

# Ordinary Council Meeting

## Business Paper

27 July 2021



# Agenda

|    |  |     |         |
|----|--|-----|---------|
| 01 | OPENING OF ORDINARY MEETING  |     |         |
|    | <ul style="list-style-type: none"> <li>• Opening Prayer</li> <li>• Acknowledgement of Country</li> <li>• Announcement – Recording of Meeting</li> </ul>  |     |         |
| 02 | APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE  |     |         |
| 03 | DISCLOSURES AND DECLARATION OF INTERESTS   |     |         |
| 04 | CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING HELD 22 JUNE 2021 AND EXTRAORDINARY COUNCIL MEETING HELD 20 JULY 2021  |     |         |
| 05 | MAYORAL MINUTES – Nil  |     |         |
|    | <a href="#">05.21.007</a> Postponement of the Local Government Elections   | 1   | Y       |
| 06 | REPORTS  |     |         |
| a  | GENERAL MANAGER  |     |         |
|    | <a href="#">6a.21.033</a> Bushfire Local Economic Recovery Fund – Stage 2  | 4   | N       |
|    | <a href="#">6a.21.034</a> Clarence Care & Support – Final Update   | 6   | N       |
|    | <a href="#">6a.21.035</a> Development Applications   | 9   | TBT     |
|    | <a href="#">6a.21.036</a> Proposed Additional Staff Resources for Planning & Environment Directorate   | 12  | N       |
| b  | ENVIRONMENT, PLANNING AND COMMUNITY COMMITTEE  |     |         |
|    | <a href="#">6b.21.041</a> DA2021/0074 – Recreation Facilities (Indoor) – 140 Fitzroy Street, Grafton   | 17  | Y       |
|    | <a href="#">6b.21.042</a> DA2021/0193 – Medical Centre, Chemist and Shop Top Housing (4 Units) 17 Coldstream Street, Yamba Lot 1 & 2 DP952124  | 23  | Y       |
|    | <a href="#">6b.21.043</a> DA2020/0188 – Dual Occupancy and Two Lot Subdivision – 4 Little River Close, Wooli   | 38  | Y       |
|    | <a href="#">6b.21.044</a> DA2020/0725 – 52 Seniors Living Units, Three (3) Lot Subdivision and Associated Filling – Lot 2 DP 790910 Carrs Drive, Yamba   | 45  | TBT     |
|    | <a href="#">6b.21.045</a> DA2021/0326 – 24 Multi Dwelling Units, Earthworks and Retaining Wall – 40-50 Bimble Avenue, South Grafton  | 75  | Y       |
|    | <a href="#">6b.21.046</a> MOD2021/0028 – Section 4.55(2) Modification of DA1994/0148 - Rotate Position of Units (4 & 5) and Amend Roof Design and Internal Layout – No. 4 Bay Street, Angourie   | 90  | Y       |
|    | <a href="#">6b.21.047</a> SUB2020/0010 – 2 Lot Subdivision – 135 Adams Street, Woombah   | 99  | Y       |
|    | <a href="#">6b.21.048</a> Objections to the Requirements of Clause 36 and 41 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 to Allow Building Dwellings Onsite | 110 | TBT     |
|    | <a href="#">6b.21.049</a> Proposed Road Name – Road Reserve Off Black Mountain Road, Nymboida  | 116 | Y       |
|    | <a href="#">6b.21.050</a> Planning Proposal REZ2021/0002 – Lot 10 DP 1259162, 4 River Road, Palmers Island – Addendum Report   | 120 | Y + TBT |
|    | <a href="#">6b.21.051</a> Planning Proposal REZ2020/0006 – Lot 231, Hampton Road, Waterview Heights – Addendum Report  | 126 | TBT     |
|    | <a href="#">6b.21.052</a> Planning Proposal REZ2021/0001 - Lot 2 DP 839420, 2 Spring Street, South Grafton   | 132 | TBT     |
|    | <a href="#">6b.21.053</a> Grafton CBD Plan, Parking Audit & Strategy, and Land Transport Strategy  | 134 | TBT     |
|    | <a href="#">6b.21.054</a> Clarence Urban Release Area Draft DCP and Road Contributions Plan  | 146 | Y       |
|    | <a href="#">6b.21.055</a> Clarence Valley Local Environmental Plan 2011 – Proposed Housekeeping Amendment 2021   | 154 | N       |
|    | <a href="#">6b.21.056</a> Clarence Valley Community Energy and Emissions Reduction Strategy  | 166 | TBT     |
| c  | CORPORATE, GOVERNANCE AND WORKS COMMITTEE  |     |         |
|    | <a href="#">6c.21.084</a> Lot 81 DP 1052936 & Lot 82 DP 1054947 – Approved Water Structures  | 171 | Conf    |
|    | <a href="#">6c.21.085</a> Refund of Water Recreation Structure Licence Fees Charged  | 175 | Conf    |
|    | <a href="#">6c.21.086</a> Request from Account 2210912 for Consideration for Reduction in Water Account  | 178 | Conf    |
|    | <a href="#">6c.21.087</a> Event Delivery Policy  | 181 | Y       |

|    |                           |   |     |      |
|----|---------------------------|---|-----|------|
|    | <a href="#">6c.21.088</a> | 2021/22 Special Event Sponsorship Program – Round 1 Late Requests                 | 183 | N    |
|    | <a href="#">6c.21.089</a> | The Clarence – River Way Masterplan II  | 186 | TBT  |
|    | <a href="#">6c.21.090</a> | Council Meeting Checklist – Update on Actions Taken                               | 188 | Y    |
|    | <a href="#">6c.21.091</a> | Alcohol Prohibited Area Temporary Revocation – Jacaranda Festival                 | 190 | Y    |
|    | <a href="#">6c.21.092</a> | Request to Vary Policy – Donated Facilities on Public Land – on Crown Land        | 192 | Y    |
|    | <a href="#">6c.21.093</a> | Request to Transfer Private Water Service from Property 115055 to Property 115025 | 195 | Conf |
|    | <a href="#">6c.21.094</a> | Clarence Valley Sports Award  | 197 | TBT  |
|    | <a href="#">6c.21.095</a> | Governance Report 2021/21 Q4  | 199 | N    |
|    | <a href="#">6c.21.096</a> | 2020/21 Operational Plan – Quarterly Review as at 30 June 2021                    | 203 | TBT  |
|    | <a href="#">6c.21.097</a> | Monthly Investment Report – June 2021   | 205 | Y    |
|    | <a href="#">6c.21.098</a> | Naming of Road “Shirley Adams Way”  | 212 | N    |
|    | <a href="#">6c.21.099</a> | Works Report  | 215 | N    |
| d  |                           | INFORMATION ITEMS   |     |      |
|    | <a href="#">6d.21.006</a> | 1. Clarence Valley Transport Committee  | 218 | Y    |
|    |                           | 2. Clarence Valley Floodplain Risk Management Committee                           |     |      |
|    |                           | 3. CVC Climate Change Advisory Committee  |     |      |
|    |                           | 4. Wooloweyah Parks & Reserve Management Committee                                |     |      |
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| e  |                           | TENDERS   |     |      |
|    | <a href="#">6e.21.013</a> | T20/021 – Shannon Creek Dam Remediation of Tailwater Dam and Access Track         | 219 | Conf |
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| 07 |                           | NOTICE OF MOTIONS   |     |      |
|    | <a href="#">07.21.012</a> | Cr Kingsley – Sports Management Policy Amendment                                  | 227 | N    |
| 08 |                           | CONFIDENTIAL BUSINESS   |     |      |
|    | <a href="#">08.21.007</a> | Clarence Coast Holiday Parks Residential Sites – On Crown Land                    | 230 | N    |
| 09 |                           | QUESTIONS WITH NOTICE   |     |      |
| 10 |                           | LATE ITEMS OF BUSINESS AND MATTERS ARISING  |     |      |
|    |                           | Change to Table of Contents to 25 May 2021 Ordinary Council Meeting Minutes       |     |      |
| 11 |                           | CLOSE OF ORDINARY MEETING   |     |      |

## MAYORAL MINUTE

## ITEM 05.21.007 POSTPONEMENT OF THE LOCAL GOVERNMENT ELECTIONS

|                     |                |              |
|---------------------|----------------|--------------|
| <b>Meeting</b>      | Council        | 27 July 2021 |
| <b>Directorate</b>  | Mayoral Minute |              |
| <b>Submitted by</b> | Cr Jim Simmons |              |
| <b>Attachment</b>   | Yes            |              |

## SUMMARY

This Mayoral Minute responds to the decision of the Minister for Local Government the Hon Shelley Hancock MP to delay the local government elections until 4 December 2021 and seeks to raise matters for attention prior to the election.

## PROPOSED MOTION

That Council write to the Minister for Local Government, the Hon Shelley Hancock MP, with a copy being sent to Councillor Linda Scott President of Local Government NSW and the Australian Local Government Association:

1. Expressing disappointment that Council was not provided with advanced notice in early July that the three month option to extend the current term may be exercised should the current outbreak not be under control.
2. Expressing disappointment that Council was not provided with formal notification preceding the announcement to the media that the 4 September local government election would be delayed to 4 December.
3. Informing that the elected members of Clarence Valley Council have given an undertaking to fulfil their elected duties until 4 December 2021.
4. Requesting any costs associated with the delay, including facilities for Returning Officers, to be borne by the State Government.
5. Requesting consideration of an extension to the requirement of s290 of the Local Government Act, to allow the Mayor to be elected within five weeks after the local government election, with deliberation given to the availability of resources and limited ability for newly elected councillors to meet early in the New Year.

## 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

I note the Minister for Local Government, the Hon Shelley Hancock MP's decision of Saturday 24 July to delay the 4 September 2021 local government elections until 4 December 2021 and share my concern about the impact of this decision on Council.

While I recognise the decision has been made with consideration of the current COVID situation in Sydney, and the potential for this pandemic to have a significant impact on regional NSW if not controlled in the coming weeks and months, the impact of the delay to 4 December 2021 should not be lost as long as there remains opportunity to address the issues in advance.

The Office of Local Government (OLG) Circular, issued Sunday 25 July 2021 and attached to the Mayoral Minute advises:

- Current councillors and popularly elected mayors will continue to hold their civic offices until council elections are held on 4 December 2021.
- The order made under section 318C continues the suspension of the requirement to hold by-elections to fill vacancies for the period specified in the order.

- Councils will not be required to hold by-elections to fill vacancies or to apply to the Minister to dispense with the requirement to hold a by-election before ordinary council elections are held on 4 December 2021.
- The making of the order will not affect the requirement to hold mayoral elections.
- Mayoral elections must be held for mayors elected in September 2019 when their two year-terms expire in September 2021.
- Mayors elected in September 2020 will continue to hold office until council elections are held on 4 December 2021.
- Chairpersons of county councils now hold office for two years.
- Chairpersons of county councils elected in September 2020 will continue to hold office until council elections are held on 4 December 2021.
- The composition of joint organisation boards may need to change in September 2021 if mayors of member councils elected by councillors are not re-elected.
- The postponement of the next ordinary local government elections will not affect the timing of future council elections, and the subsequent ordinary local government elections will still proceed in September 2024.

As the Clarence Valley Council Mayoral election was held in September 2020, I will continue to hold office as the current Mayor until 4 December 2021 and call on my fellow Councillors also to commit to holding their civic offices until 4 December 2021 also.

The following important dates have been declared by the OLG:

|                  |  |
|------------------|--|
| 25 Oct 2021      | Close of electoral rolls (6pm)   |
|                  | Candidate nominations open   |
| 03 Nov 2021      | Close of candidate nominations (12pm)                                      |
|                  | Registration of electoral materials commences                              |
| 05 Nov 2021      | Caretaker period commences   |
| 22 Nov 2021      | Pre-poll voting opens  |
| 26 Nov 2021      | Registration of electoral material closes (5pm)                            |
| 27 Nov 2021      | Declared institution voting commences                                      |
| 29 Nov 2021      | Postal vote applications close (5pm)                                       |
| 03 Dec 2021      | Declared institution voting closes (6pm)                                   |
|                  | Pre-poll voting closes (6pm)   |
| 04 Dec 2021      | Election day (8am-6pm)   |
| 17 Dec 2021      | Return of postal votes closes (6pm)  |
| 21 – 23 Dec 2021 | Results declared progressively as counts are finalised by election manager |

What has not been detailed in the communications so far is the impact the delay has on Council's administrative duties associated with the election such as:

- Ability to find available locations for hosting Returning Officers and their staff in the lead up to the December election.
- Ability to find available locations for hosting pre polling in the lead up to the December election.

- Ability to hold an election of the Mayor within three weeks of the Ordinary election in accordance with s290 of the Local Government Act given the important dates identified by OLG and the closure of councils around the State during the Christmas – New Year.
- The cancellation and re-establishment of the induction program for new councillors required by under the rules for Professional Development for Councillors.
- And the costs associated with the above matters.

I find it disappointing that alternative safe options for carrying out the local government elections in September were not canvassed fully, noting that the NSW Electoral Commission has previously used iVote for State elections. It would there appear critical that iVote is made more readily available for the local government elections in December as further impacts of COVID are unknown and I implore the Minister to review this option among others to ensure the December elections can proceed.

I further note that Council and General Managers appear to have been informed about the delay to the September Local Government Elections through media outlets on Saturday (24 July) evening and rather than by the OLG issuing formal advice in one of its frequent circulars. This indicates a sudden decision which further implies the government did not previously explore alternative safe options for carrying out the Local Government election in September should the pandemic not be under control.

I call on my fellow Councillors to support me in writing to the Minister for Local Government the Hon Shelley Hancock MP, with copy to Councillor Linda Scott, President of Local Government NSW and the Australian Local Government Association, expressing concern about the lack of engagement of the local government sector preceding the decision to postpone the election and requesting a copy of the Minister's detailed plan to proceed with the LG elections including identification of the State Government's responsibility for costs associated with the delay and the potential for exemption to compliance with s290 of the Local Government Act, given the timing of election result announcements.

Attachments:

Office of Local Government (OLG) Circular 21-20, issued Sunday 25 July 2021

Government Gazette Number 347

**6. REPORTS****a. GENERAL MANAGER****ITEM 6a.21.033 BUSHFIRE LOCAL ECONOMIC RECOVERY FUND – STAGE 2**

|                    |                                   |              |
|--------------------|-----------------------------------|--------------|
| <b>Meeting</b>     | Council                           | 27 July 2021 |
| <b>Directorate</b> | Corporate & Governance            |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black) |              |
| <b>Attachment</b>  | Nil                               |              |

**SUMMARY**

To advise on successful grant applications through the Bushfire Local Economic Recovery Fund (BLERF).

**OFFICER RECOMMENDATION**

That Council note the grants received under the Bushfire Local Economic Recovery Fund – Stage 2 which total \$18,423,008.

**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 October 2020, the NSW and Australian Governments co-funded the \$250 million Bushfire Local Economic Recovery Fund. The Fund is aimed at assisting communities affected by bushfires to lead their own recovery in boosting their economy by supporting businesses and creating jobs through community infrastructure as well as industry development.

Council submitted 11 projects for this funding of which 5 were successful.

**KEY ISSUES**

The projects that were successful are as follows:

**Maclean Community Precinct (Phase 1)**

Project Description: The existing Maclean Civic Centre hall requires extensive refurbishment to prolong its serviceable life. The main component of the project is focused on the hall where several upgrades are planned. The building will also be altered to enhance community engagement. Existing buildings will be removed to create an outdoor space that will visually connect River Street with the Clarence River. This newly created public park will offer spill over space during large events at the hall. The facility will serve community needs day-to-day and also provide a community refuge during natural disasters.

Application: \$4,997,000                      Received: \$4,997,000

**Treelands Drive Community Hub Yamba**

Project Description: Treelands Drive Community Hub will house the functions and facilities for the expanding Yamba community. The hub will include a library, a more efficient community centre, an art gallery, a dedicated youth space, a visitor information hub, commercial kitchen and improve the accessibility of services to the community. The facility will also serve as a community refuge hub in times of natural disaster.

Application: \$11,107,882    Received: \$11,107,882    CVC Contribution: \$2,079,058

Total Value: \$13,186,940

**Regenerate Corcoran Park & Construct Dog Park**

Project Description: Corcoran Park is a picturesque park located on the Clarence River in Grafton and one of Grafton's most used riverfront parks. The project follows completion of a Masterplan and community consultation and scope includes site regeneration to remediate the former landfill site over part of the park,

bulk earthworks and the construction of a fenced dog park as well as an access road, viewing areas and parking facilities. The project will also include supporting infrastructure including connection pathways, park furniture, shade shelters, dog agility equipment, a water station and suitable vegetation and landscaping.  
Application: \$982,000      Received: \$982,000

**Build Facility for Ewingar Rural Fire Service Brigade**

Project Description: Council and the Rural Fire Service are seeking to upgrade and replace the existing brigade shed and provide fuel storage and a helipad for rotary aircraft. The community were devastated by the 2019 bushfires that ravaged the area in August. The project seeks to locate a new facility adjacent the existing community hall that will better respond to future events, enhance community resilience and upgrade operations with a helipad and an all accessible facility. The Rural Fire Service and Council acknowledge that this brigade facility is the highest priority emergency facility in the Clarence Valley to upgrade and improve.  
Application: \$836,126      Received: \$836,126

**Upgrade solar panels and battery storage**

Project Description: To improve the resilience and capacity of Council's Tyson St, South Grafton Works Depot to better undertake its function during and following a natural disaster it is proposed to install a 100kW PV solar system and a 200kWh battery storage system with a 100kw generator. This will help reduce Council's on-going carbon emissions and provide power back-up to ensure the depot is able to be fully functional during natural disasters including when the grid may be down.  
Application: \$500,000      Received: \$500,000

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

The Treelands Drive Community Hub grant will have a Council contribution of \$2,079,058. The contribution is part in kind (land) and part sale of the current library space in Woolli Street.

Establishment of a permanent project team is proposed to deliver these projects and to assist with delivery of Council's current year Capital Works Program. The cost of doing so is proposed to be \$367,031 (salary & wages 21/22) plus superannuation.

**Asset Management**

Relevant asset management plans will be updated as required.

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

The use of solar panels and battery storage will have a positive impact on the effects of climate change.

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|-------------|-------------------------------------|
| Prepared by | Laura Black, Acting General Manager |
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|             |                  |                                  |
|-------------|------------------|----------------------------------|
| <b>ITEM</b> | <b>6a.21.034</b> | <b>CLARENCE CARE AND SUPPORT</b> |
|-------------|------------------|----------------------------------|

|                    |                                   |              |
|--------------------|-----------------------------------|--------------|
| <b>Meeting</b>     | Council                           | 27 July 2021 |
| <b>Directorate</b> | Corporate & Governance            |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black) |              |
| <b>Attachment</b>  | Nil                               |              |

**SUMMARY**

This report provides Council with a final update on the transition of Clarence Care and Support to Wesley Mission. The report also seeks Councillors input on the future use of surplus funds relating to Clarence Care and Support.

**OFFICER RECOMMENDATION**

That Council

1. Note the final update on transition of Clarence Care and Support to Wesley Mission, provided in this report.
2. Commence planning for Stage 2 of the Maclean Community Precinct in conjunction with delivery of Stage 1.
3. Allocate Clarence Care and Support surplus funds identified in the report, estimated to be \$3.2M to design and construction of Stage 2 of the Maclean Community Precinct, prioritising the Maclean Library relocation.
4. Allocate sale proceeds for 2 Short Street Maclean to Stage 2 of the Maclean Community Precinct.
5. Receive a detailed report on delivery of Stage 2 Maclean Community Precinct once detailed design and cost estimates are prepared.

**LINKAGE TO OUR COMMUNITY PLAN**

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

**BACKGROUND**

At its Ordinary Meeting held 28 April 2020, Council resolved to award a tender for the Clarence Care & Support (CCS) services to Wesley Mission (refer Item 08.20.004) with progress of the transfer of services and staff to Wesley being reported to Council on a monthly basis. In July 2020, Council resolved (item 6c.20.119) that a final report be tabled once financial completion and service contract transfer has occurred. A progress report was provided at the 15 December 2020 Council meeting (item 6c.20.197). This report provides a final status update as well as seeking Councillor input on the future use of surplus funds relating to Clarence Care and Support.

**KEY ISSUES****Programs**

A final update on program transfer is provided below.

**STRC (Short Term Restorative Care)**

Wesley was providing the face to face service under a sub-contract arrangement, with Council remaining the accredited provider and managing the program funds. Council had been waiting for Wesley to become an accredited provider in order to finalise the full transition to Wesley. Wesley has experienced delays in receiving accreditation and as there was no foreseeable end date, a decision was made to cease (from Council's perspective) the taking on of clients, under the current arrangement, from 30 April 2021. It is noted that Council is not the only accredited provider in the Clarence Valley.

Wesley has submitted all invoices for payment of claimed monies to 30 June 2021 with final payment of outstanding invoices to be made by Council towards the end of July 2021. This will bring the transition arrangement with Wesley to a close.

**CoS (Continuity of Support)**

Confirmation and invoice of 2020/21 Quarter 1 expenditure of funds was received from Wesley and the acquittal for 2020/21 Quarter 1 funding was submitted early January 2021. Final payment of the invoice was made in January 2021. The transition arrangement with Wesley is finalised.

**CHSP (Commonwealth Home Support Program)**

Invoices for payment were received for 2020/21 Quarter 1 funding from Wesley and final payment of invoices were made in March 2021. Client data was also received and loaded to the department (funding body) portal. The transition arrangement with Wesley is finalised. Final acquittal of 2020/21 funding is due to the department by 31 July 2021.

**Financial**

Post finalisation of all transactions for 2020/21, it is expected the balance of Council's Internal Reserve relating to Clarence Care and Support will be approximately \$3.2M.

**Future Use of Surplus Funds**

When Council decided to transfer Clarence Care and Support services to another provider, Council's informal consideration was that use of surplus funds for alternative projects are in the Lower Clarence, being the origin of Clarence Care and Support, and that the project outcome is community focussed.

Further to the above surplus funds, it is proposed that the proceeds from the sale of 2 Short Street Maclean (refer item 6c.20.197, 15 December 2020 Council meeting) also be considered in this report as the property was purchased with Clarence Care and Support funds originally.

While there are a large number of smaller value (<\$1M) open space and facility projects that could be delivered, it is considered they should be scheduled in forward works programs.

The following two projects meet Council's original intent that surplus funds be spent in Maclean being the service centre of the Lower Clarence, and that the project outcome is community focussed.

1. Stage 2 Maclean Community Precinct – While considered an appropriate project for CCS surplus funds originally, Stage 1 is funded by the State and Federal government (subject of Item 6a.21.033 in the current Business Paper). Stage 2 comprises relocation of Maclean Library to Council's 50 River Street Administration Centre.

Option 1 of the attached Options Paper gives an indicative concept of the location of the Library in what is now the Chambers, Committee Room and executive office space.

It is considered that opportunity exists to leverage off the \$4.997M grant funds to complete Stage 1 of the precinct, by committing CCS surplus funds and the sale of 2 Short Street Maclean to delivering Stage 2.

2. Progress the Maclean Riverside Precinct project missing link - McLachlan Park carpark to Old North Coast wharf, which requires both land acquisition and construction of pedestrian and walkway along the river.

Council has previously considered acquisition of the NSW Fisheries building in McDonalds Lane (Item 13.036/15). At the time, Government Property NSW indicated relocation of the occupier would be beneficial for client negotiation with Fisheries. To date, no suitable alternative location has been found. There is currently no foreseeable solution to this matter.

Neither of these projects are detailed in design or costing, however Option 1 is considered more likely achievable in the short term as it is, at face value, considered lower in cost and the subject land/property is already in Council's ownership. Therefore, this report seeks commitment of funds to Option 1, with a more detailed report to be reported once that investigation has occurred.

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

The estimated 2020/21 Internal Reserve relating to Clarence Care and Support is \$3.2M. This funding is available to utilise on future identified projects by Councillors. If agreed, the proceeds from the sale of 2 Short Street Maclean will add to the funds available.

**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

Nil

**Legal and Risk Management**

Nil

**Climate Change**

N/A

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|             |  |
|-------------|--|
| Prepared by | Michael Salvestro, Acting Manager Finance & Supply |
| Attachment  | Nil  |

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|             |                  |                                 |
|-------------|------------------|---------------------------------|
| <b>ITEM</b> | <b>6a.21.035</b> | <b>DEVELOPMENT APPLICATIONS</b> |
|-------------|------------------|---------------------------------|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Council  | 27 July 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.

**KEY ISSUES**

The figures from 1 July 2020 to 30 June 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) |
|------------------------------|-----------------------------|-------------------------|---------------------|--|
| 1,002                        | 916                         | \$161,309,422.30        | 151                 | Average: 63 days<br>Median: 41 days              |

Of the 916 approved Development Applications between 1 July 2020 and 30 June 2021, 445 (49%) were determined within 40 days or less.

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

The below table outlines the use of Clause 4.6 for Development Applications determined during June 2021.

| DA No.      | Property                             | Standard to be Varied                       | Extent of Variation   | Concurring Authority & Justification  |
|-------------|--------------------------------------|---|---|---|
| DA2020/0288 | 6 Pilot Street,<br>Yamba NSW<br>2460 | Clause 4.3 Height of Buildings of the CVLEP | 6.5m under Clause 4.3 of the LEP. The height of 9.47m which exceeds the height limit by 68% | Council at their meeting 22 June 2021 –<br>Clause W6.1 of the DCP allows development on the eastern side of Pilot Street to be stepped down at the rear of the property to a maximum of 12m due to the steepness of the land. There will be little impact on views as: <ul style="list-style-type: none"> <li>The predominant views enjoyed by the residents of Pilot Street are Main Beach and ocean views to the east so the proposed fly over roof will have minimal impact on these views and will not adversely affect the neighbouring views; and</li> <li>The impact of overshadowing does not adversely impact on the adjoining property</li> </ul> |

#### **COUNCIL IMPLICATIONS**

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

N/A

##### **Asset Management**

N/A

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

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2000*

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

##### **Consultation**

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

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

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

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

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

**Climate Change**

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

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|              |  |
|--------------|--|
| Prepared by  | James Hamilton, Development Planner                              |
| To be Tabled | Approved Applications and Undetermined Applications over 40 days |

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|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6a.21.036</b> | <b>PROPOSED ADDITIONAL STAFF RESOURCES FOR PLANNING &amp; ENVIRONMENT DIRECTORATE</b> |
|-------------|------------------|---|

|                    |                                   |              |
|--------------------|-----------------------------------|--------------|
| <b>Meeting</b>     | Council                           | 27 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community |              |
| <b>Reviewed by</b> | A/General Manager - Laura Black   |              |
| <b>Attachment</b>  | Nil                               |              |

**SUMMARY**

This report seeks Council's consideration of additional staff resources to the Environment and Planning Directorate to assist with current and likely continuing workloads resulting from a significant and unprecedented increase in local building and development activity.

The Building Services Unit and the Planning Support Unit are under-resourced for the workload commitments that the units are required to undertake. This is causing delays in application processing and response times to enquiries and complaints. Several written complaints have recently been received concerning the level of service currently being provided. Workloads are expected to increase significantly with the impending release to the market of approximately 2000 additional residential allotments.

**OFFICER RECOMMENDATION**

That Council endorse the allocation of additional resources to include an additional Senior Building Surveyor, an additional District Building Surveyor/Building Inspector and an additional Planning Support Officer in accordance with Option 3 detailed in the body of the report.

**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**

Building and development activity throughout the Clarence valley has increased by approximately 25% compared to the previous years with over 1000 DAs being lodged with Council last financial year (see table below). This level of activity is not anticipated to reduce in coming years and is likely to even increase further, based on developments currently underway at West Yamba, and upcoming developments at Junction Hill and Clarenza. The Building Services Unit processes on average approximately 80% of all DAs lodged with Council.

| Financial Year | Received | Approved |
|----------------|----------|----------|
| 2010/11        | 890      | 851      |
| 2011/12        | 774      | 723      |
| 2012/13        | 626      | 643      |
| 2013/14        | 638      | 578      |
| 2014/15        | 775      | 719      |
| 2015/16        | 857      | 837      |
| 2016/17        | 875      | 803      |
| 2017/18        | 849      | 819      |
| 2018/19        | 828      | 771      |
| 2019/20        | 750      | 722      |
| 2020/21        | 1,002    | 945      |

Unlike most other north coast local government areas there are no private certification firms based in the Clarence Valley to assist with the local certification and inspection workloads. Council's Building Surveyors currently undertake in excess of 90% of building certification work in the LGA. In some instances where a private certifier has issued a Construction Certificate that certifier has chosen not to act as the PCA for that development and the owners have been obliged to engage Council as the PCA to carry out the progress inspections and issue the Occupation Certificate. Under the legislation Council is obliged to accept all applications for certification work whereas private certifiers have no such obligation.

Residential development in the lower river coastal areas has increased significantly since the Pacific Highway works have been completed and west and east Yamba developments and DA approved seniors living developments are now moving into the construction phase. West Yamba residential development in particular is anticipated to generate a further significant increase in building and development activity with approximately 1,100 residential allotments soon to be released onto the market. Dwelling rebuilds and new builds in the remote areas of the LGA following the recent bushfire disaster have also started to increase. Recent land releases in the Grafton/Junction Hill areas are now well into the dwelling construction phase and the residential land at Clarenza is quickly approaching that stage. When these upper river developments all enter the dwelling construction phase there will be approximately 900 additional allotments on the market. It is expected that Council's Building Services Unit will be processing the vast majority of those new dwelling applications and carrying out the subsequent progress inspections.

### KEY ISSUES

The complexity of the assessment and inspection processes have increased due to legislative changes in areas such as biodiversity controls, energy efficiency, bushfire hazards, coastal erosion hazards, flood plain management and general development assessment considerations requiring more staff time to be allocated to each application and subsequent progress inspections. Also, additional fire safety progress inspections on multi residential and commercial/industrial/multi residential buildings have since been legislated and now must be carried out. The complexity of these assessments is further compounded by heightened community expectations around assessment timeframes and illegal construction on existing dwellings, which draws resources from assessing and processing new applications.

Consequently, the level of administrative support required to be provided has also increased. With the compulsory requirement from 1 July 2021 for all Development Applications, Complying Development Applications, Construction Certificate Applications, Principal Certifier Agreements, Building Information Certificate Applications and all associated Local Government Section 68 applications to be lodged through the NSW Planning Portal an additional workload has also been placed on the Planning Support Unit reducing the time allocated to supporting the Building Services team administratively.

The individual Council Building Surveyors are also subject to auditing by the Building Professionals Board/Department of Fair Trading and may be fined, suspended or have their accreditation cancelled unless specific processes are followed which necessitates a precautionary and time consuming approach being adopted in respect of certification work.

Council's Fire Safety Officer/Special Projects Officer is predominantly engaged in district building surveying work due to current workloads and is not performing his core function except for urgent and critical issues.

Compared to other similar north coast Councils CVC is under resourced by Building Surveyors relative to the workloads (see table below):

| <i>LGA</i>              | <i>Building Surveyors</i> | <i>Approx. Construction Certificates per Year</i> |
|-------------------------|---------------------------|---|
| Clarence Valley Council | 8                         | 650   |
| Lismore City Council    | 8                         | 380   |
| Tweed Shire Council     | 9                         | 400   |
| Ballina Shire Council   | 7                         | 350   |
| Richmond Valley Council | 3                         | 180   |

Sources: Building Professional Board NSW Fair Trading registration schedule and pers. comms

Tweed Shire Council and Clarence Valley Council are the only north coast councils where the Building Surveyors also undertake plumbing and drainage approvals and inspections (usually 3 x additional inspections on most sites). Other north coast councils are much more compact in size when compared to Clarence Valley Council and their staff do not have significant travel associated with their inspection roles.



Due to the current high workloads there is no spare capacity in the team to provide adequate relief to staff who take leave for various reasons which leads to additional stress on remaining staff and extended processing times for applications and responses to complaints and general enquiries.

## OPTIONS

1. Do nothing and continue with existing staff resources
  - Not recommended due to reasons referred to above
2. Add 1 x additional Senior Building Surveyor (A1 unrestricted) and 1 x additional Planning Support Officer (2year fixed term appointment) to the Environment and Planning Directorate organisation structure

This would allow relief to be provided to staff on leave across the full range of Building Surveying responsibilities and would also allow the Fire Safety/Special Projects Officer to devote more of their time to core duties, as well as providing additional administrative support to assist with the integration of the NSW Planning Portal into Council's corporate systems and processes, triage DA's, answer queries to enable technical staff to focus on assessments and sort through the backlog of work. This option would not deal with the expected significant increase in building and development activity, particularly in the lower river area, as a significant number of additional residential allotments in high demand areas are released to the market. Additional building certification support would only be provide to current resources when all staff were present.

3. Option 2 plus 1 x additional District Building Surveyor/Building Inspector (multi banded position).

This option is the preferred option as would allow relief to be provided to staff on leave across the full range of Building Surveying responsibilities and would also allow the Fire Safety/Special Projects Officer to devote more of their time to his core duties as well as providing additional administrative support for a temporary period while Council further develops the integration of the NSW Planning Portal into Council's corporate systems and processes. It would also deal with the expected significant increase in building and development activity, particularly in the lower river area, as a significant number of additional residential allotments in high demand areas are released to the market.

## COUNCIL IMPLICATIONS

### Budget/Financial

Costings for the above 3 options are estimated as follows:

Option 1 – zero cost

Option 2 – Annual salaries and on costs estimated at approx. \$160,000.00

Option 3 – Annual salaries and on costs estimated at approx. \$250,000.00

Income from Building and Development Services functions over the last years is trending upwards (see table below):

### Combined Building and Planning Services Income

| Year   | 2017/2018   | 2019/2019   | 2019/2020   | 2020/2021   |
|--------|-------------|-------------|-------------|-------------|
| Amount | \$1,425,395 | \$1,512,337 | \$1,428,597 | \$2,202,701 |

The Planning Services fees are regulated by legislation, but the Building Services fees are largely unregulated due to the competitive nature of the service provided. There is scope for those fees to be increased if an increased level of service is being provided. The table below shows typical fees charged by north coast councils for Construction Certificate and PCA fees on a \$275,000.00 project home (2020/2021 fees).

On the basis of the trend of increased revenue identified in the table above, it is likely that Option 3 will be self-funded.

| Council                 | Construction Certificate Fee | Principal Certifier Fee | Total             |
|-------------------------|------------------------------|-------------------------|-------------------|
| Clarence Valley Council | \$1,186.50                   | \$732.50                | \$1,919.00        |
| Tweed Shire Council     | \$1,225.00                   | \$1,165.00              | \$2,390.00        |
| Byron Shire Council     |                              |                         | \$2,087 (package) |

| Council                 | Construction Certificate Fee | Principal Certifier Fee | Total                 |
|-------------------------|------------------------------|-------------------------|-----------------------|
| Ballina Shire Council   |                              |                         | \$2,346.650 (package) |
| Lismore City Council    | \$253 plus \$253 per hour    | \$1,699.00              | varies                |
| Richmond Valley Council | \$875.00                     | \$1,050.00              | \$1,925.00            |

Any future increase in building and development activity will result in an increase in application fee revenue to Council. Also, as developments cost more to construct, and people build more expensive dwellings the associated applications fees will increase accordingly as the fees are substantially based on the value of the works involved.

#### Asset Management

N/A

#### Policy or Regulation

The Environmental Planning and Assessment Act and Regulations places the following time restrictions on Council:

1. DAs not determined within 40 days may be considered by the applicant to be a deemed refusal.
2. Complying Development Certificates must be determined within 10 days.

The Swimming Pool Act requires Council investigate complaints concerning unfenced pools within 72 hours.

#### Consultation

N/A

#### Legal and Risk Management

DA Processing times in excess of 40 days could lead to Land and Environment Court Appeals on a deemed refusal basis and unreasonable and unsustainable staff workloads could lead to errors of judgement which may incur liability to Council

#### Climate Change

N/A

|             |  |
|-------------|--|
| Prepared by | Kerry Harre, Building Services Coordinator & Adam Cameron, Director Environment & Planning |
|-------------|--|

**b. ENVIRONMENT, PLANNING & COMMUNITY REPORT**

**MINUTES** of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 20 July 2021 commencing at 3.30pm and closing at 5.51pm.

**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, Ms Laura Black (Acting General Manager and Director – Corporate & Governance), Mr Adam Cameron (Director – Environment & Planning) and Mr Jamie Fleeting until 4.38pm (Director – Works & Civil) were in attendance.

**APOLOGIES** – Mr Ashley Lindsay (General Manager), Cr Jason Kingsley

**DISCLOSURE AND DECLARATIONS OF INTEREST**

| <i>Name</i>   | <i>Item</i> | <i>Interest/Action</i>  |
|---------------|-------------|---|
| Cr Ellem      | 6b.21.046   | Non-Significant Non-Pecuniary - Leave the meeting<br>Friend of objector |
| Cr Williamson | 6b.21.041   | Significant Non-Pecuniary - Leave the meeting<br>Friend of gym owner    |

|                    |  |   |
|--------------------|--|---|
| <b>ITEM</b>        | <b>6b.21.041</b>                                 | <b>DA2021/0074 – RECREATION FACILITIES (INDOOR) – 140 FITZROY STREET, GRAFTON</b> |
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021  |
| <b>Directorate</b> | Environment, Planning & Community                |   |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |   |
| <b>Attachment</b>  | Yes plus To be tabled Attachment                 |   |

**SUMMARY**

|                    |  |
|--------------------|--|
| <i>Applicant</i>   | Shaun Davison – Hybrid Fitness Training          |
| <i>Owner</i>       | Downes Electrical Pty Ltd                        |
| <i>Address</i>     | 140 Fitzroy Street, Grafton (being Lot 6 DP6959) |
| <i>Submissions</i> | Nil  |

This report follows on from Council's resolution made at its meeting of 25 May 2021 under Item 6b.21.021 where DA2021/0074 was approved subject to the conditions of consent provided in schedule 1. As part of that resolution, Council approved a variation to the car parking controls of the DCP and did not support a waiver of the \$650 variation fee or the removal of the car parking upgrade requirements under Condition 7.

Since that meeting, the applicant has been consulted and advised of the Council Resolution, however the applicant is seeking further Council consideration to remove Condition 7 requiring car parking upgrade due to financial hardship and the fact the business is on a short-term fixed lease of the premises.

Council staff did not support waiving the car park upgrading requirement in the May report as it is inconsistent with Council policy.

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

**OFFICER RECOMMENDATION**

That Council

1. Refuse DA2021/0074 on the following grounds:
  - Removal of Condition 7 requiring the car parking upgrade is inconsistent with the DCP;
  - The imposition of the car park upgrading requirement is financially too onerous to construct;
  - The applicant is unwilling to pay the variation fee if the car parking upgrade condition is not supported for removal;
  - Council is unable to otherwise determine the application without payment of a variation fee.
2. Council proceed to take enforcement action to issue orders to cease operating because the premise is operating without development consent.

*Having declared an interest in this item, Cr Williamson left the EP&C Committee meeting at 3.33pm and returned at 3.35pm.*

**COMMITTEE RECOMMENDATION**

Novak/Simmons

That Council

1. Approve DA2021/0074 Recreation Facilities 140 Fitzroy Street Grafton.
2. Delete Condition 7 and replace with the word 'deleted'.

Voting recorded as follows:

For: Baker, Clancy, Novak, 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

Development Application DA2021/0074 was lodged on 9 February 2021 for a change of use to a recreation facility (indoor) at 140 Fitzroy Street, Grafton. The subject land is zoned B3 Commercial Core under the provisions of the Clarence Valley Local Environmental Plan 2011. The proposed recreation facility (indoor) is permissible with consent and complies with the objectives of the zone. The subject land has frontage to Fitzroy Street and King Lane and is located among similar business allotments. The proposal includes an internal fit out of the existing building.

It should be noted that the gym is already operating out of the premises without Council approval. This development application was lodged in response to a complaint, however when the application was notified, no submissions were received.

The DA was originally reported to the 25 May 2021 meeting (Item 6b.21.021) for consideration of a variation to car parking requirements of the DCP, waiving of a \$650 DCP variation fee and carparking upgrading requirements.

Council resolved:

*That Council:*

- 1. Support a variation to the parking controls in the DCP and approve the development subject to the draft conditions of consent contained in Schedule 1 which requires the upgrade of the car parking area;*
- 2. Not support a fee waiver of \$650 as it is inconsistent with Council's adopted schedule of Fees and Charges; and*
- 3. Require the applicant to pay the \$650 fee prior to the issue of consent.*

The applicant has been consulted and advised of the Council resolution, however, the applicant is unwilling to pay the variation fee for the application to be determined because of the conditions of consent require the car parking area to be upgraded.

Council is unable to determine the application without payment of the variation fee. Therefore, the application is being reported for refusal.

## KEY ISSUES

### Requirement to upgrade car parking area

As per Council's resolution from the May 2021 meeting, the applicant is required to upgrade the car park under Condition 7 of the Draft Advices and Conditions contained in Schedule 1. The condition was imposed on the approval to comply with Clause F8 of Part F Parking and Vehicular access controls of the Business Zones DCP which requires:

1. All parking areas must be constructed with a base course pavement of an adequate depth to suit the type of expected traffic, both number and type of vehicles.
2. All parking areas must be surfaced with either 2 coat bitumen seal, asphaltic concrete, concrete or interlocking pavers.

As part of the original assessment, Council staff inspected the site and provided the applicant preliminary advice the car parking area would require sealing upgrade works and this requirement would likely be a condition of consent. Subsequently, the applicant requested that Council waive the car parking upgrade condition on the following grounds (copy in Attachment C):

- The car parking upgrade works is financially unviable for a small business.
- The tenant is on a short term fixed lease and not the owner of the property.
- The tenant has experienced financial hardship due to mandatory shutdowns of the business operations due to COVID-19 and is not in the position to upgrade the existing car park.

As stated above, Clause F8 of Council's DCP requires car parking areas to be constructed of adequate material to suit the type of expected traffic demand for the use and as such staff recommend that the condition to upgrade the carpark area remain to comply with the DCP standard.

However, after taking into consideration the reasons provided by the applicant to waive the car parking requirement, Council may wish to remove the condition requiring the car parking upgrade due to the onerous financial costs to the small business. The applicant is willing to pay the \$650 variation fee to enable determination if Council supports removal of Condition 7 requiring car parking upgrades.

If Council does not support the removal of the condition, the applicant is unwilling to pay the \$650 variation fee to the DCP to enable final determination to be issued. Therefore, Council would have to refuse the development application and proceed to take enforcement action to issue orders for the closure of the premises as it is operating without Council consent.

As such, the following options are provided for Council consideration:

#### Option 1

That Council support removal of Condition 7 requiring the car parking upgrade and require the applicant to pay the \$650 variation fee.

#### Option 2

That Council

1. Refuse DA2021/0074 on the following grounds:
  - Removal of Condition 7 requiring the car parking upgrade is inconsistent with the DCP;
  - The imposition of the car park upgrading requirement is financially too onerous to construct;
  - The applicant is unwilling to pay the variation fee if the car parking upgrade condition is not supported for removal;
  - Council is unable to otherwise determine the application without payment of a variation fee.
2. Council proceed to take enforcement action to issue orders to cease operating because the premise is operating without development consent.

### **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, except the variation fee of \$650. Assessment of the application has been completed by staff utilising recurrent staffing budgets.

If Council endorses waiving the variation fee of \$650 this will not be paid and allocated as per Council's Fees and Charges.

If Council supports the removal of Condition 7 requiring the car park upgrade, the applicant has advised that they will pay the \$650 variation fee.

#### **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 Business Zones

#### **Consultation**

The applicant was consulted following Council's resolution from the May meeting. The applicant has again requested that Council consider waiving the requirement to upgrade the car park as it is financially unviable for a small business who is only a tenant of the building. The applicant has advised that the \$650 fee will be paid should Council resolve to waive the car parking upgrade condition.

#### **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<sup>2</sup> emissions through the internal fit out construction and operation of the premises, which are both considered to be contributing factors for climate change via materials, maintenance and associated energy and resource use. Notwithstanding the above comments, if the development is approved, the proposal is within an existing building not requiring additional resources for construction.

The proposal may be affected in the future by climate change and related factors because the location is within the Clarence River floodplain. The surrounding region may experience changing, more extreme conditions and events due to climate change.

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|             |  |
|-------------|--|
| Prepared by | Alex Clark, Trainee Planner  |
| Attachment  | A. Plans – To be tabled<br>B. Section 4.15 Evaluation Report – To be tabled<br>C. Letter from applicant 7 May 2021 |

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## Schedule 1

## Draft Advices and Conditions of Consent for DA2021/0074

## 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.

## Advices

1. Owners are advised of the consent requirements of Clause 5.10 of Clarence Valley LEP 2011 in relation to the need to obtain prior consent for all works including tree removal, new fences, and any alterations to the fabric, finish and appearance of a heritage item or building in a Heritage Conservation Area. Many works can be approved through the 'no fee' minor works and maintenance heritage exemptions of Clause 5.10(3) but must be put in writing and approved prior to commencement. See application form on Council's website.
2. 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.
3. The proposed car parking layout will require amendment in accordance with the requirements of the DCP and the conditions of this consent. A revised design is to be submitted to Council for approval prior to construction.

## 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 Tittle                     | Drawn by       |
|---------------------------------|----------------|
| Site Plan – 140 Fitzroy Street  | Shaun Davidson |
| Floor Plan – 140 Fitzroy Street | Shaun Davidson |

2. A separate Development Application will be required for any advertisements that are not defined as "exempt development" under the *Clarence Valley Local Environmental Plan 2011*.
3. All activities associated with the conduct of the business are to be wholly contained within Lot 6 DP6956.
4. 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.  
  
Any noise generated from the use must not be considered to be "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.
5. Prior to commencement of operations floor coverings suitable for absorbing noise and vibrations from falling weights and other training activities must be installed to areas utilised for training.
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. A detailed plan of the proposed car parking must be submitted to Council within 3 months from the date of this consent. Construction of the parking area must be complete within 3 months from the date of Council approval for the car parking design.  
  
Car parking, driveways, manoeuvring and access areas must be designed, constructed, sealed, line marked and drained in accordance with AS2890, the relevant parts of the applicable Council DCP and NRDC.  
  
All stormwater falling on the car parking area 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.  
  
An application for driveway access crossing is to be submitted and approved prior to any work commencing.
8. 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 works are complete.
9. The building shall be provided with a system of exit and emergency lighting complying with AS293.1 within 6 months of the date of this consent with an electrical contractor's certificate of compliance being provided to Council confirming compliance with the standard.
10. Manufacturer's specifications and fire test reports confirming compliance with Part C1.10 Fire Hazard Properties of the BCA shall be provided in respect to the floor coverings within 1 month of the date of this consent.
11. Both the front and rear egress doorways shall be provided with fixed hold open devices within 1 month of the date of this consent.
12. Provide a completed fire safety certificate (form available on Council's website) in respect to the existing portable fire extinguishers and the required exit and emergency lighting system within 6 months of the date of this consent.

|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6b.21.042</b> | <b>DA2021/0193 – MEDICAL CENTRE, CHEMIST AND SHOP TOP HOUSING (4 UNITS) 17 COLDSTREAM STREET, YAMBA LOT 1 &amp; 2 DP952124</b> |
|-------------|------------------|--|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director – Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | Yes  |              |

**SUMMARY**

|                    |   |
|--------------------|---|
| <i>Applicant</i>   | Go Ahead Enterprises Pty Ltd C/- Plan A Town Planning Pty Ltd |
| <i>Owner</i>       | Go Ahead Enterprises Pty Ltd                                  |
| <i>Address</i>     | 17 Coldstream Street, Yamba                                   |
| <i>Submissions</i> | Yes (4 objections)  |

Development Application DA2021/0193 seeks approval for a medical centre, chemist and shop top housing (4 x 2 bedroom units) at 17 Coldstream Street, Yamba.

The proposed development was notified and advertised in accordance with Council's Community Participation Plan and a total of 4 submissions were received. This report discusses the issues raised in the submissions and the applicant's request to vary the Development Control Plan requirements for lane widening along the Coldstream Lane frontage and provides a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Supports the justification for the reduced laneway widening on the Coldstream Lane frontage outlined in Part R9 of Council's Business Zones Development Control Plan, and
2. Approve DA2021/0193 subject to the conditions contained in Schedule 1.

**MOTION**

Novak/Clancy

That Council defer this item to the October 2021 meeting cycle to allow:

1. Council staff to address the concerns raised by the neighbours (The Executive Centre).
2. This DA be reviewed by the CVC Access Committee for potential compliance matters with regards to accessibility.
3. The matters raised about Coldstream Lane and Little High Street be reviewed by the CVC Traffic Committee.

Voting recorded as follows:

For: Novak, Clancy

Against: Simmons, Williamson, Baker

The Motion was put and declared LOST.

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That Council:

1. Supports the justification for the reduced laneway widening on the Coldstream Lane frontage outlined in Part R9 of Council's Business Zones Development Control Plan, and
2. Approve in principle DA2021/0193 subject to the conditions contained in Schedule 1.
3. Receive the recommendation on this matter from the Access Committee meeting to be held on Wednesday 21 July 2021 at the full Council meeting prior to a final decision.

Voting recorded as follows:

For: Baker, Williamson, Simmons

Against: Clancy, Novak

**LINKAGE TO OUR COMMUNITY PLAN**

- Theme 1 Society
- Objective 1.1 We will have proud and inviting communities
- Strategy 1.1.1 Encourage vibrant and welcoming towns and villages

**BACKGROUND**

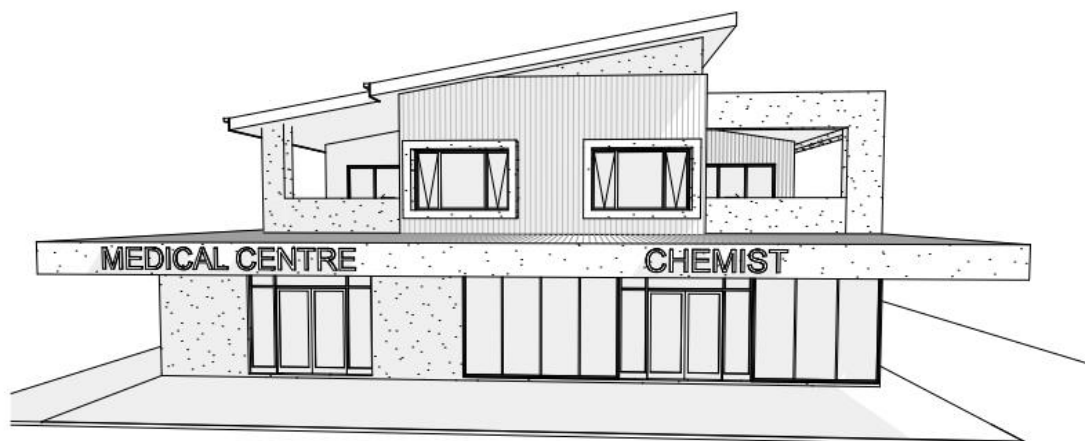
DA2021/0193 was received on 22 March 2021 and the application was notified to adjoining owners and advertised in accordance with Council’s Community Participation Plan.

A single dwelling exists on the lot which is currently used as a retail shop with informal parking at the rear. The land is boarded on two sides by two laneways; Little High Street and Coldstream Lane.



**Figure 1: Location and aerial view**

The proposal is for a medical centre as well as a pharmacy on the ground floor, four residential units on the first floor and undercover parking at the rear of the lot with 18 spaces including a disabled parking space. Access to the medical centre and chemist is through the front entrances on Coldstream Street. Access to the residential units is available directly from the car parking area to a foyer and lift and stairwell and off Coldstream Lane.



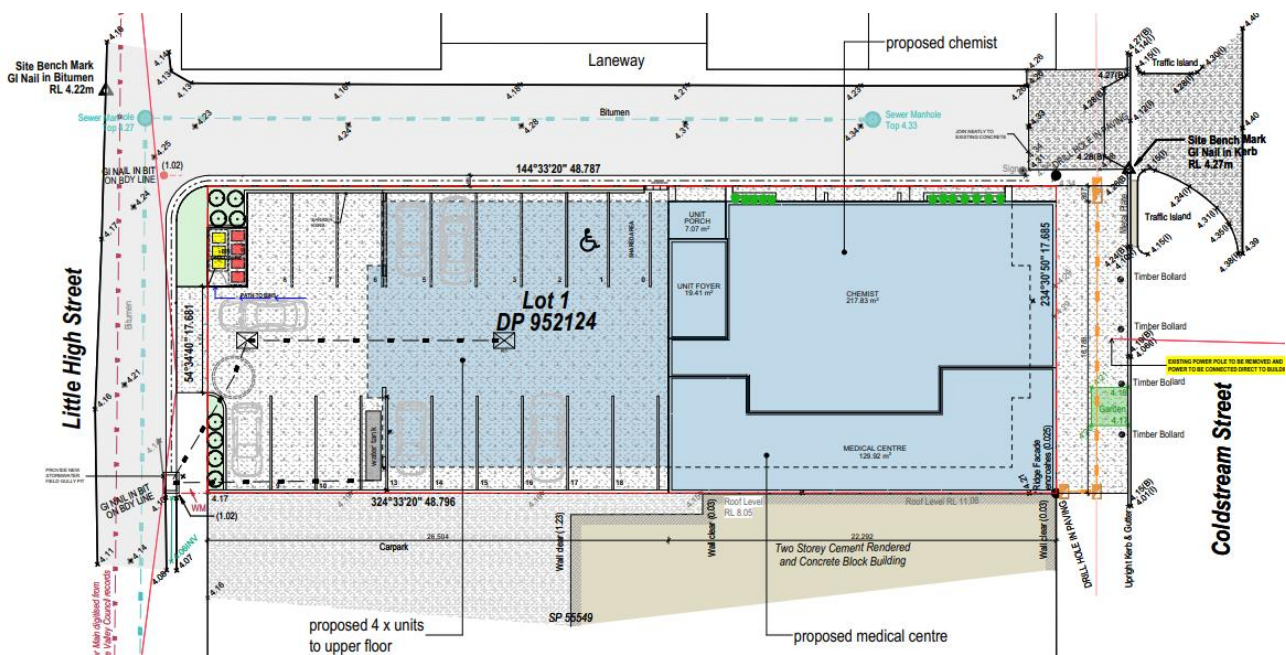


Figure 2 & 3: Front elevation and ground floor plan

**KEY ISSUES**

**1 - Lane widening requirements**

Part R9 of Council’s Business Zones Development Control Plan (the DCP) has specific controls for Yamba including lane widening for the Little High Street:

1. *Little High Street (including the section of laneway connecting Little High Street to Coldstream Street) and Convent Lane will be required to be widened by 1.5 metres on each side between River Street and Yamba Street to provide for construction of one-way streets with shared pedestrian and parking facilities. Construction and dedication of the 1.5 metre widening will be required as a condition of consent in conjunction with any development approval for the land so affected.*
2. *Any development will attract a car parking bonus of one car space per 27 square metres of land which has been required to be constructed as road and dedicated to Council at no cost (see (1) above). The car parking bonus can be applied to any development occurring on the land, but can only be applied once.*
3. *A car parking layout plan shall be submitted with the Development Application including details of landscaping (including shade trees), drainage, the use of decorative paving, street furniture, weather shelter and security lighting. Access will need to be provided to all car spaces, loading docks and garbage receptacles.*

The applicant has provided the full lane widening required for Little High Street, however, is proposing partial lane widening of 0.6m instead of the required 1.5m to Coldstream Lane. Justification for the DCP variation has been submitted by the applicant including:

- The full lane widening to Little High Street and partial widening of Coldstream Lane facilitates future construction of one-way streets with shared pedestrian and parking facilities,
- The variation is required to ensure high-quality building design and not compromise future improvements to the laneway,
- Dedication is required on the opposite side of Coldstream Lane when redevelopment of those lots occurs,
- Further widening will inhibit vehicle manoeuvring within the parking area,
- The development will be dedicating 27m<sup>2</sup> and 30m<sup>2</sup> of the site area to laneway widening,
- There will be sufficient room to formalise stormwater management and drainage, and
- The objectives and purpose of the DCP are satisfied.

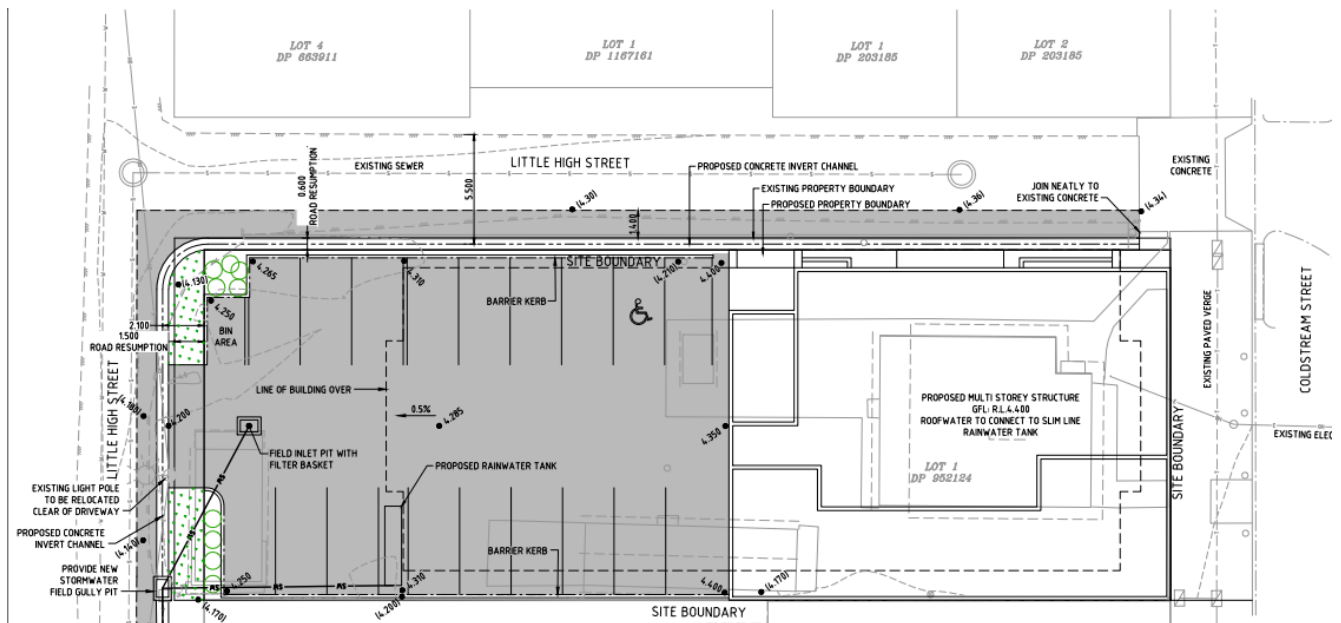


Figure 4: Site levels and drainage

### Comment

Council's Development Engineer has provided the following comments:

*As required under part R of the business zones DCP, widening of the Little High Street and Coldstream Lane by 1.5 metres is to be dedicated as part of the development of the site. The applicant has proposed a reduced dedication and widening of Coldstream Lane of 600mm and has provided the required 1.5 metres dedication along the Little High Street frontage.*

*The concept plan has been referred to Civil Services for comment where advice was received. In concept, the proposed reduced widening was accepted, and a footpath was not required.*

*The application plans indicate pavement and seal widening in both Coldstream Lane and Little High Street, with provision of street drainage which links with the existing system in Little High Street.*

*It is noted that none of the proposed works require alteration of existing traffic regulations or signage and will therefore not require referral to the local traffic committee.*

The residential units, pharmacy and medical centre are fully accessible in that a parking space for persons with a disability is provided for the residents with a lift to the first floor units and parking spaces for persons with a disability are available in Coldstream Street. A footpath along Coldstream Lane is not being required though would more likely be established once the full widening of the laneway has occurred. The proposal was referred to the Access Committee though no comments were provided at the time of writing this report, though there are no anticipated access issues as the development has adequately considered this.

There are 2 options for Council in considering the variation to the lane widening.

#### Option 1

Requiring a widening of the pavement in both laneways will improve the current vehicle usage and improve pedestrian safety. Providing lane widening on both sides would allow for greater width for vehicular and pedestrian access and potentially allow for some addition parallel parking in the laneway once the laneway has been widened on both sides which is a long term outcome that will eventuate only once the adjoining properties are redeveloped. However, requiring the full 1.5m widening for the Coldstream Lane frontage would result in reduced commercial land area, less area available for shop top housing and potentially compromise the building design and on-site vehicle manoeuvring.

#### Option 2

Allowing for a reduced width of the laneway will partially compromise the longer term outcome for lane widening though allows for short term improvements that provide a suitable level of access to and along the laneway. A one-way laneway requires a minimum of 3.5m – 4.0 m width, currently Coldstream Lane has a width of 5.5m that will be widened to 6.1m with the additional 600mm. Further widening is also required on

the opposite side of the laneway for which has occurred for one of the lots which dedicated 1.5m of frontage (Lot 1 DP1167161 shown in figure 4). Eventually a width of around 7.6m will be provided to allow for shared pedestrian and parking in the laneway. This option is supported by Council's Civil Services.

Option 2 is the preferred option. The justification to the DCP requirement to allow a reduce lane widening is supported by Council staff on its merits as the parking requirements of the development have been met on-site (without a reduction of one parking space which could be claimed), the width and pavement will be adequately widened, stormwater runoff will be adequately managed and a further reduction in the width of the lot would otherwise compromise the building design and on-site vehicle manoeuvring; furthermore the development will provide full widening on the Little High Street frontage and the reduced width provides a compromise to the full loss of commercial zoned land in the circumstances.

## 2 – Issues raised in submissions

| Submission  | Comment   |
|---|---|
| <p>Limited pedestrian usage of the laneway that links Coldstream Street and Little High Street, traffic congestion and delivery trucks in the laneways in this location, lack of lane widening (original plans)</p> | <p>The proposed full lane widening of Little High Street and partial widening of Coldstream Lane along with the widening of the sealed pavement will improve the current situation.</p> <p>Submissions received were to the original plans prior to Council staff requiring the applicant to widen the laneway or justify the variation.</p> <p>The types of usage of the land will require limited access for service vehicles. There is sufficient on-site area for delivery vehicles that can use the area outside of peak demand.</p> <p>Once the full lane widening is completed in the future the parking and access issues, site distances and pedestrian safety will be greatly improved. Burdening one developer to resolve the extent of parking issues that result from numerous properties would be unfair and unreasonable.</p> <p>The developer will be required to demonstrate that all Australian Standards are met by the development, including waste disposal and storage areas.</p> |
| <p>Need for a third chemist in Yamba, need for more housing in Yamba, lack of Parking in the CBD.</p>   | <p>The proposed uses of the land are permitted uses in the commercial zone. What is proposed is a higher use of the land in accordance with the intended use of the land. The development meets Council's parking requirements and is not burdening the CBD with an additional parking demand.</p>  |
| <p>Private open space for residential units</p>   | <p>Each of the proposed dwellings will have a separate private balcony of between 18m<sup>2</sup> and 21m<sup>2</sup> with min dimensions of 5m x 3.6m each of which has direct access to the internal living areas. The balconies of the units are greater than the required 15m<sup>2</sup> and provide sufficient alfresco area for apartment living. The provision of a communal area in this location for the 2BR units would result in a less efficient use of the residential and commercial land. There are sufficient communal services available close by in the CBD area, parks, cafes, clubs, movie theatres etc.</p>   |
| <p>Fire safety requirements, construction impacts, stormwater, demolition asbestos removal</p>  | <p>A dilapidation report will be a requirement of conditions of consent. Temporary impacts from construction will be expected in the short term for the development and will be managed by a Traffic Management Plan; arrangements during construction on the road reserves will be required to properly service the development. Asbestos management will be required in accordance with the relevant Australian Standards. Stormwater management improvements have been assessed as being able to meet Council's requirements and standards with further details to be provided prior to construction.</p>  |

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

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

**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

Business Zones Development Control Plan (DCP)

**Consultation**

| <i>Internal Section or Staff Member</i> | <i>Comment</i>            |
|---|---------------------------|
| Health & Building                       | Supported with conditions |
| Engineering                             | Supported with conditions |

**Legal and Risk Management**

Should the applicant be dissatisfied with Council's decision, they have a right of appeal to the Land and Environment Court which may incur a financial cost to Council. Prior to any legal 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 | Pat Ridgway, Senior Development Planner  |
| Attachment  | A. Plans<br>B. Submissions<br>C. Variation to DCP submission<br>D. Section 4.15 Assessment |

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**Schedule 1 Draft 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 Clarence Valley Council 'MUSIC' Guidelines (Draft)

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

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

**WSUD** means Water Sensitive Urban Design

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

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

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

**NATA** means National Association of Testing Authorities

**TfNSW** means Transport for New South Wales

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

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

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

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

**Advices**

1. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;
  - b Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or TfNSW;
  - c Local Government Act Section 68 - drainage, water & sewer approval;
  - d Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

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



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

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

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

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

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

4. 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 residential component of the development has been assessed as contributing an additional 2.4 ET demand on Council’s water supply, and an additional 3.0 ET loading on Council’s sewerage system. This includes an applicable credit for pre-existing uses. The headworks charges at 2021/2022 financial year rates are:

Water Headworks \$5,017.00 x 2.4 additional ET = \$ 12,040.80

Sewer Headworks \$12,269.00 x 3.0 additional ET = \$ 36,807.00

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.

5. The retail component of this development is subject to high consumption non-residential charges for water and sewer in lieu of Section 64 Headworks Contributions. Current 2021/22 rates are as follows:

| Area   | 2021/22 Consumption Charge (\$/kL) | High Consumption Charge (\$/kL) |
|--|------------------------------------|---------------------------------|
| Water – All areas  | \$ 2.59                            | \$ 3.46 <sup>1</sup>            |
| Sewer – Maclean, Townsend, Ilarwill, Lawrence, Iluka & Yamba | \$ 3.60                            | \$ 7.14 <sup>2</sup>            |

<sup>1</sup> Applies to that component of water consumption above 1.233kL/day

<sup>2</sup> Applies to that component of sewage generation above 0.74kL/day

6. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
7. Certification of constructed **Civil Works** by the supervising engineer is required prior to public infrastructure being accepted “on maintenance” and/or “practical completion” being granted for private property works

8. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
9. No construction is to be commenced until a Construction Certificate has been issued.
10. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
11. Demolition work is to be carried out in accordance with AS2601.
12. Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1-2009.
13. Accessible facilities for the use of the disabled shall be provided as specified in Clause F2.4 of the Building Code of Australia and shall be constructed to the requirements of AS 1428.1-2009.
14. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
15. In a building required to be accessible, braille and tactile signage complying with Specification D3.6 of the Building Code of Australia and incorporating the international symbol of access or deafness, as appropriate, in accordance with AS 1428.1-2009 must identify each sanitary facility; space with a hearing augmentation system and door with a required 'exit' sign.  
  
The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
16. The following BCA issues will need to be addressed on the Construction Certificate plans:
  1. Window 03 to the Kitchen at ground level is exposed to a fire source feature (adjacent boundary within 3.0m) and will need to be removed/relocated or provided with protection.
  2. A wash hand basin will be required to serve the non-accessible WC at ground level.

**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.

| <b>Drawing</b>                | <b>Drawn by</b>              | <b>Dated</b> | <b>Sheets</b> | <b>Revision</b> |
|-------------------------------|------------------------------|--------------|---------------|-----------------|
| Demolition Plan               | CYBER                        | 4/06/2021    | 2 of 14       | D               |
| Proposed Site Plan            | CYBER                        | 4/06/2021    | 3 of 14       | D               |
| Proposed Ground Floor Plan    | CYBER                        | 4/06/2021    | 6 of 14       | D               |
| Proposed Upper Floor Plan     | CYBER                        | 4/06/2021    | 7 of 14       | D               |
| Roof Plan                     | CYBER                        | 4/06/2021    | 8 of 14       | D               |
| Proposed Elevations (NE & SW) | CYBER                        | 4/06/2021    | 9 of 14       | D               |
| Proposed Elevations (NE & SE) | CYBER                        | 4/06/2021    | 10 of 14      | D               |
| Sections                      | CYBER                        | 4/06/2021    | 11 of 14      | D               |
| Landscape Plan                | CYBER                        | 4/06/2021    | 14 of 14      | D               |
| Site Levels and Drainage Plan | Karamisheff<br>Nagel Pty Ltd | 31/05/21     | 20-138-P01    | C               |

2. The approved opening/operating hours of the chemist and medical centre are:
  - Monday to Friday 8.00am – 10.00pm
  - Saturday 8.00am – 9.00pm
  - Sunday and Public Holidays 10.00am – 5.00pm

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

\$20,023.77

GL S94ACVCOthResAcco

This amount is based on the following calculation

- a Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01
- b The value of development stated in the application was \$2,002,377.30

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

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

### Building

5. **Working/Construction Hours Working hours on construction or demolition shall be limited to the following:**

**7.00 am to 6.00 pm Monday to Friday**

**8.00 am to 6.00 pm on Saturdays**

**No work permitted on Sundays and public holidays**

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

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

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

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

- 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).

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

the work, and

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

9. A vehicular crossing to provide access to the allotment as detailed on the approved plans is to be constructed in accordance with the requirements of Council's Operations Section and be fully completed prior to requesting a final inspection and the issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved by Council prior to any work commencing.
10. **Home Building ACT** - Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifier for the development to which the work relates:
- a has been informed in writing of the licensee's name and contract licence number; and
  - b is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
  - c has been informed in writing of the person's name and owner builder permit number, or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of **owner-builder work** in Section 29 of that Act.

A Certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that part is sufficient evidence the person has complied with a and b.

11. 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.
12. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
- The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate.
13. All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by a registered surveyor prior to construction commencing. A copy of this survey shall be submitted to Council at the footing/slab inspection.
14. A dilapidation report, containing internal and external photographs, shall be submitted to Council for buildings located either side of the development site prior to demolition/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.
15. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.
16. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy, the relevant requirements of SafeWork.
- a Work Health and Safety Act 2011 and associated regulations
  - b SafeWork NSW Code of Practice - How to Safety remove Asbestos.
  - c Australian Standard 2601 (2001) – Demolition of Structures
  - d The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

A copy of Council's Asbestos Policy is available on Council's web site at

[www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) or a copy can be obtained from Council's Customer Service Centres.

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

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

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

18. Only a WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
19. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
20. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot. Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
21. An Asbestos Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the asbestos related works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied

### Engineering

22. 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.
23. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
24. An ITP must be submitted for approval with the application for a **PWC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are

made. Hold Point, Witness Point, On/Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
- b Erosion & Sedimentation Controls
- c Roadworks
- d Stormwater Drainage
- e Other Services
- f 'On Maintenance' (Public Infrastructure)
- g 'Off Maintenance' (Acceptance of Public infrastructure by Council)

- 25. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **TfNSW** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
- 26. Prior to issue of the Occupation Certificate, the applicant is to provide water supply infrastructure to service the property, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and NRDC.
- 27. Each use of the development shall be metered separately. This will require individual water meters to provide separate servicing to the residential and commercial components of the development (i.e. a minimum of one water meter and connection for the dwellings, and one water meter and connection for the retail section – minimum two meters in total).
- 28. The residential component shall provide a separate property service with a single water meter servicing all dwelling units or individual meters for each dwelling unit (not both). 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.
- 29. A Road Network Design Plan must be submitted for approval with the application for a **PWC**. Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**.

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

- 30. Prior to the issue of the Occupation Certificate, Little High Street and Coldstream Lane are to be widened and sealed with provision of dish drain, in accordance with the requirements of this condition. A Road Design Plan must be submitted for approval with a **PWC** application.

Little High Street and Coldstream Lane must be upgraded for the full frontage of the lot to provide;

- a Concrete dish drain to match existing alignment in Little High Street and extended along Coldstream Lane in accordance with the DA approved plan.
- b Road pavement and seal widening in accordance with the DA approved plan.
- c Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm with prime.
- d Minimum depth of suitable compacted sub-base and base material.
- e Adequate tie-in to existing pavement, seal and stormwater drainage infrastructure within the road reserve.

Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**. **PWC** approval is to be obtained prior to issue of the building Construction Certificate.

31. The dedication, free of cost to Council, of road widening is required. This will require dedication of 1.5 metres of land along the Little High Street frontage, and 0.6 metres of land along the Coldstream Lane frontage of the property. Land is to be dedicated to Council prior to issue of Occupation Certificate.
32. 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 **PWC** or Building Construction Certificate, whichever occurs first. 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.
33. For works which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council prior to the release of any Occupation Certificate. The return is to be in the format approved by Council.
34. In accordance with **NRDC** and prior to the release of the Occupation Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
- Where sewer works are involved the **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.
35. Prior to release of the Occupation Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development
- All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons or if a Subdivision Certificate approval is delayed beyond the maintenance period.
- At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with **NRDC**.
- Where constructed works to become public infrastructure have been controlled by private certifier Council must attend the 'Off Maintenance' inspection. The documentation, compliance and performance of the constructed works must be in accordance with **NRDC** for Council to accept responsibility for the infrastructure.
36. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the DA approved plan and made available thereafter. The car parking classification is Class 2 for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must

be accessible by B99 vehicles.

37. Prior to the issue of the Building Construction Certificates, 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.
38. Accessible grades and paths of travel are to be provided from carparking bays through to the main entrance of the building in accordance with AS1428.1 and the Building Code of Australia.
39. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued or the development is accepted 'Off Maintenance'.
40. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **PWC** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public/private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier.
41. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.



|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.043</b> | <b>DA2020/0188 – DUAL OCCUPANCY AND TWO LOT SUBDIVISION – 4 LITTLE RIVER CLOSE, WOOLI</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | Yes  |              |

**SUMMARY**

|                    |   |
|--------------------|---|
| <i>Applicant</i>   | Alex Dounis – Residential Logistics Pty Ltd                       |
| <i>Owner</i>       | William and Karen O'Donohue                                       |
| <i>Address</i>     | 4 Little River Close, Wooli                                       |
| <i>Submissions</i> | Yes – 1 Submission against and 1 Petition against (7 signatories) |

Council is in receipt of Development Application DA2020/0188 which proposes a Dual Occupancy and 2 Lot Subdivision at 4 Little River Close, Wooli. The proposed development was notified in accordance with the Community Participation Plan, 1 submission and 1 Petition with 7 signatories against the proposal was received.

The proposal is considered to be an overdevelopment of the site and will not comply with Council's On-Site Waste Management Strategy in a sensitive coastal location. These concerns have also been raised in the submissions objecting to the proposal.

Council staff are recommending refusal of the application which is outside of Council staff delegations; therefore the application is forwarded to Council for a decision. The report provides an assessment of the application and a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council not support the variations sought to the *Clarence Valley Local Environmental Plan 2011* and *Clarence Valley Residential Zones Development Control Plan* and refuse Development Application DA2020/0188 on the following grounds:

- The proposed on-site wastewater system does not comply with the Clarence Valley On-Site Sewerage Management Strategy;
- The development will have a significant impact on the items under Clause 11 Development on land in proximity to Coastal Wetlands and Littoral Rainforests of the State Environmental Planning Policy (Coastal Management) 2018;
- The development cannot be managed to mitigate the adverse impacts on the items under Clause 13 Development on land in proximity to Coastal Wetlands and Littoral Rainforests of the State Environmental Planning Policy (Coastal Management) 2018; and
- The proposal is overdevelopment of the site.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Baker, Clancy, Simmons, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

## BACKGROUND

Development Application DA2020/0188 was lodged on 14 April 2020 proposing a 2 Storey Semi-Detached Dual Occupancy and 2 Lot Subdivision at 4 Little River Close, Wooli. Each dwelling is to contain 4 bedrooms and will be located on lots 100; 368.7m<sup>2</sup> and 101 370.60m<sup>2</sup> in an area that also requires separate on-site wastewater management systems. The subject land is zoned R2 Low Density Residential under the *Clarence Valley Local Environmental Plan 2011* (the LEP) and the proposed development is permissible with consent in the zone.

### Plan of Proposed Subdivision of Lot 18 in DP 856096 No.4 Little River Close, Wooli

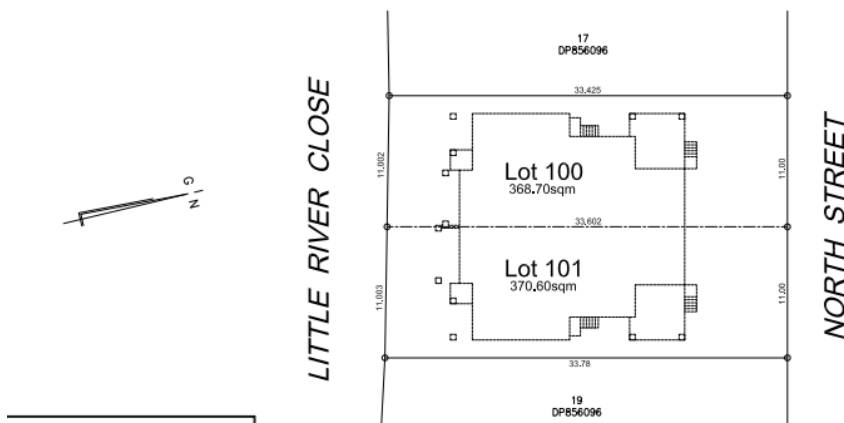


Figure 1 – dwellings and layout

The proposal was notified from 16 to 30 April 2020, 1 submission and 1 petition against the development with 7 signatories was received during the exhibition period. The main issues raised in the submissions include stormwater drainage, on-site sewerage management, significant adverse impact to adjoining properties, the proposal is out of character with the locality in terms of bulk and scale, privacy, parking and ecological impacts.

The Applicant has requested a Clause 4.6 variation to vary the maximum building height of 9m required under Clause 4.3 of the LEP, the maximum height of the structure is 9.693m (a 7.7% variation). The Applicant has also requested a variation to the following clauses of the Residential Zones Development Control Plan (the DCP):

- Clause C10 – Minimum Site Area for Dual occupancies and Semi-detached dwellings (7.6% variation)
- Clause C13 – Building Height (7.7% variation to the DCP)
- Clause C16 – Setbacks (33.3% variation to the front setback of balconies and supports)

Council officers have requested on 3 occasions for the on-site wastewater report to be amended to reassess the wastewater viability of the proposal as Council officers have concern that the disposal area is undersized for the proposal. Council officers also advised that it was likely the number of bedrooms and the footprint of the proposal would need to be reduced to address Council's wastewater management concerns. The Applicant and wastewater consultant requested that Council consider the proposal without the subdivision component just as a dual occupancy, however this does not address the wastewater management issues. After consulting with the wastewater consultant in regard to this proposal, all possible wastewater options to continue the project in its current form seem to have been exhausted. Consequently, the Applicant has advised the owner is not prepared to amend the development proposal and has requested that Council staff assess the application based on the information available.

## KEY ISSUES

### 1. Variations sought to Clarence Valley Council's Planning Controls

#### Height variation to Clarence Valley Local Environmental Plan

The applicant has provided a written request to vary a development standard pursuant to Clause 4.6 of the LEP, that being the 9m maximum height limit under Clause 4.3. 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:
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - 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 height:

- The proposed development exceeds the maximum height requirement due to the flood characteristics of the site,
- The maximum building height standard of 9m restricts the attainment of good urban design principles established for this particular site which is influenced by the flood characteristics of the site,
- The variation is very minor, being approximately 7.7% over the permitted height,
- Apart from the roof ridge within the central core of the building, the development complies with the maximum building height requirement,
- As such, no adverse visual impacts are perceived when viewed from the public domain, and
- the proposed variation is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.



Right (Eastern) Elevation

Figure 2, area highlighted in red shows extent of variation sought.

Comment:

The proposed height variation is minor as shown in Figure 2 and is predominantly the result of complying with the flood planning controls for the floor height. Due to the design including the first floor being stepped in and the roof design there is not expected to be any significant overshadowing issues created as a result of the increased height. Additionally, window placement along the east and west elevation of the first floor will not create an overlooking or privacy issue to adjoining residences. Clause C15 of the DCP may allow variations to the height controls in the following circumstances:

- to meet flood control requirements of Part D of this DCP only if the fill required is less than 1 metre in height, or
- to enable development to be stepped down a steep slope where a 6.5 metre maximum building height applies.

The Applicant is required to meet Council's Floodplain Management Controls minimum floor height requirements of 3.2m AHD, it is therefore necessary for the building to be raised approximately 850mm from existing ground level to comply. The Applicant is proposing bearer and joist construction and therefore no importing of fill is required to raise the site however the sub floor area will be enclosed which may restrict the flow of water during flood events.

#### Variations to the Residential Zones Development Control Plan

Pursuant to Clause A9 of the Residential Zones Development Control Plan (the DCP) Council can grant consent to a development proposal that does not comply with the specific requirements of this DCP after considering the particular merits of a development proposal. Justification for departure from the DCP requirements must be provided with the Development Application and the overall objectives of the DCP

achieved. The Applicant has submitted a written request to vary Clause C10 – Minimum Site Area for Dual occupancies and Semi-detached dwellings, Clause C13 – Building Height and Clause C16 – Setbacks.

Clause C10 – Minimum Site Area for Dual occupancies and Semi-detached dwellings

The minimum site area required for semi-detached dwellings in the R2 zone is 800m<sup>2</sup> in unsewered areas. The subject site is 739m<sup>2</sup>.

The Applicant has justified the reduced site area for a semi-detached dwelling as follows:

- the application is accompanied by an Effluent Management Report prepared by Truewater Australia which demonstrates that a suitable disposal system can be provided,
- The site also benefits from two street frontages which reduces any potential rear privacy concerns, and
- In October 2012, the Department of Planning amended the EP&A Act (EP&A Amendment Act 2012) to reinforce that DCP's are guidelines and should be treated as such by councils.

On-site wastewater management was a key issue raised in the submission received and also the area identified for on-site disposal frequently becomes inundated during rain events.

Comment:

Clause C10.2 of the DCP may permit a variation to these site area requirements if;

- a) *all other requirements of this plan are met, i.e. height limit, landscaped area requirements, private open space provisions, setbacks and car parking.*
- b) *the allotment utilises two formed street frontages.*
- c) *the streetscape and character of the neighbourhood are not detrimentally affected.*

*All these requirements must be met.*

The proposed development does not meet the requirements of a) above as the height limit is exceeded for the subject site and the balconies encroach into the front setback, other aspects of non compliance with the plan are discussed below. Furthermore, although the site has frontage to North Street and Little River Close, the proposed development only utilises 1 street frontage; Little River Close. The surrounding development in Little River Close is a mix of single and 2 storey dwellings with a mix of both weatherboard and brick dwellings. Despite the modern design of the building the proposal is consistent with surrounding development. The bulk and scale of the development is considered to have adverse impacts on the streetscape, however can be managed through protecting existing trees on-site and landscaping as per the plans submitted to soften the impact. As a consequence of the subject site not meeting the minimum site area, the proposed subdivision will result in both lots created being below the 400m<sup>2</sup> minimum lot size for a dwelling, each lot will be approximately 370m<sup>2</sup>.

On-Site Wastewater Management

As stated by the Applicant in their Statement of Environmental Effects, the main purpose of the minimum site size is the ability to provide a suitable on-site wastewater system that satisfies the NSW Health Criteria. A single pump well is proposed for each dwelling with a common disposal area. Council officers have liaised with the Applicant and author of the Wastewater consultants report and raised the below concerns, however are reluctant to amend the proposal. Clause C24.3 – Disposal and Management of Sewerage reads as follows:

- (a) *Subdivision and development must be connected to a reticulated sewerage system. Where connection to a reticulation sewerage system is not available nor otherwise possible, wastewater disposal must comply with the Clarence Valley Council On-site Wastewater Management Strategy 2005.*

The subject site is wholly within a 100m Coastal Wetland buffer, the Coastal Environment Area and within 100m of the Wooli Wooli River, forming part of the Solitary Islands Marine Park and known for its strong oyster farming industry and due to the issues raised below the proposal has the potential to put this industry at risk which should be avoided.

The issues identified in assessing the report include prohibitive site density, highly permeable soils, shallow ground water, shading and system size concerns, reduced setbacks, vegetation, no reserve Land Application Area, and a design reliant on hydraulic land application area alone. These issues are discussed in detail below:

- The Applicant is seeking multiple variations to the setbacks to boundaries for the location and area of the Land Application Area (LAA) of the effluent which are not supported,
- For small lots Table A1 in the Australian Standard AS/NZS 1547 states risk reduction measures of decreasing the limit/scale of development/occupancy and being of conservative design. Further Table K2 requires a LAA reserve be provided and the LAA be designed for multiple land uses.

- Table K2 of The Australian Standard AS/NZS1547 states that the disposal method proposed in this report would not be suitable for the soil conditions.
- The Australian Standard AS/NZS1547 requires that a reserve LAA is provided (AS/NZS1547 Table K2 small lot size 100% reserve area required). The proposal does not allow for a reserve LAA and would require a variation to the Australian Standard AS/NZS1547.
- Septic trench hydraulic design in highly permeable soil would result in pollution of ground water. Hydraulic design is only permitted on existing failed systems. The OSM Report states that saturated soils were encountered at 1.2m, an indication of a possible water table and limiting soil profile. However, the modelling provided in the report proposes a water table at 2m not 1.2m as discussed in the report. If the model was done with groundwater at 1.2m, this significantly increases the area required for nutrient disposal.
- The Australian Standard AS/NZS1547 requires that a reserve LAA is provided (AS/NZS1547 Table K2 small lot size 100% reserve area required). The proposal does not allow for a reserve LAA and would require a variation to the Australian Standard AS/NZS1547.
- The removal of vegetation or reduced solar exposure of the LAA from vegetation or fencing has not been considered. Some of this vegetation is within the North Street road reserve and is unlikely to be supported to facilitate a private development. *A reduction in the amount of sun and wind reduces the effectiveness of land application systems*.
- The proposed Land Application Area takes up the majority of private open space at the rear of the lots which may inhibit any recreation or gardening activities. The Australian Standard AS/NZS1547 states; *“Activities within the land application areas such as recreational games, gardening, or grazing animals shall be controlled or prohibited so that soil compaction or interference with the function of the current and future land application system is minimised and people avoid potential contact with effluent residues”*.
- All stormwater/runoff must be collected and directed away from the LAA.
- The CVC OSM Strategy does not allow for hydraulic design in new developments or highly permeable soils. This proposal relies entirely on hydraulic design and would require a variation to the CVC OSM Strategy which states, *“Council may consider LAA’s based on hydraulic design with designated Nutrient areas available on the proposed lot/s. This option will not be permitted in highly permeable soils (sand, sandy/loam, loam) or if buffer distances cannot be achieved. The hydraulic design must be based on 150L/person/day from AS/NZS1547(2012) and the CVC OSM design model.”*

Under the SEPP, Clause 11 Development on land in proximity to Coastal Wetlands and Littoral Rainforests development consent must not be granted unless the consent authority is satisfied the proposal will not significantly impact on the following:

- a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Clause 13 Development Within the Coastal Environment Area development consent must not be granted unless the consent authority has considered if the proposed development is likely to cause adverse impact on the following: -

- a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- b) *coastal environmental values and natural coastal processes,*
- c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1.*

On the basis of the above comments made in regards to the proposed on-site wastewater management plan, it is considered that the on-site effluent cannot be suitably disposed of on-site as the on-site wastewater system does not satisfy the NSW Health Criteria and Council’s On-Site Wastewater Management Strategy. The proposal may result in pollution of groundwater and may also impact on the quality of surface water which likely to end up in the river to coastal wetland areas and put local oyster growers at risk. Consequently, Council cannot be satisfied that the requirements under the State Environmental Planning Policy (Coastal Management) 2018 (the SEPP) are met.

#### Clause C13 – Building Height

A maximum building height applies to the subject site of 9m in the provisions of the DCP, a maximum top plate height of 6.5m also applies in the circumstances. The height of the proposed structure is 9.63m<sup>2</sup> to the ridge height and 6.7m to the top plate. Refer to the assessment under Point 1 above for Applicants justification for the exceedance of the maximum building height.

Clause C16 - Setbacks

A minimum front setback of 6m is applied to the site and based on the height of the structure over 9m a 3m setback to the side and rear apply. The front setback to the first floor balcony is 4m, the entry and roof structure in front of the garage also encroach within the 6m front setback. The front of the proposed building is 6m from the front boundary. The side setback is 1.5m for the ground floor storey, with the first floor stepped back in to be 3.1m which complies with the required setback. A rear setback of 8.6m is proposed. The Applicant has justified the reduced front setback as Little River Close, in the vicinity of the subject site comprises inconsistent front setbacks.

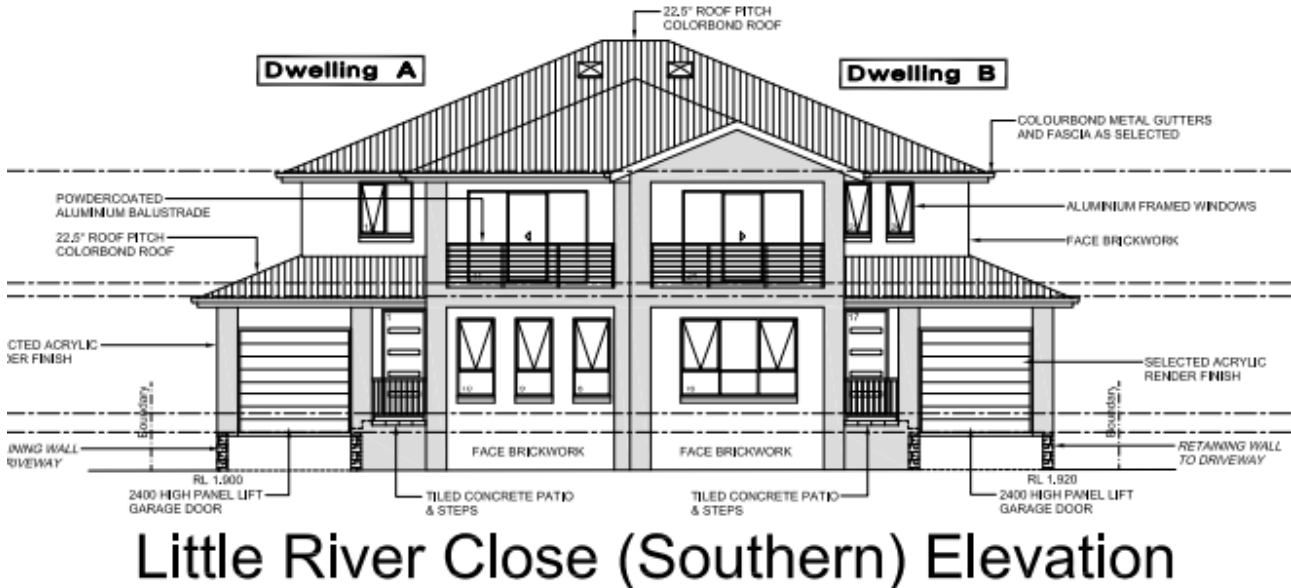


Figure 2 shows the first floor stepped in to increase the side setback.

**Comment:**

The overall encroachment of both buildings within the front setback is minor. The first floor balcony is 4m, the entry and roof structure in front of the garage are all open structures and will not dominate the streetscape subject to protecting existing trees on-site and landscaping as per the plans submitted to soften the impact. Furthermore, decreasing the front setback will give greater area for effluent disposal on the northern side of the proposal. The garage remains suitably setback to enable a vehicle to park on the driveway and be wholly contained within the subject property.

**Conclusion**

The cumulative impact of the variations sought to the building height and setbacks under the LEP and DCP, although individually could be considered minor in nature, result in a greater development footprint and floor area of each dwelling resulting in the need for a greater disposal area for effluent on an already small constrained site. It is recommended that Council uphold the DCP controls and not support a variation to the site area, building height or front setback due to a non-compliance on-site wastewater system. By not meeting Council's On-site Wastewater Management Strategy the potential impacts to coastal wetlands and the Wooli Wooli River should not be supported.

Alternatively, Council may opt to support the requested variations to building height, site area and front setback and approve the development. This would however result on an on-site wastewater system being non-compliant with the strategy which could result in ongoing issues for Council's officers in terms of compliance and may comprise the nearby coastal wetland. This option is not the Officer Recommendation.

**2. Other Issues raised in Submissions**

The main issues raised in the submissions not already discussed in the report above include stormwater drainage and parking.

Drainage of stormwater from the subject site.

**Comment:** The Development Engineer has reviewed the proposed stormwater management plans submitted with the development application. On-Site Detention in the form of rainwater tanks will be required and grated pits are to be installed to collect surface water from the site before it is discharged to Little River Close.

Concern was raised in the submission that both dwellings would be used for short term holiday accommodation and that cars would congest Little River Close, further being that Wooli is a popular fishing spot there is no space for a boat to be parked.

Comment: Under the provisions of the DCP, 1 covered car space is to be provided for each dwelling. The Applicant has provided a single garage space for each dwelling with enough space to also park a vehicle in the driveway.

## 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 & Assessment Act 1979*

*Environmental Planning & Assessment Regulations 2000*

*State Environmental Planning Policy No. 55 – Remediation of Land*

*State Environmental Planning Policy (Coastal Management) 2018*

*Clarence Valley Council On-Site Wastewater Management Strategy 2019*

*Clarence Valley Local Environmental Plan 2011*

*Residential Zones Development Control Plan*

### Consultation

The development application was referred externally to the NSW Rural Fire Service as integrated development and to Essential Energy due to proximity to electrical infrastructure, no objection to the proposed development were raised with relevant conditions provided. The following internal sections of Council were consulted with during the assessment process:

| <i>Internal Section or Staff Member</i>         | <i>Comment</i>            |
|---|---------------------------|
| Development Engineer                            | Supported subject to      |
| Environmental Health (OSM)                      | Does not support proposal |
| Building and Environmental Services Coordinator | Does not support proposal |

### 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  | <ol style="list-style-type: none"> <li>1. Proposed Plans</li> <li>2. Submissions and Petition</li> <li>3. Section 4.15 Report</li> </ol> |

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.044</b> | <b>DA2020/0725 – 52 SENIORS LIVING UNITS, TWO (2) LOT SUBDIVISION AND ASSOCIATED FILLING – LOT 2 DP 790910 CARRS DRIVE, YAMBA</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

## SUMMARY

|                    |                                 |
|--------------------|---------------------------------|
| <i>Applicant</i>   | A Fletcher & Associates Pty Ltd |
| <i>Owner</i>       | Dougherty Bros Pty Ltd          |
| <i>Address</i>     | Carrs Drive, Yamba              |
| <i>Submissions</i> | Yes - 44                        |

Development Application DA2020/0725 seeks approval for a two (2) lot subdivision, construction of 52 self contained seniors living units and associated site filling.

The DA was notified in accordance with Council's Community Participation Plan and 44 submissions were received during the notification period. Issues raised in the submissions include – impacts of fill on flooding, groundwater, stormwater and drainage patterns, haulage of fill and impacts on road pavement, noise impacts from construction hours, density of development, biodiversity, lack of master plan for West Yamba, lack of parking and amenities for seniors living, lack of green space and pedestrian/cycleways, emergency plan for evacuation, lack of local services and facilities to service the increase in population and impacts from an increase in traffic.

This report provides an assessment of the application, issues raised within the submissions and a recommendation for Council's consideration.

## OFFICER RECOMMENDATION

That DA2020/0725 be approved subject to the imposition of the Advices and Conditions contained in Schedule 1.

## COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Williamson, Simmons

Against: Novak, Clancy

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

## BACKGROUND

Development Application DA2020/0725 was lodged with Council on 20 November 2020. The subject land is zoned R1 General Residential under the provisions of the Clarence Valley Local Environmental Plan 2011.



Description of proposed works

The proposed development includes:

- A two (2) lot subdivision (Figure 1) to create:
  - Proposed Lot 20 containing the seniors living units (2.2ha)
  - Proposed Lot 21 being the residue lot (8.807ha)
  - Dedication of a 7m wide strip as road for Carrs Drive frontage which will contain the existing shared pathway
- Construction of 52 seniors living units (Figure 2) consisting of:
  - 37 x 2 bedroom units with single or double garages
  - 15 x 3 bedroom units with single or double garages
  - Village centre, pool, gym, bocce court, pool store and 6 visitor car parking spaces (including 2 disabled)
  - 10.5m wide gated driveway to Carrs Drive plus separate security pedestrian access
  - Retention of the existing shared cycleway to the Primary School on land to be dedicated to Council as road
  - Bus and buggy store
  - Waste collections areas
- Filling of proposed lot 20 to a minimum level of 2.8m AHD to achieve a minimum building floor level of 3.0m AHD. This involves approximately 42,800m<sup>3</sup> filled up to a maximum 2.5m depth. The fill will be supported by 1:4 batters along the northern and eastern boundaries, extending up to 10m into the properties adjoining both of these boundaries. It will be retained along the southern boundary with a wall height ranging from 1.4-2.1m at the rear.

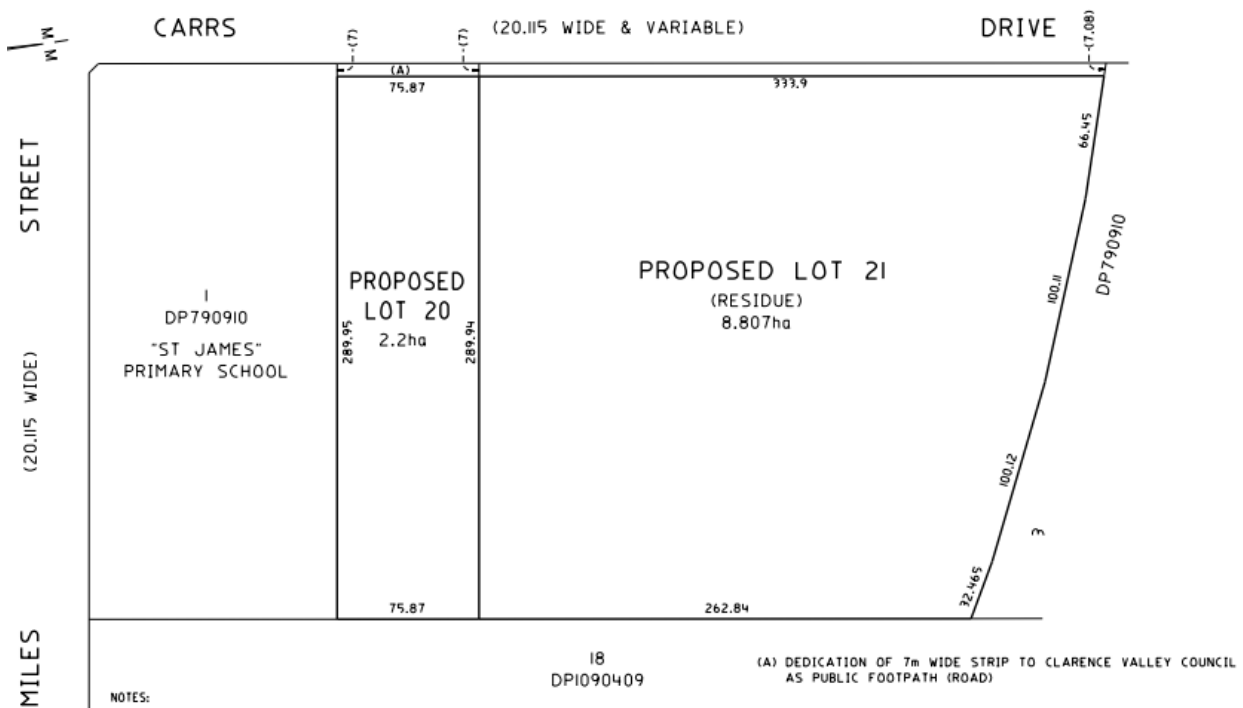


Figure 1 - Extract of Proposed Subdivision Plan – A Fletcher & Associates Drawing 7552SUB

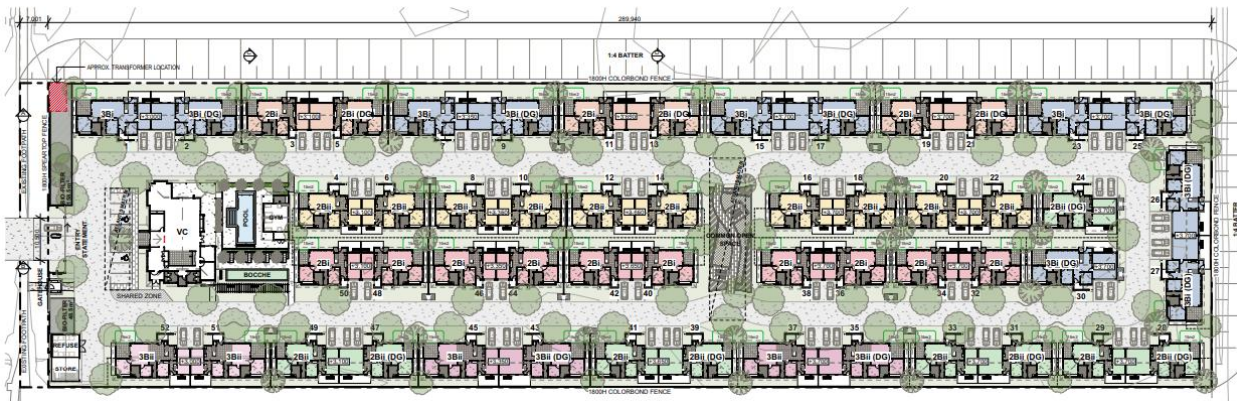


Figure 2 - Extract of Site Plan – 52 Seniors Living Units – CKDS Drawing No. DA1003

The proposed development is defined as seniors housing under the provisions of the plan as follows:

**Seniors housing** means a building or place that is:

- (a) a residential car facility, or
- (b) a hostel within the meaning of Clause 12 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)-(c), and that is, or is intended to be used permanently for:
  - (e) seniors or people who have a disability, or
  - (f) people who live in the same household with seniors or people who have a disability, or
  - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

The proposed development is permissible with consent within the R1 General Residential Zone and is consistent with the following objectives of the zone:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

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

The proposed Seniors Living Units are defined as “self contained dwellings” for the purposes of this application under the SEPP (Housing for Seniors or People with a Disability) 2004. The self contained dwellings are permissible on the land subject to development consent in accordance with Clause 4(1) of the SEPP.

A self contained dwelling is defined as a dwelling (or part of a building (other than a hostel), whether detached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling.

The proposed dwellings are consistent with the objectives of the SEPP to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

The development complies with the standards applying to self contained dwellings contained under Schedule 3 of the SEPP.

In accordance with Clause 18 of the SEPP, Council must ensure/condition the development that only accommodation of the following is permitted:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided in accordance with the SEPP.

A restriction as to user is required to be registered against the title of the property on which development is to be carried out, in accordance with 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to above.

#### West Yamba Urban Release Area

The land is located within the West Yamba Urban Release Area (WYURA). A full assessment against the controls set out in Part X – Urban Release Areas of the Residential Development Control Plan (DCP) is contained within the Section 4.15 assessment. Overall, the proposed development is not inconsistent with the controls set out in the DCP.

### KEY ISSUES

#### 1. Biodiversity

Concerns were raised within the submissions regarding the impacts of the development on biodiversity and filling of a wetland.

#### Comment

The subject land is not identified as a mapped wetland or within the coastal use area under the provisions of the *State Environmental Planning Policy (Coastal Management) 2018*.

A Biodiversity Development Assessment Report (BDAR) was prepared under the provisions of the *Biodiversity Conservation Act 2016* by JWA Pty Ltd (dated May 2021) for the subject land to identify the impacts of the proposal on the biodiversity values on the site. In conclusion of the report it was found that the proposal will result in a total of 2.26ha of unavoidable impacts including a small area required to be cleared within the road reserve. The report states that of this area, 2.25ha is comprised of highly modified vegetation (i.e. has been historically cleared and is currently grazed by cattle and maintained by slashing).

The assessment concluded that one (1) Plant Type Community (PCT) comprising two (2) separate vegetation zones occurs within the development site:

- Vegetation Zone 1 – cleared/highly degraded vegetation derived from PCT 1064 – Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion. This vegetation has been historically cleared, is regularly maintained via slashing and is therefore a highly degraded example of the TEC – Swamp Scherophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion, Sydney Basin and South East Corner Bioregions as listed within Schedules of the BCR
- Vegetation Zone 2 – vegetation within the adjoining road reserve that is also considered to be representative of PCT 1064 - Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion. Although this vegetation occurs within a thin strip within the road reserve, it is significantly established both structurally and composition wise to be representative of the TEC – Swamp Scherophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion, Sydney Basin and South East Corner Bioregions as listed within Schedules of the BCR.

As a requirement of the Biodiversity Assessment Method (BAM), the environmental assessments and calculations undertaken in the BDAR has found the proposal requires the offsetting of:

- 34 ecosystem credits for impacts on PCT1064 – Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion, and
- 1 species credit for impacts on the Spider Orchid (*Dendrobium melaleucaphilum*)

In accordance with the NSW Biodiversity Offset Scheme (BOS) the offset rules permit proponents to meet their offset obligation by:

1. Purchasing the required 'like for like' and then retiring those credits via the OEH Biodiversity Offsets and Agreement Management System (BOAMS), or
2. Making a payment to the Biodiversity Conservation Trust calculated using the offset payments calculator

The Biodiversity Offset Payment Calculator has estimated that 34 credits for PCT 1064 and 1 credit for the Spider Orchid requires the payment of **\$150,108.68 into the Biodiversity Conservation Trust (BCT)**. **The BCT was established under the BC Act to administer conservation on private lands through stewardship agreements. The proponent has the choice to pay this amount to the BCT, or retire credits from stewardship sites, as stated above. The development application will be conditioned accordingly.**

As part of the revised BDAR assessment, comments from the Department of Planning, Industry and Environment – Biodiversity and Conservation Division were sought. As per their letter dated 6 July 2021, the BDAR was found to be satisfactory in accordance with the Biodiversity Offset Scheme.

## 2. Impacts of fill on Groundwater and drainage patterns

Concerns were raised within the submissions regarding the impact of fill on groundwater and natural drainage patterns in the area. As part of the application, Council staff sought additional information regarding groundwater assessment. In response, the applicant had a Preliminary Groundwater Study which included a Conceptual Hydrogeological Model undertaken by Douglas Partners Pty Ltd (copy in attachments). As part of the report, a desktop assessment of the possible impacts to groundwater levels on the site and adjacent areas including possible effects of consolidation/compaction of the natural ground surface during and after the placement of fill was considered.

### Comment

Page 7 of the report states:

*The site and surrounding flood plain is underlain by an unconfined sand aquifer which is likely to have high transmissivity for groundwater flow. Groundwater recharge will generally be from surface rainfall with flow directions potentially dependant on seasonal conditions.*

*During and after relatively wet rainfall conditions groundwater levels can be expected to come close to or above the surface and groundwater flows may be locally affected by localised drainage features and may follow relatively closely the surface water flow directions shown on Drawing 1, with localised flow likely towards the north and west. Due to the high transmissivity of the aquifer, as well as likely high evapotranspiration levels due to shallow groundwater, levels can be expected to fall relatively quickly in drier rainfall conditions. When groundwater levels fall below the levels of the local surface drainage features then groundwater flow directions are likely to become more regional and controlled by the larger permanent surface water features, with flow approximately to the east and west as shown by the red arrows on Drawing 1.*

*Page 7 of the report states 'The proposed development is likely to result in reduced rainfall infiltration and evapotranspiration in paved areas, which comprise the majority of the development, with concentrated recharge in the areas of two proposed stormwater infiltration basins. Due to the loss of evaporative components of the water mass balance, the overall volume of groundwater recharge is likely to be higher post development. The higher recharge will lead to higher groundwater levels which are likely to be localised and confined to close proximity to the infiltration basins. Given the relatively small area of the site compared to the overall aquifer catchment areas, and the presence of local drainage features, changes to more regional groundwater flow and levels are expected to be insignificant and well within seasonal variations.*

*Placement of sand filling will also allow groundwater levels to potentially mound above existing surface levels within the filling. This is only likely to occur under more extreme rainfall/flooding conditions and groundwater would be expected to drain relatively quickly provided any silty sand topsoil is stripped prior to placement of the sand and with the installation of appropriate subsoil drainage. Some mounding may also occur in close proximity to the infiltration areas following more typical rainfall and the potential for this should be considered as part of detailed design and taken into account for sizing of the infiltration areas'.*



Figure 3 - Extract of Drawing 1 – Douglas Partners dated 29 June 2021

The Interim report includes the following recommendations:

*Given the presence of an upper silty sand layer at the site, it is recommended that this layer is stripped prior to placement of sand fill platform, to ensure high hydraulic conductivity between the proposed development and underlying subsurface.*

*This desktop study is a preliminary study only for the proposed development as described in Section 3. To understand the true site-specific groundwater conditions at the site, the following scope of work is recommended:*

- *Detailed walkover of surface water bodies to investigate possible discharge areas and paths and survey of drainage bed levels where accessible.*
- *Drilling and installation of groundwater wells at upgradient/downgradient locations to assess groundwater level and response to rainfall;*
- *Water level monitoring, comprising data loggers in groundwater wells;*
- *Hydraulic testing of monitoring wells and particle size distribution testing of soil samples to estimate soil hydraulic conductivity; and*
- *Groundwater modelling using site specific water level data to understand behaviour of groundwater level at the site and possible long term impacts to development, if any.*

*The above scope of work is recommended to refine the preliminary conceptual hydrogeological model (CHM), assess potential impacts on groundwater level and surface water at the site from the proposed development and future developments.*

After consideration of the Preliminary Groundwater Study report, a refined Conceptual Hydrogeological Model (CHM) must be submitted which must consider any adjacent property or infrastructure affected by the development, tidal influences on the groundwater flows and SWMP amendments by MPC Consulting Engineers Reference 200591 dated 31 March 2021. If the CHM identifies that the development may increase the levels of groundwater, recommendations are to be included in the accompanying Groundwater Study Report about how this is proposed to be ameliorated.

Further to the recommendations contained in the Preliminary Groundwater study Report and to ensure that there is adequate groundwater investigations prior to and following placement of fill, Council requires the placement of a minimum of three (3) groundwater monitoring wells for a minimum of 6 months at upgradient/downgradient locations prior to filling, for the duration of filling and a minimum of 12 months after an Occupation Certificate is issued. The data from these wells must be provided to Council at any time.

Further to the above, a detailed design of the engineered fill platform generally consistent with the Preliminary Groundwater Study Report by Douglas Partners Reference 89980.01 dated 29 June 2021 must be submitted with the Groundwater Study Report for the revised CHM for approval by Council and/or accredited private certifier prior to the commencement of works and issue of the Construction Certificate. The detailed design is to incorporate any recommendations contained within the revised CHM. It should be noted that in preparing the Groundwater Study, Douglas Partners undertook two (2) cone penetration tests at a depth of 24m and 17.06m which determined that the soil encountered was medium dense-dense sand. Groundwater was observed at 0.7m depth for these two tests.

Through the above recommendations and appropriate conditioning, Council staff are satisfied that adequate measures will be in place if it is found that the placement of fill in this location will impact on groundwater on the site and/or adjacent properties.

### 3. Flood modelling and Impacts of fill on Flooding

The main concern of all submissions received is the impact of filling on flooding in the area and an adhoc approach to assessment for individual applications.

#### Comment

The 'Lower Clarence Flood Model Update 2013' report adopted by Council in March 2014, gives a 1 in 100 year ARI flood height for this area of West Yamba of RL 2.1 metres AHD which, with a freeboard of 0.90m gives a flood planning (residential floor) level of RL 3.0m AHD.

Detailed flood modelling has been undertaken for the whole of the WYURA by BMT WBM Pty Ltd. This consultant is responsible for developing the 'Lower Clarence Flood Model Update 2013' and previous flood modelling. They are also the flood modelling consultant for other WYURA developers which provides a consistent approach to flood assessment across the release area. The January 2018 report (copy in attachments) is the latest adopted report by Council which was approved as part of a previous development upon Lot 1 DP568545 for a 200 dwelling manufactured home estate by DA2018/0373.

The area of the proposed development site is only 1.8% of the total area to be developed at West Yamba. The filling of this land in isolation is not likely to impact on flooding behaviour in this location or the residential areas adjacent to the WYURA, but will contribute to the cumulative effect of filling the entire WYURA.

Stormwater from the development must meet the principles of NorBe which 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. Additionally, the provision of infrastructure required to be constructed as part of the Carrs Drive upgrade will ensure that there will be an adequate stormwater drainage network to discharge flood flows from the areas surrounding the site that would naturally flow across the land.

The BMT WBM January 2018 report concluded that:

- *The WYURA is shown to be inundated by the 20 and 100 year ARI events but not the 5 year ARI event under baseline (existing) conditions.*
- *Peak flood elevations at West Yamba are approximately 1.7m AHD and 2.1m AHD for the 20 and 100 year ARI events respectively.*
- *Peak baseline inundation levels at West Yamba are lower (typically by 0.4m) than corresponding levels of the northern side of the Yamba Road. This is due to the elevated Yamba Road constraining overtopping.*
- *Peak design flood levels at West Yamba occur as a result of storm surge (as opposed to riverine/catchment flooding) based on Council's adopted design scenarios.*
- *Mitigation of the WYURA relies principally on a large floodway located outside of the site area.*
- *No notable flood level impacts are predicted for the 5 and 20 year ARI events.*
- *The mitigated 100 year ARI event shows some impacts (increases in peak flood level) greater than 0.03m limited to the perimeter of the WYURA. These are not predicted to affect existing dwellings or other receptors within the tolerance shown.*
- *No flood level impacts to dwellings are predicted for a 100 year ARI riverine only flood, i.e. a flood with no tidal/storm surge component. Peak level increases were observed along the channel between Deering Street and Yamba Road as a result of additional conveyance of floodwater by the floodway.*
- *Minor widening of the Carrs Drive road corridor (by 3.2m on the western side) has resulted in very minor decreases in impacts at the northern end of Carrs Drive over those previously presented in the 2015 report.*
- *Construction in land to the north of the WYURA, either through the inclusion of the West Yamba Bypass motorway or encroaching development fill has the effect of reducing peak 100 year ARI impacts at near the intersection of Carrs Drive and Yamba Road and increasing impacts near Cox/Deering Street.*

As stated above, as the site only represents a very small portion of filling in the total WYURA (1.8%), this development in isolation is unlikely to increase flood levels to adjacent and nearby properties nor adversely impact on the existing flood hazard of the land. In consideration of all of the above, it can be concluded that

the modelling has adequately demonstrated that the proposed development provides flood and drainage systems minimising the impact on surrounding property and infrastructure.

It should be noted that the subject land is not located within the mapped floodway. Additionally, a revised flood assessment report is currently being prepared for the proposed subdivision south of the Saint James School site under SUB2019/0030. This land forms part of the floodway and any development of this land including formalisation of the floodway must take into account impacts on surrounding properties (extract of floodway shown below). The development will be re-notified/advertised once the amended design and associated information is received.

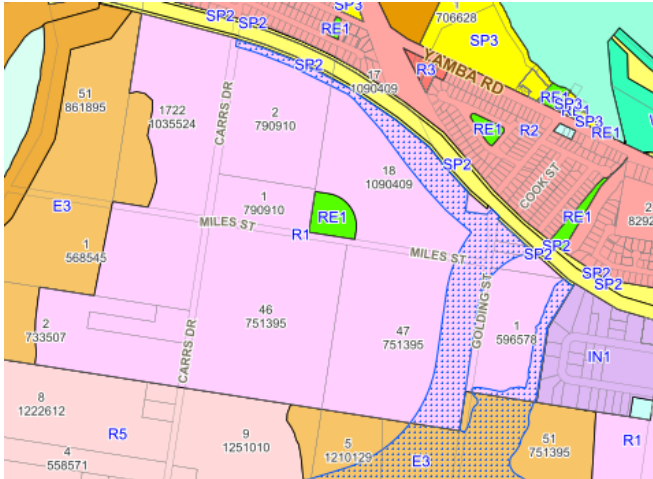


Figure 4 – Extract from CVC Intramaps – West Yamba Floodway

#### 4. Stormwater Management

A Stormwater Management Plan was prepared for the site by MPC Consulting Engineers dated 3 November 2020. It is proposed that stormwater from the site will be managed by inground pits and pipe system in conjunction with on-site detention system as documented in the stormwater drawings. Controlled discharge from the site will be directed to the existing Council drainage system located in front of the site at Carrs Drive.

As stated above, stormwater from the development must meet the principles of NorBe which 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.

Through implementation of the stormwater management plan the flows coming off this site post development will not exceed pre-development flows and as such, it is considered that stormwater measures are adequate for this development.

Another issue raised in the submissions was in relation to the lack of an overall stormwater management plan for the entire WYURA. Part X of the Residential Zones DCP sets out a Conceptual Stormwater Network Plan for the area, however, a comprehensive stormwater master plan cannot be prepared as there are many considerations including environmental, open space, type and density of development that must be considered for individual development depending on the proposed use.

An extract of the Conceptual Stormwater Network Plan is provided below in Figure 5.

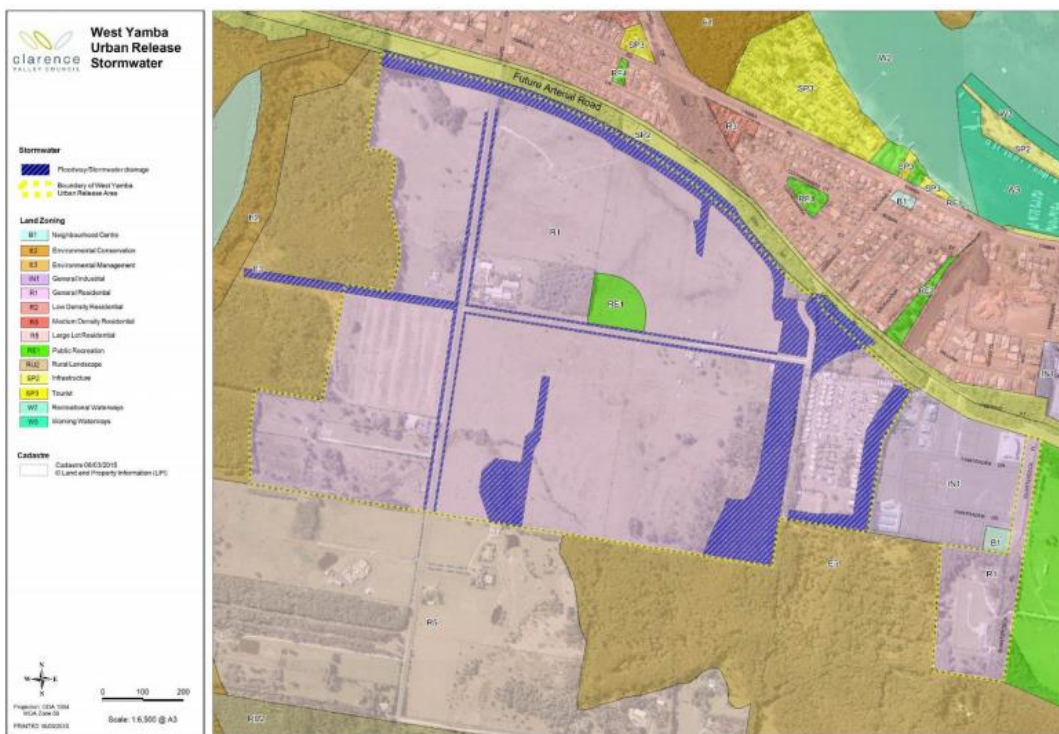


Figure 5 – Schedule X1 Conceptual Stormwater Network Plan

## 5. Impacts from increase in traffic generation

Concerns were raised within the submissions regarding increased traffic generated from the development, overall increase in population and increase in traffic wait times along Yamba Road.

### Comment

The application included a Traffic Impact Assessment prepared by Bitzios Consulting dated 4 November 2020. The assessment includes estimates of traffic for the subject development and allows growth factors for Yamba Road traffic for a 10 year horizon from 2021 (i.e. to 2031).

The key findings from the above traffic impact assessment are as follows:

- *Forecasted background traffic volumes were determined from a combination of 2018 traffic survey volumes and adjacent development traffic anticipated to affect the surrounding network*
- *Traffic survey volumes adopted a 1.5% per annum growth rate to reach 2021 and 2031 background traffic volumes, which is deemed appropriate from historical analysis*
- *The proposed development has a total of 52 villa dwellings which generates a total of 11 AM peak trips and 21 PM peak trips*
- *SIDRA modelling assessed that the Yamba Road / Carrs Drive intersection as a roundabout has additional capacity to support the proposed development's traffic volumes in addition to known significant residential developments occurring within the West Yamba URA*
- *The modelling shows that the proposed development has minimal impacts within a 10-year design horizon in 2031 on the Yamba Road / Carrs Drive intersection and its effects do not affect nearby intersection*
- *It is recommended that the development provide a rural basic left-turn (BAL) treatment southbound along Carrs Drive. Based on Austroads Part 4 the turn warrants analysis and considering the close proximity of the primary school to the south*
- *The site provides adequate parking provisions of 75 total spaces, including an excess of 8 villa spaces and 6 visitor spaces above Council's requirements*
- *The geometric layout of the proposed plan is deemed adequate providing sufficient manoeuvrability for residents and servicing*
- *The site has provision for one (1) vehicle to queue within the access which is deemed to be adequate through queue analysis*
- *Swept paths show that a 12.3m front loader refuse collection vehicle is capable of entering and exiting the site in a forward gear*



- *Alternative transport provisions are expected to be adequate given the future provisions of new bus routes along Miles Street and Carrs Drive, and the provision for pedestrian and cycle connectivity to the existing network.*

Based on the above assessment, Bitzios concluded that there are no significant traffic or transport impacts associated with the proposed development to preclude its approval. Additionally, SIDRA modelling has determined that the existing Yamba Road/Carrs Drive roundabout has adequate capacity to cater for the development. Council's Engineer concurs with the findings of the report.

Since lodgement of this application, Council has completed the construction of a roundabout at the intersection of Carrs Drive and Yamba Road with part of the funding received as grant money. To enable Council to recoup costs directly incurred as a result of the construction of the roundabout, Council has adopted and implemented the West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan. This developer contributions plan enables Council to levy contributions under section 7.11 of the Environmental Planning and Assessment Act 1979 for residential development within the West Yamba urban release area (URA) that will or is likely to increase the demand for upgraded road infrastructure. As such, contributions have been applied to the development in accordance with the 2021/22 financial year rates of \$588.50/per dwelling.

#### **6. Impact on Carrs Drive road pavement**

Additional traffic on Carrs Drive will increase the rate of deterioration of the road pavement. It is a requirement of the approval under SUB2014/0016 (22 Carrs Drive) that the existing road pavement is to be reconstructed between O'Grady's Lane and their Stage 3 access point. Similarly, this development requires the Carrs Drive frontage to be constructed from the Stage 1 access of 22 Carrs Drive to Saint James School if not already constructed by other developers. The road pavement design will cater for future traffic loading.

If approved, a condition report is to be provided for existing road seal and pavement in Carrs Drive. The report must be completed by a suitably qualified and independent engineer or Geotechnical Testing Authority (NATA), and is to be submitted to Council prior to the issue of the Construction Certificate.

The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development. Additionally, a \$100,000 bond is also required to be paid to provide Council with a means of restoring Carrs Drive that results from haulage operations to ensure any damage is repaired at the applicants cost.

The haulage of fill and other construction materials must be via Yamba Road and Carrs Drive. For the duration of the construction program the developer will be responsible for the repair of any development related damage to Carrs Drive, including the existing intersections with Yamba Road, O'Grady's Lane and Harold Tory Drive.

A program of regular inspection and maintenance activity must be included in the report. Council will undertake random audits and visual inspections of the existing road network during the construction and maintenance period.

Through the imposition of advices and conditions to this effect, Council will have adequate security to have any rectification works completed.

#### **7. Adequate infrastructure and services to cater for increase in population**

Concerns were raised within the submissions that the township of Yamba does not have adequate infrastructure and services to cater for a potential increase in population from the development and the WYURA in general.

#### **Comment**

The proposed development will need to be connected to new/upgraded water and sewerage services in accordance with the WYURA servicing strategy as adopted by Council. Council has agreed to enter into a Memorandum of Understanding (MOU) with developers at West Yamba with regard to the construction of water and sewer mains to service development in the WYURA. Council's resolution does enable other parties to be subject to the MOU.

The developer is required to comply with the adopted West Yamba Urban Release Area servicing strategy. This means that the development will not be permitted to connect into the existing sewer or water services as there is no spare capacity in the existing network.

In terms of the water main, the construction of that part of the trunk water main identified in the strategy to service this development will be required. For sewer the construction of the sewer rising main to the Yamba STP is required. It is up to the developers to work out how this construction is funded. The same requirements apply to other approved developments in the WYURA.

If approved, the developer is required to construct and connect all services to the development including roads, electricity, telecommunications, water and sewerage at their expense.

Concerns about lack of amenities and services such as shopping centres, doctors and public car parking in the community was also raised within the submissions. It is considered that an increase in population will attract more professionals to the Lower Clarence area as the demand for general practitioner and other medical needs increases. Similarly the provision of shopping centres is generally governed by market demand, and again, as the population grows it is likely that Yamba will experience a growth in commercial business to service the growing needs of the community.

## **8. Pedestrian and Access Mobility**

The issue of pedestrian access and mobility within the WYURA and connectivity to other areas was raised within the submissions as not being addressed adequately.

### Comment

There is an existing pathway within the site connecting Saint James School to Yamba Road. Council has a current Deed of Agreement with the land owner to allow public access for pedestrians and cyclists. As part of this development, the developer is required to dedicate the pathway within a 7m strip of land for the full frontage of the site to Council which will become part of the road reserve. The current pathway is 2m wide, however, this will be relocated upon the reconstruction of Carrs Drive further within the 7m strip of land. The new path will be increased to 2.5m wide and provide a shared pathway for pedestrians/cyclists. Developments south of the site will be required to connect into this path which will provide connectivity between the developments in the WYURA.

## **9. Impacts from noise during construction**

Concerns were raised within the objections regarding the potential noise impacts during construction (i.e. works associated with the filling of the land) would adversely impact on the surrounding residential area.

### Comment

To limit noise disturbance to the surrounding area during construction, the hours of operation will be limited to those as set out below:

***7.00am to 6.00pm Monday to Friday***  
***7.00am to 1.00pm Saturdays***  
***No work permitted on Sundays and public holidays***

Once constructed, the subdivision will generate noise levels similar to that of other developed residential areas which is considered acceptable in a residential zoned area.

## **10. Emergency Management**

The submissions raised concerns with emergency management during times of natural hazards such as flooding.

### Comment

Any evacuation of the site will be in accordance with the Clarence Valley Local Flood Plan (Yamba Sector Response) prepared by the NSW SES (copy in attachments). However, a site specific evacuation management plan must be developed and endorsed by the NSW SES prior to a Construction Certificate being issued. It is required that a copy of the plan be kept on permanent display within the village centre of the development. A condition to this effect has been conditioned accordingly.

In addition to the comments above, it should be noted that the land will be filled and dwellings located above the 1:100 year flood level. Given the warning times for major flooding within the Yamba area, residents will have adequate time to make individual decisions as to whether to evacuate or not based on available information, as do all residents in the Yamba community.

It should be noted that Carrs Drive will only have immunity for the 1:20 year flood level. As such the road may be inundated in any flood events great than the 1:20.

#### **11. Lack of facilities and green space within seniors living**

Some of the submissions received, raised the issue that there is a lack of facilities and green space to service the seniors living development.

##### Comment

The proposed Village Centre of the Seniors Living estate will provide communal facilities such as a pool, gym, bocce court, pool store area, bus and buggy store.

Additionally, each unit will have direct access to a private open space area meeting the requirements of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004. Furthermore, an area for public recreation is identified and zoned for within the adjoining land along Miles Street. Once this land and other adjoining land is developed, public open spaces areas will become available for the enjoyment of all residents within the WYURA.

#### **12. Density of the proposal**

Concerns were raised within the submissions regarding the density of the development in the WYURA in general.

##### Comment

Prior to the rezoning of the WYURA, a draft LEP was exhibited which contained a number of planning objectives including:

- An overarching objective for a population of about 2,000-2,500 people.
- A residential zone density of about 10 dwellings per hectare.

These objectives were not included in the final LEP and therefore Council cannot impose a single dwelling density of 10 dwellings per hectare using the current legislative controls.

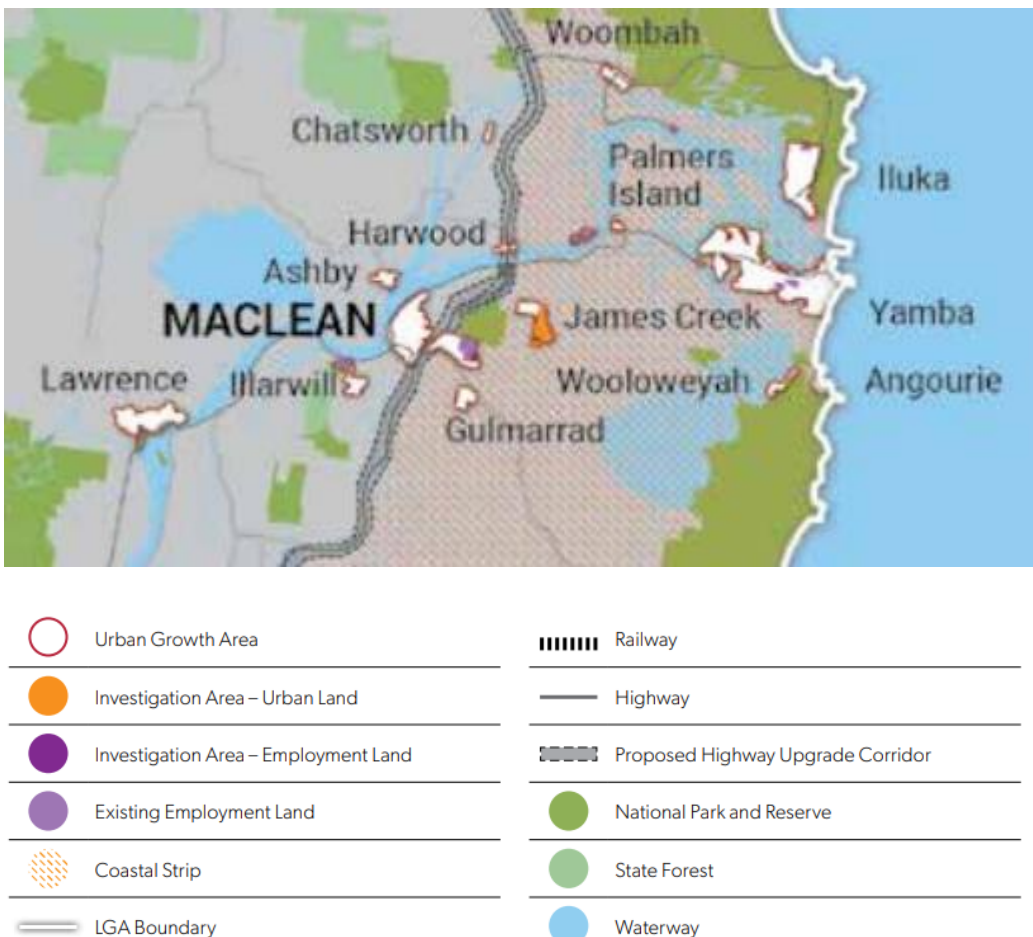
As stated within the Background Section of the Draft DCP for the WYURA:

*The quantum and footprint of the West Yamba urban zoning was influenced and informed by the extensive strategic planning history which acknowledged the difficult environmental constraints of the area. It envisaged a development outcome that would see the future West Yamba urban development develop at an average density of about 10 single dwelling equivalents per hectare based predominantly on the relatively highly constrained context of the location and environment. The urban zoning should be capable of yielding 1144 dwellings/lots based on the notional average density (10 single dwelling equivalents per hectare). Unfortunately legal drafting constraints would not permit desired density or population outcomes to be articulated into the amended LEP both at the time of "Amendment No. 20" and the CVLEP 2011.*

Based on figures used within the newly adopted Developer Servicing Strategies for West Yamba, there will be approximately 1400 dwellings within the WYURA. This is not inconsistent with the overall population density for Yamba as a whole.

##### Summary

The recommendation to approve this development for housing for seniors or people with a disability is consistent with the zoning of the land and North Coast Regional Plan 2036 which identifies the land as an urban growth area.



**Figure 6 – North Coast Regional Plan 2036  
Urban growth area map for Clarence Valley Local Government Area**

It is considered that through the appropriate conditioning relating to potential groundwater and stormwater issues, the development will provide a mix of housing to the market for seniors or people with a disability with adequate services that will place no unreasonable demand on existing infrastructure.

**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**

Carrs Drive and associated drainage and pedestrian cycleway infrastructure will be required to be upgraded and dedicated to Council which will improve the longevity of Council's assets.

In line with Council's adopted West Yamba Development Servicing Plans for Water Supply and Sewerage Services, the water and sewer trunk mains will be required to be constructed to service the whole WYURA and will become Council's asset upon completion.

The developer is also required to contribute to the construction of the completed Carrs Drive/Yamba Road roundabout as per the adopted West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan in accordance with Council's current contributions applicable at the time of payment. The 2021/22 financial year rate is \$588.50/per dwelling.

**Policy or Regulation**

- Environmental Planning and Assessment Act 1979*
- Biodiversity Conservation Act 2016*
- Environmental Planning and Assessment Regulations 2000*
- State Environmental Planning Policy No. 55 – Remediation of Land*

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004  
 State Environmental Planning Policy (Coastal Management) 2018  
 North Coast Regional Plan 2036  
 Clarence Valley Local Environmental Plan 2011  
 Residential Zones Development Control Plan  
 Building Code of Australia

### Consultation

The following sections of Council and external government agencies were consulted during the assessment of the application.

| <i>Internal Section or Staff Member</i>   | <i>Comment</i>                   |
|---|----------------------------------|
| Development Engineer  | Supported with Conditions        |
| Natural Resource Management   | Supported with Conditions        |
| Health and Building   | Supported with Conditions        |
| Environmental Health  | Supported with Conditions        |
| Natural Resource Access Regulator   | Controlled Activity not required |
| Department of Planning, Industry & Environment – Biodiversity & Conservation Division | Comments provided in report      |

### 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 which is considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use.

| Prepared by                  | Carmen Landers, Acting Development Services Coordinator  |
|------------------------------|--|
| Attachment –<br>To be tabled | A. Plans<br>B. Submissions<br>C. Natural Resource Access Regulator letter dated 9 December 2020<br>D. Department of Planning, Industry & Environment – Biodiversity & Conservation Division letter dated 6 July 2021<br>E. Biodiversity Development Assessment Report dated May 2021<br>F. Preliminary Groundwater Study – Douglas Partners dated June 2021<br>G. Flood Impact Assessment Report – BMT WBM Pty Ltd January 2018<br>H. MPC Stormwater Management Plan dated 3 November 2020 and revised 31 March 2021<br>I. Traffic Impact Assessment – Bitzios dated 4 November 2021<br>J. Clarence Valley Flood Plan Yamba Sector Response<br>K. Section 4.15 Assessment Report |

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2020/0725**

**Definitions**

**Applicant** means A Fletcher & Associates Pty Ltd or any party acting upon this consent.

**Civil Works** may include:

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

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

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

**NATA** means National Association of Testing Authorities

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

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

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

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

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

**RMS** means Roads and Maritime Services.

**SWC** means Subdivision Works Certificate.

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

**TfNSW** means Transport for New South Wales.

**WSUD** means Water Sensitive Urban Design

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

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

**Advices**

1. Access to the Visitors Centre, Pool and Gymnasium for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and AS 1428.1-2009.
2. Accessible facilities for the use of the disabled shall be provided as specified in Clause F2.4 of the Building Code of Australia and shall be constructed to the requirements of AS 1428.1-2009.
3. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
4. The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
5. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Roads Act 1993 Sections 138 & 139 - approval for works on a road issued by Council and/or TfNSW;
  - b Local Government Act Section 68 - drainage, water & sewer approval;
  - c Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

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

6. A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works. Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.

Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.

Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.

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

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

8. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **PWC** for works external to the site / **Construction Certificate** for private property works has been issued by Council and/or accredited private certifier.

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

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

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 demand on Council's water supply, and on Council's sewerage system. The headworks charges at 2021/22 financial year rates are:

**Subdivision**

West Yamba Water Headworks \$5,741.00 x 1.2 additional ET = \$ 6,889.20  
 West Yamba Sewer Headworks \$13,576.44 x 1.0 additional ET = \$ 13,576.44

**Seniors Living**

West Yamba Water Headworks \$5,741.00 x 31.2 additional ET = \$ 179,119.20  
 West Yamba Sewer Headworks \$13,576.44 x 39.0 additional ET = \$ 529,481.16

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. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to public infrastructure being accepted "on maintenance" and/or "practical completion" being granted for private property works.
12. 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 PWC and Construction Certificate Application forms.
13. The Earthworks Management Plan must include an initial site inspection report. This report should include:
- a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
  - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
  - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, hanging swamps, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.



- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.
- d The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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

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

- 14. Prior to issue of the Subdivision Certificate, a bond for the installation of the on-site pressure sewer infrastructure will be payable to Council in accordance with Council's fees and charges. The amount for 2021/22 is \$14,831.00 per lot. This bond may be released after the property has been connected to the pressure sewer network; either by a private certified contractor, or by arrangement for Council to undertake the work. Requirements for pressure sewerage system installation and operation are outlined in Clarence Valley Council's Pressure Sewer Policy.
- 15. Council has adopted a servicing strategy for the whole of the West Yamba Urban Release Area (WYURA) to ensure there is orderly and logical servicing of development in the West Yamba area. The strategy identifies developer contributions from the developers in WYURA. Development of the Seniors Living Retirement Village will require construction of a sewer rising main to the sewerage treatment plant (STP).  
  
Existing water mains do not have adequate capacity for the total proposed number of dwellings in this development. The development will require construction and connection to a trunk supply main as identified in the West Yamba Development Servicing Plan for Water Supply Services.  
  
Council has agreed to enter into a Memorandum of Understanding (MOU) with developers at West Yamba with regard to the construction of water and sewer mains to service development in the WYURA.
- 16. It is the developer's responsibility to make satisfactory arrangements with other property owners affected by the development, and to meet all costs associated with the development.
- 17. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2021/22 financial year are \$255.00 plus \$30.00 per additional lot (minimum \$255.00). An additional fee of \$115.80 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.

## Conditions

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

| Plan No | Drawn by                | Title  | Plan Date  | Revision/Issue |
|---------|-------------------------|--|------------|----------------|
| 7552SUB | A Fletcher & Associates | Proposed 2 lot subdivision of Lot 2 DP790910 | 30/6/2021  | B              |
| L101    | Xeriscapes              |  | 6/11/2020  | D              |
| L102    | Xeriscapes              |  | 6/11/2020  | C              |
| L103    | Xeriscapes              |  | 28/10/2020 | B              |
| L301    | Xeriscapes              |  | 28/10/2020 | C              |
| DA-1003 | CKDS                    | Site Plan                                    | 02/11/2020 | 10             |
| DA-1004 | CKDS                    | Roof Plan                                    | 02/11/2020 | 10             |
| DA-1006 | CKDS                    | Entry Statement Plan                         | 02/11/2020 | 03             |
| DA-1007 | CKDS                    | Waste Enclosure Plan                         | 02/11/2020 | 03             |
| DA-1008 | CKDS                    | Bin Corale Plan                              | 02/11/2020 | 03             |
| DA-1009 | CKDS                    | Gym  | 02/11/2020 | 02             |
| DA-1010 | CKDS                    | Gym Elevations                               | 02/11/2020 | 02             |
| DA-2001 | CKDS                    | Boundary Elevations                          | 02/11/2020 | 03             |
| DA-2002 | CKDS                    | Boundary Elevations 2                        | 02/11/2020 | 03             |
| DA-2003 | CKDS                    | Street Elevations                            | 02/11/2020 | 03             |
| DA-2004 | CKDS                    | Street Elevations 2                          | 02/11/2020 | 03             |
| DA-2005 | CKDS                    | Street Elevations 3                          | 02/11/2020 | 03             |
| DA-3001 | CKDS                    | Site Sections                                | 02/11/2020 | 03             |
| DA-3002 | CKDS                    | Site Sections 2                              | 02/11/2020 | 03             |
| DA-4001 | CKDS                    | VC Cover                                     | 02/11/2020 | 02             |
| DA-4002 | CKDS                    | VC Plans                                     | 02/11/2020 | 02             |
| DA-4003 | CKDS                    | VC Elevations                                | 02/11/2020 | 02             |
| DA-4004 | CKDS                    | 2Bi Cover                                    | 02/11/2020 | 03             |
| DA-4005 | CKDS                    | 2Bi Plans                                    | 02/11/2020 | 03             |
| DA-4006 | CKDS                    | 2Bi Elevations                               | 02/11/2020 | 03             |
| DA-4007 | CKDS                    | 2Bi (SG/DG) Cover                            | 02/11/2020 | 01             |
| DA-4008 | CKDS                    | 2Bi (SG/DG) Plans                            | 02/11/2020 | 01             |
| DA-4009 | CKDS                    | 2Bi (SG/DG) Elevations                       | 02/11/2020 | 01             |
| DA-4010 | CKDS                    | 2Bii Cover                                   | 02/11/2020 | 03             |
| DA-4011 | CKDS                    | 2Bii Plans                                   | 02/11/2020 | 03             |
| DA-4012 | CKDS                    | 2Bii Elevations                              | 02/11/2020 | 03             |
| DA-4013 | CKDS                    | 2Bii (SG/DG) Cover                           | 02/11/2020 | 01             |
| DA-4014 | CKDS                    | 2Bii (SG/DG) Plans                           | 02/11/2020 | 01             |
| DA-4015 | CKDS                    | 2Bii (SG/DG) Elevations                      | 02/11/2020 | 01             |
| DA-4016 | CKDS                    | 2Bii Single (DG) Cover                       | 02/11/2020 | 01             |
| DA-4017 | CKDS                    | 2Bii Single (DG) Plans                       | 02/11/2020 | 01             |
| DA-4018 | CKDS                    | 2Bii Single (DG) Elevations                  | 02/11/2020 | 01             |
| DA-4019 | CKDS                    | 3Bi (SG/DG) Cover                            | 02/11/2020 | 03             |
| DA-4020 | CKDS                    | 3Bi (SG/DG) Plans                            | 02/11/2020 | 03             |
| DA-4021 | CKDS                    | 3Bi (SG/DG) Elevations                       | 02/11/2020 | 03             |
| DA-4022 | CKDS                    | 3Bi (DG) Cover                               | 02/11/2020 | 01             |
| DA-4023 | CKDS                    | 3Bi (DG) Plans                               | 02/11/2020 | 01             |

|         |      |                               |            |    |
|---------|------|-------------------------------|------------|----|
| DA-4024 | CKDS | 3Bi (DG) Elevations           | 02/11/2020 | 01 |
| DA-4025 | CKDS | 3Bi Single (DG) Cover         | 02/11/2020 | 01 |
| DA-4026 | CKDS | 3Bi Single (DG) Plans         | 02/11/2020 | 01 |
| DA-4027 | CKDS | 3Bi Single (DG)<br>Elevations | 02/11/2020 | 01 |
| DA-4028 | CKDS | 3Bii Cover                    | 02/11/2020 | 03 |
| DA-4029 | CKDS | 3Bii Plans                    | 02/11/2020 | 03 |
| DA-4030 | CKDS | 3Bii Elevations               | 02/11/2020 | 03 |
| DA-4031 | CKDS | 3Bii (SG/DG) Cover            | 02/11/2020 | 01 |
| DA-4032 | CKDS | 3Bii (SG/DG) Plans            | 02/11/2020 | 01 |
| DA-4033 | CKDS | 3Bii (SG/DG) Elevations       | 02/11/2020 | 01 |

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 \$2,322.87 x 52 additional dwellings = \$120,789.24 GL S94CVCOSCoastal

**Clarence Valley Contributions Plan 2011 Community Facilities**

Maclean surrounds \$2,322.87 x 52 additional dwellings = \$120,789.24 GL S94CVCCFMaclean

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

Rate per Self Contained Dwelling in a Seniors Housing Development \$44.30 x 52 additional dwellings = \$ 2,303.60 GL S94CVCPoMSnrHouse

**West Yamba Urban Release Area Road Infrastructure Developer Contributions Plan**

Rate per Self Contained Dwelling in a Seniors Housing Development \$588.50 x 52 additional dwellings = \$ 30,602.00

**Street Tree Planting**

Yamba: \$104.00 x 1 additional lot = \$104.00 GL S94TreePlantYamba

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

West Yamba \$709.10 x 2 persons x 52 = \$73,746.40  
GL S94YBPWestYamba

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 Construction Certificate for each stage.

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

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

3. The Biodiversity Offset Payment Calculator has estimated that 1 threatened species credit and 34 ecosystem credits require the payment of \$150,108.68. The applicable credits for the PCT's and species are listed in Table 1 below. Prior to any works commencing on-site, evidence must be provided to the consent authority demonstrating the following:
- a A credit retirement report issued by DPIE confirming credit transactions; or
  - b The applicable payment in the form of a 6.33 *Statement Confirming Payment* into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference.

**TABLE 1: Credit requirements**

| Entity  | Credits | Cost (inc GST)                |
|---|---------|-------------------------------|
| PCT 1064 – Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion | 34      | <b>\$149,790.98</b>           |
| Spider orchid ( <i>Dendrobium melaleucaphilum</i> ) –   | 1       | <b>\$317.70</b>               |
| <b>TOTAL COST</b>   |         | <b>\$150,108.68 (inc GST)</b> |

4. Prior to the commencement of construction, an Unexpected Heritage Finds Procedure for Aboriginal and non-Aboriginal Heritage must be prepared should actual or potential items or areas of Heritage be discovered during construction activities. This procedure must be tool boxed with all work crews and implemented during construction works. Should any Aboriginal or non-Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and Heritage NSW shall be contacted immediately and any directions or requirements of the Service complied with.
5. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued.
6. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.
7. A site specific Flood Evacuation Plan must be prepared and endorsed by NSW State Emergency Services prior to issue of the Construction Certificate. A copy of the endorsed plan must be kept on display at all times within the village centre.
8. An 88E restriction is to be placed against the title of the property restricting the occupation of the accommodation to the following:
  - a) seniors or people with a disability,
  - b) people who live within the same household with seniors or people who have a disability,
  - c) staff employed to assist in the administration of and provision of services to housing provided under the SEPP (Housing for Seniors or People with a Disability) 2004.

The restriction is required to be registered prior to the issue of an Occupation Certificate.

#### Building Conditions

9. No construction is to be commenced until a Construction Certificate has been issued.
10. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
11. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
12. Working hours on construction or demolition shall be limited to the following:
 

**7.00am to 6.00pm Monday to Friday**  
**7.00am to 1.00pm 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.
13. 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.

14. 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).

15. 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.

16. The buildings shall comply with the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas. A Structural Engineers certificate shall be submitted prior to issue of the Construction Certificate to verify that the buildings will withstand the likely forces imposed on them by a 1:100 year flood event including hydrostatic, hydrodynamic, debris, wave, erosion and scour actions. That certificate shall take into account the possible impact on the buildings' foundation material due to inundation by floodwaters of adjacent unfilled sites.
17. All dwellings on the site shall be provided with fire hydrant coverage. Details of how this is to be achieved shall be included on the Construction Certificate plans.
18. The finished floor level of each residence shall be at a minimum of 3.0m AHD with this being confirmed by the submission to Council of a Surveyor's Certificate prior to the buildings progressing beyond footing/ slab stage.
19. A detailed waste management and materials recovery plan for the construction and operational stages of the development shall be submitted to Council prior to issue of the Construction Certificate.

#### Engineering Conditions

20. The issue of any Construction Certificate or PWC that includes earthworks and/or infrastructure is subject to provision of a road maintenance bond in the amount of \$100,000 as security, noting the following requirements with the Construction Certificate or PWC Application:
  - a) Provision of a Vibration Impact Management and Dilapidation Report for St James School is required for the endorsement of Council and;
  - b) Provision of a road condition audit report for Carrs Drive and a maintenance / repair management strategy is required for the approval of Council.

Note: The bond may be called up by Council at its discretion and used to fund remedial works in Carrs Drive. Costs of any such works will be as determined by Council. Council will provide the developer with notice of its intention to call up the bond. If the bond is used by Council to complete any remedial works, the bond amount must be reinstated to the total of \$100,000 prior to any works continuing for this development.

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

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

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

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
  - b will not be affected by landslip either above or below the works.
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
24. An **ITP** must be submitted for approval with the application for a **PWC/Construction Certificate**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On/Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
  - b Erosion & Sedimentation Controls
  - c Earthworks
  - d Roadworks
  - e Stormwater Drainage
  - f Sewer
  - g Water
  - h Other Services
  - i 'On Maintenance' (Public Infrastructure)
  - j Practical Completion (Works on Private Property)
  - k 'Off Maintenance' (Acceptance of Public infrastructure by Council)
25. Prior to the issue of the Occupation Certificate, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
26. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by **TfNSW** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
27. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address [council@clarence.nsw.gov.au](mailto:council@clarence.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:
- Health and Safety**
- a Public safety, amenity and site security;
  - b Traffic Control and Management;
  - c Pedestrian management;

- d Construction hours;
- e Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
- f Contractor vehicle parking;
- g Locating existing utilities and services
- h Health and Safety requirements.

#### Environment

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

#### Quality

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

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

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

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

28. For any part of the site that comes under the jurisdiction of another Government department, a Controlled Activity approval (or similar approval) may be required. Any such approval must be obtained and provided to Council prior to issue of the Construction Certificate.
29. Prior to issue of the Occupation Certificate, the applicant is to provide water supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.

The development will require construction and connection to a trunk supply main as identified in the West Yamba Development Servicing Plan.

30. A detailed Water Reticulation Management Plan must be submitted for assessment and approval by Council, prior to the issue of a Public Works Certificate. The proposed location of the water service and meter must be shown on the drawings. This shall include consideration of any approved bushfire management plan and an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows.

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

31. A single property service with a single meter servicing the whole property shall be installed. Council recommends individual isolation valves be installed on each dwelling unit. Privately owned water meters may be installed within the property, but such private meters will be the responsibility of the property and will not be read or maintained by Council. The single Council water meter 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.
32. Prior to release of the Occupation Certificate, the water supply infrastructure must be completed or arrangements made to Council's satisfaction for the provision of water services. The water supply must be available and operational prior to issue of any Occupation Certificate on any of the lots created.
33. Prior to release of the Occupation Certificate pressure sewerage reticulation infrastructure is to be provided to service the development, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy, West Yamba Development Servicing Plan and NRDC.
34. A Sewerage Reticulation Design plan must be submitted for approval with the application for a **PWC**.

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

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

35. Any sewer junctions required to be provided to service the development, must be in accordance with the provisions of the Local Government (General) Regulation. Cutting in of sewer junctions can only be undertaken by Council. In respect to these works, contact Council's Water Cycle Section.
36. The haulage of fill and other construction materials must be via Yamba Road and Carrs Drive. For the duration of the construction program the developer will be responsible for the repair of any development related damage to Carrs Drive, including the existing intersections with Yamba Road, O'Gradys Lane and Harold Tory Drive.

A condition report is to be provided for existing road seal and pavement in Carrs Drive. The report must be completed by a suitably qualified and independent engineer or Geotechnical Testing Authority (NATA), and is to be submitted to Council prior to the issue of the first Civil Construction Certificate. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development.

A program of regular inspection and maintenance activity must be included in the report. Council will undertake random audits and visual inspections of the existing road network during the construction and maintenance period.

37. Benkelman beam testing of the constructed road pavement in Carrs Drive will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam in accordance with RMS Test Method T160.
38. Where proposed, **WSUD** systems are to be included in a detailed Design, Construction, Inspection, Testing, Establishment and Staging Management Plan and submitted with the **PWC** application for approval by Council. Road reservation widths are to be in accordance with **NRDC** plus additional width to contain proposed **WSUD** components as approved by Council.



39. Preliminary road pavement designs for Carrs Drive, in accordance with **NRDC**, must be submitted to Council as part of the **PWC** approval. The asphaltic concrete wearing surface must be a minimum 40mm (industrial, heavy residential and collector roads) compacted depth. Final pavement design will be subject to in-situ CBR tests.

Road and pavement designs must consider the effects of high water tables and salt content. Stabilised pavement and concrete road pavement suitable for the intended design loadings may be used subject to submission of designs for the assessment and approval of Council.

Road upgrading in Carrs Drive is required for a distance of 315m north from the shared boundary of Lot 1 and 2 DP790910 in accordance with approved plan CC2020/0218. Prior to the release of any Occupation Certificate the upgrading is to consist of:

- a BAL intersection treatment in accordance with AUSTRROADS Guidelines at the entrance to the site, generally as identified in the Traffic Impact Assessment by Bitzios Consulting Project No. 4868 Version 1 dated 4 November 2020.
- construction of 11m wide carriageway (kerb invert to kerb invert)
- 2m wide sealed shoulders
- 3.5m wide sealed travel lanes
- allow for table drains, services corridor (considering maintenance access) and pedestrian / bicycle pathways
- the centreline level of Carrs Drive is to be no lower than the 1:20 ARI flood level in the area (R.L. 1.7m AHD).
- suitably-approved transitions to the existing road formation and drainage system shall be provided.

Details of the Carrs Drive works are to be provided with the **PWC** design.

40. Prior to the issue of any **PWC** engineering calculations must be provided which clearly indicate the capacity of table/swale drains, the maximum flow velocities and their resistance to scour. Where table/swale drains are used they must be designed to minimise velocity of flow to that necessary to achieve draining of the table/swale minimising ponding and must be treated to minimise scour.

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

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

41. The dedication, free of cost to Council, of a seven (7) metre strip for the full frontage of Lot 2 DP 790910 adjacent to Carrs Drive will be required as part of the Subdivision Certificate.
42. Detailed designs of the proposed facilities, including bus stops, bus shelters and the proposed routes, are to be provided as part of the **PWC** application.

Comments of the bus company/ies servicing the area containing the development must be sought, and any reasonable requirements of the bus company are to be considered in the design and placement of these facilities for each stage. A copy of the comments should be provided to Council. Council will consider these comments in assessing the **PWC**.

43. 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. All filled areas are to be drained to prevent surface water affecting neighbouring properties. Stormwater Management Plan (SWMP) generally consistent with the Stormwater Management Report by MPC Consulting Engineers Reference 200591 dated 3 November 2020 and revised 31 March 2021 that demonstrates NorBe must be prepared in accordance with NRDC.

The potential for groundwater mounding within the fill should be considered as part of detailed

design and taken into account for sizing of the infiltration areas in the Stormwater Management Plans.

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 Public Works Certificate and 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.

A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title of the development is required to ensure future building development compliance.

44. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual Exceedance Probability (AEP) water level in the vicinity of the site is RL 2.2m AHD and the Extreme Flood Level is RL 3.8m AHD. Development on the site must be undertaken in compliance with the flood plain management controls listed in the Council **DCP** for the relevant land use zone.

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

45. Prior to the release of any Occupation Certificate, which dedicates infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
46. In accordance with **NRDC** and prior to the release of any Occupation Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

Where sewer works are involved the **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.

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

47. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
48. Prior to release of the Occupation Certificate, the pedestrian pathway / cycleway / development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and the NSW Police 'Safer by Design' guidelines. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to issue of the Construction Certificate.
49. Prior to release of the Occupation Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

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

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

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

50. A detailed plan of the proposed driveway including longitudinal sections, cross sections, road levels, earthwork batters, retaining walls, 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**.

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

The site access must satisfy safe intersection sight distance requirements for the speed zone of the road servicing the development in accordance with NRDC. Sight distance diagrams must be provided with the PWC.

51. Prior to the issue of the 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. All car parking spaces must be accessible by B99 vehicles. The parking area plans are to be submitted and approved by Council or accredited private certifier.
52. A detailed Acid Sulfate Soil Management Plan is to be submitted to Council for approval prior to issue of a **PWC** or Construction Certificate.
53. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to issue of a PWD and/or 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.

54. 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.
55. Prior to release of the Occupation Certificate for any stage, certification from the Geotechnical Inspection and Testing Authority who undertook Level 1 inspection and testing, will be required confirming that the land is suitable for the intended purpose. All testing as required in AS3798 and NRDC must be submitted.
56. A Works-As-Executed plan prepared by a registered surveyor, showing both original levels and finished surface levels after filling material has been placed on the site and compacted, is to be submitted to and approved by Council or accredited private certifier prior to the issue of the Occupation Certificate.
57. Any excavation resulting in disturbance of more than one tonne of soil below natural ground surface, or work that is likely to lower the water table 1m below natural surface shall comply with Councils' Acid Sulfate Soil management provisions.
58. Where earthworks are proposed for the site, professional details of the Geotechnical Inspection and Testing Authority involved in the project are to be submitted to Council or accredited private certifier for approval. Details of the Geotechnical Engineer involved in the design must be submitted prior to the issue of the Civil Construction Certificate whilst details of the Geotechnical Inspection and Testing Authority involved in the construction must be submitted prior to the commencement of works. The details are to include NATA accreditation, qualifications and accreditations of the principal geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

59. The design of retaining walls for site regrading and fill earthworks must be in accordance with AS4678 Earth retaining structures for a minimum design life of 100 years using recommendations made by a Geotechnical Authority. The design and construction supervision shall be carried out by a Qualified Certified Structural or Civil Engineer (NPER 3 Registered).

Retaining walls, including footings, shall be no closer than 150mm to the property boundary and contained wholly within the development site. The designs shall consider the close proximity to the coast, acid sulphate soils and probable flood conditions.

60. Prior to issue of a Building Construction Certificate, a refined conceptual hydrogeological model (CHM) must be submitted for approval taking into account the potential impacts of the development on the groundwater level and surface water level at the site and adjacent areas. This must include, but not be limited to, the following:
- Detailed walkover of surface water bodies to investigate possible discharge areas and paths and survey of drainage bed levels where accessible.
  - Drilling and installation of a minimum of 3 groundwater wells at upgradient/downgradient locations to assess groundwater level and response to rainfall;
  - Water level monitoring, comprising data loggers in groundwater wells for a minimum of 6 months prior to filling, for the duration of filling and minimum 12 months after an Occupation Certificate is issued (data to be made available to Council at any time during the monitoring period upon request);
  - Hydraulic testing of monitoring wells and particle size distribution testing of soil samples to estimate soil hydraulic conductivity; and
  - Groundwater modelling using site specific water level data to understand behaviour of groundwater level at the site and possible long term impacts of the proposed development, if any.

The CHM must consider any adjacent property or infrastructure affected by the development, tidal influences on the groundwater flows and SWMP amendments by MPC Consulting Engineers Reference 200591 dated 31 March 2021. If the CHM identifies that the development may increase the levels of groundwater, recommendations are to be included in the accompanying Groundwater Study Report about how this is proposed to be ameliorated. Any recommendations therein must be implemented as per the timeframes indicated in the report.

A detailed design of the engineered fill platform generally consistent with the Preliminary Groundwater Study Report by Douglas Partners Reference 89980.01 dated 29 June 2021 must be submitted with the Groundwater Study Report for the CHM for approval by Council and/or accredited private certifier prior to issue of the Building Construction Certificate. The detailed design is to incorporate any recommendations contained within the revised CHM.

61. 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.
62. A detailed Erosion and Sediment Control Management Plan for each stage of the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **PWC** or **Construction Certificate** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
63. 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.
64. 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.

65. 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.

|                    |  |  |
|--------------------|--|--|
| <b>ITEM</b>        | <b>6b.21.045</b>                                 | <b>DA2021/0326 – 24 MULTI DWELLING UNITS, EARTHWORKS AND RETAINING WALL – 40-50 BIMBLE AVENUE, SOUTH GRAFTON</b> |
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021   |
| <b>Directorate</b> | Environment, Planning & Community                |  |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |  |
| <b>Attachment</b>  | Yes  |  |

**SUMMARY**

|                    |   |
|--------------------|---|
| <i>Applicant</i>   | Karina Vikstrom – Newton Denny Chapelle       |
| <i>Owner</i>       | The North Coast Community Housing Company Ltd |
| <i>Address</i>     | 40-50 Bimble Avenue, South Grafton            |
| <i>Submissions</i> | Nil   |

Council is in receipt of Development Application DA2021/0326 which proposes 24 multi dwelling units, earthworks and retaining walls at 40-50 Bimble Avenue, South Grafton. It is intended to use the dwellings to provide affordable housing for the community. In accordance with the Community Participation Plan the application was advertised and notified and no submissions were received during the notification period.

The applicant is seeking a number of variations to the Residential Zones Development Control Plan which are considered to be outside of Council staff delegations therefore the application is referred to Council for determination. The report provides an assessment of the application and a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Support the requested variations to Clause C19 - Landscaped Area, C20 - Private Open Space and Clause G2 - Number of Car Parking Spaces of the Residential Zones Development Control Plan.
2. Approve Development Application DA2021/0326 subject to the draft Advices and Conditions contained in Schedule 1 of this report.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Clancy, Baker, Williamson, 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**

Development Application DA2021/0326 was lodged on 7 May 2021 to construct 24 multi-dwelling units, associated earthworks and retaining walls at 40-50 Bimble Avenue, South Grafton. The subject site is zoned R1 General Residential under the *Clarence Valley Local Environmental Plan 2011* (the LEP). Multi dwelling housing is permissible with consent in the zone. The proposal was advertised and notified from 13 to 27 May 2021, no submissions were received during the exhibition period. The applicant has undertaken consultation with nearby land owners prior to lodging the Development Application with 6 written submissions received. The main issues raised in submissions received relate to increased traffic congestion, impact on the streetscape due to the density of the development, potential to exacerbate social issues and impact on house prices.

The application includes the provision of 12 x 1 bedroom units, 12 x 2 bedroom units, 2 of which will be accessible units. Units are proposed to be single storey and attached in clusters of 2 or 3 units over the site. Furthermore the applicant indicates the dwellings will be constructed off-site and transported to the subject site for installation.

As the development is for affordable housing under Clause 2.7 of the Clarence Valley Contributions Plan 2011 the proposal is exempt from Section 7.11 Contributions, however Section 64 headwork charges are still applicable. Should the development be subdivided contributions can be levied. It is not proposed to subdivide the units as part of this application, however this would be subject to future development approval.

North Coast Community Housing (NCCH) is a not-for-profit organisation that manages long term social and affordable housing. It is proposed to use the units to provide affordable housing to meet the needs of the local community through providing permanent affordable rental housing for low to moderate income single persons, couples and families within the Grafton area. The proposal, should it be approved, will increase the diversity of rental options available in the Clarence Valley. Under the Clarence Valley Council Affordable Housing Policy, any development of 10 residential units or more is required to provide 1 affordable housing unit per 10 units. This proposal is for all units to be utilised as affordable housing options which is consistent with the Policy.

The applicant attended a pre-lodgement meeting to discuss the proposal, it was identified that the proposal could not be proposed under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the SEPP) as the subject site did not meet the site criteria of being within 400m walking distance of Business zoned land.

## KEY ISSUES

### 1. Variations to the Residential Zones Development Control Plan

Pursuant to Clause A9 of the Residential Zones Development Control Plan (the DCP) Council can grant consent to a development proposal that does not comply with the specific requirements of this DCP after considering the particular merits of a development proposal. Justification for departure from the DCP requirements must be provided with the Development Application and the overall objectives of the DCP achieved. The applicant has submitted a written request to vary Clause C19 – Landscaped Area, Clause C20 – Private Open Space and Clause G2 Number of Car Parking Spaces.

If the proposal was considered under the Affordable Housing SEPP, it would allow greater flexibility in the development of the site. Although the SEPP does not technically apply to the development as it is more than 400m to a business zone, the application seeks to use the framework provided by the SEPP. Compliance with the SEPP is provided for each of the variations sought to the DCP for assessment purposes.

#### Clause C19 – Landscaped Area

Clause C19 of the DCP requires a minimum 45% of the site be landscaped area. The proposal has a total landscaped area of approximately 34%, a shortfall of 11%. Under the SEPP, the consent authority would be unable to refuse the DA if the following landscaped areas are provided:

*(i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or*

Using the provisions of the SEPP, a total of 840m<sup>2</sup> (22%) would be required, however the applicant has provided 1,300m<sup>2</sup> of landscaped area for the site. The applicant has justified the reduced landscaped area as follows:

- The proposed development would comply with the SEPP as 1,300m<sup>2</sup> has been provided which exceeds the minimum 840m<sup>2</sup>.
- The development will be single storey and is not considered to result in privacy or overlooking issues.
- The reduced landscaped area is not expected to have an adverse impact on the streetscape or adjoining residences.
- The design and siting of the dwellings fronting Bimble Avenue gives a regular pattern to reduce the impact on the streetscape, furthermore extensive landscaping will soften the impact.
- The application is accompanied by a Stormwater Management Plan which demonstrates that additional stormwater from the increased impermeable surfaces can be suitably managed on-site.

- The variation to the DCP would not result in adverse impacts to adjoining owners, the streetscape and deliver considerable social benefits to the local community.

Comment

The landscaped area identified in the DCP is Council’s primary density control as Council has not adopted a floor space ratio. The subject land is located in an urban area and is surrounded predominantly by residential development and areas of public recreation.

If the applicant was to meet the minimum landscaped area and reduce either the minimum required off-street car parking spaces (discussed below) that have been provided it may result in a traffic hazard with a greater number of vehicles parked in the surrounding street network. The only alternate option to increase the landscaped area would be to reduce the number of units or increase the number of 1 bedroom units provided, this may make the development unviable, having a consequential impact on the availability of affordable housing particularly for families.

The applicant has provided a concept Stormwater Management Plan which the assessing Development Engineer has generally supported. Taking into account the justification put forward by the applicant, the assessment above and stormwater from the increase in impervious areas being suitability addressed, the variation should be supported.

Clause C20 – Private Open Space

Clause C20 of the DCP requires that all units have an area of private open space (POS) of 50m<sup>2</sup> with a minimum dimension of 4.5m, have suitable solar access and be located behind the building setback line. The response provided by the applicant states that none of the units have an area of POS that complies with the minimum standard. The SEPP does not prescribe areas of private open space for each unit and relies on the provision of 35m<sup>2</sup> per dwelling for overall landscaped area. The applicant has justified the provision of POS for each unit as follows:

- The SEPP does not require the provision of POS, only overall landscaped area for which this proposal would comply.
- No overshadowing or privacy issues are created to adjoining residences as a result of reduced POS for each unit.
- Residents all have access to a private porch and varying quantities of POS in the vicinity of each unit in addition to a central communal open space area within the development, approximately 170m<sup>2</sup>.
- It is considered that residents will have access to suitable open space to meet day to day requirements.



Figure 1 - Green shaded areas show location and private open space for each respective unit



Comment

As can be identified in Figure 1, each unit has an area of POS allocated in addition to any front or rear porch/alfresco area the unit has. Units 4-11 have areas of POS that meet the area requirements with suitable solar access however it is located in front of the building. Council can consider POS in the front setback provided that it is suitably screened to be made private. The remaining dwellings have areas between 25m<sup>2</sup> and 60m<sup>2</sup>. These areas are generally split between an area at the front and additional space at the rear of the unit that does not comply with the minimum dimension of 4.5m and has poor solar access being on the southern side of the units.

The POS areas that are available will be relatively level and be suitably screened from the adjoining unit. Furthermore, the areas of POS will have direct access to the front and rear patios that have direct access to internal living areas. To accommodate the non-compliance with the required POS provisions for each unit, an area of communal open space is provided in a central location accessible by all units. Flat grades and footpaths connect the 2 accessible units in the south west corner of the site to the common area. On the basis that each area of POS is suitably screened from adjoining units and the street, based on the assessment above it is considered that a variation be granted.

Clause G2 – Number of Car Parking Spaces

Clause G2 of the DCP requires 1 space for 1 and 2 bedroom units, a visitor car space per 2 units and a service/delivery vehicle space per 50 units. The proposal would require 24 spaces for the units, 12 visitor spaces and a delivery/service vehicle; the DCP permits use of visitor spaces for a service vehicle. The development is providing 24 car parking spaces, inclusive of 2 accessible spaces. Under the SEPP, the consent authority would be unable to refuse the DA if the following parking spaces are provided:

- (i) *in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or*

Using the provisions of the SEPP, a total of 11 car spaces would need to be provided. The applicant has justified the shortfall in parking as follows:

- The proposed development would comply with the SEPP, with 13 additional parking spaces provided.
- The Traffic Impact Assessment submitted with the application demonstrates that the surrounding street network has capacity to accommodate the additional traffic generated by the development should it overflow off the site.
- Tenants of NCCH typically are low income earners and have lower car ownership compared to average rental properties; financial considerations are considered as part of the eligibility criteria for applicants.
- The subject site is located on a public transport route which provides access to commercial, community, health and education facilities.
- The variation to the DCP would not result in adverse impacts to adjoining owners, the streetscape and deliver considerable social benefits to the local community.

Comment

Variation requests can be considered on their merits on a case by case basis and Council may allow variations to the DCP requirements after taking into consideration the matters listed under Clause G3 as follows:

- (a) *The proposed development is a minor addition to an existing building and is not likely to generate additional parking demand, or the calculation of the parking requirement is less than 1 car space.*
- (b) *The peak demand for parking generated by the proposed development is outside the hours of 8:30am and 5:30pm, and adequate on-street car parking is available and in proximity to the proposed development.*

*The following matters must be considered in determining an application to vary the DCP requirements:*

- (i) *The location, type and scale of the proposed development.*
- (ii) *The existing level of on-site car parking on the development site.*
- (iii) *The compatibility of the car parking location and design with adjoining properties.*
- (iv) *The nature and volume of traffic on the adjoining street network.*
- (v) *The geometry and width of the adjoining street network.*
- (vi) *The availability and accessibility of public car parking areas.*
- (vii) *Comments from the NSW Roads and Traffic Authority, if applicable.*
- (viii) *Whether an offer has been made to contribute to “deficit” parking by means of a planning agreement.*

The provision of parking on-site will mean that each unit has 1 available car space, it is only the visitor and delivery/service vehicle spaces that are not provided for on-site. Based on the information provided by the applicant that car ownership is low for expected occupants of the development, it is likely that not all occupants would have access to a private vehicle therefore reducing the demand for on-site parking.

The nearest business zoned land from the site is approximately 2.1km, being Skinner Street South Grafton. Although the subject site is not considered to be within walking distance of Skinner Street or the South Grafton Shopping Centre, the site is on the bus route via Bimble Avenue with 2 stops being 130m and 330m from the site. The Busways route into Grafton passes these stops approximately every 40 minutes Monday to Friday and, every hour on Saturday with a reduced service on Sunday and Public Holidays. Additionally, local taxi services would be available to service future occupants of the site.

Requiring the provision of additional parking on-site, would reduce the overall landscaped area and recreational space, and may result in fewer units being provided which would consequently reduce the affordable rental housing available. Therefore, increasing the sealed area on-site to provide additional parking is not supported. The variation request has been assessed on its merits and on the basis of the site being adequately serviced by public transport the compliance with this standard would result in greater noncompliance with private open space and landscaped area requirements. For these reasons the variation is supported.

In these circumstances, Council's Planning Agreements – Car Parking Deficits Policy is not applicable as this policy only applies to non-residential developments, hence no offer has been made to meet the deficit by means of a planning agreement.

The other option for Council is to not support the development proposal on the basis that waiving the reduction in parking is not acceptable in the circumstances and request the applicant submit amended plans to increase the provision of additional off-street car parking spaces. This would consequently result in less landscaped area and open recreational space for the development.

#### Conclusion

The applicant has stated that *'There is a need for quality affordable housing within the Grafton area which has been clearly established by NCCH in a December 2013 Northern Rivers Housing Study. The proposed development responds to this need by providing a combination of 1 and 2 bedroom units to provide long term housing in a location with ready access to public transport providing access to employment, commercial, health and educational opportunities. The proposed development is therefore considered to deliver considerable social benefits to the local community.'*

#### Option 1

The proposal, should it be approved, will increase the diversity of rental options available in the Clarence Valley. The site is a flood free site which will place less burden on emergency services during times of natural disaster and the need to evacuate the site if it was within 400m of Business zoned land. It is therefore deliberated that the site is suitable given its location and proximity to public transport to the CBD of South Grafton and Grafton and furthermore there is ease of access to the train station. The application has been assessed on its merits and the proposal is generally consistent with the Clarence Valley LEP, Residential Zones Development Control Plan and other relevant policies. It is recommended that the variations to the DCP be supported and the application be approved.

#### Option 2

Alternatively, Council may opt to not support the requested variations and require the proposal to comply with the DCP controls so that overall landscaped area, private open space and car parking are increased to be compliant. This would result in less dwellings able to be utilised for affordable housing and may lead to the proposal not being viable.

### **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 No. 55 - Remediation of Land  
 Clarence Valley Local Environmental Plan 2011  
 CVC Residential Zones Development Control Plan  
 State Environmental Planning Policy (Affordable Rental Housing) 2009  
 CVC Affordable Housing Policy

**Consultation**

The development application was referred externally to Essential Energy due to proximity of the site to electrical infrastructure. No objection to the proposed development was raised with relevant conditions contained within Schedule 1. The following internal sections of Council were consulted with during the assessment process:

| <i>Internal Section or Staff Member</i> | <i>Comment</i>                  |
|---|---------------------------------|
| Health and 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**

Provision of new pre-manufactured homes for affordable housing will provide additional housing for the South Grafton Area with access to services and within an existing urban area is more efficient and generates less greenhouse gases for the full life cycle of the development compared to more dispersed and fragmented forms of development. The manufactured homes will need to be compliant with the NSW Government's building sustainability index in terms of thermal comfort, water efficiency and energy efficiency and achieving this certification makes new residential development more sustainable and less of a contributor to climate change compared to older forms of housing.

|             |   |
|-------------|---|
| Prepared by | James Hamilton, Development Planner             |
| Attachment  | 1. Proposed Plans<br>2. Section 4.15 Assessment |

**Schedule 1**  
**Draft Advices and Conditions of Consent for DA2021/0326**

**Definitions**

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

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

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

**WSUD** means Water Sensitive Urban Design

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

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

**Civil Works** may include:

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

**NATA** means National Association of Testing Authorities

**TfNSW** means Transport for New South Wales

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

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

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

**Advices**

1. No construction on the retaining walls is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
3. All excavated or filled areas are to be battered to a slope of not greater than 45 degrees to the horizontal, or alternatively, be retained by a retaining wall. Where the height of the retaining wall exceeds 1m, a compliance certificate or other form of documentary evidence from a structural

engineer stating the structural adequacy of the design is to be forwarded to the Principal Certifier. All excavated and filled areas are to be drained to prevent surface water affecting neighbouring properties.

4. Prior to building work commencing approval under Section 68 of the Local Government Act shall be obtained from Council for sewerage work, water plumbing and stormwater work. Two copies of hydraulic plans to AS 3500 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval.
5. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with
6. There is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets
7. Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
8. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or RMS;
  - b Local Government Act Section 68 - drainage, water & sewer approval;
  - c Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

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

9. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a Building Construction Certificate or Section 68 Approval has been issued by Council and/or accredited private certifier.

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

10. 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 10.80 ET demand on Council's water supply, and an additional 14.00 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 10.8 additional ET  | = \$ 54,183.60 |
| Sewer Headworks \$6,863.00 x 14.00 additional ET | = \$ 96,082.00 |

**OR**

1 Bedroom Unit - 0.4 ET Water and 0.5 ET Sewer  
 2 Bedroom Unit – 0.6 ET Water and 0.75 ET Sewer

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

Where any works are required on Councils water 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.

11. 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.
12. 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.
13. The Earthworks Management Plan must include an initial site inspection report. This report should include:
  - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
  - b Certification that the land created by the development will be suitable for its intended purpose (e.g. residential, commercial or industrial buildings) including any parts of the land that will be left in its natural state or modified by the development.
  - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, hanging swamps, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

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

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

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

- a Details of geotechnical laboratory and in situ (principally dry density assessment) testing for each fill type and specified volume of placed fill including records of the date and time of all testing, the source of material tested in the laboratory, and the spatial distribution and reduced level of in situ tests. The latter must be correlated with results from the laboratory testing of similar material.
- b Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.

- c Certification of the completed earthworks (including cut, fill, earth retaining structures as far as the geotechnical aspects) that the work is suitable for the intended use.
- d Certification that excavated materials have been reused or disposed of in accordance with the Protection of the Environment Operations Act 1997 and copies of receipts for disposal where relevant.

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

### Conditions

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

| Plan Title                                  | Drawn by      | Plan Date  | Sheet No |
|---|---------------|------------|----------|
| Bimble Master Plan                          | Impact Design | 19/04/2021 | 1.2      |
| Bimble Site Cover and Setbacks              | Impact Design | 19/04/2021 | 1.3      |
| Bimble Master Floor Plan                    | Impact Design | 19/04/2021 | 1.4      |
| Elevations                                  | Impact Design | 19/04/2021 | 1.14     |
| Sections                                    | Impact Design | 19/04/2021 | 1.15     |
| Floor Plan – 1 Bed Dwelling Dual Occupancy  | Impact Design | 19/04/2021 | 1B02     |
| Elevations - 1 Bed Dwelling Dual Occupancy  | Impact Design | 19/04/2021 | 1B03     |
| Floor Plan - 1 Bed Dwelling Triplex         | Impact Design | 19/04/2021 | 1B02     |
| Elevations - 1 Bed Dwelling Triplex         | Impact Design | 19/04/2021 | 1B03     |
| Floor Plan – 2 Bed Dwelling Dual Occupancy  | Impact Design | 19/04/2021 | 1B02     |
| Elevations - 2 Bed Dwelling Dual Occupancy  | Impact Design | 19/04/2021 | 1B03     |
| Floor Plan – Adaptable/Accessible Dwellings | Impact Design | 19/04/2021 | A2       |
| Elevations – Adaptable/Accessible Dwellings | Impact Design | 19/04/2021 | A3       |
| Landscape Finishes                          | Lead          | 15/04/2021 | N/A      |
| Indicative Softscape Palette                | Lead          | 15/04/2021 | N/A      |

2. All dwellings are to be utilised for the purposes of affordable rental housing. Should this change in the future, written approval is required from Council and payment of Section 7.11 Contributions levied under Council's Contributions Plan 2011 will be payable in accordance with the relevant fees and charges applicable at the time prior to any change in occupation.
3. All landscaping works are to be completed in accordance with the approved plan 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 developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

### Essential Energy

6. Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to the whole proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees, contributions and if required, new designated electrical infrastructure, such as a padmount substation. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works Team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).

7. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
8. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to all proposed dwellings in accordance with the NSW Service and Installation Rules.

#### Building

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

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

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

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

11. **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.

12. Imported fill shall not come from a contaminated source. Any imported fill shall be free of building and other demolition waste and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the *Protection of the Environment Operations Act 1997*, excavated natural material or the relevant waste resource recovery exemption from the NSW Environment Protection Authority (EPA). Written details of the source of fill shall be submitted to Council prior to fill being imported to the site.
13. **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).
14. A fully dimensioned and notated work as executed sewer drainage and storm water plan is to be submitted to Council and the property owner upon completion of all drainage lines. A Certificate of Compliance for Plumbing and Drainage Work shall be submitted to Council upon completion of work.



15. At least 24 hours notice shall be provided to Council for the purpose of inspecting the following:
- a plumbing work prior to covering/lining walls
  - b sewer work prior to back filling/lining
  - c final inspection of plumbing and drainage work.

Inspections can be booked on line at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) until midnight the day before the inspection. Please quote the DA number when booking inspections.

16. Council's assets (eg. footpath, roadway, kerb, stormwater pits, manholes, etc) shall be protected from damage during demolition/construction works. Any damage to Council's assets during work shall be paid for by the principal contractor prior to completion of work or issue of the occupation certificate. The principal contractor is encouraged to photograph any existing damage to footpaths, etc prior to commencing works for their records. Where unmade or grassed footpaths are disturbed by the passage of builder/suppliers' vehicles, the footpaths are to be graded and restored to original level with top soil.

#### Engineering

17. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Occupation of each dwelling, for each and every stage of the development. This may require payment of a fee.
18. The developer must design and construct all civil works, in accordance with **NRDC** and the approved Building Construction Certificate. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Occupation Certificate.

Prior to commencement of works or issue of a Building Construction Certificate. A practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works :

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
  - b will not be affected by landslip either above or below the works.
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
19. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **TfNSW** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
20. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address [council@clarence.nsw.gov.au](mailto:council@clarence.nsw.gov.au) <<mailto:council@clarence.nsw.gov.au>>. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:

#### Health and Safety

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

**Environment**

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

**Quality**

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

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

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

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

21. A detailed Water Reticulation Management Plan must be submitted for assessment and approval by Council, prior to the issue of a Construction Certificate. This shall include consideration of any approved bushfire management plan and an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows.  
  
Any upgrade to the existing water service to the property will be subject to the costs outlined in Council's list of fees and charges.
22. A single property service with a single meter servicing the whole property shall be installed. Council recommends individual isolation valves be installed on each dwelling unit. Privately owned water meters may be installed within the property, but such private meters will be the responsibility of the property and will not be read or maintained by Council. The single Council water meter must be of a type approved by Council or purchased from Council and located in an accessible location at the property boundary for maintenance and reading purposes.
23. Prior to release of the Occupation Certificate, the water supply infrastructure must be completed or arrangements made to Council's satisfaction for the provision of water services. The water supply must be available and operational prior to issue of any Occupation Certificate on any of the lots created.
24. A Sewerage Reticulation Design plan must be submitted for approval with the application for a Section 68 approval.

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

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

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, the submitted Stormwater Management Plan and **NRDC**.

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

On-site detention (OSD) and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot.

26. The legal and practical point of stormwater discharge of the development is nominated is Bimble Avenue.
27. A vehicular crossing to provide access to the allotment as detailed on the approved plans is to be constructed in accordance with the requirements of Council's Operations Section and be fully completed prior to requesting a final inspection and the issue of an Occupation Certificate. An application for driveway access crossing is to be submitted and approved by Council prior to any work commencing.
28. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the approved plan and made available thereafter. The car parking classification is Class 1A for the internal parking and is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
29. A detailed plan of the proposed driveways including longitudinal sections, cross sections, road levels, garage levels, earthwork batters, retaining walls, property boundaries and other site specific considerations must be submitted for approval with the **Section 138** to demonstrate that access to the development is provided in accordance with **NRDC**.
- Utility services within service trenches must comply with any statutory requirements for separation.
30. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to issue of the 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.
31. 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**.
32. The filling of the site is not to adversely affect adjacent properties or local drainage patterns. Provision is to be made for the free passage of surface stormwater away from affected sites.
33. Prior to release of the Occupation Certificate for any stage, certification from the Geotechnical Inspection And Testing Authority who undertook Level 1 inspection and testing, will be required confirming that each lot is suitable for the intended purpose. All testing as required in AS3798 and **NRDC** must be submitted.
34. A Works-As-Executed plan prepared by a registered surveyor, showing both original levels and finished surface levels after filling material has been placed on the site and compacted, is to be submitted to and approved by Council or accredited private certifier prior to the issue of the Occupation Certificate.

## Erosion and Sediment Control

35. 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.
36. A detailed Erosion and Sediment Control Management Plan for each stage of the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a Building Construction Certificate for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include WSUD components of the proposed drainage system.
37. 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.
38. 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.
39. Vehicular access is to be restricted to one stabilised access point during construction works.
40. All erosion and sediment control measures are to be regularly maintained in good working order at all times and inspected for adequacy following any rainfall event.

|                    |  |   |  |
|--------------------|--|---|--|
| <b>ITEM</b>        | <b>6b.21.046</b>                                 | <b>MOD2021/0028 – SECTION 4.55(2) MODIFICATION OF DA1994/0148 - ROTATE POSITION OF UNITS (4 &amp; 5) AND AMEND ROOF DESIGN AND INTERNAL LAYOUT – NO. 4 BAY STREET, ANGOURIE</b> |  |
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021  |  |
| <b>Directorate</b> | Environment, Planning & Community                |   |  |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |   |  |
| <b>Attachment</b>  | Yes  |   |  |

**SUMMARY**

|                    |  |
|--------------------|--|
| <i>Applicant</i>   | Clarence Valley Building Design            |
| <i>Owner</i>       | Collingburn Cabinet Making (Yamba) Pty Ltd |
| <i>Address</i>     | 4 Bay Street, Angourie                     |
| <i>Submissions</i> | Yes - 9                                    |

Council is in receipt of a Section 4.55(2) Application to modify DA1994/0148 by rotating the position of Units 4 and 5 and amending the roof design and internal layout.

The proposed development was notified in accordance with Council's Community Participation Plan and a total of nine (9) submissions were received in relation to the modification (seven (7) submissions during the original notification period and two (2) additional submissions following notification of the photomontages). Issues raised in the submissions include impacts on views, non-compliances with the Residential Zones Development Control Plan (DCP) including the Angourie Building Height Envelope, top plate height of 6.5m and six (6) metre front setback, and lack of shadow diagrams.

This report provides an assessment of the application, issues raised within the submissions and a recommendation for Council's consideration.

**OFFICER RECOMMENDATION**

That Council:

1. Support a variation to the Angourie Building Height Plane Envelope and reduced front setback required by the Residential Zones DCP; and
2. Approve Section 4.55(2) Application to modify DA1994/0148 subject to the additional advices and conditions contained in Schedule 1.

*Having declared an interest in this item, Cr Ellem left the EP&C Committee meeting at 4.29pm and returned at 4.36pm.*

**COMMITTEE RECOMMENDATION**

Baker/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Baker, Clancy, Novak, 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**

DA1994/0148 was approved on 16 September 1994 under delegated authority of Council's Town Planner for the construction of 5 units (3 x 2 bedroom units and 2 x 3 bedrooms units) at 4 Bay Street, Angourie. Three (3) of the units were constructed under Building Application BA1994/0407. The approval has physically commenced and as such the DA is still a valid consent.

As a Building Approval was issued for Stage 1 of the development only (i.e. the first 3 units), a Construction Certificate will need to be obtained for the remaining two (2) units.

Additionally, as the Basix requirements were not in force when the original DA was issued it will now be necessary for the applicant to comply with either the energy efficiency requirements of the BCA or obtain a Basix Certificate and include it with the Construction Certificate.

The subject land is zoned R3 Medium Density under the provisions of the Clarence Valley Local Environmental Plan 2011. The proposed multi unit development is permissible with consent and is not inconsistent with the following objectives of the zone:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.

## KEY ISSUES

### 1. Impact on views

Concerns were raised within the submissions regarding the impacts on views, particularly from No. 4, 6 and 8 Pacific Street, Angourie. Additionally, concerns were raised that no photomontages were provided with the application. In response to concerns raised in the submissions, Council staff sought additional information by way of certified photomontages which shows the impacts of the proposed modification. Once received, the photomontages were sent to affected property owners for review and comment. Further concerns were then raised in regard to the accuracy of the photomontages.



Existing View – 6 Pacific St



Proposed view – 6 Pacific St



Existing View – 8 Pacific St



Proposed view – 8 Pacific St

### Comment

It should be acknowledged that no one can own a view across private property. Accordingly, Council has adopted the principle of view sharing to reduce the impact on coastal views from existing buildings that are adjoining or adjacent even if the building is wholly located within the building envelope. As per the court case *Tenacity Consulting v Waringah* 2004 LEC 140, Senior Commissioner, Dr John Roseth adopted a four-step assessment to decide whether or not view sharing is reasonable:

1. *The first step is the assessment of the views to be affected – Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are*

*valued more highly than views without icons. Whole views are valued more highly than partial views e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment: As is demonstrated in the photomontages, the dwellings located No. 6 and 8 Pacific Street currently enjoy ocean views. The proposed relocated units will have some impact as that part of the site is not currently built upon. However, both dwellings located at No. 6 and 8 Pacific Street will still enjoy mostly uninterrupted views of the Pacific Ocean, and towards Yamba.

- The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment: The coastal views from No. 6 and 8 Pacific Street are obtained from balconies of the dwellings. The certified photomontages submitted with the application demonstrate that the fundamental views from the balconies will be maintained in a standing position. The views may be reduced if sitting on the balcony. Views from the living areas of each of the units would be similar as they are generally adjoining the balconies.

- The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the views loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: The view impacts to No. 6 and 8 Pacific Street are considered as minor given the expanse of view from each of the sites which includes views through to Yamba. It is considered that the impact on these views would be greater impacted if the original approved units were built as they would have a bulkier roof line. The proposed modification creates view sharing corridors that otherwise would not have been provided with the original design. As can be seen from the photomontages, views are still maintained on the upper balconies from a standing position.

- The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

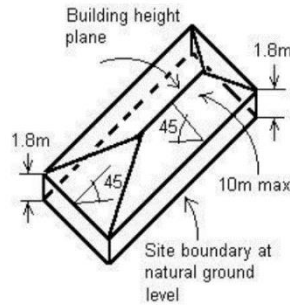
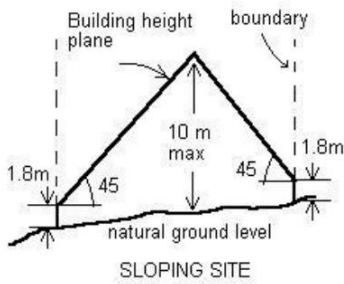
Comment: The photomontages submitted as certified, demonstrate that coastal views from the balconies of No. 6 and 8 Pacific Street will essentially be maintained with slight impacts through the construction of the two (2) units. The proposed development is below the overall maximum 10m Angourie Building Height Plane Envelope and through a roof line amendment, will provide view sharing corridors. It is reasonable to support the development on the grounds that the development does not result in a detrimental impact to the surrounding area and the development complies with the height related planning controls.

The development has been designed to improve the view corridors from No. 6 and 8 Pacific Street compared to that originally approved. The photomontages provided for the application demonstrate that there is no significant loss of views for properties located at No. 4, 6 and 8 Pacific Street. The original approved design has a greater height than that proposed under the modification, the modification results in the creation of view corridors through an amended to the roof line and increased separation of the two (2) units from the existing three (3) units onsite. For this reason, staff are of the opinion that the modification meets Council's adopted view sharing principles and results in a better outcome for affected residents in Pacific Street than that originally approved under DA1994/0148.

With regard to the accuracy of the photomontages, these have been checked and certified by Cameron McFadzean (BA Architecture, B Architecture, Assessor ABSA, Assoc IES) of Deneb Design Number PMC182601 with data from a registered surveyor and are considered to be suitable.

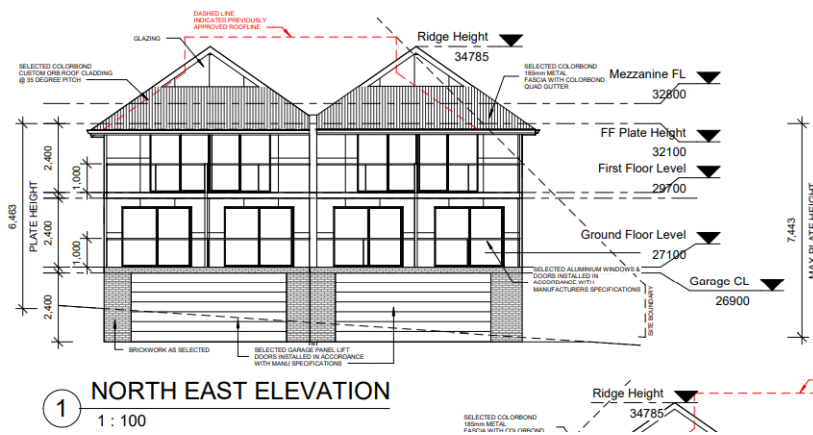
**2. Non compliance with Angourie Building Height Plane Envelope**

The building height plane means the plane projected at an angel of 45 degrees from a distance of 1.8 metres above existing ground level at the boundary of the site. The building height plane, in combination with the building height limits, form the maximum building envelope see extract from the DCP Part Q Angourie Village Controls below.

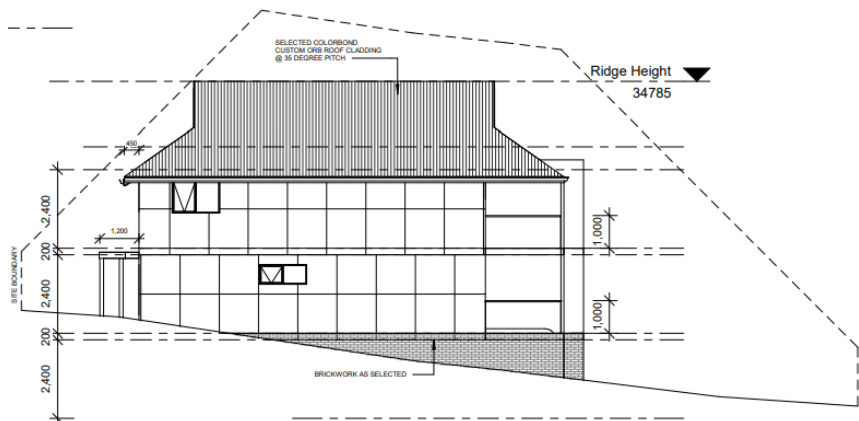
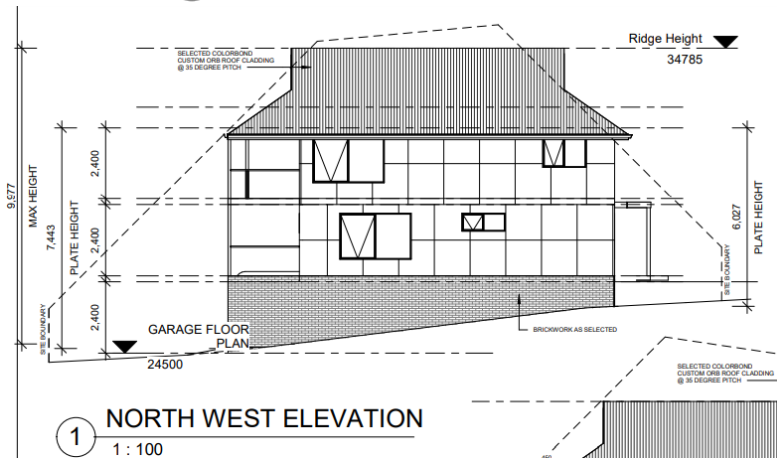
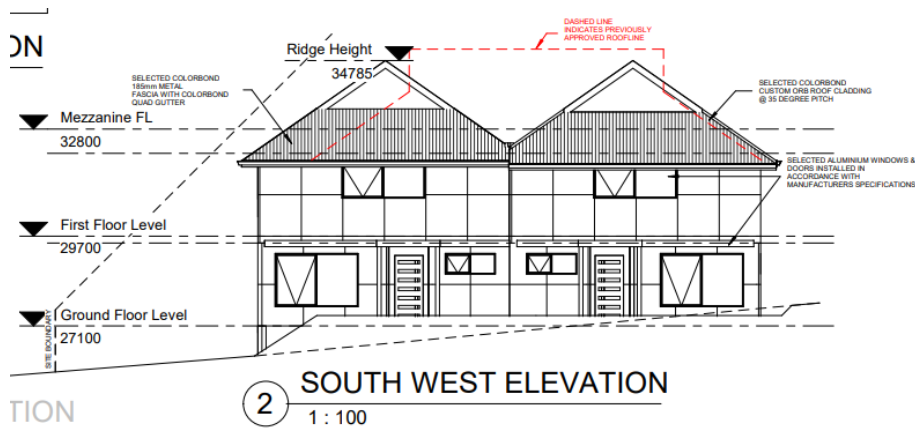


The proposed development complies with the building height limit of 10m, however encroaches outside of the building height plane as shown on extracts of the drawings by Clarence Valley Building Design below. This plan demonstrates the critical points in which the building encroaches on the envelope.

The proposed development complies with the LEP building height limit of 10m with a maximum height of 9.977m, but has a greater projection outside of the building envelope along the North East and South West Elevations compared to that originally approved under DA1994/0148. Minor encroachments are shown on the north west elevation with no encroachments on the south east elevation (refer to extracts of elevations shown below).







The DCP states that all buildings must be situated within the building envelope, with the exception of climate control elements which are of an open character and form part of the landscape treatment of the building. Pergolas, verandahs and lattice walls are examples of such elements. An exemption from the building height plane and building envelope controls may be considered in relation to one or more boundaries in the following circumstances:

- a) Where clear advantages are achieved in other aspects of the design; or
- b) On an existing narrow allotment; and
- c) For second storey additions to single dwelling houses, providing the objectives for the building height plane are satisfied.

The applicant's justification for the proposed modification is as follows:

- *Open a larger view corridor for properties in Pacific Street by the introduction of a larger separation between the three existing constructed units and the remaining two units that were originally approved under DA1994/0148*

- As the rotation of the building has moved the building closer to the front boundary (north easterly directed part of Bay Street) the remaining two units are proposed to be built to a lower reduced level than that originally approved under DA1994/0148
- To achieve better views from the remaining two (2) units
- An opportunity for the two remaining units to provide occupants with balconies that are looking in a direction away from the structures upon No. 2 Bay Street rather than into the structures
- Increased privacy for the residents of 2 Bay Street as the 'remaining units' would have been looking directly into their properties.

#### Comment

As shown in the photomontages, the rotation of buildings will open up view corridors to the dwellings located at No. 6 and 8 Pacific Street compared to that approved under DA1994/0148. The encroachment of the building outside of the envelope achieves a better design outcome with the building being more representative of modern building design in keeping with the Angourie Village character. For this reason, a variation to the building height envelope in this instance can be supported as the modified design will improve view corridors to the dwellings located at No. 6 and 8 Pacific Street than that originally approved.

### 3. Non compliance with the 6.5 metre top plate height required by DCP

Concerns were raised in the submissions regarding the non-compliant top plate which under our current DCP standards, a maximum 6.5m is permitted.

#### Comment

Typically, a modification to an approved development application has to be considered against the criteria relevant at the time of the original assessment. The original units approved under DA1994/0148 approved a top plate height of 7.5m which is consistent with that required under the DCP at the time of approval (copy in attachments). The development is still consistent with those controls and as such Council cannot require the development to reduce the top plate to a maximum of 6.5m as suggested in the submissions. Additionally, photomontages provided for the development demonstrating the potential view impacts clearly show that on balance there will be no greater adverse impact to that already approved on views from properties located in Pacific Street.

### 4. Non compliance with the 6 metre front setback required by DCP

Concerns were raised within the submissions regarding the proposed reduced front setback and potential impacts to sightlines and safety of pedestrians.

Setbacks are controlled by the building height plane which will vary from site to site, but generally a front setback of 6m applies. The previous Maclean Shire Council DCP, and notably Council's current controls, allow Council to consider variations to the front setbacks in Angourie down to a minimum of 3 metres in order to achieve more varied and interesting streetscapes, better orientation of residential development with regard to sun, shade, wind and neighbouring development, and better use of allotment areas to create private open space and courtyards.

The development proposes a front setback of 3.906m in the north western corner down to 5.832m in the south western corner. This results in a triangular section of the building within the 6m front setback (see extract of plan by Wendy Shepherd Surveyors and Development Consultants below).



The setback from a street frontage for a building must be determined on its merits having regard to the following criteria:

- a) *The position of any existing buildings;*  
Comment: The majority of dwellings in the vicinity adopt a 6m or greater setback, however a reduced setback was approved for the units at No. 2 Bay Street that adjoins the site. A reduced front setback for the proposed units down to 3.9m is not considered to be out of character in this location.
- b) *The size and shape of the allotment;*  
Comment: The existing lot is considered to be of a standard shape and size.
- c) *The effect of vehicular safety and visibility, particularly on corner sites;*  
Comment: A reduced setback will not compromise sight distances or visibility for Bay Street pedestrians and are considered to be adequate in both directions.
- d) *The orientation of the allotment and the proposed dwelling with regard to the sun and prevailing winds;*  
Comment: Solar and wind access are not factors in the need for a variation.
- e) *The proposed location of any private open space, courtyard or landscaped areas;*  
Comment: A reduced setback and rotation of the building will provide for increased privacy of the dwellings located at No. 2 Bay Street and occupants of the two new units as it will not be directly overlooking adjoining buildings.
- f) *The façade of the proposed building or buildings which will face the street and the proposed landscape treatment of that part of the allotment which is visible from the street;*  
Comment: The encroaching section of the building is triangle in shape which provides a setback of between 3.906m and 5.832m. The section of building will appear as a 2-3 storey structure, however through window placement and open balconies, will not present as being overly bulky from the street and is not out of character of nearby development.
- g) *The location and treatment of any car parking areas or car parking structures on the site.*  
Comment: There is an existing driveway which already provides access to the site. The location of this and parking areas will not change as part of the modified design.

Comment:

A reduction in the proposed front setback down to 3.906m is supported in this instance as it is not likely to adversely impact on the streetscape and it improves the amenity and privacy for the new units and adjoining properties. A reduced setback in this location is not out of character with other buildings in the vicinity of the development site with the adjoining property at No. 2 Bay Street also having a reduced setback down to 3.5m which is less than what is proposed in this modification.

The proposed modification is considered to be suitably articulated to achieve a building design that improves view corridors whilst responding to the characteristic roof forms of the Angourie Village which will not detract from the streetscape. A reduced front setback in this location provides for a reasonable degree of integration with the existing street pattern of setbacks and provides for variety in the streetscape. The development is consistent with the Q7 controls and therefore, the development is considered to generally meet the requirements of the DCP. As such, there is considered to be sufficient justification in the context of the criteria under Clause Q8 to support the proposed variations to the setback requirements.

## 5. Lack of Shadow diagrams

Shadow diagrams were not provided as part of the original application. However, due to concerns raised in the submissions these were later submitted for consideration.

Comment

The shadow diagrams submitted with the application demonstrate that there is no unreasonable overshadowing of adjoining properties or private open space areas. With regard to the accuracy of the shadow diagrams, these have been checked and certified by Cameron McFadzean (BA Architecture, B Architecture, Assessor ABSA, Assoc IES) of Deneb Design Number PMC182601 with data from a registered surveyor and are considered to be suitable.

Summary

In overall summary of this report, it is recommended that the proposed modification to rotate the buildings, modify roof line, adjust the setbacks and amend the internal layout be approved as it results in improved

outcomes in terms of view sharing for properties located at No. 4 and 6 Pacific Street. Through the creation of view corridors, the roof line is more in keeping with the architectural design of modern dwellings within Angourie village, the development will provide additional privacy for the units located at No. 2 Bay Street and provide the new units with better views.

It should be noted that if Council refuse the modification, the developer may still construct the two (2) units as per the original approval issued under DA1994/0148 which has a bulkier roof line and a greater overall height than that proposed under the modification.

## 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 Regulations 2000*

*State Environmental Planning Policy No. 55 – Remediation of Land*

*State Environmental Planning Policy (Coastal Management) 2018*

*Clarence Valley Local Environmental Plan 2011*

*Residential Zones Development Control Plan*

*Building Code of Australia*

### Consultation

The following sections of Council and external government agencies were consulted during the assessment of the application.

| <i>Internal Section or Staff Member</i> | <i>Comment</i>   |
|---|--|
| Development Engineer                    | Supported – No changes to existing conditions of consent |
| Building Surveyor                       | Supported – Amended conditions contained in Schedule 1   |

### 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 which is considered to be a driver for climate change via building materials, construction methods, maintenance and associated energy and resource use. The new units will be required to comply with current energy efficiency requirements having a positive outcome in terms of climate change.

|             |  |
|-------------|--|
| Prepared by | Carmen Landers, Acting Development Services Coordinator  |
| Attachment  | A. Plans<br>B. Photomontages and Certification<br>C. Submissions<br>D. Maclean Shire Council DCP<br>E. Section 4.55 Assessment |

**Schedule 1**  
**Draft Additional Advices & Conditions for MOD2021/0028**

**New Additional Advices**

- 6 No construction is to be commenced until a Construction Certificate has been issued.
7. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.

**New Additional Conditions**

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

| Plan No | Drawn by                        | Title            | Plan Date  | Sheet No |
|---------|---------------------------------|------------------|------------|----------|
| 20040   | Clarence Valley Building Design | Site Plan        | 20/04/2021 | 01       |
| 20040   | Clarence Valley Building Design | Site Plan 2      | 20/04/2021 | 02       |
| 20040   | Clarence Valley Building Design | Floor Plans      | 20/04/2021 | 03       |
| 20040   | Clarence Valley Building Design | First Floor Plan | 20/04/2021 |          |
| 20040   | Clarence Valley Building Design | Elevations       | 20/04/2021 | 05       |
| 20040   | Clarence Valley Building Design | Elevations       | 20/04/2021 | 06       |
| 20040   | Clarence Valley Building Design | Section          | 20/04/2021 | 07       |
| 20040   | Clarence Valley Building Design | Section          | 20/04/2021 | 08       |

17. Stage 2 of the development (i.e. 2 x 2 bedroom units) is not to be occupied or used until such time as an Occupation Certificate has been issued.
18. **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).
19. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited, and
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work, and
- Any such sign is to be removed when the work has been completed.
20. The Construction Certificate documentation for Stage 2 of the development (i.e. 2 x bedroom units), shall include a Basix Certificate with all of its commitments being shown on the submitted plans, or, the submitted plans shall indicate compliance with Part 3.12 Volume 2 Energy Efficiency of the Building Code of Australia.
21. The mezzanine levels shall not be used for habitable purposes

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.047</b> | <b>SUB2020/0010 – 2 LOT SUBDIVISION – 135 ADAMS STREET, WOOMBAH</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | Yes  |              |

**SUMMARY**

|                    |   |
|--------------------|---|
| <i>Applicant</i>   | Andrew Fletcher – A Fletcher & Associates Pty Ltd |
| <i>Owner</i>       | Trevor Hames                                      |
| <i>Address</i>     | 135 Adams Street, Woombah                         |
| <i>Submissions</i> | Nil.  |

Council is in receipt of Development Application SUB2020/0010 which proposes a 2 Lot Subdivision of 135 Adams Street, Woombah. In accordance with the Community Participation Plan the application was notified and no submissions were received during the exhibition period. The subject site is serviced by a Crown Road Reserve and the Applicant has requested that Council accept transfer of this section of Crown road. The matter is being referred to Council to accept transfer of this Crown road and determine the application.

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

**OFFICER RECOMMENDATION**

That Council:

1. Request the transfer of approximately 350m of Crown road adjoining Lot 165 DP751394 through to the subject land to Council from the intersection of Adams Street and Iluka Road to the full frontage of the development site provided the Applicant constructs the road to the standard as set out in the draft conditions of consent contained in Schedule 1; and
2. Approve Development Application SUB2020/0010 subject to the conditions and advices contained with Schedule 1.

**COMMITTEE RECOMMENDATION**

Simmons/Novak

That this matter be deferred to full Council meeting.

Voting recorded as follows:

For: Williamson, Simmons, Baker, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

Development Application SUB2020/0010 was lodged on 20 May 2020 to subdivide 135 Adams Street, Woombah. The subject land is zoned R5 Large Lot Residential under the *Clarence Valley Local Environmental Plan 2011* (the LEP), with a minimum lot size for a dwelling being 4,000m<sup>2</sup> applying to the land. The proposal was notified from 26 May to 9 June 2020, no submissions were received during the exhibition period. The Application was referred to National Parks and Wildlife Services (now Heritage NSW) due to the proximity of the subject site and future building envelope on proposed lot 192 to known sites of Aboriginal Heritage. The Applicant has consulted with Yaegl Traditional Owners Aboriginal Corporation as required by Heritage NSW who have advised that the proposal will not harm any Aboriginal objects, therefore

the proposed development does not trigger the integrated development requirements under the *National Parks and Wildlife Act 1974*.

## KEY ISSUES

### 1. Transfer of Crown Road

The subject site has frontage to Iluka Road, however the current dwelling on the site gains access from Adams Street. The Applicant is proposing to utilise Adams Street and a section of Crown road reserve to access the subject site. Adams Street is an existing unsealed, unmaintained road which provides frontage to 8 existing dwelling lots (inclusive of development site). The Applicant proposes that Council take over the road to comply with Clause 7.8 of the LEP to provide suitable access to the site.

Clause 5.3 of the Roads Policy sets out the provisions in which Council may accept existing Crown roads or extensions of existing Council roads for inclusion as part of Council's constructed road network (as either Category 1 or Category 2 roads) as follows:

- 1. The subject road will be the sole means of access to at least one lawful continuously occupied residence(s) or property with a lawful dwelling consent. If a residence is able to obtain access from another maintained road, the road may not be included. Council will also give consideration to the length of road to be maintained, gradients, construction impacts, the cost of maintaining the additional length of road and the number of residences on the road and distances between residences in determining whether the road should be accepted.*

Comment: The proposed road is a Crown road reserve (identified as Adams Street) for 350m to the west of the subject site and 160m of unmaintained Council road reserve. The length of road to be transferred is approximately 510m from the end of the proposed road. The subject road will be the sole means of access for 7 existing dwelling, 8 should the subdivision be approved and a dwelling constructed. The site also has frontage to Iluka Road, a sealed maintained road. However, there is currently a restriction-as-to-user on the subject site which prevents access directly onto Iluka Road. Civil Services have advised that removal of this restriction will not be supported given the alternate access arrangement available from Adams Street.

- 2. The maximum length accepted shall be the distance to the access point of the last residential property.*

Comment: The length of road proposed to be adopted into Council's maintained roads register extends approximately 510m from the intersection with Iluka Road across the frontage of lot 192.

- 3. Where Council accepts the transfer of a Crown road it shall approach the State Government to have the road reclassified as a public road over the nominated length. If the road is accepted for inclusion to the roads asset register, all costs for reclassification are to be met by the applicant.*

Comment: Part of the road is classified as a Crown road reserve, approximately 350m. If Council accepts the transfer of the road, all expenses are to be met by the Applicant. This will form part of the conditions of consent if approved.

- 4. The constructed road shall be wholly located within the designated road reserve. Where this is not practical and the access is otherwise acceptable realignment of the road reserve can be approved, with all costs to be met by the Applicant.*

Comment: The access road will be wholly located within the existing road reserve.

- 5. The road shall be constructed at no cost to Council to the required standard. Category 1 roads shall be constructed as specified in the Northern Rivers Development and Design Manual – Version 2 and the Northern Rivers Construction Manual. An exception may be made for existing unmaintained unsealed public roads which may be accepted as Category 2 roads subject to the roads meeting a specified standard of a minimum 6 metre wide constructed carriageway or 4 metre wide constructed carriage way with passing bays at a maximum of 200 metre intervals. The minimal gravel depth of the road shall be 100 mm of appropriately specified gravel for unsealed roads. Additional requirements to address design, environment, drainage and safety issues may also be required as assessed by Council. The decision on whether Council will accept a road as either Category 1 or Category 2 is at the discretion of Council and will be based on the access, development and maintenance implications of the access.*

Comment: For Council to adopt the additional length of road (Crown and unmaintained road) into Council's maintained roads register under Council's Roads Policy, the developer will be required to construct the road in accordance with Council specifications as per the Northern Rivers Development and Design Manual – Version 2 and the Northern Rivers Construction Manual prior to be accepted as a Council asset.

6. *There shall be no timber bridges located on the subject road.*

Comment: There are no timber bridges on the subject road.

The section of Crown road from the unnamed road reserve adjoining Lot 165 DP751394 through to the subject land (135 Adams St, Woombah being Lot 19 DP 1058496) meets the criteria in the Roads Policy. This section of road approximately 350m currently services 8 properties of which 7 of those have existing infrastructure located on them. Furthermore, Council has a watermain located adjacent to the existing unsealed carriageway.

Current NRDC Standard of construction for rural roads requires a 6m seal with 0.5m shoulders for the total length of the unformed access road servicing the property. Depending on the widening of the existing access road, this may require additional augmentation of the existing stormwater drainage. This may also result in an impact on the existing vegetation to the north of the access road, which could have implications on vegetation clearing and Aboriginal cultural heritage in vicinity of the site.

The advice received from Civil Services is that a minimum 4 metre wide seal from the intersection of Iluka Road up to and including, the full frontage of the proposed subdivision could be provided to a lesser standard to the DCP requirements. This lesser standard to the DCP requirement of 6 metres full width construction is considered acceptable based on the following reasons:

- The 4 metre wide seal requirement is consistent with previous approached Council has taken with development of similar impact and scale,
- A 4 metre wide sealed carriageway will improve the safety of the road network to an acceptable standard whilst reducing future maintenance cost of Council,
- Passing bays have not been required as this was not required by RFS. Further to this the existing driveways would function as informal passing bays allowing two vehicles to pass.
- The existing alignment of the road allows adequate sight distance for vehicles approaching the curve in the road. Further to this, RFS requires widening of the curve radius to accommodate the fire service vehicle which would also accommodate two vehicles side by side.
- Full road width construction would require significant augmentation of existing road side drainage and property access crossings. It is also likely that further widening of the existing carriageway would result in additional tree clearing and unknown impacts to Aboriginal cultural heritage which can be avoided with the reduced requirement for a 4 metre wide seal.

This requirement is consistent with the requirements of the Road Policy and requirements for road upgrading which have been placed on similar developments. This requirement of upgrading to Adams Street will be required for Council to accept the road as an additional length of its maintained road network.

#### Option 1

It is recommended that Council accept the transfer of the section of Crown road reserve to Council provided the Applicant constructs the road to the standard as set out in the draft conditions of consent contained in Schedule 1, and that Council support the variations to the DCP and NRDC and approve the development subject to the draft conditions of consent contained in Schedule 1. This requires the sealing of Adams Street from the intersection with Iluka Road the full frontage of the site for a 4m sealed carriageway with 0.5m shoulders. The road will also be required to be transferred from the Department of Industry (DPI) Crown Lands to Council (at the expense of the owner) and adopted into the Roads Asset Register, which requires a resolution of Council. Option 1 is the preferred option. The transfer of the road to the lesser standard is supported by Council staff considering the constraints of the road reserve and potential alternative adverse cultural and environmental impacts.

#### Option 2

That Council not support a variation to the DCP and approve the development subject to requiring the upgrading of Adams Street from Iluka Road to the full frontage of the development site in accordance with the requirements of Clause C8.5 of the Residential Zones DCP and NRDC standards (6m seal with 0.5m shoulders). This is not recommended due to the potential impacts on native vegetation and Aboriginal Cultural Heritage. Further, it could make the proposed development no longer viable due to the costs of



works and necessary environmental and Aboriginal cultural assessment reports that would be required. Option 2 is not the preferred option.

### Option 3

Council accept the transfer of the Crown road reserve section as an unsealed Category 2 road provided the Applicant constructs the road to the minimum requirement in the CVC Roads Policy meeting a specified standard of a minimum 6 metre wide constructed carriageway or 4 metre wide constructed carriageway. The minimal gravel depth of the road shall be 100 mm of appropriately specified gravel for unsealed roads. The road will also be required to be transferred from the Department of Industry (DPI) Crown Lands to Council (at the expense of the owner) and adopted into the Roads Asset Register. Option 3 is not the preferred option. Upgrading the road to the full normal standards places an onerous and unreasonable cost on the applicant and not necessary in the circumstances.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

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

### **Asset Management**

The upgrade to Adams Street to service the development will become a Council asset. Suitable conditions are included in the Draft Schedule to ensure that the works are constructed to an acceptable standard prior to it being accepted on maintenance and becoming a Council asset. In the long terms Council's allocation of funds to maintain a sealed road will be less than accepting the transfer of the road as an unsealed road.

### **Policy or Regulation**

*Environmental Planning and Assessment Act 1979*  
 Environmental Planning and Assessment Regulation 2000  
 State Environmental Planning Policy No. 55 - Remediation of Land  
 Clarence Valley Local Environmental Plan 2011  
 CVC Residential Zones Development Control Plan  
 CVC Roads Policy

### **Consultation**

The development application was referred externally to the NSW Rural Fire Service and Heritage NSW as integrated development, no objection to the proposed development were raised with relevant conditions contained within Schedule 1. The following internal sections of Council were consulted with during the assessment process:

| <i>Internal Section or Staff Member</i> | <i>Comment</i>                             |
|---|--|
| Development Engineer                    | Supported subject to conditions            |
| Environmental Health (OSM)              | Supported subject to conditions            |
| Development Planner (Environment)       | Supported subject to conditions            |
| Property Coordinator                    | Supports transfer of Crown Road to Council |
| Civil Services                          | Support road construction standard         |

### **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**

Provision of new lots that allow residential housing in rural residential areas generates greenhouse gases compared to housing close to major towns and services, Through the offset of vegetation removal in accordance with Council's Biodiversity Offset Policy, the development will have a negligible impact on the environment and minimise its contribution towards climate change. Further, future dwellings will need to be compliant with the NSW Government's building sustainability index in terms of thermal comfort, water efficiency and energy efficiency and achieving this certification makes new residential development more sustainable and less of a contributor to climate change compared to older forms of housing. Through the offset of vegetation removal in accordance with Council's Biodiversity Offset Policy, the development will have a negligible impact on the environment and minimise its contribution towards climate change.

|             |   |
|-------------|---|
| Prepared by | James Hamilton, Development Planner             |
| Attachment  | 1. Proposed Plans<br>2. Section 4.15 Assessment |

**Schedule 1**  
**Draft Advices and Conditions of Consent for SUB2020/0010**

**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.

**TfNSW** means Transport for New South Wales

**SWC** means Subdivision Works Certificate

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

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

**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. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;
  - b Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or RMS;
  - c Local Government Act Section 68 - drainage, water & sewer approval;
  - d Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

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

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

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

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

inspections.

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

The proposed development has been assessed as contributing an additional 1.20 ET demand on Council's water supply. This includes an applicable credit pre-existing uses. The headworks charges at 2021/22 financial year rates are:

Water Headworks \$5,017.00 x 1.20 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.

4. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
5. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the **SWC** and Construction Certificate Application forms.
6. The NSW State Government will not grant permission for roadworks to be undertaken on a Crown road until the road reserve has been transferred to Council. The applicant will be required to lodge a bond with Council for the cost of the roadworks to ensure that the road is upgraded within an acceptable timeframe after the transfer of the road to Council.

To facilitate the transfer of the crown road to Council, Council must apply to the Department responsible for crown roads. Prior to the application being made by Council for the transfer of the crown road the applicant will be required to provide to Council:

- a A cheque for the application fee made out to the relevant government department.
  - b Council's administration fee in accordance with the fees and charges at the time of the application.
  - c Detailed design plans showing the extent of the road to be transferred.
  - d A bond to the value of 130% of the cost of the road works.
7. Information provided from the Yaegl Traditional Owners Aboriginal Corporation concludes that the proposed development and access will not harm Aboriginal objects. Therefore the development is not integrated under the National Parks and Wildlife Act 1974. Therefore, Heritage NSW have not be issued General Terms of Approval for the proposal.
  8. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2021/22 financial year are \$255.00 plus \$30.00 per additional lot (minimum \$255.00). An additional fee of \$115.80 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.

### Conditions

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

| Plan No | Drawn by                | Plan Date | Revision |
|---------|-------------------------|-----------|----------|
| 9244 DA | A Fletcher & Associated | 9/04/2020 | A        |

2. This approval has also been granted under Section 4.47 of the Environmental Planning and Assessment Act 1979. Compliance with the conditions and advice of the NSW Rural Fire Service, as contained in their letter dated 10 November 2020, consisting of seven (7) pages, and as attached to this Notice of Determination. Compliance is to be demonstrated prior to release of the SWC and/or Subdivision Certificate where relevant.
3. Payment to Council of the contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act:

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

Isolated Coastal and Rural \$3,869.35 x 1 additional lot = \$ 3,869.35  
GL S94CVCOSRuralCoas

**Clarence Valley Contributions Plan 2011 Community Facilities**

Maclean surrounds \$3,869.35 x 1 additional lot = \$ 3,869.35 GL S94CVCCFMaclean

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

Rate per Dwelling/Lot \$74.10 x 1 additional lot = \$74.10 GL S94CVCPoMDwell

**Rural Road Upgrading Contributions Plan**

Woombah Catchment: \$1,497.09 x 1 additional lot = \$1,497.09GL S94RdUpgdMacBHead

N.B.

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

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

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

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

4. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
5. The submission of the 88B Instrument, and one copy thereof, to Council prior to the release of the Subdivision Certificate.

**On-Site Wastewater Management**

6. The proposed wastewater management system for Lot 192 must comply with the Effluent Disposal Report prepared by Truewater (November 2017) and the associated conditions of the Approval to Install an On-Site Wastewater Management System or otherwise approved by Council.
7. An On-site Wastewater Management Application must be submitted to upgrade the existing OSM system on proposed Lot 191. Once approved the required work must be completed and an Approval to Operate issued prior to the release of the Subdivision Certificate.

**Cultural Heritage**

8. A site monitor from Yaegl Traditional Owners Aboriginal Corporation RNTBC is to be present when the removal of topsoil clearing of vegetation occur. Yaegl Traditional Owners Aboriginal Corporation RNTBC are to be contacted at least 1 week prior to any ground disturbance and other excavation works should they occur.
9. Should objects of Aboriginal significance be identified during ground disturbance work must stop

immediately until appropriate action is set in place. If there is any potential of ground disturbing works or works that could potentially harm the location of the potential Aboriginal midden deposit by proposed works, an Aboriginal Heritage Impact Permit (AHIP) from Heritage NSW is required, Section 60 and 61 *National Parks and Wildlife Act 1974*.

10. 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.

#### Environment

11. A restriction-as-to-user is to be placed on **all** allotments requiring that all dogs, and other domestic animals hazardous to native ground moving animals including Koalas, be contained within a secure compound no greater than 25% of the allotment area.
12. A restriction-as-to-user is to be placed on **all** allotments requiring boundary fencing to be of the type which will allow free passage of native ground moving animals including Koalas.
13. No existing trees are to be removed from the site during subdivision construction, with the exception of those necessary for road construction, site accesses, services laying, and other approved design features of the subdivision.
14. Clearing areas are to be delineated onsite to minimise clearing of adjacent areas.
15. A restriction-as-to-user is to be placed on proposed Lot 192 requiring any future dwellings or outbuildings be wholly contained within the building envelope identified on the approved plan.
16. Prior to vegetation clearing, mature trees must be inspected by a suitably qualified and experienced professional to determine that no fauna or fauna habitat features (nests, dreys) are present or active. The suitably qualified and experienced professional shall be present during the removal of trees to ensure the potential for fauna injury or mortality is reduced. In the event that fauna are present and require care, fauna must be transported to local wildlife carers or a local veterinary hospital.
17. Install nest boxes, in retained trees on the subject land, as compensatory habitat for the removal of mature trees. Nest boxes shall comprise a range of types to ensure suitable habitat replacement for multiple faunal groups (e.g. gliders, microbats, parrots, possums).
18. Provide compensatory tree plantings (i.e. blackbutt, pink bloodwood and other species that are characteristic of PCT 682) in accordance with an Offset Management Plan as replacement for the removal of existing trees at a ratio of 5:1. A plan showing the number of trees to be removed (including species) and the location of infill plantings in suitable locations not in conflict with the building envelope, asset protection zones and effluent disposal fields is to be submitted to Council and approved prior to removal of any native vegetation. Plantings are to be in place prior to issue of the Subdivision Certificate.
19. Retain all hollow-bearing trees and minimise the removal of native vegetation and other habitat features where possible. Logs within the disturbance area shall be relocated to suitable retained habitat on the subject land.

#### Engineering

20. A Certificate of Compliance for Water works must be obtained from Council prior to release of the Subdivision Certificate. This may require payment of a fee.
21. An **ITP** must be submitted for approval with the application for a **SWC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are

made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

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

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

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

- 22. Prior to the issue of the Subdivision Certificate, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
- 23. A **TCP** must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the **RMS** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
- 24. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.
- 25. Prior to the issue of the Subdivision Certificate, Adams Street is to be upgraded and sealed from the intersection with Iluka Road up to and including the frontage of all lots in the proposed subdivision in accordance with the requirements of this condition. A Road Design Plan must be submitted for approval with a **SWC** application.

Adams Street must be upgraded to provide;

- a Minimum 4.0 metre wide sealed carriageway.
- b Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm with prime.
- c Minimum depth of suitable compacted pavement material.
- d Adequate roadside drainage to accommodate road widening
- e Access in accordance with Table 5.3b of the Planning for Bush Fire Protection 2019 as required by the general terms of approval provided by NSW Rural Fire Service.
- f Suitable turn around area in accordance with Appendix 3 of the Planning for Bush Fire Protection 2019.

Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**.

- 26. The new road is on a crown road reserve currently under the control of the NSW State Government. The transfer of the crown road to Council must be completed prior to issue of the **SWC**. This will also require removal of the existing fence and gate which exists within the portion of crown road reserve.
- 27. 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:

- a Demonstrate that the existing road drainage has capacity to cater for runoff from Adams Street. Engineering calculations must be provided which clearly indicate the capacity of the drainage system.
- b Demonstrate that the minimum volume of on-site stormwater detention can be provided for the proposed development.
- c Consider any adjacent property or infrastructure affected by the development.

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

All inter-allotment, overland flow paths, and Council owned stormwater drainage systems must be located within drainage easements. Engineer's design and certification must be provided. All costs shall be borne by the developer.

On-site detention (OSD) and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot, but the calculations 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.

28. Prior to the release of any Subdivision Certificate, which dedicates infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
29. In accordance with **NRDC** and prior to the release of the Subdivision Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
30. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, pipelines, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
31. Prior to release of the Subdivision Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

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

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

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

32. 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 the development is accepted 'Off Maintenance'.
33. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision

must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **SWC** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier.

34. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.
35. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of roadworks. 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.



|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.048</b> | <b>OBJECTIONS TO THE REQUIREMENTS OF CLAUSE 36 AND 41 OF THE LOCAL GOVERNMENT (MANUFACTURED HOME ESTATES, CARAVAN PARKS, CAMPING GROUNDS AND MOVEABLE DWELLINGS) REGULATION 2005 TO ALLOW BUILDING DWELLINGS ONSITE</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

**SUMMARY**

|                        |   |
|------------------------|---|
| <i>Application No.</i> | ACT2021/0212  |
| <i>Applicant</i>       | Coastplan Group   |
| <i>Owner</i>           | Clifton Yamba Land Pty Ltd, South Head Road, Double Bay |
| <i>Address</i>         | Lot 1 DP568545 Carrs Drive, Yamba                       |
| <i>Submissions</i>     | No  |

|                        |   |
|------------------------|---|
| <i>Application No.</i> | ACT2021/0229  |
| <i>Applicant</i>       | Hometown Australia Communities                        |
| <i>Owner</i>           | Jacaranda Grove Rllc Pty Ltd, Margaret Street, Sydney |
| <i>Address</i>         | 598 Summerland Way, Grafton                           |
| <i>Submissions</i>     | No  |

|                        |  |
|------------------------|--|
| <i>Application No.</i> | ACT2021/0380                                 |
| <i>Applicant</i>       | Horisen Lifestyle Community                  |
| <i>Owner</i>           | Woombah Holding Pty Ltd, Iluka Road, Woombah |
| <i>Address</i>         | 54 Iluka Road, Woombah                       |
| <i>Submissions</i>     | Yes – provided with the application.         |

The Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 – (The LG Regulation) sets out the requirements for Manufactured Home Estates and Caravan Parks including the requirement to construct the homes off-site. Three (3) different developers have lodged objections to the LG Regulation and are seeking an exemption to be able to construct Manufactured Homes on-site.

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

**OFFICER RECOMMENDATION**

That Council:

1. Not support the Section 82 *Local Government Act 1993* objection under ACT2021/0212 as the construction of homes onsite is inconsistent with the objective of the Local Government Regulation to promote the health, safety and amenity of the occupiers of manufactured homes.
2. Not support the Section 82 *Local Government Act 1993* objection under ACT2021/0229 as the construction of homes onsite is inconsistent with the objective of the Local Government Regulation to promote the health, safety and amenity of the occupiers of manufactured homes.
3. Not support the Section 82 *Local Government Act 1993* objection under ACT2021/0380 as the construction of homes onsite is inconsistent with the objective of the Local Government Regulation to promote the health, safety and amenity of the occupiers of manufactured homes.

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That Council:

1. Support the Section 82 *Local Government Act 1993* objection under ACT2021/0212 subject to any provisions of the Local Government Act.
2. Support the Section 82 *Local Government Act 1993* objection under ACT2021/0229 subject to any provisions of the Local Government Act.

- 3. Support the Section 82 *Local Government Act 1993* objection under ACT2021/0380 subject to any provisions of the Local Government Act.

Voting recorded as follows:

For: Baker, Williamson, Simmons, Clancy, Novak

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

Council has received 3 separate applications objecting to the LG Regulation to be able to build Manufactured Homes on-site. Under Section 82(1) of the Local Government Act 1993 (LG Act) an applicant may lodge an objection that compliance with any provision of regulations or policy is unreasonable or unnecessary in the particular circumstances.

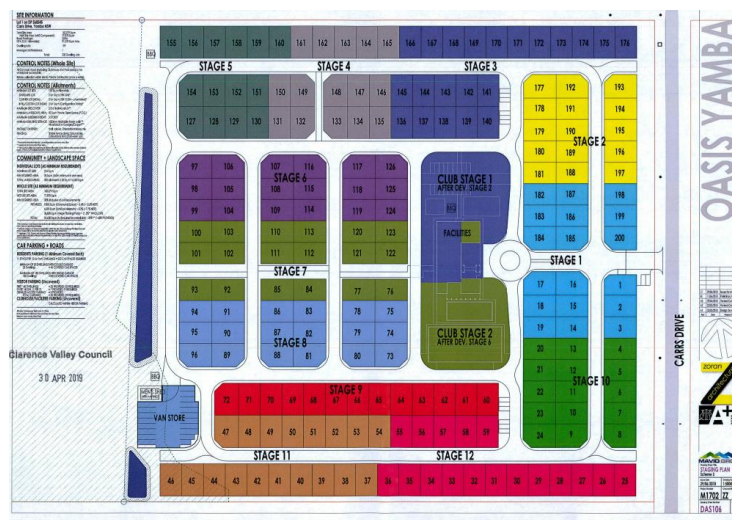
If Council is satisfied that the objection is well founded it may only make such a decision to allow construction on-site with concurrence by the Departmental Chief Executive (NSW Planning Industry and Environment (DPIE)) who has delegated power to determine these requests. If supported by Council, the objection will be referred to DPIE requesting concurrence.

Manufactured housing estates are a form of affordable housing and permitted on certain land under LG Regulation. The estates allow for higher density housing than that applied to normal residential dwellings.

As per the LG Regulation some of the requirements of a dwelling include; the site must have a minimum area of at least 130m<sup>2</sup>, the enclosed floor area must be at least 35m<sup>2</sup>, parking area on the site, have minimum setbacks of 1m to a road and 2m to a side or rear boundary and can cover two thirds of the site.

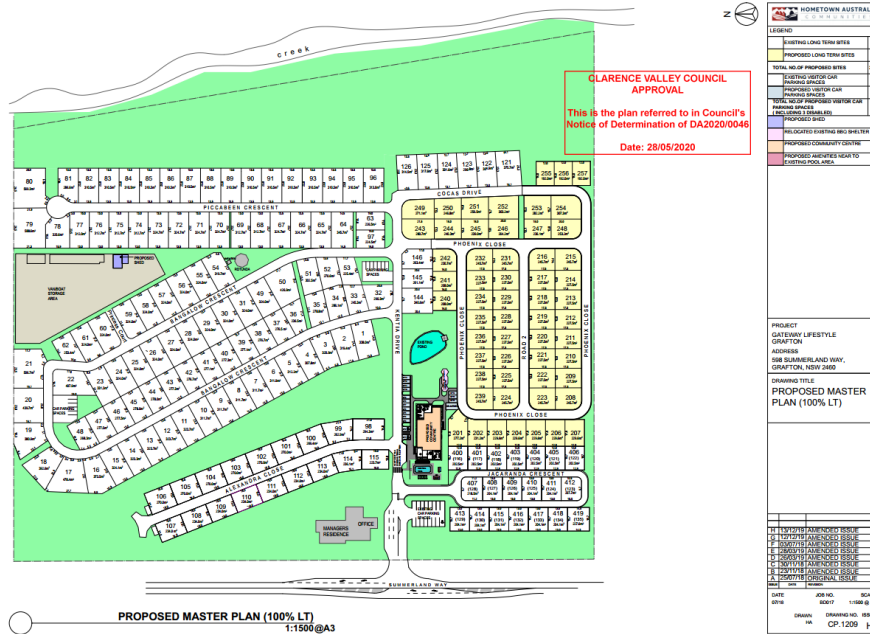
Once a home is completed, a compliance plate is attached to the home with the details of compliance with the LG Regulation and structural engineers certificate. A notice of completion of installation is to be provided to Council for its records within seven days of completion. A summary of the 3 MHE approvals is provided below:

| Estate Name and address                                  | DA approval description   | Comment  |
|--|---|--|
| Coastplan Group<br>Lot 1 DP 568545 Carrs Drive,<br>Yamba | At its meeting of 23 April 2019 (Item 14.035/19). Council approved DA2018/0373 for a 200 site MHE | The proposal is for a new estate which includes 12 stages to construct the 200 new homes. Site areas are approximately 216m <sup>2</sup> . |



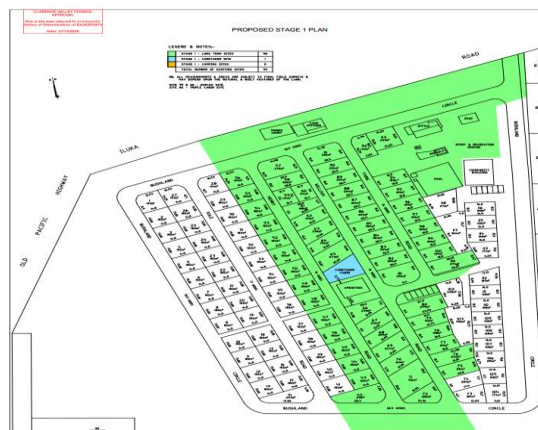
The applicant submits that the while homes will be constructed within the estate, it is a master planned estate with staged construction, with less likelihood for construction at the site to impact on the amenity of residents of the estate.

| Estate Name and address  | DA approval description   | Comment  |
|--|---|--|
| Jacaranda Grove<br>Hometown Australia<br>Communities, 598<br>Summerland Way, Grafton | At its meeting of 26 May 2020 (Item 6b.20.038) Council approved DA2020/0046 for an additional 57 sites for the existing MHE | This application approved a further 57 sites to the existing 144 sites. Sites are typically around 227m <sup>2</sup> though vary between 192 and 303m <sup>2</sup> . |



The 57 new sites are shown in yellow and the existing sites are shown in white. The application has submitted that the constriction of dwellings onsite is more efficient saving \$30,000 per home, better on-site management, higher standard construction outcomes and that amenity matters of noise and dust can be controlled under construction management protocols. No construction management protocols have been submitted for Council to review in support of the objection.

| Estate Name & Address   | DA approval description  | Comment   |
|---|--|---|
| Horisen Lifestyle community (formerly Woombah Woods CP), 54 Iluka Road, Woombah | At its meeting of 15 December 2020 (Item 6b.20.091) Council approved DA2020/0474 for a 59 site MHE | The application converted the existing 59 caravan park sites to MHE sites as stage 1 of the expansion of the estate. Council is currently assessing stage 2 & 3 for 57 more sites under DA2021/0184. New sites are around 182m <sup>2</sup> in area. Older sites are a mixture of smaller and larger sites. |



**KEY ISSUES****Issue 1 - LG Regulation requirements**

The **object of the Regulation** is to provide opportunities for affordable alternatives in short-term and long-term accommodation—

- (a) by continuing in force (in amended form) the standards for the design of manufactured home estates, caravan parks and camping grounds established by the former Regulations, and
- (b) by continuing in force (in amended form) the standards for the design and construction of manufactured homes and other moveable dwellings and for their siting established by the former Regulations, and
- (c) by continuing in force (in amended form) the standards to promote the health, safety and amenity of the occupiers of manufactured homes and other moveable dwellings established by the former Regulations.

**6 Factors for consideration before approval is granted**

- (1) The council must not grant an approval to operate a manufactured home estate unless it is satisfied that the manufactured home estate will be designed, constructed, maintained and operated in accordance with the relevant requirements of Division 3.

**36 Use of manufactured home estates**

- (1) A manufactured home estate must not be used—
  - (a) for any commercial purpose other than a manufactured home estate or an associated purpose, or
  - (b) for the manufacture, construction or reconstruction of moveable dwellings.
- (2) Nothing in this clause prevents a manufactured home from being used for exhibition purposes.
- (3) This clause does not prevent the carrying out of work on a manufactured home that is installed in a manufactured home estate for the purpose of its renovation, maintenance or repair (such as painting, replacement of wall cladding or roof sheeting and the like).

**41 Manufactured homes to be constructed and assembled off-site**

- (1) A manufactured home must not be installed on a dwelling site unless each major section of the home has been constructed and assembled at, and transported to the manufactured home estate from, a place of manufacture outside the manufactured home estate.
- (2) However, the fixing of cornices, the setting of wall lining joints, the fitting of skirting boards and architraves and the grouting of tiles may be done on the dwelling site.

**Comment**

The reasons for the objection are detailed in each of the applicant's objections submitted to Council which are attached to this report. A summary of benefits submitted by the applicants is provided in dot point below:

- The construction of homes on site allows better relationship to the site conditions.
- Building on site provides for the creation of local employment labour and trades involved in the construction process.
- Houses need to be constructed at a factory remote from the site. The efficiencies of building a large number of homes at the site allows better control of costs and delivery of more affordable housing.
- The use of slab on ground allows better access arrangements, including access for persons with a disability,
- Construction on site minimises the number of oversized vehicles on local roads with improved safety, reduced traffic impact and less risk of damage to local infrastructure.

Council's Building Surveyors are not satisfied that the objections are well founded and the objections to allow to build on site is not supported. The objective of the LG Regulations to promote the health, safety and amenity of the occupiers of manufactured homes and other moveable dwellings has not been met. Notably the amenity impacts such as noise, dust and hours of construction would be determined purely by the MHE or subcontractor. This is different to a normal house construction where Council has the ability to regulate the amenity impacts such as noise, dust, construction hours etc. as per the conditions of consent. No conditions of consent have been imposed on the 3 approvals in this regard. By allowing to build on-site there are minimal mechanisms to protect the impacts and amenity on adjoining occupied homes – especially by Council when it has allowed on-site construction. Council will not be able to intervene in a civil matter should it arise. None of the applications have specified (e.g. by something like a construction management plan) how amenity impacts can be actually managed on-site which leaves a level of uncertainty given the applications are essentially silent on this issue i.e. the impacts on health, safety and amenity of occupiers has not been sufficiently justified.

With the exception of Horisen Lifestyle Community, limited consultation has been provided to the residents of Jacaranda Grove and the future residents of the Coastplan Group will not have an opportunity to comment on the impacts from construction on-site being a greenfield site.

The home estates are quite compact with minimal separation between adjoining homes. Allowing the construction of homes on site will have an undesirable impact on the amenity of the existing residents as opposed to the construction off-site and transporting of homes to the site. No details of construction management protocols have been provided to Council to review.

While both methods will impact on amenity, the LG Regulation is specific in regard to homes being constructed off-site as a key requirement to protect the resident's amenity. The primary reason for the objection by the applicants appears to be cost savings to increase the profit margins of the developer at the expense of residents and limited benefits to design outcomes.

It is a primary requirement of a manufactured home estate for the homes to be constructed/manufactured at a place of manufacture outside the manufactured home estate (hence the terminology in the title of the Regulation), and compliance with the provisions of the Regulation are reasonable, appropriate and necessary.

There are a number of existing estates (including the estates subject to this report) where homes are already constructed off site and transported to the sites within the local government area. The completion of the Pacific Highway upgrade has improved the direct access to the Council's townships from various industrial centres more suited the manufacture of the homes. There are many vacant lots within Council's industrial centres where a manufacturing home factory could be set up, subject to the relevant commercial agreements. There would seem to be sufficient demand for such a factory in Council's LGA based on the 306 homes to be constructed by these developers and other future home in MHEs that Council has recently approved.

Council staff are not aware of any damage that has occurred to local roads from the transfer of the homes mentioned above. The completed modules are delivered on the back of a truck and transported to the site on a single day and the modules joined together.

Allowing the construction of homes on-site would be expected to extend the period of interference with amenity considerably compared to transporting homes manufactured in a factory to the site. The level of general construction noise and the number of vehicle movements generated by the various trades engaged in the construction process would be expected to be far greater than if the homes were manufactured off-site. Several manufactured homes could be placed on site in a single day but the construction of a single dwelling on site would be expected to take several weeks.

## **Issue 2 – Submissions**

As part of the objection submitted for the Horisen Lifestyle Community under ACT2021/0380, 34 signed duplicate letters were provided supporting construction of new cabins on site to enable job creation, quality control, savings cost and affordability, minimising damage to the park and relieving highway congestion.

### **Comment**

The submissions provided support for the proposal based on the five (5) listed reasons though are silent on amenity impacts of the residents.

Similar to the reasons discussed above, the reasons provided in the submissions do not suitably justify that the construction of dwellings off-site is unreasonable or unnecessary which is a key objective of the LG Regulation.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

There are no financial risks to Council.

### **Asset Management**

The impact on Council's assets are negligible.

**Policy or Regulation**

*Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 – (The LG Regulation)  
Local Government Act 1993*

**Consultation**

## Internal Consultation

| <i>Internal Section or Staff Member</i> | <i>Comment</i> |
|---|----------------|
| Council's Building Surveyor             | Not supported  |

**Legal and Risk Management**

The applicant's may seek legal advice as to Council's decision to not support the objection.

**Climate Change**

The climate change impacts will be negligible from the construction of homes on site or offsite to that already approved via building materials, construction methods, maintenance and associated energy and resource use.

|              |   |
|--------------|---|
| Prepared by  | Pat Ridgway, Senior Development Planner   |
| To be tabled | A. Applicant Section LGA 82A Objection ACT2021/0212<br>B. Applicant Section LGA 82A Objection ACT2021/0229<br>C. Applicant Section 82A LGA Objection ACT2021/0380 |

|                    |  |  |  |
|--------------------|--|--|--|
| <b>ITEM</b>        | <b>6b.21.049</b>                                 | <b>PROPOSED ROAD NAME – ROAD RESERVE OFF BLACK MOUNTAIN ROAD, NYMBOIDA</b> |  |
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021   |  |
| <b>Directorate</b> | Environment, Planning & Community                |  |  |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |  |  |
| <b>Attachment</b>  | Yes  |  |  |

**SUMMARY**

|                    |  |
|--------------------|--|
| <i>Applicant</i>   | Clarence Valley Council                        |
| <i>Owner</i>       | Clarence Valley Council and Crown Lands        |
| <i>Address</i>     | Road Reserve off Black Mountain Road, Nymboida |
| <i>Submissions</i> | Yes - 17                                       |

Council is proposing to name a road reserve off Black Mountain Road, Nymboida in response to a request from residents that use the road for access and require a formal address. There are two road name proposal options and the community are divided on the options available.

**OFFICER RECOMMENDATION**

That Council:

1. Endorse the road name proposal of Pitkins Road.
2. Submit the road name proposal of Pitkins Road to the Geographical Names Board.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

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

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

Council resolved at the Ordinary Council Meeting 16 February 2010 under Item 13.021/10 to:

1. *Accept the transfer of the Crown road sections of Black Mountain Road located between Laytons Range Road and the unnamed road immediately south of Bibaringa Road;*
2. *Not to accept the transfer of the unnamed road for 4.0km (from Black Mountain Road to Black Mountain Reserve).*

It was noted however "that under Section 151 of the Roads Act the land and Property Management Authority do not require Council's consent to transfer a Crown road to Council.

Since the original report in 2010, the unnamed road has been transferred to Council.

Following the 2019 bushfires several landowners at Nymboida expressed concerns to Council regarding the lack of a formal name for addressing purposes to provide essential services, and in the event of an emergency for the road reserve off Black Mountain Road. The road reserve is not formally named via a gazette.

In response to the concerns of residents and landowners, it is proposed to formally name the subject road reserve.

One suggestion put forward to Council for consideration was Pitkins Road which originates from the name of previous residents of the locality. The road is used to access Pitkin Falls on the other side of the Nymboida River and Pitkin Island located in the middle of the Nymboida River next to the falls. Long term landowners of a property adjoining the road reserve also had the family name 'Pitkin'.

Council staff notified the proposed road name of "Pitkins Road" as suggested by some members of the community from 29 January 2021 to 26 February 2021. Three submissions were received, with one supporting and two opposing the proposal. The two submissions against the proposed name of "Pitkins Road" requested the unnamed road reserve be named "Reserve Road". This name was rejected by the Geographical Names Board (GNB). Subsequently, River Reserve Road was provided as an alternative. Both Pitkins Road and River Reserve Road have been approved by Geographical Names Board subject to additional notification and advertising for residents.

A report to the May 2021 Ordinary Meeting was prepared, however in response to concerns raised by residents the item was deferred to allow additional notification and advertising to affected residents and the community.

Additional notification and advertising have now been undertaken, with submissions contained in the attachments to this report.

## KEY ISSUES

### Pitkins Road

Pitkins Road was suggested from residents during a meeting with Council staff following the 2019 bushfires. This name was submitted to and approved for use by GNB. Residents adjoining the road reserve and within proximity have been notified and feedback has been received.

Comment:

In response to concerns raised by residents and landowner's further notification and advertising have been undertaken resulting in fourteen additional submissions with twelve in support of Pitkins Road and two in support of River Reserve Road.

Pitkins Road is the preferred name as it keeps the common vernacular of local residents and reduces potential confusion. The use of Pitkins Road as the preferred name is consistent with the Principles of Naming Roads set out within the NSW Address Policy and User Manual and Council's adopted Road and Street Naming Policy.

Submissions in support of Pitkins Road raised the following items as concerns or justification:

- Residents referring to the unnamed road as Pitkins Road because of the landmarks Pitkin Falls and Pitkin Island being at the end of the road.
- There are properties at the end of the road reserve which were historically owned by the Pitkin family for an extended length of time.
- The road reserve has been referred to as Pitkins Road in a Forestry Canoe Marathon map.
- Issues with emergency services find the property access because it is along the unnamed road off Black Mountain Road.
- Pronunciation of a short road name is preferred over the phone during emergency events with the poor coverage experienced in the region to notify for assistance. Noting the operator is often from another state or area and with no local road knowledge.
- Tourism aspect: having a simple name relating to Pitkin Falls as a canoeing landmark.
- To provide the road an address and signposts assisting community safety, and for direction in emergency events.
- The Council Reserve and road reserve not being maintained, with the Council Reserve being referred to as Pitkins Reserve because of canoeing visitors stopping at the reserve along the river.
- Road reserves were created to provide access to private lots and existed before the creation of the Council Reserve which provides river access.
- Reference to Reserve Road is a misinterpretation of the deposited plans noting a road reserve.
- The road does not align with the road reserve.
- The current road reserve is not trafficable to Council's Reserve (Lot 13 DP 264405).



- The proposed name including river and reserve is not unique to the Clarence Valley.
- Straight-forward is best, with names or other matters. Pitkins Road is short, logical, straightforward and easy to say and hear, and is practical to convey in an emergency.
- Mobile telecommunications are patchy, unstable and regularly fade in and out in the area. Landline phone connections are often in disrepair for lengthy periods.
- To allow easy and error-free locating of properties along the road for emergency services. A single word road name will allow less error and confusion.

### **River Reserve Road**

Feedback received from initial submissions on the road name proposal suggested using River Reserve Road as an alternative to Pitkins Road, and as a second preference if Reserve Road was not supported.

#### Comment:

The road reserve grants access to a Council reserve Lot 13 DP264405 which fronts the Nymboida River allowing public access.

The name River Reserve Road has been approved by GNB to be available for Council to select a road name. The use of River Reserve Road is consistent with the Principles of Naming Roads set out within the NSW Address Policy and User Manual and Council's adopted Road and Street Naming Policy.

The use of Reserve Road as the preferred road name was rejected by GNB because there is a Reserve Road approximately 22km away in Billys Creek and the rejection guidelines 6.7.4. A road name will be regarded as a duplicate if it is the same or similar in spelling or sound to an existing name regardless of the road type.

Submissions in support of River Reserve Road raised the following items as concerns or justification:

- Residents referring to the unnamed road as River Reserve Road or Reserve Road because of the access the road reserve provides to the Council Reserve adjoining the Nymboida River referred to as Black Mountain Reserve.
- Alternative naming of the road reserve will cause confusion.
- The name Pitkin having little significance within the community.
- River Reserve Road provides a good description of the road reserve.
- The use of River Reserve Road indicates to tourists and the public the road is public, providing river access and not private.

#### Note:

During the initial exhibition period, Council received two submissions opposing Pitkins Road and suggesting Reserve Road and River Reserve Road as alternative road names. There was one submission in support of Pitkins Road.

Therefore, Council staff were of the opinion the adoption of River Reserve Road was more suitable in this instance.

#### Option 1

1. Endorse the road name proposal for Pitkins Road.
2. Submit the road name proposal of Pitkins Road to the Geographical Names Board.

#### Option 2

1. Endorse the road name proposal for River Reserve Road.
2. Submit the road name proposal of Pitkins Road to the Geographical Names Board.

#### Option 3

1. Not endorse Pitkins Road and River Reserve Road.
2. Seek community feedback through notification and advertisement, to select an alternative road name proposal.

Option 3 is not the preferred option because two suitable road name proposals have been presented to the community and Council.

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

Assessment of the proposal has been completed by staff utilising recurrent staffing budgets.

**Asset Management**

The road will be formally recognised, and a name included for asset management purposes.

**Policy or Regulation**

*Roads Act 1993*

*Roads Regulation 2018*

Clarence Valley Council Roads Policy

Clarence Valley Council Road and Street Naming Policy

NSW Address Policy and User Manual

**Consultation**

The road name proposal is required to be notified and advertised in accordance with the *Roads Act 1993* and *Roads Regulation 2018*.

**Legal and Risk Management**

Should a member of the community 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.

The road reserve has been transferred to Council from Crown Lands; therefore, the matter is not subject to Native Title.

**Climate Change**

Formal naming of the unnamed road will not be affected by or have adverse effect on climate change and related factors. However, the surrounding region may experience changing and more extreme conditions such as bushfire due to climate change.

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|             |   |
|-------------|---|
| Prepared by | Alex Clark, Trainee Planner   |
| Attachment  | A. Submissions<br>B. Maps showing location of road Asset Layer and Zoning Layer |

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|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.050</b> | <b>PLANNING PROPOSAL REZ2021/0002 – LOT 10 DP 1259162, 4 RIVER ROAD, PALMERS ISLAND – ADDENDUM REPORT</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Council  | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | Yes plus To be tabled Attachment                 |              |

**SUMMARY**

|                                  |   |
|----------------------------------|---|
| <i>Proponent</i>                 | A Fletcher & Associates Pty Ltd   |
| <i>Date Received</i>             | 1 April 2021  |
| <i>Owner</i>                     | Pridel Pty Ltd  |
| <i>Subject land</i>              | Part Lot 10 DP 1259162, 4 River Road, Palmers Island  |
| <i>Current Zoning CVLEP 2011</i> | Part RU2 Rural Landscape and part E3 Environmental Management   |
| <i>Proposal</i>                  | To rezone part of the land from RU2 to R5 Large Lot Residential (R5) to permit the subdivision of the land into a maximum of 6 lots of 4,000m <sup>2</sup> (minimum). |

This report considers additional information submitted by the applicant in support of the above planning proposal (PP). This matter was deferred from the 22 June 2021 Council meeting.

The officer recommendation is provided with respect to the PP. Related matters contained in the applicant's latest submission are also addressed and discussed in this report. This report needs to be read in conjunction with the deferred June report, being Item 6b.21.035.

**OFFICER RECOMMENDATION**

That Council not support the planning proposal REZ2021/0002 to amend the Clarence Valley Local Environmental Plan 2011 to rezone part Lot 10 DP 1259162, 4 River Road, Palmers Island from RU2 Rural Landscape to R5 Large Lot Residential to permit the subdivision of the land into a maximum of 6 lots of 4,000m<sup>2</sup> (minimum) for the following reasons:

1. The proposal lacks adequate strategic justification in the context of the North Coast Regional Plan 2036 (NCRP) and relevant Minister's section 9.1 Planning Directions as further noted in 2 and 3, below.
2. The proposal is inconsistent with Actions 11.1, 24.1 and 24.2 of the NCRP.
3. The proposal is inconsistent with the following Minister's section 9.1 Planning Directions:
  - (a) Direction 1.2 Rural Zones
  - (b) Direction 1.5 Rural Lands
  - (c) Direction 2.2 Coastal Management
  - (d) Direction 2.6 Remediation of Contaminated Land
  - (e) Direction 3.2 Caravan Parks and Manufactured Home Estates
  - (f) Direction 4.1 Acid Sulfate Soils
  - (g) Direction 4.3 Flood Prone Land
  - (h) Direction 5.10 Implementation of Regional Plans
4. The land is subject to an unacceptable level of flood risk and inundation. The proposal is contrary to the Grafton and Lower Clarence River Floodplain Risk Management Plan (updated 2014), NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.
5. The planning proposal does not adequately acknowledge or address key issues including:
  - (a) Flooding
  - (b) Aboriginal cultural heritage
  - (c) Land contamination (Preliminary investigation land contamination)
  - (d) Acid sulfate soils
  - (e) Potential land use conflict risks between the proposed development and the surrounding agricultural activities.
6. The proposal lacks the support of the Department of Primary Industries - Agriculture (DPI Agriculture).

**COMMITTEE RECOMMENDATION**

Baker/Williamson

That Council support the planning proposal REZ2021/0002 by way of consideration under the Rural Land Strategy and further under the Residential Zoning Study, if necessary, to amend the Clarence Valley Local Environmental Plan 2011 to rezone part Lot 10 DP 1259162, 4 River Road, Palmers Island from RU2 Rural Landscape to R5 Large Lot Residential to permit the subdivision of the land into a maximum of 6 lots of 4,000m<sup>2</sup> (minimum).

Voting recorded as follows:

For: Baker, Williamson, Simmons

Against: Novak, Clancy

**FORESHADOWED MOTION**

Clancy

That the Officer Recommendation be adopted.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

**BACKGROUND**

Council on 22 June 2021 considered Item 6b.21.035 and a committee recommendation on a PP which aimed to rezone part of Lot 10 DP 1259162, 4 River Road, Palmers Island from RU2 Rural Landscape to R5 Large Lot Residential under the Clarence Valley Local Environmental Plan (CVLEP) to permit the subdivision of the land into a maximum of 7 lots of 4,000m<sup>2</sup> (minimum).

Council resolved at the 22 June 2021 meeting as follows:

*That Item 6b.21.035 be deferred until the July 2021 Council meeting to enable the applicant to supply the additional information requested by Council on 19 May 2021, and to provide further information supporting the stated intention behind the lodgement of this proposal.*

A copy of the minuted report is provided as Attachment 1.

The applicant submitted additional information on 27 June 2021. A copy of the additional information is provided at Attachment 2. The additional information is reviewed in 'Key Issues' below.

A copy of the submitted PP, as considered by Council on 22 June 2021, is provided at Attachment 3.

**KEY ISSUES**

The main issues are:

1. Additional information request, dated 19 May 2021; and
2. The interpretation of Council resolution (Item 6b.20.0940), dated 15 December 2020.

**Additional information request**

The following additional information was requested by the applicant on 19 May 2021:

1. Proposed Land Zoning map
2. Proposed Lot Size map
3. Indicative future subdivision plan

The additional information request was made for the purposes of ensuring full details of the proposal were provided for Council's consideration and the request followed advice from the applicant that they proposed to proceed with the PP rather than withdraw it. Earlier correspondence from Council staff, dated 8 April 2021,

had suggested that the PP lacked strategic merit and hence, it was likely that the PP would not be supported by the Planning Gateway.

The applicant has provided the following additional information/documents:

1. Proposed Land Zoning map
2. Original Proposed Lot Size Map
3. Amended Proposed Lot Size Map
4. Map of existing and proposed Land Zoning
5. Proposed 6 Large Lot Subdivision Sketch Plan (for discussion only)

#### Officer Comment

It is noted that the proposed Large Lot Subdivision Sketch Plan submitted is now for 6 lots rather than the 7 lots that were referred to in the PP as submitted.

The additional information provided by the applicant does not alter the planning assessment, or the officer recommendation on this matter as detailed in Item 6b.21.035 (refer to Attachment 1). As the application is a PP, and not a DA, the proposed subdivision sketch plan has not been assessed against the CVLEP provisions for compliance. This can be reviewed if the PP progresses further.

#### **Interpretation of December 2020 Council resolution (Item 6b.20.0940)**

The applicants additional information submission states:

*“Council, by its resolution to Item 6b.20.094 on 15<sup>th</sup> December, 2020, instructed staff to prepare a strategic review of rural lands, being a component of Council’s Local Growth Management Strategy. We are unaware of the progress of that strategic review but as that review could include consideration of the demand for and supply of rural residential land and the need for additional R5 land, the Proposal in effect requests that the subject property is considered for such a use in the review.*

*If the property was included in the reviewed Local Growth Management Strategy, then Council could assess a Proposal for rezoning to R5”.*

#### Officer Comment

The Council resolved, on 15 December 2020, in respect of Item 6b.20.094 as follows:

*That Council:*

1. *Withdraw Planning Proposal – Amendment of Clause 4.1B Boundary Adjustment Provisions; and*
2. *Take all steps necessary to have a new subdivision clause included in the Clarence Valley Local Environmental Plan 2011 that captures the intent of Council resolution 07.20.003 (dated 26 May 2020) in conjunction with preparation of a strategic review of Council’s rural lands, being a component of Council’s Local Growth Management Strategy.*

The applicants interpretation of the 15 December 2020 Council resolution is disputed. The resolution was firstly in the context of a now discontinued PP, initiated through a Notice of Motion, that was endeavouring to amend clause 4.1B(3) of the Council’s LEP by deleting the reference to the word “adjoining” in that clause. [Note: Clause 4.1B relates to the boundary adjustment provisions in Council’s LEP]. The December 2020 resolution was solely focussed on the procedure for managing a proposed amendment to the Council’s LEP to enable rural boundary adjustments in certain circumstances. This clause 4.1B(3) issue is now included for consideration in the scope of the Clarence Valley Rural Lands Strategy (RLS) and hence, the December 2020 resolution is being duly actioned.

The December 2020 resolution, nor does the associated Council report, mention or otherwise entertain a scope of supporting or enabling demand or supply of rural residential land through any strategic planning process.

The need to prepare a RLS was already adopted by Council through the Clarence Valley Local Strategic Planning Statement (LSPS) and hence, the resolution should not be interpreted to be providing an instruction to staff to prepare that Strategy. The resolution simply required the Clause 4.1B boundary adjustment matter to be considered as part of the strategic planning task and as stated above that is being attended to already.

The scope of the RLS has been finalised in a brief and a planning consultant has been engaged to prepare the Strategy with work now underway. The scope of the Strategy does not include the provision of residential land supply for housing, whether it be urban residential or large-lot residential (as now proposed in the PP subject of this report). The strategic assessment of residential land supply for future housing needs will be a

separate strategic planning project contributing to the Local Growth Management Strategy (LGMS) in the 21/22 year. That strategic assessment will look at all land across the LGA and determine where future residential housing should be located based on merit consideration, including supply and demand, and constraints analysis.

If the subject land was identified in the future LGMS as being suitable for large lot or rural-residential development then it is correct that Council could assess a PP for rezoning to R5. However, the PP has been submitted to Council under an existing State and local strategic planning framework and the PP is inconsistent with the adopted strategic direction. Hence, Council needs to determine the PP in the current planning context, not in the context of the LGMS.

### **Other related issues**

The additional information submission also states:

*“Your comment that the Proposal lacks strategic consistency is partly supported, though this cannot be established due to the provisions of Direction 24 and Action 2.4.2 of the North Coast Regional Plan 2036. To comply with the Direction & Action, the subject land must identify as being suitable for rural residential land release strategy.....*

*The reason why we only “partly” agree that it lacks strategic consistency is that it is consistent with the Clarence Valley Settlement Strategy for small river villages. This Strategy supports the potential for targeted population growth in the village in consultation with residents. Any development on this property, be it rural residential or a caravan park, will in effect form part of the village as growth can only be achieved by expansion on to immediately adjoining land.....*

*Your comments on the lack of information on a range of planning policies and directions are also agreed with and this is acknowledged several times in the Proposal. Your decision to not require this additional information at this stage is appreciated, but it will be provided should the property be identified as suitable for rural residential development and included as such in the Local Growth Management Strategy”.*

### Officer Comment

The Clarence Valley RLS project was initiated in May and will investigate the long-term strategic direction for rural and non-urban lands in the Clarence Valley Local Government Area (LGA) and inform future planning decisions and policies for those lands.

It will:

1. provide a detailed assessment of rural lands, its opportunities, issues and future uses; and
2. be used by Council as the basis to inform decisions on any proposed planning policy amendments, planning decisions for rural or non-urban lands.

The scope of the RLS does not include consideration of urban residential, rural residential and employment lands opportunities and challenges. As mentioned earlier, these ‘urban’ components will be subject to separate strategic planning assessments in the 21/22 year that will inform the Clarence Valley LGMS in those respects. While that may recommend conversion of some non-urban or rural lands to cater for future urban land uses that decision cannot be made for any specific locations until such time as a merit-based, strategic assessment is completed. It would be premature to promote the inclusion of specific sites or locations, such as the subject land at Palmers Island, as the strategic assessment will consider the relative merits of all lands within the LGA. Consideration of development constraints will be a key aspect of that strategic work and the June Council report (refer to Attachment 1) has identified that the flood hazard affecting the subject land presents constraints that are best avoided for future residential or rural-residential style development. This approach is consistent with the latest NSW Government Flood Policy package that is seeking to limit new residential development on flood prone lands.

The clear and intentional focus of the RLS in preparation is to assess the future of the rural or non-urban lands for rural and non-urban uses and is not for exploring or facilitating opportunities for future urban residential, large lot residential or employment land.

The applicant is seeking to defer the provision of some additional information until such time as the land is identified as being suitable for rural-residential development in the LGMS. The location of the subject land in an area subject to existing and future natural hazards alone makes it an unlikely preferred candidate for large-lot residential development in the future. In addition, once the existing supply of zoned and vacant R5

Large Lot Residential land in the lower Clarence is considered the relative merit of this location further declines. On this basis it is considered unlikely that the land subject of the PP would be supported for large-lot residential development in the future LGMS.

### Options

The options available to Council include:

Option 1 - Not supporting the planning proposal on the following grounds:

1. The proposal lacks adequate strategic justification in the context of the North Coast Regional Plan 2036 (NCRP) and relevant Ministers section 9.1 Planning Directions as further noted in 2 and 3, below.
2. The proposal is inconsistent with Actions 11.1, 24.1 and 24.2 of the NCRP.
3. The proposal is inconsistent with the following Minister's section 9.1 Planning Directions:
  - (a) Direction 1.2 Rural Zones
  - (b) Direction 1.5 Rural Lands
  - (c) Direction 2.2 Coastal Management
  - (d) Direction 2.6 Remediation of Contaminated Land
  - (e) Direction 3.2 Caravan Parks and Manufactured Home Estates
  - (f) Direction 4.1 Acid Sulfate Soils
  - (g) Direction 4.3 Flood Prone Land
  - (h) Direction 5.10 Implementation of Regional Plans
4. The land is subject to an unacceptable level of flood risk and inundation. The proposal is contrary to the Grafton and Lower Clarence River Floodplain Risk Management Plan (updated 2014), NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.
5. The planning proposal is not of a standard suitable for referral to the Planning Gateway and does not adequately acknowledge or address key issues including:
  - (a) Flooding
  - (b) Aboriginal cultural heritage
  - (c) Land contamination (Preliminary investigation land contamination)
  - (d) Acid sulfate soils
  - (e) potential land use conflict risks between the proposed development and the surrounding agricultural activities.
6. The proposal lacks the support of the Department of Primary Industries - Agriculture (DPI Agriculture).

Option 1 is the Officer Recommendation.

Option 2 - Support the planning proposal, and refer it to the Planning Gateway, on the basis that it be amended to provide more rigorous strategic justification against identified inconsistencies with the NCRP and Minister's section 9.1 Planning Directions as follows:

- (a) Actions 24.1 and 24.2 of the NCRP; and
- (b) Minister's section 9.1 Planning Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Management, 2.6 Remediation of Contaminated Land, 3.2 Caravan Parks and Manufactured Home Estates, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans.

Option 3 - Support the planning proposal, and refer it to the Planning Gateway, on the basis that it be amended in some other way (other than described in Option 2).

Should Option 2 or 3 be selected as the preferred option, it should be noted that Council's adopted Community Participation Plan 2019 (page 13) states that where Council has supported a planning proposal against a staff recommendation it will provide reasons for such decision.

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

The applicant has paid the initial rezoning application fee which is expected to cover the reasonable costs associated with administering this phase of the planning proposal. Additional fees, in accordance with Council's adopted Fees and Charges will apply if the proposal progresses beyond the Gateway.

The scope of the RLS has been finalised and a consultant engaged to prepare the RLS consistent with the terms of the brief.

Any expansion of the RLS scope is likely to delay the preparation of the RLS and result in variation requests with adverse implications on the project budget. Hence, a change of scope to consider rural-residential or large lot residential opportunities as a component of the RLS is not supported or desirable.

The adopted LSPS identifies the need to complete strategic planning for residential land/housing and employment lands and these projects are scheduled to be completed as separate tasks in the 21/22 year to feed into the Clarence Valley LGMS.

**Asset Management**

N/A

**Policy or Regulation**

Environmental Planning and Assessment Act 1979 - including relevant State Environmental Planning Policies and Minister's Section 9.1 Directions

North Coast Regional Plan

CVC Community Participation Plan 2019

Floodplain Development Manual 2005

**Consultation**

Preliminary consultation has been undertaken with Department of Primary Industries - Agriculture (DPI Agriculture). This has been discussed further in the Key Issues section of the June report (refer to Attachment 1) under the 'Protection of important farmland and agricultural production' and 'Traffic impacts' headings.

There has been no public consultation undertaken to date as it is not appropriate at this stage. Public consultation would be subject to directions from the Gateway in the event this proposal was supported by Council and the Gateway.

**Legal and Risk Management**

There are no legal appeal rights for third parties who may oppose the proposal. The applicant may request a review of the Gateway determination if they are dissatisfied with the determination.

**Climate Change**

Climate change scenarios predict an increase in impact upon the severity or frequency of flooding in the future. Refer to the report to Council's 22 June 2021 meeting at Attachment 1.

|             |  |
|-------------|--|
| Prepared by | Terry Dwyer, Strategic Planning Coordinator  |
| Attachment  | <ol style="list-style-type: none"> <li>1. Council report to, and resolution of, 22 June 2021 Council meeting – To be tabled</li> <li>2. Additional information from the applicant</li> <li>3. Planning proposal as considered by Council on 22 June 2021 – To be tabled</li> </ol> |



|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6b.21.051</b> | <b>PLANNING PROPOSAL REZ2020/0006 – LOT 231, HAMPTON ROAD, WATERVIEW HEIGHTS – ADDENDUM REPORT</b> |
|-------------|------------------|--|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

**SUMMARY**

|                                  |  |
|----------------------------------|--|
| <i>Proponent</i>                 | O'Donohue Hanna & Associates Pty Ltd   |
| <i>Date Received</i>             | 28 October 2020 – registered as REZ2020/0006   |
| <i>Owner</i>                     | J McCabe, M McCabe, H McCabe, B McCabe & A McCabe  |
| <i>Subject land</i>              | Lot 231 DP 880455, Hampton Road, Waterview Heights   |
| <i>Current Zoning CVLEP 2011</i> | RU2 Rural Landscape (RU2)  |
| <i>Proposal</i>                  | To rezone part of the land from RU2 to R5 Large Lot Residential (R5) to permit the subdivision of the land into 1 additional lot having an area of approximately 9,800m <sup>2</sup> |

This report considers additional information in support of the above planning proposal deferred from the 22 June 2021 Council meeting. This report should be read in conjunction with the previous report to Council

It is recommended that Council not support the planning proposal (PP).

**OFFICER RECOMMENDATION**

That Council not support planning proposal REZ2020/0006 to amend the Clarence Valley Local Environmental Plan 2011 that seeks to rezone part Lot 231 DP 880455, Hampton Road, Waterview Heights from RU2 to R5 to facilitate the large lot residential subdivision of the land into 1 additional lot having an area of approximately 9,800m<sup>2</sup> and a residue lot of approximately 39.2 ha for the following reasons:

1. The proposal lacks adequate strategic justification in the context of the North Coast Regional Plan 2036 (NCRP) and relevant Minister's section 9.1 Planning Directions as further noted in 2 and 3, below;
2. The proposal is inconsistent with Actions 1.1, 18.2 and 24.1 of the NCRP;
3. The proposal is inconsistent with the following Minister's section 9.1 Planning Directions –
  - (a) Direction 1.2 Rural Zones
  - (b) Direction 1.5 Rural Lands
  - (c) Direction 5.10 Implementation of Regional Plans;
4. The proposal as lodged has the potential to create a "higher development potential" than it intends to create; and
5. The proposal seeks to enable, through amendment of the minimum lot size map, the potential to subdivide a rural dual occupancy which is not supported by any Council policy or strategy, or any State or regional strategy. Any support of such a proposal will establish a precedent for an undesirable approach to the subdivision of rural land.

**COMMITTEE RECOMMENDATION**

Novak/Clancy

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Clancy, Simmons

Against: Baker, Williamson

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

## BACKGROUND

Council on 22 June 2021 considered a report (6b.21.036) and Committee recommendation on a PP which aims to rezone part Lot 231 DP 880455, Hampton Road, Waterview Heights from RU2 to R5 to facilitate a subdivision to create 1 additional lot (zoned R5) having an area of approximately 9,800m<sup>2</sup> and a residue lot of approximately 39.2 ha (retaining the RU2 zone).

Council resolved to defer Item 6b.21.036 until the July 2021 Council meeting to allow receipt of additional information. A copy of the minuted report is at Attachment 1.

The Applicant submitted additional information on 25 June 2021. A copy of the additional information letter is provided at Attachment 2. The additional information is reviewed in 'Key Issues' below.

A copy of the submitted PP considered by Council on 22 June 2021 is at Attachment 3.

## KEY ISSUES

### Mechanism for achieving desired outcome

The Applicant's submission (refer to Attachment 2) states that:

- the Council planning officer's report to the Committee (dated 15 June 2021) does not recommend support for rezoning of the subject land. This is despite a previous indication that should application of a 4000sqm minimum lot size for the rezoned portion of the site be found to be unacceptable due to a possible higher development potential, that a larger minimum lot size control (i.e. 9000sqm) that limits any potential for further subdivision would likely be supported and recommended.
- a 4000sqm minimum lot size was sought as this is considered to be a logical and reasonable progression of the neighbouring development standard/control in this local context. It is consistent with the pattern of local development and associated lot size controls, and effectively provides for an orderly minor extension of the adjoining R5 area, which also exhibits a range of lots in excess of 8000sqm, yet all have a 4000sqm minimum lot size control applied. We submitted in the Planning Proposal, and reiterate, that the theoretical development potential was just that, theoretical, subject to further assessment and not a foregone conclusion.
- Council officers have expressed some concern regarding the site's development potential if the area (9800sqm) proposed to be rezoned to R5 Large Lot Residential was capable of further subdivision into two lots that each could also hypothetically support dual occupancies, rather than a single additional lot. Again, this potential remains very restrained and would be subject to future merit/development assessment. Nevertheless, in the opinion of the Council officer, application of a 4000sqm minimum lot size to the rezoned area may supposedly allow for an "undesirable" higher development potential than primarily intended and therefore has not been supported.
- the officer's report indicates that there are three options available for Council to consider in determining the proposal. This includes an alternative in what has been referred to as "Option 2", that would conditionally support the proposal on the basis of amending the minimum lot size to 9,000sqm for the part of the land that is proposed to be rezoned to R5 (consistent with Council's letter dated 5 November 2020).
- it is dismayed that the officer now appears to suggest that even this very reasonable, permissible, and restrained alternative option may not be supported.
- requests Council to reconsider the proposal, including a minimum lot size of 4000sqm, as justified in the Planning Proposal and given this is the most efficient use of land resources that would fall under the R5 zone, whilst also maintaining consistency with the adjoining R5 zone development standards/controls.
- if Council maintains concerns regarding the potential development yield, we consider the alternative application of a minimum lot size of 9000sqm, previously suggested by Council (Option 2 in the officer's report) to be entirely reasonable, justified, and supportable under the current planning framework. We understand that our client would be accepting of this conservative alternative if adequate support is not achieved for the original.

### Officer Comment

The Applicant was invited to submit a revised PP seeking to achieve its objective by:

- rezoning part of the existing lot (proposed Lot 1, 9800m<sup>2</sup>) to R5; and
- applying a lot size of 9000m<sup>2</sup> to the part of the land that is proposed to be rezoned to R5.

This invitation was given prior to Council staff consulting DPI Agriculture and prior to making a full assessment of the PP against all the relevant policies, plans and direction. As a consequence of the PP not being revised the subsequent assessment and Council report considered the PP as lodged.

Refer also to comment under 'Applicants reasons for supporting planning proposal or Option 2' below.

### **Applicants reasons for supporting planning proposal or Option 2**

The additional information submitted by the Applicant (refer to details at Attachment 2) has provided a range of reasons for Council to support either their preferred proposal option (R5 zone and Lot Size map amendment to 4000m<sup>2</sup>) or alternative option, being Option 2 as mentioned in the report to 22 June 2021 Council meeting, being R5 zone and Lot Size map amendment to 9800m<sup>2</sup>.

The submission makes the following points:

1. Both options, with either a 4000m<sup>2</sup> or 9800m<sup>2</sup> minimum lot size, are compatible with the adjoining development pattern, planning controls and are minor/inconsequential in terms of their development potential;
2. Both options would not undermine the overall direction or intent of the relevant regional and local strategic plans; and not result in any major inconsistency with the strategic or statutory planning framework, nor would it result in adverse or unintended/undesirable land use planning consequences;
3. The proposal is considered consistent with the assessment criteria that have been established in the Department of Planning and Environment's (DPE) *Guide to Preparing Planning Proposals 2018* to assist proponents to justify a PP where a regional plan does not include Sustainability Criteria that provides a framework to consider PPs that are not consistent with the strategy but may nonetheless have merit. Given the consistency with the assessment criteria it is considered that both minimum lot size options are supportable in this specific context and justified by the applicable assessment Criteria to overcome any minor inconsistency with the formal strategic planning framework. The Applicant is of the opinion that the Council officer's report does not fully acknowledge or consider this and the fact that a minor inconsistency does not preclude the proposal from consideration, nor should it be the sole, or default, grounds for refusal.
4. The Council officer's report also suggests that the "minor significance" argument applied to this proposal, if accepted, creates an undesirable precedent for future proposals. We submit that the minor significance argument is entirely appropriate for use in this context and clearly forms part of the supportable reasons under the Section 9.1 Directions where a Planning Proposal may have a level of inconsistency with a Direction. The Applicant submits that the proposal is largely consistent with the applicable Section 9.1 Directions. Where some inconsistency has been identified, this is minor and the inconsistency has been justified and is permissible as a valid consideration/ground under the s.9.1 Directions. The s.9.1 Directions themselves outline that a PP may be inconsistent with the terms of a Direction if certain matters can be satisfied, which includes if justified by a strategy, has consideration for the Direction objectives and site-specific merit, or if it is of minor significance. Notably, the Council officer's report does not disagree that the proposal is of minor significance, but rather suggests this should not be supported due to it potentially setting an undesirable precedent. We note that the consideration of "precedent" does not form part of the consistency test required under the relevant s.9.1 Directions, and in our opinion, it should not be used as a primary determining factor. In light of this, if the minor significance grounds/argument cannot be used in this case which has demonstrable site-specific and contextual merit, and is of a very restrained scale, it begs the question then when/where could the minor significance grounds/argument be applied, if at all, if such a rigid interpretation is adopted? We therefore respectfully request that these matters be reviewed.
5. Furthermore, all PPs and development applications must be assessed on individual merit, and it is a commonly accepted planning principle that precedent, or the potential of creating a precedent, is not an applicable test for determining proposals. Therefore, we are of the view that adoption of the proposal, especially the 9800m<sup>2</sup> minimum lot size option, would not result in an undesirable precedent given it has particular characteristics pertaining to its site-specific merit/context and on the basis of its minor significance it can and does satisfy the relevant considerations. Notwithstanding this, we also do not believe that comparatively site-specific merit in such a context would be commonly found in the broader Local Government Area anyway. The minor significance and individual merits of the proposal are in fact also acknowledged by the Department of Primary Industries (DPI) Agriculture in their comments to Council and satisfy the tests and Assessment Criteria in the DPE Guide to Preparing Planning Proposals 2018.

6. The existing development of the land already in part is akin to a large lot residential lifestyle, directly adjoining a R5 zoning. It demonstrably and effectively coexists with surrounding R5 and RU2 land uses. Adoption of either minimum lot size option would not alter or impact this effective coexistence.
7. The proposal is compatible with adjoining land uses and sits neatly at the interface with existing R5 land and the southern part of the Waterview Heights large lot residential area. Supporting the proposal in either form does not amount to an isolated or fragmented rezoning, and would not notably affect the interface between the R5 and RU2 land in terms of preserving agricultural values/potential (it is also noted that the site is not identified as important farmland), character, amenity, and minimising the potential for land use conflict. Furthermore, there are well over 100 existing and approved large lot residential lots in the southern part of the Waterview Heights R5 area (south of Gwydir Highway), and capacity for further subdivisions. Given this and the existing extensive presence of R5 zoned land/large lot residential lots interfacing with the RU2 zone in this area, the addition of one or at worst two more lots, immediately adjoining existing R5 land is inconsequential and negates the potential to cause/increase land use conflict (a fact acknowledged in DPI Agriculture's comments to Council).
8. Overall, the PP can be supported as it is generally consistent with many of the applicable directions and actions of the strategic planning framework and the identified inconsistencies have been justified by virtue of its minor significance and site-specific merit which are in themselves a relevant test/grounds. The overall intent of the relevant strategic and statutory planning framework would not be undermined or hindered. On this basis, we are of the opinion that the proposed rezoning, and at minimum Option 2 via the application of an amended 9000sqm minimum lot size, is supported by sound planning rationale, and the minor significance argument/grounds used in this context is entirely reasonable, valid and can/should be legitimately used to support the proposal on its merits. We therefore seek support for the proposal as is, or subject to a condition to increase the minimum lot size to 9000sqm as per Option 2.

#### Officer Comment

The original planning proposal and the Applicants additional information submission relies heavily on this matter being a minor rezoning or matter and being of minor significance when it comes to trying to justify the inconsistencies with key s.9.1 planning directions and actions in the NCRP.

As noted in report to Councils 22 June meeting the planning proposal is considered to be inconsistent with:

1. NCRP Action 1.1 – *“Focus future urban development to mapped urban growth areas”*;
  2. NCRP Action 18.2 – *“Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities”*;
  3. NCRP Action 24.1 – *“Facilitate the delivery of well-planned rural residential housing areas by:
 
    - identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and
    - ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised)”*;
  4. s.9.1 Planning Direction - Rural Zones the objective of which is *“to protect the agricultural production value of rural land”*;
  5. s.9.1 Planning Direction - Rural Lands, the objectives of which are *“to:
 
    - (a) protect the agricultural production value of rural land,
    - (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,
    - (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,
    - (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,
    - (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land
    - (f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy”*; and
6. s.9.1 Planning Direction - Implementation of Regional Plans the objective of which is *“to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans”*.

The inconsistencies with the above State and regional strategic considerations are multiple and even if all were regarded as minor inconsistencies it is considered that any proposal that is inconsistent with 6 key State and regional strategic considerations cannot be regarded a minor or insignificant and on this basis alone, should not be supported. There are no guidelines issued by the DPIE for local Council's to assess and determine just what can be considered as “minor significance”.

The 'minor significance' argument put forward in both the original PP and the Applicant's additional information submission is not supported given that the proposal seeks to enable the subdivision of an existing dual occupancy.

If approved as proposed will allow the opportunity for a second dwelling on each of the two lots that will result under the 9800m<sup>2</sup> option, or potentially more dwellings if 4000m<sup>2</sup> lot size option was supported.

The subdivision of rural dual occupancy is currently prohibited (except where the lot size can be met for both resultant lots). The subdivision of rural dual occupancy is not a component of any Council policy or strategy, nor of any State or regional strategy.

Although the land adjoins an area that is already zoned R5 it is unlikely that any future local growth management strategy or rural residential strategy is likely to look at areas that are core koala habitat such as this land for future rural residential development opportunities and extension to the R5 zone.

### Options

The options available to Council include:

Option 1 - Not support the planning proposal, as per the Officer Recommendation, on the following grounds:

1. The proposal lacks adequate strategic justification in the context of the North Coast Regional Plan 2036 (NCRP) and relevant Minister's section 9.1 Planning Directions as further noted in 2 and 3, below;
2. The proposal is inconsistent with Actions 1.1, 18.2 and 24.1 of the NCRP;
3. The proposal is inconsistent with the following Minister's section 9.1 Planning Directions:
  - (a) Direction 1.2 Rural Zones (from pages 19/20 of the proposal)
  - (b) Direction 1.5 Rural Lands (from page 21 of the proposal)
  - (c) Direction 5.10 Implementation of Regional Plans;
4. The proposal as lodged has the potential to create a "higher development potential" than it states; and
5. The proposal seeks to enable, through amendment of the minimum lot size map, the potential to subdivide a rural dual occupancy which is not supported by any Council policy or strategy, or any State or regional strategy. Any support of such a proposal will establish a precedent for an undesirable approach to the subdivision of rural land.

Option 1 is the preferred option for Council to support.

Option 2 - Support the planning proposal on the basis that it be amended to achieve the planning proposal objective by:

- (a) Rezoning part of the existing lot (proposed Lot 1, 9,800 m<sup>2</sup>) to R5; and
- (b) applying a lot size of 9,000 m<sup>2</sup> to the part of the land that is proposed to be rezoned to R5.

Option 3 - Support the planning proposal on the basis that it is not amended in any way.

Should Option 2 or 3 be selected as the preferred option, it should be noted that Council's adopted Community Participation Plan 2019 (page 13) states that where Council has supported a planning proposal against a staff recommendation it will provide reasons for such decision.

### COUNCIL IMPLICATIONS

#### Budget/Financial

The Applicant has paid the initial rezoning application fee which is expected to cover the reasonable costs associated with administering this phase of the PP. Additional fees, in accordance with Council's adopted Fees and Charges, will apply if the proposal progresses beyond the Gateway.

#### Asset Management

N/A

#### Policy or Regulation

*Environmental Planning and Assessment Act 1979* - including relevant State Environmental Planning Policies and Minister's Section 9.1 Directions  
State Environmental Planning Policy (Koala Habitat Protection) 2020  
North Coast Regional Plan  
CVC Community Participation Plan 2019

**Consultation**

Preliminary consultation has been undertaken with Department of Primary Industries - Agriculture (DPI Agriculture). This has been discussed further in 'Key Issues' under the Strategic context and merit heading of the June 2021 report, being Item 6b.21.036 (refer to Attachment 1).

Council's Natural Resource Management Officer (Biodiversity) has also provided advice as outlined in 'Key Issues' under the Biodiversity and koala habitat protection heading of the June report (refer to Attachment 1).

**Legal and Risk Management**

There are no legal appeal rights for third parties who may oppose the proposal. The Applicant may request a review of the Gateway determination if they are dissatisfied with the determination.

**Climate Change**

This proposal does not raise any foreseeable climate change implications.

|              |  |
|--------------|--|
| Prepared by  | Terry Dwyer, Strategic Planning Coordinator  |
| To be tabled | Attachment 1 - Council report, and resolution of, to 22 June 2021 Council meeting<br>Attachment 2 - Applicants additional information submission<br>Attachment 3 - Planning proposal Lot 231, DP 880455, Hampton Road, Waterview Heights |

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.052</b> | <b>PLANNING PROPOSAL REZ2021/0001 - LOT 2 DP 839420, 2 SPRING STREET, SOUTH GRAFTON</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

**SUMMARY**

|                           |  |
|---------------------------|--|
| Applicant/owner           | Clarence Valley Council  |
| Subject land              | Lot 2 DP 839420, 2 Spring Street, South Grafton (former Information Centre site) |
| Current Zoning CVLEP 2011 | SP3 Tourist  |
| Proposal                  | To rezone the land from SP3 to B5 Business Development (B5)                      |

This report seeks a Council resolution to submit a Planning Proposal (PP) to the Planning Gateway to rezone Lot 2 DP 839420, 2 Spring Street, South Grafton, being the site of the former Information Centre, from SP3 to B5. This administrative resolution has been requested by the NSW Department of Planning, Industry and Environment (DPIE or the Department) in order for the PP to be considered by the Gateway.

**OFFICER RECOMMENDATION**

That Council:

1. As the Planning Proposal Authority, endorse the planning proposal and seek a Gateway Determination to amend the Clarence Valley Local Environmental Plan 2011 to rezone Lot 2 DP 839420, 2 Spring Street, South Grafton from SP3 Tourist to B5 Business Development;
2. Forward the planning proposal to the Department requesting a 'Gateway' Determination, pursuant to Section 3.34 (1) of the Environmental Planning and Assessment Act 1979; and
3. Not seek to be the local plan-making authority for this matter under Section 3.36 of the Environmental Planning and Assessment Act 1979.

**MOTION – LAPSED FOR WANT OF A SECONDER**

Clancy

That Council defer this item to the October 2021 meeting cycle to allow the new Council to decide if it wants to proceed with this proposal or to adopt a different approach to the use of the site.

**COMMITTEE RECOMMENDATION**

Novak/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Simmons, Williamson, Baker

Against: Clancy

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

Council on 28 July 2020 considered a report (Item 6c.20.109) on an offer for purchase of Lot 2 DP 839420, Spring Street, South Grafton being the former Information Centre. One of the resolutions made by Council was that "Council appoint an independent party to prepare the Planning Proposal to rezone the land to B5 Business Development". A copy of the report considered by Council is at Attachment 1.

An independent planning consultant is engaged to prepare a planning proposal on Council's behalf. This included supporting studies and documentation such as:

1. Site Contamination Assessment and Updated Site Contamination Report
2. Civil Engineering Report
3. Traffic Impact Assessment

The planning proposal (Attachment 2) was recently received by Council and forwarded to the Planning Gateway via the DPIE. The Department has advised that the July 2020 Council resolution 'is too broad and cannot be taken to mean that Council wish to seek a Gateway determination' and further, 'given that the PP relates to Council owned land, having Council consider the PP and resolve to forward it to the Department for a Gateway determination is the most transparent course of action'.

### KEY ISSUES

The planning proposal addresses a range of anticipated issues in supporting studies and assessments as follows:

1. Site Contamination Assessment and Updated Site Contamination Report (PP Appendix 5);
2. Civil Engineering Report (PP Appendix 6) addressing issues such as flooding, water quality, stormwater and infrastructure); and
3. Traffic Impact Assessment (PP Appendix 7)

The planning proposal does not facilitate a future development on the site that is likely to have any adverse impacts that cannot be adequately managed or mitigated.

Should the Council not support the Officers Recommendation then the PP will not proceed any further.

### COUNCIL IMPLICATIONS

#### Budget/Financial

Council will continue to have operational costs relating to the property until the property is disposed of. If a rezoning application is approved then associated costs will be expended from FP 995005 Property Management. The officer recommendation aims to improve the probability of the subject land returning a higher price and hence, value for the community, when the property is sold.

#### Asset Management

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

#### Policy or Regulation

Disposal of Council Surplus Land and Buildings Policy

#### Consultation

There has been no external consultation at this stage. Should the proposal receive a positive gateway to proceed consultation and exhibition will be undertaken in accordance with the Gateway Determination.

#### Legal and Risk Management

The planning proposal is the commencement of a process that is ultimately aimed at reducing Council's risk of holding vacant and/or surplus property.

As Council is the owner of the land it is best practice that Council does not take on the role of the local planning authority under Section 3.36 of the Environmental Planning and Assessment Act 1979. This report contains a recommendation to this effect.

#### Climate Change

N/A

|              |   |
|--------------|---|
| Prepared by  | Terry Dwyer, Strategic Planning Coordinator   |
| To be tabled | Attachment 1 - Council report and resolution - 28 July 2020<br>Attachment 2 - Planning Proposal |



|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6b.21.053</b> | <b>GRAFTON CBD PLAN, PARKING AUDIT &amp; STRATEGY, AND LAND TRANSPORT STRATEGY</b> |
|-------------|------------------|--|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

**SUMMARY**

The main objective of this project is to *make Grafton a destination where people want to spend time to socialise, to visit and support business*. Council staff and consultants have been working with the community to prepare a conceptual masterplan and supporting car parking and transport strategies to help make the Grafton CBD, particularly Prince Street, an even more attractive place and to achieve the project objective.

Preparation of the draft Precinct Plan and submission to Council for adoption is the culmination of a thorough, well-considered and consultative project guided and supported by a professional team of urban design, place making and community engagement consultants drawing on the active participation of many interested community members and local businesses. Opportunities to be involved were offered from the very early stages of the Project with the Place Audit and community survey, through to the workshop series, active use and observation of the Prince Street trials and more formally during the public exhibition period.

The draft Grafton Precinct Plan, draft Car Parking Audit & Strategy, draft Land Transport Strategy and Place Audit (see Attachments A-D, respectively) were placed on public exhibition from 7 May to 4 June 2021. To generate additional interest in the plans two trials were completed in Prince St to test community sentiment regarding potential future changes to the main street environment. The trials included different mixes of the following features - nose in parking, footpath widening, outdoor dining, additional seating, landscaping, cycle parking, use of coloured furnishings and other changes.

Community feedback to the draft Plans and documents on exhibition, including feedback on the trials, was formally provided in written form via written submissions and survey responses (see Attachment E). The draft plans are supported by NSW Health, NSW Police, Transport for NSW, the Grafton Chamber of Commerce, Council's Access Committee, Traffic Advisory Committee, Climate Change Committee, along with 71% of the written surveys issued by Council and up to 79% of the written submissions.

The proposals work as a package that in combination to slow traffic speed, improve accessibility and safety, widen footpaths, increase shade and landscaping, provide adequate parking, improve the main street link to the Grafton Waterfront and add additional function and visual interest to enhance the presentation of the Grafton CBD that complement Grafton's character, focussed on Prince Street, including the entrances to Grafton. It is recommended that the package of measures be approved by Council to enable progress to preparation of detailed plans and costings and introduction of measures as opportunities arise. The next steps will include further engagement with the local business community, landowners and the community.

From the initial survey through to the written submissions there has been a consistently high level of support for the various initiatives design to achieve the Projects main objective being to *make Grafton a destination where people want to spend time to socialise, to visit and support business*. The community members that have been actively involved in the consultation want the Grafton CBD to be revitalised and rejuvenated. The progression of the Grafton Waterfront project has the community optimistic and excited for the possibilities and there is support for more of that energy to be used throughout the Grafton CBD and for the community to enjoy that space for the benefit of business and the community as a whole.

**OFFICER RECOMMENDATION**

That Council:

1. Approve the Grafton Precinct Plan, Car Parking Audit & Strategy and Land Transport Strategy, subject to Items 2 and 3 of this resolution, as a package of measures to improve the Grafton CBD, focussed on:
  - a. Slowing traffic speed within Prince Street;
  - b. Making the CBD safer and more accessible for pedestrians, the elderly, those with mobility requirements and cyclists;
  - c. Widening footpaths, providing opportunities for outdoor dining and spaces for shaded seating;

- d. Ensuring adequate, safe and accessible car parking within the Grafton CBD to support business, including nose in parking in Prince Street and other areas as identified in the revised Car Parking Strategy;
  - e. Making the CBD greener, cooler and more attractive through trees, arbours and other landscaping;
  - f. Improving links to the Grafton Waterfront Precinct; and
  - g. Incorporating street furnishings, infrastructure and urban art that complements Grafton's character and heritage, and provides function and visual interest.
2. Make amendments to the Car Parking Audit & Strategy to ensure that any reduction to existing car parking opportunities in Prince Street are offset by additional on-street car parking within the Grafton CBD.
  3. Endorse the proposed amendments to the draft Car Parking Audit & Strategy and Land Transport Strategy, as noted at Attachments G and H;
  4. Prepare a business and community (including First Nations people) engagement strategy to guide further engagement in association with the preparation of detailed design plans and project milestones for the Grafton CBD Project;
  5. Review the maximum building height limit, permissible land use and other planning controls relevant to the Grafton CBD in conjunction with the review of Employment Lands and preparation of the Local Growth Management Strategy in this financial year;
  6. Note the submissions received and summary of feedback at Attachment E, and overall majority support from those that provided written submissions; and
  7. Publicly thank those people and organisations that have taken the time to engage in the process and to provide a submission or through meeting with and speaking to Council staff and consultants.

### COMMITTEE RECOMMENDATION

Williamson/Novak

That Council:

1. Approve the Grafton Precinct Plan, Car Parking Audit & Strategy and Land Transport Strategy, subject to Items 2 and 3 of this resolution, as a package of measures to improve the Grafton CBD, focussed on:
  - a. Slowing traffic speed within Prince Street;
  - b. Making the CBD safer and more accessible for pedestrians, the elderly, those with mobility requirements and cyclists;
  - c. Widening footpaths, providing opportunities for outdoor dining and spaces for shaded seating;
  - d. Ensuring adequate, safe and accessible car parking within the Grafton CBD to support business, including nose in parking in Prince Street and other areas as identified in the revised Car Parking Strategy;
  - e. Making the CBD greener, cooler and more attractive through trees, arbours and other landscaping;
  - f. Improving links to the Grafton Waterfront Precinct; and
  - g. Incorporating street furnishings, infrastructure and urban art that complements Grafton's character and heritage, and provides function and visual interest.
2. Make amendments to the Car Parking Audit & Strategy to ensure that any reduction to existing car parking opportunities in Prince Street are offset by additional on-street car parking within the Grafton CBD.
3. Endorse the proposed amendments to the draft Car Parking Audit & Strategy and Land Transport Strategy, as noted at Attachments G and H;
4. Prepare a business and community (including First Nations people) engagement strategy to guide further engagement in association with the preparation of detailed design plans and project milestones for the Grafton CBD Project;
5. Review the maximum building height limit, permissible land use and other planning controls relevant to the Grafton CBD in conjunction with the review of Employment Lands and preparation of the Local Growth Management Strategy in this financial year;
6. Note the submissions received and summary of feedback at Attachment E, and overall majority support from those that provided written submissions; and
7. Publicly thank those people and organisations that have taken the time to engage in the process and to provide a submission or through meeting with and speaking to Council staff and consultants.
8. Keep Chataway Street open to traffic entering from Prince Street.

Voting recorded as follows:

For: Williamson, Baker, Novak, Clancy, Simmons

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

## BACKGROUND

The North Coast Regional Plan (Action 14.1) and Council's Local Strategic Planning Statement 2020 (Particularly Priorities 1, 3, 6 and 12 and Action 12.2) requires the preparation of a Precinct Plan for Grafton. There are a range of Actions within the LSPS that require Council to take a 'placemaking' approach to improve our centres, to review our Pedestrian Access and Mobility Plan (PAMP), promote walking and cycling, improve resilience and sustainability and support business and implementation of our Regional Economic Development Strategy, among others. The draft Precinct Plan, Car Parking Audit and Land Transport Strategy, and proposed amendments, are consistent with the NCRP and LSPS, and carry these directions forward into more specific ideas and Actions for Grafton. It is worth noting that the LSPS is a statutory instrument with legal weight that needs to be complied with.

The project had a number of important objectives and principles or drivers that have guided the preparation of the Plan. The main objective of this project is to make Grafton a destination where people want to spend time to socialise, to visit and support business. Developing the Plans has given attention to the following drivers or principles:

1. The history, heritage and culture of our First Nations People;
2. Our natural assets – our people, river frontage, historic streetscapes, cultural heritage, vibrant food, hospitality and agricultural hinterland, annual events, subtropical climate and important trees;
3. Car parking needs in and around Prince Street and servicing the CBD;
4. Future transport trends and opportunities, particularly promoting walking, cycling and improved mobility and accessibility;
5. Coordinated delivery of Council and State Government projects, particularly the waterfront and other capital works projects and investment from Transport for NSW;
6. On-going collaboration with all partners that have an interest in the Grafton CBD; and
7. Ensuring Grafton is a resilient, sustainable and successful regional city.

A multi criteria analysis at Attachment F summarises how the proposed package of measures for the Grafton CBD help achieve these principles or drivers.

In addition to the above planning context, the CBD Plan capitalises on the opportunity created by the proposed change of responsibility for Prince Street from a main road managed by Transport for NSW, to a Council managed local road. This opportunity provides a renewed focus on making Prince Street an enjoyable place and space where people want to spend time to shop, to socialise and to support business.

State Government grant funding has focussed on a range of initiatives such as streets as shared spaces, improved walking, cycling, accessibility, public transport improvements and other initiatives that generally align with the draft plans. Council proposes to apply for suitable grant funding as it becomes available to assist in implementing the Plan.

The Grafton CBD Plan and Land Transport Strategy was developed with the involvement of relevant sectors of the Grafton community. This has included a community survey, informal on-street conversations, informal discussions with business owners, behaviour mapping and a 'place audit', parking audit, origin-destination traffic survey. In addition, workshops and discussions with representatives of the community - covering accessibility and mobility, aged care, youth, Grafton Chamber of Commerce, local business owners, landowners and other members of the community have all helped inform the preparation of the Plan.

### Place Audit

To assist in the early stages of preparing the draft plans a Place Audit was completed to engage the local community and capture current CBD use or activity in the main street as well as issues and opportunities for improvement in the CBD. An online survey, conversations on Prince Street with businesses, shoppers and

visitors, and at the Grafton Twilight Farmers Market, among others, all helped inform initial ideas to progress in the Plan.

The Place Audit also included a public survey which was completed by 154 respondents. The Audit findings informed a 3-day workshop series that obtained further feedback and ideas from a range of business owners, CBD landowners, community representatives and Council staff on the future vision for the CBD. From that initial consultation it was determined that 95% of people wanted more shade, 80% wanted to exchange concrete for landscaping or plantings, 78% wanted outdoor dining, 72% suggested nose in parking for more amenity, 80% wanted artwork and signage to reference the local community and stories. This early work informed development of the draft Precinct Plan. A copy of the Place Audit is provided at Attachment D of this report.

### **Car Parking Audit & Strategy**

As part of the preparation of the draft Plans a Car Parking Audit (see Attachment B) was completed. This included an Origin Destination Survey to understand how vehicles move into, around and out of the CBD. The car parking audit surveyed all public car parking arrangements across the CBD, including accessible parking spaces, noted the busiest times of the day and overall parking demand. The audit and associated Strategy details parking management options and recommendations for the future. The Audit & Parking Strategy informed the preparation of draft Precinct Plan for the CBD.

### **KEY ISSUES**

Preparation of the draft Precinct Plan and submission to Council for adoption is the culmination of a thorough, well-considered and consultative project guided and supported by a professional team of urban design, place making and community engagement consultants drawing on the active participation of many interested community members and local businesses. Opportunities for community involvement were offered from the very early stages of the Project with the Place Audit and community survey, through to the workshop series, active use and observation of the Prince Street trials and more formally during the public exhibition period.

From the initial survey through to the written submissions there has been a consistently high level of support for the various initiatives design to achieve the Project's main objective being to *make Grafton a destination where people want to spend time to socialise, to visit and support business*. The community members that have been actively involved in the consultation want the Grafton CBD to be revitalised and rejuvenated. The progression of the Grafton Waterfront project has the community optimistic and excited for the possibilities and there is support for more of that energy to be used throughout the Grafton CBD and for the community to enjoy that space for the benefit of business and the community as a whole.

The main issues relevant to the public exhibition phase, consideration of community response and the future steps for this Project are presented for Council's information and consideration.

### **Community Consultation and Feedback**

The preparation of the draft Precinct Plan (see Attachment A) and supporting documents at Attachments B, C and D have placed an emphasis on engagement with the community to ensure the Plans manage existing issues and improve Grafton's CBD by capturing the aspirations of the local community. The draft Plans on public exhibition were promoted through social media, media releases with the local newspapers, through the business community (including the Grafton Chamber of Commerce) and other Council contacts within the community, through the Prince Street trials and at Project displays and conversations with interested community members at the Grafton Farmers Markets during the exhibition period, as well as at the Community Strategic Planning sessions in Grafton.

Council engaged with our First Nations Communities and attended a meeting of the Grafton Ngerrie Local Aboriginal Land Council to discuss the CBD Plan. The draft Precinct Plan incorporates a clear intention to acknowledge our First Nations People within the design of improvements to Prince Street and to link with the Grafton Waterfront precinct, a First Nations Engagement Protocol is to be developed as part of the next steps and ensure important cultural matters and stories are woven into the fabric and visual expression of the revitalised CBD.

A total of 39 written submissions have been provided to Council. Outright support for the draft Precinct Plan has been offered by 27 (or 69%) of the 39 submissions. Outright opposition to the Plan or aspects thereof have been submitted by 7 (or 18%) of the written submissions. Four (4) of the 39 submissions (or 10%) offer mixed (both support and oppose) feedback on aspects of the Plan. Hence, support could be deemed to be as high as 79% and opposition could be as high as 28% once these mixed feedback submissions are

included. The reasons for objection are primarily due to concerns about the perceived safety of nose-in parking (8 or 20.5% of submissions), inadequate RV/long vehicle parking (2 or 5% of submissions), that Council should focus expenditure and energy on other priorities (2 or 5% of submissions) or that the maintenance of roads needs attention (2 or 5% of submissions). One (1) written submission raised issues not relevant to the draft Plan and were deemed to neither support nor oppose. The proposals in the Precinct Plan have support from NSW Health, NSW Police, Transport for NSW (TfNSW), the Grafton Chamber of Commerce, Council's Climate Change and Traffic Advisory Committees and strong support from Council's Access Committee.

Council staff met with TfNSW representatives during the exhibition period and verbal support for the proposals as well as some constructive feedback was offered. TfNSW staff recognise that the proposed package of measures are consistent with and help implement relevant guidelines and strategies, such as the TfNSW Movement and Place Framework, and Future Transport 2056. TfNSW have provided verbal support for nose-in parking, relocating the bus stop from Prince Street (near Fitzroy Street), improvements to public transport (including new CBD bus stops), raised 'wombat' crossings for pedestrians, slowing traffic speed and making the CBD more pedestrian and cyclist friendly. A formal written submission from TfNSW has not been received at the time of writing this report, although it is expected, and it will be provided to Councillors when received.

The CBD Plan homepage on Council's online platform, *Clarence Conversations*, was visited by more than 1,400 people through the course of the project. A survey on the draft Plans was completed by 21 people with 71% of respondents indicating they agree or strongly agree with the Plans. These survey responses are at Attachment E. Private surveys at two businesses located adjacent to one of the trial sites also captured thoughts from the public during the trial period and these are also included at Attachment E. Further conversations on the street, at the Grafton Twilight Farmers Market, with business and a review of social media provided additional insights into community sentiment to consider in relation to the draft Plans and where appropriate changes have been recommended.

The following provides an overview of the feedback that was received via survey responses to improve the plan:

- The reconfiguration of car parking was varied. Participants were strongly for or against the changes.
- Water play or a water element was supported in the southern end near the waterfront. It was suggested perhaps in the centre of the road where the pavement has been changed to be more pedestrian friendly.
- Some wanted to allow Craft Breweries in the CBD, this will be investigated by Council in association with the Local Growth Management Strategy as 'Artisan food and drink industry' are not permitted in the Business zones.
- Some suggested rezoning areas to allow re-use of vacant buildings.
- Others wanted to ensure that planting choices in the new main street (including on arbours and general landscaped zones) do not adversely impact pedestrian, cyclist or traffic safety.
- Some made pleas to not make Prince Street generic, keep it unique, and,
- Others wanted to maintain parking availability across the CBD.
- Some survey respondents understandably wanted to resurface the footpath so it is uniform and tidy.

Across the consultation as part of the trials, and exhibition of the draft Plans the team spoke to a large cross section of the community, with additional detailed discussions with business owners. The response talking to people face to face was positive, with the most contentious topic being the reconfiguration of car parking from reverse-in to nose-in. The preference was varied, with users being strongly for or against the decision, though the majority supported nose-in parking. This reinforces a clear preference for nose-in parking (72%) from the earlier phases of consultation.

As a result of the feedback, primarily written submissions, a number of changes are proposed to the documents released for consultation. These are summarised under the 'Suggested Changes' heading later in Key Issues and also detailed in Attachments G and H.

### 3-day Workshop Series

The project team undertook a 3-day workshop series in Grafton including a targeted ideation session with key stakeholders from the community, representing a broad spectrum of the business, events, landowners and community organisations of Grafton. The workshops were informed by the findings of the Place Audit as well as the collective knowledge and experience of the participants that was conveyed through conversations at the workshops to generate a range of new initiatives that the consultants have drawn from to prepare the draft Plan.

### Prince Street Trials

Two trials within Prince Street were established to test initial ideas and generate interest in the draft Plans and the potential package of initiatives. The trials were provided by Council's Open Spaces and Facilities staff using Council resources and materials utilising the Grafton CBD Project budget. Some adjacent businesses assisted in maintaining the trial spaces. They were trials by design and hence, they were not perfect and provided a range of important lessons to inform the final Plans. The trial near the Bacon Street intersection demonstrated that nose-in parking can work without causing accidents or injury and effectively created a wider unimpeded footpath as nose-in parked vehicles reduce overhang to the footpath (refer to Plate 1 for an example of nose-in parking overhang at Tugun, QLD).



**Plate 1** - Nose-in parking adjacent to a pedestrian footpath in Tugun, QLD showing the relatively small (or no) overhang from vehicles including a 4WD (5<sup>th</sup> vehicle from front).

This trial showed there is a latent demand for outdoor dining and night-time dining opportunities as an alternative to pub dining. The trial generated support for more outdoor dining, landscaping and 'greenness'. Even residents in shop-top housing nearby utilised the space. The short trial showed a quick change in the way people utilise opportunities to cycle to a destination with cycle parking and enjoy outdoor dining, even in winter. The loss of car parking in the vicinity of businesses that indicate they rely on car parking immediately in front of their business was the main concern. Future trials and more permanent plans will involve communication of potential changes with business and ensure impacts are fully understood and explained to support and reduce concerns of business.

The second trial site adjacent to 'the Shoppingworld link' was also successful. This temporary space created a seating opportunity that was regularly used by passers by, people waiting for friends and generated interest in the main street and CBD Project. The nearby business owners wanted this trial to stay permanently.

The success of the trials in generating interest and ideas from the community is reflected in the number of written submissions and survey responses that directly refer to the trials.

Future short-term opportunities for outdoor dining, installations and creating interest in the main street should be explored and Council are working on a program to encourage businesses to implement improvements and short term installations in line with the Precinct Plan.

### Council Committees

Council staff presented the draft Plan and proposed package of measures to Council workshops, to Council's Traffic Advisory Committee, Climate Change Committee and Access Committee. There has been broad support from these forums for the initiatives in the plan and proposals to improve the safety, accessibility and sustainability of Grafton's CBD.

### **Car Parking Safety**

A perceived safety risk with the option of nose-in parking was expressed by a portion of the 25% or so of submissions that opposed the Plan. These concerns relate to the safety of reversing into oncoming traffic

(more so if vision is obstructed by adjacent high vehicles), safety for children, access to the rear of cars/utes adjacent to the traffic flow and the speed of traffic in Prince Street. These concerns relate to the present day traffic and street environment where Prince Street has generous through lanes, excessive space adjacent to angle parking bays, at grade pedestrian crossings, reverse parking, and a traffic flow priority for Prince Street that combines to enable vehicles to travel at greater speed. These characteristics of Prince Street are proposed to be modified as a package consistent with the Precinct Plan to slow traffic speed and make the main street a safer, more accessible and more inviting place for pedestrians and cyclists, including drivers and passengers accessing their parked vehicles, to spend time and support business..

Nose-in parking does work effectively. In the Clarence Valley, nose-in parking functions well in the Yamba. In many other towns nose-in parking also works well and parking spaces that are dimensioned in accordance with relevant standards offer ample and safe space for accessing vehicles, including loading/unloading of prams or other goods from the boot (photo). By slowing down traffic, adding wombat crossings, widening footpaths, adding landscaping and shade and other initiatives it will ensure that Prince Street is a safe place to park your car and safe for all pedestrians and other forms of transport.

Austrroads 'Guide to Traffic Management, Part 11: Parking Management Techniques, 2020' (*Austrroads GTM Part 11*) prefers 'nose-in' parking because:

- it keeps traffic flowing in a one lane traffic environment
- vehicle exhaust emissions face away from the footpath, pedestrians and outdoor dining
- vacant spaces are more visible and a motorist is able to slow down and move directly into a parking space causing little delay to following motorists
- drivers reversing out from the parking bay can select a time when passing traffic will not be disrupted
- a stationary driver about to reverse into the parking bay tends to disrupt passing traffic by trapping a vehicle behind
- when parking, motorists can view high kerbs and footpath obstructions more easily
- cars are not reversing into a pedestrian environment
- vehicle attachments such as tow bars and cycle racks also pose a hazard to pedestrians when overhanging the edge of the kerb (refer to example at Plate 2)
- motorists approaching a vehicle exiting a 'nose-in' space can typically see the reversing lights as a warning.



**Plate 2** – Reverse parked 4WD vehicle in Prince Street, Grafton showing significant overhang to footpath even though vehicle has stopped short of kerb.

It is acknowledged however, that the rear storage space on vehicles does face the travel lane and to reverse out of a nose-in parking space often requires part of the vehicle to protrude into the roadway before oncoming traffic can be viewed. However, the oncoming traffic can see the exiting vehicle and in many cases they will want to enter the vacated parking spot so they will pause and let the vehicle exit safely. This is

certainly how nose-in parking works in Yamba where some of the measures proposed for Prince Street also exist, eg raised pedestrian crossings, narrow travel lanes and street plantings. As indicated earlier, when these spaces are dimensioned in accordance with the Austroads standard and cars park close to the kerb there is typically ample space for safe loading/unloading within the confines of the parking space (refer to Plate 3).



**Plate 3** – Nose-in parking at Tugun, Qld showing the amount of space available at the rear of vehicles for loading/unloading. NOTE: Due to the angle of the parked cars there is a greater space on the far side rear of the vehicle compared to what this photo indicates.

Probably the biggest advantages of nose-in parking are the safety and accessibility gains due to a significant reduction in footpath obstruction caused by rear-end tow bars, ute trays and car bodies that typically extend further beyond the rear wheel, the reduction in exhaust fumes from vehicles and the fact that drivers can see where they are driving when forward facing. Reversing towards the pedestrian footpath space is considered a more dangerous and less desirable option. Hence, nose-in angled parking is recommended to replace rear-to-kerb parking in some sections of the CBD.

### **Car Parking to Support Business**

The Car Parking Audit for the CBD found that parking is at around maximum 65% capacity across the CBD at the peak times from mid morning to lunch time on a weekday, and substantial parking is available outside of those times. Some areas, particularly near government offices and the river end of Prince Street are at around 90% utilisation by 9.00am. The consultants predict that with population growth there will be an adequate supply of parking for approximately 40 years until an 85% utilisation rate is achieved. Beyond 85% motorists spend more time circulating and become frustrated at attempting to find a parking space.

Some individuals and business owners are very concerned about any loss of car parking spaces near their business in Prince Street and this has been considered in the Submissions Analysis at Attachment E with relevant recommendations. The proposed streetscaping works with wider footpath spaces, additional landscaping, seating and footpath dining opportunities will result in nett loss of a maximum of 40 car parking spaces from Prince Street between Kemp Street and Oliver Street based on the current draft Precinct Plan. The detailed design phase may find opportunity to further reduce this loss. In addition, the opportunity to provide additional parking to offset this loss exists both within some sections of Prince Street (eg centre-aisle parking between Pound and Bacon Streets) as well as other on-street locations within the Grafton CBD. It is recommended that the Parking Strategy be amended to ensure that a review of all bus zones, taxi zones and No Stopping zones within the CBD is completed with a view to convert surplus kerbside space to public car parking. Other modifications in some streets close to Prince Street, eg removal of one eastbound lane in Fitzroy Street between Prince and Duke Streets would provide width to convert existing parallel parking to angle parking gaining additional parking spaces, at low cost through new signage and line marking (diagram). These offsetting arrangements will be key aspects for discussion in the detailed design phase.



The intent of making the main street and CBD a safer, more accessible environment for pedestrians and cyclists, with improved bus servicing, undercover seating and pedestrian linkages to these services is likely to further reduce demand for traditional vehicle parking as more people commute to and from the CBD using alternatives to a car. Actions to promote these non-car movements are included in both the Parking and Land Transport Strategies and further enhanced through suggested modifications to these Strategies (refer to Attachments G and H).

In addition to the proposed initiatives to encourage some people out of cars, there is substantial scope to increase turnover of available on-street parking across the CBD through review of parking time limits. The general concept proposed in the Parking Strategy is to keep parking located in Prince Street and in close proximity to the main street as short term parking with parking towards the edges of the CBD signposted for longer term or all day parking. The Parking Strategy includes an action to achieve change in this regard and so enable customers more opportunity to access available parking in the main street. This is intended to benefit local business.

### **Entrance improvements**

A key focus of this Project was to obtain guidance to enhance the entrances to Grafton and make the town entries more welcoming and attractive to locals and visitors alike. This includes recommended improvements to Fitzroy Street, including changes to parking layouts, lanes, more planting and others. The Plan includes suggestions for art/projections on to infrastructure such as the sugar tower at South Grafton, public art and other public realm improvements throughout the CBD and to work with businesses to encourage their business spaces to link in with public spaces and invite people off the street and into their business.

### **Accessibility**

One of the key drivers for the overall project has been to improve accessibility across the Grafton CBD for people of all mobilities and stages of life, from young children, parents with prams, anyone with mobility issues and various modes of transport, through to the elderly. The Plan seeks to make the CBD a place for everyone to enjoy, to make it safe to access the CBD and cross the roads, and encourage people to interact on the street for their mental wellbeing, physical health and the support local business. The Plan and related documents recommend some structural and non-structural improvements that are proposed to make the CBD more accessible and hence, more comfortable, safer and more inviting for all people to visit and easily move around. These improvements include upgraded pedestrian crossings at key sites, widening footpath spaces, narrowing road crossing points, removing the central barrier fence in the main retail block, slowing traffic speed, increasing shade and providing for more consultation as detailed designs are prepared.

### **Road Network Changes**

Some changes to the way the road network operates are also proposed. This includes a 'Shared zone' towards the river, to link with the Grafton Waterfront and create a space that encourages people to enjoy the amenity of the revitalised street and waterfront near the Council building, that in turn has potential to encourage activation and businesses, such as cafes, to operate at the river end of Prince Street. Changes to access arrangements at the Prince Street intersection of both Kemp Street and Chataway Lane to be left turn out only (eastbound) will reduce the volume of traffic entering the 'Shared Zone' while maintaining essential servicing function for business fronting to those streets. This will be subject to detailed design and communication with business and landowners at the design stage.

### **Topics Covered in the Draft Precinct Plan**

A number of additional topics raised in submissions are covered in the draft Precinct Plan, Car Parking Audit & Strategy and Land Transport Strategy. These include:

- provision for RV parking;
- improving the entrances to Grafton; and
- ensuring that the overall design and changes within the public street spaces ensure safe places and spaces for all people and lighting and other design elements conform with Crime Prevention through Environmental Design (CPTED) requirements.

### **Next Steps and Further Engagement**

Detailed design is needed to prepare engineering specifications, provide for drainage, car parking layouts, accessibility requirements and ensure many other considerations are addressed. Most importantly, it is recommended that a business and community engagement strategy or protocol is prepared to ensure business and community have more input into the final design and outcomes provided the fundamental package of measures (as contained in the Officer Recommendation) is maintained

Implementation of the Precinct Plan and related Strategies will be completed in stages. Staged redevelopment of Prince Street and the CBD will take a logical approach. Completing the project in phases

will offer the opportunity to reduce the annual impacts on Council's budget whilst increasing flexibility in what funding opportunities may be pursued.

In general terms it is suggested that the works commence from the southern or Grafton Waterfront end of the main street and move north from there. However, components in other sections of the main street or CBD may be pursued earlier as opportunities arise, eg special funding for pedestrian crossing upgrades, or low cost changes associated with other Council infrastructure projects in the CBD that are consistent with the Precinct Plan and related Strategies. A detailed implementation plan will be prepared to coordinate and prioritise the Actions in the Land Transport Strategy and the Car Parking Audit and Strategy, along with a detailed staging plan for the Precinct Plan.

### **Proposed Changes to Exhibited Plans/Strategies**

The formal public feedback, conversations with interested people and groups, as well as additional consideration by Council staff has informed various suggested adjustments to enhance the rigour and quality of the final Precinct Plan and supporting Strategies. Changes to the respective documents are summarised below with details in relevant Attachments.

#### Draft Precinct Plan

The draft Precinct Plan proposed full closure of the eastern end of Chataway Lane where it meets Prince Street. Chataway Lane is not wide enough for trucks and other vehicles to complete a U-turn after entering Chataway Lane from Hockey Street. Hence, it is recommended that the eastern end of Chataway Lane be modified to be left turn out only for eastbound traffic consistent with the proposal to modify the eastern end of Kemp Street, where it meets Prince Street, to also be left turn out only (eastbound).

#### Car Parking Audit & Strategy

A track change edit of recommended changes to the Action Plan of the Car Parking Audit & Strategy is provided at Attachment G. These are mostly minor improvements or proposed to provide improved rigour and coverage in the outcomes, however a summary of key recommendations for Council consideration and agreement includes:

1. Require additional engagement with the community, relevant Council Committees and business prior to implementation of the relevant changes;
2. Add appropriately designed accessible parking near access ramps to the Grafton Waterfront Precinct, particularly at the end of Duke Street;
3. Recommend relocating the bus stop from the west of Prince Street near Fitzroy Street (near Toast café) to an appropriate westbound location in Fitzroy Street in proximity to Prince Street;
4. Work with taxi and bus operators to review allocation of designated zones, improve accessibility and waiting areas at required zones, and where practical, convert surplus or unnecessary zones to additional on-street parking for the general public; and
5. Promote the use of 'Green Travel Plans', particularly for larger businesses, to encourage staff to commute using alternative to motor cars, such as walking, cycling, bus, car sharing or working from home, to manage the need for all day parking and to support business.

#### Land Transport Strategy

A track change edit of recommended changes to the Action Plan of the Land Transport Strategy is provided at Attachment H. These are mostly minor improvements or proposed to provide improved rigour and coverage in the outcomes, however a summary of key recommendations for Council consideration and agreement includes:

1. Bring forward the timing to complete a review of the Pedestrian Access and Mobility Plan 2015 (PAMP) to address the needs of the Grafton community to improve accessibility around the CBD consistent with the adopted 21/22 CVC Operational Plan;
2. Seek funding for the design and construction of raised 'wombat' pedestrian crossings at existing crossings points through Prince Street, particularly adjacent to Bacon Street, between Fitzroy Street and Pound Street, and between Market Square and Clocktower Hotel/Saraton Theatre with the latter subject to additional consultation before determining the exact location;
3. Plan for and implement a new way finding signage system across the CBD, to direct locals and tourists to key points, such as the Library and Library car park, Regional Gallery, Market Square, Grafton Waterfront and other attractions in Grafton;
4. Include specific mention of safety, CPTED and other details to ensure the CBD and walking routes and car parking is attractive for users at all times of the day and night;
5. Investigate desirable locations for bike lanes, and ways of promoting more cycle usage in daily travel options, as part of Council's update of the Bicycle Plan 2015, in accordance with the adopted CVC Operational Plan 2021/22; and

6. Develop a range of promotional material to communicate the mental and physical health benefits, and the economic, social and environmental benefits of cycling, in conjunction with NSW Health, TfNSW, Cycling NSW and other relevant agencies or groups.

### Options

Option 1 – Approve the proposed amendments to the draft Precinct Plan, Car Parking Audit & Strategy and the Land Transport Strategy, as per the Officer Recommendation. The recommendations contain a number of amendments to the draft documents that were publicly exhibited. The suggested changes respond in part to public feedback, consideration by agencies and internal review by Council staff. Option 1 is the preferred option.

Option 2 – Delay a decision on the draft Precinct Plan, Car Parking Audit & Strategy and the Land Transport Strategy. The earliest this matter would be reconsidered is the October Council meeting. The timing of this Project has always been driven to enable the current Council, who have a good knowledge of the Project, to make a decision on the Project during their term in office.

Option 3 – Not approve as per Option 1 and discontinue planning for the Grafton CBD.

Options 2 and 3 are not supported by Council staff. If Council resolves to not support and defer consideration of the Plans then they will not progress and Council will not be prepared to source grant funding or to implement the recommendations in the Car Parking Audit & Strategy or Land Transport Strategy. Further, the community has provided a strong support for Council moving forward with the Plan and related Strategies. The Plans and Strategies, together with recommended amendments, are a well-considered and sustainable package of changes that seek to achieve the main project objective *to make Grafton a destination where people want to spend time to socialise, to visit and support business*. Given the strong support it is likely that the community would have a level of dissatisfaction if this option was not taken.

### COUNCIL IMPLICATIONS

#### Budget/Financial

If Council support the Officer Recommendation then Council will seek funding to assist with the development of a detailed design and costing estimate for the Precinct Plan, this will involve further engagement with businesses and the community. Other Actions in the Car Parking Audit & Strategy and the Land Transport Strategy will be progressed within existing budgets when possible or as grant funding becomes available. A new Road Safety Officer (being recruited) will progress many of the Actions in the Parking and Land Transport Strategies, and Council will continue to source funding to assist as available.

This Project had a total budget of \$173,000 allocated between two project numbers. The bulk of the project expenses has been committed to the consultancy team that have led the consultation, completed baseline surveys and prepared the documentation. Additional costs associated with the trials, workshop catering and preparation of display boards for the public exhibition have been covered by the allocated budget. The total Project is expected to be within budget with a balance at completion in the order of \$10,000.

A detailed cost estimate to construct the project would be prepared at the future detailed design stage.

#### Asset Management

The conceptual masterplan, overall Precinct Plan, revised Parking and Land Transport Strategies will have implications for future asset management. The intention is to obtain better and more efficient utilisation of existing assets, e.g. more on-street parking in road reserves. As more detailed plans are prepared then specific asset management will be a key priority.

#### Policy or Regulation

The draft Plans comply with Council's policies and regulations, such as the Local Strategic Planning Statement and Community Strategic Plan. In particular the package of measures in the draft Plan and Land Transport Strategy have been prepared with adherence to Priorities 1, 3, 6 and 12 and Action 12.2 of the LSPS.

The Plan also conforms with State Government guidance, particularly the North Coast Regional Plan, NSW Transport Strategy 2056, TfNSW Movements & Place Framework and the NSW Healthy Built Environment Checklist.

There are a wide range of recommended Actions in the Precinct Plan, Car Parking Audit & Strategy and Land Transport Strategy to update relevant Council plans and strategies, for example the Pedestrian, Access and Mobility Plan (PAMP), CVC Bicycle Plan and investigate Council's existing planning framework to support business.

### Consultation

Consultation has been undertaken both internally across Council and externally with the business community and wider community, Government agencies and with Council committees. Consultation and seeking to involve the community in a variety of methods has been a strength of the Project. There will be community members and business owners in the CBD that have not taken the opportunity to become aware of the detail of the project, and hence, to further encourage input, additional detailed and targeted consultation will be a key component of the next steps of design. Individuals and agencies that have attended various workshops, presentations at Chamber of Commerce breakfasts or other discussions have generally indicated strong support for the Plan.

The 'Community Consultation and feedback' section of the Key Issues in this report and Attachment E provides further relevant details.

### Legal and Risk Management

The Precinct Plan, Car Parking Audit & Strategy and Land Transport Strategy are guiding documents to provide direction to future more detailed plans and engagement with the community and business. It is our understanding that supporting the Officer Recommendations will not present significant risks of legal challenge. Future phases of implementing the Plan, particularly detailed design work, will involve additional consultation and this will reduce risk to Council while achieving better outcomes for the community.

### Climate Change

The development of the Precinct Plan has been driven by a desire to make Grafton more resilient and sustainable, with initiatives to provide additional shade, ensure choice of plants and materials suit our climate and potential hazards (flood, storms, drought etc.). Council's Climate Change Committee have been consulted and are generally supportive of the proposed package of measures to improve the Grafton CBD.

|              |  |
|--------------|--|
| Prepared by  | Scott Lenton, Acting Coordinator Strategic Planning  |
| To be tabled | <ul style="list-style-type: none"> <li>A. Draft Precinct Plan</li> <li>B. Draft Car Parking Audit and Strategy</li> <li>C. Draft Land Transport Strategy</li> <li>D. Draft Place Audit</li> <li>E. Submissions analysis and survey responses</li> <li>F. Multi Criteria Analysis - summary</li> <li>G. Proposed changes to the Car Parking Audit &amp; Strategy – Actions</li> <li>H. Proposed changes to the Land Transport Strategy - Actions</li> </ul> |

|                    |  |  |
|--------------------|--|--|
| <b>ITEM</b>        | <b>6b.21.054</b>                                 | <b>CLARENZA URBAN RELEASE AREA DRAFT DCP &amp; ROAD CONTRIBUTIONS PLAN</b> |
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021   |
| <b>Directorate</b> | Environment, Planning & Community                |  |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |  |
| <b>Attachment</b>  | Yes  |  |

## SUMMARY

A Draft Development Control Plan Chapter has been prepared to guide the future development of the Clarenza urban release area (URA). The Clarenza URA is one of four (4) URAs in the Clarence Valley LGA. The other URAs are located at West Yamba, Gulmarrad and Junction Hill. The Clarence Valley Local Environmental Plan 2011 contains specific provisions to proposed development in the URAs and requires a DCP to be prepared that includes provisions that ensure certain items are considered. The report proposes that the Draft DCP is publicly exhibited to provide certainty for the development industry and Council assessment staff when preparing and assessing future subdivision DAs. With the current housing shortage, having the DCP in place will facilitate the future release and development of this land.

A structure plan for the Clarenza URA was prepared to support the rezoning application. The DCP aims to uphold a range of commitments from the structure plan to provide a quality, urban residential living environment. One component of the structure plan is a link road that connects the north and south villages of the new Clarenza urban area. To ensure the road is provided it is proposed that a Contributions Plan (CP) is prepared to ensure future development contributes financially to the costs of this major and critical infrastructure.

## OFFICER RECOMMENDATION

That Council:

1. Endorses the Draft DCP Chapter for Clarenza Urban Release Area and places the Draft DCP on public exhibition in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.
2. Provides notification of the Draft DCP to property owners within and adjacent to the Clarenza Urban Release Area (URA) and other relevant stakeholders; and
3. Prepares a Contributions Plan to enable developer contributions to be collected (on a per lot basis) to cover costs associated with preparation of the Contributions Plan and the future construction of the proposed link road connecting the north and south villages of the Clarenza URA.

## COMMITTEE RECOMMENDATION

Baker/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Baker, Clancy, Novak, Simmons

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

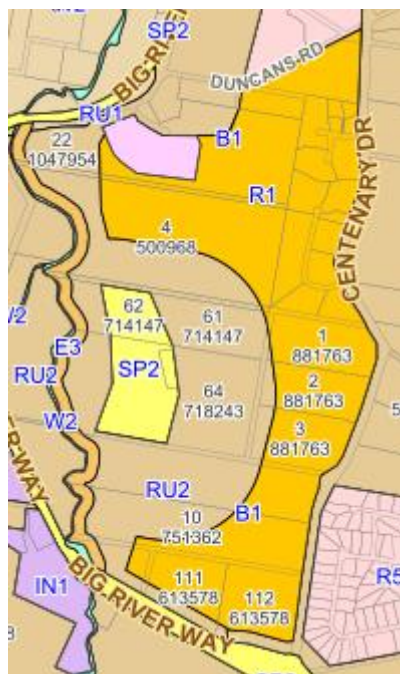
Strategy 3.1.3 Provide land use planning that facilitates and balances economic growth, environmental protection and social equity

## BACKGROUND

Clarenza was identified as a future urban release area (URA) in the 1990s and rezoned in 2009 under the Grafton Local Environmental Plan 1988 primarily as 2(a) Living Area zone with two small 3(b) Business (Special Development) zoned areas. The URA was later rezoned as R1 General Residential and B1 Business when the Clarence Valley LEP 2011 was gazetted. The North Coast Regional Plan 2036

designated the subject land as a URA (refer to Figure 1), being one of four (4) URAs in the Clarence Valley LGA. The other URAs are located at West Yamba, Gulmarrad and Junction Hill.

The R1 General Residential Zone in the Clarenza URA contains approximately 130ha, which currently includes 15 existing unsewered 0.4ha, 1ha and 2ha lots on land that was formerly zoned for rural (small holdings) on larger lots. There is approximately 94 ha of undeveloped R1 zoned land held in larger parcels which is anticipated to yield approximately 750-850 lots, based on a density of 8-9 dwellings per hectare including allowance for roads and open space.



**Figure 1** – Clarenza URA shown shaded in orange. [Note: the semi-circle cut out around the SP2 zoned land is a buffer for public health reasons from the inlet works at the Clarenza Sewerage Treatment Works]

This would support a potential future population of 1,725-2,000 people, based on a future household size of about 2.3 persons. Recent population forecast data supplied to Council by demographic professionals ID Profile suggests that the South Grafton-Clarenza area will grow by 600-700 persons over the next 20 years. Presuming the majority of that growth is in the Clarenza URA then it is reasonable to expect that the Clarenza URA, as well as the Junction Hill URA, will continue to provide for the majority of future residential growth in the vicinity of Grafton and South Grafton for many years to come.

Part 6 of the *Clarence Valley LEP 2011* applies to new urban release areas and requires a DCP to ‘ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.’ In addition, Part 6 contains a list of matters that must be included and provided for in such a DCP.

Since the rezoning of Clarenza there has been one major and a few smaller residential subdivisions approved. The largest subdivision, being 81 lots, was subject to a staged DA issued in December 2012 at the southern end of the URA adjacent to the intersection of Big River Way (formerly the Pacific Highway) and Centenary Drive (refer to Figure 2). That development consent remains valid as it is deemed to have commencement.



**Figure 2** – Approved 2012 residential subdivision at the southern end of the Clarenza URA.

In addition, a few residential subdivisions comprising lot sizes in the order of 4,000m<sup>2</sup>, have been approved on land in the former Rural (Small Holdings) zone. These developments have maintained on-site effluent disposal, hence the larger lot sizes, due to costs associated with connecting to the Clarenza Sewerage Treatment Works with reticulated sewer. Notwithstanding that, these developments do not represent an efficient use of zoned R1 land and the DCP aims to encourage a more appropriate density of development across the R1 zoned land in the URA.

Development in the URA would be subject to contributions under the adopted Clarence Valley Development Contributions Plan and Water and Sewer Developer Servicing Plans. These Plans do not usually cater for specific infrastructure required in new development areas and hence, in this case it is considered necessary to prepare a Contributions Plan to ensure fair contribution towards the cost of the link road within the Clarenza URA as it is a critical piece of infrastructure upon which the success of the developed URA will rely.

## KEY ISSUES

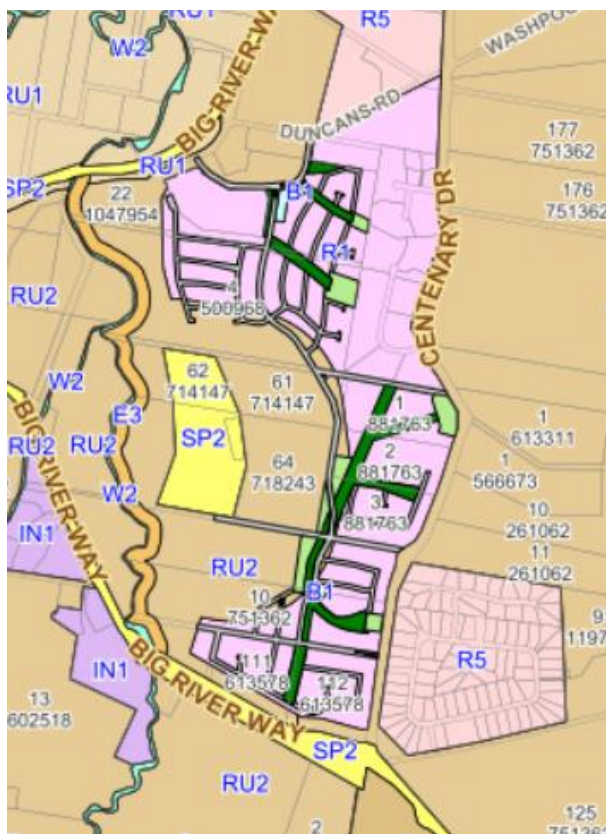
The key issues presented below are relevant to the Draft DCP and proposed CP.

### Overall Vision

The intent of the DCP is to encourage a well-designed suburb within the URA with a visual character and identity which responds to the topography, existing vegetation, and maintains a strong visual relationship with the built form and landscaped character of Grafton and South Grafton. An Urban Design Masterplan was produced for Clarenza when the original rezoning was proposed and this masterplan and associated principles are being upheld by the Draft DCP. The vision for the area is to create two connected 'villages'. The two villages are to be connected by a new link road. The whole Clarenza development is to have a street network with good accessibility and detailed design to encourage walking and cycling. The future development of new housing is to be responsive to the local climate and vernacular architecture of the area. Tree lined avenue plantings will enhance streets, frame vistas and provide micro-climate benefits.

### Structure Plan

The structure plan showing the north and south villages connected by a major link road with integrated open space and drainage corridors is depicted in Figure 3.



**Figure 3** - Structure Plan showing road and open space network overlaid on the existing land zoning and cadastre.

### Constraints

The main constraints to the development of the land include the Clrenza Sewerage Treatment Plant (STP) and associated health risk from odour and airborne pathogens, power line easement, noise, bushfire risk and agricultural land uses.

#### Sewerage Treatment Plant

A 400m buffer extends around the STP within which no residential development is permissible. The residential zoning is located outside of this buffer. Odour and acoustic reports were prepared to address this matter at the rezoning stage.

#### Powerline

An easement exists for the powerline on a north-south axis below the top of the Centenary Drive ridgeline. No buildings will be permissible in the easement, however, the easement can be utilised for open space corridors and part of the link road corridor.

#### Noise

Upgrade and re-alignment of the Pacific Highway well to the east of South Grafton and associated reduction in interstate traffic and noise generation has been a positive for the future development of the URA. However, some heavy vehicle traffic continues to use Big River Way, due to limited access points on the Pacific Highway. Noise assessment and mitigation measures, such as suitable buffers to residential development, will be required on sites with a boundary to Big River Way. Noise from the STP is expected to be acceptable outside of the 400m buffer. Recommendations are outlined in documentation submitted with the original rezoning proposal and given the changes to noise generation adjustments are likely to be appropriate.

#### Agricultural activity on adjoining land

Agricultural or rural land uses in and adjacent to the URA are generally low intensity activities. A commercial tea-tree farm (with oil processing facility) operates adjacent to and partly within the north-western portion of the URA. The tea-tree irrigates using treated effluent from the adjacent STP. This use is anticipated to continue in the foreseeable future so any residential subdivision development in proximity to this activity will need to consider potential land use conflicts such as noise, from farm machinery, dust, odour from the oil processing, and irrigation spray.



**Aboriginal Cultural Heritage and Historic Heritage**

A Cultural Heritage Assessment Report was prepared at the time of the rezoning. The study documented a fringe camp, a scar tree and marriage trees. These items are located outside of the R1 zone boundary and are not affected by the proposed development. The study concluded that there is no impact on Aboriginal heritage as no development will be undertaken near the area of significance. The study recommendations were made in consultation with the Local Aboriginal Land Council and under the legal requirements of the *National Parks and Wildlife Service Act, 1974*.

No items of historic heritage listed in *Clarence Valley Local Environmental Plan 2011* applying to this land, were identified through the former Grafton Community Based Heritage Study, within the R1 and B1 Zones.

Standard best practice and due diligence must be applied in the case of any 'relics' which arise from unexpected finds in accordance with the provisions of the *Heritage Act 1977 and National Parks and Wildlife Service Act, 1974*.

**Urban Design Key Principles**

The Draft DCP includes provisions that aims to deliver a high-quality design framework, streetscapes, public spaces, built form and building aesthetics in a robust landscaped context which is responsive to the local sense of place and identity and climate.

Clarenza has a landscape and topography which will provide an excellent framework for a future suburb which can be of high amenity and design quality. Design should respect the context and pattern of development which has developed historically in response to a sub-tropical climate in this area and incorporate avenue plantings, light coloured walls and metal roofing, and extensive use of verandahs to provide a social address to the street, and shaded areas. The Draft DCP will seek to be compatible with, and not duplicate, requirements for building design in the NSW Government Building and Sustainability Index (BASIX). Modern residential development tends to deliver designs that do not address the street with living spaces and create streetscapes dominated by double garages. A requirement for more active frontages will encourage a better social interaction of community, passive surveillance of the public road spaces, and the buildings will be more compatible with the local climate by incorporating verandahs and similar elements.

These design elements will not apply to housing development that seeks approval via the Complying Development pathway, unless they are also prescribed in the relevant State Policy and Complying Development Codes.

**Neighbourhood Commercial Development**

There is zoning for two small business hubs to service the two villages around which some higher density residential development is anticipated. Neighbourhood business zones are planned to provide retail floor space, medical and health facilities, and shop top housing, within a quality urban design precinct and public domain areas to encourage a sense of community and a meeting place for residents.

The Clarenza URA is located adjacent to a service station located on the corner of Duncans Lane and Big River Way. The feasibility of the northern business zoned hub may be jeopardised somewhat by the adjacent commercial development. The existing service station site is partly flood prone land. The northern hub proposed in the URA will be adjacent to a connector road for residents entering and leaving the subdivision. Further, the proposed hub is better located in terms of being a walkable distance from more of the new residential development and offers more scope to incorporate the higher density development as proposed in the original structure plan. A review of employment lands is being undertaken later this year and it would be appropriate for the two sites to be considered as a part of this process. Any alteration to the current zoning plan would require separate LEP amendment.

**Staging Requirements**

Two landowners control the main undeveloped areas. Dougherty Bros own approximately 35 hectares of R1 zoned land at the northern end of the precinct, and Austmark own approximately 37 hectares of R1 zoned land at the southern end. Fifteen (15) existing smaller 2ha and 1ha allotments and existing dwellings are held by multiple landowners with access to Centenary Drive in the north-east portion of the URA (see Figures 1 and 3). Further subdivision potential may exist on these smaller parcels if services can be extended to link to the boundaries to this land and where this does not conflict with maintenance of the treed ridgeline views and vistas.

Section 9 of the draft DCP outlines requirements for the subdivision of land. Subdivision needs to be consistent with the structure and Staging Plan and developers are required to submit a Servicing Strategy prior to consent being granted for a DA to subdivide land within the URA.

### **Transport and Road Network Design and Provision**

Centenary Drive is the existing main collector road which provides access to Big River Way. An indicative Road Hierarchy Plan has been developed for Clarenza which depicts the broader collector road, a parallel link road to provide a north-south access between the two villages and local street layout hierarchy (refer to Figure 3). It is proposed that the main link road connecting the north and south sections of the URA is subject to a CP to provide a fair and reasonable method for Council to collect financial contributions to ensure the key road infrastructure linking either end of the Clarenza URA gets provided. The Officer Recommendation contains reference to the preparation of the CP for this purpose.

Section 10 of the draft DCP outlines requirements for the road system is to be generally consistent with the indicative Road Hierarchy Plan and consistent with the intended road function providing safe convenient vehicular, pedestrian and bicycle networks and ensure safe vehicle speeds. The road layout should maximise vehicular, cyclist and pedestrian connectivity within Clarenza and its linkages to South Grafton and Grafton.

### **Landscaping Strategy and Biodiversity**

The landscape within the R1 zone is currently characterised by mostly cleared agricultural grazing land with small areas of remnant forest derived vegetation on the upslopes of the paddocks and drainage lines and farm dams. This draft DCP requires retention of good condition native vegetation and its augmentation to connected drainage corridors and reserves. Residential precincts are to include high quality streetscape, shade trees and avenue plantings and public domain areas, in an attractive landscaped setting designed to take account of stormwater management planning, urban amenity and biodiversity management objectives.

Environmental conservation and management and managing visual amenity requires the retention and enhancement of the existing vegetation in gullies integrated with the development of sensitive water design for stormwater and passive open spaces. The Landscaping Strategy requirements include important protection of the ridge line which essentially follows Centenary Drive to protect views from Grafton and South Grafton in accordance with the structure plan. Much of this land and mature vegetation falls within the road reserve of Centenary Drive which will assist in maintenance of the treed ridgeline. Trees in proximity to the ridgeline can be managed by appropriate development setbacks from Centenary Drive where applicable.

### **Open Space and Recreation**

Open spaces are addressed in Part 12 of the draft DCP. Passive open spaces are to be provided within the R1 General Residential zoned area as part of the future development concept as shown on the structure plan. The strategic planning leading to the zoning of Clarenza for urban development determined that open space should be an integral part of the urban framework and provide for a range of functions or benefits, such as storm water management system, passive recreation, being accessible from public road frontage, and be visible and accessible to residential housing.

### **Stormwater Water Sensitive Design (WSUD)**

WSUD is a design approach which manages water use and runoff at both the subdivision scale and lot level and emphasises the reuse of stormwater. Existing provisions in this regard are outlined in Parts H Sustainable Water Controls and J Subdivision and Engineering Controls of the DCP for Development in Residential Zones. Discharged stormwater should not be allowed to compromise the health of nearby natural waterways nor should it be permitted to compromise, whether by water quality or quantity, the integrity of vegetation communities whether under zoned protection or not. Parts H and J requirements of this DCP will need to be addressed and met except as otherwise varied in this Part of the DCP. A Stormwater Network Plan will need to be developed and submitted with any subdivision plans.

### **Hazard Management**

The URA in part, comprises bushfire prone land and subsequently any proposed development of this site will have to be carried out with due regard to the specifications contained within 'Planning for Bushfire Protection' (2018). Review of the bushfire prone land mapping for the local government area has commenced and where land within the URA remains designated as bush fire prone following that review relevant guidelines must be satisfied.

**Public Infrastructure and Services**

A servicing strategy will be required before urban development can be connected to the upgraded Clarenza Sewerage Treatment Plant. Completed subdivision development will require construction of a rising main to the sewerage treatment plant (STP) with a developer/s liable to pay the full cost. To assist with funding such works developers can negotiate cost sharing arrangements with other developer/land holder parties.

Existing water mains do not have adequate capacity for the potential number of residential lots in the URA. Developers will be required to upgrade the existing water main or install a duplicate main running from the trunk main on Big River Way.

Other infrastructure such as energy/electricity and telecommunication services/NBN will also need to be planned for and provided for. Satisfactory arrangements will need to be made with relevant service authorities to determine availability, timing, and cost arrangements, including the payment of contributions where required.

**Options**

The following options are available to Council:

1. Endorse the recommendation to publicly exhibit the Draft DCP and prepare a CP. With the current shortage of housing, the relatively small potential for new urban residential housing in Grafton and South Grafton, and the proximity of Clarenza URA to Grafton and South Grafton it is very desirable to facilitate new subdivision and development of housing by preparing this DCP which is consistent with Council's intent. Progressing the Draft DCP to exhibition enables interested persons to make submissions with the aim of improving the rigour and quality of the final DCP, and hence development outcomes on the ground.

Further, the proposed CP ensures a fair and reasonable method for Council to collect financial contributions from new developments to ensure the key road infrastructure linking either end of the Clarenza URA gets provided. Option 1 is the preferred option.

2. Endorse the Draft DCP for exhibition and not prepare a CP. This will require a future developer/s to fully construct the link road and determining when that should happen and by who will be difficult to determine. Further, it is reasonable to expect that developers will not want to construct the road unless there is a direct benefit to their subdivision, and it is feasible economically. Without the link road being constructed vehicular traffic will need to travel via Centenary Drive to access the opposite end of the URA. The link road will offer a corridor for access for motorists, pedestrians and cyclists to move between the two 'villages, and hence, forcing these movements onto Centenary Drive is not considered a suitable or sustainable outcome. This is not a preferred option.
3. Not endorse the Draft DCP or the preparation of a CP – this will maintain the status quo from a planning and infrastructure financing perspective. It will offer less certainty for developers, nearby residents, and Council's DA assessment team. With the current shortage of housing, the relatively small potential for new urban residential housing in Grafton and South Grafton, and the proximity of Clarenza URA to Grafton and South Grafton it is very desirable to facilitate new subdivisions and development of housing by removing current uncertainty and providing clear directions about the future development of this release area. This is not a preferred option.

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

The Draft DCP has been prepared in-house by the Strategic Planning section and draws upon the Masterplan to support the original rezoning of the URA. Preparation of a CP to collect developer contributions towards the construction of the link road is considered fair, reasonable, necessary in the circumstances and sustainable.

**Asset Management**

The plan addresses requirements for new development and associated impact for upgrades at developers cost on Council's water and sewer management provision. The proposed CP for the link road will enable collection of funds, commensurate with new subdivision development, to contribute to the cost of that infrastructure provision.

**Policy or Regulation**

The DCP has been prepared consistent with the requirements of the *Environmental Planning and Assessment Regulation 2000* and Part 6 of the *Clarence Valley Local Environmental Plan 2011*. Public exhibition will be completed in accordance with the Regulation.

**Consultation**

The Draft DCP will to be placed on Council's website for public exhibition. Landowners within and adjacent to the Clarenza URA are proposed to be directly notified of the draft plan and invited to make comment.

**Legal and Risk Management**

There is no anticipated legal risk with the preparation of the Draft DCP and CP as there is no right of appeal in relation to a DCP or CP. Preparation, exhibition, and adoption of a DCP must follow the legal requirements in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. Providing developers, the Clarenza community and Council DA assessment staff with more certainty assist in reducing risk for Council and others.

**Climate Change**

The Draft DCP contributes to addressing the effects of climate change through its provisions. These provisions require well-connected walking and cycling corridors to encourage active use and less reliance upon vehicles, street tree plantings for shade in new residential streets, the retention and enhancement of existing vegetation within drainage and open space corridors, water sensitive design, and use of appropriate building materials and design appropriate to the climate to lessen reliance on artificial heating and cooling through passive solar design.

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|-------------|--|
| Prepared by | Deborah Wray, Senior Strategic Planner and Scott Lenton, Acting Strategic Planning Coordinator |
| Attachment  | Draft DCP for Clarenza Urban Release Area  |

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|-------------|------------------|---|
| <b>ITEM</b> | <b>6b.21.055</b> | <b>CLARENCE VALLEY LOCAL ENVIRONMENTAL PLAN 2011 – PROPOSED HOUSEKEEPING AMENDMENT 2021</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Director - Environment & Planning (Adam Cameron) |              |
| <b>Attachment</b>  | Nil  |              |

**SUMMARY**

This report seeks a Council resolution to prepare a Planning Proposal (PP) to amend Clarence Valley Local Environmental Plan 2011 (CVLEP) as broadly described in Schedule 1 of this report. Council officers have identified a range of minor errors, anomalies and updates in the provisions and maps under the CVLEP that require correction and/or will provide improved outcomes for the Clarence Valley community.

Improvements in the accuracy of the CVLEP will avoid uncertainty or inconsistency in certain provisions and/or mapping layers and enable a more streamlined development assessment process.

**OFFICER RECOMMENDATION**

That Council as the Planning Proposal authority:

1. Prepare a Planning Proposal for CVLEP Housekeeping Amendments 2021 for the matters described in Schedule 1;
2. Forward the Planning Proposal to the Department of Planning Industry and Environment requesting a Gateway Determination, pursuant to Section 3.34 (1) of the Environmental Planning and Assessment Act 1979; and
3. Advise the Department that should the Gateway Determination allow the Planning Proposal to proceed, that it will accept any local plan-making delegations offered under Section 3.36 of the Environmental Planning and Assessment Act, 1979.

**COMMITTEE RECOMMENDATION**

Novak/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Novak, Simmons, Baker, Clancy

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 5 Leadership

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

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

**BACKGROUND**

Through administration and implementation of the CVLEP, including development assessment and checking of planning certificates, errors and updates are identified by Council officers and customers. Periodic action to rectify these identified amendments in Council's Delivery Program 2017 - 2021 via an Action under Strategy 5.1.6 of the Program which states - *Review of Clarence Valley Local Environmental Plan and Development Control Plans to address anomalies and prepare draft and refer to Council for pre-Gateway decision.*

**KEY ISSUES**

The proposed CVLEP Housekeeping Amendments 2021 contains 20 items or matters that, once adjusted, will ensure more efficient and effective implementation of the CVLEP. Council officers intend to prepare a Planning Proposal for proposed CVLEP amendments broadly described in Schedule 1 to this report and

forward the Planning Proposal to the of Planning Industry and Environment (DPIE) requesting a “Gateway” Determination to proceed with the update of the CVLEP.

A description and justification of each proposed CVLEP amendment is provided in Schedule 1 to this report.

There is a range of proposed amendments which can be broadly summarised as follows:

1. Heritage amendments which involves removing or amending 21 existing heritage items and adding 3 new heritage items;
2. Rezoning of Council owned land (that do not propose to change to current ‘community land’ classification) and Crown land to RE1 Public Recreation consistent with the existing and intended use & management of the relevant public land;
3. Health consulting rooms - make permissible with consent in the R1 General Residential, R3 Medium Density Residential and R5 Large Lot Residential zone (consistent with the Infrastructure SEPP); and
4. Home businesses that involve the manufacture of food products or skin penetration procedures - make exempt development subject to appropriate development standards and considerations.

The range of matters listed at Schedule 1 and proposed to be included in this PP are considered to be minor and not of a controversial or problematic nature. Further, a number of the proposed changes are supported by adopted Council plans, such as the Grafton Waterfront Masterplan and specific public land Plans of Management.

A number of other potential amendments to the CVLEP are being considered for inclusion in future ‘housekeeping’ PP/s, however they are either more complex and require a greater level of staff time and resource to scope and prepare and/or are more likely to raise interest from the public. These other matters will be subject to future report/s to Council to seek the necessary resolution to refer PP/s to the DPIE Gateway as staff resources allow.

### **Options**

The recommended option is for Council to endorse the preparation of the PP to enable the minor errors and updates in the CVLEP described in Schedule 1 of this report. These matters are not considered to be problematic or controversial. This option is consistent with the adopted Council Delivery Program 2017 - 2021.

Other options for Council include:

- Not endorsing the proposed PP in any way. This option will maintain the status quo and retain outdated and erroneous issues will continue to cause uncertainty and complexity for users and may lead to sub-optimal planning outcomes;
- Endorsing some of the amendments and not others. Council would need to specify what amendments it did or didn’t support if this option is supported.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Preparation of the PP and administration of the CVLEP amendment process are accommodated within the existing recurrent budget for Council’s Strategic Planning team.

#### **Asset Management**

The proposed amendments at Items 5, 7, 9, 16, 17 and 18 in Schedule 1 relate to land, and assets thereon, owned or managed by Council. The proposed amendments are not expected to have an adverse affect on these Council assets.

#### **Policy or Regulation**

*Clarence Valley Local Environmental Plan 2011*  
*Environmental Planning and Assessment Act 1979*  
Community Participation Plan 2019

#### **Consultation**

The list of proposed amendments at Schedule 1 has been compiled as a result of Council staff identifying the need to amend components of the CVLEP. Staff in the Development Services, Strategic Planning and Property teams at Council have been the main contributors to the list.

Initially it is intended to refer the Planning Proposal to the DPIE to seek a Gateway Determination. That Determination may require consultation with a range of NSW public authorities such as, but not limited to, Heritage NSW and Crown Lands.

The Planning Proposal will need to be publicly exhibited for a minimum period of 14 days or more if specified in the Gateway Determination. It is intended to write to the owners of land affected by the amendments to advise and invite comment on the proposed changes.

**Legal and Risk Management**

The proposed amendments are individually minor matters that present a low legal risk to Council in terms of the amendment process. The existence of these anomalies in the CVLEP is deemed to present a higher, although still minor, legal risk for Council. It is considered prudent to periodically correct these errors and anomalies, as envisaged by Council's Delivery Program, and reduce the overall level of risk for Council and improve the function of the CVLEP for all users.

**Climate Change**

Nil impacts or implications envisaged.

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|-------------|---|
| Prepared by | Terry Dwyer, Strategic Planning Coordinator |
| Attachment  | Nil   |

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## Schedule 1: Summary of proposed amendments to the Clarence Valley Local Environmental Plan 2011

| No | Land and/or item  | Issue  | Amendment required   |
|----|---|--|--|
| 1  | <p>Lot 16, DP 1260163, 33 Victoria Street, Grafton</p> <p>Also:<br/>Part Lot 13, DP 1262542, 33 Victoria Street, Grafton: and Part Lot 18, DP 1260163, Duke Street, Grafton</p> <p>Owner: Camfar Properties P/L</p> | <p><b>Amendment ID 27 (Heritage)</b><br/>Local heritage item <b>I813</b> is shown in CVLEP 2011 Schedule 5 as being located on Lot 3, DP 866434, 33 Victoria Street, Grafton. The specific item is described as <i>Dwelling</i> (<i>“McWilliam Lodge”</i>).</p> <p>More recent subdivision has seen the subdivision of Lot 3 and other Lots in DP 866434 into a number of lots registered in DP 1260163 including Lot 16, DP 1260163 which now accommodates heritage item <b>I813</b>.</p> <p>A recently created Lot 18, DP 1260163, a riverfront lot dedicated to Council, was also created from part of Lot 3 and other adjacent lots. Heritage item <b>I813</b> now stands only on Lot 16, DP 1260163.</p> <p>The mapped heritage item <b>I813</b> now affects Lot 16, DP 1260163, part Lot 13 DP 1262542 and part Lot 18, DP 1260163.</p> <p>Schedule 5 of the LEP should be amended to indicate the land affected by heritage item <b>I813</b> as being Lot 16, DP 1260163. Similarly, the CVLEP 2011 heritage map should be amended to map heritage item <b>I813</b> as only affecting Lot 16, DP 1260163.</p>   | <ol style="list-style-type: none"> <li>In Schedule 5 of CVLEP 2011 change the Property Description for heritage item <b>I813</b> from “Lot 3, DP866434” to “Lot 16, DP 1260163”.</li> <li>Amend the CVLEP 2011 Heritage Map so that heritage item <b>I813</b> applies only to Lot 16, DP 1260163.</li> </ol> |
| 2  | <p>Lot 13 DP 1262542, 35 Victoria Street, Grafton</p> <p>Lot 14 DP 1262542, 37-39 Victoria Street, Grafton</p> <p>Lot 18 DP 1260163</p> <p>Owner: Corporate Trustees Diocese of Grafton</p>                         | <p><b>Amendment ID 26 (Heritage)</b><br/>Local heritage item <b>I815</b> is shown in CVLEP 2011 Schedule 5 as being located on Lot 4, DP 866434, 35 Victoria Street Grafton. The specific item is described as <i>Dwelling and gas lamp</i> (<i>“Bishopsholme”</i>).</p> <p>More recent subdivision has seen the subdivision of Lot 4 and other Lots in DP 866434 into a number of lots registered in DP 1262542 including Lot 13 DP 1262542 which now accommodates heritage item <b>I815</b>.</p> <p>A recently created Lot 18 DP 1260163, a riverfront lot dedicated to Council, was also created from part of Lot 4 and other adjacent lots. Heritage item <b>I815</b> now stands only on Lot 13 DP 1262542.</p> <p>The mapped heritage item <b>I815</b> now affects Lots 13 and 14 DP 1262542 and Part Lot 18 DP 1260163 whilst heritage item <b>I815</b> now stands only on Lot 13 DP 1262542. Schedule 5 of the LEP should be amended to indicate the land affected by heritage item <b>I815</b> as being Lot 13 DP 1262542.</p> <p>Similarly, the CVLEP 2011 heritage map should be amended to map heritage item <b>I815</b> as only affecting Lot 13 DP 1262542 and not Lot 14 DP 1262542 and Part Lot 18 DP 1260163</p> | <ol style="list-style-type: none"> <li>In Schedule 5 of CVLEP 2011 change the Property Description for heritage item <b>I815</b> from “Lot 4, DP866434” to “Lot 13, DP 1262542”.</li> <li>Amend the CVLEP 2011 Heritage Map so that heritage item <b>I815</b> applies only to Lot 13 DP 1262542.</li> </ol>  |



| No | Land and/or item   | Issue  | Amendment required   |
|----|--|--|--|
| 3  | <p>Lots 15, 16 and 17 DP 1262542 and Lot 18 DP 1260163, Victoria and Duke Streets, Grafton</p> <p>Owner: Corporate Trustees Diocese of Grafton (Lot 15)</p>  | <p><b>Amendment ID 16 (Heritage)</b></p> <p>Local heritage item <b>I97</b> is shown in CVLEP 2011 Schedule 5 as being located on Lot 9 DP 866434, Duke Street Grafton. The specific item is described as “The Deanery”.</p> <p>More recent subdivision has seen the subdivision of Lot 9 into 3 whole lots (Lots 15, 16 and 17 DP 1262542). A recently created Lot 18 DP 1260163, a riverfront lot dedicated to Council, was also created from part of Lot 9 and other adjacent lots. “The Deanery” now stands only on Lot 15 DP 1262542.</p> <p>The mapped heritage item <b>I97</b> now affects Lot 16 DP 1262542, part Lots 15 and 17 DP 1262542 and Part Lot 18 DP 1260163 whilst “The Deanery” now stands only on Lot 15 DP 1262542. Schedule 5 of the LEP should be amended to indicate the land affected by heritage item <b>I97</b> as being Lot 15 DP 1262542.</p> <p>The CVLEP 2011 heritage map should be amended to map heritage item <b>I97</b> as only affecting Lot 15 DP 1262542. Lot 18 DP 1260163 being a vacant public reserve lot does not warrant being identified as a heritage item on the heritage map and in Schedule 5. Similarly, Lot 16 DP 1262542 which is also currently vacant does not warranted being identified as a heritage item.</p> <p>It should also be noted that mapped heritage item <b>I815</b> being Dwelling and gas lamp (“Bishopsholme”) affects part of Lot 18 DP 1260163. Refer to Amendment ID: 26 for proposed separate action in relation to heritage item <b>I815</b>.</p> <p>Lots 15, 16 and 17 DP 1262542 and Lot 18 DP 1260163 are currently zone R1 General Residential.</p> <p>It is NOT proposed to change the current land zoning of any of the lots.</p> | <ol style="list-style-type: none"> <li>In Schedule 5 of CVLEP 2011 change the Property Description for heritage item <b>I97</b> from “Lot 9 DP866434” to “Lot 15 DP 1262542”; the address for the item should also be amended from “Duke Street” to “2 Duke Street”.</li> <li>Amend the CVLEP 2011 Heritage Map so that heritage item <b>I97</b> applies only to Lot 15 DP 1262542.</li> </ol>   |
| 4  | <p>Grafton Cathedral, Hall and Cottages</p> <ul style="list-style-type: none"> <li>Lots A to G, DP 51 (7 lots)</li> <li>Lot 1 DP 245341</li> <li>Lot 7 Sec 9 DP 758470</li> <li>Lot 8 Sec 9 DP 758470</li> <li>Lot 10 Sec 9 DP 758470</li> </ul> | <p><b>Amendment ID 8 (Heritage)</b></p> <p>The Christ Church Cathedral and associated buildings currently spans four (4) individual heritage listings in the CVLEP 2011 as follows:</p> <ul style="list-style-type: none"> <li><b>I96</b> - Christ Church Cathedral, Lots 8 &amp; 10, Sec 9, DP 758470</li> <li><b>I98</b> - Christ Church Hall, Lot 8, Sec 9, DP 758470</li> <li><b>I100</b> - Victorian cottage, Lots D &amp; E, DP 51 (Note - should be Lots F &amp; G DP 51)</li> <li><b>I99</b> - Georgian cottage, Lots F &amp; G, DP 51 (Note - should be Lots D &amp; E, DP 51)</li> </ul> <p>The items are State items. The State Heritage Register (SHI) listing formally refers to the</p>  | <p>Amend Schedule 5 of CVLEP as follows:</p> <ol style="list-style-type: none"> <li>Delete exiting heritage items <b>I96, I98, I99</b> and <b>I100</b>.</li> <li>Insert a new heritage item to replace the above 4 heritage items as follows: <ol style="list-style-type: none"> <li>Description - “<i>Cathedral Church of Christ the King (inc. hall and cottages)</i>”</li> <li>Affected lots - Lots A to G, DP 51; Lot 1 DP 245341; Lot 7 Sec 9 DP 758470, Lot 8 Sec</li> </ol> </li> </ol> |

| No | Land and/or item  | Issue   | Amendment required  |
|----|---|---|---|
|    | <p>Fitzroy, Duke and Victoria Streets, Grafton</p> <p>Owner: Corporate Trustees Diocese of Grafton</p>                    | <p><i>“Cathedral Church of Christ the King (inc. hall and cottages)”</i> and is also known as Christ Church Cathedral or Grafton Anglican Cathedral. The SHI listing covers the following lots (11 in total):</p> <ul style="list-style-type: none"> <li>• Lots A to G, DP 51 (7 lots)</li> <li>• Lot 1 DP 245341</li> <li>• Lot 7 Sec 9 DP 758470</li> <li>• Lot 8 Sec 9 DP 758470</li> <li>• Lot 10 Sec 9 DP 758470</li> </ul> <p>The CVLEP heritage listing (Schedule 5) and LEP heritage map does not reflect the State Heritage listing and has errors in the land descriptions of Items <b>199</b> and <b>1100</b>.</p> <p>Whereas the SHI listing covers 11 lots (as above) the LEP only covers 6 lots thereby excluding 5 lots as follows:</p> <ul style="list-style-type: none"> <li>• Lots A to C, DP 51</li> <li>• Lot 1 DP 245341, and</li> <li>• Lot 7 Sec 9 DP 758470.</li> </ul> <p>The current errors in land descriptions are noted above.</p> <p>To align with the State Heritage listing of this “heritage item complex” it is considered good practice to include all 11 lots under the SHI listing as a single heritage item rather than the existing 4 items. This will simplify matters as well correct existing errors, inconsistencies and omissions. The new single heritage item name should reflect the SHI listing, as follows - <i>“Cathedral Church of Christ the King (inc. hall and cottages)”</i></p> <p>The “Cathedral heritage item complex” is zoned SP2 Infrastructure. No change in zoning is being recommended.</p> | <p>9 DP 758470 and Lot 10 Sec 9 DP 758470</p> <p>(c) Address – 71 Fitzroy Street, Grafton</p> <p>(d) Significance – State</p> <p>3. Amend the CVLEP 2011 Heritage Map as follows –</p> <p>(a) delete exiting heritage items <b>196, 198, 199</b> and <b>1100</b>;</p> <p>(b) identify new heritage item to replace the above 4 heritage items over the lots referred to in 2 (b) above.</p>   |
| 5  | <p>Lot 1 DP 1155133 and Lot 244 DP 751371, Prince Street, Grafton (Fisher Park)</p> <p>Owner: Clarence Valley Council</p> | <p><b>Amendment ID 20 (Heritage)</b></p> <p>The Grafton Community Based Heritage Study (Gardiner 2010) states Fisher Park has relevance in demonstrating the evolution of Grafton City through the State Heritage Theme ‘Aboriginal cultures and interactions with other cultures’ and recommends (p.15) that it is listed as a heritage item in CVLEP Schedule 5 - Environmental Heritage. This is principally to protect the culturally significant lagoon and Aboriginal culturally modified tree located south east of the tennis courts.</p> <p>The study also recommends (p.19) that the T. Fisher Memorial Gates located near the Prince and Oliver Streets corner of Fisher Park be included as a heritage listed item within CVLEP Schedule 5 - Environmental Heritage due to its relevance in demonstrating the evolution of Grafton City through the State Heritage Theme of - ‘persons (examples)’.</p>   | <p>1. Add the following as heritage items to Schedule 5 of CVLEP 2011:</p> <p>(a) T. Fisher Memorial Gates, Fisher Park - Lot 1 DP 1155133, Prince Street Grafton</p> <p>(b) Lagoon and Aboriginal culturally modified tree, Fisher Park - Lot 1 DP 1155133 and Lot 244 DP 751371, Prince Street, Grafton.</p> <p>2. Add the following as heritage items to CVLEP 2011 Heritage Map:</p> <p>(a) T. Fisher Memorial Gates, Fisher Park -</p> |

| No | Land and/or item  | Issue  | Amendment required  |
|----|---|--|---|
|    |   | <p>The local historic significance of the memorial gates and cultural significance of the lagoon and Aboriginal culturally modified tree have also be acknowledged in the draft Plan of Management Fisher Park.</p> <p>Fisher Park is located in the Grafton Heritage Conservation Area listed in Schedule 5 of the CVLEP. However, the T. Fisher Memorial Gates, lagoon, Aboriginal culturally modified tree and Fisher Park itself are not currently heritage items under the CVLEP 2011.</p>  | <p>Lot 1 DP 1155133, Prince Street Grafton</p> <p>(b) Lagoon and Aboriginal culturally modified tree, Fisher Park - Lot 1 DP 1155133 and Lot 244 DP 751371, Prince Street, Grafton.</p>   |
| 6  | <p>Part Lot 21 DP 1243333 - 1078 Yamba Road, Palmers Island (Formerly part Lot 20, DP 714069)</p> <p>Owner: L Dixon</p> | <p><b>Amendment ID 21 (Heritage)</b></p> <p>A recent boundary adjustment between Lot 20 DP 714069 and Lot 2 DP 652358 created Lots 21 and 22 DP 1243333. This has created anomalies with both the CVLEP 2011 Heritage Map and Schedule 5 Environmental Heritage of the LEP, as described further below.</p> <p>Currently Schedule 5 of the LEP identifies former Lot 20, DP 714069 (1096 - 1130 Yamba Road) as having two (2) heritage items - Silo (Item <b>I341</b>) and residence (Item <b>I342</b>); as a consequence of the above referred boundary adjustment former lot 20 is now legally described as Lot 22 DP 1243333.</p> <p>As a consequence of the above referred boundary adjustment the CVLEP 2011 Heritage Map incorrectly shows part of Lot 21 DP 1243333, which contains the Palmers Island store, as a heritage item - see darker brown infill colouring on the map above. This part of Lot 21 was formerly Lot 20 DP 714069, which contained the heritage items referred to above.</p> | <ol style="list-style-type: none"> <li>1. Amend the 'Property description' field for items <b>I341</b> and <b>I342</b> in Schedule 5 of the CVLEP 2011 from 'Lot 20, DP 714069' to 'Lot 22, DP 1243333'.</li> <li>2. Remove the mapping of part of Lot 21 DP 1243333 as a heritage item (items <b>I341</b> and <b>I342</b>) from the Heritage Map under the CVLEP 2011 (i.e. remove the brown infill from the land on the Heritage Map above).</li> </ol> |
| 7  | <p>Lot 85 DP 13075, 4 Short St, Maclean</p> <p>Owner: Clarence Valley Council</p>                                       | <p><b>Amendment ID 28 (Heritage)</b></p> <p>Heritage item <b>I273</b> (Residence) in Schedule 5 of the LEP and on the LEP heritage map currently refers to Lot 86 DP 13075 (4 Short Street Maclean). The former dwelling is also situated upon Lot 85 DP 13075.</p> <p>The heritage listing should be extended to cover Lot 85 both in Schedule 5 and on the LEP heritage map.</p> <p>The building on Lots 85 and 86 DP 13075 is owned by Council and in recent years has been used as a community services facility. Prior to that the building had been a residential dwelling.</p>  | <ul style="list-style-type: none"> <li>• Amend the 'Property description' field for heritage item <b>I273</b> in Schedule 5 of the CVLEP 2011 from 'Lot 86, DP 13075' to 'Lots 85 and 86 DP 13075'.</li> <li>• Amend the CVLEP 2011 Heritage Map to include Lot 85 DP 13075 as part of heritage item <b>I273</b>.</li> </ul>  |
| 8  | <p>Lots 101 and 102 DP 1215379, 29 - 31 Rutland Street, Lawrence</p> <p>(formerly Lots 1 and 2, DP 111009)</p>          | <p><b>Amendment ID 12 (Heritage)</b></p> <p>Heritage item <b>I174</b> (Post Office/Residence) in Schedule 5 of the LEP and on the LEP heritage map currently refers to Lots 1 and 2, DP 111009.</p>  | <ul style="list-style-type: none"> <li>• Amend the 'Property description' field for heritage item <b>I174</b> in Schedule 5 of the CVLEP 2011 from 'Lots 1 and 2, DP 111009' to 'Lot 102 DP 1215379'.</li> </ul>  |

| No | Land and/or item   | Issue   | Amendment required  |
|----|--|---|---|
|    | Owner: K Brennan   | <p>The description of the land in the heritage listing has altered as a result of a boundary adjustment subdivision and is now known as Lots 101 and 102 DP 1215379. The subdivision has left the post office building and outbuilding on new Lot 102, whilst new Lot 101 is vacant.</p> <p>Schedule 5 of the LEP and LEP heritage map should be amended to indicate that heritage item <b>I174</b> is now only located on Lot 102 DP 1215379.</p>  | <ul style="list-style-type: none"> <li>Amend the CVLEP 2011 Heritage Map to apply heritage item <b>I174</b> to Lot 102 DP 1215379 only.</li> </ul>  |
| 9  | <p>Sportsmans Creek Bridge, Lawrence</p> <p>Owner: Road reserve, Clarence Valley Council</p>   | <p><b>Amendment ID 11 (Heritage)</b></p> <p>The old Sportsmans Creek Bridge at Lawrence was recently replaced by the construction of a new bridge slightly upstream. The old Sportsmans Creek Bridge is still listed as a heritage item (<b>I169</b>) in the LEP, both in Schedule 5 and on the LEP map.</p> <p>The old bridge has now been removed. The heritage listing of the old bridge should be removed from both Schedule 5 and the heritage map of the LEP.</p>   | <ul style="list-style-type: none"> <li>Amend Schedule 5 of the CVLEP 2011 to delete heritage item <b>I169</b> entirely.</li> <li>Amend the CVLEP 2011 Heritage Map to delete heritage item <b>I169</b> entirely.</li> </ul>   |
| 10 | <p>Lot 2 DP 784421, 133 Alice Street Grafton</p> <p>Owner: G &amp; D Vlastaras</p>   | <p><b>Amendment ID 30 (Heritage)</b></p> <p>Heritage item <b>I453</b> (Residence) in Schedule 5 of the LEP currently refers to Lot 1, DP 124245 which is incorrect. The correct property description is Lot 2 DP 784421.</p> <p>Schedule 5 of the LEP should be amended to indicate that the property description is Lot 2 DP 784421. The LEP Heritage map does not need to be amended.</p>   | <p>Amend the 'Property description' field for heritage item <b>I453</b> in Schedule 5 of the CVLEP 2011 from 'Lot 1, DP 124245' to 'Lot 2 DP 784421'.</p>   |
| 12 | <p>Lot 1 DP 1099098, 33 Fitzroy Street Grafton</p> <p>Owner: M &amp; H Hayer</p>   | <p><b>Amendment ID 31 (Heritage)</b></p> <p>Lot 1 DP 1099098, 33 Fitzroy Street Grafton is listed as a local heritage item (<b>I573</b>) being a dwelling ("Dunnville").</p> <p>At its meeting on 28 February 2016 Council resolved to grant consent to a development application (DA2016/0551) to demolish the dwelling, erect a 12 motel and remove 2 jacaranda trees.</p> <p>The dwelling has since been removed.</p>  | <ol style="list-style-type: none"> <li>Amend Schedule 5 of the CVLEP 2011 to delete heritage item <b>I573</b> entirely.</li> <li>Amend the CVLEP 2011 Heritage Map to delete heritage item <b>I573</b> entirely.</li> </ol>   |
| 13 | <p>Lot 13 DP 1048362, 4 Greaves St Grafton</p> <p>Lot 9 DP 12717, 12 Kent St, Grafton</p> <p>Lot 1 DP 782843, 14 Kent St, Grafton</p> <p>Lot 2 DP 782843, 16 Kent St, Grafton</p> <p>Lot 4 DP 783118, 31 Pound St, Grafton</p> | <p><b>Amendment ID 32 (Heritage)</b></p> <p>The Grafton second bridge project has caused the demolition/removal of 5 heritage items as follows:</p> <p><b>I616</b> (Dwelling, former Glyndon Private Hospital) - Lot 13 DP 1048362, 4 Greaves St</p> <p><b>I621</b> (Dwelling, group value) - Lot 9 DP 12717, 12 Kent St</p> <p><b>I622</b> (Dwelling, group value) - Lot 1 DP 782843, 14 Kent St</p> <p><b>I623</b> (Dwelling, group value) - Lot 2 DP 782843, 16 Kent St</p> <p><b>I694</b> (Dwelling) - Lot 4 DP 783118, 31 Pound St</p> | <ul style="list-style-type: none"> <li>Amend Schedule 5 of the CVLEP 2011 to delete heritage items <b>I616, I621, I622, I623 and I694</b> entirely.</li> <li>Amend the CVLEP 2011 Heritage Map to delete heritage items <b>I616, I621, I622, I623 and I694</b> entirely.</li> </ul> |

| No | Land and/or item  | Issue   | Amendment required  |
|----|---|---|---|
|    | Owner: Transport for NSW  | Given that these items no longer exist they should be removed from Schedule 5 of the LEP and the LEP Heritage Map.  |   |
| 14 | Tin Bridge North Coast Railway/Road Reserve, Federation Street, South Grafton   | <p><b>Amendment ID 33 (Heritage)</b><br/>Local heritage item <b>I887</b> is the Tin Bridge over the railway line between Federation Street and Big River Way, South Grafton.</p> <p>The Tin Bridge was demolished and replaced with a new pedestrian bridge in 2016. Given these circumstances Local heritage item <b>I887</b> should be removed from Schedule 5 of the LEP and the LEP Heritage Map.</p>   | <ul style="list-style-type: none"> <li>• Amend Schedule 5 of the CVLEP 2011 to delete heritage item <b>I887</b> entirely.</li> <li>• Amend the CVLEP 2011 Heritage Map to delete heritage item <b>I887</b> entirely.</li> </ul>   |
| 15 | <p>Lot 182 DP 44782 and Lot 165 DP 751395, Rocky Laurie Drive, Yamba</p> <p>Owner: Birrigan Gargle Local Aboriginal Land Council</p>  | <p><b>Amendment ID 34 (Heritage)</b><br/>Heritage item <b>I422</b> (Yamorra Cottages) in Schedule 5 of the LEP currently refers to Lot 182 DP 44782. The four houses that comprise the Yamorra Cottages heritage item <b>I422</b> are in fact located on adjoining Lot 165 DP 751395.</p> <p>Schedule 5 of the LEP and LEP heritage map should be amended to indicate that heritage item <b>I422</b> is located on Lot 165 DP 751395 and not on Lot 182 DP 44782.</p>   | <ol style="list-style-type: none"> <li>1. Amend Schedule 5 of the CVLEP 2011 to indicate that heritage item <b>I422</b> is located on Lot 165 DP 751395 and not on Lot 182 DP 44782.</li> <li>2. Amend the CVLEP 2011 Heritage Map to indicate that heritage item <b>I422</b> is located on Lot 165 DP 751395 and not on Lot 182 DP 44782.</li> </ol> |
| 16 | <p>Lot 21 DP 1122377 Lot 27 DP 1224325 Lots 44 &amp; 46 DP 1265067, Lot 2 DP 1198081, Summerland Way, Koolkhan)</p> <p>Owner: Clarence Valley Council</p>   | <p><b>Amendment ID 24</b><br/>Recent subdivisions have dedicated a number of public reserves lots fronting the Summerland Way at Junction Hill &amp; Koolkhan to Council.<br/>The lots are currently zoned as follows:</p> <ul style="list-style-type: none"> <li>• Lot 21 DP 1122377 – zoned part R2 and part RU1 (2402m<sup>2</sup>)</li> <li>• Lot 27 DP 1224325 – zoned part RU1 and part R1 (2532m<sup>2</sup>)</li> <li>• Lots 44 &amp; 46 DP 1265067 – zoned part RU1 and part R1 (4877m<sup>2</sup> and 3556m<sup>2</sup>, respectively)</li> <li>• Lot 2 DP 1198081 – zoned part R2 and part RU1 (5051m<sup>2</sup>)</li> </ul> <p>The lots have been progressively dedicated as public reserves to Council and are classified as Community land. They serve as a green buffer between The Summerland Way and the adjoining residential development west of The Summerland Way.<br/>Past practice has been to zone these buffer lots to RE1 Public Recreation to reflect their function as a publicly owned buffer between the main road and the residential lots. These lots should also be zoned to RE1.</p> | That Lot 21 DP 1122377, Lot 27 DP 1224325, Lots 44 & 46 DP 1265067 and Lot 2 DP 1198081 be rezoned to RE1 Public Recreation.  |
| 17 | <p>Lot 2 DP 1171986<sup>1</sup><br/>Lot 20 DP 879077<sup>2</sup><br/>Lot 18 DP 1260163<sup>2</sup><br/>Lot 1 DP 1233312<sup>2</sup><br/>Lot 4 DP 1253626<sup>2</sup><br/>Lot 122 DP 1266076<sup>2</sup></p> | <p><b>Amendment ID 9 and 15</b><br/>The Grafton Waterfront Precinct Plan of Management adopted by Council has identified a number of lots under a mixture of Crown and Council ownership that should be rezoned to RE1 Public Recreation. These are as follows:</p> <ul style="list-style-type: none"> <li>• Lot 2 DP 1171986 - rezone from B3 Commercial Core to RE1</li> </ul>  | That Lot 2 DP 1171986, Lot 20 DP 879077 and the Prince Street road-end identified in the Grafton Waterfront Precinct Plan of Management be rezoned from B3 Commercial Core to RE1 Public Recreation.  |

| No | Land and/or item   | Issue   | Amendment required   |
|----|--|---|--|
|    | Lot 15 DP 1267116 <sup>2</sup><br>Lot 1 DP 1268816 <sup>2</sup><br><br>Grafton Waterfront Precinct (incorporating Memorial Park)<br><br><sup>1</sup> Crown Lands NSW (Council as Land Manager)<br><sup>2</sup> Clarence Valley Council | <ul style="list-style-type: none"> <li>• Lot 20 DP 879077 - rezone from B3 to RE1</li> <li>• Lot 18 DP 1260163 - rezone from R1 General Residential to RE1</li> <li>• Lot 1 DP 1233312 - rezone from R1 to RE1</li> <li>• Lot 4 DP 1253626 - rezone from R1 to RE1</li> <li>• Lot 122 DP 1266076 - rezone from R1 to RE1</li> <li>• Lot 15 DP 1267116 - rezone from R1 to RE1</li> <li>• Lot 1 DP 1268816 - rezone from R1 to RE1</li> </ul> <p>The plan has also suggested that the Prince Street road-end (approx. 0.2ha) adjacent to the Clarence River (between Memorial Park &amp; the Crown Hotel) also be rezoned from B3 to RE1.</p> <p>The rezoning of these lots and land is considered necessary to help give effect to the implementation of the plan for what is community land.</p> | <p>That Lot 18 DP 1260163, Lot 1 DP 1233312, Lot 4 DP 1253626, Lot 122 DP 1266076, Lot 15 DP 1267116 and Lot 1 DP 1268816 be rezoned from R1 General Residential to RE1 Public Recreation.</p> |
| 18 | Lot 1 DP 1249735, Skinner St, South Grafton<br><br>Owner: Clarence Valley Council  | <p><b>Amendment ID 25</b><br/>           Part of Cambridge Street South Grafton has been recently closed and has now become Lot 1 DP 1249735 under the ownership of Council. The land adjoins the Rushforth Park soccer fields and contains the entrance and road access into the Rushforth Park soccer field complex. The Rushforth Park soccer fields are located on Lot 358 DP 751385 which is zoned RE1 Public Recreation.</p> <p>Lot 1 is zoned part RU1 Primary Production and part SP2 Infrastructure (Sewage Treatment Plant) and is proposed to be integrated with the main Rushforth Park soccer field complex.</p> <p>Given that is proposed to integrate Lot 1 with the main Rushforth Park soccer field complex it is logical that it be rezoned to RE1.</p>                         | <p>That Lot 1 DP 1249735 be rezoned from part RU1 Primary Production and part SP2 Infrastructure to RE1 Public Recreation.</p>   |
| 19 | All land within the following zones:<br>R1 General Residential<br>R3 Medium Density Residential<br>R5 Large Lot Residential  | <p><b>Amendment ID 14</b><br/>           State Environmental Planning Policy (Infrastructure) 2007 (the ISEPP) permits <b>health consulting rooms</b> with consent in the R1, R2, R3 and R5 zones.</p> <p>However, the under CVLEP <b>health consulting rooms</b> are only <u>permitted with consent</u> in the R2 zone. The R1, R3 and R5 zone land use tables prohibit <b>health consulting rooms</b>.</p> <p><b>Health consulting rooms</b> are defined as premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.</p>   | <p>Amend the R1, R3 and R5 zone land use tables of the CVLEP to make <b>health consulting rooms</b> <u>permissible with consent</u>.</p>   |

| No | Land and/or item  | Issue   | Amendment required   |
|----|---|---|--|
|    |   | <p>The ISEPP is the superior environmental planning instrument to Council's LEP. It is logical that the Council's LEP align with and be consistent with the ISEPP in relation to <b>health consulting rooms</b>. In this regard the LEP should be amended to make <b>health consulting rooms</b> <u>permissible with consent</u> in the R1, R3 and R5 zone land use tables.</p>   |  |
| 20 | Home businesses (or enterprises) that involve the manufacture of food products or skin penetration procedures | <p><b>Amendment ID 13</b></p> <p>Currently home business (and home industry or home occupation) that does not involve the manufacture of food products or skin penetration procedures is <u>exempt development</u> under the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> ("Codes SEPP").</p> <p>There is considerable merit in permitting home business involving the manufacture of food products or skin penetration procedures as <u>exempt development</u> providing, they are small scale, low impact and can be capable of complying with appropriate development standards that would include meeting the:</p> <ul style="list-style-type: none"> <li>• relevant legislation and regulations for food manufacture/preparation and skin penetration</li> <li>• other relevant standards that are typical of home business exemptions</li> </ul> <p>Note - This proposal may involve creating an exempt development category for the Council's LEP that distinguishes itself from the home business development type under the General Exempt Development Code in the Codes SEPP; for instance <i>home business (manufacture of food products or skin penetration procedures)</i> or <i>home enterprise (manufacture of food products or skin penetration procedures)</i> or similar.</p> | <p>Amend Schedule 2 Exempt development of the CVLEP to make <i>home enterprise/home business (manufacture of food products or skin penetration procedures)</i> <u>exempt development</u> subject to development standards or considerations which include the following:</p> <ol style="list-style-type: none"> <li>(i) must not involve building alterations, other than alterations that are <u>exempt development</u> under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Policy</i></li> <li>(ii) must not result in an increase in the gross floor area of any building within which it is carried out</li> <li>(iii) must be carried out only in association with an existing lawful dwelling</li> <li>(iv) must not result in a change of building classification under the <i>Building Code of Australia</i></li> <li>(v) a home enterprise/home business involving manufacture of food products must comply with the requirements of the <a href="#">Food Act 2003</a>.</li> <li>(vi) a home enterprise/home business involving skin penetration procedures) must comply with the <i>Public Health Act 2010</i> and Part 4 of the <i>Public Health Regulation 2012</i>.</li> <li>(vii) the carrying on of the enterprise must not involve the use of more than 50 square metres of floor area.</li> <li>(viii) Must be carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling</li> </ol> |

| No | Land and/or item | Issue | Amendment required   |
|----|------------------|-------|--|
|    |                  |       | <p>and not involve the following -</p> <ul style="list-style-type: none"> <li>(a) the employment of more than 2 persons other than the residents,</li> <li>(b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,</li> <li>(c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,</li> <li>(d) the exhibition of signage, other than a business identification sign,</li> <li>(e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing.</li> </ul> |



|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6b.21.056</b> | <b>CLARENCE VALLEY COMMUNITY ENERGY AND EMISSIONS REDUCTION STRATEGY</b> |
|-------------|------------------|--|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Environment, Planning & Community Committee      | 20 July 2021 |
| <b>Directorate</b> | Environment, Planning & Community                |              |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |              |
| <b>Attachment</b>  | To be tabled                                     |              |

**SUMMARY**

Following on from Council adopting emission reduction and renewable energy targets for Council's operations and Council's recognition of a Climate Emergency, funding was received from the NSW DPIE to develop a Clarence Valley community wide emission reduction strategy. A draft strategy was developed by consultants 100% Renewables and has been on public consultation. Following the public consultation process the draft strategy has been revised and is now presented to Council for adoption.

**OFFICER RECOMMENDATION**

That the Clarence Valley Community Energy and Emissions Reduction Strategy be adopted with the target of reaching Net Zero emissions by 2040, with emissions in 2030 to be reduced by 35% compared with 2019 emission levels.

**COMMITTEE RECOMMENDATION**

Clancy/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Williamson, Baker, Clancy, Novak, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 4 Environment

Objective 4.2 We will foster a balance between development and the environment considering climate change impacts

Strategy 4.2.1 Promote, plan and implement strategies that reduce carbon emissions, improve energy efficiencies and increase the use of renewable energy







**BACKGROUND**

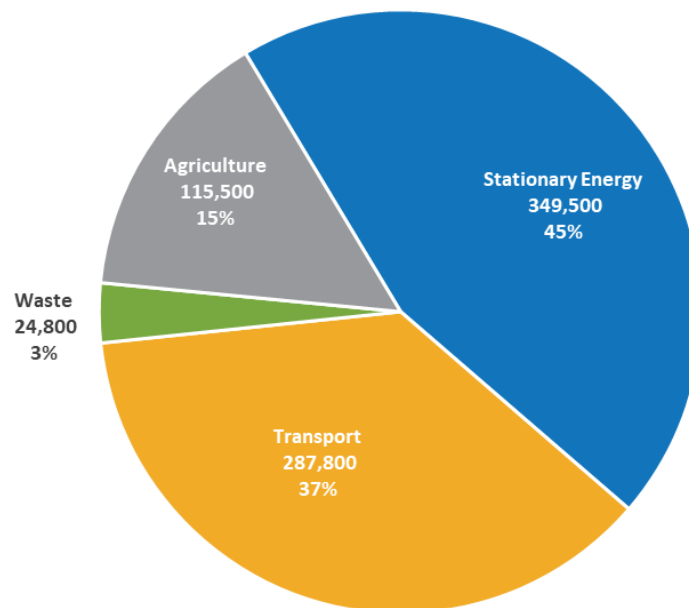
Following on from the Emissions Reduction & Renewable Energy Target Strategy developed by 100% Renewables for Council operations that was adopted by Council in 2018, the NSW DPIE has funded the development of a similar strategy that covers the whole Clarence Valley. The draft strategy identified the carbon footprint for the Clarence Valley, recommended an emissions reduction target and looked at opportunities and possible actions to achieve the target. The draft strategy was placed on public exhibition for a period of 6 weeks and in response to the feedback received, the draft strategy has been revised.

**KEY ISSUES**

Clarence Valley Carbon Footprint:

Based on the 2018-19 Ironbark-BZE Snapshot Report, the Clarence Valley has a carbon footprint of 777,600 tonnes of CO<sub>2</sub>-e as detailed in the following table and chart.

|   | Emission Sources  | Ironbark - BZE<br>t CO <sub>2</sub> -e | %    |
|---|-------------------|--|------|
|  | Stationary Energy | 349,500                                | 45%  |
|  | Transport         | 287,800                                | 37%  |
|  | Waste             | 24,800                                 | 3%   |
|  | Agriculture       | 115,500                                | 15%  |
|  | Land Use          | (4,700)                                |      |
|  | Total             | 777,600                                | 100% |



Community Consultation:

The draft strategy was placed on public consultation via Clarence Conversation for a period of six weeks. The site was visited by 249 people resulting in 6 detailed submissions being received, refer attached. All submissions supported the draft strategy and made valuable comments and suggestions, many of which have been incorporated in the revised strategy. Most of the submissions considered that the strategy should be more ambitious. There were also 40 people that undertook the community survey as detailed below.

Survey Results

Question 1: Do you support the principle of reducing community greenhouse gas emissions in the Clarence Valley? Yes 39 or 90%, No 1 or 10%

Question 2: Do you believe that the recommended target of net zero emissions by 2050 should be? More ambitious 24 or 60%, Less ambitious 1 or 2.5%, About right 15 or 37.5%

Question 3: Are you interested in further engagement? Yes 30 or 75%, No 10 or 25%

Ideas put forward:

- Affordable shuttle buses like the Busbot being trialled in Coffs Harbour.
- Clean up the Clarence day sponsored by big polluters businesses like McDonalds. Maybe you could agree to something like \$50/ bag of rubbish.
- Consult university specialists I think at Coffs Harbour about mangrove regeneration and the possibility of a seaweed farm.
- Offer grants for regenerative agriculture to local farmers.
- Take school kids on excursions to the recycling facilities.

- Plant trees in koala corridors and offer financial incentives for farmers and landowners to participate.
- Look at controlled back burning in Yuraygir National Park. This may improve habitat for endangered emus.
- Remove single use plastic options.
- Set targets for carbon sequestration in soils and trees.

Additional comments received with the survey:

- Time is up. We just need to get on with this.
- CVC continue to be active in reducing community emissions.
- Better public transport, busbots, affordable shuttle buses with trailers for surfboards between beaches.
- Thank you so much for taking the climate emergency seriously and ensuring that we are taking responsible steps to reduce our emissions wherever possible.
- I feel that given the amount spent on parks and recreation in grants to be in proportion to the problems and opportunities for climate change then I think we should be spending 1000's of millions across different aspects of climate change.
- I was really proud when the Council supported a recommendation to include 'climate emergency' in their documents. Keep it up and lead the way.
- Well done! I'd like to see more on the infrastructure needed to support a transition to EV's and also a holistic look at soil carbon sequestration which holds huge potential in rural areas.
- I fully support CVC action seeking opportunities as they arise and being a regional leader. All new and retrofitted urban and rural development including buildings should be required to meet targets and incentives to help achieve targets.
- Zero emissions and climate change mitigation are very important to us and is reflected in our lifestyle and my business. My largest footprint is my car travel. I cannot afford expensive electric cars currently available. This is a serious concern.
- A more comprehensive appreciation of our wetlands/seagrass/saltmarsh/forests as carbon sequestration sinks needs to be considered. We have much natural environment that could then be protected and financially supporting other energy efficient investments.
- Pleased Council is being proactive.
- It must be mandated that new housing and commercial developments have solar systems installed, suitable the size of the operation. Plus, more local recycling programs supported, especially relating to waste which currently fall outside mainstream programs.
- 'Potentially' is the only honest word used in this survey. There is no evidence that what we do will reduce the earths temperature.

#### Community Emissions Reduction Target:

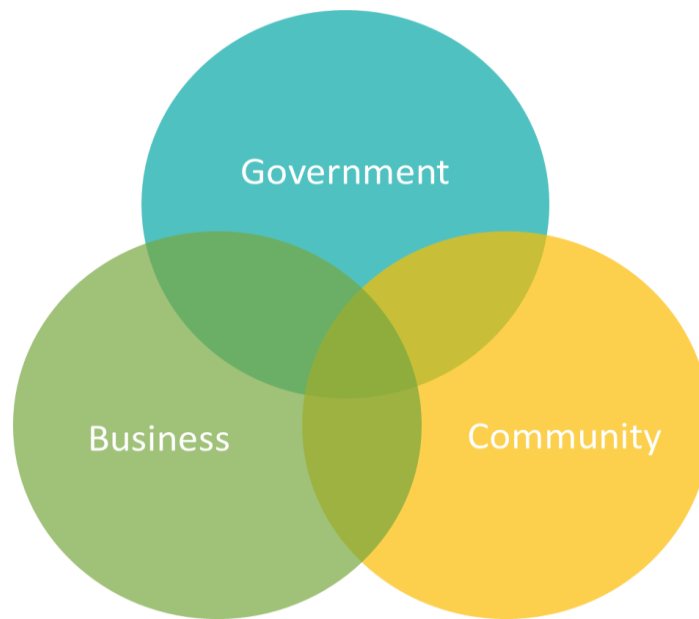
The key feedback from the consultation is that action on climate change is important to the Clarence community and the emission reduction targets recommended in the draft strategy were not sufficiently ambitious. The revised strategy has therefore taken this feedback on-board and amended the target to achieve Net Zero emissions by 2040 rather than 2050.

- Net Zero emissions by 2040, with emissions in 2030 to be reduced by 35% compared with 2019 emission levels.

It is noted that the strategy has indicated that the decarbonisation of the electricity grid (more renewables) is the most significant and largest change that will occur in the context of achieving net zero emissions.

#### Measures Available to Reduce Clarence Valley's Emissions:

With 82% of the regions greenhouse gas emissions associated with the consumption of electricity for homes and businesses, and fuel for transport, any significant efforts to decarbonise in coming decades will need to focus on these areas. Emissions reduction is the responsibility of all levels and sections of the community. Residents, businesses and all levels of government need to act themselves as well as work together if long-term successful outcomes are to be achieved.



## COUNCIL IMPLICATIONS

### Budget/Financial

The development of the strategy was fully funded by the NSW DPIE under the Sustainable Councils and Communities programme. The 2021/22 Operational Plan PJ 994640 makes provision for Council to engage a limited duration (3 year) project coordinator to help facilitate the implementation of the strategy. Any future actions from the strategy that may have a budget impact on Council will be subject to standard budget approval processes.

### Asset Management

N/A

### Policy or Regulation

N/A

### Consultation

In addition to the draft strategy consultation referred to above, the development of the draft strategy also involved consultation with a wide range of Council staff, community and business groups and the Climate Change Advisory Committee. COVID 19 did impact on the extent of direct community consultation.

Engagement through the Clarence Conversation portal included a survey that was completed by 91 people. Survey results indicated that 84% of participants considered climate change issues very important and 72% of participants supported a net zero emission target by 2050.

### Legal and Risk Management

N/A

### Climate Change

A Clarence Valley Community Emissions Reduction Strategy will greatly assist the Clarence Valley play its part in reducing global emissions and the impacts of global warming.

|                              |   |
|------------------------------|---|
| Prepared by                  | Ken Wilson, Waste & Sustainability Coordinator                                  |
| Attachment –<br>To be tabled | A. Community Energy and Emission Reduction Strategy<br>B. 5 written submissions |

**c. CORPORATE GOVERNANCE AND WORKS COMMITTEE**

**MINUTES** of a meeting of the **CORPORATE, GOVERNANCE & WORKS COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 20 July 2021, commencing at 2.00pm and closing at 3.14pm.

**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, Gumbayngirr 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 Jim Simmons (Mayor), Cr Arthur Lysaught

**PRESENT**

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

**APOLOGIES** – Mr Ashley Lindsay (General Manager), Cr Jason Kingsley

**MOTION**

Lysaught/Ellem

That the apologies for Cr Jason Kingsley and Mr Ashley Lindsay (General Manager) be accepted.

Voting recorded as follows:

For: Toms, Ellem, Simmons, Lysaught

Against: Nil

**DISCLOSURE AND DECLARATIONS OF INTEREST - Nil**

|                    |   |  |
|--------------------|---|--|
| <b>ITEM</b>        | <b>6c.21.084</b>                        | <b>LOT 81 DP 1052936 &amp; LOT 82 DP 1054947 - APPROVED WATER STRUCTURES</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021   |
| <b>Directorate</b> | Corporate & Governance                  |  |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |  |
| <b>Attachment</b>  | Confidential                            |  |

## SUMMARY

This report advises Council of the response provided by owner of Lot 82 DP 1054947 to the June resolution of Council and proposes that no further action be taken in regard to this matter.

## OFFICER RECOMMENDATION

That Council

1. takes no further action to improve simultaneous use of two water structures at Lot 81 DP 1052936;
2. does not amend the Lease Agreement for use of a pontoon at Lot 82 DP1054947 to facilitate use of water structures at Lot 81 DP 1052936; and
3. advises the owner of Lot 81 DP 1052936 that as any arrangement to access water structures, agreed with the owner of Lot 82 DP 1054947 is one of a civil nature it should be dealt with in an agreement made under the relevant instrument, which can be facilitated either by one or other of the property owner's legal advisors or the Community Justice Centre.

## COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Simmons  
Against: Toms

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership  
Objective 5.2 We will have an effective and efficient organisation  
Strategy 5.2.4 Ensure a safe and healthy work environment

## BACKGROUND

At the June Ordinary Meeting of Council, it was resolved at Item 6c.21.072:

*That*

1. Council acknowledge Mr. Hall's recent concession to move his boat two times a year with 48 hours notice to enable Mr. Beresford to use his boat ramp to service his boat.
2. Council proposes a permanent no cost to Council solution to remedy the unfair situation that has arisen since June 2018 when Council approved the design and placement of the pontoon at 4 Taine Court, Lot 82 DP1054947.
3. Council seek agreement from Mr. Hall for a permanent solution to the nuisance caused to Lot 81 DP1052936 by blocking their boat ramp when a boat is moored on his pontoon.
4. Council support the minor change for his boat or any other boat using his pontoon to tie up 2 metres forward on his pontoon from the waterside extremity of the pontoon, and that Mr. Hall be asked to remove the mooring cleat located at that northern extremity ensuring any boat remains moored 2 metres from the waterside extremity of the pontoon ensuring a 2 metre clearance from the waterside extremity which will remove the choke point in front of the boat ramp at Lot 81 DP1052936.
5. Subject to agreement contained within point 3, Council supports this minor change to Mr. Hall's pontoon approval for the following reasons:

- a) *It will remove the choke point in front of Mr. Beresford's boat ramp allowing him unfettered use of his approved boat ramp that was approved by Council in 2004.*
- b) *It will ameliorate the significant risk of damage or injury that has been assessed by Club Marine Insurance which resulted in Mr. Beresford's boat insurance being cancelled in January 2021.*
- c) *Mr. Hall will never be inconvenienced by needing to move his boat from his pontoon twice a year to allow Mr. Beresford to use his own boat ramp.*

The resolution was referred to the owner of Lot 82 DP1054947 and three emails received in response.

The following is a chronology of water structure approvals for the two properties.

- 2004 An application to construct a pontoon was received from the owner of Lot 80 DP1052936. The pontoon was proposed to be a shared pontoon with the adjoining property Lot 81 DP1052936, without the owner of Lot 81 being a party to the application.

This application and approval were recorded against Lot 80 DP1052936 in Council's property system at the time. It was not cojoined to Lot 81 DP1052936.

- 2009 An application to construct a boat ramp was received from the owner of Lot 81 DP1052936. The application made no reference to an existing approved water structure (shared pontoon).



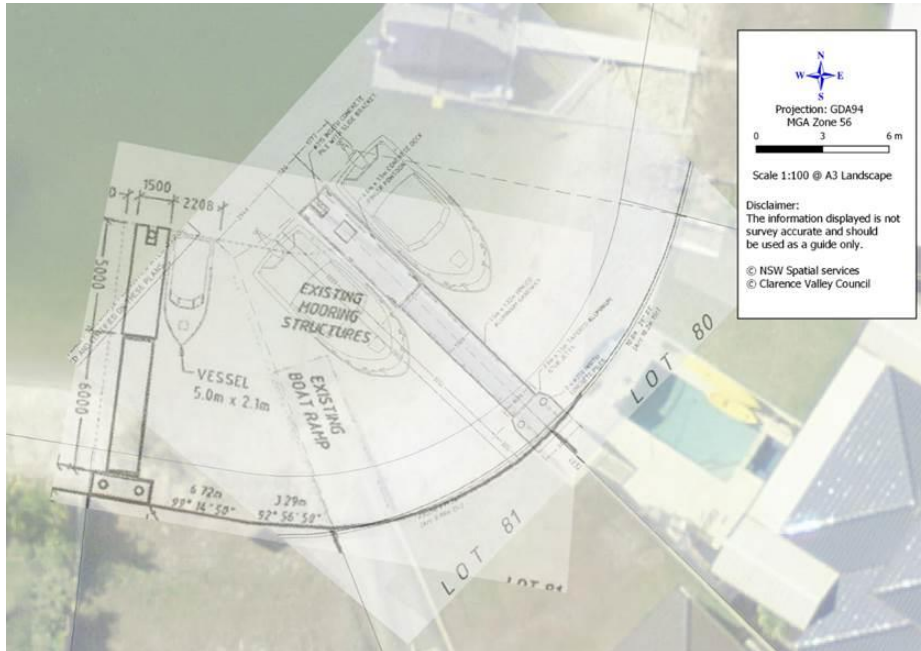
**Figure 2 An aerial image of the pontoon and boat ramp at Lot 81 DP 1052936, circa 2012**

- 2015 The property at Lot 81 DP1052936 changed hands and after which simultaneous use of the two approved water structures by two vessels commenced.



**Figure 3** An aerial image of two structures in use at Lot 81 DP 1052936, prior to construction of the pontoon at Lot 82 DP 1054947, circa 2015-2016

2016 An application to construct a pontoon was received from the owner of Lot 82 DP1054947.



**Figure 4** Approved structures at Lot 82 DP 1054947, Lot 81 DP 1052936 and Lot 80 DP 1052936

The maximum mooring capacity of the pontoon at Lot 81 DP 1052936 is a vessel of 8m x 2.7m, compared to the maximum mooring capacity allowable at Lot 82 DP 1054947, which is 5m x 2.1m. The plan, which is to scale, demonstrates that much of the frontage of Lot 82 DP 1054947 is required when accessing the boat ramp at Lot 81 DP 1052936 if there is also a vessel moored at the pontoon, as a moored maximum sized vessel would appear to be in the line of access to the boat ramp.



**KEY ISSUES**

In response to the June resolution of Council, the owner of Lot 82 DP1054947 advises that he does not agree to the recommendation of Council, but that he remains committed to entering a civil agreement to facilitate the access requested.

Responses from both owners in relation to the June resolution of Council are included as confidential attachments.

Staff consider the options available to Council include:

- Redesign of the pontoon and amendment of the agreement pertaining to Lot 82 DP 1054947 – risks include possible legal action and likely objection by owners of Lot 82 DP 1054947 and/or Lot 83 DP 1058382 depending on consent to amend the Lease.
- Withdraw of the second Water Structure agreement for Lot 81 DP 1052936 given the small water frontage and unfettered simultaneous use of two water structures is not available – risks include possible legal action and likely objection by the owner of Lot 81 DP 1052936.
- Take no further action.

The various pieces of correspondence received by Councillors in relation to this matter have not been provided as attachments to this report.

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

Approximately \$5,000 has been spent on legal advice and acting on behalf of Council in this matter. In addition, significant staff resources have been expended on this issue.

**Asset Management**

N/A

**Policy or Regulation**

Local Government Act 1993

**Consultation**

Both owners have been advised of the resolution and offered the opportunity to make a deputation.

**Legal and Risk Management**

Included in the body of the report.

All water structures on Council-owned Land (Drainage Reserves) are subject to an Agreement. Council requires that all approved water structures are fully insured, while insurance of any vessels used in conjunction with the approved water structures is the responsibility of the owner.

All water structures referred to in this report are being used per the respective agreements for use.

**Climate Change**

N/A

|              |   |
|--------------|---|
| Prepared by  | Laura Black, A/General Manager  |
| Confidential | Attachment A Communication from owners of Lot 82 DP1054947<br>Attachment B Communication from owner of Lot 81 DP1052936 |

|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6c.21.085</b> | <b>REFUND OF WATER RECREATION STRUCTURE LICENCE FEES CHARGED</b> |
|-------------|------------------|--|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                  |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |              |
| <b>Attachment</b>  | Confidential                            |              |

### SUMMARY

This report brings before Council a request from a ratepayer that tenure fees charged for use of Council land be refunded.

### OFFICER RECOMMENDATION

That Council not refund fees paid for tenure agreements allowing construction and use of water recreation structures over Council owned land classified Community, as a private benefit was received for said fees.

### MOTION

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Simmons

Against: Ellem, Toms

The Motion was put and declared LOST on the casting vote of the Chair (Cr Toms).

### COMMITTEE RECOMMENDATION

Toms/Ellem

That this item be deferred to the full Council meeting so that the information sought from the Acting General Manager can be provided and considered.

Voting recorded as follows:

For: Ellem, Toms, Simmons

Against: Lysaught

### LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

### BACKGROUND

At the Ordinary Meeting of Council held 22 June 2021, it was resolved at Item 6b.21.033:

*That Council:*

1. Receive and note the public hearing report entitled *Public Hearing Report - Yamba Waterways (11 May 2021)*, prepared by Emma Broomfield of Locale Consulting;
2. Support the proposed reclassification from Community to Operational land of all lots, being legally described as Lot 223 DP 260230, Lot 286 DP 262200, Lot 10 DP 866724, Lot 12 DP 881975 and Lot 54 DP 1013843, the subject of Planning Proposal - Reclassification of Council Land 2020 (REZ2020/0005) as publicly exhibited and without further amendment; and
3. Refer the planning proposal to the Minister for Planning and Public Spaces with a request to make the necessary amendment to the Clarence Valley Local Environmental Plan 2011.

Report 6b.21.033 identified 5 land parcels (waterways) in Yamba for reclassification from Community to Operational.



Figure 1 – Location of the 5 land parcels (waterway) proposed to be reclassified shaded grey & red.

The report further identified that in 2016, it was found that actions and resolutions of the former pre-amalgamation councils for the area were erroneous in relation to the classification of certain public lands owned by Council. The result being that many public land parcels that were intended to be classified as Operational defaulted to the Community classification by virtue of the provisions of the Local Government Act 1993.

Both Clarence Valley Council and the former Maclean Council prior to 2016 acted under the assumption and understanding that much of its public land was classified as Operational and in good faith approved and/or licenced private water recreation structures located in/on the 5 waterway/drainage reserve lots the subject of the current reclassification process.

Land classified Community land can only be used for public purposes and is generally associated with open space e.g. public parks. Council cannot sell Community land or grant a lease, license or other estate for private purposes. Further, a Community classification does not allow private structures on Community land or access to private property over Community land.

The report identified the primary benefits of changing the land classification from Community to Operational as removing uncertainty for persons who have installed water recreation structures over the land and an ability for Council to lawfully approve and issue tenures for private water recreation structures such as pontoons and jetties that are located on the land.

There are 152 properties with at least one water recreation licences adjoining the Lots identified in report 6b.21.033, with each licence fee being \$70 for 2020/2021. Licence Agreement fees in 2014 were \$58.40.

## KEY ISSUES

The key issues are:

- Licence agreements for construction and use of water recreation structures were issued in good faith.
- Water recreation structure licence agreements provided the individual ratepayer/s with personal benefit.
- The fee for this benefit was reasonable.

- Community Land classification does not allow for the issue of a licence or agreement, but equally it does not allow for the private use.
- On realising the error in 2016, Council acted to rectify the issue to enable continued use by ratepayers in the way they had become accustomed.
- On realising the error in 2016, Council did not request removal of the water recreation structures as they were not permissible.

**NB** As the land is currently classified Community, Council can request the removal of all water recreation structures.

The recommendation of this report follows the premise that the licence fee for use of the land was issued in good faith, and in return for payment the ratepayer/s received a substantial and private benefit that would not otherwise have been available to them.

The income received from affected properties is as follows:

| 2014/2015 | 2015/2016 | 2016/2017  | 2017/2018  | 2018/2019   | 2019/2020   | 2020/2021   |
|-----------|-----------|------------|------------|-------------|-------------|-------------|
| \$6,132   | \$7,0220  | \$7,810.50 | \$9,165.00 | \$10,064.55 | \$10,385.02 | \$10,642.01 |

Should Council resolve to refund any amounts, a variation will be required in the current year budget.

## COUNCIL IMPLICATIONS

### Budget/Financial

Should Council resolve to refund licence fees for water structure construction over Council managed land, the amount refunded will be shown as a deficit variation in the Q1 Quarterly Budget Review Statement.

### Asset Management

N/A – Private water structures are not Council assets.

### Policy or Regulation

*Local Government Act 1993*

*Environmental Planning and Assessment Act 1979*

### Consultation

N/A

### Legal and Risk Management

Local Government Act 1993

Recovery of Imposts Act 1963

Marsden's legal advice

### Climate Change

N/A

|              |   |
|--------------|---|
| Prepared by  | Laura Black, Acting General Manager               |
| Confidential | A – Request for refund<br>B – Confidential Advice |

|                    |  |  |
|--------------------|--|--|
| <b>ITEM</b>        | <b>6c.21.086</b>                                 | <b>REQUEST FROM ACCOUNT 2210912 FOR CONSIDERATION FOR REDUCTION IN WATER ACCOUNT</b> |
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021   |
| <b>Directorate</b> | Corporate & Governance                           |  |
| <b>Reviewed by</b> | A/Manager - Finance & Supply (Michael Salvestro) |  |
| <b>Attachment</b>  | Confidential                                     |  |

## SUMMARY

The property owner of Water Account 2210912 submitted a request on 14 May 2021, seeking a reduction on the water usage charges raised due to higher than normal usage.

## OFFICER RECOMMENDATION

That Council not grant a concession on Account 2210912 as it does not comply with the Concealed Water Leak Allowance Policy and the water leak was not repaired by a licenced plumber.

## COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

## BACKGROUND

The property owner of Water Account 2210912 submitted a request dated 14 May 2021, seeking a reduction on the water usage charge as the property owner's partner discovered a water leak some 40 metres from the rear of the residence on the 9 January 2021. (Attachment "A")

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

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

The property owner advised that she had phoned a plumber but could not get a response due to the Christmas/New Year holiday period. The property owner's partner, who was previously employed with AGL gas company as a pipe layer repaired the leak. The property owner took photos of the leak and the repair of the water pipe. (Attachment "B")

Council received an Application for Concealed Leak Allowance on the 15 June 2021 seeking a concession on the water account (Attachment "C"). A response was sent to the property owner advising that due to the partner repairing the leak and he was not a licenced plumber, Council was unable to assist with a concession (Attachment "D")

Council's Concealed Water Leak Allowance Policy states:

4.3 Clarence Valley Council grants an allowance for water lost through a concealed or hidden Leak in the private water service of customers. The allowance will be granted provided that:

- The customer was unaware of the leak and the leak was concealed from view,
- The leak was not due to the neglect of obvious defects in the private water service,
- The private water service is repaired and a report from the plumber submitted to Council confirming the repairs are in accordance with the Plumbing and Drainage Act 2011 No. 59 Section 6 Part 2 Division 1 which states:

6 Plumbing and drainage work to be carried out only by authorised persons

A person must not do any kind of plumbing and drainage work unless the person:

- (a) Holds an endorsed contractor licence or a supervisor certificate in force under the Home Building Act 1989 authorising the holder to do that kind of work, or
- (b) Does the work under the immediate supervision of the holder of such a licence or certificate, or
- (c) Holds a tradesperson certificate in force under the Home Building Act 1989 authorising the holder to do that work under supervision and does that work under the general supervision of the holder of a licence or certificate referred to in paragraph (a)

## KEY ISSUES

The previous consumption history is detailed below and indicates a relatively low usage normally:

| Meter Read Date | Meter Read | Reading Days | Daily Average Consumption | Usage Per KI | Total Amount |
|-----------------|------------|--------------|---------------------------|--------------|--------------|
| 3/03/2021       | 9587       | 120          | 2.542                     | 305          | 771.65       |
| 3/11/2020       | 9282       | 118          | 1.076                     | 127          | 321.31       |
| 8/07/2020       | 9155       | 154          | 1.558                     | 240          | 597.60       |
| 5/02/2020       | 8915       | 92           | 2.076                     | 191          | 475.59       |
| 5/11/2019       | 8724       | 89           | 1.213                     | 108          | 268.92       |

The Concealed Water Leak Allowance Policy automatically denies the applicant a reduction on their water usage account as a licensed plumber did not repair the leak.

The alternative position for Council is to grant a concession by resolution.

## COUNCIL IMPLICATIONS

### Budget/Financial

If no adjustment is granted there will be no impact on the income for the 2021/2022 financial year, however if a concession is granted to this account as per the ratepayers request which, if approved, would be \$326.37 (based on the Concealed Leak Policy). Income for the 2021/22 financial year on PJ 902125-6219-1241 (Water Usage Non Residential Income) will be reduced.

### Asset Management

N/A

### Policy or Regulation

Concealed Water Leak Allowance Policy

### Consultation

N/A

### Legal and Risk Management

N/A

**Climate Change**

N/A

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|              |   |
|--------------|---|
| Prepared by  | Paula Krahe, Revenue Co-Ordinator   |
| Confidential | A – Written request from the Property Owner seeking concession<br>B – Photos of the Concealed Leak<br>C – Application for Concealed Leak<br>D – Council letter advising not eligible for a concession |

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|             |                  |                              |
|-------------|------------------|------------------------------|
| <b>ITEM</b> | <b>6c.21.087</b> | <b>EVENT DELIVERY POLICY</b> |
|-------------|------------------|------------------------------|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                           |              |
| <b>Reviewed by</b> | Manager - Organisational Development (Alex Moar) |              |
| <b>Attachment</b>  | Yes  |              |

## SUMMARY

The draft Event Delivery policy was developed at the insistence of *State Mutual*, Council's insurer. Documents used in the creation of the policy were provided by the insurance body and have been amended to work in the local setting. The policy gives cover to Council for events hosted internally, externally and on council managed land/facilities.

## OFFICER RECOMMENDATION

That Council place the draft Event Delivery Policy on exhibition for a period of 28 days and subject to there being no feedback that changes the intent of the Policy it be adopted.

## COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.3 We will have a diverse and creative culture

Strategy 1.3.1 Support arts, learning, cultural services, community events and festivals

## BACKGROUND

State Mutual encouraged Council to develop an Event Delivery policy to support safe events associated with the organisation. The policy has been developed in conjunction with internal key stakeholders and in partnership with community event providers. The policy and procedure are the first elements of the events management suite of documents. Phase One (completed and referenced here) development created a pathway for an event provider to follow in event development. Phase two (event management tool to streamline event documents) is beyond the scope of the attached documents.

## KEY ISSUES

The policy is a requirement of State Mutual, Council's current insurer.

The aim is to create safe events for our community and staff, the event policy has a focus on WHS issues.

There is an opportunity for further development of supporting documents to ensure usage of the policy is effective and not too cumbersome.

The procedure is an operational document, provided as an attachment to the report for greater understanding of the policy.



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

Failure to adopt an events policy could have an impact on Council's premium with our insurer. In an extreme case, an unmitigated risk at events could cost Council through litigation.

**Asset Management**

The events policy has implications for Council managed lands and facilities. It is intended that the policy will partner with Council's 'bookable' system.

**Policy or Regulation**

Attached

**Consultation**

In development of the policy, consultation is being held with internal stakeholders and was developed in partnership with a key community events delivery agency.

**Legal and Risk Management**

The policy is supported by documents, developed through State Mutual. The basis of these documents is risk averse and will assist in bringing safer events to the Clarence Valley.

**Climate Change**

Sustainability is a consideration in developing events and can be embedded into events planning.

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|             |   |
|-------------|---|
| Prepared by | Bligh Grant, Governance Officer                                 |
| Attachment  | A: Event Delivery Policy (draft)<br>B: Event Delivery Procedure |

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|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6c.21.088</b> | <b>2021/22 SPECIAL EVENT SPONSORSHIP PROGRAM – ROUND 1 LATE REQUESTS</b> |
|-------------|------------------|--|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee         | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                          |              |
| <b>Reviewed by</b> | Director - Corporate & Governance (Laura Black) |              |
| <b>Attachment</b>  | Nil   |              |

**SUMMARY**

This report presents a summary of two late submissions received under Round One of the Special Events Sponsorship 2020/21 program, the criteria applied in the assessment of the applications and recommendations for the allocation of funding.

**OFFICER RECOMMENDATION**

That Council approve sponsorship as follows and authorise the processing of these sponsorships in accord with the adopted Event Sponsorship Policy:

1. Copmanhurst Campdraft ABCRA Championships sponsorship of \$5,000 cash (excl GST)
2. Glenreagh Bounce Back Festival sponsorship of \$1,500 cash (excl GST)

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

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

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

**BACKGROUND**

Applications for sponsorship under Round One of Council's Special Events Sponsorship Program opened on 31 March 2021 and closed on 2 May 2021. The funding program was promoted through a media release, social media, CVC Noticeboard e-newsletter and Council's website. Emails were also sent to all previous applicants.

The Glenreagh Bounce Back Festival is new and the organisers were unaware of the Special Events Sponsorship Program until inquiring about council event funding after the closing date of Round 1.

The Copmanhurst Campdraft ABCRA Championships event organisers were invited to apply to the program according to the Council resolution at the May 2021 meeting.

As initiated in 2014/15, there are two rounds of calling for sponsorship applications. This is the first round, for events held between July 2021 and February 2022.

Applications were assessed against the following criteria as set out in program guidelines:

- eligibility to apply
- making a positive contribution to the local economy
- acknowledgement of Council's sponsorship

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

All events are assessed against this criteria, however different request levels have particular criteria weighted more heavily, again as stated in the guidelines:

|                                 |   |
|---------------------------------|---|
| Level One<br>\$1,500 and under  | New events or in their infancy<br>Small events that attract some visitors from outside the Clarence Valley  |
| Level Two<br>\$1,500 to \$5,000 | Attract day visitors from outside of the Clarence Valley<br>Have a marketing plan<br>Are unique or promote unique characteristics of the Clarence Valley  |
| Level Three<br>Over \$5,000     | Attract overnight visitors<br>Have a marketing plan<br>Are unique or promote unique characteristics of the Clarence Valley<br>Generate an income stream to reinvest in their event<br>Contribute significantly to the local economy |

## KEY ISSUES

Information for the two late requests is listed below:

| Applicant<br>Organisation Name                   | Event                                     | Start   | End     | Request | Sponsorship | Comment  |
|--|---|---------|---------|---------|-------------|--|
| Glenreagh Public Recreation Reserve Land Manager | Glenreagh Bounce Back Festival            | 5/9/21  | 5/9/21  | \$1500  | \$1500      | New event, meets criteria for level 1, will attract day visitors and some overnight. Important event as Glenreagh Timber Festival cancelled.   |
| Copmanhurst Campdraft                            | Copmanhurst Campdraft ABCRA Championships | 23/9/21 | 26/9/21 | \$6500  | \$5000      | Meets criteria for level 2. Economic benefit of \$340,600 based on numbers provided. This is similar economic benefit to Jacaranda Dragon Boat Races which Council provides sponsorship of \$5,000 |

The total allocated amount in the 2021/22 budget for the Special Event Sponsorship program is \$90,000 of which \$64,890 has been allocated. Should Council adopt the officer's recommendations in this report, the financial commitment will total \$6,500 making a total commitment for Round 1 of \$71,390.

This will leave \$18,610 for Round 2 applications.

## COUNCIL IMPLICATIONS

### Budget/Financial

The recommended amount falls within the current budget allocation for the program (996030). If Council adopts the recommended amount, \$18,610 will remain for Round 2 applications later in the year.

### Asset Management

N/A

### Policy or Regulation

Event Sponsorship Policy

### Consultation

Consultation occurred within the Communications and Industry Engagement Team.

### Legal and Risk Management

N/A

**Climate Change**

N/A

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|             |  |
|-------------|--|
| Prepared by | Alicia Savelloni, Events Development Officer |
| Attachment  | Nil  |

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|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6c.21.089</b> | <b>THE CLARENCE – RIVER WAY MASTERPLAN II</b> |
|-------------|------------------|---|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                  |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |              |
| <b>Attachment</b>  | To be tabled                            |              |

**SUMMARY**

The draft “The Clarence – River Masterplan II” was placed on public exhibition for 28 days inviting community comment. This report outlines the feedback and seeks to adopt “The Clarence – River Way Master Plan II”.

**OFFICER RECOMMENDATION**

That Council note the feedback received from the community during public exhibition and adopt The Clarence – River Way Masterplan II.

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

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

Strategy 3.1.6 Develop initiatives capitalising on the Clarence river and the Clarence Valley's competitive advantages

**BACKGROUND**

At its meeting held in May, Council resolved:

*That:*

1. Council note the information received on Clarence River Way Masterplan achievements.
2. The draft “The Clarence – River Way Masterplan II” be placed on public exhibition for 28 days inviting community comment.
3. Information received during public exhibition be reported to Council in July 2021.

This report outlines the community feedback from the public exhibition period and seeks to adopt “The Clarence – River Way Masterplan II

**KEY ISSUES**

The Clarence – River Way Masterplan II was placed on public exhibition for 28 days inviting comment from the community in accordance with Clarence Valley Council's ‘On Exhibition’ procedure.

In addition to these procedures, hard copies of The Clarence – River Way Masterplan II we sent to Grafton Ngerrie Land Council and Yaegl Traditional Owners.

The Clarence – River Way Masterplan II Consultation Report (attached) includes community submissions and each response. Ten submissions were received. The Clarence – River Way Masterplan II was updated to include relevant feedback.

There were no objections or opposition to The Clarence – River Way Masterplan II.

### COUNCIL IMPLICATIONS

#### Budget/Financial

The review of the Clarence River Way Masterplan is funded through 2020/21 project budget allocation. It was completed on-time and on-budget.

#### Asset Management

N/A

#### Policy or Regulation

N/A

#### Consultation

The Clarence – River Way Masterplan II was placed on public exhibition for 28 days inviting comment from the community in accordance with Clarence Valley Council's 'On Exhibition' procedure.

The Grafton Ngerrie Land Council and Yaegl Traditional Owners have been engaged and asked to comment.

#### Legal and Risk Management

N/A

#### Climate Change

N/A

|              |  |
|--------------|--|
| Prepared by  | Elizabeth Fairweather Coordinator Community & Industry Engagement  |
| To be tabled | Attachment A: The Clarence – River Way Masterplan II<br>Attachment B: The Clarence – River Way Masterplan II Consultation Report |

|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6c.21.090</b> | <b>COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN</b> |
|-------------|------------------|--|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Office of General Manager               |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |              |
| <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: Lysaught, Ellem, 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 | Lesley McBay, Coordinator Executive Support |
| Attachment  | Checklist                                   |

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|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6c.21.091</b> | <b>ALCOHOL PROHIBITED AREA TEMPORARY REVOCATION – JACARANDA FESTIVAL</b> |
|-------------|------------------|--|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021 |
| <b>Directorate</b> | Works & Civil                                    |              |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |              |
| <b>Attachment</b>  | Yes  |              |

**SUMMARY**

Jacaranda Festival is planned to run from Friday 29 October to Sunday 7 November 2021. The Festival consists of events that permit the sale and consumption of alcohol within Market Square, Grafton. Market Square is an alcohol prohibited area and approval of the sale and consumption of alcohol within the park requires a temporary revocation of the alcohol prohibited area. This report seeks Council's endorsement for the temporary revocation of the alcohol prohibited area in Market Square.

**OFFICER RECOMMENDATION**

That Council revoke the alcohol prohibition area at Market Square for the 2021 Jacaranda Festival from midday Friday 29 October 2021 to midday Sunday 7 November 2021.

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

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

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

**BACKGROUND**

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

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

The 2021 festival events will centre around Market Square.

**KEY ISSUES**Alcohol Prohibited Areas

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

Alcohol prohibited areas are enforced by the police.

Jacaranda Festival

The Jacaranda Festival is a multiday, multi faceted event (see attached program). As part of the committee's desire to grow the event and cater for resident and visiting communities expectation it is

proposed that 12 events within the larger calendar of events will permit the sale and consumption of alcohol in Market Square, Grafton. The events being;

- Caringa Ball (Friday, 29 October)
- Queen Crowning (Saturday, 30 October)
- Retrofest (Sunday, 31 October)
- National Artist Concert (Sunday, 31 October)
- TAIKOZ – Japanese Drumming Dynamos (Monday, 1 November)
- Melbourne Cup Garden Party (Tuesday, 2 November)
- Last Five Years – A Musical by Jason Robert Brown (Wednesday, 3 November)
- Jacaranda Thursday (Thursday, 4 November)
- Venetian Carnival (Friday, 5 November)
- Highland Splash – Pipe Bands & Highland/Irish Dancers (Saturday, 6 November)
- Party in the Park (Saturday, 6 November)
- Jacaranda Raffle Draw (Saturday, 6 November)

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

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

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

N/A

#### **Asset Management**

N/A

#### **Policy or Regulation**

The following references are applicable to this report:

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

#### **Consultation**

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

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

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

#### **Climate Change**

N/A

|             |  |
|-------------|--|
| Prepared by | David Sutton, Open Spaces Coordinator    |
| Attachment  | Preliminary Program 2021 Licensed Events |

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6c.21.092</b> | <b>REQUEST TO VARY POLICY – DONATED FACILITIES ON PUBLIC LAND – ON CROWN LAND</b> |
|-------------|------------------|---|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021 |
| <b>Directorate</b> | Works & Civil                                    |              |
| <b>Reviewed by</b> | Manager - Open Spaces & Facilities (Peter Birch) |              |
| <b>Attachment</b>  | Yes  |              |

**SUMMARY**

A request has been received from Toni Borthwick on behalf of the children and grandchildren of Gloria and Henry Caldwell to vary the Donated Facilities on Public Land Policy for the placement of a seat with a plaque commemorating Henry "Corky" Caldwell on Minnie Waters Foreshore Reserve opposite No. 23 Waratah Crescent, Minnie Water. As the request is not consistent with the policy, this matter is reported to Council for consideration.

**OFFICER RECOMMENDATION**

That Council:

1. As Crown Land Manager, accept the placement of a donated public seat to be funded by the family of the late Henry Caldwell on Minnie Water Foreshore Reserve.
2. Not vary the Donated Facilities on Public Land Policy to allow a plaque to be fixed by Toni Borthwick on behalf of the children and grandchildren of the late Gloria and Henry Caldwell to the donated public seat.

**MOTION**

Simmons/Lysaught

That the Officer Recommendation be adopted.

**AMENDMENT TO MOTION**

Toms/Ellem

That Council:

1. As Crown Land Manager, accept the placement of a donated public seat to be funded by the family of the late Henry Caldwell on Minnie Water Foreshore Reserve.
2. Allow a plaque to be fixed by Toni Borthwick on behalf of the children and grandchildren of the late Gloria and Henry Caldwell to the donated public seat using the words  
*The RSL, RFS & Minnie Water community acknowledge the contribution of  
Henry 'Corky' Caldwell  
Volunteer, WW2 veteran, Order of Australia & Queens Medal recipient.*

Voting recorded as follows:

For: Simmons, Lysaught, Toms, Ellem

Against: Nil

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

**COMMITTEE RECOMMENDATION**

Simmons/Lysaught

That Council:

1. As Crown Land Manager, accept the placement of a donated public seat to be funded by the family of the late Henry Caldwell on Minnie Water Foreshore Reserve.
2. Allow a plaque to be fixed by Toni Borthwick on behalf of the children and grandchildren of the late Gloria and Henry Caldwell to the donated public seat using the words  
*The RSL, RFS & Minnie Water community acknowledge the contribution of  
Henry 'Corky' Caldwell  
Volunteer, WW2 veteran, Order of Australia & Queens Medal recipient.*

Voting recorded as follows:

For: Simmons, Lysaught, Toms, Ellem

Against: Nil

## LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

## BACKGROUND

A request was received from Toni Borthwick on behalf of the children and grandchildren of Gloria and Henry Caldwell to donate a seat with a plaque commemorating Henry "Corky" Caldwell on Minnie Water Foreshore Reserve opposite No. 23 Waratah Crescent, Minnie Water.

Henry was reportedly 101 years old when he passed recently. He was a WW2 veteran who as a member of RSL for more than 60 years dedicated his life to serving his fellow veterans. Further Henry was awarded the Order of Australia in 2008 for service to the Clarence Valley and received a Queens medal in recognition of his 50 years volunteering for the town fire brigade, Rural Fire Service, Grafton Show Society and the local kennel club. In 1956 Henry ran the Olympic torch through Grafton.

The request is supported by the RSL and RFS.

## KEY ISSUES

The Donated Facilities on Public Land Policy was developed by Council to set a framework around the donation of facilities on public land. Section 4(7) of the policy states that:

*Council will not support the placement of any memorial plaques to individuals or other similar features on donated public facilities. Plaques or signs acknowledging the contribution of community groups or funding authorities will be acceptable.*

The intent of this section was to permit the donation of facilities without memorialising the facility.

The request made by Toni Borthwick on behalf of the children and grandchildren of Gloria and Henry Caldwell to donate a seat with a plaque commemorating Henry "Corky" Caldwell is a variation to Council's policy. Regular requests of a similar nature have been received and generally past similar requests have been advised of Council's policy position that does not acknowledge individuals through fixing of plaques. The placement of a seat at this location is supported as it will provide benefit for the family and community. However, the placement of a plaque that memorialises an individual is not supported under Council policy.

Consistent with the policy it is recommended that Council not vary the policy and only accept the donated seat and concrete foundation slab.

## COUNCIL IMPLICATIONS

### Budget/Financial

If Council resolves to accept the donated the seat, plaque and foundation concrete slab, there will be no capital cost to Council as the family, and potentially the RSL, will be funding the work.

### Asset Management

The seat, foundation concrete slab will create a new asset, the depreciation will need to be funded. The installation will create a minor impact to operating budgets with the requirement to brush cut grass growth around the base as part of the mowing program and to undertake periodically cleaning of the seat.

If Council resolve to vary the policy and permit in the installation of a plaque it is recommended that if the plaque is vandalised, stolen or other damaged that the plaque not be replaced.

**Policy or Regulation**

- Council's Donated Facilities on Public Land Policy s4(7) states that –  
*Council will not support the placement of any memorial plaques to individuals or other similar features on donated public facilities. Plaques or signs acknowledging the contribution of community groups or funding authorities will be acceptable*
- Native Title Act 1993 (Cth)
- Crown Land Management Act 2016
- Local Government Act 1993

**Consultation**

Staff have discussed the request with the applicant and support the donation of the seat and foundation slab in the location identified. Staff have also advised the applicant that the installation of the plaque is inconsistent with Council's Donated Facilities on Public Land Policy and will therefore not be recommended by staff.

As part of these discussions staff have suggested the following wording with the applicant if Council resolve to vary the policy.

*The RSL, RFS & Minnie Water community acknowledge the contribution of  
Henry 'Corky' Caldwell  
Volunteer, WW2 veteran, Order of Australia & Queens Medal recipient.*

**Legal and Risk Management**

The proposed location is Lot 7303 DP1153056 being part of Minnie Water Foreshore Reserve (R 84129), Native Title has been determined to not exist in this location.

**Climate Change**

If Council resolves to accept the donated the seat, foundation concrete slab and plaque, this will constitute new work and with new provision of any new asset resources will be consumed and emissions produced factors that contribute to climate change, to minimise the impact the materials used will contain a high content of material that can be recycled at the end of its useful life.

|             |                                       |
|-------------|---------------------------------------|
| Prepared by | David Sutton, Open Spaces Coordinator |
| Attachment  | Request from Toni Borthwick           |

|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6c.21.093</b> | <b>REQUEST TO TRANSFER PRIVATE WATER SERVICE FROM PROPERTY 115055 TO PROPERTY 115025</b> |
|-------------|------------------|--|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Works & Civil                           |              |
| <b>Reviewed by</b> | Manager - Water Cycle (Greg Mashiah)    |              |
| <b>Attachment</b>  | Confidential                            |              |

**SUMMARY**

The owner of Properties 115055 and 115025 has requested the transfer of an existing private water service between the two properties. As the transfer would be classified as a new private water service, and the Sewer and Water Connection Policy does not permit new private water services, the matter is reported to Council for consideration.

**OFFICER RECOMMENDATION**

That Council approve transfer of the existing private water service from Property 115055 to Property 115025, with a standard 20mm connection fee applying to the transferred connection.

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, 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 2.1.1 Maintain and renew water and sewer networks

**BACKGROUND**

Properties 115025 and 115055 are currently in the same ownership, with property 115055 serviced by a private water service (i.e. it is more than 225 metres from Council's reticulation) which passes through property 115025 although the latter is not currently serviced and does not pay a water availability charge. The owner wishes to sell property 115025 as a serviced lot and has requested that the existing private water service be transferred between the two properties. As these are separate properties the transfer would need to be processed as a disconnection of lot 115055 and a new connection for property 115025.

**KEY ISSUES**

Section 4.2.1 of the *Sewer and Water Connection Policy* indicates:

*Only properties within 225 metres of Council's water mains via public access road or easements in Council's favour are eligible to connect to Council's water supply. As per Council resolution 15.027/16 at the April 2016 meeting, Council's Private Water Line Connection Policy was revoked, noting however that "grandfathering" conditions will continue to apply for existing services and properties serviced by private services which are being charged water availability.*

As Property 115025 does not currently pay water availability charge, under the policy it is not eligible for a water connection. One of the issues with private water services outlined in report 15.027/16 was that where the service passes through a different property Council frequently became involved in consumption disputes as the owner of the private water service is responsible for all water which passes through the water meter but the cause of the leak could be damage in the third party property. This request to transfer the private

water service is considered to meet the intent of the policy in that a transfer will mean there is not an additional connection (i.e. the total number of private water connections will not be increased) and when property 115025 is sold the existing connection, if retained, would then pass through a third party property and create one of the issues the policy is trying to prevent. The request for the private service to be transferred between the properties is therefore supported. Were the request to transfer the private water service be approved, property 115055 would cease to have any entitlement for future water connection.

Under the adopted fees and charges the new water connection fee for properties not paying a water availability charge as at 28 June 2005 includes a capital component. Were the transfer request to be approved it is considered unreasonable to charge the higher connection fee as the transfer of an existing service is not creating any additional demand on the system. As this is a variation of the adopted fees and charges, specific Council authorisation by resolution is required to charge the standard connection fee.

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Nil

#### **Asset Management**

Nil

#### **Policy or Regulation**

Sewer and Water Connection Policy

#### **Consultation**

Nil

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

Nil

#### **Climate Change**

Nil

|              |                                   |
|--------------|-----------------------------------|
| Prepared by  | Greg Mashiah, Manager Water Cycle |
| Confidential | Request from Property Owner       |

|             |                  |                                     |
|-------------|------------------|-------------------------------------|
| <b>ITEM</b> | <b>6c.21.094</b> | <b>CLARENCE VALLEY SPORTS AWARD</b> |
|-------------|------------------|-------------------------------------|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                  |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |              |
| <b>Attachment</b>  | To be tabled                            |              |

**SUMMARY**

The report requests Council's consideration of funding to support the annual Clarence Valley Sports Awards (CVSA) presentation night.

**OFFICER RECOMMENDATION**

That Council

1. Subject to the event proceeding, allocate a cash donation of \$3,000 for the 2021 Clarence Valley Sports Awards presentation night.
2. Consider, as part of its 2022/2023 budget preparation a recurrent annual sponsorship agreement of \$3,000 for presentation of the annual Clarence Valley Sports Awards presentation.

**COMMITTEE RECOMMENDATION**

Ellem/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, Toms, Simmons

Against: Nil

**LINKAGE TO OUR COMMUNITY PLAN**

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

**BACKGROUND**

In 2020, Council resolved by way of a Notice of Motion (07.20.008) as follows:

1. *That Council, subject to the event proceeding, approve a cash donation of \$3,000 towards the cost for the appearance and travel expenses of a special guest MC at the 2020 Clarence Valley Sports Awards presentation night.*
2. *The donation be funded through the Community Initiatives budget.*

**KEY ISSUES**

A request has been received from the Clarence Valley Sports Awards Committee (attached).

At the end of its term is it appropriate that the current Council consider funding for the current year, but that continued annual support be considered by the new Council through a sponsorship arrangement.

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

The \$3,000 allocation can be funded from the Community Initiatives Program which currently has a balance of \$46,804.50 after funding allocations made at the June Ordinary Meeting.



**Asset Management**

N/A

**Policy or Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

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|              |                                     |
|--------------|-------------------------------------|
| Prepared by  | Laura Black, Acting General Manager |
| To be tabled | CVSA letter of request              |

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|             |                  |                                     |
|-------------|------------------|-------------------------------------|
| <b>ITEM</b> | <b>6c.21.095</b> | <b>GOVERNANCE REPORT 2020/21 Q4</b> |
|-------------|------------------|-------------------------------------|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                           |              |
| <b>Reviewed by</b> | Manager - Organisational Development (Alex Moar) |              |
| <b>Attachment</b>  | Nil  |              |

**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 April 2021 to 30 June 2021.

**OFFICER RECOMMENDATION**

That Council receive and note the Governance report for the period 1 April 2021 to 30 June 2021.

**COMMITTEE RECOMMENDATION**

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, 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 Activities*

The report on legal activities is to contain details of legal activities and proceedings that have been undertaken 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. Note that this timeframe has changed from the previous policy, which specified 21 calendar days.

#### *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 noting there were no proceedings taken by or against Council to be reported.

#### *Complaints Management*

Council responded to four matters referred to it by the NSW Ombudsman during the reporting period:

- An alleged breach of privacy and other concerns around several incidents at Grafton Shopping World in late 2020/early 2021
- Concerns about the regulation of a parking zone in Grafton
- A complaint that the non-payment of rates owing had been unduly outsourced, and
- A series of concerns about the operation of a sawmill at The Pinnacles 2460.

In these four instances Council responded to the Complainant directly. In April, Council also received an enquiry into its complaints management processes from the NSW Ombudsman following Council's direct response to a complainant in March/April 2021. An account of the reforms to Council's processes was provided, including provision of the (then) draft Complaints Management Policy 5.0 which came into effect in June 2021.

Council makes two observations about its interaction with the NSW Ombudsman. First, the time that elapses between the NSW Ombudsman receiving a complaint from a constituent/customer on the one hand and Council receiving the referral of the complaint (in the form of an enquiry) from the Ombudsman on the other varied in the reporting period, from three days to eight weeks. Arguably, delays in correspondence from the Ombudsman to Council hinder Council's capacity to address issues in what complainants feel is a reasonable timeframe. Second, Council confirms that it has not received a formal referral from the NSW Ombudsman concerning issues discussed at the Ordinary Council Meeting May 2021 in relation to property development at 19 Gumnut Road Yamba (see Item 6b.21.024 of the Minutes of the Ordinary Council Meeting May 25).

In April Council provided the IPC (Information and Privacy Commission) with an update on its compliance with the GIPA Act 2009 and the GIPA Regulation 2018 following the IPC's Compliance Report of September 2020.

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

During the period four GIPA formal applications were decided. These were for information pertaining to:

- The Business Development Strategy and Master Plan for the redevelopment of the Brooms Head Holiday Park
- The maintenance of Sullivan's Road, Yamba
- The process for naming the reserve road off Black Mountain Road, Nymboida, and
- Complaints about dogs in Bligh Street, South Grafton.

In all instances, 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.

Currently three GIPA applications sit with Council.

#### *Disclosures of Interests Returns*

Quarterly updates of Disclosures of Interest returns were called for in March. Two Councillors and five managers provided updates. These are available on Council's website. Compulsory annual returns for 2020-21 are now due.

#### *Insurance Claims*

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

There were 53 claims lodged for the period.

#### **INSURANCE CLAIMS 1 April 2021 to 30 June 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        | 9                   | 0                  | 0               | 9              | 0              | 0                   | 8,000.00                       |
| Public Liability (Property) | 44                  | 1                  | 33              | 2              | 8              | 0                   | 1,819.25                       |
| Public Liability (Injury)   | 0                   | 0                  | 0               | 0              | 0              | 1                   | 427.00                         |
| Property                    | 0                   | 0                  | 0               | 0              | 0              | 0                   | 0.00                           |
| <b>Total</b>                | <b>53</b>           | <b>1</b>           | <b>33</b>       | <b>11</b>      | <b>8</b>       | <b>1</b>            | <b>10,246.25</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 |
|-------------|---------------------------------|

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|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6c.21.096</b> | <b>2020/21 OPERATIONAL PLAN – QUARTERLY REVIEW AS AT 30 JUNE 2021</b> |
|-------------|------------------|---|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                  |              |
| <b>Reviewed by</b> | A/General Manager (Laura Black)         |              |
| <b>Attachment</b>  | To be tabled                            |              |

**SUMMARY**

This report provides the final quarterly review on Council's performance of fulfilling its actions, services, projects and programs in the 2020/21 Operational Plan.

**OFFICER RECOMMENDATION**

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

**COMMITTEE RECOMMENDATION**

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, 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 23 June 2020 Council adopted the 2020/21 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 2020/21 financial year.

**KEY ISSUES**

The one year Operational Plan is a sub-plan of the 2017/21 Delivery Program, which identifies activities (programs, services and projects) to be delivered by Council during the 2020/21 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 2020/21 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.21.097 | MONTHLY INVESTMENT REPORT – JUNE 2021 |
|------|-----------|---------------------------------------|

|                    |  |              |
|--------------------|--|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee          | 20 July 2021 |
| <b>Directorate</b> | Corporate & Governance                           |              |
| <b>Reviewed by</b> | A/Manager - Finance & Supply (Michael Salvestro) |              |
| <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 June 2021 be received and noted.

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: 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**

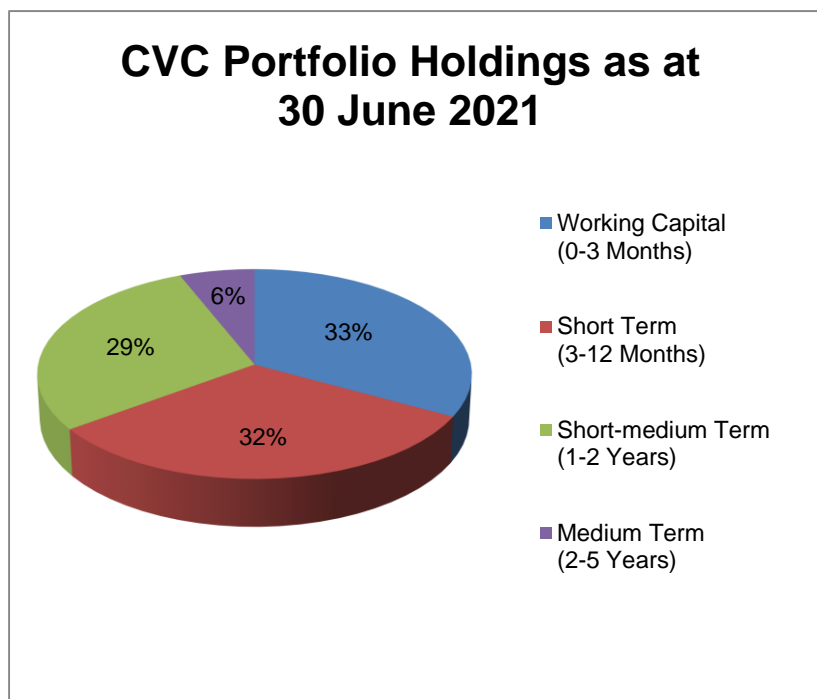
Tabled below is a summary of Council's investments as at 30 June 2021 which details compliance with Council's Investment Policy Portfolio Credit Limits.

| Portfolio Credit Limits as at 30 June 2021 |                                      |                           |                           |                                  |
|--|--------------------------------------|---------------------------|---------------------------|----------------------------------|
| Credit Rating<br>Long Term                 | Investment Policy<br>Maximum Holding | Total Investments<br>Held | % of Total<br>Investments | Complies with<br>Policy (yes/no) |
| AAA  | 100.00%                              | 4,990,280                 | 3.76%                     | Yes                              |
| AA   | 100.00%                              | 50,689,993                | 38.23%                    | Yes                              |
| A  | 60.00%                               | 18,250,000                | 13.76%                    | Yes                              |
| BBB  | 50.00%                               | 58,666,883                | 44.24%                    | Yes                              |
| <b>TOTAL INVESTMENTS</b>                   |                                      | <b>132,597,156</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 June 2021. Excluding "at-call" working capital, 39.22% 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 June 2021 which details compliance with Council's Investment Policy Counterparty Limits.

| <b>Individual Institution or Counterparty Limits as at 30 June 2021</b> |                                |  |                               |                               |                                      |
|---|--------------------------------|--|-------------------------------|-------------------------------|--------------------------------------|
| <b>Financial Institution</b>  | <b>Credit Rating Long Term</b> | <b>Investment Policy Maximum Holding</b> | <b>Total Investments Held</b> | <b>% of Total Investments</b> | <b>Complies with Policy (yes/no)</b> |
| <b>TERM DEPOSITS</b>  |                                |  |                               |                               |                                      |
| AMP   | BBB                            | 15.00%                                   | 8,000,000                     | 6.03%                         | Yes                                  |
| BoQ   | BBB+                           | 15.00%                                   | 11,000,000                    | 8.30%                         | 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%                                   | 15,000,000                    | 11.31%                        | Yes                                  |
| NAB   | AA-                            | 30.00%                                   | 18,000,000                    | 13.57%                        | 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>98,000,000</b>             | <b>73.91%</b>                 |                                      |
| <b>MANAGED FUNDS</b>  |                                |  |                               |                               |                                      |
| TCorp   | AAA                            | 40.00%                                   | 490,280                       | 0.37%                         | Yes                                  |
| <b>TOTAL MANAGED FUNDS</b>  |                                |  | <b>490,280</b>                | <b>0.37%</b>                  |                                      |
| <b>FUNDS AT CALL</b>  |                                |  |                               |                               |                                      |
| AMP   | BBB                            | 15.00%                                   | 8,357,804                     | 6.30%                         | Yes                                  |
| AMP   | BBB                            | 15.00%                                   | 1,059,079                     | 0.80%                         | Yes                                  |
| ANZ   | AA-                            | 30.00%                                   | 6,788,450                     | 5.12%                         | Yes                                  |
| CBA   | AA-                            | 30.00%                                   | 10,840,060                    | 8.18%                         | Yes                                  |
| CBA   | AA-                            | 30.00%                                   | 7,061,483                     | 5.33%                         | Yes                                  |
| <b>TOTAL FUNDS AT CALL</b>  |                                |  | <b>34,106,876</b>             | <b>25.72%</b>                 |                                      |
| <b>TOTAL INVESTMENTS</b>  |                                |  | <b>132,597,156</b>            | <b>100.00%</b>                |                                      |

| Register of Investments - Clarence Valley Council<br>as at 30 June 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  | 490,280                | 0.37%                  | At-Call       | 0.12%             | AAA                     |
| AMP Bank Ltd  | 8,357,804              | 6.30%                  | At-Call       | 0.55%             | BBB                     |
| AMP Bank Ltd  | 1,059,079              | 0.80%                  | At-Call       | 0.50%             | BBB                     |
| ANZ Banking Group Ltd   | 6,788,450              | 5.12%                  | At-Call       | 0.05%             | AA-                     |
| Commonwealth Bank of Australia  | 10,840,060             | 8.18%                  | At-Call       | 0.00%             | AA-                     |
| Commonwealth Bank of Australia  | 7,061,483              | 5.33%                  | At-Call       | 0.05%             | AA-                     |
| AMP Bank Ltd  | 1,000,000              | 0.75%                  | 31/08/2021    | 0.80%             | BBB                     |
| Bank Of Queensland Ltd  | 1,000,000              | 0.75%                  | 06/07/2021    | 0.95%             | BBB+                    |
| Bank Of Queensland Ltd  | 2,000,000              | 1.51%                  | 08/07/2021    | 0.95%             | BBB+                    |
| Credit Union Australia  | 2,000,000              | 1.51%                  | 07/07/2021    | 0.50%             | BBB                     |
| National Australia Bank   | 2,000,000              | 1.51%                  | 11/08/2021    | 0.85%             | AA-                     |
| National Australia Bank   | 2,000,000              | 1.51%                  | 10/09/2021    | 0.75%             | AA-                     |
| <b>TOTAL WORKING CAPITAL (0-3 MONTHS)</b>                               | <b>44,597,156</b>      | <b>33.63%</b>          |               | <b>0.31%</b>      |                         |
| <b>SHORT TERM (3-12 MONTHS)</b>   |                        |                        |               |                   |                         |
| AMP Bank Ltd  | 2,000,000              | 1.51%                  | 02/12/2021    | 1.45%             | BBB                     |
| AMP Bank Ltd  | 3,000,000              | 2.26%                  | 05/03/2022    | 0.95%             | 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+                    |
| Bank Of Queensland Ltd  | 1,000,000              | 0.75%                  | 09/05/2022    | 3.60%             | 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                       |
| 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+                    |
| National Australia Bank   | 2,000,000              | 1.51%                  | 02/12/2021    | 0.50%             | AA-                     |
| Westpac Bank  | 1,000,000              | 0.75%                  | 16/11/2021    | 1.24%             | AA-                     |
| <b>TOTAL SHORT TERM (3-12 MONTHS)</b>                                   | <b>42,000,000</b>      | <b>31.67%</b>          |               | <b>1.00%</b>      |                         |

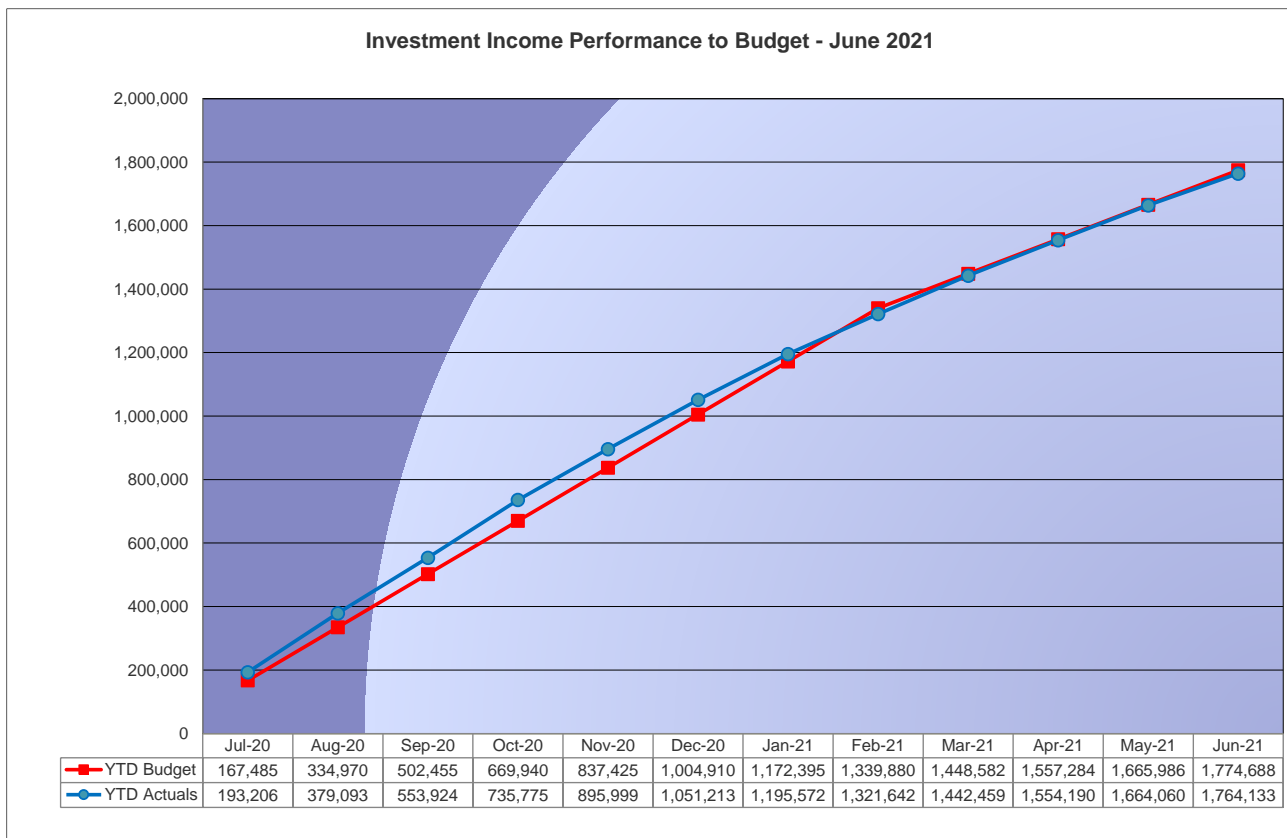
| Financial Institution                      | Total Investments Held | % of Total Investments | Maturity Date | Investment Return | Credit Rating Long Term |
|--|------------------------|------------------------|---------------|-------------------|-------------------------|
| <b>SHORT - MEDIUM TERM (1-2 YEARS)</b>     |                        |                        |               |                   |                         |
| AMP Bank Ltd                               | 2,000,000              | 1.51%                  | 14/11/2022    | 0.55%             | BBB                     |
| Bank Of Queensland Ltd                     | 1,000,000              | 0.75%                  | 03/08/2022    | 3.60%             | BBB+                    |
| Bank Of Queensland Ltd                     | 2,000,000              | 1.51%                  | 08/02/2023    | 3.55%             | 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%                  | 9/03/2023     | 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-                     |
| P&N Bank                                   | 3,000,000              | 2.26%                  | 13/03/2023    | 0.55%             | BBB                     |
| RaboDirect (Australia) Ltd                 | 2,000,000              | 1.51%                  | 13/09/2022    | 3.40%             | A+                      |
| RaboDirect (Australia) Ltd                 | 1,000,000              | 0.75%                  | 05/12/2022    | 3.21%             | A+                      |
| Westpac Bank                               | 2,000,000              | 1.51%                  | 18/07/2022    | 1.06%             | AA-                     |
| Westpac Bank                               | 2,000,000              | 1.51%                  | 13/03/2023    | 0.94%             | AA-                     |
| <b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b> | <b>38,000,000</b>      | <b>28.66%</b>          |               | <b>1.15%</b>      |                         |
| <b>MEDIUM TERM (2-5 YEARS)</b>             |                        |                        |               |                   |                         |
| Bank Of Queensland Ltd                     | 2,000,000              | 1.51%                  | 21/08/2023    | 3.60%             | BBB+                    |
| National Australia Bank                    | 2,000,000              | 1.51%                  | 12/01/2026    | 1.00%             | AA-                     |
| 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                               | 1,000,000              | 0.75%                  | 20/06/2024    | 0.85%             | AA-                     |
| <b>TOTAL MEDIUM TERM (2-5 YEARS)</b>       | <b>8,000,000</b>       | <b>6.03%</b>           |               | <b>2.53%</b>      |                         |
| <b>TOTAL INVESTMENTS</b>                   | <b>132,597,156</b>     | <b>100.00%</b>         |               | <b>0.90%</b>      |                         |

## COUNCIL IMPLICATIONS

### Budget/Financial

| <b>Portfolio Investment Returns to 30 June 2021</b> |                    |                       |                     |
|---|--------------------|-----------------------|---------------------|
|   | <b>Actual</b>      | <b>Budget 2020/21</b> | <b>Over/(Under)</b> |
| <b>This Month</b>                                   |                    |                       |                     |
| Cash Deposits & FRNs                                | \$100,038          | \$108,682             | (\$8,644)           |
| Managed Funds                                       | \$35               | \$20                  | \$15                |
|   | <b>\$100,073</b>   | <b>\$108,702</b>      | <b>(\$8,629)</b>    |
| <b>Year to Date</b>                                 |                    |                       |                     |
| Cash Deposits & FRNs                                | \$1,762,565        | \$1,772,608           | (\$10,043)          |
| Managed Funds                                       | \$1,568            | \$2,080               | (\$512)             |
|   | <b>\$1,764,133</b> | <b>\$1,774,688</b>    | <b>(\$10,555)</b>   |

- Actual results have shown that total interest income to 30 June 2021 is \$10.555K under the 2020-21 YTD revised budget of \$1.774M.

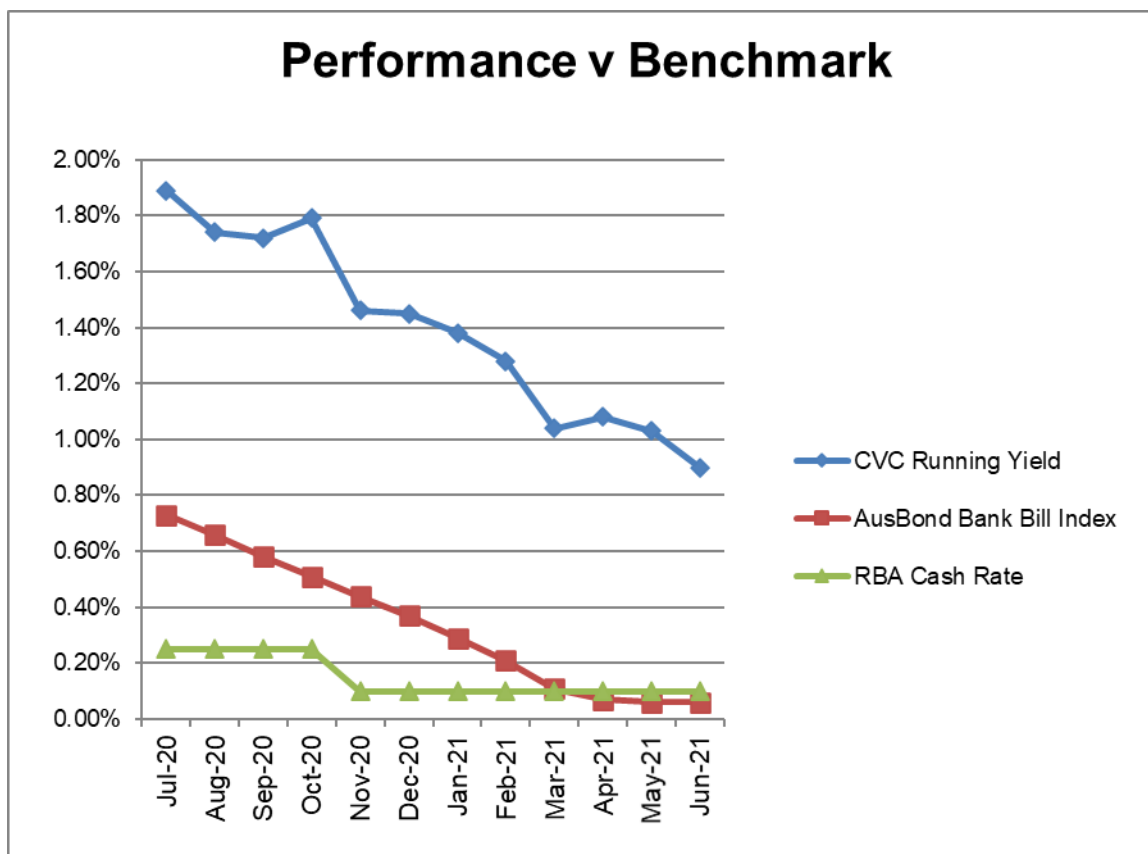


- Running yields\* to 30 June 2021 have been:

|                      |              |
|----------------------|--------------|
| AMP Business         | 0.50%        |
| AMP 31 Day Notice    | 0.55%        |
| ANZ Premium Business | 0.05%        |
| CBA General          | 0.00%        |
| 24hr Call Account    | 0.05%        |
| T-CorpIM Cash Fund   | 0.12%        |
| Term Deposits        | <u>1.16%</u> |
| <b>Total</b>         | <b>0.90%</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 June was 0.10%. The benchmark AusBond Bank Bill Index was 0.06% for June.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +0.90% (May 1.03%).



The following investments were transacted during June:

- BOQ \$2.0m TD matured 4/6/2021 - redeemed
- New NAB \$2.0m TD – invested 4/6/2021 at 0.55% for 2 years – matures 5/6/2023
- New ME Bank \$5.0m TD – invested 9/6/2021 at 0.47% for 1 year – matures 9/6/2022
- Rabo Bank \$2.0m TD matured 14/6/2021 – redeemed
- New NAB \$2.0m TD – invested 16/6/2021 at 0.55% for 2 years – matures 15/6/2023
- New ME Bank \$2.0m TD – invested 16/6/2021 at 0.50% for 1 year – matures 16/6/2022
- Rabo Bank \$1.0m TD matured 21/6/2021 – redeemed
- New Westpac Bank \$1.0m TD – invested 21/6/2021 at 0.85% for 3 years – matures
- BOQ \$1.0m TD matured 29/6/2021 - redeemed

**Asset Management**

N/A

**Policy or Regulation**

- *Local Government Act 1993*
- Part 9, Division 5, Clause 212 of the *Local Government (General) Regulation 2005*
- Investment Policy

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

Climate change impact of the current investment portfolio has not been undertaken. Investments are driven by the current Investment Policy.

|             |   |
|-------------|---|
| Prepared by | Kirsty Gooley – Acting Financial Accountant     |
| Attachment  | A: Movement of Funds Between Months – June 2021 |

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6c.21.098</b> | <b>NAMING OF ROAD "SHIRLEY ADAMS WAY"</b> |
|-------------|------------------|---|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee | 20 July 2021 |
| <b>Directorate</b> | Works & Civil                           |              |
| <b>Reviewed by</b> | A/General Manager - (Laura Black)       |              |
| <b>Attachment</b>  | Nil                                     |              |

**SUMMARY**

This report brings before Council progress with implementation of the Council resolution of September 2020 (MIN07.20.013) to progress actions required to name the roadway on the Summerland Way from the roundabout on Big River Way, South to the traffic lights at the Clarence Street intersection "Shirley Adams Way".

**OFFICER RECOMMENDATION**

That Council receive and note the information provided in the report, regarding progress with naming the roadway on the Summerland Way from the roundabout on Big River Way, South to the traffic lights at the Clarence Street intersection "Shirley Adams Way".

**COMMITTEE RECOMMENDATION**

Lysaught/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, 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**

In September 2020, Council resolved at Item 07.20.013:

*That Council*

1. *Support the proposal to name the roadway on the Summerland Way from the roundabout on Big River Way, South Grafton to the traffic lights at the Clarence Street intersection "Shirley Adams Way".*
2. *Place the proposed name on public exhibition for a period of 28 days.*
3. *Seek approval from Transport for NSW and the Geographic Names Board for this name and.*
4. *Meet the advertising and new signage costs from existing budget allocations.*

**KEY ISSUES**

Community consultation is currently ongoing, by Transport for NSW (TfNSW) and Council in partnership, to determine a name for the new Grafton bridge.

Consultation with the community has identified a strong desire for the new bridge to have an Aboriginal name, and a number of suggestions have been proposed. TfNSW is continuing these discussions with the local Aboriginal community to reach an agreed consensus on the proposed name and it is expected that an outcome may be advised by August 2021.

On the basis of current consultation for naming of the Grafton bridge, TfNSW has requested that naming the roadway on the Summerland Way from the roundabout on the Big River Way, South Grafton to the traffic lights at the Clarence Street intersection “Shirley Adams Way” be delayed until such time as the bridge has been named.

An alternative solution has been proposed to rename the road over the old bridge (which was known as Summerland Way, now known as Craig Street) ‘Shirley Adams Way’.



By the will of Council an alternative motion and resolution to that proposed in the officer’s report might be:

That Council

1. Support the proposal to name the roadway over the old Grafton bridge, currently known as “Craig Street”, “Shirley Adams Way” and in doing so seek the agreement of Shirley Adams family.
2. Place the proposed name on public exhibition for a period of 28 days.
3. Seek approval from Transport for NSW and the Geographical Names Board for this name.
4. Meet the advertising and new signage costs from existing budget allocations for such works.

## COUNCIL IMPLICATIONS

### Budget/Financial

The cost of advertising and new signage is to be met from existing budget allocations.

### Asset Management

Craig Street is an RMS asset.

### Policy or Regulation

Roads Act 1993  
Roads Regulations 2018  
Road and Street Naming Policy

### Consultation

Community consultation is proposed through Council’s website and Friday Noticeboard publication.

### Legal and Risk Management

N/A



**Climate Change**

N/A

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|             |                                     |
|-------------|-------------------------------------|
| Prepared by | Laura Black, Acting General Manager |
|-------------|-------------------------------------|

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**ITEM 6c.21.099 WORKS REPORT**

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|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Corporate, Governance & Works Committee   | 20 July 2021 |
| <b>Directorate</b> | Works & Civil                             |              |
| <b>Reviewed by</b> | Director - Works & Civil (Jamie Fleeting) |              |
| <b>Attachment</b>  | Nil                                       |              |

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**SUMMARY**

Reports on capital and major maintenance works carried out by the Works and Civil Group until late June 2021.

**OFFICER RECOMMENDATION**

That the Works report be received and noted.

**COMMITTEE RECOMMENDATION**

Simmons/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Lysaught, Ellem, 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 reporting.


**KEY ISSUES**

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

|                             |  |  |
|-----------------------------|--|--|
| <b>Project:</b>             | Brooms Head Water Main Replacement   |  |
| <b>Project Description:</b> | Renewal of 1.2km of 200mm diameter water main between Sandon Road and Hibiscus St  |  |
| <b>Budget:</b>              | \$540,000  |  |
| <b>Expenditure:</b>         |  |  |
| <b>Status:</b>              | <ul style="list-style-type: none"> <li>Project commenced in June, with HDPE pipes currently being welded and strung out. Installation using horizontal directional drilling to commence in July</li> </ul> |  |

|                             |   |   |
|-----------------------------|---|---|
| <b>Project:</b>             | Iluka STP Hardstand   |  |
| <b>Project Description:</b> | Concrete hardstand constructed to aid in the management of biosolids produced in the treatment process. |   |
| <b>Budget:</b>              | \$425,635   |   |
| <b>Expenditure:</b>         | \$425,305   |   |
| <b>Status:</b>              | <ul style="list-style-type: none"> <li>90% complete</li> </ul>  |   |

|                             |   |  |
|-----------------------------|---|--|
| <b>Project:</b>             | Ken Leeson Oval Sports Amenities Upgrade  |  |
| <b>Project Description:</b> | To upgrade the canteen, accessible public amenities, and change rooms   |  |
| <b>Budget:</b>              | \$564,678   |  |
| <b>Expenditure:</b>         | \$539,745   |  |
| <b>Status:</b>              | <ul style="list-style-type: none"> <li>Completed. Funded by the Federal Government Community Development Programme; awaiting opening by Kevin Hogan MP</li> </ul> |  |

|                             |   |  |
|-----------------------------|---|--|
| <b>Project:</b>             | Townsend Industrial Estate  |  |
| <b>Project Description:</b> | To upgrade the heavy vehicle route in the Townsend Industrial Estate.   |  |
| <b>Budget:</b>              | \$1,961,080   |  |
| <b>Expenditure:</b>         | \$10,000  |  |
| <b>Status:</b>              | <ul style="list-style-type: none"> <li>Project commenced in Early July, with first stage of road widening and kerb currently under construction.</li> </ul> |  |

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

N/A

**Asset Management**

Maintenance standards are undertaken in accordance with that detailed in the relevant Asset Management Plan. Capital works are as detailed in the Delivery Plan and Operational Plan.

**Policy or Regulation**

There are no policy or regulation implications.

**Consultation**

Consultation has been held internally with Civil Services Section and Water Cycle Section and Open Spaces and Facilities Section.

**Legal and Risk Management**

There are no legal or risk management implications.

**Climate Change**

There are no climate change implications.

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|             |  |
|-------------|--|
| Prepared by | Dylan Kelly, Greg Mashiah, Peter Birch |
| Attachment  | Nil                                    |

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## d. INFORMATION ITEMS

| ITEM               | 6d.21.006                       | ITEMS FOR INFORMATION |
|--------------------|---------------------------------|-----------------------|
| <b>Meeting</b>     | Council                         | 27 July 2021          |
| <b>Directorate</b> | Office of General Manager       |                       |
| <b>Reviewed by</b> | A/General Manager - Laura Black |                       |
| <b>Attachment</b>  | Yes                             |                       |

**OFFICER RECOMMENDATION**

That the Items for Information as listed below be noted:

1. Clarence Valley Transport Committee – Minutes for 9 June 2020.
2. Clarence Valley Floodplain Risk Management Committee – Minutes for 11 June 2021
3. CVC Climate Change Advisory Committee – Minutes for 12 March 2021
4. Wooloweyah Parks & Reserve Management Committee – Minutes for 4 May 2021
5. Dams Safety NSW – Advising no levy will be introduced in July 2021

|             |   |
|-------------|---|
| Prepared by | Lesley McBay, Coordinator Executive Support |
| Attachments | As listed above                             |

## e. TENDERS

|             |                  |  |
|-------------|------------------|--|
| <b>ITEM</b> | <b>6e.21.013</b> | <b>T20/021 - SHANNON CREEK DAM REMEDIATION OF TAILWATER DAM AND ACCESS TRACK</b> |
|-------------|------------------|--|

|                    |                                      |              |
|--------------------|--------------------------------------|--------------|
| <b>Meeting</b>     | Council                              | 27 July 2021 |
| <b>Directorate</b> | Works & Civil                        |              |
| <b>Reviewed by</b> | Manager - Water Cycle (Greg Mashiah) |              |
| <b>Attachment</b>  | Confidential                         |              |

**SUMMARY**

In December 2018 the rock gabion dam at the foot of the Shannon Creek Dam spillway was severely damaged by erosion due to a 1% Average Exceedance Probability (AEP) flood event which resulted in more than 2 metres of water over the Shannon Creek spillway. Significant erosion also occurred on the access track due to poor drainage. Council called open tenders, closing on 9 July 2021, for the design and construction of remediation works to the gabion wall and access track. Two tenders were received. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Civil Mining and Construction Pty Ltd is the most advantageous for Council and recommends that this tender be accepted.

**OFFICER RECOMMENDATION**

That:

1. Council accept the tender from Civil Mining and Construction Pty Ltd for T20/21 – Shannon Creek Dam Remediation of Tailwater Dam and Access Track in the amount of \$1,259,035.64 (GST inclusive), to be funded from PJ950564 and PJ950572.
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**

Following the damage to the gabion tailwater dam, Council's dam safety consultant (Public Works Advisory - PWA) was engaged to determine feasible remediation options. Three options were assessed, with PWA concluding the most cost-effective option would be to construct a similar gabion structure in the same alignment but more structurally stable than the original gabion wall. The key change with the new gabion wall is that it will be designed to withstand a 0.5% AEP event as compared to the original wall design that was designed for a 1% AEP event.

The PWA report and an associated hydrological assessment was used as the basis for a "design and construct" tender for undertaking the remediation works.

**KEY ISSUES**

Tenders were assessed by a TEC comprising Clarence Valley and Coffs Harbour City Council (CHCC) staff using a weighting of 60% price and 40% non price. Two tenders were received by the closing date and time, with both tenders assessed by the TEC as conforming.

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*, the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Civil Mining and Construction 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. Given the amount of foundation work required in this contract, 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 budget allocation for Financial Project 950564 (Shannon Creek Dissipator Gabion Wall Repair) is \$1.000 million and the allocation for Financial Project 950572 (Shannon Creek Drainage Upgrade) is \$0.205 million, giving a total available budget of \$1.205 million. The recommended tenderer amount is \$1.145 million (ex GST). As per the adopted budget CHCC are financially contributing to the remediation, which is why a CHCC staff member participated in the tender evaluation process.

**Asset Management**

The contract will remediate an asset which is at end of life to an as new condition.

**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**

Public Works Advisory  
Coffs Harbour City Council

**Legal and Risk Management**

The Tendering process has followed the requirements of the Local Government Act and Regulation. Partners/Directors of the two tenderers are:

| Name of Company                       | Name of Partners and Directors |
|---------------------------------------|--------------------------------|
| Civil Mining and Construction Pty Ltd | Peter Kendall & David Ahern    |
| Entracon Civil Pty Ltd                | Stephen Pinter & Sam Spicer    |

**Climate Change**

The hydrological assessment was based on *Australian Rainfall and Runoff, 2019* which incorporates consideration of predicted rainfall intensity changes. The change in the design of the gabion wall from a 1% AEP to a 0.5% AEP will increase the future resilience of the structure.

|              |                                    |
|--------------|------------------------------------|
| Prepared by  | Greg Mashiah, Manager Water Cycle. |
| Confidential | Tender Evaluation Committee Report |

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>6e.21.014</b> | <b>T21/019 CHRISTOPHER CREEK PENSTOCK PIT CONSTRUCTION &amp; INSTALLATION</b> |
|-------------|------------------|---|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Council                                   | 27 July 2021 |
| <b>Directorate</b> | Works & Civil                             |              |
| <b>Reviewed by</b> | Director - Works & Civil (Jamie Fleeting) |              |
| <b>Attachment</b>  | Confidential                              |              |

**SUMMARY**

Council called open tenders for the construction of a concrete pit and installation of a penstock located at Christopher Creek, South Grafton. The tender evaluation committee (TEC) considers the Tender, which having regard to all the circumstances (price and non-price criteria) the most advantageous to Council is the Tender from Ledonne Constructions Pty Ltd and recommends this Tender be accepted.

**OFFICER RECOMMENDATION**

That:

1. Council award Tender T21-019 to Ledonne Constructions Pty Ltd at a cost of \$388,567 (GST inclusive), to be funded from Financial Projects 941068 (Christopher Creek Penstock) and 941067 (Urban Floodplain Asset Renewal).
2. The General Manager be authorised to approve variations up to 10% 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 2.1.2 Ensure adequate natural disaster management

**BACKGROUND**

An open tender process for the provision of the construction of a penstock pit and penstock installation was called on 21 June 2021 and closed on the 12 July 2021. The tenders were evaluated in accordance with a Tender Evaluation Plan to identify the most advantageous (best value for money) tender to Council.

Penstocks are a type of floodgate located in a drainage outlet through a levee. Penstocks are manually closed (wound down) at a defined level when the river rises and typically act as a back-up to the flap floodgate located at the end of the pipe, i.e. if debris prevents the flap floodgate fully closing the river water is still prevented from entering town by the fully closed penstock.

There are numerous penstocks located in the Clarence Valley (mainly in North Grafton and Maclean), but the South Grafton levee system was constructed without penstocks. Earlier in 2021 the first penstock for South Grafton was installed at the Heber Street drain outlet near Bunnings. The Christopher Creek penstock is proposed to be the second.

Because the construction works require careful excavation around an urban levee, the timing of this tender award is scheduled to ensure works are undertaken during the months with the lowest likelihood of a Clarence River flood (between October and December). However, a Flood Management Plan will be prepared prior to the commencement of works to ensure full re-instatement of flood defences should a flood occur during construction.





Figure 5. Location of Christopher Creek Penstock

**KEY ISSUES**

The TEC comprised staff from the Water Cycle section of Council. Tenders were assessed using a weighting of 60% price and 40% non-price criteria, and a detailed report from the TEC is included in the Confidential Attachments. At the closing date Council received two tenders. Tenders were received from:

| Tenderer                      | Directors                                     | 'Local Supplier' as per Sustainable Procurement Policy |
|-------------------------------|---|--|
| EIRE Constructions Pty Ltd    | Tadhg Brendan Kelliher, Eamon Thomas Kelliher | ✘  |
| Ledonne Constructions Pty Ltd | Tony Ledonne                                  | ✔  |

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 Ledonne Constructions Pty Ltd 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 there is significant excavation work in this project, 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 2020/21 budget allocation for Financial Project 941068 (Christopher Creek Penstock) is \$200,745. The recommended Tenderer's price of \$353,242.73 (ex GST) is approximately 76% higher than the budget allocation. This is considered another example of the current market forces and issues outlined in report 6a.21.022 to the 25 May 2021 Council meeting:

*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 costs.*

As the recommended tendered price exceeds the available budget, options open to Council under Section 178 of the Regulation are:

1. Increase the budget for this project. *This is the recommended approach for the reasons outlined below.*
2. Postpone or cancel the proposal for the contract. *This is not recommended as the penstock is an important asset for the South Grafton community.*
3. Re-tender the work. *As this was an open tender it is not considered retendering will give any lower priced tenders.*
4. Reject all tenders and retender the work using a revised (reduced) scope of work. *There is no way of reducing the scope, as the penstock design has been undertaken by a Structural Engineer and is comparable to the penstock installations located in North Grafton.*
5. Reject all tenders and enter into negotiation with any person to undertake some or all of the work. *It is considered unlikely there would be any cost reduction if the work was directly negotiated.*

It is proposed that the funding shortfall be met from Financial Project 941067 (Urban Floodplain Asset Renewal). The 2021/22 budget allocation for FP941067 in 2021/22 is \$460,000, and to provide the allowance for 15% variations this PJ will need to contribute up to \$205,500. The contribution will require the proposed construction works for the Alummy Creek levee to be deferred until 2022/23, noting that due to the uncertainty of agency approval timing approvals the Alummy Creek levee project may not have commenced construction this financial year. Pre-construction activities for the Alummy Creek project (design, environmental and agency approvals) will continue in 2021/22 with the available funds.

#### **Asset Management**

Several new assets (penstock) will be added to Council's asset register as a result of this project.

#### **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  | Kieran McAndrew (Floodplain Coordinator) and Greg Mashiah (Manager Water Cycle) |
| Confidential | Tender Evaluation Report  |

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**ITEM 6e.21.015 T21/017 – SUPPLY OF HIRED PLANT**


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|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Council                                   | 27 July 2021 |
| <b>Directorate</b> | Works & Civil                             |              |
| <b>Reviewed by</b> | Director - Works & Civil (Jamie Fleeting) |              |
| <b>Attachment</b>  | Confidential                              |              |

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**SUMMARY**

Tenders have been called for the supply of plant hire wet (with operator) and dry (without operator) to Council for the remainder of the 2021/2022 financial year. This report is to accept the tenders received to be included on a Panel of Suppliers for use as required during the 2021/2022 financial year.

**OFFICER RECOMMENDATION**

That Council accept the tenders onto a panel of suppliers as recommended in the confidential attachment.

**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 requires in addition to its owned plant and equipment the hire of both (wet and dry) plant and equipment to complete construction and maintenance works throughout the year. This may require that Council:

- Engage a Supplier to provide services that exceed \$250,000 in value for any single event;
- Engage a Supplier to provide services that exceed \$250,000 in value over a number of events; or
- Engage a Supplier to provide services that exceed \$250,000 in value over a range of disciplines (e.g. plant supply and gravel supply).

To ensure that Council complies with the requirements of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, tenders have been called for the supply of plant hire for the remainder of 2021/2022. Tenderers who supplied conforming tenders will be added to a Panel of Suppliers to be engaged by Council as and when required during the year. Tenderers will be engaged for the supply of plant based on an assessment of:

- the type of plant required
- availability of required plant
- the quality or experience of the operators if 'hiring under a wet hire' arrangement
- the cost or rates provided for each particular work activity being undertaken.

Rates sought for the 2021/2022 FY are considered to represent reasonable market rates.

**KEY ISSUES**

Tenders were called on 03 June 2021 and closed at 3:00pm on 29 June 2021 for the supply of plant hire wet (with operator) and dry (without operator) to Council for the remainder of the 2021/2022 financial year. Submissions were accepted through Tenderlink e-tendering only. This report is to accept the tenders received to be included on a Panel of Suppliers for use as required during the remainder of 2021/2022 financial year.

| <b>Company</b>                             | <b>Directors</b>                                   |
|--|--|
| Lewis Bros Chatsworth Pty Ltd              | Brian D Lewis, Mavis C Lewis                       |
| LITA Jones Bobcat Hire                     | Lex Jones  |
| Lucas Plumbing and Civil                   | Jackson Lucas                                      |
| MJ Smidt Water Tanker Hire                 | Michael Smidt                                      |
| Master Hire Pty Ltd                        | Scott Marchant / Peter Shaw                        |
| McLennan Earthmoving Pty Ltd               | Phil & Cathy McLennan                              |
| Murrays Bobcat Services                    | Craig Murray                                       |
| Newman Quarrying Pty Ltd                   | Mark Newman  |
| NJ Jagoe Earthmoving Constructions Pty Ltd | Naasson Jagoe & Kylie Jagoe                        |
| North Coast Contracting Aust Pty Ltd       | Aaron Rae  |
| Ace Bobcat                                 | Greg Moss  |
| LB Haulage                                 | Ben Lewis, Daniel Lewis and Joanna M Lewis         |
| BD CM Lewis Pty Ltd                        | Brian Dudley Lewis                                 |
| Bell Landscape Construction Services       | Greg Bell  |
| Ben Lewis Dozer Hire                       | Ben Lewis  |
| Brooks Hire Service Pty Ltd                | Douglas Allan Brooks                               |
| C and K Shannon Earthmoving Landscape      | Chris Shannon                                      |
| Cable Pipe Locations Pty Ltd               | Shane Buckley                                      |
| Campbell Constructions Pty Ltd             | Ben Campbell, Sara Campbell                        |
| Chambers Constructions Pty Ltd             | Stephen Chambers                                   |
| PEBI Lloyd                                 | Beverley Lloyd                                     |
| Pilbara Truck Hire Pty Ltd                 | Korey Felstead                                     |
| Porter Excavations Pty Ltd                 | Timothy Porter, Tomokatsu Nakazawa                 |
| RM Earthmoving Pty Ltd                     | Raj Oberoi   |
| Rollers Australia Pty Ltd                  | Julian, Edward, Simon, Dominic O'Neil, Emily Brial |
| SA LJ Anderson Pty Ltd                     | Scott Anderson & Jodie Anderson                    |
| Serendip Holdings NSW Pty Ltd              | Stuart Jonklaas and Suzanne Jonklaas               |
| Smith Plant Hire NSW Pty Ltd               | Dean Smith   |
| Stabilised Pavements of Australia SPA      | Tom Wilmot & Warren Smith                          |
| Tutt Bryant Hire Pty Ltd                   | Chen Wei Ng  |
| Coats Hire Operations Pty Ltd              | Murray Vitlich - CEO                               |
| Conplant Pty Ltd                           | Ian Coleman  |
| Corbett Earthmoving Pty Ltd                | Michael Corbett                                    |
| CWVJ Cooper Pty Ltd                        | Wayne Cooper                                       |
| DP Earthmoving Group Pty Ltd               | Dallas Paine                                       |
| Ezyquip Hire Pty Ltd                       | Gary Gardner                                       |
| Flex Hire Pty Ltd                          | Chris Moyes  |
| Halomy Pty Ltd                             | Myles Light  |
| Jacques Earthmoving                        | Brad Jacques                                       |
| Ledonne Constructions Pty Ltd              | Antonio Ledonne                                    |
| Valley Earthworks Pty Ltd                  | Paul Fuller, Mark Mitchell                         |
| WDI Earthmoving                            | Aaron Howell                                       |

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

Funds for the purchase of hired plant are contained within capital and maintenance budgets.

### **Asset Management**

Supply of plant equipment is required for Council to meet its Roads and Transport Asset Management program

### **Policy or Regulation**

The tendering process followed is consistent with the requirement of the Local Government Act and the Regulation and Council's Sustainable Purchasing 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. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

|                         |  |
|-------------------------|--|
| Prepared by             | Bruce Shorrock – Quarries, Quality, Safety & Environment Officer |
| Confidential Attachment | RFT21/17 - Tender Assessment                                     |

## 7. NOTICE OF MOTIONS

**ITEM 07.21.012 SPORTS MANAGEMENT POLICY AMENDMENT**

|                     |                   |              |
|---------------------|-------------------|--------------|
| <b>Meeting</b>      | Council           | 27 July 2021 |
| <b>Directorate</b>  | Notice of Motion  |              |
| <b>Submitted by</b> | Cr Jason Kingsley |              |
| <b>Attachment</b>   | Nil               |              |

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

**PROPOSED MOTION**

That

1. Council make the following amendments to the Sports Management Policy:
  - a. Amend point 7 (Traditional/non exclusive use and sub letting), dot point 3 to read "In cases where a conflict arises between different sporting organisations and/or with staff, they may be referred to and resolved by the Director responsible for Open Spaces & Facilities or an alternate staff member from the executive team (an alternate Director or the General Manager) in consultation with said sporting organisations. At the Directors discretion, this may include a meeting between the sporting organisation and/or staff with the meeting facilitated by the Director."
  - b. Include the following definition under point 2. (Legislation and definitions), "Multi-use' means intended or suitable for more than one use or purpose".
  - c. Include the following additional dot point under point 3 (Policy statement), "Council promotes the use of all sportsgrounds and facilities under their ownership and/or management as multi-use grounds and facilities."
  - d. Include the following additional dot point under point 7 (Traditional/non exclusive use and sub letting), "That all sportsgrounds and facilities under the ownership and/or management of council be classified as multi-use allowing for much wider use of the grounds or facilities. This includes multiple line markings to all outdoor grounds and indoor facilities to ensure multi-use by different sporting organisations, sporting codes or sporting type."
2. The amended policy be placed on public exhibition for a period of 28 days and if there are no submissions made, that the amendments to the policy be adopted.

**LINKAGE TO OUR COMMUNITY PLAN**

|           |   |
|-----------|---|
| Theme     | 1 Society   |
| Objective | 1.2 We will have a safe, active and healthy region  |
| Strategy  | 1.2.1 Provide, maintain and develop sport and recreational facilities and encourage greater utilisation and participation |

**BACKGROUND**

Clarence Valley Council has no less than 30 sportsgrounds under its ownership and/or management throughout the Valley along with multiple indoor recreational facilities which also cater for a variety of organised sporting activities. Majority, if not all of the sporting grounds and facilities under Council's ownership and/or management are considered multi-use and play host to a wide range of sports, recreational activities and training programs for people of all ages, abilities and fitness levels.

**KEY ISSUES**

Councillors received an email with a detailed attached letter from the Grafton Supa Oldies Soccer Club (SOS) in June of this year regarding multi-use of the playing fields at the Rushforth Park Sportsground. After discussions with the club secretary and a subsequent meeting with members of the committee at the Rushforth Road Sportsground it was evident that there was ambiguity over the multi-use purpose of the fields and this may be the case for other sportsgrounds and facilities under the ownership and/or management of Council.

The current Sports Management Policy does not recognise the sportsgrounds and facilities under its ownership and/or management as multi-use grounds and facilities. While it is broadly accepted that majority of sportsgrounds and facilities have the ability to be used as multi-use and in a lot of cases it has been common practice to use them in this way, there have been a number of situations over recent times that the multi-use of a sportsground has been declined following years of use by multiple organisations. The proposed amendment to the policy will recognise sportsgrounds and facilities under Council's ownership and/or management as multi-use and removes any ambiguity over their intended purpose. The proposed amendment will also ensure that multiple line markings are provided on all grounds and facilities to allow for multi-use. Sporting organisations (users) will be aware upon hiring grounds or facilities that they may be line marked for multi-use and that no user has exclusive rights to the ground or facility, nor do they have the right to request exclusive rights or individual line marking for their sole purpose.

In addition, the proposed amendment to point 7 will allow for an executive staff member (Director or the General Manager) who is independent of any previous conflict resolution process to adjudicate when a conflict arises between different sporting organisations and/or staff. It also opens the door for a face-to-face meeting and discussion with whom the conflict lies to seek an amicable and fair resolution for all parties. The current policy provides the Manager Open Spaces & Facilities the delegation to resolve any conflict, however attempts to resolve the conflict may have already involved the Manager Open Spaces & Facilities without an amicable outcome.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

Staff time to amend the policy and collate any submissions if received following the public exhibition period

### **Policy or Regulation**

Sports Management Policy

### **Consultation**

The amended policy will be placed on public exhibition for 28 days

## **STAFF COMMENT**

The current Sports Management Policy was developed in consultation with the Clarence and Lower Clarence Sports Committees the members being the primary stakeholders of the sports grounds and facilities and reviews of the Policy are performed with both Committees.

The Clarence and Lower Clarence Sports Committees have not had a chance to review the proposed amendments.

The Clarence has a range of single and multi-use sporting facilities which enables varying levels of competition to be played at different facilities. Some single use facilities are purpose built and it would not be recommended to allow multi-sport or multi-line marking at these facilities eg equestrian, netball, squash, BMX etc. As an example, the Clarence hosts several tournaments each year but this is only possible if the facilities meet the required standards. Multi-line marking would put these competitions in jeopardy also causing significant economic loss to the Valley.

The intent of the Sports Management Policy is to achieve equity between sports, sports groups throughout a sports season and year thus enabling 'multi-use' of Council owned and managed sport grounds. Through 'traditional user' the policy also acknowledges that the majority of the sports grounds have been used by sports groups across multiple generations being the sports groups 'home ground'.

Typical examples of the application of the policy being Ellem Oval – AFL (winter) / Cricket (summer); Barry Watts Oval – Soccer (winter) / Cricket (summer); Terry West Field – Soccer (winter) / Athletics (summer); Yamba Ngayundi Sports Complex – Soccer & Touch (winter) / Cricket & Touch (summer); Fisher Park Hockey (winter) / Cricket & Touch (summer).

In the case that two sports use a single ground during a season the ground is double marked with alternate paint, the marking is agreed between the sports groups with Council staff only intervening in the case of dispute. The use of a single ground occurs only when no other suitable grounds are available.

Risks associated with the proposed changes are considered as follows:

- Loss of income due to overplayed and therefore unplayable grounds.
- Increase maintenance costs as sports ground maintenance budget is minimal, the budget enables minimal interventions.
- Damage to playing surface increasing risk of injury - multi-use and line marking is not recommended for sports which have different impacts on the grass surface. For example, soccer and hockey are not compatible as if a hockey ball hits a divot caused by soccer it can cause significant injury to the player. Additionally, equestrian sports should be limited to purpose built facilities only and should not share spaces with non equestrian sports, for the safety of all involved.
- Increased use of fields will require increase operations and maintenance inputs including fertiliser, decompaction, field renovation, etc



**8. CONFIDENTIAL BUSINESS**

|             |                  |   |
|-------------|------------------|---|
| <b>ITEM</b> | <b>08.21.007</b> | <b>CLARENCE COAST HOLIDAY PARKS RESIDENTIAL SITES - ON CROWN LAND</b> |
|-------------|------------------|---|

|                    |   |              |
|--------------------|---|--------------|
| <b>Meeting</b>     | Council                                   | 27 July 2021 |
| <b>Directorate</b> | Works & Civil                             |              |
| <b>Reviewed by</b> | Director - Works & Civil (Jamie Fleeting) |              |
| <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 (c) The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

**09 QUESTIONS WITH NOTICE****10 LATE ITEMS OF BUSINESS AND MATTERS ARISING**

Change to Table of Contents to 25 May 2021 Ordinary Council Meeting Minutes

**11 CLOSE OF ORDINARY MEETING**