

Ordinary Council Meeting Minutes

28 July 2020

Maclean Chambers - 2.00 pm



Agenda

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MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Council Chambers, Maclean, 28 July 2020 commencing at 2.00 pm.

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.

ACKNOWLEDGEMENT OF THE LATE MAYOR OF GRAFTON, MRS SHIRLEY ADAMS OAM

Minute of Silence *As a mark of respect for the late Mayor of Grafton, Mrs Shirley Adams OAM the Councillors and those in attendance observed a minute of silence.*

PRESENT

Cr Jim Simmons (Mayor), Cr Andrew Baker, Cr Peter Ellem, Cr Arthur Lysaught, Cr Karen Toms, Cr Debrah Novak, Cr Richie Williamson, Cr Greg Clancy, General Manager (Ashley Lindsay), Director Environment, Planning & Community (Des Schroder), Director Works & Civil (Jamie Fleeting), Director Corporate & Governance (Laura Black), Manager Open Spaces & Facilities (Peter Birch) and Minutes Secretary (Debbie McGilvray).

APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

COUNCIL RESOLUTION – 02.20.004

Toms/Ellem

That a leave of absence be granted to Councillor Jason Kingsley.

Voting recorded as follows:

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

Against: Nil

DISCLOSURES AND DECLARATIONS OF INTEREST - 03.20.006

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 Toms	6e.20.018	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Manager of Iluka Riverside Holiday Park – on Crown Land. Intended action: Remain in Chamber
Cr Novak	6b.20.062 and 6a.20.027	<input checked="" type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: DA deals with Yamba Twilight Farmers Markets 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.20.061	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Wife is a member of Wooloweyah Park & Reserve Management Committee Intended action: Leave the Chamber.
Cr Kingsley	6c.20.119	<input type="checkbox"/> Pecuniary <input checked="" type="checkbox"/> Significant Non Pecuniary <input type="checkbox"/> Non-Significant Non Pecuniary	Reason: Has professional dealings with organisation through employment. Intended action: Leave the Chamber.
Cr Simmons	6c.20.107	<input type="checkbox"/> Pecuniary <input type="checkbox"/> Significant Non Pecuniary <input checked="" type="checkbox"/> Non-Significant Non Pecuniary	Reason: Works at GM Accounting whose client is Yaegl TOAC Intended action: Remain in the Chamber.

4. CONFIRMATION OF MINUTES**COUNCIL RESOLUTION – 04.20.006****Clancy/Lysaught**

That the Minutes of the Ordinary Meeting of Council dated 23 June 2020, copies of which have been circulated, be taken as read and be confirmed.

Voting recorded as follows:

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

Against: Nil

5. MAYORAL MINUTES

ITEM	05.20.009	LOCAL GOVERNMENT EXCLUSION FROM NATIONAL CABINET
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Meeting	Council	28 July 2020
Directorate	Mayoral Minute	
Submitted by	Cr Jim Simmons	
Attachment	Nil	

SUMMARY

The Mayoral Minute is calling on the NSW Premier to ensure Local Government is represented on the newly formed National Cabinet so that all three tiers of government can work together to drive locally led recovery right across Australia.

PROPOSED MOTION

That the Council:

1. Agrees to send letters to the NSW Premier and to Kevin Hogan Federal Member for Page and Chris Gulaptis the State Member for Clarence respectively which highlights the critical necessity for Local Government representation on the newly formed National Cabinet and seeks their assistance in requesting that the First Ministers review the decision to exclude Local Government from the National Cabinet meetings.
2. Notes that the Australian Local Government Association, Local Government NSW and other state/territory local government associations will continue to advocate for local government representation on the National Cabinet and for Local Government's interests in all relevant forums.

COUNCIL RESOLUTION – 05.20.009

Simmons

That the Council:

1. **Agrees to send letters to the NSW Premier and to Kevin Hogan Federal Member for Page and Chris Gulaptis the State Member for Clarence respectively, which highlights the critical necessity for Local Government representation on the newly formed National Cabinet and seeks their assistance in requesting that the First Ministers review the decision to exclude Local Government from the National Cabinet meetings.**
2. **Notes that the Australian Local Government Association, Local Government NSW and other state/territory local government associations will continue to advocate for local government representation on the National Cabinet and for Local Government's interests in all relevant forums.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND**Rationale**

On 13 March 2020, as the Coronavirus pandemic took hold around the world, the Council of Australian Governments (COAG) met in Sydney to discuss a range of issues of national importance. At that meeting First Ministers (the Prime Minister, Premiers and Chief Ministers) agreed to establish a National Cabinet to

meet at least weekly to address the country's response to the coronavirus. The focus was primarily on the health and wellbeing of Australians and managing the health response. Over time National Cabinet has broadened its agenda to include a focus on managing coronavirus impacts across Australia. There was no Local Government representation on National Cabinet when it was established on the basis that its focus was on health.

On 29 May 2020, First Ministers, through the Prime Minister, announced the continuation of National Cabinet, which they considered to be a much more effective body than COAG for taking decisions in the national interest. Local Government was not given a seat at the National Cabinet table. However, ALGA as the national representative body of Local Government, was given a seat on the National Federation Reform Council (NFRC). The NFRC will meet once a year to focus on priority national federation issues such as Closing the Gap and Women's Safety. In addition to ALGA, the NFRC is comprised of the National Cabinet and the Council of Federal Financial Relations – Federal and State/Territory Treasurers.

The President of ALGA had been a member of COAG since it was convened by Prime Minister Keating in 1992. Local Government was included because all parties recognised that Australia has three levels of government and that the Government with most impact on people's daily lives in terms of the provision of local services and infrastructure is Local Government.

Decisions about how our Federation works and how it can be improved or reformed require all three levels of government working together to align their policies and programs. Australians expect the decisions of government affecting them to reflect their grass roots views and to be implemented at the local level as well as the state and national level. This was the case with the development and implementation of the National Competition Policy in the 1990s which included reform at the local government level as well as the National and State levels in areas such as water supply and infrastructure provision through procurement.

National Cabinet, and the Commonwealth Government in particular, are looking towards pro-growth policies to lift investment and get Australians back to work. With a focus on jobs growth they are seeking ways to enable parts of the economy to grow. Local Governments are willing and necessary partners in developing and implementing reform. Reform involving the streamlining of legislation and regulation requires all the levels of government which are involved in regulation working together to achieve the benefits of reform for everyone without imposing costs or burdens on local communities. Getting it right on the ground is Local Government's area of strength.

Councils facilitate, establish, and grow local businesses and economies. Economic development has always been at the core of every successful council. Councils support economic growth through regional development policies and initiatives, strategic and land use planning, targeted investment attraction, prioritisation of local procurement, and focusing their annual investment on infrastructure that serves the community and business alike. Many councils also provide business networking opportunities, business training, mentoring, and incubator facilities and employment hubs. It is local government that is best placed to drive locally-led recovery

The challenge facing National Cabinet over the coming months is unlike any which has faced Australian governments in recent times and it will require the concerted, coordinated and complementary efforts of all three levels of government to rebuild consumer confidence, support business and recreate millions of jobs.

Australians expect their three levels of government to be working together, and to see evidence of that. Including Local Government in National Cabinet would demonstrate a strong unity of purpose and a combined commitment to promote and implement National Cabinet decisions across the broadest implementation platform available to government.

6. REPORTS

LATE ITEMS OF BUSINESS

COUNCIL RESOLUTION – 09.20.002

Lysaught/Baker

That the late items of business be accepted being:

1. 6a.20.024 - (with amended Officer Recommendation) - West Yamba Urban Release Area Sewer and Water Development Servicing Plan Exhibition
2. 6a.20.027 - Development Applications - 1 July to 27 July 2020

Voting recorded as follows:

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

Against: Nil

a. GENERAL MANAGER

ITEM	6a.20.024	WEST YAMBA URBAN RELEASE AREA SEWER AND WATER DEVELOPMENT SERVICING PLAN EXHIBITION
Meeting	Council	28 July 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

At its meeting of 28 April 2020 Council resolved (Resolution 6b.20.029) to excise the West Yamba Urban Release Area (WYURA) from the existing Development Servicing Plan (DSP) and prepare a specific DSP for the WYURA to allow the apportionment of costs of the trunk water and sewer infrastructure across the remaining developments within the WYURA. The DSP Guidelines require draft DSP to follow a defined exhibition process, including review by an independent auditor approved by DPIE-Water prior to exhibition for a minimum 30 working days. It is recommended that Council place the draft DSPs on public exhibition in accordance with the guidelines, and that draft contribution rates for the West Yamba Urban Release Area be adopted for exhibition purposes.

OFFICER RECOMMENDATION

~~That following auditor review, Council place the draft West Yamba Urban Release Area Development Servicing Plans for Sewer and Water on public exhibition for 30 working days and that for exhibition purposes the following West Yamba Urban Release Area Sewer and Water Developer Contributions be adopted:~~

- ~~• Sewer - \$14,012.70/Equivalent Tenement (ET)~~
- ~~• Water - \$5,697.00/Equivalent Tenement (ET)~~

REVISED OFFICER RECOMMENDATION

That following auditor review, Council place the draft West Yamba Urban Release Area Development Servicing Plans for Sewer and Water on public exhibition for 30 working days and that for exhibition purposes the following West Yamba Urban Release Area Sewer and Water Developer Contributions be adopted:

- Sewer - \$13,472.70/Equivalent Tenement (ET)
- Water - \$5,697.00/Equivalent Tenement (ET)

COUNCIL RESOLUTION – 6a.20.024**Baker/Lysaught**

That following auditor review, Council place the draft West Yamba Urban Release Area Development Servicing Plans for Sewer and Water on public exhibition for 30 working days and that for exhibition purposes the following West Yamba Urban Release Area Sewer and Water Developer Contributions be adopted:

- Sewer - \$13,472.70/Equivalent Tenement (ET)
- Water - \$5,697.00/Equivalent Tenement (ET)

Voting recorded as follows:

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

Against: Clancy

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

As outlined in Council report 6b.20.029 to the 28 April 2020 Council meeting, some WYURA developers requested that provision of trunk infrastructure be included in a separate West Yamba DSP to allow the equitable sharing of these costs across the whole of the WYURA. The matter was discussed with DPIE Water who suggested that rather than supplementary trunk infrastructure WYURA Sewer and Water DSPs, this area be excluded from the existing DSPs (which would otherwise be unchanged) and new WYURA DSP be prepared. Council resolved to follow this recommended course of action. Current sewer and water contributions for development outside of the WYURA are unchanged.

In order to charge developer contributions for sewer and water, Section 305(3)(c) of the Water Management Act, 2000, which is called up under Section 64 of the Local Government Act, requires that:

consideration is to be given to any guidelines issued for the time being for the purposes of this section by the Minister.

The DSP Guidelines specify a methodology for calculating the maximum developer contribution which may be charged for a service area. The maximum developer contribution is calculated based on a capital charge (cost of asset provision for serving a development) less a reduction amount (the net income from annual bills in excess of Operation, Maintenance and Administration). The capital charge is calculated using:

- the pro-rata cost of spare capacity in existing assets less than 30 years old (excluding reticulation),
- the cost of future assets for servicing development planned for construction within the next 10 years, and
- the pro-rata cost of asset renewal which serves future development where the existing asset is more than 30 years old and the renewal is planned within the next 10 years.

For the Sewer DSP, as the WYURA will be serviced by new trunk infrastructure transferring sewage directly to the Sewage Treatment Plant (STP); therefore the STP is the only existing asset considered.

KEY ISSUES

Consultants GHD are preparing draft WYURA Sewer and Water DSPs, and it is recommended the calculated sewer contributions of \$14,012.70/ET and water contribution of \$5,697/ET be adopted for exhibition purposes.

The DSP Guidelines outline several requirements for public exhibition including:

- draft DSP documents to be reviewed by an auditor approved by DPIE Water prior to public exhibition,
- the Urban Development Institute of Australia and the Housing Industry Association to be advised at least 10 working days prior to the start of the exhibition period,
- draft documents to be exhibited for a minimum of 30 working days, and

- any developer who has applied for planning approval, or for a compliance certificate in the previous 6 months to be informed.

Following auditing the draft DSPs will be reported to Council for notation.

After addressing comments received on the draft DSP documents, the final DSP documents must be registered with DPIE Water after adoption. As part of the registration process, the Guidelines require Council to provide:

- the final adopted DSP document with the date of adoption,
- the auditor's report,
- the draft DSP document,
- the background information,
- submissions received in response to the draft DSP document, and
- Council's responses to those submissions.

COUNCIL IMPLICATIONS

Budget/Financial

The purpose of a specific WYURA DSP is to facilitate Mavid Properties Pty. Ltd. and/or Yamba Residential Subdivision Pty. Ltd. (or any other party contributing to the works) constructing trunk infrastructure "up front" with the cost of the infrastructure offset against calculated Section 64 contributions. The adoption of the DSP will therefore result in an initial decrease in cash Section 64 contributions as the developers construct works in lieu of a cash contribution. This will be offset by a higher cash contribution from subsequent developers who are contributing both to the existing Council infrastructure and trunk infrastructure servicing the WYURA.

Asset Management

The trunk infrastructure identified in the DSP will become a Council asset.

Policy or Regulation

Water Management Act, 2000

Local Government Act, 1993

2016 Developer Charges Guidelines for Water Supply, Sewerage and Stormwater

Consultation

Planning

Legal and Risk Management

The main risk issue is considered to be managing how sewer and water developer contributions for WYURA development approvals received between the adoption of the draft charges for exhibition purposes and the adoption of the final DSPs.

Climate Change

N/A for the proposed DSPs

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Nil

ITEM	6a.20.025	ACQUISITION OF PART RESERVE 95853 GRAFTON – FRANK MCGUREN PARK
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Meeting	Council	28 July 2020
Directorate	General Manager	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

To acquire land from the State of NSW to resolve the existing encroachment of a Council owned building on Crown Reserve 95853.

OFFICER RECOMMENDATION

That Council:

1. Proceed with the compulsory acquisition of the land described as proposed Lot 1 being part of Lots 197 & 202 DP 751371 for the purpose of resolving the existing encroachment of a Council owned building on Crown Land in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.
2. Apply to the State of NSW to complete the acquisition by agreement under Section 29 and 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* for an agreed value no more than that identified in the confidential Valuation report attached.
3. Council make an application to the Minister and the Governor for approval to acquire proposed Lot 1 being part of Lots 197 & 202 DP 751371 by compulsory process under section 186(1) of the *Local Government Act 1993*.
4. That the land is to be classified as operational land.

COUNCIL RESOLUTION – 6a.20.025

Novak/Toms

That Council:

1. **Proceed with the compulsory acquisition of the land described as proposed Lot 1 being part of Lots 197 & 202 DP 751371 for the purpose of resolving the existing encroachment of a Council owned building on Crown Land in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.**
2. **Apply to the State of NSW to complete the acquisition by agreement under Section 29 and 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* for an agreed value no more than that identified in the confidential Valuation report attached.**
3. **Council make an application to the Minister and the Governor for approval to acquire proposed Lot 1 being part of Lots 197 & 202 DP 751371 by compulsory process under section 186(1) of the *Local Government Act 1993*.**
4. **That the land is to be classified as operational land.**

Voting recorded as follows:

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

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 2.1.3 Provide strategic asset management planning

BACKGROUND

Council resolved on 24 September 2019 to acquire by agreement from The State of NSW the section of land where the sports complex is encroaching onto part Reserve 95853 known as Frank McGuren Park.

KEY ISSUES

Council lodged the application with The State of NSW (Department Planning Industry & Environment - Crown Lands) for their consent to Council acquiring the land for nominal amount of \$1 due to the public benefit that this transaction creates by enabling the establishment of PCYC services in the Clarence Valley for residents of the Clarence Valley.

Crown Lands advise the disposal of Crown Land for \$1 is not supported as it does not meet the principles and objectives of obtaining fair and equitable value for disposal of public assets. A copy of the letter is attached.

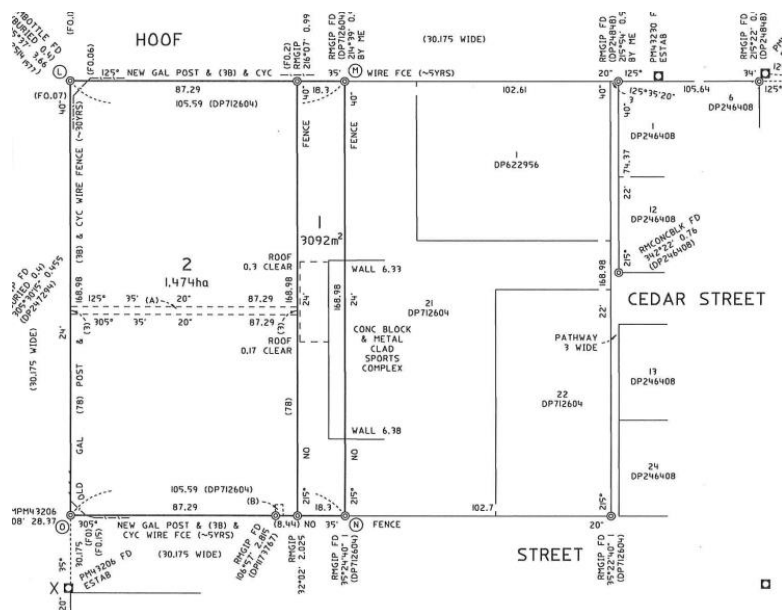
The letter also indicates that Council will obtain a financial gain through acquisition. This is not the case as Council has resolved to transfer the land, as part of a million dollar asset contribution to the PCYC for \$1, in order to achieve social benefits for the local community that far outweighs any financial gain obtained.

While this will be reiterated in reply to Crown Lands correspondence, to prevent further delays it is proposed to offer them the amount identified in the valuation report as well as provide them further information in relation to the importance of the public benefit that the State could too contribute as a means of progressing acceptance of the proposed value, or considering a reduced value.

If their agreement is not provided then the matter will proceed with the value being determined by the Valuer General as part of the compulsory acquisition process.

The survey is currently being undertaken with the proposed Lot 1 shown as follows. The plan at this stage does not show the easements appropriately. Easements for access to Lot 2 will be created and the easement for sewer will continue over the proposed Lot 1 and Council land Lot 21.

It is noted that the current valuation does not take into account the proposed easements and the Valuer has been asked for further advice on this aspect.



Council has had various meetings with varying levels of Crown Land to process this matter. We have been liaising with them over several options from vesting applications to resignation of reserve trust manager to now acquisition and this further delay is disappointing. Council (and Crown Lands) have absorbed what would be extensive costs relating to staff time in trying to progress this.

COUNCIL IMPLICATIONS

Budget/Financial

It is estimated that survey, valuation and legal costs will be in the vicinity of \$20,000 in addition to the significant hours Council staff have spent trying to progress this. It is proposed that costs associated with this acquisition be funded from Financial Project 995005 – Property Management.

Asset Management

Acquisition of the land subject to the encroachment will allow Council to properly manage the asset and complete the transfer of the asset to the PCYC.

Policy or Regulation

Local Government Act 1993

Land Acquisition (Just Terms Compensation) Act 1991

Consultation

Not Applicable

Legal and Risk Management

As the land to be acquired is Crown Land, native title is assumed to exist until determined otherwise. Council's principal Native Title Manager has previously assessed this land and has provided advice that native title may have been extinguished by a previous exclusive possession act under s24B(2) of the *Native Title Act 1993* (Cth) (refer Council meeting 11 December 2018, item 15.215/18). Nonetheless, native title considerations will form part of the acquisition process.

Climate Change

Not Applicable

Prepared by	Kylee Baker, Property Coordinator
Attachment	Crown Lands correspondence
Confidential	Valuation report

ITEM	6a.20.026	MARKET SCOPING STUDY - HARWOOD MARINE PRECINCT
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Meeting	Council	28 July 2020
Directorate	General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

Council has been working with the Department of Regional NSW to undertake a 'Market Sounding' exercise as a first step in a project scoping exercise to support a potential future business case for the newly zoned area at the Harwood Marine Precinct.

OFFICER RECOMMENDATION

That Council allocate \$25,000 from Sub-Service General Manager (Consultants Budget) to match \$25,000 from the Department of Regional NSW to undertake a 'Market Sounding' analysis as a first step to support a potential full business case for the development of the newly zoned (2015) land at the Harwood Marine Precinct.

COUNCIL RESOLUTION – 6a.20.026

Baker/Toms

That Council:

1. **Notes it continues in-principle support for the establishment of Clarence Valley marine-related industry including the current basic concept of a Harwood Marine Precinct.**
2. **Advise the Department of Regional NSW that it will make no contribution toward a Market Sounding or any market development initiatives on the basis that Council considers the cost of private developer market research should not be met by Council.**
3. **Receive a report at the earliest opportunity outlining the constraints and opportunities of a marine precinct in the Clarence Valley.**

Voting recorded as follows:

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

Against: Clancy

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

Council supported the rezoning of 16.85 ha to industrial (IN4) and an additional 7,096 square metres of working waterfront (W3) near the Harwood Marine site as a strategic site to underpin future marine development in the valley (see attached plan). The rezoning was approved by the Minister on 10 July 2015. Council also applied successfully through the State Government Growing Local Economies fund (\$3.81 million with a \$520,000 contribution from Harwood Marine) to construct a 4 kilometre new sealed access road to underpin this precinct and take away an access impediment to the site. The new road's construction will be completed in August 2020.

Council, at the May Council meeting, resolved the following regarding the unsuccessful Palmers Island zoning:

COUNCIL RESOLUTION – 6b.20.043

That

1. *The report on the Palmers Island Marine Industrial Rezoning Planning Proposal Determination - REZ2016/0001, be noted.*
2. *Council do all things possible to work with the proponent to keep up to 100 local marine-based jobs in the Clarence Valley, this includes taking up the invitation from the Department of Planning to work with the proponent to identify all possible land available to support the growth of the business in the Clarence Valley (as per the attachment to item 6b.20.043).*

The consultation with the state agencies (outlined below in Consultation) and this scoping study is also moving this resolution forward.

KEY ISSUES

The Department of Regional Development has identified this site as having potential to underpin a larger marine precinct and before potentially committing additional funds to underpin a full business case, wants to do a 'Market Sounding' to gauge the full level of demand for this newly zoned site. The scope of the services sought is expected to utilise known contacts (and interested parties) to inform the overall market position for the project. In addition, the outcomes of the process are anticipated to assist with informing urban design/project scale, transaction structures, feasibility parameters and risk factors/mitigants for the NSW Government to become involved. The study would identify the level of interest and preference that potential purchasers (listed private and international developers) would have for the asset in consideration of the requirement to deliver the Marine Development site with evidence based information for future decision making.

COUNCIL IMPLICATIONS**Budget/Financial**

Council is being asked to contribute \$25,000 to a study which will also have a contribution of \$25,000 from the Department of Regional NSW. Funds can be drawn from Sub-Service General Manager (Consultants Budget) which has an allocation of \$80,000 for 2020/21.

Asset Management

N/A

Policy or Regulation

The site is already zoned; the main issue of the study is around commercial development of the site and to look at governance arrangements for future development also.

Consultation

The Department of Regional NSW held a whole of agency meeting on 10 June to discuss development of marine industry in the Clarence involving Regional Directors from Crown Lands, Office of Environment, NSW Planning, Road and Maritime Services, Finance NSW, Transport NSW, Northern Rivers RDA and Department of Premiers and Cabinet. All expressed support for the development of the Marine Precinct at Harwood as their priority site. The Department has talked to the Harwood Marine management about the scoping proposal.

Legal and Risk Management

There is no known legal risk for Council.

Climate Change

The consolidation of industry into one site reduces travel time and allows critical mass to potentially underpin public transport development.

Prepared by	Des Schroder, Director Environment, Planning & Community
Attachment	1. Department of Regional NSW funding support and request 2. Map of the Harwood Zoning

ITEM 6a.20.027 DEVELOPMENT APPLICATIONS – 1 JULY TO 27 JULY 2020

Meeting	Council	28 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	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 2.45 pm and returned at 2.55 pm.

COUNCIL RESOLUTION – 6a.20.027

Lysaught/Ellem

That the update on Development Applications be noted.

Voting recorded as follows:

For: Simmons, 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 27 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)
59	43	\$7,146,512.00	2	Average : 62 days Median: 44 days

Of the 43 approved Development Applications between 1 July 2020 and 27 July 2020, 18 (42%) were determined within 40 days or less.

As of 27 July 2020 there were 166 outstanding development applications, which have been with Council for the following timeframes:

Less than 40 days	90
41 - 60 days	18
61 - 80 days	16
81+ days	42

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

Reasons for Undetermined Applications over 40 days

Application No.	Received Date	Days	Description	Property	Reason
DA2020/0309	12/06/2020	41	Funeral home	38 River Street, MACLEAN NSW 2463	Awaiting additional information (parking and compliance with BCA).
SUB2020/0012	15/06/2020	41	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).
CDC2020/0026	12/06/2020	44	Swimming Pool	13 Hilltop Close, LAWRENCE NSW 2460	Currently being assessed*
DA2020/0303	11/06/2020	45	Shed	22 Yamba Road, YAMBA NSW 2464	Awaiting additional information 23/07 (Amended Site Plans and DCP Variation).
DA2020/0305	11/06/2020	45	Shade sails	229 Alice Street, GRAFTON NSW 2460	DCP Variation (setbacks) currently being assessed.
DA2020/0301	10/06/2020	46	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.
DA2020/0300	9/06/2020	47	Alterations and Additions to dwelling	369 Bent Street, SOUTH GRAFTON 2460	Currently being assessed*
DA2020/0294	4/06/2020	51	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	53	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.
DA2020/0286	2/06/2020	54	Alterations and Additions to dwelling	10 Jubilee Street, MACLEAN NSW 2463	Being determined.
DA2020/0288	2/06/2020	54	Alterations and Additions (roof over deck)	6 Pilot Street, YAMBA NSW 2464	Currently being assessed*
DA2020/0289	2/06/2020	54	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	54	New shed and sales repair and storage of boats, cars and machinery	200 North Street, GRAFTON NSW 2460	Awaiting additional information (access to sheds).
DA2020/0281	29/05/2020	55	Demolish existing roof and construct new roof over existing deck	27 Pacific Street, ANGOURIE NSW 2464	Awaiting internal comment (Health and Building).
DA2020/0282	1/06/2020	55	Pergola Roof	51 Witonga Drive, YAMBA 2464	Currently being assessed*
DA2020/0283	1/06/2020	55	Alterations and additions	135 Rogan Bridge Road, WATERVIEW HEIGHTS 2460	Currently being assessed*
DA2020/0277	29/05/2020	58	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	58	Carport	20 Boronia Crescent, YAMBA NSW 2464	Additional information requested (DCP Variation to front setback).
DA2020/0272	26/05/2020	61	Carport	25 William Avenue, YAMBA NSW 2464	DCP Variation received and being assessed*
DA2020/0273	26/05/2020	61	Relocate dwelling to create secondary dwelling	130 Armidale Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (cost estimate report).
DA2020/0261	19/05/2020	66	Dwelling	13 Bryce Crescent, LAWRENCE 2460	Currently being assessed*
DA2020/0267	21/05/2020	66	Demolish shed and erect shed	127 Villiers Street, GRAFTON NSW 2460	DCP Variation being assessed (design and setbacks).
DA2020/0265	20/05/2020	67	Dwelling and shed	70 Sussex Street, COPMANHURST NSW 2460	Awaiting additional information (Amended Plans).
SUB2020/0010	20/05/2020	67	Two lot subdivision	135 Adams Street, WOOMBAH NSW 2469	Additional information requested (Revised Bushfire Report to

					Comply with Planning for Bushfire Guidelines 2019, Revised Ecological Report & Aboriginal Cultural Heritage Assessment in accordance with National Parks & Wildlife Regulation 2019).
DA2020/0223	4/05/2020	68	Dwelling	24 Locksley Close, GLENREAGH NSW 2450	Awaiting additional information (finished floor heights in regards to localised overland flow path and details of tree clearing).
DA2020/0259	18/05/2020	69	Garage for PCYC	300 Powell Street, GRAFTON NSW 2460	Further revised plans submitted to show new location of shed (6 submissions received regarding previous location). Plan submitted not suitable to be renotified, amended plans requested 27/07.
DA2020/0256	15/05/2020	72	Dwelling	6 Fig Tree Lane, CHATSWORTH NSW 2469	Currently being assessed*
DA2020/0255	14/05/2020	73	Dual Occupancy	9 Flame Street, GRAFTON NSW 2460	Additional information requested (Amended Plans to increased landscaped area).
DA2020/0251	13/05/2020	74	Storage yard	121 Jubilee Street, TOWNSEND NSW 2463	Awaiting additional information (amended plans).
SUB2020/0008	30/04/2020	74	Boundary adjustment	160 Russell Road, WOODFORD ISLAND 2463	RFS Referral received and being determined.
DA2020/0250	12/05/2020	75	Dwelling	555 Laytons Range Road, NYMBOIDA NSW 2460	Awaiting additional information (floor heights in relation to localised flooding).
DA2020/0246	11/05/2020	76	Alterations and Additions to dwelling	13 Link Street, YAMBA NSW 2464	Additional information received (shadow diagrams) and currently being assessed*.
DA2020/0244	8/05/2020	79	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	80	Shed with caretakers cottage and caravan storage	67 Johnsons Lane, ILUKA NSW 2466	Additional information (plans) submitted and being assessed*
DA2020/0227	5/05/2020	82	Fence	66 Skinner Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (amended design to comply with heritage provisions).

DA2020/0229	5/05/2020	82	Temporary outdoor dining deck	26 Coldstream Street, YAMBA NSW 2464	Essential Energy has requested additional information on 22/06 (proposed materials to be used and setbacks to overhead power). Report impact on car parking to July Council meeting.
DA2020/0232	5/05/2020	82	Shed	17 Bayview Drive, YAMBA NSW 2464	Awaiting additional information (Amended Plans).
DA2020/0224	4/05/2020	83	Machine Shed	189 Dandahra Road, CANGAI NSW 2460	Awaiting additional information (amended plans showing details of cut/fill), site meeting undertaken on 23/07 to discuss information requested.
DA2020/0209	23/04/2020	86	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.
SUB2020/0007	29/04/2020	86	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	87	Convert existing out-building to dwelling	96 Banana Road, MORORO NSW 2469	Internal comments from Development Planner received 6/07 and currently being assessed*.
DA2020/0220	30/04/2020	87	Redevelopment of caravan park	8A Harbour Street, YAMBA 2464	Further consultation with NTS Corp in progress.
DA2020/0216	29/04/2020	88	Machine Shed	4 River Road, PALMERS ISLAND 2463	Currently being assessed*
DA2020/0198	17/04/2020	89	House and shed pad and access road	Farlows Lane, MACLEAN NSW 2463	Additional information requested (engineering details for earthworks completed on-site).
DA2020/0200	20/04/2020	97	Carports and shed	15 Denton Drive, SOUTH GRAFTON 2460	Additional information received 21/07 and being assessed.
SUB2020/0006	16/04/2020	97	Three lot subdivision	115 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (Sight distances and access issues). Legal advice requested in relation to satisfaction of Part 6 of the LEP.
DA2020/0188	7/04/2020	103	Dual Occupancy and two lot subdivision	4 Little River Close, WOOLI NSW 2462	Council staff have reviewed revised OSM report submitted, Council staff to write to applicant requesting further amendments due to site constraints.

SUB2020/0005	3/04/2020	103	Two lot strata subdivision	96 Spenser Street, ILUKA NSW 2466	Awaiting external referral (RFS).
DA2020/0179	31/03/2020	117	Shed	64 Crisp Drive, ASHBY HEIGHTS NSW 2463	Awaiting additional information (amended plans) or withdraw application.
DA2020/0160	23/03/2020	118	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.
DA2020/0170	25/03/2020	122	Dual Occupancy	140 Ski Lodge Road, SEELANDS NSW 2460	Report to July Council meeting.
DA2020/0156	19/03/2020	128	Dwelling (including variation to height) retaining wall and gate house	49 Yamba Street, YAMBA NSW 2464	Report to July Council meeting.
DA2020/0129	10/03/2020	138	Alterations and additions to dwelling	21 Westringia Place, YAMBA NSW 2464	Currently being assessed*
SUB2020/0002	25/02/2020	144	17 large lot residential subdivision	273-331 Centenary Drive, CLARENZA NSW 2460	Applicant has submitted part of the additional information (stormwater details outstanding) and amended proposal. Proposal being renotified and referred to external agencies for comment (RFS and NRAR).
DA2020/0071	17/02/2020	150	Dwelling and boundary adjustment	25 McPhee Street, MACLEAN NSW 2463	Awaiting additional information (access and clearing). Council staff to contact applicant requesting update on status of outstanding information request.
DA2020/0103	26/02/2020	151	Relocate existing carport with minor alterations	155 Lakes Boulevard, WOLOWEYAH NSW 2464	Currently being assessed*
DA2020/0038	29/01/2020	179	Demolish awning and erect awning	34-36 River Street, MACLEAN NSW 2463	Additional information requested (Compliance with Essential Energy Requirements).
DA2020/0028	23/01/2020	185	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	230	Alterations & 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	230	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	Awaiting additional information (Amended Plans and on-site wastewater report).
SUB2019/0044	9/12/2019	230	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	240	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	247	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	283	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	285	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOOLOWEYAH NSW 2464	Additional information to be submitted (Amended Plans).
DA2019/0478	30/08/2019	328	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	333	41 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Traffic impact assessment submitted on 2/07 for assessment. Still 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	341	Boundary adjustment & consolidation of Lot 10 DP 752845 & Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Applicant has advised legal advice has been received, awaiting Applicant to forward to Council staff to review.
SUB2019/0030	14/08/2019	347	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	349	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.
DA2019/0266	22/05/2019	431	Remediation of riverbank erosion, establish dwelling envelope, construction of two dams & two flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Geotechnical report submitted 7/07, DAP to consider DCP Variation 28/07.
DA2019/0152	26/03/2019	488	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	536	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Stormwater Management Plan submitted 24/07 and being assessed. Awaiting amended BDAR or confirmation amended proposal has

					not resulted in additional impacts.
SUB2018/0027	8/10/2018	657	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire).
SUB2018/0004	23/02/2018	884	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Report to August Council meeting.
DA2017/0671	18/10/2017	1012	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

Until the 27 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.

Prepared by	James Hamilton, Development Planner
Attachment	Nil

VOTE BY EXCEPTION**Ellem/Williamson****That the following Items be adopted as recommended:**

6b.20.054	6c.20.106	6d.20.006	6e.20.016
6b.20.055	6c.20.108		6e.20.017
6b.20.056	6c.20.110		6e.20.018
6b.20.058	6c.20.111		
6b.20.060	6c.20.113		
	6c.20.114		
	6c.20.115		
	6c.20.116		
	6c.20.118		
	6c.20.119		
	6c.20.121		
	6c.20.122		
	6c.20.123		

Voting recorded as follows:**For: Simmons, Lysaught, Baker, Clancy, Novak, Williamson, Toms, Ellem****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, Maclean on Tuesday, 21 July 2020 commencing at 3.30 pm.

PRESENT

Cr Andrew Baker (Chair), Cr Greg Clancy, 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), Mr Jamie Fleeting (Director – Works & Civil) and Mr Peter Birch (Manager Open Spaces & Facilities) were in attendance.

APOLOGY – Cr Novak

ITEM	6b.20.054	DA2020/0229 – PROPOSED OUTDOOR DINING DECK (TEMPORARY) ON COUNCIL'S ROAD RESERVE FRONTING 26 COLDSTREAM STREET, YAMBA FOR THE YAMBA BACKPACKERS
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Henwood Family Pty Ltd
<i>Owner</i>	Clarence Valley Council (owner of Coldstream Street road reserve)
<i>Address</i>	Council road reserve – Coldstream Street (fronting 26 Coldstream Street, Yamba)
<i>Submissions</i>	Yes - 2

Development Application DA2020/0229 seeks approval for the construction of an outdoor dining deck in front of the Yamba Backpackers at 26 Coldstream Street, Yamba. The deck is proposed to occupy part of the street garden and 2 street car parking spaces in Coldstream Street. The deck is proposed as temporary, in the context that it can be removed in the future if required.

The DA is currently on hold awaiting additional information that Essential Energy has requested. Concurrence from Essential Energy is required for the DA as the deck and awning proposed are located in close proximity to electricity infrastructure.

This report is provided to Council to resolve whether or not to support the loss of 2 Council street parking spaces in Coldstream Street (in the Yamba Town Centre). Once this matter has been considered by Council, and if supported, all other engineering, building or planning matters related to the DA can be determined under delegated authority. This method is proposed to save total DA processing time for this application and is more efficient. Alternatively, a full DA report would not be able to be presented to Council until all the requested information is submitted and internal and external comments received.

OFFICER RECOMMENDATION

That Council approve the loss of two (2) street car parking spaces in Coldstream Street, Yamba, in front of the Yamba Backpackers at 26 Coldstream Street, to enable the provision of an outdoor dining area. The area could be in the form of a deck, as proposed under DA2020/0229, or a paved dining area of a similar design to other outdoor dining areas in Yamba.

COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.054

Ellem/Williamson

That Council approve the loss of two (2) street car parking spaces in Coldstream Street, Yamba, in front of the Yamba Backpackers at 26 Coldstream Street, to enable the provision of an outdoor dining area. The area could be in the form of a deck, as proposed under DA2020/0229, or a paved dining area of a similar design to other outdoor dining areas in Yamba.

Voting recorded as follows:

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

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

Development Application DA2020/0229 was lodged with Council on 5 May 2020 and seeks approval for use of Council owned land, the Coldstream Street road reserve, for the erection of a temporary deck for outdoor dining in association with the Yamba Backpackers (which includes a café/restaurant) at 26 Coldstream Street, Yamba.

Due to the international travel and tourism restrictions resulting from the COVID-19 pandemic, the Backpackers had to temporarily close the accommodation part of their business. The Backpackers recently received development approval (under DA2019/0334) for internal alteration to install a micro-brewery into the reception/dining area. To coincide with the renovations and to help boost other aspects of the business, the Backpackers now wish to construct a temporary deck over Council's garden beds and 2 street parking spaces. The deck is proposed to be temporary so it can be removed without damaging the current infrastructure (gutters, roads etc), however, there is no timeframe specified for the use of the structure. A full copy of the proposed plans is attached and an extract provided below.



Figure 1: Proposed view



Figure 2: Site Plan

The location of the deck and awning are in close proximity to electricity infrastructure, including a power pole and transformer, and as such the DA requires concurrence from Essential Energy. Essential Energy requested additional information for consideration of the DA. This information is currently being prepared by the Applicant and will need to be reviewed by Essential Energy once submitted. Essential Energy have provided additional comments to say that the proposed structure in its current form does not meet the safety clearances to the pole and transformer as required under the relevant Australian Standards, and that a review of the design is required. The design changes are likely to result in substantial changes to the awning and also potentially reduce the size of the deck. It is likely that any amended proposal would still result in the loss of 2 street car parking spaces.

Notification of the application was undertaken in accordance with Council's Community Participation Plan (CPP). In response, there were 2 submissions to the application. A copy of the submissions is attached. The concerns raised in the submissions are discussed in 'Key Issues' below. In addition, the Yamba Chamber of Commerce was also notified of the proposal, but no response was received.

The Yamba Town Centre Master Plan was adopted by Council in April 2004 following a thorough public consultation process. The Master Plan provides the strategic direction for streetscape works in the Yamba Town Centre and the approved concept has been used for beautification and landscaping works completed by Council since 2004. When the Master Plan was adopted the Yamba Backpackers site was occupied by a house and hence, no blister construction has been planned or provided directly fronting that premise. Council has constructed formal on-street parking opportunities adjacent to the Yamba skate park and oval consistent with the Council's resolution to adopt the Master Plan. That resolution also endorsed additional parking to be provided adjacent to the rear of the Bowling Club along the north side of Coldstream Street. The latter parking has not yet been provided.

KEY ISSUES

1. Loss of street parking spaces in Yamba Town Centre

The outdoor dining deck to be used in association with the Yamba Backpackers is proposed to occupy part of the Coldstream Street garden area and 2 street car parking spaces. The Applicant has justified the loss of parking by stating:

"We propose to utilize the two parks directly in front of our café. One is a major hazard that has to be removed as you need to reverse directly onto the crossing to exit it. I don't think 2 car parks in the town will have any major effect on the town. We currently have 2 bus stops at the end of Coldstream Streets? The removal of one or both of these up to where the skate park and bowling club would free up 15 or so parks if it is a major concern. This would be better for the shops in Coldstream Street as it would allow more foot traffic past the shops on the Southern end and leading to an increased spend. This would be great and safer for all the kids that are catching the school bus to the skate park as well."

The Applicant also stated in the documents submitted with the DA that the structure would "utilise two of their three parking credits out the front".

One of the submissions stated that they did not object to the concept of the outdoor dining area and believed it could have a positive impact on trade and pedestrian traffic in the vicinity, but they have concerns for the loss of 2 street parking spaces in the main shopping streets of Yamba as it will increase the pressure on an already tight supply particularly during peak holiday periods. The submission also raised the safety risk to pedestrians of the parking space adjoining the pedestrian crossing, and suggested that "perhaps the solution would be to delete the ambulance space located in front of Dr Hope's surgery as there is ample room for ambulance access at the rear of the surgery".

Comment – There have not been any relatively recent parking or traffic studies undertaken for the Yamba Town Centre area to understand the current car parking supply and demand situation for the locality. The most recent study is the Yamba Town Centre Master Plan, which included consideration of the Yamba Traffic Study. Council adopted the Plan in principle with regard to certain elements in April 2004. One element was that "parking be extended down Coldstream Street past the Bowling Club, on both sides of the road to provide enough overflow parking for busy holiday periods". Some parking has been provided in Coldstream Street in front of the skate park, but there is still opportunity to provide the remaining parking in Coldstream Street as per the Yamba Town Centre Master Plan. The fact that this parking has not yet been provided indicates there may not be a demand for it. Furthermore, in regard to the loss of parking spaces,

Council's Civil Services Section has provided comment that the loss of the 2 street parking spaces is not considered an issue as there are ample public car parking spaces in the local area.

The subject parking space closest to the adjoining pedestrian crossing may pose a safety hazard to pedestrians when vehicles reverse directly onto the crossing. Additional parking in the Town Centre section of Coldstream Street (east of River Street) could be achieved if the existing bus stop/s were relocated. This is an option that Council's Civil Services Section could investigate further in the future if additional parking in the area is required. Relocation of the nearby ambulance space is not considered to provide any additional parking spaces as it is located next to an accessible parking space, and as such the ambulance space is also used as a 'shared space' so people can safely enter and exit a vehicle parked in the accessible space.

In regards to the Applicant's statement regarding parking credits, street parking is not allocated to a particular business or property so the Backpackers do not have any exclusive rights to the street parking. A review of the previous DA approvals over the land (26 Coldstream Street, Yamba), did not calculate any additional parking being provided on-site. The approved construction plans for the Backpackers show 11 parking spaces provided on-site. In accordance with the current Business Zones Development Control Plan (DCP), the development would need to provide over 20 parking spaces for the approved 90 bed accommodation development (the exact number is dependent on staff numbers and floor area of the café). As such, there is not considered to be any surplus parking on-site for the existing development.

In other situations when a development results in loss of public parking spaces or where sufficient parking cannot be provided on-site resulting in additional demand for public parking, developers may propose to pay a monetary contribution to offset the impacts of such developments via a Voluntary Planning Agreement (VPA). The Applicant has not proposed any contribution or offset for the loss.

The application does state that the deck is temporary, however, there are no time restrictions proposed on the use. The deck is temporary in the context that it can be removed if ever needed. Due to the temporary nature of the deck, the loss of parking proposed may not be permanent as such.

There are several other matters relating to the proposed deck structure that will be further addressed, assessed, and/or conditioned as part of the DA process, including:

- The deck will require a lease agreement to be entered into with Council under S153 of the *Roads Act 1993*. The lease is required to be renewed every 5 years, requires payment of an annual rent, requires evidence of public liability insurance, and will require the structure to be removed at the termination of any lease and the car parking spaces and landscaping reinstated.
- Requirement for payment of a bond to cover the full cost of removal of the deck and reinstatement of the parking and landscaping area to ensure that Council is not left to pay for the removal if circumstances change in the future.
- Provision of sight distance diagrams in accordance with the relevant standards prior to construction of the deck to ensure that the structure does not impede the view of pedestrians approaching the pedestrian crossing.
- Provision of a Stormwater Management Plan prior to construction of the deck to ensure that the structure does not impact on Council's existing street drainage network.
- The deck structure will need to be slightly reduced in size to ensure it does not impede on the use of the adjoining car parking space or use of Coldstream Street by passing vehicles, i.e. that there is adequate separation distance between the deck and adjoining parking and vehicle aisles.

As there is considered to be sufficient public parking in the local area, the provision of a formal outdoor dining area for the Backpackers is considered to positively add to the vibrancy of the western end of Coldstream Street, provided that all other matters to be addressed for the construction of the dining area can be adequately achieved.

2. Design and provision of the outdoor dining area

On several occasions during processing of the DA, the Applicant has requested that Council provide a paved outdoor dining area in front of the Backpackers as it has for most other restaurants and cafes in the Yamba Town Centre. The Applicant also referred to the new paved dining area being constructed by Council in front of the former Irons and Craig café (across the road).

Comment – Council's Civil Services Section advised that when the design/consultation/acceptance of the Coldstream Street upgrade was carried out in 2003/04, the Yamba Backpackers did not exist and the site was occupied by a house. The Coldstream Street upgrading works were likely undertaken in front of the subject land (on the southern side of Coldstream Street) prior to the Backpackers being established. An

outdoor dining area was able to be incorporated into the Coldstream Street upgrade (on the northern side of the street) in consultation with Irons and Craig as the upgrade works for that section of road had not yet been undertaken. There are currently no plans for Council to revisit the construction works that have been completed.

It is preferred in terms of the design outcome that any outdoor dining area is provided as a paved area instead of a deck. This would be visually more appealing and consistent with the character of other blisters for dining purposes in the Yamba Town Centre. An alternative option to constructing the deck is for Council's Civil Services Section and the Applicant to further liaise to negotiate provision of a paved outdoor dining area. Negotiations could include Council to undertake the works at the cost of the Applicant on the basis that the opportunity to add the blister into the works undertaken on the southern side of Coldstream Street has passed and was not proposed under the Town Centre Master Plan. The loss of parking spaces would still need to be considered for such a proposal and the loss would be permanent.

3. Submissions

Notification of the application was undertaken in accordance with Council's Community Participation Plan (CPP). In response, there were 2 submissions to the application. A copy of the submissions is attached.

One submission did not object to the proposal but raised the issue of the loss of 2 street parking spaces in Yamba's main street and the impact that could have, especially in peak holiday times. The submission also stated that there was insufficient information regarding the construction materials to determine the visual impact of the development but did note that the materials would need to provide adequate protection of diners from adjoining vehicular traffic.

The second submission raised the issue of how noise impacts at night time will be mitigated for residents in the area, particularly the management of live music and noise from the new deck area. The submission questioned any limitation on live music, times it can be played and what time the outdoor area would be closed.

Comment – The matter regarding loss of parking has been discussed in detail above under Key Issue No. 1.

More details are likely to be submitted with the additional information request regarding the construction materials of the deck. As stated by the submitter, the materials and deck construction will need to ensure the safety of diners. This matter will be further considered as part of the full assessment of the DA.

In response to noise management, the Applicant has advised that live music will only be played inside the building and not on the outdoor deck area. Live music is played inside as part of their current operation. The Applicant also advised that the current hours of operation of the business are not proposed to be altered by the proposal. It is acknowledged that noise from commercial premises can be an issue for residence who live near by in shop top housing. This matter will be further considered as part of the full assessment of the DA and may require appropriate conditions of consent around noise management.

COUNCIL IMPLICATIONS

Budget/Financial

If the Applicant proceeds to construct the deck under the DA, the cost of the deck construction (estimated at \$40,000) and removal will be at the Applicant's cost.

The Applicant is requesting that Council provide an outdoor dining area (paved blister area) similar to other cafes and restaurants in Yamba. This is a matter that the Applicant can further negotiate with Council's Civil Services Section and may require a separate report to Council for consideration. At the time of writing this report an estimate of the cost of a blister/paved area being constructed by Council was not known. The loss of the parking spaces is relevant no matter who constructs/pays for the outdoor dining area.

Processing and administration of the DA utilises internal staff resources funded through existing recurrent budgets. These budgets are supplemented by income generated through payment of DA and related fees.

Asset Management

The proposed deck will result in a loss (temporary) of 2 street parking spaces in Yamba Town Centre. The parking and drainage infrastructure is not proposed to be removed or impacted by the construction of the deck and can be reinstated if the deck is removed.

Policy or Regulation

The DA will be assessed against the following Polices, Acts and Regulations:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Roads Act 1993*
- *Clarence Valley Local Environmental Plan 2011*
- CVC Development Control Plan – Development in Business Zones

Consultation

The following internal comments have been sought regarding the loss of parking and provision of outdoor dining area:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Civil Services	Comments provided

Aspects of the DA relating to changes in regulatory signage (parking signs) associated with the loss of parking will be considered by the Local Traffic Committee at their next meeting.

Once all of the required information for the DA is submitted, internal consultation will be undertaken with Council's Development Engineer, Property Coordinator and Building Surveyor. Concurrence from Essential Energy is also required due to the proximity of the deck structure to electricity infrastructure.

Legal and Risk Management

This report focusses on the key issue requiring a Council decision being the loss of 2 Council street parking spaces in the Yamba Town Centre, a matter that cannot be determined under delegated authority. It is recognised that this varies to the typical practice of reporting the full DA, complete with draft conditions, to Council for determination. Conditional development can be issued for this DA once all the relevant information is submitted for assessment subject to Council's consideration of the parking loss now reported for resolution. This approach is considered to be a reasonable balance between the need for Council's consideration of certain key aspects and the desire for a more timely final determination of the DA by deferring detailed consideration of less significant matters for staff to determine.

Climate Change

The construction of the deck and use in association with an existing food premises is not considered to significantly result in impacts that would contribute to climate change.

Prepared by	Sarah Sozou, Development Planner
Attachment	A. Proposed Plans for DA2020/0229 B. Submissions to DA2020/0229 (2 in total)

ITEM	6b.20.055	REPORT BACK ON COUNCIL RESOLUTION ITEM: SUB2018/0004 – 11 LOT SUBDIVISION – LOT 39 BLOODWOOD GROVE, GULMARRAD
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Nil	

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).*

Council is advised that:

- Council's Development Engineer is reviewing the new flood information submitted by the applicant prior to the Council meeting;
- A suitably qualified consultant has been engaged to undertake the assessment and give advice as per the resolution;
- Council is still awaiting the review and advice from the consultant; and
- It is expected that the outcomes of the review and advice will be finalised for the August meeting.

OFFICER RECOMMENDATION

That Council receive at the August 2020 meeting:

1. An assessment of the suitability for purpose of the new flood information/study advised as provided by the applicant.
2. 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.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.055

Ellem/Williamson

That Council receive at the August 2020 meeting:

1. An assessment of the suitability for purpose of the new flood information/study advised as provided by the applicant.
2. 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.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

COUNCIL IMPLICATIONS**Budget/Financial**

A suitably qualified consultant has been engaged to undertake the assessment and give advice as per the resolution.

Asset Management

N/A

Policy or Regulation*Environmental Planning and Assessment Act 1979**Environmental Planning and Assessment Regulation 2000**Clarence Valley Local Environmental Plan 2011**State Environmental Planning Policy (Vegetation in non-rural areas) 2017*

Clarence Valley Council Development Control Plan for Development in Residential Zones

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Completing assessment of new flood information.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	Nil

ITEM	6b.20.056	DA2020/0170 – DUAL OCCUPANCY – 140 SKI LODGE ROAD, SEELANDS (LOT 29 DP751385)
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Gavin Maberly-Smith (Coastplan Group Pty Ltd)
<i>Owner</i>	Grafton Holiday Park
<i>Address</i>	140 Ski Lodge Road, Seelands (being Lot 29 DP751385)
<i>Submissions</i>	Nil

Council is in receipt of Development Application DA2020/0170 which proposes to relocate a dual occupancy on RU1 Primary Production zoned land consisting of 19.83ha. There is currently an existing dwelling on the subject land.

During the exhibition of the application, Council received no submissions regarding the proposal.

The applicant has applied for a variation under *Clause 4.6 – exceptions to development standards* of the Clarence Valley Local Environmental Plan 2011 (LEP) for the dual occupancy (detached) to be situated approximately 135 metres away from the existing dwelling. The LEP contains a development standard requiring the dual occupancy to be situated within 100 metres of the primary dwelling. The variation sought is greater than 10% and hence, is outside of Council staff delegations to determine. Therefore the application is provided to Council for a determination.

The report provides an assessment of the application and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council:

1. Endorse the requested variation under Clause 4.6 – Exceptions to Development Standards of the *Clarence Valley Local Environmental Plan 2011* to enable the proposed dual occupancy to be approximately 135 metres from the existing dwelling house; and
2. Approve Development Application DA2020/0170 subject to the draft conditions and advices contained in Schedule 1 attached.

COMMITTEE RECOMMENDATION

Simmons/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.056

Ellem/Williamson

That Council:

1. Endorse the requested variation under Clause 4.6 – Exceptions to Development Standards of the *Clarence Valley Local Environmental Plan 2011* to enable the proposed dual occupancy to be approximately 135 metres from the existing dwelling house; and
2. Approve Development Application DA2020/0170 subject to the draft conditions and advices contained in Schedule 1 attached.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.4 We will have access and equity of services

Strategy 1.4.2 Encourage the supply of affordable and appropriate housing

BACKGROUND

Development Application DA2020/0170 was lodged on 26 March 2020 for the relocation of a manufactured dwelling to 140 Ski Lodge Road, Seelands in addition to the existing dwelling. The site is currently under mixed use of agricultural grazing and residential with an existing dwelling. The subject land is zoned RU1 Primary Production and RU2 Rural Landscape under the Clarence Valley Local Environmental Plan 2011. The proposed detached dual occupancy is permissible with consent and complies with the objectives of the zones. The subject land has frontage to the Clarence River, adjoins the Big River Holiday Park and Ski Lodge, and is otherwise located among similar rural allotments.

The purpose of the proposal is to provide an additional dwelling on the land creating a detached dual occupancy for residential use. The proposed new dwelling is in the form of a manufactured home, and the construction of a carport to provide a covered car space. The proposed dwelling will utilise the existing driveway access point servicing the subject land from Ski Lodge Road and will have a separate on-site sewer management system. The dual occupancy is proposed to be located in the eastern corner of the subject property approximately 40m from the Clarence River (see Figure 1).

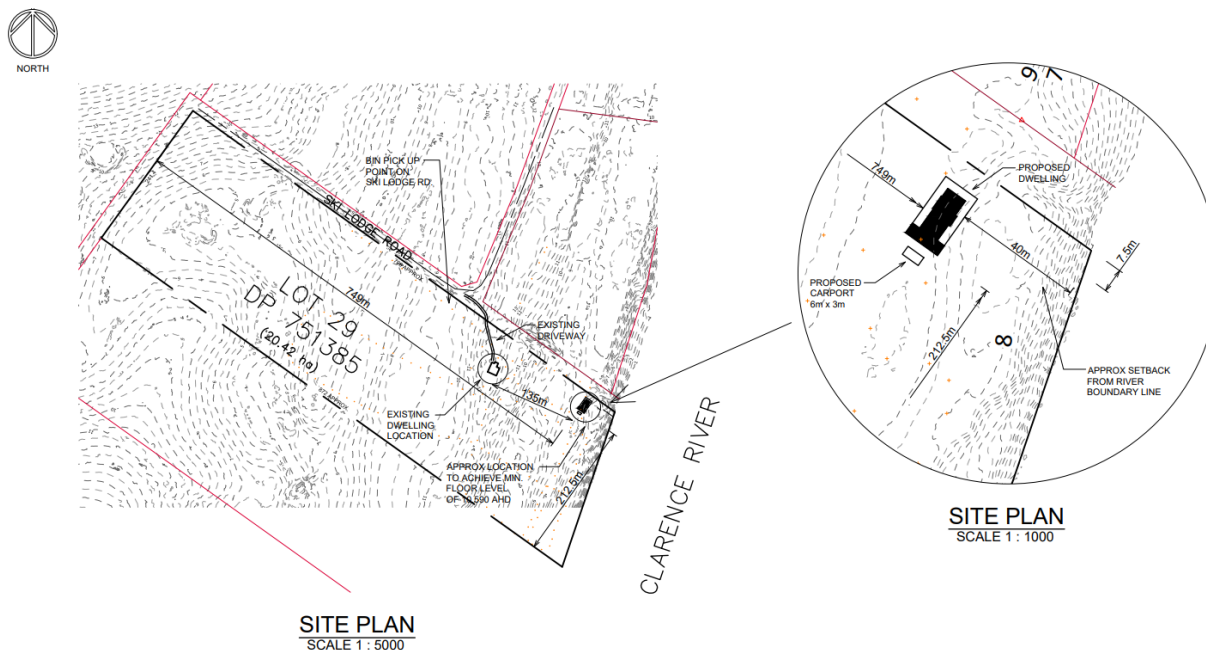


Figure 1 – Proposed site plan

Large transmission lines (132kV) pass from east to west through the property creating a wide (approximately 45 metre) restriction to use of land.

KEY ISSUES

1. Clause 4.6 Variation to the Clarence Valley Local Environmental Plan 2011

The applicant has provided a written request to vary a development standard that being the 100m maximum distance between dual occupancy dwellings on RU1 Primary Production and RU2 Rural Landscape zoned land under Clause 4.2D (2) (c). The objectives of Clause 4.6 are as follows:

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

Subclause 4.6(3) requires that:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has highlighted the following matters in justifying their request to vary the 100m maximum distance between rural dual occupancy dwellings for the subject land as follows:

1. To maintain the dwellings within a farm to maintain rural character and provide suitable separation to maintain amenity.
2. To reduce impact to primary production by limiting development footprint.
3. To locate the dwellings in confined environmentally capable areas of the site.
4. The character outcomes are similar to what would be achieved if the dwellings were 100 metres apart.
5. The river is clearly a key landscape feature in the area and new dwellings are being established to take advantage of river views and proximity to the waterway.
6. The construction of new dwellings on the levee adjacent to the river bank is common and the proposal provides an outcome similar to this establishing character for the areas.
7. Due to environmental constraints over the land, other suitable locations for a dwelling would be in very close proximity to the existing dwelling and would impact on the amenity of both the existing and proposed dwellings.
8. The constraints only leave a few potential dwelling sites in the flood free or low hazard flood areas of the site, and available sites that meet the development standard would be in very close proximity to the existing dwelling, either between the existing dwelling and the high voltage transmission lines or behind the existing dwelling.
9. The subject site is considered to provide a suitable dwelling location with a high level of amenity consistent with the rural character of the area and which addresses environmental constraints affecting the land.

Council engineering comments regarding flooding:

Council initially advised the applicant that Council's mapping showed the proposed second dwelling being located within a floodway and that outcome was undesirable. The applicant has since provided a report from hydraulic engineering consultants, Rienco Consulting, to determine if the proposed site is located within a floodway. This Flood Risk Management Report considers the viability of the DA through examination of site specific 1% AEP levels and the corresponding water velocities and depths.

Ground based survey information shows the proposed development location as approximately 9.55m AHD, while local 1% AEP levels vary between 9.98m – 10.09m AHD. Based on these values, the flood report calculates Velocity x Depth (V*D) in a 1% AEP flood event to be approximately 0.2m².

Floodway is defined in Council's DCP as, 'those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with naturally defined channels. Floodways are areas that even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels'. While Council's 2014 Floodplain Risk Management Plan defines floodways as areas in which V*D exceeds 1.0 in 1% AEP events.

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.

Comment:

An alternative potential siting of the second dwelling on the same ridge of land occupied by the existing dwelling would result in the proposed new dwelling being located between high voltage transmission lines

and the existing dwelling, which is not considered a desirable planning outcome. The applicant has satisfied Council staff that the proposed location is not located within a floodway in a 1-in-100 year flood event. Therefore, the proposed development location is considered to be acceptable as the risk to human life or the proposed structure is not unreasonable as a result of a design flood event. Furthermore, the visual or amenity impact of the second dwelling at the proposed location is acceptable.

The request to vary the *Clarence Valley Local Environmental Plan 2011* maximum separation distance of 100 metres between detached dual occupancy dwellings on rural land has been assessed on its merit, taking into account the above discussion and points raised by the applicant it is considered that there are suitable grounds to allow the proposal to be approved in the circumstances. Therefore, it is recommended that the variation to the 100m maximum separation distance between detached dual occupancy dwellings on rural land be supported to allow a 135m distance between the existing dwelling and the proposed dwelling for the purpose of a detached dual occupancy on the subject land.

COUNCIL IMPLICATIONS

Budget/Financial

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

Asset Management

N/A

Policy or Regulation

Biodiversity Conservation Act 2016
 Environmental Planning and Assessment Act 1979
 Environmental Planning and Assessment Regulation 2000
 State Environmental Planning Policy 55 - Remediation of Land
 State Environmental Planning Policy (Coastal Management) 2018
 Clarence Valley Local Environmental Plan 2011
 Clarence Valley Council Development Control Plan for Development in Rural Zones

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Building Surveyor	Supported with conditions
Environment (Waste Water)	Supported with conditions
Engineering	Supported with conditions

Legal and Risk Management

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

Climate Change

The proposed development would contribute to CO² emissions through the construction and residential occupation which are both considered to be contributing factors for climate change via building materials, construction methods, maintenance and associated energy and resource use. Notwithstanding the above comments, if the development is approved, the proposed building is required to comply with energy efficiency requirements conditioned as per Schedule 1 which will ensure that the development meets the NSW Government's requirements for sustainability.

It should be noted that the proposed development will reuse an existing manufactured dwelling, saving on the cost and climate change impacts associated with new construction materials.

Prepared by	Alex Clark, Trainee Planner
Attachment	1. Proposed Plans 2. Section 4.15 Evaluation Report

Schedule 1
Draft Advices and Conditions of Consent for DA2020/0170

Definitions

1. **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 for Driveway Access To Property (AUS-SPEC)

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

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.

Advices

1. 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.
2. The NSW Government made the Environmental Planning and Assessment (COVID-19 Development Construction Work Days) Order 2020 on 31 March 2020 which has extended construction site operating hours to Sundays and Public Holidays. On these extended days all feasible and reasonable measures to minimise noise are to be taken. This overrides Condition 19 for the duration of the pandemic or unless otherwise directed by the NSW Government. The head contractor/builder is responsible to ensure a copy of the order is made available on-site at all times (available at the following link <https://www.planningportal.nsw.gov.au/Orders>).
3. Council's Rural Development Control Plan (the DCP), specifies that the floor level of the dwelling must be at least 500mm above the 1:100 year flood level. The property is located outside the area covered by Council's flood study. As a result, the precise level of the 1:100 year flood at this location is unknown. Clause D7.5 of the DCP provides that, where Council's flood study is unavailable or unsuitable, a flood study is required to be submitted with the development application. The minimum floor level of the proposed development nominated by Rienco Consulting is 10.59m Australian Height Datum (AHD). Based on evidence provided by Rienco Consulting that this minimum floor level will be at least 500mm above the likely 1:100 year flood level for the area, Council is prepared to consent to the construction of the proposed development in this specific case.

Council would not object to the construction of a higher floor level.

This is in no way a representation, warranty, interpretation or inference that Council verifies the suitability of the nominated floor level or otherwise. Council accepts no liability for any loss or damage suffered in connection with the floor level of the proposed development and you accept all such risk in that regard solely.

4. The certificates and documentation requested in this approval (eg glazing certificate, smoke alarm certificate, etc) should be emailed to council@clarence.nsw.gov.au quoting the development application number in conjunction with booking the final inspection.

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 Title	Drawn by	Plan Date	Sheet No	Job No
Site Plan	Coastplan Group Pty Ltd	20/05/2020	A01	19186
Floor Plan	Coastplan Group Pty Ltd	03/03/2020	A02	19186
Elevations	Coastplan Group Pty Ltd	03/03/2020	A03	19186
Elevations and Section Plan	Coastplan Group Pty Ltd	03/03/2020	A04	19186
Carport Plan and Elevations	Coastplan Group Pty Ltd	20/05/2020	A06	19186

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

Isolated Coastal and Rural \$2,568.35 x 1 additional dwelling = \$2,568.35 GL
S94CVCOSRuralCoas

Clarence Valley Contributions Plan 2011 Community Facilities

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

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Other Residential Accommodation Dwelling \$48.45 x 1 additional dwelling = \$48.45 GL
S94CVCPoMOResAcco

N.B.

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

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

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

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

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

3. An On-site Wastewater Management Application must be submitted to install an Aerated Wastewater Treatment System (AWTS) and Sub-surface irrigation OSM system in accordance with the information submitted with the Dual Occupancy Development Application. Once approved the required work must be completed and an Approval to Operate issued prior to the release of the Occupation Certificate.
4. 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 the Office of Environment and Heritage shall be contacted immediately and any directions or requirements of the Service complied with.

Building Conditions

5. No construction is to be commenced until a Construction Certificate has been issued.
6. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.

7. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
8. The following information shall be submitted to the Council or Principal Certifying Authority prior to issue of a Construction Certificate:
- a Home Building Compensation Fund (HBCF) Insurance Certificate or copy of the Owner Builder permit
 - b Engineering details
 - c The name and licence number of the builder (if not carrying out the work as an owner builder)
9. All construction and components must comply with the wind rating for the site which has been assessed at N3.
10. The door to the sanitary compartment must open outwards, or slide or be readily removable from the outside of the compartment unless there is a clear space of at least 1.2m between the closet pan and the doorway.
11. A safety balustrade shall be provided in accordance with Part 3.9.2 of the Building Code of Australia (BCA) to all landings, balconies and stairways with a height of one (1) metre above ground level. The balustrade must be constructed so that it does not permit a 125mm sphere to pass through it. Wire balustrade systems shall comply with the requirements of Clause 3.9.2.5 of the BCA. The height must not be less than:
- a 1m above the floor of any deck, balcony, landing or the like; or
 - b 865mm above the nosing of stair treads or the floor of a ramp.
12. All glazing is to be selected and installed in accordance with the provisions of AS 1288 or AS 2047. Upon completion of the building and prior to its occupation, the glass suppliers/installers certificate is to be submitted to Council.
13. A smoke alarm system designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency, and complying with Part 3.7 of the Building Code of Australia shall be installed. Smoke alarms must be interconnected where there is more than one alarm, installed on each level and not located in dead air space. A licensed electrical contractor's installation certificate is to be submitted to Council prior to occupation.
14. Stairs shall be constructed as per Part 3.9 of the Building Code of Australia. The maximum and minimum riser and tread sizes and slope relationship shall be met. The treads must have a slip resistance classification, or a nosing strip with a slip resistance classification not less than that listed in Part 3.9 (see below) when tested in accordance with AS 4586.

Table 3.9.1.3 SLIP-RESISTANCE CLASSIFICATION

Application	Surface conditions	
	Dry (indoor)	Wet (outdoor)
Ramp not steeper than 1:8	P4 or R10	P5 or R12
Tread surface	P3 or R10	P4 or R11
Nosing or landing edge strip	P3	P4

15. A bedroom window opening must be protected to prevent children falling out where the floor level of the room is 2m or more above the outside surface beneath. The openable portion of the window must be protected with:
- a a device to restrict the window from opening more than 125mm or,
 - b a screen with secure fittings

A window with its lowest openable section at least 1.7m above the floor is exempt from this requirement.

16. The deck/balcony shall be attached to the external wall of the building in accordance with Part 3.10.6 of the BCA. Decks more than 1.0m above the ground shall be diagonally braced in accordance with Clause 3.10.6.4. Details of the proposed method of attachment and bracing shall be detailed on plans submitted to Council for approval prior to issue of the construction certificate. If the deck/balcony will be attached to a brick veneer, double brick or concrete block wall that is not fully core filled the method of attachment shall be designed by a structural engineer.
17. Underside of bearers shall be a minimum of 400mm from ground level. All ant capping shall be installed, maintained and joined at laps and around protrusions in accordance with AS3660.1.
18. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
19. **Working hours** on the construction or demolition project shall be limited to the following:
- 7.00 am to 6.00 pm Monday to Friday
8.00 am to 1.00 pm Saturdays
No work permitted on Sundays and public holidays
- The builder to be responsible to instruct and control sub contractors regarding the hours of work and the requirements of the Protection of the Environment Operations Act 1997 and Regulations.
20. 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 certifier for the work.
- Any such sign is to be removed when the work has been completed.
21. Home Building Act - Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifier for the development to which the work relates:
- a has been informed in writing of the licensee's name and contract licence number; and
 - b is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - c has been informed in writing of the person's name and owner builder permit number, or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act.
- A Certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that part is sufficient evidence the person has complied with a and b.
22. Materials used in the construction of the building shall be capable of withstanding inundation by floodwaters. Electrical connections and where practicable, electrical equipment should be located a minimum of 500mm above the one-in-one hundred year flood level.
23. All building construction below 10.09m AHD shall be of flood compatible materials.
24. To meet Council's Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 10.59 metres Australian Height Datum (AHD). A certificate indicating the height of habitable floors on the ground floor (related to AHD) is to be forwarded to the Principal Certifying Authority.
- a In the case of timber floors, on completion of the floor framing;
 - b In the case of concrete slabs when formwork is in place but prior to pouring concrete.
- This certificate is to be provided by a Registered Surveyor. No further work is to be carried out on the building until such certificate is provided to the Principal Certifying Authority.

25. All erosion and sediment control measures are to be installed prior to the commencement of any work, including cutting and filling and are to be constructed and maintained to prevent sediment from leaving the site or entering downstream properties, drainage lines or watercourses.
 26. A sediment control fence shall be installed at the down slope perimeter of the disturbed area to prevent sediment from leaving the site. Sediment fencing is to be trenched in at least 150mm and buried with the ends turned upslope.
 27. All erosion and sediment control measures are to be regularly maintained in good working order at all times and inspected for adequacy following any rainfall event.
 28. No portion of the Decks is to be enclosed without prior written approval being obtained from Council.
 29. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
 30. All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by a registered surveyor prior to construction commencing. A copy of this survey shall be submitted to Council at the footing/slab inspection.
 31. A piped vehicular crossing to the allotment is to be constructed in accordance with the requirements of Council's Operations Section and completed prior to issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved prior to any work commencing.
 32. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
 33. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
 - plumbing work prior to covering/lining walls
 - sewer work prior to back filling/lining
 - final inspection of plumbing and drainage work.
- Inspections can be booked on line at www.clarence.nsw.gov.au until midnight the day before the inspection or by phoning 6643 0200. Please quote the DA number when booking inspections.
34. Roof water, including overflow from a tank, shall be discharged a minimum of 3m clear of buildings, boundaries and downhill or clear of any effluent disposal area so as not to cause a nuisance.
 35. A total of 45,000L of water storage capacity shall be provided to the dwelling for domestic purposes. It is recommended that a first flush device is fitted before the water tank. Where a catchment roof has lead flashings, tank water cannot be used for drinking water.
 36. A seal to restrict air infiltration must be fitted to each edge of an external door, openable window or other such opening when serving a habitable room. The seal may be a foam or rubber compressible strip, fibrous seal or the like. Louvre doors and windows are exempt from this requirement.
 37. Reflective and bulk insulation shall be installed in accordance with Part 3.12.1 of the Building Code of Australia.
 38. Any new hot water system shall be either gas, solar or heat pump.
 39. The following minimum energy efficient measures shall be installed prior to final inspection:
 - a Ceiling - R2.5 insulation
 - b Walls - if any internal or external wall cladding is replaced wall insulation or sarking is required
 - c Roof - sarking or roof ventilators and eave vents
 - d Lighting - at least 40% of lighting shall have energy efficient globes (i.e. fluorescent or LED).

40. A minimum 4,000 litre rainwater tank shall be installed for garden and car washing purposes.

Engineering Conditions

41. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
42. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued or the development is accepted 'Off Maintenance'.

ITEM	6b.20.057	DA2020/0156 DWELLING, RETAINING WALL AND GATEHOUSE, 49 YAMBA STREET, YAMBA, LOT 6 DP759130
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Perry Homes (Australia) Pty Ltd
<i>Owner</i>	Hadley Central Pty Ltd
<i>Address</i>	49 Yamba Street, Yamba
<i>Submissions</i>	Nil

DA2020/0156 has been lodged for development approval of a dwelling, retaining wall and gatehouse at the entrance to Yamba Street.

This application is referred to Council to make a determination on a variation to the height specified on the Height of Buildings Map of Council's Local Environmental Plan (the LEP). The proposed variation seeks approval to a 31.4% variation to part of the roof ridge/building height, whereas staff delegations only enable approval for up to a 10% variation.

The proposal also seeks to increase the height of the fence forward of the building line and construct a gatehouse at the entrance from Yamba Road.

This report provides an assessment of the application and a recommendation for Council consideration.

OFFICER RECOMMENDATION

That Council:

1. Approve the requested variation to the Clarence Valley Local Environmental Plan - Height of Building Map to allow a maximum building height of 10.83 metres,
2. Allow the variation to the Residential Zones Development Control Plan for a 1.8m high front fence and gatehouse, and
3. Approve DA2020/0156 with the schedule of draft advices and conditions of consent listed in Schedule 1 of this report.

COMMITTEE RECOMMENDATION

Simmons/Baker

That Council:

1. Approve the requested variation to the Clarence Valley Local Environmental Plan - Height of Building Map to allow a maximum building height of 11.83 metres.
2. Allow the variation to the Residential Zones Development Control Plan for a 1.8m high front fence and gatehouse.
3. Approve DA2020/0156 with the schedule of draft advices and conditions of consent listed in Schedule 1 of this report.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.057**Baker/Williamson****That Council:**

1. Approve the requested variation to the Clarence Valley Local Environmental Plan - Height of Building Map to allow a maximum building height of 11.83 metres.
2. Allow the variation to the Residential Zones Development Control Plan for a 1.8m high front fence and gatehouse.
3. Approve DA2020/0156 with the schedule of draft advices and conditions of consent listed in Schedule 1 of this report.

Voting recorded as follows:**For: Lysaught, Williamson, Baker, Toms, Simmons****Against: Clancy, Novak, Ellem****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

DA2020/0156 was lodged with Council on 6 March 2020. Following initial assessment additional information was requested in regard to the additional parking off Yamba Road not being sufficiently justified. The applicant provided amended plans, removing the additional parking space on 30 June 2020.

The demolition of the previous dwelling on the lot was approved under DA2019/0304 on 6 August 2019 and the land is currently vacant.

The applicant has sought a variation to the maximum height of 9 metres specified on the Height of Buildings Map of the Clarence Valley Local Environmental Plan 2011 (the LEP). The highest ridge line of the roof extends to a height of around 11.83m on the lower side of the building footprint (see Figure 1) which is 31.4% variation to the development standard.

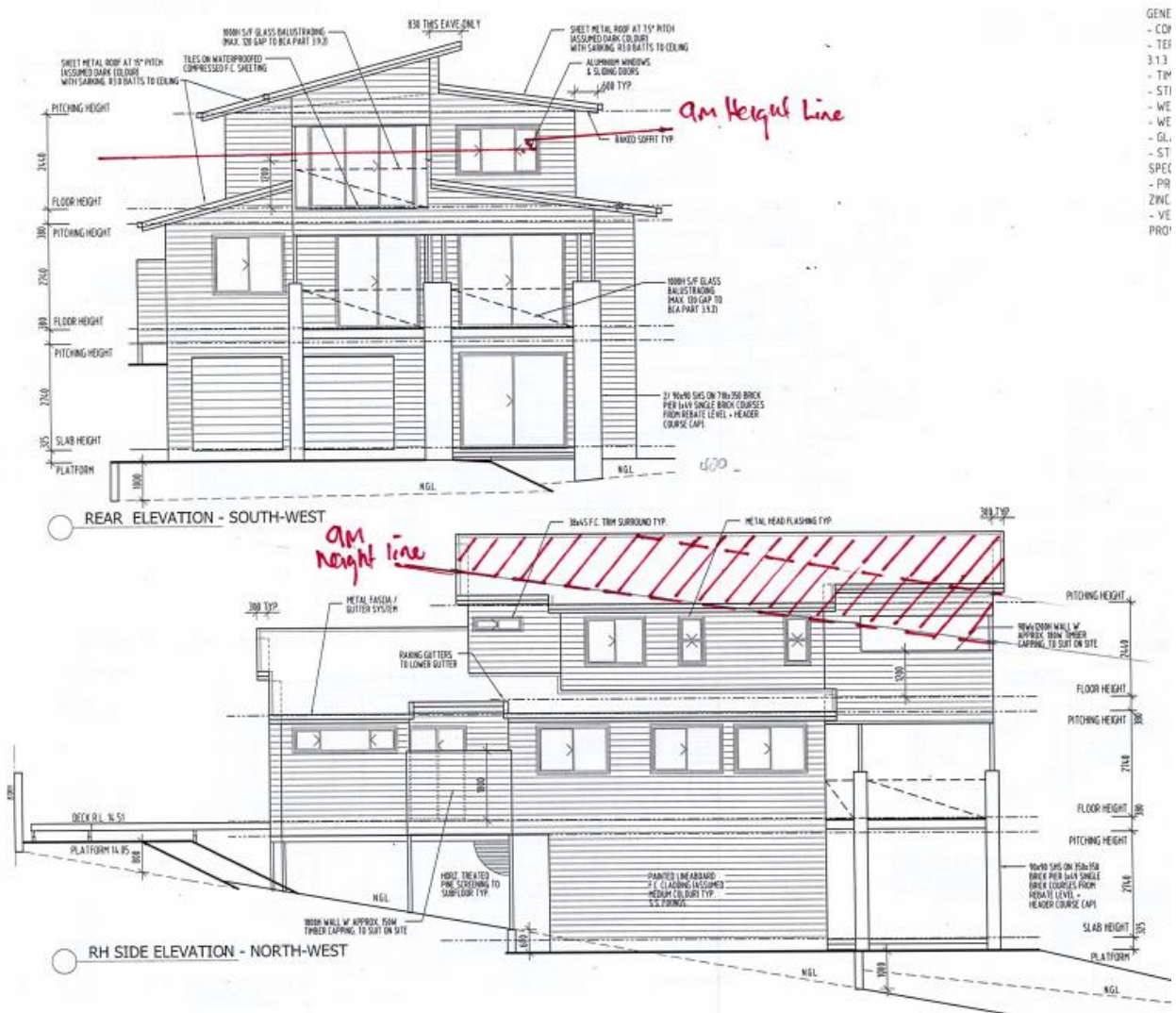


Figure 1. Side elevation showing slope of land and encroachment of part of building above the 9m height limit.

KEY ISSUES

Issue 1: Variation to height restriction under the LEP

The Height of Buildings Map of the LEP sets a building height restriction of 9m for the site.

Planning Circular PS 08-003 from the NSW Department of Planning, Industry and Environment informs councils of the assumed arrangements for the Director-General’s concurrence for exceptions to development standards where the LEP has adopted Clause 4.6. Under Clause 4.6 consent must not be granted for a 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 standard by demonstrating: a) that compliance with the development standard is unreasonable or unnecessary in the circumstances and b) that there is sufficient environmental planning grounds to justify contravening the development standard.

The application has provided the following comments in regard to the exceedance to the height limit:

- Strict compliance with the height is unreasonable given the slope of the land which provides opportunity for an additional storey of development whilst ensuring that the impacts associated with privacy and overshadowing do not result. The shadow diagram provided demonstrates that the adjoining lots are afforded sufficient solar access at appropriate times throughout the year.
- Strict compliance would restrict development of an entire storey and subsequent floor space. The slope of the land and the associated construction costs will not allow for this lost floor area to be located elsewhere.
- Compliance is seen as unnecessary as non-compliance does not result in detrimental impacts in the form of overshadowing or privacy.

- It has been demonstrated that whilst the development does not meet the standard the proposed development is suitable for the lot and that the standard in fact does not cater for the specific area in that 3 storey development in the Yamba Hill precinct is common.

Comment

The maximum height of parts of the building will be 11.83m which is a 31.4% (2.83 metre) variation to 9.0 metre height limit of the LEP. The contravention to the height is shown in Figure 1 which increases as the building extends over the downward slope of the land.

The variation to the height limit is supported by Council staff as the variation is a reasonable design outcome given the constraints resulting from the slope of the land. Pushing the building further down the slope would reduce the height encroachment of the roof, though a variation to the height requirement would still be required. Sliding the 3rd storey forward towards Yamba Street would also reduce the height encroachment though worsen the impacts of overshadowing on the adjoining lot to the south. The height contravention of 2.83 metres for a section of the roof area does not significantly increase the bulk and scale of the development nor significantly impact on adjoining residences compared to a development which could be approved in compliance with the 9m height limit on the lot. The shadow diagrams show that the majority of the private open space (back yard) of the adjoining dwelling to the south will receive direct sunlight during 10am and 2pm mid winter. There are reasonable grounds for the non-compliance with the development standard and there are sufficient planning grounds to justify the contravention of the standard. It is recommended that the variations be supported.

Issue 2. 1.8m front fence and gatehouse

It is proposed that the front fence be a 1.8m high rendered blockwork fence with a gatehouse entrance that will be approximately 3.5m in height (see Figures 2 and 3 below).

The applicant has submitted that there will be no negative impacts from the fence or gatehouse, the fence will increase the area available to be used for private open space on level ground at the front of the dwelling and the sloping nature of the land reduces the bulk of the development.

Comment

The Residential Zone Development Control Plan (the DCP) sets the front fence height for fences forward of the building line to a maximum height of 1.2m. The DCP also provides that fences to a height of 1.8m may be permitted within the front setback area on a road with high traffic noise or where the main area of private open space is located in the front of the dwelling. The DCP stipulates that for fences to a height of 1.8 the following applies:

- (a) 50% of the fence is to be open (not solid); and
- (b) the fence is compatible with the dwelling; and
- (c) the fence is to be constructed of materials compatible with the dwelling/building and character of the locality.

The DCP allows variations to fencing controls to be considered on merit. The masonry fencing will allow for a reduction in noise from Yamba Street and will allow for increased privacy from Yamba Street which is at a higher elevation at the front. An open style fence in this location would not achieve these outcomes. The gatehouse will be a feature on and adjacent to the front boundary/fence adding character to the development.

The fence and gatehouse will be compatible with the dwelling and not out of character in the locality.

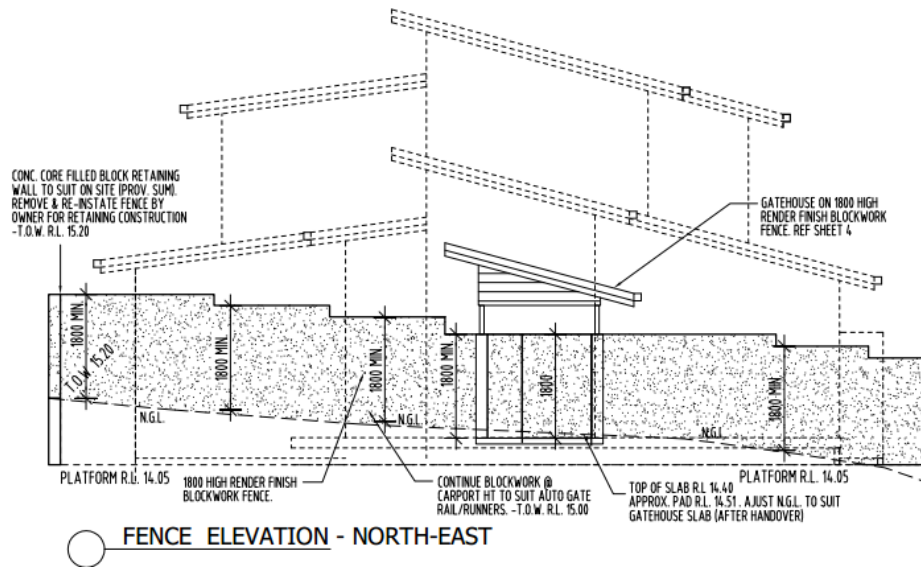


Figure 2. Front fence

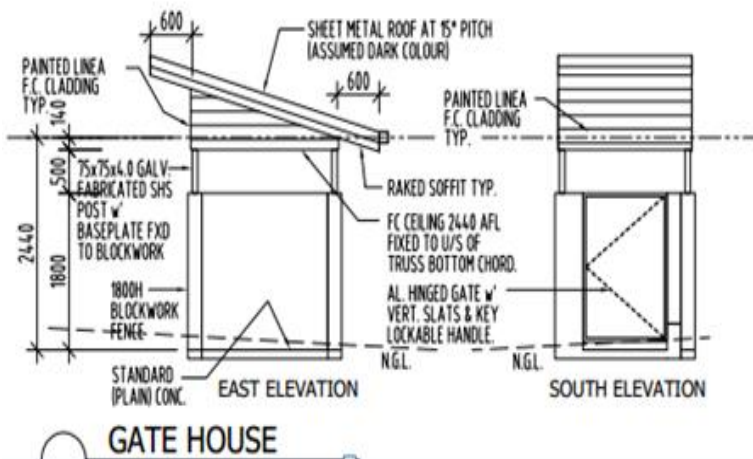


Figure 3. Gatehouse

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

The following planning and legislative instruments were consulted:

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulations 2000

Clarence Valley Local Environmental Plan 2011

Development in Residential Zones Development Control Plan

Consultation

The application has been forward to the following internal staff for comment and conditions

Internal Section or Staff Member	Comment
Development Engineer	Supported
Senior Building Surveyor	Supported with conditions

Legal and Risk Management

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

Climate Change

The proposed development would contribute to CO2-equivalent emissions through construction and operation which are considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. Notwithstanding the above comments, if the development is approved, the proposed building is required to comply with the energy efficiency requirements of the Building Code of Australia (BCA) and the NSW Building and Sustainability Index (BASIX) which will ensure that the development meets legislative requirements for sustainability.

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	<ol style="list-style-type: none">1. Dwelling Plans2. Shadow diagrams3. S4.15 Assessment Report

Schedule 1 – Draft Advices and Conditions**Definition**

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 for Driveway Access To Property (AUS-SPEC)

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

ADVICE:

1. 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.
2. No construction is to be commenced until a Construction Certificate has been issued.
3. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
4. The NSW Government made the Environmental Planning and Assessment (COVID-19 Development Construction Work Days) Order 2020 on 31 March 2020 which has extended construction site operating hours to Sundays and Public Holidays. On these extended days all feasible and reasonable measures to minimise noise are to be taken. This overrides Condition 4 for the duration of the pandemic or unless otherwise directed by the NSW Government. The head contractor/builder is responsible to ensure a copy of the order is made available on-site at all times (available at the following link <https://www.planningportal.nsw.gov.au/Orders>).
5. All plumbing and drainage work must be in accordance with AS 3500 and the Plumbing Code of Australia. The main drain shall be located external to the building unless exceptional site conditions or unusual circumstances exist (Section 4.10 AS/NZS 3500.5.2012).
6. The House Number 49 has been allocated to the premises and shall be clearly displayed so it is visible from the road. Such action can reduce confusion and assist Australia Post, emergency services and the general community. Approval for the site and size of proposed householder mail boxes should be obtained from Australia Post.

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	Drawn by	Date	Sheet	Job No.	Rev.
Site Survey Plan	Perry Homes & Newnham Karl Weir and Partners Pty Ltd	6/9/19	2A of 15	9535D	-
Site Survey Plan	Perry Homes & Newnham Karl Weir and Partners Pty Ltd	6/9/19	2B of 15	9535D	-
Floor Plan - Ground Level	Perry Homes	17/5/19	3 of 15	9535D	D
Floor Plan – Level 1	Perry Homes	17/5/19	4 of 15	9535D	-
Floor Plan – Level 2	Perry Homes	17/5/19	5 of 15	9535D	-
Elevation	Perry Homes	17/5/19	6 of 15	9535D	-
Elevation	Perry Homes	17/5/19	7 of 15	9535D	-

2. Vehicular access to Yamba Street is not permitted. Vehicular access is to be via the existing crossover in RSL Lane. The existing crossover is to be upgraded to the current **NRDC** standards and provide a widened pavement and seal between the existing driveway and edge of bitumen on RSL Lane.

The existing vehicular crossing and access to the allotment is to be constructed in accordance with the requirements of the above and Council's Operations Section. Works are to be completed prior to issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved prior to issue of the Building Construction Certificate.

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

7.00 am to 6.00 pm Monday to Friday

8.00 am to 1.00 pm Saturdays

No work permitted on Sundays and public holidays

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

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

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

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

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

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

7. 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, and
 - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
 - c Showing the name, address and telephone number of the principal certifier for the work, and

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

8. Prior to the issue of an Occupation Certificate all requirements listed in the relevant Basix Certificate for this development shall be completed/installed.
9. The roof covering is to be of a colour which does not produce glare which adversely affects the amenity of adjoining properties. White colorbond, galvanised iron and zincalume are not permitted.

10. All erosion and sediment control measures are to be installed and maintained in accordance with the Statement for Sediment and Erosion Control that was submitted with the development application.
 11. The building shall not be used as flats or adapted for separate occupation.
 12. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
 13. All **new** hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 50°C. A higher hot water temperature is acceptable at all other fixtures, eg. laundry tub and kitchen sink.
 14. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
 15. A minimum height of 150mm shall be maintained between the top of the sewer overflow gully riser and the lowest fixture connected to the drain. The overflow gully shall also be 75mm above surrounding ground level, except if located in a path where it shall finish at a level so as to prevent the ponding and ingress of water.
 16. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
 - plumbing work prior to covering/lining walls
 - sewer work prior to back filling/lining
 - final inspection of plumbing and drainage work.
- Inspections can be booked on line at www.clarence.nsw.gov.au until midnight the day before the inspection or by phoning 6643 0200. Please quote the DA number when booking inspections.
17. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.
 18. All excavated and filled areas are to be drained to prevent surface water affecting neighbouring properties.

ITEM	6b.20.058	MOD2019/0048 – MODIFICATION TO DA2011/0423 TO EXTEND OPERATING HOURS AND LOCATION OF MOBILE FOOD VAN – 4-6 CASINO ROAD, JUNCTION HILL
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Aaron Hancock b/o Hanks Kitchen
<i>Owner</i>	Westlawn Holdings Ltd
<i>Address</i>	4-6 Casino Road, Junction Hill NSW 2460
<i>Submissions</i>	Two (2) Submissions

Council has received an application under Section 4.55 of the *Environmental Planning and Assessment Act, 1979* to modify DA2011/0423 by amending the location and operating hours of the mobile food van upon the subject land and allowing the van to occupy the site when not in use.

The application was notified, 2 submissions were received during the exhibition period. The main concerns raised in the submissions include noise and dust associated with the operation of the food van and fixed food premises on the subject site. The application is being reported to Council as the issues raised in the submissions are not able to be suitably dealt with through Conditions of Consent. This report discusses the key issues with the application, and provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That:

1. Council accept MOD2019/0048 is substantially the same development as approved under DA2011/0423; and
2. Approve MOD2019/0048 by amending the description of the development to 'Mobile Food Vendor'; and
3. Approve MOD2019/0048 subject to deleting Condition 4, and the draft amended and new Conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.058

Ellem/Williamson

That:

1. Council accept MOD2019/0048 is substantially the same development as approved under DA2011/0423; and
2. Approve MOD2019/0048 by amending the description of the development to 'Mobile Food Vendor'; and
3. Approve MOD2019/0048 subject to deleting Condition 4, and the draft amended and new Conditions contained in Schedule 1.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

Modification application MOD2019/0048 was lodged on 18 October 2019 requesting an amendment under Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* to approved Development Application DA2011/0423 for 'Mobile Seafood Vendor'. On the subject land there is also a fixed food premises, operating as a sales only outlet (no manufacture) for Hanks Kitchen, a local bakery business. This permanent premises was originally a butcher shop and was more recently approved as a takeaway food shop under DA2011/0362 before Hanks Kitchen commenced operations from the site consistent with the 2011 approval. Council approved modification application MOD2019/0049 to amend the operating hours of the permanent food premises to open from 5.30am, however staff arrive from 4.45am to deliver food products produced at the main premises in Grafton.

A mobile food van can operate as 'exempt development' under the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* (the SEPP) where, among other criteria, the food van operates between 7.00am and 7.00pm where adjacent to a residential zone. Nearby residents advised Council that use of the food van was creating noise nuisance as early as 5.00am associated with coffee making (eg banging noise associated with discarding coffee grounds into waste container) and customer attendance at the site. Council wrote to the landowner requesting that the operation of the van be in accordance with the requirements of the SEPP or alternatively comply with the current approval (DA2011/0423) for a food van on the land. The applicant has subsequently lodged a modification application to amend DA2011/0423 in relation to:

- a. Changing the description - delete reference to 'Seafood' as the main product sold from the van is coffee,
- b. Adjusting the approved location of the food van on the land,
- c. Changing the operating hours of the mobile food van to 4.30am to 2.00pm Monday to Friday and 6.30am to 12.30pm Saturday, and
- d. Requesting removal of Condition 4 which requires the vehicle to be removed from the site when not operating.

The land is zoned B1 Neighbourhood Centre under the provisions of the *Clarence Valley Local Environmental Plan 2011*. The land adjoining to the north, north-east and opposite the site on the Casino Road/Summerland Way is dominated by R2 Low Density Residential zoned land and domestic residential land use. The proposed changes to the operation of the food van does not satisfy the criteria under the SEPP to remain exempt development, hence development consent for the proposal is required.

The original application (DA2011/0423) was notified, hence in accordance with Part B of the Business Zones Development Control Plan the current modification application has also been notified. Two submissions were received during the notification period with the primary issues being dust and noise associated with the business operating from the subject land.

KEY ISSUES

1. Substantially the Same Development?

This fundamental question needs to be dealt with before any further assessment of the proposed modification. MOD2019/0048 has been lodged under Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which reads as follows:

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

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

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

Development Application DA2011/0423 was approved by Council under delegated authority on 30 September 2011 to permit the temporary occupation of a mobile seafood vendor on the site. The van was able to occupy the site between 11.00am and 6.00pm Wednesday to Friday, with additional trading hours permitted around Christmas and Easter. The approved location of the van was on the southern side of the fixed food premises on-site and when not trading, was to be taken away from the site.

The applicant has stated that the proposed modification is substantially the same development as approved as the activity carried out on-site remains a mobile food vendor and the change in hours will mean that the impacts of the development will be in the morning instead of late afternoon/early evening under the approved application.

As a result of the footpath being relocated Civil Services were asked to comment on the revised location of the van regarding desirable offsets from the footpath. Civil Services have advised that if the van is wholly located outside of the land to be dedicated as road reserve the offset should be acceptable. Council staff are satisfied that the current location of the food van is wholly located within the subject site, with no encroachment into the road reserve, however, any vehicle necessary to tow the van away would need to drive over the footpath. Council staff asked the applicant if it was possible to shift the van to an alternate location on-site, however, they were reluctant to do so as the van is connected to reticulated water supply and sewerage system that also services the fixed food premises.

Provided that the impacts of the proposed modification to the hours of operation can be mitigated through noise reduction measures (refer to 'Noise' issue below) during operation of the food van the change in hours is considered to be acceptable. It is not recommended that Council support the amended location of the mobile food vendor unless the applicant also obtains a Certificate of Compliance for Water/Sewer. Requiring the van to be located in the position approved under DA2011/0423 is also likely to reduce noise impacts to surrounding residential receivers. However, noise can also be mitigated in other ways and for the operation of the food van to operate it is essential that noise nuisance is not generated.

2. Noise

The main issue raised in both submissions received relates to noise associated with the businesses operating from the subject land from as early as 4:30am. The noise generating activities during the sensitive hours of the morning prior to 7.00am are mainly described as the knocking out of coffee grinds, vehicle movements and opening/closing of doors.

A noise management plan has been prepared that identifies a schedule of the activities that generate noise from the premises which generally aligns with those identified in the submissions received. In regard to the food van the applicant indicates that generally staff arrive at 5.15am and commence trading from 5.30am. The applicant has advised that they have investigated measures to retrofit the coffee waste bin with padding and are in discussions with suppliers to determine if there is an alternate way to manage the noise without losing efficiency and reducing customer service. Furthermore, the applicant intends to install signs to remind customers to be mindful of nearby residents during the early hours and to keep doors and windows of the food van closed that face the direction of nearby residences. The applicant has also stated that the early morning vehicle noise cannot solely be attributed to this business as the BP Service Station (located opposite the subject land) operates from 4.30am with customers parking in front of the Hanks Kitchen premises to attend the service station.

As a result of COVID-19 Planning and Public Spaces Minister Rob Stokes issued the *Environmental Planning and Assessment (COVID-19 Development – Takeaway Food and Beverages) Order 2020* to support the food and beverage industry on 2 April 2020 which removed the hours of operation restriction for

mobile food vendors until further notice. While it is not stated in the Order, the operator of the food van still has an obligation not to create offensive noise. Council staff are of the opinion that noise generated from the van can be managed if the applicant explores alternate measures to implement in order to reduce noise generated from the operation of the coffee van and these are reinforced through modified Conditions of Consent. Employees entering the site will need to be respectful of surrounding residences when starting work and delivering products to the shop. The applicant will need to demonstrate how they intend to overcome the issues should they wish to continue operating prior to 7.00am.

3. Other issues raised in Submissions

The other dominant issue raised regarding the operation is the generation of dust from vehicles parking off-street behind or on the northern side of the property. There is sufficient on-street parking available along the frontage in addition to a small pull-in bay directly in front of Hanks Kitchen which is often used by those passing through.

Council staff have previously advised the applicant to minimise the number of non-essential vehicles using the property for parking in an attempt to minimise dust nuisance due to the availability of other parking facilities in the vicinity. In early June some parking and manoeuvring areas on-site had aggregate placed which has reduced the dust, although affected residences are still reporting a dust nuisance. Additional measures may need to be implemented such as barriers to deter customers from parking on-site, however, should the problems associated with dust persist, Council may require that the parking areas be sealed. The location of the new footpath between Trenayr Close and the Casino Road frontage of the subject land may restrict vehicle movement in the future which may assist in reducing dust on-site. Conditions are on the current consent and the applicant has been reminded of their obligations to manage dust.

A further issue was raised in regards to the new public footpath that was to be built connecting Trenayr Close to the Summerland Way/Casino Road over the subject site. Should the footpath have been required to stay in the agreed upon position, the food van would have been required to be moved elsewhere on-site. Council staff advised the applicant it had received an application for the location of the footpath and discussions were taking place between Council and the land owner to relocate the footpath, hence the applicant requested that this modification application be put on hold until such time as the issue was resolved. Council resolved to relocate the footpath at the June 2020 meeting (Item 6c.20.083) which consequently means the food van can stay in the current and proposed position.

The location of the car parking area associated with the food premises being adjacent to the new footpath between Trenayr Close and Casino Road and potential safety risks were also raised in a submission. Restricting parking, access and manoeuvring of vehicles on the site associated with the food van such that only the land on which the food van is located, ie Lot 2 DP741329 (not including the land excised for the new footpath reservation), can be used for parking and vehicle access will manage this potential conflict whilst also reducing potential for generation of noise and dust to nearby residents.

COUNCIL IMPLICATIONS

Budget/Financial

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

Asset Management

The new public footpath to connect Trenayr Close and the Casino Road must not be used or occupied by vehicles associated with the food van business.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy (Exempt and Complying Codes) 2008

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Business Zones

Consultation

The following internal comments have been sought regarding the change in hours and location of the food van:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Civil Services	Comment provided
Environmental Health	Comment provided

Legal and Risk Management

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

Climate Change

The change in operating hours to permit a mobile food vendor operate from the site is not considered to significantly result in impacts that would contribute to climate change

Prepared by	James Hamilton, Development Planner
Attachment	A. Notice of Determination B. Proposed Amended Plan C. Submissions D. Section 4.15 Report

Schedule 1

Draft Amended and New Conditions of Consent for DA2011/0423 as modified by MOD2019/0048

Amend the following condition:

7. The development being completed in conformity with the Environmental Planning & Assessment Act 1979, the Regulations thereunder, the Building Code of Australia and being generally in accordance with plans titled '**Updated Site Plan**' ~~'proposed location for seafood sales vehicle'~~, submitted ~~7/9/11~~ **19/12/2019**, one (1) sheet, submitted/drawn by ~~William Clare~~ **Hanks Kitchen**, as amended in red, or where modified by any conditions of this consent.
3. The hours of operation shall be limited to between **5:30am and 2.00pm Monday to Friday and 6.30am and 12.30pm Saturday**. ~~11.00am to 6.00pm Wednesday, Thursday and Friday. Operations are not permitted between Saturday and Tuesday with the exception of the two days prior to Good Friday and Christmas Day.~~

Insert the following new conditions:

8. **Vehicles other than those necessary for the operation of the business (employees and delivery vehicles) are not permitted to access the grassed area of the site unless treatment of the surface is undertaken to suppress dust. It may be necessary to install physical barriers or impediments to stop non-essential vehicles accessing the site until the surface is sealed.**
9. **Vehicles associated with the proposed food van shall only park, access or manoeuvre on the subject land, ie Lot 2 DP741329 (not including the new footpath reservation), or on the Casino Road reserve with any such use of the subject land to be managed in accordance with the requirements of Condition No 8.**
10. **The applicant is to submit to Council an 'Operational Management Plan' to be implemented for the operation of the Mobile Food Vendor which details how the operator will manage noise and dust from the site to reduce potential nuisance to nearby residents. The Plan shall be submitted to Council for approval within 30 days of the date of determination and the Plan must be implemented within 30 days of the date it is approved by Council.**
11. **An Application for a Certificate of Compliance for Water and/or Sewer Works must be lodged to Council within 30 days of the date of determination. This may require payment of a fee. This requirement is not applicable should the food van be made independent.**

ITEM	6b.20.059	CLARENCE VALLEY ANGLICAN SCHOOL REQUEST TO WAIVER LOCAL AUTHORITY CHARGES APPLIED UNDER DA2019/0468 FOR A PERFORMANCE CENTRE
Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

Clarence Valley Anglican School (CVAS) has applied to Council for a waiver of the DA fees including the Section 7.12 contribution amount of \$24,000.00 required in a condition of development consent (DA2019/0468) for a Performance Centre at the Anglican School, Clarenza. The contribution has been calculated and applied in accordance with the Clarence Valley Contributions Plan 2011 (the Contribution Plan).

This report is provided to Council for consideration of waiving the DA fees plus the Section 7.12 contribution amount which is required to be paid prior to the issue of a Construction Certificate.

OFFICER RECOMMENDATION

That:

1. Council waive the Development Application fees and all Construction Certificate fees at a total of \$10,595.02 with the exception of the Long Service Leave Levy which cannot be waived.
2. Council not waive the contribution amount of \$24,000.00 levied on DA2019/0468 for the construction of a Performance Centre for the Clarence Valley Anglican School, and
 - a. Council offer to enter into an arrangement that payments to be made over a four year term (interest free) from the date of issue of the Construction Certificate for the Performance Centre, being \$6,000.00 per annum, and
 - b. On the finalisation of an agreement referred to above that Council agree that the requirements of condition 2 have been met for the release of the Construction Certificate.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Simmons, Williamson, Baker

Against: Clancy

COUNCIL RESOLUTION – 6b.20.059

Ellem/Lysaught

That:

1. Council donate, from the Community Initiatives budget, the equivalent Development Application fees and all Construction Certificate fees at a total of \$10,595.02 with the exception of the Long Service Leave Levy, which cannot be waived.
2. Council not waive the contribution amount of \$24,000.00 levied on DA2019/0468 for the construction of a Performance Centre for the Clarence Valley Anglican School, and
 - a. Council offer to enter into an arrangement that payments to be made over a four year term (interest free) from the date of issue of the Construction Certificate for the Performance Centre, being \$6,000.00 per annum, and
 - b. On the finalisation of an agreement referred to above that Council agree that the requirements of condition 2 have been met for the release of the Construction Certificate.

Voting recorded as follows:

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

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 2.1.3 Provide strategic asset management planning

BACKGROUND

Council approved DA2019/0468 for a Performance Centre for the Clarence Valley Anglican School on 6 April 2020.

Condition 2 of the Notice of Determination required the payment of a contribution of \$24,000.00 as detailed hereunder:

2. Payment to Council of the contributions pursuant to Section 7.12 of the Environmental Planning and Assessment Act:
\$24,000.00 GL S94ACVCOthResAcco

This amount is based on the following calculation

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
b The value of development stated in the application was \$2,400,000.00

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

The Chair of the Clarence Valley Anglican School has written to Council requesting a waiver of the charges applied under DA2019/0468 by letter dated 9 July 2020. Included in the letter is a summary of charges totalling to \$17,945.02 that have been paid to date for the DA, Construction Certificate application and related matters, including:

- Development Application - \$5,579.66
- Construction Certificate
 - Construction Certificate Building Inspection Charge - \$1,065.45
 - Construction Certificate application fee - \$2,851.81
 - CC Archiving Fee - \$36.00
 - Long Service Leave Levy - \$7,350.00
 - DA Toilet Connection & Inspections - \$476.10
 - Plumbing Inspection Fee - \$146.50

Prior to the issue of a Construction Certificate the developer is required to pay the S7.12 contribution amount of \$24,000.00.

KEY ISSUES**Issue 1 – Waiving of Contribution Amount**

The Chair of the Clarence Valley Anglican School has written to Council with the following request:

The Performance Centre will be a wonderful asset to both the School and wider Clarence Valley community. The facility will include a stage and performance space; general learning areas for music, drama and art; additional learning spaces; a tiered learning area; amenities; and storage. The central space will have a seating capacity of approximately 300 persons. Enclosed are two perspectives and a floor plan to give you an idea of what the facility will look like from outside (with orientation facing towards Centenary Drive) and inside.

It is hoped that the Performance Centre will enable the School to grow, attracting students who would not otherwise have the opportunity to excel in creative arts. It is also envisioned that the Performance Centre will be available for local community use, strengthening wider relationships.

Unfortunately construction tender prices have come-in significantly higher than expected. Although the School and architect have worked closely with the preferred tenderer to reduce costs without detrimentally affecting the functionality and features of the Performance Centre, there will be an additional unforeseen cost to the School which can only be funded by donations and the School's own capital expenditure budget.

It would greatly assist the School if Clarence Valley Council could therefore waive the local authority charges.

Council approved a Performance Centre for the Clarence Valley Anglican School (CVAS) under DA2019/0468 on 6 April 2020 which included:

- Three music classrooms and recording room
- Teaching spaces (drama, visual art galley and music classroom)
- Tiered lecture space (50 seats)
- Main stage and sunken stage, green room and back-of-house storage
- Amenities (10 toilets including 1 accessible toilet)
- Entrance foyer
- Servery
- Storage rooms (instrument, costume and chair)

Being a non-residential development the development was levied with a Section 7.12 contribution of \$24,000.00 based on the formula from the adopted Contribution Plan, ie as the estimated cost of the development was more than \$200,000.00 the amount is based on the value of development x 0.01 with the value of development stated in the application at \$2.4 million.

The other fees that have been paid are in accordance with the adopted Fees and Charges for the DA, CC and related matters. The Long Service Levy (\$7,350.00) is required under the *Building and Construction Industry Long Service Payments Act 1986* and is collected by Council on behalf of the Long Service Corporation. The levy is paid into a fund administered by the Long Service Corporation, and from this fund, the Corporation makes long service payments to building and construction workers.

Comment

The primary purpose of the Contribution Plan is to authorise Council to require a Local Infrastructure Contribution to be made towards the provision, extension, or augmentation of Local Infrastructure and the recoupment of the previous costs incurred in providing existing Local Infrastructure. Other purposes of the Contribution Plan are:

- To provide the framework for the efficient and equitable determination, collection and management of Local Infrastructure Contributions;
- To determine the demand for Local Infrastructure generated by the incoming population to the area and ensure that development makes a reasonable contribution toward the provision of Local Infrastructure that is required for that population;
- To ensure that the existing community is not unreasonably burdened by the provision of Local Infrastructure required (either partly or fully) as a result of development in the area; and
- To ensure Council's management of Local Infrastructure Contributions complies with relevant legislation and practice notes, and achieves best practice in plan format and management.

The only exceptions to the requirement of payment of the contribution are where a work in-kind, material public benefit, dedication of land and/or deferred payment arrangement has been agreed by the consent authority (Council). As no other option is available under the Contribution Plan the waiving of the contribution can only be considered as a donation to the school.

Section 356 of the *Local Government Act 1993* gives Council the power to make donations and Section 377 of the *Local Government Act* states that this power cannot be delegated but must be exercised by Council at a Council meeting. Council has an adopted Donations Policy which supports financial assistance under the Community Initiatives Program. Applications under the Community Initiatives Program are to relate their submission to one or more of the following criteria:

- 6.1 *Not for profit community organisations providing a community service within the Clarence Valley region where there is a demonstrated community need or benefit;*

- 6.2 *Educational institutions in the Clarence Valley for award presentations only – see Clause 8.6;*
- 6.3 *Sporting associations to assist with sponsorship of an event or an award (as distinct from funding for an event itself - see Festivals and Events Development Program) only;*
- 6.4 *Organisations involved in cultural development within the Clarence Valley;*
- 6.5 *Financial viability of the organisations or groups making the applications (profit and loss or income and expenses and balance sheet information will be required);*
- 6.6 *Organisations that provide a valuable service or benefit for which there are no alternate funding sources;*
- 6.7 *Preference will be given to donations that:*
 - 6.7.1 *Assist to provide a service that falls within Council's area of responsibility, or*
 - 6.7.2 *Benefit or assist a target group or activity identified in one of Council's strategic plans.*
- 6.8 *The donation request must be for an activity or service to be provided within that financial year as approved by Council.*
- 6.9 *Council will only make, except in very exceptional circumstances, one donation to any organisation each financial year.*

As per the Donations Policy, Council will make provision in its budget to provide financial assistance to selected organisations which meet the criteria set out in this Policy. There is unlikely to be money set aside in the budget for contingency donations available to organisations.

The Policy does provide that Council will only provide financial assistance to individuals in exceptional circumstances and only then if the application for assistance is made by an incorporated organisation and Council may consider requests from organisations not based in the Clarence Valley provided that the service they provide benefits the Clarence Valley community.

The Donations Policy also provides that any donation requests from educational institutions within the Clarence Valley local government area that are not eligible under this Policy must be reported to Council as a separate item for decision (Council Resolution 15.019/14, 21 October 2014).

The current request to waiver the contribution amount does not meet the criteria under the Community Initiatives Program and the waiver as requested would be one under exceptional circumstances.

Other options for the School would be:

- To defer certain parts of the development to a later time when money is available (this would also reduce the value of the section 7.12 contribution payable on a pro-rata basis);
- To have payments deferred to a later date;
- For payments to be paid in instalments over an agreed timeframe (with or without interest); or
- Council agree to a reduced contribution amount payable.

The contribution amount of \$24,000.00 is a considerable amount for Council to donate to the School given that the main beneficiary of the Performance Centre will be the School and the School community. Benefits of the centre to the broader Clarence Valley community are likely to be limited given the facility is located on private School grounds and the primary function of the facility is to serve School needs.

It is recommended that where the first option above cannot be, or is not, pursued by the School that the third option be adopted by Council in the circumstances, allowing payments of \$6,000.00 per annum to be made over a four year term (interest free) from the date that the Construction Certificate is issued. This retains the integrity and purpose of the Contributions Plan to facilitate contributions towards Local Infrastructure whilst relaxing the financial burden on the School to pay the full contribution prior to issue of the Construction Certificate.

COUNCIL IMPLICATIONS

Budget/Financial

If Council supports to waive the Section 7.12 Contribution Council will not collect an amount of \$24,000.00 to assist in funding Local Infrastructure.

Asset Management

Not applicable. The Performance Centre is a private asset.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Local Government Act 1993

Clarence Valley Contributions Plan 2011
Clarence Valley Donations Policy

Consultation

No internal or external consultation was required as part of the request to waiver the contribution.

Legal and Risk Management

Waiving of the Section 7.12 contribution in the circumstances of the case is considered to create an undesirable precedent as it could provide opportunity for other developments to seek to be excused from this payment. The options and recommendation provided in this report are considered adequate to uphold the integrity and purpose of the Contribution Plan whilst providing reasonable flexibility given the circumstances outlined in the request to Council.

Climate Change

N/A

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	1. CVAS letter to Council requesting Local Authority Charges Waiver (9/7/2020) 2. Summary of Local Authority Charges as at 9/7/2020

ITEM 6b.20.060 (DRAFT) GRAFTON WATERFRONT PRECINCT PLAN OF MANAGEMENT

Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

A draft plan of management has been prepared for the Grafton Waterfront Precinct area. The preparation of a plan of management for the precinct is a statutory requirement for community Crown land under the *Crown Land Management Act 2016* and for land classified as 'community' under the *Local Government Act 1993*.

OFFICER RECOMMENDATION

That Council:

1. Note the preparation of a draft plan of management for the Grafton Waterfront Precinct area.
2. Authorise the General Manager to refer the draft plan to the NSW Department of Planning, Industry and Environment (DPIE) as owner of the Grafton Memorial Park (Reserve 85477) for comment regarding this component of the plan using Form B (*Notice of plan of management for Crown reserve—Alteration of categorisation or additional/new categorisation*).
3. Place the draft plan on public exhibition (after it has been returned by DPIE and any corrections regarding Grafton Memorial Park are made) for a period not less than 28 days as required under the *Local Government Act 1993*.
4. Conduct a public hearing regarding the categorisation of the 'community' land recently acquired and for land currently under acquisition to be included under the plan.
5. Accept submissions on the draft plan for a period not less than 42 days from the date the plan is placed on public exhibition as required under the *Local Government Act 1993*.
6. Agree that after the submission period has closed a report be brought back for consideration for adoption or re-exhibition as per the requirements of section 40 of the *Local Government Act 1993*.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.20.060

Ellem/Williamson

That Council:

1. Note the preparation of a draft plan of management for the Grafton Waterfront Precinct area.
2. Authorise the General Manager to refer the draft plan to the NSW Department of Planning, Industry and Environment (DPIE) as owner of the Grafton Memorial Park (Reserve 85477) for comment regarding this component of the plan using Form B (*Notice of plan of management for Crown reserve—Alteration of categorisation or additional/new categorisation*).
3. Place the draft plan on public exhibition (after it has been returned by DPIE and any corrections regarding Grafton Memorial Park are made) for a period not less than 28 days as required under the *Local Government Act 1993*.
4. Conduct a public hearing regarding the categorisation of the 'community' land recently acquired and for land currently under acquisition to be included under the plan.
5. Accept submissions on the draft plan for a period not less than 42 days from the date the plan is placed on public exhibition as required under the *Local Government Act 1993*.
6. Agree that after the submission period has closed a report be brought back for consideration for adoption or re-exhibition as per the requirements of section 40 of the *Local Government Act 1993*.

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

Theme 5 Leadership

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

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

BACKGROUND

The Grafton Waterfront Precinct consists of land owned by Council in fee simple, Council road and Crown land, being Reserve 85477 for Public Recreation, managed by Council as the Crown land manager of the Grafton Memorial Park.

Under the *Local Government Act 1993* (LG Act), councils are required to develop and implement plans of management for all 'community' land owned by them.

In addition, the *Crown Land Management Act 2016* (CLM Act) authorises local councils appointed to manage dedicated or reserved Crown land (council managers) to manage that land as if it were public land under the LG Act. Generally, council managers will manage Crown land under their control as if it were community land under Part 2 of the LG Act.

KEY ISSUES***Local Government Act 1993* requirements**

The LG Act requires that 'community' land to be used and managed in accordance with:

- a plan of management (PoM) applying to the land;
- any law permitting the use of the land for a specified purpose or otherwise regulating the use of the land; and
- the requirements of Part 2 Public land, Division 2 Use and management of community land, Chapter 6 of the *Local Government Act 1993* as they relate to the land (s35, LG Act).

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

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

In addition, section 39 of the Act requires that any draft PoM for or including land not owned by Council must be referred to the owner of the land for comment prior to placing the draft plan on public exhibition. The council must include in the draft plan any provisions that may properly be required by the person who owns or controls the land.

Section 40A of the Act requires a council to hold a public hearing in respect of a proposed PoM (including a PoM that amends another PoM) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36(4). Lot 18 DP1260163; Lot 1 DP1233312 and Lot 4 DP1253626 have not previously been categorised under a PoM. Consequently, a public hearing is required to seek public comment on Council's proposal to categorise this land as 'Park' under the PoM. It is also the intention of the draft plan to categorise the foreshore land between Villiers Street and Clarence Street as 'Park' as well on its acquisition by Council.

In addition, section 44 of the Act makes it a condition that pending the adoption of a PoM for community land, the nature and use of the land must not be changed. This means that the proposed redevelopment of the Grafton waterfront area cannot proceed until a compliant PoM for the land has been adopted by Council.

Crown Land Management Act 2016 requirements

Section 3.23(6) of the CLM Act requires council managers to adopt a PoM (either specific or generic) for any Crown reserve for which it is the appointed Crown land manager, and is classified as 'community' land under the LG Act. These PoMs must be prepared and adopted in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the LG Act.

Grafton Memorial Park is Crown land owned by the State of New South Wales. Consequently a copy of the plan must be referred to NSW Department of Planning, Industry and Environment (DPIE) as the owner of the land under section 39 of the LG Act, prior to Council placing the draft plan on public exhibition. This enables the DPIE as the land owner to ensure any matters required by the Department regarding the Park are included in the draft plan. However, as the draft plan proposes to alter the category assigned to the Water Brigade building in the Park, notification must be made on Form B (*Notice of plan of management for Crown reserve-Alteration of categorisation or additional/new categorisation*) of the *Developing plans of management for community land Crown reserves: Guidelines for council Crown land managers* document.

The statutory requirements prescribed by the CLM Act also includes the requirement for council Crown land managers to obtain written advice from their qualified native title manager that any PoM covering Crown land that is not 'excluded land' complies with the requirements of the native title legislation.

Section 8.7 of the CLM Act also details that written native title manager advice is required before a council Crown land manager does any of the following:

- a) grants leases, licences, permits, forestry rights, easements or rights of way over the land,
- b) mortgages the land or allows it to be mortgaged,
- c) imposes, requires or agrees to covenants, conditions or other restrictions on use (or removes or releases, or agrees to remove or release, covenants, conditions, or other restrictions on use) in connection with dealings involving the land,
- d) approves (or submits for approval) a plan of management for the land that authorises or permits any of the kinds of dealings referred to in paragraph (a), (b) or (c). Accordingly, native title manager advice must be obtained prior to the approval (or submittal for approval) of a POM that allows a dealings in (a)–(c) and the execution of any lease, licence, permit, etc. that may be authorised under that plan.

Native title considerations in regards to Grafton Memorial Park and the adjoining Clarence River below the Mean High Water Mark have been included in the draft plan. Native title continues to exist in these areas unless deemed otherwise by the Federal Court or by other legal means or where native title may have been extinguished by a valid or validated 'public work' (evidenced under section 23B(7) of the *Native Title Act 1993* (Cth)) has been built. Consequently, the draft plan includes statements noting that any impairment or impact on native title rights and interests will be appropriately addressed under the Future Act provisions of the *Native Title Act 1993* (Cth). This includes meeting the notification requirements of Section 24JB of the Act in regards to the construction or establishment of a public work prior to its approval.

COUNCIL IMPLICATIONS**Budget/Financial**

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

Asset Management

Council owns and manages three types of land and the assets there upon as part of the Grafton Waterfront Precinct Area:

- Public land classified as 'community' (Lot 20 DP879077; Lot 18 DP1260163; Lot 1 DP1233312 and Lot 4 DP 1253626).
- Public land classified as 'operational' (17 DP1163618).
- Road reserve, owned by Council as the Local Roads Authority) (Prince Street; Villiers Street and Clarence Street roadends).

Council as the Crown land manager of R85477 (Grafton Memorial Park) has the care, control and management of Lots 4, 5, 6, 9 and 10 Sec 4 DP758470; Lot 702 Sec 4 DP92916; Lot 7001 DP1054597; Lot 2 DP1171986 and Lot 243 DP751371 and the assets there upon.

In addition, Council is currently finalising negotiations with the land owners between Villiers Street and Clarence Street to purchase a 40m (approx.) strip of riverfront land to add to the Grafton Waterfront Precinct

area. This land will be classified as 'Community' and managed under the Grafton Waterfront Precinct Plan of Management once Council has taken full ownership of this land.

Policy or Regulation

Crown Land Management Act 2016

Local Government Act 1993

Native Title Act 1993 (Cth)

Consultation

The following internal sections of Council were consulted during the drafting of the Grafton Waterfront Precinct Plan of Management

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

External consultation was also undertaken with Grafton Rowing Club representatives as the current lessee of the rowing shed and Water Brigade building, and with representatives from the Grafton RSL Sub-branch; and the Grafton Jacaranda Committee.

Legal and Risk Management

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

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

Climate Change

N/A

Prepared by	Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title)
To be tabled	Draft Grafton Waterfront Precinct Plan of Management

ITEM	6b.20.061	2020 BUSHFIRE RECOVERY FUND
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Meeting	Council	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment, Planning & Community (Des Schroder)	
Attachment	Nil	

SUMMARY

This report summarises the assessment of applications received from organisations from the 2019-2020 bushfire affected communities, as part of the *2020 Bushfire Recovery Fund*.

OFFICER RECOMMENDATION

That Council approve donations under the *2020 Bushfire Recovery Fund* to the value of \$42,838 in accordance with the recommendations set out in the attached schedule.

Having declared an interest in this item, Cr Ellem left the EP&C meeting at 3.58 pm and returned at 3.59 pm.

COMMITTEE RECOMMENDATION

Simmons/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

Having declared an interest in this item, Cr Ellem left the Council meeting at 3.44 pm and returned at 3.52 pm.

COUNCIL RESOLUTION – 6b.20.061

Williamson/Lysaught

That Council:

1. Amend the amount approved in request BRFO7, the Nymboida Community Group Inc. to \$17,162.00 in total.
2. Approved donations under the 2020 Bushfire Recovery Fund to the value of \$50,000.00 in accordance with the table in the report.
3. Allocate an additional \$7,838.00 to the Nymboida Community Group Inc. from the Federal Bushfire Recovery Funds and that this allocation be reflected in the quarterly budget review statement reported in October.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

2019 bushfire affected communities were eligible to apply online to the *2020 Bushfire Recovery Fund* for up to \$10,000 via a Smarty Grants link. Applications were open to community organisations for 13.5 weeks

from 3 April to 5 July 2020, and promoted through Council's new Grant Finder webpage and via email notification through the Community Projects Officer's database of contacts, as assisted by the Recovery Assistance Point team.

Applications were received from 5 different identified bushfire affected areas: **Woombah**/Iluka; Glenreagh/Clouds Creek/**Towallum**; **Dundurrabin**/Tyringham and **Nymboida**/Kangaroo Creek/Blaxland Creek/Buccarumbi/Newton Boyd and **Wooloweyah**/Angourie.

No.	Organisation	Project Description	Requested	Recommended
BRF0 2	Woombah Residents Association	Musical Bushfire Recovery day on Saturday 10 April 2021. Entertainers from a variety of musical genres will perform from 11am-7:30pm in Woombah Park with food stalls; and a covered area for 200-300 spectators will be erected for shelter.	\$ 7,838	\$ 7,838
BRF0 4	Towallum Park Management Committee	Towallum Park Events for community spirit: 12 events from September 2020 until June 2021 - 1 per month plus an extra event in January for Australia Day. We would look at 30 to 50 TBC people attending these events, which would be monitored to adhere to the Covid-19 rules that are in place when these events happen.	\$ 5,000	\$ 5,000
BRF0 5	Dundurrabin Community Centre Management Committee	Dundurrabin Community Centre (DCC) will host a workshop to assist community recovery from the bushfires with expert facilitator David Younger https://www.davidyoungerpsychology.com.au/communityrecovery TBC. We will reconnect through a Family Fun Day, sharing food, music, and activities, building resilience through social connection. February 2021 from 11am-4pm at Dundurrabin Community Centre featuring a Live Music, Jumping Castle, Mechanical Bull, Children's activities, Reptile Show and Lunch.	\$ 10,000	\$ 10,000
BRF0 7	Nymboida Community Groups Inc	Nymboida Canoe Centre on Saturday 7 November, 2020: Afternoon and evening program of local and professional musical performance and storytelling through the creative arts. Headspace Youth Art Aerosol Bushfire Panels, Curator's Talk, Artists Talk Australian Red Cross Bushfire Recovery Mosaic Bird Bee & Butterfly Baths installed as a water feature, Photographic display of images of fire and regeneration Firebird, a natural fibre weaving workshop throughout afternoon. A community dinner will be provided by a catering alliance orchestrated by the Clarence Creative Kitchen. Sundown Ceremony - a Connection Circle of Candles & Bush Dance - Clarence Camp Oven Festival style.	\$ 10,000	\$ 10,000
BRF0 8	Wooloweyah Park & Reserves Management Committee	A spring festival spread over 12 weeks including 6 fortnightly indoor music concerts, 5 community cultural-sport-fun weekend gatherings and several one-off special events. All will be held around the Wooloweyah Hall and surrounding grounds.	\$ 10,000	\$10,000
		TOTALS:	\$ 42,838	\$ 42,838

All applications were eligible and have been recommended in line with the General Manager's approved guidelines:

- To deliver immediate, small-scale funding to local communities that will aid community recovery following the bushfires. The funds will deliver locally-led recovery activities.

KEY ISSUES

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

COUNCIL IMPLICATIONS**Budget/Financial**

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

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

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

ITEM	6b.20.062	DEVELOPMENT APPLICATIONS
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Meeting	Environment, Planning & Community Committee	21 July 2020
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Environment, Development & Strategic Planning (Adam Cameron)	
Attachment	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.

COMMITTEE RECOMMENDATION

Simmons/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

Having declared an interest in this item, Cr Novak left the Council meeting at 3.53 pm and returned at 3.54 pm.

COUNCIL RESOLUTION – 6b.20.062

Baker/Williamson

That this update on Development Applications be noted together with the earlier report to this meeting at Resolution 6a.20.027.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 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 for the full financial year from 1 July 2019 to 30 June 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)
750	722	\$163,329,389.20	315	Average : 76 days Median: 53 days

Of the 722 approved Development Applications between 1 July 2019 and 30 June 2020, 289 (40%) were determined within 40 days or less.

As of 1 July 2020 there were 149 outstanding development applications, which have been with Council for the following timeframe:

Less than 40 days	84
41 - 60 days	16
61 - 80 days	11
81+ days	38

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

Reasons for Undetermined Applications over 40 days

Application No.	Received Date	Days	Description	Property	Reason
DA2020/0261	19/05/2020	45	Dwelling	13 Bryce Crescent, LAWRENCE 2460	Currently being assessed*
DA2020/0267	21/05/2020	45	Demolish shed and erect shed	127 Villiers Street, GRAFTON NSW 2460	Awaiting additional information (Amended Plans).
DA2020/0265	20/05/2020	46	Dwelling and shed	70 Sussex Street, COPMANHURST NSW 2460	Awaiting additional information (Amended Plans).
SUB2020/0010	20/05/2020	46	Two lot subdivision	135 Adams Street, WOOMBAAH NSW 2469	Additional information requested (Revised Bushfire Report to Comply with Planning for Bushfire Guidelines 2019, Revised Ecological Report and Aboriginal Cultural Heritage Assessment in accordance with National Parks and Wildlife Regulation 2019).
DA2020/0223	4/05/2020	47	Dwelling	24 Locksley Close, GLENREAGH NSW 2450	Awaiting additional information (finished floor heights in regards to localised overland flow path)
DA2020/0259	18/05/2020	48	Garage for PCYC	300 Powell Street, GRAFTON NSW 2460	Additional information received 6/07 (Amended Plans) and submissions received

Application No.	Received Date	Days	Description	Property	Reason
					regarding access from cul-de-sac.
DA2020/0260	18/05/2020	48	Shed	52 River Street, ULMARRA NSW 2462	Variation to DCP currently being considered (Over 100m ² size and height limit in Residential Zone).
DA2020/0256	15/05/2020	51	Dwelling	6 Fig Tree Lane, CHATSWORTH 2469	Currently being assessed*
DA2020/0255	14/05/2020	52	Dual Occupancy	9 Flame Street, GRAFTON NSW 2460	Additional information requested (Amended Plans to increased landscaped area).
DA2020/0251	13/05/2020	53	Storage yard	121 Jubilee Street, TOWNSEND NSW 2463	Awaiting additional information (amended plans).
SUB2020/0008	30/04/2020	53	Boundary adjustment	160 Russell Road, WOODFORD ISLAND NSW 2463	Awaiting external referral from RFS.
DA2020/0250	12/05/2020	54	Dwelling	555 Laytons Range Road, NYMBOIDA NSW 2460	Awaiting additional information (floor heights in relation to localised flooding).
DA2020/0246	11/05/2020	55	Alterations and Additions to dwelling	13 Link Street, YAMBA NSW 2464	Additional information received (shadow diagrams) and currently being assessed*.
DA2020/0244	8/05/2020	58	Dwelling	1 Church Street, MACLEAN NSW 2463	DCP variation to front setback not supported and amended plans requested, amended plans submitted for assessment 25/06.
DA2020/0233	5/05/2020	59	Swimming Pool	14 Mantons Lane, LAWRENCE 2460	Currently being assessed*
DA2020/0241	7/05/2020	59	Shed with caretakers cottage and caravan storage	67 Johnsons Lane, ILUKA NSW 2466	Awaiting additional information (manoeuvring diagrams and amended plans).
DA2020/0227	5/05/2020	61	Fence	66 Skinner Street, SOUTH GRAFTON NSW 2460	Awaiting additional information (amended design to comply with heritage provisions).
DA2020/0229	5/05/2020	61	Temporary outdoor dining deck	26 Coldstream Street, YAMBA NSW 2464	Essential Energy has requested additional information on 22/06 (proposed materials to be used and setbacks to overhead power). Report impact on car parking to July meeting
DA2020/0232	5/05/2020	61	Shed	17 Bayview Drive, YAMBA NSW 2464	Awaiting additional information (Amended Plans).
DA2020/0224	4/05/2020	62	Machine Shed	189 Dandahra Road, CANGAI NSW 2460	Awaiting additional information (amended plans showing details of cut/fill).

Application No.	Received Date	Days	Description	Property	Reason
DA2020/0209	23/04/2020	65	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.
SUB2020/0007	29/04/2020	65	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	66	Convert existing out-building to dwelling	96 Banana Road, MORORO NSW 2469	Internal comments from Development Planner received 6/07 and currently being assessed*.
DA2020/0220	30/04/2020	66	Redevelopment of caravan park	8A Harbour Street, YAMBA NSW 2464	Further consultation with NTS Corp in progress.
DA2020/0198	17/04/2020	68	House and shed pad and access road	Farlows Lane, MACLEAN NSW 2463	Additional information requested (engineering details for earthworks completed on-site).
DA2020/0200	20/04/2020	76	Carpports and shed	15 Denton Drive, SOUTH GRAFTON NSW 2460	Variation to DCP (setbacks) being assessed. Awaiting confirmation from applicant as to whether earthworks undertaken onsite without consent are to be included under this application & applicant to address use of earthen pad.
SUB2020/0006	16/04/2020	76	Three lot subdivision	115 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (Sight distances and access issues).
DA2020/0188	7/04/2020	82	Dual Occupancy and two lot subdivision	4 Little River Close, WOOLI NSW 2462	Further revised On-Site Effluent Management Report submitted 1/07 and being assessed by Council staff.
SUB2020/0005	3/04/2020	82	Two lot strata subdivision	96 Spenser Street, ILUKA NSW 2466	Awaiting additional information (payment of integrated development administration fee before being referred to RFS).
DA2020/0179	31/03/2020	96	Shed	64 Crisp Drive, ASHBY HEIGHTS NSW 2463	Awaiting additional information (amended plans) or withdraw application.
DA2020/0160	23/03/2020	97	Function centre (wedding venue)	151 Micalo Road, MICALO ISLAND NSW 2464	Staff have written to the applicant with advice regarding options for access and are awaiting a response

Application No.	Received Date	Days	Description	Property	Reason
					from applicant on how to progress the application. Applicant has requested that the application be put on hold.
DA2020/0170	25/03/2020	101	Dual Occupancy	140 Ski Lodge Road, SEELANDS 2460	Report to July Council meeting.
DA2020/0144	16/03/2020	107	Dwelling	Old Ferry Road, ASHBY NSW 2463	Additional information received 23/06 and plans re-notified. Revised submission received regarding amended proposal.
DA2020/0156	19/03/2020	107	Dwelling (including variation to height) retaining wall and gatehouse	49 Yamba Street, YAMBA NSW 2464	Report to July Council meeting.
DA2020/0129	10/03/2020	117	Alterations and additions to dwelling	21 Westringia Place, YAMBA NSW 2464	Currently being assessed*
DA2020/0131	10/03/2020	117	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Part of additional information submitted, still awaiting additional information requested (flood engineers report).
DA2020/0132	10/03/2020	117	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Part of additional information submitted, still awaiting additional information requested (flood engineers report).
DA2020/0133	10/03/2020	117	Dwelling and flood mound	Serpentine Channel North Bank Road, CHATSWORTH NSW 2469	Part of additional information submitted, still awaiting additional information requested (flood engineers report).
SUB2020/0002	25/02/2020	123	17 large lot residential subdivision	273-331 Centenary Drive, CLARENZA NSW 2460	Awaiting additional information (access, contaminated land, ecological assessment, cultural heritage assessment, water supply strategy and OSM report and stormwater management), Applicant has advised proposal to be amended (yet to be submitted). Awaiting external referral from RFS.

Application No.	Received Date	Days	Description	Property	Reason
DA2020/0071	17/02/2020	129	Dwelling and boundary adjustment	25 McPhee Street, MACLEAN NSW 2463	Awaiting additional information (access and clearing). Council staff to contact applicant requesting update on status of outstanding information request.
DA2020/0103	26/02/2020	130	Relocate existing carport with minor alterations	155 Lakes Boulevard, WOLOWEYAH NSW 2464	Currently being assessed*
DA2020/0079	19/02/2020	131	Dwelling and fill mound	Watts Lane, HARWOOD NSW 2465	Awaiting additional information (Contaminated Land Assessment).
DA2020/0038	29/01/2020	158	Demolish awning and erect awning	34-36 River Street, MACLEAN NSW 2463	Additional information requested (Compliance with Essential Energy Requirements)
DA2020/0028	23/01/2020	164	Two industrial sheds	Electra Crescent, SOUTH GRAFTON NSW 2460	Additional information requested 29/01 (parking, use of building and landscaping details).
DA2020/0019	17/01/2020	166	Depot and construction of hardstand area for parking area	12 Mulgi Drive, SOUTH GRAFTON NSW 2460	Awaiting additional information 23/01 (stormwater, manoeuvring and hours of operation).
DA2019/0672	9/12/2019	209	Alterations & additions to church hall	Wharf Street, SOUTH GRAFTON NSW 2460	Additional information requested 5/02 (amended plans and parking). Council staff have requested an update on two occasions with no response provided.
DA2019/0673	9/12/2019	209	Deck, pool, carport and shed	2 Gordon Street, PALMERS ISLAND NSW 2463	Awaiting additional information (Amended Plans and on-site wastewater report).
SUB2019/0044	9/12/2019	209	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.
SUB2019/0041	25/11/2019	219	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	226	Vehicle repair station	228 Fitzroy Street, GRAFTON NSW 2460	Council staff have advised that ownership of the adjacent road

Application No.	Received Date	Days	Description	Property	Reason
					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	262	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	264	Alterations and additions to dwelling and two carports	142 Lakes Boulevard, WOOLLOWEYAH NSW 2464	Additional information to be submitted (Amended Plans).
DA2019/0514	23/09/2019	286	Retention of existing hardstand area and new earthworks	21 Through Street, SOUTH GRAFTON NSW 2460	Staff have requested update from applicant 1/07 advising that Council can issue determination with all material imported to the site below 5.7m AHD associated with Bridge Project be removed off-site or additional information be submitted demonstrating that material will not impact on adjoining properties.
DA2019/0478	30/08/2019	307	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	312	41 lot subdivision	Old Glen Innes Road, WATERVIEW HEIGHTS NSW 2460	Traffic impact assessment submitted on 2/07 for assessment. Still additional information requested 27/03 (SEPP 44 – amended KPOM, Bushfire, Stormwater, Access, Servicing, Ecological Impacts and On-Site Sewerage Management).

Application No.	Received Date	Days	Description	Property	Reason
SUB2019/0033	20/08/2019	320	Boundary adjustment & consolidation of Lot 10 DP752845, Lot 32 DP 752845	900-1278 Laytons Range Road, KANGAROO CREEK NSW 2460	Council awaiting confirmation from applicant regarding a response to legal advice requested.
SUB2019/0030	14/08/2019	326	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	328	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.
DA2019/0266	22/05/2019	410	Remediation of riverbank erosion, establish dwelling envelope, construction of two dams & two flood mounds	Kings Creek Road, LAWRENCE NSW 2460	Awaiting additional information (geotechnical report).
DA2019/0152	26/03/2019	467	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.
DA2019/0126	19/03/2019	474	Vegetation management control	35 Victoria Street, GRAFTON NSW 2460	Native Vegetation Permit issued for clearing on private land. Staff to write to

Application No.	Received Date	Days	Description	Property	Reason
					applicant to request the application be withdrawn for clearing on Council land.
SUB2019/0002	6/02/2019	515	13 Large lot residential subdivision	198 Gardiners Road, JAMES CREEK NSW 2463	Traffic impacts report submitted 2/07 and being assessed and awaiting additional information requested (Stormwater Management Plan and MUSIC analysis).
SUB2018/0027	8/10/2018	636	Two lot subdivision	20 The Glen, MACLEAN NSW 2463	Awaiting additional information (Biodiversity and bushfire).
SUB2018/0004	23/02/2018	863	11 (reduced from 12) large lot residential subdivision	Bloodwood Grove, GULMARRAD NSW 2463	Application is subject to independent review in accordance with June 2020 Council meeting. Independent review process has commenced.
DA2017/0671	18/10/2017	991	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 during the month of June 2020.

DA No.	Property	Standard to be Varied	Extent of Variation	Concurring Authority & Justification
DA2019/0690	516 Iluka Road Woombah 2469	Clause 4.2B of CVLEP – Erection of dwelling houses and dual occupancies on land in certain rural, residential and environmental protection zones	Clause 4.2B (3) (a) of the CVLEP requires a minimum lot size of 40 hectares for construction of a dwelling, subject lot is 23.47 hectares (41%)	Secretary of Department of Planning: <ul style="list-style-type: none"> - There was previously a dwelling on the land that fell into disrepair, - The objectives of the zone are maintained and is compatible with existing surrounding land uses, - The property is on the edge of the Woombah Village with access to reticulated services and direct access to Iluka Road, and there is no public benefit in maintaining the minimum lot size, and - The land is of suitable size

				to accommodate a dwelling and effluent disposal system, the dwelling site is flood free and can be located so as to have a reduced bushfire risk.
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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

CONFIDENTIAL BUSINESS – Nil

LATE ITEMS OF BUSINESS – Nil

CLOSE OF COMMITTEE MEETING

There being no further business the Environment, Planning & Community Committee closed at 4.02 pm.

MOTION

Lysaught/Toms

That the Council meeting adjourn for a 10 minute break at 3.54 pm. CARRIED.

The Council meeting resumed at 4.04 pm.

c. CORPORATE GOVERNANCE AND WORKS COMMITTEE

MINUTES of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 21 July 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, Mr Ashley Lindsay (General Manager), Ms Laura Black (Director – Corporate & Governance), Mr Des Schroder (Director – Environment, Planning & Community), Mr Jamie Fleeting (Director – Works & Civil) and Mr Peter Birch (Manager Open Spaces & Facilities) were in attendance.

APOLOGIES - Nil

ITEM	6c.20.104	REMUNERATION FOR COUNCILLORS AND THE MAYOR FOR 2020/2021
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	To be tabled	

SUMMARY

This report deals with the Annual Report and Determination of the Local Government Remuneration Tribunal (the Tribunal), which has handed down the report for fees payable to the Councillors and the Mayor effective from 1 July 2020.

OFFICER RECOMMENDATION

That

1. The Annual Report and Determination from the Local Government Remuneration Tribunal dated 10 June 2020 be noted.
2. Fees payable to elected members be adjusted to the new category Regional Centre, in accordance with Option 2 as detailed in the body of this report, effective from 1 July 2020 to 30 June 2021.
3. The increase of \$44,690 be reflected in the monthly Financial report to the August Ordinary meeting as a variation to the 2020/2021 budget.

MOTION

Kingsley/Lysaught

That the item be deferred to Ordinary Council meeting for consideration by all Councillors.

Voting recorded as follows:

For: Kingsley, Lysaught
Against: Simmons, Toms, Ellem

The Motion was put and declared LOST.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That

1. The Annual Report and Determination from the Local Government Remuneration Tribunal dated 10 June 2020 be noted.
2. Fees payable to elected members be adjusted to the new category Regional Centre, in accordance with Option 1 as detailed in the body of this report, effective from 1 July 2020 to 30 June 2021.
3. The Deputy Mayor allowance be set at \$7,000 for the year 1 July 2020 to 30 June 2021, to be deducted from the Mayoral allowance.
4. The increase of \$88,012 be reflected in the monthly Financial report to the August Ordinary meeting as a variation to the 2020/2021 budget.

Voting recorded as follows:

For: Simmons, Lysaught, Ellem, Toms
Against: Kingsley

The Motion was put and declared CARRIED.

MOTION

Clancy/Novak

That

1. The Annual Report and Determination from the Local Government Remuneration Tribunal dated 10 June 2020 be noted.
2. Fees payable to elected members remain the same as for the 2019-2020 year for the period 1 July 2020 to 30 June 2021.
3. The Deputy Mayoral allowance remain the same being \$2,935 from 1 July 2020 to 30 June 2021 to be deducted from the Mayoral allowance.

Voting recorded as follows:

For: Clancy, Novak

Against: Lysaught, Williamson, Baker, Ellem, Toms, Simmons

The Motion was put and declared LOST.

The Foreshadowed Motion was then considered and became the Council Resolution.

COUNCIL RESOLUTION – 6c.20.104

Lysaught/Toms

That

1. **The Annual Report and Determination from the Local Government Remuneration Tribunal dated 10 June 2020 be adopted.**
2. **Fees payable to elected members be adjusted to the new category Regional Centre, in accordance with Option 1 as detailed in the body of this report, effective from 1 July 2020 to 30 June 2021.**
3. **The Deputy Mayor allowance be set at \$7,000 for the year 1 July 2020 to 30 June 2021, to be deducted from the Mayoral allowance.**
4. **The increase of \$88,012 be reflected in the monthly Financial report to the August Ordinary meeting as a variation to the 2020/2021 budget.**

Voting recorded as follows:

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

Against: Clancy, Novak

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

Each year the Tribunal publishes an Annual Report and Determination. The June 2020 report explains that –

- Section 239 of the *Local Government Act 1993* (LG Act) provides for the Tribunal to determine the categories of councils and mayoral offices and to place each council and mayoral office into one of those categories. The categories are to be determined at least once every 3 years.
- Section 241 of the LG Act provides for the Tribunal to determine, not later than 1 May in each year, for each of the categories determined under section 239, the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils.
- In response to COVID-19 pandemic the Minister for Local Government made the *Local Government General Amendment (COVID-19) Regulation 2020*, which extend the time for the making of the determination no later than 1 July 2020.

- In determining the maximum and minimum fees payable in each of the categories, the Tribunal is required, pursuant to section 242A of the LG Act, to give effect to the same policies on increases in remuneration as those of the Industrial Relations Commission. The current policy on wages is that public sector wages cannot increase by more than 2.5%, and this includes the maximum and minimum fees payable to councillors and mayors and chairperson and members of county councils.
- The Tribunal is however able to determine that a council can be placed in another existing or a new category with a higher range of fees without breaching the Government wage policy pursuant to section 242A(3) of the LG Act.
- The Tribunal's determinations take effect from 1 July in each year. The Tribunal has determined that there will be no increase in the minimum and maximum fees applicable to each existing category. For new categories, the tribunal has determined fees having regard to relevant relativities.

In accordance with section 239 of the LG Act the categories of general purpose councils are determined as listed and include introduction of the new category Regional Centre.

In the 10 June 2020 report Clarence Valley Council is now categorised as a "Regional Centre" council for the purpose of remuneration determinations. This is a new category and Councillors supported Clarence Valley Council inclusion to this category in their resolution item 6c.19.089 of Ordinary Council Meeting of 26 November 2019; Council submission to the tribunal.

Councillors may elect to set their fees at either the maximum rate prescribed for the category or at a lesser rate above the minimum for the category.

From 2004/05 to 2013/14 Council adopted the upper level of fees with the fee payable to the Deputy Mayor deducted from the fee payable to the Mayor. Each year since 2013/14 Council has resolved to not increase beyond the fees adopted for 2013/14 with the result that those fees have also applied from 2014/15 to 2018/19.

Councillors resolved not to increase remuneration to Councillors, the Mayor and Deputy Mayor for the 2019/2020 financial year and did not apply the 2.5% increase from the Local Government Tribunal Report dated 26 April 2019.

KEY ISSUES

The Tribunal has determined the following range for the new category Regional Centre (10 June 2020 report).

All Councillors	\$13,820	to	\$24,320
Mayor (additional)	\$28,750	to	\$60,080

The following table shows the fees for the current 2019/20 allowances paid to Councillors in column one, with column two showing the maximum rate. Column 3 details the percentage rate of Column 1 to Column 2. Column 4 details the maximum rate for new category Regional Centre and Column 5 proposes the pro rata level fees applicable for the 2020/2021 when the percentage rate from Column 3 is applied to Column 4.

	Column 1	Column 2	Column 3	Column 4	Column 5
	2019/2020 (Actual)	2019/2020 (Maximum)	Percentage - Column 1 /Column 2	2020/2021 Category Regional Centre – Maximum (Option 1)	Percentage rate - Column 3 applied to Column 4 for 2020/2021 (Option 2)
All Councillors	\$17,490	\$20,280	86.24%	\$24,320	\$20,973
Mayor (additional)	\$35,225	\$44,250	79.6%	\$60,080	\$47,824
Deputy Mayor (additional)	\$2,935	\$3,403	N/A*	\$4,622	\$3,679

*The Deputy Mayor's allowance is deducted from the total Mayoral allowance at the following rate 4/52.

The adopted fees will take effect from 1 July 2020.

COUNCIL IMPLICATIONS**Budget/Financial**

The 2020/21 Budget has a total allocation of \$175,492 for the Mayoral and Councillors allowances (PJ 991001-59-7353-2563) (PJ 991001-59-7353-2564). To fund Option 1 (the maximum allowable amount) would require an increase of \$88,012. An increase of \$44,690 is required to fund Option 2. The adjustment to the 2020/21 budget should be presented to the August 2020 Ordinary Council meeting as part of the 2020/21 budget adjustment report.

Asset Management

N/A

Policy or Regulation

Sections 248 and 249 of the Local Government Act apply to the determining and payment of annual fees for councillors and the mayor.

Consultation

N/A

Legal and Risk Management

The amounts payable to elected members are determined by the NSW Remuneration Tribunal.

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
To be tabled	Annual Report and Determination – Local Government Remuneration Tribunal - 10 June 2020

ITEM	6c.20.105	PERMANENT ROAD CLOSURE – PART BOORMANS LANE AND UNNAMED ROADS, SOUTHGATE
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

To consider 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.
2. Classify the newly created lot/s (closed road/s) as "operational land".
3. Transfer the newly created lot (closed road A) to the owner of Lot 78 DP 751386 and Lot 1 DP 1223609 as per the terms in Confidential Attachment A.
4. Transfer the newly created lot/s (closed road B & C) to NPWS if agreed as per the terms in Confidential Attachment A.

If NPWS do not support transfer then,

5. Transfer the newly created lot/s (closed road 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 sale(s).

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Simmons

Against: Toms

FORESHADOWED MOTION

Toms

That this item be deferred to full Council to enable the questions on notice to be answered.

COUNCIL RESOLUTION – 6c.20.105

Toms/Novak

That this item be deferred to the August Council meeting to enable further consultation with the Forestry Corporation.

Voting recorded as follows:

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

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 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 abut 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. Their water pipes are located on the road reserve (Section B) toward the site of the old water tower which get damaged from external factors. The applicant then pays for the repair of the pipes and the water lost due to the leakage and the area is subject to public littering which would be significantly reduced if the land was privately owned.

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.

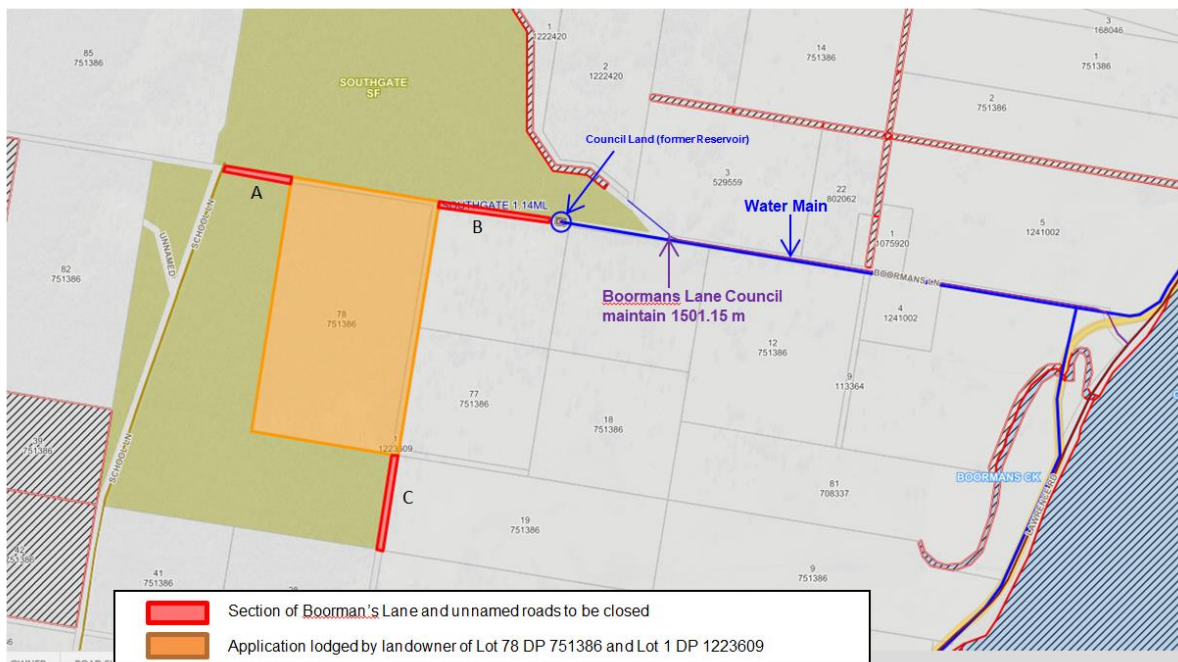


Figure 1

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 State Forest 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 National Parks & Wildlife Service (State Forest) and the owner of Lot 76 DP 751386 and Lot 19 DP 751386 (which are under the same ownership).

NPWS have no objections. The adjoining landowner of Lot 76 and Lot 19 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.

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 NPWS (State Forests) 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 NPWS. If NPWS do not accept transfer then the closure and transfer to the applicant is therefore supported.

Section C - appears to be heavily vegetated and aerial photography shows access tracks throughout. The adjoining landowner has objected advising that access is required to the rear of their property. Access appears to be able to be 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 NPWS with a right of way being granted to the adjoining land (Lot 19 DP 751386) if required. It is therefore recommended that NPWS (State Forests) be approached and the section closed and added to State Forest. An appropriate easement could be granted for access to Lot 19 DP 751386 if supported by NPWS. If NPWS 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 NPWS (State Forests). 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. Councils Civil Services and Planning Sections support the closure and sale of Sections A and B.

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

Not Applicable

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

ITEM 6c.20.106 WATER CONNECTION TO PROPERTIES 134721 AND 134722

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Yes plus Confidential Attachment	

SUMMARY

The owner of the properties 134721 and 134722 has requested a Council review of the staff determination of the water connection fee applicable to the above properties.

OFFICER RECOMMENDATION

That Council confirm the water connection fee for an additional water meter of properties 134721 and 134722 is \$6,412 in accordance with the adopted 2020/21 Fees and Charges and the adopted "Sewer and Water Capital Contribution Credits Policy".

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.20.106

Ellem/Williamson

That Council confirm the water connection fee for an additional water meter of properties 134721 and 134722 is \$6,412 in accordance with the adopted 2020/21 Fees and Charges and the adopted "Sewer and Water Capital Contribution Credits Policy".

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

BACKGROUND

The owner of properties 134721 and 134722 contacted Council on 21 August 2019 to enquire regarding water connection fees and Water Cycle staff advised by email of the applicable fee in accordance with the adopted fees and charges and Council's adopted *Sewer and Water Capital Contribution Credits* policy (of which the customer was provided a copy). The correspondence was placed in Council's corporate records system and notes placed in Council's property system. The officer who provided the advice recalls the customer was unhappy with the initial verbal advice.

In April 2020 the customer contacted customer service to again enquire regarding the cost of a water connection. In the adopted fees and charge there are two different connection fees depending on whether the property has a capital "credit" in accordance with the *Sewer and Water Capital Contribution Credits* policy. The Customer Service Team Leader advises that customer service staff normally ask general

questions to determine which connection fee applies and may not always check the corporate systems for notes or put the customer through to Water Cycle administration when giving generic advice, particularly when there is a queue of enquiries. Customer service were apparently not advised by the customer of the previous correspondence from water cycle regarding connection fees.

The customer then paid the incorrect water connection fee on 11 May 2020. When their water connection application was processed, it was noted they had not paid the correct connection fee as per the adopted fees and charges (as per the original advice) and they were advised by email on 12 May 2020 that they were required to pay the outstanding amount in order for their application to be processed. The customer requested a review of this decision by the Manager Water Cycle, and as part of that review the Manager checked with the Customer Service Team leader regarding the incorrect advice provided by customer service.

The customer was then advised by the Manager that the outstanding amount was correctly calculated under the adopted fees and charges and *Sewer and Water Capital Contribution Credits policy*, Council staff had no delegation to vary adopted fees and charges and the customer's attention was also drawn to the clause in the then *Unreasonable Complainant Conduct* policy V1 regarding persistence which states (emphasis added):

- *Contacting different people within our organisation and/or externally to get a different outcome or more sympathetic response to their complaint - internal and external forum shopping*
- *An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with..*

Copies of email correspondence with the customer are included in the Confidential Attachment.

The customer has requested a review of their connection fee by Council (refer to letter in Confidential Attachment).

KEY ISSUES

It is acknowledged that, based on incomplete information provided by the customer, customer service advised an incorrect connection fee for these properties. However, it should be noted that the customer had previously been provided with a comprehensive email response and failed to advise customer service that they had previously been given advice on the connection fee. The original advice (plus the property Section 603 certificate) included the contact details of the officer in Water Cycle who coordinates water connections, and the customer did not contact that officer again.

The basis of the customer's claim that they should be charged a lower connection fee is that "we were not informed by CVC prior to purchase" regarding the higher connection fee. The claim that they were not informed is not supported by either the planning certificate issued for this property on 2 August 2018 (Plan2018/2072) or the Section 603 certificate issued on 30 August 2018 as both documents contain the following information (emphasis added):

Water and Sewer Connection

*Properties which consist of more than one lot for ratings purposes, and pay a single sewer and/or water access charge, are entitled to a single water and/or sewer connection. If additional water and/or sewer connections are required (for example when lots are sold separately) then the appropriate fee in Council's Fees and Charges, **including a capital contribution**, is applicable for any new connections.*

If the property is a vacant lot, or is charged a water vacant and/or sewer vacant charge, please contact Council's Water Cycle Section to determine the appropriate connection fee.

An extract from Planning Certificate 2018/2072 and the Section 603 certificate demonstrating the advice was provided at the time of purchase are included in the attachments and confidential attachments respectively.

It is understood the reason that "forum shopping" was included in the original *Unreasonable Complainant Conduct* policy V1 was to address situations such as this where a customer has been given advice which they are unhappy with and then ask other officers the same question, possibly providing incomplete information, in the hope that they will receive (and then rely on) more favourable advice. A precedence risk, were Council to vary the fees and charges applicable to this connection, is that it may be considered as encouraging "forum shopping" from customers.

COUNCIL IMPLICATIONS**Budget/Financial**

The applicable connection fee (2019/20) as per the fees and charges was \$6,296 and the fee paid by the customer was \$1,398. Were Council to agree to vary the applicable fee to that quoted by customer service based on incomplete information, water fund income was decrease by \$4,898.

It is not possible to estimate the reduction in sewer, water and general fund income if there is an increase in "forum shopping".

Asset Management

Not applicable

Policy or Regulation

- Adopted 2019/20 fees and charges
- Sewer and Water Capital Contribution Credits Policy
- Unreasonable Complainant Conduct policy V1 (note a revised version of the policy was adopted at Council's 26 May meeting)

Consultation

- Customer Service
- Governance

Legal and Risk Management

The main risk issue, were Council to agree to the request, is considered to be an increase in forum shopping in order to get favourable outcomes.

Customer Service have undertaken a review of their processes to minimise the opportunity for incorrect advice to be given to customers but as advice provided relies on the information provided by customers, there is always a risk that advice based on incomplete information from customers may not be accurate.

Climate Change

N/A

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Extract of Plan 2018/2072
Confidential	Section 603 certificate Council correspondence with customer Request from customer for review

ITEM	6c.20.107	PROPOSAL FOR A PUBLIC ART FEATURE AND DIRECTIONAL SIGNAGE FOR MCLACHLAN PARK, MACLEAN – ON CROWN LAND – STATUS REPORT 2
Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Confidential	

SUMMARY

At its 26 May 2020 Ordinary meeting, Council as Crown Land Manager of Reserve 35921 and as the local road authority considered a status report regarding the Maclean Cultural Art Scottish Statue Promotion Committee's proposal to donate a piece of public art and decorative pole with multi directional finger board signage for installation on McLachlan Park, Maclean [Item 6c.20.079]. Point 1 required a report to be considered at the July 2020 Ordinary meeting on the outcome consultation and a meeting with Yaegl TOAC and Maclean Cultural Art Scottish Statue Promotion Committee. This report provides the outcome from this meeting for Council's consideration and endorsement.

OFFICER RECOMMENDATION

That Council:

1. rescind Point 1 of Council Resolution Item 6c.20.079 from the 26 May 2020 Council meeting, ~~to accept the offer by the Maclean Cultural Art Scottish Statue Promotion Committee to donate a 'Contemporary Scotsman Statue', at no cost to Council, for installation by Council in the location agreed to by the Maclean Cultural Art Scottish Statue Promotion Committee and Yaegl Traditional Owners Aboriginal Corporation following consultation and a meeting with both parties where agreement has been met before the July 2020 Council meeting.~~
2. as Crown Land Manager of Reserve 35921, decline the offer from the Maclean Cultural Art Scottish Statue Promotion Committee to donate a 'Contemporary Scotsman Statue', and that the Scottish Statue not be installed in McLachlan Park, Maclean.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That this matter be deferred to full Council.

Voting recorded as follows

For: Kingsley, Lysaught, Simmons

Against: Toms, Ellem

The Motion was put and declared CARRIED.

During discussion on this item the following Points of Order were raised at the Council meeting:

Point of Order (1) – Cr Baker

That the Mayor misquoted S17.11; Cr Baker then read S17.11 from the Code of Meeting Practice.

The Mayor stated that he is not sure this accurately reflects the situation under the Act.

Point of Order (2) – Cr Baker

Referring to the Mayor's response, referenced the Code of Meeting Practice *Note: Clause 17.11 reflects 372(6) of the Act*, that does not allow Council to have discretion.

The Mayor noted Cr Baker's objections and upheld them.

Point of Order (3) – Cr Clancy

The original motion was for an agreed location between the two interested parties.

The Mayor ruled Cr Baker's motion is out of order as it does not meet the May 2020 resolution 6c.20.079, which resolved that installation of the statue be in accordance with an agreement between interested parties.

MOTION OF DISSENT – Cr Baker

Cr Baker moved a Motion of Dissent on the Mayor's ruling on the basis that while the resolution sought agreement by July, it being July, that has now lapsed.

The Mayor agreed the motion's point 1 has lapsed and upheld Cr Baker's Motion of Dissent.

Voting recorded as follows:

For: Lysaught, Williamson, Baker, Toms, Simmons

Against: Clancy, Novak, Ellem

The Motion of Dissent was put and declared CARRIED.

MOTION OF DISSENT – Cr Clancy

Cr Clancy moved a motion of dissent that Cr Baker's motion is out of order as it does not meet the May 26 resolution 6c.20.079, which resolved that installation of the statue be in accordance with an agreement between the parties.

The Mayor ruled that he has addressed this issue and the timeframe of July resolved at the May meeting has lapsed.

Voting recorded as follows:

For: Clancy, Novak, Ellem

Against: Lysaught, Williamson, Baker, Toms, Simmons

The Motion of Dissent was LOST.

MOTION

Williamson/Toms

This item be deferred to the Committee meeting to be held August 2020 for further consideration.

Voting recorded as follows:

For: Williamson, Clancy, Novak, Ellem

Against: Lysaught, Baker, Toms, Simmons

The Motion was LOST by the casting vote of the Mayor.

FORESHADOWED MOTION

Baker/Lysaught

That Council and Council as Crown Land Manager of Reserve 35921:

1. Note the Directional Signage, banner poles and flagpoles are to be erected on public road reserve outside the boundary of Reserve 35921.
2. Note the consultation and meetings with the parties, as required by Point 1 of Item 6c.20.079 of May 2020 Council meeting, has concluded without identification of an alternative location within McLachlan Park.
3. Accept the offer by the Maclean Cultural Art Scottish Statue Promotion Committee to donate a 'Contemporary Scotsman Statue', at no cost to Council, for installation by Council in the location nominated by the Maclean Cultural Art Scottish Statue Promotion Committee.

AMENDMENT TO MOTION

Toms/Clancy

That Council and Council as Crown Land Manager of Reserve 35921:

1. Note the Directional Signage, banner poles and flagpoles are to be erected on public road reserve outside the boundary of Reserve 35921.
2. Note the consultation and meetings with the parties, as required by Point 1 of Item 6c.20.079 of May 2020 Council meeting, has concluded without identification of an alternative location within McLachlan Park.

Point of Order (4) – Cr Baker

Cr Toms' Amendment to Motion is unlawful as the removal of point 3 is the substantive part of the motion.

The Mayor ruled in favour of Cr Baker's Point of Order.

The Foreshadowed Motion became the Motion

Voting recorded as follows:

For: Lysaught, Baker

Against: Williamson, Clancy, Novak, Ellem, Toms, Simmons

The Motion was put and declared **LOST**.

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

The Maclean Cultural Art Scottish Statue Promotion Committee lodged an application with Council's General Manager in June 2019 seeking Council as Crown Land Manager approval for an item of public art in McLachlan Park Maclean. The proposed artwork depicts a Scottish Piper. Additionally a request for a decorative pole with multi directional finger board signage has also been received from the Maclean Scottish Town Committee.

The applications were lodged in accordance with Council's Donated facilities on public land policy. The proposed artwork and signage is to be donated by the Scottish Statue Promotion Committee and the Maclean Scottish Town Committee respectfully in recognition of the town's European heritage for the benefit of Council, Maclean residents and visitors in general.

At its 26 November 2019 Ordinary meeting Council as Crown Land Manager of Reserve 35921, and as the local road authority, considered a report regarding the Maclean Cultural Art Scottish Statue Promotion Committee's proposal to donate a piece of public art and decorative pole with multi directional finger board signage for installation on McLachlan Park, Maclean [Item 6b.19.053] resolving to:

Defer until February 2020 to allow further consultation between interested parties.

In April 2019 Council officers discussed the status of further consultation with the interested parties, being a representative of the Yaegl TOAC board and a representative of the Maclean Cultural Art Scottish Statue Promotion Committee.

The matter was reported to the 26 May Ordinary meeting of Council that no further consultation had occurred at this time due to other commitments such as the Indigenous Land Use Agreement (ILUA) negotiation with the Crown and the COVID-19 pandemic restrictions. The recommendation; that Council note that planning to install the decorative pole with multi directional finger board signage and three banner poles within the road reserve is in progress; and that Council as Crown Land Manager of McLachlan Park:

- a) note that there has been no significant consultation or agreement made between interested parties regarding a piece of public art for installation on McLachlan Park, Maclean.
- b) note that a further status report will be presented to the September 2020 meeting or earlier if significant change has occurred.

At its 26 May 2020 Ordinary meeting Council as Crown Land Manager of Reserve 35921 resolved [Item 6c.20.079]:

That Council, and Council as Crown Land Manager of McLachlan Park:

1. *Accept the offer by the Maclean Cultural Art Scottish Statue Promotion Committee to donate a 'Contemporary Scotsman Statue', at no cost to Council, for installation by Council in the location agreed to by the Maclean Cultural Art Scottish Statue Promotion Committee and Yaegl Traditional Owners Aboriginal Corporation following consultation and a meeting with both parties where agreement has been met before the July 2020 Council meeting.*
2. *Install a 12-blade fingerboard signpost, for installation by Council, to the design and road reserve location submitted by the Maclean Scottish Town in Australia Committee.*
3. *Replace the 3 banner poles to the footpath adjacent McLachlan Park, each having drop-down bases. Cost of materials to be borne by Maclean Scottish Town Committee, installation by Council.*
4. *Install drop-down bases to the 3 existing flagpoles, cost of bases to be borne by Maclean Scottish Town Committee, installation by Council.*
5. *Re-do the plaque array to the levee wall to a design incorporating individual frames around each plaque within an overall mural background of an Aboriginal art design to be approved by Yaegl Traditional Owners Aboriginal Corporation; with the plaque layout within the design to be to the satisfaction of Council and the Maclean RSL Sub-Branch.*
6. *Install a new triple-name sign to McLachlan Park showing firstly 'McLachlan Park', secondly a space for a name or a park name to be provided by Yaegl Traditional Owners Aboriginal Corporation and thirdly, the Gaelic spelling of McLachlan Park.*
7. *Receive a report on the costings of the above 6 points.*

This report addresses point 1 of Item 6c.20.079, providing the outcome from this meeting for Council's consideration and endorsement.

Native Title

McLachlan Park is Crown land, being Reserve 35921 for Public Recreation, notified 13-June-1903. Council is the appointed Crown land manager of the reserve.

Native title has been determined by the Federal Court (Yaegl People #2 v Attorney-General of New South Wales [NSD168/2011]) to continue to exist on the majority of land parcels that constitute McLachlan Park, in particular Lot 365 DP 751388; Lot 7025 DP 1035703; and Lot 7022 DP 1113908 (previously 7022/751388) being the main park area between the Spar supermarket and the bus shelter. As the Yaegl People did not live on or practice their customs per se the Court granted the Yaegl people non-exclusive rights and interests in the land that was claimable.

In summary, non-exclusive rights and interests means that the traditional owner's rights and interests to enter, travel over, remain on, to camp, hunt, take and use the resources of the land, to teach, practice and perform cultural activities and ceremonies etc. must co-exist with the public's rights to be on the land, to recreate, and the land manager's rights to manage the land, and any other rights/interests that may be in effect on the land etc.

The granting of non-exclusive rights and interests also means that traditional owners have no right to:

- (a) possess, occupy, use or enjoy to the exclusion of all others; or
- (b) any right to control public access or public use of the land or waters in the Determination Area.

The rights and interests granted by the Federal Court to the Yaegl people are exercisable under Common Law, and must comply with the laws of the State and Commonwealth, and the traditional laws acknowledged and traditional customs observed by the Yaegl people.

Demarcation line

Built for the Bank of New South Wales in 1882, Woolitji House is an historical building in Maclean. Historically as a social policy the front door of the building marked the demarcation line in Maclean where Aboriginal people could not go pass after 6pm.

Following a referendum in 1967 that recognised Aboriginal people as citizens, the building was purchased by the Woolitji Cooperative and was renamed Woolitji House. The building is no longer owned by the Woolitji Co-op however the significance of this building and the social policy remains.



Figure 1 - Woolitji House



Figure 2 - Woolitji House location adjacent to McLachlan Park

Scottish Association

The Scottish Association through its endeavours contributes to tourism in Maclean through the celebration of the town's European heritage, namely; that the town was named after Alexander Grant McLean, who was the New South Wales Surveyor-General from 1861-1862 and a large number of the early settlers in the valley were originally from Scotland.

The Associations endeavours include (but are not limited to); staffing the Scottish Shop that provide information on Scottish family names and Maclean generally; painting Scottish tartans on the base of the telegraph poles; construction of a cairn in the Herb Stanford Memorial Park of rocks from all over Australia and from Scotland; erecting banner poles through the town centre and supporting the 116 year old Maclean Highland Gathering.



Figure 3 – Clan Tartans & Cairn in the Herb Stanford Memorial Park

KEY ISSUESConsultation with Yaegl TOAC & Maclean Cultural Art Scottish Statue Promotion Committee

Council staff (Open Space and Community Development Coordinators) met with the Chair and Directors of Yaegl Traditional Owners Aboriginal Corporation (TOAC) RNTC on Tuesday 16 June 2020, to outline the Council resolution and to seek a meeting with Yaegl and Maclean Cultural Art Scottish Statue Promotion Committee.

At this meeting the representatives of Yaegl TOAC RNTC stated that they had stated their position on multiple prior occasions, including in a deputation to Council at the 26 November 2019 meeting and will not meet to negotiate / discuss the placement of the Scottish statue within McLachlan Park. Considering the reinstated strong view and position of the representatives of Yaegl TOAC RNTC it was determined and agreed that Council staff would meet with the Maclean Cultural Art Scottish Statue Promotion Committee.

Council staff then met with the Maclean Cultural Art Scottish Statue Promotion Committee on Tuesday 23 June 2020 to outline the Council resolution, to advise that the representatives of Yaegl TOAC RNTC had not agreed to meet, to convey Yaegl's position and to receive their position.

In summation while consultation was held with both parties no joint meeting was held and no agreement was made regarding location of the statue, the specific comments are provided in the following;

Item 1 – Scottish Statue

The Scottish Statue was conceived by the Maclean Cultural Art Scottish Statue Promotion Committee as a silhouette of a Lone Piper such that it could be located within McLachlan Park with the Clarence River in the background enabling photo opportunities, supporting tourism and the Scottish heritage.

Council as Crown Land Manager of Reserve 35921 resolved [Item 6c.20.079] to: *Accept the offer by the Maclean Cultural Art Scottish Statue Promotion Committee to donate a 'Contemporary Scotsman Statue', at no cost to Council, for installation by Council in the location agreed to by the Maclean Cultural Art Scottish Statue Promotion Committee and Yaegl Traditional Owners Aboriginal Corporation following consultation and a meeting with both parties where agreement has been met before the July 2020 Council meeting*

The representatives of Yaegl TOAC RNTC position being;

- that they strongly oppose the proposed placement of the statue at this location due to;
 - Proximity to the demarcation line and the enduring social impact that this social policy (demarcation) had on individuals and the community in general. It is noted that this survivors of this policy remain in the community;
 - The apparent perpetuation of this social policy (Scottish person standing guard on the line);
 - The cultural activities that traditionally occurred in this location (identified corroboree site);
 - The impact of the construction of the statue on the Native Title rights that have been determined to exist on the reserve.
- that the Scottish Association should consider other locations such as the Scottish Cairn site in Taloumbi Street (Herb Stanford Memorial Park)

The Maclean Cultural Art Scottish Statue Promotion Committee position being;

- that they were disappointed with Yaegl's decision not to meet and not to support the sculpture.
- that they had proposed that location / design (silhouette) to enable photo opportunities of the river; to create another reason to visit the centre of town thus increasing possible income. It was also proposed that the sculpture could be partnered with an Aboriginal sculpture that Yaegl TOAC or others could fund.
- that the design had cost \$1K already and if the sculpture could not be located as proposed that they were not willing to fund the \$80K project.
- whilst very disappointed that a more inclusive, pragmatic and jointly cohesive view has not been able to be shared, at this time accepts that the statue be held in abeyance and not accept any other alternative site, as this site is the rational and correct focus for community public art, as it would be in any other town under similar circumstances. Scottish Town remains very willing to enter mutual discussion on a solution to suit ALL parties, and would welcome productive outcomes that we could ALL share together

Recommendation

In consideration of the opposing positions held by the parties, that no agreement could be reached regarding location of the statue in McLachlan Park or any other location within Maclean, the proximity to the historic demarcation line, and the potential compensation payable in the case that it is evidence that the placement of the status extinguishes Yaegl's Native Title Rights, it is recommend that Council rescind Point 1 of Council

Resolution Item 6c.20.079 from the 26 May 2020 Council meeting and Council as Crown Land Manager of Reserve 35921 decline the offer from the Maclean Cultural Art Scottish Statue Promotion Committee and that the Scottish Statue not be installed in McLachlan Park.

COUNCIL IMPLICATIONS

Budget/Financial

Maclean Cultural Art Scottish Statue Promotion Committee has indicated that there would be no cost to Council in the procurement of the proposed statue. Council resolution 6c.20.079 Council will need to fund the installation of the statue, as no agreement could be reached regarding location of the statue no quotations could be sought regarding the installation.

Per Council resolution 6c.20.079 Council will need to fund the installation of the finger signpost, banner poles, flagpoles, plaque array, due to the possible change no firm quotation has been obtained, it is however forecast that a budget of \$5,000 be allowed for from the Council's Crown Reserves fund to complete the flagpoles reinstatement works, and painting a base coating around the plaque array with any saving being returned.

The installation of the park sign, finger signpost, banner poles will be funded from Council park signage renewal vote, with the value of the works being reported to Council in a future works report.

Asset Management

If Council resolve to install the statue this item would by default become a Council asset and therefore Council would be responsible for its ongoing maintenance and upkeep.

Policy or Regulation

- Native Title Act 1993 (Cth)
- Crown Land Management Act 2016
- Local Government Act 1993
- McLachlan Park Maclean Plan of Management Reserve No.35921
- Donated facilities on public land policy

Consultation

Council staff met with representatives of the Yaegl TOAC RNTC and representatives of the Maclean Cultural Art Scottish Statue Promotion Committee.

Legal and Risk Management

Item 1 – Scottish Statue

The proposed installation of the artwork on McLachlan Park must satisfy due process. This includes complying with Council policy, State and Commonwealth legislation and consideration of native title implications.

The compensation liability for the extinguishment of native title in McLachlan Park for the proposed piece of public art is also unknown, but would be based on the formula determined by the High Court in the Timber Creek case, being:

Market value of land (where native title is extinguished) x 50%

- + Interest (based on when extinguishment occurred and settlement made)
- + Loss of cultural attachment (a notational sum proportionate to the cultural significance of the land subject to the extinguishment).

It is noted that while consulting on point 1 of Item 6c.20.079 Yaegl TOAC RNTC raised significant objections to points 2 to 6 of the resolution.

As native title holders, it is considered appropriate to consider the strong and passionate views of the Yaegl TOAC from the meeting of 16 June 2020 (refer to Confidential Attachment).

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change, to offset the impact of the materials used will be either recycled or able to be recycled at the end of useful life.

Prepared by	David Sutton, Open Spaces Coordinator
Confidential	A: Yaegl TOAC Minutes; B: Scottish Association Minutes

ITEM	6c.20.108	CLASSIFICATION OF LOT 155 DP 1259959 AT YAMBA AS OPERATIONAL LAND
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Nil	

SUMMARY

To classify recently acquired land, Lot 155 DP 1259959, located at Ffloyd Court Yamba, as operational land.

OFFICER RECOMMENDATION

That Council

1. Classify Lot 155 DP 1259959 located at Yamba as operational.
2. Liaise with the adjoining owner of Lot 117 DP 1259959 for the purchase of Lot 155 subject to an easement being created,
3. Create an easement for services over Lot 155 DP 1259959,
4. Delegate authority to the General Manager to negotiate an agreed price with the adjoining landowner and execute documents associated with the easement and transfer if negotiations are successful.

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.20.108

Ellem/Williamson

That Council

1. Classify Lot 155 DP 1259959 located at Yamba as operational.
2. Liaise with the adjoining owner of Lot 117 DP 1259959 for the purchase of Lot 155 subject to an easement being created,
3. Create an easement for services over Lot 155 DP 1259959,
4. Delegate authority to the General Manager to negotiate an agreed price with the adjoining landowner and execute documents associated with the easement and transfer if negotiations are successful.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

At its meeting of 17 April 2007 Council approved a Section 96 modification to DA1973/92 (Resolution 08.050/07), which did not include a separate lot for a sewer pump station. Subsequently, Council considered a second modification to the consent (Mod 2008.0061) at its meeting of 19/11/2008 (Item 08.197/08), which

not only showed the pump station as a separate lot but specifically mentioned that the proposed Stage 2 contained a lot for a sewer pump station. The attachment was described as the *Amended subdivision plan showing various stages (approved 17/12/92)*, which is the approved staging and layout plan.

Council refused the modification and the developer subsequently appealed the refusal in Class 1 proceedings to the Land and Environment Court (10063 of 2009). The Court upheld the developer's appeal. Under Section 39(5) of the *Land and Environment Court Act*, in a Class 1 appeal a decision of the Court is legally considered a decision of Council.

In effect this means, the Land and Environment Court judgement approving the modification with a plan showing the pump station as a separate lot (which also includes a note that specifically mentions it as a separate lot) is approved by Council resolution.

DP 1259959 was registered on 9 January 2020. Upon registration of the subdivision plan, Lot 155 was created as the lot for the pump station.

KEY ISSUES

Subsequent to the registration of the subdivision plan, Lot 155 DP 1259959 has been transferred to Council's ownership on 3 June 2020.

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 lot is used for the site of a sewer pump station 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.



The majority of Council's sewer pump stations are located within easements rather than on separate lots. A separate lot has a higher maintenance burden on Council due to the need to maintain fencing. As noted above the developer's proposal to create the pump station on a separate lot was part of the application initially refused by Council, but subsequently upheld on appeal to the Land and Environment Court. It is therefore proposed that an easement be created over the pump station and the property be offered for sale to the adjoining landowner.

COUNCIL IMPLICATIONS

Budget/Financial

The classification requires public notice to be given and the cost for advertising has been covered by Council's existing advertising budget.

Asset Management

The land will be listed in Council's Asset Register as a Sewer Fund asset and will be managed in accordance with other sewer pump stations.

Policy or Regulation

Local Government Act 1993

Consultation

In accordance with Section 34 of the *Local Government Act 1993*, 28 days public notice has been given advising of the proposal to classify the land as operational. Submissions closed on 6 July 2020. At the time of writing this report no submissions were received. Councils Water Cycle and Planning sections have also been consulted.

Legal and Risk Management

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

Prepared by	Kylee Baker, Property Coordinator
Attachment	Nil

ITEM	6c.20.109	PROPERTY RATIONALISATION – FORMER VISITOR INFORMATION CENTRE, SOUTH GRAFTON – LOT 2 DP 839420
Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

To consider an offer for purchase of Lot 2 DP 839420.

OFFICER RECOMMENDATION

That Council:

1. Decline the offer as set out in Confidential Attachment A.
2. Seek legal advice on processing a rezoning application.
3. Dependant on the legal advice received, rezone the land to B5 Business Development.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Simmons

Against: Toms

MOTION

Lysaught/Williamson

That Council:

1. Decline the offer as set out in Confidential Attachment A.
2. Seek legal advice on processing a rezoning application.
3. Dependant on the legal advice received, rezone the land to B5 Business Development.

AMENDMENT TO MOTION

Toms/Ellem

That:

1. Council decline the offer as set out in Confidential Attachment A.
2. Council appoint an independent party to prepare the Planning Proposal to rezone the land to B5 Business Development.
3. The budget for the rezoning costs be funded from Property Management FP995005.

Voting recorded as follows:

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

Against: Clancy

The Amendment to Motion was put and declared CARRIED. The amendment became the substantive motion.

COUNCIL RESOLUTION – 6c.20.109**Lysaught/Williamson****That:**

1. Council decline the offer as set out in Confidential Attachment A.
2. Council appoint an independent party to prepare the Planning Proposal to rezone the land to B5 Business Development.
3. The budget for the rezoning costs be funded from Property Management FP995005.

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

Theme 5 Leadership

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

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

BACKGROUND

Council owns Lot 2 DP 839420 located at Spring Street, South Grafton and has resolved to dispose of the property.

Council has received an offer, which sits outside the delegation provided to the General Manager and therefore requires consideration and a resolution of Council.

KEY ISSUES

Confidential Attachment A is the current offer and is subject to development approval. The land is currently zoned SP3 Tourist. The proposed use is not permissible under the LEP and as such development approval would not be granted.

The majority of the area surrounding Lot 2 is zoned B5 Business Development. This area of South Grafton is a light commercial use area and whilst the current zoning of SP3 Tourist was appropriate while the information centre was located on the land it is now considered that the current zoning may restrict future development and restrict the area as a business precinct.

A number of offers that do not meet the current market price and resolution of Council have been declined. Several enquiries for varying purposes have also been received. However, developments proposed are not permissible. It is considered that the current zoning restricts development potential.

Council has received an updated valuation based on the current market under the current zoning and zoning under B5 Business Development.

Due to Council being the landowner with property for disposal and also the authority processing a rezoning application, it is recommended legal advice be obtained about the most appropriate means of preparing and assessing a rezoning application.

COUNCIL IMPLICATIONS**Budget/Financial**

Council will continue to have operational costs relating to the property until the property is disposed of. If a rezoning application is approved then associated costs will be expended from FP 995005 Property Management. The officer recommendation aims to return an appropriate market value for the community when the property is sold.

Asset Management

The property is currently listed on Council's Assets and Maintenance Register and will remain until the property is disposed of.

Policy or Regulation

Disposal of Council Surplus Land and Buildings Policy

Consultation

Consultation has been undertaken with Council's Strategic Planning Section.

Legal and Risk Management

The officer recommendation aims to reduce Council's risk of holding vacant property.

Climate Change

Not Applicable

Prepared by	Kylee Baker, Property Coordinator
Confidential	A - Offer B - Valuation Report

ITEM	6c.20.110	DISPOSAL OF PART LOT 2 DP 238219 GOLDING STREET YAMBA
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Confidential	

SUMMARY

To consider subdivision and disposal of part Lot 2 DP 238219 located at Golding Street, Yamba.

OFFICER RECOMMENDATION

That Council:

1. Enter into a contract with the adjoining landowner of Lot 3 DP 238219 for the purchase of part Lot 2 DP 238219 subject to terms in the confidential attachment A, and if successful and once contract exchanged then:-
2. Remove drainage reserve caveat from title of Lot 2 DP 238219,
3. Subdivide Lot 2 DP 238219 into two lots,
4. Dedicate part Lot 2 DP 238219 as public road as shown in Figure 1,
5. Dispose of part Lot 2 DP 238219 as shown in Figure 1,
6. Delegate authority to the General Manager to finalise the contract in accordance with the terms in confidential attachment A and execute documents associated with survey, gazettal as public road and disposal of the land.

COMMITTEE RECOMMENDATION

Ellem/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.110

Ellem/Williamson

That Council:

1. Enter into a contract with the adjoining landowner of Lot 3 DP 238219 for the purchase of part Lot 2 DP 238219 subject to terms in the confidential attachment A, and if successful and once contract exchanged then:-
2. Remove drainage reserve caveat from title of Lot 2 DP 238219,
3. Subdivide Lot 2 DP 238219 into two lots,
4. Dedicate part Lot 2 DP 238219 as public road as shown in Figure 1,
5. Dispose of part Lot 2 DP 238219 as shown in Figure 1,
6. Delegate authority to the General Manager to finalise the contract in accordance with the terms in confidential attachment A and execute documents associated with survey, gazettal as public road and disposal of the land.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.8 Ensure good governance, effective risk management and statutory compliance

BACKGROUND

Council own Lot 2 DP 238219 freehold as a drainage reserve. It is classified as operational land. It has a caveat recorded on title identifying it as a drainage reserve.

The adjoining landowner has approached Council to purchase part of the land.

KEY ISSUES

Council staff have assessed drainage in the area. This lot and the lot on the eastern side of the road (Lot 13 DP222741) appear to be the "original" overland flow paths and hence, were dedicated as drainage reserves as part of the original subdivisions in the area.

Since further subdivision to the west, the drainage paths have changed and it the drainage in Coonawarra Court is directed to Lot 51 DP248159, which is a Council owned public reserve and acts as an infiltration basin. As such Lot 2 is not required for current drainage in the area.

To maintain the alignment of Coonawarra Court, it is recommended to subdivide Lot 2 into 2 separate lots, dedicating the road section as public road and then disposing of the residue lot to the adjoining landowner.

The residue lot would be approximately 180m² in area and, in accordance with the current 'Disposal of Surplus Land & Buildings Policy', the land is considered non-marketable as it is not suitable for development as a stand alone parcel under Council's current planning controls and a sale can therefore be negotiated with the adjoining landowner. The lot would be required to be consolidated with the purchasers adjoining land Lot 3 DP 238219.

Extract from Policy

'Non-marketable' – a parcel of surplus land of a size, configuration, location, or development/use restriction which renders it unsuitable for development under Council's Town Planning Scheme(s).
(Refer to Council Policy 1.12 - Purchase Price for Unused Council Lands and Closed Roads)

9. Disposal of non-marketable land

- 9.1 Non-marketable land may be sold by negotiation or by an advertisement for offers. Council may determine a sale price for such land either via its Policy on Purchase Price for Unused Council Land or market appraisal from a local estate agent.
- 9.2 If Council resolves to sell land for a price less than the price determined by either method, the reasons for this are to be recorded in the Council Resolution.

The sale price for the residue lot is detailed in the confidential attachment.



Figure 1

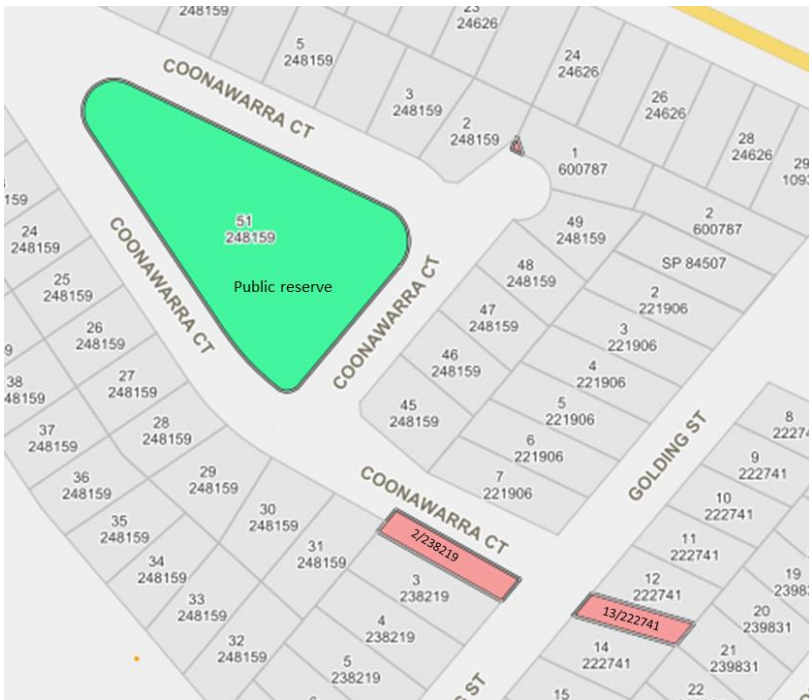


Figure 2
 Showing Locality of –
 Lot 2 DP 238219 to be subdivide and part retained and part sold
 Lot 51 DP 248158 existing Public Reserve
 Lot 13 DP 222741 existing drainage reserve

There is a sewer main and storm water drain in the section of Lot 2 that is to be dedicated as public road and these assets will not be affected by retaining the proposed part as a dedicated Council public road.

COUNCIL IMPLICATIONS

Budget/Financial

An estimate for survey and an assessment on disposal has been calculated and is shown in the confidential attachment. Income received will be retained in PJ 995350 and be expended on future road acquisitions.

Asset Management

Part of the land to be sold would be removed from Council’s Assets register and the remaining part would be updated to show as a Council Road asset. The asset would be maintained in accordance with the Coonawarra Court maintenance schedule and road Asset Management Plan.

Policy or Regulation

Local Government Act 1993
Roads Act 1993
Conveyancing Act 1919
Disposal of Surplus Land & Buildings Policy

Consultation

Consultation has been undertaken with Councils Civil Services and Water Cycle sections whom support the proposal and from Councils Planning Section for comments on future development.

Legal and Risk Management

Not Applicable

Climate Change

Not Applicable

Prepared by	Kylee Baker, Property Coordinator
Confidential	Sale details

ITEM	6c.20.111	POLICY REVIEW – ACQUISITION & DISPOSAL OF COUNCIL OWNED PROPERTY AND NAMING RIGHTS AND DONOR WALL POLICY	
Meeting	Corporate, Governance & Works Committee	21 July 2020	
Directorate	Corporate & Governance		
Reviewed by	Director - Corporate & Governance (Laura Black)		
Attachment	Yes		

SUMMARY

The report recommends adoption and rescission of policies which have been reviewed.

OFFICER RECOMMENDATION

That:

1. The draft Acquisition and Disposal of Council Owned Property Policy be placed on public exhibition for a period of 28 days and:
 - (a) Subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - (b) If submissions are received that change the intent of the policy, the policy and submission(s) will be reported back to Council for consideration.
2. When the Acquisition and Disposal of Council Owned Property Policy is adopted the following Policies and Protocols be rescinded:
 - (a) Disposal of surplus Council land and buildings Policy
 - (b) Sale price for Unused Council lands and closed roads Policy
 - (c) Referrals for Closure of Crown Roads.
3. The draft Naming Rights and Donor Wall Policy be placed on public exhibition for a period of 28 days and:
 - (a) Subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - (b) If submissions are received that change the intent of the policy, the policy and submission(s) will be reported back to Council for consideration.

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.20.111**Ellem/Williamson****That:**

1. The draft Acquisition and Disposal of Council Owned Property Policy be placed on public exhibition for a period of 28 days and:
 - (a) Subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - (b) If submissions are received that change the intent of the policy, the policy and submission(s) will be reported back to Council for consideration.
2. When the Acquisition and Disposal of Council Owned Property Policy is adopted the following Policies and Protocols be rescinded:
 - (a) Disposal of surplus Council land and buildings Policy
 - (b) Sale price for Unused Council lands and closed roads Policy
 - (c) Referrals for Closure of Crown Roads.
3. The draft Naming Rights and Donor Wall Policy be placed on public exhibition for a period of 28 days and:
 - (a) Subject to there being no public comment that changes the intent of the policy, the policy be adopted;
 - (b) If submissions are received that change the intent of the policy, the policy and submission(s) will be reported back to Council for consideration.

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

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

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

KEY ISSUES

The Disposal of surplus Council land and buildings Policy and Sale price for Unused Council lands and closed roads Policy have been combined into one policy for ease of reference and the policy has been reviewed to take out operational aspects for the function.

Acquisition of land has not previously been addressed in a Council Policy or Procurement Framework and the current Disposal of surplus Council land and buildings Policy details operational aspects of the property function. The new policy has been updated to reflect a position for Council overall on the Acquisition and Disposal of Council owned property removing operational aspects.

The process for Referrals for Closure of Crown Roads has changed and is administered via Council's Corporate Systems and it is considered an internal function process.

The Regional Gallery Naming Rights & Donor Wall Policy replaces the previous Clarence Valley Council Policy on Naming Rights at Grafton Regional Gallery, which was rescinded in April 2020. The new policy facilitates the management of the Naming Rights & Donor Wall program within the policy framework and reflects the operational aspect of the program.

The Naming Rights & Donor Wall Policy outlines the aims of the programs and how the funds raised by the programs will be utilised to support the Regional Gallery to deliver arts and cultural services long term to the community of the Clarence Valley. The Policy provides a guide to donation amount targets and related

benefits for donors as well as establishing a pathway with clear guidelines to the utilisation of funds raised by the programs. The core aim of the two programs outlined within the Naming Rights & Donor Wall Policy is to establish long term financial sustainability of the Regional Gallery.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Disposal of surplus Council land and buildings Policy
Sale price for Unused Council lands and closed roads Policy
Referrals for *Closure of Crown Roads* Protocol

Consultation

The policies were reviewed in consultation with relevant staff and stakeholders.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
Attachment	Draft Acquisition and Disposal of Council Owned Property Policy V1.0 Draft Naming Rights and Donor Wall Policy V2.0

ITEM 6c.20.112 EVENT SPONSORSHIP 2020/21 DELEGATION TO GENERAL MANAGER

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Nil	

SUMMARY

This report gives consideration to providing the General Manager with the authority to make decisions about event sponsorship funding in light of Covid-19 regulations.

OFFICER RECOMMENDATION

That Council authorise the General Manager to make decisions about funding for sponsorships for events for 2020/21 as detailed in this report on a case by case basis.

COMMITTEE RECOMMENDATION

Ellem/Lysaught

That Council authorise the General Manager to make decisions about funding for sponsorships for events for 2020/21 as detailed in this report on a case by case basis, and report the effect of any such decisions in the quarterly budget reports to Council.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.112

Williamson/Ellem

That Council authorise the General Manager to make decisions about funding for sponsorships for events for 2020/21 as detailed in this report on a case by case basis, and report the effect of any such decisions in the quarterly budget reports to Council.

Voting recorded as follows:

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

Against: Toms

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

Strategy 3.1.5 Attract and grow events which contribute to the economy with a focus on high participatory events

BACKGROUND

Applications for sponsorship under Council's Events Sponsorship Program opened on 28 February 2020 and closed on 27 May 2020. The funding program was promoted through advertising in the local print media, social media and Council's website. Emails were also sent to all previous applicants.

All applications were completed and submitted online via the smartygrants software program. A total of 13 applications were received, requesting a total of \$73,910 in sponsorship.

All events are assessed against the following criteria as set out in program guidelines:

- eligibility to apply
- making a positive contribution to the local economy

- acknowledgement of Council's sponsorship
- benefit to the community
- evidence of support from groups that benefit from the event
- promotes and encourages positive exposure of the Clarence Valley
- strengthens and celebrates our community
- the organisations financial viability
- demonstrated marketing strategy, post-evaluation and income generation plan
- consideration of environmental impacts

KEY ISSUES

The COVID-19 pandemic and the resulting Public Health Orders put into place by the Australian Federal Government and the NSW Government continue to impact our local events. Event organisers are hopeful their events will be able to take place, but uncertainty remains.

At its meeting held in March 2020 Council resolved:

That Council:

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

While the following applications were received, the impact of COVID-19 on delivery and resulting cancellations are yet to be considered and advised.

2020/21 Events Sponsorship				
Organisation Name	Event	Start Date	End Date	Amount Requested
Grafton District Golf Club	Grafton PGA Pro Am 2020	7/08/2020	7/08/2020	\$660.00
Wild River Tours	Copmanhurst Wild River Bass Classic	4/09/2020	6/09/2020	\$4,000.00
Australian National Goanna Pulling Championships	Australian National Goanna Pulling Championships	4/10/2020	4/10/2020	\$5,000.00
Yamba Euchre Club	Yamba Euchre Club Tournament	24/10/2020	25/10/2020	\$750.00
Grafton Pony Club	Clarence Valley Equestrian Challenge	25/10/2020	26/10/2020	\$1,000.00
Grafton Jacaranda Festival Inc.	Grafton Jacaranda Festival	30/10/2020	8/11/2020	\$32,000.00
Grafton Dragon Boat Club	Jacaranda Dragon Boat Races	31/10/2020	1/11/2020	\$5,000.00
Campervan and Motorhome Club of Australia Limited	Jacaranda RV Rally	1/11/2020	8/11/2020	\$3,000.00
White Lightning Events	Jacarok	4/12/2020	2/12/2020	\$5,000.00
Rotary Club of Grafton Midday Inc.	Carols by Candlelight	5/12/2020	5/12/2020	\$5,000.00
Grafton Rowing Club Inc	Grafton December Weekend of Rowing	12/12/2020	13/12/2020	\$1,500.00
Yamba Surf Life Saving Club	Yamba Ocean Swim 2021	3/01/2021	3/01/2021	\$1,000.00

Rogue Adventure Pty Ltd	The Raid 100	2/05/2021	8/05/2021	\$10,000.00
				\$73,910.00

The recommendation of this report is seen as a broadening of the existing decision thus allowing assessment on a case by case basis and to give the General Manager discretionary decision making capacity in regards to provision of sponsorship whilst continuing to act within the 2020/21 approved budget allocation.

COUNCIL IMPLICATIONS

Budget/Financial

The 2020/21 Budget for Event Sponsorship is \$90,000. Current allocations as detailed above are within this limit and there maybe unspent funds due to event cancellations.

Asset Management

N/A

Policy or Regulation

Event Sponsorship Policy

Consultation

Consultation occurred between the Community and Industry Engagement team and with stakeholders in the Event Industry.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alicia Savelloni, Events Development Officer, Community and Industry Engagement Team
Attachment	Nil

ITEM	6c.20.113	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

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

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.113

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

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

KEY ISSUES

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

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

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Local Government Act 1993 S335 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Checklist

ITEM	6c.20.114	ACQUISITION OF LAND FOR ROAD PURPOSES - OLD GLEN INNES ROAD, CHAMBIGNE
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Alex Dalrymple, Manager Civil Services	
Attachment	Confidential	

SUMMARY

The reconstruction of Old Glen Inness Road at Chambigne 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 (approximately 2279m²) of Lot 5 DP 264576 Old Glen Innes Road, Chambigne NSW 2460.
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

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.114

Ellem/Williamson

That Council:

1. Offer a compensation amount as detailed in the confidential attachment for the area to be acquired (approximately 2279m²) of Lot 5 DP 264576 Old Glen Innes Road, Chambigne NSW 2460.
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: Baker, Clancy, Ellem, Lysaught, Novak, Simmons, Toms, Williamson

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 Old Glen Innes Road between O'Neils Road and Chillumbarriga Road to widen the road consistent with previous upgrades in the area. A section of the road to be reconstructed currently is situated on private property, this is not uncommon in rural areas due to historical fence locations and road corridors evolving over time.

The acquisition consists of approximately 2279 m² of land from the Lot 5 DP 264576 Old Glen Innes Road, Chambigne.

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 and 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 530287). An estimation of costs is detailed in the confidential attachment.

Asset Management

The project involves the upgrade of Old Glen Innes Road approximately 20m west of O'Neils Road intersection to approximately 60m east of the Chillumbarriga 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.

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 5 DP 264576 has been consulted and agreed to Council's acquisition of the land for the compensation amount as detailed in the Attachment. Internal consultation with Property Coordinator.

Legal and Risk Management

Not applicable.

Climate Change

Not applicable.

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

ITEM	6c.20.115	ADDITIONAL PHASE 1 GRANT FUNDING –MACLEAN SHOWGROUND ON CROWN LAND
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Nil	

SUMMARY

This report seeks Council's endorsement as Crown Land Manager of Reserve 88428 to accept a further offer of \$30,866.00 (Incl. GST) from the NSW Governments Phase One Showgrounds Stimulus Program to install roof anchor and ladder access points to various buildings within the Maclean Showground, Maclean.

OFFICER RECOMMENDATION

That Council as Crown Land Manager of Reserve 88428, accept an offer of an additional \$30,866.00 (incl. GST) to install roof anchor and ladder access points to various buildings within the Maclean Showground, Maclean from the NSW Government Phase One Showgrounds Stimulus Program.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.115

Ellem/Williamson

That Council as Crown Land Manager of Reserve 88428, accept an offer of an additional \$30,866.00 (incl. GST) to install roof anchor and ladder access points to various buildings within the Maclean Showground, Maclean from the NSW Government Phase One Showgrounds Stimulus Program.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The Maclean Showground is situated on Reserve 88428 for Showground and Public Recreation, notified 10 December 1971. The showground was placed under the care, control and management of Council on the 24 November 2000.

The NSW Governments Showgrounds Stimulus Program was initially announced in two phases. Phase 1 was for works that could commence immediately being completed within 3 months from date of award and Phase 2 within 12 months from date of award.

NSW Governments Showgrounds Stimulus Program - Phase 1

On 24 April 2020 Council applied for 4 packages of work in Phase 1 totalling \$217,732.57. The NSW Government awarded \$186,866.57 on 29 May 2020 funding 3 packages of work. At the 16 June 2020 Ordinary meeting Council resolved that –

Council as Crown Land Manager, accept an offer of \$186,886.57 (incl. GST) to strengthen the arena fence posts; erect an awning and relocate a gas bottle on the Jim Thompson building; apply bitumen seal and constructing kerb and guttering to the showground access road at Maclean Showground, Maclean from the NSW Governments Phase One Showgrounds Stimulus Program. [Item 6c.20.091]

On 26 June 2020 NSW Government subsequently announced that Council had been successful in securing additional funding from the NSW Government's Phase One Showgrounds Stimulus Program totalling \$30,866.00 (incl. GST) to install roof anchor and ladder access points to various buildings within the Maclean Showground, Maclean. The announcement funded the remaining package of work that Council had applied for in Phase 1.

NSW Governments Showgrounds Stimulus Program - Phase 2

On 29 May 2020 application was submitted for a further 5 packages of work for Phase 2 totalling \$665,995.70 consisting of \$417,995.70 grant funding and \$238,000.00 from other sources of funding (Council and Community contributions).

The 5 packages of work for Phase 2 being;

- Showground Arena lighting replacement;
- Clydesdale building extension;
- Refurbishment of Fine Arts and Tea rooms buildings;
- Refurbishment of public amenities and change rooms to service new main pavilion;
- Refurbishment of grandstand retaining walls, seating and walkways;

It is expected the outcome of Phase 2 applications will be announced in August 2020.

KEY ISSUESNSW Governments Showgrounds Stimulus Program - Phase 1 (Initial)

A condition of acceptance of the grant was that works were to be completed within 3 months of the date of receipt, to that end the following progress has been achieved for the initial packages of Phase 1 work –

Strengthen arena fence posts

A local contractor MJ & RA Davis has been engaged and materials ordered. Council staff have chemically controlled and dug out the grass around the posts to enable the works. The Contractors works are scheduled to commence in mid July.

Jim Thompson building

A local contractor Bannerman & Binge Plumbing was engaged and the gas bottle relocated in early July. The drawings have been acquired; quotes have been secured from various local contractors; final negotiations are in progress to engage a contractor to erect the awning; works are planned to commence in late July.

Entrance and access road

The scope of works and specification has been finalised in consultation with Council's Civil Services Section. A local contractor Corbett Earthmoving Pty Ltd has been engaged to construct the kerb & guttering, concrete hardstand areas and apply bitumen seal. The Contractors works are scheduled to commence in mid July.

NSW Governments Showgrounds Stimulus Program - Phase 1 (Additional)

As with the initial packages of work works were to be completed within 3 months of the date of receipt, to that end the following progress has been achieved to enable immediate commencement should Council endorse the acceptance of the grant funding;

Roof anchors & ladder points

The scope of works and specification has been finalised, and firm fixed quotations received.

COUNCIL IMPLICATIONS

Budget/Financial

The additional grant funding of \$30,866.00 (incl. GST) from the NSW Governments Phase One Showgrounds Stimulus Program will fully fund the installation of roof anchor and ladder access points to various buildings within the Maclean Showground, Maclean.

Asset Management

The roof anchors and ladder points are new assets and will need to be added to Council's asset register. While being an additional asset the installation enables improved and safe access onto the roof improving the ability to inspect and maintain the roof asset and building in its entirety.

Policy or Regulation

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

Consultation

Preparation and submission of Phase 1 grants was limited to a two week period, due to the limited time available Council officers engaged with representatives from the Maclean Show Society only as they are the main user group and have links with the majority of other groups. The Maclean Show Society provided a letter of support that was submitted with the application.

Legal and Risk Management

Council has care, control and management of the Maclean Showground (R88428) as the Crown Land Manager under the *Crown Land Management Act 2016*. The proposed works will be undertaken on buildings within Lot 7301 DP 1133705. Native Title has been determined to have been extinguished by the Federal Court on this area of land (*Yaegl People #2 v Attorney-General of New South Wales*, Schedule 5, Area ID # 485). Consequently, there is no requirement to notify as a Future Act under s24JB of the *Native Title Act 1993* (Cth).

Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change, to minimise the impact the materials used will contain a high content of material that can be recycled at the end of its useful life.

Prepared by	David Sutton, Open Spaces Coordinator
Attachment	Nil

ITEM	6c.20.116	ADOPTION OF BIODIVERSITY STRATEGY 2020-2025
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	To be tabled	

SUMMARY

The draft Biodiversity Strategy 2020-2025 has been exhibited, submissions received, considered and the draft strategy updated. This report now seeks Council's adoption of the revised draft Biodiversity Strategy 2020-2025 that includes amendments from the exhibition process.

OFFICER RECOMMENDATION

That Council

1. Receive and note the submissions received in response to the public exhibition of the draft Biodiversity Strategy 2020-2025.
2. Adopt the Biodiversity Strategy 2020-2025.

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.20.116

Ellem/Williamson

That Council

1. Receive and note the submissions received in response to the public exhibition of the draft Biodiversity Strategy 2020-2025.
2. Adopt the Biodiversity Strategy 2020-2025.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

Strategy 4.1.2 Promote sustainable Natural Resource Management

BACKGROUND

At the April 2020 ordinary meeting of Council, Council considered a report [Item 6c.20.047] on the draft Biodiversity Strategy 2020-2025 resolving:

That Council

1. *Endorse the draft Biodiversity Strategy 2020-2025 to be placed on public exhibition for a period of not less than 28 days for comment.*
2. *Receive a report to the July meeting listing submissions received and proposed amendments to the draft Biodiversity Strategy 2020-2025 for consideration for adoption.*

The draft Biodiversity Strategy 2020-2025 has been exhibited, submissions received, considered and the draft strategy updated.

This report summarises the submissions received, and recommends adoption of the revised Strategy. The revised Strategy is attached.

KEY ISSUES

The Draft Biodiversity Strategy 2020-2025 was exhibited for 28 days, advertised in the Daily Examiner, and on Council's Facebook page. Due to Covid-19 restrictions, a hardcopy of the draft Strategy was not placed in Council office foyers, but rather was available for access online. The webpage also contained a link to the engagement platform – Clarence Conversations, where an optional survey could be taken regarding the draft Strategy.

Summary of Submissions

A total of 25 responses were received by Council; eight responses were received via the Clarence Conversations page, and 17 submissions via the CVC webpage.

Analysis of the submissions separated those that raised issues in relation to the revised draft Biodiversity Strategy 2020-2025 (Table 1) and those that provided a more general comment regarding management of biodiversity (Table 2).

Overall, the responses supported the adoption of the draft Strategy and are supportive of the actions. This includes a submission from the Biodiversity Conservation Division of NSW Department of Planning, Industry and Environment. It is obvious from the majority of responses that the community expectation on Council to protect biodiversity is high. This expectation also extends out to areas that are beyond Council's control such as activities on rural lands and national parks/state forest.

Several submissions focussed on the importance of implementing the actions proposed, as opposed to paying lip service to them. This document is a framework for an approach to biodiversity management. The Strategy lists multiple actions, not all of which can be achieved in the next 5 years, with the focus to be on prioritising actions as funding allows. A variety of actions involve multi stakeholder involvement, including landholder support to align to be achieved. Implementation of some of the actions in the Strategy are bound by economic limitations, and priorities will change as state and federal government priorities change. A statement to this effect has been added at the start of the action tables in the Strategy.

Many of the submissions were highly critical of what is perceived to be Council's lack of ability to date in implementing current biodiversity policies that emerged from the 2010 Biodiversity Management Strategy that were aimed at reducing clearing. Decisions such as land clearing for developments such as Hickey St in Iluka, clearing of koala food trees at Woombah Woods Caravan Park, and other various residential lot subdivisions received multiple mentions. The comments relating to these issues generally focussed on the departure from the central tenet of the 2010 strategy being "no net vegetation loss". There was also negative feedback regarding perceived limited compliance on conditions of development consent.

One respondent published their comments in the Daily Examiner on 22 June 2020, and was highly critical of Council's approach to biodiversity conservation over all.

The submissions on the Strategy highlight that the spotlight is on Council in terms of biodiversity conservation including habitat protection for fauna, and not just for high profile species such as koalas and emus. By approving this Strategy, Council recognises a need to improve the protection of biodiversity, and this Strategy is aimed at helping Council achieve this.

To capture community confidence that Council is serious about protecting biodiversity, the community will require reassurance that Council is carrying out its functions with biodiversity in mind. To achieve this, monitoring of Council's existing actions that relate to biodiversity conservation would be a benefit to Council and the community, and is a recommendation in the plan as a priority action.

The following tables summarise the responses. Table 1 lists the issues raised in the submissions that relate to the review of the draft Strategy, and the corresponding response. Where noted changes and amendments have been made to the draft Strategy to address the feedback received.

Table 2 lists the issues raised in submissions that are not directly related to the review of the draft Strategy. The revised Strategy is Attachment A and the unedited submissions are Attachment B.

Table 1: Issues and Responses to Submissions

Action	Issue	Response
Protect Wildlife and Habitat Corridors		
1.1	Change action to high cost	Cost changed to L-H (low – high). Depending on the method used to identify gaps in corridors, will determine the resultant cost.
1.3	Change wording to include all coastal estuaries	Wording changed to include all coastal estuaries.
1.5	Roadside slashing	Roadside slashing will be addressed in the Roadside Vegetation Management Plan (to be developed as part of this process).
2.2	How will gains brought about by the biodiversity strategy be assessed	Audit and review process to be developed as part of the Strategy.
3.1	Include threatened fauna & flora. There is no priority for an emu plan of management like the koala and flying foxes yet the coastal emu is considered endangered.	No change. Issue is already included. The strategy emphasises the protection of habitat and wildlife corridors as this is seen as the most effective way to protect native fauna. Threatened species have dedicated recovery plans implemented by DPIE through defined recovery actions.
3.2	Benchmark actions to gauge progress of strategy	No change. Benchmarking would involve extensive and costly studies into vegetation and fauna surveys. Whilst this data would be useful, the costs can detract from actually implementing projects. One of the priority actions for the first 12 months is creating an audit system for this strategy.
3.3	Burning vegetation in Gulmarrad	No change. Several submissions mentioned this however details are not specified and therefore cannot be answered.
3.6	Damage to roadside vegetation	A Roadside Vegetation Management Plan is currently being developed by CVC.
3.8	Remove Biodiversity Offset Policy	No change. The Biodiversity Offset Policy (BOP) applies when an amber flag is triggered in Clarence Valley Council's Biodiversity DCP in the biodiversity theme development control tables (when a development doesn't trigger the NSW state government's Biodiversity Offset Scheme). The BOP is an extremely useful Policy for ensuring biodiversity is conserved locally. Offsetting can only be considered when all means of avoiding the impacts from a development proposal on a site's biodiversity values have been exhausted.
	Working with other government agencies - specify which section of DPIE CVC will be working with	No change. Council has no control over the amalgamation of state government departments involved in environmental management. Relevant sections of DPIE are partnered with for specific projects.
	Connectivity of corridors is important	Agree. No change. Connectivity is an important factor in rehabilitation of corridors as per Action 1.1
	CVC workers trained in wildlife care	Whilst Council does not have an ecologist on staff, ecologists are employed as needed onsite.
	Removal of vegetation on Council land	A <i>Review of Environmental Factors</i> is undertaken prior to any vegetation being removed, and appropriate offsets are secured, as a last resort after avoid and minimise options have been considered.
	Implement the actions	The strategy lists multiple actions, not all of which can be achieved in the next 5 years, with the focus to be on prioritising actions as funding allows. A variety of actions involve multi stakeholder involvement, including landholder support to align for some of the goals to be achieved.

Action	Issue	Response
Clearing controls & vegetation management		
	Clearing at Woombah Caravan Park	The clearing associated with the Woombah Woods caravan park was deemed to be legal.
	Concerns over the increase in extensive agriculture, and the grazing of cattle	<p>No change. In the RU1 and RU2 zones, extensive agriculture is permitted without development consent. Extensive agriculture is defined as:</p> <p style="text-align: center;">extensive agriculture means any of the following—</p> <p>(a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,</p> <p>(b) the grazing of livestock (other than pigs and poultry) for commercial purposes on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the livestock,</p> <p>(c) bee keeping,</p> <p>(d) a dairy (pasture-based) where the animals generally feed by grazing on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the animals.</p> <p>Note.</p> <p>Local Land Services are the consent authority for any clearing associated with agricultural activities in rural zones.</p> <p>The CVLEP permits extensive agriculture in R5 Large Lot Residential Zones, however this requires development consent from Council.</p>
	All agencies exchange information about clearing activities	Council continues to work with state and federal government on biodiversity conservation legislation enforcement.
5	Tree Preservation Order supported	Agree. The development of a Tree Preservation Order is an action in the Strategy.
6	Funding for bush regeneration and follow up activities	Council regularly applies for funding from state and federal government for biodiversity projects. Successful grants have a finite project schedule in which to achieve the project aims.
8.2	Change LEP to DCP in this action	No change. The use of the term LEP here is justified as it covers the various zonings on which illegal clearing occurs.
8.4	Incorrect department name	Change made from Department of Environment & Energy to the most recent Department of Agriculture, Water & the Environment.
	Develop a factsheet on clearing	Agreed. Factsheet will be developed as part of Action 5.1
	Clearing on rural land	Clearing on rural land is regulated by the Local Land Services Act 2013, administered by LLS (not CVC).
8.6	Riparian leases	No change. This action refers to a specific land use which is the focus of the Riparian Action Strategy.
Biosecurity Management		
Goal 9	Remove pest plants from Goal 9 as it's repeated in Goal 10.	Changed. Goal now changed to "Effectively manage pest animals in the Clarence Valley". Weeds are covered in Action 10.
	Confusing priorities in Goal 9.	No change. Both actions in Goal 9 are ranked high.

Action	Issue	Response
9.2	North Coast Regional Strategic Pest Animal Management Plan (NCRSPAMP) needs to mention cane toads and feral cats	No change. The NCRSPAMP includes 12 priority pests, including cane toads and the species listed in the action are a sample of these 12. Cane toads are also mentioned in action 23.5. See link for the RSPAMP https://www.lls.nsw.gov.au/_data/assets/pdf_file/0020/820802/north-coast-regional-pest-plan.pdf
10.1	Weed management	Weeds management is achieved through identified weed management strategies implemented by 6 full time equivalent CVC staff.
	Would like to see eradication of feral cats given priority as there is much evidence as to how much damage they are causing in the environment.	Pest predator plans to which Council play a role with LLS, include cats.
	Cane toads	Cane toad control – Council supports the Clarence Valley Conservation in Action group see Action 23.5, and cane toads are also an identified pest in the NCRSPAMP.
	Why are deer and horses included in a LPPP when they're not predators.	Changed to remove the word 'predator'. There are Local Pest Predator Plans that cover wild dogs, feral cats and foxes. There are Local Plans for Deer and other priority pests being developed. Currently there are 8 Local Pest Predator Plan Areas in the Clarence Valley (remembering that they cover wild dogs, feral cats and foxes). With Localised Pest Plans currently being developed for other priority pests such as Deer, Wild Horses and Feral Pigs. The total numbers for those plans have not been finalised at this stage.
	Where does the North Coast Region Wild Dog Management Plan fit in?	It is superseded by The North Coast Regional Strategic Pest Animal Management Plan 2018-2023 that encompasses the requirements for Local Plans for priority pests.
	Who is responsible for the implementation of the fire actions	Implementation of the actions are the responsibility of the officer/section detailed in the strategy
	Concerns regarding use of weed spraying and checking nurseries for sale of environmental weeds	No change. Council has an ongoing works program that targets priority areas with high risk pathways that are targeted to specific weeds. Action 10.1 covers this.
12.1	Council working with community to promote issues with weeds	Agreed. No change. Council works frequently with the community to promote weed control, including awareness of the sale of environmental weeds at nurseries.
Bushfire Management		
13.1	Council has limited capacity to control the undertaking of control burns, except on Council controlled land.	Agreed. No change. Council can make recommendations to RFS as an ongoing action. Note, there is a treatment register in the Bush Fire Risk Management Plan, and adherence to Village Protection Strategies. The Bush Fire Management Committee advises council regarding the introduction of fire permits, with this committee driven by RFS. Generally the committee meets quarterly unless emergency actions are in place such as in 2019.
	BRIMS acronym to be spelt out	Changed to include the unabbreviated term.
Improve Aquatic Habitat		
15.2	Removal of fish barriers	Council has implemented approximately 100 Drain Management Plans to assist landholders improve natural flows to floodgated waterways, and continues to work with DPI Fisheries and landholders.
15.1	Does it include weirs & floodgates	No change. The document referred to specifies the definition of barriers to include weirs and floodgates.

Action	Issue	Response
16.1	Implement actions in adopted estuary management plans and Develop a Coastal Management Program	<p>Actions in these plans will be prioritised and addressed as funding allows. For example beach nourishment was recently completed at Wooli and funding has been received to complete a detailed design for works at Brooms Head.</p> <p>Legislation changes concerning coastal management have recently occurred and CVC is in the process of engaging a consultant to prepare a scoping study for a new Coastal Management Program which will identify and prioritise outstanding actions.</p>
16.7	Undertake Review of Sustainable Water Requirements	No change. This is action 16.7.
16.3	Cost estimate missing	Change. Costs for action added as L-H.
16.6	Implementation of plans for shorebirds	This is Action 16.6 to be achieved.
16.7	The Action labelled 16.7 is incorrectly labelled as 16.2	Changed. Action 16.7 labelled correctly.
	Concern raised of exotic plants used in stormwater quality improvement devices	No change. See Action 19.2
17.1	Monitoring of waterways	Water quality for environmental health was monitored extensively for the EcoHealth project in 2015. This was collaboration between UNE, LLS, OEH and other Council's and was a very useful program. Due to the substantial costs associated with the program, collaborative funding is also required and has not yet been reiterated.
17.2	The Integrated Water Cycle Strategy needs updating	Noted. The Integrated Water Cycle Strategy is currently being updated.
17.3	Dogs on beaches	Council beaches are monitored by Rangers. Where threatened species are involved, NPWS Rangers are involved.
17.4	Sediment & erosion control	Sediment & erosion control practices for Council activities are implemented and monitored according to industry standards. Council workers undergo sediment and erosion control training.
17.4 & 17.7	Actions are duplicated	Changed. 17.7 removed as it duplicated 17.4.
17.5	Dieback on Angourie road from the sewage treatment plant discharge	Discharge from the sewage treatment plant into the wetland has now ceased, with the water being used for the golf course, ebb tide release, water quality is monitored, and the wetland vegetation is monitored.
	Remove barriers to assist rehabilitation of wetlands	No change to strategy. It is acknowledged that wetlands are a vital part of river health and CVC work with landholders to improve wetland health.
Community Education		
18.2	Landholder education	Education for landholders is carried out through direct contact, websites and targeted programs. Where wetlands are privately owned, Council works with landholders to improve wetland protection. Programs are run with landholders to protect threatened vegetation on private land. Education regarding conserving all layers of vegetation to protect against the practice of 'underscrubbing' is an Action in the strategy.
21.1	Road signs	Road signs installed for koalas and emus at known blackspots.
22.1	Acknowledgement of landholders	Action changed to include 'Living Sustainably Awards'.
23.5	Council to support Clarence Valley Conservation in Action (CVCIA)	Agree. No change. Council supports the CVCIA see Action 23.5

Action	Issue	Response
23.6	Council to conduct field days	No change, Council does conduct field days. See 23.2
Climate Change		
24.2	Adapting plans to accommodate climate change	This is an action in the plan to be undertaken by the relevant section in council.
24.3	Include native grasses in the Action	No change. All types of vegetation are included in 24.3.
24.6	What is Council doing to help post fire & flood recovery	Please refer to Council website for information regarding assistance with bush fire recovery – https://www.clarence.nsw.gov.au/cp_themes/metro/page.asp?p=DOC-SYA-35-20-01

Suggested priority actions	
Priority actions need a time and responsible person	Agreed. Priority actions to be achieved will have a responsible person/Council team and a time for delivery.
No Coastal Emu Management Plan	Threatened species are managed by NPWS, who develop recovery plans and implement recovery actions.
Leash free dog area around Lake Cakora	Interactions between dogs and wildlife are addressed in Action 12.2.
How will the strategy be monitored?	An audit process will be developed as part of the strategy.

Table 2: Issues raised not directly related to the review of the Strategy

Extension of Maclean Rainforest Reserve	Maclean Rainforest Reserve (MRR) was extended into Ulmarra St, with MRR undergoing regular regeneration works worth \$15-\$30,000 per year.
Koala Plan of Management not implemented	Although the Koala Plan of Management for Ashby, Woombah and Iluka was not approved by state government, the recommendations have been incorporated into the relevant DCP's including koala related conditions of consent which are part of the DA process. The KPOM has now been resubmitted to DPIE for approval under new Koala SEPP.
Change the LEP so intensive horticulture requires the lodging of a DA	Development is regulated by the zoning of the land, and the LEP, which lists allowable uses. LEPs are the main planning tool to shape the future of communities and also ensure local development is done appropriately. The LEP is a legal document prepared by Council and approved by the State Government.
Hickey St development approval at Iluka	Development Application SUB2015/0034 for the 140 Lot subdivision at Hickey Street Iluka was considered by the Northern Regional Planning Panel (their Ref: 2015NTH026) and determined as approved on 28 October 2019. Please refer to the Planning Panel website for a copy of the full assessment documents and final determination.
No net loss of vegetation hasn't been implemented	This central tenet underpins the strategy, and is in line with the purpose of state and federal legislation concerning biodiversity conservation. Council biodiversity programs focus on achieving this aim.
Underscrubbing	Underscrubbing has been included in the strategy as action 21.2 as layers of vegetation are important as they provide a habitat for a variety of species.
Concern over the Industrial zones in the airport precinct	The land at the Grafton Airport is zoned SP2 – Infrastructure Zone, not industrial.
Concern over the Harwood Marine Precinct	An environmental assessment was completed for the rezoning of the Harwood Marine Precinct when it was rezoned in 2015. As part of the planning proposal, some sections of land were rezoned to E2 Environmental Protection zone. The current Harwood Marine Precinct provisions in the DCP require full detailed flora and fauna assessment for any marine industrial development within the precinct.
Cows accessing Nymboida River, and other parts of the Clarence	Due to the flat nature of the river banks along the Nymboida in the area of the inner catchment (closest section to the weir pool) and the large range in water levels of the river it is very difficult to fence off the river. It would mean large portions of private property would be unusable, often some of the most

	fertile land. If the fence was placed closer to the river, it would regularly get destroyed by flooding waters. The river changes level extremely quickly and can increase 10m+ in a matter of hours. CVC has worked with Nymboida landholders (through Clarence Landcare) and Dorrigo landholders (through LLS) and provided funds to fence some areas and provide off-stream water. Council has recently purchased and acquired the rural property adjoining the weir to assist with protection of riparian vegetation and water quality.
Why are land owners allowed to bulldoze 30 year old forest as regrowth?	We have local guidelines through the development process that control illegal clearing and these also are also consistent with State legislation. Any removal of native vegetation in the R1, R2, R3 and R5 residential zones or SP2 or E2 or E3 zones areas requires a permit from Council except where clearing meets the exemption in DCP.
Speed limit on brooms head road for emu	Council has on several occasions approached RMS to lower the speed limit, however the requests have been denied.
Corridors	Council has purchased and is continuing to purchase land to contribute to the Gulmarrad Corridor.
Enforcement of DA conditions	Development application conditions are checked throughout the building or subdivision process and/or before issue of Occupation Certificate or Subdivision Certificate. If Council is aware or is advised of non-compliances following completion of the development then compliance with conditions of consent are checked and any necessary action is taken.
Change wording in actions so they're enforced.	Wording is considered appropriate as a joint approach with landholders and other government agencies is consistent with the aims of the strategy encouraging participation rather than enforcement through regulation.
Implement plan	CVC occupies a large area, landholder engagement and adoption of biodiversity principles including net vegetation gain is essential at the landholder level for the plan to be effective. Not all the actions will be implemented, rather actions will be implemented as funding allows.
Working towards actions isn't good enough	Noted. No change. In the Strategy, it is recognised that the number one threat to biodiversity in the Clarence is loss of vegetation and fragmentation of habitat, therefore 'working towards' improving connectivity and an overall net gain in vegetation is a realistic aim, given that not all the actions in the strategy can be implemented in the next 5 years.
Relocate Lake Wooloweyah ring drains landwards	The relocation of the Wooloweyah Levee will take significant support from landholders and funding from state government funding authorities. Studies are currently being completed by DPI Fisheries and the University of NSW which may be used to guide future management and lever the required funding for such a project.
Wetland management	The Biodiversity Strategy and other adopted management plans guides council in wetland management.
Pacific Highway Upgrade Route removed important vegetation	Noted. Route options for the highway upgrade were a RMS decision, not CVC.
Stop clearing for developments and infilling the floodplain	Noted. The Biodiversity Conservation Act 2016 allows for development and associated clearing to be offset through the Biodiversity Offset Scheme. This is state government legislation.
Concerns over water usage from creeks for agricultural usage	Noted. This is an issue outside of Council control, legislated by the NSW DPI (Water) and NRAR.
Straying livestock on to flora and fauna reserves and council reserves creating weeds, water pollution and erosion (i) effective notification and legal responsibility of stock owners to prevent same (ii) monitor, report and act on defective fencing	Noted. This is a specific incident and suggest Council's CRM system is used to report stock on Council reserves.

Rare stand of frontal dune Turpentine trees presently under threat on Diggers Headland reserve due to impacts over camping periods.	Noted. This would be referred to POM to be reviewed for village (due before 2021) plus vegetation management plans (as per BS Action 3.7)
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COUNCIL IMPLICATIONS

Budget/Financial

The cost of developing the draft *Biodiversity Strategy 2020-2025* has been covered by Council's costs associated with employment of the Biodiversity Officer since 2018 which was a recommendation of the 2010 plan. There is scope to fund actions in this strategy with Council's recurrent budget subject to some external funds being secured.

Asset Management

The development of Vegetation Management Plans covering council owned land is an action in the Strategy.

Policy or Regulation

- *Biodiversity Conservation Act 2016*
- *Local Government Act 1993*
- *Internal consultation with sections to prepare draft Strategy*

Consultation

Community consultation took place for the Strategy via Council's webpage. Due to Covid-19 restrictions, a copy of the draft Strategy was not placed on public exhibition but rather was available for access online. In addition, the engagement platform – Clarence Conversations also had a short survey. The document was exhibited for 28 days, advertised in the Daily Examiner, and on Council's Facebook page.

Legal and Risk Management

The risk to Council not to proceed with adopting the Strategy, would be contrary to council policy. Council needs to be a leader in biodiversity conservation as it has been in other natural resource management areas such as floodplain management and the integration of sustainability within the organisation.

Climate Change

This Strategy aims to minimise the effects of climate change that negatively impact biodiversity, by increasing the resilience of natural ecosystems and landscapes. Actions that improve the health of natural areas such as weed control, replanting, and rehabilitation all increase the resilience of native plants to climate extremes. Implementing the actions in this strategy will go a long way towards securing our local populations of important flora and fauna.

Prepared by	Heather Mitchell, NRM Biodiversity Officer
To be tabled	A: Revised Draft Biodiversity Strategy B: Submissions received

ITEM 6c.20.117 STREET SWEEPING LEVEL OF SERVICE - UPDATE

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Nil	

SUMMARY

A report was provided to the April 2020 meeting (item 6c.20.044) regarding the Level of Service (LoS) provided by our street sweeping operations. This report provides an update on the follow up actions from that report.

OFFICER RECOMMENDATION

That Council proceed to open tender for the provision of street sweeping services in accordance with the adopted Levels of Service and that noise minimisation form part of the tender evaluation criteria and contract.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Simmons

Against: Toms, Ellem

The Motion was put and declared CARRIED.

COUNCIL RESOLUTION – 6c.20.117

Williamson/Lysaught

That Council proceed to open tender for the provision of street sweeping services in accordance with the adopted Levels of Service and that noise minimisation form part of the tender evaluation criteria and contract.

Voting recorded as follows:

For: Lysaught, Williamson, Baker, Simmons

Against: Clancy, Novak, Ellem, Toms

The Committee Recommendation was declared CARRIED on the casting vote of the Chair.

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

Strategy 1.1.1 Encourage vibrant and welcoming towns and villages

BACKGROUND

A report was provided to the April 2020 meeting (item 6c.20.044) regarding the level of service provided by our street sweeping operations. The resolution stated:

That:

- The 'moderate' level of service being central business district (CBD) be adopted across the local government area for street sweeping being once every 2 weeks and all other kerb and gutter cleaning*

outside of the CBD at once every 16 weeks with flexibility to provide the service due to seasonal conditions or event activity.

2. *Alternate noise reduced options for footpath sweeping be explored as a replacement for leaf blowers. Options should include but not be limited to the reintroduction of a footpath sweeper and any other alternative that provides noise levels lesser than leaf blowers.*
3. *A report be presented to the September 2020 Council Meeting cycle for further consideration.*

This report provides an update on resolution points 2 and 3.

KEY ISSUES

In NSW the relevant legislation for noise pollution is the Protection of the Environment Operations Act 1997 (POEO Act) and the Protection of the Environment Operations Regulation 2009 (POEO Regulation). Road maintenance activities are not a prescribed activity under the regulations but are covered by the NSW EPA Interim Construction Noise Guidelines (the guidelines).

Quantitative Comparison of Noise

The guidelines reference the impact of noise, and what is determined to be 'Offensive Noise' being not purely determined by the level of noise generated, but the combination of level, nature, duration, character and time at which it is made.

For any type of equipment, there are many different makes and models and each different machine will have a different noise output and characteristics of the noise. It is therefore not straight forward to directly compare different equipment.

However, to compare different equipment in a meaningful way Table 1 provides data from the Transport for NSW Construction and Materials Noise Estimator for individual plant items. This estimator reflects the process set out in the guidelines and includes estimates for specific types of equipment.

Unfortunately, it does not have values for the specific equipment in use, so the most similar equipment has been used, people talking has been included for comparison purposes.

The best information that available for a footpath sweeper suggests that the Sound Pressure Level (SPL) at 7m is approximately 80dB(A), which is roughly equivalent to the impact of the small tools like electric leaf blowers.

Table 1 - Quantitative Comparison of Sound Pressure Level (SPL)

Type of Equipment	Similar to	SPL LAeq (dB(A))	SPL @7m (dB(A))	SPL @50m (Sensitive Receiver) (dB(A))
Vacuum Truck	Street Sweeper	109	84	65
Chainsaw	2 stroke leaf blower	114	89	70
Small Tools	Electric leaf blower	105	80	61
People Talking	Comparison only	76	51	32

The use of electric leaf blowers has the lower SPL from Table 1.

The guidelines recommend that for a built-up urban area (representative noise environment of R3), the noise levels from activities not exceed the values shown in Table 2. It can be seen that all of the plant and equipment options exceed the recommended limits at all times of the day.

Table 2 - Recommended maximum SPL at different times of the day

Time of Day	Maximum SPL at Sensitive Receiver (Urban Built Up Area)
Day	60
Day (Outside normal working hours)	55
Evening	50
Night	45

Plant Use

Council previously owned and operated a footpath sweeper for footpath cleaning especially within the Grafton CBD. The equipment was found to be less effective in undertaking the task of footpath sweeping compared to electric leaf blowers, was expensive to purchase, maintain and operate and caused damage to footpath infrastructure and service lids.

Modification of Work Hours

It is clear that all of the approaches available will cause an impact on our community and that the best approach is to aim to minimise the impact. In light of the information provided in Table 2 it can be seen that the least impact method of providing the service would likely be to undertake the works during daylight or early evening hours (6:00pm-10:00pm) and not during the night.

During weekdays, it would conflict with the peak usage of the CBD areas by people and with parked vehicles would make the delivery of the service very difficult. However, the CBD has very limited use during most evenings and on Sunday afternoons. These are likely to be the lowest impact times for this work to be undertaken regardless of the method used.

To verify this, we have trialled sweeping the Grafton CBD on Sunday afternoons for the last month. This trial has shown that the amount of parked vehicles and use of the CBD at this time does not impact the service delivery significantly, and we have not received any noise complaints.

Method of Service Delivery

In light of the April 2020 resolution and the adoption of the moderate Level of Service (LoS), the method of provision of this service has been reviewed. The main issue that has been identified is that the reduction in LoS has reduced the resources required to deliver this service.

As the Street Sweeper and operator will not be utilised full time, it is recommended that this service be delivered through a service provision contract rather than direct plant and labour. The estimated value of this contract exceeds \$150,000 and therefore Section 55 of the Local Government Act 1993 requires that this contract proceed to an open public tender and be accepted through Council resolution.

To ensure that we get value for money from a service provision contract, it is recommended to retain flexibility in the specification and not rigidly prescribe the methods or timing of the works. Instead, it is recommended that the tender specification require:

- Details are provided on the proposed methods of service delivery including the timing, duration, equipment make and model, and the SPL of the equipment being used.
- Should the proposed equipment exceed the recommended maximum SPL for R3 representative noise environment, as detailed in the Interim Construction Noise Guidelines, details of additional noise mitigation strategies be provided.
- The impact on the environment (e.g. noise), safety and equipment used will form part of the non-price assessed criteria.

It is recommended that the contract specification require:

- Modifications to methods of service delivery, equipment or noise mitigation measures to require approval before implementation.

COUNCIL IMPLICATIONS**Budget/Financial**

With the adopted Levels of Service and flexibility sought required around days and hours of service delivery, it is recommended that the most cost effective and financially beneficial service delivery approach will be to contract the service rather than provide by direct plant and day labour.

Asset Management

N/A

Policy or Regulation

- *Protection of the Environment Operations Act (POEO) 1997*
- *Protection of the Environment Operations Regulation 2009*
- *Local Government Act 1993*
- *Noise Regulations and Guidelines*

Under the POEO Act, offensive noise is defined as:

(a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:

(i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

(ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

(b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

Road maintenance activities are not a prescribed activity under the POEO Regulations and therefore part (b) does not apply in this circumstance.

Under this legislation, the NSW EPA is the approved regulating authority (ARA) for works conducted by local government authorities. Road maintenance activities are covered by the NSW EPA Interim Construction Noise Guidelines (the guidelines).

The guidelines set out the framework for managing noise and understanding the impacts that activities have on 'Sensitive Receivers'. Street sweeping is viewed as a short term road maintenance activity, for which the guidelines recommends the use of a qualitative checklist that focuses on minimising impact rather than setting quantitative limits on the works. The guidelines also provide a more detailed quantitative method for larger and higher impact works.

The guidelines also provide recommended standard hours of work, the hours of work are:

- Monday to Friday from 7 am to 6 pm
- Saturday from 8 am to 1 pm
- No work on Sundays or Public Holidays

These hours of work are not mandatory as the guidelines recognise that some work is not feasible during these times.

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Dalrymple, Manager Civil Services
Attachment	Nil

ITEM	6c.20.118	WORKS REPORT
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Civil Services (Alex Dalrymple)	
Attachment	Nil	

SUMMARY

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

OFFICER RECOMMENDATION

That the Works report be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.118

Ellem/Williamson

That the Works report be received and noted.

Voting recorded as follows:

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

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 being undertaken during June.

Project:	Middle Creek Bridge Replacement, Kungala Road	
Project Description:	Replacement of the timber bridge with an InQuik reinforced concrete bridge	
Budget:	\$689,030	
Expenditure:	\$292,109	
Status:	<ul style="list-style-type: none"> • The timber bridge has been removed • Driven piles have been installed • The prefabricated abutments have been positioned and filled with concrete • Scour rock has been placed around abutments • Roadworks have commenced on the approaches to the bridge 	

Project:	2017 Flood Damages – Works Completed	 
Project Description:	As reported to Council previously, there were several floodplain assets damaged by the moderate flood of March 2017. A damage claim was approved under the Natural Disaster Relief and Recovery Arrangements (NDRRA).	
Budget:	Goodwood Island levee - \$301,868.84 (\$200,851 NDRRA funded, remainder SRV renewal works funded). Photo top. Ulmarra levee – \$554,504.08 (all NDRRA funded). Photo middle. Waterview Levee and Tyndale outlets - \$249,686.05 (all NDRRA funded). Photo bottom.	
Expenditure:	\$1,005,041.58 (NDRRA funded), \$101,017.84 (internal funding from cost centre 815).	
Status:	All works completed on time and on budget, and claims for expenditure have been lodged with NSW Public Works ahead of the nominated NDRRA deadline.	

Project:	Rushforth Park Clubhouse Facility	
Project Description:	The project includes the construction of a clubhouse facility located at Rushforth Park. The facility will include two change rooms, referee rooms, canteens, community space and storage space.	
Budget:	\$1,634,135 funded from PJ 540117 (Rushforth Park Stage 2 new amenities & canteen) Including \$500,000 funding received from NSW Government, Stronger Country Communities Fund, round 2	
Expenditure:	\$644,704.00	
Status:	<ul style="list-style-type: none"> • Mound is completed and all approvals including the construction certificate are in place • Tilt panel design is completed and approved • Main slab and casting bed is completed • Tilt panels are completed and lifted into place • Structural steel is installed under roof • Roof sheeting and insulation is completed • Services including water and electricity completed 	

	<p>The project is on schedule with completion expected at the end of September, 2020.</p>	
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COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

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

Policy or Regulation

There are no policy or regulation implications.

Consultation

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

Legal and Risk Management

There are no legal or risk management implications.

Climate Change

There are no climate change implications.

Prepared by	Alex Dalrymple, Greg Mashiah, David Sutton
Attachment	Nil

ITEM	6c.20.119	CLARENCE CARE + SUPPORT TRANSITION TO WESLEY MISSION
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Nil	

SUMMARY

This report provides an update on the transition of Clarence Care + Support services to Wesley Community Services Ltd (trading as Wesley Mission) which was the successful tenderer accepted by Council in the confidential session of the Ordinary Meeting, held 28 April 2020 (MIN08.20.004).

OFFICER RECOMMENDATION

That Council note

1. The July Care + Support Transition Update Report.
2. A final Care + Support report will be tabled once financial completion and service contract transfer have occurred.

Having declared an interest in this Item, Cr Kingsley left the CG&W Committee meeting at 3.25 pm and returned at 3.26 pm

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.20.119

Ellem/Williamson

That Council note

1. The July Care + Support Transition Update Report.
2. A final Care + Support report will be tabled once financial completion and service contract transfer have occurred.

Voting recorded as follows:

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

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

At its Ordinary Meeting held 28 April 2020, Council resolved to award a tender for the Clarence Care + Support (CCS) services to Wesley Mission (refer Item 08.20.004) with progress of the transfer of services and staff to Wesley being reported to Council on a monthly basis.

KEY ISSUES

A Transition Project team comprising representatives of Clarence Valley Council, CCS and Wesley was formed to oversee implementation of key activities relating to the transition, with the following summary provided as an update since the last report to Council in June:

- CCS staff transferring to Wesley commenced on 1 July.
- Property leases are executed.
- Asset ownership has transferred.
- Clients are transitioning according to a plan over the month of July, the cost of this to Council will be borne by Wesley.
- Wesley has established Agreements for Transcare, Veterans Home Care and Regional Assessment Service, which all transitioned effective 1 July.
- A Memorandum of Understanding has been agreed to contract CVC services to maintain reporting element of Commonwealth Home Support Program, Short Term Restorative Care, and Continuity of Service for a period of no more than three months, while the relevant department transitions contracts.
- NDIS Plan Management will be provided by CVC for a period of no more than 3 months, while Wesley awaits completion of NDIS accreditation.
- CVC has retained two former CCS staff to complete the above actions, with costs being allocated to Wesley.
- CVC has retained three former CCS staff for the period of July to finalise end of year and close CCS.
- CVC hosted farewell events with CCS staff on 29 and 30 June.
- Wesley's launch event planned for 28 July at the time of writing this report.

It is proposed that no further monthly status reports be provided until such time as the financial completion of CCS and service contract transfer have been completed.

COUNCIL IMPLICATIONS**Budget/Financial**

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

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Laura Black, Director Corporate & Governance
Attachment	Nil

ITEM 6c.20.120 MONTHLY INVESTMENT REPORT – JUNE 2020

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Supply (Kate Maginness)	
Attachment	Yes	

SUMMARY

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month.

OFFICER RECOMMENDATION

That the report indicating Council's funds investment position as at 30 June 2020 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.20.120

Lysaught/Novak

That the report indicating Council's funds investment position as at 30 June 2020 be received and noted.

Voting recorded as follows:

For: Lysaught, Williamson, Baker, Toms, Simmons

Against: Clancy, Novak, Ellem

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

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

KEY ISSUES**Source of Funds Invested**

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

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

External Reserves		Internal Reserves	
Sewerage Funds	5.94%	Plant Equipment Reserve	9.88%
Water Supply Funds	22.85%	Regional Landfill Reserves	5.23%
Developer Contributions	16.35%	Fin. Assist Grants paid in advance	4.63%
Unexpended Grants	5.84%	Waste Mngmt / Commercial Waste	4.03%
Domestic Waste Management	0.88%	Infrastructure Assets Renewals	3.09%
Holiday Parks	2.24%	Clarence Care & Support	2.78%
Deposits, Retentions and Bonds	1.51%	Employee Leave Entitlements	2.64%
Other External	1.75%	Roads & Quarries Reserves	2.29%
		Strategic Building Reserve	1.13%
		Building Asset Renewals	0.92%
		Other (refer attachment for further detail)	6.02%
	<u>57.36%</u>		<u>42.64%</u>
		Total External & Internal Reserves	<u>100.00%</u>

Portfolio Credit Limits

Tabled below is a summary of Council's investments as at 30 June 2020 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 30 June 2020				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,988,712	3.94%	Yes
AA	100.00%	32,860,633	25.94%	Yes
A	60.00%	40,250,000	31.78%	Yes
BBB	50.00%	48,572,359	38.35%	Yes
TOTAL INVESTMENTS		126,671,704	100.00%	

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

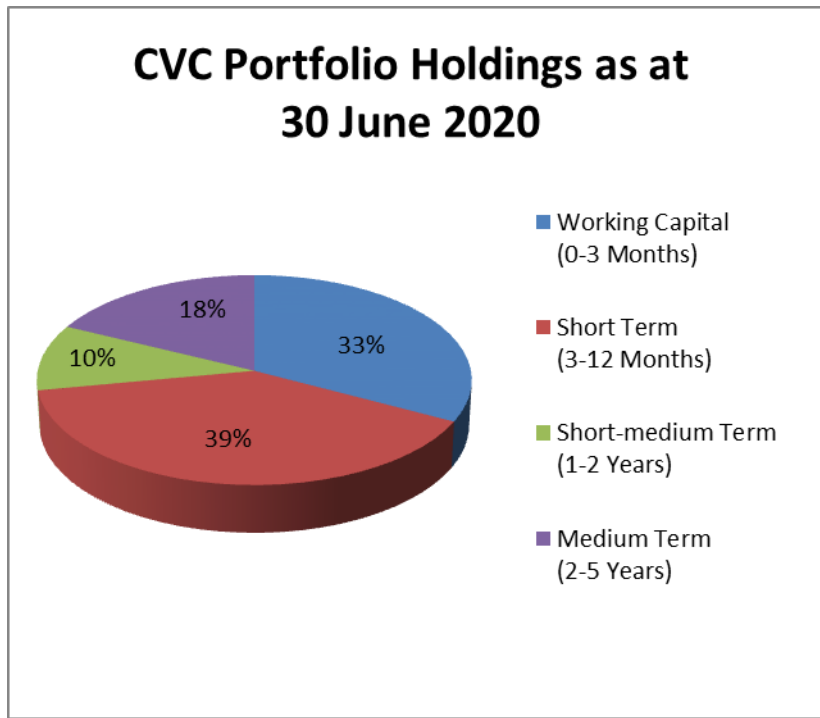
Individual Institution or Counterparty Limits

Tabled below is a summary of Council's investments as at 30 June 2020 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 30 June 2020					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS & FRNs*					
AMP	BBB+	15.00%	8,000,000	6.32%	Yes
ANZ*	AA-	30.00%	2,032,870	1.60%	Yes
BoQ	BBB+	15.00%	18,000,000	14.21%	Yes
CBA*	AA-	30.00%	2,033,070	1.60%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.58%	Yes
Defence	BBB	15.00%	8,000,000	6.32%	Yes
ING Direct	A	15.00%	19,000,000	15.00%	Yes
Macquarie	A	15.00%	13,000,000	10.26%	Yes
ME Bank	BBB	15.00%	4,000,000	3.16%	Yes
NAB	AA-	30.00%	6,000,000	4.74%	Yes
NAB*			1,010,085	0.80%	
P&N	BBB	15.00%	3,000,000	2.37%	Yes
RaboDirect	A+	15.00%	9,000,000	7.10%	Yes
Westpac	AA-	30.00%	7,000,000	5.53%	Yes
Westpac*	AA-		1,534,305	1.21%	
TOTAL TERM DEPOSITS & FRNs*			103,610,330	81.79%	
MANAGED FUNDS					
TCorp	AAA	40.00%	488,712	0.39%	Yes
TOTAL MANAGED FUNDS			488,712	0.39%	
FUNDS AT CALL					
AMP	BBB+	15.00%	7,268,927	5.74%	Yes
AMP	BBB+	15.00%	1,053,432	0.83%	Yes
ANZ	AA-	30.00%	5,278,754	4.17%	Yes
CBA	AA-	30.00%	3,910,523	3.09%	Yes
CBA	AA-	30.00%	5,060,708	4.00%	Yes
TOTAL FUNDS AT CALL			22,572,344	17.82%	
TOTAL INVESTMENTS			126,671,386	100.00%	

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 30 June 2020. Excluding "at-call" working capital, 53.68% of Council's investments are maturing within the next twelve months.



Register of Investments - Clarence Valley Council as at 30 June 2020					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	488,712	0.39%	At-Call	0.72%	AAA
AMP Bank Ltd	7,268,927	5.74%	At-Call	1.30%	BBB+
AMP Bank Ltd	1,053,432	0.83%	At-Call	0.75%	BBB+
ANZ Banking Group Ltd	5,278,754	4.17%	At-Call	0.55%	AA-
Commonwealth Bank of Australia	3,910,523	3.09%	At-Call	0.10%	AA-
Commonwealth Bank of Australia	5,060,708	4.00%	At-Call	0.20%	AA-
AMP Bank Ltd	1,000,000	0.79%	31/08/2020	1.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	06/07/2020	3.00%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	08/07/2020	1.65%	BBB+
ING	1,000,000	0.79%	21/08/2020	1.60%	A
Macquarie Bank Ltd	2,000,000	1.58%	03/07/2020	1.70%	A
Macquarie Bank Ltd	5,000,000	3.95%	03/09/2020	1.70%	A
National Australia Bank	2,000,000	1.58%	30/07/2020	1.80%	AA-
National Australia Bank	2,000,000	1.58%	11/08/2020	1.55%	AA-
National Australia Bank	2,000,000	1.58%	10/09/2020	1.35%	AA-
TOTAL WORKING CAPITAL (0-3 MONTHS)	41,061,056	32.42%		1.12%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	2,000,000	1.58%	16/11/2020	1.65%	BBB+
AMP Bank Ltd	2,000,000	1.58%	30/11/2020	1.60%	BBB+
AMP Bank Ltd	3,000,000	2.37%	05/03/2021	1.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	26/10/2020	3.20%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2020	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	12/01/2021	3.65%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	04/06/2021	1.15%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	29/06/2021	3.45%	BBB+
Credit Union Australia	2,000,000	1.58%	04/11/2020	1.55%	BBB
Defence Bank	2,000,000	1.58%	20/11/2020	3.00%	BBB
Defence Bank	2,000,000	1.58%	17/12/2020	3.00%	BBB
Defence Bank	2,000,000	1.58%	04/03/2021	1.50%	BBB
Defence Bank	2,000,000	1.58%	09/03/2021	3.00%	BBB
ING	1,000,000	0.79%	10/11/2020	2.92%	A
ING	2,000,000	1.58%	13/11/2020	1.55%	A
ING	2,000,000	1.58%	03/02/2021	1.65%	A
ING	2,000,000	1.58%	02/03/2021	1.60%	A
Macquarie Bank Ltd	3,000,000	2.37%	16/12/2020	1.65%	A
Macquarie Bank Ltd	3,000,000	2.37%	11/05/2021	1.30%	A
ME Bank Ltd	2,000,000	1.58%	06/11/2020	1.35%	BBB
ME Bank Ltd	2,000,000	1.58%	07/05/2021	1.35%	BBB
P&N Bank	3,000,000	2.37%	11/03/2021	3.82%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.58%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	21/06/2021	3.07%	A+
Westpac Bank	2,000,000	1.58%	05/03/2021	3.00%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	50,000,000	39.47%		2.23%	
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.79%	02/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.79%	09/05/2022	3.60%	BBB+
ING	2,000,000	1.58%	29/11/2021	1.55%	A
ING	3,000,000	2.37%	11/02/2022	1.60%	A
ING	2,000,000	1.58%	21/02/2022	1.60%	A
ING	3,000,000	2.37%	21/02/2022	1.60%	A
Westpac Bank	1,000,000	0.79%	16/11/2021	1.30%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	13,000,000	10.26%		1.89%	

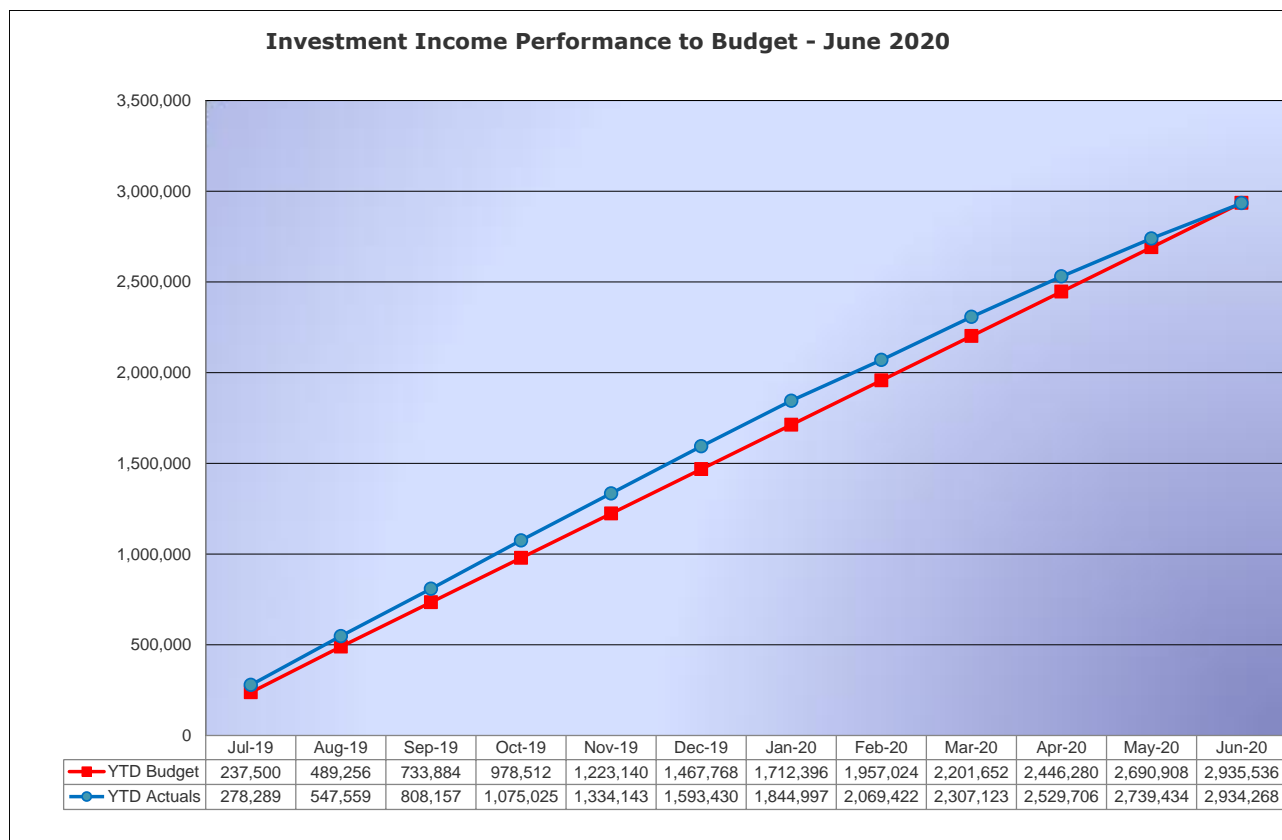
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	1,000,000	0.79%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.58%	21/08/2023	3.60%	BBB+
ING	1,000,000	0.79%	04/10/2022	3.66%	A
RaboDirect (Australia) Ltd	2,000,000	1.58%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.79%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.58%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.58%	18/07/2022	1.18%	AA-
Westpac Bank	2,000,000	1.58%	13/03/2023	1.02%	AA-
ANZ Banking Group Ltd (3m BBSW +103bps) (Principal Value \$2,000,000) Market Value	2,032,870	1.60%	06/12/2023	1.13%	AA-
Commonwealth Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,010,485	0.80%	25/04/2023	0.91%	AA-
Commonwealth Bank (3m BBSW +113bps) (Principal Value \$1,000,000) Market Value	1,022,585	0.81%	11/01/2024	1.34%	AA-
National Australia Bank (3m BBSW +80bps) (Principal Value \$1,000,000) Market Value	1,010,085	0.80%	10/02/2023	0.90%	AA-
Westpac Bank (3m BBSW +114bps) (Principal Value \$1,500,000) Market Value	1,534,305	1.21%	24/04/2024	1.26%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	22,610,330	17.85%		2.37%	
TOTAL INVESTMENTS	126,671,386	100.00%		1.86%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 30 June 2020			
	Actual	Budget 2019/20	Over/(Under)
This Month			
Cash Deposits & FRNs	\$194,543	\$243,128	(\$48,585)
Managed Funds	\$291	\$1,500	(\$1,209)
	\$194,834	\$244,628	(\$49,794)
Year to Date			
Cash Deposits & FRNs	\$2,916,369	\$2,917,536	(\$1,167)
Managed Funds	\$17,899	\$18,000	(\$101)
	\$2,934,268	\$2,935,536	(\$1,268)

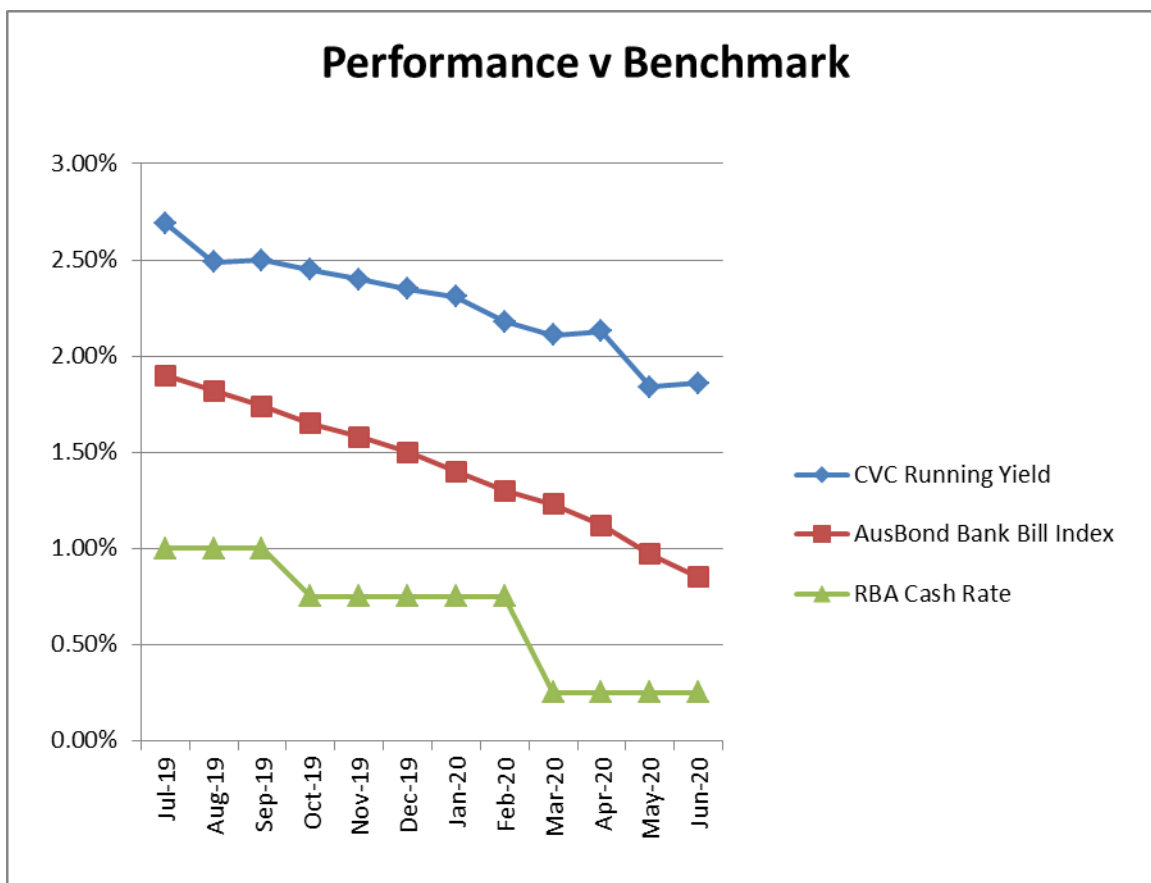
- Actual results have shown that total interest income to 30 June 2020 approximates the 2019 20 YTD budget of \$2.936M.
- As at 30 June 2020 the Floating Rate Notes (FRNs) had an unrealised capital gain of \$99,605.



- Running yields* to 30 June 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	0.72%
Floating Rate Notes	1.12%
Term Deposits	2.20%
Total	1.86%

- 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 June was 0.25%. The benchmark AusBond Bank Bill Index was 0.85% for June.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +1.86% (May 1.84%). The running yield will continue to decline as previously higher yielding term deposits reach maturity.



The following investments were transacted during June:

- AMP \$2.0m TD matured 02/06/20, reinvested for 181 days at 1.60% - matures 30/11/2020
- Macquarie Bank \$2.0m TD matured 03/06/2020, redeemed
- New BOQ \$2.00m TD invested 04/06/2020 for 365 days at 1.15% - matures 04/06/2021
- Rural Bank \$2.0m TD matured 09/06/2020, redeemed

Asset Management

N/A

Policy or Regulation

- Local Government Act 1993
- Part 9, Division 5, Clause 212 of the Local Government (General) Regulation 2005
- Investment Policy

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

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

Prepared by	Michael Salvestro, Financial Accountant
Attachment	A: Movement of Funds Between Months – June 2020

ITEM 6c.20.121 2019/20 OPERATIONAL PLAN – QUARTERLY REVIEW AS AT 30 JUNE 2020

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report provides the final quarterly review on Council's performance of fulfilling its actions, services, projects and programs in the 2019/20 Operational Plan. It should be noted that the impact of COVID-19 has impacted timing of delivery as intended for some activities.

OFFICER RECOMMENDATION

That the Quarterly Operational Plan outcomes as at 30 June 2020 be 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.20.121

Ellem/Williamson

That the Quarterly Operational Plan outcomes as at 30 June 2020 be noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

BACKGROUND

On 25 June 2019 Council adopted the 2019/20 Operational Plan, which specifies the objectives, strategies and activities to be achieved in this financial year.

The Clarence 2027 identified five themes which are then broken down into objectives for Council to aspire to when setting the strategies and activities for the 2019/20 financial year.

KEY ISSUES

The one year Operational Plan is a sub-plan of the 2017/21 Delivery Program, which identifies activities (programs, services and projects) to be delivered by Council during the 2019/20 financial year. The General Manager is required to ensure regular progress reports are provided to Council with respect to the principal activities.

Detailed progress updates for the final quarter are contained in the attached report.

This report shows that of the total 158 actions listed, 145 were completed as at the end of June 2020 which is a 92% success rate. The 13 uncompleted actions were mainly delayed due to COVID-19.

COUNCIL IMPLICATIONS

Budget/Financial

Actions contained in the 2019/20 Operational Plan that have a financial implication are included in the adopted budget, which is reported to Council each month.

Asset Management

N/A

Policy or Regulation

Section 404(5) of the Local Government Act 1993

Consultation

Outcomes based on information provided by all section Managers and Directors.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay – Coordinator Executive Support
Attachment	Quarterly Progress Report

ITEM	6c.20.122	BENCHMARK AND REPORT CARD 2019/20
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Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

SUMMARY

The Benchmark and Report Card report gives Council and community oversight of our services and how we compare against industry averages and, how we are tracking toward goals. It also provides some key information about the quantity of activity being undertaken. This report represents activity results for Quarter 4 of 2019/20.

OFFICER RECOMMENDATION

That the Quarter 4 Benchmark and Report Card for 2019/20 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.20.122

Ellem/Williamson

That the Quarter 4 Benchmark and Report Card for 2019/20 report be received and noted.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

BACKGROUND

The Benchmark and Report Card document makes transparent our activity and our progress toward goals. Information is collated quarterly and is reported at the first Ordinary Meeting following the end of the quarter. This is the second year of such reporting and it provides oversight of trends as the reported quarter's activity can be comparable to previous quarters.

KEY ISSUES

Reports for some activity are not currently available without system, or system report writing, upgrade. As we improve systems and visibility of data, the document will become more comprehensive. The document includes some Key Performance Indicators that are also included in our quarterly report of achievement against the Delivery Program and Operational Plan. Over time it is anticipated as we review our Delivery Program and Operational Plan following the next local government election, the two will become integrated.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Staff from across the organisation participate in preparation of the attached report.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Laura Black, Director Corporate & Governance
To be tabled	Benchmark and Report Card Q4 2019/20

ITEM 6c.20.123 QUARTERLY GOVERNANCE REPORT

Meeting	Corporate, Governance & Works Committee	21 July 2020
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) applications, new and/or updated Disclosure of Interest returns and insurance claims in the period 1 April 2020 to 30 June 2020.

OFFICER RECOMMENDATION

That Council note the:

1. Governance report for the period 1 April 2020 to 30 June 2020.
2. Disclosure of Interests returns.
3. Availability of Disclosure of Interest returns on Council's website.

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.20.123

Ellem/Williamson

That Council note the:

1. Governance report for the period 1 April 2020 to 30 June 2020.
2. Disclosure of Interests returns.
3. Availability of Disclosure of Interest returns on Council's website.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND*Legal Proceedings*

The report on legal proceedings is to contain details of the legal proceedings that have been taken by or against Council, except in cases where:

- (a) the security of the Council, Councillors, Council staff or Council property may be threatened;
- (b) the privacy of the personal affairs of the person may be contravened by revealing the information;
- (c) the proceedings concern a personnel or industrial relations matter involving an individual staff member (for example, unfair dismissal claims, workers compensation claims and personal injury claims);
- (d) the proceedings concern the personal hardship of any resident or ratepayer, or

(e) a not for publication order has been made by the relevant Court or Tribunal.

The report is also to contain details of the amounts, costs and expenses paid or received by the Council.

Complaints Management

Under Council's Complaints Management Policy a request for a service or for information about a service is not a complaint. However, they may escalate into a complaint if action is not taken within designated timeframes or is undertaken in an unprofessional or substandard manner.

The following are not complaints under Council's Complaints Management Policy:

- an objection to a Development Application (DA) or a submission made to Council in response to a call for public comment;
- a concern for service levels that are the result of limits set by Council Policy, and not the result of organisational or mechanical breakdown;
- Code of Conduct complaints.

Under the policy Council has committed to respond substantially to any complaint (other than a competitive neutrality complaint) within 21 calendar days after it is received.

Government Information (Public Access) Applications

The purpose of the Government Information (Public Access) Act 2009 (GIPA) is to open government information to the public by:

- (a) authorising and encouraging the proactive public release of government information by agencies,
- (b) giving members of the public an enforceable right to access government information; and
- (c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

Information is not disclosed, if disclosing it would also disclose:

- private information about a third party
- details of legal action or law enforcement
- details that would undermine competitive neutrality in connection with any functions of Council or
- details that would endanger or prejudice any system or procedure for protecting the environment.

Declaration of Interests

The Office of the Information and Privacy Commission released Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interest of councillors and designated persons) – September 2019 and that all returns are to be made publicly available on Council's website. Updated returns and new returns are to be tabled at the next Council meeting after lodgement in accordance with Council's Code of Conduct.

Insurance Claims

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

KEY ISSUES

Legal Proceedings

For the period there were no legal proceeding taken by or against Council.

Complaints Management

During the reporting period there were 2 complaints submitted. Of the complaints, both were referred to council from the Ombudsman Office. One complaint was an alleged nil or delayed response from council and the second complaint regarding inequity in applied compliance/policy for DA approval. Both complaints had already been actioned by council.

The Ombudsman office and complainants were notified accordingly and complaint management is within appropriate time frames, with both complaints now closed.

Government Information (Public Access) (GIPA) Applications

During the period four new GIPA applications were received and two applications were granted access to the information requested. The remaining 2 applications are waiting payment of the application fee at the close of the reporting period, in order to become valid requests.

All applications have been processed within the specified guidelines.

Disclosure of Interests Returns

The annual Disclosure of Interests return was requested from Councillors and designated persons. All completed returns from Councillors and designated persons are attached and will be loaded to the website in accordance with Guideline 1.

Insurance Claims

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

There were twenty five claims lodged, comprising of:

- Five motor vehicle claims. One claim was denied and the remaining four claims processed under Council's insurance policies resulting in a cost to Council of \$4,000, which is the excess of \$1,000 per claim.
- 17 public liability property claims of which 9 claims were denied, and 2 settled at a cost of \$2,566; the remainder are currently pending finalisation.
- Nil public liability injury claims however, there was one public liability injury notification incident referred to the insurer
- Two property claims were settled during the reporting period at a cost of \$10,000.

COUNCIL IMPLICATIONS

Budget/Financial

For legal proceedings taken by or against the Council any costs incurred or recovered are allocated to the budget areas for the respective matters.

The GIPA Act provides that requests are subject to an initial fee of \$30 to cover first hour of investigation. There is an additional processing fee of \$30 per hour, after the first hour. Fees can be reduced by 50% if the agency is satisfied:

- the individual making the application is suffering financial hardship, or
- the information applied for is of special benefit to the public generally.

Council's liability for insurance claims is limited to the excess under the respective policy. Claims up to the excess are allocated against the operational budget of the relevant

Asset Management

N/A

Policy or Regulation

Complaints Management Policy

Government Information (Public Access) Act 2009 (GIPA Act)

Privacy and Personal Information Protection Act 1998

Information Access Guideline 1: For Local Councils on the disclosure of information (returns disclosing the interest of councillors and designated persons) – September 2019

Council's suite of insurance policies

Civil Liabilities Act 2002 No 22

Consultation

Insurance Officer, Managers and Directorates

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Monique Ryan, Governance Officer
To be tabled	Annual Disclosure of Interests return for website

CONFIDENTIAL BUSINESS - Nil

LATE ITEMS OF BUSINESS - Nil

CLOSE OF COMMITTEE MEETING

There being no further business the Corporate, Governance & Works Committee closed at 3.28 pm.

d. INFORMATION ITEMS

ITEM	6d.20.006	ITEMS FOR INFORMATION
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Meeting	Council	28 July 2020
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

OFFICER RECOMMENDATION

That the Items for Information as listed below be noted:

- Clarence Regional Library Committee: Minutes 14 May 2020
- Clarence Valley Transport Committee: Minutes 21 May 2020
- Certificate of Appreciation from Surf Life Saving New South Wales, Chief Executive Steven Pearce.

COUNCIL RESOLUTION – 6d.20.006

Ellem/Williamson

That the Items for Information as listed below be noted:

- **Clarence Regional Library Committee: Minutes 14 May 2020**
- **Clarence Valley Transport Committee: Minutes 21 May 2020**
- **Certificate of Appreciation from Surf Life Saving New South Wales, Chief Executive Steven Pearce.**

Voting recorded as follows:

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

Against: Nil

Prepared by	Karlie Chevalley, Executive Support Assistant
Attachments	As listed above

e. TENDERS

ITEM	6e.20.016	RFT20/17 – PROVISION OF SURF LIFESAVING SERVICES LOCATED ON CROWN LAND AT SELECTED BEACHES IN THE CLARENCE VALLEY
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Meeting	Council	28 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Confidential	

SUMMARY

Tenders were called for the provision of a lifeguard service to nominated beaches across the Clarence Valley for a four (4) year term.

OFFICER RECOMMENDATION

That Council as Crown Land Manager:

1. Accept the tender from Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service (ABN 80 055 582 762) for RFT20/17 for the provision of a lifeguard service at seven beaches in the Clarence Valley over a four year term for \$1,584,866.66 (GST inclusive) to be funded from PJ 994165 (*Lifesaving contracts*);
2. Allocate \$1,352,707.86 (GST inclusive) from the Crown Reserve Management Fund to PJ 994165 for the provision of a life saving service at Minnie Water, Wooli, Brooms Head, and Main, Pippi and Turners Beaches in Yamba; and
3. Allocate \$232,158.80 (GST inclusive) from the general fund for the life saving service located at Iluka Bluff Beach.
4. Authorise the General Manager to approve variations up to 2.5% of the contract value.

COUNCIL RESOLUTION – 6e.20.016

Ellem/Williamson

That Council as Crown Land Manager:

1. **Accept the tender from Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service (ABN 80 055 582 762) for RFT20/17 for the provision of a lifeguard service at seven beaches in the Clarence Valley over a four year term for \$1,584,866.66 (GST inclusive) to be funded from PJ 994165 (*Lifesaving contracts*;**
2. **Allocate \$1,352,707.86 (GST inclusive) from the Crown Reserve Management Fund to PJ 994165 for the provision of a life saving service at Minnie Water, Wooli, Brooms Head, and Main, Pippi and Turners Beaches in Yamba; and**
3. **Allocate \$232,158.80 (GST inclusive) from the general fund for the life saving service located at Iluka Bluff Beach.**
4. **Authorise the General Manager to approve variations up to 2.5% of the contract value.**

Voting recorded as follows:

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

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

BACKGROUND

Clarence Valley Council provides a paid lifeguard service on selected beaches during peak beach use times of the spring, summer and autumn NSW & Qld school holiday periods. This service is provided for residents and visitors and includes a level of supervision, education and community service.

The four year contract for the provision of life saving services concluded in April 2020. Council sought tenders from suitably qualified and experienced providers for a four year term at the following Clarence Valley beaches:

- Iluka – Bluff Beach
- Yamba – Main Beach
- Yamba – Pippi Beach
- Yamba – Turners Beach
- Brooms Head – Main Beach
- Minnie Water – Main Beach
- Wooli Beach – near breakwall

The service times vary, however, they include school holiday periods in spring, summer and autumn.

In addition to the paid lifeguard service Council as Crown Land Manager also makes an annual donation to the Minnie Water and Yamba Volunteer Surf Lifesaving Clubs to assist with the cost of these clubs undertaking weekend patrols during peak beach use times of the spring, summer and autumn NSW & Qld school holiday periods and well as public holidays.

The provision of a lifeguard service is invaluable to our community safety. The beach visitation and service statistics from the 2019/20 season (Council report Item 6c.20.098) are reflective of the need for continuity of the service for the safety of our community and visitors.

KEY ISSUES

Tenders Received

One submission was received in response to the Request for Tender process from Surf Lifesaving Pty Ltd trading as Australian Lifeguard Service.

A Tender Evaluation Committee (TEC) reviewed the tender in accordance with the Tender Evaluation Plan (TEP). The TEC recommendations are included in the Tender Evaluation Report which is included as a confidential attachment.

Surf Lifesaving Services

Surf lifesaving services are provided over seven locations, with varying holiday periods at the following locations:

Table 1 – Clarence Valley Life Saving Services

ITEM	BEACH NAME	MINIMUM LIFEGUARDS	SERVICE DAYS PER WEEK	EXCLUSIONS	PERIOD OF SERVICE BASED ON NSW SCHOOL HOLIDAYS
1	Iluka - Bluff Beach	2	7 days / week	-	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays
2	Yamba - Main Beach	1	5 days / week Mon to Fri	Public holidays & weekends	Spring NSW & Qld school holidays Dec/Jan NSW & Qld school holidays Easter & Autumn NSW & Qld school holidays
3	Yamba - Pippi Beach	1	7 days / week	-	Dec/Jan NSW school holidays Easter
4	Yamba - Turners Beach	2	7 days / week	-	Dec/Jan NSW & Qld school holidays Easter & Autumn NSW & Qld school holidays

5	Brooms Head - Main Beach	1	7 days / week	-	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays
6	Minnie Water - Main Beach	2	5 days / week Mon to Fri	Public holidays & weekends	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays
7	Wooli Beach near Break wall	2	7 days / week	-	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays
8	Relief Lifeguard - Yamba Beaches	1	7 days / week	-	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays
9	Lifeguard Supervisor (All beaches)	1	7 days / week	-	Spring NSW & Qld School Holidays Dec/Jan NSW & Qld school holidays Easter & Autumn NSW & Qld school holidays

Volunteer lifeguards at Minnie Water and Yamba provide the service at their corresponding beaches on weekends and public holidays during the service period. Council makes a separate annual financial contribution to surf life saving services to the two clubs. The successful tenderer would need to work closely with the local Clubs providing this service.

Australian Lifeguard Service Recommendation

In addition to the services as listed above, the ALS have included an offer for further services which align with a risk and safety assessment at no cost to Council, including:

Table 2 – Additional Life Saving Services

ITEM	BEACH NAME	LIFEGUARDS	SERVICE DAYS PER WEEK	EXCLUSIONS	PERIOD OF SERVICE
1	Brooms Head - Main Beach	1	7 days / week	-	Autumn Qld school holidays
2	Minnie Water - Main Beach	2	5 days / week Mon to Fri	Public holidays & weekends	Autumn Qld school holidays
3	Wooli Beach near Break wall	2	7 days / week	-	Autumn Qld school holidays
4	Relief Lifeguard - Yamba Beaches	1	7 days / week	-	Dec/Jan Qld school holidays

Additionally, the ALS has included another value add service of an additional lifeguard at Pippi Beach (Yamba) and Brooms Head for all contractual periods. This will ensure that there are a minimum of two lifeguards present for the contracted service. The Clarence Valley is the last LGA to align with this recommendation.

Summary and Recommendation

Based on the submission received, the Tender Evaluation Committee recommends the appointment of Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service including all additional recommendations at no further cost to Council.

Details of the tender assessment are contained in the confidential attachment.

COUNCIL IMPLICATIONS

Budget/Financial

The total cost to Council for the four year term to provide a life saving service at the beaches listed in Table 1 (above) is:

Table 3 – Total Cost to Council for the Life Saving Service

	Total Cost Inc GST
Year One	\$381,664.23
Year Two	\$391,205.83
Year Three	\$400,985.98
Year Four	\$411,010.62
TOTAL	\$1,584,866.66

The lifesaving service is funded from PJ 994165 (*Lifesaving contracts*), which will include contributions from crown reserve and the general fund:

- Yamba & Brooms Head Main Beach – crown reserve funds
- All other beaches (except Bluff Point) – crown reserve funds as beaches adjoin reserves managed by Council
- Bluff Point – General Fund

The additional services proposed from ALS have a significant cost saving to Council:

Table 4 – Estimated total saving to Council for the additional Lifesaving Services

Item	Beach Name	L/Guard	Service Days per Week	Exclusion	Period of Service	Estimated cost over 4 years
1	Brooms Head - Main Beach	1	7 days / week	-	Autumn Qld school holidays	\$35,522.69
2	Minnie Water - Main Beach	2	5 days / week Mon to Fri	Public holidays & weekends	Autumn Qld school holidays	\$19,223.32
3	Wooli Beach near Break wall	2	7 days / week	-	Autumn Qld school holidays	\$20,333.42
4	Relief Lifeguard - Yamba Beaches	1	7 days / week	-	Dec/Jan Qld school holidays	\$23,659.43
5	Yamba - Pippi Beach	1	7 days / week	-	Dec/Jan NSW school holidays Easter	\$62,463.79
6	Brooms Head - Main Beach	1	7 days / week	-	Dec/Jan NSW school holidays Easter & Autumn NSW school holidays	\$71,409.11

Grand Total of estimated savings over Four (4) years - \$232,611.75 inc GST.

Asset Management

All assets relating to the contract for Lifesaving Service are not owned or maintained by Council.

Policy or Regulation

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

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

- Tender specifications were structured so local contractors were not excluded.
- The tender assessment included a 15% weighting of the total tender score for local supplier content.

Consultation

All consultation regarding the tender and specification including requests for information and clarifications were raised through the tenderlink portal in the open forum to ensure transparency in the process.

Internal consultation occurred with Council's property team and Native Title Manager. This advice is included as a Confidential Attachment C. Additional external Native Title advice was sought from Lands Advisory Service which is included as a Confidential Attachment B.

NTS Corp and Yaegl TOAC were notified of the intention to provide a lifeguard service on beaches within the Clarence Valley.

Legal and Risk Management

One submission was received in response to the Request for Tender process, the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Surf Life Saving Services Pty Ltd trading as Australian Lifeguard Service	80 055 582 762	Stephen Bennett	Chairman
		George Shales	President of the SLSNSW Board of Directors (Member Rep)
		Peter Pearce	Director
		Shaun Minogue	Director
		Kris Beavis	Director

On 31 August 2017, the Federal Court made a determination that the Yaegl People have native title rights and interests over areas of sea in the Far North Coast. These native title rights are 'non-exclusive', which means the native title holders do not own the land, rather they have the right to use the land. The life saving service locations are located within this determination area. Internal and external Native Title advice was sought, and is included as Confidential Attachments A and B.

Climate Change

Adverse climatic conditions can significantly affect the beach environment as witnessed through the summer period with bushfires and smoke inundation.

Additionally, low pressure systems and cyclonic conditions are changing Australia's coastline which could result in beach loss.

Weather conditions will be monitored during the specified times by the life saving service.

Prepared by	Rachelle Passmore, Senior Parks & Recreation Officer
Confidential	Attachment A – Tender Recommendation Report Attachment B – Native Title Advice, Lands Advisory Service Attachment C – Native Title Advice, Native Title Manager (CVC)

ITEM 6e.20.017 TENDER RFT 20/14 ACCESS YAMBA ROUNDABOUTS

Meeting	Council	28 July 2020
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Confidential	

SUMMARY

Council has called tenders for the construction of roundabouts at Treelands Drive and Carrs Drive on Yamba Road, Yamba that comprise part of the Access Yamba project. This report provides an assessment on the tenders received and recommendation of a preferred contractor to complete the identified works as documented in the technical specification.

OFFICER RECOMMENDATION

That Council:

1. Accept the tender from See Civil Pty Ltd for RFT 20/14 for the construction of roundabouts at Treelands Drive and Carrs Drive at a cost of \$3,968,709.37 (GST inclusive) to be funded from PJ 530297 (Yamba Road – Roundabout Construction – Treelands Drive) and PJ 530298 (Yamba Rd – Roundabout Construction – Carrs Drive).
2. Authorise the General Manager to approve variations up to 10%.
3. Delegate to the General Manager the authority to award the *Optional Additional Work* for RFT 20/14 subject to an external source of funding becoming available to Council.

COUNCIL RESOLUTION – 6e.20.017

Ellem/Williamson

That Council:

1. **Accept the tender from See Civil Pty Ltd for RFT 20/14 for the construction of roundabouts at Treelands Drive and Carrs Drive at a cost of \$3,968,709.37 (GST inclusive) to be funded from PJ 530297 (Yamba Road – Roundabout Construction – Treelands Drive) and PJ 530298 (Yamba Rd – Roundabout Construction – Carrs Drive).**
2. **Authorise the General Manager to approve variations up to 10%.**
3. **Delegate to the General Manager the authority to award the *Optional Additional Work* for RFT 20/14 subject to an external source of funding becoming available to Council.**

Voting recorded as follows:

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

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 has undertaken a selective tender that included an initial Expression of Interest (EOI) followed by an invitation to tender with a panel of approved contractors for the construction of roundabouts at Yamba Road, Yamba.

The relevant supporting reports for the tenders as related to the project include;

- Item 6c.19.114 – December 2019 Ordinary meeting – Access Yamba Project Update
- Item 6c.20.022 – February 2020 Ordinary meeting – Access Yamba Project Update
- Item 6e.20.009 – March 2020 Ordinary meeting – EOI Construction of Roundabouts on Yamba Road

At the February 2020 Ordinary meeting Council resolved (Item 6c.20.022) as follows:

COUNCIL RESOLUTION – 6c.20.022

That Council:

- 1. Receive and note the late report on Item 6c.20.22 Access Yamba – Progress Update.*
- 2. Construct roundabouts at Treelands Drive and Yamba Road (non-conforming), and at Carrs Drive and Yamba Road, under the Restart NSW Funding Deed of Agreement signed by the General Manager on February 6, 2019.*
- 3. Do not proceed with roundabouts at Shores Drive and Yamba Road, and at Yamba Street and Yamba Road, Palmers Island, and with Restart NSW approval, seek a variation of the Funding Deed to allocate the Restart NSW \$4,427,516 grant to the Treelands Drive and Carrs Drive roundabout projects.*
- 4. Proceed with tendering for the construction of roundabouts at Treelands Drive and Carrs Drive, and if required, with Restart NSW approval, seek a variation of the Funding Deed's current completion timeline of January 2021 and of reporting milestones.*
- 5. Allocate Council's \$1,300,189 Access Yamba contribution to the Treelands Drive and Carrs Drive roundabout projects.*
- 6. Investigate opportunities to use Section 94 contributions and other sources to fund any budget shortfalls and report to Council any shortfall with the Treelands Drive and Carrs Drive tender recommendations.*
- 7. Establish a project steering committee responsible for administering and overseeing these projects. The Committee comprise a Councillor and the Mayor; the Council Executive (General Manager and 3 Directors). The Project Manager for the works would report to this steering committee at regular intervals.*

Following this resolution and on 5 March 2020 a Change Request (CR 01) was submitted to Restart NSW for a variation to the Funding Deed as per points 3 and 4 of this resolution.

On 29 April 2020, Clarence Valley Council received approval from Restart NSW to proceed with two intersection upgrades (Treelands Drive and Carrs Drive on Yamba Road) and to transfer Restart funds to these roundabouts including an extension of time for the completion of the revised scope to 30 June 2021.

Design and Tender documentation was prepared for the construction of the roundabouts at Treelands Drive and Carrs Drive with an option included that would allow for the construction of the Shores Drive roundabout. The decision to seek an option for Shores Drive was to obtain a market based price that would allow Council to determine if it was in a position to fund the additional work. If it is determined that this work is not to be undertaken, then there is no impact on the engagement under the contract.

On 26 May 2020 the Tender, Yamba Roundabouts – RFT 20/14 was called and issued to the three companies that had been shortlisted through the EOI process.

1. See Civil Pty Ltd
2. Hazel Bros Group Pty Ltd
3. Mid-North Coast Contractors Pty Ltd

The Tender closed at 3.00pm on 7 July 2020. Submissions were received from all three of the selected tenderers.

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

KEY ISSUES

A copy of the Tender Evaluation Committee's Recommendation report is included in the confidential attachments.

Optional Additional Work

A Lump Sum amount was tendered for *Optional Additional Work* which remains valid until 31 December 2021. It is recommended that Council delegate to the General Manager the authority to award the Optional Additional Work for RFT 20/14 subject to an external source of funding becoming available to Council. If an additional funding option becomes available for Shores Drive a further report will be presented to Council.

By delegating the Optional Additional Work, at this stage, to the General Manager will allow Council to take advantage of the tender and expedite project delivery.

Site Access

The time period for providing Site Access for the Carrs Drive roundabout is 23 weeks from the Date of Contract and is subject to finalising the Land Acquisition at 186 Yamba Rd. The process for the compulsory acquisition of this land has commenced, however, there is the potential that Site Access could be delayed as a result of this process. The tender documents required the tenderers to make appropriate allowances including site establishment and mobilisation costs for each roundabout.

Traffic Disruption

The nature of the proposed works means that disruption to the community and traffic is unavoidable. It is considered that the proposal by the recommended tenderer will reduce the overall time impact of disruptions and also reduce the overall cost for the construction of these roundabouts.

The recommended tenderer has demonstrated that effective measures and controls will be implemented to manage traffic disruption and reduce the impact to the community and stakeholders.

COUNCIL IMPLICATIONS

Budget/Financial

The total available budget for this project is **\$5,727,805.00 (ex. GST)** Yamba Road – Roundabout Construction – Treelands Drive, PJ 530297 and Yamba Road – Roundabout Construction – Carrs Drive, PJ 530298.

This is being funded from a Restart NSW Grant of \$4,427,516.00 and a Council contribution of \$1,300,289.00, as per Council resolution 6c.20.022.

Expenditure and commitments on the project as at 30/6/20 is:	\$ 631,849.26
Allowance for additional contingency costs, land acquisition & project management is:	\$1,360,427.23
The GST exclusive tender price is:	<u>\$3,607,917.61</u>
Total Budgeted Costs (ex GST)	\$5,600,194.10

This will leave a budget surplus of \$127,610.90 from the currently allocated budget. It must be noted that an under spend on the project would mean that the funds cannot be claimed from Restart NSW in line with the co-contribution percentages and as such these funds do not represent an actual surplus. The actual surplus Council funds are \$28,969.39.

In addition, as required under part 6 of resolution 6c.20.022, staff have investigated opportunities for developer contributions through S7.11 (formerly called S94) contributions and a S7.11 contributions plan for the West Yamba urban release area has been drafted and released for public consultation. This consultation has closed and the final version of the plan will be presented to the August 2020 meeting. This plan, if adopted by Council, would create the framework for levying part of the cost of the roundabout construction from the sale of residential lots in the West Yamba urban release area.

Asset Management

N/A

Policy or Regulation

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

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

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

Consultation

N/A

Legal and Risk Management

The Directors of the Tenderers are as follows:

Tenderers	Directors
See civil Pty Ltd	Steve Turner – Managing Director Mark Turner – Executive Director Operations & Logistics Peta Newton – Executive Director People & Compliance
Hazell Bros (QLD) Pty Ltd	Geoffrey Hazell – Managing Director Robert Hazell – Director Justin Leslie – General Manager Construction QLD Simon Barr – Operations Manager QLD
Mid North Coast contractors Pty Ltd	Shaun Bowditch – Director Steve Bowditch – Director Karen Bowditch - Director

Climate Change

Assessment of climate change is not considered relevant to this tender. Climate change was considered in the February report to Council when consideration was given to the various treatment options for the project.

Prepared by	Phillip Noakes, Projects Engineer
Confidential	1. Tender Recommendation – RFT 20/14 Yamba Roundabouts 2. Steering Committee Meeting Minutes #003

ITEM	6e.20.018	OPTION TO RENEW AGREEMENT FOR MANAGEMENT AND OPERATION OF MINNIE WATER HOLIDAY PARK – ON CROWN LAND
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Meeting	Council	28 July 2020
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Nil	

SUMMARY

This report is seeking that Council as Crown Land Manager of Reserve 95566 endorse the option to renew the contract awarded to Jarah Management Pty Ltd for the management and operation of Minnie Water Holiday Park including Diggers Headland Reserve Camping Ground for a further term of 3 years (1 August 2020 – 31 July 2023).

OFFICER RECOMMENDATION

That Council as Crown Land Manager of Reserve 95566:

1. Endorse the continuation of the agreement with Jarah Management Pty Ltd on the same terms for the further term from 1 August 2020 to 31 July 2023.
2. Annual retainer for the further term is \$155,922.56 including GST.
3. Amend the new contract in accordance with subclause 17.2 of the existing agreement.

COUNCIL RESOLUTION – 6e.20.018

Ellem/Williamson

That Council as Crown Land Manager of Reserve 95566:

1. **Endorse the continuation of the agreement with Jarah Management Pty Ltd on the same terms for the further term from 1 August 2020 to 31 July 2023.**
2. **Annual retainer for the further term is \$155,922.56 including GST.**
3. **Amend the new contract in accordance with subclause 17.2 of the existing agreement.**

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

The Minnie Water Holiday Park is situated on Reserve 95566 for Caravan and Camping Park, notified 4 September 1981. The holiday park was placed under the care, control and management of Council on the same day.

In July 2017, Jarah Management Pty Ltd was awarded the contract to manage and operate the Minnie Water Holiday Park including the Diggers Headland Reserve Primitive Camping Ground for the initial period of 3 years commencing 1 August 2017 and expiring 31 July 2020. The contract has a 3 year option to renew at the discretion of Council as Crown Land Manager. Jarah Management notified Council of their desire to exercise the option to renew and they have complied with the provisions of the agreement with the operations of the Holiday Park and the Primitive Camping Ground.

KEY ISSUES

Jarah Management Pty Ltd is performing well in terms of revenue, occupancy and customer satisfaction. In particular, growth in tourist site revenue rose 18% in 2018/19. In the initial term of this contract, Jarah

Management also has successfully managed the reservations and operations of Diggers Headland Reserve Camping Ground, enabling Council to quickly respond to community concerns.

Extension of the management contract will allow the current management team to continue or Council, as Crown Land Manager, can choose to not offer an extension and re-tender the management contract.

COUNCIL IMPLICATIONS

Budget/Financial

Management remuneration costs are met from the park's operational budget PJ996780 and will be increased by CPI in accordance with Schedule 2 of the contract. The remuneration provision is incentive based consisting of a base retainer, and provisional commission paid monthly and adjusted annually which is calculated as percentage of actual operating revenue. The current annual retainer from 2017 to 2020 is \$147,800 (GST inclusive) and commission for 2018/19 was \$53,595.54 (GST inclusive).

Budget allocation for 2020/21 on PJ996780 and category 6147 will be increased to \$152,168.93 (\$141,132.44 GST exclusive).

Asset Management

N/A

Policy or Regulation

The management contract extension process is compliant with the *Local Government (General) Regulation 2005*.

Consultation

Jarah Management principals met with Council staff to discuss initial contract term and their visions for the extended contract term. The managers have been proactive in implementing new processes regarding compliance and utilising RMS capabilities to enhance customer service. Manager, Sarah Cochrane has completed a Diploma in Holiday Parks and Training and Assessment and is currently president of Caravan & Camping Industry of Australia - North Coast branch. Jarah Management is optimistic for the park's future in relation to the draft redesign of the park's layout to improve visual amenity.

Legal and Risk Management

Clause 17.2 Actions on Renewal of Agreement states:

Subject to 17.1(c) ((c) *The Principal may in its sole discretion extend this Agreement for the further term or terms specified in Schedule 1.*), The Principal shall grant to the Contractor and the Contractor shall accept from the Principal a continuation of this Agreement on the same terms as this Agreement (including the obligations of the Guarantors who must sign the further Agreement as Guarantors as a condition of the grant of a further Agreement) except that:

- (a) the remuneration shall be in accordance with Schedule 2, and
- (b) this clause shall be deleted, and
- (c) the commencement date and the expiry date shall be adjusted so that the commencement date is the first day of the commencement of the option period and the expiry date is the last day of the option period.

Climate Change

N/A

Prepared by	Julie Schipp, Holiday Parks & Saleyards Officer
Attachment	Nil

7. NOTICE OF MOTIONS

ITEM 07.20.007 COMMUNITY INITIATIVES PROGRAM 2020/21 – HARWOOD CRICKET CLUB

Meeting	Council	28 July 2020
Directorate	Notice of Motion	
Submitted by	Cr Jim Simmons	
Attachment	Nil	

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

SUMMARY

This notice of motion seeks to cover the cost of mowing Harwood Cricket Oval and curating the turf wicket situated thereon.

PROPOSED MOTION

That Council pay Harwood Cricket Club the amount of \$7,500 as a donation towards the cost for the 2020/2021 mowing of Harwood Cricket Oval and curating the turf cricket wicket situated thereon.

COUNCIL RESOLUTION – 07.20.007

Simmons/Lysaught

That Council pay Harwood Cricket Club the amount of \$7,500 as a donation towards the cost for the 2020/2021 mowing of Harwood Cricket Oval and curating the turf cricket wicket situated thereon.

Voting recorded as follows:

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

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

My recollection is that Clarence Valley Council, and the prior Maclean Shire Council, maintained Harwood Cricket Oval. At some stage several years back, due to substantive costs involved in maintaining the facility, Clarence Valley Council approved a donation, the amount of which has not changed much in dollar terms over the intervening time if at all, to Harwood Cricket Club to do that work. The venue is a major sports facility in the Clarence Valley for local cricket, inter-district cricket, North Coast Premier League Cricket, Junior Girls and Junior Boys North Coast Junior Cricket Academies and it draws plenty of visitors to the Clarence Valley. A local pre-school is using the Harwood Oval for activities during the current school holidays. NSW Cricket is investing some \$100,000 towards facilities at the ground, surely not a short term outlook. In fact the ground has been used for community sport probably from well before the second World War.

KEY ISSUES

In the attachment on the item (6b.20.050) at the June Council, it was the only one of the forty five listed Community Initiative Grants not recommended for approval by the Council Officer. The reason provided *Ineligible – Donations Policy 6.3 donations to sporting organisations for sponsorship only, and 7.2 ongoing operational expenses are ineligible.*

At a brief glance there are other sporting organisations such as Baryulgil Charity Sports Club Inc, Clarence Dog Sports Inc, Grafton District Services Bowling Club Inc, Lawrence Golf and Sports Club Incorporated that are among the list of the recommended for approval grants.

Councillor Baker referenced in an email that the particular grant could be approved under 6.1. Perhaps 6.1 was used as the basis previously. This process for Harwood Cricket Oval seems to be an annual repetitive process and to me there seems to be a need for a change in future officer reports to one where the recommendation takes into consideration all of the 6.1 through to 6.9 clauses or better addresses the ground's usage and importance of maintaining the facility for the benefit of the Clarence Valley.

COUNCIL IMPLICATIONS

Budget/Financial

The 2020/2021 Donations budget is \$100,000. This budget is for donations granted through the Community Initiatives Program Rounds 1 and 2, the Sport and Cultural Trust Fund, and DA fee waiver requests received throughout the year.

The donation of \$7,500 would take donations approved to \$59,515.58 leaving a balance of \$40,484.42 to be available for Round 2 allocations in December 2020, Sport & Cultural Trust Fund applications and DA fee waiver requests throughout the year.

Policy or Regulation

Donations Policy
Community Initiatives Program Guidelines

Consultation

Internal consultation has been undertaken. I expect that information/knowledge of the usage and maintenance history of Harwood Oval is known in the community.

Legal and Risk Management

N/A

Climate Change

N/A

STAFF COMMENT – Des Schroder, Director Environment, Planning & Community

The reasons that the Harwood Cricket Club donation was not recommended by the Officers relates to the Donation Policy, specifically the criteria below:

6. Criteria

Applications under the Community Initiatives Program are to relate their submission to one or more of the following criteria:

- 6.1 *Not for profit community organisations* providing a community service within the Clarence Valley region where there is a demonstrated community need or benefit;
- 6.3 *Sporting associations to assist with sponsorship of an event or an award* (as distinct from funding for an event itself - see Festivals and Events Development Program) *only*.

Financial assistance will not be approved for

Council will not approve financial assistance:

- 7.2 *For on-going operational or administration expenses of an organisation* with the exception of donations for rates in accordance with clause 8.2 - examples of on-going operational or administration expenses include insurance, utility expenses (electricity, phone, etc) and rent,

Under the Donations program the average donation is \$1,100; the \$7,500 takes a large share of the budget which cannot be distributed to organisations that meet the criteria.

ITEM	07.20.008	REQUEST FOR FUNDING CLARENCE VALLEY SPORTS AWARDS
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Meeting	Council	28 July 2020
Directorate	Notice of Motion	
Submitted by	Cr Jim Simmons	
Attachment	Yes	

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

SUMMARY

This motion is intended to address the 2 March 2020 written request received by Council from the Clarence Valley Sport Awards Committee for funding assistance to support the annual Clarence Valley Sports Awards presentation night.

PROPOSED MOTION

That Council approve a cash donation of \$3,000 towards the cost for the appearance and travel expenses of a special guest MC at the 2020 Clarence Valley Sports Awards presentation night.

COUNCIL RESOLUTION – 07.20.008

Simmons/Novak

1. That Council, subject to the event proceeding, approve a cash donation of \$3,000 towards the cost for the appearance and travel expenses of a special guest MC at the 2020 Clarence Valley Sports Awards presentation night.
2. The donation be funded through the Community Initiatives budget.

Voting recorded as follows:

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

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

The Clarence Valley Sports Awards Committee, which is a small team of volunteers from various sporting and community organisations and major sponsors, meets monthly from February through to October to bring together the annual awards evening and the monthly sportsperson featured in the Daily Examiner.

The Clarence Valley Sports Awards are held in very high regard and the annual awards night is well supported in attendance. The event is well presented but the Committee feels there is now need for a more professional plan and more professional outlook to the running of the Awards. To do this the Committee needs funding to give the ability to offer remuneration for a coordinator to bring the event together and move it forward for the sporting community of the Clarence Valley and also include an MC/special guest.

KEY ISSUES

The Committee's application is for a total of \$8,500 funding, comprised of \$5,500 to be able to offer remuneration for a coordinator and an amount of \$3,000 for the appearance/travel expenses of a special guest/MC for the event. Officer's comment in the June Council meeting papers, *is a worthy event, however the request amount for a one night awards is considered excessive and if being considered a nominal amount of \$1,000 would seem appropriate. Recommend private sponsorship be sought in first instance.*

The Awards night has only been possible and able to proceed in prior years because of private sponsorship received by the Committee.

COUNCIL IMPLICATIONS

Budget/Financial

The 2020/2021 Donations budget is \$100,000. This budget is for donations granted through the Community Initiatives Program Rounds 1 and 2, the Sport and Cultural Trust Fund, and DA waiver requests received throughout the year.

Should my earlier Notice of Motion for a donation of \$7,500 to Harwood Cricket Club for mowing Harwood Oval and curator costs for the turf wicket be adopted, then this proposed donation of \$3,000 would take donations approved to \$62,515 leaving a balance of \$37,484.42 to be available for Round 2 allocations in December 2020, Sport and Cultural Trust Fund applications and DA waiver requests throughout the year.

Policy or Regulation

N/A

Consultation

Monthly Sportsperson Awards have featured in the Daily Examiner for a number of years culminating with the annual Sports Awards night. There is good publicity and the sporting community in the Clarence Valley is very much aware of the annual Sports Awards presentation event.

Legal and Risk Management

N/A

Climate Change

N/A

Attachment:	Request letter
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ITEM	07.20.009	RESCISSION MOTION FOR COUNCIL RESOLUTION – 6C.20.094 REQUEST FROM NATIONAL PARKS & WILDLIFE SERVICE FOR REDUCTION IN WATER METER CONNECTION FEE
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Meeting	Council	28 July 2020
Directorate	Notice of Motion	
Submitted by	Cr Richie Williamson	
Attachment	Nil	

To the General Manager, Clarence Valley Council, we, the undersigned, propose that the following rescission motion be submitted to Council.

PROPOSED RESCISSION MOTION

That Council rescind resolution 6c.20.094 point 3 which states

3. National Parks and Wildlife Service be charged the applicable fire service connection fee for upgrading the water meter servicing Illaroo Camping Ground.

COUNCIL RESOLUTION – 07.20.009

Williamson/Baker

That Council rescind resolution 6c.20.094 point 3 which states

3. National Parks and Wildlife Service be charged the applicable fire service connection fee for upgrading the water meter servicing Illaroo Camping Ground.

Voting recorded as follows:

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

Against: Nil

We propose that the following motion be considered:

PROPOSED MOTION

That the following replace point 3 of Item 6c.20.094:

3. National Parks and Wildlife Service be charged the applicable connection fee as per Council's Fees and Charges for upgrading the water meter servicing the Illaroo Camping Ground.

COUNCIL RESOLUTION – 07.20.009

Williamson/Toms

That the following replace point 3 of Item 6c.20.094:

3. National Parks and Wildlife Service be charged the applicable connection fee as per Council's Fees and Charges for upgrading the water meter servicing the Illaroo Camping Ground.

Voting recorded as follows:

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

Against: Nil

BACKGROUND




At the June 2020 Council meeting Council resolved the following at Item 6c.20.094:

That

- 1. Council decline the request from the National Parks and Wildlife Service for a donation by Council of the applicable water meter connection fee for upgrading the water meter servicing the Illaroo Camping Ground.*
- 2. Council acknowledge the camping ground has existing 'credit' for the existing 20mm connection.*
- 3. National Parks and Wildlife Service be charged the applicable fire service connection fee for upgrading the water meter servicing Illaroo Camping Ground.*

I've been informed by the General Manager that point 3 of the motion does not provide enough direction to him to apply the full correct charge as per the fees and charges.

Signed:

Cr Williamson	
Cr Baker	
Cr Simmons	

8. CONFIDENTIAL BUSINESS – Nil

9. LATE ITEMS OF BUSINESS AND MATTERS ARISING – Nil

10. CLOSE OF ORDINARY MEETING

There being no further business the Ordinary Council meeting closed at 6.19 pm.