the legal road classifications; instead it will review the administrative classifications and their definitions. The review will provide recommendations to the NSW State Government about how these changes could better serve the community. The State Government will not be compelled to accept any recommendations.

### **Current Road Classifications in Clarence Valley**

At present the following roads are classified as State Roads within our LGA:

- Waterfall Way
- Gwydir Highway
- Summerland Way
- Pacific Motorway

These roads are not Council assets, however we are contracted to undertake the maintenance of the Gwydir Highway and Summerland Way on behalf of Transport for NSW (TfNSW).

The following roads are currently classified as Regional Roads:

- Armidale Road (MR74)
- Tyringham Road (MR119)
- Orara Way (MR151)
- Eight Mile Lane and Wooli Road (RR7738)
- Clarence Way (MR150)
- Grafton to Yamba Road (MR152)
- Iluka Road (RR7731)
- Goodwood Island Road (RR7732)

The total length of the Regional Road network within the Clarence Valley LGA is 378 km, or approximately 15% of the Council road network.

Of these Regional Roads the traffic volumes and road function are likely to be key considerations for the panel. Pre-empting this, the Regional Roads have been assessed against the criteria and existing traffic volumes. Based on this assessment, the recommended order of priority is:

1. Grafton to Yamba Road (MR152)
2. Eight Mile Lane (RR7738) between Big River Way and Pacific Motorway
3. Armidale Road (MR74)
4. Orara Way (MR151)
5. Eight Mile Lane and Wooli Road (RR7738) east of the Pacific Motorway
6. Big River Way
7. Ulugundahi View
8. Iluka Road (RR7731)
9. Clarence Way (MR150)
10. Tyringham Road (MR119)
11. Goodwood Island Road (RR7732)

In our preliminary submission, Council is required to identify which roads are considered a 'priority' for transfer. Within the list the top 7 roads in order of priority have been recommended for the submission.

There are currently a number of residual (Pacific Highway) roads that historically would have been transferred to Council (as local roads) following the upgrade of the Motorway. These include:

- Big River Way (between Maclean and Tyndale)
- Ulugundahi View (between Maclean and Woombah).

TfNSW, however have committed to maintain these roads until the Road Classification Review is completed.

All other roads within the Council network are classified as Local Roads. Our asset register lists approximately 2,057km of local roads within our network.

### **Financial Impacts**

#### Routine Maintenance Council Contracts - RMCC ( State Roads)

Council is currently contracted to maintain the Gwydir Highway and Summerland Way (State Roads) under an RMCC contract on behalf of TfNSW. Whilst the RMCC contract is intended to be cost neutral, historically Council has realised a small margin to undertake these recurrent works. Council also undertakes capital works (road reconstruction) under a single contractor invitation on behalf of TfNSW where the margins are more favourable to Council.

Should TfNSW decide to transfer any Regional Roads to State Roads it is anticipated that TfNSW may offer to engage Council to maintain these roads through a similar contract to the existing RMCC arrangement. Conversely there is no obligation for TfNSW to engage Council into the future that are consistent with existing contracting arrangements which may place some uncertainty with recurrent funding for RMCC based works.

The RMCC contract requires roads to be maintained by Council to a relatively high level of service. Pot holes for example must be repaired within a fixed time frame under the contract. For roads that are generally rated to be in a good condition, such as the Summerland Way, this is not a significant burden and day labour crews can typically satisfy those required levels of service. However, most of our Regional Roads are in



comparatively poor condition, and as such, maintaining those additional roads to the same level of service would place a significant risk to Council under a RMCC contract.

TfNSW takes a state-based market approach whereby all councils are required to maintain relatively consistent unit rates for resource allocation to satisfy the prescribed levels of service being delivered across the state. As such, if any Regional Roads are transferred to State Road status and Council is subsequently invited to enter into an RMCC contract, then a thorough review of the contract conditions would be required to ensure Council is satisfied with the terms and conditions under the contract.

### Recurrent Grants

Council receives financial assistance for Regional Roads in the form of Regional Road Block Grant and repair programs for the maintenance of these roads. The value of these grants is based on a pro-rata of the road length, so any change to the inventory would result in an adjustment to the income received through these programs.

Table 1 shows a summary of the recurrent funding that was expended on Regional Roads during the 19/20 Financial Year and its relevance to the reclassification. Note: Table 1 does not include non-recurrent grants such as the 'Black Spot' and 'Safer Roads' grant programs that are usually targeted at more safety related road and intersection improvements.

**Table 1 - 19/20 FY Recurrent Funding Summary**

Item	Link to Reclassification	Value
<b>Regional Road Block Grant</b>	Based on pro-rata length of Regional Roads	\$ 3,509,000
<b>Repair program grant</b>	Based on pro-rata length of Regional Roads	\$ 690,645
<b>Roads to Recovery</b>	Funding not tied to Regional Roads	\$ 424,713
<b>Internal Funds</b>	Funding not tied to Regional Roads	\$ 1,482,803

A major consideration of the financial impact of reclassification is the asset ownership. Transferring assets to State ownership would remove the value of that asset from our register and reduce Council's ongoing depreciation expense and maintenance obligation. The transfer of the written down value would be a non-cash adjustment that will impact upon both the statement of Comprehensive Income and Financial Position.

The written down value of our Regional Road network is in the range of \$235M and the annual depreciation is in the range of \$3M. Council will need to review the inventory and what inventory items would be involved in the transfer to provide more accurate figures for the total asset value and depreciation.

### Workforce Considerations

Regional Roads currently form a significant part of the work that the Civil Services team undertake and a significant amount of our recurrent funding for transport assets. Should the roads transfer to State based ownership, we anticipate that TfNSW would offer Council the opportunity to undertake the maintenance of the assets through an RMCC like arrangement, however this is not guaranteed.

If the recurrent funding provided through the Block Grant and repair grants are not replaced with another source of recurrent expenditure, it is likely that a reduction in our work force would be required along with a reduction in the size of our light and heavy plant fleets.

### Local Focus

Another consideration of the transfer of Regional Roads to State ownership is that of local priorities. As a State Road administered by a State authority, it is anticipated that the prioritisation of projects and funding would be undertaken at the State level and therefore the local priorities may not be consistent with State based priorities managing a larger road network. This may result in the condition of the roads deteriorating and compromise the expectations of the community.

### State Road Maintenance Limits

For all legal road classifications apart from Controlled Access Roads (essentially Motorway standard roads), TfNSW only maintain from table drain to table drain in rural areas and edge line to edge line in urban areas. This means that regardless of classification to State Road status, we would retain responsibility for parking lanes, footpaths, cycleways, biosecurity, etc. in the State Road corridors.

Other considerations

There are a number of other issues that would come with the transfer of roads to State Road status, for instance, it is not clear what the scenario may be in relation to S7.11 developer contributions, either those levied already or the plans that create those contributions. It is possible that TfNSW would require the funds collected to be transferred when the road is reclassified.

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

The full budget and financial implications are unknown at this stage and would be subject to a future detailed report once the recommendations and mix of road reclassifications are known.

**Asset Management**

Transferring roads to State Road status would remove them entirely from Council's asset register.

**Policy or Regulation**

Roads Act 1993

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Alex Dalrymple, Manager Civil Services
To be tabled	Information Paper NSW Road Classification Review and Transfer

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**ITEM 6c.20.133 ALCOHOL PROHIBITED AREA – REEDY CREEK PARK, YAMBA**


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<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Yes	

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**SUMMARY**

This report proposes the establishment of an Alcohol Prohibited Area (APA) at Reedy Creek Park, Yamba due to problems of littering and irresponsible behaviour associated with drinking in a public place.

**OFFICER RECOMMENDATION**

That:

1. Council seek the approval of the Local Area Police Commander to establish an Alcohol Prohibited Area at Reedy Creek Park, Yamba.
2. If approved, install signage to make designated area operational.
3. Council update its Alcohol Free Zones and Alcohol Prohibited Areas webpage to reflect any changes.

**COMMITTEE RECOMMENDATION**

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

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**COUNCIL RESOLUTION – 6c.20.133**

**Kingsley/Novak**

That:

1. Council seek the approval of the Local Area Police Commander to establish an Alcohol Prohibited Area at Reedy Creek Park, Yamba.
2. If approved, install signage to make designated area operational.
3. Council update its Alcohol Free Zones and Alcohol Prohibited Areas webpage to reflect any changes.

Voting recorded as follows:

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

Against: Nil

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**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**Alcohol Prohibited Area (APA)

An Alcohol Prohibited Area (APA) is designed to help Police and Council, in cooperation with the wider community to control antisocial behaviour in the designated areas. Adoption of these areas does restrict the freedom of citizens and should only be considered where there are problems such as littering, obstruction or irresponsible behaviour associated with drinking in a public place.

Local Government Act 1993 Section 632A(4) enables Council to declare any public place or part of a place to be an Alcohol Prohibited Area, except those places (public roads, footpaths and car parks) which are to be dealt with under the Alcohol Free Zone (AFZ) provisions of the Act. An APA is created by resolution of Council and stands until such time as a further resolution is passed to revoke the declaration.

### KEY ISSUES

#### Reedy Creek Park

Reedy Creek Park is located at Melaleuca Drive Yamba, being Lot 15 DP702100, and is freehold community land categorised as Park (see Attachment - Location Map Reedy Creek Park, Yamba). This local level park is bordered by residential areas and the Clarence Estuary Nature Reserve, which is managed by the NSW National Parks and Wildlife Service.

Problems of littering and irresponsible behaviour associated with drinking in this public place have been reported to Council since August 2019. In response to the ongoing problems, this report proposes the establishment of an Alcohol Prohibited Area (APA) at Reedy Creek Park, Yamba.

Open Spaces staff routinely maintain the park, including the repairing of damage caused by the littering and irresponsible behaviour associated with drinking in this public place.





**Figures 1 & 2: Fires, Litter and Alcohol Consumption Reedy Creek Park, Yamba**

#### Alcohol Prohibited Area Signage

Section 632A(7) of the Local Government Act 1993 states:

*An alcohol prohibited area operates only so long as there are erected at the outer limits of the area, and at suitable intervals within the area, conspicuous signs:*

- 1) *stating that the drinking of alcohol is prohibited in the area, and*
- 2) *(specifying the times or events, as specified in the declaration by which the area was established, during which it is to operate.*

#### NSW Police Approval

Section 632A(8) of the Local Government Act 1993 states:

*An Alcohol Prohibited Area cannot be established without the approval of the Local Area Commander of Police for the area in which the proposed Alcohol Prohibited Area is situated.*

Council must seek and obtain this approval prior to establishing a new Alcohol Prohibited Area. This process will allow the Local Area Police Commander to consult with the relevant Community Safety Precinct Committee or similar body to help ensure that the decision to declare an area as alcohol prohibited is done transparently and in consideration of the community's wishes.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

The expenditure associated with the implementation of the signage will be charged against PJ 550175: Parks Signage Renewals.

#### **Asset Management**

The on-going maintenance, operation and renewal of the Alcohol Prohibited Area signage will be planned for in the Open Spaces Asset Management Plan.

#### **Policy or Regulation**

The following references are applicable to this report:

- Local Government Act 1993
- Local Government Amendment (Confiscation of Alcohol) Act 2010
- Circular 10-33 - Alcohol Prohibited Areas - Amendments to the Local Government Act 1993

**Consultation**

Consultation has occurred with the Yaegl Traditional Owners Aboriginal Corporation in response to the problems of littering and irresponsible behaviour associated with drinking in Reedy Creek Park. The outcome of the meeting was to establish an Alcohol Prohibited Area and to install appropriate signage, and suggested an Aboriginal Elders Sign. Initial informal consultation with NSW Police has taken place.

The provisions of section 632A(8) of the Local Government Act 1993 require Council to seek the approval of the Local Area Police Commander with regard to the proposed changes to its network of Alcohol Prohibited Areas.

**Legal and Risk Management**

Alcohol Prohibited Areas allow Council to have the ability to demonstrate that the requirements of the Local Government Act 1993 Section 632A have been met in the designation of these areas.

Without the appropriate signage specified under Local Government Act 1993 Section 632A(7) designated areas are not operational and prohibition cannot be enforced which places Council and the community at an unacceptable level of risk.

**Climate Change**

N/A

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Prepared by	Gavin Beveridge, Parks & Recreation Officer
Attachment	Location Map Reedy Creek Park, Yamba

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<b>ITEM</b>	<b>6c.20.134</b>	<b>BOATING NOW FUNDING, CORCORAN PARK JETTY/PONTOON PROJECT ON CROWN LAND</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Yes	

### SUMMARY

Council submitted an application for funding through Round 3, NSW Boating Now Program (BNP) for the construction of a new jetty/pontoon and access paths at the northern end of Corcoran Park.

### OFFICER RECOMMENDATION

That Council, as Land Manager, accept an offer of \$125,000 from Transport for NSW through the Round 3, NSW Boating Now Program for the construction of a new jetty/pontoon and access paths at the northern end of Corcoran Park.

### COMMITTEE RECOMMENDATION

Ellem/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

### COUNCIL RESOLUTION – 6c.20.134

Kingsley/Novak

**That Council, as Land Manager, accept an offer of \$125,000 from Transport for NSW through the Round 3, NSW Boating Now Program for the construction of a new jetty/pontoon and access paths at the northern end of Corcoran Park.**

Voting recorded as follows:

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

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

### BACKGROUND

Council applied for funding through Round 3, NSW Boating Now Program (BNP) for the construction of a new pontoon/jetty and access path for the northern end of Corcoran Park.

The application was supported by the Clarence River Sailing Club and the Clarence River Yacht Club. The project is consistent with Council's adopted Master Plan for Corcoran Park, Grafton.

**KEY ISSUES**

Boating Now Program

The NSW Boating Now Program provides grant funding to improve maritime infrastructure and facilities across NSW. This investment supports the needs of recreational and commercial boater and enables broader economic and social benefits for communities.

The program is funded from boating licences, registration and other fees collected by Transport for NSW (TfNSW). Since its inception in 2014, the Program has already delivered over 200 boating projects to the benefit of boaters across the state.

Corcoran Park Master Plan

The Corcoran Park master plan was approved in May 2019, Council resolution 15.083/19. The master plan includes a pontoon/jetty at the northern end of Corcoran Park.



Figure 1 – excerpt Corcoran Park Master Plan





Figure 2 – Northern end, Corcoran Park

**Pontoon/Jetty**

Preliminary investigation into a suitable structure has been undertaken and will be confirmed following additional stakeholder engagement.

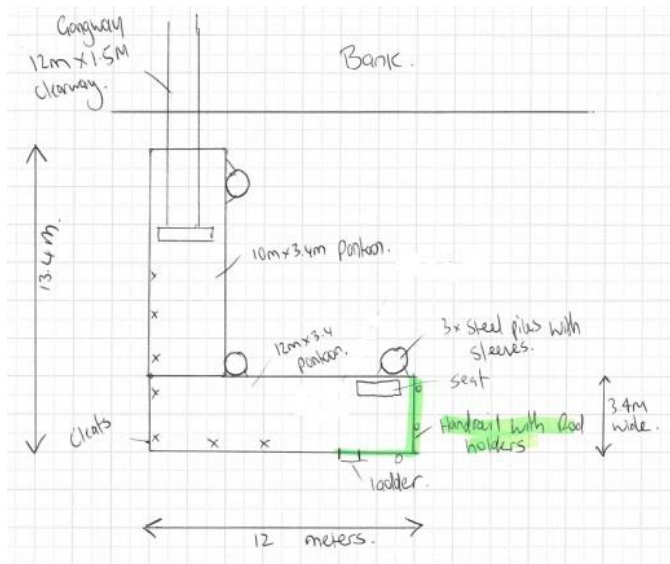


Figure 3 – Preliminary design, pontoon, Corcoran Park

It is proposed that the design will be multi-use and include a ladder, suitable handrails where required, fishing rod holders and a kayak step.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

An allocation of \$125,000 is included in the 2020/21 capital works program under PJ295022. The funding from the NSW Boating Now program is also \$125,000 with the total project estimated to cost \$250,000.

**Asset Management**

This is a new open spaces asset which will be included in the Asset Management Register. Ongoing maintenance will be undertaken by the Open Spaces team.

With the recommended maintenance in place, the new infrastructure is expected to have a useful life of 25 years.

**Policy or Regulation**

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

**Consultation**

Council Officers engaged with the Corcoran Park stakeholder team which includes representatives from the Clarence River Sailing Club, the Clarence River Yacht Club, Big River Ski Club and the Grafton Scouts. Letters of support for the project were received from the Clarence River Sailing Club and the Clarence River Yacht Club.

**Legal and Risk Management**

The project is located on Council managed Crown Land. A Native Title assessment will be undertaken including Crown Land approvals for the proposed structure.

**Climate Change**

During construction, waste will be minimised or recycled where possible.

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Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	Funding Offer

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**ITEM 6c.20.135 MACLEAN POOL FILTRATION PLANT UPGRADE PROJECT DELAY**

<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Confidential	

**SUMMARY**

This report provides a summary of the issues and anticipated delays regarding the Maclean Pool Filtration Plant Upgrade project.

**OFFICER RECOMMENDATION**

That Council:

1. Note the identified issues of the Maclean Pool filtration and plant room upgrade project.
2. Delegate to the General Manager to financially resolve the pool management contract issues as a result of project.

**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.20.135**

**Kingsley/Novak**

**That Council:**

1. **Note the identified issues of the Maclean Pool filtration and plant room upgrade project.**
2. **Delegate to the General Manager to financially resolve the pool management contract issues as a result of project.**

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

In February 2020, a novated contract was issued for the supply and installation of a new filtration system for the Maclean Olympic Pool (Item 6e.20.004).

A tender for the construction of a new plant room and associated infrastructure was awarded in April 2020 (Item 6e.20.011). This contract includes the demolition of the existing plant room and construction of the new housing which is designed to be suitable for the next stage of the pool plant requirements as well as accessible change rooms and toilet space.

## KEY ISSUES

### Project Timeline

The Maclean Pool plant room and filtration project was scheduled to be completed in the closure period from April and completed in time for the season opening on 26 September 2020. Due to a range of issues, it is no longer possible to open on the target date.

### Limited historical plans of the project site

There was very little information regarding the underground services and site conditions dating back to when the pool was constructed. This lack of information has resulted in the contractors striking a number of latent conditions and unexpected services. Due to the lack of available site plans, the issues include:

- The hydraulic consultant's design assumed the incorrect height for the return pipe from the pool to the plant room. Once the pool was empty, the filtration contractor ran testing which identified that the return pipe was deeper than expected, causing both logistical and safety concerns.
- A box stormwater culvert was found to run under the existing plant room.
- During excavation a multitude of both live and redundant services were encountered slowing the investigation process down each time to identify the source.

### Other identified delays

Other delays have adversely impacted the project including:

- Inclement weather during the deep excavation period.
- Following demolition of the plantroom tree damage was evident to the adjacent swim clubhouse that had grown between the buildings and compromised the brick wall on 3 sides.

### Delay results

The delays resulted in the following:

- The structural engineering design needed to be amended and plans redrawn.
- The stormwater culvert was replaced to ensure the asset would last as long as the plantroom.
- Data capture on the existing and new services was undertaken to ensure that Council had reliable records into the future.
- Approximately 40% of the existing brickwork on the swim club room needed to be removed and replaced.

These issues have caused a considerable delay to the schedule and it is anticipated that the pool reopening will be delayed until 28 November, 2020.

### Cost Implications and resulting design changes

The latent conditions and associated issues presented a major risk that has severely impacted on the budget and further delays to the works. To minimise costs, the project team revised the design to include the reuse of the existing balance tank and conduct necessary repairs with the existing tank to be waterproofed.

### Contract Pool Management

The Maclean pool operates under a management contract with Valley Pool Services Pty Ltd. This contract allows for Council to complete significant capital repairs. During the period of repairs, the pool contractor is relieved of the obligations to provide the service however Council is required to pay the management fee that the contractor would receive if they were satisfying all obligations under the contract.

### Project Update

The project is now well underway with the following components completed:

- Disabled car parking and entry pathways
- Strip footings and blockwork
- All below slab pipework and conduits
- 25% of Concrete Tilt panel manufacture
- Main Concrete Slab poured 4 August 2020



Image 1 – New pit to Pool Concourse toilet and store



Image 2 Formwork for main slab



Image 3 – Formwork for

## COUNCIL IMPLICATIONS

### Budget/Financial

#### Updated Project Budget

Project Budget	\$1,340,090.00
Accrued costs outside contract costs	\$62,821.57
Project Management Costs	\$30,500.00
Original Contract sum	\$1,120,006.78
Variation Total	\$34,514.77
Current Contract Sum	\$1,154,521.56
Remaining Contingency	\$57,732.10

Note: The project budget is still within the original allocation.

#### Pool Management Contract

There is also an impact to the management contract with Valley Pool Services. Due to the confidential nature of the Deed of Agreement, this is included as a Confidential Attachment.

### Asset Management

The filtration plant and associated equipment is in poor condition. This was identified in Council's asset management plans requiring urgent replacement to maintain water quality at the Maclean Pool. This project replaces the filtration equipment, pumps and includes the construction of a new plant room.

The project also includes the construction of an accessible change room and toilet, which was not previously available at the facility. The new assets will be included in Council's asset management plan and maintained as required.

### Policy or Regulation

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

### Consultation

Consultation has occurred with Council's construction contractor, Nanobuild Pty Ltd, Council's management contractor, Valley Pool Services Pty Ltd. and internally with Council's open spaces and facilities section.

### Legal and Risk Management

There were a number of significant risks with the project which were addressed by Council under the Contract. Council's safety officer attended site and completed an inspection. As a result of the inspection, Council issued an instruction to cease works and invited a review by Safework NSW. The issues have now been resolved and works have recommenced.

Under the contract with Valley Pool Services, Council is required to notify of any significant capital repairs. The contract also outlines that the regular management fee is payable to the pool contractor for the period of time that the service is affected by the capital works.

**Climate Change**

Construction waste has been specified in the contract to be recycled where possible. The design has incorporated the provision of solar panels on the roof in the future.

Prepared by	Rachelle Passmore, Senior Parks & Recreation Officer; Justin Menzies, Project Manager
Confidential Attachment	Contract management information

**ITEM 6c.20.136 WORKS REPORT**

<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Civil Services (Alex Dalrymple)	
<b>Attachment</b>	Yes	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the Works Report be received and noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

**COUNCIL RESOLUTION – 6c.20.136**

**Kingsley/Novak**

**That the Works Report be received and noted.**

**Voting recorded as follows:**

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

**Against: Nil**

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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


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


**BACKGROUND**



Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.



**KEY ISSUES**

The projects below highlight capital projects that were undertaken during July.

<b>Project:</b>	Minnie Water Footpath Replacement	
<b>Project Description:</b>	Renew footpath to modern standards	
<b>Budget:</b>	\$106,000	
<b>Expenditure:</b>	\$55,561	

<p><b>Status:</b></p>	<ul style="list-style-type: none"> <li>• Project is due for completion by the end of August</li> <li>• The photos show the before and after of part of the footpath</li> </ul>	
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<p><b>Project:</b></p>	<p>Maclean Showground Main Pavilion Reconstruction</p>	 
<p><b>Project Description:</b></p>	<ul style="list-style-type: none"> <li>• To reconstruct the Main Pavilion at Maclean Showground damaged in storm.</li> </ul>	
<p><b>Budget:</b></p>	<p>\$1,032,968.00</p>	
<p><b>Expenditure:</b></p>	<p>\$945,419.47</p>	
<p><b>Status:</b></p>	<ul style="list-style-type: none"> <li>• Project at lock up and in completion stages.</li> <li>• Fix out, fit off and internal painting underway.</li> <li>• Project may be delayed for completion due to Queensland border closure (8/8/20) for operable wall and some roofing</li> <li>• Reuse of former pavilion roof trusses and some cladding.</li> <li>• Improved drainage and access works undertaken.</li> <li>• Improvements to sub-structure at adjacent Fine Arts Pavilion being undertaken concurrently.</li> </ul>	

<p><b>Project:</b></p>	<p>Epoxy coating of Sewer Treatment Plant inlet works and Sewer Pump Stations</p>	 
<p><b>Project Description:</b></p>	<p>Hydrogen Sulphide corrosion has over time penetrated through the concrete and has caused significant damage to the inlet structure of the Yamba, Woodford Is and Clarenza STP's This has also occurred at some sewerage pumping stations. The application of a new epoxy coating will increase the service life of these structures.</p>	
<p><b>Budget:</b></p>	<p>\$1.4M</p>	
<p><b>Expenditure:</b></p>	<p>\$65,000</p>	
<p><b>Status:</b></p>	<ul style="list-style-type: none"> <li>• Epoxy coating of the Yamba STP inlet structure was completed.</li> <li>• The sub-contractor undertaking the epoxy coating is based in Queensland and works were temporarily suspended due to the Covid-19 border shutdown.</li> <li>• The sub-contractor has been able to get approval to cross the border and works are scheduled to recommence at Townsend Pump Station M9 on 18 August.</li> </ul>	



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

N/A

**Asset Management**

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

**Policy or Regulation**

There are no policy or regulation implications.

**Consultation**

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

**Legal and Risk Management**

There are no legal or risk management implications.

**Climate Change**

There are no climate change implications.

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

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**ITEM 6c.20.137 MONTHLY INVESTMENT REPORT – JULY 2020**

<b>Meeting</b>	Corporate, Governance & Works Committee	18 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Supply (Kate Maginness)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

**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 July 2020 be received and noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Toms, Simmons

Against: Ellem

**COUNCIL RESOLUTION – 6c.20.137**

Toms/Lysaught

**That the report indicating Council's funds investment position as at 31 July 2020 be received and noted.**

**Voting recorded as follows:**

**For: Simmons, Novak, Williamson, Lysaught, Toms**

**Against: Clancy, Ellem**

*Cr Kingsley was absent from this voting.*

**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 July 2020 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 July 2020				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,989,081	4.22%	Yes
AA	100.00%	26,452,270	22.37%	Yes
A	60.00%	38,250,000	32.34%	Yes
BBB	50.00%	48,580,611	41.08%	Yes
<b>TOTAL INVESTMENTS</b>		<b>118,271,962</b>	<b>100.00%</b>	

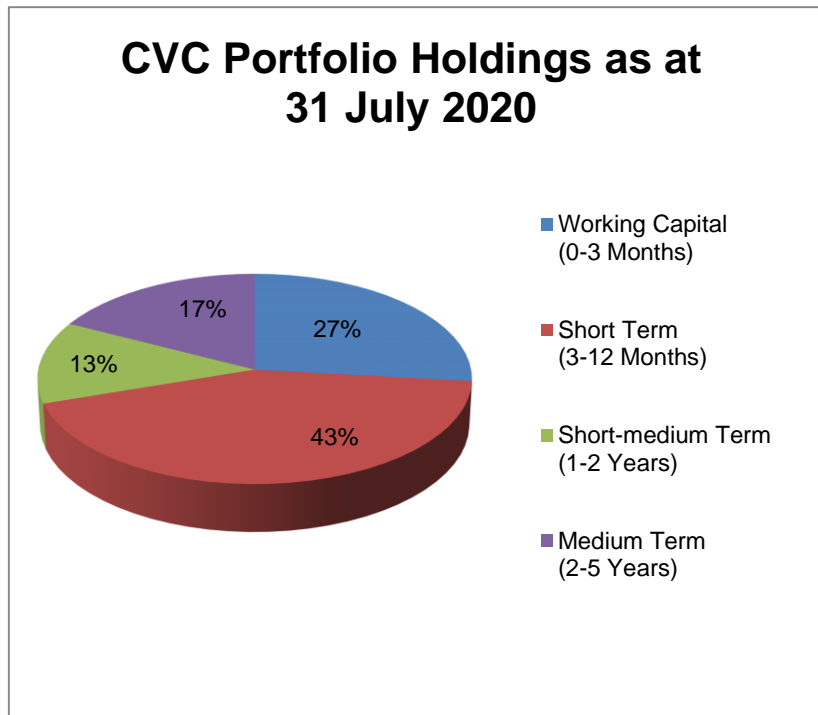
Note: A permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the Financial Claims Scheme and hence receives a rating of AAA.

### Individual Institution or Counterparty Limits

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

### Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 July 2020. Excluding "at-call" working capital, 54.11% of Council's investments are maturing within the next twelve months.



Individual Institution or Counterparty Limits as at 31 July 2020					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
<b>TERM DEPOSITS &amp; FRNs*</b>					
AMP	BBB+	15.00%	8,000,000	6.76%	Yes
ANZ*	AA-	30.00%	2,047,260	1.73%	Yes
BoQ	BBB+	15.00%	18,000,000	15.22%	No
CBA*	AA-	30.00%	2,039,105	1.72%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.69%	Yes
Defence	BBB	15.00%	8,000,000	6.76%	Yes
ING Direct	A	15.00%	19,000,000	16.06%	No
Macquarie	A	15.00%	11,000,000	9.30%	Yes
ME Bank	BBB	15.00%	4,000,000	3.38%	Yes
NAB	AA-	30.00%	4,000,000	3.38%	Yes
NAB*			1,012,195	0.86%	
P&N	BBB	15.00%	3,000,000	2.54%	Yes
Rabodirect	A+	15.00%	9,000,000	7.61%	Yes
Westpac	AA-	30.00%	7,000,000	5.92%	Yes
Westpac*	AA-		1,540,455	1.30%	
<b>TOTAL TERM DEPOSITS &amp; FRNs*</b>			<b>99,639,015</b>	<b>84.25%</b>	
<b>MANAGED FUNDS</b>					
TCorp	AAA	40.00%	489,081	0.41%	Yes
<b>TOTAL MANAGED FUNDS</b>			<b>489,081</b>	<b>0.41%</b>	
<b>FUNDS AT CALL</b>					
AMP	BBB+	15.00%	7,276,534	6.15%	Yes
AMP	BBB+	15.00%	1,054,077	0.89%	Yes
ANZ	AA-	30.00%	3,780,741	3.20%	Yes
CBA	AA-	30.00%	5,971,347	5.05%	Yes
CBA	AA-	30.00%	61,167	0.05%	Yes
<b>TOTAL FUNDS AT CALL</b>			<b>18,143,866</b>	<b>15.34%</b>	
<b>TOTAL INVESTMENTS</b>			<b>118,271,962</b>	<b>100.00%</b>	

Note: Whilst BoQ and ING show non-compliance with the current investment policy, at the time of investing funds, they were within the approved limit. Variations in the balance of the cash at-call accounts directly affect the total investment percentage for each ADI. Council will rectify as relevant TDs mature.

Register of Investments - Clarence Valley Council as at 31 July 2020					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>WORKING CAPITAL (0-3 MONTHS)</b>					
T-CorpIM Cash Fund	489,081	0.41%	At-Call	0.96%	AAA
AMP Bank Ltd	7,276,534	6.15%	At-Call	1.30%	BBB+
AMP Bank Ltd	1,054,077	0.89%	At-Call	0.75%	BBB+
ANZ Banking Group Ltd	3,780,741	3.20%	At-Call	0.55%	AA-
Commonwealth Bank of Australia	5,971,347	5.05%	At-Call	0.10%	AA-
Commonwealth Bank of Australia	61,167	0.05%	At-Call	0.20%	AA-
AMP Bank Ltd	1,000,000	0.85%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	26/10/2020	3.20%	BBB+
ING	1,000,000	0.85%	21/08/2020	1.60%	A
Macquarie Bank Ltd	5,000,000	4.23%	03/09/2020	1.70%	A
National Australia Bank	2,000,000	1.69%	11/08/2020	1.55%	AA-
National Australia Bank	2,000,000	1.69%	10/09/2020	1.35%	AA-
<b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>	<b>31,632,947</b>	<b>26.75%</b>		<b>1.19%</b>	
<b>SHORT TERM (3-12 MONTHS)</b>					
AMP Bank Ltd	2,000,000	1.69%	16/11/2020	1.65%	BBB+
AMP Bank Ltd	2,000,000	1.69%	30/11/2020	1.60%	BBB+
AMP Bank Ltd	3,000,000	2.54%	05/03/2021	1.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.69%	12/01/2021	3.65%	BBB+
Bank Of Queensland Ltd	2,000,000	1.69%	04/06/2021	1.15%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	06/07/2021	0.95%	BBB+
Bank Of Queensland Ltd	2,000,000	1.69%	08/07/2021	0.95%	BBB+
Credit Union Australia	2,000,000	1.69%	04/11/2020	1.55%	BBB
Defence Bank	2,000,000	1.69%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.69%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.69%	04/03/2021	1.50%	BBB
Defence Bank	2,000,000	1.69%	09/03/2021	3.00%	BBB
ING	1,000,000	0.85%	10/11/2020	2.92%	A
ING	2,000,000	1.69%	13/11/2020	1.55%	A
ING	2,000,000	1.69%	03/02/2021	1.65%	A
ING	2,000,000	1.69%	02/03/2021	1.60%	A
Macquarie Bank Ltd	3,000,000	2.54%	16/12/2020	1.65%	A
Macquarie Bank Ltd	3,000,000	2.54%	11/05/2021	1.30%	A
ME Bank Ltd	2,000,000	1.69%	06/11/2020	1.35%	BBB
ME Bank Ltd	2,000,000	1.69%	07/05/2021	1.35%	BBB
P&N Bank	3,000,000	2.54%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.69%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.85%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.69%	05/03/2021	3.00%	AA-
<b>TOTAL SHORT TERM (3-12 MONTHS)</b>	<b>51,000,000</b>	<b>43.12%</b>		<b>2.11%</b>	
<b>SHORT - MEDIUM TERM (1-2 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.85%	02/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.85%	09/05/2022	3.60%	BBB+
ING	2,000,000	1.69%	29/11/2021	1.55%	A
ING	3,000,000	2.54%	11/02/2022	1.60%	A
ING	2,000,000	1.69%	21/02/2022	1.60%	A
ING	3,000,000	2.54%	21/02/2022	1.60%	A
Westpac Bank	1,000,000	0.85%	16/11/2021	1.30%	AA-
Westpac Bank	2,000,000	1.69%	18/07/2022	1.15%	AA-
<b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>	<b>15,000,000</b>	<b>12.68%</b>		<b>1.79%</b>	

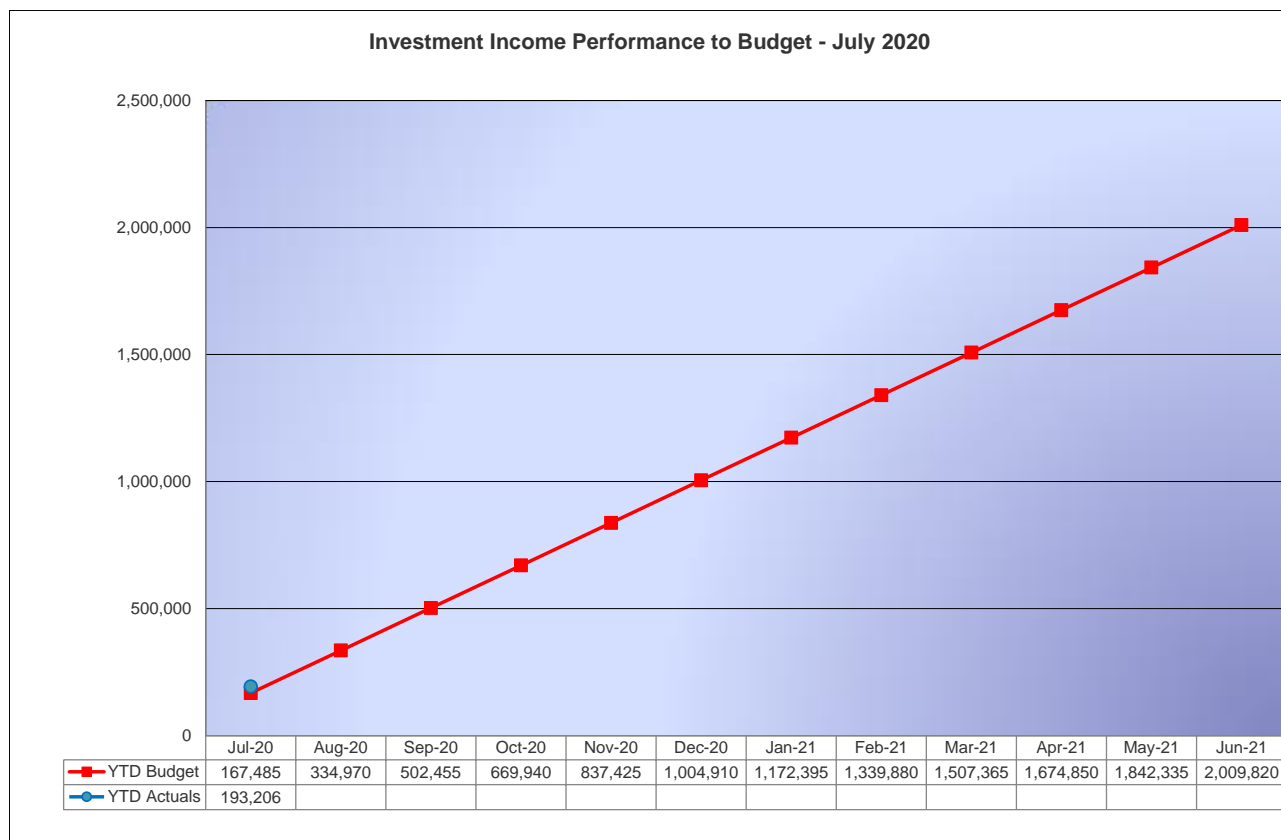
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>MEDIUM TERM (2-5 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.85%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.69%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.69%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.85%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.69%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.85%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.85%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.69%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.69%	13/03/2023	1.02%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,047,260	1.73%	06/12/2023	1.13%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,013,595	0.86%	25/04/2023	0.90%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,025,510	0.87%	11/01/2024	1.24%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,012,195	0.86%	10/02/2023	0.90%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,540,455	1.30%	24/04/2024	1.24%	AA-
<b>TOTAL MEDIUM TERM (2-5 YEARS)</b>	<b>20,639,015</b>	<b>17.45%</b>		<b>2.48%</b>	
<b>TOTAL INVESTMENTS</b>	<b>118,271,962</b>	<b>100.00%</b>		<b>1.89%</b>	

## COUNCIL IMPLICATIONS

### Budget/Financial

<b>Portfolio Investment Returns to 31 July 2020</b>			
	<b>Actual</b>	<b>Budget 2020/21</b>	<b>Over/(Under)</b>
<b>This Month</b>			
Cash Deposits & FRNs	\$192,836	\$167,235	\$25,601
Managed Funds	\$370	\$250	\$120
	<b>\$193,206</b>	<b>\$167,485</b>	<b>\$25,721</b>
<b>Year to Date</b>			
Cash Deposits & FRNs	\$192,836	\$167,235	\$25,601
Managed Funds	\$370	\$250	\$120
	<b>\$193,206</b>	<b>\$167,485</b>	<b>\$25,721</b>

- Actual results have shown that total interest income to 31 July 2020 is \$0.026M above the 2020-21 YTD budget of \$0.167M.
- As at 31 July 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$133,980.



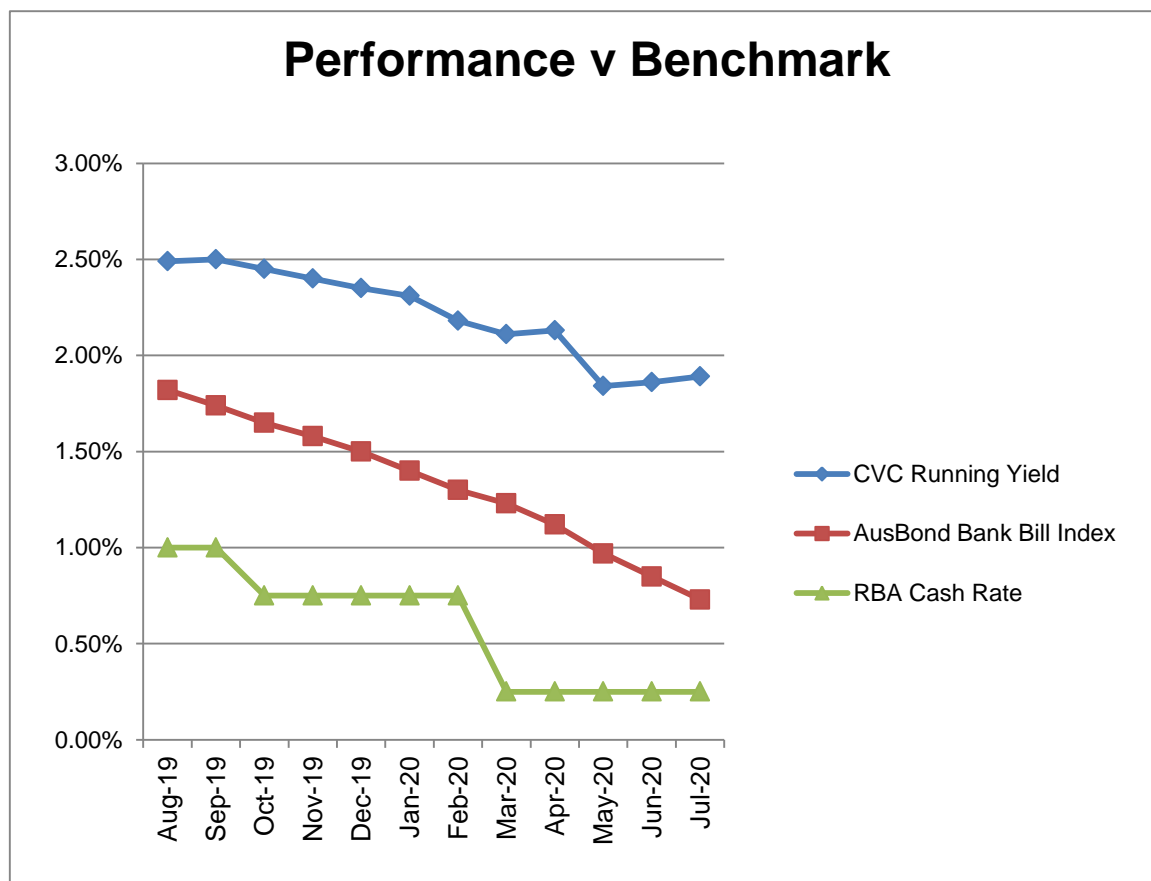
- Running yields\* to 31 July 2020 have been:

AMP Business	0.75%
AMP 31 Day Notice	1.30%
ANZ Premium Business	0.55%
CBA General	0.10%
24hr Call Account	0.20%
T-CorpIM Cash Fund	0.96%
Floating Rate Notes	1.10%
Term Deposits	<u>2.18%</u>
<b>Total</b>	<b>1.89%</b>

\*Running yield is a measure of the return (before costs) that would be earned from current positions if there were no trades and no fluctuation in market yields.

- The RBA cash rate at the end of July was 0.25%. The benchmark AusBond Bank Bill Index was 0.73% for July.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +1.89% (June 1.86%).





The following investments were transacted during July:

- Macquarie Bank \$2.0m TD matured 03/07/2020, redeemed
- BOQ \$1.0m TD matured 06/07/2020, reinvested for 365 days at 0.95% - matures 06/07/2021
- BOQ \$2.0m TD matured 08/07/2020, reinvested for 365 days at 0.95% - matures 08/07/2021
- NAB \$2.0m TD matured 30/07/2020, redeemed

#### Quarterly Investment Report 30 June 2020 (provided by CPG Research & Advisory)

Key points from the CPG report include:

- The dominant share (77%) of the portfolio is held in term deposits (fixed and some floating) with the remaining assets diversified across liquid increased cash accounts (12%) and FRNs (5%), plus the cash notice account (6%).
- As at June, deposits yielded an exceptional +2.21% p.a.; +196bp above the official cash rate of 0.25%, at a time when Councils are routinely seeing mid 1% yields. This return far exceeds the highest rated deposits for any term (1.15% at the time of writing). Council's relative results were excellent, adding +43bp for the quarter, one of its best ever.
- Future returns on any investment are very low. Sub-100bp is the norm for FRN running yields, given a BBSW stuck around 10-15bp. The replacement rate for highly rated T/Ds is below 1%, barring rare specials.
- The portfolio remains very well balanced diversified from a maturity perspective, with short-medium investment horizons dominating. The spread of maturities is mostly at fixed rates. Council will continue to see FY21 income protection from deposits with an extraordinary yield well above 2%, and strong performance against benchmark. Council's portfolio has near-term protection, but the low interest rate guidance is so extended that returns will ultimately approach zero.
- Overall, the portfolio is sufficiently liquid while holding long deposits dating from before the final collapse to zero interest rate policy. The portfolio is entirely well rated and well diversified from a

maturity perspective. There is scope to increase the allocation to longer-dated liquid securities.

- A fuller range of credit ratings have been utilised recently, as more banks slipped into the BBB+ range where they are likely to converge.
- As at the 30 June review date, Council did not have an overweight position to any single counterparty.
- The credit quality of the portfolio is fully invested and diversified to Policy limits, with approximately 61% of assets rated “A” or higher. The remaining 39% is all investment-grade (BBB).
- Council’s portfolio has high liquidity, with 32% of assets maturing within 3 months and an additional 39% 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	Michael Salvestro – Financial Accountant
Attachment	A: Movement of Funds Between Months – July 2020
To be tabled	B: CPG Research & Advisory Quarterly Investment Report as at 30 June 2020

#### **CLOSE OF COMMITTEE MEETING**

There being no further business the Corporate, Governance & Works Committee closed at 2.53 pm.

## d. INFORMATION ITEMS

ITEM	6d.20.007	ITEMS FOR INFORMATION
<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	To be tabled	

## OFFICER RECOMMENDATION

That the Items for Information as listed below be noted:

1. Coaldale Barretts Creek Hall Committee: Minutes 25 July 2020
2. Coastal Estuary Committee: Minutes 31 July 2020
3. Mayor of Christchurch: Thank you for condolence book
4. NSW Premier: Response to request re National Cabinet ref 05.20.009
5. Nymboida Hall Management Committee: Minutes 30 July 2020

## COUNCIL RESOLUTION – 6d.20.007

**Kingsley/Novak**

That the Items for Information as listed below be noted:

1. Coaldale Barretts Creek Hall Committee: Minutes 25 July 2020
2. Coastal Estuary Committee: Minutes 31 July 2020
3. Mayor of Christchurch: Thank you for condolence book
4. NSW Premier: Response to request re National Cabinet ref 05.20.009
5. Nymboida Hall Management Committee: Minutes 30 July 2020

Voting recorded as follows:

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

**Against:** Nil

Prepared by	Samantha Leonard, Executive Support Assistant
To be tabled	As listed above

## e. TENDERS - Nil

**7. NOTICE OF MOTIONS**

ITEM	07.20.010	REPORTING TO COUNCIL ON DEVELOPMENT APPLICATION ELAPSED DAYS WHEN OVER 40 DAYS
<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Notice of Motion	
<b>Submitted by</b>	Cr Andrew Baker	
<b>Attachment</b>	Nil	

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

**SUMMARY**

Councillors were recently informed that Reports on Development Applications as Items for Notation are calculated to the first day of the month. Meetings can be as late as the twenty eighth day of the month resulting in a substantially reduced and therefore misleading view of DA processing performance. This Motion proposes to require greater accuracy in the DA Report to Council.

**PROPOSED MOTION**

That Council receive to each Ordinary Meeting a report on Development Applications of the same format as currently found on the Agenda under Items for Notation where that report contains a column headed: 'Elapsed Days' in place of the current heading: 'Days' and with that column to show for each DA that is 'Undetermined over 40 days'; the elapsed days calculated as the number between 'Received Date' and the day before the Ordinary Meeting on which the report is to be received.

*Having declared an interest in this item, Cr Novak left the Council meeting at 5.53pm and returned at 5.54pm.*

**COUNCIL RESOLUTION – 07.20.010**

**Baker/Toms**

**That Council receive to each Ordinary Meeting a report on Development Applications of the same format as currently found on the Agenda under Items for Notation where that report contains a column headed: 'Elapsed Days' in place of the current heading: 'Days' and with that column to show for each DA that is 'Undetermined over 40 days'; the elapsed days calculated as the number between 'Received Date' and the day before the Ordinary Meeting on which the report is to be received.**

**Voting recorded as follows:**

**For: Simmons, Kingsley, Baker, Ellem, Clancy, 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**

Clause 223. of the Local Government Act 1993 under the heading 'Role of governing body' describes part of that role at subclause 1.g as: "to keep under review the performance of the council, including service delivery at 223 Councillors are entitled to receive accurate reporting."

**KEY ISSUES**

1. Councillors as the members of the governing body are entitled to and require accurate and up-to-date information on all aspects of 'performance of the council' to enable each to confidently fulfil that part of their role of 'keeping under review the performance of the council'.
2. Inaccurate or out-of-date information is not conducive to providing confidence in review considerations.
3. It should be noted that the report item Development Applications is currently listed on the Committee and Ordinary Meeting agenda under the section Items for Notation. It may be expedient, entirely at the General Manager's discretion, to report the Development Application Item direct to the Ordinary Meeting under the General Manager section to allow the DA report compilation to occur once only on the day before or the day of the Ordinary meeting.

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

No budget implications as a calculation of elapsed days is required for current reporting format. This motion if adopted merely changes the second date from 1<sup>st</sup> of month to the known date of the day before the Ordinary Meeting.

**8. CONFIDENTIAL BUSINESS****OFFICER RECOMMENDATION**

That Council move into closed session to consider the following items in accordance with the Local Government Act 1993:

1. 08.20.005 Lot 1 DP 796937 Maclean – Maclean RSL Sub-Branch 10A 2 (d) ii - *The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*
2. 08.20.006 Wooli Holiday Park Management - 10A 2 (c) *The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*
3. 08.20.007 Code of Conduct Complaint Investigation Report - 10A 2 (i) *The report contains information on alleged contraventions of any code of conduct requirements applicable under section 440*

**COUNCIL RESOLUTION**

**Lysaught/Baker**

That Council move into closed session to consider the following items in accordance with the Local Government Act 1993:

1. 08.20.005 Lot 1 DP 796937 Maclean – Maclean RSL Sub-Branch 10A 2 (d) ii - *The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*
2. 08.20.006 Wooli Holiday Park Management - 10A 2 (c) *The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*
3. 08.20.007 Code of Conduct Complaint Investigation Report - 10A 2 (i) *The report contains information on alleged contraventions of any code of conduct requirements applicable under section 440*

Voting recorded as follows:

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

**Against:** Nil

*Council moved into closed session at 5.57 pm. The meeting broadcast was turned off.*

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<b>ITEM</b>	<b>08.20.005</b>	<b>LOT 1 DP 796937 MACLEAN – MACLEAN RSL SUB-BRANCH</b>
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<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Confidential	

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**CONFIDENTIAL**      *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section:  
10A 2 (d) ii - The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*

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<b>ITEM</b>	<b>08.20.006</b>	<b>WOOLI HOLIDAY PARK MANAGEMENT – ON CROWN LAND</b>
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<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Nil	

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**CONFIDENTIAL**      *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section:  
10A 2 (c) The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

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<b>ITEM</b>	<b>08.20.007</b>	<b>CODE OF CONDUCT COMPLAINT INVESTIGATION REPORT</b>
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<b>Meeting</b>	Council	25 August 2020
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Confidential	

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**CONFIDENTIAL**      *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section:  
10A 2 (i) The report contains information on alleged contraventions of any code of conduct requirements applicable under section 440*

*During closed session Cr Toms was excused from the meeting at 6.25 pm and Cr Novak excused herself at 6.38 pm. They were not present for the remainder of the meeting.*

*The Mayor left the Chambers at 6.58 pm in closed session. The Deputy Mayor assumed the Chair in his absence.*

**MOTION**

Lysaught/Baker

The Council move out of closed session in order to extend the meeting past 7.00 pm. CARRIED.

*Council moved into open forum at 7.00 pm. The meeting broadcast was turned on.*

*The Mayor returned to the Chambers at 7.00 pm in open forum and assumed the Chair.*

## MOTION

Baker/Kingsley

That Council extend the meeting past 7.00 pm for up to 30 minutes. CARRIED

## MOTION

Baker/Kingsley

That Council move into closed session at 7.01 pm. CARRIED.

*Council resumed closed session at 7.01 pm. The meeting broadcast was turned off.*

## MOTION

Kingsley/Lysaught

That Council move out of closed session and resume open forum. CARRIED.

*Council moved into open forum at 7.17 pm. The meeting broadcast was resumed.*

**COUNCIL RESOLUTION****Williamson/Kingsley****That Council**

1. **Adopt the recommendation of Item 08.20.005 Lot 1 DP 796937 Maclean – Maclean RSL Sub-Branch from the closed session but that it remain confidential under Section 10A 2 (d) ii of the Local Government Act.**
2. **Adopt the recommendation of Item 08.20.007 Code of Conduct Complaint Investigation Report from the closed session but that it remain confidential under Section 10A 2 (i) of the Local Government Act.**
3. **Adopt the recommendation of Item 08.20.006 Wooli Holiday Park Management – On Crown Land being:  
That Council as Crown Land Manager:**
  1. **Not instigate the tender process for a management contract for the Wooli Holiday Park at the expiration of the current contract, due 30 November 2020.**
  2. **Enter into an agreement with Jarah Management Pty Ltd for the management and operation of the Wooli Holiday Park (including training and mentoring of Yaegl Traditional Owners nominees) for a period of 12 months commencing on 1 December 2020 with one option to renew of 12 months.**
  3. **Enter into discussions with Yaegl Traditional Owners regarding employment, training and development opportunities associated with holiday park management to be facilitated by Jarah Management Pty Ltd.**
  4. **Utilise existing budget of \$110,000 (GST exclusive) on PJ996780 to fund the management, operation and training of Yaegl Traditional Owners nominees (in accordance with dot point 2) at the Wooli Holiday Park.**
  5. **Authorise the General Manager to approve variations up to 10% of the allocation.**

**Voting recorded as follows:****For: Simmons, Kingsley, Baker, Ellem, Clancy, Williamson, Lysaught****Against: Nil****9. LATE ITEMS OF BUSINESS AND MATTERS ARISING - Nil****10. CLOSE OF ORDINARY MEETING**

There being no further business the Council meeting closed at 7.21 pm.