

# Ordinary Council Meeting Business Paper

26 October 2021



# Agenda

01	OPENING OF ORDINARY MEETING	
	• 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 28 SEPTEMBER 2021	
05	MAYORAL MINUTES	
06	REPORTS	
a	GENERAL MANAGER	
	<a href="#">6a.21.047</a> Change of Date: Local Public Holiday for 2021 Jacaranda Festival	1
	<a href="#">6a.21.048</a> Development Applications	3
b	ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE	
	<a href="#">6b.21.076</a> DA2021/0634 – Dual Occupancy– 6 Ski Lodge Road, Seelands	7
	<a href="#">6b.21.077</a> DA2021/0782 – Dual Occupancy– 135 School Road, Palmers Island	11
	<a href="#">6b.21.078</a> DA2021/0547– Four Multi Dwelling Housing and Swimming Pools – 3 Dunes Court, Yamba	19
	<a href="#">6b.21.079</a> DA2021/0728 – Demolition of Existing Structures, Construction of Five (5) Serviced Apartments and Expansion of Outdoor Seating Area – The Mainbrace, Yamba (being Lot 27 DP 879908)	30
	<a href="#">6b.21.080</a> DA2021/0374 – Multi Dwelling Housing (3 units), Strata Subdivision and Earthworks, 11 High Street, Yamba	33
	<a href="#">6b.21.081</a> Clarence Valley Local Environmental Plan 2011 (Amendment No. 46)	45
c	CORPORATE, GOVERNANCE AND WORKS COMMITTEE	
	<a href="#">6c.21.123</a> Delegation of Authority General Manager	48
	<a href="#">6c.21.124</a> Policy Report	52
	<a href="#">6c.21.125</a> Request from Account 2166809 for Consideration for Reduction in Water Account	54
	<a href="#">6c.21.126</a> Council Meeting Checklist – Update on Actions Taken	57
	<a href="#">6c.21.127</a> 2021/22 Quarterly Budget Review Statement – September 2021	59
	<a href="#">6c.21.128</a> Local Traffic Committee	64
	<a href="#">6c.21.129</a> Petition - Taloumbi Ring Drain	69
	<a href="#">6c.21.130</a> See Park Masterplan	72
	<a href="#">6c.21.131</a> Brooms Head Holiday Park Transitional Sites on Crown Land	75
	<a href="#">6c.21.132</a> Grafton Pool Redevelopment Project Update	78
	<a href="#">6c.21.133</a> Monthly Investment Report – September 2021	85
	<a href="#">6c.21.134</a> Governance Report 2021/22 Q1	92
	<a href="#">6c.21.135</a> 2021/22 Operational Plan – Quarterly Review as at 30 September 2021	96
	<a href="#">6c.21.136</a> Works Report	98
	<a href="#">6c.21.137</a> Yamba Road Roundabouts Update	100
	<a href="#">6c.21.138</a> 2 Prince St Administration Building Upgrade – Progress Update	103
d	INFORMATION ITEMS	
	<a href="#">6d.21.009</a> 1. Ewingar Hall Committee	107
	2. Hon Kevin Hogan MP, Member for Page	
	3. Hon Shelley Hancock MP, Minister for Local Government	
	4. NSW Premier	
	5. Clarence Valley Coast & Estuary Management Committee	
e	TENDERS	
	<a href="#">6e.21.020</a> T21/03 Grafton Waterfront Precinct	108
	<a href="#">6e.21.021</a> T21/027 Maclean Administration Centre HVAC Renewal	113
	<a href="#">6e.21.022</a> T21/025 Swan Creek Watermain Renewal	115
	<a href="#">6e.21.023</a> T21/028 Preparation of the Clarence Valley Coast Coastal Management Program (Stages 2-4)	117

	<a href="#">6e.21.024</a>	T21/030 Sewer Main Rehabilitation	120
	<a href="#">6e.21.025</a>	T21/04 Ulmarra Riverside and Village Upgrades	122
07		NOTICE OF MOTIONS	
	<a href="#">07.21.013</a>	Cr Toms – Valley Watch Inc Request for Independent Compliance Audit on Development Approvals	126
08		CONFIDENTIAL BUSINESS	
		<i>The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section: 10A 2 (e) The report contains information that would, if disclosed, prejudice the maintenance of law</i>	
	<a href="#">08.21.008</a>	Indigenous Land Use Agreement Between Clarence Valley Council and Yaegl People – Calypso Holiday Park	128
09		QUESTIONS WITH NOTICE	
10		LATE ITEMS OF BUSINESS AND MATTERS ARISING	
11		CLOSE OF ORDINARY MEETING	

<b>ITEM</b>	<b>6a.21.047</b>	<b>CHANGE OF DATE: LOCAL PUBLIC HOLIDAY FOR 2021 JACARANDA FESTIVAL</b>
<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Organisational Development (Alex Moar)	
<b>Attachment</b>	Nil	

## SUMMARY

The recent spike in COVID-19 cases in Grafton and South Grafton has required the postponement of the Jacaranda Festival from Friday 29/10/21 – Sunday 07/11/2021 to Friday 03/12/2021 – Sunday 12/12/2021. However, the approved local public holiday is currently scheduled for Thursday 4 November 1pm-5pm.

The Jacaranda Festival Committee has requested Council's support via an application to the Department of Premier and Cabinet to have the approved local public holiday cancelled, and a new local public holiday for Thursday 9 December 1pm-5pm approved to coincide with the revised dates for the festival.

## OFFICER RECOMMENDATION

That Council endorse the action of the Mayor in applying to the Department of Premier and Cabinet to

1. Cancel the half day local public holiday for Thursday 4 November 2021 1pm to 5pm for the Jacaranda Festival in Grafton City.
2. Approve a half day local public holiday for Thursday 9 December 2021 1pm to 5pm for the Jacaranda Festival in Grafton City.

## LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

## BACKGROUND

The Jacaranda Festival is a long run event, celebrating its 87<sup>th</sup> year in 2021. The festival is the longest running floral festival in Australia and has strong meaning to locals. Established in 1934 and themed by Grafton's iconic jacaranda trees, the festival has recently attracted over 35,000 intra and interstate, national and international visitors to Grafton each year, injecting over two million into the economy. While COVID-19 and the postponement will have an impact on visitor numbers for 2021, the local community is looking forward to the celebration after the cancellation in 2020.

## KEY ISSUES

To leave the local public holiday as it is currently approved, i.e. for Thursday 4 November 1pm-5pm and thus outside the revised dates for the 2021 Jacaranda Festival could potentially be confusing for local businesses and the community more generally. Moreover, to not have a half local public holiday to coincide with the 2021 Jacaranda Festival may be detrimental to the event.

Due to the timeframe required for the Department to seek Ministerial consent to gazettal of local public holidays, the Mayor has sought application for both the cancellation of the half day local public holiday on Thursday 4 November 2021 and application for the half day local public holiday on Thursday 9 December 2021, with endorsement of that action recommended by this report.

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

Management of the Jacaranda Festival has consulted with Council and the Coffs Harbour/Clarence Police Districts in making the decision to move the dates of the festival.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Bligh Grant, Governance Officer
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**ITEM 6a.21.048 DEVELOPMENT APPLICATIONS**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Director – Environment & Planning (Adam Cameron)	
<b>Attachment</b>	Yes	

**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.

The significant increase in the total number of approved development applications from 1 July to 30 September 2021 is the result of an issue relating to the integration of the NSW Planning Portal with Council's Application Management software. A break down of the applications approved each month this Financial Year is provided below.

**KEY ISSUES**

The figures from 1 July 2021 to 30 September 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	275	\$65,436,052.25	19	Average: 62 days Median: 46 days

#### Monthly Approval Figures

Month	Number of Applications Approved
July	67 (28 within 40 days)
August	104 (49 within 40 days)
September	104 (44 within 40 days)

Of the 275 approved Development Applications between 1 July 2021 and 30 September 2021, 121 (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 September 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



**MINUTES** of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 19 October 2021 commencing at 4.00pm and closing at 4.15pm.

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

I acknowledge the Yaegl 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 Clancy	6b.21.080	Non-Significant Non-Pecuniary - Remain in the meeting Executive Committee Member of the Clarence Catchment Alliance. One of the objectors is a volunteer with the Alliance. I have not met the person.

**ITEM 6b.21.076 DA2021/0634 – DUAL OCCUPANCY– 6 SKI LODGE ROAD, SEELANDS**

<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

**SUMMARY**

<i>Applicant</i>	A Fletcher & Associates Pty Ltd
<i>Owner</i>	Neil Bender
<i>Address</i>	6 Ski Lodge Road, Seelands
<i>Submissions</i>	Nil

Council has received Development Application DA2021/0634 to construct a second dwelling on the subject site approximately 800 metres from the existing dwelling.

The application was notified and advertised with no submissions received during the exhibition period. The Applicant has sought approval for minor variations under the *Clarence Valley Local Environmental Plan 2011* (the LEP) to the 100 metres maximum distance between dwellings and that each dwelling is to use the same vehicular access. 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 800 metres from the existing dwelling;
2. Not support the requested variation to Clause 4.6 – Exceptions to Development Standards of the *Clarence Valley Local Environmental Plan 2011* for each dwelling to have its own vehicular access; and
3. Upon receiving an amended site plan showing both dwellings having a shared vehicular access allow Development Application DA2021/0634 to be determined under delegated authority.

**COMMITTEE RECOMMENDATION**

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Clancy, Baker, 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**

Development Application DA2021/0634 was lodged on 23 August 2021 to construct a second dwelling at 6 Ski Lodge Road, Seelands. An existing dwelling on-site was approved by former Nymboida Shire Council in 1974. The subject land is zoned RU1 Primary Production and 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 Applicant has located the second dwelling approximately 800 metres from the existing dwelling and proposes to utilise an existing unformed Crown Road Reserve to access the second dwelling.

## KEY ISSUES

### 1. Clause 4.6 Variation to the LEP

The Applicant has provided a written request to vary a development standard pursuant to Clause 4.6 of the LEP, that being the 100 metres maximum distance between detached dual occupancy dwellings and shared public road access within the rural zone under Clause 4.2D (2). 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 the following justification for Council to consider their request to vary the maximum distance between the two dwellings:

- a. The significant separation removes the appearance of a dual occupancy.
- b. The variation will not have an impact on the public interest.
- c. There are 132kv and 330kv transmission lines running parallel to Ski Lodge Road, setback 70 metres and 120 metres from the road respectively. Due to a 30 metres setback from these lines and presence of a dam in northern corner of the lot it severely impacts the suitability of sites to build a large dwelling and associated infrastructure.
- d. To the east of the transmission lines is a known Cultural Heritage site, in order to achieve suitable setbacks for the dwelling this would further push the dwelling beyond the 100 metre limit.
- e. There is a lower boggy area that is impacted by flood through the middle of the property which is not suitable for a dwelling.
- f. The proposed development does not create a land use conflict.
- g. On the basis of the above, the selected site 130 metres from the Clarence River on a flood free area would be the most reasonable location for a dwelling.

The Applicant has provided the following justification for Council to consider their request to vary the requirements to share the same access:

- a. No additional access points are being created.
- b. Construction of an internal driveway across the low point of the site would be expensive and unreasonable.
- c. It is unlikely that Crown Lands would support closing the road reserve, it is seen as a better outcome to improve this existing access to a Council road standard to service the proposed development and one other dwelling to the north.

#### Comment - Separation Distance:

Due the constraints of the site highlighted above by the Applicant, the proposed building site has been located on a high ridge that is not impacted by a 1 in 100 year flood event. 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 will be subject to the outcome of a Land Contamination Assessment (to be submitted and reviewed). The Applicant has provided Council with a letter from Grafton Ngerrie Local Aboriginal Land Council raising no objection to the proposed building site and that it will not impact on any objects or landscapes of Aboriginal significance.

The greater separation 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 being a mix of residential, grazing of livestock and the Ski Lodge Holiday Park. The proposed development is considered to meet the objectives of Clause 4.6 and the RU1 and RU2 zones.

Council officers agree with the Applicant's representations that there are sufficient environmental planning grounds and support the LEP variation to the proposed 800 metre separation between the proposed detached dual occupancy dwellings.

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

Comment - Shared Access:

A separate access off a Crown Road Reserve the proposal does not meet Council's Roads Policy and is not supported for the following reasons:

- a. The subject lot fronts a Council maintained road (Ski Lodge Road) to which access can be provided.
- b. The length of Crown road is currently unformed (two wheel tracks) and serves as a farm access lane. It would require extensive upgrades to bring inline with Category 1 standards and would require several small bridge structures or box culverts to be constructed.

The proposed access via the Crown road would require closure and purchase the road reserve, however Crown Lands would be unlikely to support this due to this being the sole access to a reserve on the river.

It is recommended that the Applicant submit amended plans showing shared access to Ski Lodge Road via an internal driveway. The driveway would be required to cross a Class 2 watercourse, the works are exempt from a controlled activity approval from the Natural Resource Access Regulator provided the crossing does not impound water.

Alternatively, Council may opt to support the requested variation and permit the second dwelling to have the proposed separate access. This would result in Council resolving to request that the section of Crown Road Reserve be transferred to Council and the road upgraded to the relevant standards. Furthermore, the road would become an additional Council asset and be subject to on-going operational maintenance costs. This option is not the officer recommendation.

## **2. Outstanding information**

Council officers have requested additional information regarding potential Contamination which remains an outstanding item that the Applicant must address before the application can be determined. The Applicant has requested that Council determine the variations to the LEP sought independent of determining the whole application. Council officers will only determine the application once the applicant demonstrates the subject site is not contaminated and suitable for residential purposes.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

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

### **Asset Management**

N/A

### **Policy or Regulation**

Environmental Planning and Assessment Act 1979  
 Environmental Planning and Assessment Regulation 2000  
 State Environmental Planning Policy 55 - Remediation of Land  
 Clarence Valley Local Environmental Plan 2011  
 Clarence Valley Council Development Control Plan for Development in Rural Zones  
 Clarence Valley Council Roads 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>
Building Surveyor	Supported subject to conditions
Development Engineer	Does not support additional access or transfer of Crown Road
Civil Services	Does not support additional access or transfer of Crown Road

**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 CO<sub>2</sub>-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	James Hamilton, Development Planner
Attachment	A. Proposed Plans
To be tabled	B. Applicant's Clause 4.6 Variation Request

ITEM	6b.21.077	DA2021/0782 – DUAL OCCUPANCY– 135 SCHOOL ROAD, PALMERS ISLAND
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<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

**SUMMARY**

<i>Applicant</i>	Paul Francis Dougherty
<i>Owner</i>	Paul Dougherty & Margaret Dougherty
<i>Address</i>	135 School Road, Palmers Island NSW 2463
<i>Submissions</i>	One (1)

Council has received Development Application DA2021/0782 to construct a second dwelling on the subject site approximately 580 metres from the existing dwelling.

The application was notified and advertised, with one (1) submission 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 580 metres from the existing dwelling; and
2. Approve Development Application DA2021/0782 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: Clancy, Baker, 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**

Development Application DA2021/0782 was lodged on 10 September 2021 to construct a second dwelling at 135 School Road, Palmers Island. The subject land is zoned RU1 Primary Production 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 contains two (2) existing pads which were approved 27 January 2016 under DA2016/0012. The proposal seeks to locate the additional dwelling on one of these pads, which is located 580 metres from the existing dwelling.

**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 B with a summary provided below:

- a. The application complies except for the variation requested.
- b. If the dwelling is built within 100 metres of the existing dwelling this would adversely impact the agricultural crop on the land, and the existing pad would not be utilised.
- c. Objectives of Clause 4.6 are consistent and apply to the circumstance of this application.
- d. Objectives of Clause 4.2D and the RU1 Primary Production zone are consistent with the proposal, with no impact on the agricultural viability of the land and surrounds.
- e. The site is flood prone, however, there is an existing flood mound available and approved by Council.
- f. Utilising the existing approved pad seems most reasonable and otherwise addresses the objectives.

Comment - Separation Distance:

Due the flood prone constraint of the site highlighted above by the Applicant, the proposed building site has been located on an existing constructed pad approved by DA2016/0012 that is not impacted by a 1 in 100 year flood event. 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. All the subject land is below the applicable planning flood level of 3.32metres AHD, except for the existing approved pad. However, the pad is located 580 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, agricultural crop growing, grazing of livestock, a boarding kennel and cattery, and the Fishing Haven Holiday Park. The proposed development meets the objectives of the Clause 4.2D, 4.6 and the RU1 zone.

Council officers agree with the Applicant's representations that there are sufficient environmental planning grounds and support the LEP variation to the proposed 580 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.

Submission

One (1) submission was received in Attachment C, the concerns raised were provided to the Applicant to address. Adequate planning grounds to justify the variation was requested, and provided by the Applicant in Attachment B.



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

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

**Asset Management**

N/A

**Policy or Regulation**

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

State Environmental Planning Policy 55 - Remediation of Land

Clarence Valley Local Environmental Plan 2011

Clarence Valley Council Development Control Plan for Development in Rural Zones

CVC Roads 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>
Building Surveyor	Supported subject to conditions
Development Engineer	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 CO<sub>2</sub>-equivalent emissions through construction 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 D. Section 4.15 Evaluation Report
To be tabled	B. Applicant's Clause 4.6 Variation Request C. Submission

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2021/0782**

**Definitions**

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

- A Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- B Northern Rivers Local Government Construction Manual (AUS-SPEC)
- C Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- D Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)

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

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

**Advices**

1. 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. Full engineering details prepared by a Practising Structural Engineer are to be submitted to Council for the (work) prior to issue of a Construction Certificate.
3. The structural engineer's design for footings/slabs shall be based on a geotechnical analysis of the foundation soils.
4. All construction and components must comply with the wind rating for the site which has been assessed at N1, N2, N3, N4.
5. 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.
6. The on-site wastewater management installation must be completed and ready for inspection at the same time as the frame inspection. All conditions of the on-site wastewater management approval shall be complied with prior to occupation of the dwelling.
7. All conditions of the on-site wastewater management approval shall be complied with prior to occupation of the dwelling.
8. 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**

<b>Application</b>	<b>Surface conditions</b>	
	<b>Dry (indoor)</b>	<b>Wet (outdoor)</b>
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

9. 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 1.2 ET demand on Council's water supply. This includes an applicable credit of pre-existing uses. The headworks charges at 2021/22 financial year rates are:

Water Headworks \$5,017.00 x 1.2 additional ET = \$6,020.40

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 Council's water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the Certificate of Compliance.

10. 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.
11. 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.
12. The submission of a further Development Application will be required for any further extension of development on the site.

#### Conditions

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

Plan Title	Drawn by	Plan Date	Sheet No	Revision
Cover Sheet & Site Plan	Yamba Design & Drafting	12/7/21	DA01	A
Full Site Plan	Dougherty	-	-	-
Ground Floor Plan	Yamba Design & Drafting	12/7/21	DA02	A
Garage Floor Plan & Door Schedule	Yamba Design & Drafting	12/7/21	DA03	A
Elevations Sheet 1	Yamba Design & Drafting	12/7/21	DA05	A
Elevations Sheet 2	Yamba Design & Drafting	12/7/21	DA06	A

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

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

Coastal \$2,638.15 x 1 additional dwelling = \$2,638.15 GL S94CVCOSCoastal

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

Macleans surrounds \$2,638.15 x 1 additional dwelling = \$2,638.15 GL S94CVCCFMacleans

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

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

#### **Yamba Urban By-pass and Urban Intersections Contributions Plan 2000**

Palmer's Island \$1,104.00 x 2.4 persons x 1 additional dwelling = \$2,649.60 GL S94YBPPalmer'sIs

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.

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

\$1,332.73

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.

4. No additional fill is to be imported and no extension of the pad footprint is to occur without prior Development Consent.

5. No construction is to be commenced until a Construction Certificate has been issued.

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 1/135 School Road has been allocated to the existing eastern dwelling and the House Number 2/135 School Road has been allocated to the western 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. 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.

10. 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).

11. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited;
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifier for the work.
- Any such sign is to be removed when the work has been completed.
12. Effective measures are to be undertaken to prevent the obstruction of surface drainage, the disruption of amenity, damage or deterioration of any other property.
13. 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.
14. The roof covering is to be of a colour which does not produce glare which adversely affects the amenity of adjoining properties. White colorbond, galvanised iron and zincalume are not permitted.
15. The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:
- a **Pier holes** (if any), before concrete is poured,
  - b **Footings**, with reinforcement in place before pouring of concrete,
  - c After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
  - d Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
  - e Before all walls, floors and ceilings required by the BCA to have a **fire resistance level** are enclosed, and before covering of fire/smoke protection at service penetrations and the junctions of fire resisting construction in buildings containing sleeping accommodation,
  - f Before all walls, floors and ceilings required by the BCA to have a **sound insulation** requirement are enclosed,
  - g **Plumbing work** prior to covering/lining walls,
  - h **Sewer drainage** work prior to back filling/lining,
  - i Before covering **waterproofing in any wet areas**,
  - j Before covering any **stormwater drainage** connections,
  - k After reinforcement is in position and before pouring of any **structural element (including pool coping) of a swimming pool**,
  - l After the pool and pool fencing are completed and **before filling of the pool**,
  - m 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. Inspection bookings can be made online at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) until midnight on the day before the inspection. The Construction Certificate or Complying Development Certificate number must be provided when booking an inspection.

16. Non recirculation exhaust fans over stoves or hotplates are to be ducted directly to outside air so as to prevent possible fire hazards within the dwelling and roof cavity.
17. All excavated materials must be treated in general accordance with the Management Guidelines detailed within the "Acid Sulfate Soil Manual, Acid Sulfate Soil Management Advisory Committee, August 1998". Agricultural Lime must be applied (and incorporated into the soil) at a rate of 50kg/m<sup>3</sup> of soil.
18. The building shall not be used as flats or adapted for separate occupation.
19. No portion of the porches are to be enclosed without prior written approval being obtained from Council.

20. 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.
21. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
- a plumbing work prior to covering/lining walls
  - b sewer work prior to back filling/lining
  - c final inspection of plumbing and drainage work.
- Inspections can be booked online at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) until midnight the day before the inspection. Please quote the DA number when booking inspections.
22. 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.
23. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Building Occupation Certificate. This may require payment of a fee.
24. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
25. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.
26. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. Development on the site must be undertaken in compliance with the flood plain management controls listed in the Council Development Control Plan for the relevant land use zone.
- All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the Clarence Valley Council Development Control Plans and NRDC.
27. Prior to the issue of the Occupation Certificate, access to the site is to be provided in accordance with NRDC standard drawing R16-B. The access shall be sealed for its full width, from the edge of School Road to a point 3.0 metres inside the property boundary. Sloped headwall shall be provided. An application for driveway access crossing is to be submitted and approved prior to any work commencing.
28. 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 and maintained in accordance with the Statement for Sediment and Erosion Control that was submitted with the Development Application.
29. 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.
30. 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.

<b>ITEM</b>	<b>6b.21.078</b>	<b>DA2021/0547 – FOUR MULTI DWELLING HOUSING AND SWIMMING POOLS – 3 DUNES COURT, YAMBA</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

## SUMMARY

<i>Applicant</i>	RuralCert Pty Ltd
<i>Owner</i>	Thinking Property Pty Ltd
<i>Address</i>	3 Dunes Court, Yamba
<i>Submissions</i>	Yes - first notification 12 objections and second notification 4 objections

Council is in receipt of Development Application DA2021/0547 which proposes four (4) Multi Dwelling Housing units and four (4) swimming pools at 3 Dunes Court, Yamba. The site is located in the SP3 Tourist Zone which envisages Multi Dwelling Housing.

The application was notified and 12 submissions were received in the first notification period and four (4) in the second notification period. The Applicant has responded to the submissions by reducing yield from five (5) to four (4) dwellings.

The application complies with the *Clarence Valley Local Environmental Plan 2011* (the LEP) and the *Development Control Plan for Development in Environmental Protection, Recreation and Special Use Zones* (the DCP). The application is forwarded to Council for a decision because of the public interest in the proposal.

## OFFICER RECOMMENDATION

That Council approve Development Application DA2021/0547 subject to the draft Advices and Conditions contained within Schedule 1.

## COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Clancy, Baker, 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

Development Application DA2021/0547 was lodged on 19 July 2021 for the construction of five (5) Multi Dwelling Housing units and swimming pools. The subject is zoned SP3 Tourist under the LEP. The proposed Multi Dwelling Housing units and swimming pools are permissible with consent in the zone.

Council received 12 objections during the initial notification period regarding the proposed development. The dominant issues raised in all submissions are summarised below under the Key Issues section. In response to a request for further information regarding compliance with the DCP in terms of parking and private open space, the Applicant has amended the proposed development, resulting in a reduction from five (5) to four (4) dwellings and one dwelling being reduced from two to one storey.



The original submitters were given the opportunity to review the amended proposal, with a further four (4) submissions received. New issues raised were limited to concerns about leasing of the units for short term rental accommodation.

**KEY ISSUES**

**1. Impact on Amenity**

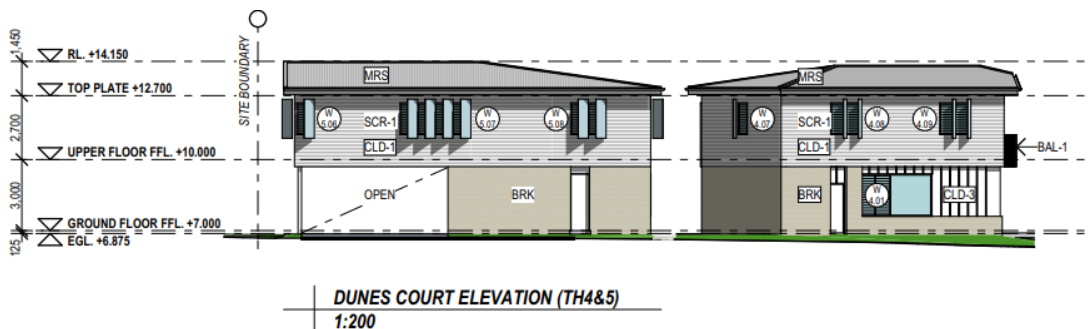
The main issue raised in submissions was impact on residential amenity, summarised as follows:

- Impact on the amenity and streetscape of the estate, being that the majority of lots will be developed for single dwellings.
- The bulk and scale of this development does not represent other developments in the estate.
- Overdevelopment of the site.

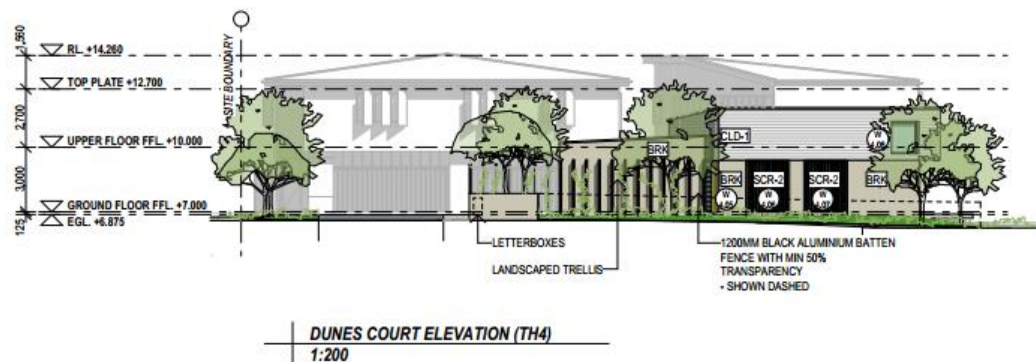
Comment:

The subject site is zoned SP3 Tourist under the LEP which provides for a mix of residential, tourist and commercial land uses. The Dunes Estate has largely been developed into single detached dwellings, however the objectives of the zone include tourist orientated development and land uses that complement tourism, inclusive of residential land uses.

The proposed density of the site is consistent with the surrounding smaller lots of the ‘Beachside’, ‘Links’ and ‘Sands’ developments in the surrounding area. The revised design includes removing a unit and Unit 4 being reduced from two storeys to a single storey. As shown in **Figures 1 and 2**, these changes reduce the overall bulk and scale of the development to Dunes Court. Further, the landscape plan submitted includes larger tree species and a landscaped trellis for part of the Dunes Court elevation which will help soften the overall impact on streetscape.



**Figure 1: Elevation from Dunes Court of original 5 unit proposal**



**Figure 2: Elevation from Dunes Court of amended 4 unit proposal**

**2. Compliance with Development Control Plan**

A concern raised in the submissions received for the initial design was that the proposal does not comply with DCP. Submissions also noted the proposal does not comply with the Dunes Design Guidelines in terms of there being no provision for boats or caravan storage.

Comment:

The proposed development complies with the key parameters of the DCP highlighted below in **Table 1**. The amended proposal is also shown below in **Figure 3**. A detailed assessment can be found in Attachment 3 to this report.



**Figure 3: Left shows original proposal (5 units), figure on right shows amended proposal (4 units)**

**Table 1: Compliance with DCP**

Clause	Control	Comment
C14 Landscaped Area – SP3 Zone	35%	<b>Complies:</b> 35% of the subject site is landscaped, this excludes pools from the calculation and has taken a 50% area for paved and gravel walkways where ground covers will be planted between.
C15 Private Open Space Requirements SP3	Level area of 50m <sup>2</sup> , minimum dimension of 4.5m and solar access.	<b>Complies:</b> All areas are level and have a large terrace area in addition to a pool for each unit. Each area of private open space is located on the eastern or northern side to maximise the solar access. With the exception of the single storey unit, the other 3 units have access to first floor balconies that supplement the ground floor open space.
C17 Setbacks	Front 6m Side 1.5m	<b>Complies:</b> The front setbacks to Dunes Court comply, the nearest point of unit 4 is 6m from the frontage. <b>Complies:</b> The side and rear setbacks comply with the minimum. As the lot is not a corner lot the secondary frontage setbacks are not considered to apply in the circumstances.
C19 Building Height	Overall Height 9m Top Plate Height 6.5m	<b>Complies:</b> Proposed building height is 7.4m. Top Plate Height is 6m.
F Parking and Vehicular Access	1 space for 1 & 2 bedroom units. 1.5 spaces per 3 bedroom units. 2 spaces per 4 bedroom units. 1 visitor car spaces per 2 units or part thereof.	<b>Complies:</b> 3 x 3 bedroom units proposed and 1 x 2 bedroom unit proposed. Requires 6 car spaces for units and 2 visitor spaces. As there is less than 6 units a designated service vehicle space is not required. Total = 8  2 undercover car spaces are proposed for each of the 3 bedroom units and 1 covered car space is available for the 1 bedroom unit. 2 visitor car spaces are provided. Total provided = 9.

Clause 1.9A (1) of the LEP reads as follows:

**1.9A Suspension of covenants, agreements and instruments**

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

Council is not required to uphold the Dunes Design Guidelines as Council has not imposed the restriction on development of the site. In this case, the lack of boat or caravan parking does not limit the objectives of the SP3 Tourist zone to allow for Multi dwelling housing. Of note, the amended plans have been endorsed by the Dunes Design Panel (an external panel to review plans before lodging the Development Application to Council).

**3. On-Site Parking and Traffic**

The issues raised in submissions received regarding on-site parking and traffic are as follows:

- Limited off-street visitor parking being that the development is at the head of the cul-de-sac.
- Concern for pedestrian safety due to vehicles parked on the street.
- Service/emergency vehicles access due to inadequate parking on-site.
- Increased traffic and road congestion due to the overflow of parking vehicles into the street.
- Additional traffic generated by short term rental use.

Comment:

The original proposal did not provide the minimum number of visitor car spaces on-site as per the DCP. The amended design has resulted in a decrease in the number of parking spaces required to be provided on-site. The provision of on-site parking now complies with the minimum requirement under the DCP, as highlighted in Table 1 above. Further, on-street car parking within the cul-de-sac head will be restricted by the number of additional driveways to be constructed in Dunes Court in the vicinity of the development site. This will limit the ability to park vehicles within this area, allowing service vehicles to feasibly manoeuvre the cul-de-sac.

**4. Other issues raised in Submissions**

- *Adverse impacts on privacy and overlooking from balconies and first floor windows.*

Comment:

Proposed plans show upper-level windows and deck areas that overlook adjoining properties fitted with privacy screens and bladed screens to reduce the potential for overlooking and privacy issues.

- *Access to River Street is not permitted as the fence installed by the developer is not to be altered.*

Comment:

A restriction on title exists for lots with frontage to River Street and Rocky Laurie Drive preventing access to these streets of which Council is listed as the authority to modify or release this restriction. The terms of the restriction do not specify if this is only for vehicular, pedestrian access or both. Civil Services raised no objection to the proposed pedestrian entries provided that from the property boundary a footpath was constructed to meet the existing footpath. Furthermore, the Dunes Design Panel have endorsed the proposed plans which identifies the pedestrian access.

The proposed pedestrian access to Rocky Laurie Drive is supported as it promotes walkability and is supported by the pedestrian access provisions of the DCP.

- *Use of dwellings for short term tourist accommodation.*

Comment:

Tourist and visitor accommodation is a permissible use in the zone, however this application has been lodged as a multi-unit housing, a form of residential accommodation. As of 1 November 2021, the changes to State Environmental Planning Policy (Affordable Rental Housing) 2009 relating to short term visitor accommodation will come into effect. All lawfully constructed dwellings that are permitted to be used as residential accommodation, including multi unit dwellings, in all land-use zones can be used for short-term rental without further approval from Council provided fire standards are met, the premises is registered and the code of conduct is adhered to.

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

There are no impacts on the operational budget by the application.  
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 Regulations, 2000  
State Environmental Planning Policy No. 55 – Remediation of Land  
State Environmental Planning Policy (Coastal Management) 2018  
Clarence Valley Local Environmental Plan 2011  
Environmental Protection, Recreation and Special Use Zones Development Control Plan (DCP)

**Consultation**

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Engineering	Supports subject to conditions
Health and Building	Supports subject to conditions
Civil Services	Support pedestrian access to River Street provided the footpath is extended to the entry

**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 CO<sub>2</sub>-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 in under the BASIX Certificate lodged which will ensure that the development meets the NSW Government's requirements for sustainability.

Prepared by	James Hamilton, Development Planner
Attachment	A. Proposed Plans C. Section 4.15 Assessment
To be tabled	B. Submissions

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2021/0547**

**Definitions**

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

- A Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- B Northern Rivers Local Government Construction Manual (AUS-SPEC)
- C Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- D Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)

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

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

**Advices**

1. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
3. The House Number 3 (Units 1-4) 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.
4. 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. Hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and any fire services shall with the application for approval.
5. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing an additional 2.6 ET demand on Council's water supply, and an additional 3.5 ET loading on Council's sewerage system. This includes an applicable credit for pre-existing uses. The headworks charges at 2021/22 financial year rates are:

Water Headworks \$5,017.00 x 2.6 additional ET	= \$ 13,044.20
Sewer Headworks \$12,269.00 x 3.5 additional ET	= \$ 42,941.50

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 Council's water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the Certificate of Compliance.

6. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.

7. As of 1 November 2021, changes to the State Environmental Planning Policy (Affordable Rental Housing) 2009 come into effect that regulate short term rental housing.

Should the units be leased for short term rental accommodation it is the responsibility of the property owner to ensure that the premises are registered on the NSW Planning Portal and the minimum fire safety standards are installed.

### 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	Plan Title	Drawn by	Plan Date	Revision
DA-01	Site Plan & Development Data	Reddog Architects	28/09/2021	C
DA-02	Area Plans	Reddog Architects	28/09/2021	C
DA-03	Ground Floor Plan	Reddog Architects	28/09/2021	E
DA-04	Upper Floor Plan	Reddog Architects	28/09/2021	C
DA-05	Roof Plan	Reddog Architects	28/09/2021	D
DA-06	Townhouse 1 Floor Plan	Reddog Architects	28/09/2021	C
DA-07	Townhouse 2 Floor Plan	Reddog Architects	28/09/2021	C
DA-08	Townhouse 3 Floor Plan	Reddog Architects	28/09/2021	C
DA-09	Townhouse 4 Floor Plan	Reddog Architects	28/09/2021	C
DA-11	Street Elevations	Reddog Architects	28/09/2021	E
DA-12	Elevations – Sheet 1	Reddog Architects	28/09/2021	E
DA-13	Elevations – Sheet 2	Reddog Architects	28/09/2021	E
DA-14	Sections	Reddog Architects	28/09/2021	C
DA-32	Landscape Plan	Reddog Architects	28/09/2021	C

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

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

Coastal \$2,638.15 x 3 additional dwelling = \$ 7,914.45 GL S94CVCOSCoastal

**Clarence Valley Contributions Plan 2011 Community Facilities**

Maclean surrounds \$2,638.15 x 3 additional dwelling = \$ 7,914.45 GL S94CVCCFMaclean

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

Rate per Other Residential Accommodation Dwelling \$49.75 x 3 additional dwelling = \$149.25  
GL S94CVCPOMResAcco

**Yamba Urban By-pass and Urban Intersections Contributions Plan 2000**

Yamba Town Centre \$349.57 x 2.0 persons x 3 additional dwelling = \$ 2,097.42  
GLS94YBPYambaTownCt

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.

3. All landscaping works are to be completed in accordance with the approved landscape plan and

Landscape – Plant Schedule Sheet 1, Sheet 2 and Sheet 3, Issue C, dated 28/09/2021 drawn by Reddog Architects prior to the Occupation Certificate being issued.

4. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
5. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
6. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
7. 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.
8. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.
9. Prior to issue of the Occupation Certificate, the applicant is to provide water and sewer supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
10. A separate property service with a single water meter servicing the whole property or individual meters for each dwelling unit (not both) shall be provided. The water meter(s) shall be supplied and installed by Council upon payment of the applicable water connection fee in the fees and charges and shall be located in an accessible location at the property boundary for maintenance and reading purposes. Should the property in future decide to change the metering to multiple meters instead of a single meter (or vice versa) Council fees and charges will apply.
11. 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**.

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 Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

12. The legal and practical point of stormwater discharge of the development is nominated as the kerb inlet pit located in Dunes Court.
13. Prior to issue of the Occupation Certificate, Pedestrian Access to River Street will require construction of additional footpath to link the proposed access gates for the property to the existing footpath in River Street. Detailed plans are to be provided with a Section 138 application. Maintenance of the additional footpath servicing the property will be the responsibility of the property owner.
14. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, and drained in accordance with the approved plan and made available thereafter prior to issue of an Occupation Certificate. Internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**.

The driveway shall incorporate construction joints either side and parallel with the sewer main, within the existing sewer easement. Details are to be provided for approval by Council prior to issue of the Building Construction Certificate. An application for driveway access crossing is to be submitted and approved by Council prior to any work commencing.



15. Prior to the issue of the Building Construction Certificate, the adequacy of parking, car parks, driveways, garages and vehicular accesses for the development is to be demonstrated by the submission of standard scale plans with manoeuvring paths shown in accordance with AS2890. This must clearly demonstrate that the parking area will function as intended. The parking area plans are to be submitted and approved by Council or accredited private certifier.
16. 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.
17. 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.
18. 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.
19. All on-site visitor parking spaces are to be clearly marked, and a sign or signs conspicuous and legible from the street are to be permanently displayed indicating that visitor parking is available on the site.
20. Prior to the issue of an Occupation Certificate all requirements listed in the relevant Basix Certificate for this development shall be completed/installed.
21. 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.
22. 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.
23. **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).
24. **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 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.

25. **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.
26. 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:
- Stating that unauthorised entry to the work site is prohibited;
  - 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
  - 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.
27. **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.
28. **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 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.
29. The installation and maintenance of the swimming pools child resistant barrier shall comply with the requirements of the Swimming Pools Act 1992 and AS1926.1 2012 and be fitted with a self-closing, self-latching, outward opening gate prior to filling the pool with water. No plantings or climbable items shall be positioned within the 900mm non-climb zone (NCZ) on the outside of the pool fence or within the 300mm NCZ on the inside of the pool fence.
30. Any external pool lighting is to be positioned and/or shielded to prevent a glare nuisance.
31. The swimming pool/spa pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
  - before 7.00 am or after 8.00 pm on any other day.
32. Temporary fencing that complies with AS 1926.1 shall be provided around the pools if the permanent fencing cannot be installed before the pool is filled.
33. The swimming pool water recirculation and filtration system must comply with AS 1926.3-2010. The installation contractor shall provide Council with an Installation Certificate attesting to the products being selected and installed in accordance with the requirements of that standard.
34. The Principal Certifier shall be notified for the purpose of a final inspection of the pools and fencing as soon as possible after installation and before use of the pool.
35. The swimming pool's waste water are to be disposed of to the sewer via a surcharge gully with a

minimum 100mm air gap between the waste outlet and the top of the gully surrounds.

36. An approved CPR and pool safety sign is to be provided within the pool enclosures in accordance with the requirements of the Swimming Pools Act 1992 prior to the final inspection.
37. A boundary fence that forms part of the pool safety barrier shall not be less than 1800mm high and have a 900mm non-climbable zone on the pool side of the fence. The non-climbable zone shall be measured from the top of the fence and shall not contain any footholds (i.e. projections or indentations greater than 10mm).
38. The pools shall be registered on the NSW Swimming Pool Register at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) before issue of an Occupation Certificate.
39. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:
  - a bears a notice containing the words "This swimming pool is not to be occupied or used", and
  - b is located in a prominent position in the immediate vicinity of that swimming pool, and
  - c continues to be erected and maintained until a relevant occupation certificate or a certificate of compliance has been issued for that swimming pool.

<b>ITEM</b>	<b>6b.21.079</b>	<b>DA2021/0728 – DEMOLITION OF EXISTING STRUCTURES, CONSTRUCTION OF FIVE (5) SERVICED APARTMENTS AND EXPANSION OF OUTDOOR SEATING AREA – THE MAINBRACE, YAMBA (BEING LOT 27 DP 879908)</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	Yes	

### SUMMARY

<i>Applicant</i>	Newton Denny Chapelle
<i>Owner</i>	Leslie Muir Holdings Pty Ltd
<i>Address</i>	The Mainbrace, Yamba (being Lot 27 DP 879908)
<i>Submissions</i>	Nil

Council has received Development Application DA2021/0728 to demolish existing structures, construction of five (5) Serviced Apartments and expansion of outdoor seating area at the Yamba Shores Tavern. The proposal includes re-alignment of the existing car park and associated civil works, resulting in a loss of 14 of car parking spaces at the premises.

The proposed car parking solution is supported by a Traffic Study and recommended for approval by Council officers. Council has previously accepted a short fall in parking for the site, therefore the suitability of parking on-site is referred to Council to resolve.

No submissions were received during the exhibition period.

### OFFICER RECOMMENDATION

That Council:

1. Accept that the provision of on-site parking is suitable for the proposed development; and
2. Upon receiving General Terms of Approval from the Natural Resource Access Regulator allow Development Application DA2021/0728 to be determined under delegated authority.

### COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Clancy, Baker, 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

Development Application DA2021/0728 was lodged on 30 August 2021 to undertake demolition of existing structures, construction of five (5) serviced apartments and 70m<sup>2</sup> of additional seating area for the Yamba Shores Tavern. The subject site is zoned SP3 Tourist under the *Clarence Valley Local Environmental Plan 2011* (the LEP). The proposed additions to the tavern and serviced apartments, a type of tourist and visitor accommodation, is permissible with consent in the zone. The application was notified and advertised in accordance with the Community Participation Plan, no submissions were received during the exhibition period.

The proposed development involves works within 40 metres from a natural watercourse. Under the *Water Management Act 2000* a controlled activity permit will be required from the Natural Resource Access Regulator (NRAR) for these works. The application has been lodged as integrated development and General Terms of Approval have been sought from NRAR, thus far no comment has been received. Council cannot determine the application until such time as General Terms of Approval have been issued. In order to determine the key issue of parking discussed below, Council is requested to resolve the suitability of on-site parking independent of the whole application.

## KEY ISSUES

### Provision of On-Site Car Parking

There are currently 146 parking spaces provided on-site, including the disabled parking spaces and the space for a mini-bus. The proposed development will result in a net loss of 14 car parking spaces, reducing the total supply to 132 car parking spaces. No additional car spaces are proposed to service the new development.

Council considered the previous extensions to the Yamba Shores Tavern under DA2008/1074, which included the extension of the deck over the water, at the April 2009 meeting (Item No. 08.062/09). Council resolved to accept a shortfall in on-site parking spaces of 13 without accepting a contribution to provide parking elsewhere, as the parking area cannot be easily extended given surround site constraints and noting the tavern's provision of a courtesy bus for patrons.

The *Development Control Plan for Development in Environmental Protection, Recreation and Special Use Zones* (the DCP) requirements for car spaces to be provided, the below table identifies the parking required by the proposed development.

**Table 1: Parking Rates under DCP**

Use	DCP Requirement	Car Parking Required
2 x 1 bedroom units	1 space for 1 and 2 bedroom units	2 Car spaces
1 x 2 bedroom unit		1 Car Space
2 x 3 bedroom units	1.5 spaces per 3 bedroom units	3 Car Spaces
5 units	1 visitor car spaces per 2 units or part thereof.	3 Car Spaces
70m <sup>2</sup> increase in seating area	1 car space per 4m <sup>2</sup> of licensed floor area*	18 Car Spaces
Total		27 Car Spaces

\* The DCP does not specify a parking rate for a Hotel, although the use is listed as a permissible use under the LEP. However, the DCP – Development in Business Zones provides a calculation rate of 1 car space per 4m<sup>2</sup> of licensed floor area for a Hotel that can be used as the basis for analysis and discussion.

Taking into account the traffic generated by the proposed development and the loss of car parking, the overall impact on the supply of car parking will be 41 spaces, this is in addition to the previous accepted short fall of 13 spaces for the previous development on-site.

Clause F2.3 of the DCP provides that where a use is not listed in Table F1 (Parking Calculation Table) to consult with Council. The Applicant attended a pre-lodgment meeting with Council staff, whereby it was advised that any loss of car parking associated with the tavern must be addressed with the application. The Applicant has submitted a Traffic Study (Attachment B) to address the suitability of parking available on-site.

Data was provided for a car parking occupation survey which was undertaken from 24 February 2021 to 9 March 2021 (inclusive). The highest recorded occupancy rate was on Sunday 7 March which recorded 73 occupied spaces and 66 spares. The Applicant has since advised Council that at this point in time, the existing development was operating at 90% capacity. During this time an average of 200 patrons were also utilising the tavern's courtesy bus.

Forecasting this to 100% occupancy would result in 82 car spaces being occupied, leaving 57 spare car parking spaces. Based on the DCP car parking requirements for the proposed development in Table 1, at 100% occupancy of the existing and proposed development, an additional 27 spaces will be occupied. Taking into account the above, a total of 109 (82 + 27) spaces will be occupied out of 132 spaces, resulting in 23 excess car parking space. The number of vacant car spaces is heavily reliant on the use of the courtesy bus and other modes of transport to the premises (e.g. taxis, ride-share, bicycles).

Council needs to resolve if the proposed reduction in available car parking is acceptable. The recommendation is that the proposed car parking arrangement and numbers are accepted given the

discussion above that there is still capacity in the on-site parking facilities to accommodate the proposed and existing development.

If Council does not consider the parking acceptable, then the proposal will be required to be amended or could be refused on the basis of a lack of car parking. This is not the officer recommendation.

## COUNCIL IMPLICATIONS

### Budget/Financial

There are no impacts on the operational budget by the application. The processing and administration of the application utilises staff resources funded through existing recurrent budgets. These budgets are supplemented by income through payment of development application and related fees. All services to the development will be supplied at full cost to the developer.

### Asset Management

N/A

### Policy or Regulation

Environmental Planning and Assessment Act, 1979

Environmental Planning and Assessment Regulations, 2000

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy (Coastal Management) 2018

Clarence Valley Local Environmental Plan 2011

Environmental Protection, Recreation and Special Use Zones Development Control Plan (DCP)

### Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Engineering	Supports suitability of parking on-site

### 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 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 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 B. Traffic and Parking Assessment

<b>ITEM</b>	<b>6b.21.080</b>	<b>DA2021/0374 MULTI DWELLING HOUSING (3 UNITS), STRATA SUBDIVISION AND EARTHWORKS, 11 HIGH STREET, YAMBA</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

**SUMMARY**

<i>Applicant</i>	Newton, Denny Chappelle Surveyors Planners & Engineers
<i>Owner</i>	Headlands Nominees Pty Ltd
<i>Address</i>	11 High Street, Yamba (Lot 91 DP1154781)
<i>Submissions</i>	Yes – 3

The Applicant seeks approval for Multi Dwelling Housing (3 x 3 Bedroom Units), strata subdivision and associated earthworks at 11 High Street, Yamba.

The proposal seeks a variation to the 1.5m setback requirement for side boundaries where the building height exceeds 9m (0.97m provided), the 3m secondary setback (1.5m provided), 35% landscaping requirement (33% provided) and also one of the three (3) required parking spaces for each unit is proposed to be provided as stacked parking.

The application is reported to Council to consider the variations to the Residential Zones Development Control Plan (the DCP) and the objections raised in the submissions. A recommendation is provided for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Support the variations to the *Residential Zone Development Control Plan* for reduced side setbacks as per clause C17, reduced landscaped area, and allow stacked parking for one parking space in each unit; and
2. Approve DA2021/0374 subject to the draft Advices and Conditions contained in Schedule 1.

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Williamson, Novak, Simmons

Against: Clancy

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

DA2021/0374 was lodged with Council on 27 May 2021, adjoining neighbours were notified and the application placed on exhibition between 1 June and 15 June 2021. Three (3) submissions were received during the exhibition and the issues raised are discussed in the issues section of this report. The location and site plan are shown in **Figure 1**.

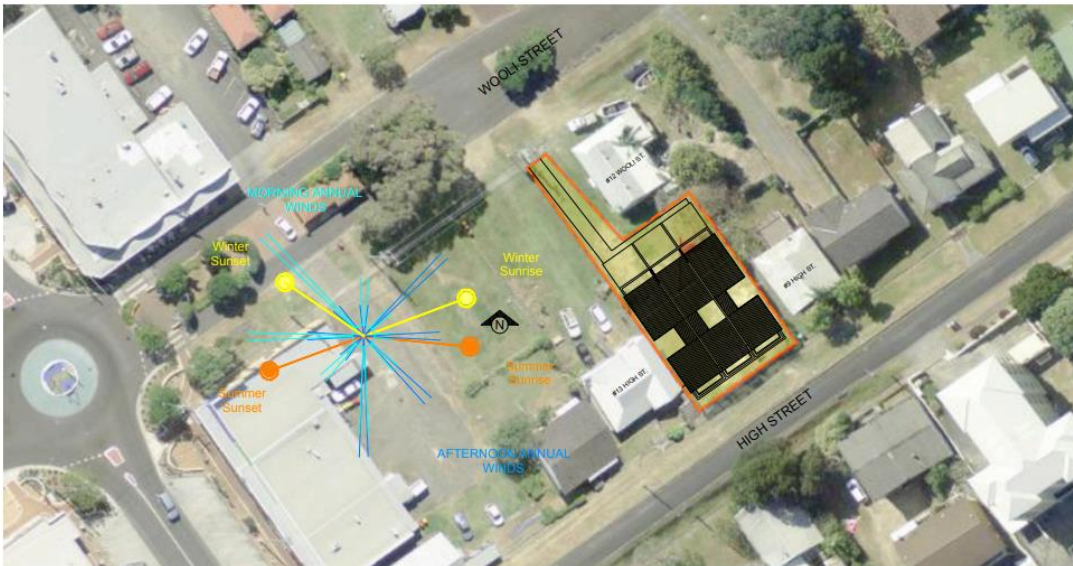


Figure 1: Location Plan and indicative footprint

The lot has an area of 722m<sup>2</sup> and is currently vacant. The property has frontage to High Street which forms the south eastern boundary and frontage to Woolli Street which forms the north western boundary. The site is zoned R3 Medium Density and Multi Dwelling Housing is permitted in this zone. Council’s DCP requires that each three (3) bedroom dwelling unit has three (3) parking spaces under Part W - Yamba Hill Controls.

The site has an existing approval for 3 townhouses under DA2010/0400, which approved the construction of three (3) townhouses (see elevations below in **Figure 2**) and demolition of a residential dwelling and car port. Notably, the consent issued under DA2010/0400 was physically commenced and the approval for that development has not lapsed i.e. these units could be constructed if a Construction Certificate is sought. If the subject consent is approved, Council will require the surrender of the approval under DA2010/0400 which will provide certainty for the site’s re-development.

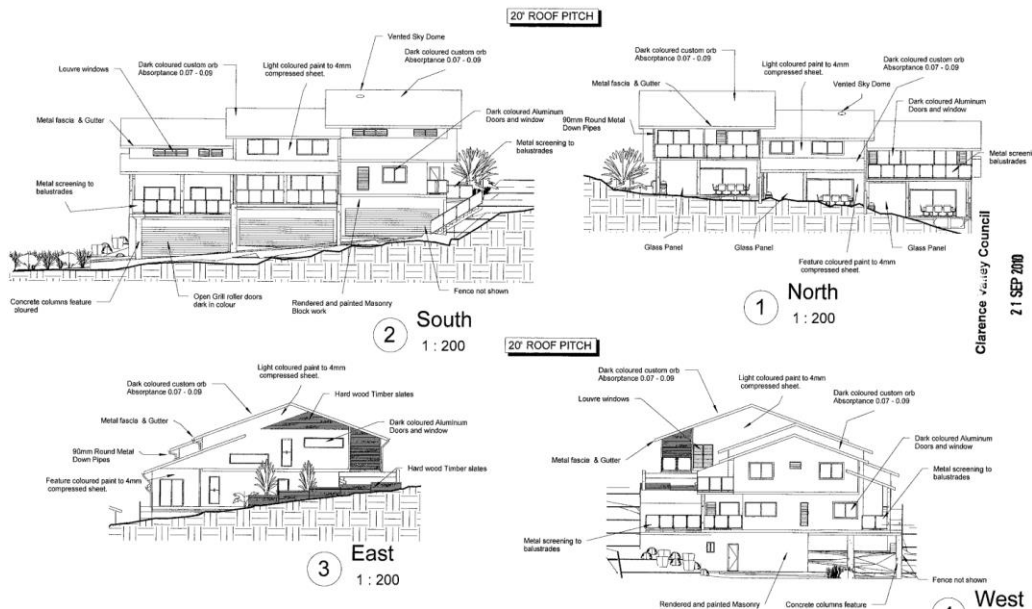


Figure 2: Former approval DA2010/0400 Elevations

Elevations of the proposed new development are shown below in **Figure 3 & 4**.

The Applicant was requested to provide additional information on 15 June 2021 regarding the driveway surface and the use of reinforced grass-crete surface (concrete paving that allows for natural grass growth), vehicle manoeuvring, and stormwater management. Additional information was provided on 2 August 2021.

Council’s Development Engineer is satisfied with the manoeuvring diagrams and concept stormwater management plan provided and supports the application. Council’s Building Surveyor also supports the



application and the plans submitted indicate compliance with the Building Code of Australia for Class 1a dwellings. Draft advices and conditions of consent are attached in Schedule 1 to this report.



Figure 3: South Elevation

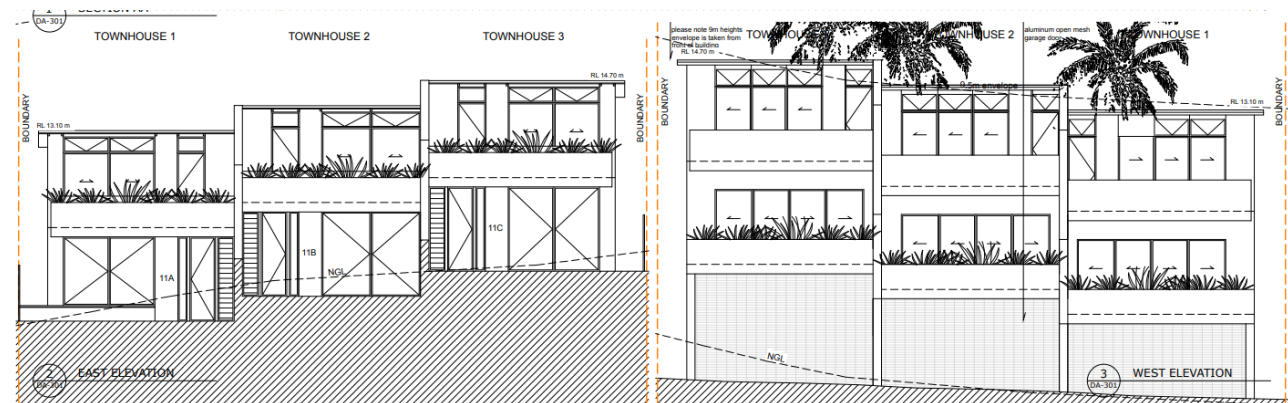


Figure 4: East and West Elevation

**KEY ISSUES**

**1. Variations to side setbacks Residential Zones Development Control Plan (DCP)**

Council’s DCP allows for the consideration of variations to the specific controls on merit where adequate justification for the departure from the DCP requirements is provided. Clause C17 – Variation to setbacks provides that variations to side and rear setbacks will be considered on merit if a better design outcome or clear advantages in other aspects of the design are achieved with regard to overshadowing and overlooking.

The application seeks variations to a part reduced side setback of 0.97m on two sides of the development where the height increases above 9m to a maximum height of 10m due to the slope of the land. For building heights above 9m a side setback of 1.5m is required under part C16 of the DCP.

Comment:

The height of the units increases with the downward slope of the land from an aboveground height of 6m at the High Street elevation to a height of 10m. Notably the building is below the maximum height of 12m allowed for the site.

Justification for the variations provided by the Applicant are set out in the Applicant’s Statement of Environmental Effects including:

- the original dwelling setback
- existing building alignments on High Street
- adequate landscaping is provided
- the buildings are architecturally designed to meet the site constraints.

Section P7 of the DCP (Yamba Hill Controls) provides that ‘at least half the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter’. The shadow diagrams provided with the proposal show that only part shadowing occurs on 13 High Street in the morning and is reduced throughout the day during mid winter.

The design of the building does not increase the potential for overlooking opportunities due to the reduced setback. Any overlooking can be addressed through a condition of consent to provide screening where

overlooking of living areas is likely. Overall, the impacts are not inconsistent with the Yamba Hill Controls. The reduced setbacks are adequately justified and are supported by Council staff.

## 2. Use of grass-crete surface and inclusion in the landscape calculation

### Comment:

Council staff advised the Applicant that where grass-crete is used it should only account as 50% of area in the landscaped area calculation.

The Applicant re-calculated the landscaped area and submits that the development provides 240m<sup>2</sup> (33%) of landscaped area to the required 35% under the DCP.

The minor reduction is considered acceptable under the circumstances given the battleaxe driveway has a considerable slope and the grass-crete provides a better visual outcome to a hardstand driveway and will be a semi-permeable surface to allow for adequate drainage along the driveway. The north and eastern aspect of the driveway will also allow for the grass to grow in this location.

## 3. Stacked parking

Three (3) parking spaces for each unit are required under the Yamba Hill DCP controls and stacked parking is proposed for one of the parking spaces for each unit. Part G – ‘Parking and Vehicular Access’ controls provides that stacked parking will not be accepted (Subclause G2(9)).

### Comment:

Clause A9 of DCP provides that Council can grant consent to a development proposal that does not comply with the specific requirements of the DCP after considering the particular merits of a development proposal.

Discussions with the architect for the development indicated that the current design was required to eliminate the need for a very large basement area with manoeuvring areas, required excavation and increased height of the buildings.

The variation to the parking design for one of the parking spaces per unit, is considered to be a design outcome that is not ideal though is a preferred option to the alternatives of considering a reduction in the number of spaces overall and excavation required to provide a compliant car parking area. The location of the site will likely mean that tenants will be able to walk to the Yamba CBD. The manoeuvring diagrams provided in **Figure 5** have demonstrated that the spaces can be suitably accessed and allow for a vehicle to leave in a forward direction. For these reasons the proposal is considered acceptable in the circumstances.

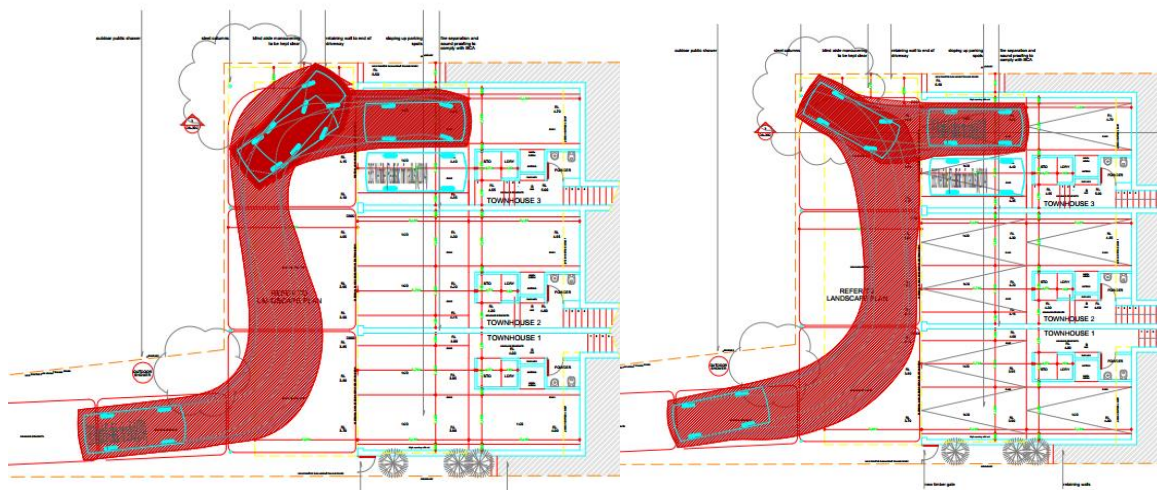


Figure 5: Manoeuvring diagram parking space for townhouse 3

## 4. Matters raised in the submissions

- *Reduced setbacks and Shadowing, reduced viewing corridors and amenity impacts*

### Comment:

The shadow diagrams adequately show the shadowing impacts created by the building and the location of the sun. No overshadowing of 12 Woolli Street will occur from the buildings. View lines through the property

are not considered to create an adverse impact given there are single storey dwellings on either side of the lot and the adjoining buildings on the southern side of High Street are upslope and essentially overlook the proposed buildings.

- *Inadequate articulation of the building design to step down the slope – rear boundary to 12 Woolli Street*

Comment:

The building steps down from the highest part of the building of around 10m in height down to a terrace on the Woolli Street side that has a height of around 4m. A setback of 1.5m is provided to the rear boundary of the terrace and the remainder of the building is set back about 7m. The location of terraces with this eastern aspect will maximise the solar benefits in the design.

- *The surrounding properties have the same zoning and the relaxation will set a precedence for future development. The town planning guidelines are generous enough and there is no benefit to granting relaxations. The internal patio areas should be removed and the building length reduced. The development does not accord with the building form and scale of surrounding developments in the area. The development is a radical departure to the surrounding free-standing cottages and will be detrimental to the streetscape*

Comment:

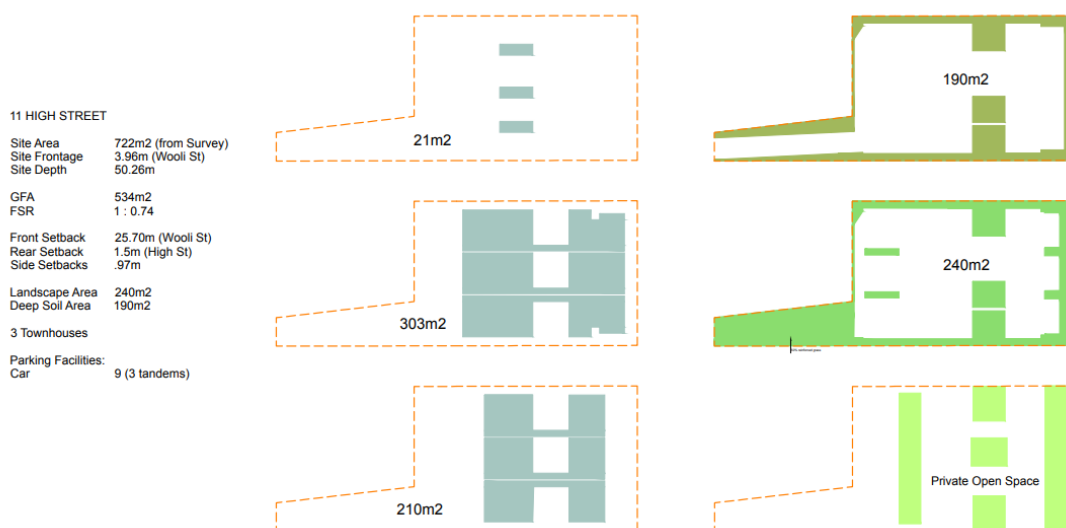
The side building setbacks are compliant in regard to the southern half of the building and where the building partly exceeds the 9m by up to 10m height they are not. The variation sought is only for part of the building where the 9m height is exceeded. Shortening the building by 5m by removing the internal patios would likely result in similar impacts and would require a total design change to the buildings. The DCP variations sought are only minor and the buildings are considered to be well designed given the site constraints.

The land has been zoned R3 for some time and the development is keeping with the intended future permitted land uses for this area. While the development will have some impact on the current built form of the streetscape, the Yamba Hill area is under transition from older style cottages to provide more unit type developments. Additionally, the older adjoining single standing dwellings are not protected by heritage controls. The development will present as mixed infill development, similar to that that exists on the southern side of High Street and other parts of Yamba. As such the development is not considered to be out of character with the streetscape in this area of Yamba of mixed building types and land uses.

- *Inadequate landscaping areas and internal voids will have no sunlight*

Comment:

**Figure 6** below shows the area calculation for landscaped area and private open space. The DCP describes landscaped area ‘as a part of the site used for growing plants, grasses and trees but does not include any building, structure or hard paved area’. In addition to areas with good sunlight exposure other areas that are subject to reduced or shaded light can be planted with shade tolerant plants. The reduction to the landscaped area has been discussed above.



**Figure 6: Proposed landscape areas and private open space**

- *Excavation and slope stability*

Comment:

A condition of consent will require the submission of an earthworks management plan with detailed geotechnical detail to be provided as well as the management of exposure of acid sulfate soils. A requirement for a submission of a dilapidation report will also ensure that any potential damages will be able to be detected should they occur. A concept stormwater management plan has been provided and has been assessed by Council's Development Engineer and sufficiently demonstrates how the site can be managed. A detailed stormwater management plan will be required prior to issue of a Construction Certificate for the development.

- *Insufficient parking*

Comment:

The development is required to have 3 parking spaces per 3 bedroom dwelling. No additional visitor parking spaces above this are required and it would be unreasonable to require any additional spaces above Council's DCP requirement. The proposed stacked or tandem parking for 1 space per dwelling unit has been discussed above and is considered acceptable.

After considering the matters discussed in this report the options available to Council are:

1. Approve the development as sought and accept the justification for the variations to the DCP;
2. Defer the application and request the Applicant to amend the proposal so that it is fully compliant with the DCP; or
3. Refuse the application for due to non-compliance with the DCP.

Option 1 is recommended by Council staff.

## COUNCIL IMPLICATIONS

### Budget/Financial

There are no impacts on the operational budget by the application. The processing and administration of the application utilises staff resources funded through existing recurrent budgets. These budgets are supplemented by income through payment of development application and related fees. All services to the development will be supplied at full cost to the developer.

### Asset Management

N/A

### Policy or Regulation

Environmental Planning and Assessment Act 1979  
 Environmental Planning and Assessment Regulation 2000  
 Clarence Valley Local Environmental Plan 2011  
 Development in Residential Zones Development Control Plan  
 State Environmental Planning Policy 55 - Remediation of Land

### Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Building surveyor	Supported with conditions
Development Engineer	Supported with conditions

### Legal and Risk Management

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

### Climate Change

The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 requires a BASIX Certificate to be submitted for all BASIX affected development; the proposal triggers the need for this certificate. A valid BASIX Certificate has been submitted with the application which sets out the obligations of the Applicant in regards to the proposal to reduce greenhouse gas emissions, energy efficiency and reduce potable water consumption. Compliance that these commitments have been met will be required to be

demonstrated prior to issue of the Occupation Certificate. In general terms, the provision of additional medium density housing in an established urban area with suitable access to commercial, recreational and other opportunities reduces the generation of carbon emissions associated with transport and servicing the development.

Prepared by	Pat Ridgway, Senior Development Planner
Attachment	A. Proposed Plans B. Section 4.15 Assessment Report
To be tabled	C. Statement of Environmental Effects and additional comments D. Submissions

## Schedule 1 - Draft Advices and Conditions

**Definitions**

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

- A Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- B Northern Rivers Local Government Construction Manual (AUS-SPEC)
- C Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- D Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)
- E Sewerage Code of Australia (WSA 02 - 2002)
- F 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.

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

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

**Advices**

1. 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.
2. The proposed development has been assessed as contributing an additional 1.4 ET demand on Council's water supply, and an additional 2.0 ET loading on Council's sewerage system. This includes an applicable credit for pre-existing uses. The headworks charges at 2021/22 financial year rates are:

Water Headworks \$5,017.00 x 1.4 additional ET = \$7,023.80

Sewer Headworks \$12,269.00 x 2.0 additional ET = \$24,538.00

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

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

3. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
4. The Earthworks Management Plan must include an initial site inspection report. This report should include:
  - A Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
  - B Certification that the land created by the development will be suitable for its intended

purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.

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

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

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

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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

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

5. The building must not be occupied until an Occupation Certificate has been issued.
6. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
7. As of 1 November 2021, changes to the State Environmental Planning Policy (Affordable Rental Housing) 2009 come into effect that regulate short term rental housing.

Should the units be leased for short term rental accommodation it is the responsibility of the property owner to ensure that the premises are registered on the NSW Planning Portal and the minimum fire safety standards are installed.



## Conditions

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

Plan	Drawn by	Date	No.	Rev.
Cover sheet and BASIX commitments	A77 Designs Pty Ltd	21/5/21	DA-001	A
North and South Elevation	A77 Designs Pty Ltd	21/5/21	DA-001	A
Section BB	A77 Designs Pty Ltd	21/5/21	DA-001	A
Landscape Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A
Stormwater Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A
Basement	A77 Designs Pty Ltd	21/5/21	DA-001	A
Ground Floor Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A
First Floor Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A
Roofs Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A
East and West Elevation and Section AA	A77 Designs Pty Ltd	21/5/21	DA-001	A
Shadow Diagram	A77 Designs Pty Ltd	21/5/21	DA-001	A
Strata Subdivision Plan	A77 Designs Pty Ltd	21/5/21	DA-001	A

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

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

Rate per other Residential Accommodation dwelling

Coastal \$2,638.15 x 2 = \$5,276.30 GL S94CVCOSCoastal

**Clarence Valley Contributions Plan 2011 Community Facilities**

Rate per other Residential Accommodation dwelling

Maclean surrounds \$2,638.15 x 2 = \$5,276.30 GL S94CVCCFMaclean

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

Rate per Other Residential Accommodation Dwelling: \$49.75 x 2 = \$99.50

GL S94CVCPoMResAcco

**Yamba Urban By-pass and Urban Intersections Contributions Plan 2000**

Yamba Town Centre \$349.57 x 2 persons x 2 = \$1,398.28

GLS94YBPYambaTownCt

**Urban Drainage**

Area 1 (Yamba Hill) \$23.50 x 534m<sup>2</sup> add. Hard area = \$12,549.00

GL S94DrainageYamba

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.

3. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Building Occupation Certificate, for each and every stage of the development. This may require payment of a fee.



4. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
5. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**. A Stormwater Management Plan must be prepared to reflect these standards and guidelines. The Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC**.

The SWMP must 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 Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

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

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

6. Prior to the issue of any Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots, common property or easements for the lands to be subdivided.
7. Car parking, driveways, manoeuvring and access areas must be constructed, surfaced and drained in accordance with the approved plan and made available thereafter. The car parking classification is Class 1 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**.
8. A detailed plan of the proposed driveway including longitudinal section, road levels, garage levels, property boundaries and other site specific considerations must be submitted for approval with the Building Construction Certificate to demonstrate that access to the development is provided in accordance with **NRDC**.

Plans must demonstrate how all underground services (power, telecommunications, drainage, water and sewer); landscaping and fencing can be accommodated within the proposed right of way / battle axe handle. Utility services within service trenches must comply with any statutory requirements for separation. A typical cross section of the access handle and driveway must be submitted for approval with the Building Construction Certificate.

Design plans must show location of services in relation to the existing Council Sewer main located within the access handle to the development. It will also be required that any existing Council sewer manholes located within the proposed access carriageway shall be fitted with trafficable lids. Construction joints shall be provided in the construction of the access to enable future maintenance of the sewer.

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

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

10. 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.

11. Any excavation resulting in disturbance of more than one tonne of soil at a depth of greater than 2m below natural ground surface, or work that is likely to lower the watertable beyond 2m below natural surface shall comply with Council's Acid Sulfate Soil management provisions.
12. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued.
13. During dry weather, standard dust suppressions methods are to be used as often as it necessary to ensure that adjoining properties are not adversely affected by undue dust.
14. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of earthworks. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.
15. A dilapidation report containing internal and external photographs shall be submitted to Council for adjoining buildings prior to construction works commencing. This will provide a basis for comparison should any damage occur to these buildings as a result of the demolition/construction works.
16. Where verandahs or windows that over-look living areas of a neighbouring property balustrades and/or windows are to have adequate screening or other treatment to protect privacy. Details are to be provided to Council for approval prior to the issue of the Construction Certificate.
17. Development Application DA2010/0400 is to be surrendered prior to the issue of an Occupation Certificate for the development.
18. No construction is to be commenced until a Construction Certificate has been issued.

<b>ITEM</b>	<b>6b.21.081</b>	<b>CLARENCE VALLEY LOCAL ENVIRONMENTAL PLAN 2011 (AMENDMENT NO. 46)</b>
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<b>Meeting</b>	Environment, Planning & Community Committee	19 October 2021
<b>Directorate</b>	Environment, Planning & Community	
<b>Reviewed by</b>	Manager - Development & Land Use Planning (Murray Lane)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

This report advises of the recently completed Amendment No. 46 to the *Clarence Valley Local Environmental Plan 2011* (the LEP).

Amendment No. 46 related to the reclassification of five (5) Council-owned waterway or canal lots from Community to Operational land. The relevant lots are within Yamba's canal estates. A copy of Amendment No. 46 is at Attachment 1.

**OFFICER RECOMMENDATION**

That Council note the report on Amendment No. 46 to the *Clarence Valley Local Environmental Plan 2011*.

**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**

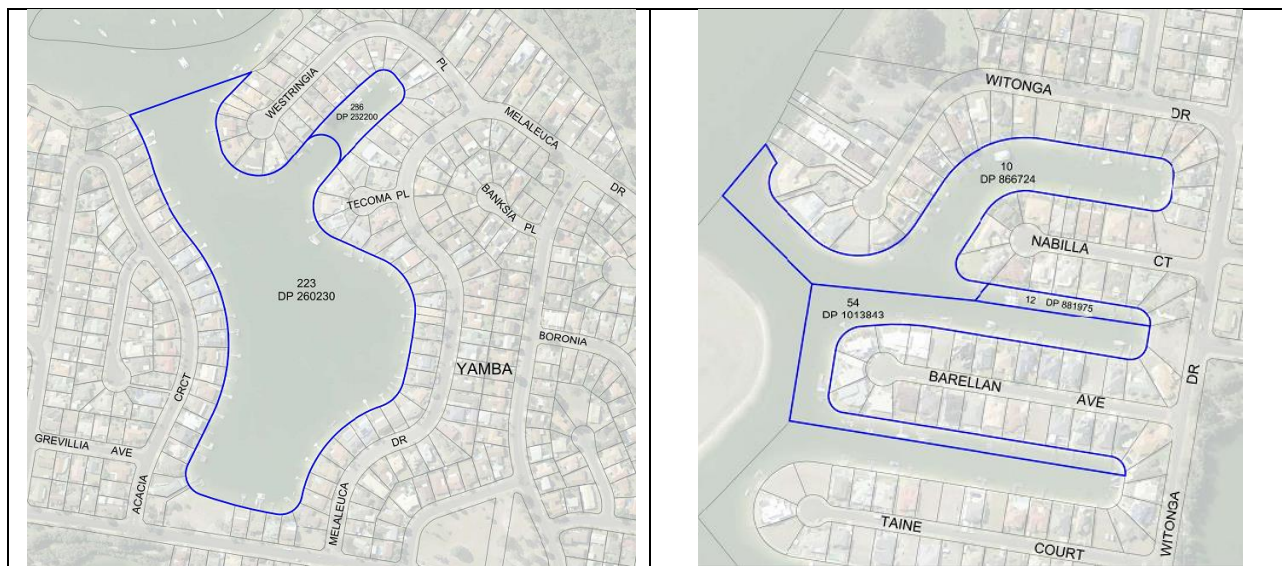
Theme 5 Leadership

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**

The amendment was recently made by the Minister's delegate and was notified on the NSW Legislation website on 10 September 2021. It reclassifies from Community to Operational five (5) Council-owned lots (public land) which comprise waterway or canal lots located in the Crystal Waters/Yamba Quays part of Yamba. The location of the reclassified lots is shown below.



Further background on the matter can be found in the minutes of the 22 June 2021 Ordinary Council meeting when Council last considered the matter and resolved to finalise the planning proposal and the LEP amendment following the public exhibition and public hearing process.

**KEY ISSUES**

The main impact of the proposal is that the operational land classification will facilitate the lawful licencing and approval of private water recreation structures (e.g. private pontoons) in relation to these particular waterway/canal lots.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

The preparation of a planning proposal and management of the planning proposal process has been undertaken utilising Council staff resources. The public hearing provisions required the engagement of a suitably qualified, experienced and independent consultant to conduct and facilitate the public hearing at a cost of \$4,560 (ex. GST).

**Asset Management**

The five (5) allotments are designated drainage reserves. An Operational classification best aligns with the purpose of these land parcels and provides greater flexibility in the management and maintenance of the reserves, as well as the administration of the licencing of private water recreation structures.

**Policy or Regulation**

- *Local Government Act 1993*
- *Environmental Planning and Assessment Act 1979*

**Consultation**

Council undertook community and other stakeholder consultation as directed by the Gateway determination.

**Legal and Risk Management**

The reclassification of the land via the planning proposal and associated LEP amendment process is the only way to achieve an Operational land classification. An Operational land classification will enable Council to confidently offer lawful licencing of private water recreation structures to owners of the private property who abut the five (5) waterway lots the subject of this planning proposal.

**Climate Change**

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment – To be tabled	1. CVLEP 2011 Amendment No. 46

**MINUTES** of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 19 October 2021, commencing at 2.00pm and closing at 3.53pm.

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

I acknowledge the Yaegl 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 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.21.131	Non-Significant Non-Pecuniary - Remain in the meeting Director JKT & Sons Contractor of Iluka Riverside Holiday Park on Crown Land

ITEM	6c.21.123	DELEGATION OF AUTHORITY GENERAL MANAGER
<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

### SUMMARY

Section 377(1) of the *Local Government Act (NSW) 1993*, guides Council in its legislative ability to delegate authority. This report seeks Council's consideration of a review of the Delegation of Authority for the General Manager to ensure compliance with relevant legislation and for administrative efficiency.

### OFFICER RECOMMENDATION

That

1. Council delegates to the General Manager all of the delegable powers, duties, functions and authorities of the Council:
  - a) except those unable to be delegated as specified in section 377 of the *Local Government Act 1993*, and
  - b) subject to the limitations specified in numbered paragraph 2 below.
2. The Council's delegation to the General Manager is subject to the following limitations:
  - a) All functions delegated to the General Manager must be exercised in accordance with the applicable statutory requirements, as well as any resolution or policy adopted by the Council from time to time.
  - b) The General Manager's authority to enter leases and licences is limited to those that have an annual rental of \$50,000 or less (GST inclusive) and have not been objected to as part of a public exhibition process.
  - c) The General Manager does not have authority to determine development applications, applications to modify a development consent and applications for a complying development certificate in the following circumstances:
    - (i) Applications that involve the variation of a development standard and that variation exceeds 10% of the maximum set by the standard.
    - (ii) Where a submission by way of an objection to the application has been submitted to Council during the public notification period, unless in the General Manager's opinion, the objection:
      - (A) is unreasonable, or
      - (B) can be satisfied by the imposition of a condition of consent.
    - (iii) The development does not comply with any adopted Council policy (including a development control plan) unless, in the General Manager's opinion compliance with the policy is unreasonable and unnecessary in the circumstances.
    - (iv) Any section 4.55 modification application (other than a modification application made pursuant to section 4.55(1) of the EP&A Act to correct a minor error, misdescription or miscalculation) concerning a determination previously made by the Council.
3. This delegation shall remain in force until specifically altered or revoked by subsequent resolution of the Council.

### MOTION

Lysaught/Simmons

That the Officer Recommendation be adopted.

**AMENDMENT TO MOTION - CARRIED**

Toms/Ellem

The Council's delegation to the General Manager is subject to the following limitations:

**Amendment 1** ADD an additional limitation to point 2 (c)

- (i) **Where the development application is seeking retrospective approval for unlawful building works and the works are not compliant with relevant standards and policies and there has been an objection.**

Voting recorded as follows:

For: Simmons, Toms, Kingsley

Against: Ellem, Lysaught

**AMENDMENT TO MOTION - LOST**

Toms/Ellem

**Amendment 2**

2. (ii) remove the words unless in the General Manager's opinion, the objection:

- (A) Is unreasonable, or  
(B) can be satisfied by the imposition of a condition of consent.

**Amendment 3**

2 (iii) remove the words unless, in the General Manager's opinion compliance with a policy is unreasonable and unnecessary in the circumstances.

**Amendment 4**

Point 3

Delegations will be reviewed

1. At least every two years and within 12 months following a local government election.
2. When there are amendments to legislation impacting current delegations.

Voting recorded as follows:

For: Toms

Against: Ellem, Lysaught, Simmons, Kingsley

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That

1. Council delegates to the General Manager all of the delegable powers, duties, functions and authorities of the Council:
  - a) except those unable to be delegated as specified in section 377 of the *Local Government Act 1993*, and
  - b) subject to the limitations specified in numbered paragraph 2 below.
2. The Council's delegation to the General Manager is subject to the following limitations:
  - a) All functions delegated to the General Manager must be exercised in accordance with the applicable statutory requirements, as well as any resolution or policy adopted by the Council from time to time.
  - b) The General Manager's authority to enter leases and licences is limited to those that have an annual rental of \$50,000 or less (GST inclusive) and have not been objected to as part of a public exhibition process.
  - c) The General Manager does not have authority to determine development applications, applications to modify a development consent and applications for a complying development certificate in the following circumstances:
    - (i) Where the development application is seeking retrospective approval for unlawful building works and the works are not compliant with relevant standards and policies and there has been an objection.
    - (ii) Applications that involve the variation of a development standard and that variation exceeds 10% of the maximum set by the standard.

- (ii) Where a submission by way of an objection to the application has been submitted to Council during the public notification period, unless in the General Manager's opinion, the objection:
  - (A) is unreasonable, or
  - (B) can be satisfied by the imposition of a condition of consent.
- (iii) The development does not comply with any adopted Council policy (including a development control plan) unless, in the General Manager's opinion compliance with the policy is unreasonable and unnecessary in the circumstances.
- (iv) Any section 4.55 modification application (other than a modification application made pursuant to section 4.55(1) of the EP&A Act to correct a minor error, misdescription or miscalculation) concerning a determination previously made by the Council.

3. This delegation shall remain in force until specifically altered or revoked by subsequent resolution of the Council.

Voting recorded as follows:

For: Simmons, Ellem, Lysaught, Kingsley

Against: Toms

### 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

Sparke Helmore has been engaged to undertake a review of the General Manager's delegation for compliance with relevant legislation and administrative efficiency.

### KEY ISSUES

The delegation has been drafted as a resolution of the Council to ensure compliance with section 377(1) of the *Local Government Act 1993 (LG Act)*.

Once the new delegation to the General Manager is adopted by the Council, a review of the General Manager's sub-delegations to Council staff will be commenced.

A formal delegation to the Mayor will also be documented including previous resolutions of Council for endorsement of the new Council at its first meeting of its term.

### COUNCIL IMPLICATIONS

#### Budget/Financial

Implementing the recommendation of this report is included in the Operational budget under PJ993032 Governance Legal Services.

#### Asset Management

Nil

#### Policy or Regulation

S377(1) of the *Local Government Act (NSW) 1993*. Council is obliged to review the delegations within twelve months of the election and periodically when specific matters arise.

#### Consultation

Nil



**Legal and Risk Management**

Review of the delegation framework for legislative compliance and administrative efficiency is a risk mitigation activity.

**Climate Change**

Nil

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Prepared by	Laura Black, Director Corporate & Governance
Attachment	Delegation of Authority General Manager

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<b>ITEM</b>	<b>6c.21.124</b>	<b>POLICY REPORT</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Organisational Development (Alex Moar)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report details recommendation for adopting the Mobile Food Vehicles, Temporary Food Stalls and Hawking policy V5.0

**OFFICER RECOMMENDATION**

That Council

1. adopts the Mobile Food Vehicles, Temporary Food Stalls and Hawking policy V5.0
2. notes the review of the Affordable Housing Policy including incorporation of the August resolution of Council MIN 6b.21.061(b) is ongoing.
3. considers as part of its 2022/23 budget preparation an allocation of General Fund to provide financial support to not-for-profit registered charitable organisations for affordable housing initiatives by application, and in accordance with guidelines to be prepared for adoption.

**COMMITTEE RECOMMENDATION**

Kingsley/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Simmons, Lysaught, toms, Kingsley

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

As informed by Council's continued regulatory work, the existing Mobile Food Vehicles, Temporary Food Stalls and Hawking policy (i.e., V4.0) has been updated to include greater clarity of processes for regulatory processes. It also removes some language that might be interpreted as offensive (specifically, providing a definition of and referring to 'Itinerant Food Vendors') in line with contemporary language around these activities.

Council's Affordable Housing Policy V4.0 was placed on public exhibition in July 2021. A number of submissions were received (Attachment B), all have been responded to. In July 2021, the NSW Government established the Regional Housing Taskforce in response to increasing pressures on the supply and affordability of housing in regional NSW, the key findings of which have just been released see <https://www.planningportal.nsw.gov.au/regional-housing>.

Council staff are currently considering preparation of a Housing Strategy that will better inform response to some issues raised in submissions and it is considered that the Affordable Housing Policy be reviewed comprehensively in light of this body of work.

At the August 2021 Ordinary Meeting Council resolved:

**COUNCIL RESOLUTION – 6b.21.061 (b)**

**Baker/Kingsley**

**That Council**

- 1. Receive a report to the October Council meeting that provides for an allocation in the Affordable Housing Policy and including a draft set of guidelines to which not-for-profit registered charitable organisations may apply for funding.**
- 2. Consider an annual General Fund allocation from available surplus working capital to the Affordable Housing Reserve during preparation of future draft budgets.**

**Voting recorded as follows:**

**For: Baker, Ellem, Williamson, Kingsley, Simmons**

**Against: Clancy, Toms, Novak**

**CARRIED**

Council staff are still considering how these various elements fit together in one policy or if they would be better administered as two distinct matters ie an Affordable Housing Policy informed by a Housing Strategy and separately an Affordable Housing Initiative supported by Policy and/or adopted Guidelines. A report will be provided to Council once fuller consideration has been undertaken.

This however, does not prevent the Council considering inclusion of a General Funded project in preparation of its 2022/23 budget that provides financial support to not-for-profit registered charitable organisations for affordable housing initiatives by application and in accordance with guidelines to be prepared for adoption.

**KEY ISSUES**

As above.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

N/A

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Bligh Grant, Governance Officer
To be tabled	Attachment A. Mobile Food Vehicles, Temporary Food Stalls and Hawking policy V5.0 Attachment B. Submissions to the Affordable Housing Policy V4.0

<b>ITEM</b>	<b>6c.21.125</b>	<b>REQUEST FROM ACCOUNT 2166809 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT</b>
<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Systems (Kate Maginnity)	
<b>Attachment</b>	Confidential	

### SUMMARY

The property owner of Water Account 2166809 submitted a request on 9 September 2021, seeking Council to waive the current account because he has been unable to maintain the water line or water meter due to excess vegetation on the easement where a concealed leak occurred.

### OFFICER RECOMMENDATION

That Council not grant a further concession on Account 2166809 as a concession of \$1,138.50 has already been granted and a further concession cannot be applied until after the expiry of 5 years in accordance with Council's Concealed Water Leak Allowance Policy.

### COMMITTEE RECOMMENDATION

Simmons/Kingsley

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.

Voting recorded as follows:

For: Simmons, Kingsley, Ellem, Lysaught, Toms

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

### BACKGROUND

The water meter attached to Water Account 2166809 was read on the 15 March 2021 during the normal tri-annual water billing readings. When the reads were uploaded a high consumption was detected on the account and a letter to the property owner of Water Account 2166809 was issued advising the property owner of the high consumption. This letter was sent on the 22 March 2021. (Attachment A)

The property owner advised Council that the correspondence was received 15 days after the water meter was read and that a considerable amount of water had since passed through the meter. The property owner did attribute the delay partly to the March flooding and the fact that he was unable to have his mail delivered due to the flooding.

On 27 April 2021, the meter (110787) was removed for testing and replaced with meter RE1097. The reading on the meter when it was removed was 2,818. The test was carried out and indicated that there was no issue with the meter.

An application for a Concealed Water Leak Allowance on Water Account 2166809 together with a plumber's report dated 14 June 2021. (Attachment B).

After the application was assessed, a concession of \$1,138.50 on Water Account 2166809 was granted. (Attachment C).

On 20 July 2021, the property owner sought additional information from Council (Attachment D), including:

- The flow rate of water from a 20mm meter
- A site plan of access to the water meter
- Details of the water easement
- Excess Vegetation on the water easement
- The water meter reading of the disconnected meter

The property owner was advised that access was via an easement within Lot 120 DP 751373 Parish of Harwood, County of Clarence. (Attachment E)

The owner of Lot 120 DP 751373 was asked to remove the heavy machinery that was parked over the water main so that access to the water line and meter could be gained. Once the heavy machinery was removed, the easement was slashed to provide better access to the water meter. (Attachment F)

A site plan of the meter location was provided to the property owner together with a reading of the disconnected meter and staff met on site to conduct a flow test on the 20mm water meter. When the meter was fully open a flow of 80L/minute was recorded. As the property owner claimed that the meter tap was in a "just cracked" position, a test was conducted to record the flow with the meter just cracked open as well. The flow recorded was less than 10L/minute. (Attachment G&H)

### KEY ISSUES

The property owner now seeks to have the current account totalling \$3,225.45 waived because he has been unable to maintain the water line or water meter due to excess vegetation on the easement and therefore could not easily access the properties water meter. The property owner is not eligible to seek an additional concession under Council's Concealed Leak Allowance Policy, as a concession is only granted once during a five year period, and the property owner has previously been granted a concession on the \$2,691.92 account. Details of the last three reads on Meter 110787 are 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

A concession of \$1,138.50 has already been granted.

While the easement was overgrown, the benefiting party is responsible to do whatever is reasonably necessary to make and maintain the easement in a condition suitable the use the easement is granted.

Alternative Option: By resolution of Council, grant a further concession.

### COUNCIL IMPLICATIONS

#### Budget/Financial

If no adjustment is granted there will be no impact on the income for the 2021/2022 financial year.

If a concession is granted to waive the current account as per the ratepayers request which, is \$3,225.45. Income for the 2021/22 financial year on PJ 902125-6218-1240 (Water Usage Residential Income) will be reduced by this amount.

#### 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

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Prepared by	Paula Krahe, Revenue Co-Ordinator
Confidential	A – Letter from Council advising of high consumption
Attachments	B – Application for Concealed Leak Allowance
	C – Advice of Council granting the Concealed Leak Allowance
	D – Letter from the Property Owner seeking answers to questions
	E – Copy of the Registered Easement over Lot 120 DP 751373
	F – Letter advising the owner of Lot 120 DP 751373, Council's intentions to clear the easement once the heavy machinery was removed
	G – Flow test (Just Cracked)
	H – Flow Test (Full)

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<b>ITEM</b>	<b>6c.21.126</b>	<b>COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

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

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

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

**KEY ISSUES**

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

The attached checklist contains actions taken on all Council resolutions from the 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

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Prepared by	Karlie Chevalley, Executive Support Assistant
Attachment	Checklist

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ITEM	6c.21.127	2021/22 QUARTERLY BUDGET REVIEW STATEMENT – SEPTEMBER 2021
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Systems (Kate Maginnity)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

This report presents to Council the September 2021 Quarterly Budget Review Statement (QBRS) for the period 1 July 2021 to 30 September 2021.

Budget adjustments for the quarter ended 30 September 2021 (subject to council resolution) result in a net General Fund impact of \$218,000 decreasing the current year projected budget result to a \$114,392 deficit.

The reserve funding variations identified in this report will decrease the reserve funds by a further \$3,750,000, resulting in a current year projected reserve funds movement of \$31,840,832.

**OFFICER RECOMMENDATION**

That Council:

1. Receive and note the information in the Quarterly Budget Review Statement to September 2021.
2. Approve General Fund variations detailed in this report totalling \$18,000, which results in a projected General Fund budget Deficit of \$114,392 for the year.
3. Approve the variations for the Financial Reserves as detailed in this report totalling \$3,750,000, which results in a projected decrease in the External and Internal Reserves Funds of \$31,840,832.

**COMMITTEE RECOMMENDATION**

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Toms, Ellem, Simmons, Lysaught, Kingsley

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

**BACKGROUND**

In accordance with Clause 203(1) of the Local Government (General) Amendment (planning and reporting) Regulation 2011, the Quarterly Budget Review Statement must be submitted to Council no later than two months after the end of the quarter.

The QBRS presents a summary of Council's financial position at the end of each quarter. It is the mechanism whereby Councillors and the community are informed and monitor Council's progress against the Operational Plan (original budget) and the last adopted revised budget.

The QBRS includes:

Attachments

1. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Fund (**Attachment A**):

- Consolidated
- General
- Water
- Sewer
- Holiday Parks
- Clarence Regional Library
- Domestic Waste Management

2. Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Sub-Service (**Attachment B**).
3. Statement of Restricted Cash Reserve Funds providing a projected year end position (**Attachment C**).
4. Statement of Material Contracts entered into by Council and details of Consultancies and Legal Expenses during the quarter (**Attachment D**).

Other Matters:

5. Quarterly Budget Review – Provides the proposed variations for the month of September. Summarises the General Fund budget variations during the quarter and the impact on the overall projected result and reserves.
6. Capital Budget Review – References to the Works Report reported elsewhere in these Business Papers.
7. Key Performance Indicators – Provides a projected result against the benchmark for Council's General Fund key performance.

**KEY ISSUES**

***Major Budget Variations Proposed***

Following is a list of the major proposed variations identified since the adoption of the Original Budget in June 2021, during month of September 2021.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
313	<b>Service – Roads Infrastructure</b> <b>Sub-Service – Footpaths &amp; Cycleways</b> <ul style="list-style-type: none"> <li>• Allocate funding for priority footpath works as identified in the Pedestrian Access Mobility Plan. (RA 10240)</li> </ul>	\$Nil	\$500,000	6a.21.034
343	<b>Service – Buildings &amp; Facilities</b> <b>Sub-Service – Buildings &amp; Facilities</b> <ul style="list-style-type: none"> <li>• Allocated funding for Maclean Community Precinct Stage 2- design and construction (RA 10240)</li> </ul>	\$Nil	\$2,700,000	6a.21.034
393	<b>Service – Sewer Services</b> <b>Sub-Service – Operations</b> <ul style="list-style-type: none"> <li>• Increase licence budget to cover variation for Coutts Crossing STP Licence Requirements (RA 79025)</li> <li>• Allocate budget for Cook St Yamba Sewer Main renewal works (RA 79025)</li> <li>• Allocate budget for Cowan St South Grafton Sewer Main renewal works (RA 79025)</li> </ul>	\$Nil \$Nil \$Nil	\$50,000 \$185,000 \$315,000	N/A N/A N/A
410	<b>Service – Community Development</b> <b>Sub-Service – Community Development</b> <ul style="list-style-type: none"> <li>• Allocate Healthy North Coast Grant</li> </ul>			

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
	Funding to Maclean Service Centre project delivery in 21/22 (\$27,500)	\$Nil	\$Nil	N/A
422	<b>Service – Cultural Services</b> <b>Sub-Service – Regional Gallery</b> <ul style="list-style-type: none"> <li>Allocate Arts &amp; Cultural grant funding for “Inland See” project (\$50,000)</li> </ul>	\$Nil	\$Nil	N/A
445	<b>Service – Regulatory Services</b> <b>Sub-Service – Regulatory Services</b> <ul style="list-style-type: none"> <li>Allocate additional funding based on accepted tender to complete fencing requirements for Pound Upgrade</li> <li>Allocate funding for Pound Amenities upgrade works</li> </ul>	\$7,000	\$Nil	N/A
	<b>TOTAL Proposed General Fund / Reserve Balance Impact</b>	<b>\$18,000</b>	<b>\$3,750,000</b>	

#### Explanation of Attachment

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

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

#### COUNCIL IMPLICATIONS

##### Budget/Financial

The table below summarises the General Fund budget variations endorsed during the quarter (Minutes 6c.21.111 July and 6c.21.115 August) and the impact on the overall projected result.

The proposed General Fund budget variations for the September 2021 Quarter will result in a Revised 2021/22 Budget as at 30 September 2021 of a \$114,392 Deficit. The proposed Reserve Funds variations for the September 2021 Quarter has resulted in a Revised 2021/22 Budget Reserve Funds movement as at 30 September 2021 of a \$31,840,832 reduction.

September 2021 Quarter Budget Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	\$0	\$200,000	\$200,000	Deficit	6c.21.111
August	\$0	\$0	\$0	Deficit	6c.21.115
September Proposed	\$0	\$18,000	\$18,000	Deficit	
<b>Total</b>	<b>\$0</b>	<b>\$218,000</b>	<b>\$218,000</b>	<b>Deficit</b>	

<b>Original Adopted Budget</b>		<b>(\$103,608)</b>	<b>Surplus</b>
September Quarter Proposed Variations	\$0	\$218,000	Deficit
<b>Revised Budget as at 30 September 2021</b>		<b>\$114,392</b>	<b>Deficit</b>

The table below summarises the External/Internal Reserve budget variations endorsed during the quarter and the impact on the overall projected result.

September 2021 Quarter Reserve Funds Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	\$0	\$0	\$0	Decrease	6c.21.111
August	\$0	\$1,132,085	\$1,132,085	Decrease	6c.21.115
September Proposed	\$3,200,000	\$550,000	\$3,750,000	Decrease	
<b>Total</b>	<b>\$3,200,000</b>	<b>\$1,682,085</b>	<b>\$4,882,085</b>	<b>Decrease</b>	

<b>Original Adopted Budget Reserve Funds Movement</b>	<b>\$26,958,747</b>	<b>Decrease</b>
September Quarter Proposed Variations	\$3,200,000	\$1,682,085
<b>Revised Reserve Movement Budget as at 30 September 2021</b>	<b>\$4,882,085</b>	<b>Decrease</b>
	<b>\$31,840,832</b>	<b>Decrease</b>

### Proposed Carry Forward Projects

Due to the timing of our end of financial year audit, impact of covid and transition to our new systems, a full list of the proposed carried forward projects will be provided as part of the October Monthly Budget Report and submitted to the November Council meeting.

### CAPITAL BUDGET REVIEW

For information on Council's capital works program and status, refer to the Works Report reported elsewhere in this business paper.

Any proposed changes that have a substantial impact on planned capital works, reserves or purchases and sales of capital assets during the current financial year will be notified to council in this report.

### KEY PERFORMANCE INDICATORS

The indicators adopted in the Long Term Financial Plan 2021/22 – 2030/31 measure Council's financial position and its financial performance. These indicators are aligned with the Fit for the Future Ratios and focus on long term sustainability.

The forecasts are derived from Council's adopted Long Term Financial Plan and the Asset Management Strategy unless a material variation in the indicator has occurred during the period. The variations proposed in this QBRS do not materially affect Council's end of year position against KPI's.

GENERAL FUND	Forecast Indicator	Benchmark
Operating Performance Ratio	(9.37%)	Min > 0%
Own Source Revenue Ratio	55.37%	Min > 60%
Building & Infrastructure Asset Renewal Ratio	31.39%	Min > 100%
Infrastructure Backlog Ratio	3.4%	Max < 2%
Asset Maintenance Ratio	101.05%	Min > 100%
Debt Service Ratio	3.84%	< 12%
Real Operating Expenditure per Capita	\$2,003.69	Declining Trend

### **Asset Management**

N/A

### **Policy or Regulation**

The reports presented are in accordance with the requirements outlined in the Code of Accounting Practice and Financial Reporting, and clause 203(1) of the Local Government (General) Regulations applicable from 1 July 2011 including the format required under the Integrated Planning and Reporting (IP&R) framework.

### **Consultation**

Report has been prepared in consultation with the Management Accounting staff and Section Budget managers.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

Prepared by	Michael Salvestro – Financial Accountant
To be tabled	A. Quarterly Budget Review Income Statement by Fund B. Quarterly Budget Review Sub Service Summary C. Quarterly Budget Review Summary of Restrictions D. Quarterly Budget Review Contracts and Other Expenses

**Explanation of Attachment**

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

- Accruals for depreciation, staff entitlements and Reserve interest which are currently calculated and adjusted only at year end.

**Appendix 1****Report by Responsible Accounting Officer – 2021/22 September Quarter Budget Review**

The following statement is made in accordance with clause 203(2) of the Local Government (General) Regulation 2005.

It is my opinion that the Quarterly Budget Review Statement for Clarence Valley Council for the quarter ended 30 September 2021 indicates that Council's projected short term financial position at 30 June 2021 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The available working capital for Council's General Fund as at 30 June 2021 was \$7.926M.

For clarification, the available working capital is regarded as funds that are currently not restricted for any use by Council for either internal or external purposes. In summary, the estimated balance of available working capital as at 30 June 2021 is as follows:

Estimated Balance of Working Capital	Amount \$'000
General Fund working capital as at 30 June 2021	\$7.926
Adopted original budget for 2020/21 – Surplus	(\$104)
Variations for September 2019 Quarterly Review – Deficit	\$218
<b>Estimated Balance of Working Capital at 30 June 2021</b>	<b>\$7,812</b>

Council's adopted benchmark goal for the General Fund working capital is for it to be maintained above \$4M. The estimated balance of the working capital for General Fund at 30 June 2022 of \$7,812M is above Council's benchmark and can be considered a satisfactory result as at 30 June 2022. However, Council must continue to maximise its revenue and contain expenditure to budget expectations to ensure the forecast Working Capital for 2021/22 does not deteriorate to unsatisfactory level.

Signed Kate Maginnity, Responsible Accounting Officer, Clarence Valley Council  
Date 12/10/21

Lysaught/Kingsley

That the meeting be extended by half an hour. CARRIED

<b>ITEM</b>	<b>6c.21.128</b>	<b>LOCAL TRAFFIC COMMITTEE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report lists the recommendations made at the 6 October 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 6 October 2021 meeting be adopted by Council.

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

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 6 October 2021.

**Item: 036/21 Whiteman Creek Road Speed Zone**

That the request for reduction of the speed zoning on Whiteman Creek Road from 100km/h to 80km/h be forwarded to TfNSW for consideration

**Item: 037/21 Brooms Head Road – Wildlife (Coastal Emu) Signage**

That approval be provided to install the proposed pavement thermoplastic treatments and flashing vehicle activated signs at two locations located on Brooms Head Road (200m south of Grass Tree Drive and 600m east of Tailern Drive) adjacent to the recognised Coastal Emu crossings and wildlife corridor.

**Item: 038/21 Iluka Post Office Parking**

That one 15P (8:30am-5pm Mon-Fri and 8:30am-12pm Sat) parking space be established in Charles Street Iluka adjacent to Iluka Post Office.

**Item: 039/21 Grafton Cycle Club – 2022/2023 Management Plan and Racing Program**

That Council approve the Management Plan for the Grafton Cycle Club May 2022 to May 2023 Racing Program, with the exception of the James Creek Gardiners Road course, subject to the following conditions.

- Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Roads and Maritime asset such as a bridge, Motorway or viaduct).
- NSW Police approval is obtained.

3. Transport for NSW approval is obtained by way of a Road Occupancy License where event is on a state road or where the event may impact the state road network.
4. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein.
5. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed;
  - a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours must be provided.
  - b. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Transport for NSW's Traffic Control at Worksites Technical Manual.
  - c. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
  - d. Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event. Where local council is the roads authority, notification of any reduced speed limit should be forwarded to Transport for NSW and NSW Police.
  - e. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Transport for NSW accredited persons.
6. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner.
7. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
8. Community and affected business consultation including adequate response/action to any raised concerns.
9. Arrangements made for private property access and egress affected by the event.
10. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
11. That the applicant organise for the events to be listed on council's web page.
12. Endorsement of the event by Cycling NSW.
13. The event be conducted and signposted in accordance with the NSW Guidelines for Bicycle Road Races.
14. This approval does not grant exclusive use of any course.

**Item: 040/21 Sheriff Parking Victoria Street Grafton**

That a "No Parking Sheriff Vehicles Excepted (8:30am-5:30pm Mon-Fri and 8:30am-12:30pm Sat)" with left arrow plate be added to the existing parking regulation sign in front of the Sheriffs Office, Victoria Street, Grafton.

**Item: 041/21 Review of Timed Parking 60 Pound Street**

That unrestricted parking be established for the four spaces at the frontage of 60 Pound Street, Grafton on a trial basis for six months and that the effectiveness be reviewed at the end of that period.

**Item: 042/21 Road Closures – Yamba Triathlon Event 2021**

That this event be approved subject to the compliance to the relevant conditions below.

1. Valid public liability insurance being held by the event organiser (minimum \$20,000,000 where event uses a Transport for NSW asset such as a bridge, Motorway or viaduct).
2. NSW Police approval is obtained.
3. The submission and approval of relevant council event application/s and compliance with any conditions imposed therein.
4. Local Traffic Committee advice is sought for the event Traffic Management Plan prior to approval of traffic control devices. This includes a Risk Management Plan and Traffic Control Plan/s. The following traffic control conditions shall also be observed;
  - a. Traffic Control Plans to include a map indicating any alternative routes required for traffic detours must be provided.
  - b. Traffic Control Plans to be drawn to scale and indicate the provision of passageways and clearances for pedestrian and emergency access. Plans should be prepared in accordance with Transport for NSW's Traffic Control at Worksites Technical Manual.
  - c. All signage erected for the event should not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event.
  - d. Temporary Speed Zone Authorisation is obtained from the roads authority for any reduced speed limit/s required as part of the traffic control for the event. Where local council is the roads authority, notification of any reduced speed limit should be forwarded to Transport for NSW and NSW Police.
  - e. Conformance with approved Traffic Management Plan and associated Traffic Control Plans which shall be implemented and controlled by Transport for NSW accredited persons.
5. Consultation with emergency services (Fire & Ambulance) and any identified issues addressed in a timely manner.
6. Consultation with bus and taxi operators and arrangements made for provision of services during conduct of the event.
7. Community and affected business consultation including adequate response/action to any raised concerns.
8. Arrangements made for private property access and egress affected by the event.
9. The event organiser notifies local community of the impact of the event/s by advertising in the *local paper/s* a minimum of one week prior to the operational impacts taking effect. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints.
10. That the applicant organise for the events to be listed on council's web page.
11. The event be conducted and signposted in accordance with the NSW Guidelines for Bicycle Road Races.



**Item:043/21 School Zone Infrastructure Projects**

Council has secured \$3.5M to provide pedestrian safety improvements for 19 school zones. Endorsement is requested for all the upgrades and approval for the construction of the first eight projects.

- Coutts Crossing Public School- Armidale Road, Coutts Crossing
- Cowper Public School- Clarence Street, Cowper
- Harwood Island Public School- Morpeth Street, Harwood
- Lawrence Public School- Cook Street and High Street, Lawrence
- Maclean High School- Cameron Street, Maclean
- South Grafton High School- Tyson Street, South Grafton
- Westlawn Public School- Hoof Street, Cassia Street and Cranworth Street, South Grafton
- Yamba Public School- Favourite Avenue, Yamba

Endorse that any modifications to the first eight projects and the designs for the Tranche three projects identified for construction in January 2022 be approved by LTC before construction commences and endorsed retrospectively by Council February 2022.

Remaining tranche three project designs to be submitted to LTC for review during normal meeting in 2022.

**Items of Discussion****GUMNUT DRIVE SPEEDING CONCERNS**

A resident has raised concerns about speeding in Gumnut Drive, Yamba. The resident has been contacted and is requesting a mobile speed camera and police enforcement. A traffic survey was conducted in Gumnut Drive in September 2021 and a significant speeding issue was not identified.

The following works were undertaken in 2020 to improve safety and provide traffic calming in Gumnut Drive:

- The Installation of pedestrian refuges on all three legs of Treelands Drive / Gumnut Road intersection to provide safer pedestrian access and act as traffic calming. A footpath connection between Treelands Drive and the bus stop was also provided.
- Installation of pedestrian refuge near Bayside Park for traffic calming and safe access to the park. A connection was also provided to the existing Osprey Drive / Kolara lake footpath network.
- Line marking of the entire road (Gumnut Drive and each intersection) with barrier line and edge lines due to the wide formation for speed calming.
- Bus stop upgraded and shifted further away from the intersection to improve safety.

There is no pathway for the full length of Gumnut Road which may be contributing to safety concerns for residents. A pedestrian path on the southern side of Gumnut Road from Shores Drive to Witonga Drive was listed as a high priority in the Pedestrian Access and Mobility Plan (PAMP) 2015. Only a small section of footpath near Treelands Drive to connect to a new pedestrian refuge has been installed. The PAMP is scheduled to be reviewed and this footpath should be included in the new plan to improve safety for pedestrians.

The Committee noted that future road upgrades in the vicinity could change traffic conditions on Gumnut Road and further review may be required if concerns are raised in the future

**POUND/VILLIERS STREET ROUNDABOUT**

The Local State Member of Parliament's Representative raised concerns regarding the western leg of the Pound/Villiers Street roundabout at Grafton and suggested that the left lane (through and left movement) was under-utilised. He suggested that there may be scope to investigate re-configuring the entry and exit lanes of the western leg of the roundabout to improve traffic flow. The intersection geometry and traffic efficiency at this location was discussed at the previous Local Traffic Committee meeting dated 4/8/21.

The Committee supported the previous recommendation that Council write to TfNSW and the Local State Member requesting a review of the intersection treatment of Pound and Villiers Streets with a view to addressing traffic efficiency and road safety concerns raised by the members of the Local Traffic Committee.

**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

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

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<b>ITEM</b>	<b>6c.21.129</b>	<b>PETITION - TALOUMBI RING DRAIN</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Water Cycle (Greg Mashiah)	
<b>Attachment</b>	Yes plus To be tabled Attachment	

## SUMMARY

Council has received a petition signed by 22 property owners requesting Council commit to work with affected landowner to implement a solution that allows water to pass through the Taloumbi ring drain system in a timely manner. This report provides information about the issue and requirements to meet the request as outlined in the petition.

## OFFICER RECOMMENDATION

That Council:

1. Note the attached landowner proposal and petition regarding the Taloumbi ring drain system.
2. Note that Action 1 as detailed in the landowner proposal will require investigation prior to construction to determine whether this will be effective including a budget item to be considered for these works in the 2022/23 budget.
3. Lobby the NSW Government (again) to increase the "Floodplain Management Program: Maintenance Grants" which have remained at the same dollar value for nearly 25 years and therefore have significantly reduced in value over time in real terms.

## COMMITTEE RECOMMENDATION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 4 Environment

Objective 4.1 We will preserve and enhance our natural environment

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

## BACKGROUND

The Taloumbi ring drain system is approximately 10km in length and currently has six outlets. There are currently two main issues with the system:

1. Aging infrastructure, which includes pipe separation allowing water behind the levee, and
2. Silt from Lake Wooloweyah, which impacts on the efficiency of the floodgates. Silt can effectively 'jam' the gates shut within a few weeks of sediment removal.

In June 2019 Consultants Engeny completed an Options Assessment of the Taloumbi ring drain which concluded that maintenance of the two outlets would provide the most effective hydraulic performance for the required ongoing maintenance cost. This recommendation assumed that silt was also removed from the drain.

Council received a petition signed by 22 landowners requesting that, in consultation with affected landholders, it:

1. *work towards duplication of the Palmers Channel outlet from the Taloumbi ring drain, in offset for Council's permanent closure of the Radial Drain No.1 outflow gates in March 2021;*

2. *clean out silt blockages in Radial Drain No.1 and adjacent sections of the Taloumbi ring drain, to restore the capacity to hold, carry and discharge water;*
3. *change-out the gates on the existing Palmers Channel outlet for lighter aluminium versions, to improve outflow from the Taloumbi ring drain;*
4. *set down adequate funding and a regular schedule for ongoing maintenance of the system.*

## KEY ISSUES

Silt removal from the Taloumbi ring drain system has been complicated (and increased in cost compared to historic cost) in recent years by the presence of salt marsh vegetation adjacent to the drain, which requires excavated material to be transported to a different location.

Silt removal from the Taloumbi ring drain will be an ongoing process and is one of many floodplain works for which Council is responsible. To assist with prioritisation of floodplain works, BMT Commercial were engaged to prepare a *Clarence Valley Structural Mitigation Works Review* ("the review") which assessed the relative flood risk mitigation benefits of existing structural flood risk mitigation works on the Lower Clarence floodplain. The 33 management schemes in the Lower Clarence floodplain were assessed using a Multi Criteria Analysis (MCA) which had been developed in conjunction with, and was endorsed by, the Floodplain Risk Management Committee (FRMC). At its meeting of 27 July 2021 Council noted the minutes of the FRMC meeting of 11 June 2021 (Resolution 6d.21.006), where at Item 5 the Committee endorsed the final review. A copy of the Executive Summary is included in the attachments. In terms of prioritisation 'the review' ranked The Taloumbi Scheme at *14<sup>th</sup> out of the 33 schemes documented*.

Management of the Taloumbi ring drain will be an ongoing process and a key aim of the review was to prioritise how Council's floodplain maintenance funding should be allocated. As reported to the 11 November 2018 Council meeting, while there have been an annual State Government grant for assisting Councils with Floodplain maintenance works for over 23 years, the dollar amount of the grant has not been indexed and so the grant has significantly decreased in real terms. At the same time, as noted above, floodplain maintenance costs have increased in real terms due to changes in environmental requirements, which results in lower maintenance levels being achieved for a given cost than was historically achievable. Maintaining the floodplain grant as a fixed dollar value has effectively "cost shifted" an increased proportion of floodplain maintenance costs to Local Government and using the RBA inflation calculator the grant in 2020 would needed to have been \$158,389 to match the "purchasing power" of the \$91,200 grant from 23 years ago. Council resolved (Resolution 15.223/18) to:

*Lobby the NSW Government to increase the "Floodplain Management Program: Maintenance Grants" which have remained at the same dollar value for more than 20 years and therefore have significantly reduced in value over time in real terms.*

The Minister's response was reported in the items for information to the 28 May 2019 Council meeting (Resolution 15.098/19) and is again included in the attachments to this report. The Taloumbi ring drain is an example of "early floodplain infrastructure works" which the Minister's response correctly notes has "high on-going maintenance costs". The Taloumbi ring drain is a good example of the issues of old floodplain infrastructure as the floodgates at radial outlet No1 failed, with a result that water from the lake was flowing into the ring drain and the gates needed to be closed immediately to prevent flooding of private property. Not indexing the State Government maintenance grant has transferred the burden of increased maintenance costs onto Clarence Valley ratepayers, and this petition provides another opportunity for Council to once again lobby state government for indexation of the annual floodplain grant in recognition of the large asset base of "early floodplain infrastructure works".

The Engeny report considered maintaining the outlet to Palmers Channel but did not assess whether the duplication of this outlet would be beneficial or whether the increased hydraulic performance on a duplicate outlet would justify the capital cost would require additional hydraulic study.

In relation to Point 3, the main issue with aluminium gates is that even when marine grade aluminium is used the gates rapidly corrode due to the estuarine environment. The best corrosion performance in estuarine environments is achieved when gates are made from stainless steel, and when gates on Palmers Channel have been replaced they have incorporated this material.

In the future, any infrastructure installed for management of the ring drain will need to consider issues such as Sea Level Rise and increased siltation in the lake. It is recommended that Council consider an allocation in the 2022/23 budget to investigate options for long term infrastructure performance on the Taloumbi ring drain.

As reported in the 24 September 2021 Coast and Estuary Committee minutes, which will be included in the Items for Information to this Council meeting, there are also currently investigations into the economic benefits of the Taloumbi ring drain.

## COUNCIL IMPLICATIONS

### Budget/Financial

The 2021/22 Budget has allocated \$89,422 for Open Drain Maintenance and \$50,605 for Open Drain Vegetation control. The estimated cost of the works requested by point 2 are \$60,000, or 42.9% of the floodplain budget for maintenance of all of Clarence Valley's floodplain drains. As noted above, this scheme has been ranked 14<sup>th</sup> in terms of priority out of 33 schemes.

Were Council to agree to this request, the floodplain open drain maintenance would need to be increased by \$60,000, which could only be funded through the General Fund deficit. Were Council to resolve to undertake the work but not provide a concurrent budget variation, it would mean nearly 43% of programmed floodplain maintenance work would need to be deferred, which would likely result in similar requests and petitions from landowners in other schemes which are then adversely impacted by the deferral of the scheduled works.

The action request No 4 is estimated to cost up to \$25,000 per annum, which represents approximately 28% of the current floodplain Open Drain maintenance budget. Regular annual maintenance would reduce the requirement for major silt removal such as is now required, noting that the environmental requirements would need to be addressed and that changes in these requirements could increase the cost. As noted above this funding needs to maintain drains across 33 different "schemes". If the NSW Government was convinced to index its maintenance grant to retain the real "purchasing power" of the original grant, it would facilitate implementation of regular schedules not only for the Taloumbi ring drain but other floodplain structures.

A study to facilitate the request in Action 1 is estimated to cost \$50,000. The capital cost of duplicating the outlet is estimated to be around \$200,000.

### Asset Management

The *Clarence Valley Structural Mitigation Works Review* has prioritised the relative flood mitigation risk benefits of existing works. As the available floodplain funding is insufficient for maintenance of all floodplain works and, as noted above, the cost of works has increased due to changes in environmental requirements, floodplain asset management would generally conduct work in terms of the 'review' prioritisation.

### Policy or Regulation

Local Government Act

### Consultation

Nil

### Legal and Risk Management

Under Section 733(1) of the Local Government Act, Council has a statutory liability for anything done or omitted to be done in good faith in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding.

### Climate Change

As noted in the report, the requested Action 1 will need to assess climate change impacts on the long term performance of the infrastructure.

Prepared by	Greg Mashiah, Manager Water Cycle
Attachment	Extract from Clarence Valley Structural Mitigation Works Review (BMT Commercial) Previous Ministerial response re Floodplain Maintenance funding
To be tabled	Petition from property owners

**ITEM 6c.21.130 SEE PARK MASTERPLAN**

<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Yes	

**SUMMARY**

Community consultation was undertaken in 2019 to capture the key elements of a concept masterplan for See Park, Grafton. Council resolved (item 6c.19.041) to include these key themes in a plan which was completed and reported to the August meeting of Council. The resolution from August (item 6c.21.107) sought an amendment to the original scope for inclusion of additional access items. A budget allocation was required to implement these amendments (item 6c.21.119) with the final concept masterplan completed. This report seeks endorsement for the concept masterplan for See Park.

**OFFICER RECOMMENDATION**

That Council receive and endorse the concept masterplan for See Park, Grafton.

**COMMITTEE RECOMMENDATION**

Kingsley/Simmons

That the item be deferred to the October Ordinary Meeting with an updated concept masterplan for See Park, Grafton to be provided to include all amendments as per resolution Item 6c.21.107.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

At the February 2019 meeting, Council resolved (item 17.003/19) to 'consult the community to determine the desires and needs of any future development of See Park'.

Community engagement was completed and included on-site pop-up sessions, online engagement through Clarence conversations, involvement from the local media and consultation with primary users including the Jacaranda Festival. The results of this engagement were reported back to Council in August 2019 (Item 6c.19.041) which was then resolved to progress to the design based on the inclusion of the key themes which were identified through community engagement.

An allocation was included in the 2020/21 budget to allow the project to be developed to concept masterplan stage. The concept masterplan was completed based on the identified key themes and reported to the August meeting of Council, Item 6c.21.107 being -

*That:*

1. Council note the concept Masterplan for See Park Grafton.
2. The concept Masterplan for See Park Grafton be amended to include the following;
  - a. Softfall and concrete paths throughout the playground area linking all pieces of play equipment regardless of whether they are inclusive/accessible.
  - b. One (1) wheelchair accessible piece of play equipment and minimum two (2) pieces of sensory play equipment.

- c. Replacement of the bridge crossing over the pond on page 10 of the concept Masterplan from stairs to a compliant wheelchair accessible bridge.
  - d. Confirmation of three (3) accessible BBQ's and their locations noting them on the amended concept Masterplan.
  - e. An accessible path which leads from either the corner of Turf and Bacon Street (near the BBQ shelter) or the footpath near the existing timber bridge (whichever starting location provides the least obstruction from retained plants and existing trees) down to the pond on the Turf Street side of the park.
3. The amendments in point 2 are aligned with the NSW Department of Planning, Industry & Environment's "Everyone Can Play" best practice guidelines and that the said guidelines are officially referenced in the amended concept Masterplan.
  4. Council receive a report to the September 2021 Council meeting cycle with an amended concept Masterplan as per points 2 and 3 of this motion.

This report seeks the endorsement of the concept masterplan with the inclusion of the additional access items, accepting the safety, budget and amenity issues as noted in Item 6c.21.119 being –

#### *That Council*

1. Note the safety, budget and natural amenity impacts of the amendments.
2. Allocate a budget of \$2,000 from the general fund for the design amendments and for inclusion in the Q1 QBRS to be reported in October 2021.
3. Receive a report back to Council by October 2021 with the updated concept masterplan design.

## KEY ISSUES

The concept masterplan was completed, based on feedback received from the community consultation sessions and engagement with the community stakeholders as part of that process. The keys items for inclusion in the design were addressed, coupling built infrastructure with the natural amenity of the park. Overwhelmingly, the park is used for the natural assets, linking the water, flora and fauna together to create a sensory playground. Accessible pathways have been added throughout the park to link all areas.

The See Park concept masterplan considered Council's strategic planning documents, policies and procedures, along with the Everyone Can Play Guideline.

Development of the plan also considered the heritage and natural values of the park.

## COUNCIL IMPLICATIONS

### **Budget/Financial**

The concept masterplan was funded from PJ 994752 and included in the 2020/21 capital works program. An additional \$2,000 was allocated (item 6c.21.119) for design amendments.

### **Asset Management**

The plan will increase Council's asset portfolio however as the plan is only at concept design phase further details will be provided after completion of the detailed design phase.

### **Policy or Regulation**

- NSW Disability Inclusion Act 2014
- Disability Inclusion Action Plan 2017 – 2021
- Open Spaces Strategy
- Council report 17.003/19
- Council report 6c.19.041
- Council report 6c.21.107
- Council report 6c.21.119

### **Consultation**

Extensive community consultation was undertaken with the feedback and used to inform the concept masterplan, with additional items added following feedback from Council's Access Committee.

### **Legal and Risk Management**

Safety issues were identified and noted by Council (item 6c.21.119).

**Climate Change**

N/A

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Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	See Park Concept Masterplan

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**ITEM 6c.21.131 BROOMS HEAD HOLIDAY PARK TRANSITIONAL SITES ON CROWN LAND**

<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Confidential	

**SUMMARY**

This report provides an update to recent Council resolutions and reports to the August and September 2021 meetings following receipt of legal advice relating to transitional camping at Brooms Head Holiday Park (R65975).

**OFFICER RECOMMENDATION**

That Council as Crown Land Manager of Reserve 65975 –

1. Suspend transitional camping for the 2021-22 holiday season as the transitional sites -
  - a. Are not approved within the current s68 Approval to Operate the Caravan Park and Campground.
  - b. Are not covered through a legal mechanism such as a licence, lease or other estate to address the exclusive nature of their booking activity.
  - c. May compromise negotiations of an Indigenous Land Use Agreement with the Yaegl Registered Native Title Body Corporation.
2. Priority offer transitional campers alternate sites within the holiday park for the 2021-22 holiday season as a result of any cancelled bookings due to COVID-19 or other similar impacts.
3. Note that access to alternate sites for transitional campers for the 2021-22 holiday season may have to be via an Expressions of Interest and ballot system.
4. Note that the Yaegl Registered Native Title Body Corporate may exercise their native title rights to camp on the Reserve.
5. Note that negotiations on an Indigenous Land Use Agreement with the Yaegl Registered Native Title Body Corporate are ongoing and that these negotiations are a priority focus for Council.

**COMMITTEE RECOMMENDATION**

Simmons/Ellem

That this item be deferred to the Ordinary Council Meeting.

Voting recorded as follows:

For: Toms, Simmons, Ellem, Kingsley, Lysaught

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

At the Ordinary meeting in August 2021, Council considered a report on transitional camping at Brooms Head Holiday Park, [Item 6c.21/100] resolving:

*That Council receive at the September Meeting, and following consultation with the current registered traditional/transitional campers or their nominated representative and an inspection by those Councillors who wish to attend at the site prior to the September meeting, a report including a draft Plan of Management that includes:*

1. continuation of the relevant current natural attrition principle components of 1987 Plan of Management and,

2. *options for improvement of public access to and amenity of the foreshore area together with greater park management efficiency by:*
- a. *the agreed aggregation of remainder sites and,*
  - b. *the priority offer from time to registered traditional/transitional campers of acceptable alternative sites.*

At the Ordinary meeting in September 2021, Council considered a further report on transitional camping at Brooms Head Holiday Park, [Item 6a.21/044] resolving:

*That Council note the delay with progressing resolution 6c.21.100 made at the August 2021 Ordinary meeting, pending legal advice.*

## KEY ISSUES

Legal advice was sought on the following key issues from Local Government Legal –

- Currency and status of the existing Plan of Management (POM).
- Lawfulness of allowance for transitional camping sites within the Holiday Park which could appear to be in breach of the S68 approval to operate the park.

### Existing Plan of Management

Local Government Legal advises that it does not agree with DPIE's interpretation of the legislation being that the POMs continue in force until such time as a new POM is adopted or the land becomes operational, but does not recommend acting contrary to DPIE's advice.

*It is considered seeking a second opinion is appropriate and should that opinion be the same as Local Government Legal, a submission should be made to DPIE to reconsider its position. Alternatively, Council could accept the DPIE's position that the POM is still in force. In accepting the POM continues in force, the argument remains that occupancy of the land can only be in accordance with a 'lease, licence or other estate', of which there are none in existence.*

Also relevant is that DPIE Crown Lands previously raised the issue of the need to cease transitional camping, and site safety, and strongly recommended that these sites be removed (refer to August report).

As outlined in the September report –

*DPIE Crown Lands have also advised that the land must be managed as if it was community land under the Local Government Act. Crown Lands has also advised that the classification of caravan/tourist parks are on hold while a policy directive on the classification of caravan/tourist parks is being developed. The written advice we have received is -*

*'It is noted that Council sought to re-classify of the following Crown reserves [R72797, R89830, R95566, R65975, and R81523] as operational land. The classification of these reserves has been placed on hold pending a departmental policy position on the future management of caravan and tourist parks. Council will be notified of the outcome in due course.'*

*This advice (from the Minister's delegate) could also be interpreted that the land has not yet been classified for the purposes of its management under the Local Government Act 1993.*

*Whether a Plan of Management (PoM) is required or not will depend on the 'classification' of the land under the Local Government Act – if 'operational' then no Plan of Management required. However, Minister/Council could then request a PoM under the CLM Act. If the land is classified as 'community' then the Local Government Act requires a PoM.*

The current community land classification for the park (until a policy position is clarified with DPIE), means that it can only be used in accordance with a 'lease, licence or other estate'. This currently does not occur with transitional camping.

The same transitional campers have the exclusive use of a particular campsite for a particular period of time each year. This 'exclusivity' is different to a booking system that would allow various people to book the same spot each year. Implication here is that this 'exclusivity' may not be able to be written into a PoM if land was classified as 'community' land.

**Lawfulness of allowance for transitional camping sites within the Holiday Park which could appear to be in breach of the S68 approval to operate the park.**

As reported to the September meeting –

*The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 specifies the number of caravan/camping sites is a condition of the Approval (cl. 72). The transitional sites are not accommodated under the existing s68 approval for Brooms Head Holiday Park either within the total approved number or a 'special' transitional campsite allocation.*

### **Yaegl People Native Title Holders**

A draft Indigenous Land Use Agreement (ILUA) has recently been received with a focus on advancing the Calypso Yamba Holiday Park Redevelopment. While those negotiations around the ILUA are ongoing, that may or may not affect other parks, as the Yaegl RNTBC area is lawfully recognised as the traditional owners (that include the right to camp, hunt, undertake cultural practice, etc) across all five holiday parks it is appropriate that the use of the mostly day use sites by transitional campers are suspended.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Some legal costs have been incurred to seek the advice.

#### **Asset Management**

N/A

#### **Policy or Regulation**

- Crown Land Management Act 2016
- Local Government Act 1993 and Regulations
- Native Title Act 1993 (Cth)
- Concept design for redevelopment of the Brooms Head Holiday Park 2017
- Business development strategy and master plan for the redevelopment of Brooms Head Holiday Park 2019.

#### **Consultation**

No further consultation has taken place at this time until legal advice was sought and considered.

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

The legal advice is attached to this report and has been canvassed in Key Issues.

#### **Climate Change**

N/A

Prepared by	Peter Birch, Manager Open Spaces and Facilities
Confidential	Legal Advice – Local Government Legal

<b>ITEM</b>	<b>6c.21.132</b>	<b>GRAFTON POOL REDEVELOPMENT PROJECT UPDATE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Yes	

**SUMMARY**

The detailed design for Stage one of the Grafton Pool Redevelopment Project has been completed. The full set of design plans include a new 8 lane 50m pool and adjacent grandstand, a new indoor 25m pool, a new indoor combined leisure and program pool as well as supporting infrastructure.

This report provides evidenced asset condition information and seeks a budget allocation to lodge a Development Application and facilitate an opportunity to lobby the State and Federal Government to fund a 'shovel ready' community significant facility.

**OFFICER RECOMMENDATION**

That Council

1. Note the asset condition and risk and safety issues at the Grafton Pool if this project is not progressed.
2. Allocate a budget of \$20,000 from the general fund for the Development Application.
3. Lobby the State and Federal members for inclusion of this project as an election commitment promise for the Clarence Valley community.

**COMMITTEE RECOMMENDATION**

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

The Grafton Pool Redevelopment Project has been ongoing for several years with the completion of community consultation which informed the concept masterplan, return on investment report, whole of life costings report, structural investigations including strength and chemical testing as well as engineering reports, QS reports and Royal Lifesaving desktop assessments.

Following these extensive reports which confirmed the current asset condition is deteriorating at a rapid rate combined with the anticipated cost benefits, the concept plan has been developed to 100% detailed design for stage one.

Council resolution 6e.21.004 accepted the tender from Facility Design Group for \$578,207 for the development of these plans.

This report recommends the lodgement of a Development Application to ensure the project is shovel ready, for construction and lobby the Federal and State members for funding.

**KEY ISSUES****Detailed Design - Project Status Report**

**Overall:** This project has been completed on-time, within budget and to the approved quality standards.

**Deliverables:**

The 100% detailed design packaged has been completed and includes the following:

- Architectural drawing suite
- Structural drawing suite
- Civil drawing suite
- Electrical drawing suite
- Mechanical drawing suite
- Hydraulic drawing suite
- Filtration drawing suite
- Pool Tiling drawing suite
- Landscape drawing suite
- Survey
- Access Report
- Acoustic Report
- BCA Report
- Geotech Report
- Heritage Report
- Section J Report
- Statement of Environmental Effects

This complete set of drawings and documents have been assessed for quality and compliance during reviews at 30%, 50%, 80% and 100% completion. Additionally, an external peer review has been completed on all disciplines and feedback considered and/or applied. Royal Lifesaving Society has also provided a review of the design.

It is imperative that this project continues to progress forward, both from asset management and financial perspective as all costs are expected to increase with any time delay.

An architectural fly through has been developed and is available to view on Council's webpage here:

<https://www.clarence.nsw.gov.au/Projects/Grafton-Aquatic-Centre>

The package includes Stage One elements only including:

- A new 50m 8 lane outdoor pool
- Outdoor grandstand including accessible spaces
- A new 25m heated pool
- A new beach entry heated leisure pool, combined with a program pool
- Additional accessible amenities
- Additional shade and recreational areas
- Swim club room
- Additional storage
- Accessible pathways
- Outdoor pool lighting

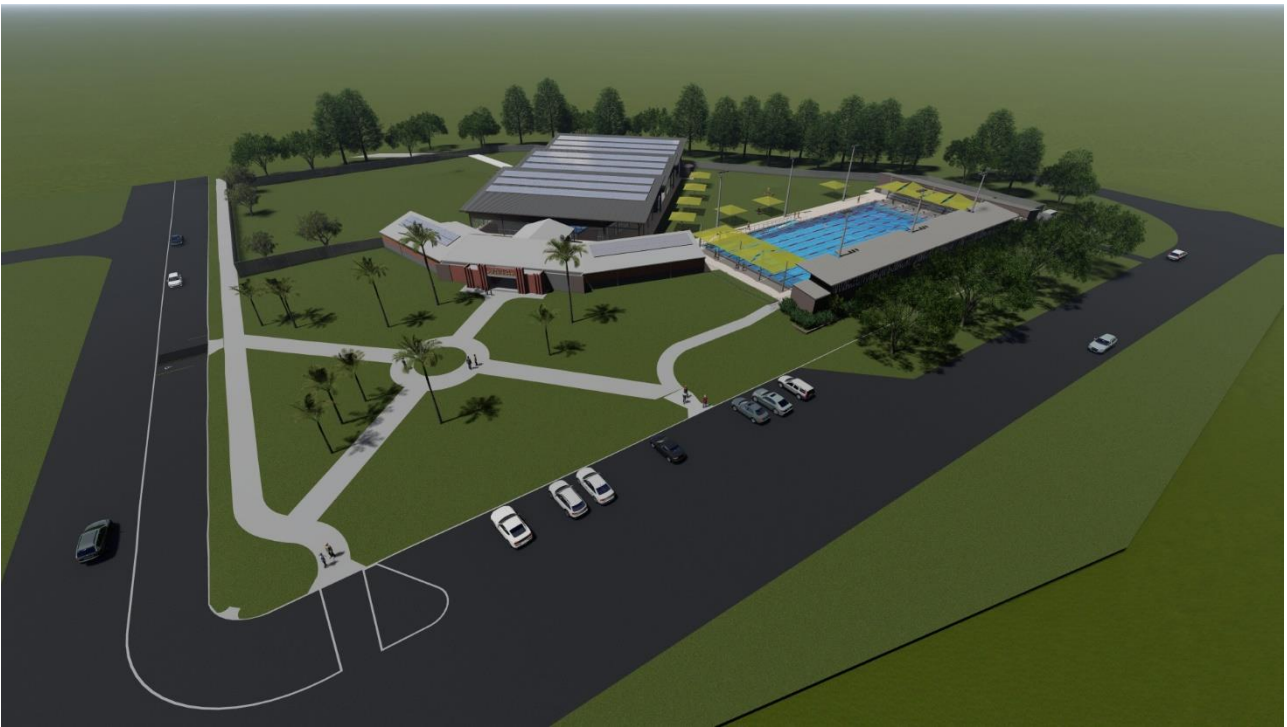


Image 1 – Aerial Artists Impression Cnr Turf and Oliver Streets, Stage One - Grafton Pool



Image 2 – Aerial Artists Impression Turf Street looking North, Stage One - Grafton Pool





Image 3 – Artists Impression 50m pool looking North, Stage One - Grafton Pool



Image 4– Aerial Artists Impression Indoor centre overlooking 25m pool, Stage One - Grafton Pool



*Image 5–Artists Impression Indoor centre overlooking leisure and program pool, Stage One - Grafton Pool*



*Image 6– Aerial Artists Impression Indoor centre overlooking leisure and program pool, Stage One - Grafton Pool*

Stage Two of the Project, which is not included in this scope includes the following:

- Two waterslides
- All ability splash pad
- Dive Pool
- Refurbishment of the existing building



**COUNCIL IMPLICATIONS**

**Budget/Financial**

The detailed design for this project was funded from PJ 996766 and included in the 2020/21 capital works program. The total cost for the detailed design is \$700,592.00.

A budget estimate of \$20,000 has been obtained for the lodgement of a Development Application for the items included in the design which require consent of Stage One of the project.

The design has been analysed by a licensed quantity surveyor (QS) who has provided a total construction cost for stage one of \$11,992,380.46, broken down as follows:

- Site Redevelopment \$ 1,617,746.96
- Indoor Pool Hall zone \$ 6,317,941.50
- Outdoor 50m pool zone \$ 4,056,692.00

These costs are expected to increase due to COVID-19 with demand of materials and labour in short supply. The design and QS does not include stage two elements including the splash pad, water slides, refurbishment of the entry building and a dive pool.

**Asset Management**

Most items included in the design were identified in the 2013 Aquatic Facilities Strategy as requiring attention in the short to medium term.

Chemical analysis and structural testing was undertaken to inform the design process. The results from the chemical testing on the existing structure concluded that the chloride content was border-line while the sulphates were too high and in some instances were over the allowable limit. The result of the testing highlights the decline of the structural integrity and the likely catastrophic failure within the next 5-10 years.

Detailed information with regard to the testing was included in Council Report Item 15.257/17 and specifically Attachment E – Cardno Investigation Report.

Additionally, the existing pools are refurbished annually through the replacement of hundreds of tiles to minimise current leaking and water loss. Structural works have also been completed to stabilise the pool concourse between the 50m and dive pools, which saw the sinking of the concrete between the structures. Further annual works are completed on the waterslide structure with cross members replaced annually. These works are ongoing due to the age of the structure.

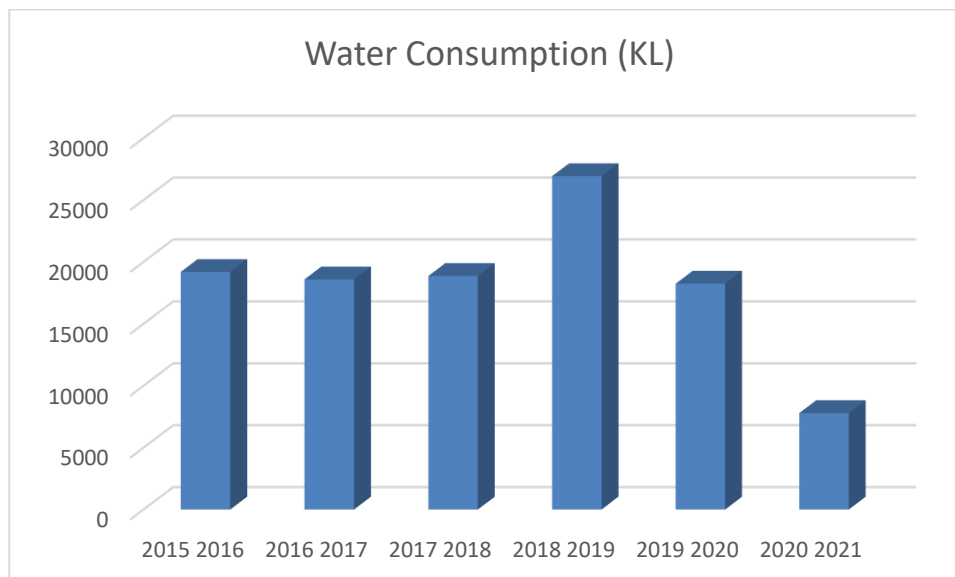


Figure 1– Water Consumption (KL) at Grafton Pool

This graph indicates the structures are leaking and failing. From the figures in Figure 1, the cost of water is:

- **2020/21 - \$36,114 (cost to date)**
- **2019/20 - \$83,260\***
- 2018/19 - \$122,506 (27,248 kilolitres)

- 2017/18 - \$83,477
- 2016/17 - \$80,941
- 2015/16 - \$73,928

\* Somewhere between November and March, the water meter failed, meaning that only 2KL of water usage was recorded for that period, which was during the peak season. Based on average of the past three years for that period, the consumption would be 7,646kl at a cost of \$34,359. Therefore the annual cost for 2019/20 would be \$117,619.

Repairs to the dive pool base were undertaken with the aim to reduce pool base leakage. Those repairs seem to assist in reducing water leakage to date with data on consumption for period to date to confirm.

The Grafton Pool, including the 50m, dive and toddler pool drains within 10 days when the equipment is turned off, without any mechanical or manual aids. It is not known where the water goes as there are no visible signs on the surface.

In addition to the general water supply charges, the water consumption results is in hidden operating costs for consumables such as chemicals, and electricity.

### Policy or Regulation

- NSW Disability Inclusion Act 2014
- Disability Inclusion Action Plan 2017 – 2021
- Native Title Act 1993
- Clarence Valley Open Spaces Strategy
- Clarence Valley Sports Facilities Plan
- Clarence Valley Aquatic Facilities Strategy
- Asset Management Plan
- Report Item 6e.21.004 – March 2021
- Report Item 07.20.005 – May 2020
- Report Item 6c.20.048 – April 2020
- Report Item 6c.19.112 – December 2019
- Report Item 15.099/18 – June 2018
- Report Item 15.257/17 – December 2017
- Report Item 15.112/17 – June 2017
- Report Item 13.016/17 – April 2017
- Report Item 15.152/16 – December 2016
- Report Item 15.054/16 – June 2016

### Consultation

Key internal stakeholders have been consulted with regards the internal design.

Previous consultation with external stakeholders, user groups and the community has been completed.

### Legal and Risk Management

Action for the redevelopment of the Grafton Olympic pool is needed urgently in order to address increasing safety and maintenance concerns as well as potential pool failure. Additionally, if water loss continues or structures become unstable it may be necessary to shut down some areas of the facility (e.g. dive pool, waterslide etc). Results from testing has identified that these structures are declining and require urgent replacement.

### Climate Change

There are several environmental considerations incorporated into the facility design which will contribute positively towards the environment and climate change.

Prepared by	Rachelle Passmore, Senior Parks and Recreation Officer
Attachment	QS Grafton Aquatic Centre, Elemental Summary

ITEM	6c.21.133	MONTHLY INVESTMENT REPORT – SEPTEMBER 2021
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Finance & Systems (Kate Maginnity)	
<b>Attachment</b>	Yes	

**SUMMARY**

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

**OFFICER RECOMMENDATION**

That the report indicating Council's funds investment position as at 30 September 2021 be received and noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Kingsley, Lysaught, Toms, Simmons

Against: Ellem

**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%

65.40%	Building Asset Renewals	0.87%
	Other (refer attachment for further detail)	5.73%
		34.60%
	Total External & Internal Reserves	100.00%

**Portfolio Credit Limits**

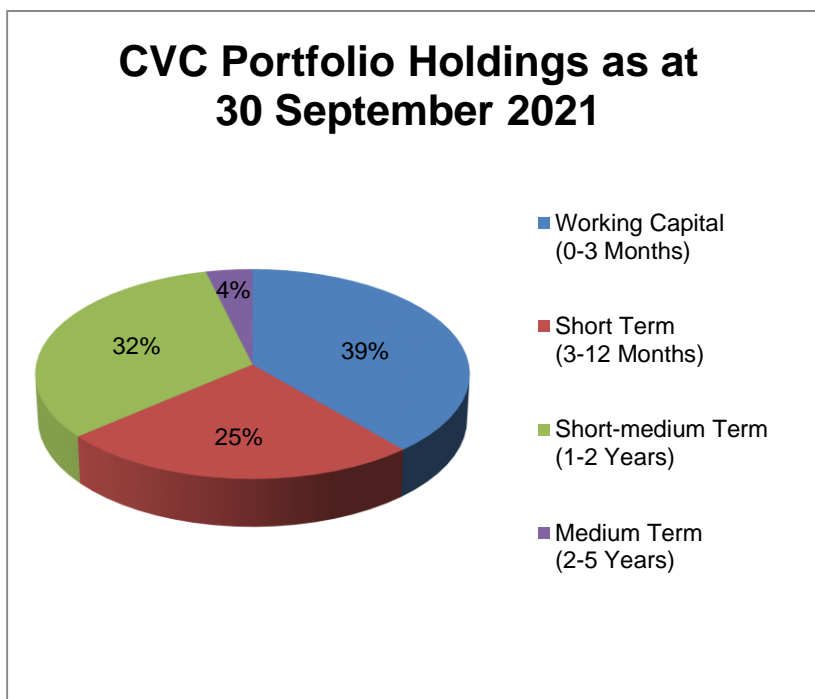
Tabled below is a summary of Council's investments as at 30 September 2021 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 30 September 2021				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,990,307	3.76%	Yes
AA	100.00%	52,720,206	39.75%	Yes
A	60.00%	18,250,000	13.76%	Yes
BBB	50.00%	56,679,785	42.73%	Yes
<b>TOTAL INVESTMENTS</b>		<b>132,640,298</b>	<b>100.00%</b>	

Note, a permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the *Financial Claims Scheme* and hence receives a rating of AAA.

**Portfolio Holdings by Maturity**

Illustrated and tabled below is a summary of Council's investments by maturity as at 30 September 2021. Excluding "at-call" working capital, 37.70% 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 30 September 2021 which details compliance with Council's Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 30 September 2021					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
<b>TERM DEPOSITS</b>					
AMP	BBB	15.00%	8,000,000	6.03%	Yes
BoQ	BBB+	15.00%	8,000,000	6.03%	Yes
Bendigo	BBB+	15.00%	3,000,000	2.26%	Yes
CBA	AA-	30.00%	3,000,000	2.26%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.51%	Yes
Defence	BBB	15.00%	10,000,000	7.54%	Yes
ING Direct	A	15.00%	13,000,000	9.80%	Yes
ME Bank	BBB+	15.00%	16,000,000	12.06%	Yes
NAB	AA-	30.00%	20,000,000	15.08%	Yes
NTTC	AA-	30.00%	3,000,000	2.26%	Yes
P&N	BBB	15.00%	3,000,000	2.26%	Yes
RaboDirect	A+	15.00%	6,000,000	4.52%	Yes
Westpac	AA-	30.00%	6,000,000	4.52%	Yes
<b>TOTAL TERM DEPOSITS</b>			<b>101,000,000</b>	<b>76.15%</b>	
<b>MANAGED FUNDS</b>					
TCorp	AAA	40.00%	490,307	0.37%	Yes
<b>TOTAL MANAGED FUNDS</b>			<b>490,307</b>	<b>0.37%</b>	
<b>FUNDS AT CALL</b>					
AMP	BBB	15.00%	8,369,396	6.31%	Yes
AMP	BBB	15.00%	1,060,389	0.80%	Yes
ANZ	AA-	30.00%	6,789,276	5.12%	Yes
CBA	AA-	30.00%	7,869,269	5.93%	Yes
CBA	AA-	30.00%	7,061,661	5.32%	Yes
<b>TOTAL FUNDS AT CALL</b>			<b>31,149,991</b>	<b>23.48%</b>	
<b>TOTAL INVESTMENTS</b>			<b>132,640,298</b>	<b>100.00%</b>	

Register of Investments - Clarence Valley Council as at 30 September 2021					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>WORKING CAPITAL (0-3 MONTHS)</b>					
T-CorpIM Cash Fund	490,307	0.37%	At-Call	0.12%	AAA
AMP Bank Ltd	8,369,396	6.31%	At-Call	0.55%	BBB
AMP Bank Ltd	1,060,389	0.80%	At-Call	0.50%	BBB
ANZ Banking Group Ltd	6,789,276	5.12%	At-Call	0.05%	AA-
Commonwealth Bank of Australia	7,869,269	5.93%	At-Call	0.00%	AA-
Commonwealth Bank of Australia	7,061,661	5.32%	At-Call	0.05%	AA-
AMP Bank Ltd	2,000,000	1.51%	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+
Bendigo Bank	3,000,000	2.26%	15/10/2021	0.45%	BBB+
Commonwealth Bank of Australia	3,000,000	2.26%	12/11/2021	0.55%	AA-
Defence Bank	2,000,000	1.51%	17/12/2021	0.50%	BBB
ING	2,000,000	1.51%	29/11/2021	1.55%	A
National Australia Bank	2,000,000	1.51%	02/12/2021	0.50%	AA-
Westpac Bank	1,000,000	0.75%	16/11/2021	1.22%	AA-
<b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>	<b>48,640,298</b>	<b>36.67%</b>		<b>0.46%</b>	
<b>SHORT TERM (3-12 MONTHS)</b>					
AMP Bank Ltd	3,000,000	2.26%	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	1.51%	07/07/2022	0.37%	BBB
ING	3,000,000	2.26%	11/02/2022	1.60%	A
ING	2,000,000	1.51%	21/02/2022	1.60%	A
ING	3,000,000	2.26%	21/02/2022	1.60%	A
ME Bank Ltd	1,000,000	0.75%	15/02/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.51%	03/03/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.51%	09/05/2022	0.50%	BBB
ME Bank Ltd	3,000,000	2.26%	11/05/2022	0.50%	BBB
ME Bank Ltd	5,000,000	3.77%	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	1.51%	13/09/2022	3.40%	A+
Westpac Bank	2,000,000	1.51%	18/07/2022	1.08%	AA-
<b>TOTAL SHORT TERM (3-12 MONTHS)</b>	<b>33,000,000</b>	<b>24.88%</b>		<b>1.19%</b>	

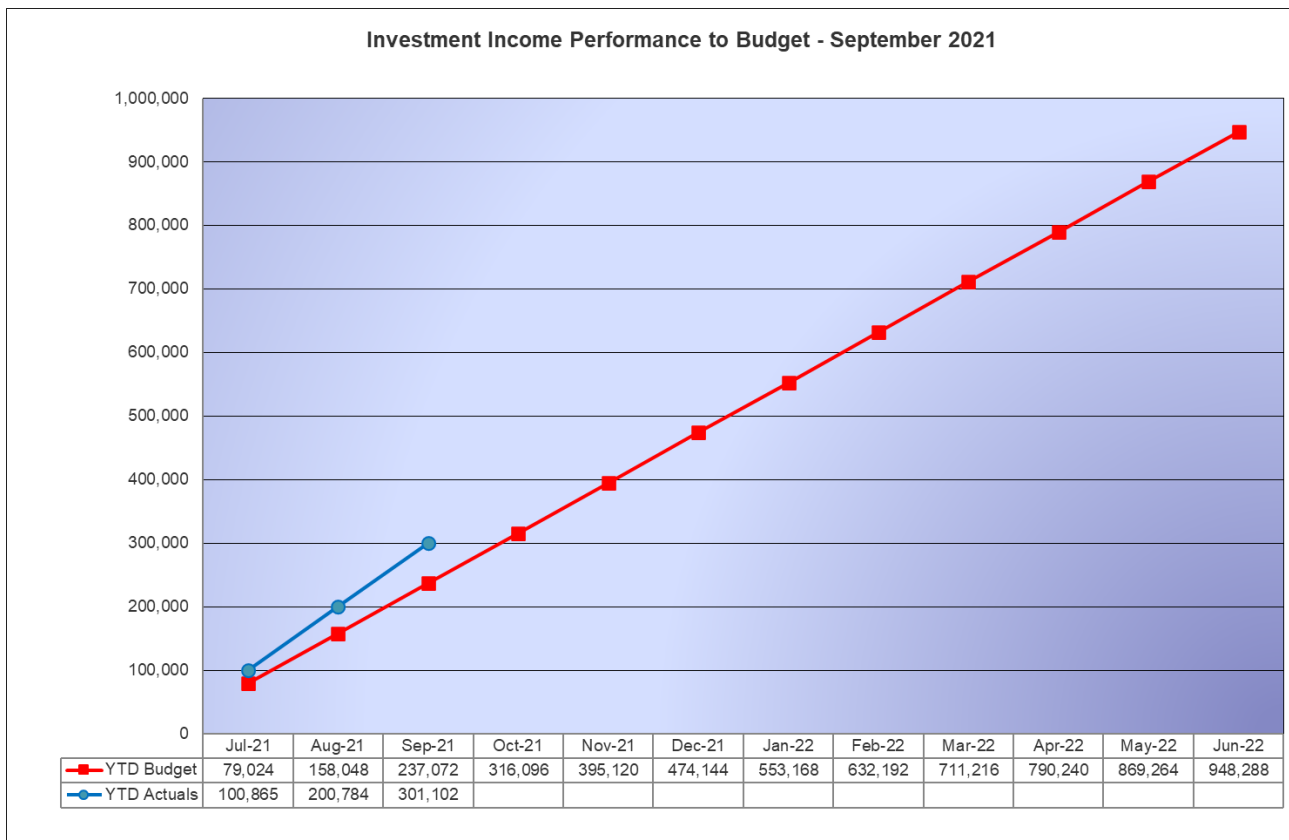
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>SHORT - MEDIUM TERM (1-2 YEARS)</b>					
AMP Bank Ltd	2,000,000	1.51%	14/11/2022	0.55%	BBB
AMP Bank Ltd	1,000,000	0.75%	31/08/2023	0.75%	BBB
Bank Of Queensland Ltd	2,000,000	1.51%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.51%	21/08/2023	3.60%	BBB+
Defence Bank	2,000,000	1.51%	21/11/2022	0.62%	BBB
Defence Bank	2,000,000	1.51%	02/12/2022	0.64%	BBB
Defence Bank	2,000,000	1.51%	03/03/2023	0.50%	BBB
Defence Bank	2,000,000	1.51%	09/03/2023	0.53%	BBB
ING	1,000,000	0.75%	04/10/2022	3.66%	A
ING	2,000,000	1.51%	02/03/2023	0.55%	A
ME Bank Ltd	2,000,000	1.51%	15/06/2023	0.50%	BBB
National Australia Bank	2,000,000	1.51%	18/11/2022	0.60%	AA-
National Australia Bank	2,000,000	1.51%	01/12/2022	0.60%	AA-
National Australia Bank	2,000,000	1.51%	06/03/2023	0.60%	AA-
National Australia Bank	2,000,000	1.51%	05/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.51%	15/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.51%	10/08/2023	0.60%	AA-
National Australia Bank	2,000,000	1.51%	10/09/2023	0.65%	AA-
P&N Bank	3,000,000	2.26%	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	1.51%	19/09/2023	3.40%	A+
Westpac Bank	2,000,000	1.51%	13/03/2023	0.93%	AA-
<b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>	<b>43,000,000</b>	<b>32.42%</b>		<b>1.20%</b>	
<b>MEDIUM TERM (2-5 YEARS)</b>					
National Australia Bank	2,000,000	1.51%	08/07/2024	0.80%	AA-
National Australia Bank	2,000,000	1.51%	12/01/2026	1.00%	AA-
Westpac Bank	1,000,000	0.75%	20/06/2024	0.85%	AA-
<b>TOTAL MEDIUM TERM (2-5 YEARS)</b>	<b>5,000,000</b>	<b>3.77%</b>		<b>0.89%</b>	
<b>LONG TERM (5-10 YEARS)</b>					
Northern Territory Treasury Corp	3,000,000	2.26%	15/12/2026	1.50%	AA-
<b>TOTAL LONG TERM (5-10 YEARS)</b>	<b>3,000,000</b>	<b>2.26%</b>		<b>1.50%</b>	
<b>TOTAL INVESTMENTS</b>	<b>132,640,298</b>	<b>100.00%</b>		<b>0.92%</b>	

## COUNCIL IMPLICATIONS

### Budget/Financial

Portfolio Investment Returns to 30 September 2021			
	Actual	Budget 2020/21	Over/(Under)
<b>This Month</b>			
Cash Deposits & FRNs	\$100,340	\$78,974	\$21,366
Managed Funds	(\$21)	\$50	(\$71)
	<b>\$100,319</b>	<b>\$79,024</b>	<b>\$21,295</b>
<b>Year to Date</b>			
Cash Deposits & FRNs	\$301,076	\$236,922	\$64,154
Managed Funds	\$27	\$150	(\$123)
	<b>\$301,103</b>	<b>\$237,072</b>	<b>\$64,031</b>

- Actual results have shown that total interest income to 30 September 2021 is \$64.0k above the 2021-22 YTD budget of \$237.0k.



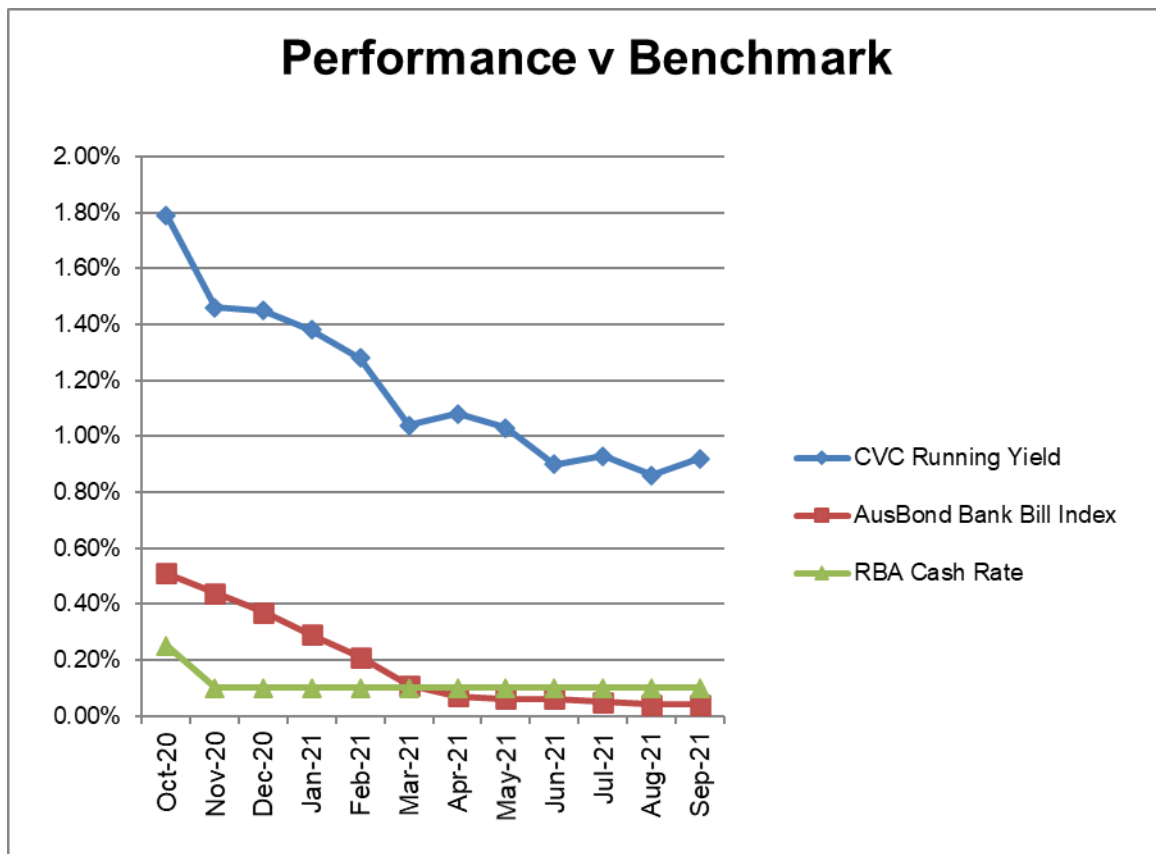
- Running yields\* to 30 September 2021 have been:

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-CorplM Cash Fund	0.00%
Term Deposits	<u>1.15%</u>
<b>Total</b>	<b>0.92%</b>

\*Running yield is a measure of the return (before costs) that would be earned from current positions if there were no trades and no fluctuation in market yields.

- The RBA cash rate at the end of September was 0.10%. The benchmark AusBond Bank Bill Index was 0.04% for September.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +0.92% (August 0.86%).





The following investments were transacted during September:

- New NTTC \$3.0m TD invested at 1.50% for 5 years – matures 15/12/2026
- NAB \$2.0m TD matured 10/9/2021 – reinvested at 0.65% for 2 years – matures 10/09/2023

**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 – September 2021

<b>ITEM</b>	<b>6c.21.134</b>	<b>GOVERNANCE REPORT 2021/22 Q1</b>
-------------	------------------	-------------------------------------

<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Manager - Organisational Development (Alex Moar)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) applications, new and/or updated Disclosure of Interest returns, declarations of interest and insurance claims in the period 1 July 2021 to 30 September 2021.

**OFFICER RECOMMENDATION**

That Council receive and note the Governance report for the period 1 July 2021 to 30 September 2021.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND***Legal Proceedings*

The report on legal proceedings is to contain details of the legal proceedings that have been taken by or against Council, except in cases where:

- the security of the Council, Councillors, Council staff or Council property may be threatened;
- the privacy of the personal affairs of the person may be contravened by revealing the information;
- the proceedings concern a personnel or industrial relations matter involving an individual staff member (for example, unfair dismissal claims, workers compensation claims and personal injury claims);
- the proceedings concern the personal hardship of any resident or ratepayer, or
- a not for publication order has been made by the relevant Court or Tribunal.

The report is also to contain details of the amounts, costs and expenses paid or received by the Council.

*Complaints Management*

Under Council's Complaints Management Policy V5.0 a request for a service or for information about a service is not a complaint. However, they may escalate into a complaint if action is not taken within designated timeframes or is undertaken in an unprofessional or substandard manner.

The following are not complaints under Council's Complaints Management Policy:

- an objection to a Development Application (DA) or a submission made to Council in response to a call for public comment;
- a concern for service levels that are the result of limits set by Council Policy, and not the result of organisational or mechanical breakdown;
- Code of Conduct complaints.

Under the policy Council has committed to respond substantially to any complaint (other than a competitive neutrality complaint) within 21 business days after it is received.

#### *Government Information (Public Access) Applications*

The purpose of the Government Information (Public Access) Act 2009 (GIPA) is to open government information to the public by:

- (a) authorising and encouraging the proactive public release of government information by agencies;
- (b) giving members of the public an enforceable right to access government information, and
- (c) providing that access to government information is restricted only when there is an overriding public interest against disclosure.

Information is not disclosed, if disclosing it would also disclose:

- private information about a third party
- details of legal action or law enforcement
- details that would undermine competitive neutrality in connection with any functions of Council or
- details that would endanger or prejudice any system or procedure for protecting the environment.

#### *Declarations of Interests*

The Office of the Information and Privacy Commission released Information Access Guideline 1: For Local Councils on the Disclosure of Information (returns disclosing the interests of councillors and designated persons) – September 2019. All returns are to be made publicly available on Council's website. Updated returns and new returns are to be tabled at the next Council meeting after lodgement in accordance with Council's Code of Conduct.

#### *Insurance Claims*

To reduce Council's exposure to risk, Council maintains insurance cover for protection against financial loss, damage and legal liabilities.

## **KEY ISSUES**

#### *Legal Activities*

Legal advice was sought by Council across a broad range of its activities, including road construction and upgrades; property management; park administration; and rating there were no proceedings taken by or against Council to be reported.

#### *Complaints Management*

Council did not receive any complaints for this quarter as defined by Council's Complaints Management Policy V5.0.

In August the IPC (Information and Privacy Commission) responded to Council's update on its compliance with the GIPA Act 2009 and the GIPA Regulation 2018 provided in April 2021. Council continues to work with the IPC to ensure its processes are compliant, particularly since transitioning to the new 'Open Cities' website.

#### *Government Information (Public Access) (GIPA) Applications*

During the period eight (8) GIPA formal applications were decided, an increase from four (4) in the last quarter. These were for information pertaining to:

- A development application to allow helicopters to use the Crown Land at Ford Park, Yamba, for scenic flights (ACT2021/2044)
- Information about footpath maintenance in Fitzroy Street, Grafton
- Development at 19 Gumnut Road, Yamba
- Flood floor levels in Yamba
- An accident on Crown Land adjacent to Calypso Holiday Park in December 2020
- One request for information about the owners of a deceased dog involved in a traffic accident
- Two requests pertaining to complaints about companion animals and associated complaints.

For seven of these applications partial access was decided, with the basis of withholding information being personal information and business information under Section 14 of the GIPA Act. A summary of information provided for these applications is provided on Council's 'Disclosure log of access applications' page and all information will be provided on request. One of the applications was refused on various grounds provided under the GIPA Act and is currently under review at the IPC.

Currently five GIPA applications sit with Council.

Council is also participating in the Information and Privacy Commission's Right to Know (RTK) week, which marks 10 years since the introduction of the GIPA Act.

#### *Disclosures of Interests Returns*

Annual Disclosures of Interest returns were called for this quarter. A report last month (21 September 2021) was presented to Council and an additional two annual discloses are attached. Fourteen senior Council Officers (Designated Persons) provided annual returns; two exit returns we also provided. All are available on Council's website.

#### *Insurance Claims*

There were 22 claims lodged for the period, a significant decrease from Q4 2020-21, where Council was fielding claims from the flood event in March.

#### **INSURANCE CLAIMS 1 July 2021 TO 24 September 2021**

<b>Activity</b>	<b>Total Claims</b>	<b>Not Pursued</b>	<b>Declined</b>	<b>Settled</b>	<b>Pending</b>	<b>Notification</b>	<b>Total Amount (excl GST)</b>
Motor Vehicle Claims	3	0	0	2	1	0	2,000.00
Public Liability (Property)	18	1	11	1	5	0	453.00
Public Liability (Injury)	0	0	0	0	0	1	0.00
Property	1	0	0	1	0	0	5,000.00
<b>Total</b>	<b>22</b>	<b>1</b>	<b>11</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>7,453.00</b>

Claim: A completed claim form is received by Council or a written letter of demand served on Council.

Settlement: A compensation amount agreed upon by Council in response to an incident in which Council was proven negligent.

Notification: A person notifies Council of their intention to claim but never follows through to the lodgement stage.

Pending: An investigation is on-going, and 'negligence' has not been determined.

Declined: The claimant has not been able to provide Council with a reason as to why they think Council is at fault.

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

For legal proceedings taken by or against the Council, any costs incurred or recovered are allocated to the budget areas for the respective matters.

The GIPA Act provides that requests are subject to an initial fee of \$30 to cover first hour of investigation. There is an additional processing fee of \$30 per hour, after the first hour. Fees can be reduced by 50% if the agency is satisfied:

- the individual making the application is suffering financial hardship, or
- the information applied for is of special benefit to the public generally.

Council's liability for insurance claims is limited to the excess under the respective policy. Claims up to the excess are allocated against the operational budget of the relevant directorate.

##### **Asset Management**

N/A

##### **Policy or Regulation**

Complaints Management Policy

Government Information (Public Access) Act 2009 (GIPA Act)

Privacy and Personal Information Protection Act 1998

Information Access Guideline 1: For Local Councils on the disclosure of information (returns disclosing the interest of councillors and designated persons) – September 2019

Council's suite of insurance policies

Civil Liabilities Act 2002 No 22

**Consultation**

Insurance Officer, Finance.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Bligh Grant, Governance Officer
Attachment	Annual disclosures of interest

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<b>ITEM</b>	<b>6c.21.135</b>	<b>2021/22 OPERATIONAL PLAN – QUARTERLY REVIEW AS AT 30 SEPTEMBER 2021</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	To be tabled	

**SUMMARY**

This report provides the first quarterly review on Council's performance of fulfilling its actions, services, projects and programs in the 2021/22 Operational Plan.

**OFFICER RECOMMENDATION**

That the Quarterly Operational Plan outcomes as at 30 September 2021 be noted.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.3 Foster an organisational culture focused on customer service excellence, innovation and continuous improvement

**BACKGROUND**

On 22 June 2021 (Item 6a.21.028) Council adopted the 2021/22 Operational Plan, which specifies the objectives, strategies and activities to be achieved in this financial year.

*The Clarence 2027* identified five themes which are then broken down into objectives for Council to aspire to when setting the strategies and activities for the 2021/22 financial year.

**KEY ISSUES**

The one year Operational Plan is a sub-plan of the 2017/22 Delivery Program, which identifies activities (programs, services and projects) to be delivered by Council during the 2021/22 financial year. The General Manager is required to ensure regular progress reports are provided to Council with respect to the principal activities.

Detailed progress updates for this quarter are contained in the attached report.

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

Actions contained in the 2021/22 Operational Plan that have a financial implication are included in the adopted budget, which is reported to Council each month.

**Asset Management**

N/A

**Policy or Regulation**

Section 404(5) of the Local Government Act 1993

**Consultation**

Outcomes based on information provided by all section Managers and Directors.

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Prepared by	Lesley McBay – Coordinator Executive Support
To be tabled	Quarterly Progress Report

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**ITEM 6c.21.136 WORKS REPORT**

<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Nil	

**SUMMARY**

Reports on capital and major maintenance works carried out by the Works and Civil Group until late September 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, Toms, Simmons

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 and the reporting of the Quarterly Budget Review Statement (QBRs).


**KEY ISSUES**

The projects below highlight capital projects being undertaken during September 2021.

<b>Project:</b>	Armidale Road, Clouds Creek	
<b>Project Description:</b>	Australian Black Spot Funded Project to improve road safety at crash zones	
<b>Budget:</b>	\$1,660,000	
<b>Expenditure:</b>	\$204,837	
<b>Status:</b>	Stage 1 Wiriri - clearing complete, earthworks and drainage ongoing	



<b>Project:</b>	Townsend Park Upgrade	
<b>Project Description:</b>	Everyone Can Play endorsed playground and park upgrade	
<b>Budget:</b>	\$580,000 (CVC \$210K; SCCF R2 \$140K; LRCI \$50K; ECP \$175K; Pacific Valley School \$5K)	
<b>Expenditure:</b>	\$510,000	
<b>Status:</b>	<p>With the exception of the rubber soft fall that is delayed due to COVID restrictions, construction works are practically complete with a planned official opening scheduled for 5 November 2021.</p> <p>Works completed include;</p> <ul style="list-style-type: none"> <li>• Pedestrian connection along Scullin St between Jubilee St &amp; Edinborough St</li> <li>• Pedestrian connection within the park</li> <li>• Half court basketball court &amp; rebound wall</li> <li>• ECP endorsed play space (swinging, spinning, sliding, gliding, climbing, bouncing, imaginary, rocking, sensory)</li> <li>• Picnic shelter, BBQ, tables &amp; seating, water fountain</li> </ul>	

<b>Project:</b>	Maclean 21ML Reservoir Roof Renewal	
<b>Project Description:</b>	Replacing roof on Maclean 21ML Reservoir	
<b>Budget:</b>	\$430,000	
<b>Expenditure:</b>	\$3,238	
<b>Status:</b>	<ul style="list-style-type: none"> <li>• Roof replacement commenced on 20/09</li> <li>• New roof is scheduled to be installed by Friday 15/10 and project completed by 31/10 (weather permitting)</li> </ul>	

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

Maintenance standards are undertaken in accordance with that detailed in the relevant Asset Management Plan. Capital works are 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	Alan Dunne, Greg Mashiah, David Sutton
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<b>ITEM</b>	<b>6c.21.137</b>	<b>YAMBA ROAD ROUNDABOUTS UPDATE</b>
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<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Director - Works & Civil (Jamie Fleeting)	
<b>Attachment</b>	Nil	

### SUMMARY

This report provides Council with an update on progress with construction of three roundabouts located at Treelands Drive, Carrs Drive and Shores Drive on Yamba Road, Yamba.

### OFFICER RECOMMENDATION

That the Yamba Road Roundabouts update report be received and noted.

### COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

### LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

### BACKGROUND

Council have recently completed the construction of three roundabouts on Yamba Road between Treelands Drive and Shores Drive that commenced in 2020. The Treelands Drive and Carrs Drive projects were funded by Restart NSW with Shores Drive funded by the Bushfire Local Economic Recovery Fund (BLER). The Restart NSW Fund was established to enable funding and delivery of high-priority infrastructure projects that improve the State's economic growth and productivity whilst the BLER funding was established to support job retention and economic activity in bushfire impacted regions.

### KEY ISSUES

#### Treelands Drive

The construction of Treelands Drive roundabout included a number of property acquisitions and property works.

Construction commenced on 20 August 2020 with contract completion achieved on 24 February 2021. Works were completed within the approved design, time, and budget.



Figure 1: Treelands Drive Roundabout November 2020

### **Carrs Drive**

Works on Carrs Drive commenced on 2 November 2020 with contract completion achieved on 26 April 2021. Acquisition of adjoining private property was required to facilitate the project footprint including both relocations of water and sewer mains. This Carrs Drive roundabout was completed on time and within the allocated budget.



Figure 2: Carrs Drive roundabout 2021

### **Shores Drive**

Works on Shores Drive commenced on 4 December 2020 with contract completion achieved on 9 July 2021. This Shores Drive roundabout was completed on time and within the allocated budget.



Figure 3: Shores Drive Roundabout 2021 (Project team SEE Civil and CVC staff)

### Road Safety Audit

A post-construction road safety audit (RSA) was commissioned and completed by consultants in late August 2021. A post-construction audit is typically conducted once road user patterns have settled following completion of works. The audit findings are currently being reviewed by council staff with final corrective actions yet to be determined. Any agreed corrective actions will be funded through the remaining budget for the project and is anticipated to include a combination of lines and signs to improve hazard delineation for motorists, pedestrians and cyclists.

### Project Benefits

This project has achieved improved traffic flows, reduces travel times and eases congestion along Yamba Road at three main intersections including safety. Improving accessibility and connectivity supports Yamba's tourism, employment and lifestyle of the community of Yamba as a major town within the northern rivers. The project procurement focused on the engagement local contractors and suppliers for the survey, design and construction works.

## COUNCIL IMPLICATIONS

### Budget/Financial

The project expenditure for the three roundabouts was within the grant funding and Council contribution (\$1.3 million) budget allocation.

Project	Budget	Expenditure	Balance
Treelands and Carrs Drive	\$ 5,728,000	\$ 5,516,536	\$ 111,463 *
Shores Drive	\$ 2,780,000	\$ 2,411,755	\$ 68,244 *

\* Note: Of the remaining budget \$100,000 (Treelands Drive) and \$300,000 (Shores Drive) was allocated to:

- Undertake rehabilitation works or roads impacted by the construction works including associated road detours e.g. Gumnut Road and The Halyard.
- Ancillary drainage works including floodgate installation.
- Road Safety Audit measures yet to be implemented.

### Asset Management

The three roundabouts are incorporated in Council's Asset Management Register.

### Policy or Regulation

N/A

### Consultation

N/A relating to the recommendation of this report.

### Legal and Risk Management

N/A

### Climate Change

N/A

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Prepared by | Alan Dunne, Senior Projects Engineer

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**ITEM 6c.21.138 2 PRINCE ST ADMINISTRATION BUILDING UPGRADE – PROGRESS UPDATE**

<b>Meeting</b>	Corporate, Governance & Works Committee	19 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Yes	

**SUMMARY**

This report provides a two (2) monthly update on the status of the 2 Prince St administration upgrade project since approval was granted by Council to accept the tender from FDC Fitout & Refurbishment (NSW) Pty Ltd on the 24 November 2020.

**OFFICER RECOMMENDATION**

That Council receive and note this project status report on the status of the 2 Prince St Administration building upgrade project.

**COMMITTEE RECOMMENDATION**

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Ellem, Kingsley, Lysaught, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

In accordance with item 6e.20.029, dated 24th November 2020, Council approved the recommendation to accept tender from FDC Fitout & Refurbishment (NSW) Pty Ltd for RFT 20-22 2 Prince Street building upgrade project at a cost of \$6,795,960.36 (GST excl). This status report is current for the project as of 7 October 2021.

Item 6e.20.029 was –

*That Council:*

1. *Accept the tender from FDC Fitout & Refurbishment (NSW) Pty Ltd for RFT 20-22 No 2 Prince Street Redevelopment at a cost of \$6,795,960.36 (GST excl) to be funded from Administration Building 2 Prince St Improvements (FP 530140 Sub-Service 343) with the budgeted allocation being now increased by \$545,960 from Heavy Plant Reserve RA10010 (\$245,960) and Grafton Regional Landfill Reserve RA10815 (\$300,000) to cover the shortfall.*
2. *Authorise the General Manager to approve variations up to 10% of the contract sum.*
3. *Endorse project budget variations .....etc*
4. *Endorse the internal borrowings ..... etc*
5. *Receive project implementation reports every two months on the delivery of the project.*

**KEY ISSUES****Project Status Report**

**Overall:** Due to the NSW State-wide lockdown and the border closures with QLD announcement on the 16<sup>th</sup> August, the contractor issued an extension of time and therefore the project will now be completed on the 15<sup>th</sup> October 2021, the project is still within budget/contingency allocation and to the approved quality standards.

**Schedule:**

Scheduled works as of 24<sup>th</sup> September include:

- Electrical fit-off and commission continued.
- Joinery Installation on all levels continued.
- Southern External Awning installation continued.
- Installation of Basement Gate Auto Operator completed.
- Installation of all stair locations, ground floor vinyl locations, mezzanine level carpet tiles continued.
- Installation of northern and southern awning roofing continued, including box gutters.
- Rough in of services to all external awnings completed.
- Installation of auto doors completed and commissioned.
- Installation of chambers and reception auto doors completed and commissioned.
- Installation of operable wall completed.

**Deliverables:**

- Design Review:
  - Design review and requirements documentation completed on 16<sup>th</sup> September 2020.
- Procurement Phase:
  - Tender Plan completed on 11<sup>th</sup> August 2020.
  - EOI 20-23 Opened on 19<sup>th</sup> August 2020.
  - EOI 20-23 Closed on 9<sup>th</sup> September 2020.
  - EOI 20-23 Evaluated & reported to Council on 16<sup>th</sup> September 2020.
  - Council approved EOI recommendation on 22<sup>nd</sup> September 2020.
  - RFT 20-22 Opened on 25<sup>th</sup> September 2020.
  - RFT 20-22 Closed on 23<sup>rd</sup> October 2020.
  - RFT 20-22 Evaluated and reported to Council on 10<sup>th</sup> November 2020.
  - Council approved RFT 20-22 recommendation on 24<sup>th</sup> November 2020.
  - GC21 Construction Contract Awarded to FDC Fitout and Refurbishment (NSW) Pty Ltd on 30<sup>th</sup> November 2020.
- Construction Phase:
  - Site Establishment completed on 22<sup>nd</sup> January 2021
  - Review of preconstruction plans completed on 27<sup>th</sup> January 2021
  - Current works status
    - Basement – 99% progressed
    - Ground Floor – 90% progressed
    - First Floor – 96% progressed
    - Roof – 92% progressed
    - External Works – 80% progressed
  - New Completion date - 15<sup>th</sup> October 2021

**Quality Metrics:**

**Variations:** To date we have a total of 28 Variations valuing \$624,688.05.

Approved variations to date with a value of \$624,688.05 (ex GST) include:

- Supply and install hat section to incoming fibre
- Mechanical Units adjustments
- Solar Provisional sum
- New Telecommunication Mast, Detailed Design and supports
- Collaborative Workspace Design fee
- Workstation return screens
- Workstation Pedestals
- Electric desks x 4
- Substation Connection Interface Upgrade

- Part Window Upgrade
- Contaminated soil removal from site
- AV Works – meeting rooms
- Kitchen & Chamber Changes (latent and design)
- Northern Side Window upgrade
- Ground floor ramp amendments (latent)
- CCRT extras
- AV extras – Chamber’s infrastructure
- TV requirements
- AV Systems – Chambers
- Chambers Wall Sheeting
- Additional Internal signage
- Cash in Transit Cameras
- CREDIT Substation upgrade
- 3 additional Workstation return screens
- Additional Mezzanine glazing decal

**Requests for Information (RFI)**

To date 88 RFI’s have been raised, and all now closed.

**Extension of Time (EOT)**

There has been 1 EOT requested by FDC. Notwithstanding there have been recent and past wet weather events.

**Safety**

Three minor incidents, no LTIs or near misses reported. The site is being well managed for WH&S risks.

**Aboriginal Participation in Construction (APIC)**

On average for the month of September, FDC inform APIC rates has been calculated at 3%, exceeding the minimum 1.5% requirement. APIC obligations are being actively monitored and managed by FDC.

**Local Content**

FDC inform that they have engaged local mechanical designers, demolition, mechanical trades, structural steel suppliers, hydraulic trades and continue to employ local based trades where possible currently calculated at 60%.

**Key Project Risks**

COVID-19 remains an ongoing global risk for the project. As per Clause 5 Early Warning of the GC21 Contract both parties to the contract (CVC and FDC) are required to promptly inform the other if it becomes aware of anything that is likely to affect the time for completion.

On the 16<sup>th</sup> August, NSW/Qld border closure and NSW state-wide lockdown saw FDC lose time and access to some of their sub-contractors due to COVID restrictions and Qld requirements for vaccinations. On 13 September Clarence Valley Council LGA was opened into a secure travel “bubble” allowing the project to proceed.

The 42 Victoria Street office has been closed prior to lease termination and all staff relocated to various offices/depots under temporary arrangements with many staff also working from home.

**Other Issues**

A quote has been requested for rendering of the southern side area above the underground staff parking. Waiting on this to be submitted by FDC.

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

Upon receipt of the documented design, external and internal design review of the design has been undertaken. The projects financial position to date is favourable and overall tracking within budget.

The table below summarises the projects financial position:

<b>Project Code</b>	<b>PJ 530100</b>
Project Budget*	\$8,054,629
Actuals	\$6 916 782
Current Commitment	\$1,036,410
Total (Actuals + Commitment)	\$7,953,191
<i>Project Budget Bal</i>	\$ 101,437

Note: \*Includes approved contingency

### **Asset Management**

As part of the review process, input has been received from operational and maintenance stakeholders that have been incorporated into the projects contract requirements documentation.

### **Policy or Regulation**

- S68 Local Government Act
- Local Government General Regulation
- Crown Land Management Act 2016
- Upon receipt of the documented design, the project has been planned in accordance with the CVC PM Framework.

### **Consultation**

Upon receipt of the documented design, this project has been planned in accordance with the CVC Project Management Framework, with stakeholder analysis, engagement and requirements solicitation activities undertaken prior to Contract Award.

### **Legal and Risk Management**

Upon receipt of the documented design, external and internal design review and also engagement of external contract administrator during the procurement phase has been undertaken to mitigate project contract risk and limit risk exposure to Council.

### **Climate Change**

The upgrade to the plant/solar will include improved technology and mitigation measures such as solar power upgrades, energy efficient lighting, improved thermal envelope and regulation, updated heating, ventilation and cooling systems that will all reduce emissions impact.

Prepared by	Leah Munro Project Manager
Attachment	A - Contract Program B - Site Photos



**c. INFORMATION ITEMS****ITEM 6d.21.009 ITEMS FOR INFORMATION**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Office of General Manager	
<b>Reviewed by</b>	General Manager - Ashley Lindsay	
<b>Attachment</b>	Yes	

**OFFICER RECOMMENDATION**

That the Items for Information as listed below be noted:

6. Ewingar Hall Committee: Minutes of meeting held 14 September 2021.
7. Hon Kevin Hogan MP, Member for Page: Response to Item 07.21.006 (Request for Support for a Moratorium on Mining in Areas Affecting the Clarence River Catchment).
8. Hon Shelley Hancock MP, Minister for Local Government: Advising IPART has completed review of LG rate peg methodology to include population growth.
9. NSW Premier: Response to Mayor's letter regarding proposed reforms to infrastructure contributions.
10. Clarence Valley Coast & Estuary Management Committee: Minutes of meeting held 24 September 2021.

Prepared by	Debbie McGilvray, Executive Support Officer
Attachments	As listed above

**d. TENDERS****ITEM 6e.21.020 T21/03 GRAFTON WATERFRONT PRECINCT**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Confidential	

**SUMMARY**

The report presents the outcome of tender T21/03 that was called for the construction of Grafton Waterfront Precinct.

**OFFICER RECOMMENDATION**

That Council as Crown Land Manager of Memorial Park and the Grafton Waterfront Precinct

1. Reject all tenders and enter into negotiations with Alder Construction Pty Ltd, one of the other tenderers or any other person, for a revised scope of works in line with the tender T21/03 Grafton Waterfront Precinct Project and budget of \$5,885,000 (inc GST) to be funded from Grafton Waterfront (FP 540550 Sub Service 341).
  - a. Reasons for determining to enter into negotiations with the persons
    - i. Alder Construction Pty Ltd tender estimate exhibited value for money based on being only 8% higher than the pretender costs estimate,
    - ii. Alternative tenderers did not show value for money as their tenders were in the order of 45%-76% higher than the pretender cost estimate
    - iii. The proposed revised scope of works together with contractor negotiation will yield a price within budget.
  - b. Fresh tenders were not requested based on
    - i. It is considered unlikely that inviting fresh tenders with the same details will give an outcome within the available budget as the tendering process has tested the market, all of the four shortlisted tenderers responded and the tendered prices are significantly above the available budget.
2. Delegate authority to the General Manager to award a contract for the Grafton Waterfront Project up to the budget of \$5,885,000 (inc GST).
3. Authorise the General Manager to approve variations up to 10% of the contract value.
4. Allocate funding for ongoing maintenance of the increased assets to sub-service 341 Parks and Open Spaces maintenance to the value of \$50,000 per annum to be funded from General Fund Available Working Funds.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

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

**BACKGROUND**

The Clarence River Way Masterplan, adopted by Clarence Valley Council in 2009, recognises the untapped potential of the Clarence River. The strategic importance of Grafton to spread the tourism load to act as a hub for the region and to become known as the "River City", and for the development of the Grafton Waterfront Precinct as part of these strategies.

The Grafton Waterfront Precinct Masterplan was developed that proposed a riverfront walkway providing better access to the river from the city and the existing infrastructure. The plan proposed wharfs, jetties, beaches to access the water, a River Centre near the Council offices, a pedestrian arrival zone, wheelchair accessibility to the water edge, activation of the river front for community events, festivals and markets. The Masterplan was adopted by council in 2011.

A \$6.5M Commonwealth funding grant has been provided to develop the detailed design into a set of construction documentation for to be built. The design package was awarded to VEE Design who also designed the Maclean Waterfront Precinct and Jacaranda Park Playground. Through consultation with the community user groups, local businesses and adjacent residents the needs and wants were heard and design developed. The design consortium included landscape architects, an architect, engineering consultants, a DDA consultant, quantity surveyors, survey and geotechnical investigation.

Due to the sensitive nature of the river and the works being within a floodway, a selective tender through an Expression of Interest (EOI) was sought to find suitable contractors to price the finalised design as a construct only contract using a GC21 Contract. This process shortlisted 4 tenders to price the works, all of which are reputable companies with excellent past experience who would all be valuable to perform the works.

Council resolved under [6e.21.007] as follows -

*That Council invite the following contractors to submit tender for the Construction of the Grafton Waterfront Precinct Project:*

1. Alder Construction Pty Ltd
2. Haslin construction Pty Ltd
3. Hazell Bros (QLD) Pty Ltd
4. See Civil Pty Ltd

## KEY ISSUES

### Scope of Works

There are several construction packages to be included within this project including -

- Landscaping, arrival plazas, shelters, park furniture, plantings,
- Civil roads, drainage, pavements, parking,
- Structural wharf, pontoons, boat ramps, decks, building renovations
- Architectural building renovations and alterations
- Electrical code lighting, feature lighting, electrical supply for event use

These works will involve a number of subcontractors to perform each speciality trade. As the project is in a flood way, a competent head contractor is required to coordinate the works.

### Pre-Tender Cost Estimate

The Design consultants developed a detailed Bill of Quantities and a corresponding costs estimate associated to those works. At tender release the estimate was above budget, however there were indications that the market may price below the estimate, so the tender proceeded. To manage the risk of going over budget the project was separated into two packages; the base contract works and an optional portion that could be selected upon as budget was available. To also manage the risk of permit durations running over time a third package was segregated to avoid delays.

### Tenders

Four tenders were received in response to the Select Tender process, the tenderers being listed in alphabetical order in the following table and throughout report:

<b>Tenderer</b>	<b>ABN</b>	<b>Address</b>
Alder Construction Pty Ltd	31 106 657 470	1/19 Cherry Street Ballina, NSW 2478
Haslin Constructions Pty Ltd	85 051 102 124	2/2-4 Merton Street, Sutherland NSW 2232
Hazell Bros (QLD) Pty Ltd	46 145 228 986	9 Bee Court, Burleigh Heads, QLD 4220
SEE Civil Pty Ltd	88 115 963 427	108 Siganto Drive, Helensvale, QLD 4212

### Summary and Recommendation

Tender Evaluation Committee (TEC) evaluated the submissions against the mandatory participation criteria to ensure compliance with the Tender Evaluation Plan (TEP). The four (4) tenders received were deemed compliant and were processed through to the evaluation criteria assessment.

The TEC reviewed the four (4) tenders against the non-price (technical) criteria independently and then as a group to form a consensus score. The outcome of the non-price evaluation in order was -

1. Alder Construction Pty Ltd
2. SEE Civil Pty Ltd
3. Hazell Bros (QLD) Pty Ltd
4. Haslin Pty Ltd

The TEC then reviewed the four tenders against the price (commercial) as a group. Alder Construction Pty Ltd ranked first, although the base tender prices were all above the allowable funding of \$5.3M ex GST for a construction contract.

The budget available for the works (excluding a contingency allowance) is \$5,300,000 (ex GST), based on the available funding remaining for the project from the Federal funding source. As all tenders exceeded the available project budget, the TEP recommends that Council decline to accept any of the tenders received on the basis that they exceed the available budget.

Under Section 178(3) of the *Local Government (General) Regulation*, if Council decides not to accept any of the tenders for a proposed contract it must, by resolution, do one of the following:

- a) postpone or cancel the proposal for the contract,
- b) invite fresh tenders based on the same or different details,
- c) invite fresh applications from persons interested in tendering for the proposed contract,
- d) invite fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
- e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
- f) carry out the requirements of the proposed contract itself.

And, Under Section 178(4) of the *Local Government (General) Regulation*, if council resolves to enter into negotiations, the resolution must state the following:

- a) The council's reason for declining to invite fresh tenders
- b) The council's reasons for determining to enter into negotiations with the persons

Comments on the six options are:

- a) Postponing or cancelling the contract will not address Council's need to implement the adopted Grafton Waterfront Precinct Masterplan.
- b) It is considered unlikely that inviting fresh tenders with the same details will give an outcome within the available budget as the tendering process has tested the market, all of the four shortlisted tenderers responded and the tendered prices are significantly above the available budget. While calling fresh tenders with different details is an option, the proposed timeline for grant funding would be exceeded, also the mark up from the pre-tender estimate by three of the tenders is in the range of 45-76% higher than the costs estimate and hence would likely result in similar fresh tenders.
- c) As all the shortlisted tenderers submitted tenders, it is considered unlikely that fresh applications from persons interested in tendering for the proposed contract will give an outcome within the available budget and to similar non price standards. As noted at point (b) the tendering process has already tested the market.
- d) As a prequalified shortlist has already been used to select the four tenderers invited to tender for this process, it is considered unlikely that inviting fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract will give an outcome within the available budget.
- e) The TEP recommends that Council enters into negotiation with Alder Construction Pty Ltd, one of the other tenderers or any other entity, with a view to entering into a contract. It is recommended that the negotiation plan commence with negotiations with Alder Constructions Pty Ltd for the following reasons:
  - Alder Construction Pty Ltd tender estimate exhibited value for money based on being only 8% higher than the pretender costs estimate,
  - Alternative tenderers did not show value for money as their tenders were in the order of 45%-76% higher than the pretender cost estimate
  - The proposed revised scope of works together with contractor negotiation will yield a price within budget,

- f) The Grafton waterfront involves working within a risky flood zone, these works need a dedicated general head contractor to manage the works and coordinate the specialist subcontractors required to undertake the scope of works. Council does not have the resources, management or manpower to undertake this scale of project.

### Revised Scope of Works

Based on the tenders received on the Base and Optional A and B scopes of work, it is recommended to modify the scope of works to ensure the most value for money is constructed with the available budget. On reflection some items placed in the optional schedules are elements that will make this project stand out.

Revising the scope of works to fit in with grant funding goals of developing the “*Grafton Waterfront Precinct by constructing a leisure zone between Prince St and the new Grafton Bridge.*” and the adopted Grafton Waterfront Masterplan would move the following elements into a future stage or if additional funding could be provided by Council to execute these items with the current contract (refer to Appendix A for a visualization of this description).

- Significantly reduce (by approx. 75%) the size of the pedestrian arrival plaza at Prince St, removing the redevelopment of the road infrastructure into a pedestrian zone. The plaza at the post office lane way and pedestrian access to the top of the levee would remain. Likely cost savings of \$1.416M.
- Removal of the replacement of the existing 10m pontoon for a 20m pontoon. This pontoon is of relatively low use as there are height restrictions at the Grafton Bridge from down river. This existing pontoon was planned to be relocated to Villiers St; this would also be removed (savings \$523k + \$106k = \$629k).
- Removal of the new road access to the waterfront at Villiers St, this access was prioritized because access was planned to be removed at the pedestrian zone at Prince St, with vehicle access to remain at Prince St, the Villiers St vehicle access and parking is of less importance and could be completed at a future stage in time with the Prince St Plaza (costs savings \$316k).
- Removal of the above levee carparking at Clarence St, the current informal parking will remain as is, access to the waterfront will remain (cost savings \$31k).
- Removal of the Salty Seller Reserve (Sailing Club) road works, effectively the parking at the top of the levee and the pavement and parking at the water edge. The landscaping, boat ramp and wharf will remain in scope (costs savings \$326k).

Further to this, if these items were proposed to be executed in a future stage a portion of the construction overheads would need to be allowed, plus project management, estimate 10% of postponed works be added to the future project.

This revised scope of works would satisfy the grant funding requirements and satisfy the masterplan objectives.

Further to this negotiation period and due to the onset of the Council caretaker period (from 4 November), it is recommended that Council delegate authority to the General Manager to award this contract. This will allow the award of the contract after a prompt negotiation period is undertaken and prior to the commencement of the caretaker mode on 4 November 2021. Grant funding acquittal is due by November 2022 and any delay with contract award could risk project completion within grant funding timelines.

Alternatively, Council could provide further funding for the whole project in the order of an additional \$2,533,174 (ex GST) or part there of, based on the amended scope of works above.

Details of the TEC's assessment are included in the confidential attachment.

### COUNCIL IMPLICATIONS

#### Budget/Financial

The current budget is fully funded solely under the Federal Community Development Grant at \$6.5M. To date the following expenditure that has been incurred – \$555,940.64

Available funding to award construction contract (less contingency) \$5,303,059.36 ex GST

#### Asset Management

The proposed Grafton Waterfront Precinct is a new asset and will need to be included into Council's Asset Management Plans.

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

**Consultation**

Further to the consultation undertaken as part of the Grafton Waterfront Masterplan back in 2011.

The consultation comprised of two meetings at both the 30% and 70% design development stages with local user groups, local business and local adjacent residents, the design team presented to stakeholders and implemented feedback.

**Legal and Risk Management**

Four submissions were received in response to the Request for Tender process and the company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Alder Construction Pty Ltd	31 106 657 470	Gregory Alder Dean Cheffers	Managing Director Director
Haslin Constructions Pty Ltd	85 051 102 124	Colin Woods	Director
Hazell Bros (QLD) Pty Ltd	46 145 228 986	Geoffrey Hazell Robert Hazell Justin Leslie Simon Barr	Director Director Director Director
SEE Civil Pty Ltd	88 115 963 427	Steven Turner Mark Turner Peta Newton Joel Barnes	Director Director Director Director

Ngerrie Land Council notification has been provided.

**Climate Change**

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change.

Prepared by	Andy Seaman – Project Manager
Confidential	T21-03 Grafton Waterfront Precinct Assessment

**ITEM 6e.21.021 TENDER 21/027 MACLEAN ADMINISTRATION CENTRE HVAC RENEWAL**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Confidential	

**SUMMARY**

Tenders have been called for the renewal of the Heating, Ventilation and Air Conditioning (HVAC) plant at the Maclean Administration Centre. This report recommends accepting a tender for the project.

**OFFICER RECOMMENDATION**

That Council;

1. Accept the tender from Faircloth and Reynolds Pty Ltd for RFT21/027 for the renewal of the HVAC plant at the Maclean Administration Centre at a cost of \$431,242 (Incl GST) to be funded from Maclean HVAC (FP 530141 Sub Service 343).
2. Authorise the General Manager to approve variations up to 10% of the contract value.
3. Allocate \$52,000 from the internal reserve RA10240 Clarence Care & Support Reserve to fund the additional contract sum and project contingency and included in Q2 of the Quarterly Budget Review Statement (QBRs).

**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**

A major capital project within Buildings and Facilities section is the upgrade of the Maclean administration Centre HVAC plant as part of Stage 1 of the upgrade to the system. The existing plant past the end of its useful life.

Stage 2 of the project will be undertaken to address the internal duct work and delivery system once the future layout direction of the administration centre is known that would coincide with Phase 2 of the Maclean Community Precinct project. Timing of the delivery of Phase 2 is not known at this stage.

**KEY ISSUES**

Tenders were called on 17 August and closed on 8 September 2021 using the Tenderlink e-tendering service. A non-mandatory tender site meeting was held. Three tenders were received at the close of tenders.

<b>Tenderer</b>	<b>ABN</b>	<b>Address</b>
Faircloth and Reynolds	20 643 734 946	12 Hurley Drive Coffs Harbour NSW 2450
Grafton Air	49 623 429 014	103 Bacon Street Grafton NSW 2460
X Corp	25 082 731 226	4/22 Isles Drive Coffs Harbour NSW 2452

Tenders were evaluated by a Tender Evaluation Committee (TEC) comprising project management and Open Spaces and Facilities staff. As outlined in the attached confidential report, the TEC recommends that Faircloth and Reynolds Pty Ltd be awarded the tender for the work.

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

Funds allocated for the project are as follows –

<b>Item</b>	<b>Amount (ex GST)</b>
Allocated Budget	\$400,000.00
Expenses to date	\$ 20,141.39
Available remaining budget*	\$379,858.61
Tendered Amount	\$392,042.10
Add 10% contingency	\$ 39,200.00
Sub-total	\$431,242.00
Less remaining available budget*	\$379,858.61
Shortfall	\$ 51,383.39

**Asset Management**

The plant was identified within Council's asset register as in poor condition. The renewal of the plant will renew an ageing system.

**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 three Tendering Firms are:

<b>Tenderer</b>	<b>Director/Partner</b>
Faircloth and Reynolds	David Reynolds Peter Faircloth
Grafton Air	Chris Lambeth Desmond Ross
X Corp (and Allied Air)	Benjamin Charnock

**Climate Change**

The renewal of the plant will reduce energy consumption and greenhouse gas emissions. The existing plant will be safely decanted and recovered and material recycled wherever possible.

Prepared by	Peter Birch, Manager Open Spaces and Facilities
Confidential	Tender Evaluation Report



**ITEM 6e.21.022 T21/025 SWAN CREEK WATERMAIN RENEWAL**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Water Cycle (Greg Mashiah)	
<b>Attachment</b>	Confidential	

**SUMMARY**

Council called open tenders for the renewal of 3.317km of trunk watermain at Swan Creek. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Ledonne Constructions is the most advantageous for Council and therefore recommend this Tender be accepted.

**OFFICER RECOMMENDATION**

That:

1. Council award Tender T21-025 *Swan Creek Watermain Renewal* to Ledonne Construction Pty Ltd using the provided Schedule of Rates price of \$6,425,891.58 (GST inclusive), to be funded from Financial Project 950561 (Swan Creek Trunk Main Renewal).
2. An additional \$5.423 million of funding for Stage 2 of the Swan Creek Trunk Main Renewal (Financial Project 950561) be brought forward to the 2021/22 Financial Year, funded from the water fund reserve, giving a total 2020/21 budget of \$6.718 million, with unspent funds as at 30 June 2022 to be placed in a restricted account to complete the project.
3. The General Manager be authorised to approve variations up to 15% of the contract sum.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

**BACKGROUND**

The Swan Creek watermain is part of the trunk watermain to the Lower River area, which services over 20,000 customers. Several major breaks in this section of watermain indicate that it is nearing the end of its service life and therefore needs renewal to guarantee a reliable water supply to the Lower River. Open Tenders were called on 27 August 2021, closing on 1 October 2021, for renewal of a 3.317km section of main, which includes crossing under Swan Creek and crossing Big River Way. Due to geotechnical uncertainty with the Swan Creek crossing, that is boreholes do not provide a complete picture of subsurface conditions, to ensure a fair comparison between Tenderers, this section was nominated in the Tender documents as a provisional sum item, with the provisional sum advised by Council.

**KEY ISSUES**

At the closing date and time Council received three tenders:

<b>Tenderer</b>	<b>Director(s)</b>
Eire Construction Pty Ltd	Eamon Thomas and Brendan Kelliher
Ledonne Construction Pty Ltd	Antonio Ledonne
SNG Construction Pty Ltd	Kedar Gharpure

Tenders were assessed by a Tender Evaluation Committee (TEC) comprising Water Cycle staff using a weighting of 60% price and 40% non-price criteria.

Both Eire Constructions and Ledonne Constructions submitted alternative tenders for construction the pipeline in alternative material (Glass Reinforced Plastic and Ductile Iron Cement Lined). As outlined in the TEC report, these alternative materials were not considered to offer the same whole of life performance as the nominated HDPE pipeline material and, given the criticality of the pipeline in the Lower Clarence Water supply, the alternatives were not considered further.

The TEC considers that, in accordance with Section 178(1)(a) of the *Local Government (General) Regulation*, the tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Hydrosphere Consulting and recommends this tender be accepted.

As with all construction projects it is likely that some contract variations will be required during the work. Given the geotechnical conditions in crossing Swan Creek cannot be guaranteed, it is recommended that the General Manager be authorised to approve variations totalling up to 15% of the contract sum.

## COUNCIL IMPLICATIONS

### Budget/Financial

From the DPIE Water *NSW Reference Rates Manual: Valuation of water supply, sewerage and stormwater assets* (June 2014), indexed to June 2021, the estimated cost of this pipeline renewal project was \$5.14 million (ex GST). The recommended tender (\$5.84 million, ex GST) is approximately 13.6% higher than the estimated cost. This is considered reflective of current market conditions as reported to Council's 25 May 2021 meeting (Resolution 6a.21.022):

*Due to the shortage of material supplies, the purchase costs have also increased. The delay in material supplies and increases in supply cost will in some instances adversely impact on project delivery timelines and project costs.*

It was proposed that this watermain renewal be funded over two financial years and the capital budget allocation in 2021/2022, as outlined in Attachment B to the Operational Plan adopted by Council at its meeting of 22 June 2021, was \$1.295 million ("Water Mains Swan Creek Stage 1 of 2"). For probity purposes Council should only award a tender when it has the funds available for the full work. It is therefore proposed that the balance of the funding to complete the project which was originally proposed to be allocated in the 2022/23 budget (\$5.423 million, including the 15% contingency allowance) be allocated to the current budget via a budget variation, with the unspent funding as at 30 June 2022 being deferred via a restricted account to 2021/22.

The proportion of expenditure in 2021/22 is likely to be higher than the originally budgeted amount of \$1.295 million. The deferral of the Local Government election and consequent change in the legislative "caretaker" period has required this tender to be awarded at this meeting rather than the originally proposed December meeting, with the contractor thus undertaking an additional two months construction in the 2021/22 Financial Year.

### Asset Management

This section of watermain has suffered several breakages in the last two years and needs to be renewed. If renewal is deferred, it is likely that future renewal costs will further increase.

### 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 tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content.

### Consultation

N/A

### Legal and Risk Management

Nil

### Climate Change

Not applicable to this tender

Prepared by	Matt Godfrey (Acting Senior Engineering Officer) and Greg Mashiah (Manager Water Cycle)
Confidential	Tender Evaluation Committee Report

<b>ITEM</b>	<b>6e.21.023</b>	<b>T21/028 PREPARATION OF THE CLARENCE VALLEY COAST COASTAL MANAGEMENT PROGRAM (STAGES 2-4)</b>
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<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Water Cycle (Greg Mashiah)	
<b>Attachment</b>	Confidential	

**SUMMARY**

At its meeting of 16 March 2021 Council adopted the *Clarence Valley Coastline and Estuaries Coastal Management Program Stage 1: Scoping Study (Coastline)* and resolved to proceed with Stages 2 to 4 subject to grant funding. As reported in the monthly financial report to the 24 August 2021 Council meeting, a grant of \$240,000 (with a Council contribution of \$120,000) was received to proceed with Stages 2 to 4. Open tenders, closing on 27 September, were called to undertake Stages 2 to 4. The Tender Evaluation Committee (TEC) comprised Council staff, a DPIE representative and a NPWS representative as NPWS will be funding the Stage 2 component within their area of responsibility. The TEC considers that the Tender, which having regard to all the circumstances (price and non-price) is the most advantageous to Council is from Hydrosphere Consulting and recommends this Tender be accepted.

**OFFICER RECOMMENDATION**

That:

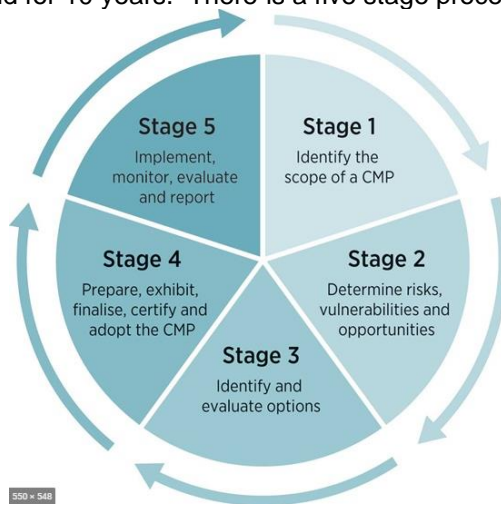
4. Council award Tender T21-028 *Preparation of the Clarence Valley Coast Coastal Management Program (Stages 2-4)* to Hydrosphere Consulting at a cost of \$364,100 (GST inclusive), to be funded from Sub Service 398 (Coast & Estuary Management).
5. The General Manager be authorised to approve variations up to 15% of the contract sum.

**LINKAGE TO OUR COMMUNITY PLAN**

- Theme 4 Environment
- Objective 4.1 We will preserve and enhance our natural environment
- Strategy 4.1.1 Manage our coastal zone, waterways, catchments and floodplains in an ecologically sustainable manner

**BACKGROUND**

An reported to Council’s 30 March 2021 meeting (Report 6c.21.034) the *Coastal Management Act, 2016* requires Council to develop a certified Coastal Management Program (CMP) if Council wishes to seek financial assistance under the State Government’s Coast and Estuary Program for implementing works. Once certified, CMPs remain valid for 10 years. There is a five stage process specified under the CMP:



Stage 1 was completed with the adoption of the Scoping Report in March 2021.

**KEY ISSUES**

At the closing date and time Council received four tenders:

<b>Tenderer</b>	<b>Director(s)</b>
Haskoning Australia Pty Ltd	Sarah Budd, Greg Britton & David Fembock
Hydrosphere Consulting	Michael Howland
Rhelm Pty Ltd	Emma Maratea, Louise Collier, Rhys Thomson, Leo Drynan
Salients Pty Ltd	David Wainwright

Tenders were assessed using a weighting of 90% price and 10% non-price criteria. The high non-price weighting reflected that the available budget (\$360,000 ex GST) was advised to Tenderers in the Tender documents, with tender assessment based around the outcomes which could be achieved within the available budget.

The TEC considers that, in accordance with Section 178(1)(a) of the *Local Government (General) Regulation*, the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Hydrosphere Consulting and recommends this Tender be accepted.

The Hydrosphere tender includes some additional options which may be beneficial during the study. It is therefore recommended that the General Manager be authorised to approve variations up to 15% of the Contract sum.

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

As noted in the summary section of the report, at its 24 August 2021 meeting Council accepted (Resolution 6c.21.111) a grant of \$240,000 from DPIE for the CMP Stage 2-4 and allocated \$120,000 as its contribution. The recommended tender amount is \$331,000 (ex GST).

**Asset Management**

The Stage 2 component of the CMP (hazard assessment) will specifically assess coastal hazards which potentially impact on Council's assets. A component of developing the CMP Stage 2-4 is identifying the implementation cost (both capital and on-going), and how any recommended actions are proposing to be funded in Stage 5.

**Policy or Regulation**

*Coastal Management Act, 2016*

*State Environmental Planning Policy (Coastal Management) 2017 (CM SEPP)*

*NSW Coastal Management Manual parts A and B (the Manual).*

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation. In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

**Consultation**

DPIE, as the majority funding partner and regulator for registration of CMPs, participating in both the development of the Tender brief and the tender assessment. NPWS, who will be funding the Stage 2 component of the CMP within their area of responsibility, also participated in the tender assessment.

**Legal and Risk Management**

After 31 December 2021 financial assistance for implementing works under the State Government's Coast and Estuary program will only be available to Councils with a certified CMP. Clarence Valley's CMP will arguably be the most complex CMP of any NSW Council, so advice from DPIE officers was that it would be prudent for Council to not be a "pioneer" in developing its CMP and to wait to commence the process after consultants had gained some experience with implementing the legislative requirements. As outlined at <https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/programs/coastal-management-program-progress>, as at July 2021, only three Councils had completed CMPs and all three instances were for small components within the Council area. While this means that Council will not be

eligible to apply for coast and estuary grants until the CMP is certified, as outlined in the “asset management” section a CMP is required to include an assessment of the financial implications of any recommendations and nominate proposed funding sources. Hydrosphere has nominated June 2023 for completion of Stage 4.

**Climate Change**

The assessment of coastal hazards will consider the impact of climate change on the coastal zone.

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Prepared by	Peter Wilson (Coast & Estuary Coordinator) and Greg Mashiah (Manager Water Cycle)
Confidential	Tender Evaluation Committee Report

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**ITEM 6e.21.024 T21-030 SEWER MAIN REHABILITATION**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Water Cycle (Greg Mashiah)	
<b>Attachment</b>	Confidential	

**SUMMARY**

Council called schedule of rates tenders for sewer main relining services which opened on 31 August 2021, which closed on 24 September 2021. Four complying tenders were received. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Interflow Pty Ltd is the most advantageous for Council and recommends that this tender be accepted.

**OFFICER RECOMMENDATION**

That:

1. Council awards Tender T21/030 *Sewer Mains Rehabilitation* to Interflow Pty Ltd using the provided Schedule of Rate price of \$756,129.06 (including GST), to be funded from Financial Project 910016 (Sewer Rehabilitation Relining).
2. The General Manager be authorised to approve variations up to 15% of the contract sum.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 2 Infrastructure

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

Strategy 2.1.1 Maintain and renew water and sewer networks

**BACKGROUND**

Council has extensive sewer main infrastructure that is required to be maintained and renewed on a maintenance schedule based on the design life of products used as well as the asset condition. Sewer main rehabilitation requires cleaning of sewer pipes, CCTV to determine asset condition and then the pipes are relined while in situ with minimal disturbance to customers.

**KEY ISSUES**

At the closing date and time Council received four tenders:

<b>Tenderer</b>	<b>Director(s)</b>
Abergeldie Complex Infrastructure	Michael Boyle
Insituform Pacific Pty Ltd	Jerry Daly
Interflow Pty Ltd	Geoffrey David, David William Lilley, John Albert Business, Michael Joseph Weaver, Paul Vincent Bord, Daniel Weaver, Graham Reid
Rangedale Rehabilitation and Renewals Pty Ltd	Neil Kermeen, Iram Sarig

Tenders were assessed by a TEC comprising Water Cycle staff using a weighting of 70% price and 30% non-price criteria. A detailed report from the TEC is included in the Confidential Attachments. The TEC considers that, in accordance with Clause 178(1)(a) of the *Local Government (General) Regulation, 2021* the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Interflow Pty Ltd and recommends that this tender be accepted.

As with all construction projects it is likely that some contract variations will be required during the work. As additional sewer mains which require relining may be identified between the award of the contract and the work being undertaken, it is recommended that the General Manager be authorised to approve variations totalling up to 15% of the contract sum.

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

The 2021-22 sewer relining budget is \$700,000 from FP910016 (Sewer Rehabilitation Relining). Tender advertising costs were \$888, so the available 2021-22 funding for this project is therefore \$699,112.

The recommended tender price as per the quantities nominated in the tender is \$687,390.05 (ex GST); as this is a schedule of rates contract payment will be based on actual quantities of cleaning, CCTV and relining.

Council staff will undertake administration of this Contract.

**Asset Management**

Relining of sewer mains renews the assets and is identified in the Sewerage Asset Management Plan as renewal work. As part of the revaluation of the sewer network a significant CCTV program was undertaken in 2020/21 which assisted in identifying sewer mains which needed relining. The relining is based on sewer mains identified as Condition 4 and 5.

**Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business. In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The local supply provisions of the Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

**Consultation**

N/A

**Legal and Risk Management**

The sewer relining program will require the contractor to enter some private properties in order to access manholes. The contractors are required to have appropriate Covid 19 safety plans.

**Climate Change**

Not applicable to this tender.

Prepared by	Matt Godfrey (Acting Senior Engineering Officer) & Greg Mashiah (Manager Water Cycle)
Confidential	Tender Evaluation Committee Report

**ITEM 6e.21.025 T21/04 ULMARRA RIVERSIDE AND VILLAGE UPGRADES**

<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Works & Civil	
<b>Reviewed by</b>	Manager - Open Spaces & Facilities (Peter Birch)	
<b>Attachment</b>	Confidential	

**SUMMARY**

The report presents the outcome of tender RFT 21/04 that was called for the construction of Ulmarra riverside and Village Upgrades

**OFFICER RECOMMENDATION**

That Council as the Local Roads Authority and the owner of Bailey Park:

1. Reject all tenders and enter into negotiations with Alder Construction PTY LTD, one of the tenderers or any other person for a revised scope of works in line with the tender RFT21/04 Ulmarra Riverside and Village Upgrades below the budget of \$\$2,413,928 (Incl GST) to be funded from Ulmarra Riverside and Village Upgrades (FP 540105 Sub Service 341).
  - a. Reasons for determining to enter into negotiations with the persons include -
    - i. Alder Construction PTY LTD offered value for money on the Grafton Waterfront Precinct Tender RFT21-03, being only 8% above the pretender cost estimate
    - ii. The scope of works is very similar to that of the Grafton Waterfront Precinct, Civil & Landscaping.
    - iii. Further costs savings could be found using one contractor across both projects.
    - iv. Alder Construction PTY LTD have the non price requirements, such as accredited ISO standard OHS, Environmental and Quality management systems.
    - v. A contract could be awarded by the end of December 2021.
  - b. And decline to call fresh tenders on the basis that:
    - i. on an open tender situation would likely attract similar priced tenders that have already shown to price above the market.
    - ii. An Expression of Interest (EOI) should be undertaken to narrow the market to select tenders, this would add 4-6 months to the project, as Council would need to endorse the EOI, at the February 2022 meeting before the fresh tenders could be called and potentially awarded in April/May 2022. This would be a significant delay in the project. This would still be achievable within the grant funding timelines.
2. Authorise to the General Manager to award the negotiated contract up to a maximum budget of \$2,413,928 (Incl GST) to be funded from Ulmarra Riverside & Village Precinct (FP 540105 Sub Service 341)
3. Authorise to the General Manager to approve variations up to 10% of the contract value.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme	2 Infrastructure
Objective	2.1 We will have communities that are well serviced with appropriate infrastructure
Strategy	2.1.4 Manage and enhance our parks, open spaces and facilities

**BACKGROUND**

The Clarence River Way Masterplan, adopted by Clarence Valley Council in 2009, recognises the untapped potential of the Clarence River. Together with the bypass of the Pacific Hwy and reduced traffic flow will produce a more pedestrian friendly environment, benefitting the character and quality of the Ulmarra Village.

In 2019 the Ulmarra Riverside and Village Precinct Plan was developed and endorsed by council which identified the upgrade of Bailey park the Village heart as priority developments. Together with the \$2.3M NSW Government Open Spaces Legacy Grant and \$900k Section 94 Contributions, the upgrades have been designed in line with the plan and are now poised to be constructed.



**KEY ISSUES****Scope of Works**

There are several construction packages to be included within this project including -

- Landscaping, shelters, park furniture, plantings,
- Civil roads, drainage, pavements, pedestrian crossing, parking
- New amenities building, playground & septic system
- Electrical code lighting

This works will involve a number of subcontractors to perform each speciality trade. As the project is in an operation commercial business district, a competent head contractor is required to coordinate the works.

**Pre-Tender Cost Estimate**

The Design consultants developed a detailed Bill of Quantities and a corresponding costs estimate associated to those works. At tender release the estimate was above budget, however there were indications that the market may price below the estimate, so the tender proceeded. To manage the risk of going over budget the project was separated into two packages; the base contract works and an optional portion that could be selected upon as budget was available.

Tenders

Two tenders were received in response to the Select Tender process, the Tenderers being listed in alphabetical order in the following table and throughout report:

<b>Tenderer</b>	<b>ABN</b>	<b>Address</b>
Haslin Constructions Pty Ltd	85 051 102 124	2/2-4 Merton Street, Sutherland NSW 2232
Hazell Bros (QLD) Pty Ltd	46 145 228 986	9 Bee Court, Burleigh Heads, QLD 4220

Summary and Recommendation

The Tender Evaluation Committee (TEC) evaluated the submissions against the mandatory participation criteria to ensure compliance with the Tender Evaluation Plan (TEP). The two tenders received were deemed compliant and were processed through to the evaluation criteria assessment.

The TEC reviewed the two tenders against the non-price (technical) criteria independently and then as a group to form a consensus score. The outcome of the non-price evaluation in order was -

5. Hazell Bros (QLD) PTY LTD
6. Haslin PTY LTD

The TEC then reviewed the two tenders against the price (commercial) as a group. Haslin Construction PTY LTD ranked first, although the base tender prices were all above the allowable funding of \$2,194,000 ex GST for a construction contract.

The budget available for the works (excluding a contingency allowance) is \$2,194,480 (ex GST), based on the available funding remaining for the project from the NSW Public Spaces Legacy Program funding source and the Water cycle contribution to the works. As all tenders considerably exceeded the available project budget, the TEP recommends that Council decline to accept any of the tenders received on the basis that they exceed the available budget.

Under Section 178(3) of the *Local Government (General) Regulation*, if Council decides not to accept any of the tenders for a proposed contract it must, by resolution, do one of the following:

- g) postpone or cancel the proposal for the contract,
- h) invite fresh tenders based on the same or different details,
- i) invite fresh applications from persons interested in tendering for the proposed contract,
- j) invite fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
- k) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
- l) carry out the requirements of the proposed contract itself.

And, Under Section 178(4) of the *Local Government (General) Regulation*, if council resolves to enter into negotiations, the resolution must state the following:

- c) The council's reason for declining to invite fresh tenders
- d) The council's reasons for determining to enter into negotiations with the persons
- g) Postponing or cancelling the contract will not address councils need to develop the adopted Ulmarra Precinct Masterplan.
- h) Inviting fresh tenders with a revised scope of works,
  - a. on an open tender situation would likely attract similar priced tenders that have already shown to price above the market.
  - b. An Expression of Interest (EOI) could be undertaken to narrow the market to select tenders, this would add 4-6 months to the project, as Council would need to endorse the EOI, at the February 2022 meeting before the fresh tenders could be called and potentially awarded in April/May 2022. This would be a significant delay in the project. This would still be achievable within the grant funding timelines.
- i) Similar response to above.
- j) Commence to enter into negotiations with Alder Construction LTD PTY with the view to enter into a contract for the following reasons:
  - a. Alder Construction PTY LTD offered value for money on the Grafton Waterfront Precinct Tender RFT21-03, being only 8% above the pretender cost estimate
  - b. The scope of works is very similar to that of the Grafton Waterfront Precinct, Civil & Landscaping.
  - c. Further costs savings could be found using one contractor across both projects.
  - d. Alder Construction PTY LTD have the non price requirements of the ideal contractor, such as accredited ISO standard OHS, Environmental and Quality management systems
  - e. A contract could be awarded by the end of December 2021
- k) The Ulmarra precinct Project development is risky working in an operational business district with a staged construction sequencing required, this works needs a dedicated general contractor to manage the works and coordinate the specialty subcontractors required to undertake the scope of works. Council does not have the resources, management or manpower to undertake this scale of project.

### Revised Scope of Works

Based on the tenders receive on the Base and Optional items scopes of work, the negotiated works will likely still be over budget, it is the TEC recommended to modify the scope of works to ensure the most value for money is constructed with the available budget. The following scope will be reviewed with the expectation that contract price below budget will be issued to the contractor.

- Consider an alternative playground supplier
- Consider alternative surface treatment materials
- Consider reducing some of the scope where possible

This revised scope of works will satisfy the grant funding requirements and for fill the masterplan objectives.

Details of the TEC's assessment are included in the confidential attachment.

### COUNCIL IMPLICATIONS

#### Budget/Financial

\$2,300,000 (Ex GST) - State Government Public Space Legacy Program

\$158,928 (Ex GST) - Water cycle contribution to upgrade watermain utilities within the project

Less \$268,480 (Ex GST) - for Contingency and Project management costs

\$2,194,480 (Ex GST) - Available funding (less contingency) to award a contract

#### Asset Management

The proposed Ulmarra Riverside and Village upgrade is a new asset and will need to be included into Council's Asset Management Plans.

#### Policy or Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

### Consultation

Further to the consultation undertaken as part of the Ulmarra Riverside and Village Upgrade Plan back in 2019. The consultation comprised of two meetings at the 30% and 70% design development stages with local user groups, local business and local residents, the design team presented to stakeholders and implemented feedback.

### Legal and Risk Management

Two submissions and were received in response to the Request for Tender process and the company partners and directors are as follows:

Tenderer	ABN	Name of Partners & Directors	Position
Haslin Constructions Pty Ltd	85 051 102 124	Colin Woods	Director
Hazell Bros (Qld) Pty Ltd	46 145 228 986	Geoffrey Hazell Robert Hazell Justin Leslie Simon Barr	Director Director Director Director

One (1) proposed contractor to negotiate and company partners and directors are as follows:

Contractor	ABN	Name of Partners & Directors	Position
Alder Construction Pty Ltd	31 106 657 470	Gregory Alder Dean Cheffers	Managing Director Director

### Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change.

Prepared by	Andy Seaman – Project Manager
Confidential	Assessment

## 7. NOTICE OF MOTIONS

<b>ITEM</b>	<b>07.21.013</b>	<b>VALLEY WATCH INC REQUEST FOR INDEPENDENT COMPLIANCE AUDIT ON DEVELOPMENT APPROVALS</b>
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<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Notice of Motion	
<b>Submitted by</b>	Cr Karen Toms	
<b>Attachment</b>	Confidential	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

## SUMMARY

Valley Watch Inc (VW) is a community not for profit organisation that has been active for 30 years. Part of its mission statement is to play a part in all levels of government accountability.

Valley Watch Incorporated have requested an audit of Development Applications (DA) approved from 2017 as to whether compliance procedures have been implemented in accordance with the legislation and guidelines. I submitted a notice of motion for September's council meeting. In accordance with Clause 3.6.4 of Council's Code of Meeting Practice the General Manager deferred the NOM to the October Council meeting to enable him to obtain quotes from appropriately qualified auditors to undertake this task as an audit of that magnitude, some 3,600.00 DA's since 1 January 2017 would come at a significant cost to Council. Mr Lindsay believes this task will also include significant staff time to research and obtain the archived DA files which will potentially disrupt current business processes.

In response to the General Manager's advice, I have edited the motion to limit the audit to the five developments identified by Valley Watch.

## PROPOSED MOTION

That Council instruct the General Manager to engage an independent auditor with expertise in planning and development application approvals to audit the five developments identified by Valley Watch in the attached correspondence, as to whether compliance procedures have been implemented in accordance with the relevant legislation, regulation and policies.

## 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

There have been alleged allegations made to Valley Watch where Clarence Valley Council (CVC) has departed from proper procedures set out in State Planning legislation and the guidelines of the Local Government Act in its decisions on some Development Applications.

Valley Watch believes an audit would identify any procedural lapses, reduce CVC exposure to litigation and assist to provide assurance, certainty and confidence.

There is a list of developments that have been brought to Valley Watches' attention. They are provided in a confidential attachment to this report.

They are seeking an external planning compliance audit on development application approvals including compliance with conditions and inspections. It seeks to identify both systemic and individual process failure and provide recommendations. Valley Watch Inc are aware that approvals of developments of concern cannot be changed and are only seeking an audit of compliance of the process.

**KEY ISSUES**

It is paramount ratepayers and citizens have the assurance that the administration of Local Government Rules, Regulations and Policies are carried out by Clarence Valley Council in a diligent and efficient way. It is alleged council have been slow to react and evasive in policing instances of non-compliance in the developments identified by Valley Watch Incorporated.

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

The General Fund unless the General Manager recommends an alternative funding source.

**Policy or Regulation**

Environment & Planning and Assessment Act 1979  
Environmental Planning and Assessment Regulations 2000  
State Environmental Planning Policies  
Clarence Valley Council Environmental Plan 2011  
Clarence Valley Council Development Control Plans  
Clarence Valley Council Enforcement Policy V3.0  
Clarence Valley Council Code of Conduct Policy V8.0 3.13

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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Confidential Attachment:

Correspondence from Valley Watch

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**STAFF COMMENT**

Council officers requested cost estimates from two suitably qualified legal service providers. The scope was limited to the five sites identified in the Attachment - Correspondence from Valley Watch, and does not include a full review of all Development Applications (DA) approved from 2017 to present.

Based on the provided fee estimates, the cost is estimated for a legal review of the five identified sites is between \$19,200.00 to \$25,000.00, excluding GST.

A budget for this review (say \$25,000) would need to be included in the December Quarter Budget review with the additional costs being funded from available Working Funds from the General Fund which will likely increase the estimated Budget deficit for 2021/22 by \$25,000.

**8. CONFIDENTIAL BUSINESS**

<b>ITEM</b>	<b>08.21.008</b>	<b>INDIGENOUS LAND USE AGREEMENT BETWEEN CLARENCE VALLEY COUNCIL AND YAEGL PEOPLE – CALYPSO HOLIDAY PARK</b>
<b>Meeting</b>	Council	26 October 2021
<b>Directorate</b>	Corporate & Governance	
<b>Reviewed by</b>	Director - Corporate & Governance (Laura Black)	
<b>Attachment</b>	Nil	

**CONFIDENTIAL**      *The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section: 10A 2 (e) The report contains information that would, if disclosed, prejudice the maintenance of law*

**9. QUESTIONS WITH NOTICE****10. LATE ITEMS OF BUSINESS AND MATTERS ARISING****11. CLOSE OF ORDINARY MEETING**