

Ordinary Council Meeting Business Paper

23 November 2021

Grafton – 2.00pm



Agenda

01	OPENING OF ORDINARY MEETING		
	<ul style="list-style-type: none"> • Opening Prayer • Acknowledgement of Country • Announcement – Recording of Meeting 		
02	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE		
03	DISCLOSURES AND DECLARATION OF INTERESTS		
04	CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 26 OCTOBER 2021		
05	MAYORAL MINUTES		
06	REPORTS		
a	GENERAL MANAGER		
	6a.21.049 2020/21 General Purpose Financial Statements Refer to Audit – to be distributed separately		TBT
	6a.21.050 Budget Result for 2020/21 – to be distributed separately		TBT
	6a.21.051 Policy Report	1	Y+
	6a.21.052 Priority Projects for Federal Election Funding	3	Y
	6a.21.053 Annual Report 2020/21	5	TBT
	6a.21.054 2021/2022 Community Initiatives Program – Round 2	7	Y
	6a.21.055 Donations: Development Application Fee Waivers – Lawrence Historical Society Inc. and The Gallery Foundation	9	N
	6a.21.056 Alcohol Prohibited Area Temporary Revocation – Jacaranda Festival	11	TBT
	6a.21.057 End of Term Report	13	TBT
	6a.21.058 Development Applications	15	TBT
b	ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE		
	6b.21.082 DA2021/0184 – Stage 2 and 3 Manufactured Homes Estate – Woombah Woods – 54 Iluka Road, Woombah	18	Y+
	6b.21.083 DA2021/0864 – Dual Occupancy – 581 Firth Heinz Road, Pillar Valley	34	Y
	6b.21.084 MOD2021/0029 Modification of DA2007/0884 Alter Internal Layout, Clubhouse and Dwelling Design, Palm Lake Resort, Orion Drive, Yamba	43	Y+
	6b.21.085 SUB2021/0026 – Two Lot Subdivision – 146 Jubilee Street, Townsend	62	Y
	6b.21.086 DA2021/0788 – Dwelling – Havelock Street, Lawrence being Lot 4 Section 73 DP758604	67	Y+
	6b.21.087 Clarence Valley Heritage Grants Round 2, 2021-22	76	Y
	6b.21.088 (Draft) Flinders Park Plan of Management (R85724)	79	Y+
	6b.21.089 “No Solar for Southgate” Petition	83	Y
	6b.21.090 Regional State of Environment Report Summary - 2016-2020	86	TBT
c	CORPORATE, GOVERNANCE AND WORKS COMMITTEE		
	6c.21.139 Legal Services Panel: Extension to New Council	89	N
	6c.21.140 2022 Local Public Holidays for Ramornie Handicap and Grafton Cup	91	Y
	6c.21.141 355 and Advisory Committees: Acknowledgement of Contribution; Notification of Reconstitution in Term of New Council	93	Y
	6c.21.142 Draft Clarence Valley Council Disaster Resilience Framework	95	TBT
	6c.21.143 Request from Account 2232452 for Consideration for Reduction in Water Account	97	N
	6c.21.144 Request from Account 2166809 for Consideration for Reduction in Water Account	100	N
	6c.21.145 Council Meeting Checklist – Update on Actions Taken	102	Y
	6c.21.146 2021/22 Monthly Financial Report – October 2021	104	Y
	6c.21.147 Monthly Investment Report – October 2021	107	Y
	6c.21.148 Classification of Lot 179 in Plan of Subdivision of Lot 2 in DP1248516 as Operational	114	Y

	6c.21.149	Proposed Permanent Road Closure – Part Old Watters Road, Rushforth	117	N
	6c.21.150	Proposed Permanent Road Closure – Part Stanley Street, Maclean Road Reserve	119	N
	6c.21.151	Local Traffic Committee	121	TBT
	6c.21.152	Events of Christchurch – New Zealand (Friday, 15 March 2019) – Final Update	123	N
	6c.21.153	Works Report	127	N
d		INFORMATION ITEMS		
	6d.21.010	1. Wooloweyah Parks & Reserves Committee	130	Y
		2. Copy of letter from Floodplain Management Australia to the Minister for Local Govt		
		3. Letter from The Hon. Shelley Hancock MP		
		4. Letter from Chris Gulaptis MP		
		5. Water Efficiency Working Group		
e		TENDERS		
	6e.21.026	Tender 21/039 Maclean and Yamba Community Precinct Detailed Designs	131	Conf
	6e.21.027	Expression of Interest - Fixing Country Bridges (Group 2 Bridges)	134	Conf
07		NOTICE OF MOTIONS		
08		CONFIDENTIAL BUSINESS		
09		QUESTIONS WITH NOTICE		
10		LATE ITEMS OF BUSINESS AND MATTERS ARISING		
11		CLOSE OF ORDINARY MEETING		

6. REPORTS**a. GENERAL MANAGER****ITEM 6a.21.051 POLICY REPORT**

Meeting	Council	23 November 2021
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

The Sports Management Policy 3.1 was put before Council at its Ordinary Meeting 27 July 2021 and placed on public exhibition for 42 days. This report documents minor changes to the policy following submissions and recommends that Council adopt the policy.

OFFICER RECOMMENDATION

That Council adopts the Sports Management Policy 3.1 as amended following feedback from the public exhibition.

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

At its Ordinary Meeting 27 July 2021 Council resolved to place on exhibition the Sports Management Policy 3.1 for 42 days (minute number 07.21.012). The revised policy included:

- A provision that all Council owned/controlled sportsgrounds and facilities that have the capacity for multi-use be classified as multi-use, and that multiple line markings be undertaken by Council accordingly.
- A revised process for conflict resolution, facilitating escalation to the Executive team and consultation with sporting organisations.
- Minor amendments to accord with changes to legislative and regulatory instruments.

KEY ISSUES

The draft policy attracted 21 robust submissions from the public, including representatives from sporting organisations that canvassed a range of issues. These included:

- The incompatibility of some sports utilising the same facilities (e.g. field hockey and polo);
- Concern about increased costs of maintaining facilities that were multi-use;
- How COVID-19 would be managed at facilities that were increasingly multi-use;
- How multi-use would impact upon facilities that were purpose-built and purpose-funded for specific sports;
- How premium sporting events would be impacted and that the proposed changes to encourage multi-use have the potential to undermine collegiality between sporting organisations, having a negative impact on Council and Clarence Valley more generally.
- Administrative changes were identified.

The Policy has been amended to respond to the feedback and retains the exhibited multi-use principles.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

Sports grounds and facilities assets are designed, maintained and operated to meet the range of sports users needs within available budgets.

Policy or Regulation

- *Open Spaces Strategic Plan*
- *Sports Facilities Plan*
- *Sports Management Policy*

Consultation

Consultation included input from the two Sports Committees and feedback from members of the public for their robust contributions to the formulation of this policy.

Concern was raised by some of the submissions especially from Sports Committee delegates relating to the incompatibility of sports within a sports season that could given rise to conflict or personal injury. It is recommended that the implementation of the policy with the changes proposed be monitored across upcoming sports seasons in consultation with the Sports Committees.

Legal and Risk Management

Simultaneous and incompatible use of sports grounds and facilities from different sports within either a summer or winter sports season can present a personal injury risk to Council and the user groups.

Climate Change

N/A

Prepared by	Peter Birch, Manager, Open Spaces & Facilities; Bligh Grant, Governance Officer.
Attachment	Sports Management Policy 3.1
To be tabled	Submissions

ITEM	6a.21.052	PRIORITY PROJECTS FOR FEDERAL ELECTION FUNDING
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Meeting	Council	23 November 2021
Directorate	Office of General Manager	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	Yes	

SUMMARY

The Federal Election is expected within the next 6 months and this report presents to Council a list of priority projects to present to candidates for the election with the view to these projects being funded by the next Federal Government.

OFFICER RECOMMENDATION

That Council endorse the list of priority projects for Federal Election funding.

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 the last Federal Election in May 2019 both major party candidates for the Page electorate endorsed the Grafton Waterfront Masterplan as a project that they would fund if their party was elected to government. Kevin Hogan MP was elected as the Member for Page and the coalition went on to form government. As a result, Council was successful in receiving a \$6.5 million grant from the government for the upgrade of the Grafton Waterfront upgrade.

The Federal Election is expected within the next 6 months and this report presents to Council a list of priority projects for candidates to endorse for funding if they are elected and their party is successful in forming government.

KEY ISSUES

Staff have reviewed approved plans and strategies to determine a list of priority projects that are presented below.

The projects are aimed at reinforcing the Clarence Valley as a key regional destination which will assist the economic downturn brought about by COVID-19 and natural disasters that have occurred over the past few years.

Projects like the new Grafton Pool, Maclean Floodplain Levee renewal, the Grafton CBD upgrade and the Riverbank Restoration from Maclean to Harwood provide the necessary facilities and supporting infrastructure to ensure that the Clarence Valley continues to grow in a sustainable manner for years to come.

Priority Projects for Federal Government Funding

The following projects have been identified as priorities of council. Refer to the attachment for further project details including project status, benefits and supporting strategy.

Project	Cost (estimate)
Grafton Pool – Stage 1	\$15 million
Grafton CBD Upgrade	\$20 - 25 million
Pedestrian Plaza (Link Project) - Grafton Waterfront to Grafton CBD	\$3 million
Regional Saleyards roofing	\$1.5 million
Watermain to Grafton Airport	\$1.542 million
Grafton Regional Airport – runway pavement upgrade	\$15 - \$20 million
Riverbank Restoration from Maclean to Farlows Lane	\$15 million
Maclean Floodplain Levee renewal	\$5.7 million
Nymboida River Weir Fishway	\$5 million
Water pipeline from Grafton to Minnie Water/Wooli	\$22 million
See Park (Draft Masterplan)	\$2.5 million
Nymboida Water Supply tunnel renewal	\$4.1 million
Brooms Head Beach revetment wall	\$2.7 million
Duplication of the Clarence River watermain crossing at Harwood	\$9.6 million
Duplication of the Clarence River watermain crossing at Grafton	\$6.6 million

COUNCIL IMPLICATIONS

Budget/Financial

No impact on 2021/22 budget at this stage but will have an impact on future budgets if projects are successful in receiving Federal Government funding.

Asset Management

The impact on Council's Asset Management Plans will vary depending on the projects that are successful in receiving funding.

Policy or Regulation

N/A

Consultation

The schedule of projects has been prepared in consultation with Council's Executive Management Team and informed by various masterplans which have included extensive community consultation.

The schedule of projects were presented and discussed with Councillors at the November Council Workshop.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Ashley Lindsay – General Manager
Attachment	Schedule of Projects

ITEM	6c.21.053	ANNUAL REPORT 2020/21
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Meeting	Council	23 November 2021
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	To be tabled	

SUMMARY

The Annual Report is one of the key points of accountability between Council and the community. The report outlines the Council's achievements in meeting statutory compliance requirements throughout the year and also provides a snapshot of activities across Council's diverse remit.

OFFICER RECOMMENDATION

That:

1. Council note the 2020/21 Annual Report
2. The 2020/2021 Annual Report be made available to the community on Council's website.
3. The URL link to the 2020/2021 Annual Report be sent to the Office of Local Government, in accordance with the checklist for completing the Annual Report, in order that the Minister for Local Government be advised of its availability.

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 revised Guidelines for Integrated Planning and Reporting (September 2021) instruct councils to prepare an annual report within five months of the end of the financial year, to make it available on Council's website and to provide a URL for the Annual Report to the OLG.

KEY ISSUES

The report covers all reportable aspects of Council operations under the Office of Local Government Annual Reporting requirements.

COUNCIL IMPLICATIONS**Budget/Financial**

The Annual Report references Council's audited financial statements achievement for the year.

Asset Management

N/A

Policy or Regulation

Sections 406 and 428 of the *Local Government Act 1993* and Clause 217 of the *Local Government Regulation 2021*

Consultation

All managers were consulted in the development of the Annual Report.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Moar, Manager Organisational Development
To be Tabled	Annual Report 2020/21

ITEM 6c.21.054 2021/2022 COMMUNITY INITIATIVES PROGRAM – ROUND 2

Meeting	Council	23 November 2021
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Yes	

SUMMARY

This report summarises the assessment of applications received from community organisations for a donation from Council as part of the 2021/2022 Community Initiatives Program Round 2.

OFFICER RECOMMENDATION

That Council approve donations under the 2021/2022 Community Initiatives Program – Round 2 to the value of \$ 11,206.44 in accordance with the recommendations set out in the attached schedule

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

Organisations seeking a donation from Council are asked to apply for Community Initiatives Program funding. Round 2 of this program was open for 8 weeks from 1 September to 31 October 2021, and promoted through local media, on Council's website, and via email notification through the Community Projects Officer's extensive database of contacts.

Applications were submitted online via the SmartyGrants link on Council's website, with applications from 11 organisations received. Applications were considered in line with the Program Guidelines and Donations Policy and recommendations for funding have been made in relation to each one, with two applications deemed ineligible. The recommendations appear in the attached schedule.

Objectives of Council's adopted Donations Policy are:-

- *To establish guidelines for determining donations to be made by Council within the adopted budget allocation.*
- *To establish an annual calendar for the processing of all donation requests.*
- *To provide clear guidance on the criteria by which donation applications will be assessed and allocations*

Applications under the program are assessed against one or more of the criteria detailed at Section 6 of the Donations Policy. The most relevant criteria for each applicant is shown on the attached recommendations schedule.

KEY ISSUES

Budget and equity considerations mean that it is not possible to fund all requests fully and as a result, in some cases, a smaller than requested donation has been allocated as reflected in the attached schedule.

COUNCIL IMPLICATIONS**Budget/Financial**

The 2021/2022 Donations budget allocation is **\$100,000** (Service 4010, Sub Service 410 Community Development PJ# 997113-7353-2534). This budget is for donations granted through the Community Initiatives Program Rounds 1 and 2, the Sport & Cultural Trust fund, and DA fee waiver requests received throughout the year.

2021/2022 Annual budget		\$100,000.00
Reserved funds for Sport & Cultural Trust Fund applications 21/22	\$5,000.00	\$95,000.00
less: June - 6b.21.039 Community Initiatives Round 1 - Rates	\$33,201.04	\$61,798.96
less: June - 6b.21.039 Community Initiatives Round 1 - Fee Waivers	\$5,420.10	\$56,378.86
less: June - 6b.21.039 Community Initiatives Round 1 - Cash	\$19,278.40	\$37,100.46
less: July - 6c.21.094 Clarence Valley Sports Awards	\$3,000.00	\$34,100.46
less this request for Round 2 recommendations	\$11,206.44	\$22,894.02

Asset Management

N/A

Policy or Regulation

Donations Policy

Community Initiatives Program guidelines

Consultation

Internal consultation has been undertaken to ensure compliance with the current Donations Policy with particular reference to only approving one donation per financial year and not funding retrospectively.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Sammy Lovejoy, Community Projects Officer – Community Grants
Attachment	Schedule of Recommendations – 2021/2022 Community Initiatives Program – Round 2

ITEM	6c.21.055	DONATIONS: DEVELOPMENT APPLICATION FEE WAIVERS – LAWRENCE HISTORICAL SOCIETY INC. AND THE GALLERY FOUNDATION
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Meeting	Council	23 November 2021
Directorate	Corporate & Governance	
Reviewed by	Director - Corporate & Governance (Laura Black)	
Attachment	Nil	

SUMMARY

Requests have been received from Lawrence Historical Society Inc and the Gallery Foundation for Council consideration of donation of the Development Application and Construction Certificate fees paid.

OFFICER RECOMMENDATION

That Council:

1. Donate to Lawrence Historical Society Inc \$236.40 (30% refund), for the development application and construction certificate fees paid for the volunteer's workshop shed built at Lawrence Museum; and
2. Donate to The Gallery Foundation \$321.00 (100%), for the development application (temporary use of land) fee paid for their Art in the Paddock event at Wave Hill Station on 6 June 2021.

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

Lawrence Historical Society Inc. were recently successful with a grant to enable the construction of a workshop for their volunteers, for storage of tools and equipment, and to have a dedicated workspace for the restoration and preservation of historical objects.

They have requested Council waive the fees paid for Development Application and Construction Certificate for the building of the volunteer's workshop shed.

The Society lodged DA2021/0459 & CC2021/0384 for the construction of the shed at Lawrence Museum. The fees paid by receipt number 859867 are:

<u>DA2019/0555</u>	
DA Archiving Fee	\$ 36.00
DevApp Fee	\$215.00
<u>CC2021/0384</u>	
CC Archiving Fee	\$ 36.00
CC Charge	\$202.00
CC Building Inspection Charge	\$299.00
Total Paid	\$788.00

Donations Policy 8.1.2 applies for this request i.e. in respect of buildings on private property by community based non-profit organisations – 30% donation - \$236.40 due.

The Gallery Foundation has asked Council to review the costs charged for the development application submitted for the fundraising event sponsored by the Foundation at Wave Hill Station (543 Carnham Rd, Carnham) on 6 June 2021. The Art in the Paddock event aims to provide a venue for local artist to display their work, and allows members of the public to see the fantastic array of artists and their available works.

All money raised at this event are invested solely in the Grafton Regional Gallery either through purchase for the collection or support for infrastructure and development. The Foundation has committed \$100,000 in support of the expansion of the Gallery.

The fees payable for Art in the Paddock (Temporary use of Land) include:

DA not involving building works or subdivision	\$285.00
DA Archiving Fee	\$ 36.00
Total Paid	\$321.00

Donations Policy 8.1.1.2 applies for this request i.e. where the facility is for general public use – 100% donation - \$321 due.

KEY ISSUES

Clause 8.1 of the Donations Policy states that Council will consider applications to donate DA, CC, archive and Compliance and Occupation Certificate fees as follows:

8.1.1 in respect of buildings on Council owned land or Crown Land by community based non-profit organisations –

8.1.1.1 where the facility is for the exclusive use of the organisation – 50% donation, and

8.1.1.2 where the facility is for general public use – 100%

8.1.2 in respect of buildings on private property by community based non-profit organisations – 30% donation, and

8.1.3 in respect of Rural Fire Service brigade sheds – 100% donation.

Council will not donate any portion of these fees that relate to long service leave contributions, advertising or Plan First contributions. These fees will be required to be paid in full by the applicant in all circumstances.

In June this year, Lawrence Historical Society were successful in their application to the Community Initiatives Program Round 1, 2021/2022 where they were granted a cash donation of \$660 for the purpose of purchasing blinds to protect museum displays, and general rates fee waiver to the value of \$660.00 for their Property No. 110853, 2 Merton St Lawrence.

COUNCIL IMPLICATIONS

Budget/Financial

Should Council approve these donation requests, there are sufficient funds held in Cost Centre 4010, Sub Service 410 PJ# 997113-7353-2534.

Asset Management

N/A

Policy or Regulation

Donations Policy

Consultation

Internal consultation has taken place.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Sammy Lovejoy, Community Projects Officer – Community Grants
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ITEM	6c.21.056	ALCOHOL PROHIBITED AREA TEMPORARY REVOCATION – JACARANDA FESTIVAL
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Meeting	Corporate, Governance & Works Committee	23 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	To be tabled	

SUMMARY

The remaining Jacaranda Festival events are planned to run from Friday, 3 December to Sunday, 12 December 2021. The Festival consists of events that permit the sale and consumption of alcohol within Market Square, Grafton. Market Square is an alcohol prohibited area and approval of the sale and consumption of alcohol within the park requires a temporary revocation of the alcohol prohibited area. This report seeks Council's endorsement for the temporary revocation of the alcohol prohibited area in Market Square.

OFFICER RECOMMENDATION

That Council revoke the alcohol prohibition area at Market Square for the 2021 Jacaranda Festival from midday Friday, 3 December 2021 to midday Sunday, 12 December 2021.

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

The Grafton Jacaranda Festival is the longest running floral festival in Australia, the Festival is held under canopies of purple blossoms from the last weekend in October to the first weekend of November every year.

The festival commences regally with the crowning of their Jacaranda Queen and Princesses. Local arts, crafts and sporting groups take the week long opportunity to showcase their work. The city of Grafton comes to a standstill on Jacaranda Thursday with the main street lined with market stalls, rides and entertaining skits performed by local businesses.

The 2021 festival events will centre around Market Square.

KEY ISSUESAlcohol Prohibited Areas

The drinking of alcohol is prohibited at Market Square, Grafton all hours (24/7) [Item 15.035/19]. This prohibition is in place to promote the safe use of the park.

Alcohol prohibited areas are enforced by the police.

Jacaranda Festival

The Jacaranda Festival is a multiday, multi faceted event (see attached program). As part of the committees desire to grow the event and cater for resident and visiting communities expectation it is proposed that 12 events within the larger calendar of events will permit the sale and consumption of alcohol in Market Square, Grafton. The events being;

- Queen Crowning (Friday, 3 December)
- Christmas Carols (Saturday, 4 December)
- Retrofest (Sunday, 5 December)
- TAIKOZ – Japanese Drumming Dynamos (Monday, 6 December)
- Last Five Years – A Musical by Jason Robert Brown (Wednesday, 8 December)
- Jacaranda Thursday (Thursday, 9 December)

- Blake O'Connor, Tullara & Brothers 3 Mak & Shar (Thursday, 9 December)
- Venetian Carnival inc Raffle draw (Friday, 10 December)
- Jacaranda Ball (Saturday, 11 December)
- Highland Splash – Pipe Bands & Highland/Irish Dancers (Sunday, 12 December)

The applicant has advised that alcohol will be served by qualified attendants who hold an RSA Certificates within a delineated area. Police will be notified of the event and available to attend if required, however it is envisaged that the style of the event will determine positive behaviour.

It is proposed to adjust the prohibition in this instance to allow alcohol consumption as part of this event.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

The following references are applicable to this report:

- Local Government Act 1993, section 644
- Council Minute 15.035/19
- Council Resolution - 6c.19.009

Consultation

The Application has been received from Jacaranda Festival Committee. Internal consultation has occurred with several areas of Council.

Legal and Risk Management

If approved, a risk management plan will be submitted by the applicant, prior to the event.

Climate Change

N/A

Prepared by	David Sutton, Open Spaces Coordinator
To be Tabled	Jacaranda Festival Program

ITEM	6c.21.057	END OF TERM REPORT
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Meeting	Council	23 November 2021
Directorate	Corporate & Governance	
Reviewed by	General Manager - Ashley Lindsay	
Attachment	To be tabled	

SUMMARY

Under Integrated Planning and Reporting (IP&R) all Councils are required to provide an End of Term Report at the last meeting of the outgoing Council. This End of Term Report summarises achievements over this 5-year Council term from 2016 to 2021.

OFFICER RECOMMENDATION

That Council note the End of Term report for 2016-2021.

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

This End of Term report provides outcomes by Council towards meeting the goals set out in the Delivery Program and relevant Operational Plans (to 2020/21). These goals are aligned to the 5 themes and 17 objectives in the 10-year Community Strategic Plan (The Clarence 2027), which was developed with significant community engagement, consultation and feedback.

Substantial research and reporting work was carried out by Council staff to provide an accurate and informative End of Term report that reflects the consistent efforts by employees to serve the community of the Clarence Valley by striving to attain the Community Strategic Plan goals and objectives over this current Council term.

KEY ISSUES

The End of Term report is a legislative requirement by all councils. The Clarence Valley Council report indicates significant achievement by Council in meeting its objectives identified in the Delivery Program and Operational Plans.

The report summarises complex information and data and makes it readable for the layman in the community. Measurable data are provided to support the written report and are presented in easy to read tables and, where possible, cover the whole term.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Local Government Act S404

Consultation

All sections of Council.

Legal and Risk Management

This report is a legislative requirement under the IP&R framework.

Climate Change

N/A

Prepared by	Laura Black, Director Corporate & Governance
To be Tabled	End of Term Report

ITEM 6c.21.058 DEVELOPMENT APPLICATIONS

Meeting	Council	23 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director – Environment & Planning (Adam Cameron)	
Attachment	To be tabled	

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.

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. Council's reporting of elapsed days has been refined to ensure numbers presented are compliant with the Environmental Planning and Assessment Regulation 2000 (the Regulation). The received date is taken from the date of payment in accordance with Clause 50 of the Regulation. Furthermore, as per Clause 107 of the Regulation, the first two days after an application is lodged, being the received day and following day, are not included in the assessment period.

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 2021 to 31 October 2021 are:

No. of Applications Received	No of Applications Approved	Value of Approved Works	No of Lots Approved	Processing Times (including stop-the-clock days)
295	408	\$88,567,710.02	26	Average: 62 days Median: 46 days

Of the 351 approved Development Applications between 1 July 2021 and 31 October 2021, 155 (44%) were determined within 40 days or less.

Exceptions to Development Standards under Clause 4.6 of the LEP

There was nil use of Clause 4.6 for Development Applications determined during October 2021.

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
To be Tabled	Approved Applications and Undetermined Applications over 40 days

b. ENVIRONMENT, PLANNING & COMMUNITY REPORT

MINUTES of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 16 November 2021 commencing at 3.30pm and closing at 4.07pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

All present are advised that this meeting is being broadcast live and audio recorded. Your attendance at this meeting is your acceptance that your image may be recorded and streamed to the internet as well as being retained in the archive of the record of the Council meeting.

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.

MEMBERS

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

PRESENT

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

APOLOGIES – Nil**DISCLOSURE AND DECLARATIONS OF INTEREST**

<i>Name</i>	<i>Item</i>	<i>Interest/Action</i>
Cr Novak	6b.21.088	Non-Significant Non-Pecuniary - Remain in the meeting Lives opposite park
Cr Clancy	6b.21.086	Non-Significant Non-Pecuniary - Remain in the meeting I am a friend of most of the objectors and some have membership of groups that I am also a member.

ITEM	6b.21.082	DA2021/0184 – STAGE 2 AND 3 MANUFACTURED HOMES ESTATE – WOOMBAH WOODS – 54 ILUKA ROAD, WOOMBAH
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Woombah Holding Pty Ltd
<i>Owner</i>	Woombah Holding Pty Ltd
<i>Address</i>	54 Iluka Road, Woombah
<i>Submissions</i>	Yes – 5

Council is in receipt of Development Application DA2021/0184 which seeks approval for Stages 2 and 3 of the approved Manufactured Homes Estate (MHE) under DA2020/0474. The development proposes 57 additional dwelling sites resulting in a total of 115 dwelling sites.

The proposed development was advertised and notified in accordance with the Community Participation Plan and five (5) submissions were received. Issues raised during the assessment of the application and in the submissions include impacts on biodiversity, traffic, stormwater and privacy and amenity.

The application complies with the *Clarence Valley Local Environmental Plan 2011* (the LEP) and *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021* which aims to provide opportunities for affordable alternatives in short-term and long-term accommodation.

This report discusses the key issues with the application and provides a recommendation for Council's consideration. The application is forwarded to Council for a decision because of the public interest in the proposal.

OFFICER RECOMMENDATION

That Council approve DA2021/0184 subject to the draft Advices and Conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker

Against: Clancy, Novak

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Development Application DA2021/0184 was received on 23 March 2021. The application was advertised and notified and five (5) submissions were received as part of the exhibition period.

The subject land is zoned R5 Large Lot Residential under the provisions of the LEP. Conversion of the existing caravan park to a MHE was approved by Council at its 15 December 2020 Meeting (Item No. 6b.20.091). Subsequent to that approval, Council at the 21 July Meeting (Item No. 6b.21.048) supported the

construction of dwellings on site as part of a section 82 Objection under the *Local Government Act 1993* (LG Act). The Department of Planning, Infrastructure and Environment gave concurrence under Section 82(3) of the LG Act on 8 October 2021 to enable construction of the dwellings onsite.

This application seeks approval for Stage 2 (38 Sites) and Stage 3 (19 sites) of the approved MHE under DA2020/0474. Approval of this application will result in a total of 115 sites. An aerial image of the site is provided in Map 1 below.

Map 1 – Extract of Aerial Photograph from Google Earth (Imagery date November 2021)



KEY ISSUES

1. Submissions received during exhibition

The proposed development was advertised and notified and a total of five (5) submissions were received during the exhibition period.

The issues raised in the submissions are summarised below and a comment is provided.

a. Biodiversity

Concerns raised in the submissions to the application relate to the associated impacts on biodiversity from clearing of native vegetation and impacts on adjoining residential dwellings.

Comment

Clearing for the purposes of Stage 2 and 3 has already been completed under the existing approval DA83/464 in 2019. In response to concerns raised by the community at that time, Council issued an Emergency Order under the *Environmental Planning and Assessment Act 1979* (EP&A Act) to cease clearing as it was not authorised under a development consent. The developer then lodged a Land and Environment Court Appeal which was later withdrawn following determination that the original consent was valid and clearing was lawful clearing under DA83/464.

The Statement of Environmental Effects submitted with the current development application DA2021/0184 states that the only clearing further required to be undertaken on the site is for the purposes of the onsite wastewater disposal area for Stage 3. The area proposed to be occupied under the current development is the same area approved under the original development consent issued under DA83/464. As the onsite wastewater area is within the original approved footprint, clearing is taken to have already been authorised as per the Clause 60O(a)(i) of the *Local Land Services Act 2013*. No further clearing is approved as part of this application than that approved under the original consent and the MHE will be contained wholly within the existing approved area of the caravan park issued under DA83/464. Refer to Figures 1 and 2 below.

Clause 60O(a)(i) of the *Local Land Services Act 2013* confirms if the clearing of native vegetation is authorised by a development consent under the EP&A Act then there is no requirement to obtain approval to clear vegetation under the *State Environmental Planning Policy (Vegetation in non rural areas) 2017*. Therefore, the original development consent issued under DA83/464 authorised the clearing of the site as detailed on the approved site plan.

Provided the clearing of the land for the development is within the “site” as identified on that site plan, it is considered to be native vegetation that is authorised to be cleared under the development consent. As DA83/464 is still a valid consent, clearing under this approval is still authorised. It is considered that the impact of any clearing required for the development will result in substantially the same impact as that originally approved. However, it is considered prudent to impose conditions around site rehabilitation for retained vegetation and disturbed areas outside of asset protection zones to ensure that remaining vegetation is protected in perpetuity. Draft conditions requiring the preparation of a Vegetation Management Plan and site rehabilitation are contained in Schedule 1.

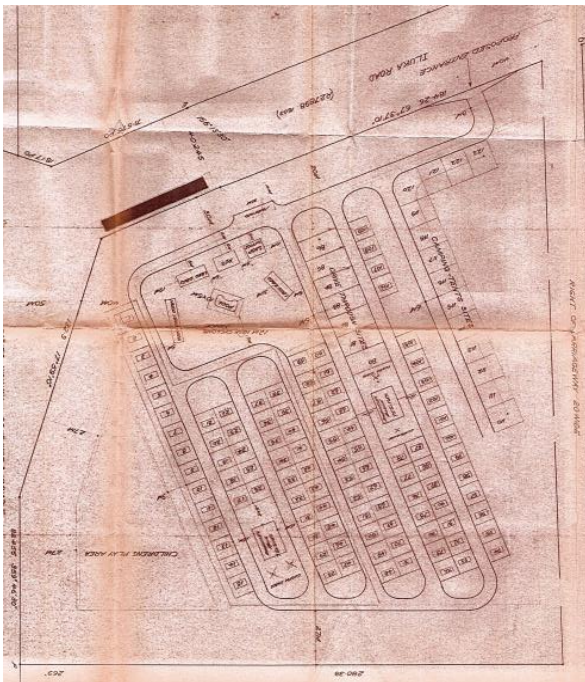


Figure 1—Approved Caravan Park DA83/464

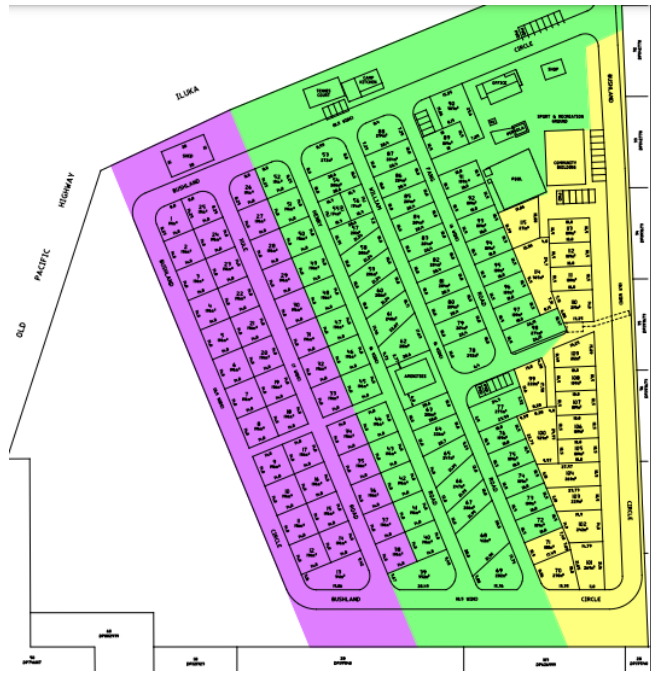


Figure 2—Proposed stage MHE DA2020/0464 & DA2021/0184

b. Loss of privacy and amenity

Concerns were raised by the adjoining land owner regarding loss of privacy and amenity from an expansion of the MHE site.

Comment

Due to clearing being undertaken under the existing caravan park approval, the amenity enjoyed by adjoining land owners has been reduced. It is considered appropriate that the developer reinstate some level of privacy through vegetative screening along the boundary of the development site and Lot 60 DP802939. As such, a draft condition of consent has been included in Schedule 1 requiring a minimum 10m vegetative screening buffer along the boundary of the site and Lot 60 DP802939.

Additionally, a landscape plan must be submitted for approval by Council and works completed prior to issue of the Approval to Operate Stage 2.

c. Intersection upgrades

Concerns regarding the safety of the intersection of the site and Iluka Road were raised in the submissions.

Comment

A Traffic Impact Assessment was provided as part of the application. Comments were also sought from Transport for New South Wales (TfNSW) and their comments have been addressed through draft conditions of consent. Iluka Road is identified as an unclassified (regional) road. In accordance with Section 7 of *the Roads Act 1993* Clarence Valley Council is the Roads Authority.

The proposed development will generate an increase in daily and peak hourly vehicle movements at the Iluka Road and site access road intersection. This intersection currently has no formal treatment for vehicles turning into the site, meaning there is limited width for through traffic to safely pass a turning vehicle.

The Traffic Impact Assessment and Supplementary Traffic Report have identified a post-development traffic forecast which meets the Austroads warrants for shortened channelised right turn (CHR-S) and shortened auxiliary left turn (AUL-S) lanes.

To ensure that the access is adequate to cater for the increase in traffic, the intersection must be upgraded prior to the issue of the Approval to Operate under Section 68 of the LG Act for Stage 2.

Based on the above, the applicant is required to:

1. Upgrade the existing access to provide a shortened channelised right turn (CHR-S) and shortened auxiliary left turn (AUL-S) generally in accordance with Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections.
2. Where relevant, provide provision for bus and pedestrian movements in and around the access.
3. Detailed designs to be provided by a suitably qualified engineer and approved under a Public Works Certificate.
4. Intersection upgrade to be provided prior to issue of approval to Operate for Stage 2 of the development.

The applicant sought to have the need to upgrade the intersection deferred until Stage 3 of the development. As part of the engineering considerations for this type of traffic generating development, Council is required to consider traffic impacts based on a design horizon of 10 years. Whilst the construction of Stage 2 does not trigger the need to upgrade the intersection for current traffic volumes, it will by the year 2030. As such, it is required that the intersection upgrade be undertaken prior to the issue of the Approval to Operate for Stage 2 as this traffic loading is forecast to trigger warrants to provide a channelised right turn and shortened auxiliary left turn lane in accordance with Austroads.

d. Stormwater

Concerns were raised within the submissions regarding existing stormwater issues and additional impacts from future development.

Comment

The applicant has provided both MUSIC and DRAINS modelling to demonstrate the development meets the current requirements for stormwater management as specified under the DCP. The MUSIC modelling results demonstrate that the proposed methods of stormwater treatment can meet the pollutant reduction factors set by the CVC MUSIC link.

The provided stormwater management plan indicates that onsite detention for Stage 2 of the development (as proposed in the Ingen Consulting Stormwater Management Plan) is to be centralised in the proposed bioretention basin. Stage 3 will provide an additional 4kL rain water tanks to service as additional onsite detention.

Detailed design plans of the proposed stormwater management devices will be required for approval by Council prior to commencement of construction. Subject to compliance with the above, it is considered that stormwater management for the development will improve the existing situation and not have an adverse impact on the surrounding area or adjoining properties. A copy of the stormwater management plan titled Concept WSUD Layout Stages 2 and 3 by Ingen Consulting dated 10 February 2021 is provided in the attachments.

e. Noise and light spill

One submission raised the issue of potential light spill and additional noise from the development having an adverse impact on the amenity of adjoining residents

Comment

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021* states that MHE's must be adequately lit between sunset and sunrise. A condition has been imposed that requires the development to be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code), NSW Police 'Safer By Design' guidelines and Council's Outdoor Lighting Guideline. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to commencement of works.

As stated in Council's Outdoor Lighting Guideline, well-designed outdoor lighting promotes safety and security but avoids light spillage onto nearby properties. Compliance with Council's Outdoor Lighting Guideline will ensure that:

- The location and level of outdoor lighting should provide the minimum adequate illumination for that site. It should not be excessive and should not trespass onto adjacent public or private land.
- Operate lighting only for the minimum period necessary – consider timers and daylight/motion sensors.
- Outdoor lighting be located above the target area and directed down with full shielding – this avoids upward and horizontal light spillage and glare.

In regard to potential noise impacts, it is considered that noise generated from long term permanent residents will be considerably less than short term rental and holiday accommodation that could be undertaken under the caravan park approval.

f. Onsite wastewater impacts (smell and drainage)

One of the submissions raised concerns regarding impacts from the onsite wastewater system including odour management and poor drainage/stormwater.

Comment

A Waste Water Management Plan prepared by Earth Water Consulting was submitted with the application. Council's Environmental Health Officer has assessed the report against Council's Onsite Wastewater Management Strategy and the proposed system complies with the requirements of that plan including the required setbacks boundaries. The existing system will be replaced prior to the Approval to Operate being issued for Stage 2.

All stormwater and seepage from higher levels is to be diverted away from the disposal area and must not be directed towards a boundary or neighbouring property in a concentrated flow. A proposed condition of consent to this effect is provided in Schedule 1. Through compliance with the Waste Water Management Plan and conditions of consent, the new OSM system will not have any impact on adjoining properties

Summary

The proposed expansion of the approved MHE is considered to be consistent with the general aims of *State Environmental Planning Policy No 36 - Manufactured Home Estates* to facilitate the establishment of manufactured home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements and encouraging the provision of affordable housing in well designed estates and the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021* which aims to provide opportunities for affordable alternatives in short-term and long-term accommodation.

Through the imposition of draft conditions of consent to ensure privacy of adjoining properties is maintained and suitable site rehabilitation and ongoing vegetation management is undertaken, the proposed development is considered suitable for the site.

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 increase in traffic generated from the site is expected to have the biggest impact on Council's maintained road network along Iluka Road, between the site access and the Pacific Highway. The upgrade of the intersection to provide channelised turning lanes off and onto Iluka Road will improve safety and reduce edge break of road from passing vehicles having a positive impact on Council's ongoing obligations to maintain this section of the road network.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

Local Government Act 1993

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

[State Environmental Planning Policy No 36 - Manufactured Home Estates](#)

State Environmental Planning Policy No. 55 - Remediation of Land

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Residential Zones Development Control Plan 2011

Consultation

The following sections of Council and/or external agencies were consulted in the preparation of this report.

Internal Section/External Agency	<i>Comment</i>
Building Surveyor	Supported with Conditions
Development Engineer	Supported with Conditions
Environment	Supported with Conditions
NSW Rural Fire Service	Supported with Conditions
Transport for New South Wales	Comments 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 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.

Prepared by	Carmen Landers, Acting Development Services Coordinator
Attachment	A. Plans B. Section 4.15 Assessment
To be Tabled	C. Submissions D. Concept WSUD Layout Stages 2 and 3 by Ingen Consulting dated 10 February 2021 E. Waste Water Management Plan by Earth Water Consulting dated 5 January 2021 F. Supplementary Traffic Report and Intersection Turn Lane Warrants letter by Ardill Payne & Partners G. NSW Rural Fire Service General Terms of Approval

Schedule 1
Draft Advices and Conditions of Consent for DA2021/0184

Definitions

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

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

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

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

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

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

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

PWC means Public Works Certificate and includes Section 138 approval under the *Roads Act 1993* and Section 68 approval under the *Local Government Act 1993*.

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

TfNSW means Transport for New South Wales.

WSUD means Water Sensitive Urban Design

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

Advices

1. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
 - a Roads Act 1993 Sections 138 & 139 - approval for works on a road issued by Council and/or TfNSW;
 - b Local Government Act Section 68 - drainage, water & sewer approval;
 - c Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20CApplication to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
2. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **PWC** has been issued by Council and/or accredited private certifier.

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

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

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

The proposed development has been assessed as contributing an additional 34.2 ET demand on Council's water supply system. This includes an applicable credit for pre-existing uses. The additional ET demand for each stage is:

Stage 2: 38 sites x 0.6 ET per additional site = 22.8 ET
 Stage 3: 19 Sites x 0.6 ET per additional site = 11.4 ET

The headworks charges at 2021/22 financial year rates are:

Stage 2: Water Headworks \$5,017.00 x 22.8 additional ET = \$114,387.60
 Stage 3: Water Headworks \$5,017.00 x 11.4 additional ET = \$57,139.80

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be indexed in accordance with Consumer Price Index (CPI) current at the time of payment.

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

4. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
5. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
6. No construction is to be commenced until a Construction Certificate has been issued.
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.

Conditions

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

Plan No	Drawn by	Title	Plan Date	Revision
12740-01	O'Donohue Hanna & Associates	Proposed Master Plan	19/07/2021	Issue 23

Integrated Development

2. This approval has also been granted under Section 4.47 of the Environmental Planning and Assessment Act 1979. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 3 August 2021, consisting of four (4) pages, and as attached to this Notice of Determination. Compliance is to be demonstrated prior to release of the Approval to Operate Manufactured Home Estate for each Stage.

Contributions

3. 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

Stage 2 Isolated Coastal and Rural \$2,302.15 x 38 = \$87,481.70 GL S94CVCCFMaclea

Stage 3 Isolated Coastal and Rural \$2,302.15 x 19 = \$43,740.85 GL S94CVCCFMaclea

Clarence Valley Contributions Plan 2011 Community Facilities

Stage 2 Maclean surrounds \$2,302.15 x 38 = \$87,481.70 GL S94CVCCFMaclea

Stage 3 Maclean surrounds \$2,302.15 x 19 = \$43,740.85 GL S94CVCCFMaclea

Clarence Valley Contributions Plan 2011 Plan of Management

Stage 2: \$44.30 x 38 = \$1,683.40 GL S94CVCPoMDwell

Stage 3: \$44.30 x 19 = \$841.70 GL S94CVCPoMDwell

Rural Road Upgrading Contribution

Stage 2: \$2,876.22 (38 new sites)

Stage 3: \$1,438.11 (19 new sites)

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

The contributions are to be paid to Council prior to issue of the Approval to Operate for each stage

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

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

Building Conditions

4. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
5. **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.

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

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

7. **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:
- Preserve and protect the building from damage; and
 - 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).

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

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

9. Prior to work commencing an approval under Section 68 of the Local Government Act shall be obtained for all plumbing, drainage, fire hose reels, hydrants and stormwater works. The application for that approval shall be accompanied by full hydraulic details prepared, designed and certified as compliant with all relevant standards by a qualified hydraulic engineer.
10. The Construction Certificate plans shall include details of all on site private civil works prepared and certified as compliant with all relevant standards by a qualified civil engineer.

Engineering Conditions

11. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate or issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
12. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
13. Prior to the issue of the Approval to Operate for any stage of the development, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
14. An **ITP** must be submitted for approval with the application for a **PWC**. The supervising engineer or registered surveyor must arrange . The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
 - b Erosion & Sedimentation Controls
 - c Roadworks
 - d Stormwater Drainage
 - e Other Services
 - f 'On Maintenance' (Public Infrastructure)
 - g Practical Completion (Works on Private Property)
 - h 'Off Maintenance' (Acceptance of Public infrastructure by Council)
15. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **TfNSW** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.

16. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address council@clarence.nsw.gov.au. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:

Health and Safety

- a Public safety, amenity and site security;
- b Traffic Control and Management;
- c Pedestrian management;
- d Construction hours;
- e Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
- f Contractor vehicle parking;
- g Locating existing utilities and services
- h Health and Safety requirements.

Environment

- a Air quality management;
- b Erosion and sediment control- base information, monitoring and management;
- c Waste management;
- d Material stockpiling;
- e Vegetation management;
- f No go zones;
- g Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;
- h Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;

Quality

- a Submission of current insurance certificates;
- b Work method description;
- c Construction equipment to be used;
- d Inspection and testing requirements;
- e Earthworks methodologies;
- f Haulage routes;
- g Retaining structure construction methodologies;
- h Concrete jointing methodologies;
- i Subsoil drainage installation methodologies;
- j Stormwater drainage infrastructure installation methodologies;
- k Stormwater Quality Improvement Device installation methodologies
- l Road construction methodologies;
- m Access ways and footway construction methodologies;
- n Landscaping installation methodologies;
- o Utility and services installation methodologies
- p Construction and installation methodologies of other structures not otherwise covered above.

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

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

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

17. For any part of the site that comes under the jurisdiction of another Government department, a Controlled Activity approval (or similar approval) may be required. Any such approval must be obtained and provided to Council prior to issue of the Subdivision Works Certificate.

18. Prior to issue of the Approval to Operate, the applicant is to provide water supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
19. A detailed Water Reticulation Management Plan must be submitted for assessment and approval by Council, prior to commencement of works. This shall include an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows as per AS2419.

Connection to the public water reticulation system requires the approval of Council under the NSW Local Government Act 1993.

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

20. Prior to the issue of the Approval to Operate for Stage 2, access to the site is to be upgraded to provide a minimum intersection treatment of shortened channelised right turn CHR(s), and shortened auxiliary left turn AUL(s), in accordance with Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections (AGRD04A-17). A Road Network Design Plan must be submitted for approval with the application for a **PWC**.

Intersection design must consider and provide details on, the effect on drainage, likely disturbance of Aboriginal objects and potential adverse environmental impacts. Where possible the design should minimise adverse impact on land containing high biodiversity value and endangered ecological communities. An environmental assessment report must be prepared and submitted for approval with the application for a **PWC** to address the above impacts of the intersection works.

Preliminary road pavement design, in accordance with NRDC, must be submitted to Council as part of the PWC approval. Final pavement design will be subject to in-situ CBR tests. Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm for all roads. Details of the bitumen spray-seal designs are to be submitted to Council for approval prior to sealing.

The developer is responsible for upgrade of any existing stormwater infrastructure as a result of the required intersection works. Batters on table/swale drains must be suitable for mowing by domestic mowers which will generally require a batter with a maximum grade of 1 in 6 unless approved by Council. Table/Swale drains within the road reservation must be designed to protect the road pavement from infiltration of surface water. These details shall be included for approval prior to the issue of the **PWC**.

Benkelman beam testing of the constructed road pavement will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam in accordance with RMS Test Method T160.

Works to and on Iluka Road public road reserve requires the approval of Council and concurrence from **TfNSW** under the NSW Roads Act.

21. Where relevant, the intersection design must provide provision for bus and pedestrian movements in and around the intersection. This shall be to Council's satisfaction. Any modification of the existing bus facilities will be at cost to the developer and will require approval from the relevant authorities.
22. Where relevant, dedication of land to Council for the purposes of road widening as result of intersection works shall be provided at no cost to Council.
23. The engineering design plans submitted with the **PWC** application shall include details of linemarking, sign posting, pedestrian facilities and impacts on existing bus facilities and services. All regulatory linemarking and sign posting on public roads shall be submitted to the Local Traffic Committee (LTC) for approval. The applicant shall comply with and amend the proposed design to meet all requirements of the LTC. The works shall not commence until approved by the Committee.

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

The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the commencement of works. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act. The Stormwater Management Plan must include a management plan for any **WSUD** systems. The management plan must consider construction and operational phases.

The Stormwater Management Plan must include maintenance manuals for any **WSUD** systems and Stormwater Management Devices to be incorporated into the property Maintenance Schedule. The maintenance manuals must consider construction and operational phases.

25. Prior to release of the Approval to Operate for Stage 2 and 3, the development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code), NSW Police 'Safer By Design' guidelines and Council's Streetlighting Strategy. Council's Outdoor Lighting Guideline must be taken into consideration as part of the design. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to commencement of works.
26. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked in accordance with the approved plan. The car parking classification is Class 2 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
27. Prior to release of the Approval to Operate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

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

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

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

28. In accordance with NRDC and prior to the release of the Approval to Operate for each stage, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
29. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
30. Prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993 for any stage, certification from the Geotechnical Inspection and Testing Authority who undertook Level 1 inspection and testing, in accordance with AS3798, will be required confirming that each stage is suitable for the intended purpose. All testing as required in AS3798 and NRDC must be submitted.

Erosion and Sediment Control

31. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Approval to Operate under Section 68 of the Local Government Act 1993 is issued.
32. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **PWC** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
33. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
34. 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.
35. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of works. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.

Onsite Waste Water Management

36. The proposed wastewater management system must comply with the Waste Water Management Plan prepared by Earth Water Consulting on the 5th January 2021 and the associated conditions of the Approval to Install an On-Site Wastewater Management System.
37. An Onsite Waste Water Management Application to upgrade the existing waste water system in accordance the Waste Water Management Plan by Earth Water Consulting must be submitted, works undertaken and Approval to Operate Onsite Waste Water System issued prior to the Approval to Operate Manufactured Homes Estate for Stage 2 of the development.
38. A flow meter must be installed on the outlet of the wastewater treatment system prior to commissioning. Flow meter data must be recorded and provided to Council with quarterly reporting of the wastewater treatment system. A permanent record of the flow meter data must be kept by the owner/operator of the wastewater treatment system. The wastewater treatment system must not exceed 30kL/day or an upgrade to the Land Application Area will be required.
39. Vegetation must not be removed or disturbed during installation or operation of the proposed wastewater management system other than that approved by Council.
40. All stormwater and seepage from higher levels is diverted away from the disposal area and must not be directed towards a boundary or neighbouring property in a concentrated flow.

Environmental Health

41. The manufactured home estate must be designed, constructed, maintained, and operated in accordance with the requirements of Part 2, Division 3 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) regulation 2005*. This must be demonstrated prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993.
42. All food preparation and food storage areas shall comply with the requirements of Standard 3.2.3 of Chapter 3 of the Food Standards Code.
43. The mechanical kitchen exhaust hood shall comply with Part F4.12 of the National Construction Code 2011 Building Code of Australia unless documentation is provided to Principal Certifying Authority verifying that power inputs of cooking apparatuses do not exceed those specified in Part F4.12.
44. Flooring within food preparation and food storage areas must be sealed to facilitate effective cleaning, unable to adsorb grease, food particles or water and be laid so there is no ponding of water and unable to provide harbourage for pests. Flooring must be coved at the floor to wall junction.
45. Hand wash basins must be provided and comply with the following:
 - a. Must be of adequate size to allow effective hand washing and hot and cold water supplied through a single outlet; and
 - b. With a supply of liquid soap and disposable paper towels or other means of effectively drying hands
46. A food business must be registered with Council prior to operation. A registration form is available here https://www.clarence.nsw.gov.au/cp_themes/metro/page.asp?p=DOC-DIL-18-34-36
47. All service pipes, condensation pipes and electrical conduits being concealed in the floors, plinths, walls and ceilings or portrayed of the wall to facilitate effective cleaning.

Landscaping

48. A vegetative screening buffer must be provided along the southern boundary of the site and Lot 60 DP802939. A landscape plan as to how this is to be achieved, prepared by a person competent in the field is to be submitted to Council for approval prior to the issue of the Approval to Operate Stage 2. The plan shall indicate the mature height, location, quantity and species of all plantings including local koala food tree species and shall provide details of soil conditions, the planting method and maintenance program.
49. Prior to the commencement of construction, an Unexpected Heritage Finds Procedure for Aboriginal and non-Aboriginal Heritage must be prepared should actual or potential items or areas of Heritage be discovered during construction activities. This procedure must be tool boxed with all work crews and implemented during construction works. Should any Aboriginal or non-Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and Heritage NSW shall be contacted immediately and any directions or requirements of the Service complied with.
50. Any trees or shrubs existing on the site and not directly in conflict with proposed development are to be retained and protected during construction works.
51. All landscaping works are to be completed in accordance with the approved plan prior to the issue of an Approval to Operate for Stage 2 and 3.
52. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.

Environment

53. A Vegetation and Weed Management Plan (VMP) is to be submitted and approved by Council prior to issue of the Approval to Operate for Stage 2.

54. A Site Rehabilitation Plan outlining specific measures to allow for assisted natural regeneration and revegetation (where necessary) within the retained vegetation on the site including monitoring and reporting requirements after the construction phase of the development and once rehabilitation works have been completed.

The Site Rehabilitation Plan must be approved and works completed prior to the issue of the Approval to Operate. The plan should include details of ongoing maintenance and weed management.

55. Prior to vegetation clearing, mature trees must be inspected by a suitably qualified and experienced professional to determine that no fauna including koalas or fauna habitat features (nests, dreys) are present or active. If present, the suitably qualified and experienced professional shall be present during the removal of trees to ensure the potential for fauna injury or mortality is reduced. In the event that fauna are present and require care, fauna must be transported to local wildlife carers or a local veterinary hospital.

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

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

ITEM	6b.21.083	DA2021/0864 – DUAL OCCUPANCY– 581 FIRTH HEINZ ROAD, PILLAR VALLEY
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Karen Nicholls
<i>Owner</i>	Karen Nicholls & Kenneth Nicholls
<i>Address</i>	581 Firth Heinz Road, Pillar Valley NSW 2463
<i>Submissions</i>	N/A

Council has received Development Application DA2021/0864 to relocate a second dwelling onto the subject site approximately 630 metres from the existing dwelling.

The application was notified and advertised, with no submissions received. The Applicant has sought approval for a minor variation under the *Clarence Valley Local Environmental Plan 2011* (the LEP) to the 100 metre maximum distance between dwellings. Consistent with the limits to Council's officer delegations, the variations sought are greater than 10% and require Council determination.

OFFICER RECOMMENDATION

That Council:

1. Support the requested variation under Clause 4.6 – Exceptions to Development Standards of the *Clarence Valley Local Environmental Plan 2011* to enable the proposed second dwelling to be located approximately 630 metres from the existing dwelling; and
2. Approve Development Application DA2021/0864 subject to the draft Advices and Conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Novak

Against: Clancy

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Development Application DA2021/0864 was lodged on 8 October 2021 to relocate a second dwelling at 581 Firth Heinz Road, Pillar Valley. The subject land is zoned RU2 Rural Landscape under the LEP.

A detached dual occupancy is permissible with consent in the zone. The LEP provisions relating to detached dual occupancies include dwellings being located within 100 metres of each other, having sufficient area for on-site effluent disposal and utilising the same driveway access.

The subject land has Chaffin Creek traversing and dividing the property access. The proposal seeks to locate the additional dwelling on land directly fronting Firth Heinz Road, which is located 630 metres from the

existing dwelling. The proposed dwelling site is outside of the 1 in 100 year (1% Annual Exceedance Probability) flood from Chaffin Creek and allows for flood-free access from Firth Heinz Road.

KEY ISSUES

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

The Applicant has requested to vary a development standard pursuant to Clause 4.6 of the LEP, being the 100 metres maximum distance between detached dual occupancy dwellings within the rural zone 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 provided justification for their request to vary the maximum distance in attachment C with a summary provided below:

- a. The application complies except for the variation requested.
- b. Flood free access as Chaffin Creek can flood multiple times throughout the year, restricting access to the existing dwelling.
- c. Objectives of Clause 4.6 are consistent and apply to the circumstance of this application.
- d. Reduced bushfire risk.
- e. Exorbitant costs to provide electricity connection to within 100 metres of the existing dwelling which is not connected.
- f. Minimal impact on the streetscape as the existing dwelling is not visible, therefore only one (1) dwelling will be visible from the road.

Comment - Separation Distance

Due to the flood prone constraint of the site highlighted above by the Applicant, the proposed flood-free building site has been located away from Chaffin Creek and allowing for direct, flood-free access to Firth Heinz Road. The Applicant has suitably addressed the siting of the dwelling in response to constraints and the building site is appropriate for on-site effluent disposal. However, the proposed dwelling is located 630 metres from the existing dwelling, therefore the Applicant is seeking a variation to Clause 4.2D (2)(c) of the LEP.

The separation distance between the two dwellings will not be out of character with the rural locality and will not result in additional land use conflicts given the existing surrounding land uses are a mix of residential and agricultural. The proposed development meets the objectives of the Clause 4.2D, 4.6 and the RU2 zone.

Council officers agree with the Applicant's representations that there are sufficient environmental planning grounds and support the LEP variation to the proposed 630 metre separation between the proposed detached dual occupancy.

Alternatively, Council may not support the requested variation and require the second dwelling to be re-located in a suitable location, 100 metres from the existing dwelling to comply with the controls. This option is not the officer recommendation.

COUNCIL IMPLICATIONS**Budget/Financial**

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

Asset Management

N/A.

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy 55 - Remediation of Land

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 subject to conditions
Development Engineer	Supported
Environmental Health	Supported subject to conditions

Legal and Risk Management

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

Climate Change

The proposed development would contribute to CO₂-equivalent emissions through relocation and operation which are drivers 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	Alex Clark, Trainee Planner
Attachment	A. Proposed Plans B. Section 4.15 Evaluation Report C. Applicant's Clause 4.6 Variation Request

Schedule 1
Draft Advices and Conditions of Consent for DA2021/0864

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 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 The name and licence number of the builder (if not carrying out the work as an owner builder)
3. 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.
4. All conditions of the on-site wastewater management approval shall be complied with prior to occupation of the dwelling.
5. 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-with Part 3.9.2 of
 - 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.
6. 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.
7. An external landing, not less than 750mm long, shall be provided at the threshold of any doorway where the door sill is greater than 3 risers or 570mm above finished ground level.
8. Prior to issue of a Construction Certificate, approval under Section 68 of the Local Government Act shall be obtained from Council for sewerage work, water plumbing and stormwater work. This application can be lodged via the NSW Planning Portal or at Council's office. A site plan and floor plan shall be submitted with the application.
9. Gates to be recessed 12m and open inwards so as not to obstruct/impede traffic.
10. 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

11. A handrail shall be installed to at least one side of a stairway or ramp providing a change in elevation of 1m or more to meet Clause 3.9.2.4 of the BCA.

12. 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.

13. The certificates and documentation requested in this approval (e.g. 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.

14. An exhaust system installed in a kitchen, bathroom, sanitary compartment, or laundry must have a minimum flow rate of-

- 25 L/s for a bathroom or sanitary compartment; and
- 40L/s for a kitchen or laundry

Exhaust from a bathroom, sanitary compartment, or laundry must be discharged-

- Directly to outdoor air via a shaft or duct; or
- To a roof space that is ventilated in accordance with BCA 3.8.7.4.

If an exhaust system discharges into a roof space, it must be ventilated through evenly distributed openings in accordance with;

- <22° Pitch = openings must have a total unobstructed area of 1/150 of the respective ceiling area
- >22° Pitch = openings must have a total unobstructed area of 1/300 of the respective ceiling area

30% of the total unobstructed area must be located not more than 900 mm below the ridge or highest point of the roof space, measured vertically, with the remaining required area provided by eave vents.

15. The Construction Certificate application must include the following information:

- a Details for wind bracing and tie down for the building.

16. 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 has not been nominated. Based on evidence provided 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. You might consider obtaining professional advice from a suitably qualified floodplain consultant prior to deciding the floor level of the proposed dwelling.

This is in no way a representation, warranty, interpretation or inference that Council verifies the suitability of the nominated floor level or otherwise. Council will only advise and/or verify such suitability if a complete flood study in accordance with the DCP is prepared and provided by the applicant. 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.

17. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, wastewater products and the like at all times.
18. The submission of a further Development Application will be required for any further extension of development on the site.

19. Essential Energy's records indicate that there are existing overhead powerlines (and easement) located on the property / across the street frontage of the proposed re-sited dwelling location and in the location of any proposed driveway:
- All proposed improvements, now in and the future, must be wholly constructed outside the easement area.
 - Minimum safety clearance requirements are to be maintained at all times for the proposed driveway access, as such driveway access will pass under Essential Energy's existing overhead powerlines and through the easement located at the front of the property. The driveway must comply with clearances for trafficable land, ground clearances within the easement must be maintained. Refer Essential Energy's policy *CEOM7106.25 Minimum Clearance Requirements for NSW* and the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
 - Any proposed driveway access must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.
 - Any excavation works in this area or works on the driveway must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
20. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to both dwelling(s) in accordance with the NSW Service and Installation Rules.
21. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
22. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
23. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
24. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
25. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

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	Revision
Site Plan & General Notes	Greg Alderson Associates	14/09/21	01 of 08	0
Detail Site Plan	Greg Alderson Associates	14/09/21	02 of 08	0
Proposed Floor Plan	Greg Alderson Associates	14/09/21	06 of 08	0
Proposed Elevations	Greg Alderson Associates	14/09/21	07 of 08	0
Proposed roof	Greg Alderson Associates	14/09/21	08 of 08	0

Plan & Sections				
Notes	Greg Alderson Associates	23/09/21	01 of 02	0
Engineering Plan & Details	Greg Alderson Associates	23/09/21	02 of 02	0

2. A contribution under Section 7.11 of the Act amounting to:

\$7,620

Is to be paid to the Council to upgrade rural roads in accordance with the Section 94 Contributions Plan - Rural Roads. The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the movement in the Consumer Price Index.

3. 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 \$2,638.15 x 1 additional dwelling = \$2,638.15 GL S94CVCOSRuralCoas

Clarence Valley Contributions Plan 2011 Community Facilities

Grafton and surrounds \$2,638.15 x 1 additional dwelling = \$2,638.15 GL S94CVCCFGrafton

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Other Residential Accommodation Dwelling \$49.75 x 1 additional dwelling = \$49.75 GL S94CVCPoMResAcco

N.B.

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

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

4. No construction is to be commenced until a Construction Certificate has been issued.
5. 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.
6. The House Number 1/581 Firth-Heinz Road, Pillar Valley has been allocated to the existing Northern dwelling and the House Number 2/581 Firth-Heinz Road, Pillar Valley has been allocated to the new Southern dwelling. These house numbers shall be clearly displayed so it is visible from the road prior to issue of the Occupation Certificate. Such action can reduce confusion and assist Australia Post, emergency services and the general community. Approval for the site and size of proposed householder mailboxes should be obtained from Australia Post.
7. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
8. Working hours on construction or demolition shall be limited to the following:

7.00 am to 6.00 pm 6 days per week

No work permitted on Sundays and public holidays

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

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

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

10. A vehicular crossing to provide access to the allotment as detailed on the approved plans is to be constructed in accordance with the requirements of Council's Operations Section and be fully completed prior to requesting a final inspection and the issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved by Council prior to any work commencing.
11. 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.

12. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority 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.

13. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued.

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.

14. 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.
15. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.
16. 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.
17. 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.

18. All deteriorated and defective materials are to be replaced by sound materials.
19. The building is to be painted externally.
20. The building is to be set up and completed in a tradesperson like manner.
21. The building is not to be occupied until all work is completed and an Occupation Certificate has been issued.
22. The building is to be completed externally within six (6) months and internally within twelve (12) months of relocation.
23. The subfloor area of the dwelling shall be enclosed on any street elevation and return to the first pier/post down both sides to screen the under-floor area from the street. Horizontal slats, lattice or similar materials are acceptable.
24. 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).
25. An Asbestos Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the asbestos related works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.
26. The dwelling site is located in a bushfire prone area and the bushfire attack level is BAL 19 as determined in accordance with AS 3959 - 2019. The dwelling shall be constructed to a minimum level BAL 19 with full details of how this is to be achieved being shown on the plans/specifications submitted with the Construction Certificate documentation.
27. The following Asset Protection Zone (APZ) Inner Protection Areas (IPA) shall be established around the dwelling prior to the commencement of the building works and maintained in accordance with the requirements of the NSW Rural Fire Service document titled 'Planning for Bushfire Protection 2019' and AS3959 - 2019.
 - North: 30m
 - South: 30m
 - West: 30m
 - East: 30m

The IPA shall have a tree canopy cover of less than 15%; no trees within 10 metres of the dwelling; tree canopies shall be separated by a minimum of 5 metres; and all trees shall have their lower limbs removed to a height of two metres above ground. Shrubs shall be located a minimum of twice the mature height from the dwelling and not exceed 10% of ground cover with regular large gaps between vegetation. All leaves and vegetation debris shall regularly be removed, and grasses shall not exceed 10cm in height. The IPA shall be provided prior to the commencement of any building works and maintained for the life of the dwelling.
28. Inappropriate landscaping within the asset protection zone (APZ) is a significant cause of house loss in a bushfire. Landscaping within the APZ shall comply with Section 7.4 and Table 7.4a of Planning for Bushfire Protection 2019 and be managed and maintained in perpetuity. No gardens or plantings shall be located within 1m of the house. It is recommended a concrete/paved/gravel perimeter path be provided around the dwelling
29. Install a minimum of 20,000 litres water storage tank dedicated for bushfire fighting purposes. A suitable connection for the Rural Fire Service must be made available. In general, a 65mm storz outlet with a gate or ball valve shall be provided. Above ground tanks are to be manufactured out of concrete or metal. Plastic tanks are not to be used.

ITEM	6b.21.084	MOD2021/0029 MODIFICATION OF DA2007/0884 ALTER INTERNAL LAYOUT, CLUBHOUSE AND DWELLING DESIGN, PALM LAKE RESORT, ORION DRIVE, YAMBA
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Palm Lake Works Pty Ltd
<i>Owner</i>	Palm Lake Resort Pty Ltd
<i>Address</i>	Orion Drive Yamba
<i>Submissions</i>	Yes - 4

Clarence Valley Council approved DA2007/0884 at its Council meeting of 11/2/2007 for 78 Seniors Living dwellings, clubhouse, pool and gymnasium, including the clearing of vegetation and filling of land on Lot 2 & Lot 3 in DP833711, Orion Drive, Yamba.

Council has received a request for modification of the development approval which proposes to amend the internal road layout, redesign of clubhouse, redesign of house types and removal of the small caravan/boat storage facility to provide room for a third bio-retention basin.

The application is referred to Council as the original application was approved by Council. This report discusses the issues raised in submissions, intersection upgrade requirements and provides a recommendation for Council consideration.

OFFICER RECOMMENDATION

That Council:

1. Approve the modification to DA2007/0884 as proposed under MOD021/0029 in accordance with the draft amended conditions in Schedule 1 to this report; and
2. Not support the removal of the requirement to upgrade the intersection of Yamba Road and Orion Drive for the following reasons:
 - a. The traffic impact assessment has not applied the appropriate recommended background traffic volumes;
 - b. The proposed development will result in the intersection being near capacity (Level of Service D) and require upgrading to a new intersection control mode;
 - c. Council's Residential Zones DCP- Part J6 requires the road network to be designed to cater for anticipated traffic volumes and the type of traffic generated by future users and to comply with the standards in the NR Design Manuals; and
 - d. Council has resolved to require the intersection upgrade under the original approval DA2007/0884 on 11/12/2007 (Item 08.209.07).

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Simmons, Baker

Against: Clancy, Novak

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Council received an application to modify DA2007/0884 on 3 May 2021. The modification to the original consent has been lodged to update the development layout and design which will allow the resort to deliver a more effective response to the ageing population and market trends. The changes to the layout are shown in Figure 1 below which compares the original layout and proposed layout.

The proposed dwelling types are to be amended to a mixture of eight (8) different types of dwellings of which 3 types are of 2 storey design (29 two storey dwellings). The dwellings shaded green in Figure 1 below shows the proposed two storey dwellings. The dwellings are approved under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and will continue to be compliant with the Policy.

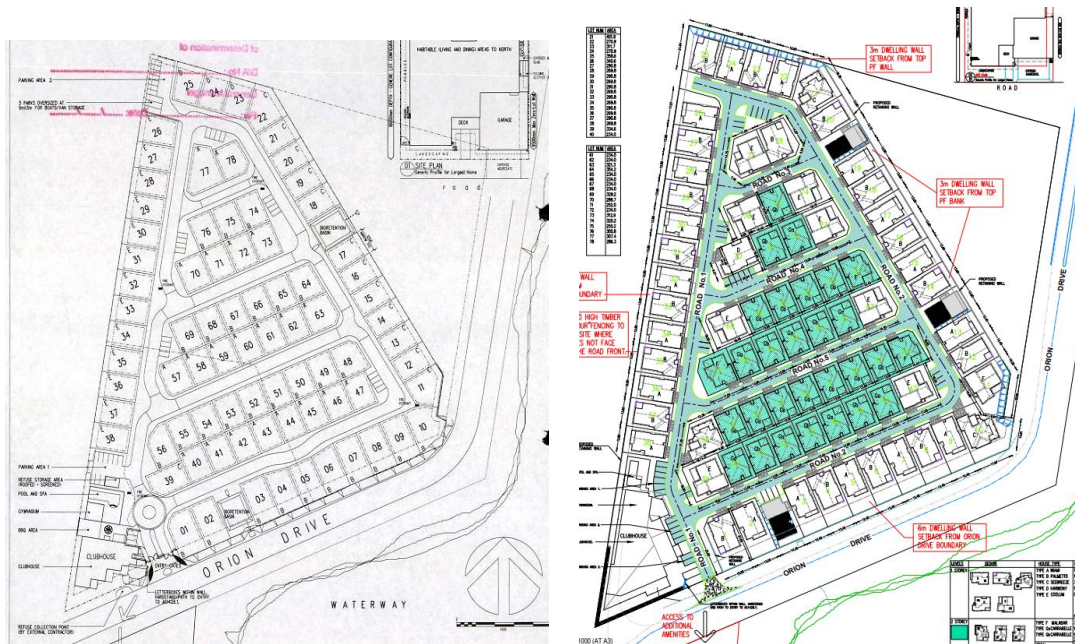


Figure 1: original layout and proposed layout

Following the initial assessment of the application, additional information regarding the Traffic Assessment Report and in particular the criteria used in the assessment for traffic generation and movements was requested.

The traffic analysis used in the traffic report and justification to not undertake intersection upgrading is not supported and is discussed further in the issues section of this report below.

KEY ISSUES

Issue 1: Requirement to upgrade Intersection

In response to an additional information request the applicant provided a consultant’s response to the criteria used in the assessment for traffic generation and movements. The applicant has requested that condition 49 be deleted based on the results of the Bitzios Intersection Assessment dated 14/08/2019.

Condition 49 states:

Upgrading of the intersection of Yamba Road and Orion Drive shall be provided in accordance with Austroads ‘Part 5 Intersections at Grade’ for the speed zone applicable to the intersecting roads and the traffic volumes generated by the subdivision development. Plans for the intersection shall be submitted to and approved by Council prior to the issue of a Construction Certificate for the works. The design proposed shall specifically be aimed at reducing the current and future delay times and queue lengths for vehicles turning right into Yamba Road from Orion Drive. Delay times shall be limited to an absolute maximum of 15 seconds per vehicle and queue lengths shall be limited to 6 vehicles. Intersection improvement works shall form part of the required development works for the site.

Comment

Council officers support the proposed modification with the exception of the applicant's justification that an upgrade of the intersection of Yamba Road and Orion Drive is not required. Council's Development Engineers have determined that on completion of the development the intersection will be at capacity and require upgrading.

Council's Development Engineer has provided the following comments in regard to the applicant's traffic assessment:

a. Revised SIDRA intersection analysis

The revised analysis does not consider background traffic produced by the Orion Drive catchment. The revised analysis applied a 1.5% growth rate for Yamba Road and has not applied the requested 3.0% cumulative growth rate. The revised intersection analysis is not accepted as an accurate indication of traffic impacts on the road network

b. Intersection Level of Service (LOS) Criteria

The response from the applicant refers to Table 4.2 of Roads and Maritime Guide to Traffic Generating Developments (2002) for intersection LOS. It is noted that section 4.2.2 states that ***'In Many situations, a comparison of the current and future average delay provides a better appreciation of the impact of a proposal...'***. With this in mind, the following observations are made in relation to the SIDRA analysis results originally provided:

- The proposed development results in a reduce Level of Service (LOS) from LOS - C to a LOS - D (i.e. increase in over 9 seconds of delay). This means that increased traffic from the development will cause the existing intersection to go from a satisfactory capacity to near capacity. In all cases the maximum wait time exceed 15 seconds.
- The overall increase in intersection delay goes from 18.9 seconds in 2020 to 49.3 seconds – and will result in an increase in over 30 seconds in delay time.

The request to remove condition 49 is not supported based for the following reasons:

- The traffic impact assessment has not applied the appropriate background traffic from existing development within the Orion Drive network catchment. The assessment adopted a background traffic volume of 66 vehicles approaching the Yamba Road intersection from Orion Drive in the AM peak. Council assessment indicates that an approximate maximum of 159 vehicles can be expected in the AM peak from Orion Drive based on the existing development within the catchment area. The traffic generation rates, and assessment was based on the current Transport for New South Wales traffic generation rates.
- The proposed development will result in the intersection being near capacity (Level of Service D) with a maximum wait time for the right turn manoeuvre, from Orion Drive onto Yamba Road, of 49.3 seconds. It is again noted that this assessment did not include appropriate background traffic in this result. Therefore, it is expected that, with the correct background traffic, the intersection will be at capacity and require a new intersection control mode.

The intersection upgrade was assessed and required under the original approval of DA2007/0884 in January 2008 which was approved by Council resolution 11.12.2007. The requirement to upgrade the intersection should still be required as the additional 78 dwellings will result in a significant increase in traffic generation and impact on the intersection.

The traffic impact assessment provided by the applicant has not considered the correct background traffic volumes and projected data which underestimates traffic movements from the development. The objective of Council's DCP and the specific DCP controls are in place to ensure that the road design is safe and suitable for vehicles, pedestrians and bicycles in residential development (Part A2(c) – DCP Objectives, Part G Parking and Vehicular Access Controls, Part J – Subdivision and Engineering Controls).

When compared with the correct current traffic volumes the intersection will be at capacity meaning that the intersection will become dangerous for vehicular, pedestrian and bicycle movements. Council should not accept a lesser and unsafe standard of road design nor should rate payers be burdened with the future expense of the road and intersection upgrade.

Issue 2 - Issues raised in submissions

The application was notified and advertised in accordance with Council's Community Participation Plan and four (4) submissions were received from the exhibition of the application.

Comment

The following comments are provided to the issues raised in the submissions. The applicant has also provided a response to the issues raised which addressed concerns raised and is included as an attachment to this report.

- **Alternate pedestrian access, bin storage and collection point, filling of the site, bushfire considerations, amount of fill**

Comment

The Pedestrian Access and Mobility Plan (PAMP) has been provided to Council's Civil Services for assessment. Council will need to approve the plan prior to the issue of a Construction Certificate.

The bin storage will be required to be provided on-site. As there is some uncertainty as to the ability to collect waste internally or on the roadside Council has required that the applicant submit a waste management plan for the ongoing collection of waste.

Council requires that dwellings have habitable floor areas above the flood and parts of the site have been approved for filling to meet the minimum requirement of 2.5m Australian Height Datum.

The site is not mapped as being bushfire prone land.

- **The modification proposed is not substantially the same as the original development (double storey club house, larger main entrance, 37% increase in 2 storey dwellings, development impacts, large retaining walls, accessibility issues).**

Comment

Consent authorities are required to consider if a modification is substantially the same development (qualitatively and quantitatively) and whether the proposal is not a radical transformation to that approved. A S4.55 modification under the *Environmental Planning and Assessment Act 1979* also requires the consent authority to consider those matters listed in S4.15 which are required under a normal development application.

By comparison to the buildings that have been approved on the site there will be minor changes to the layout and appearance of the dwellings other than an increase to the number of two storey dwellings. These are not inconstant to other types of residential development that could otherwise be approved on residential zoned land. The development is considered to be substantially the same development to that approved.

The proposal was approved under *State Environmental Planning Policy (Housing for Seniors or people with a disability) 2004*. A height limit of 8m is required under the Policy and 2 storey dwellings are permitted. The amended dwellings are still self-contained dwellings consistent with the Policy.

Filling of the site and retaining walls will only be required to contain fill and retain soils along boundaries where the adjoining land is a lower level.

By comparison the footprint of the clubhouse and elevations show that while the clubhouse design has been amended it will present as a two-storey building and cover the same footprint in the (see figure 1 and figures 2 & 3).

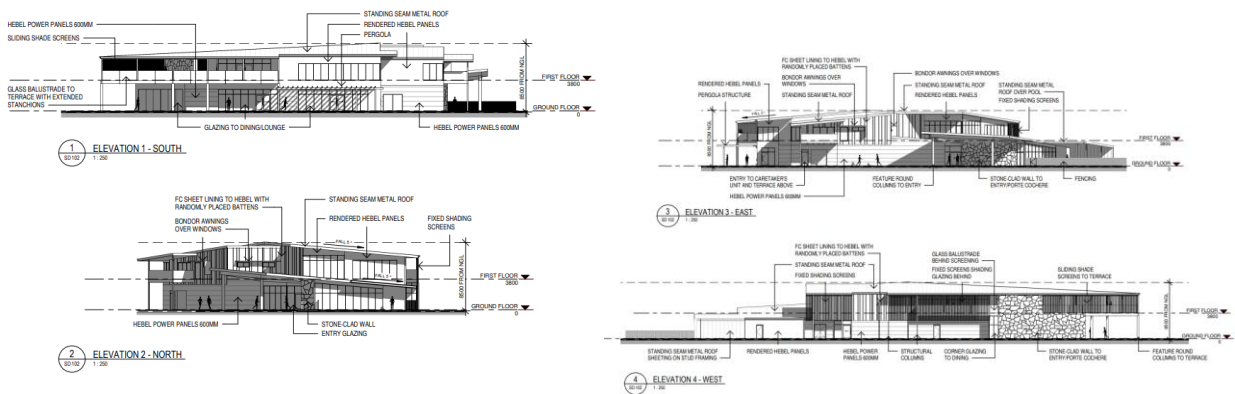


Figure 2: Elevations of modified clubhouse

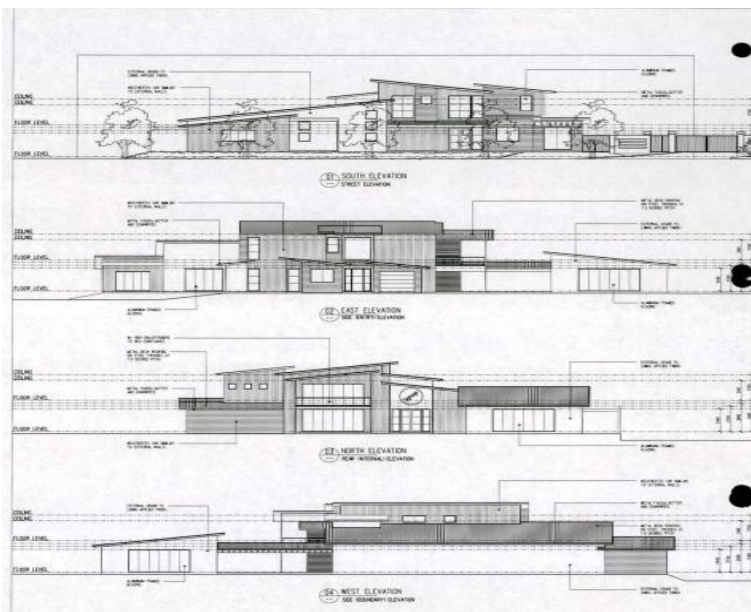


Figure 3: Elevations of previous approve clubhouse

- **Access to original documentation, lack of detail on parking and parking for recreational vehicles and removal of parking facilities for stormwater management, vegetation to be removed should be mulched, offset contributions not acceptable, filling of land and negative impacts on surrounding lands.**

The applicant has lodged amended plans with the application that have been considered regarding the original approval. Access to Council documentation can be applied for through an informal information request where documents that were public documents can be made available.

The requirement to provide additional parking for recreational vehicles is not a requirement for the development nor under the seniors housing state policy. Accessible parking spaces are required in accordance with the Building Code of Australia.

Mulching is the preferred method to process cleared vegetation and common practice is to reuse mulch for ground cover and to prevent sediment moving offsite.

The offset contributions were subject to offsetting requirements under the Fisheries Management Act. An appropriate offset has been provided by the previous developer to NSW Fisheries satisfaction.

The site has approval for filling and the site will be required to be managed to prevent sediment leaving the site. There will be cut and fill of the soils on-site and a deficit of fill will be transported to the site. The soils are classified as potentially containing Class 2 acid sulfate soils. Any earthworks will require appropriate controls to manage soils in accordance with the Acid Sulfate Soils Manual.

- **Housing for seniors and people with a disability, fire rating applied to double storey dwellings, density of development, impacts of construction works**

Comment

The requirement for the development to provide housing for seniors and for persons with disabilities and the imposition of a restriction on the development will remain as a condition of consent. The requirement for the buildings to be accessible as per the original approval will remain a requirement of the consent. There are no changes to the overall footprint of the development and the density of the development essentially remains the same to that approved.

There will be an unavoidable temporary impact from construction activities and in particular on the road network. The impacts from construction traffic and trucks transporting fill to the site can be suitably managed under construction management plans.

Issue 3: Amendments to conditions

The applicant has sought amendments to the conditions of consent as described in the Statement of Environmental Effects.

Comment

These are generally supported with conditions to be amended or deleted as shown **bold** in the amended conditions in Schedule 1 of this report. Condition 49 has been retained in the conditions of consent.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

The upgrade of the Yamba Road and Orion Drive intersection will result in improvements to Council's infrastructure. The development will be connected to Council's servicing infrastructure at full cost of the developer.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Development in Residential Zones Development Control Plan.

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Environmental Health Officer	Supported with conditions
Development Engineer	Supported with conditions (except for intersection upgrade)
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	A. Amended Plans D. Statement of Environmental Effects
To be Tabled	B. Submissions C. Applicant's response to submissions E. S4.55 Assessment

Schedule 1 - amended draft conditions**Advices**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. The following information shall be submitted to the Council or Principal Certifying Authority prior to issue of a Construction Certificate:
 - a. Home Owners Warranty Certificate or copy of the Owner Builder Permit.
 - b. Structural Engineers details for footings/slabs/structural steel/tie downs and bracing.
 - c. The name and licence number of the builder.
3. The Environmental Planning and Assessment Act 1979 now makes it possible for applicants seeking the issue of a Construction Certificate to obtain these documents from either Council or a private certifier who is accredited as a Principal Certifying Authority.
4. A private certifier acting as a Principal Certifying Authority who issues a Construction Certificate must forward a copy of the certificate along with a copy of the plans to which the certificate relates, to Council at least two days before work commences on the development.
5. Any contributions must be paid to Council prior to a Construction Certificate being issued.
6. Prior to work commencing on a development the applicant must notify Council of the name of the Principal Certifying Authority and give notice to Council of their intention to commence work on the development. Such notice shall be in the form of Form 7 of the Regulation and must be submitted to Council at least two (2) days before work commences.
7. If Clarence Valley Council is chosen as the Principal Certifying Authority the applicant must give Council 24 hours notice to permit an inspection of the following components of the building process:
 - a. Pier holes prior to pouring concrete;
 - b. Footing trenches or concrete pads when reinforcement is in position and prior to pouring concrete;
 - c. Floor slab when reinforcement is in position and prior to pouring concrete;
 - d. Framework with roof covering in position and prior to internal linings being installed;
 - e. Ant capping and termite protection prior to flooring being laid;
 - f. Sanitary drainage lines when laid and under water test;
 - g. On completion of the building and prior to occupation.
8. Access to the ~~building~~ **clubhouse** for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1.

Accessible facilities for the use of the disabled shall be provided as specified in Clause F2.4 of the Building Code of Australia and shall be constructed to the requirements of AS 1428.1-2009.
9. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
10. All construction and components must comply with the Wind Rating for the site which has been assessed at N1, N2, N3, N4.
11. All timber used shall comply with the Timber Framing Code AS 1684, in regard to size, spacing, span and method of fixing.
12. The floor level of habitable rooms is to be a minimum of 2.5 metres Australian Height Datum.
13. A Certificate indicating the height of habitable floors on the ground floor (related to Australian Height Datum) is to be forwarded to the Principal Certifying Authority:
 - In the case of timber floors, on completion of the floor framing;
 - In the case of concrete slabs when formwork is in place but prior to pouring concrete.

This Certificate is to be provided by a Licensed Surveyor, Certified Engineering Surveyor or Engineering Surveyor approved by the Deputy General Manager of Civil Corporate or the District Health & Building Surveyor.

No further work is to be carried out on the building until such Certificate is provided to the Principal Certifying Authority.

14. The manufacturer's details of the Roof Trusses are to be submitted to Council prior to the commencement of this stage of construction.
15. 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 3.7.2 of the Building Code of Australia (Housing Provisions), shall be installed in the dwelling(Delete)/in each dwelling unit. A licensed electrical contractor's installation certificate is to be submitted to Council prior to occupation of the dwelling(s).
16. The Construction Certificate application must include the following information:
 - a. A Structural Engineer's design for all footings, floor slabs, concrete walls, columns, roof and stairs.
 - b. A compliance certificate or other form of documentary evidence from a practising Structural Engineer confirming the satisfactory fabrication and holding down requirement of the portal frames.
 - c. A compliance certificate or other form of documentary evidence from a Structural Engineer's certificate to certify that the building complies with the requirements of the NSW Specification B1.3 of the Building Code of Australia.
 - d. Details for wind bracing and tie down for the building.
17. The concrete slab floor shall be treated against termites in accordance with AS 3660-1 (2000) (the standard) as follows:-
 - (a) NON CHEMICAL - where a non chemical treatment (physical barriers) is to be used the applicant shall submit details to Council prior to any work commencing.
 - (b) CHEMICAL RETICULATION - where a chemical method of treatment is to be used by way of reticulation, details shall be provided to Council for approval prior to installation accompanied by a signed Maintenance Contract with a Pest Control Operator.

NB: Applicants and owners are warned to ensure that annual inspection to determine need for treatment should be carried out.
 - (c) CHEMICAL TREATMENT - where a chemical method of treatment is to be used by way of hand spray treatment before laying the slab, details shall be provided to the Council for approval prior to installation.

WARNING - Applicants and owners are warned that the expected life of the under floor barrier (chemical treatment) is only ten (10) years and of the external barrier (chemical treatment) is only five (5) years.
The actual period of protection will depend on factors such as termite hazard, climate and soil conditions.

RECOMMENDATION
Council recommends in all cases of chemical treatment including chemical reticulation that regular annual inspection be carried out by a licensed Pest Control Operator to determine the need for re-treatment.
 - (d) Upon installation of the method of treatment a Certificate shall be issued to Council by the licensed installer of the system certifying that the system installed is in accordance with AS 3660-1 and in accordance with any specific requirements of the Council.
 - (e) A durable notice must be permanently fixed to the building in the electricity meter box indicating:
 - i) the method of protection
 - ii) the date of installation of the system
 - iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label
 - iv) the need to maintain and inspect the system on a regular basis.

NB: The Department of Fair Trading requires a whole house treatment to be carried out and you should contact them for detailed advice.

18. In a building required to be accessible, braille and tactile signage complying with Specification D3.6 of the Building Code of Australia and incorporating the international symbol of access or deafness, as appropriate, in accordance with AS 1428.1-2009 must identify each sanitary facility; space with a hearing augmentation system and door with a required 'exit' sign.

Conditions

1. The development shall be completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, and being generally in accordance with the following plans ~~Council approved stamped plan(s) submitted with the Development Application~~, or where modified by any conditions of this consent.

Drawing	Drawn by	Dated	Sheets	Ref.
Master Plan Stages	Palm Lake Works	29.04.21	1 of 4	YA-CP-2018
House type	Palm Lake Works	29.04.21	2 of 4	YA-CP-2018
Site Plan	Palm Lake Works	29.04.21	2 of 4	YA-CP-2018
Site Plan	Palm Lake Works	29.04.21	2 of 4	YA-CP-2018
Carrabelle – Ground Floor	Palm Lake Works	1.06.21	3 of 17	YA-X-XXX
Carrabelle – First Floor	Palm Lake Works	1.06.21	4 of 17	YA-X-XXX
Carrabelle – Elevations	Palm Lake Works	1.06.21	9 of 17	YA-X-XXX
Carrabelle – Elevations	Palm Lake Works	1.06.21	10 of 17	YA-X-XXX
Malabar – Ground Floor	Palm Lake Works	1.06.21	3 of 17	YA-X-XXX
Malabar – First Floor	Palm Lake Works	1.06.21	4 of 17	YA-X-XXX
Malabar – Elevations	Palm Lake Works	1.06.21	9 of 17	YA-X-XXX
Malabar – Elevations	Palm Lake Works	1.06.21	10 of 17	YA-X-XXX
Miami – Ground Floor	Palm Lake Works	1.06.21	3 of 14	YA-X-XXX
Miami – Elevations	Palm Lake Works	1.06.21	7 of 14	YA-X-XXX
Miami – Elevations	Palm Lake Works	1.06.21	8 of 14	YA-X-XXX
Seabreeze Type H – Floor Plan and Elevations	Palm Lake Works	1.06.21	1 of 1	-
Coolum 3 Type G – Floor Plan and Elevations	Palm Lake Works	1.06.21	1 of 1	-
Harmony Type D – Floor Plan and Elevations	Palm Lake Works	1.06.21	1 of 1	-
Palmetto – Ground Floor	Palm Lake Works	1.06.21	3 of 14	YA-X-XXX
Palmetto i – Elevations	Palm Lake Works	1.06.21	7 of 14	YA-X-XXX
Palmetto – Elevations	Palm Lake Works	1.06.21	8 of 14	YA-X-XXX

2. The applicant shall surrender the Development Consents DA93/3007 and DA95/174 in accordance with Section 97 of the Environmental Planning Assessment Regulations 2000 prior to the release of the Construction Certificate for Civil works.
3. The Permit under the Fisheries Management Act for the compensatory wetlands area on Part Lot 11 in DP 1029899 shall be approved by the Department of Primary Industries prior to the release of the Construction Certificate for Civil Works.
4. This development shall only accommodate of the following residents:
seniors or people who have a disability,
a) people who live within the same household with seniors or people who have a disability,
c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

As defined by the SEPP (Housing for Seniors or People with a Disability) 2004.

5. A restriction as to user shall be registered against the title of the subject property on which the development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to the following residents:
- seniors or people who have a disability,
 - people who live within the same household with seniors or people who have a disability,
 - staff employed to assist in the administration of and provision of services to housing provided under this Policy.

As defined by the SEPP (Housing for Seniors or People with a Disability) 2004.

A copy of this restriction shall be lodged with Council prior to occupation of the development.

6. ~~A Pedestrian Access and Mobility Plan (PAMP) to demonstrate options for senior pedestrians to gain access to existing facilities such as the bus stop, shopping centre and medical facilities shall be submitted in accordance with the requirements of the SEPP and approved by the RTA and Council prior to the issue of the Construction Certificate for Civil Works.~~

The development must be carried out in generally as per the Pedestrian Access and mobility plan dated 16 August 2019 prepared by Bitzios Consulting and in accordance with NSW Road and Maritime Services guidelines. Prior to the issue of an occupation certificate, all pathways must be completed to Council's satisfaction.

7. **Working/Construction Hours**

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

7.00 am to 6.00 pm 7 days per week

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.

Waste materials shall not be burnt on site but are to be disposed of to an approved recycling service or waste depot.

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

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

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

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

A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.

10. **Toilet Facilities** 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 on the site. Each toilet provided must be:
- A standard flushing toilet, connected to a public sewer, or
 - An approved temporary chemical closet.

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

11. **Signage** A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) Stating that unauthorised entry to the work site is prohibited.
 - (b) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
 - (c) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - (d) Any such sign is to be removed when the work has been completed.
12. The development shall comply with the requirements of SEPP (Housing for Seniors or People with a Disability) 2004.
13. Pumps serving rainwater storage tanks to be enclosed with an acoustic enclosure so as to reduce the likelihood of noise nuisance.
14. The development is not to be occupied or used until such time as an occupation certificate has been issued.
15. Prior to the Principal Certifying Authority issuing an Occupation Certificate, completion of all requirements listed in the relevant BASIX Certificate for the subject development shall be completed/installed.
16. Prior to the issue of an Occupation Certificate the principal contractor responsible for the construction work shall provide Council with a certificate which states that **all commitments** listed within the current Basix Certificate (quoting number and date) have been installed in accordance with the requirements of that Basix Certificate.
17. **Dwellings and Outbuildings** The head contractor or owner-builder must give the principal certifying authority at least 48 hours notice to enable the following inspections to be performed at the appropriate time. For Class 1 or 10 buildings (dwellings and outbuildings), the building work must be inspected:

At the **commencement** of the building work, and
After excavation and placement of reinforcement and prior to placement of concrete for any **footings**, and
After reinforcement is in positions and prior to pouring any **in-situ reinforced concrete** building element, and
Prior to covering of the **framework** for any floor, wall, roof, or other building element, and
Prior to covering **waterproofing in any wet areas**, and
Prior to covering any **stormwater drainage** connections, and
After the **building work has been completed** and prior to occupation.

If any of these inspections are not performed an Occupation Certificate cannot be issued for the building.
18. Council in determining the subject application advises the applicant to take note of the following advice and consent conditions and where pertinent to convey the advice and consent conditions to future owners or tenants of the development.
19. Prior to work commencing on a development the applicant must notify Council of the name of the Principal Certifying Authority and give notice to Council of their intention to commence work on the development. Such notice shall be in the form of Form 7 of the Regulation and must be submitted to Council at least two (2) days before work commences.
20. No civil construction works shall be commenced until a Construction Certificate for civil works has been issued.
21. Occupation of the road reservation is to be minimised and where absolutely necessary the appropriate approvals for traffic management and construction traffic shall be obtained and shall be in accordance with the consent conditions of this approval. Any approval shall be in accordance with Section 138 of the Roads Act.

22. The control of erosion and silt discharge will involve works and measures on site, and possible additional silt retention works. Details of proposed control works are to be submitted to and approved by Council prior to the issue of any Construction Certificate.
23. No work on the site including the removal of vegetation or topsoil may be undertaken until a construction certificate is issued by Council.
24. The civil works shall be designed and constructed in accordance with Council's Engineering Standards current at the time of approval of Engineering Plans. Approval of Engineering Plans will be current for a period of two years after which time Council may require the alteration to Engineering Design to comply with standards current at that date.
- ~~25. The current Engineering Standards are ;~~
- ~~1. The Northern Rivers Local Government Development and Design Manual Version 2 (AUS-SPEC)~~
 - ~~2. The Northern Rivers Local Government Construction Manual Version 2 (AUS-SPEC)~~
 - ~~3. The Northern Rivers Local Government Handbook of Stormwater Drainage Design – Draft Version 1.~~
 - ~~4. Sewerage Code of Australia (WSA 02 – 2002)~~
 - ~~5. Water Supply Code of Australia (WSA 03 – 2002)~~
- ~~_____ and are referred to hereafter in this document as NR2.~~
26. Throughout the advices and conditions civil works shall mean :
- Earthworks
 - Roadworks
 - Drainage
 - Structures
 - Water & Sewerage Reticulation
 - Flood Mitigation
 - Parking areas
 - Provision of Services
27. Throughout the advices and conditions civil works shall mean works that shall become Council owned and maintained infrastructure.
28. The design of internal civil infrastructure shall consider the effects of the development on adjacent properties and on Council owned and maintained infrastructure. With respect to stormwater design this shall include the effects of the major and minor stormwater flows within the development site, through the development site and flowing from the development site.
29. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
30. The following contributions are required for approval under section 68 of the Local Government Act for water reticulation works being new works, upgradings or augmentations that will be of benefit to the development:

Payment to Council of the following contributions pursuant to Section 68 of the Local Government Act, 1993:

Proposed number of houses.

Water Headworks – \$ 4,231 x 76 = \$ 321,556.00

Sewer Headworks - \$ 8,462 x 37 = \$ 323,094.00

Proposed clubhouse & gym

Water Headworks-\$4,231x.008x631m2 = \$ 21,358.09

Sewer Headworks- \$8,462.00x.013x631m2= \$ 90,754.95

Total water Headworks- \$342,914.09

Total Sewer Headworks - \$413,848.95

31. The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.
32. A certificate shall be submitted to Clarence Valley Council stating that the development complies with the requirements under Part 3 Clause 16 of the Local Government (Water Services) Regulation 1999, in regard to water supply.
33. ~~A water supply infrastructure design to service the subdivision in accordance with Clarence Valley Council standards for reticulated water supply to residential properties shall be prepared by a suitably qualified professional engineer. The design shall include but shall not be limited to the provision of a booster pump to maintain adequate water pressure for normal residential use at the upper most dwelling envelope and for fire fighting purposes, a high level reservoir to provide back up domestic and fire fighting water supply and a maintenance manual for the entire system.~~

The applicant is to provide water supply infrastructure to service the development from a Council approved connection point and / or water meter, in accordance with the requirements and specifications of Clarence Valley Council, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.

Amended by MOD2008/0018 on 26 March 2008

34. ~~A detailed Water Reticulation Management Plan shall be submitted for assessment and approval by Clarence Valley Council Water & Wastewater Section, prior to the issue of a Construction Certificate. This shall include consideration of the approved bushfire management plan and an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including firefighting flows.~~
A detailed Water Reticulation Management Plan shall be submitted for assessment and approval by Clarence Valley Council, prior to the issue of a Construction Certificate. This shall include details of the internal water reticulation scheme, the hydraulic details and an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows.
Amended by MOD2008/0018 on 26 March 2008
35. The developer is to construct civil works, at own cost, in accordance with NR2 and in accordance with the Construction Certificate issued by Council and under the supervision of a professional engineer or land surveyor approved by the Deputy General Manager Civil and Corporate. The Council will hold a bond for an amount to be determined against the maintenance of the works until such time as Council is satisfied to take over the system.
36. The developer is responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development and to construct, at own cost, all works required for the development and in accordance with the Civil Construction Certificate issued by Council and under the supervision of an engineer or surveyor approved by the Deputy General Manager Civil and Corporate.
37. Full plans showing details of all civil works designed in accordance with NR2 and prepared by a professional engineer or land surveyor approved by the Deputy General Manager Civil and Corporate shall be submitted to Council for assessment and approval, prior to the issuing of a Construction Certificate.
38. ~~A detailed erosion and sediment control plan which has been prepared by a specialist professional in the area of soil and water management must be submitted to and approved by Council before the Construction Certificate is issued.~~

Prior to the issue of a Construction Certificate, an erosion and sediment control plan prepared by a suitably quality person must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through installation of those control devices.

39. The payment to Council of the schedule fee for development construction certificate/supervision is required in accordance with the adopted fees and charges current at the time of issuing the Construction Certificate.
40. The development is to be connected to all available services (water, sewer electricity and telephone) prior to issue of any Occupation Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the development/applicant.
41. Where occupation of the road reserve is proposed a **Traffic Control Plan** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the road reserve. This plan must be prepared by a person authorised by the RTA to prepare Traffic Control Plans and must be approved by Council prior to the occupation of the road reserve.
42. A **Construction Management Plan** documenting the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve must be submitted to and approved by Council prior to the issue of the civil and building construction certificates. If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries this area must be identified in the Construction Management Plan. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.

Telecommunication and Power

43. Telephone services are to be installed underground.
44. Council must be provided with a written Pre-Provisioning Confirmation, or similar written advice, issued by Telstra or other recognised telecommunications service provider confirming that arrangements have been made with the relevant developer to have these services provided to the particular development prior to issue of any Occupation Certificate.
45. ~~The applicant must provide at their own cost, underground electricity to the requirements of Country Energy or other recognised electricity provider to all dwellings within the development site. Prior to the Issue of any Occupation Certificate, Council will require satisfactory evidence that all contributions to Country Energy for underground electricity have been lodged and all requirements of that Authority have been complied with for the whole development site.~~

Prior to the issue of an occupation certificate, the applicant is responsible to provide underground electricity in accordance with the requirements of the electricity supply authority.

Road works

46. The internal access roads shall have full road construction, 30mm minimum depth of compacted asphaltic concrete surface over a minimum compacted pavement depth of 300mm. The AC mix and depth of pavement shall be designed in accordance with the estimated maximum traffic loading or the ESAs specified in NR2 whichever is the greater.
47. The provision and dedication of minimum 3 metre by 3 metre splays at the street intersections in the subdivision is required.
48. The intersection of the internal access road and Orion Drive shall be designed in accordance with Austroads 'Part 5 Intersections at Grade' for the speed zone applicable to Orion Drive and the traffic volumes generated by the subdivision development. Plans for the intersection shall be submitted to and approved by Council prior to the issue of a Construction Certificate for the works. Intersection construction shall form part of the required development works for the site.
49. Upgrading of the intersection of Yamba Road and Orion Drive shall be provided in accordance with Austroads 'Part 5 Intersections at Grade' for the speed zone applicable to the intersecting roads and the traffic volumes generated by the subdivision development. Plans for the intersection shall be submitted to and approved by Council prior to the issue of a Construction Certificate for the works. The design proposed shall specifically be aimed at reducing the current

and future delay times and queue lengths for vehicles turning right into Yamba Road from Orion Drive. Delay times shall be limited to an absolute maximum of 15 seconds per vehicle and queue lengths shall be limited to 6 vehicles. Intersection improvement works shall form part of the required development works for the site.

Stormwater Drainage

50. All stormwater is to be collected within the property and discharged in accordance with NR2 and the relevant Clarence Valley Council Development Control Plans (including Parts F, G, H & R). Detailed plans of site drainage and a Stormwater Management Plan shall be submitted for assessment and approval by Council prior to issue of a Construction Certificate.

Compliance Certificate

51. Submission of Work as Executed Plans for works covered within this consent and a certification from the professional engineer or land surveyor that the works have been constructed in accordance with the approved plans and specifications, prior to the release of the Subdivision Certificate.
52. A maintenance bond to the value of 5% of the contract value for works that will become Council infrastructure is to be lodged with Council prior to the issue of the Compliance Certificate. All work is subject to a maintenance period of six (6) months from the date of Practical Completion as certified by Council.

Vehicular Access

53. Driveways and vehicular accesses to all dwellings in the development, shall be provided in accordance with the requirements of the AS2890.1, NR2 and Parts E and H of the relevant Clarence Valley Council Development Control Plan.
54. ~~The internal road layout (including turning paths) shall be designed to ensure there is adequate provision for domestic and service vehicles to manoeuvre in a forward manner to comply with AS2890.1 Off Street Car Parking. The designs shall be submitted to and approved by Council prior to the issue of a Construction Certificate for any works on the site.~~

Prior to the issue of a construction certificate, the internal road layout must be designed to ensure adequate provision for domestic and service vehicles to manoeuvre in a forward manner to comply with AS2890.1 Off Street Car Parking and submitted to certifying authority for approval.

Earthworks

55. All earthworks are to be designed and detailed in accordance with NR2 and the relevant Clarence Valley Council Development Control Plans (including Parts F, G, H & R). Detailed plans of earthworks including an Earthworks Management Plan which should include or be included within the Soil and Water Management Plan shall be submitted to Council for assessment and approval by Council prior to issue of a Construction Certificate. The scope of earthworks should be minimised as much as possible due to the erodible nature of the natural soils.
56. The applicant or party acting upon this development consent is to ensure that vehicles or plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become un-trafficable for other road users particularly during wet weather. Any such damage is to be rectified immediately.
57. Details of filling are to be submitted to the Principal Certifying Authority for approval prior to the commencement of work and must include area and depth to be filled, type and origin of fill material and measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the free passage of surface stormwater away from affected sites.
58. Any fill earthworks to be undertaken on the site shall be carried out in accordance with the placement and compaction of fill described in AS 3798. A practising geotechnical engineer shall

advise the standard of the filling and compaction in accordance with AS 3798 such that the work will be suitable for the intended purpose.

59. The source of any fill material is to be identified and a report from a practising geotechnical engineer certifying that the material is suitable for the intended purpose provided prior to commencement of work. The report to include any conditions on the use of the material and a report from a registered NATA laboratory on the soil properties of the fill material

Should there be any change in the source of fill to the Principal Certifying Authority must be notified and approval obtained to the new source prior to the import of any of the material. A report from a practicing geotechnical engineer certifying that the new source material is suitable for the intended purpose must be provided. The report to include any conditions on the use of the material and a report from a registered NATA laboratory on the soil properties of the fill material

Sewerage

60. The applicant is to provide sewerage reticulation infrastructure to service the development, from a Council approved connection point, in accordance with the requirements and specifications of Clarence Valley Council Water & Wastewater Section, the relevant Clarence Valley Council Development Control Plans (including Parts F & H) and NR2. Sewerage must be available prior to issue of any Occupation Certificate.
61. A detailed Sewerage Reticulation Management plan shall be submitted for assessment and approval by Council, prior to the issue of a Construction Certificate.
62. Council will require satisfactory evidence that all requirements of Clarence Valley Council Water & Wastewater Section have been complied with.

Erosion and Sediment Control

63. No work on the site including the removal of vegetation or topsoil may be undertaken until the erosion and sediment controls are in place in accordance with the approved erosion and sediment control plan.
64. All sediment and erosion control measures are to be constructed to prevent sediment from leaving the site or entering downstream properties, drainage lines, watercourses or environmentally sensitive areas. Control measures are to be constructed in accordance with the approved Erosion and Sediment Control Plan for the site
- ~~65. Disturbance of the site must only occur on areas indicated on the approved plans.~~
66. A sediment control fence must be installed at the down slope perimeters of the disturbed area to prevent sediment and other debris from leaving the site.
67. Vehicular access to the site is to be restricted and where possible only one access point is to be provided. Any access point shall be stabilised.
68. Stockpiles of erodible materials (sand, soil, spoil and vegetation) must be protected by a sediment fence or bund. If the stockpile area is prone to high winds or is to be in place for two weeks or longer, the stockpile must be covered or treated in a method approved by Council.
69. All fuelling of plant to be undertaken in a fully bunded area, away from trees/vegetation to be retained.
70. Fuel, oils and chemicals shall be stored in a fully bunded area. The capacity of the bund must be at least twice the maximum volume stored.
71. 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.

Developer Contributions

72. **YAMBA CATCHMENT:** Payment to Council of the contributions pursuant to Section 94 of the Environmental Planning and Assessment Act:

(a) Open Space/Recreation Facilities Contribution Plan 1993

(i) Yamba Regional \$82.00 x 2 persons x 76 \$12,464.00
GL S94OpenSpaceReg

Passive \$56.00 x 2 persons x 76 \$8,512.00
GL S94OSYambaPas

Active \$495.00 x 2 persons x 76: \$75,240.00
GL S94OSYambaAct

(b) Community Amenities & Services Contributions Plan 1993

Yamba Catchment: Regional \$59.00 x 2 persons x 37 : \$4,366.00
GL S94CFRegional

Local \$351.00 x 2 persons x 37: \$25,974.00
GL S94CFYamba

Dwelling/subdivision 2.6 persons; dual occupancy 2.4 persons; density development 2.0 persons; tourist facilities 1.32 persons.

* Number of lots

(e) Yamba Urban By-pass and Urban Intersections Contributions Plan 2000

West Yamba (existing) \$456.00 x 2 persons x 76 :\$69,312.00
GL S94YBPWestYambaER

Dwelling/Subdivision Lot: 2.6 persons; Dual Occupancy: 2.4 persons; Density Development: 2 persons; Tourist: 1.32 persons; Industrial: \$2,061 per 500m² or part thereof.

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 as follows:

- Local Development Applications or Local Integrated Development Applications involving Subdivision – prior to release of the subdivision certificate; or
- Local Development Application or Local Integrated Development Applications involving building work – prior to issue of Building Construction Certificate.
- Local Development Applications where a Building Construction Certificate is not required – prior to an operational Development consent being issued.

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.

73. **The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements and Acid Sulfate Soils Manual**
74. **An amended waste management plan for the ongoing operation of the aged care facility shall be submitted to Clarence Valley Council and approved prior to issue of the Building Construction Certificate. The approved waste management plans shall be complied with during the demolition, construction and ongoing operation of the aged care facility. All waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.**
75. **The civil works shall be designed and constructed in accordance with Council's Engineering Standards current at the time of approval of Engineering Plans. Approval of Engineering Plans will be current for a period of two years after which time Council may require the alteration to Engineering Design to comply with standards current at that date.**

76. All building construction below habitable flood levels shall be of flood compatible materials.
77. The dwellings shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineers certificate shall be submitted prior to issue of the construction certificate to verify the dwellings will withstand the likely forces imposed on them by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions.

ITEM	6b.21.085	SUB2021/0026 – TWO LOT SUBDIVISION – 146 JUBILEE STREET, TOWNSEND
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	A Fletcher & Associates Pty Ltd
<i>Owner</i>	Stephen Hawke Pty Ltd
<i>Address</i>	146 Jubilee Street, Townsend
<i>Submissions</i>	Nil

Council has received Development Application SUB2021/0026 which proposes a two (2) lot subdivision. The application was notified with no submissions received during the exhibition period. The applicant seeks approval for a variation to Jubilee Street Townsend controls under Part M of the Industrial Zones Development Control Plan (the DCP) to clear part of the designated buffer area for road widening, access and servicing of the proposed development from Pine Avenue.

After consideration of the request, Council staff recommend only partial clearing of the land and access off Pine Avenue and the establishment of a revegetated buffer. The development will result in a balanced outcome considering the zoning, environmental outcomes and context of the site, noting the land immediately to the east of the subject site is identified in the *North Coast Regional Plan 2036* as a growth area for the Townsend Industrial Estate.

The variation sought is outside of Council staff delegations to determine; therefore the application is forwarded to Council to determine. The report provides an assessment of the application, a summary of the submissions and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council:

1. Support the requested variation to Part M Controls for Jubilee Street Townsend of the Industrial Zones Development Control Plan to permit clearing of vegetation for the provision of access and servicing from Pine Avenue, and
2. Resolve that the development application may be approved under delegated authority subject to the provision of a 25 metre wide vegetated buffer along the eastern boundary of Lot 10 DP1136092, generally consistent with Part M Controls for Jubilee Street Townsend of the Industrial Zones Development Control Plan.

COMMITTEE RECOMMENDATION

Baker/Simmons

That Council:

1. Support the requested variation to Part M Controls for Jubilee Street Townsend of the Industrial Zones Development Control Plan to permit clearing of vegetation for the provision of access and servicing from Pine Avenue and,
2. Approve SUB2021/0026 noting that, to ensure logical utilisation of the site for Industrial development and continuity of identified industrial land, the provision of a vegetated buffer along the eastern boundary of Lot 10 DP1136092 is not required.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Novak

Against: Clancy

Point of Order – Cr Clancy against Cr Baker (straying from the topic and might be criticising Council)
Overruled by Chair

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

Development Application SUB2021/0026 was lodged on 21 July 2021 to subdivide 146 Jubilee Street, Townsend. The subject land is zoned IN1 General Industrial under the *Clarence Valley Local Environmental Plan 2011* (the LEP), with a minimum lot size of 1,000m² applying to the land. Proposed Lot 102 is to be 1.69 hectares with frontage to Jubilee Street and Proposed Lot 101 is to be 1.13 hectares with frontage to Pine Avenue. The proposal was notified from 26 July to 9 August 2021, no submissions were received during the exhibition period.

The development site was the subject of a planning proposal/rezoning (REZ2014/0002) finalised as Amendment No. 22 to LEP on 22 January 2016. Council resolved to support the proposal (Item No. 13.165.15) on 8 December 2015 and to prepare an amendment to Part M of the DCP to include the following:

4. Upon rezoning of the land, Council proceed to prepare an amendment to 'Part M – Controls for Jubilee Street' of the Industrial Zones DCP consistent with the Clarence Valley LEP 2011 and the following site specific issues:
 - i. Restriction of hours to Noise Impact Assessment recommendations
 - ii. Buffer zone enhancements on the eastern boundary of Lot 9
 - iii. 25 metre setback buffer to any structures, driveways or services from existing forest vegetation on Lot 10, and south-eastern boundary of Lot 10 that is adjacent to forest vegetation.

KEY ISSUES**1. Variation to Industrial Zones Development Control Plan**

Part M of the DCP sets out controls that apply specifically for the carrying out of development on the subject site (Lot 10 DP1136092). Part M 3.3 of the DCP reads as follows:

M3.3 Buffer requirements and exclusion area - Lot 10 DP1136092

Existing native vegetation remaining in the southern section of Lot 10 and on adjoining land to the south and east is to be buffered by 25 metre setback/buffer area, as generally depicted on Figure 7 of the "Flora and Fauna Assessment for Proposed Rezoning of Lots 8 & 9 DP810388 and Lot 10 DP1136092, 119, 121 and 146 Jubilee Street, Townsend, NSW" prepared by Land & Fire Assessments Pty Ltd (3 September 2013) and also shown on Map M1. This is to be an area where no structures, driveways or services are permitted be to constructed or installed with the aim of mitigating the impact of future development on native vegetation, threatened species, populations and endangered ecological communities.

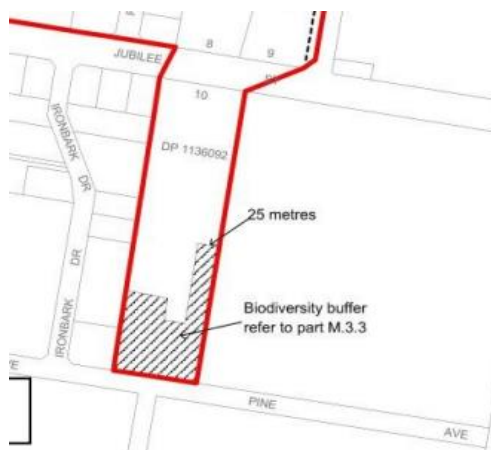


Figure 1: Map from Part M of the DCP shows the area to which M 3.3 applies



Figure 2: Image shows remaining vegetation on-site in the south western corner.

As part of the subdivision application, the applicant has requested a variation to Part M 3.3 to allow for the provision of access and services from Pine Avenue, Townsend. Consequently, the majority of remaining native vegetation on-site acting as a biodiversity buffer will be removed, being approximately 2,400m² of native vegetation, refer to Figure 2 above. The extent of vegetation has slowly been reduced over time as a result of expanding land uses on-site. The applicant is also being required to extend the maintained section of Pine Avenue to access the development. The applicant has provided the following justification to remove vegetation buffer and exclusion area:

- The provision sterilises development potential of a substantial portion of the lot.
- No threatened flora or fauna or Endangered Ecological Communities were recorded on the site.
- The conservation status of the forest community is considerably lowered due to the high levels of disturbance.
- The 25m buffers to the vegetation are not considered necessary due to being highly modified, vegetation south of the site is highly disturbed and the boundary is fenced therefore there is negligible connectivity.
- The proposed development is not considered likely to result in significant impacts to native vegetation, threatened species, populations, and endangered ecological communities.

Part O Controls for Biodiversity and Habitat Protection of the DCP below defines the use of buffers:

'Buffers provide a setback between habitat and the development in order to mitigate direct and indirect impacts arising from development, primarily edge effects, that lead to contraction of habitat over time.'

As included above from the Council Minute, the intent to provide the buffer/exclusion zone along the eastern and southern boundary of the subject site is to ameliorate the impacts of industrial and construction activities on the forest vegetation on Lot 11 DP1136092 to the east. The ecological report submitted with the rezoning application states that the vegetation on Lot 11 has some ecological value and should be afforded a level of protection, hence the provision of the buffer.

The land immediately to the east of the subject site, Lot 11, is identified in the *North Coast Regional Plan 2036* as a Growth Area – Proposed Employment Land for the Townsend Industrial Estate. Until such time as a planning proposal to rezone the land to industrial is received the buffer along the eastern portion of the subject site should be retained and improved to protect intact native vegetation adjacent to the site. Furthermore, there is land set aside to the east of the existing Maclean Lawn Cemetery that is identified for future expansion when needed.

It is considered that only partial clearing of the land and access and servicing from Pine Avenue be supported and that offsetting of cleared vegetation be required to compensate the lost vegetation. The applicant has put forward that the extent of vegetation to be planted only be within the 9 metre front setback of the lot, however this is not considered to adequately offset the clearing. Furthermore, landscaping of the front setback is a requirement under the DCP and will be enforced as part of any future development application for the land. By requiring greater embellishment of the buffer in the DCP than what is put forward

by the applicant, the development will result in a balanced outcome taking into account the zoning, and context of the site.

Option 1

Council support the variation to the DCP, thus allowing the applicant to clear the vegetation in the south western corner of the subject site. To ameliorate the loss of vegetation request the applicant to undertake offsetting in accordance with Council's Biodiversity Offset Policy contained in the Biodiversity Information for Applicants (the BIFA). Two options are available to Council in terms of offsetting, revegetation and protection or accepting a contribution to the CVC Biodiversity Offset Trust Fund in accordance with Section 3.6.2 of the BIFA, Council can only accept the contribution through a Voluntary Planning Agreement.

The officer recommendation is to request the applicant offset by planting on-site by reinstating a 25 metre wide vegetated buffer along the eastern boundary of Lot 10 DP1136092, generally consistent with Part M Controls for Jubilee Street Townsend of the Industrial Zones Development Control Plan, refer to Figure 3 below for details.

By resolving to support the provision of access and services from Pine Avenue, Council is also consenting to the extension of the currently maintained section of Pine Avenue to ensure that proposed Lot 101 has frontage to a Council maintained road.

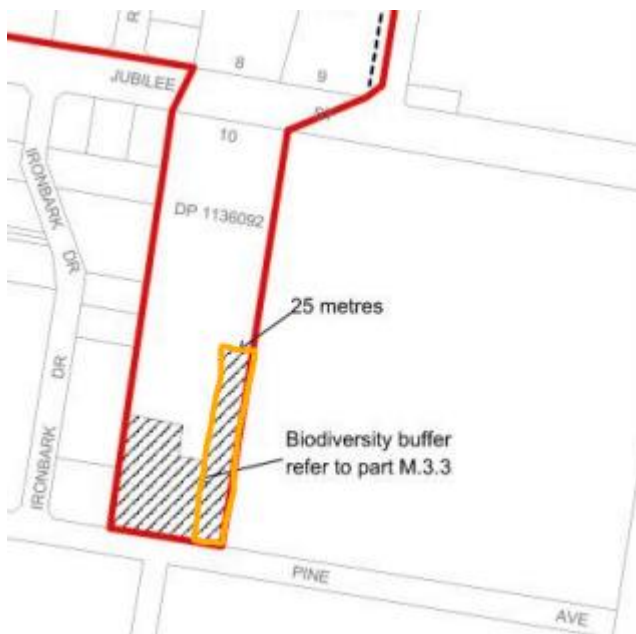


Figure 3: area within orange line shows part of buffer to be restored

Option 2

Council may opt to support the requested variation, however not impose any offsets for the vegetation cleared as a direct result of the proposed subdivision. This option is not the officer recommendation.

By resolving to support the provision of access and services from Pine Avenue, Council is also consenting to the extension of the currently maintained section of Pine Avenue to ensure that proposed Lot 101 has frontage to a Council maintained road.

Option 3

Council may opt to not support the requested variation and uphold the DCP to prevent access and services to be provided to the site via Pine Avenue. This option is not the officer recommendation.

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

Should Council support access and the provision of services from Pine Avenue it will require that the current maintained section of Council road be extended to the frontage of the subject site. Suitable conditions will be imposed to ensure that the works are constructed to an acceptable standard prior to it being accepted on maintenance and becoming a Council asset.

Policy or Regulation

Environmental Planning & Assessment Act 1979
 Environmental Planning & Assessment Regulations 2000
 State Environmental Planning Policy No. 55 – Remediation of Land
 Clarence Valley Local Environmental Plan 2011
 Industrial Zones Development Control Plan (DCP)
 Clarence Valley Council Contaminated Land Policy

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Senior Environmental Health	Supported access from Pine Avenue and clearing of vegetation to the minimal extent necessary and that any tree removal is offset on-site.
Development Engineer	Supports extension of maintained road subject to being constructed in accordance with relevant standards.
Civil Services	Supports extension of maintained road subject to being constructed in accordance with relevant standards.

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 will contribute to CO₂-equivalent emissions through construction and future development which are considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. Provision of new lots that allow industrial development within an established industrial estate that sustainably utilises existing services available will generate less greenhouse gases compared to rezoning of additional land to facilities development. Through the offset of vegetation removal in accordance with Council's Biodiversity Offset Policy, the development will have a negligible impact on the environment and minimise its contribution towards climate change. Further, future industrial development will be required to comply with the energy efficiency requirements in Section J of the Building Code of Australia (BCA) which will ensure that the development meets the NSW Government's requirements for sustainability.

Prepared by	James Hamilton, Development Planner
Attachment	A. Proposed Plans

ITEM	6b.21.086	DA2021/0788 – DWELLING – HAVELOCK STREET, LAWRENCE BEING LOT 4 SECTION 73 DP758604
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Michael Samms
<i>Owner</i>	Micfi Pty Ltd
<i>Address</i>	Havelock Street, Lawrence
<i>Submissions</i>	Yes – 13

Council is in receipt of Development Application DA2021/0788 which seeks approval for a dwelling upon Lot 4 Sec 73 DP758604, Havelock Street, Lawrence.

The proposed development did not require notification under Council's Community Participation Plan as it is a single storey dwelling in a residential zone. However, 13 submissions were received regarding the potential loss of koala habitat and impacts on the koala population in this location from the development.

This report discusses the key issues raised in the submissions and provides a recommendation for Council's consideration. The application is forwarded to Council for a decision because of the public interest in the proposal.

OFFICER RECOMMENDATION

That Council approve DA2021/0788 subject to the draft Advices and Conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Novak/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Clancy, Williamson, Simmons, Baker, Novak

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

Development Application DA2021/0788 was received on 9 September 2021. The subject land is zoned R2 Low Density Residential under the provisions of the *Clarence Valley Local Environmental Plan 2011* (the LEP) and is currently vacant.

A dwelling is permissible on the land with consent and there is no minimum lot size required for dwellings in the R2 zone.

The application complies with the LEP and Residential Zones DCP.

It should be noted that Council at its Meeting of 21 July 2009 approved a 14 lot subdivision under SUB2009/0008 over the land and the dwelling will be located on proposed Lot 14.

KEY ISSUES

1. Impact on koalas and their habitat

Concerns were raised within the submissions that the development poses a threat to the protection of koalas and their habitat through potential tree removal and trimming. As shown in Figure 3 below, the trees located along the Havelock Street and Rawdon Street road reserve provide a corridor for koalas which has been identified as having high koala activity.



Figure 1 – Google Earth Image of site November 2021

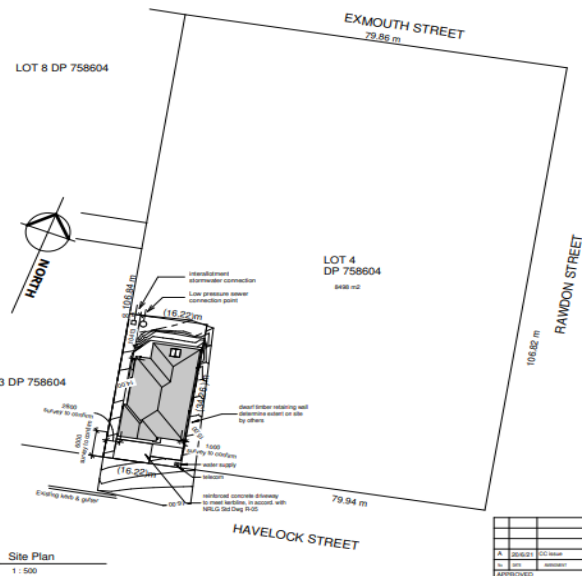


Figure 2 – Proposed Dwelling Location

Comment

The proposed development does not result in any clearing on the land or in the road reserve. However, Council staff have negotiated an amendment to the application that the proposed dwelling (refer to Figure 2) be relocated to achieve a maximum side setback of 1,050mm along the western boundary of the site. This will ensure that the driveway access is located as far as is practicable from the trees in the road reserve to protect their root zones. As can be seen from the photograph below in Figure 3, there is ample room to cater for a 3 metre wide driveway access off Havelock Street without interfering with the existing trees. A draft condition to this affect is contained in Schedule 1.



Figure 3 – Photograph of Existing site conditions (taken 8 November 2021)

Additionally, draft conditions of consent have been provided in Schedule 1 to ensure that the trees within the existing road reserve fronting the development are identified, clearly marked and adequately protected during construction. Furthermore, it has been conditioned that separate approval from Council is required for any trimming of the existing trees and that a Council officer must be onsite at the time of any trimming.

It should be noted that the *State Environmental Planning Policy (Koala Habitat Protection) 2021* does not apply to the land as it is below one (1) hectare in area. However, Council's Koala Register shows a high level of koala activity including breeding females that utilise the street trees for browsing and as a movement corridor. Through relocation of the dwelling and associated access to the west, the existing trees will be protected.

2. Koala friendly fencing

Concerns were raised within the submissions that any future fencing should be koala friendly.

Comment

Whilst the applicant does not propose any fencing at this point in time, a draft condition of consent has been included in Schedule 1 that wildlife/koala friendly fencing is to be provided.

3. Keeping of animals

Domestic animals particularly dogs are one of the biggest threats to the koala population and this was raised as an issue in the submissions.

Comment

A draft advice has been included in Schedule 1 to advise future owners that the koala activity in this area is high and that the restraining and keeping of animals should take into consideration the presence of koalas. As there is no onsite vegetation removal required for the development, a condition to this effect is not recommended.

4. Status of Council's Koala Plan of Management

One submission requested information on the status of Council's Draft Comprehensive Koala Plan of Management for Ashby, Woombah and Iluka. For clarification purposes a summary of actions is provided below:

Comment

In 2016, Council endorsed the Comprehensive Koala Plan of Management (KPOM) for Ashby, Woombah and Iluka. To date this plan has not yet been adopted by the State Government. The long timeframe is largely due to differences in species of preferred koala food trees (PKFT) in the Clarence, and those listed on State Environmental Planning Policy No. 44 – Koala Habitat which denied areas in our LGA from being defined as 'core koala habitat'.

Regardless of State Government definitions of PKFT and core habitat, Council has incorporated the recommendations of the Draft KPOM into the relevant DCPs to assist with koala habitat protection.

With the release of the new Koala Management SEPPs, Council has now resubmitted the Comprehensive Koala Plan of Management for Ashby, Woombah and Iluka to the Department of Planning, Industry and Environment (DPIE) for reconsideration of approval. There is no set date as to when this may be adopted by DPIE.

5. Development inconsistent with rural character of Lawrence

One of the submissions raised the issue that the Village of Lawrence is typically made up of larger rural type dwelling lots and the development will increase traffic, noise and add to the already congested ferry access to Lawrence from Maclean.

Comment

The subject land is zoned R2 Low Density Residential under the provisions of the Clarence Valley Local Environmental Plan. There is no minimum lot size that applies to dwelling on R2 zoned land set by the LEP, however the Residential Zones DCP sets a minimum lot size of 400m² for single dwelling houses to which the development complies.

The larger lot size in the R2 zone in Lawrence is due to the fact that the town had no reticulated sewer and each individual lot was serviced by their own septic system requiring larger lot sizes to cater for onsite waste water disposal. Lawrence is currently undergoing a transition from larger lot sizes to smaller lots now that reticulated sewer is available. The development meets the objectives of the R2 zone and is consistent with all aspects of the DCP in terms of landscaping, private open space, parking, height and setbacks. For this reason, the development is recommended for approval subject to conditions relating to the protection of the koala food trees located within the road reserve.

COUNCIL IMPLICATIONS

Budget/Financial

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

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy 55 - Remediation of Land

[State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#)

[State Environmental Planning Policy \(Vegetation in Non Rural Areas\) 2017](#)

[State Environmental Planning Policy \(Koala Habitat Protection\) 2021](#)

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Residential Zones

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Building Surveyor	Supported subject to conditions

Legal and Risk Management

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

Climate Change

The proposed development would contribute to CO₂-equivalent emissions through relocation and operation which are drivers 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	Carmen Landers, Acting Development Services Coordinator
Attachment	A. Plans B. Section 4.15 Assessment
To be tabled	C. Submissions

**Schedule 1
Draft Advices & Conditions**

Advices

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
3. 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)
4. The finished level of the floor slab shall be a minimum of 225mm above finished adjacent ground level irrespective of additional requirements in relation to flood levels.
5. Provide wet area flashing to the requirements of the BCA, AS 3740 and the manufacturer's specifications.
6. The address 47 Havelock Street has been allocated to the premises and shall be clearly displayed so it is visible from the road. Such action can reduce confusion and assist Australia Post, emergency services and the general community. Approval for the site and size of proposed householder mail boxes should be obtained from Australia Post.
7. All excavated or filled areas are to be battered to a slope of not greater than 45 degrees to the horizontal, or alternatively, be retained by a retaining wall. Where the height of the retaining wall exceeds 1m, a compliance certificate or other form of documentary evidence from a structural engineer stating the structural adequacy of the design is to be forwarded to the Principal Certifier. All excavated and filled areas are to be drained to prevent surface water affecting neighbouring properties.
8. The manufacturer's details of the roof trusses are to be submitted to Council prior to the frame inspection.
9. 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.
Code:
10. 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.

Conditions

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

Plan No	Title	Plan Date	Sheet No	Revision
14-2175/101	Site Plan	20/06/2021	A101	A
14-2175/102	Floor Plan	20/06/2021	A102	A

14-2175/103	Elevations	20/06/2021	A103	A
14-2175/104	Sections	20/06/2021	A104	A
14-2175/105	3D Views	20/06/2021	A105	A
14-2175/106	Electrical Plan	20/06/2021	A106	A
14-2175/107	Kitchen Details	20/06/2021	A107	A
14-2175/108	Ensuite Details	20/06/2021	A108	A

2. The dwelling is to be relocated to provide a maximum 1050mm side setback to the western boundary. An amended site plan must be submitted prior to issue of the Construction Certificate
3. A maximum three (3) metre wide sealed driveway crossing is to be provided off Havelock Street. A driveway design must be submitted for approval, demonstrating no loss of koala feed trees, prior to issue of the Construction Certificate.
4. Prior to commencement of works, the trees in the road reserve that front the development site are to be identified by flagging tape and protected during construction works.
5. Any future boundary fencing to be of the type which will allow free passage of native ground moving animals including Koalas.
6. Approval from Council's Open Space Section is required for any trimming of trees within the road reserve. A Council Officer must be onsite at the time of any trimming.
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. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
9. **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.
10. **Site Safety Management Building** equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.

All excavations and back filling associated with the erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.
11. **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.

12. **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).

13. **Retaining Walls** - If the soil conditions require it:-
- a Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement to the soil must be provided; and
 - b Adequate provision must be made for drainage.
14. **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.

15. Prior to the issue of an Occupation Certificate the principal contractor responsible for the construction work shall provide Council with a certificate which states that **all commitments** listed within the current Basix Certificate (quoting number and date) have been installed in accordance with the requirements of that Basix Certificate.
16. 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
17. Vehicular access is to be restricted to one stabilised access point during construction works.
18. 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.
19. No portion of the Alfresco Area is to be enclosed without prior written approval being obtained from Council.
20. A vehicular crossing to provide access to the allotment is to be constructed in accordance with the requirements of Council's Civil Services Section and be fully completed prior to requesting a final inspection and the issue of an Occupation Certificate. No street trees are permitted to

be removed for the construction of the driveway. An application for driveway access crossing is to be submitted and approved by Council prior to any work commencing.

21. A fully dimensioned and notated work as executed sewer drainage and storm water plan and Certificate of Compliance for Plumbing and Drainage Work is to be submitted to Council upon completion of work and prior to booking the final inspection. These documents shall also be provided to the property owner.
22. Roof water, including overflow from a tank, is to be connected to the drainage easement provided at the rear of the site. If that infrastructure is not in place at the completion of building works then the roofwaters are to be disposed of to the street gutter in front of the development on a temporary basis, but they shall be connected to the drainage easement immediately after that infrastructure is installed.

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.

ITEM 6b.21.087 CLARENCE VALLEY HERITAGE GRANTS ROUND 2, 2021-22

Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

The Clarence Valley has over 1,000 heritage items and 13 Heritage Conservation Areas within the LGA. A heritage grant program has been offered annually since 2003 as an incentive to owners to encourage conservation and maintenance works.

Round 1 offers under the 2021-22 Local Places Heritage Grants program to eight (8) applicants were endorsed by Council on 28 September 2021. A residue of \$21,545 was available and Round 2 was readvertised. 10 applications were received. It is recommended Council allocate the funding to successful applicants in accordance with the recommendations in this report.

OFFICER RECOMMENDATION

That Council:

1. Allocates grant offers to applicants in Round 2 of the 2021-2022 Local Places Heritage Grants program in accordance with Attachment A and advises successful applicants about requirements to comply with relevant conditions for payment and acquittal requirements; and
2. Notes that an amount of \$3,370.00 of the 2021-2022 Heritage Assistance Grant program remains unallocated and available for consideration to be incorporated into a 2022-2023 Heritage Assistance Grant program.

COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

The Local Heritage Places Grants program is part of Council's 2021/22 Operational Plan and acts as a catalyst to support and encourage the conservation of heritage items and contributory historic buildings. The grant program is funded by Council with contribution from Heritage NSW.

Each year, available funds are prioritised to a different area and rotated around the Clarence Valley to provide some focus to the works, and equitable opportunity for owners and managers of heritage items and places of heritage value.

This year the priority was directed at rural areas and the Ulmarra Nymboida Heritage Study area in the first round. Due to the grant fund not being fully allocated the first round, Council resolved on 23 September 2021 to advertise a second round of the 2021/22 Local Heritage Grants program with no priority area being allocated.

KEY ISSUES**Application Overview**

A summary of the applications and recommended funding is set out in Attachment A to this report. The submitted projects include a range of conservation works.

Proposed Works

The proposed projects include maintenance, drainage works, guttering, repairs or reconstruction of damaged joinery, removal of unsympathetic elements and reconstruction to match or suit the era original details, installation of appropriate fences, and repainting in heritage colour schemes.

Economic Benefit

The total value of the proposed projects is \$86,835. The grant offers of \$18,175 represents 21% of this value indicating that it has an economic multiplier effect of approximately five-fold.

Public Education and Awareness

Heritage grants are an important tool for heritage conservation and deliver a positive message to the community of Council's support for its cultural heritage. The grants raise awareness of the need for ongoing and correct maintenance and stimulate projects for maintenance and restoration, which are essential for long term conservation of the heritage items, raise public awareness and increase education on the need for appropriate materials and approaches.

Eligible Projects

Eligible projects that may be funded include:

- termite control, site stabilisation, stormwater and subsoil drainage
- emergency repairs and keeping buildings watertight pending longer term restoration
- re-roofing and guttering in authentic materials and profiles
- protection of archaeological sites including protection of cemetery sites
- removal of unsympathetic additions and restoration to original details
- reinstatement of missing elements to original details, such as fences, verandahs, timber windows, decorative features
- repainting in a traditional heritage colour scheme
- Building Code Australia upgrades (fire, services, and access) for ongoing and new uses.

Assessment

The applications were evaluated against a range of criteria including the heritage value of the place/premises, the conservation merits of the proposed work, and the potential public benefit. This includes public access, the visibility of works, contribution to streetscapes and removal of unsympathetic elements and the relative value of the project works. The applications in the table at Attachment A are listed in ranked order. Application 10 was submitted for a historic house at 29 Fry Street, Grafton which is not formally listed or in a Heritage Conservation Area but is on the State Heritage Inventory and was assessed as part of the Grafton Heritage Study. It is recommended that this application is supported as there is adequate funding available.

Assessment criteria	Points
Heritage Item	15
In a heritage conservation area	5
Public access and visibility	1-10
Located in well-maintained streetscape/setting	1-10
Located in a heritage group, complex or main street precinct	1-10
Degree of maintenance to avert risks to place/premises and conservation value of works.	1-20
Works additional to maintenance, e.g., remove unsympathetic alterations	1-10
Sustainable long term heritage benefits	5-10
Increases opportunities for learning, access, community involvement, employment, regional economy positive community attitudes	1-10
Total	Score out of 100

Allocation

- Funding was allocated to each project in the priority area, in ranked order.
- After allocation to the priority area the remaining applications were able to be supported.

- Remaining funding was then distributed again through the ranked order.
- The proposed grant allocations are set out in Attachment A based on this assessment.

Note - The maximum funding that is offered for any eligible project is normally up to 50% of the project cost (as shown in a quotation) or \$2,000, whichever is the lesser.

COUNCIL IMPLICATIONS

Budget/Financial

Council's Operational Plan (2021/22) contains an action to implement the Heritage Assistance Program. The recommendation of this report is to commit 100% of the available funding (\$35,500) for this program in the 2021/22 year.

It is recommended that the residual amount of \$3,370.00 be considered for rolling over into the 2022/23 Heritage Assistance Grant program.

Asset Management

None of the applications relate to Council owned assets.

Policy or Regulation

In terms of consent requirements, the proposed works are generally assessed under the heritage exemption provisions in Clause 5.10(3) of the *Clarence Valley Local Environmental Plan 2011* as 'maintenance or works of a minor nature'. This advice is issued with the grant notice prior to works commencing. If development consent is required the applicants will be advised accordingly.

Consultation

The 2021-22 Clarence Valley Local Heritage Grants program was advertised through Council's website and social media. Round 2 Applications closed at midnight on 29 October 2021.

Legal and Risk Management

The grant program does not raise any potential legal or risk management issues.

Climate Change

Heritage conservation is positive through conservation of existing resources and utilising the embodied energy of existing buildings.

Prepared by	Deborah Wray, Senior Strategic Planner
Attachment	A. Round 2 - Heritage Grant Applications 2021-22 - assessment and allocation

ITEM 6b.21.088 (DRAFT) FLINDERS PARK PLAN OF MANAGEMENT (R85724)

Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

This report details the legislative change to the *Crown Land Management Act 2016* that now requires Council to make a further application to the Minister for Water, Property and Housing for consent to adopt the draft Flinders Park Plan of Management (PoM). This report also details the submission received regarding the public exhibition of the draft PoM.

OFFICER RECOMMENDATION

That Council as Crown Land Manager of Flinders Park (Reserve 85724):

1. Authorise the General Manager to make an application to the Hon. Melinda Pavey MP, Minister for Water, Property and Housing, for consent to adopt the draft Flinders Park Plan of Management;
2. Adopt the draft Flinders Park Plan of Management, subject to the Minister granting consent to adopt the plan of management; and
3. Give public notice of the adoption, after receiving the consent of the Minister to adopt the PoM.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, 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 made the following resolution (6b.20.087) at its meeting of 24 November 2020:

That Council:

1. Note the preparation of a draft plan of management for the Flinders Park reserve area.
2. Authorise the General Manager to refer the draft plan to the NSW Department of Planning, Industry and Environment (DPIE) as owner of Flinders Park (Reserve 85724) for comment 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 Flinders 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 adding additional categories of 'community' land effectively altering the category(s) assigned by the Minister.
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. Bring the draft plan back to Council after the submission period has closed for consideration of its adoption or re-exhibition as per the requirements of section 40 of the Local Government Act 1993.

The draft PoM was referred to the Department of Planning, Industry and Environment's (DPIE) Crown Land Council (CLM) unit on 2 December 2020.

Consent was granted to Council on 30 March 2021 to proceed to the public exhibition stage of the draft PoM (Attachment A). Council staff elected to hold off on the public exhibition of the draft Flinders Park PoM in anticipation that approval to exhibit the draft Ngayundi Yamba Sports Complex PoM would also be received shortly after (this was ultimately delayed due to time with DPIE's CLM unit).

The draft Flinders Park PoM was placed on public exhibition on 6 August 2021 until 20 September 2021 – 46 days total. One submission was received.

On 4 June 2021, Her Excellency the Honourable Margaret Beazley AC QC, Governor of New South Wales, with the advice of the Executive Council, made the *Crown Land Management Amendment (Plan of Management) Regulation 2021* (the Regulation) under the *Crown Land Management Act 2016* (the Crown Land Act), the purpose of this Regulation was to:

- (a) exempt local councils from the requirement to adopt a plan of management for dedicated or reserved Crown land by 1 July 2021 and enable councils to grant or renew certain leases and licences over the land until the first plan of management is adopted;
- (b) exempt local councils from the requirement to hold public hearings in relation to proposed plans of management for the land;
- (c) require local councils to obtain the consent of the Minister to adopt plans of management for the land.

KEY ISSUES

Crown Land Management Amendment (Plan of Management) Regulation 2021

As a result of the recent amendment to the Regulation, Council is now required to seek Ministerial consent for Council to adopt the draft PoM. This is required even though the draft Flinders Park PoM was submitted, reviewed and returned to Council by DPIE's CLM unit to place on public exhibition.

Section 377 of the *Local Government Act 1993* (LG Act) details the general power of the council to delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act. An exception being:

- (s) the making of an application, or the giving of a notice, to the Governor or Minister

Consequently, a Council resolution authorising the General Manager to submit the attached form (Attachment B) seeking Ministerial consent for Council to adopt the draft Flinders Park PoM is required prior to Council adopting this PoM.

Public exhibition of the draft PoM and submission received

One submission was received from NTSCorp on behalf of the Yaegl Traditional Owners Aboriginal Corporation RNTBC (Yaegl RNTBC). NTSCorp raised a number of matters in their submission (Attachment C). However, they only sought a response in regard to three specific matters noted at clause 19:

Next Steps

19 We ask for your response on the matters raised in this correspondence, being:

- a) the proposed process to effect the renaming of Flinders Park Reserve and dual naming of traditional places within the reserve;
- b) ways to facilitate co-management with Yaegl RNTBC of Flinders Park Reserve; and
- c) contracting and commercial opportunities for Yaegl RNTBC.

Council staff response to the matters raised are:

Matter raised	Council staff response
(a) the proposed process to effect the renaming of Flinders Park Reserve and dual naming of traditional places within the reserve;	The naming and/or renaming of parks, reserves and Council managed facilities is guided by Council's adopted <i>Naming of parks, reserves and facilities</i> policy. This includes making a formal request through the <i>NSW Place and Road Naming Proposal System</i> .
(b) ways to facilitate co-management with Yaegl RNTBC of Flinders Park Reserve;	Council as Crown land manager of the Flinders Park Reserve (R85724) is supportive of Yaegl RNTBC interest in co-management initiatives in regards to the

	management of the reserve. Council suggests that the Yaegl RNTBC arrange a meeting with Council to discuss this matter further.
(c) contracting and commercial opportunities for Yaegl RNTBC	<p>Council engages contractors to provide services and or works on a case-by-case basis. All contracting opportunities are awarded by Council in accordance with Council's <i>Sustainable procurement</i> policy and relevant legislation.</p> <p>Council assesses commercial ventures on its parks and reserves in accordance with its <i>Commercial recreational activities on public land</i> policy.</p> <p>Council recommends that the Yaegl RNTBC arrange a meeting with Council to discuss these matters further.</p>

The submission and staff response to the matters raised did not require the draft PoM to be amended. However, minor amendments were undertaken, these include:

- The amendment of section 2.3.1 Public exhibition of the draft PoM (p. 16) to reflect the outcome of the public exhibition process;
- Update to legislation noted in the PoM; and
- Minor grammatical changes.

Consequently, it is the officer's opinion that the amendments are not substantial, and Council can adopt the amended draft plan without further public exhibition as the plan of management for the Flinders Park reserve as per the requirement of s40 of the LG Act.

COUNCIL IMPLICATIONS

Budget/Financial

The draft PoM has been prepared in-house using the resources of Council. The public exhibition of the draft plan was coordinated through Council's 'On Exhibition' webpage and 'Noticeboard' publication.

Asset Management

Council as Crown land manager of the Flinders Park reserve is responsible for the maintenance, upkeep and renewal of all reserve infrastructure. The exception being the Yamba Surf Life Saving Clubhouse, which is owned and operated by the Surf Club. The draft plan of management references Council's Asset Management plans.

Policy or Regulation

Crown Land Management Act 2016

Crown Land Management Amendment (Plan of Management) Regulation 2021

Crown Land Management Regulation 2018

Local Government Act 1993

Native Title Act 1993 (Cth)

Consultation

Consultation was undertaken with Council's Open Spaces Coordinator.

Legal and Risk Management

The *Crown Land Management Act 2016* requires Council to manage the Flinders Park reserve as if it was Community land under the *Local Government Act 1993* (LG Act). The LG Act requires a plan of management adopted under the Act to guide the use and management of Community land.

Native title has been determined by the Federal Court to continue to exist on the reserve. The exception being on the land on which the Yamba Surf Lifesaving Club is located (i.e. Lot 180 DP41513, Lots 125 & 139 DP751395). Native title was considered and is included as part of the plan of management for the reserve. The submission received was submitted on behalf of the traditional owners of the reserve. This report details the response to the matters raised by NTSCorp on behalf of the Yaegl RNTBC (Registered Native Title Body Corporate).

Climate Change

The draft Flinders Park PoM lists actions to safeguard against the effects of climate change.

Prepared by	Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title)
Attachment	A. CLM approval to exhibit draft Flinders Park PoM B. Notice of Plan(s) of Management for Crown reserve(s) C. NTSCorp submission - Flinders Park PoM (17sept21)
To be tabled	D. Flinders Park Plan of Management

ITEM 6b.21.089 "NO SOLAR FOR SOUTHGATE" PETITION

Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Development & Land Use Planning (Murray Lane)	
Attachment	Yes	

SUMMARY

Council has received a petition signed by 45 community members requesting Council to oppose a proposed solar development (Clarence Valley Solar Farm) at Lower Southgate due to potential impacts including social, ecological, amenity and loss of agricultural land.

OFFICER RECOMMENDATION

That Council:

1. Note the attached petition received from "No Solar For Southgate" Alliance in opposition to the proposed solar development (Clarence Valley Solar Farm) at Lower Southgate;
2. Note that the proposed solar development, should an application be made, will be assessed as State Significant Development (SSD), with the Department of Planning Industry and Environment (DPIE) the consent authority, under the delegation of the Minister for Planning and Public Spaces;
3. Note that Council staff will continue to engage with the community, DPIE and the proponent about proposed solar development; and
4. Note Council will have a role in providing its position about the proposed solar development at the appropriate time, in accordance with DPIE's assessment framework for SSD.

COMMITTEE RECOMMENDATION

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, 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

Infinergy Australia Pty Ltd (proponent) are undertaking scoping studies to assess the feasibility of a proposed solar power development (Clarence Valley Solar Farm) at Lower Southgate. Infinergy commenced preliminary community engagement with residents at Lower Southgate in August 2021 regarding the proposed development, triggering concerns within the local community.

Infinergy Australia launched their Clarence Valley Solar Farm website on Monday, 25 October 2021 - www.clarencevalleysolarfarm.com.au. Notification and communications were also provided to the local Lower Southgate community via a letter and Project Newsletter, with details also provided to Council (Attachment B).

The Clarence Valley Solar Farm project proposal, should an application be made, is over \$30 million value and will be assessed by the NSW Department of Planning, Industry and Environment (DPIE), under the delegation of the Minister for Planning as State Significant Development (SSD) under the Secretary's Environmental Assessment Requirements (SEARs) framework, noting:

- The first step is for the proponent to submit a scoping study report to DPIE, when accepted the report will be published on DPIE website.

- This report will inform the scope of an Environmental Impact Statement (EIS), key issues and community consultation, detailed within the SEARs.
- Council, as a referral agency to DPIE, will provide recommendations on assessments and consultation requirements to inform the SEARs:
 - Recommendations are required within 14 days from the date the scoping study report is published on DPIE's website.
- The proponent is then required to prepare an EIS in compliance with the SEARs and SSD guidelines, to accompany the development application.
- When accepted by DPIE, the DA and accompanying documentation will be published on DPIE webpage with a minimum submissions period of 28 days.
- Council may make a formal response to the proposed development during the submission period.

KEY ISSUES

On 21 October 2021, Council received a petition from the "No Solar For Southgate" Alliance with 45 signatories in opposition to the proposal. The petition includes concerns and signatories, is included as Attachment A to this report. The key issues raised in the petition are:

- Inappropriate location for an industrial scale solar power development being prime agricultural land and adjacent to the Everlasting Swamp National Park, Warragai Creek National Park, the Clarence River and tributaries.
- Loss of visual amenity for neighbours and community.
- Impacts to habitat of/ and to threatened and migratory species including the Koala, and migratory species protected under Commonwealth's International Bilateral migratory bird agreements.
- Noise and lighting impacts to neighbouring properties during operation of the solar plant.
- Locality is highly prone to hailstorms that may damage the solar panels risking contaminant leaching into surrounding environment.
- Loss of property value.
- Proposed site location is isolated, with no access for extended period during flood.
- Closure of a high-level Crown road traversing the subject property, previously used to access neighbouring properties during flood, without consultation.

Note: Personal details (addresses and signatures) have been redacted to comply with the *Privacy and Personal Information Protection Act 1998*.

Council officers held a community meeting with representatives of the 'No Solar For Southgate' Alliance on 5 November 2021 to listen to community concerns and provide information on the SEARs assessment process.

Council officers will continue to engage the local community in the consultation process with DPIE to ensure that concerns are noted, and appropriate advice and guidance are provided to the community.

Should the proposed project proceed through the SEARs process, Council officers will seek future resolutions from Council before making submissions or representations about the proposal.

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Clarence Valley Council Privacy Statement and Privacy Management Plan

Privacy and Personal Information Protection Act 1998

Consultation

Limited, early consultation has been undertaken by the proponent with the local community. No formal consultation has commenced about the project.

Council officers have undertaken a meeting with the local community, as detailed herewith.

Legal and Risk Management

There are no legal implications associated with the petition.

Regarding the proposed project, risks will be managed by engaging with the community, DPIE and proponent, and ensuring Council's role in the SEARs process is met.

Climate Change

Generally, large-scale solar developments have the potential to contribute to NSW Government goal in achieving net-zero emissions by 2050. Reducing reliance on fossil fuels for electricity generation aligns with Council's *Climate Change Policy* and the *Clarence Valley Community Energy and Emissions Reduction Strategy 2021*.

Prepared by	Jasmine Oakes, Strategic Planner
Attachment	A. 'No Solar For Southgate' Alliance petition B. No Solar for Southgate – Infinergy Australia Pty Ltd - letter to residents and Project Newsletter 1

ITEM	6b.21.090	REGIONAL STATE OF ENVIRONMENT REPORT SUMMARY - 2016-2020
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Meeting	Environment, Planning & Community Committee	16 November 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

The Regional State of Environment (RSoE) report is provided to Council in summary form for notation. This report aims to provide data on environmental condition at both a regional and local level from 2016 to 2020. This condition information is intended to inform the community, as well as Local and State Governments, on key pressures acting on the environment, and responses to those key pressures.

OFFICER RECOMMENDATION

That Council notes the State of Environment Report Summary for 2016-2020.

COMMITTEE RECOMMENDATION

Clancy/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, 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

In recent years with the change to the Integrated Planning and Reporting Framework there is no longer a legislative requirement for a specific annual State of Environment report required from each local Council.

The Regional State of Environment (RSoE) Working Group resolved at its meeting on 28 March 2017 to produce a RSoE in 2020, with many councils committing to the 2020 report at that time. Feedback from the Working Group regarding the usefulness of the report indicates that:

- The summaries have been an effective way to communicate the key findings to Council, Councillors, and the public;
- The main technical report contents provide valuable information and justification for grant applications, for guiding aspects of each council's natural resource management, and identifying gaps in knowledge or highlighting specific issues for a particular local government area (LGA); and
- The comparison of all participating councils for each indicator is useful.

The 2016 RSoE Report was produced with spare funds remaining. The RSoE Working Group subsequently resolved at its meeting of 28 March 2017 to retain these funds to contribute to the production of the 2020 RSoE without any further funding from relevant local councils. Council has been fortunate to have a Project Officer provided through Coffs Harbour City Council funded through previous arrangements to deliver the report for 2021.

From here the following actions were undertaken:

- Commence data collection from now using existing indicators from participating councils for 2017, 2018, 2019 and 2020 financial years;

- Prepare individual council summaries, with the main technical report produced in time for the End-of-Term Report at end of 2021;
- Use existing design templates which may be modified if required;
- Collect NSW Government agency data in early 2021; and
- The RSoE Working Group, comprised of a representative from each participating Council, will continue to meet regularly, with additional meetings in 2021 as required.

The main technical report will be finalised at the end of the 2021 calendar year and hence, only the summary report is available for the current elected Council.

KEY ISSUES

Preparing this 2016-2020 RSoE report has provided an opportunity to review indicators to better measure environmental condition for a range of indicators rather than what councils were or were not doing. The RSoE process avoids duplication of effort between local councils across the region.

The RSoE process has been a collaborative approach with other councils. It is noted that RSoE provides content suitable for NRM professionals, to be able to recognise trends and changes and identify priorities for funding strategy outcomes, especially to flag local issues with Councillors.

The summary report promotes the key facts relating to People and the Environment, Vegetation and Biodiversity, Lands and Soils, and Water. Individual graphs/charts are provided for the key council measures so each council can compare how they are performing. Some of the areas reported on include greenhouse gases, waste, vegetation change, and waste water.

This summary RSoE report is provided for the outgoing Council so it can be attached to the End of Term report (if applicable). The full technical report and individual council summary that will be finalised around the end of the 2021 year will be provided to the incoming Council.

COUNCIL IMPLICATIONS

Budget/Financial

No additional funding required to produce the current RSoE. The current report has been funded through previous contributions to the 2012-2016 RSoE report. Project managed by Coffs Harbour City Council.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Internal sections of Council have contributed data and information for the collation of the RSoE report.

Legal and Risk Management

There are no legal or risk matters

Climate Change

The RSoE contains comparative data between all North Coast Councils and LGAs on solar panel installation, electricity consumption and emissions reductions targets (refer to pages 9-12).

Prepared by	Reece Luxton, Coordinator NRM and Projects
To be tabled	Regional RSOE 2020 Summary

c. CORPORATE GOVERNANCE AND WORKS COMMITTEE

MINUTES of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Grafton on Tuesday, 16 November 2021, commencing at 2.00pm and closing at 2.40pm.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

All present are advised that this meeting is being broadcast live and audio recorded. Your attendance at this meeting is your acceptance that your image may be recorded and streamed to the internet as well as being retained in the archive of the record of the Council meeting.

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.

MEMBERS

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

PRESENT

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

APOLOGIES – Nil**DISCLOSURE AND DECLARATIONS OF INTEREST**

<i>Name</i>	<i>Item</i>	<i>Interest/Action</i>
Cr Toms	6c.21.145	Non-Significant Non-Pecuniary - Remain in the meeting Director of JK Toms & Sons, Manager of Iluka Riverside Holiday Park

ITEM 6c.21.139 LEGAL SERVICES PANEL: EXTENSION TO NEW COUNCIL

Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Nil	

SUMMARY

In December 2018 Council appointed a non-exclusive list of approved legal service providers (for specific services and for general services only) to its Legal Services Panel by competitive tender process (ITEM 16.031/18). This is set to be renewed by 30 November 2021. It is recommended that the current Legal Services Panel be extended for six months to allow a revised list to be appointed by a process of competitive tender for approval by the new Council.

OFFICER RECOMMENDATION

That Council extend the current panel of approved, non-exclusive legal service providers for (1) specific legal services and (2) for general services only from 30 November 2021 to 31 May 2022, within which time a competitive tender process for a new approved, non-exclusive Legal Services Panel will be undertaken.

COMMITTEE RECOMMENDATION

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

In accordance with standard practice for a local authority of its size, Council does not retain in-house legal services, preferring instead to retain these services on an 'as required' basis for specific areas of its activities (governance; planning and development; finance; industrial relations; native title, etc.). Nevertheless, appointing an approved Legal Services Panel provides oversight of the legal services provided, as well as facilitating Council to estimate outlays for legal services more accurately.

KEY ISSUES

Timed as it currently is, the renewal of the Legal Services Panel would have fallen at an appropriate stage within the term of Council (i.e., 15 months into term if the election had been held as originally scheduled in September 2020 and three months after the first revised date due to COVID-19, i.e., at September 2021. However, falling as it now does at the end of the term of the current Council and within the caretaker period, it is appropriate that the current Legal Services Panel be retained and a new one be appointed by the next Council

COUNCIL IMPLICATIONS**Budget/Financial**

Council's legal costs for 2020/21 financial year were \$271,000 (\$159,000 debt recovery) and for 2019/20 financial year legal costs were \$225,000 (\$129,000 debt recovery).

Asset Management

N/A

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Bligh Grant, Governance Officer
Attachment	Nil

ITEM	6c.21.140	2022 LOCAL PUBLIC HOLIDAYS FOR RAMORNIE HANDICAP AND GRAFTON CUP
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes	

SUMMARY

Proposed half-day Local Public Holidays for the 2022 Ramornie Handicap (Wednesday 13 July 2022, 1-5pm) and for the Grafton Cup (Thursday 14 July 2022, 1-5pm).

OFFICER RECOMMENDATION

That Council make an application to Industrial Relations, Department of Premier and Cabinet, for two half-day public holidays for the City of Grafton area for the two main race days for 2022, namely:

- Ramornie Handicap, Wednesday 13 July 2022, 1-5pm
- Grafton Cup, Thursday 14 July 2022, 1-5pm.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

Clarence Valley consistently hosts four events that have been accompanied by half-day public holidays: Two for the two major races (Ramornie Handicap and Grafton Cup on adjacent days in July), one for the Jacaranda Festival (the first Thursday in November) and one for the Maclean Show (the first Wednesday in May). The first three of these local public holidays apply to the Grafton City area; the half-day public holiday for the Maclean Show applies to the police patrol districts of Maclean, Yamba and Iluka. All of these events are longstanding fixtures on the local calendar—for instance, the Jacaranda Festival will be celebrating its 87th year next month—and all provide a focal point for the community and a boost to the local economy.

Two half-day public holidays have previously been ministerially approved for 2022—for the Maclean Show (Wednesday 4 May, 12-5pm) and for the Jacaranda Festival (Thursday 3 November 1-5pm). Council applying for the two half-day local public holidays to accompany the Ramornie Handicap and the Grafton Cup is a big step toward guaranteeing the success of the events, providing celebratory focal points for many in the local community, a financial injection to local businesses, and increased economic activity, as well as bringing prominence to the City nationally and internationally.

KEY ISSUES

Letters of support for the proposed dates have been received from The Clarence River Jockey Club (CRJC) as well as organisations that hold the other events that have half-day local public holidays attached to them in 2022—the Maclean District Chamber of Commerce and the Jacaranda Festival Inc.—and the Grafton Chamber of Commerce. The proposed dates have also been placed on public exhibition until 28 November 2021 (please see Attachment).

While the Grafton Chamber is 'happy to offer their support as we recognise the Carnival and what it brings to our town as being extremely important', they also note that 'it can be a challenging time for business with the cost of wages involved in the two ½ day holidays for the Carnival'.

Submissions (nine) to the proposed dates in them being placed on public exhibition were mixed. The majority were in favour (e.g., 'encourages participation on the days'; 'if the locals don't go the visitors will stop as well'; I believe it should be extended to the whole LGA). However, there was also a significant minority ('Castling small businesses who already struggle'; 'businesses can't afford to stay open... some people don't agree with horse racing'). Generally, these submissions reflected the views of the civic associations who submitted letters of support.

COUNCIL IMPLICATIONS

Budget/Financial

Council staff are entitled to take the half-day public holidays if they work in the areas that they apply to—e.g., Grafton—and are remunerated for these. This can be accounted for in the flexible work arrangements built into the relevant awards.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

As indicated, the major stakeholders have been consulted and all have written letters of support for the half-day public holidays, which is a requisite in applying for them.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Bligh Grant, Governance Officer
Attachment	Letters of Support + Exhibition

ITEM	6c.21.141	355 AND ADVISORY COMMITTEES: ACKNOWLEDGEMENT OF CONTRIBUTION; NOTIFICATION OF RECONSTITUTION IN TERM OF NEW COUNCIL
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes	

SUMMARY

At the final meeting of this Council it is appropriate that it acknowledge the contribution of the volunteers who contribute to Council's advisory committees and 355 committees and note that they operate under the auspice of the current Council. As such, to continue under the new Council, reconstitution ought to occur within six months of the new Council being appointed.

OFFICER RECOMMENDATION

That Council:

1. Acknowledge the work of the members of the community who volunteer to sit on both 355 Committees and Council's Advisory Committees and the Councillors and Council officers who work with them.
2. Note that the terms of all 355 and advisory committees coincides with the term of the elected Council; (2) that all committees have been notified of this and (3) the need for reconstitution under the Council within six months of it sitting.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.3 Engage with the community to inform decision making

BACKGROUND

Council operates with the assistance of fourteen (14) advisory committees and thirteen (13) 355 committees (i.e., constituted under s.355 of the *Local Government Act*).

Advisory committees work on a diversity of issues—specific assets (coastal and estuary; floodplain; Grafton Saleyards) and services (transport; access; Aboriginal; sports; libraries; Grafton Regional Art Gallery) and bring accountability, expertise and inclusion in their recommendations to Council.

355 committees are organised around the management and maintenance of a specific community asset—halls and other assets. Operating in accordance with their delegated authority under the act, their members provide voluntary work for both the community and Council and are an efficient and accountable way to deliver community services and maintain community assets. Accordingly, their work ought to be acknowledged by the present Council before it rises for the last time in its extended term.

KEY ISSUES

All committees are appointed by Council and operate for the term of Council. In accordance with both the relevant legislation and Council regulations (e.g., Council's 'Section 355 Committee Handbook') advisory and 355 committees are to be either reconstituted or dissolved within 6 months of a new Council sitting.

COUNCIL IMPLICATIONS**Budget/Financial**

The operation of advisory and 355 committees requires the deployment of some Council assets, principally staff time from the Open Spaces & Facilities section; also, in roles as 'Secretary' to individual advisory committees and the time of elected Councillors and in Governance in the monitoring of the activities of committees. This is balanced against the contribution that these bodies make. Where a 355 committee is not reconstituted (e.g., for the maintenance of a particular community asset) Council ought to be aware that extra resources may be required to continue to maintain that asset.

Asset Management

As above.

Policy or Regulation

As advised by Office of Local Government, the framework for Council's advisory and 355 committees and the Section 355 Committee Handbook is being internally reviewed and updated documentation will be presented to the new Council in February 2022.

Consultation

All committees have been notified of the requirement to reconstitute within 6 months of the new Council sitting.

Legal and Risk Management

355 committees are reminded to work as per their delegated authority.

Climate Change

N/A

Prepared by	Bligh Grant, Governance Officer
Attachment	A. Advisory and s.355 Committees

ITEM	6c.21.142	DRAFT CLARENCE VALLEY COUNCIL DISASTER RESILIENCE FRAMEWORK
Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

The Disaster Resilience Framework provides strategies, actions and recommendations for Council's planning and decision-making, taking advantage of informed scientific research; the Climate Change Impact Assessment report, climate forecasting, climate change modelling predictions, lessons learned, and ongoing expert consultation.

OFFICER RECOMMENDATION

That:

1. Council place the Draft Clarence Valley Council Disaster Resilience Framework on public exhibition and invite public comment.
2. The Framework and any commentary received be reported to the newly elected Council in February 2022.

COMMITTEE RECOMMENDATION

Simmons/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, 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

This report is the result of research and subsequently addressing an identified need for a localised Disaster Resilience Framework for CVC.

The Disaster Resilience Framework examined past natural disasters in the Clarence Valley, the recent Black Summer Bushfire, the current situation, our vulnerabilities, gaps and future requirements. An evidenced based scientific Climate Change Impact Assessment for CV LGA informs the Framework.

The research and report conclude with the necessary recommendations requiring implementation to develop a set of resilience strategies and actions that will underpin a future, broader, CVC Disaster Resilience Framework.

KEY ISSUES

The Disaster Resilience Framework guides CVC's whole-of-organisation effort to proactively implement disaster risk reduction and resilience in our infrastructure, business and community, in order to minimise the losses and disruption caused by natural disasters in the Clarence Valley Local Government Area (LGA).

The purpose of informing Council of identified risks is to develop risk mitigation proposals and incorporate the Clarence Valley LGA Climate Change Impact Assessment report into strategic planning.

The overall objective is to reduce the impacts of natural disasters on Council and communities. Implementing the Framework will accomplish this by informing future strategic decision making and planning within CVC.

COUNCIL IMPLICATIONS

Budget/Financial

The preparation of the Disaster Resilience Framework is identified in the 2021/2022 Operational Plan and is funded from PJ993028, a project of the Federally funded Bushfire Recovery Exceptional Assistance Immediate Support Package.

Asset Management

It is proposed the Disaster Resilience Framework informs decisions about asset maintenance.

Policy or Regulation

Nil

Consultation

Staff from across the organisation have been involved in preparation of the Disaster Resilience Framework. The Climate Change Advisory Committees has been informed of the project.

Legal and Risk Management

The purpose of the Disaster Resilience Framework is to mitigate risk associated with asset management and Council operations.

Climate Change

Climate Change Impact Assessment for CV LGA: Prepared by Risk Frontiers

Prepared by	Narelle Wilson, Recovery & Resilience Planning Coordinator
Attachment – To be Tabled	1. CVC Disaster Resilience Framework 2021 2. Risk Frontiers Climate Change Impacts Infographic

ITEM	6c.21.143	REQUEST FROM ACCOUNT 2232452 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Systems (Kate Maginness)	
Attachment	Nil	

SUMMARY

The property owner of Water Account 2232452 seeks Council to either waive or grant a reduction on the current water account due to a burst water pipe in the road reserve. The property owner made an application under the concealed leak policy which was rejected as the leak was visible to passing traffic. The meter is on a private water service approximately 1km from the nearest connection point.

OFFICER RECOMMENDATION

That Council not grant a concession on Water Account 2232452 due to the meter being a private water service approximately 1km from the nearest connection point with the leak visible to passing traffic and offer the property owner the option to enter into a payment plan to pay the account off in instalments if required.

MOTION

Lysaught/Simmons

That a concession of \$473.09 be granted on Water Account 2232452 using the charging methodology of a concealed leak allowance for the 2021/22 financial year on PJ902125-6218-1240 Water Usage Residential Income and that the water meter be moved to the property boundary to eliminate any further such incidents occurring again.

FORESHADOWED MOTION

Kingsley

That the item be deferred to full council.

AMENDMENT TO MOTION

Kingsley/Ellem

That a concession of \$473.09 be granted on Water Account 2232452 using the charging methodology of a concealed leak allowance for the 2021/22 financial year on PJ902125-6218-1240 Water Usage Residential Income.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons,

Against: Toms

COMMITTEE RECOMMENDATION

Lysaught/Simmons

That a concession of \$473.09 be granted on Water Account 2232452 using the charging methodology of a concealed leak allowance for the 2021/22 financial year on PJ902125-6218-1240 Water Usage Residential Income.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons,

Against: Toms

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.2 We will have an effective and efficient organisation
Strategy	5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

In accordance with Section 552(1)(b) of the Local Govt Act 1993, water can be connected if the ratepayers land is situated within 225 metres of a water pipe of the Council.

On the property owners land the connection is on a private line. Council previously had a private water service policy which permitted properties greater than 225 metres from a main of the Council to connect, with the meter being provided at the Council main and the property owner being responsible for the private service on their side of the meter including any consumption recorded through the meter which may include leaks.

The Private Water Line Policy was revoked by Council resolution 15.027/26 at its meeting of 19 April 2019, with the resolution providing "grandfathering" provisions for existing private water lines to operate. This private line is one that operates under these provisions.

The water meter is located approximately 1km from the nearest connection point. The property owners private service connection is run from the intersection of Clarence Way and Whiteman's Creek Road. It is not known why the property owner chose this location but it may have been that they were not able to arrange an easement through the private property to the north on the other side of Whiteman's Creek or they did not want their service crossing the creek.

If Council were to agree to a request from the property owners to move the meter so that Council becomes responsible for the pipeline it would set a precedent for hundreds of private services which continue to operate under the grandfathering provisions.

Council was notified by the property owner's neighbour of a burst water pipe in the road reserve at the intersection of Whiteman Creek Road and Clarence Way and reported it to Council. Council repaired the water pipe and the ratepayer applied for a concession under the Concealed Leak Allowance Policy. This application was rejected as the leak was visible to passing traffic.

The Definition of "A Concealed Leak" within the terms of Council's Concealed Water Leak Allowance Policy states:

"A Concealed Leak – is water escaping from a private water service that is hidden from View and defined as occurring within pipeline breaks or connections in the ground, under slabs or Within walls and is not clearly visible to the owner. (It does not involve leakage from an appliance, Fixture, water pump, hot water or the like. Lush green or damp soil does not constitute being concealed from view.)"

As the property is more that 225 metres from a main of the Council there is no obligation to provide water. The only solution to avoid this happening in the future is to disconnect.

KEY ISSUES

The Concealed Water Leak Allowance Policy automatically denies the applicant a reduction on their water usage account as the leak was clearly visible to passing traffic.

The previous consumption history is detailed below and indicates a varied consumption history.

Reading Date	Meter Reading	Usage Per Kl	Reading Days	Daily Average	Total Amount
16/07/2021	43	87	109	0.798	\$220.11
29/03/2021	350	288	130	2.215	\$886.95
19/11/2020	62	62	40	1.550	\$172.57
10/10/2020	8002	106	86	1.233	\$268.18

10/10/2020	0	0	1	0.00	\$0.00
16/07/2020	7896	177	149	1.188	\$440.73
18/02/2020	7719	128	96	1.333	\$330.44
14/11/2019	7591	121	90	1.344	\$313.49
16/08/2019	7470	99	88	1.125	\$242.55

If a concession is granted using the Concealed Leak charging methodology, a concession of \$473.09 would be granted based on the below calculations. This would set a precedent for hundreds of private services which continue to operate under the grandfathering provisions to claim a concession on water leaks in the future on their privately maintained line.

Average Daily Usage	Days	Rate	TOTAL
1.233	130	\$2.53	\$405.53
0.018	130	\$3.56	\$8.33
			\$413.86

Was Charged	\$886.95
Adjusted Charge	-\$413.86
AMENDMENT	\$473.09

COUNCIL IMPLICATIONS

Budget/Financial

If no adjustment is granted there will be no impact on the income for the 2021/2022 financial year, however if a concession is granted to waive the current account and set a precedent, if approved, the concession would be \$886.95. Alternatively \$473.09 if a concession is granted using the charging methodology of a Concealed Leak Allowance for the 2021/22 financial year on PJ 902125-6218-1240 (Water Usage Residential Income) will be reduced.

Asset Management

N/A

Policy or Regulation

Concealed Water Leak Allowance Policy

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Paula Krahe, Revenue Co-Ordinator
Attachment	Nil

ITEM	6c.21.144	REQUEST FROM ACCOUNT 2166809 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT
Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Systems (Kate Maginness)	
Attachment	Nil	

SUMMARY

The property owner of Water Account 2166809 submitted a request on 9 September 2021, seeking Council to waive the current account. A deputation was made by the property owner and Council's resolution 6c.21.125 granted a further concession on Account 2166809 of \$3,125.45 after allowing for an amount of \$100.00 being the approximate quarterly consumption account for the period.

OFFICER RECOMMENDATION

That Council grant a further concession of \$1,611.46 in addition to that granted in Council Resolution 6c.21.125 which will leave a balance of \$100.00 to be paid by the property owner.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

Consideration was given by Council on the 26 October 2021 following a request and deputation from the property owner for a further reduction on water account 2166809.

Council resolved:

6c.21.125

"That Council grant a further concession on Account 2166809 as a concession of \$3,125.45 after allowing for an amount of \$100 being the approximate quarterly consumption account for the property."

The concession of \$3,125.45 was processed in accordance with the resolution and a letter sent to the property owner advising of the remaining balance. The total amount of concessions made to date total \$4,263.95 and is represented by \$1,138.50 (Concealed Leak Allowance) and \$3,125.45 (Council resolution 6c.21.125).

After the concession of \$3,125.45 was made on the property owners account in accordance with the resolution 6c.21.125 a balance remained totalling \$1,711.46. Reconciliation of account 2166809 to date is listed below:

Date	Transaction Type	Amount	Current Balance
11/12/2020	Balance Brought Forward		-\$0.96
11/12/2020	Consumption (due 31/01/2021)	\$98.67	\$97.71

19/04/2021	Consumption (due 31/05/2021)	\$2,691.92	\$2,789.63
31/05/2021	Payment (BPAY)	-\$97.71	\$2,691.92
24/06/2021	Concession due to Concealed Leak	-\$1,138.50	\$1,553.42
30/06/2021	Interest	\$14.18	\$1,567.60
31/07/2021	Interest	\$9.24	\$1,576.84
17/08/2021	Consumption (due 30/09/2021)	\$3,225.45	\$4,802.29
30/09/2021	Interest	\$8.94	\$4,811.23
26/10/2021	Concession – Council Resolution 6c.21.125	-\$3,125.45	\$1,685.78
30/10/2021	Interest	\$25.68	\$1,711.46

The Officer's report submitted to the October Meeting listed the last three reads on Meter 110787 not the total amount to be written off as Council had only received a request from the property owner that the current account of \$3,225.45 be waived. A copy of the table listed in the October report is listed below:

<i>Meter No</i>	<i>Reading Date</i>	<i>Reading</i>	<i>Consumption</i>	<i>Amount</i>
110787	13/11/2020	881	39	\$98.67
110787	15/03/2021	1945	1064	\$2,691.92
110787	27/04/2021	2818	873	\$3,225.45

KEY ISSUES

The intent of Council's resolution 6c.21.125 was that the property owner pay \$100.00 being the approximate quarterly consumption account for the property and the remaining balance to be a concession provided by Council.

COUNCIL IMPLICATIONS

Budget/Financial

Income for the 2021/22 financial year on PJ 902125-6218-1240 (Water Usage Residential Income) will be reduced by \$1,611.46.

Asset Management

N/A

Policy or Regulation

Concealed Water Leak Allowance Policy

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Paula Krahe, Revenue Co-Ordinator
Attachments	Nil

ITEM	6c.21.145	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Corporate, Governance & Works Committee	16 November 2021
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

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

AMENDMENT TO MOTION

Kingsley/Ellem

That:

1. The schedule of actions taken on Council resolutions be noted and those resolutions marked as complete be removed from the checklist.
2. A report on the changes to the Sports Management Policy be reported to the November Council meeting.

The Amendment to Motion was withdrawn by Cr Kingsley.

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 previous month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented.

Those items marked as complete will not appear on any future checklists if the officer recommendation is adopted.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Local Government Act 1993 S355 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Karlie Chevalley, Corporate Support Assistant
Attachment	Checklist

ITEM	6c.21.146	2021/22 MONTHLY FINANCIAL REPORT – OCTOBER 2021
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Systems (Kate Maginness)	
Attachment	Yes	

SUMMARY

The purpose of this report is to provide financial data at the end of each month for actual income and expenditure, for all funds and provide advance notice of potential budget variations. This report is submitted to Council in addition to the statutory reporting requirements of the Quarterly Budget Review Statements.

Budget variations identified in this report do not impact the General Fund. The reserve fund variations identified in this report will decrease the reserve funds by \$4,449,010.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the monthly financial information report for October 2021, attached to this report.
2. Endorse the proposed variations, which decrease Financial Reserves by \$4,449,010 for inclusion in the December Quarterly Budget Review Statement to be reported in February 2022.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

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

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

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

The report table below highlights any proposed budget variations that staff have become aware of during the past month that may affect the 2021/22 budget. The mechanism for revising the adopted budget is the Quarterly Budget Review Statement (QBRS) in compliance with Clause 203 of the Local Government (General) Regulation 2005.

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

KEY ISSUES

Major Budget Variations Proposed

Following is a list of the major proposed variations identified during the month of October 2021.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
304	<p>Service – Works & Civil Sub-Service – Natural Disaster Event Management</p> <ul style="list-style-type: none"> Allocate remaining Federal Bushfire Disaster Recovery & Resilience Grant to fund construction of two mobile communication base stations (RA 80001) 	\$Nil	\$180,000	N/A
311	<p>Service – Roads Infrastructure Sub-Service – Local Roads</p> <ul style="list-style-type: none"> Allocate remaining Federal Bushfire Disaster Recovery & Resilience Grant to complete Blueberry Lane roadworks (RA 80001) 	\$Nil	\$75,000	N/A
315	<p>Service – Roads Infrastructure Sub-Service – Traffic Facilities</p> <ul style="list-style-type: none"> Allocate School Zone Infrastructure Program Rd 2 grant funding to School Zone signs and line-marking projects (\$675,217) 	\$Nil	\$Nil	N/A
315	<p>Service – Roads Infrastructure Sub-Service – Traffic Facilities</p> <ul style="list-style-type: none"> Fund creation of Pedestrian Action Management Plan (PAMP) and associated program setup costs (RA 10880) 	\$Nil	\$100,000	N/A
321	<p>Service – Regional Airport Sub-Service – Regional Airport</p> <ul style="list-style-type: none"> Allocate remaining Federal Bushfire Disaster Recovery & Resilience Grant to complete concept design for Regional Airport Waterpipe (RA 80001) 	\$Nil	\$50,000	N/A
341	<p>Service – Parks & Open Spaces Sub-Service – Parks & Reserves</p> <ul style="list-style-type: none"> Allocate remaining Federal Bushfire Disaster Recovery & Resilience Grant to Bushfire Affected Areas Signage project (RA 80001) 	\$Nil	\$17,000	N/A
XXX	<p>Service – Various Sub-Service – Various</p> <ul style="list-style-type: none"> Allocate 20-21 carry-forward budgets to current year projects (Refer to Attachment B) 	\$Nil	\$4,027,010	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	TOTAL Proposed General Fund / Reserve Balance Impact	\$Nil	\$4,449,010	

Explanation of Attachment

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

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

COUNCIL IMPLICATIONS

Budget/Financial

General Fund Budget (Surplus)/Deficit

Original Budget Adopted by Council June 2021	(\$103,608)	Surplus
Q1 Revised Budget - September	\$218,000	Deficit
Q2 Proposed Budget Variations – October	\$Nil	Deficit
Proposed Movement of General Fund 2021/22 Budget Result October 2021	\$114,392	Deficit

Proposed Impact on External and Internal Financial Reserve Funds Result

Reserve Movements

Original Budget Adopted by Council June 2021	\$26,958,747	Decrease
Q1 Revised Budget - September	\$1,132,085	Decrease
2020/21 Carry Forwards	\$4,027,010	Decrease
Q1 Proposed Budget Variations – October	\$422,000	Decrease
Proposed Movement of Reserve Funds 21/22 Budget Result - October 2021	\$32,539,842	Decrease

Asset Management

N/A

Policy or Regulation

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

Consultation

This report has been prepared in consultation with the Management Accounting Team and relevant Budget Managers.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Michael Salvestro, Financial Accountant
Attachment	A. Income and Expenditure Statements by Service & Sub Service B. 2020/21 Carry Forwards

ITEM	6c.21.147	MONTHLY INVESTMENT REPORT – OCTOBER 2021
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Finance & Systems (Kate Maginnity)	
Attachment	Yes	

SUMMARY

The purpose of this report is to inform Council of the details of Council's investment funds as at the end of each month.

OFFICER RECOMMENDATION

That the report indicating Council's funds investment position as at 31 October 2021 be received and noted.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Kingsley, Lysaught, Simmons, Toms

Against: 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 2020 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	6.37%	Plant Equipment Reserve	7.47%
Water Supply Funds	29.31%	Regional Landfill Reserves	4.12%
Developer Contributions	18.52%	Fin. Assist Grants paid in advance	4.66%
Unexpended Grants	4.80%	Waste Mngmt / Commercial Waste	3.75%
Domestic Waste Management	1.28%	Infrastructure Assets Renewals	1.35%
Holiday Parks	1.79%	Employee Leave Entitlements	2.72%
Deposits, Retentions and Bonds	1.75%	Roads & Quarries Reserves	2.71%
Other External	1.58%	Strategic Building Reserve	1.22%
		Building Asset Renewals	0.87%

<u>65.40%</u>	Other (refer attachment for further detail)	<u>5.73%</u>
		<u>34.60%</u>
	Total External & Internal Reserves	<u>100.00%</u>

Portfolio Credit Limits

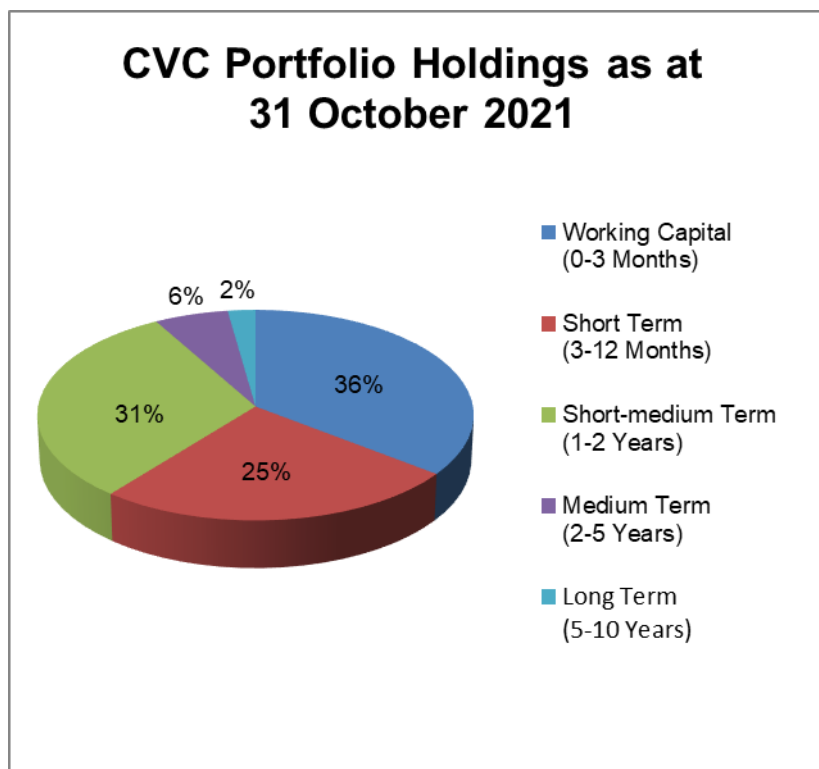
Tabled below is a summary of Council's investments as at 31 October 2021 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 October 2021				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,989,919	3.74%	Yes
AA	100.00%	56,627,659	42.40%	Yes
A	60.00%	18,250,000	13.67%	Yes
BBB	50.00%	53,684,144	40.20%	Yes
TOTAL INVESTMENTS		133,551,722	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.

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 October 2021. Excluding "at-call" working capital, 35.86% of Council's investments are maturing within the next twelve months.



Individual Institution or Counterparty Limits

Tabled below is a summary of Council's investments as at 31 October 2021 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 31 October 2021					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS					
AMP	BBB	15.00%	8,000,000	5.99%	Yes
BoQ	BBB+	15.00%	8,000,000	5.99%	Yes
Bendigo	BBB+	15.00%	-	0.00%	Yes
CBA	AA-	30.00%	3,000,000	2.25%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.50%	Yes
Defence	BBB	15.00%	10,000,000	7.49%	Yes
ING Direct	A	15.00%	13,000,000	9.73%	Yes
ME Bank	BBB+	15.00%	16,000,000	11.98%	Yes
NAB	AA-	30.00%	20,000,000	14.98%	Yes
NTTC	AA-	30.00%	3,000,000	2.25%	Yes
P&N	BBB	15.00%	3,000,000	2.25%	Yes
RaboDirect	A+	15.00%	6,000,000	4.49%	Yes
Westpac	AA-	30.00%	9,000,000	6.74%	Yes
TOTAL TERM DEPOSITS			101,000,000	75.63%	
MANAGED FUNDS					
TCorp	AAA	40.00%	489,919	0.37%	Yes
TOTAL MANAGED FUNDS			489,919	0.37%	
FUNDS AT CALL					
AMP	BBB	15.00%	8,373,305	6.27%	Yes
AMP	BBB	15.00%	1,060,839	0.79%	Yes
ANZ	AA-	30.00%	6,789,549	5.08%	Yes
CBA	AA-	30.00%	8,776,389	6.57%	Yes
CBA	AA-	30.00%	7,061,721	5.29%	Yes
TOTAL FUNDS AT CALL			32,061,803	24.01%	
TOTAL INVESTMENTS			133,551,722	100.00%	

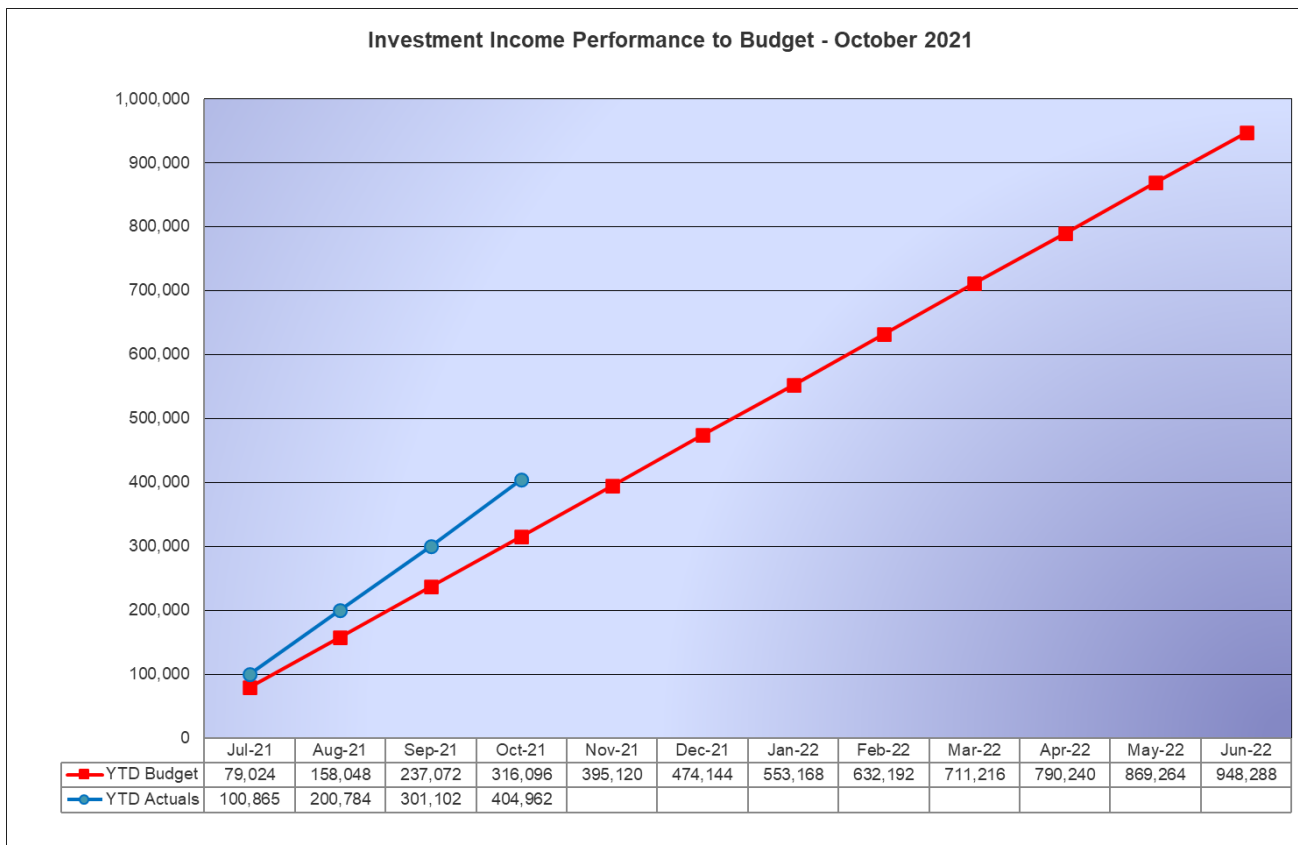
Register of Investments - Clarence Valley Council as at 31 October 2021					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	489,919	0.37%	At-Call	-0.84%	AAA
AMP Bank Ltd	8,373,305	6.27%	At-Call	0.55%	BBB
AMP Bank Ltd	1,060,839	0.79%	At-Call	0.50%	BBB
ANZ Banking Group Ltd	6,789,549	5.08%	At-Call	0.05%	AA-
Commonwealth Bank of Australia	8,776,389	6.57%	At-Call	0.00%	AA-
Commonwealth Bank of Australia	7,061,721	5.29%	At-Call	0.05%	AA-
AMP Bank Ltd	2,000,000	1.50%	02/12/2021	1.45%	BBB
Bank Of Queensland Ltd	1,000,000	0.75%	02/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.75%	02/12/2021	0.54%	BBB+
Commonwealth Bank of Australia	3,000,000	2.25%	12/11/2021	0.55%	AA-
Defence Bank	2,000,000	1.50%	17/12/2021	0.50%	BBB
ING	2,000,000	1.50%	29/11/2021	1.55%	A
National Australia Bank	2,000,000	1.50%	02/12/2021	0.50%	AA-
Westpac Bank	1,000,000	0.75%	16/11/2021	1.22%	AA-
TOTAL WORKING CAPITAL (0-3 MONTHS)	46,551,722	34.86%		0.44%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	3,000,000	2.25%	05/03/2022	0.95%	BBB
Bank Of Queensland Ltd	1,000,000	0.75%	09/05/2022	3.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.75%	03/08/2022	3.60%	BBB+
Credit Union Australia	2,000,000	1.50%	07/07/2022	0.37%	BBB
ING	3,000,000	2.25%	11/02/2022	1.60%	A
ING	2,000,000	1.50%	21/02/2022	1.60%	A
ING	3,000,000	2.25%	21/02/2022	1.60%	A
ING	1,000,000	0.75%	04/10/2022	3.66%	A
ME Bank Ltd	1,000,000	0.75%	15/02/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.50%	03/03/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.50%	09/05/2022	0.50%	BBB
ME Bank Ltd	3,000,000	2.25%	11/05/2022	0.50%	BBB
ME Bank Ltd	5,000,000	3.74%	09/06/2022	0.47%	BBB
ME Bank Ltd	1,000,000	0.75%	06/07/2022	0.50%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.50%	13/09/2022	3.40%	A+
Westpac Bank	2,000,000	1.50%	18/07/2022	1.08%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	34,000,000	25.46%		1.26%	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
SHORT - MEDIUM TERM (1-2 YEARS)					
AMP Bank Ltd	2,000,000	1.50%	14/11/2022	0.55%	BBB
AMP Bank Ltd	1,000,000	0.75%	31/08/2023	0.75%	BBB
Bank Of Queensland Ltd	2,000,000	1.50%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.50%	21/08/2023	3.60%	BBB+
Defence Bank	2,000,000	1.50%	21/11/2022	0.62%	BBB
Defence Bank	2,000,000	1.50%	02/12/2022	0.64%	BBB
Defence Bank	2,000,000	1.50%	03/03/2023	0.50%	BBB
Defence Bank	2,000,000	1.50%	09/03/2023	0.53%	BBB
ING	2,000,000	1.50%	02/03/2023	0.55%	A
ME Bank Ltd	2,000,000	1.50%	15/06/2023	0.50%	BBB
National Australia Bank	2,000,000	1.50%	18/11/2022	0.60%	AA-
National Australia Bank	2,000,000	1.50%	01/12/2022	0.60%	AA-
National Australia Bank	2,000,000	1.50%	06/03/2023	0.60%	AA-
National Australia Bank	2,000,000	1.50%	05/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.50%	15/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.50%	10/08/2023	0.60%	AA-
National Australia Bank	2,000,000	1.50%	10/09/2023	0.65%	AA-
P&N Bank	3,000,000	2.25%	13/03/2023	0.55%	BBB
RaboDirect (Australia) Ltd	1,000,000	0.75%	05/12/2022	3.21%	A+
RaboDirect (Australia) Ltd	1,000,000	0.75%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.50%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.50%	13/03/2023	0.93%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	42,000,000	31.45%		1.14%	
MEDIUM TERM (2-5 YEARS)					
National Australia Bank	2,000,000	1.50%	08/07/2024	0.80%	AA-
National Australia Bank	2,000,000	1.50%	12/01/2026	1.00%	AA-
Westpac Bank	1,000,000	0.75%	20/06/2024	0.85%	AA-
Westpac Bank	3,000,000	2.25%	15/10/2024	1.00%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	8,000,000	5.99%		0.93%	
LONG TERM (5-10 YEARS)					
Northern Territory Treasury Corp	3,000,000	2.25%	15/12/2026	1.50%	AA-
TOTAL LONG TERM (5-10 YEARS)	3,000,000	2.25%		1.50%	
TOTAL INVESTMENTS	133,551,722	100.00%		0.93%	

COUNCIL IMPLICATIONS**Budget/Financial**

Portfolio Investment Returns to 31 October 2021			
	Actual	Budget 2020/21	Over/(Under)
This Month			
Cash Deposits & FRNs	\$104,248	\$78,974	\$25,274
Managed Funds	(\$388)	\$50	(\$438)
	\$103,860	\$79,024	\$24,836
Year to Date			
Cash Deposits & FRNs	\$405,324	\$315,896	\$89,428
Managed Funds	(\$361)	\$200	(\$561)
	\$404,963	\$316,096	\$88,867

- Actual results have shown that total interest income to 31 October 2021 is \$88.8k above the 2021-22 YTD budget of \$316k.

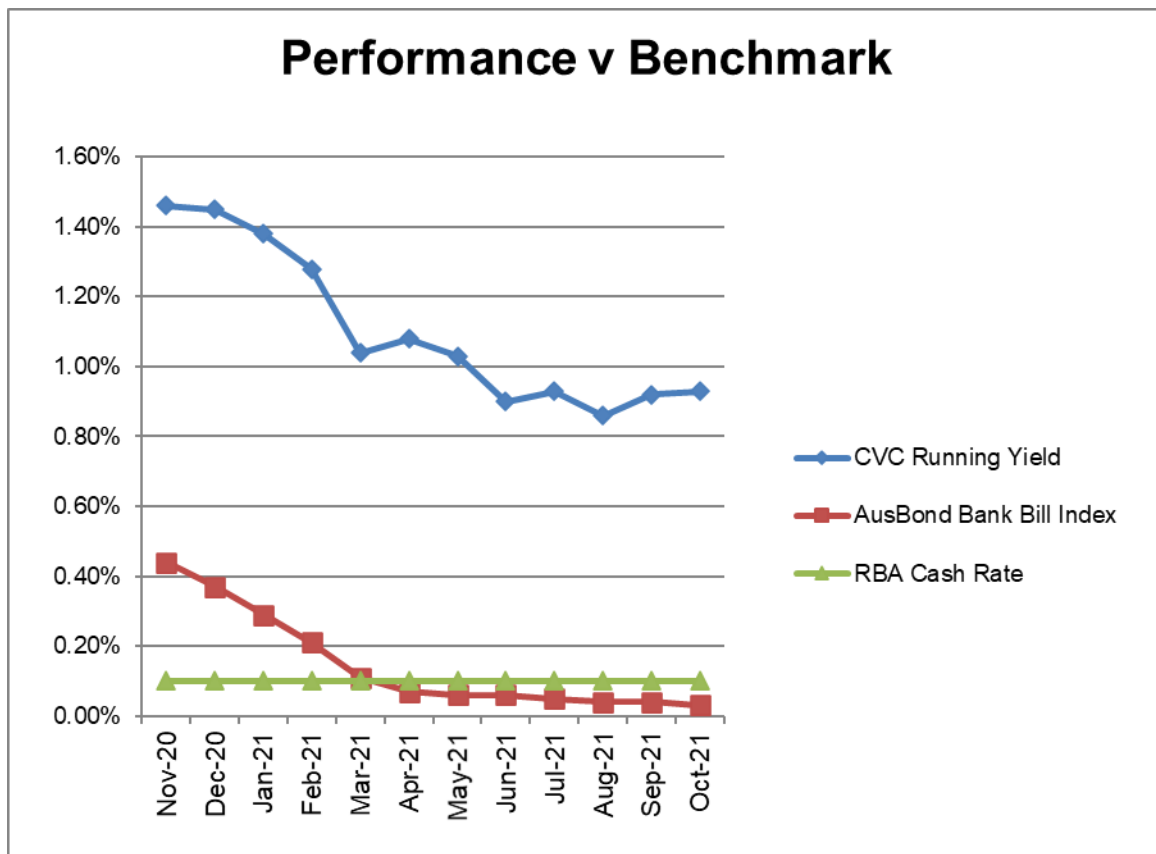


- Running yields* to 31 October 2021 have been:

AMP Business	0.50%
AMP 31 Day Notice	0.55%
ANZ Premium Business	0.05%
CBA General	0.00%
24hr Call Account	0.05%
T-CorpIM Cash Fund	(0.84)%
Term Deposits	<u>1.17%</u>
Total	0.93%

*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 October was 0.10%. The benchmark AusBond Bank Bill Index was 0.03% for October.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +0.93% (September 0.92%).



The following investments were transacted during October:

- Bendigo \$3.0m TD matured 15/10/2021 – redeemed
- New Westpac \$3.0m TD invested at 1.00% for 3 years – matures 15/10/2024

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	Kirsty Gooley, Financial Analyst
Attachment	Movement of Funds Between Months – October 2021

ITEM	6c.21.148	CLASSIFICATION OF LOT 179 IN PLAN OF SUBDIVISION OF LOT 2 IN DP1248516 AS OPERATIONAL
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Strategic Infrastructure (Greg Allsopp)	
Attachment	Yes	

SUMMARY

This report seeks to classify land, being Lot 179 in Plan of Subdivision of Lot 2 in DP1248516, as operational land on its acquisition by Council. Lot 179 is to be dedicated as a Drainage Reserve on registration of the plan.

OFFICER RECOMMENDATION

That Council:

- Publicly exhibits its intention to classify Lot 179 in plan of subdivision of Lot 2 in DP1248516 Parish Yamba; County Clarence located at Yamba (figure 1) as 'Operational'.
- Subject to no submissions being received requiring Council to consider this matter further, classify the land as 'Operational' at the end of the exhibition period if the Subdivision Plan has been registered or if not, on the date that the Subdivision Plan is registered.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

Yamba Quays Pty Ltd has submitted a Plan of Subdivision of Lot 2 DP 1248516 with Council that includes the dedication of Lot 179 (figure 1) as a drainage reserve. At the time of writing this report the application (SubCT 2021/0044) was still being assessed by Council.

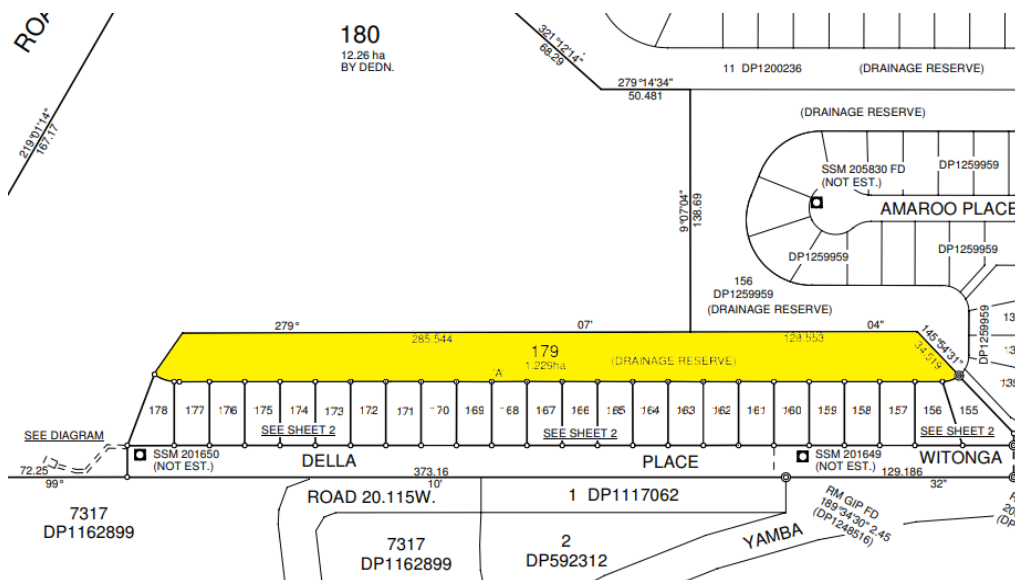


Figure 1

Under s49(3) of the *Local Government Act 1993* (LG Act), a drainage reserve dedicated on a subdivision plan vests in Council in fee simple on the registration of the plan:

49 Public reserves and drainage reserves dedicated on subdivision, transfer or conveyance

(3) On the registration by the Registrar-General of a plan on which land is marked with the words “drainage reserve”, or of a transfer or conveyance to a council of land identified in the transfer or conveyance as being for use as a drainage reserve, the land vests in the council for an estate in fee simple and is held by the council for drainage purposes.

Section 31(2) of the LG Act requires Council to classify all land acquired by Council, post 1 July 1993, as either ‘Operational’ or ‘Community’ prior to or within 3 months of its acquisition. With the default being if not classified within 3 months of its acquisition the land is classified as ‘Community’ (s31[2A]).

31 Classification of land acquired after 1 July 1993

- (2) Before a council acquires land, or within 3 months after it acquires land, a council may resolve (in accordance with this Part) that the land be classified as community land or operational land.
- (2A) Any land acquired by a council that is not classified under subsection (2) is, at the end of the period of 3 months referred to in that subsection, taken to have been classified under a local environmental plan as community land.

In addition, s34 of the LG Act requires Council to give public notice of a proposed resolution to classify public land as either ‘Operational’ or ‘Community’, including the terms of the proposed resolution and a description of the land concerned. The public notice must be for a period of not less than 28 days during which submissions in regards to the proposed classification of the land may be made to Council:

34 Public notice to be given of classification or reclassification by council resolution

- (1) A council must give public notice of a proposed resolution to classify or reclassify public land.
- (2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.
- (3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.

Drainage reserves typically provide an operational function of Council. However, land held by Council for drainage purposes may be used for any other purpose as long as this other use does not affect the use of the land for drainage purposes:

51 Use of land held for drainage purposes

Land that is held by council for drainage purposes may be used for any other purpose that is not inconsistent with its use for drainage purposes, subject to the *Environmental Planning and Assessment Act 1979* and any environmental planning instrument applying to the land.

Council intends to allow the public to use the drainage reserve for recreational purposes (including fishing, swimming and boating) and to allow adjoining landowners to construct water recreation structures on the land under a tenure agreement.

The erection of water recreation structures on Council-owned land are guided by the procedure outlined in Council's *Water Recreation Structures Fact Sheet*.

KEY ISSUES

Drainage reserves serve an operational purpose. Hence the classification as 'Operational' is appropriate.

By classifying Lot 179 as 'Operational' Council will then be able to authorise the construction of water recreational structures, i.e. pontoons and jetties, and enter into leasing and licencing agreements with the adjoining landowners. If the land was to be classified as 'Community' this would not be possible until the land was reclassified.

If the land is classified as 'Community' either by Council resolution or by default (i.e. it was not classified as 'Operational' within three (3) months of its acquisition) Council would be required under s36 of the LG Act to prepare and adopt a plan of management for the land that sets out its use and management.

If the land is classified as 'Community' and at some point Council proposed to reclassify land from 'Community' to 'Operational', a planning proposal to amend the Clarence Valley Local Environment Plan 2011 prepared under the Environmental Planning and Assessment Act 1979 and a public hearing is required. This process is time consuming taking upwards to 2 years to complete and is costly in terms of staff resourcing to complete the requirements of this process.

COUNCIL IMPLICATIONS

Budget/Financial

Implementing the recommendations of this report is included in the Operational budget.

Asset Management

Lot 179 will be added to Council's Land Register and Assets system and will be managed in conjunction with the adjoining drainage reserves owned by Council.

Policy or Regulation

Local Government Act 1993 and Regulation

Consultation

Internal consultation has been undertaken with Council's Strategic Planning, Development Services, Open Spaces and Strategic Infrastructure sections. The public notice of the proposal to classify the land as 'Operational' will allow the general public to comment on the proposal as well.

Legal and Risk Management

The 'Operational' classification of the drainage reserve will allow Council to manage the land as per its designated intent and allow Council to authorise uses that would not otherwise be permitted if the land was classified as 'Community'.

Climate Change

N/A

Prepared by	Eloise Casson, Support Officer (Acquisitions and Disposals) and Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title)
Attachment	A. Plan of Subdivision of Lot 2 DP1248516

ITEM	6c.21.149	PROPOSED PERMANENT ROAD CLOSURE – PART OLD WATTERS ROAD, RUSHFORTH
Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Strategic Infrastructure (Greg Allsopp)	
Attachment	Nil	

SUMMARY

This report is to consider the permanent road closure of a part of Old Watters Road, Rushforth and transfer of ownership to the adjoining landowner. The request is made by the adjoining landowner of Lot 67 DP751370 being 458 Rushforth Road, Rushforth.

OFFICER RECOMMENDATION

That Council:

1. Permanently close part of Old Watters Road, Rushforth, adjoining Lot 67 DP751370 (figure 1).
2. Classify the newly created lot as 'operational' land.
3. Transfer the newly created lot to the adjoining landowner for \$9,000.00 plus GST if applicable.
4. The landowner is to meet all costs associated with the road closure.
5. Affix the Common Seal to the survey and transfer documentation.
6. Authorise the General Manager to execute all documents related to the closure and sale to affect the above requirements.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.3 Provide strategic asset management planning

BACKGROUND

Kevin and Deborah Scattergood, the landowners of 458 Rushforth Road, Rushforth, being Lot 67 DP751370, are seeking to close part of Old Watters Road which divides their property and create a Lot for ownership.

KEY ISSUES

There have been nil objections to the proposed sale by any adjoining landowners, all neighbouring landowners have alternative access to their properties. This portion of Old Watters Road is clear of assets and no easements are required for the proposed sale to proceed.



Figure 1

COUNCIL IMPLICATIONS

Budget/Financial

There will be no financial impact on Council as the applicant will meet all associated costs including survey and legal.

Asset Management

Council currently has this section of road reserve listed in the Assets Register and an adjustment to the area listed will be made if the road closure is approved.

Policy or Regulation

Roads Act 1993
Local Government Act 1993
Conveyancing Act 1919

Consultation

Council's Civil Services and Planning Sections have been consulted and agree to the proposal. Landowners in the area and relevant authorities have been consulted. No objections have been received.

Legal and Risk Management

Closing the section of road reserve enables the land to be transferred to the adjoining landowner and removed liability risk to council for having private infrastructure or occupation on council land without a formal tenure.

Climate Change

N/A

Prepared by	Eloise Casson, Support Officer – Acquisitions & Disposals
Attachment	Nil

ITEM	6c.21.150	PROPOSED PERMANENT ROAD CLOSURE – PART STANLEY STREET, MACLEAN ROAD RESERVE
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Strategic Infrastructure (Greg Allsopp)	
Attachment	Nil	

SUMMARY

This report is to consider the permanent road closure of a part of the road reserve of Stanley Street, Maclean and transfer of ownership to the adjoining landowner. The request is made by the adjoining landowner of Lot 1, DP386844 being 36 Stanley Street, Maclean.

OFFICER RECOMMENDATION

That Council:

1. Permanently close part of Stanley Street, Maclean, road reserve adjoining Lot 1 DP386844 subject to an easement being created for Telstra access to their existing assets.
2. Classify the newly created lot as 'operational' land.
3. Transfer the newly created lot to the adjoining landowner for \$5,900.00 plus GST if applicable.
4. The landowner is to meet all costs associated with the road closure.
5. Affix the Common Seal to the survey and transfer documentation.
6. Authorise the General Manager to execute all documents related to the closure and sale to affect the above requirements.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

Strategy 2.1.3 Provide strategic asset management planning

BACKGROUND

Andrew Taylor and Jacqueline Waterman, the landowners of Lot 1 DP386844 being 36 Stanley Street, Maclean, are seeking to close the adjoining section of road reserve and create a lot for ownership as they wish to erect a fence along their Stanley Street boundary.

KEY ISSUES

Council set a precedent in 2015 with the approved road reserve closure at Lot 1 DP1123020 being 29 Woodford Street, Maclean, (two doors up from the subject property, (figure 1). The applicant wishes to extend their boundary to be inline with 29 Woodford Street, Maclean (figure 1). A Telstra pit is located within the new proposed boundary, an easement is to be created to allow Telstra access for ongoing maintenance



- Section of Stanley Street, Maclean, road reserve proposed to be closed and sold to the adjoining landowner of Lot 1 DP 386844 (approximately 44 sqm).
- 29 Woodford Street, Maclean, where a sale of road reserve in 2015 sets a precedent.

Figure 1

COUNCIL IMPLICATIONS

Budget/Financial

There will be no financial impact on Council as the applicant will meet all associated costs including survey and legal. If the closure is approved, Council will no longer be required to maintain this section of road reserve and will therefore have a reduction in future maintenance costs.

Asset Management

Council currently has this section of road reserve listed in the Assets Register and an adjustment to the area listed will be made if the road closure is approved

Policy or Regulation

Roads Act 1993
Local Government Act 1993
Conveyancing Act 1919

Consultation

Council’s Civil Services and Planning Sections have been consulted and agree to the proposal. Landowners in the area and relevant authorities have been consulted. No objections have been received.

Legal and Risk Management

Closing the section of road reserve enables the land to be transferred to the adjoining landowner and removed liability risk to council for having private infrastructure or occupation on Council land without a formal tenure.

Climate Change

N/A

Prepared by	Eloise Casson, Support Officer – Acquisitions & Disposals
Attachment	Nil

ITEM 6c.21.151 LOCAL TRAFFIC COMMITTEE

Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

This report lists the recommendations made at 3 November 2021 meeting of the Clarence Valley Council Local Traffic Committee.

OFFICER RECOMMENDATION

That the recommendations of the Local Traffic Committee included in the Minutes of its 3 November 2021 meeting be adopted by Council.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The following agenda items were considered at the Local Traffic Committee held on 3 November 2021.

Item: 044/21 Accessible Parking for Grafton Base Hospital

That a total of five accessible parking spaces and three shared spaces be provided in Arthur Street, east of the main entrance to the Grafton Base Hospital and that the work proposed be installed to the relevant Australian Standards. Prior to implementation a final design be submitted to TfNSW for their concurrence.

Item: 045/21 On Street Parking – The Boulevard, Yamba

1. A loading zone be installed on the southern side of The Boulevard, Yamba. The Loading Zone should extend 16 metres from the Sands Resort driveway towards Oceania Court.
2. The missing link in the footpath between the roundabout on The Boulevard and Oceania Court be installed to provide a safe pathway for pedestrians.
3. That following implementation Council Rangers be requested to enforce the new loading zone.

Item: 046/21 River Road East, Harwood – No Trucks

1. The 'No Trucks' B Size sign including supplementary plate indicating the load limit of 4.5 tonne be approved to prevent heavy vehicles from using River Road East as per the plan.
2. The previous resolution from May 2021 to install a gate to close River Road East is revoked because of concerns raised after further investigations.

Item: 047/12 Union Street, Maclean – No Stopping

1. A 'No Stopping' sign be installed on the southern side of Union Street, Maclean, 13m west of Oban Lane to allow easier access to the stairs at Number 6 Union Street.
2. A 'No Stopping' sign be installed on the southern side of Union Street, Maclean, 10m east of Oban Lane.

KEY ISSUES

Agenda, minutes and attachments are attached.

COUNCIL IMPLICATIONS**Budget/Financial**

Refer tabled minutes for budget implications for each individual recommendation.

Asset Management

The new traffic facilities will become assets on the asset register.

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Greg Allsopp, Manager – Strategic Infrastructure
To be tabled	Traffic Committee Minutes

ITEM	6c.21.152	EVENTS OF CHRISTCHURCH – NEW ZEALAND (FRIDAY, 15 MARCH 2019) – FINAL UPDATE
Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Nil	

SUMMARY

On 19 March 2019, Item 11.001/19 on the Events of Christchurch – New Zealand was reported to an Extraordinary Meeting of Council.

OFFICER RECOMMENDATION

That:

1. Council receive and note the update report on the Events of Christchurch – New Zealand (Friday, 15 March 2019).
2. The location of the memorial “peace pole” and garden be Location 2 (or other suitable location) within the Anglican Church property following further consultation with the Anglican Church.
3. Council in accordance with Section 67 (2b) of the Local Government Act not charge a fee for the works and that the installation cost estimated to be \$10,449 be funded from existing budget PJ 550137 (Parks and Reserves Building/Structure).

COMMITTEE RECOMMENDATION

Kingsley/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

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

The Extraordinary Council Meeting was held in response to the Christchurch NZ shooting attack in March 2019 by a Grafton-born person which led to loss of lives and injury to many. The resolution from this meeting Item 11.001/19 is as follows:

That Council:

1. *On behalf of all residents of the Clarence Valley offer condolences to all those touched by the tragic events that occurred in Christchurch New Zealand last Friday 15 March 2019 and convey that expression to the Mayor of Christchurch, her fellow Councillors and to the Christchurch community.*
2. *Open a “Book of Condolence” to the citizens of Christchurch for Clarence Valley residents to sign and the book be available until 30 April 2019 at Council’s Libraries at Grafton, Maclean, Yamba and Iluka and Council’s customer service offices at Grafton and Maclean.*
3. *Approve the Mayor and General Manager to attend a memorial service in Christchurch at the appropriate time at which the “Book of Condolence” be presented to the Mayor of Christchurch.*
4. *Explore locations in the Grafton area for a permanent memorial to be erected to recognise the tragic events of 15 March 2019 and a report be provided to Council at a future Council meeting identifying potential locations and memorial options.*
5. *Recognise the difficult time the local Tarrant family is facing and call on the community to be supportive at this time.*

KEY ISSUES

A response was received from the Mayor of Christchurch after our condolences were conveyed to the city thanking us for our support.

The Book of Condolence was completed and due to COVID-19 restrictions the Mayor and General Manager were unable to deliver the book in person. However, recognition of the book which was posted was received from the Mayor of Christchurch on 31 August 2020 and reported to Council.

Options to explore locations for a permanent memorial are contained in this final report.

After consultation between the General Manager and the Dean of Grafton, Rev Greg Jenks, the erection of a symbol in the form of a ‘peace pole’ in the Cathedral grounds was initially considered to be the best option.

The peace pole could be made from local wood with a message in English and First Nations languages. The message could say something like “May peace prevail on earth.”

Three locations have been considered as possible options.



Figure 1 - Christchurch Memorial Location Options

Location 1 – Corner of Fitzroy and Duke Streets

The proposal for the Anglican Church site is to create a “Yarning Circle” with the peace pole standing in the centre of that circle a place of encounter and conversation (refer Figure 2). The Yarning Circle is venturing outside the scope of the project, however was considered appropriate based on the site. The simple garden and peace pole from Location 3 could also be placed at this location (refer to Figure 4).



Figure 2 - Yarning Circle and peace pole Cnr Fitzroy & Duke Streets

Location 2 – Corner of Victoria and Duke Streets

This location would be added to the existing gardens within the Anglican Church Gardens, a peace pole would be added within a new garden bed (refer to Figure 3).



Figure 3 - Peace Pole and Garden at Cnr Victoria & Duke Streets

Location 3 – Memorial Park in the North East Corner, near the Police car park

This location will be a simple 5m round garden with a peace pole added to the centre. This option will be on Crown land (refer to Figure 4).

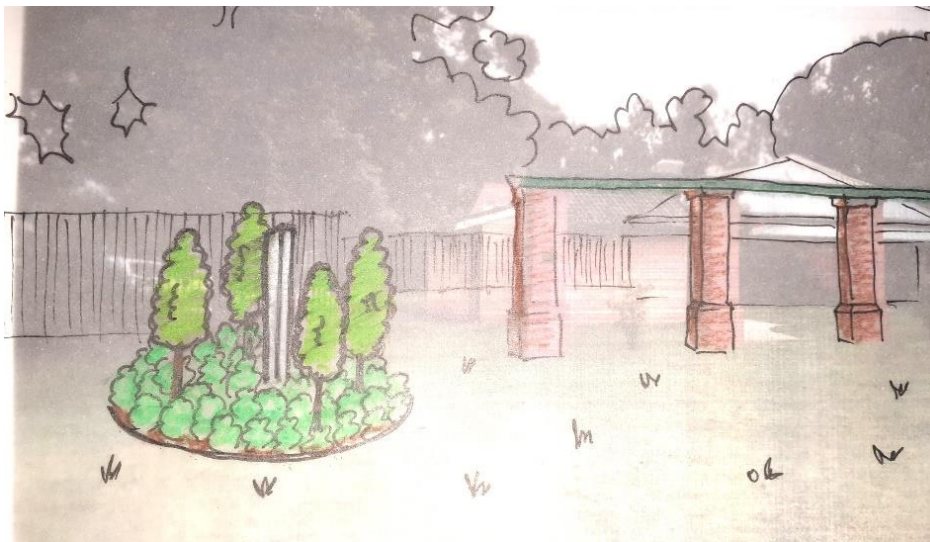


Figure 4 - Peace Pole and Garden in Memorial Park

COUNCIL IMPLICATIONS

Budget/Financial

The installation cost is proposed to be funded from the existing budget PJ 550137 (Parks and Reserves Building/Structure) with no further impact on the general fund.

From a maintenance perspective, Locations 1 and 2 have been agreed to be maintained by the Diocese, Location 3 would be maintained by Council, with an estimate of 2 hours required per month for maintenance.

Location	Construction Costs	Ongoing Maintenance	10 Year Cost
Location 1 – Fitzroy & Duke St, Yarning circle and peace pole	\$ 17,518	Not applicable	\$17,518
Location 2 – Victoria & Duke St, peace pole and Garden	\$ 10,449	Not applicable	\$10,449
Location 3 – Memorial Park, peace pole and Garden	\$ 10,449	\$1,440/year	\$24,849

Asset Management

Location 1 and 2 would not require any additional asset to be added to Council's register.

Policy or Regulation

As the works will be on private land Section 67 of the Local Government Act applies and it is recommended that Council not charge a fee for the works in accordance with S67 (2) (b).

S67 (2) A council must not carry out work under this section unless —

- (a) it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15, or
- (b) if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.

Consultation

Consultation has undertaken consultation with the Cathedral Parish Council and have confirmed support and agreement for:

1. Locating the peace pole within the Anglican Church grounds
2. Managing any future maintenance obligations associated with the peace pole and garden feature.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Andy Seaman, Project Manager
Attachment	Nil

ITEM	6c.21.153	WORKS REPORT
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Meeting	Corporate, Governance & Works Committee	16 November 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

Reports on capital and major maintenance works carried out by the Works and Civil Group until late October 2021.

OFFICER RECOMMENDATION

That the Works report be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Simmons, Toms

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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


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


BACKGROUND


Works are undertaken to maintain Council assets and undertake construction within budgets and timeframes established by Council. Departures from set programs and budgets are reported to Council as part of the works program reporting.

KEY ISSUES

The projects below highlight capital projects being undertaken during October 2021.

Project:	Chevalleys Bridge Replacement	
Project Description:	Construct a temporary sidetrack, demolish the existing bridge. Construct a single span Plank Bridge.	
Budget:	\$1.67M	
Expenditure :	\$700,000	
Status:	Under Construction. Piling has recently been completed. Crews are now forming and constructing the bridge abutments. Expecting girders to be installed late November.	

Project:	Cook Street Yamba Pressure Sewer	
Project Description:	Replace section of gravity main in Cook Street Yamba which collapsed under a building in March 2021 with a pressure sewer system serving 9 properties “upstream” of the collapse. Temporary bypass pump station required to maintain sewer services to properties while collapsed main replaced.	
Budget:	\$185,000	
Expenditure :	\$129,817	
Status:	<ul style="list-style-type: none"> • Pressure sewer mains and pressure unit installations completed on all 9 properties, including connection to property switchboards. • Pressure sewer units connected to property sewer drainage and commissioned. • Temporary bypass pump station decommissioned. • Property restoration works underway. • Property sewer charges to be changed to “pressure sewer connected”. 	

Project:	Detailed design - Grafton Pool Redevelopment, Stage One	
Project Description:	<p>The project includes a full suite of detailed design documentation for stage one including:</p> <ul style="list-style-type: none"> - A new 50m 8 lane outdoor pool - Outdoor grandstand including accessible spaces - A new 25m heated indoor pool - A new beach entry heated leisure pool combined with a program pool - Additional accessible amenities - Shade & recreation areas - Swimclub room - Accessible pathways - Additional storage - Outdoor pool lighting 	
Budget:	\$700,000	
Expenditure :	\$700,592	
Status:	Project completed. Development Application in progress.	

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	John Wells, Greg Mashiah, Peter Birch
Attachment	Nil

d. INFORMATION ITEMS

ITEM	6d.21.010	ITEMS FOR INFORMATION
Meeting	Council	23 November 2021
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:

1. Wooloweyah Parks & Reserves Committee: Minutes of meeting held 3 October 2021.
2. Copy of letter from Floodplain Management Australia to the Minister for Local Govt: Request to consider changes to Local Government Act.
3. Letter from The Hon. Shelley Hancock MP: CVC's Acquisition of the Nymboida Water Assets from Essential Energy in conjunction with Coffs Harbour Council.
4. Letter from Chris Gulaptis MP: Supporting CVC's request for a review of the intersection treatment of Pound and Villiers Street, Grafton.
5. Water Efficiency Working Group: Minutes of meeting held 2 November 2021

Prepared by	Debbie McGilvray, Executive Support Officer
Attachments	As listed above

e. TENDERS

ITEM	6e.21.026	TENDER 21/039 MACLEAN AND YAMBA COMMUNITY PRECINCT DETAILED DESIGNS
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Meeting	Council	23 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Confidential	

SUMMARY

Tenders were called for the detailed designs for the Maclean and Yamba Community Precincts and were awarded under delegation by the General Manager made by Council at its September Ordinary meeting. This report is updating Council on the outcome of the tender award.

OFFICER RECOMMENDATION

That Council note the report for the award of the tenders for the detailed designs for the 'Create the Treelands Drive Community Hub in Yamba' and 'Maclean Community Precinct (Phase 1)' projects.

LINKAGE TO OUR COMMUNITY PLAN

Theme	2 Infrastructure
Objective	2.1 We will have communities that are well serviced with appropriate infrastructure
Strategy	2.1.2 Ensure adequate natural disaster management

BACKGROUND

Funding for the 'Create the Treelands Drive Community Hub in Yamba' and 'Maclean Community Precinct (Phase 1)' projects was received under the Bushfire Local Economic Recovery Fund (BLER). Tenders were called for the detailed designs and Council at its September Ordinary meeting resolved (refer Item 6a.21.043) that:

That Council:

1. Under S377 of the Local Government Act delegate to the General Manager to accept open tenders for professional services for the detailed designs for the 'Create the Treelands Drive Community Hub in Yamba' and 'Maclean Community Precinct (Phase 1)' projects.
2. Receive a report back to the November 2021 Council meeting with the outcome of the detailed design tender process for both projects.

KEY ISSUES

Tenders were called on 23 September and closed on 26 October 2021 using the Tenderlink e-tendering service. A non-mandatory tender site meeting was held attended by Louisa Gee architect. Seven tenderers responded at the close of tenders. The following six tenderers provided tender responses to both projects

Tenderers	ABN	Address
Best Advocates of New	76 633 834 401	3 Kings Cross Rd, Darlinghurst NSW 2010
BKA Architecture	88 081 700 352	Unit 1, 10 Station St, Bangalow NSW 2479
James Cubitt Architects	24 010 625 804	14 Byres St, Newstead QLD 4006
Push + Louisa Gee Architects	94 109 752 310 52 625 211 783	4/15 Thompson St, Bowen Hills QLD 4006 4/18 Coldstream St, Yamba NSW 2464
Mode Design	65 112 807 931	1/142 Bundall Rd, Bundall QLD 4217
Thomson Adsett	76 105 314 654	128 Robertson St, Fortitude Valley QLD 4006

In addition the following tender was provided just for the Maclean project.

Tenderers	ABN	Address
Nimbus Architecture and Heritage	71 609 346 965	31-32/48 George St, Parramatta NSW 2150

Tenders were evaluated by a Tender Evaluation Committee (TEC) comprising senior managers, project management staff and facilitated by contractors Complete Urban P/L.

After evaluation of all tenders the TCC recommended that tenders be awarded as follows –

1. Create the Treelands Drive Community Hub in Yamba – James Cubitt Architects (JCA)

JCA are from Brisbane and have extensive local government experience in community projects including libraries and community spaces

2. Maclean Community Precinct (Phase 1) – Louisa Gee and Push Architects

Louisa Gee Architect is from Yamba and has teamed up with Push Architects and have undertaken similar projects with strong community spaces focussed on heritage and open space elements required.

The TEC made the following recommendations to the General Manager as follows –

1. *Accept the tender from Push + Louisa Gee Architects for RFT21/039 for the design of the Maclean Community Precinct at a cost of \$473,610.00 (Incl GST) to be funded from (Sub Service 343).*
2. *Authorise the General Manager to approve variations up to 10% of the contract value.*

and for Yamba –

1. *Accept the tender from James Cubitt Architects for RFT21/039 for the design of the Treelands Drive Community Centre Redevelopment Yamba at a cost of \$801,594.00 (Incl GST) to be funded from (Sub Service 343).*
2. *Authorise the General Manager to approve variations up to 10% of the contract value.*

Letters of Award and contracts were issued on 4 November 2021 under delegation by the General Manager in accordance with Item 6a.21.043 from the September 2021 meeting.

The confidential Tender Recommendation Reports are attached for information.

COUNCIL IMPLICATIONS

Budget/Financial

The Create the Treelands Drive Community Hub in Yamba project is funded by \$11,107,882 BLER-0094 with \$2,079,058 Council contribution for a total project value of \$13,186,940.

The Maclean Community Precinct (Phase 1) project received \$4,997,000 being fully funded by BLER funds.

Adequate funding has been budgeted for within the total project budget for the detailed design phase. The tender prices include fees for the construction phases of the projects to completion.

Asset Management

Detailed design will consider the condition of all assets at Maclean. The existing Treelands Drive Community Centre is proposed to be demolished.

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, and
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor

Consultation

N/A

Legal and Risk Management

The Directors of the seven Tendering Firms are:

Tenderer	Director/Partner
Best Advocates of New	Clayton Edwards, Jacob Burke
BKA Architecture	John Baker, John Kavanagh, Mark Khoury, Silvana Medel, Allison Burrows, Jesus Garcia
James Cubitt Architects	Paul Christmas, Dean Grohn, Mark Tendys, Danielle Collier, Sonya Butt, Jukka Tsoi, Lisa Wagstaff, Jennifer Dalrymple
Push + Louisa Gee Architects	Paul Curran, Louisa Gee
Mode Design	Rhonan O'Brien, Peter Bertram
Thomson Adsett	Dayne Mearns, Cameron Frazer, Anthony Houston, Donald Marshall, Wayne Schomberg
Nimbus Architecture and Heritage	Jesse Mowbray, Christopher Roehrig

Climate Change

The detailed designs will consider energy efficiency measures and Council's Green Building Policy.

Prepared by	Peter Birch, Manager Open Spaces and Facilities
Confidential	Tender Recommendation Reports

ITEM	6e.21.027	EXPRESSION OF INTEREST - FIXING COUNTRY BRIDGES (GROUP 2 BRIDGES)
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Meeting	Council	23 November 2021
Directorate	Works & Civil	
Reviewed by	Manager - Strategic Infrastructure (Greg Allsopp)	
Attachment	Confidential	

SUMMARY

Expressions of Interest (RFT-100448811EOI) were invited on 27 August 2021 to assess potential tenderers to be shortlisted for designing and constructing nine bridges as part of the Fixing Country Bridges program.

The Expressions of Interest (EOI) closed on 5 October 2021 and following the evaluation process this report recommends approval of the nine shortlisted contractors.

OFFICER RECOMMENDATION

That Council invite the following contractors to submit tenders for nine bridges referred to as 'Group 2' of the Fixing Country Bridges program:

1. Arengo (NSW) / Daracon Contractors JV
2. Ark Construction Group Pty Ltd
3. Civil Mining & Construction Pty Ltd
4. Fortec Australia Pty Ltd
5. GC Civil Contracting Pty Ltd
6. Hazell Bros (Qld) Pty Ltd
7. Quickway Constructions Pty Ltd
8. Saunders Civilbuild
9. Tobco

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The Fixing Country Bridges Program has been developed to provide funding for timber bridge replacements across regional and rural NSW. Under the first round of the Fixing Country Bridges Program, Clarence Valley Council received funding for the demolition and replacement of 31 timber bridges. The projects included in this first round of funding are to be completed by late July 2023. This is a 27-month construction program.

From the total of 31 bridges, a package of nine bridge sites has been identified by Clarence Valley Council as suitable for outsourcing the design and construction of the bridges to external contractors. The nine bridges, referred to as 'Group 2' of the Fixing Country Bridges program, are as follows:

- Barretts Creek Bridge, Coaldale Road
- Winters Bridge, Jackadgery-Lillydale Road
- Wintervale Creek Bridge, Old Glen Innes Road
- Dundoo Floodway Bridge, Kungala Road
- Billys Creek Bridge, Armidale Road
- Coutts No 1 Bridge over Orara Floodway, Armidale Road
- Coutts No 2 Bridge over Orara Floodway, Armidale Road
- Koukandowie No 2 Bridge, Armidale Road
- Skinners Swamp Bridge, Armidale Road

Clarence Valley Council engaged Public Works Advisory (PWA) to conduct an EOI procurement process to assess potential tenderers to be shortlisted for the design and construction of nine bridges under three packages of works. The purpose of the EOI process was to:

- Gauge market interest in undertaking the works;
- Request responses on certain aspects of the works; and
- Assess the respondent's capability to complete the works within the funding timeframe.

The EOI closed on 5 October 2021 with submissions received from 14 contractors:

1. Arengo (NSW) / Daracon Contractors JV
2. Ark Construction Group Pty Ltd
3. Boom Logistics
4. Burnette Civil Pty Ltd
5. CASA Projects Pty Ltd
6. Civil Mining & Construction Pty Ltd
7. Fortec Australia Pty Ltd
8. GC Civil Contracting Pty Ltd
9. Hazell Bros (Qld) Pty Ltd
10. Murray Valley Piling Pty Ltd
11. Quickway Constructions Pty Ltd
12. Saunders Civilbuild
13. Tobco
14. Wagner CFT Manufacturing Pty Ltd

KEY ISSUES

The EOI Evaluation Plan identified mandatory criteria that successful applicants were required to meet. These included:

- Acceptable WHS, environmental and quality management systems;
- Satisfactory past performance, including in relation to WHS and environmental management;
- Satisfactory financial capacity; and
- A satisfactory record of compliance with the NSW Code of Practice of Procurement.

The following additional criteria were also evaluated:

- Experience and capability;
- Proposed personnel;
- Proposed designer and consultants;
- Understanding of project and contract requirements;
- Proposed program and availability;
- Subcontractors and local content; and
- National Prequalification system.

The submissions were assessed against the specified evaluation criteria in accordance with the EOI Evaluation Plan.

Refer to the attached confidential report, "Expressions of Interest (for Design and Construction works) – Report and Recommendation" for the full description of the EOI process and evaluation. The report recommends a shortlist of nine contractors as having adequately met the criteria to progress to the selective tender phase.

The recommended shortlist of contractors are:

1. Arengo (NSW) / Daracon Contractors JV
2. Ark Construction Group Pty Ltd
3. Civil Mining & Construction Pty Ltd
4. Fortec Australia Pty Ltd
5. GC Civil Contracting Pty Ltd
6. Hazell Bros (Qld) Pty Ltd
7. Quickway Constructions Pty Ltd
8. Saunders Civilbuild
9. Tobco

(listed in alphabetical order)

PROGRAM STATUS

A Request for Tender (RFT) for three packages of work to design and construct a total of nine bridges is planned to be issued to the successful contractors on 24 November 2021. The tender period will close on 24 January 2022. It is intended that the outcome of the selective tender process will be reported at the February 2022 ordinary meeting of Council.

COUNCIL IMPLICATIONS**Budget/Financial**

The two-stage tender process was considered to deliver the best value for money outcome for Council. The project schedule, contract price and recommended tenderer/s will be reported at the February 2022 ordinary meeting of Council.

Asset Management

The existing timber bridges will be removed and the new bridges will become Council assets and be added to Council's asset register.

Policy or Regulation

The tender process has followed the requirements of the Local Government Act and Regulation.

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	John Wells, Project Coordinator
Confidential	Expressions of Interest (for Design and Construction works) – Report and Recommendation

7. NOTICE OF MOTIONS
8. CONFIDENTIAL BUSINESS
9. QUESTIONS WITH NOTICE
10. LATE ITEMS OF BUSINESS AND MATTERS ARISING
11. CLOSE OF ORDINARY MEETING