

Ordinary Council Meeting

Minutes

22 June 2021



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01. OPENING OF ORDINARY MEETING

MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Council Chambers, Maclean, 22 June 2021 commencing at 2.00pm and closing at 7.15pm.

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

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND

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

ANNOUNCEMENT

All present are advised that this meeting is being broadcast 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 Jim Simmons (Mayor), Cr Jason Kingsley (Deputy Mayor), Cr Andrew Baker, Cr Peter Ellem, Cr Debrah Novak, Cr Greg Clancy, Cr Arthur Lysaught, Cr Karen Toms and Cr Richie Williamson

PRESENT

A/General Manager and Director Corporate & Governance (Laura Black), Director Environment, Planning & Community (Des Schroder), Director Works & Civil (Jamie Fleeting) and Minutes Secretary (Lesley McBay).

02. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE – Mr Ashley Lindsay (General Manager)

03. DISCLOSURES AND DECLARATIONS OF INTEREST**Declarations received at the commencement of and during the Ordinary Meeting**

<i>Name</i>	<i>Item</i>	<i>Interest/Action</i>
Cr Toms	6a.21.028	Pecuniary - Leave the meeting Fees & Charges - Director of company that manages Iluka Holiday Park
Cr Toms	6e.21.012	Significant Non-Pecuniary - Leave the meeting Director of company that manages Iluka Holiday Park and also past tenderer of other parks
Cr Novak	6a.21.032	Pecuniary - Leave the meeting Has a DA for monthly market

Declarations received at Committee Meetings

<i>Name</i>	<i>Item</i>	<i>Interest/Action</i>
Cr Novak	6b.21.029	Pecuniary - Leave the meeting Client of the business
Cr Novak	6b.21.037	Significant Non-Pecuniary - Leave the meeting Children own property in vicinity

04. CONFIRMATION OF MINUTES**COUNCIL RESOLUTION – 04.21.005****Kingsley/Lysaught**

That the Minutes of the Ordinary Meeting of Council dated 25 May 2021, copies of which have been circulated, be taken as read and be confirmed.

Voting recorded as follows:

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

Against: Nil

05. MAYORAL MINUTES – Nil

6. REPORTS**a. GENERAL MANAGER**

ITEM	6a.21.027	2021-2022 RATES AND CHARGES
Meeting	Council	22 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/Manager - Finance & Supply (Michael Salvestro)	
Attachment	Yes	

SUMMARY

This report contains recommendations regarding the making and levying of the Rates and Charges for 2021/2022.

OFFICER RECOMMENDATION

That Council in accordance with the provisions of Sections 493, 494, 496, 501, 502, 503, 542, 552 and 553 of the Local Government Act of 1993 (NSW) make and levy the following Rates and Charges for the year commencing 1 July 2021 and ending 30 June 2022.

1. Ordinary Rates (Section 494)

- (i) A Residential Rate of point five seven seven three cents (0.5773c) in the dollar on the Rateable Land Value of all rateable land categorised as Residential with a minimum rate of Six Hundred and Sixty Dollars (\$660.00), in respect of any separate parcel of rateable land. Land that has been identified as "Residential-Flood Prone Land" the minimum rate/base amount will not apply. The Rate to be known as the "Residential Rate".
- (ii) A Residential Rate of point three seven three seven cents (0.3737c) in the dollar on the Rateable Land Value of all rateable land in the coastal villages of Angourie, Brooms Head, Diggers Camp, Iluka, Minnie Water, Sandon River, Wooli and Wooloweyah categorised as Residential, sub category "A", with a minimum rate of Six Hundred and Sixty Dollars (\$660.00). The rate to be known as the Residential Rate "A".
- (iii) A Residential Rate of point four five one two cents (0.4512c) in the dollar on the Rateable Land Value of all rateable land within the towns of Maclean and Townsend categorised as Residential, sub-category "B", with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 43.50% of the revenue from this rate. The rate to be known as the "Residential Rate B".
- (iv) A Residential Rate of point three two seven seven cents (0.3277c) in the dollar on the Rateable Land Value of all rateable land in the town of Yamba categorised as Residential, sub category "C", with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 32.36% of the revenue from this rate. The rate to be known as the "Residential Rate C".
- (v) A Residential Rate of point eight one zero six cents (0.8106c) in the dollar on the Rateable Land Value of rateable land in the city of Grafton and village of Junction Hill categorised as Residential, sub-category "E" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 36.47% of the revenue from this rate. The rate to be known as the "Residential Rate E".
- (vi) A Business Rate of point six zero one five cents (0.6015c) in the dollar on the Rateable Land Value of all rateable land with a Base Amount of Five Hundred Dollars (\$500.00) for all land categorised as Business. The revenue from the base amount to be approximately 27.77% of the revenue from this rate. The rate to be known as the "Business Rate".
- (vii) A Business Rate of point seven three six four cents (0.7364c) in the dollar on the Rateable Land Value of all rateable land in the Maclean CBD categorised as Business, sub category "B" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to

- be approximately 18.61% of the revenue from this rate. The Rate to be known as the "Business B–Maclean CBD". A map showing this CBD boundary is found in Attachment A.
- (viii) A Business Rate of point seven three six four cents (0.7364c) in the dollar on the Rateable Land Value of all rateable land in the Maclean/Townsend area other than the Maclean CBD area, categorised as Business, sub category "B" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 18.61% of the revenue from this rate. The Rate to be known as the "Business B – Maclean/Townsend Other Business". A map showing this CBD boundary is found in Attachment A.
- (ix) A Business Rate of point six zero seven eight cents (0.6078c) in the dollar on the Rateable Land Value of all rateable land in the Iluka Industrial area categorised as Business, sub category "C" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 16.77% of the revenue from this rate. The rate to be known as the "Business Rate C – Iluka Industrial". A map showing this CBD boundary is found in Attachment A.
- (x) A Business Rate of point six zero seven eight cents (0.6078c) in the dollar on the Rateable Land Value of all rateable land in the town of Iluka other than the Iluka Industrial area, categorised as Business, sub category "C" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 16.77% of the revenue from this rate. The rate to be known as the "Business Rate C – Iluka Other Business". A map showing this CBD boundary is found in Attachment A.
- (xi) A Business Rate of point five seven nine eight cents (0.5798c) in the dollar on the Rateable Land Value of all rateable land in the Yamba CBD (including the Treelands Drive business area) categorised as Business, sub-category "D" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from this base amount to be approximately 16.52% of the revenue from this rate. This rate to be known as "Business Rate D – Yamba CBD". A map showing this CBD boundary is found in Attachment A.
- (xii) A Business Rate of point five seven nine eight cents (0.5798c) in the dollar on the Rateable Land Value of all rateable land in the town of Yamba other than the Yamba CBD categorised as Business, sub-category "D" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from this base amount to be approximately 16.52% of the revenue from this rate. This rate to be known as "Business Rate D – Yamba Other Business". A map showing this CBD boundary is found in Attachment A.
- (xiii) A Business Rate of two point zero six seven four cents (2.0674c) in the dollar on the Rateable Land Value of all rateable land in the Grafton and South Grafton CBD, categorised as Business, sub category "E" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 8.46% of the revenue from this rate. The rate to be known as "Business Rate E – Grafton & South Grafton CBD". A map showing this CBD boundary is found in Attachment A.
- (xiv) A Business Rate of one point two eight seven seven cents (1.2877c) in the dollar on the Rateable Land Value of all rateable land in the areas of Junction Hill, Trenayr and Koolkhan and the city of Grafton other than the Grafton and South Grafton CBD, categorised as Business, sub category "F" with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 18.45% of the revenue from this rate. The rate to be known as "Business Rate F – Grafton & South Grafton Other Business". A map showing the Junction Hill, Trenayr and Koolkhan boundary found in Attachment A.
- (xv) A Business Rate of point four nine five seven cents (0.4957c) in the dollar on the Rateable Land Value of all rateable land categorised as Business where the parcel of rateable land is rated separately and determined as a jetty or pontoon. The minimum/base amount will not apply to this category. The rate is to be known as "Business-Jetties".
- (xvi) A Farmland Rate of point two eight eight zero cents (0.2880) in the dollar on the Rateable Land Value of all rateable land categorised as Farmland with a Base amount of Three Hundred and Thirty Dollars (\$330.00). The revenue from the base amount to be approximately 19.65% of the revenue from this rate. The rate to be known as Farmland.

2. Sewer Availability Charges (Section 501)

- (i) A Special Charge for all land categorised “Residential” and rateable to a sewerage system, the charge being One Thousand One Hundred and Eighty Eight Dollars (\$1,188.00) per land parcel excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.
- (ii) A Special Charge for all land parcels categorised “Residential” which have additional connections to a premise that can be subject to separate and permanent occupation. The charge to be calculated by multiplying the occupied charge in Item 2(i) (\$1,188.00) by the number of additional premises in excess of one (1) which can be occupied separately and on a permanent basis.
- (iii) A Special Charge for all land categorised “Residential” and connected to a pressure sewerage system, the charge being One Thousand One hundred and Sixty Three Dollars (\$1,163.00) per land parcel excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.
- (iv) A Special Sewer access charge based on water meter size for all land parcels categorised “Business” (i.e. Non-Residential) and connected to a sewerage system. The charges to be as follows:
 - a. A charge of \$1,188 for a 20mm service.
 - b. A charge of \$1,188.00 for a 25mm service.
 - c. A charge of \$1,759.00 for a 32mm service.
 - d. A charge of \$2,748.00 for a 40mm service.
 - e. A charge of \$4,294.00 for a 50mm service.
 - f. A charge of \$10,992.00 for an 80mm service.
 - g. A charge of \$17,175.00 for a 100mm service.
 - h. A charge of \$38,644.00 for a 150mm service.

excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Seventy Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.

- (v) A Special Sewer access charge based on water meter size for all land parcels categorised “Business” (i.e. Non-Residential) that are connected to a pressure sewerage system. The charges to be as follows:
 - a. A charge of \$1,163.00 for a 20mm service.
 - b. A charge of \$1,163.00 for a 25mm service.
 - c. A charge of \$1,734.00 for a 32mm service.
 - d. A charge of \$2,723.00 for a 40mm service.
 - e. A charge of \$4,269.00 for a 50mm service.
 - f. A charge of \$10,967.00 for an 80mm service.
 - g. A charge of \$17,150.00 for a 100mm service.
 - h. A charge of \$38,619.00 for a 150mm service.

excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.

- (vi) Non-rateable properties (under Section 555 of the Local Government Act, 1993) within the Sewerage Access area will be exempt from Availability Charges.
- (vii) A meter installed as a fire service to a property is exempt from availability charges.
- (viii) Onsite Sewage Management Charge

A Special Charge for all occupied land parcels not receiving a Sewerage service. The charge to be Forty Two Dollars (\$42.00) for each rateable parcel. The charge to be known as “Residential Onsite Wastewater Management Charge”.

3. Sewer Consumption Charges (Section 502)

- (i) A Consumption Charge of Three Dollars and Sixty Cents (\$3.60) per kilolitre will be charged on all Residential and Non-Residential properties. The charge for Non-Residential properties will be based on water consumption of the previous trimester and affected by a Sewerage Discharge Apportionment Factor. The non-residential sewer charge is the sum of the access charge and the generation charge, with a minimum charge of the residential charge (\$1,188.00 in 2021/22). This charge to be known as the "Sewerage Consumption Charge".
- (ii) A Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewage generation above 0.74kl/day per billing period for Grafton, Junction Hill and Coutts Crossing be charged the Non-Residential High Consumption Sewerage Charge of Five Dollars and Fifty Eight Cents (\$5.58) per kilolitre.
- (iii) A Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewage generation above 0.74kl/day per billing period for Maclean, Townsend, Ilarwill, Lawrence, Iluka, Yamba be charged the Non-Residential High Consumption Sewerage Charge of Seven Dollars and Fourteen Cents (\$7.14) per kilolitre.

4. Waste Disposal Charges (Section 496 & Section 501)

- (i) Domestic Waste Charge (Excluding Green Waste – 2 Bin Service)

An annual charge of Two Hundred and Eighty Seven Dollars (\$287.00) per service, for the collection, disposal, recycling and management of Domestic Waste generated on all residential properties including premises which can be subject to separate occupation, receiving or situated in a location where the collection service is available. This charge to be known as "Domestic Waste 2 Bin"
- (ii) Domestic Waste Charge (Including Green Waste – 3 Bin Service)

An annual charge of Three Hundred and Fifty Dollars (\$350.00) per service, for the collection, disposal, recycling and management of waste generated on all residential properties, including premises which can be subject to separate occupation, receiving or situated in a location where the collection service is available. This charge to be known as "Domestic Waste 3 Bin".
- (iii) Non-Residential Waste Charge (Excluding Green Waste – 2 Bin Service)

An annual Charge of Two Hundred and Eighty Seven Dollars (\$287.00) per service, for the collection, disposal, recycling and management of waste generated on property categorised "Business" receiving a service similar to that provided in (4.i).
- (iv) Non-Residential Waste Charge (Including Green Waste – 3 Bin Service)

An annual Charge of Three Hundred and Fifty Dollars (\$350.00) per service, for the collection, disposal, recycling and management of waste generated on property categorised "Business" receiving a service similar to that provided in (4.ii).
- (v) Domestic Waste Charge (Additional Red Bin service)

An annual charge of One Hundred and Thirty Eight Dollars (\$138.00) per additional red bin supplied to a property receiving a 2 Bin or 3 Bin Service but requiring an additional red bin. This charge to be known as "Domestic Waste Additional Red Bin".
- (vi) Domestic Waste Charge (Additional Yellow Bin service)

An annual charge of One Hundred and Eight Dollars (\$108.00) per additional yellow bin supplied to a property receiving a 2 Bin or 3 Bin Service but requiring an additional yellow bin. This charge to be known as "Domestic Waste Additional Yellow Bin".
- (vii) Domestic Waste Charge (Additional Green Bin service)

An annual charge of One Hundred and Thirty Three Dollars (\$133.00) per additional green bin supplied to a property receiving a 3 Bin Service but requiring an additional green bin. This charge to be known as "Domestic Waste Additional Green Bin".

- (viii) Domestic Waste Charge – Vacant

An annual charge of Thirty Dollars (\$30.00) for all parcels of rateable vacant property which would receive a collection service when becoming occupied or located where the service is available. This charge to be known as "Domestic Waste Vacant".

- (ix) Waste Management levy

An annual charge of Sixty Five Dollars (\$65.00) for all rateable properties in the Clarence Valley Council area. This charge to be known as "Waste Management Levy".

5. Water Availability Charges (Section 501)

- (i) An annual charge of \$173.00 for all unconnected land which is situated within 225 metres of a Council water main and can be connected to the water main.
- (ii) An annual charge of \$127.00 for all land which has a 20mm connection to the water main.
- (iii) An annual charge of \$198.00 for all land which has a 25mm connection to the water main.
- (iv) An annual charge of \$325.00 for all land which has a 32mm connection to the water main.
- (v) An annual charge of \$508.00 for all land which has a 40mm connection to the water main.
- (vi) An annual charge of \$794.00 for all land which has a 50mm connection to the water main.
- (vii) An annual charge of \$2,032.00 for all land which has an 80mm connection to the water main.
- (viii) An annual charge of \$3,175.00 for all land which has a 100mm connection to the water main.
- (ix) An annual charge of \$7,144.00 for all land which has a 150mm connection to the water main
- (x) An annual charge of \$63.50 for all land provided with Untreated (Raw) Water with a 20mm connection to the water main.
- (xi) An annual charge of \$99.00 for all land provided with Untreated (Raw) Water with a 25mm connection to the water main.

6. Water Consumption Charges (Section 502)

- (i) A Water Consumption charge of Two Dollars and Fifty Nine Cents (\$2.59) per kilolitre for all residential properties, applying to the daily average water consumption below 1.233kL/day per billing period.
- (ii) A Water Consumption charge of Three Dollars and Eighty Six Cents (\$3.86) for all residential properties with a water consumption category of residential applying to any daily average water consumption exceeding 1.233 kl per day, per billing period.
- (iii) A Water Consumption charge of Two Dollars and Fifty Nine Cents (\$2.59) per kilolitre for all non-residential properties. This charge to be known as the "Water Usage Non-Residential".
- (iv) A Water Consumption charge of Ten Dollars and Thirty Three Cents (\$10.33) per kilolitre for all water usage registered on a meter installed as a fire service to the property where the consumption has been for purposes other than for fire service purposes as a disincentive for using the service for incorrect purposes. This charge to be known as the "Water Usage Fire Service".

- (v) A Water Consumption charge of One Dollar and Twenty Eight Cents (\$1.28) per kilolitre for all properties connected to Untreated (Raw) Water. This charge to be known as the "Water Usage Untreated (Raw) Water".
- (vi) A Non-Residential High Consumption charge (for Development approved after 1 July 2021) for average daily water consumption above 1.233kl/day per billing period of Three Dollars and Forty Six Cents (\$3.46) per kilolitre. This charge to be known as the "Non-Residential High Consumption".
- (vii) That the interest rate on overdue amounts applicable to outstanding rates and charges for 2020/2021 be the maximum rate of 6% for the period 1 July 2021 – 30 June 2022 as set by the Minister for Local Government accruing on a daily basis.

7. Interest on overdue rates

That the interest rate on overdue amounts applicable to outstanding rates and charges for 2021/2022 be the maximum rate of 6% for the period 1 July 2021 – 30 June 22 as set by the Minister for Local Government accruing on a daily basis.

8. Small Balance Rates & Charges write off

That in accordance with Clause 131 of the Local Government (General) Regulations 2005 the General Manager be authorised to approve the write off of small rate balances up to a maximum of \$3.00 per assessment at the conclusion of the rating year.

COUNCIL RESOLUTION – 6a.21.027

Williamson/Toms

That Council in accordance with the provisions of Sections 493, 494, 496, 501, 502, 503, 542, 552 and 553 of the Local Government Act of 1993 (NSW) make and levy the following Rates and Charges for the year commencing 1 July 2021 and ending 30 June 2022.

1. Ordinary Rates (Section 494)

- (i) A Residential Rate of point five seven seven three cents (0.5773c) in the dollar on the Rateable Land Value of all rateable land categorised as Residential with a minimum rate of Six Hundred and Sixty Dollars (\$660.00), in respect of any separate parcel of rateable land. Land that has been identified as "Residential-Flood Prone Land" the minimum rate/base amount will not apply. The Rate to be known as the "Residential Rate".
- (ii) A Residential Rate of point three seven three seven cents (0.3737c) in the dollar on the Rateable Land Value of all rateable land in the coastal villages of Angourie, Brooms Head, Diggers Camp, Iluka, Minnie Water, Sandon River, Wooli and Wooloweyah categorised as Residential, sub category "A", with a minimum rate of Six Hundred and Sixty Dollars (\$660.00). The rate to be known as the Residential Rate "A".
- (iii) A Residential Rate of point four five one two cents (0.4512c) in the dollar on the Rateable Land Value of all rateable land within the towns of Maclean and Townsend categorised as Residential, sub-category "B", with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 43.50% of the revenue from this rate. The rate to be known as the "Residential Rate B".
- (iv) A Residential Rate of point three two seven seven cents (0.3277c) in the dollar on the Rateable Land Value of all rateable land in the town of Yamba categorised as Residential, sub category "C", with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 32.36% of the revenue from this rate. The rate to be known as the "Residential Rate C".
- (v) A Residential Rate of point eight one zero six cents (0.8106c) in the dollar on the Rateable Land Value of rateable land in the city of Grafton and village of Junction Hill categorised as Residential, sub-category "E" with a Base Amount of Five Hundred

- Dollars (\$500.00). The revenue from the base amount to be approximately 36.47% of the revenue from this rate. The rate to be known as the “Residential Rate E”.
- (vi) A Business Rate of point six zero one five cents (0.6015c) in the dollar on the Rateable Land Value of all rateable land with a Base Amount of Five Hundred Dollars (\$500.00) for all land categorised as Business. The revenue from the base amount to be approximately 27.77% of the revenue from this rate. The rate to be known as the “Business Rate”.
- (vii) A Business Rate of point seven three six four cents (0.7364c) in the dollar on the Rateable Land Value of all rateable land in the Maclean CBD categorised as Business, sub category “B” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 18.61% of the revenue from this rate. The Rate to be known as the “Business B–Maclean CBD”. A map showing this CBD boundary is found in Attachment A.
- (viii) A Business Rate of point seven three six four cents (0.7364c) in the dollar on the Rateable Land Value of all rateable land in the Maclean/Townsend area other than the Maclean CBD area, categorised as Business, sub category “B” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 18.61% of the revenue from this rate. The Rate to be known as the “Business B – Maclean/Townsend Other Business”. A map showing this CBD boundary is found in Attachment A.
- (ix) A Business Rate of point six zero seven eight cents (0.6078c) in the dollar on the Rateable Land Value of all rateable land in the Iluka Industrial area categorised as Business, sub category “C” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 16.77% of the revenue from this rate. The rate to be known as the “Business Rate C – Iluka Industrial”. A map showing this CBD boundary is found in Attachment A.
- (x) A Business Rate of point six zero seven eight cents (0.6078c) in the dollar on the Rateable Land Value of all rateable land in the town of Iluka other than the Iluka Industrial area, categorised as Business, sub category “C” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 16.77% of the revenue from this rate. The rate to be known as the “Business Rate C – Iluka Other Business”. A map showing this CBD boundary is found in Attachment A.
- (xi) A Business Rate of point five seven nine eight cents (0.5798c) in the dollar on the Rateable Land Value of all rateable land in the Yamba CBD (including the Treelands Drive business area) categorised as Business, sub-category “D” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from this base amount to be approximately 16.52% of the revenue from this rate. This rate to be known as “Business Rate D – Yamba CBD”. A map showing this CBD boundary is found in Attachment A.
- (xii) A Business Rate of point five seven nine eight cents (0.5798c) in the dollar on the Rateable Land Value of all rateable land in the town of Yamba other than the Yamba CBD categorised as Business, sub-category “D” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from this base amount to be approximately 16.52% of the revenue from this rate. This rate to be known as “Business Rate D – Yamba Other Business”. A map showing this CBD boundary is found in Attachment A.
- (xiii) A Business Rate of two point zero six seven four cents (2.0674c) in the dollar on the Rateable Land Value of all rateable land in the Grafton and South Grafton CBD, categorised as Business, sub category “E” with a Base Amount of Five Hundred Dollars (\$500.00). The revenue from the base amount to be approximately 8.46% of the revenue from this rate. The rate to be known as “Business Rate E – Grafton & South Grafton CBD”. A map showing this CBD boundary is found in Attachment A.
- (xiv) A Business Rate of one point two eight seven seven cents (1.2877c) in the dollar on the Rateable Land Value of all rateable land in the areas of Junction Hill, Trenayr and Koolkhan and the city of Grafton other than the Grafton and South Grafton CBD, categorised as Business, sub category “F” with a Base Amount of Five Hundred

Dollars (\$500.00). The revenue from the base amount to be approximately 18.45% of the revenue from this rate. The rate to be known as “Business Rate F – Grafton & South Grafton Other Business”. A map showing the Junction Hill, Trenayr and Koolkhan boundary found in Attachment A

- (xv) A Business Rate of point four nine five seven cents (0.4957c) in the dollar on the Rateable Land Value of all rateable land categorised as Business where the parcel of rateable land is rated separately and determined as a jetty or pontoon. The minimum/base amount will not apply to this category. The rate is to be known as “Business-Jetties”.
- (xvi) A Farmland Rate of point two eight eight zero cents (0.2880) in the dollar on the Rateable Land Value of all rateable land categorised as Farmland with a Base amount of Three Hundred and Thirty Dollars (\$330.00). The revenue from the base amount to be approximately 19.65% of the revenue from this rate. The rate to be known as Farmland.

2. Sewer Availability Charges (Section 501)

- (i) A Special Charge for all land categorised “Residential” and rateable to a sewerage system, the charge being One Thousand One Hundred and Eighty Eight Dollars (\$1,188.00) per land parcel excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.
- (ii) A Special Charge for all land parcels categorised “Residential” which have additional connections to a premise that can be subject to separate and permanent occupation. The charge to be calculated by multiplying the occupied charge in Item 2(i) (\$1,188.00) by the number of additional premises in excess of one (1) which can be occupied separately and on a permanent basis.
- (iii) A Special Charge for all land categorised “Residential” and connected to a pressure sewerage system, the charge being One Thousand One hundred and Sixty Three Dollars (\$1,163.00) per land parcel excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.
- (iv) A Special Sewer access charge based on water meter size for all land parcels categorised “Business” (i.e. Non-Residential) and connected to a sewerage system. The charges to be as follows:
 - a. A charge of \$1,188 for a 20mm service.
 - b. A charge of \$1,188.00 for a 25mm service.
 - c. A charge of \$1,759.00 for a 32mm service.
 - d. A charge of \$2,748.00 for a 40mm service.
 - e. A charge of \$4,294.00 for a 50mm service.
 - f. A charge of \$10,992.00 for an 80mm service.
 - g. A charge of \$17,175.00 for a 100mm service.
 - h. A charge of \$38,644.00 for a 150mm service.

excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Seventy Dollars (\$687.00) to be known as the “Clarence Valley Council Sewerage Charge”.

- (v) A Special Sewer access charge based on water meter size for all land parcels categorised “Business” (i.e. Non-Residential) that are connected to a pressure sewerage system. The charges to be as follows:
 - a. A charge of \$1,163.00 for a 20mm service.
 - b. A charge of \$1,163.00 for a 25mm service.
 - c. A charge of \$1,734.00 for a 32mm service.
 - d. A charge of \$2,723.00 for a 40mm service.
 - e. A charge of \$4,269.00 for a 50mm service.

- f. A charge of \$10,967.00 for an 80mm service.
- g. A charge of \$17,150.00 for a 100mm service.
- h. A charge of \$38,619.00 for a 150mm service.

excepting any parcel in respect of land not built upon and not connected to the Council sewerage system in which case the charge shall be Six Hundred and Eighty Seven Dollars (\$687.00) to be known as the "Clarence Valley Council Sewerage Charge".

- (vi) Non-rateable properties (under Section 555 of the Local Government Act, 1993) within the Sewerage Access area will be exempt from Availability Charges.
- (vii) A meter installed as a fire service to a property is exempt from availability charges.
- (viii) Onsite Sewage Management Charge

A Special Charge for all occupied land parcels not receiving a Sewerage service. The charge to be Forty Two Dollars (\$42.00) for each rateable parcel. The charge to be known as "Residential Onsite Wastewater Management Charge".

3. Sewer Consumption Charges (Section 502)

- (i) A Consumption Charge of Three Dollars and Sixty Cents (\$3.60) per kilolitre will be charged on all Residential and Non-Residential properties. The charge for Non-Residential properties will be based on water consumption of the previous trimester and affected by a Sewerage Discharge Apportionment Factor. The non-residential sewer charge is the sum of the access charge and the generation charge, with a minimum charge of the residential charge (\$1,188.00 in 2021/22). This charge to be known as the "Sewerage Consumption Charge".
- (ii) A Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewage generation above 0.74kl/day per billing period for Grafton, Junction Hill and Coutts Crossing be charged the Non-Residential High Consumption Sewerage Charge of Five Dollars and Fifty Eight Cents (\$5.58) per kilolitre.
- (iii) A Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewage generation above 0.74kl/day per billing period for Maclean, Townsend, Ilarwill, Lawrence, Iluka, Yamba be charged the Non-Residential High Consumption Sewerage Charge of Seven Dollars and Fourteen Cents (\$7.14) per kilolitre.

4. Waste Disposal Charges (Section 496 & Section 501)

- (i) Domestic Waste Charge (Excluding Green Waste – 2 Bin Service)

An annual charge of Two Hundred and Eighty Seven Dollars (\$287.00) per service, for the collection, disposal, recycling and management of Domestic Waste generated on all residential properties including premises which can be subject to separate occupation, receiving or situated in a location where the collection service is available. This charge to be known as "Domestic Waste 2 Bin"

- (ii) Domestic Waste Charge (Including Green Waste – 3 Bin Service)

An annual charge of Three Hundred and Fifty Dollars (\$350.00) per service, for the collection, disposal, recycling and management of waste generated on all residential properties, including premises which can be subject to separate occupation, receiving or situated in a location where the collection service is available. This charge to be known as "Domestic Waste 3 Bin".

- (iii) Non-Residential Waste Charge (Excluding Green Waste – 2 Bin Service)

An annual Charge of Two Hundred and Eighty Seven Dollars (\$287.00) per service, for the collection, disposal, recycling and management of waste generated on property categorised "Business" receiving a service similar to that provided in (4.i).

(iv) **Non-Residential Waste Charge (Including Green Waste – 3 Bin Service)**

An annual Charge of Three Hundred and Fifty Dollars (\$350.00) per service, for the collection, disposal, recycling and management of waste generated on property categorised "Business" receiving a service similar to that provided in (4.ii).

(v) **Domestic Waste Charge (Additional Red Bin service)**

An annual charge of One Hundred and Thirty Eight Dollars (\$138.00) per additional red bin supplied to a property receiving a 2 Bin or 3 Bin Service but requiring an additional red bin. This charge to be known as "Domestic Waste Additional Red Bin".

(vi) **Domestic Waste Charge (Additional Yellow Bin service)**

An annual charge of One Hundred and Eight Dollars (\$108.00) per additional yellow bin supplied to a property receiving a 2 Bin or 3 Bin Service but requiring an additional yellow bin. This charge to be known as "Domestic Waste Additional Yellow Bin".

(vii) **Domestic Waste Charge (Additional Green Bin service)**

An annual charge of One Hundred and Thirty Three Dollars (\$133.00) per additional green bin supplied to a property receiving a 3 Bin Service but requiring an additional green bin. This charge to be known as "Domestic Waste Additional Green Bin".

(viii) **Domestic Waste Charge – Vacant**

An annual charge of Thirty Dollars (\$30.00) for all parcels of rateable vacant property which would receive a collection service when becoming occupied or located where the service is available. This charge to be known as "Domestic Waste Vacant".

(ix) **Waste Management levy**

An annual charge of Sixty Five Dollars (\$65.00) for all rateable properties in the Clarence Valley Council area. This charge to be known as "Waste Management Levy".

5. Water Availability Charges (Section 501)

(i) An annual charge of \$173.00 for all unconnected land which is situated within 225 metres of a Council water main and can be connected to the water main.

(ii) An annual charge of \$127.00 for all land which has a 20mm connection to the water main.

(iii) An annual charge of \$198.00 for all land which has a 25mm connection to the water main.

(iv) An annual charge of \$325.00 for all land which has a 32mm connection to the water main.

(v) An annual charge of \$508.00 for all land which has a 40mm connection to the water main.

(vi) An annual charge of \$794.00 for all land which has a 50mm connection to the water main.

(vii) An annual charge of \$2,032.00 for all land which has an 80mm connection to the water main.

- (viii) An annual charge of \$3,175.00 for all land which has a 100mm connection to the water main.
- (ix) An annual charge of \$7,144.00 for all land which has a 150mm connection to the water main
- (x) An annual charge of \$63.50 for all land provided with Untreated (Raw) Water with a 20mm connection to the water main.
- (xi) An annual charge of \$99.00 for all land provided with Untreated (Raw) Water with a 25mm connection to the water main.

6. Water Consumption Charges (Section 502)

- (i) A Water Consumption charge of Two Dollars and Fifty Nine Cents (\$2.59) per kilolitre for all residential properties, applying to the daily average water consumption below 1.233kL/day per billing period.
- (ii) A Water Consumption charge of Three Dollars and Eighty Six Cents (\$3.86) for all residential properties with a water consumption category of residential applying to any daily average water consumption exceeding 1.233 kl per day, per billing period.
- (iii) A Water Consumption charge of Two Dollars and Fifty Nine Cents (\$2.59) per kilolitre for all non-residential properties. This charge to be known as the "Water Usage Non-Residential".
- (iv) A Water Consumption charge of Ten Dollars and Thirty Three Cents (\$10.33) per kilolitre for all water usage registered on a meter installed as a fire service to the property where the consumption has been for purposes other than for fire service purposes as a disincentive for using the service for incorrect purposes. This charge to be known as the "Water Usage Fire Service".
- (v) A Water Consumption charge of One Dollar and Twenty Eight Cents (\$1.28) per kilolitre for all properties connected to Untreated (Raw) Water. This charge to be known as the "Water Usage Untreated (Raw) Water".
- (vi) A Non-Residential High Consumption charge (for Development approved after 1 July 2021) for average daily water consumption above 1.233kl/day per billing period of Three Dollars and Forty Six Cents (\$3.46) per kilolitre. This charge to be known as the "Non-Residential High Consumption".
- (vii) That the interest rate on overdue amounts applicable to outstanding rates and charges for 2020/2021 be the maximum rate of 6% for the period 1 July 2021 – 30 June 2022 as set by the Minister for Local Government accruing on a daily basis.

7. Interest on overdue rates

That the interest rate on overdue amounts applicable to outstanding rates and charges for 2021/2022 be the maximum rate of 6% for the period 1 July 2021 – 30 June 22 as set by the Minister for Local Government accruing on a daily basis.

8. Small Balance Rates & Charges write off

That in accordance with Clause 131 of the Local Government (General) Regulations 2005 the General Manager be authorised to approve the write off of small rate balances up to a maximum of \$3.00 per assessment at the conclusion of the rating year.

Voting recorded as follows:

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

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

In accordance with the provisions of the Local Government Act, Council is required to make and levy its Rates and Charges prior to 31 July. This report complies with these legislative requirements.

KEY ISSUES

The recommended rate structure for 2021/2022 was included in Council's draft 2021/2022 Operational Plan for community consultation.

This report recommends the proposed rate structure for 2021/2022 be based on Council's existing rate structure as levied for 2020/2021 but indexed by the Rate Peg of 2% approved by the Independent Pricing and Regulatory Tribunal (IPART) on 8 September 2020 for 2021/2022 rating year.

The proposed structure includes changes to the following Base Amounts and Minimums:

- Yamba, Maclean & Townsend Residential Categories Base Amount increases from \$490 to \$500.
- All Business Rating Categories Base Amount increases from \$490 to \$500.
- Residential "Outside Town Areas" and Residential A – "Coastal Villages" minimum rate increases from \$647 to \$660.
- There are no changes proposed to any of the other rating categories.

Land Valuations

Council applies property land valuations from the NSW Valuer General. These values are available for rating as at 1 July 2019 and Council will use them to levy the rates for the 2021/2022 financial year.

Proposed 2021/22 Rate Levy

The Rate Levy tabled below is a summary of the recommended Rate Structure for 2021/2022 which includes the Rate Peg of 2% as advised by IPART.

Rate Structure 2021/2022**2% Rate Peg – General Rates**

	Category	Number of Properties	Rate in \$	Minimum	Base Amount	% from Base	Income from Base	Ad Valorem Rate Yield	Total Yield
1	Farmland	2272	0.2880	\$	\$330.00	19.65%	\$ 749,760	\$3,065,337	\$3,815,097
2	Residential – Ashby, Chatsworth, Copmanhurst, Brushgrove, Gulmarrad, Harwood, Ilarwill, Lawrence, Palmers Island, Coutts Crossing, Woombah, Cowper, Glenreagh, Swan Creek, Tucabia, Ulmarra, Waterview, Seelands, Eatonsville, Ilarwill,	7974	0.5773	\$660.00				\$8,164,595	\$8,164,595

	Category	Number of Properties	Rate in \$	Minimum	Base Amount	% from Base	Income from Base	Ad Valorem Rate Yield	Total Yield
	Tyndale plus rural residential areas. This includes residential flood prone land (15 properties)								
2(i)	Residential A – Angourie, Brooms Head, Diggers Camp, Iluka, Sandon River, Minnie Water, Wooloweyah, Wooli	2249	0.3737	\$660.00				\$2,739,392	\$2,739,392
2(ii)	Residential B – Maclean, Townsend	1594	0.4512	\$ -	\$500.00	43.50%	\$797,000	\$1,035,244	\$1,832,244
2(iii)	Residential C – Yamba	3419	0.3277	\$ -	\$500.00	32.36%	\$1,709,500	\$3,572,455	\$5,281,955
2(iv)	Residential E – Grafton, Junction Hill	7756	0.8106	\$ -	\$500.00	36.47%	\$3,878,000	\$6,755,710	\$10,633,710
3	Business	220	0.6015	\$ -	\$500.00	27.77%	\$ 110,000	\$286,169	\$396,169
3(i)	Business B – Maclean Business B – Maclean, Townsend Other Business	165	0.7364	\$ -	\$500.00	18.61%	\$82,500	\$360,741	\$443,241
3(ii)	Business C – Iluka Industrial Business C – Iluka Other Business	58	0.6078	\$ -	\$500.00	16.77%	\$29,000	\$143,959	\$172,959
3(iii)	Business D – Yamba CBD (Includes Treelands Drive) Business D – Yamba Other Business	279	0.5798	\$ -	\$500.00	16.52%	\$139,500	\$705,140	\$844,640
(3iv)	Business E – Grafton & South Grafton CBD	368	2.0674	\$ -	\$500.00	8.46%	\$ 184,000	\$1,989,977	\$2,173,977
3(v)	Business F – Grafton & South Grafton Other Business	297	1.2877	\$ -	\$500.00	18.45%	\$ 148,500	\$656,468	\$804,968
3(vi)	Jetties	77	0.4957	\$ -	\$ -	0.00%	\$ -	\$1,255	\$1,255
	Total Ordinary Rates	26728					\$7,827,760	\$29,476,443	\$37,304,203

Water Charges

The requirements of best practice pricing for water include having one price for both residential and non-residential consumers and acquiring 25% of income from fixed charges and 75% of income from consumption charges.

Where a property has multiple meters, the property is only charged for the single largest meter until the end of the phase-in period. While the 5 year phase-in period concluded in 2009/2010, it is proposed to commence charging the access charge per meter effective 01 July 2022 with property owners being notified of Councils intention during the 2021/2022 rating year so that property owners have been given adequate time to assess the need for each meter and reduce the number of meters where necessary noting that the fixed charge per water meter will be introduced in the 2022/2023 rating year.

Water Charges 2021/2022

At the 24 November 2015 Extraordinary Council meeting (Item 12.060/15) Council resolved that water fund increases be capped to a maximum of 1.5% per year for five (5) years from 2016/2017. The current 30 year financial model indicated that from 2016/2017 water charges were to increase by 1.5% per year until 2020/2021 with the budgeted increase for 2021/2022 being 2.5%.

The requirements of best practice for water include having one price for both residential and non-residential consumers and acquiring 25% of income from fixed charges and 75% of income from consumption charges.

To calculate Residential Water charges for 2021/2022, the 2020/2021 access and consumption charges were indexed by 2.5%.

A Non-Residential High Consumption Charge will apply to non-residential properties with development approval issued after 1 July 2021. The Non-Residential High Consumption Charge is calculated by amortising the Section 64 Developer Charge for water over 40 years with a cost of capital of 5% and a forecast escalation of developer charges of 2.5% and then divided by 230kl/year (the NSW Water Directorate's adopted value of the annual water consumption per ET). Adding this result to the Consumption Charge gives the High Consumption Charge as shown in Table 1.

The charges for 2021/2022 are shown in Tables 1 and 2:

Table 1: 2021/22 Water Consumption Charges

	2020/21 Charge	2021/22 Charge	Estimated 2021/22 Yield
Consumption	\$2.53	\$2.59	\$11.83M
Residential inclining block for average daily water consumption above 1.233kl/day per unit or residence per billing period	\$3.77	\$3.86	
Fire Service meter Consumption	\$10.08	\$10.33	
Consumption Untreated (Raw) Water	\$1.26	\$1.28	\$73,350
Non-Residential High Consumption Charge (for development approved after 1 July 2021) for average daily water consumption above 1.233kl/day per billing period	\$3.46		

Table 2: Fixed (Access) Water Charges for 2021/22

Water Meter Size*	2020/21 Fixed Charge	2021/22 Fixed Charge	Estimated Yield 2021/22
Unconnected	\$169	\$173	\$3.03M
20mm	\$124	\$127	
25mm	\$194	\$198	
32mm	\$317	\$325	
40mm	\$496	\$508	
50mm	\$775	\$794	
80mm	\$1,984	\$2,032	
100mm	\$3,100	\$3,175	
150mm		\$7,144.00	

*The access charge for meter sizes greater than 20mm is calculated on the square of the meter size compared with a 20mm meter

Water consumption that is registered through a Fire Service meter and used for purposes other than fire service purposes will be charged \$10.33 per kilolitre. The fire service connected to a property is to be used for fire purposes only and this charge will be a disincentive for consumers to use this meter for incorrect purposes.

Untreated water consumers supplied direct from trunk mains prior to treatment are charged at half of the above access charges. Council does not approve any additional untreated water connections.

As previously mentioned, best practice pricing requires a single charge for both residential and non-residential consumers and based on the adopted phase-in path, charges for 2021/2022 are likely to be in accordance with Table 3.

Table 3: Proposed future consumption charges

Consumption Charge	2019/20	2020/21	2021/22
Consumption \$/kl	\$2.49	\$2.53	\$2.59

Council reviews its 30 year financial model for the Water Fund each year. The proposed future consumption charges listed in Table 3 above are considered to be conservative estimates and may change when the 30 year financial model is reviewed.

Sewerage Charges

In May 2004, the then Department of Energy, Utilities and Sustainability (DEUS) released guidelines for the Best Practice Management of Water Supply and Sewerage. The guidelines require Council to charge a uniform sewerage bill for residential properties, a two part tariff comprising an annual access charge and a uniform sewer usage charge per kilolitre (kL) for non-residential properties and appropriate liquid trade waste fees and charges. In April 2005, Council resolved to adopt best practice pricing for sewerage with common sewerage charges across the Council area, and best practice pricing was implemented in the 2005/2006 financial year.

At the 24 November 2015 Extraordinary Council meeting (Item 12.060/15) Council resolved that sewer fund increases be capped to a maximum of 1.5% per year for five (5) years from 2016/2017. The current 30 year financial model indicates that from 2016/2017 sewer charges will increase by 1.5% per year until 2020/2021 with the budgeted increase for 2021/2022 being 2.5%.

A Non-Residential High Consumption Charge will apply to non-residential properties with development approval issued after 1 July 2021. The Non-Residential High Consumption Charge is calculated by amortising the Section 64 Developer Charge for sewer over 40 years with a cost of capital of 5% and a forecast escalation of developer charges of 2.5% and then divided by 138kl/year (the NSW Water Directorate's adopted value of the annual water consumption per ET multiplied by a sewage discharge factor of 60%). Adding this result to the Consumption Charge gives the High Consumption Charges as shown in Table 1.

Table 1 below shows the sewerage charges for 2021/2022 and Table 2 shows the access charge for non-residential properties:

Table 1: Charges for 2021/22

Property	Adopted 2020/21 Charge	Proposed 2021/22 Charge	Estimated Yield 2021/22
Residential Property (per connection)	\$1,159	\$1,188	\$15.15M
Residential Property Pressure Sewer zone	\$1,134 ¹	\$1,163 ¹	\$1.37M
Residential Property Unconnected Availability Charge	\$670	\$687	\$495,000
Non-residential Access Charge (per water meter)	As per Table 2 ²	As per Table 2 ²	See Table 2
Non-residential Sewerage Generation Charge	\$3.46/kL	\$3.51/kL	

Property	Adopted 2020/21 Charge	Proposed 2021/22 Charge	Estimated Yield 2021/22
Non-rateable properties	\$3.46/kL (no access charge)	\$3.51/kL (no access charge)	
Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewerage generation above 0.74kl/day per billing period – Grafton, Junction Hill & Coutts Crossing		\$5.58/kl	
Non-Residential High Consumption Sewerage Generation Charge (for development approved after 1 July 2021) for sewerage generation above 0.74kl/day per billing period – Maclean, Townsend, Ilarwill, Lawrence, Iluka, Yamba		\$7.14/kl	

1. Properties within a pressure sewer zone are charged \$25 less than properties in a gravity sewer zone to reflect the average cost of pressure pump electricity consumption which is paid for by the property
2. The non-residential sewer charge is the sum of the access charge and the generation charge, with a minimum charge of the residential charge (\$1,188 for 2021/2022. As meters are read tri-annually, the minimum non-residential charge will be calculated on an equivalent charge of \$3.25 per day.

Table 2: Fixed (Access) Sewer Charges Proposed for 2021/22

Water Meter Size*	2020/21 Fixed Charge	2021/22 Fixed Charge	Estimated Yield 2021/22
Unconnected	\$670	\$687	} \$1.28M
20mm	\$670	\$1,188	
25mm	\$1,047	\$1,188	
32mm	\$1,715	\$1,759	
40mm	\$2,680	\$2,748	
50mm	\$4,187	\$4,294	
80mm	\$10,720	\$10,992	
100mm	\$16,750	\$17,175	
150mm		\$38,644	

*The access charge for meter sizes greater than 20mm is calculated on the square of the meter size compared with a 20mm meter

Liquid trade waste fees and charges are shown in the fees and charges section.

As noted above, the non-residential sewer charge will be the greater of:

- fixed (access) charge plus sewer generation charge, or
- daily charge of \$3.25

Waste Management Charges

The Domestic Waste Management (DWM) charge must be determined each year pursuant to Section 496 of the Local Government Act, 1993.

Major changes to the Domestic Waste Management service commenced on 30 July 2012 which followed Council's acceptance of a new ten year waste collection contract with JR Richards and Sons. Council has also entered into two further contracts with JR Richards and Sons to construct and operate a new materials recovery facility (MRF) and a new fully enclosed composting facility. The new infrastructure is located at the Grafton Regional Landfill and is processing kerbside collected recyclables and organics.

Council also levies a waste management charge pursuant to Section 501 of the Act on all rateable properties. The levy contributes to the cost of developing waste management infrastructure such as waste transfer stations, landfills, composting facilities, recycling centres and other services such as litter collection. The 2021/2022 levy has increased from \$63 to \$65. The increase recognises the additional cost of providing waste management services, especially waste transfer stations. The waste management charges for 2021/2022 are detailed below:

Domestic Waste Charge Section 496	2019/20 Charge	2019/20 Yield	2020/21 Charge	2020/21 Yield	2021/22 Charge	Estimated 2021/22 Yield
3 Bin Service	\$353	\$6,224,096	\$344.50	\$6,436,353	\$350	\$6,591,660
2 Bin Service	\$288	\$1,089,792	\$278.50	\$1,186,989	\$287	\$1,147,598
Vacant land	\$29	\$15,080	\$29	\$60,784	\$30	\$39,540
Additional red bin	\$135	\$23,220	\$135	\$23,500	\$138	\$32,430
Additional yellow bin	\$100	\$4,100	\$105	\$4,500	\$108	\$5,724
Additional green bin	\$130	\$3,380	\$130	\$3,500	\$133	\$4,655
Waste Management Charge Section 501						
Waste Management Levy	\$52	\$1,357,357	\$59	\$1,569,990	\$63	\$1,734,850

On-Site Effluent Disposal Systems

The annual fee to fund the required level of auditing of the 9,026 on-site sewerage management systems has been indexed by 5% to \$42.00 for 2021/2022 (\$40.00 2020/2021). The fee is levied on all properties with on-site effluent disposal systems.

Backflow Prevention Device Annual Charge

An annual charge of \$59 for 2021/2022 is to fund the administration of the backflow prevention device programme. The charge is levied on properties that have containment backflow prevention devices that are required to be annually tested and certified in accordance with Council's Backflow prevention and cross connection control policy. The charge is per annum per containment device.

COUNCIL IMPLICATIONS

Budget/Financial

The Rate Structure for 2021/22 is based on the rate peg of 2% as determined by IPART. This will be an increase of \$731,347 on that levied for the 2020/2021 rating year.

Set out below is a summary of Council's total permissible rate income for 2021/2022:

TOTAL PERMISSIBLE INCOME FOR 2021/22	
2020/21 Notional General Income	\$36,567,365
Plus 2% IPART approved Rate Peg 2021/22	\$731,347
Plus Total Available (catch-up) for 2021/22 (Schedule 3)	\$5,491
Total Draft Permissible Income 2021/22	\$37,304,203

The estimated yield by rate category will be:

Business	\$ 4,837,209
Farmland	\$ 3,815,098
Residential	\$28,651,896
Total 2021/22	\$37,304,203

Asset Management

N/A

Policy or Regulation

Sections 493, 494, 496, 501, 502, 503, 542, 552 and 553 of the Local Government Act of 1993 (NSW).

Interest on overdue rates

The interest rate on overdue amounts applicable to outstanding rates and charges for 2021/2022 is recommended to be the maximum rate of 6% for the period 1 July 2021 – 30 June 22 as set by the Minister for Local Government accruing on a daily basis – refer to Office of Local Government Circular at Attachment B.

Consultation

This report has been prepared in consultation with Council's Manager of Finance & Supply and Manager Water Cycle.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Paula Krahe, Revenue Co-Ordinator
Attachment	A – Business Rating Maps B – Office of Local Government Interest Rate Declaration C – Rate Peg – IPART – 2%

ITEM 6a.21.028 INTEGRATED PLANNING AND REPORTING FRAMEWORK 2021/2022

Meeting	Council	22 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/General Manager - (Laura Black)	
Attachment	To be tabled	

SUMMARY

Each year Council prepares a draft Operational Plan and accompanying documentation under the Integrated Planning and Reporting Framework (IP&R), which is enacted under the Local Government Act 1993 and supported by the Integrated Planning and Reporting Guidelines issued by the Office of Local Government.

The documentation underpins the activities of the Council, achieves the direction set by the elected members in the Delivery Program and the aspirations identified by the community in the Community Plan, Clarence 2027. The accompanying documentation also includes an annual budget and the resourcing strategy and revenue policy including fees and charges. Public exhibition of the draft documentation has now been completed and post exhibition period adjustments are presented for adoption.

OFFICER RECOMMENDATION

That Council

1. note the public exhibition period submissions contained within the report in summary and attached to the report in full.
2. adopt the following:
 - i. 2017 – 2022 Delivery Program (Attachment A)
 - ii. 2021/22 Operational Plan (Attachment B)
 - iii. Resourcing Strategy (Attachment C) incorporating the
 - Long Term Financial Plan (2021/22 to 2030/31)
 - Workforce Management Strategy (2021/22 – 2023/24)
 - Asset Management Strategy (2021/22 – 2030/31)
 - iv. 2021/22 Fees and Charges (Attachment D).
3. reallocate remaining S94A funds (approximately \$856,000) previously allocated to the upgrade of Bailey Park Ulmarra to the upgrade of the Small Park amenities and connecting footpaths in Ulmarra to complement the recent announcement of \$2.3M Public Spaces Legacy funds to Bailey Park and road infrastructure upgrades in Ulmarra.

PROCEDURAL MOTION

Kingsley/Baker

That Council consider recommendation, 1., 2. i-iii, and 3. of Item 6a.21.028 separately to recommendation 2.iv. points to allow for disclosures of interest to be actioned.

Voting recorded as follows:

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

Against: Nil

COUNCIL RESOLUTION – 6a.21.028 (A)

Simmons/Kingsley

That Council

1. **Note the public exhibition period submissions contained within the report in summary and attached to the report in full.**
2. **Adopt the following:**
 - i. **2017-2022 Delivery Program (Attachment A)**
 - ii. **2021/2022 Operational Plan (Attachment B), with the inclusion of the pre-construction investigation into construction of a public amenity in Charles Street Iluka and**

preconstruction investigation of a skatepark in Lawrence to inform an allocation of funds in subsequent years for design and construction, and with a change to the all weather footpath proposed from Charles Street to Ken Leeson Oval in Iluka to be constructed following Owen and Spencer Streets and not Denne Street.

iii. Resourcing Strategy (Attachment C)

- Long Term Financial Plan (2021/22 - 2030/31)
- Workforce Management Strategy (2021/22 - 2023/24)
- Asset Management Strategy (2021/22 - 2030/31)

3. Reallocate remaining S94A funds (approximately \$856,000) previously allocated to the upgrade of Bailey Park Ulmarra to the upgrade of the Small Park amenities and connecting footpaths in Ulmarra to complement the recent announcement of \$2.3M Public Spaces Legacy funds to Bailey Park and road infrastructure upgrades in Ulmarra.

Voting recorded as follows:

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

Against: Nil

CARRIED

Having declared an interest in the Fees & Charges, Cr Toms left the Council meeting at 2.27pm and returned at 2.28pm.

COUNCIL RESOLUTION – 6a.21.028 (B)

Baker/Kingsley

That Council adopt the 2021/22 Fees and Charges (Attachment D).

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.1 Develop a clear plan for the community through Integrated Planning & Reporting

BACKGROUND

Preparation of the IP&R documentation is the responsibility of Council's senior management team in consultation with Councillors and staff. This year's IP&R documentation has been reformatted to increase transparency of activity. The documentation incorporates the following four key documents:

- Community Strategic Plan – "The Clarence 2027"
- Delivery Program 2017/18 – 2021/22
- Operation Plan 2021/22
- Resourcing Strategy comprising
 - 2021/22 – 2030/31 Long Term Financial Plan
 - Workforce Management Strategy
 - Asset Management Strategy

Preparation of the 2021/2022 documents considers Council's financial position, resourcing and the continuing journey toward a sustainable future.

The Community Strategic Plan – "The Clarence 2027" as previously adopted remains unchanged and is currently available on Council's website.

Council's Delivery Program 2017/18 – 2021/22 has been extended to cover a fifth year. This change has been made in line with the Office of Local Government recommendations due to the delay of Council Elections from 2020/21 to 2021/22. Only minor changes have been made to ensure currency of the program.

The Operational Plan 2021/22 has been reviewed to include:

- Service Statements identifying service objectives, performance measures and cost
- Revenue Policy identifying own source revenue
- Annual Budget identifying income and expenditure by service and a consolidated income and expenditure statement.

The Service Statements are a significant change to past reporting and aim to improve transparency of service provision by providing additional information about the key Services we provide, how we plan to resource them, the cost of delivery, the intended actions visible to the Community through the delivery of the service and performance measures. Reports of progress against scheduled actions and achievement against performance measures will be delivered to Council following each quarter.

Clause 201 of the Local Government (General) Regulation 2005 provides that Council's draft Revenue Policy must include a statement of the types of fees proposed to be charged by the Council, the amount of each fee, estimated yield and the proposed pricing methodology for each fee. Generally, where permissible, the majority of Council's fees and charges have been increased by an estimated CPI amount of 2.0% (rounded). A separate document titled 'Fees and Charges', provides the detail of fees charged by Council for individual services.

The 2021/22 Fees and Charges contains a total of 1,400 fees, including 127 new fees. Of the 127 new fees, 88 relate the Grafton Regional Gallery, 28 relate to Holiday Parks, 5 to building and development certificates and services, 2 to Libraries, 2 to Signs and 1 each for Civil Engineering Works & Inspections and Cemeteries.

Major increases in fees (>50%) are as follows:

- Inspection / Registration Fees for Commercial / Residential Buildings changed to a flat upfront fee that better reflect the cost of the service.
- Purchasing Enquiry Report fee changed to a flat upfront fee that better represents the cost of preparing a report for prospective buyers of commercial premises.

Other significant variations include:

- A new fee structure, incorporating 88 new fees has been included for the Grafton Regional Gallery following its recent redevelopment.
- Holiday Park fees have been restructured to list a range of fee amounts rather than individual fee amount for each accommodation type so as to protect the parks commercial information. This has resulted in 23 current fees being displayed in the schedule of fees & charges rather than 292 individual fees.

The 2021/22 budget proposes a net result surplus of \$103,608, after loan repayments, transfers from Reserves and a capital works program totalling \$108.1 million.

Renewal works represent 68% of the program and it is noted that the program is heavily reliant on grant funding with grants representing 40% of the funding sources allocated to the works.

2021/22 Rates income has been indexed at the IPART Rate Peg value of 2%. 2020/21 was the last year of the 3 year Special Rate Variation granted by IPART in 2018. However, additional funds raised through the increased yield are still identified separately and allocated to roads and infrastructure asset renewals in line with our IPART SRV Application. In 2021/22 this yield amounted to \$5.426M.

The draft budget is included in the Operational Plan 2021/22 and presented as follows:

- a) A Summary Income Statement by Fund and Consolidated
- b) An Income and Expenditure by Service

The Resourcing Strategy is a holistic document that details the provision of resources required to implement the Community Strategic Plan. It covers three key areas Long Term Financial Planning, Workforce Management Planning and Asset Management Planning.

The Long Term Financial Plan (LTFP) presents the path Council is currently on to meet sustainability obligations with a Net Operating General Fund surplus returned in 2021/2022. 2020/21 was the last year of the SRV granted by IPART in 2018 however, additional funds raised through the increased yield are still identified separately and allocated to improved management of assets, through increased expenditure on renewal and maintenance programs as identified in the Capital Works Program. The LTFP indicates that Clarence Valley Council is meeting its sustainability obligations in 2021/22 and remains sustainable over the long term. Two LTFP scenarios have been prepared to examine the impacts of population growth as applied to Rates & Annual Charges Income on the operating result. Scenario 1 – Average Population Growth – 0.50% and Scenario 2 – Optimistic Population Growth – 1%.

The Workforce Management Strategy 2021/22 – 2023/24, focusses on retaining existing staff as well as attracting new employees to ensure an organisation as the right number of people with the right skills in the right jobs at the right time.

The revised Asset Management Strategy 2021/2022 – 2030/2031 provides a framework to guide planning, construction, maintenance and operation of Council's physical assets. The current draft estimates the replacement value of Council's assets at over \$2.1 billion, the most significant asset type is the road network. The Asset Management Strategy states that the majority of Council's assets are in good to fair condition.

KEY ISSUES

The post exhibition period 2021/22 Net Budget Result (after capital works, loan repayments and transfers from Reserves) remains as a surplus of \$103,608.

The post exhibition period Capital Works Program has however increased by \$25M from \$83.1M to \$108.1M. Historically, Council's resourced capacity to deliver is approximately \$60M. The substantial 2021/22 Capital Works Program results from a significant increase in receipt of grant funding in the second half of 2019/20 and 2020/21 due to the simultaneous disaster stimulus packages allocated by the State and Federal governments, of which currently have expenditure deadlines in 2021/22. While it is recommended Council adopt the Capital Works Program, it should do so recognising that variations to funding agreements yet to be negotiated will result in budget variations throughout the 2021/22 financial year to postpone completion and realign deliverables into future years.

Variations to be negotiated relate primarily to limited availability of contractors and/or specialist staff to deliver projects due to the excess of government funding available for infrastructure outcomes across local government. The provision of such large amounts of funding with little notice, has inhibited contractors and local government to scale up to deliver and as such, these variations will ultimately reduce the 2021/22 program bringing it back in line with our resourcing capacity.

The updated Capital Works Program for 2021/22 has been included in the Operational Plan commencing page 72.

Exhibition Period Submissions

Nine submissions were received and four (shaded) have been included in the post exhibition period adjustments for completion in 2021/22.

Sender	Submission Summary	Response
Ratepayers Association of Iluka	Construction of amenities in Charles Street Iluka.	Iluka is considered to have comparable access to amenities as other towns across the LGA. See attached briefing note (Attachment F). A staged approach is to be applied. <ol style="list-style-type: none"> 1. Construction of an all weather footpath to existing amenities in Ken Leeson Oval to be constructed in 2021/22 2. Investigation of feasibility including land acquisition to be considered by the new Council as a 2022/23 activity.
Maclean Football Club	Increase in sports committee funding from \$35k for each committee to \$40k per annum	Include in the 2021/22 budget for adoption.

Sender	Submission Summary	Response
Nareen Clark	Footpath along Queen St to existing path at Crown St.	All footpath improvements to be considered in the context of 2021/22 Pedestrian Access Mobility Plan (PAMP) review to be completed on recruitment of the Road Safety Officer.
Dave Schwarz	Local law banning Air BNB and Short Term Letting.	There is no ability for Council to address as State Policy applies to Short Term Rental Accommodation.
Jennifer Bishop	Fish cleaning table and pontoon for Wooli.	Masterplan for the area to be considered by the new Council as a 2022/23 activity as capacity is exhausted in 2021/22.
Felicity Pearce – Iluka Skate Park Working Group	New or upgrade to Iluka Skatepark.	Skatepark considered in good conditioning and provides appropriate level of service for local community. Any upgrade requires plans for area integration with other facilities in the area. Possibly a future years project.
Sue Bowling – Brushgrove Hotel Fishing Club	Dish cleaning station at Cowper boat ramp – partnership project with Fishing Club proposed.	Co-funded project included in 2021/22 budget for adoption.
Doug Mackenzie	Clearing of noxious weeds from Yamba Hill near lighthouse, construct a walkway from Pilot Hill to Main Beach.	Environmental weed management has and will continue. Walkway is not a priority as the terrain is steep and construction would not be low cost.
Angela Berry	Disabled access to beaches at Yamba.	The terrain, practicality and costs to provide a compliant accessible access to many of the beaches in Yamba is challenging. The access to Turners Beach from the breakwall changed during the works done to upgrade the breakwall by DPI Crown Lands and the dynamic sand shift complicates access from the breakwall in this location. A MLAK key lock is available to Pippi Beach to enable persons with accessible needs to access the beach.

Post Exhibition Period Adjustments

The post exhibition adjustments are included at Attachment G. In summary they include

- Inclusion of the Bridge replacement program - \$4,294,767.
- Inclusion of deferred projects identified in the Deferred Projects report adopted at the May Ordinary meeting.
- Inclusion of budget to complete Causley's Quarry Rehabilitation, included in the draft Operational Plan.
- Inclusion of budget to complete Environmental Control Upgrades at Quarries in accordance with the current Plan of Management – this project has also been added to page 34 of the Operational Plan.
- Inclusion of an annual contribution to Harwood Cricket Grounds of \$7,500.
- Inclusion of construction of an all weather footpath from the Iluka town centre to existing amenities – this has also been included in the Capital Works Program on page 70 of the Operational Plan.
- Inclusion of an additional \$5,000 in annual funding to the Lower and Upper Clarence Sports Committees.
- Reallocation of funds for an existing 2021/22 project – the Employment lands strategy now grant funded.
- Deferment of Wherrett Park masterplan, Barnier Park Masterplan and Harwood Community Economic Plan detailed design to 2022/23 due to limited capacity to deliver. These projects have been removed from page 15 of the Operational Plan and will be included in the draft 2022/23 Operational Plan to be considered by the new Council in early 2022.
- Deferment of the Developer Contributions Plan Review to 2022/23 to allow completion of all pre-requisite activities prior to commencement. This project has been removed from page 27 of the Operational Plan and will be included in the draft 2022/23 Operational Plan to be considered by the new Council in early 2022.
- Inclusion of a fish cleaning station at Cowper Boat Ramp - \$4,000. This project has been added to page 15 of the Operational Plan.

It is also noted that Council previously allocated \$1M in S94A funds to the Bailey Park Ulmarra upgrade, a recent announcement by the State Government to allocate \$2.3M to this same project requires Council's reconsideration of fund allocation. Funds remaining from the \$1M are approximately \$780,000 after survey, detailed design and project management costs relating to the current status of the overall Ulmarra project.

This report recommends Council maintain its commitment to its previous allocation to implementation of the Ulmarra Riverside Precinct Plan and reallocate funds to upgrade of Small Park amenities to reduce risk associated with increased overnight stays by RVs and to the construction of connecting pedestrian access of Small Park with other areas of the town. There are economies of scale in completing this project alongside the current Bailey Park upgrade and road reconstruction in Ulmarra.

The origin of funds limit the way in which they can be expended. However, an alternative project that Council could consider is South Grafton Skatepark and community hub, which was unsuccessful for Public Spaces Legacy funds. This project is not detailed design ready and would likely be completed over two financial years. The estimated cost is \$700,000.

COUNCIL IMPLICATIONS

Budget/Financial

Adoption of this report puts into effect the budget and proposed activity to be completed in 2021/22. The Long Term Financial Plan details the effect of this budget on Council's long term financial sustainability.

Funds remaining available for the Ulmarra Riverside Precinct Plan implementation and specifically Small Park and connecting footpaths.

Job Number	Description	Budget Remaining
540105	Ulmarra Precinct Construction	\$780,098.82
550350	Bailey Park Playground equipment	\$76,600.00
	Total	\$856,698.82

Asset Management

Adoption of the recommendation of this report relates to Council's future funding and management of assets.

Policy or Regulation

The Integrated Planning and Reporting Framework (IP&R) is enacted under the Local Government Act 1993.

Consultation

Submissions received during public exhibition are detailed in the body of report and provided in detail as Attachment E.

Legal and Risk Management

The Integrated Planning and Reporting Framework (IP&R) is enacted under the Local Government Act 1993.

Climate Change

Consideration of the effect of climate change is given at the individual project level.

Prepared by	Kate Maginnity, Manager Finance & Supply
To be tabled	A. Delivery Program 2017/22 B. Operational Plan 2021/22 C. Draft Resourcing Strategy (2021/22 – 2030/31) D. Draft 2021/22 Fees and Charges E. Submissions F. Charles Street amenities briefing note G. Post exhibition period adjustments

ITEM 6a.21.029 YAMBA ROAD ROUNDABOUTS UPDATE

Meeting	Council	22 June 2021
Directorate	General Manager	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

This report provides Council and community with an update on progress with construction of three roundabouts on Yamba Road, Yamba.

OFFICER RECOMMENDATION

That Council note the Yamba Road roundabouts progress report.

COUNCIL RESOLUTION – 6a.21.029

Toms/Ellem

That Council note the Yamba Road roundabouts progress report.

Voting recorded as follows:

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

Against: Nil

CARRIED

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 commenced construction of three roundabouts on Yamba Road between Treelands Drive and Shores Drive in 2020 utilising grant funds received from Restart NSW at

1. Treelands Drive
2. Carrs Drive
3. Shores Drive

KEY ISSUES**Treelands Drive****Construction:**

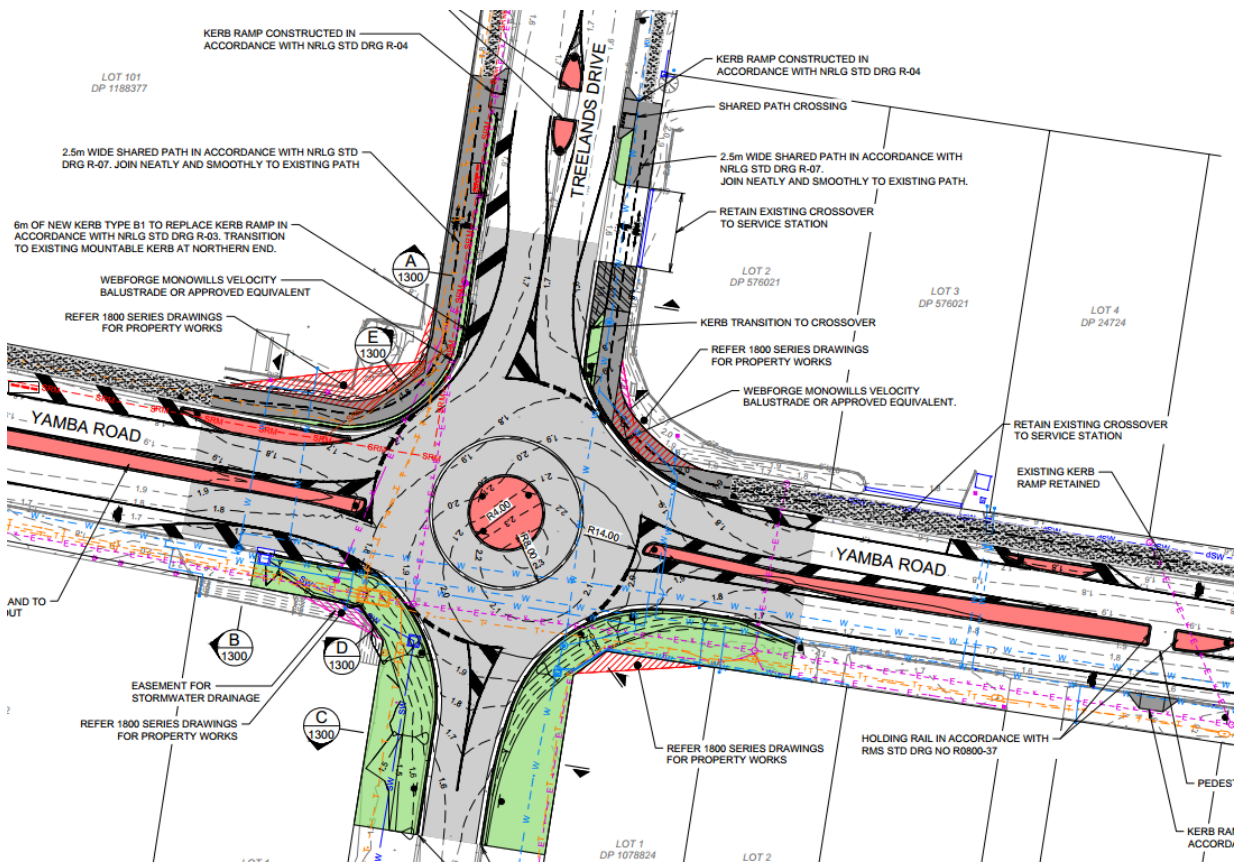
- Achieved Completion Milestone on the 24th February 2021.

Land Acquisition & Property Works:

1. RSL Life Care – property works complete, finalising legal and plan registration.
2. Service Station – property works complete, finalising negotiations, legal and plan registration.
3. Yamba Fair – property works complete, finalising negotiations, legal and plan registration.
4. Hulland Property – property works complete, legal and plan registration complete.

Program and Budget:

The works have been undertaken within time and budget, with no issues or additional risk identified to date.



Treelands Drive - 9/11/2020

Carrs Drive

Construction:

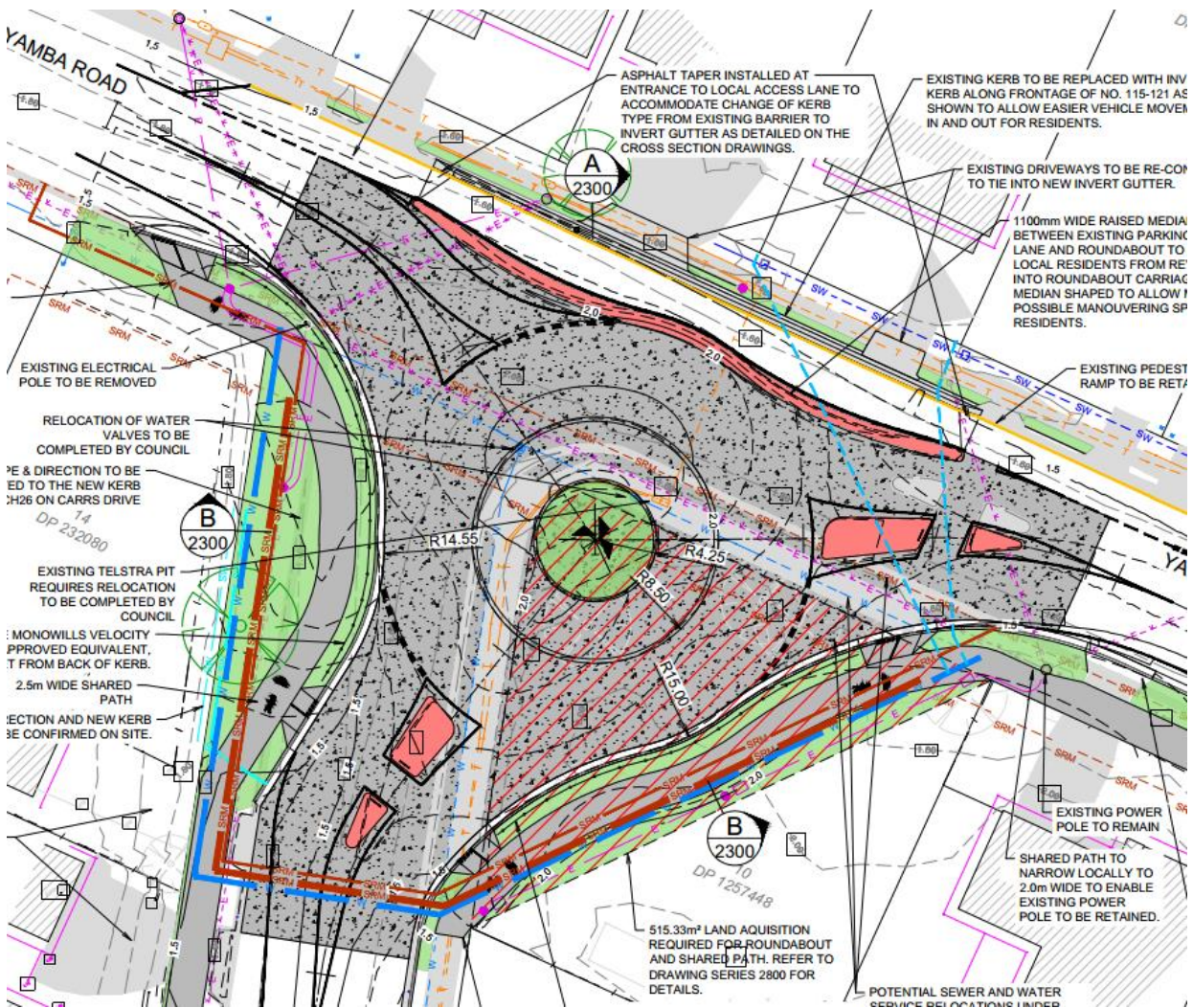
- The residents service road is complete.
- Street lighting energised.
- Adjoining property wall complete.

Land Acquisition:

- Adjoining Private Property – plan registration complete. SEE Civil to complete the block wall including additional height, render and painting.

Program

- The Contractor achieved the completion milestone on the 26th April 2021. The works have been undertaken within budget, with no issues or additional risk identified to date.





Carrs Drive - 9/4/2021

Shores Drive

Design and Constructability Considerations (southern stub):

The southern 'stub' of the Shores Drive roundabout was designed to accommodate (only) a future bypass road connection. If Council in the future determines that the road is viable then consultation would occur at that time including the associated design plans and environmental assessments. Those works are not part of the current scope of works. The stub is located within the existing public road reserve and was considered during the design phase to provide the most cost-effective way of facilitating a possible connection into the future whilst the current works were underway. Some of the constructability related benefits of the stub include the following:

- The concrete stub facilitates the 'future' construction and connection of a flexible pavement and allows an appropriate separation of live traffic with plant intersections. The offset naturally mitigates safety concerns with future works and facilitates pedestrian movements through the stub without a construction/traffic interface.
- The stub enables a ready site access for the future bypass works without temporary works adjacent to live traffic or an alternative temporary access in a less safe location.
- The stub allows construction of the circulating carriageway pavement, plus additional slabs to support the splitter island and transverse terminal anchor as per the TfNSW (RMS) concrete roundabout pavements technical guide. Without this construction the quality of the joint between the current and future pavements will be severely compromised.

Construction:

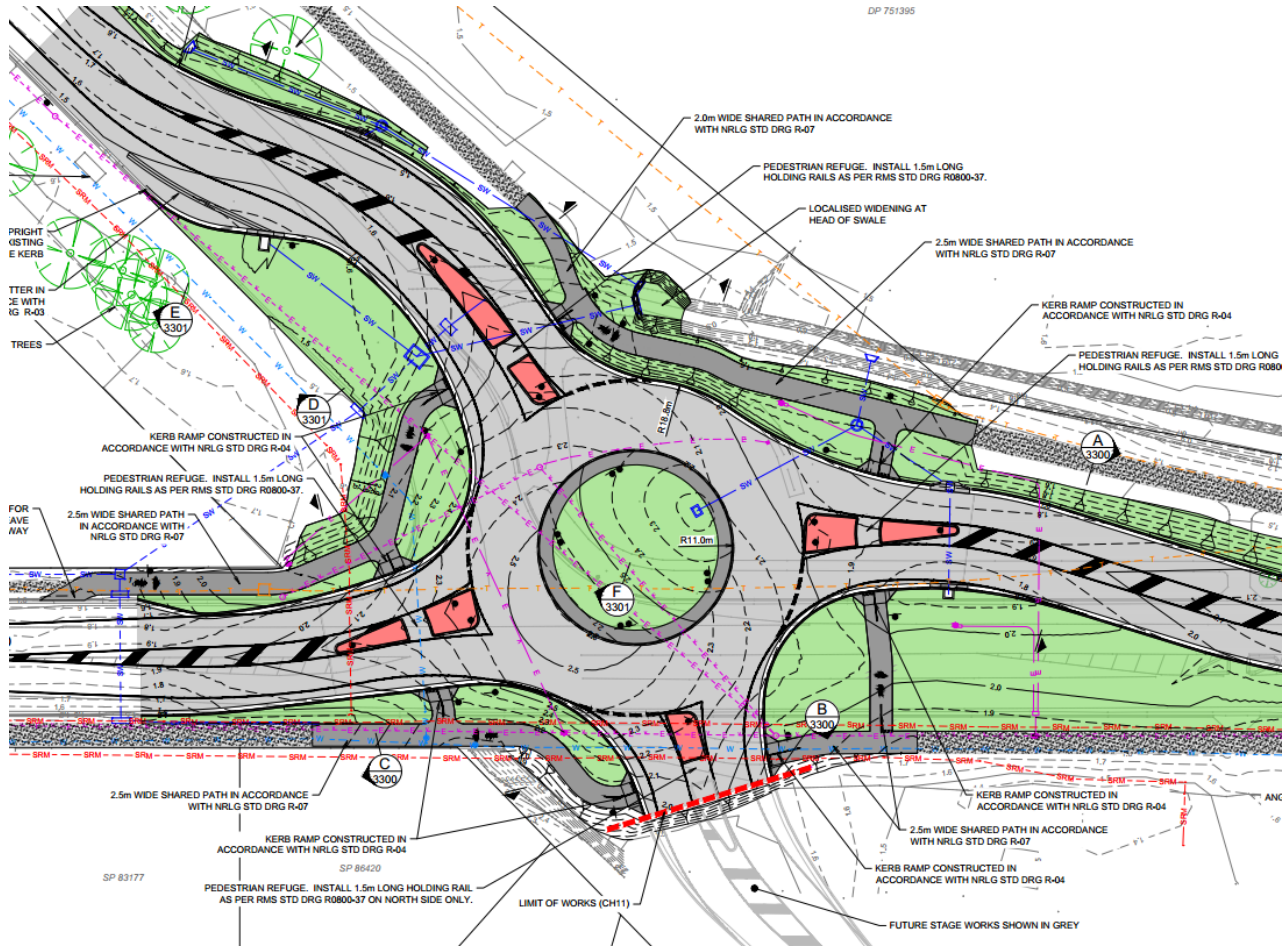
- Stage 1 and 2 works are complete including the opening of Shores Drive on the 17th May.
- Stage 3 works underway with the construction of the southern 'stub'. Clearing complete and foundation treatment in progress.

Program

- Due to the wet weather milestone has been extending to the mid November 2021.
- SEE Civil forecast the works to be completed ahead of the Milestone date in August 2021.

Budget

- Second milestone report and invoice submitted and waiting payment.
- The works are currently tracking within budget, with low risk identified with high water table and poor foundation.





Shores Drive - May 2021

COUNCIL IMPLICATIONS

Budget/Financial

Expenditure is within grant funding budget allocation.

Asset Management

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

Policy or Regulation

N/A

Consultation

N/A relating to the recommendation of this report.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alan Dunne, Senior Projects Engineer
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ITEM	6a.21.030	CIANYWHERE UPGRADE PROGRESS UPDATE
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Meeting	Council	22 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/General Manager - (Laura Black)	
Attachment	Nil	

SUMMARY

The CiAnywhere Upgrade Project aims to move all of our systems to a new web based platform enabling mobility and reducing manual workarounds. Integrating multiple corporate modules and systems into one solution to reduce manual administration, this platform creates a central source of truth for asset data whilst streamlining processes and improving the overall end user experience.

Phase 1 of the project was implemented on 1 July 2020. This included the TechnologyOne platform upgrade to CiAnywhere, along with the upgrade of our document management module, ECM and Fleet Management modules.

Phase 2 of the project is set to be implemented on 1 July 2021 and will deliver asset management centric outcomes through the introduction of a central asset register and works systems, mobility in the field, electronic timesheets, reduced manual transactional workloads and streamlined workflows.

OFFICER RECOMMENDATION

That Council note the CiAnywhere Upgrade progress report.

COUNCIL RESOLUTION – 6a.21.030

Kingsley/Ellem

That Council note the CiAnywhere Upgrade progress report.

Voting recorded as follows:

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

Against: Nil

CARRIED

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

A report was presented to the 15 October 2019 Council meeting (Item 6c.19.065) providing a brief outline of the Enterprise Asset Management (EAM) project status, including transferring to the CiAnywhere (CiA) operating platform. A further report (Item 6c.20.101) was provided in June 2020 providing a status of the project and the impacts of operational restrictions imposed for COVID-19.

On 1 July 2020, the first phase of the project was completed with our TechnologyOne software upgraded to new CiAnywhere (CiA) platform. Our document management system, ECM (Electronic Content Management) along with the Fleet Asset Registers and Fleet Works Systems were also upgraded to the CiA Platform at this time. Additionally for the next phase of implementation, initial centralisation of infrastructure asset registers was completed.

In December 2020 a further status report (Item 6c.20.191) was submitted to Council detailing the critical implementation pathway to ensure key modules and asset management centric outcomes could be implemented on 1 July 2021.

This report seeks to provide a further update on the status of the remaining elements of the project.

KEY ISSUES

The CiAnywhere Upgrade process will take a number of years to fully upgrade the remaining TechnologyOne modules including those in Finance One and Property & Rating to the new CiAnywhere platform and provide further efficiencies and automation within Council's corporate systems. Over the past six months, the dedicated CiA Project Team has been working with technology consultants and staff, to customise the CiAnywhere solution to deliver the next phase of the project ensuring asset management centric outcomes are achieved by 1 July 2021.

The asset management elements of the project involve the upgrade of numerous modules or functions within modules, but ultimately achieve the following outcomes:

- Mobility in the field
- Real time costings
- Centralised infrastructure asset registers
- Online work order system for all infrastructure assets
- Online/Offline mapping accessible in the field
- Electronic timesheets for field staff
- Removal of manual transactional processing
- Dashboards and easily accessible reports
- Streamlined workflows

This phase of the project has been faced with various challenges including scope realignment with the key technology provider, lack of technical consultant availability resulting in compressed timeframes and finally internal resource challenges due to the vast amount of concurrent projects currently being delivered by Council Staff. Despite this, the CiA Project Team has collaborated with staff across the organisation to create a central source of truth for asset data and streamline asset data capture processes through the introduction of mobility in the field. Testing of these new functions is complete and training is well on the way with the Team planning to deliver the newly created asset management software solution on 1 July 2021.

Post implementation, the CiA Project Team will continue to work with staff to bed down these new technologies and processes realising efficiencies through electronic timesheets and removal of manual transactional processing.

Future system upgrade phases are required to continue the CiAnywhere upgrade journey. Subsequent scoping work will begin early in 21/22 to determine the inclusions for the next phase of the project.

COUNCIL IMPLICATIONS

Budget/Financial

To date Council has approved a total budget of \$1,272,372 for the various elements of the project. Current expenditure is \$1,004,938. No change to the budget is predicted at this stage.

Asset Management

The CiAnywhere software upgrade will provide a single central source of truth for all Council asset information. The Asset Management modules within this software will assist in streamlining the recording, reporting and analysis of all types of asset data, including maintenance and operational costs through to capitalisation and strategic asset planning scenarios. It will also provide information for the development of Council's Asset Management Plans and Long Term Financial Plan when fully operational.

Policy or Regulation

N/A

Consultation

Consultation is being undertaken with all sections of Council and TechnologyOne consultants as required for the configuration of the system ensuring it is developed to meet Council's needs.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Kate Maginnity, CIA Project Manager
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ITEM 6a.21.031 DEVELOPMENT APPLICATION PROCESS REVIEW – UPDATE

Meeting	Council	22 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

This report provides a progress status update of the ongoing project to review Council's Development Application processes.

OFFICER RECOMMENDATION

That Council note the progress report on the development application process review.

COUNCIL RESOLUTION – 6a.21.031

Lysaught/Baker

That Council note the progress report on the development application process review.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme	5 Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.3 Engage with the community to inform decision making

BACKGROUND

The Development Application (DA) Review Process Team was created to review Council's current application process to meet the following objectives:

- Streamline the development application process.
- Reduce time taken for approvals.
- More transparent, accountable and outcome focused.
- More consistent, easier and quicker for 'mums and dads' and developers.
- Simplify, standardise and automate the process.

Since the implementation of the DA Review Team, the DA process has undergone major changes including the introduction of electronic lodgement options to customers through the implementation of the NSW ePlanning Portal and acceptance of applications in electronic format such as USB's.

Clarence Valley Council implemented the DA, CDC, Section 4.55 and Division 8.2 Reviews component of the ePlanning Portal on 1 July 2019. On 1 August 2020, Council introduced the Construction Certificate (CC), Subdivision Certificate, Subdivision Works Certificate, Occupation Certificate and Principal Certifier component of the Planning Portal so now all types of development related applications are accepted electronically.

As of 1 July 2021, all DA related applications and certificates are required to be lodged via the NSW Planning Portal as per the mandate issued by the NSW Government. To assist with conveying that information to the community, the DA Review Team have recently held a community information session to relevant stakeholders with the assistance of the Department of Planning, Industry and Environment to demonstrate how to lodge an application online via the Portal.

Council is now receiving over 70% of all Development Applications via the Portal which will increase to 100% after 1 July 2021. To assist in a “one stop shop” approach, Council will also be “going live” with Section 68 Applications (under Local Government Act 1993) and Section 138 Applications (under the Roads Act 1993) through the Portal as of 1 July 2021. This will allow customers to lodge all of their DA related applications online which will meet one of the key objectives of the DA Review Process objectives to streamline the DA process.

KEY ISSUES

The attached DA progress report summarises the project to date and upcoming milestones and changes.

The DA Infographic also contained in the attachments provides a snap shot of how many DA's and CC's were lodged electronically, determination processing times, requests for additional information and DA Tracking Register online views.

COUNCIL IMPLICATIONS

Budget/Financial

The implementation of issuing electronic determinations and correspondence has resulted in savings related to the cost of postage and printing. The savings will continue to increase as more applications are lodged through the portal and through the recent implementation of Post Consent Certificates (CC's and Subdivision Certificates).

Council adopted an additional \$80 reformatting fee which is applied to hard copy applications and electronic documents and plans that are not formatted, named correctly or adhering to the naming conventions rules.

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Consultation

There has been ongoing public communication promoting the implementation of electronic DA lodgement options through a weekly advertisement in the local newspapers.

Further consultation will be required to be undertaken with the community as part of the mandate to accept all applications via the Planning Portal.

Legal and Risk Management

The ePlanning movement provides for a more transparent planning process thereby reducing exposure to risk.

Climate Change

The movement towards an ePlanning environment has reduced the amount of paper use having positive benefits for climate change.

Prepared by	Carmen Landers, Acting Development Services Coordinator
Attachment	1. Project Status Report – June 2021 2. DA Infographic Report – Quarter 3 2020/21

ITEM 6a.21.032 DEVELOPMENT APPLICATIONS

Meeting	Council	22 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director – Environment & Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

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

OFFICER RECOMMENDATION

That the update on Development Applications be noted.

Having declared an interest in this item, Cr Novak left the Council meeting at 2.36pm returned at 2.37pm.

COUNCIL RESOLUTION – 6a.21.032

Kingsley/Toms

That the update on Development Applications be noted.

Voting recorded as follows:

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

Against: Nil

CARRIED

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 31 May 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)
904	819	\$132,012,076.99	109	Average: 61 days Median: 41 days

Of the 819 approved Development Applications between 1 July 2020 and 31 May 2021, 401 (49%) were determined within 40 days or less.

Exceptions to Development Standards under Clause 4.6 of the LEP

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

COUNCIL IMPLICATIONS

Budget/Financial

N/A

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2000

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

Consultation

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

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

Legal and Risk Management

DAs that have not been determined within a period of 40 days (not including any 'stop-the-clock' days) can be considered by the Applicant to be deemed refusal. This factor is unlikely to apply to most of the DAs listed in the earlier table as the calculation of 40 days used for this report does not exclude 'stop-the-clock' days. However, when the appropriate circumstances apply to a DA then the *Environmental Planning and Assessment Act 1979* provides that an Applicant can lodge an appeal to the Land and Environment Court against the deemed refusal and request the Court to determine the DA. It is rare that Applicants pursue this course of action as the cost and time associated with pursuing Court action does not generally justify such action, especially if Applicants are confident that their DA will be approved when determined. DAs where a recommendation for refusal is possible are more likely to be subject to such appeal.

Climate Change

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

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

VOTE BY EXCEPTION

Williamson/Ellem

That the following Items be adopted as recommended:

6b.21.032
 6b.21.033
 6b.21.035
 6b.21.036
 6b.21.038
 6b.21.039
 6b.21.040
 6c.21.073
 6c.21.076
 6c.21.077
 6c.21.078
 6c.21.079
 6c.21.080
 6c.21.081
 6c.21.082
 6d.21.005
 6e.21.010
 6e.21.011

Voting recorded as follows:

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

Against: Nil

b. ENVIRONMENT, PLANNING & COMMUNITY REPORT

MINUTES of a meeting of the **ENVIRONMENT, PLANNING & COMMUNITY COMMITTEE** of Clarence Valley Council held in the Council Chambers, Maclean on Tuesday, 15 June 2021 commencing at 3.30pm and closing at 4.49pm.

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 Jason Kingsley, 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)

DISCLOSURE AND DECLARATIONS OF INTEREST

<i>Name</i>	<i>Item</i>	<i>Interest/Action</i>
Cr Novak	6b.21.029	Pecuniary - Leave the meeting Client of the business
Cr Novak	6b.21.037	Significant Non-Pecuniary - Leave the meeting Children own property in vicinity

ITEM	6b.21.029	DA2021/0057 – DECK ON RIVER SIDE OF LEVEE WALL AT 72 MCHUGH STREET, GRAFTON
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director – Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Paul & Jenny Hyland
<i>Owner</i>	P Hyland
<i>Address</i>	72 McHugh Street, Grafton
<i>Submissions</i>	Nil

DA2021/0057 was submitted to retain a deck that has been erected in a floodway without prior development approval. The application is not supported by Council staff and the applicant has requested the application be referred to a Council meeting. This matter was reported to the May 2021 Council meeting (Item 6b.21.020) but was deferred at the applicant's request.

OFFICER RECOMMENDATION

That Council refuse DA2021/0057 as the deck is located in a floodway and sets an undesirable precedent for other structures in the floodway in Grafton.

Having declared an interest in this item, Cr Novak left the Committee meeting at 3.34pm and returned at 3.44pm.

COMMITTEE RECOMMENDATION

Williamson/Baker

That Council approve DA2021/0057 subject to the draft conditions attached to the report.

Voting recorded as follows:

For: Williamson, Baker, Clancy, Simmons

Against: Nil

Having declared an interest in this item, Cr Novak left the Council meeting at 2.46pm and returned at 2.57pm

COUNCIL RESOLUTION – 6b.21.029

Williamson/Lysaught

That Council approve DA2021/0057 subject to the draft conditions attached to the report.

Voting recorded as follows:

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

Against: Clancy, Toms

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

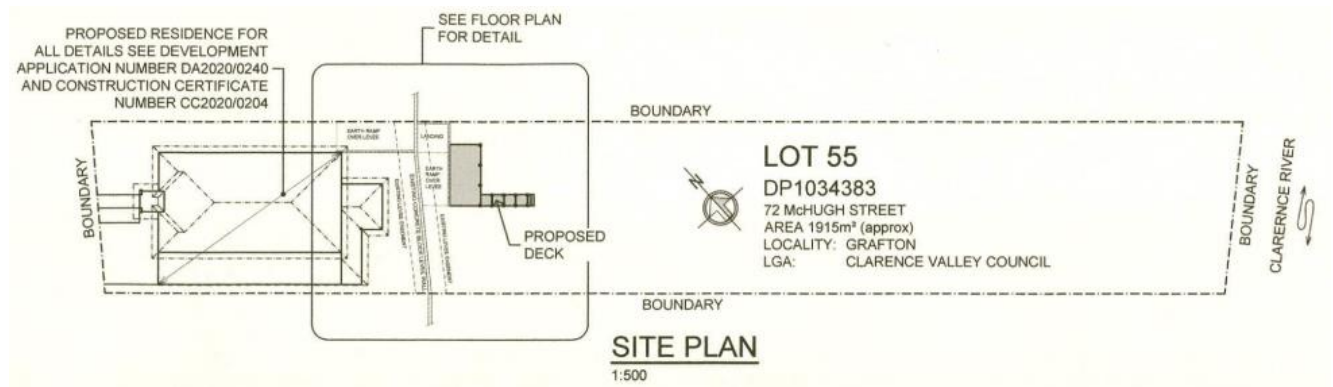
Theme 5 Leadership

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 2021/0057 was submitted on 2 February 2021 for a recently erected low set deck with dimensions of 6 x 3m with a set of landings and steps 4.6m x 1.1m. The deck does not meet the exempt development criteria under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as it is located on the river side of the levee wall (i.e. in a floodway) and is not considered to be of 'minimal environmental impact'. A report was prepared for the May 2021 Council meeting but was deferred at the applicant's request. Since then an additional engineers report has been received, which indicates the deck can withstand a 1:100 year flood and a DA has been lodged to relocate the levee wall 6m towards the river at 74 McHugh St, which is the adjoining property on the downstream side.



KEY ISSUES

The CVC Residential Development Control Plan defines a floodway as *'those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with naturally defined channels. Floodways are areas that even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.'*

The land between the two levee walls in Grafton is a constriction of the river and is a floodway. Schedule D3 of Council's Development Control Plan (DCP) states that 'Urban Residential & Associated Uses' are an unsuitable land use in a floodway.

Clause D3.1 of the DCP states 'Development should not detrimentally increase the potential flood effects on other development or properties either individually or in combination with the cumulative impact of development that is likely to occur in the same floodplain'.

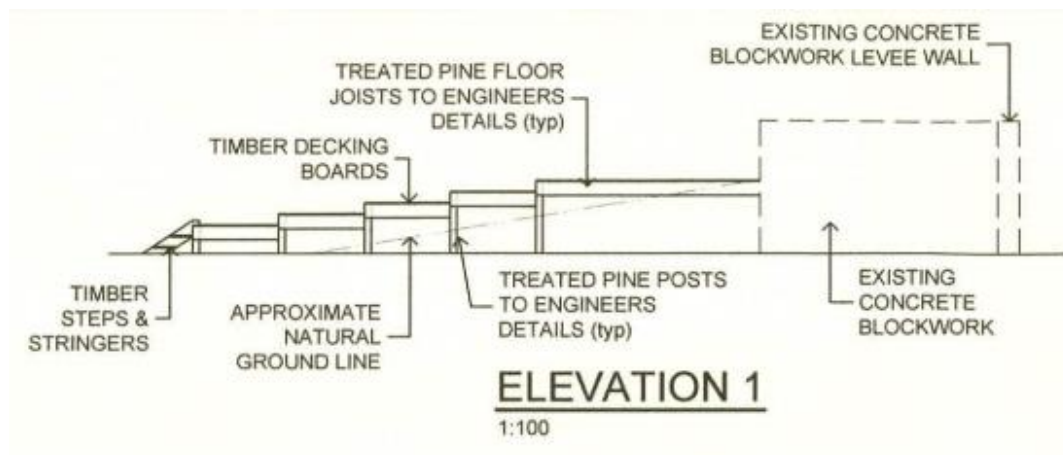
An initial engineers certificate was submitted that stated 'the potential for the deck to damage the levee is extremely low due to the location of the deck, the profile of the deck and the protection to the levee offered by the (adjoining) earthen and concrete blockwork ramp construction'. The certificate did not certify the structure would withstand a major flood, even though this was requested by Council staff.

The DA was considered by staff at a Development Assessment Panel meeting and was not supported for the following reasons:

- New structures on private land are not desirable in floodways due to the likelihood of damage to the structures and resultant debris entering the river as well as being an impediment to flood flows.
- Council has historically not approved structures of this nature on private land on the river side of the levee in Grafton.
- Whilst one small deck may not have a major impact on flood flows the approval of the deck would set an undesirable precedent for other structures to be erected in the floodway on private land in Grafton. The cumulative effect of more structures in the floodway is likely to further restrict river flows in a major flood which can increase flood effects elsewhere.

The applicant has recently submitted a second engineers report that includes an assessment and photos following the March 2021 flood. The second report concludes that 'the structure is capable of withstanding loads from a 1 in 100 year flood event including debris and impact loading.'

It should be noted that DA2021/0229 was submitted in April 2021 for the adjoining downstream property. This DA proposes a new dwelling and relocation of the concrete levee wall a distance of 6m towards the river from its current location at the owner's cost. This application is currently being assessed.



COUNCIL IMPLICATIONS

Budget/Financial

There may be a cost to Council if the applicant chooses to appeal a refusal decision of Council.

Asset Management

N/A

Policy or Regulation

Environmental Planning and Assessment Act 1979
Clarence Valley Local Environmental Plan 2011
Clarence Valley Council Residential Development Control Plan

Consultation

The proposal was notified to neighbours with no submissions received.

Legal and Risk Management

The Grafton levee system was believed to provide flood protection to North Grafton up to the 1:100 year flood. More recent flood studies indicate it provides protection to approximately the 1:25 to 1:30 year flood. Whilst the NSW Floodplain Manual promotes a merit based assessment of flood risk, Council should be careful in relation to the structures it approves in a floodway where levees only provide protection to a 1:25 to 1:30 year flood level in order to limit its legal liability.

Climate Change

The scientific community has warned that extreme weather events including increased severity and frequency of flooding is one of the effects of climate change.

Prepared by	Greg McCarthy, Senior Building Surveyor
Attachment	<ol style="list-style-type: none">1. Plans submitted with DA2021/00572. Engineer's report submitted with DA2021/00573. Engineers report dated 30 March 20214. Schedule of draft conditions (if the application is approved)

ITEM	6b.21.030	SUB2020/0039 – THREE LOT SUBDIVISION – RED HILL ROAD, SOUTH ARM
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director – Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Melissah Osland – Hopkins Consultants
<i>Owner</i>	Angela Chapman
<i>Address</i>	Red Hill Road, South Arm
<i>Submissions</i>	4 Submissions – 1 for and 3 against

Council is in receipt of Development Application SUB2020/0039, which proposes a 3 Lot Subdivision of a property at Red Hill Road, South Arm. In accordance with the Community Participation Plan the application was notified and 4 submissions were received. The application is forwarded to Council for a decision as a result of the public interest in the proposal, furthermore, the Applicant does not agree with conditions relating to the required road upgrade. The report provides an assessment of the application and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council Approve Development Application SUB2020/0039 subject to the conditions and advices contained with Schedule 1.

MOTION

Novak/Clancy

That this item be deferred until July 2021.

Voting recorded as follows:

For: Novak, Clancy

Against: Simmons, Williamson, Baker

The Motion was put and declared LOST.

COMMITTEE RECOMMENDATION

Williamson/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Novak, Simmons, Williamson, Baker

Against: Clancy

MOTION

Clancy/Novak

That Council refuse SUB2020/0039 on the basis that the ecological report does not meet the requirements of the Biodiversity Conservation Act specifically that the Survey Guidelines were not applied and that in the absence of an adequate survey the presence or absence of threatened species cannot be determined.

Voting recorded as follows:

For: Clancy, Novak

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

The Motion was put and declared LOST.

COUNCIL RESOLUTION – 6b.21.030**Baker/Williamson**

That Council Approve Development Application SUB2020/0039 subject to the conditions and advices contained with Schedule 1.

Voting recorded as follows:

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

Against: Clancy, Novak

CARRIED**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 SUB2020/0039 was lodged on 27 November 2020 to subdivide a property on Red Hill Road, South Arm. 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 1.5 hectares applying to the land. The proposal was notified from 3 to 18 December 2020, 4 submissions were received during the exhibition period. The main issues raised in the submissions include unsuitable access, impact on native vegetation and biodiversity and nearby contaminating land uses. The subdivision layout has been amended from the previous layout to reduce clearing associated with the development.

KEY ISSUES**1. Access**

The subject site is currently serviced by a Council maintained road, part of the road frontage of the site is bitumen sealed (approximately 4m wide) with the remaining length of Red Hill Road to the intersection unsealed. The sealed section of road was required as a result of the 6 lot Bushland Close subdivision. The proponent attended 2 pre-lodgement development management units meetings (DMU) one of the main topics of discussion in both meetings was in regard to the access to the site.

The proponent was advised in the DMU that the road would require upgrading to a 7m seal from access to Lot 3 south along the full frontage of the development. The advice from the second DMU reduced the seal width to 6m. The proponent was also advised that Council would be unlikely to support a contribution through a Voluntary Planning Agreement (VPA) due to uncertainties regarding amounts, calculation of works and what the contribution would be for. The Applicant has objected to the requirement to upgrade the road on the basis of cost implications. It has been quoted in the Statement of Environmental Effects that the cost of providing 150 metres of 6m wide road construction is in excess of \$100,000.

In response, Council officers sought advice from Civil Services that in lieu of the full 6 metres width construction and seal for the frontage of the development, a minimum 4 metre wide seal from the intersection of South Arm Road to the existing sealed section of Red Hill Road with gravel passing bays (RFS standard spacing) could be provided as a variation to the DCP requirements. In the opinion of Civil Services officers this would require minimal pavement works as the existing category 1 unsealed section of Red Hill Road varies between 3.5 and 4 metres in constructed pavement width. This would require approximately 410 metres of sealing, compared to 260 metres of full road width construction. It is anticipated that the cost of the 4 metre wide sealing works will be much less than the works required for a 6 metre wide constructed road for the frontage of the development. Council has estimated that the cost to provide a 4 metre seal from the intersection of South Arm Road to the existing sealed section of Red Hill Road with two 20m x 2m gravel passing bays to be between \$40,000 and \$50,000. Council staff also advised that the Applicant could seek to have the Rural Road Contribution of approximately \$24,000 waived, subject to a Council resolution.

In response to this matter, the Applicant has requested that Council consider the following:

1. There is no nexus for the proposed development to warrant the required road works and is therefore considered to be unreasonable,
2. Upgrading the road would benefit other landowners to develop their land,
3. The proposed development will not result in a significant increase in traffic movements per day,
4. Council still levies contributions towards upgrade of infrastructure instead of relying on developers,
5. The required road upgrades extend beyond the frontage of the subject site, and
6. The maintenance of the public road is the responsibility of Council as the local roads authority.

The scale of the development to create 2 additional lots may not appear to be significant in a general sense in terms of vehicle movements per day (10 per dwelling per day), however, it is the adverse cumulative impact that approving the development without sealing of the road would likely have in terms of the surrounding area that raises concern. Given the context of the site in relation to the adjoining R5 zoned lots, Council's adopted development controls should be adhered to in this instance so that the development does not result in an increase to Council's road maintenance budget or further deterioration of Council's future road asset should Council resolve to take over maintenance of the road.

Although a contribution towards Rural Road upgrading is levied against this development, the monetary contribution goes towards the maintenance of South Arm Road and not Red Hill Road, therefore the contribution would not go towards upgrading of Red Hill Road.

Option 1

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 Red Hill Road from the intersection with South Arm Road to the existing seal for a 4m sealed carriageway with 0.5m shoulders. Option 1 is the preferred option.

Option 2

That Council not support a variation to the DCP and approve the development subject to requiring the upgrading of Red Hill Road for the full frontage of the development to the access to Lot 3 in accordance with the requirements of Clause C8.5 of the Residential Zones DCP and NRDC standards (6m seal with 0.5m shoulders). Option 2 is not the preferred option.

Option 3

The Applicant has indicated that a contribution be made by way of a VPA to the road upgrade, however, an amount has not been put forward. A resolution supporting the variation will necessitate a range of advices and conditions to be removed and/or amended from those recommended and provided at Schedule 1. Option 3 is not the preferred option.

2. Impacts on Native Vegetation

The impact on native vegetation and biodiversity was one of the main issues raised in submissions received. An ecological assessment was undertaken for the development, however, did not take into account the full scope of clearing along the boundary fences, subsequently a revised ecological assessment was requested. Council staff also recommended amending the subdivision layout to reduce the overall clearing for future building envelopes inclusive of asset protection zones and new boundaries to not trigger the Biodiversity Offset Scheme. The Applicant has amended the subdivision layout to reduce the impact by moving the building envelope for Lot 2 further south into an already cleared/managed area, an amended Ecological Assessment was submitted. The proposal will directly impact on 0.96 hectares of land comprising 0.498 hectares of native vegetation, this is under the Biodiversity Offset Scheme threshold of 0.5 hectares. The remaining 0.46 hectares is comprised of highly modified vegetation. Indirect impacts of the proposal may include:

- Loss of foraging, sheltering and breeding habitat for native fauna with associated impacts
- Change in composition, and potential degradation, of flora communities and subsequent impacts on fauna species due to edge effects.
- Loss of habitat available for dispersal for plants.
- Opportunities for weed colonisation.
- Loss of organic material from the site.
- Disturbance of soil structure and integrity.

The assessment concluded that the proposed development will not have a significant impact on any matters of National Environmental Significance and is also unlikely to result in a significant impact on any NSW listed threatened species or ecological communities. It is concluded from an assessment of compliance with the

Biodiversity and Habitat Protection Controls of the DCP that the proposal is consistent with the provisions. It is proposed to protect, retain and manage vegetation on the subject site in perpetuity in accordance with an approved Habitat Restoration Plan which will be required prior to any site works commencing. Offset planting and revegetation of retained areas has been recommended as part of the assessment to offset the removal of native vegetation from the site. This is considered appropriate and is consistent with Council's Biodiversity Offsets Policy and the DCP.

3. Suitability of the Site

Submissions raised concern regarding the suitability of the site for residential purposes due to the nearby rubbish dump at the end of Red Hill Road within the Woodford Island Nature Reserve, Brushgrove Wreckers and Clares Quarry. Under State Environmental Planning Policy 55 – Remediation of Land, Council as the consent authority must be satisfied the land is suitable for the intended use. The subject site itself has not been used for any of the potentially contaminating activities listed in Appendix 1 of Council's Contaminated Land Policy. Advice sought from National Parks and Wildlife Services regarding the former Rubbish Dump site contained within the Woodford Island Nature Reserve Plan of Management is to minimise erosion on-site and investigate whether the tip site will be a future pollution source, however, no other further assessment has been undertaken by Parks. Old aerial photographs show that the Brushgrove Wreckers covered a larger footprint compared to the current operation on-site which extended near the common boundary. Advice sought by the Applicant from the operators of the wreckers states that the storing of cars has always been wholly within that property. Taking into consideration the proximity of the building envelopes to these uses and topography of the site, the site is considered to be suitable for the proposed use.

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 Red Hill Road 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 term upgrading of the road to a sealed surface will reduce the maintenance obligations of Council.

Policy or Regulation

Environmental Planning & Assessment Act 1979
 Environmental Planning & Assessment Regulations 2000
 Roads Act 1993
 State Environmental Planning Policy No. 55 – Remediation of Land
 Clarence Valley Local Environmental Plan 2011
 Residential Zones Development Control Plan (DCP)
 Clarence Valley Council Roads Policy
 Clarence Valley Council Contaminated Land Policy

Consultation

The following internal sections of Council were consulted as part of the application assessment:

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Supported subject to Conditions
Development Planner (Environment)	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 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	<ol style="list-style-type: none">1. Proposed Plan2. Submissions3. Section 4.15 Report

Schedule 1
Draft Advices and Conditions of Consent for SUB2020/0039

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.

SWC means Subdivision Works Certificate

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 **RMS** '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 2.4 ET demand on Council's water supply. This includes an applicable credit of 1.2 ETs for pre-existing uses. The headworks charges at 2020/21 financial year rates are:

Water Headworks \$4,979.00 x 2.4 additional ET = \$ 11,949.60

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 Construction Certificate Application form.
6. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2020/21 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00). An additional fee of \$113.55 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.

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
Proposed Development Layout	McNamara Cooksley & Associates	3/03/2021

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 \$3,834.85 x 2 additional lots = \$ 7,669.70 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Maclean surrounds \$3,834.85 x 2 additional lots = \$ 7,669.70
GL S94CVCCFMaclean

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Dwelling/Lot \$73.45 x 2 additional lots = \$ 146.90 GL S94CVCPoMDwell

Rural Road Upgrading Contributions Plan

Maclean Catchment: \$11,838.25 x 2 additional lots = \$ 23,676.50
GL S94RdUpgdMacBhead

N.B.

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

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

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

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

3. 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 22 March 2021, consisting of four (4) 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.
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. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
6. The submission of the 88B Instrument, and one copy thereof, to Council prior to the release of the Subdivision Certificate.

Environment

7. In accordance with Part Y of Council's Residential Zones Development Control Plan, Council's BIFA (section 4) and Section 6 of the *Revised Ecological Assessment for Lot 42 on DP1154358 Red Hill Road, Woodford* (prepared by JWA Pty Ltd, May 2021) a Habitat Restoration Plan shall be prepared by a person/s suitably qualified and/or experienced in biodiversity management and environmental rehabilitation.

The Restoration Plan must include the revegetation of the 0.498 ha of cleared native vegetation in suitable locations onsite not in conflict with any required asset protection zones or on-site effluent disposal areas. These locations are to be protected by the Habitat Restoration Plan, in perpetuity through a restriction-as-to-user over all lots.

The Restoration Plan must nominate the species, quantity and indicative location of vegetation to be planted and specify any maintenance requirements. Plants used in the restoration are to reflect the surrounding plant community type existing within the site. The proposed planting locations must be outside the areas required for Asset Protection Zones and greater than three metres from the property boundaries.

Any trees containing hollows are to be offset at a 1 to 1 offset ratio. The type, location and orientation of the nest box and/or artificial hollows is to be determined and the installation supervised by a suitably-qualified Ecologist.

The approved Restoration Plan must be implemented in accordance with the terms of the Plan. This includes site management, works, monitoring and reporting requirements. Any variation must be approved by Council in writing prior to variations to implementation being conducted.

No clearing or site disturbance is to occur prior to the approval of the Habitat Restoration Plan. Council is to be notified seven days prior to commencement of clearing of any vegetation.

8. Retained vegetation shall be managed under a Habitat Restoration Plan in accordance with Clarence Valley Council's 'Biodiversity and Habitat Protection Requirements Information for Applicants' (BIFA section 4). The Plan is to be submitted to Council for approval prior to commencement of any site works.
9. The vegetation removal requirements are limited to the areas described in section 4.3 and shown on Figure 10 of the *Revised Ecological Assessment for Lot 42 on DP1154358 Red Hill Road, Woodford* (prepared by JWA Pty Ltd, May 2021). This refers to clearing of 0.498 ha of native vegetation for the proposed building footprint, effluent management area, asset protection zone, fenceline and driveway access only. Care is to be taken when clearing to minimise damage to surrounding vegetation, by using appropriately sized equipment.

10. A Flora and Fauna Management Plan (FFMP) must be prepared for the proposed development prior to commencement of clearing operations. The FFMP must provide guidelines for controlling activities during the pre-clearing and clearing phases of the development and detail how all retained vegetation should be clearly marked and protected.

Prior to vegetation clearing, mature trees must be inspected by a suitably qualified ecologist to determine that no fauna or fauna habitat features (nests, dreys) are present or active and the ecologist shall be present during the removal of any hollow-bearing trees to ensure the potential for fauna injury or mortality is reduced. In the event that fauna are present and require care, the ecologist shall arrange transport of any animals to local wildlife carers or a local veterinary hospital.

A post-clearing report is to be provided to Council providing confirmation of the area of clearing with details of any fauna rescues.
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. A restriction-as-to-user is to be placed on all allotments prohibiting the development on or clearing of any vegetation within the retained habitat areas outside of Asset Protection Zones and beyond 3m of each new lot boundary.
14. Where possible, any felled trees should be placed on the ground as habitat features and not removed.
15. During construction activities, temporary high visibility fencing must be erected to assist in the protection of the retained vegetation from all construction activities by restricting access from machinery and contractors. This fencing will be erected in accordance with Australian Standard 4970-2009 Protection of Trees. Temporary signage will be provided along all temporary fencing during the construction phase stating "Environmental Protection Zone – No Unauthorised Entry.
16. Biosecurity risk weeds (refer to Appendix 1 of *Revised Ecological Assessment for Lot 42 on DP1154358 Red Hill Road, Woodford* (prepared by JWA Pty Ltd, May 2021) are to be managed according to requirements under the *Biosecurity Act 2015*. This also includes ensuring machinery and plant do not introduce weed seed or propagules to the site. This may include adopting and implementing the 'Arrive Clean, Leave Clean' guidelines (DoE 2015).
17. Biosecurity protocols are to be implemented in accordance with current best practice and prior to construction to ensure the introduction and spread of Myrtle Rust is minimised during construction.
18. Vegetation cleared during construction should be mulched for use on the subject site for use in erosion and sediment control. No burning of cleared vegetation is permitted, all mulched vegetation not used on-site is to be disposed of at a suitable location.

Engineering

19. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate, for each and every stage of the development. This may require payment of a fee.
20. 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.

21. Prior to the issue of any Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.
22. Prior to the issue of the Subdivision Certificate telecommunications (including provision for NBN services where applicable) and low voltage electricity must be provided to the development and/or all lots within the subdivision in accordance with the requirements and specifications of the relevant service authorities, Australian Standards, the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**.
23. 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.
24. 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.
25. 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**.
26. Prior to the issue of the Subdivision Certificate, Red Hill Road is to be upgraded and sealed from the intersection with South Arm Road to all lots of the proposed subdivision in accordance with the requirements of this condition. A Road Design Plan must be submitted for approval with a **SWC** application.

Red Hill Road must be upgraded to provide:

- a Minimum 4.0 metre wide sealed carriageway.
- b Passing bays at maximum 200 metres spacing that are a minimum of 20 metres long by 2.0 metres wide (provide a minimum trafficable width of 6.0 metres at the passing bay location).
- c Turning head is to comply with Table 5.3b and Figure A3.3 of Planning for Bush Fire Protection 2019 at the end of Red Hill Road.
- d Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm with prime.
- e Minimum depth of suitable compacted pavement material.
- f Adequate roadside drainage.

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

27. 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.
28. 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.
29. 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.

30. 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'.
31. 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 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.
32. 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.
33. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of works. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.

ITEM	6b.21.031	DA2019/0423 – 250 SITE MANUFACTURED HOME ESTATE – LOT 2 DP 1199142, BROOMS HEAD ROAD, GULMARRAD
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

SUMMARY

<i>Applicant</i>	Land Dynamics Australia
<i>Owner</i>	Jim Bricknell Chiropractor Pty Ltd
<i>Address</i>	Lot 2 DP 1199142 Brooms Head Road, Gulmarrad
<i>Submissions</i>	Yes 77 for original exhibited application and 14 for the revised exhibited application

Council has received Development Application DA2019/0423 for a Manufactured Home Estate (MHE) on Lot 2 DP 1199142, Brooms Head Road, Gulmarrad, which is to be known as 'Glencoe Lifestyle Resort'.

250 MHE sites are proposed with facilities including a clubhouse and pool, tennis court, bowling green, men's shed and workshop, and washdown bay. The proposal will retain managed woodland areas with areas set aside for stormwater bioretention and drainage basins. An area of 1,100m² that adjoins the northern development lot is to be dedicated to Council as public open space with the remainder of the estate for private residential use.

This development is the first for the Gulmarrad Urban Release Area (GURA) on land that was rezoned from large lot residential to R1 General Residential which allows higher density development including caravan parks and Manufactured Home Estates.

The development has triggered entry into the Biodiversity Offset Scheme (BOS) and a Biodiversity Development Assessment Report (BDAR), as revised, has been submitted with the application. The Biodiversity and Conservation Division of the Department of Planning, Industry and Environment (BCD) has reviewed the BDAR and provided recommendations to Council.

This report is submitted to Council to consider the recommendations of BCD, issues raised in submissions and provides an assessment of the application for Council's consideration.

OFFICER RECOMMENDATION

That Development Application DA2019/0423 be approved subject to the draft Advices and Conditions attached to Schedule 1 of this report.

COMMITTEE RECOMMENDATION

Baker/Williamson

That Council

1. Approve DA2019/0423 subject to the draft Advices and Conditions attached at Schedule 1 of this report after deletion of the text of Condition 83 and replacement with the word "Deleted".
2. Advise the applicant that Council supports the concept of onsite manufacture of the proposed homes in a single facility to be used solely for that purpose and subject to:
 - a. Approval of a separate application for such facility
 - b. Removal of such facility at the completion of the homes approved by DA2019/0423.

Voting recorded as follows:

For: Baker, Williamson, Simmons, Novak

Against: Clancy

Toms/Kingsley – That the meeting adjourned for a few minutes at 3.42pm. CARRIED.

The meeting resumed at 3.50pm

COUNCIL RESOLUTION – 6b.21.031**Baker/Lysaught**

That Council approve DA2019/0423 subject to the draft Advices and Conditions attached at Schedule 1 of this report.

Voting recorded as follows:

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

Against: Clancy

CARRIED**FORESHADOWED MOTION**

Novak/

That

1. Council defer Item 6b.21.031 DA2019/0423 till the July Council Meeting.
2. Invite The Northern Rivers Local Health District, North Coast Department of Education and the Cooffs Clarence Police to each make a submission with regards to available services to support this MHE of 250 dwellings.
3. Ask Council staff to provide a noise report with regards to the possible manufacture of MHE's on the proposed site.

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

DA2019/0423 was lodged with Council on 13 August 2019 and originally sought approval for a 255 lot MHE over the 19ha allotment.

Council staff raised a number of issues with the applicant about the proposal including:

- Connectivity of recreation areas and the retention of remnant vegetation and flora and fauna habitats.
- The connectivity of vehicular and pedestrian access.
- Provisions for public infrastructure and community benefit and interest.
- Engineering related matters – Traffic, Access off Brooms Head Road and Stormwater Management.

The application was amended with revised plans being submitted on 11 December 2020, reducing the numbers of sites to 250, reducing the overall footprint area and changing the access intersection from Brooms Head Road to one off Sheehans Lane (see figure 1 – Lot Layout below).

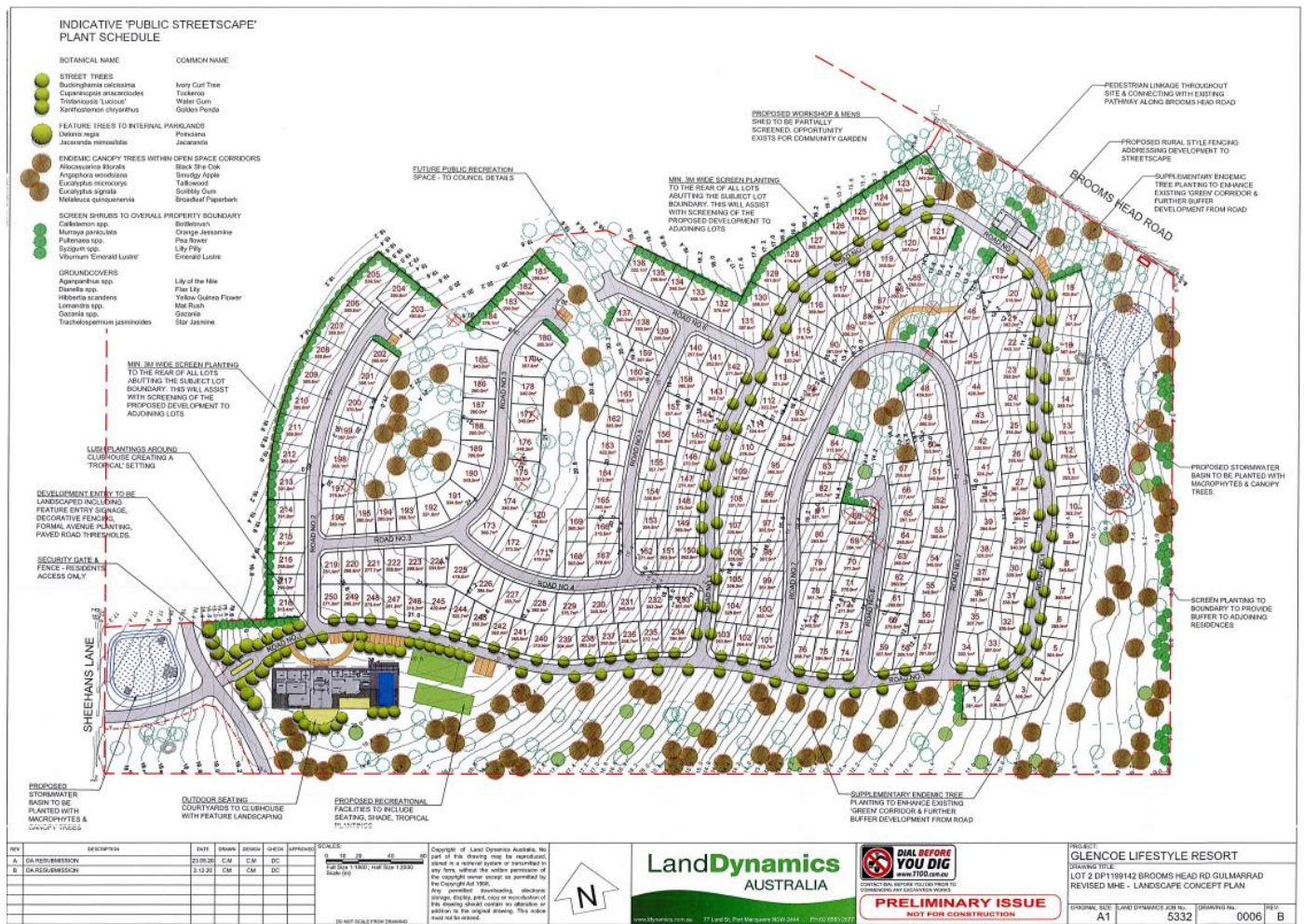


Figure 1 – lot layout

Clause 6 of State Environmental Planning Policy No. 36 – Manufactured Homes Estates permits development for the purposes of manufactured home estates on the land. The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* (the Regulation) details the minimum requirements of a MHE; compliance with the Regulation will be a requirement of condition of consent.

Following receipt of the amended application it was re-notified/exhibited between 21 December and 29 January with the standard 14 day submission period being extended due to the Christmas holiday period.

Council has adopted an amendment to Clarence Valley Contributions Plan 2011 in January 2021 to capture contributions for MHE dwellings and long-term caravan site/moveable dwellings to provide for new local infrastructure, community facilities, open space and recreation land.

The development has triggered entry into the Biodiversity Offset Scheme (BOS) and a Biodiversity Development Assessment Report (BDAR) has been submitted to consider the impacts of the development under the *Biodiversity Conservation Act 2016*. Notably the BDAR has been amended to meet the recommendations of BCD with the exception of accounting for a 90% loss, rather than a 100% loss, of biodiversity on the managed woodland areas. Council staff are in support of this 10% reduction as the retention of the vegetation will retain valuable habitat consistent with Council’s Biodiversity Strategy to avoid and minimise vegetation removal and no net vegetation loss. Further comment is provided in the Key Issues section of this report.

The BDAR includes a calculation for the required Biodiversity Offset Credits to be purchased from registered Biodiversity Stewardship Sites, or alternatively, to pay offset funds directly into the NSW Biodiversity Conservation Trust (BCT) in accordance with the NSW Biodiversity Offsets Payment Calculator. The value of the offset credits for this development is valued at \$2,920,170.54.

The applicant has disputed the recommendations of BCD, however, has revised the offset calculation in the BDAR to assume the presence of the Common Planigale and the Emu. Notably the offset credits have increased from \$1,247,355.98 to \$2,920,170.54. Further comment is provided in the Issues section of this report.

This application is the first development application for the Urban Release Area (URA). A second application has been lodged and is currently being assessed for the northern Lot 1 DP 1199142 for a 71 lot residential subdivision, shopping complex and tavern (DA2020/0729) within the URA as shown below.



Figure 2 Layout of DA2020/0729 in the URA

Council's Local Environmental Plan (the LEP) has specific provisions for Urban Release Areas (URA) in regard to the provision of infrastructure and site-specific controls to be considered and adopted into a Development Control Plan. The applicant has requested that the application be considered as a concept development application under section 4.23 of the Environmental Planning and Assessment Act 1979 (the Act) and the applicant has satisfactorily considered the matters specified in the LEP.

A north-south road is to be provided which provides a connection within the release area from the southern development lot (western part of Lot 29 DP 1242738) to the future business precinct in the northern development lot (Lot 1 DP 1199142). This allows for vehicular, bicycle and pedestrian connection from Lorikeet Road and Major Mitchell Drive on the southern boundary of the URA through to the neighbourhood centre in the northern portion of the URA. Separate access points will be from Sheehans Lane to the east and north of the URA. The construction of these roads will be staged in accordance with the release of residential allotments within each development lot.

The public road sections within Lot 2 DP 1199142 are to be dedicated to Council prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993.

A new intersection off Sheehans Lane is considered to be a good planning outcome as it will align with what was intended under the rezoning proposal (figure 5) and provide improved connectivity to this development and surrounding undeveloped land in the URA, including the neighbourhood centre.

The need for this link was identified by the Maclean Urban Catchment Local Growth Management Strategy 2011, which is a growth management strategy endorsed by both Council and the NSW Department Planning, Industry and Environment. That strategy formed part of the strategic justification to rezone this land and key outcomes will be delivered through subsequent development consents. The application is considered to be consistent with the strategic policies set out under the Maclean Urban Catchment Local Growth Management Strategy 2011 (see strategy extract and indicative structure plan - figure 3 & 4 below).

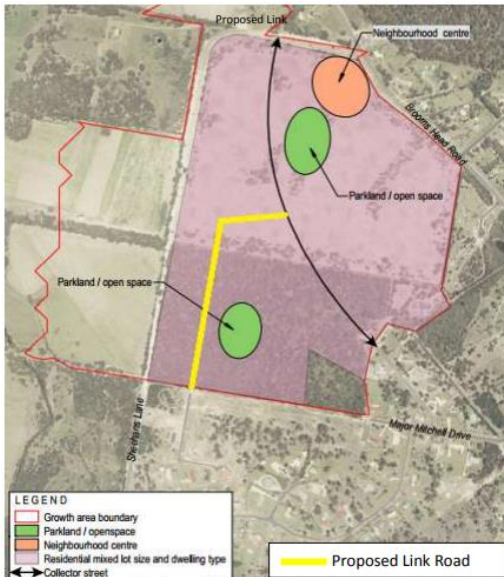


Figure 1 – Extract of Indicative Structure Plan – Gulmarrad (Maclean Urban Catchment Local Growth Management Strategy 2011)



Figure 4 – R1 zoned land in the URA

Figure 3 – Indicative structure plan with amended link road



Figure 5 – rezoning proposal

KEY ISSUES

Issue 1 - Biodiversity Offset Scheme (BOS) and a Biodiversity Development Assessment Report (BDAR)

The development has triggered entry into the Biodiversity Offset Scheme (BOS) and a Biodiversity Development Assessment Report (BDAR) has been prepared to consider the impacts of the development under the *Biodiversity Conservation Act 2016*. Concerns have been raised through the submissions about the impacts on native vegetation and wildlife from the development.

Comment

The BDAR, as revised, was submitted to the Department of Planning, Industry and Environment – Biodiversity and Conservation (BCD) and recommendations received in response. It is noted that the BCD comments are only advisory, where not supported by Council, reasonable justification is required. Comments to the recommendations are provided below:

1. The council should consider requesting the BDAR be revised to consider the three retained central vegetation remnants as 100% loss and calculate appropriate biodiversity offsets for them.

Comment

Council staff are not in agreement with the statement as it is against Council's Biodiversity Strategy 2020-2025 of 'no net vegetation loss'. The retention of sections of mature remnant vegetation/ ole growth trees is important for local fauna habitat. A Vegetation Management Plan (VMP) has been submitted that sets out how the remnant flora will be maintained to ensure that the biodiversity values of the vegetation will not decline. Council staff are satisfied with the biodiversity offset credits in the BDAR accounting for a 90% loss of biodiversity in the retained vegetation areas. The VMP will be enforced by a restriction as to user (Section 88E Positive Covenant) on the title that will protect the remnant vegetation in the eastern and southern portions of the site in perpetuity.

2. If the council is satisfied that the development will not result in the removal of any of the hollow bearing trees on the site (with hollows greater than 20cm) in the future, no survey is required for the candidate species credit species Glossy black cockatoo (*Calyptorhynchus lathamii*), Powerful owl (*Ninox strenua*) and Masked owl (*Tyto novaehollandiae*).

Comment

Targeted surveys were carried out for these species and were found not to be present. The proposal will retain 90% of the existing trees on the site, which includes most of the mature hollow bearing trees and available habitat for these species. Council staff are satisfied that no further offsetting is required for these species.

3. The BDAR must be revised to either assume presence of the Common planigale as a species credit species or undertake adequate threatened species survey in accordance with Section 6.5 of the BAM or obtain an expert report in accordance with Subsection 6.5.2 of the BAM.

Comment

The BDAR has been revised to assume the presence of this species, consistent with BCD recommendations, and the BDAR has been updated accordingly. Council staff are now satisfied that the applicant has now fulfilled the requirements of BCD through inclusion of appropriate biodiversity offset credits for the Common Planigale.

4. The BDAR and credit calculations must be revised to include the Emu (*Emu population in the NSW North Coast Bioregions and Port Stephens LGA*) as a species credit species unless an expert report is obtained to demonstrate the species does not occur on the site in accordance with Subsection 6.5.2 of the BAM.

Comment

Both Council's Emu register and NSW BioNet have records of Emu sightings in close proximity to the subject site. The Coastal Emu is listed as an endangered population, and, DPIE has identified the area as an Emu 'hotspot' and as such Council staff support the BCD's recommendation.

The applicant could undertake further surveys, however, this would likely take a considerable time (12-24 months) of survey work to ascertain the level of site usage by Emu's. Council staff are satisfied with the biodiversity offset credits provided for the Emu in the amended BDAR, which is consistent with the BCD recommendation.

As there is a difference of opinion between BCD and the applicant's ecological consultant it is recommended the precautionary principle be applied in this instance; that is that *when an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically. In this context the proponent of an activity, rather than the public, should bear the burden of proof.*

Additionally, the proposed site layout of the MHE provides for a continuous parcel of managed woodland wildlife corridor between Brooms Head Road and Sheehans Lane and this can be improved by requiring Emu friendly fencing access points in suitable locations.

The applicant does not oppose a restriction-as-to-user that requires the 'Emu-friendly fencing' with gaps in the fence to allow for the passage of Emus in suitable locations and has offered to preserve the vegetation corridor. Given that there are limited avenues for Emu passage along Brooms Head Road this is considered a good outcome for this site and for the Emu population in the locality to access and utilise the managed woodland corridor area.

It is not clear how money that is paid into the biodiversity conservation fund will be spent towards the conservation of the Gulmarrad/Brooms Head Emu population though the measures applied to this development (continuous protected corridor and Emu friendly fencing) are significant improvements to allow the passage of Emus through the site, which is currently not available due to fencing.

Issue 2 - Transport movement and road network design

The intersection of Brooms Head Road and Sheehans Lane requires upgrading to the standards for the peak traffic volumes of this development as well as others in the URA.

Notably no contributions plan for the intersection upgrade has been proposed or adopted for the URA. A former contributions plan did apply to road upgrading of Sheehans Lane though this could only be applied to large lot residential subdivisions and not to the R1 rezoned land. In the absence of a contributions plan the upgrade of the intersection will be required to be constructed at the full expense of the developers of the URA. The cost of the upgrade is estimated to be around \$1,000,000.00.

The developer has submitted that it agrees that upgrade of the road network to service the development is necessary though given that there are currently 3 separate lots in the URA the costs could be apportioned based on demand on infrastructure. The applicant submitted a Traffic Impact Assessment (TIA) that proposes an apportionment of costs to upgrade the intersection based on predicted peak period vehicle trips; Northern Lot 1 DP1199142 apportionment cost of 53% (DA2020/0729); Middle Lot 2 DP1199142 apportionment cost of 38% (DA2019/0423); Southern Lot 29 DP1242738 apportionment cost of 9% (has a former large lot approval and no current DA for the R1 zoned land).

Without an adopted contributions plan Council cannot levee the developer for contributions. Additionally, Council has not budgeted for any road or intersection upgrades that will service the road network in this area.

Comment

The apportioning of the costs of the Brooms Head Road and Sheehans Lane intersection upgrade as proposed by the applicant is not supported for several reasons:

- The intersection upgrade cannot be partly constructed or partly paid for and needs to be upgraded to future peak traffic movements. In requiring a portion of the payment (which Council cannot request anyway) Council will likely be burdened with the remaining costs of the upgrade. Council has not budgeted for these works and does not have the required money set aside to cover a partial or full cost of the works.
- Council cannot lawfully require a part payment of the full construction cost as a condition of consent without a contributions plan being in place. The only other mechanism available would be through an offer of monetary value by the developer by way of a Voluntary Planning Agreement. No agreement is in place and no offer has been made to Council despite advising the developers that this was an option Council could consider.
- There is no certainty of the timeframe of when each of the 3 lots in the URA will be developed and the timeframe when intersection cost will be fully funded while relying on part payment from each developer; Potentially a stalemate situation would be likely until all funding is provided.
- Two development applications have been lodged on 2 of the 3 development lots within the URA and if a contributions plan was developed and adopted in the future the contributions plan could not be retrospectively applied to these applications/developments.
- In regard to the costs and design of the intersection upgrade, Council's Development Engineer does not support the recommended design of the Traffic Impact Assessment (TIA) nor the criteria used to support the recommendations for the following reasons:

- The intersection of Brooms Head Road and Sheehans Lane will need to be upgraded to a Channelised Right Turn and Auxiliary Left Turn Treatment (CHR / AUL) in accordance with the Austroads standards for turn treatments.
- It is noted that the speed zone on Sheehans Lane is 80 km/hr, which differs from the 50km/hr that was used in the submitted TIA. Previous advice given to the MHE applicant was that a review of any existing 80 km/hr speed zone would need to be requested from the applicant to Transport for NSW separately and not as part of the MHE development application. This does not appear to have taken place.

It is noted that all adjoining developments in the URA or other developments in the area that significantly increase the traffic load on the intersection will also be conditioned to provide the full intersection upgrade if it has not already been completed. It is up to the developers to negotiate a shared cost arrangement / agreement if they do not want to pay for the whole of the intersection upgrade as Council has no mechanism to apportion the cost. The upgrade of the intersection has been required as a condition of consent.

The linkage road is consistent with Council's strategic direction for the URA which was considered and amended by Council [Item: 14.062/18 – MOD2018/0014 (DA2004/0720) & MOD2018/0029 (DA2004/0275)]. The modification to the development approvals accepted that a link to the URA would be beneficial through from Lorikeet Road given that Brolga Drive was developed to end in a cul-de-sac.

Issue 3 - Stormwater management

Many of the submissions have raised concern that the development will increase the already problematic stormwater runoff from the site to nearby residences as well as to the drainage path over and past Brooms Head Road.

Comment

Council's sustainable water controls outlined in the Residential Zones Development Control Plan objectives are:

- (a) *To maintain water quality and hydrology to as near as possible to predevelopment flows.*
- (b) *Prevent or minimise pollutants entering stormwater and treating stormwater as near as possible to the source.*
- (c) *To enable a more efficient use of potable water.*
- (d) *To reduce stormwater runoff volumes and peaks and to mimic natural tail water flows.*
- (e) *To incorporate 'sustainable water' management options into development to decrease demands on infrastructure and on the environment.*
- (f) *Facilities must be designed to minimise maintenance.*

The design of the MHE includes a western stormwater detention basin and an eastern bioretention basin to manage and control stormwater runoff. Council's Development Engineer has considered the stormwater management studies undertaken by the applicant and has provided the following comments:

The developer has submitted a revised Stormwater Management Concept Plan that demonstrates that the concentrated discharge flows from the site has been mitigated to pre-development regimes and water quality targets have been achieved conceptually.

The proposed outlet from the eastern bioretention basin now consists of 2 x 450mm diameter pipes. Council staff still have concerns about the implications of these pipes entering the existing table drain at 90 degrees in a location that is very close to the edge of seal of Brooms Head Road. This will be conditioned and further assessed when the Public Works Certificate (PWC) is submitted.

The proposed outlet from the western bioretention basin consists of 2 x 450mm diameter pipes. Council staff still have concerns about the implications of these pipes entering the existing table drain in a location that is very close to the edge of seal of Sheehans Lane and also the proximity to the intersection of the proposed public road and Sheehans Lane. This will be conditioned and further assessed when the PWC is submitted.

The revised Stormwater Management Concept does not demonstrate the predicted hydraulic depths and velocities or road and drainage designs proposed by the development including a cross section of the depth of water at the point of the outlets to the road reserve. This will be conditioned and further assessed when the PWC is submitted.

Council does not support the dedication of the western basin as drainage reserve that serves this development only. The western basin will be conditioned to remain in the ownership of the development.

The development will be conditioned to require each site to have 2,000L on-site detention to mitigate stormwater flows. This can be incorporated in the detailed stormwater management plan to be submitted as part of the public works certificate application.

Conceptually is it accepted that the stormwater management impacts can be suitably mitigated and further detailed design will confirm this prior to any works commencing on the site. The imposition of conditions of consent will ensure that Council's sustainable water controls are met and that the impacts on surrounding properties are neutral or beneficial.

Issue 4 - Sewer and servicing infrastructure

The URA is not currently serviced by sewer and the applicant has provided a sewer servicing plan. Water is available to the development along Sheehans Lane and Brooms Head Road. Similar to the Brooms Head Road and Sheehans Lane intersection the applicant has suggested that the cost of the sewer infrastructure should be apportioned similar to the intersection upgrade costs.

Comment

Clause 7.10 – Essential Services of Council's Local Environmental Plan requires Council to be satisfied that any utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available.

For the same reasons outlined above, the apportionment of the cost of the sewer infrastructure is not supported. The development will be conditioned in accordance with Council's servicing plan that the developer constructs the sewer rising main from the MHE site to Council's existing sewer manhole in Diamond Street, Townsend which is approximately 1.8km from the site. Like other development proposals servicing infrastructure including sewer, water, electricity and telecommunications will need to be provided to the development to the satisfaction of Council and other service providers similar to any other development.

Issue 5 - Socio-economic concerns raised in submissions

Some submissions have raised concern in having this type of density of housing in the area which is considerably different to the surrounding large lot residential rural lifestyle lots.

Comment

The developer has provided that the MHE will be targeted to persons over 55 and retirees as an affordable housing option. There has been a recent push for these types of land leased communities in many local government areas including the Clarence and they invoke with mixed opinions regarding individual preference.

This development is the first within the R1 General Density zone and as such has raised concerns to nearby residences that have a more dispersed residential housing density.

The land has been rezoned in accordance with the NSW Regional Strategy which identified it as an urban growth area, consistent with the specific local growth management strategies to meet projected population growth in the area.

The MHE is a permitted development on the land and provides an alternative affordable housing option that offers a combination of independence and communal lifestyle. Individual opinions or opinions of different sectors of the community against such developments form only part of the overall economic, environmental and social planning considerations though do not provide reasonable grounds that would warrant refusal of the application.

Issue 6 - Issues raised in submissions

Issues raised	Comment
Whole of nominated area for open space to be dedicated to Council of 1,100m ²	The proposal will dedicate community land in the development that will adjoin and link to land to be dedicated on the northern lot.

Issues raised	Comment
Lack of open space in Gulmarrad - on-site facilities are not for the overall public benefit and available only for those residents	It is agreed that there is a lack of public recreation lands in the Gulmarrad area. The facilities for the MHE are for the private use of the occupants, however, as per the comment above 1,100m ² of community land is to be dedicated for public benefit along with 5,002m ² of land (Lot 69 DA2020/0729) which is an area slightly larger than a football field. The community land will be suitably located adjoining the commercial precinct of the URA.
Previous plans included a manager's residence	A site has not been nominated for a manager's residence on the amended plan. This is not a requirement for the MHE which is likely to be managed out of the clubhouse. There is no requirement under the Regulation for a manager's residence.
Will the stormwater be adequately contained	See comments provided in the Issues section of the report.
Will homes to be assembled offsite	Yes - Council will require that the manufactured homes be constructed offsite. The applicant may seek the concurrence of the Department of Planning Industry and Investment by way of a Section 82A objection which requires the support of Council – this has not been applied for by the applicant.
Biolinks study 2009 – Impacts on wildlife and native vegetation, wildlife corridor preservation, impacts on Emus, past illegal clearing, small areas of managed protected woodland unlikely to remain	The site layout has been amended to reduce the development footprint and protect existing significant vegetation on the site. The retained woodland areas are to be managed in accordance with an approved Vegetation Management Plan. The application has been assessed in accordance with the <i>Biodiversity Conservation Act 2016</i> which allows the applicant to purchase and retire any Biodiversity Offset Credits.
MHE not conducive to surrounding rural residential lots, impacts on nearby farmland, impact on existing infrastructure	The MHE is a permitted use in the R1 zone and is assessed on its merits in regard to providing higher density residential development. The impacts on surrounding rural lifestyle lots has been considered in the rezoning process and the development will be required to construct the required infrastructure to service the development and not detriment the existing level of service.
Lack of public transport Noise issues from increased development	The applicant will be required to construct the road network to Council's standards and upgrade existing intersections. The increased housing density of the URA will increase the demand and likelihood for a public transport provider to operate in the Gulmarrad Area.
Lack of contributions towards s7.11 contributions and will the developer be required to bear the cost of sewer infrastructure	The proposal will be levied for section 7.11 contributions in accordance with the adopted Contributions Plan. The extension of sewer will be at the expense of the developer.
This type of development is desperately needed in this area	The MHE is a permitted development on the land and provides an alternative affordable housing option that offers a combination of independence and communal lifestyle.
Lowering of living standards to Gulmarrad area, Over-development and social impacts; Not appropriate for the Gulmarrad area. Small reduction from 255 to 250 still does not address the former issues re: impacts on the local community	Individual opinions or opinions of different sectors of the community against such developments form only part the overall economic, environmental and social planning considerations though do not provide reasonable grounds that would warrant refusal of the application.
Safety and access to Sheehans Lane; Sheehans Lane and Brooms Head Road intersection inadequate	The intersection design will be required to be in accordance with Council's adopted standards.
Environmental impacts from clearing of vegetation on native wildlife, also increased numbers of cats and dogs	There are managed woodland areas to be retained and a restriction is proposed on domestic companion animals

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 Fee and Charges. Assessment of the application has been completed by staff utilising recurrent staff budgets.

Asset Management

Increased traffic to the site will generate traffic movements above the design criteria for the access roads and intersections. Improvements to the road infrastructure will be at the developer's expense.

Policy or Regulation

- Environmental Planning and Assessment Act 1979
- Biodiversity Conservation Act 2016
- Environmental Planning and Assessment Regulation 2000
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- State Environmental Planning Policy No. 36 - Manufactured Home Estates
- State Environmental Planning Policy No. 55 - Remediation of Land
- Clarence Valley Local Environmental Plan 2011
- Development Control Plan for Development in Residential Zones

Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Development Engineer	Conditions provided
Building Surveyor	Conditions provided
Environmental Health	Conditions provided
Environment – Flora and Fauna	Conditions provided

Legal and Risk Management

The applicant may appeal Council's determination of the development application in the NSW Land and Environment Court for which there would be a financial cost to Council.

Climate Change

Provision of new Manufactured Home Estate will provide additional residential housing in the Gulmarrad area. Future 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	Patrick Ridgway, Senior Development Planner
Attachment	A. Site layout Plan, Community Facilities, Maintenance Shed, Staging Plan and indicative buildings B. Statement of Environmental Effects C. Section 4.15 assessment report D. BCD correspondence and recommendation E. Stormwater Management Plan F. Vegetation Management Plan
To be tabled	G. Submissions H. BDAR

Schedule 1
Draft Advices and Conditions for DA2019/0423

Definitions:

Applicant means Land Dynamics Australia Ltd or any party acting upon this consent.

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

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

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*.

TfNSW means Transport for New South Wales

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

WSUD means Water Sensitive Urban Design

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

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

Advices

1. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
 - a Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or 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.

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.
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.
4. Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.
5. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The application form for a Certificate of Compliance is available on Council's website.
6. The proposed development has been assessed as contributing an additional demand on Council's water supply, and on Council's sewerage system, as shown below:
Water: 0.6 ET per 2 bedroom unit and 0.8 ET per 3 bedroom unit;
Sewer: 0.75 ET per 2 bedroom unit and 1.0 ET per 3 bedroom unit.

The headworks charges at 2020/21 financial year rates are:

Water Headworks \$4,979.00 per additional ET

Sewer Headworks \$12,175.00 per additional ET

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment. The payment of the contributions must be made for each relevant stage prior to issue of the Section 68 Local Government Act 1993 Approval to Operate a Manufactured Home Estate (which is to specify the type and number of dwellings).

7. 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.
8. 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.
9. 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.
10. 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.
11. 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, or as per a relevant waste resource recovery exemption/order from the NSW Environment Protection Authority (EPA).
- 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.

12. Sewerage facilities to serve the development will be required. There is considered to be sufficient capacity at Woodford Island STP for 400 to 500 lots at Gulmarrad provided the lots are serviced by a pressure sewer system.
- Development of the Manufactured Housing Estate will require construction of a rising main to the Council's existing sewer manhole in Diamond Street, Townsend which is approximately 1.8km from the site. The rising main between the site and the Diamond Street discharge point is to be designed to cater for all anticipated flows from the R1 zoned precinct. The sewer main is to extend from Brooms Head Road to service Lot 29 DP1242738.
- Other infrastructure such as energy/electricity and telecommunication services/NBN will also need to be planned and provided for the developed Urban Release Area. Satisfactory arrangements will need to be made with designated State and Local Authorities to determine availability, timing and cost arrangements, including the payment of contributions where required.
13. If an 'uncompleted works' bond is required, payment of the bond is the responsibility of the developer and in accordance with Council's 'Fees & Charges'.
14. No construction is to be commenced on the clubhouse, swimming pool, men's shed or maintenance shed until a Construction Certificate has been issued.
15. The following information shall be submitted to the Council or Principal Certifying Authority prior to issue of a Construction Certificate:
- a Lodgement of a Construction Certificate application.
16. 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.
17. All plumbing and drainage work must be in accordance with AS 3500 and the Plumbing Code of Australia. The main drain shall be located external to the building unless exceptional site conditions or unusual circumstances exist (Section 4.10 AS/NZS 3500.5.2012).
18. The door to the sanitary compartment must open outwards, or slide or be readily removable from the outside of the compartment unless there is a clear space of at least 1.2m between the closet pan and the doorway.
19. The manufacturer's details of the roof trusses are to be submitted to Council prior to the frame inspection.
- All glazing is to be selected and installed in accordance with the provisions of AS 1288 or AS 2047. Upon completion of the building and prior to its occupation, the glass suppliers/installers certificate is to be submitted to Council.
20. The certificates and documentation requested in this approval should be emailed to council@clarence.nsw.gov.au quoting the development application number in conjunction with booking the final inspection.
21. The floor shall be treated and maintained against termites in accordance with AS 3660.1.
- a Upon installation of the method of treatment a Certificate shall be issued to Council by the licensed installer of the system certifying that the system installed is in accordance with AS 3660.1.
- b A durable notice must be permanently fixed to the building in the electricity meter box indicating:
- i the method of protection
- ii the date of installation of the system
- iii where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label
- iv the need to maintain and inspect the system on a regular basis.

22. All materials used in the community buildings (in particular floor linings and floor coverings) must comply with the fire hazard properties specified in Specification C1.10 of the Building Code of Australia. Manufacturer's specifications and standard fire test reports confirming compliance will need to be provided prior to the issue of an Occupation Certificate.
23. A fire hose reel system complying with AS 2441 must be provided to service the whole clubhouse building so that no point on the floor is beyond the reach of the nozzle end of a fully extended hose.
24. A fire hydrant system must be installed in accordance with AS 2419.1 and Part E1.3 of the Building Code of Australia.
25. Portable fire extinguishers must be provided and must be selected, located and distributed in accordance with AS 2444.
26. An exit and emergency lighting system shall be provided throughout the clubhouse building to comply with the requirements of Part E4.2 of the Building Code of Australia and AS 2293.1. The system is to be circuit sensing to the building lighting circuits.
27. Electrical plans indicating the position of all exit signs and/or emergency lighting must be submitted to the Principal Certifying Authority for approval prior to issuing a Construction Certificate.
28. Access for people with disabilities must be provided to and within the community buildings by means of an access way in accordance with AS 1428.1-2009:
 - a from the main points of a pedestrian entry at the allotment boundary;
 - b from another accessible building connected by a pedestrian link; and
 - c from any required accessible carparking space on the allotment.
29. The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
30. 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.
31. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
32. All food preparation and food storage areas shall comply with the requirements of Standard 3.2.3 of Chapter 3 of the Food Standards Code.
33. All building and construction work of \$25,000 or more require the payment of the long service levy prior to the issuance of a Section 68 Approval. 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 Section 68 Approval Application form.
34. All dwelling sites and community buildings shall be located within 90 metres of a fully functioning double headed pillar type fire hydrant.
35. The building work involving the installation, modification or extension of a **relevant fire safety system** cannot commence unless:
 - a plans have been submitted to Council as the principal certifying authority that show:
 - i in the case of building work involving the installation of the relevant fire safety system—the layout, extent and location of key components of the **relevant fire safety system**, or
 - ii in the case of building work involving the modification or extension of the relevant fire safety system—the layout, extent and location of any new or modified components of **the relevant fire safety system**, and
 - b specifications have been submitted to Council as the principal certifying authority that:

- i describe the basis for design, installation and construction of the **relevant fire safety system**, and
- ii identify the provisions of the Building Code of Australia upon which the design of the system is based, and
- c those plans and specifications:
 - i have been certified by a compliance certificate referred to in 6.4 of the Act as complying with the relevant provisions of the Building Code of Australia, or
 - ii have been endorsed by a competent fire safety practitioner as complying with the relevant provisions of the Building Code of Australia.

relevant fire safety system means any of the following:

- a a hydraulic fire safety system including:
 - i a fire hydrant system (including street hydrants) or
 - ii a fire hose reel system, or
 - iii a sprinkler system (including a wall-wetting sprinkler or drencher system), or
 - iv any type of automatic fire suppression system of a hydraulic nature,
- b a fire detection and alarm system,
- c a mechanical ducted smoke control system.

The principal contractor for building work must ensure that the most recently endorsed copy of the plans and specifications for any **relevant fire safety system** for the building that were required to be submitted to the principal certifying authority:

- a are kept on the site of the building work, and
- b are made available for inspection on request by the certifying authority, consent authority, Council and Fire and Rescue NSW at the times during which the building work is carried out.

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.

Drawing	Drawn by	Drawing No/s.	Dated	Rev.
Lot Layout	Land Dynamics Australia	0003	2.12.20	B
Staging Plan	Land Dynamics Australia	0007	2.12.20	B
Community Facility site plan, ground floor plan and elevations	O'Connell Architecture and Design	04, 05, 06	6.07.19	A
Sports Pavilion and Shed	O'Connell Architecture and Design	07	6.07.19	A
Vegetation Management Plan	Narla Environmental Pty Ltd	-	December 2020	-

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

Clarence Valley Contributions Plan 2011 Open Space/Recreation Facilities

Rate per MHE dwelling site

Coastal \$2,302.15 per MHE dwelling site x 250 = \$575,537.50 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per MHE dwelling site

Macleans surrounds \$2,302.15 per MHE dwelling site x 250 = \$575,537.50

GL S94CVCCFMacleans

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per MHE dwelling site

\$43.90 per MHE dwelling site x 250 = \$10,975.00

GL S94CVCPoMDwell

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 a Section 68 Local Government Act 1993 Approval to Operate a Manufactured Home Estate.

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

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

3. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to the Section 68 Local Government Act 1993 Approval to Operate a Manufactured Home Estate (which is to specify the type and number of dwellings) for each and every stage of the development. This may require payment of a fee.
4. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
5. The developer must design and construct all civil works, in accordance with **NRDC** and the approved **PWC**. 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 Approval to Operate. 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 **PWC**, a practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works:

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
 - b will not be affected by landslip either above or below the works.
 - c will not be affected by subsidence either above or below the works
 - d includes adequate drainage to ensure the stability of the development
6. An **ITP** must be submitted for approval with the application for a **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 Earthworks
 - d Roadworks
 - e Stormwater Drainage
 - f Sewer
 - g Water
 - h Other Services
 - i 'On Maintenance' (Public Infrastructure)
 - j Practical Completion (Works on Private Property)
 - k 'Off Maintenance' (Acceptance of Public infrastructure by Council)
7. Prior to the issue of the Approval to Operate for any stage of the development Council will require satisfactory evidence that all requirements of the relevant telecommunications and

power authorities have been complied with and all required contributions have been lodged.

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

Health and Safety

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

Environment

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

Quality

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

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

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

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

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 certifying authority for the work.

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

10. 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.

11. Prior to issue of the Approval to Operate, the applicant is to provide water supply infrastructure to service the development, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and **NRDC**.

12. Water Reticulation Design Plan must be submitted for approval with the application for a **PWC**. The proposed location of the water service and meter must be shown on the drawings.

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

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

13. 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.

14. Prior to release of the Approval to Operate, 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 and NRDC.

15. 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.

16. The sewer main is to extend from Brooms Head Road to benefit and service Lot 29 DP1242738 generally in accordance with the services concept plan Drawing 0004 Rev. B 2.12.20. An easement for sewerage purposes must be created over any sewer mains within the development that are to be dedicated to Council.

The width of the easement must be:

- a Where the sewer is less than 1.5 metres depth, the easement width shall be 3.0 metres, except that for sewers which are less than 0.75 metres depth and serving only one residential lot, the easement width may be reduced to 1.5 metres,
- b Where the sewer is between 1.5 metres and 3.0 metres depth, the easement width shall be 5.0 metres,
- c Where the sewer is greater than 3.0 metres depth, the easement width shall be determined by Council following an assessment of maintenance access requirements;

Unless specific approval or direction is given by Council to an alternative easement width having regard to the particular circumstances of the development and the sewer infrastructure.

The easement shall be located centrally about a line drawn between manholes to an accuracy of 0.15 metres by a registered surveyor and supported by an engineering survey plan showing the dimensions between the sewer line and the extremity of the easement at each

point where the easement dissects the boundary of the subdivided lot or lots or any change of direction.

17. A Road Network Design Plan, including the future public road within Lot 2 DP 1199142 that is required to be dedicated to Council to link the future residential developments to the north and south of the development of the site, 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.

18. The future public road within Lot 2 DP 1199142 that links the future residential developments to the north and south of the development site is to be dedicated to Council prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993. The applicant is required to construct the road or lodge a bond with Council for the cost of the roadworks to ensure that the road is constructed within an acceptable timeframe after the dedication of the road reserve to Council.

Prior to the road reserve being dedicated to Council the applicant will be required to provide to Council:

- a) A plan showing the extent of the road to be dedicated.
- b) Council's bond administration fee in accordance with the fees and charges at the time of the application.
- c) A bond to the value of 130% of the cost of the road works.

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

19. All road Intersections must satisfy safe intersection sight distance requirements for the speed zone of the road servicing the development in accordance with NRDC. Sight distance diagrams must be provided with the **PWC** plans.

Additional traffic analysis is required to be submitted with the **PWC** to determine the type of intersection to be constructed on Sheehans Lane with the proposed road, taking into consideration the traffic generated by the Urban Release Area at full development potential.

The intersection of Brooms Head Road and Sheehans Lane shall be upgraded to a CHR / AUL(s) intersection in accordance with the Austroads warrants for turn treatments.

The design of all intersections shall be suitable for the turning of a 12.5m rigid truck and a 19m semitrailer without the swept vehicle paths encroaching onto opposing traffic lanes.

The design standard of intersections shall be compliant with **NRDC** and Austroads. This design is subject to verification and approval by Clarence Valley Council prior to the approval of the **PWC**.

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

The pavement design for the intersections shall include a geotechnical investigation to assess the capability of the existing pavement to accommodate new traffic volumes. Any costs associated with the reconstruction and sealing of the existing pavement to meet the road design ESA's shall be borne by the developer. The design speed for the intersections on Sheehans Lane is 90 km/h.

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

21. 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.

22. Preliminary road pavement designs, in accordance with **NRDC**, must be submitted to Council as part of the **PWC** approval. The asphaltic concrete wearing surface must be a minimum 30mm (residential light to medium traffic and 40mm collector roads) compacted depth. Final pavement design will be subject to in-situ CBR tests.

Stabilised pavement and concrete road pavement suitable for the intended design loadings may be used subject to submission of alternative designs for the approval of Council.

23. 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.

24. The engineering design plans submitted with the **PWC** application shall include details of linemarking and sign posting. All regulatory linemarking and sign posting on public roads shall be submitted to the Local Traffic Committee (LTC) for approval. The works shall not commence until approved by the Committee.
25. The applicant is required to prepare a detailed design of Bike and Pedestrian facilities along the Brooms Head frontage to the site and within the development site and connecting onto the existing network as part of the **PWC** application. The minimum width of all shared bicycle/footpaths shall be 2.5m. Any proposed pedestrian refuge shall be in accordance with Technical Direction TDT 2011/1a issued by the (then) NSW Roads & Traffic Authority.
26. A pavement condition report is to be provided for Sheehans Lane and Brooms Head Road intersection and also Sheehans Lane adjacent to the site access for a distance of 75 metres in both directions from that access. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **PWC**. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction and operational phase of the development.

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

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 (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC** and approved by Council prior to commencement of works.

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

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

The Stormwater Drainage and Bioretention Basins are to remain in the ownership of the MHE. Council will not accept the Western Drainage Basin as Drainage Reserve. Headwalls of the outlet pipes from the Basins are required to be located in the development site and not within the road reserve.

On-site detention (OSD) is to be provided for each manufactured home site/dwelling. A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title is required to ensure future building development compliance.

Prior to the issue of an Approval to Operate for the Manufactured Home Estate a Section 88B restriction under the Conveyancing Act 1919 is to be placed on the title requiring that:

A minimum of 2000 litres of on-site stormwater detention shall be provided at each site/dwelling prior to occupation of the manufactured home/dwelling and maintained in working order for the life of the building. This can be provided via a rain water tank. A small orifice outlet (usually 50mm) and pipe shall drain the detained stormwater to the stormwater system/street after each rain fall event. All downpipes shall be connected to the detention tank.

28. An easement is to be created to provide for conveyance of drainage through the subject land, where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system then the easement must benefit Council.

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

29. Prior to the release of the Approval to Operate or acceptance of works, 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.

30. In accordance with **NRDC** and prior to the release of the Approval to Operate under Section 68 of the Local Government Act 1993, 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.

31. Prior to issue of an Approval to Operate a Manufactured Home Estate under the Local Government Act 1993, the pedestrian pathway / cycleway / development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and Council's Streetlighting Strategy. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to issue of the **PWC**.

32. Prior to release of the Approval to Operate under Section 68 of the Local Government Act 1993, 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. The maintenance period and bond amounts for **WSUD** systems must be in accordance with the Council or accredited private certifier approved stormwater

management plan.

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

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

33. 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.
34. Prior to the release of the Approval to Operate, a s88B Instrument to create any necessary easements or restrictions required by the conditions of this consent is to be submitted to Council for approval.
35. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to commencement of works.

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.
36. 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**.
37. Prior to issue of an Approval to Operate a Manufactured Home Estate under the Local Government Act 1993 for any stage, certification from the Geotechnical Inspection and Testing Authority who undertook Level 1 inspection and testing, in accordance with AS3798, will be required confirming that each stage is suitable for the intended purpose. All testing as required in AS3798 and **NRDC** must be submitted.
38. 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 Approval to Operate under Section 68 of the Local Government Act 1993.
39. Any excavation resulting in disturbance of more than one tonne of soil at a depth of greater than 2m below natural ground surface, or work that is likely to lower the watertable beyond 2m below natural surface shall comply with Council's Acid Sulfate Soil management provisions.
40. 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'.
41. 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 commencement of works 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.
42. 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.

43. During dry weather, standard dust suppressions methods are to be used as often as it necessary to ensure that adjoining properties are not adversely affected by undue dust.
44. 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.
45. The boom gate at the entry to the site must be located to ensure adequate storage for vehicles waiting to enter is available, without any vehicles waiting in any part of the Council's road carriageway. Details of the placement of the boom gate are to be provided with the **PWC** design.
46. Prior to the commencement of construction, a Construction Environmental Management Plan (CEMP) must be prepared in accordance with the "*Guideline for the Preparation of Environmental Management Plans*", NSW Department of Infrastructure, Planning and Natural Resources, 2004. As a minimum, the CEMP must include all Conditions, Mitigation Measures, Environmental Safeguards and general environmental requirements as detailed in the following documents:
 - (a) Statement of Environmental Effects, Proposed Manufactured Housing Estate (MHE), "Glencoe Lifestyle Resort", Lot 2 DP1199142, Dated August 2019.
 - (b) Environmentally relevant consent conditions as detailed in the Development Consent provided by Clarence Valley Council.

The CEMP must be implemented during construction.
47. In addition to the above, the CEMP must include an Unexpected Find Procedure/s in the event that any of the following is discovered during the works; items of Aboriginal or non-Aboriginal Heritage or contamination (incl. Asbestos Containing Material).

All works crew must be toolboxed on the Unexpected Find Procedure/s.
48. The CEMP must include all reasonable and feasible mitigation measures to reduce the potential noise and air quality impacts to sensitive receivers associated with the construction of the proposal. At Council's request, noise and air quality assessment and additional mitigation may be required. This assessment and mitigation works must be undertaken by a suitably qualified person.
49. Prior to the commencement of construction, a detailed Erosion and Sediment Control Plan (ESCP) must be developed by a IECA Certified Professional in Erosion and Sediment Control (CPESC), prepared in accordance with *Landcom / Department of Housing Managing Urban Stormwater: Soils and Construction Guidelines* [the Blue Book].

All erosion and sediment control measures are to be installed in accordance with the certified Erosion and Sediment Control Plan prior to the commencement of construction works.

All erosion and sediment control measures are to be maintained in accordance with the certified Erosion and Sediment Control Plan.
50. The proposed development must comply with Part 2 Division 3 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*. This must be demonstrated prior to issue of the Approval to Operate under Section 68 of the Local Government Act 1993.

51. An approval to operate under Section 68 of the Local Government Act 1993 must be issued prior to use of the site as a manufactured homes estate for each and every stage.
52. Community buildings and amenities are to be provided in accordance with the Staging Plan by Zoran Architecture as submitted with the application.
53. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
54. Where the work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves enclosure of a public place, the following must be provided:
- a A hoarding or fence must be erected between the work site and the public place.
 - b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - d Any such hoarding, fence or awning is to be removed when the work has been completed.
55. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited, and
 - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
 - c Showing the name, address and telephone number of the principal certifier for the work, and
- Any such sign is to be removed when the work has been completed.
56. **Mandatory Inspections** The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:
- a **Pier holes** (if any), before concrete is poured,
 - b After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
 - c Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
 - d **Plumbing work** prior to covering/lining walls,
 - e **Sewer drainage** work prior to back filling/lining,
 - f Before covering **waterproofing in any wet areas**,
 - g Before covering any **stormwater drainage** connections,
 - h After the **building work has been completed** and prior to occupation.
- If any of these inspections are not performed an Occupation Certificate cannot be issued for the building. Inspection bookings can be made online at www.clarence.nsw.gov.au until midnight on the day before the inspection. The Construction Certificate or Complying Development Certificate number must be provided when booking an inspection.
57. 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 1999*, 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.
58. All erosion and sediment control measures are to be installed and maintained in accordance with the Statement for Sediment and Erosion Control that was submitted with the development application.

59. 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.
60. All **new** hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:
 - 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - 50°C in all other classes of buildings.A higher hot water temperature is acceptable at all other fixtures, eg. laundry tub and kitchen sink.
61. A fully dimensioned and notated work as executed sewer drainage and stormwater 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.
62. A minimum height of 150mm shall be maintained between the top of the sewer overflow gully riser and the lowest fixture connected to the drain. The overflow gully shall also be 75mm above surrounding ground level, except if located in a path where it shall finish at a level so as to prevent the ponding and ingress of water.
63. 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.
64. The energy efficiency requirements in Section J of the Building Code of Australia (BCA) apply to this clubhouse building. Sufficient written documentation shall be submitted with the Construction Certificate application to indicate compliance with Section J.
65. The installation and maintenance of the swimming pool's child resistant barrier shall comply with the requirements of the Swimming Pools Act 1992 and AS1926.1 2012 and be fitted with a self-closing, self-latching, outward opening gate prior to filling the pool with water. No plantings or climbable items shall be positioned within the 900mm non-climb zone (NCZ) on the outside of the pool fence or within the 300mm NCZ on the inside of the pool fence.
66. The swimming pool/spa pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
 - b) before 7.00 am or after 8.00 pm on any other day.
67. Temporary fencing that complies with AS 1926.1 shall be provided around the pool if the permanent fencing cannot be installed before the pool is filled.
68. The swimming pool water recirculation and filtration system must comply with AS 1926.3-2010. The installation contractor shall provide Council with an Installation Certificate attesting to the products being selected and installed in accordance with the requirements of that standard.
69. The Principal Certifier shall be notified for the purpose of a final inspection of the pool and fencing as soon as possible after installation and before use of the pool.
70. An approved CPR and pool safety sign is to be provided within the pool enclosure in accordance with the requirements of the Swimming Pools Act 1992 prior to the final inspection.
71. The pool shall be registered on the NSW Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au before issue of an Occupation Certificate.

72. If the site is connected to Council's sewage system the swimming pool waste water is to be disposed of to the sewer via a surcharge gully with a minimum 100mm air gap between the waste outlet and the top of the gully surrounds.
73. If the site is serviced by an onsite wastewater disposal system then the swimming pool waste water is to be disposed of onsite clear of the sewage effluent disposal area and in a location that does not pollute a watercourse or create an erosion problem.
74. If the site is serviced by a pressure sewer system then pool backwash volumes and rates must be regulated so as not to exceed the capacity of the pressure sewer pumping unit and to avoid alarms being needlessly generated. The same provisions shall apply to draining swimming pools. The pump backwash/discharge rate must be less than 0.45L/sec. If this requirement cannot be met it will be necessary to provide additional storage (holding tank) with controlled discharge of less than 0.45L/sec.
75. The occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:
- bears a notice containing the words "This swimming pool is not to be occupied or used", and
 - is located in a prominent position in the immediate vicinity of that swimming pool, and
 - continues to be erected and maintained until a relevant Occupation Certificate or a Certificate of Compliance has been issued for that swimming pool.
76. Toilet Facilities - are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- A standard flushing toilet, connected to a public sewer, or
 - An approved temporary chemical closet. The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.
77. Working/Construction Hours Working hours on construction or demolition shall be limited to the following:
- Monday to Friday: 7:00am – 6:00pm
Saturday: 7:00am – 1:00pm
No works on Sundays or 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.
78. Prior to granting the approval to operate, an amended scaled site plan shall be provided which clearly details the location of each double headed pillar type fire hydrant; ten percent of the site that is reserved for recreation or other communal activities; the offsets between the lot boundaries and the new dwelling site boundaries and all the community buildings; vehicular access from all dwelling sites to an access road; width of all roads; and dimensions of car spaces including accessible car spaces
79. The manufactured home estate shall be designed, constructed, maintained and operated in accordance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
80. Council must be given written notice of the installation of a manufactured home or associated structure within the site of within 7 days after its completion. The notice: (a) must indicate the site identifier of the dwelling site on which the manufactured home or associated structure has been installed, and (b) must include the particulars contained on each compliance plate relating to the manufactured home or associated structure. The notice must be accompanied by: (a) a copy of the engineer's certificate for the manufactured home or associated structure, and (b) a fully dimensioned diagram of the dwelling site on which the manufactured home or associated structure is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this Part have been complied with.

81. Water, sewer and fire services shall be provided to service the dwelling sites and community buildings. Prior to work commencing approval under Section 68 of the *Local Government Act 1993* shall be obtained from Council for sewer work, water plumbing and stormwater work (Note: Application fees apply). Hydraulic plans prepared by a hydraulic engineer to AS/NZS 3500:2018, AS2419.1:2005 detailing the size and location of water, sewer, stormwater and fire services shall be submitted to Council for approval. The fire hydrant system shall be designed and installed in accordance with AS2419.1:2005. A design statement from an accredited Competent Fire Safety Practitioner shall be included with the documents provided to Council.
82. Asset protection zones shall be provided in accordance with Planning for Bush Fire Protection 2019 table A1.12.1
83. 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.
84. Prior to the issue of an Approval to Operate, a positive covenant must be created under Section 88E of the Conveyancing Act 1919, over the areas identified as Management Zone 2 in the Vegetation Management Plan prepared by Narla Environmental Pty Ltd dated December 2020 (the VMP) requiring that the areas are to be managed in accordance with VMP.
85. Prior to the issue of an Approval to Operate for the Manufactured Home Estate a Section 88B restriction under the Conveyancing Act 1919 is to be placed on the title requiring that any fencing bordering or in the Management Zone 2 areas of the lot are to have Emu friendly fencing structures to allow the free passage of Emus on and through the site. The design of the fence is to be submitted to and approved by Council prior to installation.
86. Prior to the issue of an Approval to Operate for the Manufactured Home Estate a Section 88B restriction under the Conveyancing Act 1919 is to be placed on the title requiring that:
- i. The keeping of dogs and other domestic animals hazardous to native fauna are prohibited within the Manufactured Home Estate unless contained within a non escapable secure compound, and
 - ii. That dogs must be kept on a leash at all times within the lot when outside of fenced premises.
87. Prior to any construction (including clearing and earthworks) commencing on the site, temporary fencing must be erected around the boundary of the Management Zone 2 areas. No machinery, rubbish or spoil are be stored within retained vegetation during the construction phase of the development.
88. Prior to any works commencing on site, evidence must be provided to the consent authority demonstrating the following:
- The Biodiversity Offset Payment Calculator has estimated that 142 ecosystems credits and 576 species credits requires the payment of **\$2,920,170.54 into the Biodiversity Conservation Trust (BCT)** and the applicable credits for the PCT's and species listed in Table 1 below, based on the like-for-like basis have been retired. This shall be in the form of either:
- i. A credit retirement report issued by DPIE confirming credit transactions; or
 - ii. The applicable payment in the form of a *6.33 Statement Confirming Payment* into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference.

TABLE 1: Credit requirements

Ecosystem credits for plant communities types (PCT), ecological communities & threatened species habitat

IBRA sub region	PCT common name	Threat status	Offset trading group	Risk premium	Administrative cost	Methodology adjustment factor	Price per credit	No. of ecosystem credits	Final credits price
Clarence Lowlands	1135 - Scribbly Gum - Needlebark Stringybark heathy open forest of coastal lowlands of the northern NSW North Coast Bioregion	No	Coastal Dune Dry Sclerophyll Forests <50%	20.69%	\$224.75	1.8823	\$7,006.02	142	\$994,855.17
Subtotal (excl. GST)									\$994,855.17
GST									\$99,485.52
Total ecosystem credits (incl. GST)									\$1,094,340.69

Species credits for threatened species

Species profile ID	Species	Threat status	Price per credit	Risk premium	Administrative cost	No. of species credits	Final credits price
10033	<i>Aepyprymnus rufescens</i> (Rufous Bettong)	Vulnerable	\$495.24	20.6900%	\$80.00	188	\$127,408.57
10250	<i>Dromaius novaehollandiae</i> - endangered population (Emu population in the New South Wales North Coast Bioregion and Port Stephens local government area)	Endangered Population	\$5,974.37	20.6900%	\$238.97	188	\$1,400,495.09
10549	<i>Myotis macropus</i> (Southern Myotis)	Vulnerable	\$741.31	20.6900%	\$80.00	12	\$11,696.24
10635	<i>Planigale maculata</i> (Common Planigale)	Vulnerable	\$463.67	20.6900%	\$80.00	188	\$120,245.42
Subtotal (excl. GST)							\$1,659,845.32
GST							\$165,984.53
Total species credits (incl. GST)							\$1,825,829.85
Grand total							\$2,920,170.54

ITEM	6b.21.032	DA2020/0288 – CONSTRUCTION OF ROOF OVER EXISTING DECK AND CARPORT – 6 PILOT STREET, YAMBA
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Applicant</i>	Kevin Lee C/- Kevin Lee Constructions
<i>Owner</i>	Paul William Lindstrom
<i>Address</i>	6 Pilot Street, Yamba
<i>Submissions</i>	Yes – 6 (3 with original application and 3 with amended application)

Council is in receipt of Development Application DA2020/0288, which proposes the construction of a roof over an existing rear deck area and new carport structure within the front setback at No. 6 Pilot Street, Yamba.

As part of the application, a Clause 4.6 variation to vary the 6.5m maximum building height set by Clause 4.3 of the Clarence Valley Local Environmental Plan 2011 (the LEP) was applied to enable use of the Building Height Controls set out in Part W Yamba Hill Controls of the Residential Zones Development Control Plan (the DCP). The proposed roof height is 9.47m, resulting in a variation of 68%. Council staff only have delegation to approved variations up to 10% under the LEP. The applicant has also sought a variation to the front and side setbacks set out in Clause C16.2 of the DCP for the proposed carport structure. This report provides an assessment of the variations, issues raised within the submissions and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council approve:

1. The Clause 4.6 LEP variation to the maximum height limit of 6.5m to 9.47m to be consistent with the Yamba Hill Controls set out in Clause W6.1 of the DCP;
2. A reduced front and side setback to the carport under Clause C17 and C18 of the DCP; and
3. DA2020/0288 subject to the Advices and Conditions contained in Schedule 1.

COMMITTEE RECOMMENDATION

Simmons/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.032

Williamson/Ellem

That Council approve:

1. The Clause 4.6 LEP variation to the maximum height limit of 6.5m to 9.47m to be consistent with the Yamba Hill Controls set out in Clause W6.1 of the DCP;
2. A reduced front and side setback to the carport under Clause C17 and C18 of the DCP; and
3. DA2020/0288 subject to the Advices and Conditions contained in Schedule 1.

Voting recorded as follows:

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

Against: Nil

CARRIED

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 DA2020/0288 was lodged on 2 June 2020 for a proposed roof over the existing deck only. The original application was notified and 3 submissions were received. Issues raised within the submissions included stormwater, construction hours, potential milling of timber onsite during construction and wind rating.

The application was later amended under *Clause 55 of the Environmental Planning and Assessment Regulation 2000* to include a carport. This application was again notified to adjoining properties which resulted in an additional 3 submissions being a total of 6 submissions. The submissions were not generally opposed to the development but rather raised concerns about the impacts of the development including overshadowing.

The subject land is zoned R2 Residential Low Density. The proposed development is permitted with consent and is not inconsistent with the objectives of the zone.

The land is located within the Yamba Coastline Management Study Area and is considered a high risk area in terms of slope instability. This issue has been considered as part of the assessment and conditions regarding suitable geotechnical inspections and certification are contained within the Draft Advices and Conditions. The site is also located within the coastal zone and was subject to consideration under the State Environmental Planning Policy (Coastal Management) 2018. A full section 4.15 Assessment of the proposed development is included in the Attachment D to this report.

KEY ISSUES**1. Clause 4.6 Variation to 6.5m height limit**

The applicant is seeking a variation to the maximum 6.5m height of buildings development standard required by clause 4.3 of the LEP.

Clause 4.6(3) of the LEP allows Council to grant consent to a development even though it would contravene a development standard provided a written request from the applicant that seeks to justify the contravention of the development standard has been submitted demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

In summary, the applicant's justification as to why the maximum building height of 6.5m is unreasonable and unnecessary in the particular circumstances of the case is:

- 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.
- The steepness of the land is a factor which must be taken into consideration as the land drops away so suddenly.
- The decks are exposed to extreme southerly storms so the roof will provide protection from storms and sunlight as well as a pleasant outdoor living area.
- There will be little impact on views as:
 - 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;
 - The impact on views from the streetscape of the fly over roof is minimal and the proposed roof pitch blends with the existing roof line (refer western elevation A04).
- The impact of overshadowing by the proposed roof structure is demonstrated in NFD plans A07 and A08 does not adversely impact on the adjoining property

Comment

Historically, Pilot Street had dual height controls under the DCP. Height controls were then introduced as a development standard under the LEP, however, only one height control could be specified to the land. The smallest height of 6.5m was nominated in the LEP to retain the Pilot Street frontage height controls. The DCP provides the framework for applying clause 4.6(2) of the LEP to request a variation to the maximum 6.5m building height standard to enable development to be stepped down the rear of the subject land, to a maximum height of 12m and 9.5m to top plate.

Clause W6.1 of the DCP states:

The CV LEP 2011 Height of Buildings Map identifies land on the eastern side of Pilot and Ocean Streets, Yamba as having a maximum building height of 6.5 metres.

In these areas in Pilot and Ocean Streets, Yamba development should be stepped down at the rear of the lots to a maximum height of 9.5 metres to where the roof beam meets the top plate and 12 metres to the top of the roof. In order to achieve a stepped development on land in these areas in Pilot and Ocean Streets, Yamba CV LEP 2011 clause 4.6 (2) Exceptions to development standards is applied.

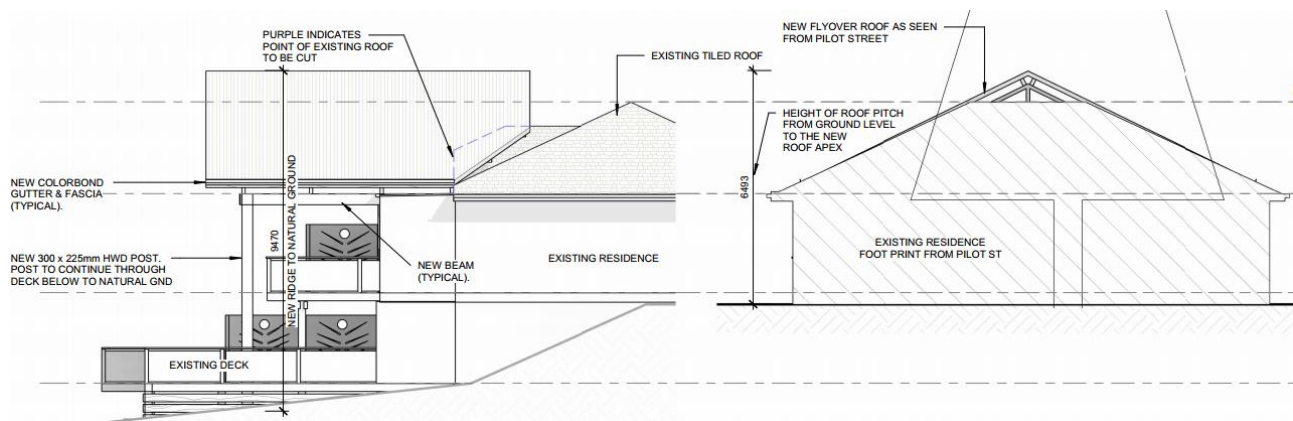
The 6.5m height standard is considered unreasonable in this instance as it would be extremely difficult to achieve compliance with the 6.5m maximum building height for the whole of the development due to the slope of the land.

Additionally, due to the fact that the LEP can only designate one building height for each parcel of land, it was determined that the maximum building height for Pilot Street be adopted at 6.5m to retain the street level height controls. The proposal complies with that control, with a maximum height of 6.493 m as viewed from Pilot Street.

The variation sought is below the 12m maximum height permitted for the land under the DCP controls. The roof over deck area is not considered to reduce any coastal views or create significant additional overshadowing.

Planning Circular No. PS20-002, contained notification of assumed concurrence, specifically that, 'Under clause 64 of the Environmental Planning and Assessment Regulation 2000, consent authorities are notified that they may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6.' As such, Council can assume the concurrence of the Director-General to approve the variation.

Contravention of the development standard is not considered to raise any matter of significance for State or regional environmental planning. There is no public benefit in maintaining the development standard.



The applicant's justification is considered to address the matters required to be demonstrated in subclause 4.6(3) of the LEP and, overall the proposed development is considered to comply with the objectives of land zoned R2 and the objectives of clause 4.3 Height of Buildings of the LEP.

In consideration of the above, it is recommended that a Clause 4.6 variation be supported to allow the roof to exceed the 6.5m height limit up to a height of 9.47m which is consistent with Yamba Hill DCP controls and other developments along the eastern side of Pilot Street.

2. Variation to setbacks under Clause 16.2 of DCP

The applicant has requested a variation to the front setback from 6m to 0.927m and a zero side setback for the proposed carport.

Clause C17 (Variation to Setbacks) of the DCP states that variations to reduce the front setback will be considered where existing front setbacks in the R1, R2 and R3 zones are not 6 metres.

The applicant has provided the following reasons in support of the variation:

- The existing garage is too small to accommodate the owner's vehicle. The proposed carport/ pergola structure will be of sufficient size to house the owner's vehicle.
- From the below aerial photograph the front setbacks along Pilot Street vary substantially with older residences in a lot closer proximity to the Pilot Street frontage than more recently constructed buildings.
- Carparking must be provided at the Pilot Street frontage as the land is so steep and the lane between Lot B DP381249 and Lot 1 DP1164919 is too narrow for vehicular access to the rear of the property.



Disclaimer: This report has been generated by various sources and is provided for information purposes only. Spatial Services does not warrant or represent that the information is free from errors or omission, or that it is exhaustive. Spatial Services gives no warranty in relation to the information, especially material supplied by third parties. Spatial Services accepts no liability for loss, damage, or costs that you may incur relating to any use or reliance upon the information in this report.

(Source: www.Spatial Information Exchange)

Comment

a. Front setback

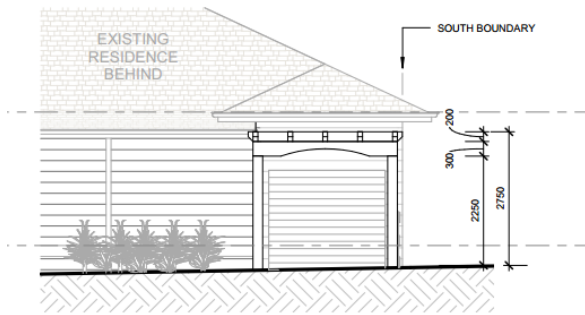
Clause C17.3 of the DCP sets out the parameters which must be taken into consideration with any request to vary the front setback which includes consistency with the setback objectives and the following:

- a) *the position of adjacent buildings and their residential character*
- b) *location of existing vegetation*
- c) *the effect on sightlines and visibility for pedestrians and vehicles*
- d) *size, shape and grade of the lot*
- e) *the facade of the proposed building or buildings which will face the street and the proposed landscaping which is visible from the street*
- f) *the proposed location of any private open space, courtyard or landscaped areas*
- g) *the orientation of the allotment and the proposed siting of the dwelling with regard to the sun and prevailing winds*

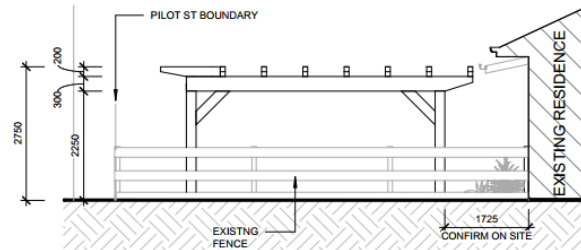
As can be seen from the aerial image above, the setbacks in Pilot Street are varied with a raft of different setbacks for each separate dwelling, some down to near zero. The site is very steep at the rear and there is no ability to construct a carport or additional car parking at the rear of the property.

The timber design and open nature of the carport pergola structure (refer to extract of plan by NFD A11 provided below) will reduce any adverse impacts on the streetscape compared to an enclosed structure/garage. Additionally, the location of existing vegetation within the road reserve would soften the appearance of the reduced setback to the carport in this location, if it was approved.

Due to the existing site constraints and variations to setbacks within Pilot Street, a reduced front setback down to 0.927m is considered acceptable in this instance.



3 CP ELEVATION WEST
1 : 75



4 CP ELEVATION SOUTH
1 : 75

Extract of Plan A11 by NFD Project No. 20-009 dated 13/12/2020

b. Zero side setback

Clause C18 (Zero setbacks) of the DCP, allows consideration of zero setbacks for infill development, where the proposal is not part of an integrated development, for garages, carports and similar buildings/structures and where the wall on the boundary has a maximum length of 7 metres.

Comment

The zero setback along the southern boundary adjoins the public access pathway and does not abut the adjoining dwelling at No. 8 Pilot Street. Due to the open nature of the carport pergola structure, there will be no significant overshadowing of adjoining land and no formal easements/rights of access are required to enable future maintenance of the structure.

Conclusion

The site is heavily constrained due to the existing house design and steep land and the only logical place for additional car parking is directly in front of the existing garage. Due to the presence of an existing public pathway that adjoins the boundary with the zero setback, there will be no adverse impacts from overshadowing to adjoining properties and at least half of the private open space area for the dwelling and unit located No. 8 Pilot Street will receive sunlight between 10am and 2pm in accordance with the Yamba Hill Controls set out in the DCP.

No submissions were received objecting to the reduced setback proposed for the carport.

For the reasons provided in a. and b. above, it is recommended that a variation to the front and side setbacks of the carport pergola structure be supported.

3. Issues raised within the submissions

As stated earlier the development was notified in accordance with Part B of the DCP which was current at the time of application lodgement. A total of 6 submissions (3 with the original application and 3 with the amended application) were received during the notification period. Overall, the submissions did not oppose the development, however, the following issues were raised:

- a. Stormwater - Concerns regarding additional stormwater from the proposed new roof and adequate management was identified in 2 of the submissions received.

Comment

Council has provided stormwater infrastructure along the eastern side of the properties in Pilot Street to allow the stormwater to be disposed of down to the rocky outcrop above Yamba Main Beach to alleviate erosion issues and slippage previously experienced by property owners in this location.

The roofed area will connect into the new Council stormwater system at the rear of the property and away from Pilot Hill and the existing residences.

- b. Overshadowing - Concerns were raised within 1 of the submissions regarding overshadowing from the proposed new roof. In particular, overshadowing of the northern walls of the dwelling located at 8 Pilot Street and loss of sunlight to the lower verandah of the holiday unit.

Comment

Clause W7 of the DCP requires that at least half the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter.

As can be seen from the shadow diagrams prepared by NFD Designs and Drafting (extract provided overpage) at least half of the private open space areas receive direct sunlight between 10am and 2pm, complying with the requirements of the DCP. The issue of overshadowing of the northern walls is unavoidable, however, the existence of the pathway between the properties assists in providing sufficient distance to reduce the potential impacts than if located directly adjoining the boundary.

For this reason, the development has met the requirements of the DCP and the overshadowing is considered acceptable in this case.

- c. Harboursing of birds and snakes within roof - One of the submissions raised the issue of nesting swallows and snakes within the open roof.

Comment

This is a matter of maintenance for the property owner and not a valid point of objection to the development

- d. Wind rating of roof - The wind rating required for the roof was raised within one of the submissions due to concerns with the ability to withstand storms and high wind.

Comment

Compliance with the BCA including the wind rating for the new roof will be addressed as part of the Construction Certificate application. In this location the wind rating is likely to be a minimum of N3 which is suitable for this location.

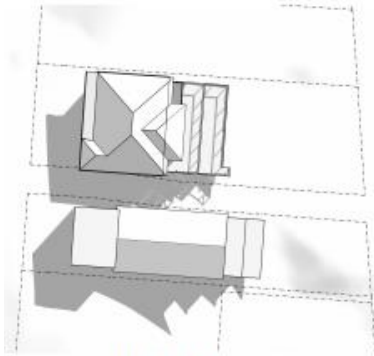
- e. Construction Impacts - One of the submissions raised the issue of construction hours and impacts caused from the potential milling of timber onsite causing sawdust and noise.

Comment

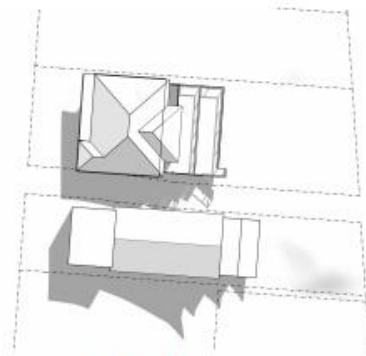
Appropriate conditions of consent have been proposed to ensure construction hours are restricted to 7.00am and 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No construction is permitted on Sundays or public holidays.

Additionally, a condition prohibiting the milling of timber onsite has also been included in the Draft Advices and Conditions in response to the concerns raised within the submissions.

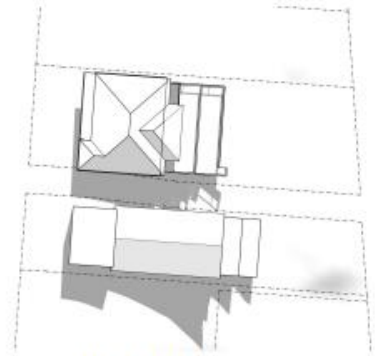
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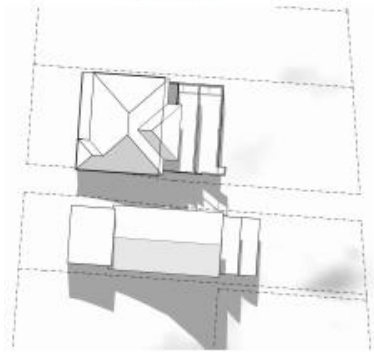
21st June 9am



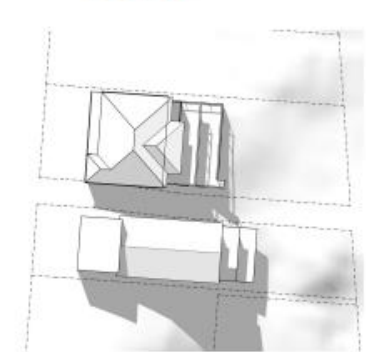
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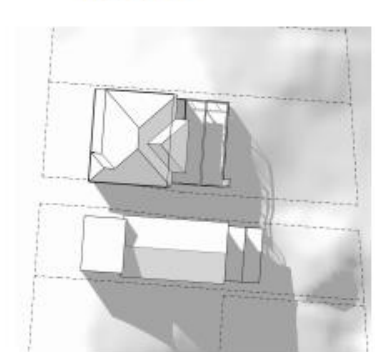
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21st June 12pm



21st June 1pm

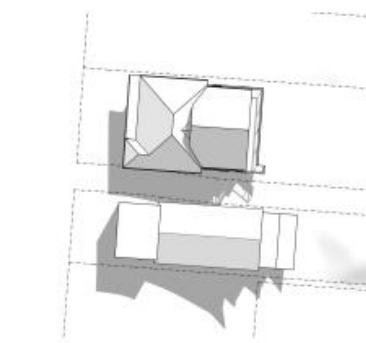


21st June 2pm

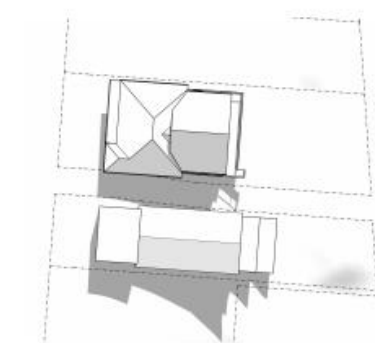
PROPOSED



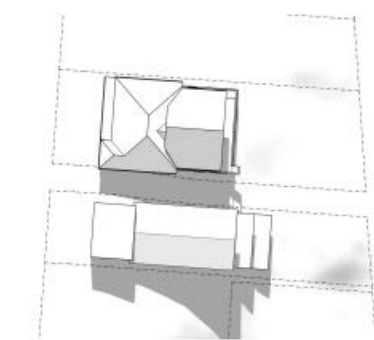
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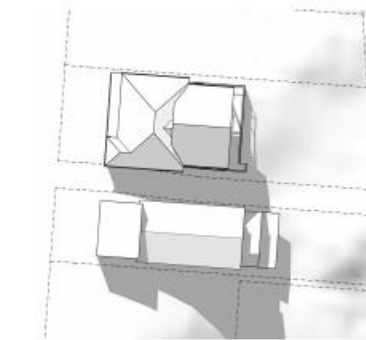
21st June 10am



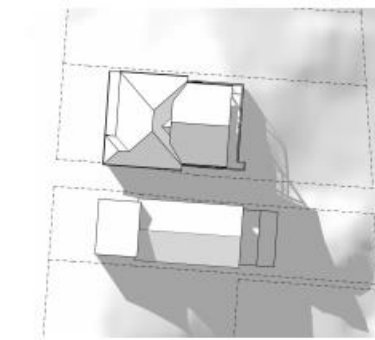
21st June 11am



21st June 12pm



21st June 1pm



21st June 2pm

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 (Coastal Management) 2018
 Clarence Valley Local Environmental Plan 2011
 Residential Zones Development Control Plan
 Building Code of Australia

Consultation

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

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Building Surveyor	Conditions provided in Schedule 1
Development Engineer	Conditions provided 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 CO2-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	A. Plans B. Photographs showing streetscape C. Submissions D. Section 4.15 Assessment

Schedule 1
Draft Advices and Conditions of Consent for DA2020/0288

Definitions

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 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. No construction is to be commenced until a Construction Certificate has been issued.
2. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
3. The following information shall be submitted to the Council or Principal Certifying Authority prior to issue of a Construction Certificate:
 - a Home Building Compensation Fund (HBCF) Insurance Certificate or copy of the Owner Builder permit
 - b Engineering details
4. Metal building components installed in coastal locations shall have corrosion protection measures complying with the Building Code of Australia. This applies to brick wall ties, steel framing, fixings and metal sheet roofing in locations within 10km of breaking surf or 1km of salt water not subject to breaking surf. Higher standards apply the closer the location is to breaking surf.
5. Demolition work is to be carried out in accordance with AS 2601.
6. All structural timber exposed to the weather (i.e. posts, joists and bearers of decks or unprotected beams protruding from the house) shall be Class 1 or 2 durability or timber treated to H3 Hazard level. Documentation confirming the durability class/hazard protection level of the timber used shall be submitted to Council prior to the issue of the Occupation Certificate.
7. The certificates and documentation requested in this approval should be emailed to council@clarence.nsw.gov.au quoting the development application number in conjunction with booking the final inspection.
8. Prior to preparing a Management Plan for Stormwater, Sewerage or Water reticulation the applicant shall obtain advice from Clarence Valley Council to determine the requirements for connecting / discharging to any existing system.
9. The access track from Queen Street to Main Beach, the Yamba Surf Club and the eastern side of the Pacific Hotel site is known as Marine Parade. Marine Parade is situated on Crown reserve between Queen Street and the southern boundary of the Pacific Hotel site. Approval for any use of Marine Parade for the construction of the development must be obtained from Council and the NSW Land and Property Management Authority prior to any use of Marine Parade.

The land east of the property is Crown land and approval for any use of the land for the construction of the development must be obtained from the NSW Land and Property Management Authority prior to the use but preferably as part of the construction management plan.

Any use of Marine Parade for the development will be subject to specific conditions issued when any such approval is granted. These may include but are not limited to:

- a Geotechnical assessment and control
- b Restricted to winter months and outside school holidays
- c Developer to be responsible for maintenance of Marine Parade
- d Developer to bond maintenance of Marine Parade
- e Steel track vehicles to use timber protection strips if walked
- f Survey of the control pins
- g Agreement from other stakeholders
- h Use to cease if orange or red alert is triggered
- i Public liability insurance
- j Licence fees

The applicant should discuss the requirements and conditions for use of Marine Parade with Council prior to planning for such use. The requirements and conditions will be based on the magnitude of use.

10. Approval for any use of Marine Parade for the construction of the development must be obtained from Council and the NSW Crown Lands prior to any occupation of Marine Parade.

Please note that any use of Marine Parade for the development will be subject to specific conditions issued when any such approval is granted by Council. The applicant should discuss the requirements for use of Marine Parade with Council prior to planning for such use.

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
A01	NFD Design & Drafting Services	Site Plan	13/12/2020
A02	NFD Design & Drafting Services	Roof Plan	13/12/2020
A03	NFD Design & Drafting Services	Elevations	13/12/2020
A04	NFD Design & Drafting Services	Elevations	13/12/2020
A05	NFD Design & Drafting Services	Section	13/12/2020
A11	NFD Design & Drafting Services	Carport Pergola	13/12/2020

2. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
3. **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.

4. **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.

5. Where the work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves enclosure of a public place, the following must be provided:
- a A hoarding or fence must be erected between the work site and the public place.
 - b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - d Any such hoarding, fence or awning is to be removed when the work has been completed.

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

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

7. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
- a Stating that unauthorised entry to the work site is prohibited;
 - 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.

8. **Home Building Act** Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:
- a has been informed in writing of the licensee's name and contract licence number; and
 - b is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - c has been informed in writing of the person's name and owner builder permit number, or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of **owner-builder work** in Section 29 of that Act.

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

9. The roof covering is to be of a colour which does not produce glare which adversely affects the amenity of adjoining properties. White colorbond, galvanised iron and zincalume are not permitted.

10. **Mandatory Inspections** The head contractor or owner-builder must give Council as the certifying authority at least 24 hours notice to enable the following inspections to be performed at the appropriate time:
- a **Pier holes** (if any), before concrete is poured,
 - b After reinforcement is in positions and before pouring of any **in-situ reinforced concrete** building element,
 - c Before internal covering/lining of the **framework** for any floor, wall, roof, or other building element,
 - d Before covering any **stormwater drainage** connections,
 - e After the **building work has been completed** and prior to occupation.

If any of these inspections are not performed an Occupation Certificate cannot be issued for the

building. Inspection bookings can be made online at www.clarence.nsw.gov.au until midnight on the day before the inspection. The Construction Certificate or Complying Development Certificate number must be provided when booking an inspection.

11. 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.
12. 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. No portion of the carport is to be enclosed without prior written approval being obtained from Council.
14. 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.
15. 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.
16. 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.
17. 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 or a copy can be obtained from Council's Customer Service Centres.

18. 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.
19. 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.
20. An Asbestos Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the asbestos related works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.

Engineering Conditions

21. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
22. 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 Building 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.
23. 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.
24. 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, in accordance with AS3798, will be required confirming the completed works are suitable for the intended purpose. All testing as required in AS3798 and NRDC must be submitted.
25. An Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to the issue of a Building Construction Certificate.

The Earthworks Management Plan to be completed and the works certified in accordance with Council's draft Geotechnical Risk Management policy.

The Earthworks Management Plan must include:

- a The site is in a known geotechnical hazard zone and a detailed site assessment will be required examining both the proposed construction works and access to the site. This is to be provided by a competent specialist Geotechnical Authority.
- b 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.
- c Certification that the land created by the development will be suitable for its intended purpose (e.g. residential buildings) including any parts of the land that will be left in its natural state or modified by the development.
- d 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.
- e A program for attendance at the site of a suitably qualified and experienced specialist geotechnical engineer setting out the activities/events that require the specialist geotechnical engineer to be on site.
- f A list of the geotechnical hold points and details of the inspections required.

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.

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.

- 26. A detailed Erosion and Sediment Control Management Plan must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a Building Construction Certificate. 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.
- 27. 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.
- 28. 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, 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
- 29. 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).

30. 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.
31. 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.
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 Building Construction Certificate. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.
33. The legal and practical point of stormwater discharge of the development is nominated as the stormwater discharge system located at the rear of the property. All stormwater runoff from existing and proposed roof areas of the dwelling is to be discharged to this point and connected into the existing system.
34. A Construction Management Plan, documenting the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve and public land, must be submitted to and approved by Council prior to the issue of the building Construction Certificate.
- If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries, this area must be identified in the Construction Management Plan. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.
- An estimate of the number of vehicles that will need to be accommodated at various stages of the construction and what arrangements have been made to accommodate that number of vehicles is to be included in the Construction Management Plan.
- The Construction Management Plan must provide details of how legal and practical access to, around and through the site for vehicles, personnel and plant will be managed as the project progresses. The Construction Management Plan may be varied with Council approval during the course of works.
- The Construction Management Plan should include approval from the NSW Land and Property Management Authority for any use of the land east of the development for the purposes of the development. Approval from the NSW Land and Property Management Authority must be obtained prior to the use of the land.
35. A Traffic Management Plan showing the proposals for reducing any impact of the construction site on the adjacent traffic network must be submitted with the Construction Management Plan, for approval by Council.
- This plan will also include traffic management of short term activities such as delivery of materials; accessing, exiting and parking in and near the work site by cranes, concrete agitator trucks, tradesmen work vehicles and the like. The Traffic Management Plan should include Traffic Control

Plans detailing proposed methods to ensure safe vehicle access into and out of the general traffic stream, pedestrian control and safe transfer of materials from road reserve to construction site.

The Traffic Management Plan should be, and any associated Traffic Control Plans must be, prepared by a person authorised by the RTA to prepare Traffic Control Plans. An estimate of the number of vehicles that will need to be accommodated at various stages of the construction and what arrangements have been made to accommodate that number of vehicles is to be included in the Traffic Management Plan.

Where long term (exceeding 24 hours) occupation of the road reserve or public land is proposed, a Construction Activity Application - Encroachment / Use of Council Land - must be approved by Council and appropriate fees paid prior to any occupation of the road reserve or public land by construction equipment.

During the course of work on the development should it become necessary to occupy the road reservation for any reason not included in the approved Traffic Management Plan, even short term, then a specific Traffic Control Plan for the event or events, prepared by a person authorised by the RTA to prepare Traffic Control Plans, must be submitted to and approved by Council prior to the occupation. The submission must include the reasons that the occupation is required and any revision of the Construction Management Plan and/or Traffic Management Plan to accommodate the change in the construction methodology.

ITEM	6b.21.033	PLANNING PROPOSAL REZ2020/0005 – RECLASSIFICATION OF COUNCIL LAND 2020 FOR 5 ALLOTMENTS, BEING CANALS, IN YAMBA
Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Proponent</i>	Clarence Valley Council
<i>Date Received</i>	N/A - Submitted to Department of Planning Industry and Environment (DPIE) gateway on 10 September 2020
<i>Owner</i>	Clarence Valley Council
<i>Subject land</i>	<ul style="list-style-type: none"> • Lots 223 DP 260230 - immediately adjoins privately owned land addressed to parts of Acacia Circuit, Gumnut Road, Melaleuca Drive and Westringia Place • Lot 286 DP 262200 - immediately adjoins privately owned land addressed to part of Westringia Place • Lots 10 DP 866724 - immediately adjoins privately owned land addressed to parts of Witonga Drive and Nabilla Court • Lot 12 DP 881975 - immediately adjoins privately owned land addressed to parts of Nabilla Court and Witonga Drive • Lot 54 DP 1013843 - immediately adjoins privately owned land addressed to parts of Borellan Avenue and Witonga Drive <p>The location of the lots is shown on the maps located at Appendix 1 of the planning proposal document at Attachment 1</p>
<i>Current Zoning CVLEP 2011</i>	Multiple zones including W2 Recreational Waterway and R2 Low Density Residential. Refer to page 7 and Appendix 1 (mapping) of the planning proposal document at Attachment 1 for further detail.
<i>Proposal</i>	To reclassify from Community to Operational the 5 Council owned public lands referred to above; this will be achieved by amending Schedule 4 of Clarence Valley Local Environmental Plan 2011 (CVLEP 2011) so as to include the public lands (5 lots/parcels) referred to above in Part 1 Land classified, or reclassified, as operational land - no interests changed of Schedule 4 thereby confirming reclassification of such lands from Community to Operational.

Planning Proposal - Reclassification of Council Land 2020 (REZ2020/0005) for the reclassification of 5 public land parcels from Community to Operational was publicly exhibited from 11 December 2020 to 10 February 2021. The 5 lots covered by the planning proposal are Council owned waterway or canal lots located in the Crystal Waters/Yamba Quays part of Yamba.

Following the formal public exhibition period Council staff provided an Information Session at the Treelands Drive Community Centre on Friday, 12 March 2021 to talk to interested persons one-on-one. A public hearing into the proposed land reclassifications was held on 21 April 2021.

This report considers the submissions made to the exhibited planning proposal, the report on the public hearing as well as seeking a Council resolution to finalise the planning proposal.

OFFICER RECOMMENDATION

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.

COMMITTEE RECOMMENDATION

Baker/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.033

Williamson/Ellem

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.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

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

BACKGROUND

The current public reclassification process continues on from previous land reclassification processes, which commenced in 2016. Prior to the current planning proposal Council last considered the previous land reclassification planning proposal for 162 lots, *Planning Proposal - Reclassification of Council Land 2018 (REZ2017/0003)*, on 18 September 2018.

A history of the land reclassification process since May 2016 is provided in the exhibited planning proposal document (section 1.3) at Attachment 1.

Planning Proposal - Reclassification of Council Land 2020 (REZ2020/0005) was submitted to the DPIE on 10 September 2020 with a request for a Gateway determination. A Gateway determination to proceed was issued on 13 November 2020. A copy of the determination is at Appendix 8 of the exhibited planning proposal document at Attachment 1.

The planning proposal was publicly exhibited for a minimum period of 61 days from 11 December 2020 to 10 February 2021. Ten (10) submissions were received from members of the public, copies of which are at Attachment 2. Council was not required to consult public authorities.

Submissions to the planning proposal are reviewed in Key Issues of this report. An informal public information session on the matter was held on 12 March 2021. A public hearing into the proposed land reclassifications was held on 21 April 2021. A copy of the public hearing report is provided at Attachment 3.

KEY ISSUES

The public hearing report addresses some of the substantive issues raised by submissions to the exhibited planning proposal and in presentations to the public hearing. The 5 land parcels that the planning proposal and proposed reclassification applies to are shown on Figure 1.



Figure 1 – Location of the 5 land parcels (waterway) proposed to be reclassified shaded grey & red.

This section deals with the public hearing report conclusions and issues arising from the submissions made to the exhibited planning proposal. A detailed response to individual submissions is provided in the table at Attachment 4.

1. Public hearing and public hearing report

The purpose of the public hearing report is to provide a record of the public hearing undertaken in association with the planning proposal to change the classification of land as shown highlighted in Figure 1 and described in Item 2 of the Officer Recommendation by way of amendment to the CVLEP 2011. The report has been prepared by Emma Broomfield, Director of Locale Consulting, who was the independent chair of the public hearing. A copy of the public hearing report is at Attachment 3.

The Chairperson of the public hearing provided the following conclusion:

“...the main concerns raised at the public hearing into reclassification of the land related to the licensing of private structures by Council when it had no lawful power to do so as well as the conditions for future licences.

It is evident that Council is seeking to rectify the current anomaly by reclassifying the land as operational and that this course of action will give certainty to Council and landowners about future licensing arrangements.

Council has also indicated that it has no intention to change the use of the land in the future.

As such, the public hearing did not reveal any reason why Council should not proceed with the reclassification. To address the concerns raised about future licensing arrangements, Council may wish to write to affected landowners and address the concerns raised at the hearing”.

Further, the public hearing report noted a number of questions which were raised during the public hearing. The Chairperson has suggested that these should be answered by Council. The questions raised, as noted by the Chairperson, were as follows:

1. When did the three lots in Figure 1 (now Figure 1 of the public hearing report) become Operational?
2. Was there a public meeting about this reclassification?
3. What right did Council have to collect licence fees from landowners when it had no power to do so as Community land?
4. Why did landowners have to submit development applications for structures on the land?
5. Under the Act (section 35 and 47) leases and licences can be issued on Community land for more than 21 years with Ministerial consent - is this possible?
6. Why are extra fees paid to the Department of Primary Industries to pump sand to build the revetment wall when this is Council land?

7. Council's online records indicate that the southern part of the Kolora Lake was classified as Operational when it understood that is or should be classified as Community - can this be clarified?
8. Has Council sought legal advice about this matter?

Staff Comment

By way of background, Council is required to hold a public hearing when reclassifying public land from Community to Operational (s.29 Local Government Act or LG Act). The requirement to hold a public hearing is also reinforced by condition 4 of the Gateway determination.

The public hearing gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum. The legislation requires that after the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This is to allow the person chairing the hearing sufficient time to consider written submissions and all issues raised. The legislation (s.47G LG Act) also has specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and Council making the report publicly available. The requirements of the legislation in relation to the public hearing have been complied with.

The conclusions of the public hearing report did not reveal any reason why Council should not proceed with the reclassification and acknowledged that Council is trying to rectify an anomalous land classification situation.

A response to the questions raised at the public hearing is provided in the table at Attachment 5.

2. Main issues raised in submissions to the exhibited planning proposal

As mentioned above a detailed response to individual submissions to the exhibited planning proposal is provided in the table at Attachment 4.

2a. Lack of understanding and Council's reasons for wanting to reclassify

There was a lack of understanding and/or confusion amongst some of those interested persons who:

- Made submissions;
- Made phone enquiries to staff during exhibition; and
- Attended the public information session.

Some questioned why Council was trying to reclassify the land and, in some cases, why after such a long time.

Some could not see any reason to reclassify the lots whilst others objected to the proposed reclassification for no specified reason.

There was criticism in one case about Council's letters to owners and the planning proposal document was being misleading and/or incorrect in terms of:

- Describing the affected land on maps included in Council's letter (dated 7 December 2020) to landowners and how the affected land was described when Council notified landowners of the proposed public information session in a letter, dated 25 February 2021; and
- Providing incorrect information in relation to licences/leases/agreement and financial benefit to Council in the statements in Appendix 3 of the planning proposal initially lodged with Council in September 2020.

Staff Comment

It is conceded that public land classification and reclassification is a poorly understood process and subject area. It is very bureaucratic and process driven.

In this case, Council has prepared and exhibited a planning proposal that seeks to reclassify from Community to Operational 5 Council owned public land parcels, which in fact are canal or waterway lots in the Crystal Waters/Yamba Quays part of Yamba. The 5 lots were dedicated as drainage reserves in the period between 3 June 1980 (Lot 223 DP 260230) and 31 May 2000 (Lot 54 DP 1013843). Collectively, they constitute drainage reserves under section 49 (3) of the LG Act.

During 2016 Council, discovered that actions and resolutions of the former pre-amalgamation Councils in relation to the classification of certain public lands owned by Council were erroneous. Therefore, many public

land parcels or lots owned by Council that were intended to be classified by the pre-amalgamation Councils 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 2004 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.

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 proposed change in classification of the 5 land parcels from Community to Operational will enable Council to lawfully approve and issue tenures for private water recreation structures such as pontoons and jetties that are located on the land. This will:

- Improve certainty for persons who have installed such structures;
- Enable Council to lawfully licence existing water recreation structures and to approve and licence new private water recreation structures thus facilitating more efficient administration by Council; and
- Overcome the current legal impasse in relation to licencing and approving private water recreation structures.

In terms of assertions of misleading or incorrect information and documents it is advised that any errors, omissions etc were promptly corrected when either drawn to Council's attention or detected by Council staff. The several letters issued to the owners who adjoin the lots (the subject of the reclassification between December 2020 and 14 May 2021) were not intended to be the sole source of information pertaining to the planning proposal and the affected lots. The letters referred to the planning proposal document that was placed on exhibition on Council's website including the provision of a link to assist in locating it. This material including a frequently asked questions document has been made available on Council's website beyond the conclusion of the formal public exhibition period. Further, the correction to the initially lodged planning proposal to the DPIE was made by Council staff within 6 days of lodgement. The exhibited planning proposal (REZ2020/0005) contained the correct information in relation to licences/leases/agreement and financial benefit to Council in the statements in Appendix 3 of the planning proposal. In addition, all correspondence contained details of the Council's contact officer and a direct phone number that any interested person could contact. Several landowners took the opportunity to make contact with Council staff and learn more about the proposal, the legislative background and to understand what was and was not proposed.

2b. Licensing and licence fees (private water recreation structures)

Some of the concerns in this area include:

- The potential for licence fees to increase unreasonably as a consequence of the reclassification to operational;
- It is unreasonable to charge licence fees;
- The way the licencing process has been handled to date;
- That Council requires each licence holder to provide evidence of current public liability insurance;
- That Council suggests that each licence holder seek their own legal advice prior to signing any licence agreement; and
- That Council has previously issued licences and charged licence fees when it is saying that it cannot grant licences on the community land.

Staff Comment

There are no current plans to unduly increase licence fees as suggested by some landowners and residents. The current process is all about moving forward in a constructive manner for all parties concerned so that a compliant approval and licencing regime can prevail for the public benefit. Maintaining the current Community classification is not in the interest of Council or the adjoining private landholders who already have private water recreation structures or who wish to in the future.

Concerns about the potential to sell or lease the lots once classified as Operational

One submission has expressed concerns about the ability of Council to "*sell or lease Crystal Bay drainage*

reserve, thus permitting any number of commercial enterprises, such as commercial moorings, a marina, a water theme park, etc” if the land becomes reclassified to Operational.

Staff Comment

Council intends to retain ownership of the land for the purpose of maintaining a lawful approval and licencing regime for private waterway structures as well as to maintain as and when necessary the:

- Infrastructure associated stormwater discharge into the waterways; and
- Navigability of the general waterway/s associated with their connection to the main Clarence River system.

It would not be in the public interest to sell the waterway lots/drainage reserves or to lease them for a commercial purpose as suggested. It is not in the public interest to maintain the current restrictive Community classification that prevents Council from lawfully licencing private water recreation structures.

Maintenance of the waterways/canals

Points raised by some submitters (including the public hearing) and others who either phoned Council during the exhibition phase or attended the public information session include:

- Council has never done any maintenance in relation to any of the relevant waterway lots including any beach restoration to protect adjoining landowner’s revetment wall from being undermined by tidal movements;
- The residents have to do their own maintenance of Council’s property at great cost; and
- Council should undertake the dredging and maintenance necessary to prevent the private revetment walls being undermined by recession of sand caused by wave action and tidal movement within the canal environment.

Staff Comment

A search was undertaken of requests/complaints logged into Council’s Customer Request System since June 2016 relating to:

- Maintenance and dredging
- Erosion
- Revetment walls
- Crystal waters
- Drainage

The search was confined to customers addressed to Westringia Place, Melaleuca Drive, Gumnut Road, Tecoma Place, Acacia Circuit, Witonga Drive, Nabilla Court, Barellan Ave, Taine Court with frontage to the Yamba canals. There was a total of 28 “customer requests” over the period June 2016 to present. Twenty-two (22) of these were drainage related both in relation to drainage at the land/water interface and drainage issues within the general land-based roads and drainage system in the vicinity of the relevant waterway lots. There were no requests relating to dredging/maintenance in relation to private revetment walls or the navigability of the waterway/canal system.

It should be noted that the “section 88B Instruments (Restriction as to user)” registered on the title of the private lots adjoining the waterway lots/drainage reserves make it clear that Council will not be liable for the cost of maintenance, repair or replacement of rock sea walls, revetment or retaining walls on adjacent beaches (where such beach lies within the lot burdened) or the beaches themselves. An example of one registered plan (for DP 262200) is provided at Attachment 6.

Council’s intentions for the lots once they become classified as operational

Some submitters and other enquirers have suggested that Council should state in writing what its intentions are for the lots once they become classified as Operational.

Staff Comment

Council intends to retain ownership of the land for the purpose of maintaining a lawful approval and licencing regime for private waterway structures as well as to maintain as and when necessary the:

- Infrastructure associated stormwater discharge into the waterways; and

- Navigability of the general waterway/s associated with their connection to the main Clarence River system.

COUNCIL IMPLICATIONS

Budget/Financial

The preparation of a planning proposal and management of the planning proposal process has been undertaken utilising Council staff resources. The public hearing provisions required the engagement of a suitably qualified, experienced and independent consultant to conduct and facilitate the public hearing.

The cost of engaging Locale Consulting for the public hearing was \$4,560 (ex. GST). Should the classification of the land remain as Community additional Council resources will be required for the preparation of a formal plan of management.

Asset Management

The 5 allotments are designated drainage reserves. An Operational classification best aligns with the purpose of these land parcels and provides greater flexibility in management and maintenance of the reserves.

Policy or Regulation

Local Government Act 1993

Environmental Planning and Assessment Act 1979

Consultation

The planning proposal was publicly exhibited for a minimum period of 61 days from 11 December 2020 to 10 February 2021. Ten submissions were received from members of the public.

A public information session on the matter was held on 12 March 2021 at the Treelands Drive Community Centre. It was a pre-booked drop-in session format designed for interested persons to individually ask questions one-on-one with Council staff in order to gain a clearer understanding of the proposed reclassification. The session was attended by approximately 40 people.

A public hearing into the proposed land reclassifications was held on 21 April 2021. A copy of the public hearing report is at Attachment 3 and provides further details of the public hearing.

As part of notification of the proposal to the public and relevant stakeholders, letters were issued to the owners of property adjoining the land affected by the planning proposal at a number of stages including:

- Public exhibition stage - advising of public exhibition of planning proposal.
- Public information session (post exhibition) - advising of public information session and also acknowledging submissions where a submission was made during the exhibition period.
- Public hearing - advising of proposed public hearing.
- Public hearing report - advising of availability of public hearing report.

In addition to this, extensive use was made of Council's Noticeboard in informing the public of the proposal and updating the public at the various stages. The matter has been available on Council's website for viewing throughout the entire process with regular updates on the web content.

Council was not required to consult with public authorities on this matter.

Legal and Risk Management

The undertaking of a planning proposal and associated LEP amendment is the recommended course of action to rectify possible legal ambiguities associated with the historic Council decisions and actions in relation to land classification dating back to 1994.

A reclassification of the lots to Community Land will enable Council to confidently offer lawful licencing of private water recreation structures to owners of the private property owners who abut the 5 waterway lots the subject of this planning proposal.

Climate Change

N/A

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none">1. <i>Planning Proposal - Reclassification of Council Land 2020 (REZ2020/0005)</i> as publicly exhibited2. Submissions to exhibited planning proposal3. <i>Public Hearing Report - Yamba Waterways</i> (11 May 2021)4. Table addressing issues raised by individual submissions5. Response to questions raised at the public hearing6. Section 88B Instrument (Restriction as to user) for DP 262200

ITEM	6b.21.034	PLANNING PROPOSAL REZ2021/0003 – LOT 11 DP 1259162, 4 RIVER ROAD, PALMERS ISLAND
Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

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 11 DP 1259162, 4 River Road, Palmers Island
<i>Current Zoning CVLEP 2011</i>	RU1 Primary Production
<i>Proposal</i>	To rezone part of the land from RU1 to RU2 Rural Landscape to enable a “rural supplies” to be established on part of the land; or alternatively to amend Schedule 1 Additional permitted uses of the LEP to permit a “rural supplies” business on part of the land.

This report considers a planning proposal which aims to rezone part of the land from RU1 to RU2 to enable a “rural supplies” to be established on part of the land or alternatively, to amend Schedule 1 Additional permitted uses of the LEP to permit a **rural supplies** business on part of the land.

The report provides details of the proposal, staff assessment and provides a recommendation for Council’s consideration.

OFFICER RECOMMENDATION

That Council not support planning proposal REZ2021/0003 to amend the Clarence Valley Local Environmental Plan 2011 to rezone part Lot 11 DP 1259162, 4 River Road, Palmers Island RU1 Primary Production to RU2 Rural Landscape to permit a “rural supplies” business for the following reasons:

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 6.4, 11.1 and 11.4 of the NCRP.
3. The proposal is inconsistent with the following Ministers 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 proposed direct access of the future development has not been adequately assessed and justified.

COMMITTEE RECOMMENDATION

Clancy/Baker

That Council support the planning proposal REZ2021/0003 to amend the Clarence Valley Local Environmental Plan 2011 to rezone part Lot 11 DP 1259162, 4 River Road, Palmers Island RU1 Primary Production to RU2 Rural Landscape to permit a “rural supplies” business.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.034**Clancy/Lysaught**

That Council support the planning proposal REZ2021/0003 to amend Schedule 1 Additional Permitted Uses of the CV LEP 2011 to permit a “rural supplies” business on the specific proposal site on Lot 11 DP 1259162 coupled with an amendment to the CV LEP 2011 Additional Permitted Uses Map.

Voting recorded as follows:

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

Against: Nil

CARRIED**LINKAGE TO OUR COMMUNITY PLAN**

Theme 3 Economy

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

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

BACKGROUND

Council has received a planning proposal that seeks to rezone a 4,500m² section of Lot 11 DP 1259162, 4 River Road, Palmers Island from RU1 to RU2 to enable a *rural supplies* business to be established on part of the land. An alternative approach to achieve permissibility of a *rural supplies* business is to amend Schedule 1 Additional permitted uses of the Clarence Valley Local Environmental Plan (CVLEP) to permit a *rural supplies* business on part of the land. A copy of the submitted planning proposal is at Attachment 1.

Rural supplies is defined in the CVLEP as “...a building or place used for the display, sale or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production”.

The current RU1 zoning of the land prohibits rural supplies use.

Lot 11 has an area of 41.53 ha and is split into physically separate sections of 27.18 ha and 14.53 ha. A location plan of the land showing the approximate location of the section of the land sought to be rezoned is at Figure 1.

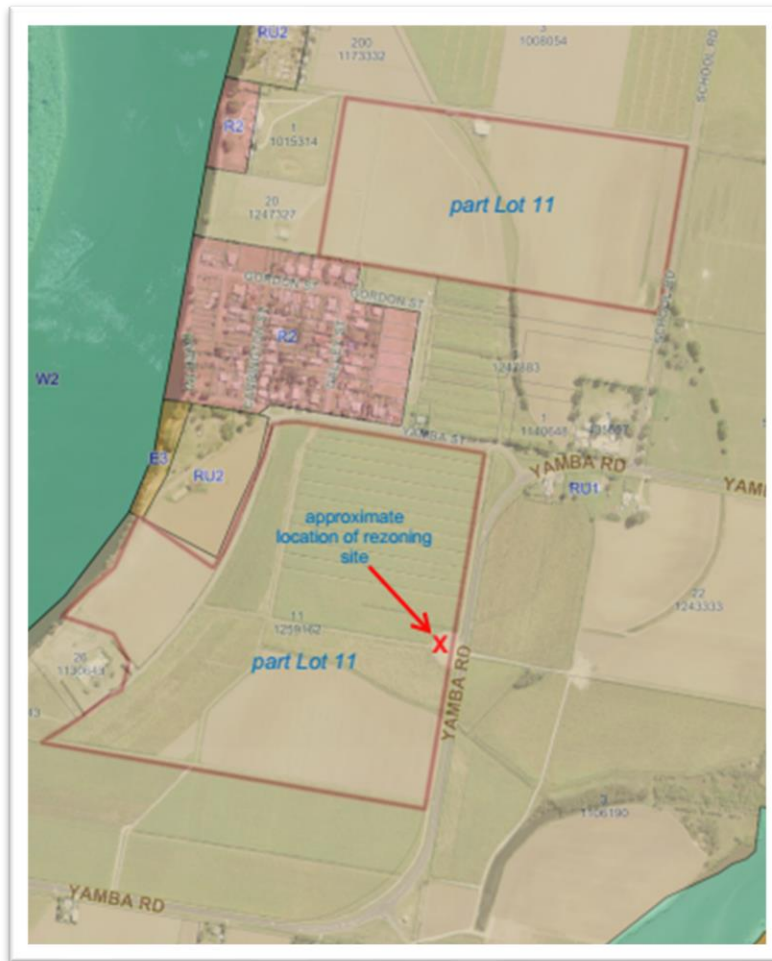


Figure 1 – Location of the part of the subject land where CVLEP amendment is sought.

The proposal seeks to utilise a 4,500m² section of Lot 11 DP 1259162 for the purposes of a rural supplies business. The dimensions of the proposal site measures 90 metres long (Yamba Road frontage) by 50 metres deep as shown in Annexure G of the submitted planning proposal at Attachment 1. This will be referred to as the “proposal site” in this report.

A farm shed and flood mound have previously been approved (DA2020/0216) on the proposal site and the intention of the rezoning is to allow a further development application to be submitted for an additional shed to be occupied by a rural supplies business on the proposal site. The proposal site includes both the approved and future sheds and a curtilage to accommodate parking, loading and on-site manoeuvring. Lot 11 is currently planted with macadamia trees.

KEY ISSUES

Key issues include protection of important farmland and agricultural production, traffic impacts and access as well as natural hazards.

Protection of important farmland and agricultural production

The land is identified as important farmland under the North Coast Regional Environmental Plan (NCRP). The purpose of identifying and mapping farmland as important farmland is to support long-term agricultural production.

The planning proposal as lodged has failed to acknowledge the important farmland status of the land. The proposal states in response to NCRP Action 11.1 that will permit a commercial activity on agricultural land but without any negative impact on existing or future agricultural uses due to its location on a disused cane pad plus a small amount of surrounding land which was not utilized when the macadamia plantation was established.

In response to NCRP Action 11.4 the proposal states that the proposed rural supplies business will service the local agricultural sector.

In response to NCRP Action 6.4 the proposal states although it will permit a retail activity outside existing centres but it is permissible on all RU2 land which in all instances is located outside of centres.

In response to the following relevant Minister's Section 9.1 Planning Directions (planning directions) the planning proposal (Appendix 4) states:

- 1.2 Rural Zones - Consistent. Does not rezone rural land to residential business, industrial, village or tourist zone; and
- 1.5 Rural Lands - Consistent. Does not fragment rural land as there is no subdivision involved and does not impact on the viability of existing agricultural operations as the approved shed is located on a disused cane pad.

Staff Comment

The proposal has not made a valid or compelling planning case for a proposed rural supplies in this location. It remains inconsistent with Actions 6.4, 11.1 and 11.4 in particular. Further, the assertions that the proposal is consistent with planning directions 1.2 Rural Zones and 1.5 Rural Lands is not agreed with.

Paragraph (4) of planning direction 1.2 states a planning proposal must:

- (a) *Not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- (b) *Not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

In this case the planning proposal will contain provisions that will increase the permissible density of land. It will remain inconsistent with the direction until the planning proposal can satisfy (in the Director-Generals opinion) at least one of the following conditions from paragraph (5) of the planning direction:

- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objectives of this direction,*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) *in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *is of minor significance.*

The planning proposal does not adequately address how it is consistent with planning direction 1.5 and how it satisfies the criteria/considerations in paragraph (4) of the direction 1.5, where it must:

- (a) *be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement,*
- (b) *consider the significance of agriculture and primary production to the State and rural communities,*
- (c) *identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources,*
- (d) *consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions,*
- (e) *promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities,*
- (f) *support farmers in exercising their right to farm,*
- (g) *prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses,*
- (h) *consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land,*
- (i) *consider the social, economic and environmental interests of the community.*

Due to the proposal's inconsistency with Actions 6.4, 11.1 and 11.4 of the NCRP the proposal is also inconsistent with Planning Direction 5.10 Implementation of Regional Plans.

Council undertook preliminary consultation with Department of Primary Industries - Agriculture (DPI Agriculture). A copy of the DPI Agriculture response is at Attachment 2.

DPI Agriculture advised that it does not support the rezoning of the subject land from RU1 to RU2 as this may allow other types of development not associated with agriculture to exist in the future. However, in recognising that rural supplies is an agricultural related land use DPI Agriculture stated that it would support the alternative proposal to amend the LEP Schedule 1 Additional Permitted Uses to include rural supplies as an additional use permitted with consent on part of Lot 11 DP 1259162. This is subject to due consideration of any potential land use conflict risks between the proposed development and the surrounding agricultural activities. The planning proposal has not provided an assessment of any potential land use conflict risks between the proposed development and the surrounding agricultural activities.

Traffic impacts

The proposal seeks to locate the future rural supplies on the part of the land (eastern boundary) that has frontage to Yamba Road.

In relation to the proposed access the proposal states that:

“Vehicle access will be directly from Yamba Road, which was not required for the approved shed and so not assessed as part of that application. The access point of the carpark is located immediately outside the 60km/hr zone, with good sight lines to the south (90km/hr) and adequate to the north (60km/hr zone) The combination and low traffic movements from the outlet, low speed limits in the immediate vicinity and acceptable sight lines means that this access should be considered acceptable without the need for further study”.

The lodged planning proposal was referred to Transport for NSW (TfNSW) for comment. TfNSW responded as follows:

“Yamba Road is a classified (Regional) road (MR 152). Clarence Valley Council is the Roads Authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the Roads Act 1993. TfNSW is the roads authority for freeways and can exercise roads authority functions for classified roads in accordance with the Roads Act.

Council is responsible for setting standards, determining priorities and carrying out works on Local and Regional roads. However, TfNSW concurrence is required prior to Council’s approval of works on classified (Regional) roads under Section 138 of the Roads Act 1993”.

TfNSW made the following additional comments:

- 1. “We note that your letter advises that if a use such as ‘rural supplies’ were to be approved through the development consent process, access would be to and from Yamba Road which is a major traffic link in the regional road network. Access for any new development onto Yamba Road must not compromise the functionality of the road or the safety of road-users.*
- 2. Approval of access would be through section 138 of the Roads Act and the concurrence of TfNSW will be required. Council and the proponent should be aware at this stage in the planning process that, as the location proposed is in a high-speed environment, significant roadworks may be required to provide a safe and efficient access to any future development. Any new intersection works will need to be designed to the current speed limit.*
- 3. TfNSW recognises that the change in zoning is a matter for Council to decide, particularly the removal of land from the RU1 Zone and the suitability of introducing new permissible uses through the RU2 land use table. However, there are a number of those additional uses that may place inappropriate pressure on the regional road network, and Council will need to be satisfied that the safety and efficiency of the network can be maintained.*
- 4. In respect to considering a Schedule 1 amendment for rural supplies on the subject land, the comments above relating to access are relevant and need not be repeated”.*

TfNSW in closing requests that Council give strong consideration to the impact of allowing commercial uses to establish in this rural location, and the transport infrastructure needed to support such uses. It added that any roadwork on classified road/s is to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and TfNSW Supplements.

A copy of the TfNSW response is at Attachment 2.

Staff Comment

Clause 101 (2) Development with frontage to classified road of SEPP (Infrastructure) 2007 states that:

“101(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that -

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of –*
 - i. the design of the vehicular access to the land, or*
 - ii. the emission of smoke or dust from the development, or*
 - iii. the nature, volume or frequency of vehicles using the classified road to gain access to the land, and”*

Council's Development Engineer does not support the proposal with access for the future rural supplies direct to/from Yamba Road. However, if access for the rural supplies use was sought from the Yamba Street frontage of Lot 11 it could be supported.

The Development Engineer has also made the following additional comments:

1. Existing traffic volumes on Yamba Road.

Previous traffic impact assessment undertaken by Bitzios (36 River Road, Palmers Island DA2015/0373), dated August 2018, determined that the 2029 projected peak hour traffic along Yamba Road equated to more than 1,000 vehicles. Any additional access onto Yamba Road will impact on the functionality and safety of road users. The proposal has failed to address the additional impacts on Yamba Road as a result of future intensification and use of the proposed new land use. Insufficient information has been provided to support the proposal.

2. Additional traffic and access onto Yamba Road

The existing property has frontage and access to Yamba Street. The proposed rezoning will result in additional traffic generation through future development of the land and put inappropriate pressure on Yamba Road. It is suggested that any proposed rezoning of land ensure that the proposed access be via Yamba Street. Council's Civil Services section do not support additional increase in traffic accessing Yamba Road. For the proposal to be considered for further assessment, it would be required that the proposal ensure that access to any additional intensification of the existing land use be via the Yamba Street frontage of Lot 11.

3. Future requirements – Yamba Road upgrading

Given the large number of through traffic using Yamba Road, it is required that the number of additional access points onto Yamba Road be minimised to maintain an efficient road network. The proposed new land use would permit future uses such as (but not limited to): Camping Grounds/Caravan Parks, Farm Stay accommodation, Neighbourhood shops, and Cellar door premises. These uses can generate up to a similar traffic generation rates of the surrounding land uses which contribute to the loading of traffic on Yamba Road. These include the surrounding caravan parks (DA2015/0373), and retail stores. These uses already require the upgrading of existing intersections with Yamba Road. Any future development of the proposed change in land use directly accessing Yamba Road will require provision of additional intersection with Yamba Road. This would result in the requirement for unnecessary upgrading of Yamba Road where existing intersection treatments can cater for the proposed increase in traffic generation. In addition, any additional access intersection conflict with Council's current plans to upgrade the existing Yamba Street – Yamba Road intersection to provide a roundabout. As such, additional traffic is to be directed through Yamba Street.

In addition, these requirements will be cost onerous to the future developer. It is likely that the future developer will require that Council contribute to the provision of access/intersection works as required on the basis that the development becomes unviable. This will result in additional future costs to Council. For these reasons, the proposed location is not acceptable as will have a negative impact on the road network servicing the LGA and it is evident that other areas within the property exist without requiring access via Yamba Road.

Natural hazards

The principal natural hazards affecting Lot 11 include flooding and riverbank erosion. However, the part of the land where the proposed rural supplies is to be located is not subject to riverbank erosion.

Flooding

The 1 in 100 year flood level at the proposal site is 2.61m AHD.

The concept plan at Annexure G of the submitted planning proposal indicates that spot heights on top of the constructed earth mound of the proposal site are approximately 2.2m AHD and generally range between 1.2 and 1.8m for much of the area outside of the area marked as constructed earth mound on the plan at Annexure G of the planning proposal. The depth of inundation in a 1 in 100 year flood event at the constructed earth mound will be approximately 0.4m, whilst within the area immediately surrounding the mound the depth of inundation will range between 0.8 – 1.4m AHD.

The proposal has not adequately assessed the flooding impacts and issue except to make the following statement against planning direction 4.3 Flood Prone Land:

“The site is flood prone but this has been addressed in the approval for the first shed which required the use of flood compatible materials for any parts of the building below the 1 in 100 year flood level. It is anticipated the same conditions will be applied to the proposed shed”.

As required by the Direction the proposal has not adequately addressed and demonstrated consistency with the following parts of planning direction 4.3:

1. *Not permitting development that will result in significant flood impacts to other properties – paragraph 6(b).*
2. *Not permitting a significant increase in the development of that land - paragraph 6(c).*
3. *Demonstrating consistency with NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 – paragraph (objective) 1(a).*

The Grafton and Lower Clarence River Floodplain Risk Management Plan (updated 2014) does not encourage commercial development and buildings below the 100 year flood level.

Specifically, in relation to Palmers Island the above Floodplain Risk Management Plan states:

“...The whole island would be inundated in a 20 year flood.....Palmers Island is considered to represent a high flood risk, due to the number of buildings potentially affected by flooding and likely isolation problems if early evacuation is not achieved. Any intensification of existing development through future subdivision or rezoning should be avoided.....”. (section 5.5.9, page 84).

Other more suitable sites and locations that are flood free are no doubt available in the wider district and these should be encouraged for a commercial development/use of this nature that would not ordinarily require an “on farm” location or context.

Acid Sulfate Soils

The proposal site is affected by class 3 acid sulfate soils according to the CVLEP 2011 Acid Sulfate Soils Map.

Planning direction 4.1 Acid Sulfate Soils requires Council to consider the Acid Sulfate Soils Planning Guidelines. In particular paragraph (6) of the direction states:

“(6) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act”.

The planning proposal has addressed this direction and issue in cursory manner as follows:

“The site is Class 3 ASS but clean fill has been used to construct the flood mound which seals the area and ensures no works in ASS soils with possible exception of wastewater management system installation. Any inconsistency is justified as being of minor significance (Clause 8 (b))”.

The proposal does not address the requirements of the direction, however, management of acid sulfate soils is typically not particularly problematic and typically assessed in more detail at a future DA stage. Further,

the CVLEP already contains provisions to ensure proper assessment and management of acid sulfate soils and hence, the need for a study at this stage of the planning process could be considered unjustified.

Standard of the planning proposal

The planning proposal is not supported by key studies or assessments that assist in justifying the outcome it hopes to achieve. Further, it asserts strategic justification and consistency with key planning directions and other strategies and policies that is not substantiated.

Examples of studies or assessments that are currently lacking and that maybe needed to support/justify the proposal include:

Study or Assessment	Comment
Traffic study/impact assessment	<p>The proposal has not provided a traffic impact assessment, nor has it provided an indication of the likely additional traffic movements to be generated by the future commercial development. This would normally be done as part of a traffic study or traffic impact assessment which would normally consider relevant guidelines including:</p> <ul style="list-style-type: none"> • RMS Guide to Traffic Generating Developments (2002) • RMS Guide to Traffic Generating Developments Technical Note (2013) Austroads Guide to Road Design Part 4: Intersections and Crossings – General
Aboriginal cultural heritage assessment	<p>Action 18.2 of the NCRP requires the undertaking of Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.</p> <p>At this stage there is no such assessment to help inform Council about any possible impacts to Aboriginal cultural heritage. If the proposal had some merit, including the chance of receiving a positive Gateway determination the requirement to prepare and provide such assessment could be deferred until the receipt of such Gateway and prior to public exhibition.</p>
Preliminary investigation land contamination (Planning Direction 2.6)	<p>Paragraph 2 (b) applies and is relevant as the land which is both rural zoned and rural by nature has been used (and still is) for agriculture (agricultural activities) being one the purposes referred to in Table 1 to the contaminated land planning guidelines.</p> <p>Further paragraphs (4) and (5) of the direction require that Council must consider <i>“obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines”</i>.</p> <p>The relevant contaminated land planning guidelines are <i>Managing Land Contamination: Planning Guidelines - SEPP 55 - Remediation of Land</i> (Department of Urban Affairs and Planning and NSW EPA 1998).</p> <p>If Council is supportive of the proposal as lodged it is unlikely that the DPIE will consider the proposal at the Gateway stage without evidence of Council having considered <i>“...a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines”</i>.</p>
Flood assessment	<p>The proposal has addressed flooding in a cursory manner. The document does not provide sufficient detail or assessment to assist Council in making an informed decision as to whether the provisions of the planning proposal that are inconsistent with planning direction 4.3 are of minor significance. A flood assessment could assist Council in making an informed decision particularly in relation to the inconsistencies with planning direction and other relevant policies and strategies noted under natural hazards/flooding in KEY ISSUES above.</p>

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 Minister's Section 9.1 Planning Directions as further noted in 2 and 3, below.
2. The proposal is inconsistent with Actions 6.4, 11.1 and 11.4 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 proposed direct access of the future development is unacceptable and has not been adequately assessed and justified.

Option 1 is the recommended option included in the Officer Recommendation to this report.

Option 2 - Support the planning proposal on the basis that it be amended as follows:

1. To achieve the planning proposal objective by:
 - (a) Amending Schedule 1 Additional permitted uses of the LEP permit a "rural supplies" business on the specific proposal site coupled with an amendment to the Clarence Valley Local Environmental Plan 2011 Additional Permitted Uses Map.
2. Provide more rigorous strategic justification against identified inconsistencies with the NCRP and Minister's Section 9.1 Planning Directions, as follows:
 - (a) Actions 6.4, 11.1 and 11.4 of the NCRP
 - (b) Minister's Section 9.1 Planning Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans

Option 3 - Support the planning proposal on the basis that it be amended in some other way (other than described in Option 2)

Options 2 and 3 are not supported by Council staff and in the event Council supports the proposal with or without amendment then in accordance with Council's adopted Community Participation Plan 2019 the Council needs to provide reasons for such decision.

COUNCIL IMPLICATIONS

Budget/Financial

The applicant has paid the 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.

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

Consultation

Preliminary consultation has been undertaken with Department of Primary Industries - Agriculture (DPI Agriculture) and Transport for NSW (TfNSW). This has been discussed further in Key Issues of this report under the 'Protection of important farmland and agricultural production' and 'Traffic impacts' headings.

Council's Development Engineer has also provided advice as outlined in the Key Issues under the 'Traffic impacts' heading.

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 of flooding in this location. The Lower Clarence Flood Model Update 2013 carried out a Climate Change assessment to determine the predicted impacts of climate change on flood behaviour. The results for 3 different scenarios were as follows:

Climate Change Scenario	Additional Impact
Climate Change Scenario 1 - 1% AEP event increases in peak flood level	0.0m to 0.3m between Yamba and Maclean
Climate Change Scenario 2 (2050 planning horizon) - 1% AEP event increases in peak flood level	0.3m to 0.5m between Yamba and Ulmarra
Climate Change Scenario 3 (2100 planning horizon) - 1% AEP event increases in peak flood level	0.4m to 0.9m between Yamba and Maclean
Source: section 5.1 Lower Clarence Flood Model Update 2013, BMT WBM Pty Ltd (2013)	

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none"> 1. Planning Proposal - Rezoning of part of Lot 11 DP 1259162 (No.4) River Street, Palmers Island from RU1 Primary Production to RU2 Rural Landscape 2. DPI Agriculture and TfNSW letters

ITEM	6b.21.035	PLANNING PROPOSAL REZ2021/0002 – LOT 10 DP 1259162, 4 RIVER ROAD, PALMERS ISLAND
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

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 (Area = approximately 3.185 ha, whole lot)
<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 7 lots of 4,000m ² (minimum).

This report considers a planning proposal which aims to rezone part of the land 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 4,000m² (minimum).

The report provides details of the proposal, staff assessment and provides a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council not support 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 7 lots of 4,000m² (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/Novak

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.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.035

Williamson/Ellem

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.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

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

BACKGROUND

Council has received a planning proposal that seeks to rezone Part Lot 10 DP 1259162, 4 River Road, Palmers Island from RU2 Rural Landscape to R5 Large Lot Residential. This is with a view of enabling the land to be subdivided into a maximum of 7 lots of 4,000m² (minimum). A copy of the submitted planning proposal is at Attachment 1.

The planning proposal provides considerable background on the past use and more recent development approvals granted on the land. In summary this is as follows:

- The current Lot 10 incorporates the former Shady Nook Caravan Park, which closed in 2007;
- Rezoning of part of the land from RU1 Primary Production to RU2 and E3 was finalised as Amendment No. 15 to CVLEP 2011 (notified 14 November 2014); and
- Consent granted for a caravan park (109 short term sites) in DA2015/0373 (5 May 2017) and modified under MOD2019/0053 (26 February 2019).

Council staff wrote to the proponent on 8 April 2021 requesting that the planning proposal be withdrawn due principally to the lack of any existing local or regional strategic merit for the proposal. It was further suggested that a positive Gateway determination was a low chance of being granted even if Council resolved to support the proposal and referred it to the Planning Gateway. A copy of Council's letter to the proponent is at Attachment 2.

The proponent's client declined the request to withdraw the proposal and has requested that it be put before Council for consideration.

KEY ISSUES

Key issues include strategic justification and consistency, traffic impacts and access and natural hazards.

Strategic justification and consistency

As already indicated above the planning proposal currently lacks local or regional strategic planning merit. The planning proposal as submitted acknowledges some of the lack of strategic planning merit in terms of some of the Directions in the North Coast Regional Plan (NCRP) and the Minister's section 9.1 Planning Directions.

NCRP

The proponent states that the proposal is inconsistent with the following NCRP Directions:

1. Direction 8 Promote the growth of tourism, particularly Action 8.2:

“Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans”.

The proposal notes that the inconsistency results from the approved caravan park not proceeding, contrary to the goal of promoting and facilitating tourism. This inconsistency is considered to be justified on the grounds that the caravan park does not currently exist and that its potential conflicts with the village, although assessed as acceptable by Council in issuing approval, are still significant and significantly greater than a rural residential development.

2. Direction 24 Deliver well-planned rural residential housing areas, particularly Actions 24.1 and 24.2

“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).*

Action 24.2 Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment”.

The proponent states in a covering letter to the submitted planning proposal that *“as the subject land is located within the coastal strip, the Proposal can only be considered if it is identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning & Environment”.* Further, the letter also refers to the 15 December 2020 Council resolution to - *“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 letter then states that the preparation of a strategic review of Council's rural lands as a component of Council's Local Growth Management Strategy (LGMS) would necessarily address the current and future supply of, and demand for, rural residential land.

Staff Comment

The inconsistency with Ministerial Direction 24, in particular, is considered to be a major impediment to the merit and likely success of the planning proposal. There is no LGMS or rural residential land release strategy endorsed by the NSW Government as required by the Direction at this point in time for the Clarence Valley. The reference to the Council's December 2020 resolution has been taken out of context as that resolution was clearly in relation to the potential amendment of CVLEP clause 4.1B in relation to rural boundary adjustment only and not for the purposes of rural-residential or large-lot residential style subdivision as now sought in this planning proposal. Further, the third point in the proponent's cover letter suggesting that the review of rural lands being prepared as a component of the LGMS would be addressing supply and demand for rural-residential land is outside the scope of that review. A review of land supply for all residential purposes (both large-lot residential and urban residential) will be a separate project as a component of the LGMS prepared in the 21/22 financial year as proposed in the draft Operational Plan 21/22. Notwithstanding that, and consistent with latest NSW Government policy and directives regarding development on flood prone land it is highly unlikely that new residential or rural-residential zoned land will be considered favourably in the LGMS, especially given NSW Government endorsement will be needed.

In light of the above this planning proposal is considered not have adequate strategic planning merit. Further, the potential for rural-residential land to be supported in this location following strategic appraisal is unlikely, especially given natural constraints or hazards that affect the subject land. In the circumstances it would be improper, inappropriate and inequitable to request preparation of a planning strategy that enables the proposal on the subject land without full and proper merit assessment of demand, land suitability, infrastructure and constraints analysis for all land in the LGA. The latter is proposed in 21/22 when the LGMS is prepared.

Minister's Section 9.1 Planning Directions

The proponent has noted inconsistency with the following s.9.1 Planning directions. The table below list these directions and the planning proposals response to each of them.

s.9.1 Planning Directions	Planning Proposal Response
1.2 Rural Zones	Can only be consistent if the subject land is identified in the rural lands strategic review and subsequent Local Growth Management Strategy as being suitable for rural residential development which would be consistent with 5(e) of the Direction.
1.5 Rural Lands	Can only be consistent if the subject land is identified in the rural lands strategic review and subsequent Local Growth Management Strategy as being suitable for rural residential development which would be consistent with 4(a) of the Direction.
2.2 Coastal Management	The Proposal is inconsistent with 5(b) of the Direction as the Palmers Island Riverbank Erosion Plan indicates that part of the land to be rezoned is within the 100 year management line. Can only be consistent if the subject land is identified in the rural lands strategic review and subsequent Local Growth Management Strategy as being suitable for rural residential development which would be consistent with 8(a) of the Direction.
2.3 Heritage Conservation	The area to be rezoned has a long history of agriculture tourism uses and AHIMS search indicates no Aboriginal sites recorded or Aboriginal places declared within 200m.
2.6 Remediation of Contaminated Land	This Direction has not been acknowledged or addressed by the proposal. Refer to 'Standard of the planning proposal' in Key Issues below.
3.2 Caravan Parks and Manufactured Home Estates	Would appear to be inconsistent with 4(b) of the Direction in relation to the approved caravan park as it rezones the subject land from RU2 which permits that park to R5 which prohibits caravan parks. If a rural lands strategy concludes the land is suitable for rural residential development, the inconsistency would be justified under Clause 6(a) of the Direction.
4.1 Acid Sulfate Soils	The land is Class 3 ASS and appropriate investigation would be required if the land was deemed suitable for rural residential development in the rural lands strategic review, thus satisfying 8(a) of the Direction.
4.3 Flood Prone Land	Inconsistent with 5 of the Direction though justified if the rural lands strategic review deems the land suitable for rural residential development.
5.10 Implementation of Regional Plans	(Note - The applicable regional plan is the North Coast Regional Plan 2036. Refer also to section 4.3, pages 6-7 of this template document).

Staff Comment

It is not possible to recommend that this proposal be supported in the absence of any local strategy such as a Local Growth Management Strategy, rural residential land release strategy or other strategy approved by the DPIE supporting this land or location as being suitable for large lot residential. Further, it is unlikely that any credible strategy would find that this land or land in this flood prone location as suitable for large lot residential settlement opportunities.

The lack of a local strategy identifying this land or location as being suitable for large lot residential causes this proposal to be unjustifiably inconsistent with:

- NCRP Direction 24 and Actions 24.1 and 24.2
- Planning Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Coastal Management and 3.2 Caravan Parks and Manufactured Home Estates

The other intractable strategic impediment is Planning Direction 4.3 Flood Prone Land as the land is flood prone. See Natural hazards below. Planning Direction 4.3 Flood Prone Land states that a planning proposal must not:

- *“rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone” - Direction 4.3 paragraph (5);*
- *“contain provisions that apply to the flood planning areas which permit a significant increase in the development of that land” - Direction 4.3 paragraph (6c).*

The rezoning of part of the land to R5 to permit the subdivision of the land into 7 large lot residential lots clearly contravenes the planning direction. It cannot be regarded as a minor increase in the development of the land nor could it be reasonably asserted that the inconsistency is of minor significance in the context of paragraph 9(b) of Planning Direction 4.3

Due to the proposal’s inconsistency with Actions 24.1 and 24.2 of the NCRP the proposal is also inconsistent with Planning Direction 5.10 Implementation of Regional Plans.

In summary, it is not possible to recommend that this proposal be supported in any capacity in light of such large-scale inconsistency with the NCRP and planning directions.

Protection of important farmland and agricultural production

The land is identified as important farmland under the North Coast Regional Environmental Plan (NCRP). The purpose of identifying and mapping farmland as important farmland is to support long-term agricultural production. The planning proposal as lodged has failed to acknowledge the important farmland status of the land.

The proposal states in response to NCRP Action 11.1 that *“the future development of the approved caravan park would remove any agricultural potential from the land development as such rural residential lots will not reduce agricultural land supply”*.

In response to NCRP Action 11.3 the proposal states that it is *“consistent although this action is not directly relevant to the planning proposal. Any conflict resulting from rural residential will be significantly less than that of the approved caravan park”*.

Refer to ‘Strategic justification and consistency’ in the Key Issues above for the proponent’s response to Minister’s Section 9.1 Planning Directions 1.2 Rural Zones and 1.5 Rural Lands.

Staff Comment

The proposal has not made a valid or compelling planning case for this large lot residential proposal in this location. It remains inconsistent with Action 11.1 of the NCRP particularly. It is also inconsistent with key planning directions 1.2 Rural Zones and 1.5 Rural Lands.

Paragraph (4) of planning direction 1.2 states a planning proposal must:

- Not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- Not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

In this case the planning proposal will contain provisions that will increase the permissible density of land. It will remain inconsistent with the direction until the planning proposal can satisfy (in the Director-General’s opinion) at least one of the following conditions from paragraph (5) of the planning direction:

- Justified by a strategy which:*
 - gives consideration to the objectives of this direction,*
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - is approved by the Director-General of the Department of Planning, or*
- Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*

- (c) *In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *Is of minor significance.*

The planning proposal does not adequately address how it is consistent with planning direction 1.5 and how it satisfies the criteria/considerations in paragraph (4) of the direction 1.5, where it must:

- (a) *Be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement.*
- (b) *Consider the significance of agriculture and primary production to the State and rural communities.*
- (c) *Identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources.*
- (d) *Consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions.*
- (e) *Promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.*
- (f) *Support farmers in exercising their right to farm.*
- (g) *Prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses.*
- (h) *Consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land*
- (i) *Consider the social, economic and environmental interests of the community.*

Due to the proposal's inconsistency with Action 11.1 of the NCRP the proposal is also inconsistent with Planning Direction 5.10 Implementation of Regional Plans.

The planning proposal has not provided an assessment of any potential land use conflict risks between the proposed development and the surrounding agricultural activities.

Council undertook preliminary consultation with Department of Primary Industries - Agriculture (DPI Agriculture). A copy of the DPI Agriculture response is at Attachment 3.

DPI Agriculture advised that it is not supportive of the planning proposal for the following reasons:

- The planning proposal is not the result of a strategic study.
- The subject land is not identified as a future rural residential area or investigation area within a local or regional planning strategy.
- The land is identified as important farmland. Rezoning of this land to a residential land use, without justification through a strategic study, is inconsistent with both DPI's Maintaining Land for Agricultural Industries Policy, and the North Coast Regional Plan 2036.

Natural hazards

The principal natural hazards include flooding and riverbank erosion.

The height of the 1 in 100 year flood across the land ranges between 2.82 and 2.92m AHD. Indicative spot heights across the land range between 1.1 and 3m AHD. The higher spot heights (approx. 1.8 – 3m AHD) are associated with the existing dwelling house and its immediate curtilage (refer to Figure 1 below).

The depth of flooding over the land in a 1 in 100 year flood is up to 1.82 metres but is typically greater than 1 metre over much of the land. This degree of flooding is likely to disqualify this land being considered as suitable for future large lot residential/rural residential development in any LGMS. A climate change assessment was undertaken as part of the Lower Clarence Flood Model Update 2013. It predicted that climate change factors would exacerbate inundation by floods over 3 climate change scenarios (refer to 'Climate Change' issue below). This compounds the barriers to the proposal and makes it even more untenable into the future.

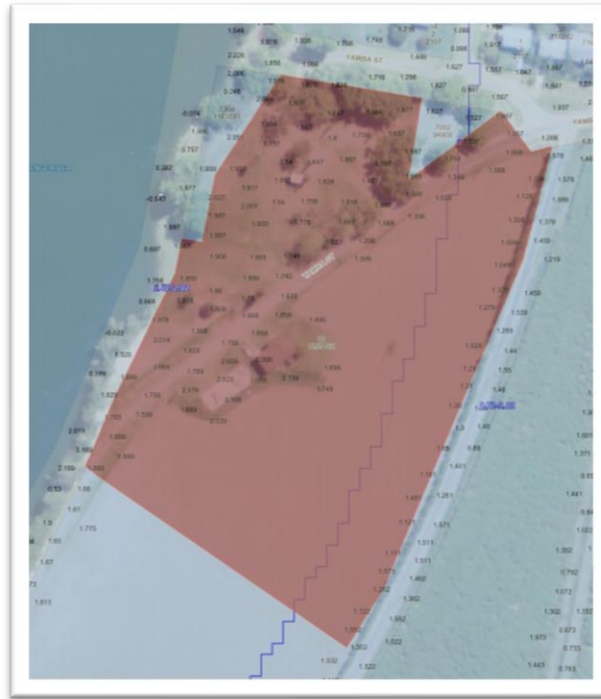


Figure 1 – The subject land showing flood levels and spot heights.

As required by the planning direction 4.3 Flood Prone Land the proposal has not adequately addressed and demonstrated consistency with the following parts of planning direction 4.3:

1. *Not permitting development that will result in significant flood impacts to other properties – paragraph 6(b).*
2. *Not permitting a significant increase in the development of that land - paragraph 6(c).*
3. *Demonstrating consistency with NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 – paragraph (objective) 1(a).*

The Grafton and Lower Clarence River Floodplain Risk Management Plan (updated 2014) states in relation to Palmers Island the above Floodplain Risk Management Plan states:

“...The whole island would be inundated in a 20 year flood.....Palmers Island is considered to represent a high flood risk, due to the number of buildings potentially affected by flooding and likely isolation problems if early evacuation is not achieved. Any intensification of existing development through future subdivision or rezoning should be avoided.....”. (section 5.5.9, page 84).

The land is also partly impacted by the Riverbank Erosion Area as shown on the Riverbank Erosion Planning Map (Sheet CL1_011I) under the CVLEP. A small section of the western part of the land is impacted by the “Immediate management line” (Precinct 1) as identified in the PART P Palmers Island Riverbank controls of the Council’s Rural Zones DCP whilst the middle section of the land is impacted by the “100 year management line” (Precinct 2). The eastern section of the land is beyond the “100 year management line”. Precinct 1 does not permit any new buildings (other than fencing or rebuilding) whilst dwellings/buildings are permitted within Precinct 2 on the basis that the dwellings/buildings be removed once the riverbank comes within 18 metres of any building.

Standard of the planning proposal

The planning proposal is not supported by key studies or assessments that assist in justifying the outcome it hopes to achieve. Further, it asserts strategic justification and consistency with key planning directions and other strategies and policies that is not substantiated. The proposal has not included an indicative plan of subdivision.

Examples of studies or assessments that are currently lacking and that maybe needed to support/justify the proposal include:

Study or Assessment	Comment
Aboriginal cultural heritage assessment	<p>Action 18.2 of the NCRP requires the undertaking of Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.</p> <p>At this stage there is no such assessment to help inform Council about any possible impacts to Aboriginal cultural heritage. If the proposal had some merit, including the chance of receiving a positive Gateway determination the requirement to prepare and provide such assessment could be deferred until the receipt of such Gateway and prior to public exhibition.</p> <p>Note - if the planning proposal receives a positive Gateway determination it is likely that it will specify that an Aboriginal cultural heritage assessment and flood assessment be prepared and submitted prior to any public exhibition of the proposal.</p>
Preliminary investigation land contamination (Planning Direction 2.6)	<p>This Direction has not been acknowledged or addressed by the proposal. The proposal is inconsistent with this planning direction. Paragraph 2(b) applies and is relevant as the land which is both rural zoned and rural by nature has been used (and still is) for agriculture (agricultural activities) being one the purposes referred to in Table 1 to the contaminated land planning guidelines.</p> <p>Further, paragraphs (4) and (5) of the direction require that Council must consider <i>“obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines”</i>.</p> <p>The relevant contaminated land planning guidelines are <i>Managing Land Contamination: Planning Guidelines - SEPP 55 - Remediation of Land</i> (Department of Urban Affairs and Planning and NSW EPA 1998).</p> <p>Even if Council is supportive of the proposal as lodged it is unlikely that the DPIE will consider the proposal at the Gateway stage without evidence of Council having considered <i>“...a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines”</i>.</p>
Flood assessment	<p>The proposal has addressed flooding in a cursory manner only. The document does not provide sufficient detail or assessment to assist Council in making an informed decision as to whether the provisions of the planning proposal that are inconsistent with planning direction 4.3 are of minor significance. However, review of the Council’s flood data in the adopted 2013 flood model has been reviewed. As discussed in Key Issues above, the land is deemed to be flood prone and hence, inconsistent with the relevant planning direction and it is considered highly unlikely that any additional flood assessment, that will come at considerable cost to the proponent, will change this outcome.</p>
Acid sulfate soils study	<p>The proposal site is affected by class 3 acid sulfate soils according the CVLEP 2011 Acid Sulfate Soils Map.</p> <p>Planning direction 4.1 Acid Sulfate Soils requires Council to consider the Acid Sulfate Soils Planning Guidelines. In particular paragraph (6) of the direction states: <i>“(6) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act”</i>.</p> <p>The planning proposal has addressed this direction and issue in cursory manner as follows: <i>“The land is Class 3 ASS and appropriate investigation would be required if the land was deemed suitable for rural residential development in the rural lands strategic review, thus satisfying 8(a) of the Direction.”</i></p>

Study or Assessment	Comment
	The proposal does not address the requirements of the direction, however, management of acid sulfate soils is typically not particularly problematic and typically assessed in more detail at a future DA stage. Further, the CVLEP already contains provisions to ensure proper assessment and management of acid sulfate soils and hence, the need for a study at this stage of the planning process could be considered unjustified.
Land use conflict risk and assessment	The planning proposal has not provided an assessment of any potential land use conflict risks between the proposed development and the surrounding agricultural activities.

The document is not of a standard that should be supported by Council and referred to the Planning Gateway.

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 acceptable 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 on the basis that it be amended as follows:

1. 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;
 - (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; and
2. Provide an indicative plan of subdivision.

Option 3 - Support the planning proposal on the basis that it be amended in some other way (other than described in Option 2).

Options 2 and 3 are not supported by Council staff and in the event Council supports the proposal with or without amendment then in accordance with Council's adopted Community Participation Plan 2019 the Council needs to provide reasons for such decision.

COUNCIL IMPLICATIONS

Budget/Financial

The applicant has paid the 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.

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 the Key Issues section of the report 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 of flooding in this location. The Lower Clarence Flood Model Update 2013 carried out a Climate Change assessment to determine the predicted impacts of climate change on flood behaviour. The results for 3 different scenarios were as follows:

Climate Change Scenario	Additional impact
Climate Change Scenario 1 - 1% AEP event increases in peak flood level	0.0m to 0.3m between Yamba and Maclean
Climate Change Scenario 2 (2050 planning horizon) - 1% AEP event increases in peak flood level	0.3m to 0.5m between Yamba and Ulmarra
Climate Change Scenario 3 (2100 planning horizon) - 1% AEP event increases in peak flood level	0.4m to 0.9m between Yamba and Maclean
Source: Section 5.1 Lower Clarence Flood Model Update 2013, BMT WBM Pty Ltd (2013)	

Prepared by	Terry Dwyer, Strategic Planning Coordinator
Attachment	<ol style="list-style-type: none"> 1. Planning Proposal - rezone part of Lot 10 DP 1259162, 4 River Road, Palmers Island from RU2 Rural Landscape to R5 Large Lot Residential 2. Council's letter to the proponent dated 8/04/2021 3. DPI Agriculture letter

ITEM	6b.21.036	PLANNING PROPOSAL REZ2020/0006 – LOT 231, HAMPTON ROAD, WATERVIEW HEIGHTS
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes plus To be tabled Attachment	

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 (Area = approximately 40 ha)
<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 ²

This report considers a planning proposal, 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 9,800m² and a residue lot of approximately 39.2 ha (retaining the RU2 zone).

The report contains further explanation and strategic assessment of the proposal and provides a recommendation for Council's consideration.

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 9,800m² 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 states.

COMMITTEE RECOMMENDATION

Baker/Williamson

That this item be deferred to allow receipt of additional information.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.036

Williamson/Ellem

That this item be deferred to allow receipt of additional information.

Voting recorded as follows:

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

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

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

BACKGROUND

Council has received a privately lodged planning proposal, entitled “*Planning proposal Lot 231, DP 880455 - Hampton Road, Waterview Heights*” that endeavours to support a case to rezone part Lot 231, DP 880455, 56A Hampton Road, Waterview Heights (refer to location plan at Figure 1) from RU2 to R5 under the Clarence Valley Local Environmental Plan (CVLEP) to facilitate the large lot residential subdivision of the land into:

- One additional large lot residential lot with an area of 9,800m² (within the part of the land proposed to be zoned R5); and
- A residue lot with an area of 39.02 ha to remain zoned RU2 Rural landscape.

A copy of the planning proposal is at Attachment 1. The desired outcome of the planning proposal is indicated on the preliminary plan of subdivision at Appendix A of the planning proposal and is also provided in Figures 2-4 below.

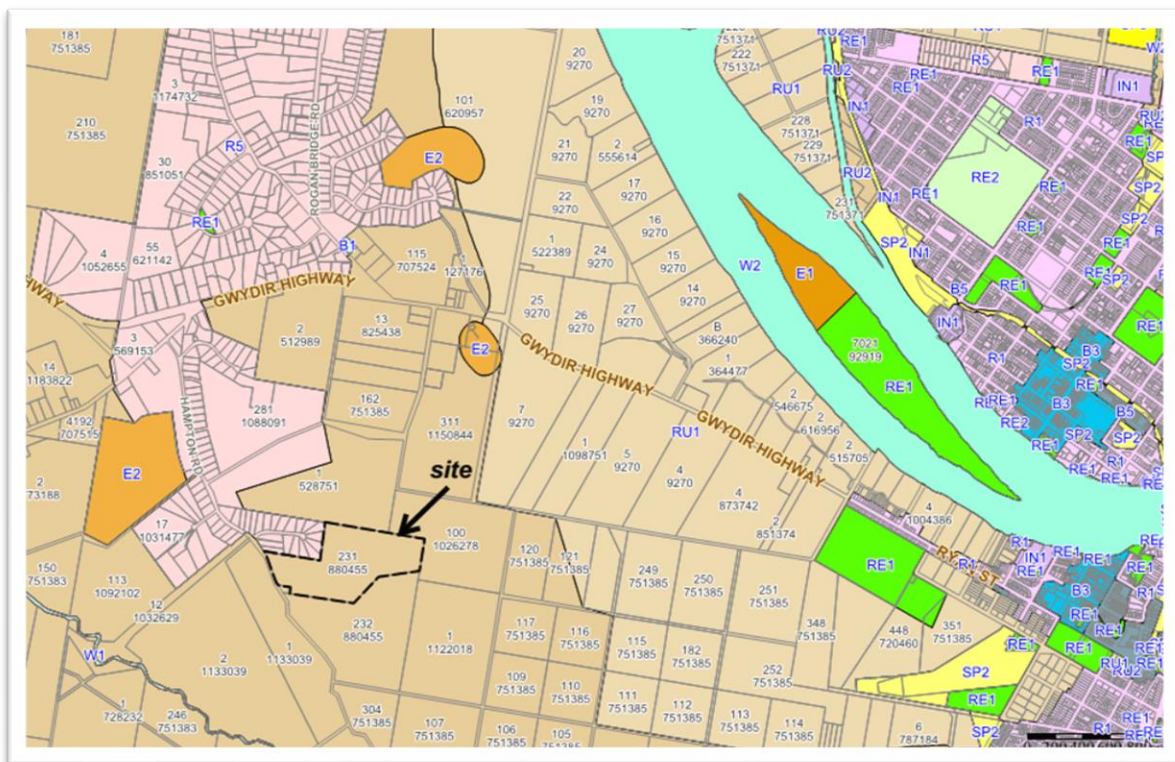


Figure 1 - Location of the subject land.

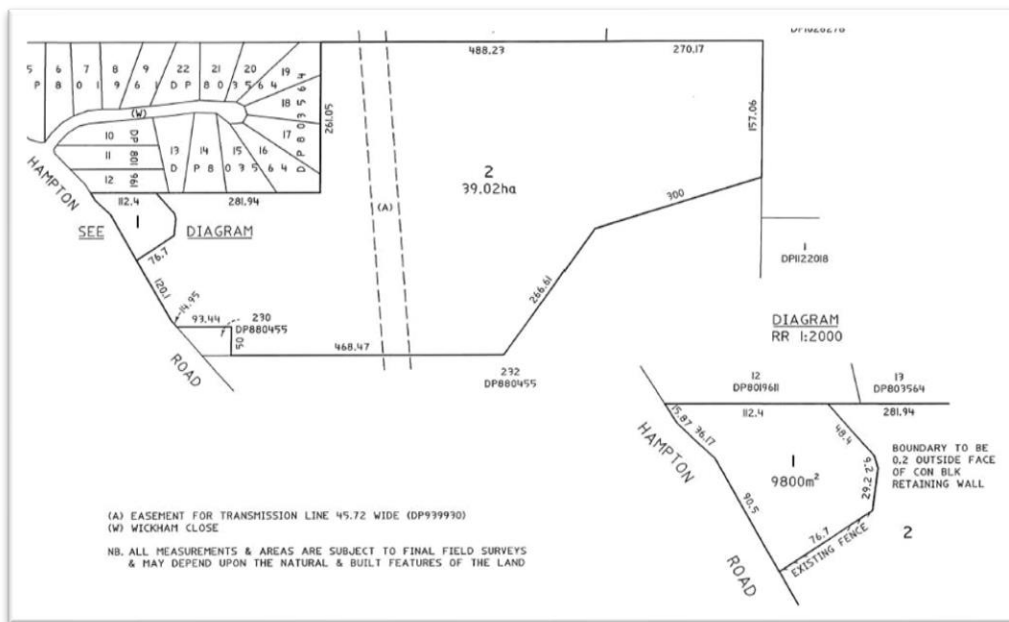


Figure 2 - Preliminary plan of future subdivision.

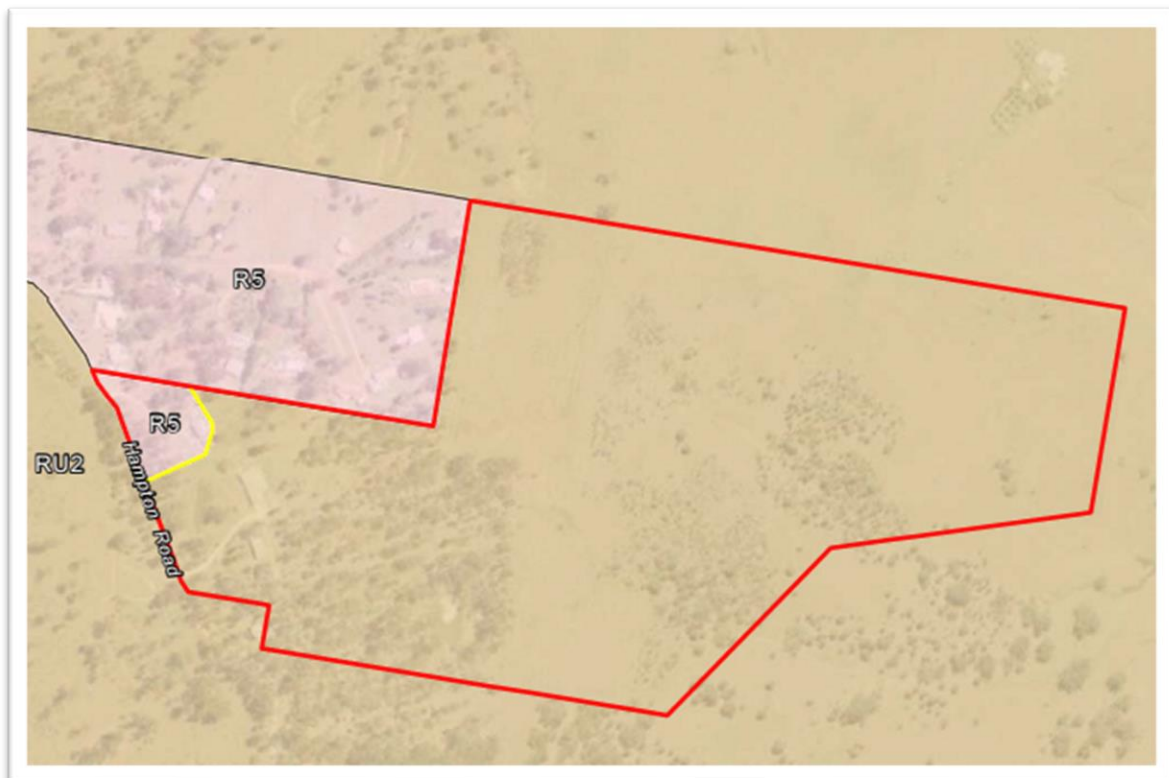


Figure 3 - Proposed land zoning outcome/map amendment for the subject land showing the area of proposed R5 zoning bordered by red and yellow lines.

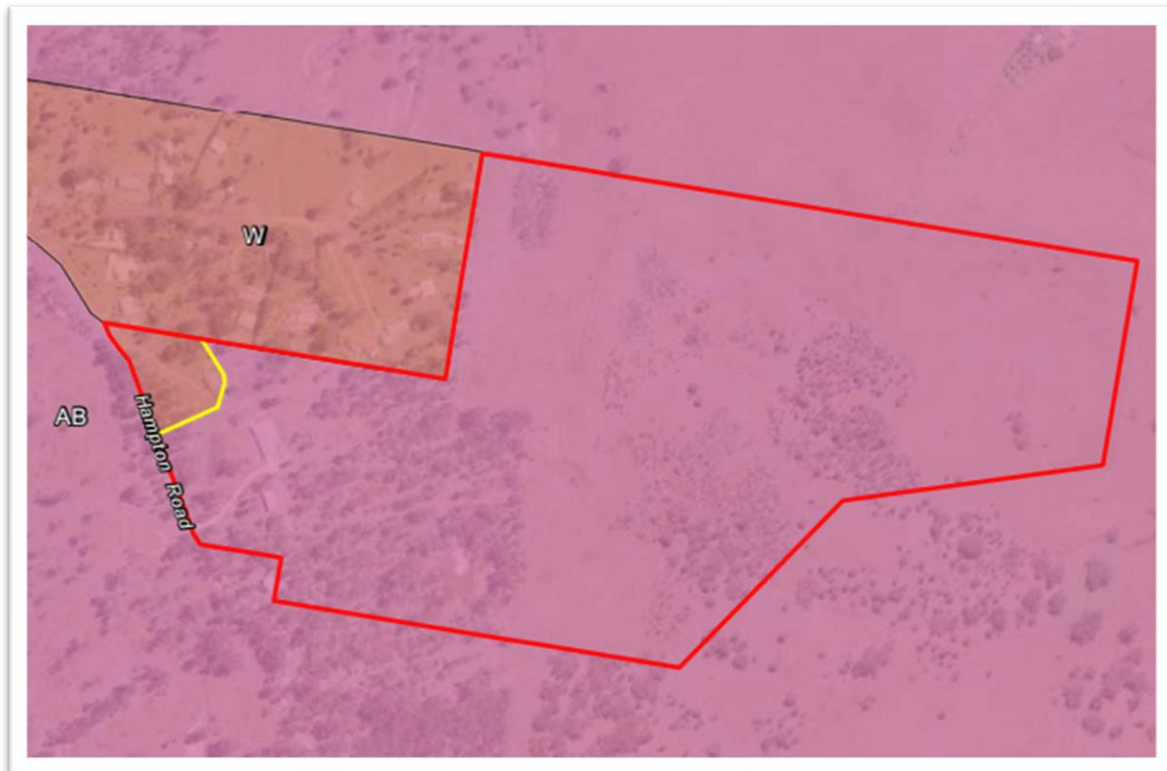


Figure 4 - Proposed Lot Size outcome/map amendment for the subject land showing the area of proposed new minimum lot size mapping bordered by red and yellow lines.

Prior to a planning proposal being lodged for this matter a professional advice application (SCH2019/0122) was submitted with a view to obtaining an “indication of support” for the proposal. The response indicated that:

“...there appears to be no demonstrable strategic merit in the context of the range of matters required to be considered by Department of Planning Industry and Environment’s (DPIE) planning proposal guidelines (A guide to preparing planning proposals, December 2018). This would include demonstrating consistency with matters such as:

- *North Coast Regional Plan 2036*
- *Relevant Minister’s section 9.1 planning directions*
- *Relevant State Environmental Planning Policies*
- *Council’s local strategies”*

KEY ISSUES

Key issues include strategic context and merit, biodiversity and koala habitat protection and mechanism for achieving desired outcome.

Strategic context and merit

The proponent has sought to address the relevant strategic context and merit such as contained in the following:

- North Coast Regional Plan 2036 (NCRP)
- Relevant Minister’s section 9.1 planning directions
- Relevant State Environmental Planning Policies
- Council’s local strategies

NCRP

The proponent has assessed the planning proposal as being consistent with the following NCRP Directions:

- Direction 1: Deliver environmentally sustainable growth
- Direction 11: Protect and enhance productive agricultural lands
- Direction 14: Provide great places to live and work
- Direction 20: Maintain the region’s distinctive built character

- Direction 22: Deliver greater housing supply
- Direction 23: Increase housing diversity and choice
- Direction 24: Deliver well-planned rural residential housing areas
- Direction 25: Deliver more opportunities for affordable housing.

The NCRP does not have “Sustainability Criteria” as some regional strategies and plans do. Therefore, in order to comply with the DPIE “Guide to preparing planning proposals” (December 2018) the proponent has assessed the planning proposal against the Assessment Criteria contained in section 2.3.1 of those guidelines. The planning proposal has concluded that the rezoning and future subdivision of the site is consistent with the Assessment Criteria given its small scale and connection to adjoining land that is already zoned and developed for R5 Large Lot Residential purposes.

Staff Comment

Council has undertaken preliminary consultation with the NSW Department of Primary Industries – Agriculture (DPI Agriculture) following the suggestion of the NSW Dept of Planning Industry and Environment to do so. DPI Agriculture has advised that is not supportive of the planning proposal for the following reasons:

- The planning proposal is not the result of a strategic study.
- The subject land is not identified as a future rural residential area or investigation area within a local or regional planning strategy.
- The proposed R5 part of the land is intended to have a minimum lot size of 4,000m² applied, this would permit a further subdivision of this land.
- The nature of the proposal to enable the subdivision of two existing dwellings on the one parcel, sets a concerning precedence for the North Coast region and the State, given many councils have recently amended their Local Environmental Plans to permit, with consent, detached dual occupancies and secondary dwellings in rural zones. Whilst such applications may have individual merit, enabling planning proposals of this nature, will lead to further fragmentation of the rural zones and increase land use conflict risk. This is considered inconsistent with the NSW Right to Farm Policy.

DPI Agriculture further commented that if assessing this proposal on an individual basis, it could be considered that the proposal does provide some strategic merit given the proposed R5 area will adjoin an existing R5 area, is not identified as important farmland, and is unlikely to increase land use conflict with the residual RU2 land or surrounding rural land in this locality. Despite this comment DPI Agriculture maintained its position of not supporting the matter for the above reasons and until appropriate strategic planning work has been completed which identifies the preferred future use of this land as rural residential. A copy of the DPI Agriculture letter is at Attachment 2.

The DPI Agriculture advice is generally supported. As noted above the proponent prior to lodgement of the planning proposal was advised of the lack of demonstrable strategic merit for this proposal.

The planning proposal generally acknowledges (p.14) that “...there is some inconsistency with the strategic planning framework in that the relevant endorsed strategies do not specifically identify the site for the proposed type of land use/development”. It has sought to justify this proposal against the NCRP on the following basis:

- That it is generally consistent with the majority of applicable directions and actions of the NCRP.
- The proposal has site-specific merit.
- It would not undermine the NCRP intent to direct growth to identified urban growth areas.
- It constitutes an insignificant and demonstrably appropriate variation to the NCRP which is not unreasonable.

The proposal is considered inconsistent with the following NCRP Directions and Actions:

NCRP Directions and Action	Comment
Direction 1 - Deliver environmentally sustainable growth Action 1.1 - Focus future urban development to mapped urban growth areas.	In response to Action 1.1 the proposal states that: <i>“The CVLEP 2013 map Sheet CL1_007H does not map the site as an urban release area, nor does the Growth Areas Map of Clarence South (Mid North Coast Regional Strategy). However, the proposal is for minor large lot residential rezoning directly adjoining land already zoned and developed for this purpose. Further, the CVSS 1999 identifies parts of Waterview Heights for this purpose. Therefore, the proposal</i>

NCRP Directions and Action	Comment
	<p><i>is considered reasonable and to have site-specific merit, despite not being specifically identified in a strategic plan/growth area map”.</i></p> <p><u>Staff Comment</u> As the proposal site is outside of mapped urban growth area it remains inconsistent with this Action. The proposal relies on the minor significance argument which if accepted creates an undesirable precedent for future proposals of a similar nature particularly those sites that already contain an existing rural dual occupancy arrangement and/or are located adjacent to existing zoned large lot residential zones/areas.</p> <p>Until the proposal is justified by a local strategy (eg local growth management strategy or rural residential strategy) or by a regional strategy/plan that can justify its inclusion into a (mapped) urban growth area it will remain inconsistent with this Action.</p>
<p>Direction 11 - Protect and enhance productive agricultural lands Action 11.1 - Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.</p>	<p>In response to Action 11.1 the proposal states that: <i>“As discussed in the relevant parts of this Planning Proposal, the proposal is minor in scale, with the subject land being modest in area and directly adjoining existing R5 zoned land. The proposal is compatible with the local land use context and would not adversely affect or conflict with important agricultural land. There is no nearby mapped State or regionally significant farmland nor any mapped Biophysical Strategic Agricultural Land. There is no proximal intensive agricultural activity either. The proposal is appropriate in this context”.</i></p> <p><u>Staff Comment</u> Whilst the proposal can be regarded as being consistent with this direction by virtue of the land not being important farmland. However, the zoning of the residue land will remain zoned RU2 and therefore could be potentially developed for permissible agricultural activities at some stage in the future particularly once the ownership of the land changes.</p>
<p>Direction 18 - Respect and protect the North Coast’s Aboriginal heritage Action 18.2 - Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.</p>	<p>The proposal states that: <i>“The site is an existing, heavily disturbed parcel of land. The proposed rezoning is minor and limited to existing disturbed and developed land. The rezoning and future subdivision is very unlikely to affect Aboriginal Cultural Heritage and is acceptable”.</i></p> <p><u>Staff Comment</u> Action 18.2 of the NCRP requires the undertaking of Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.</p> <p>At this stage there is no such assessment to help inform Council about any possible impacts to Aboriginal cultural heritage. If the proposal had some merit, including the chance of receiving a positive Gateway determination the requirement to prepare and provide such assessment could be deferred until the receipt of such Gateway and prior to public exhibition. In the event that the proposal is supported by Council as well as the Gateway it is likely that the Gateway will specify that an Aboriginal cultural heritage assessment be prepared and submitted prior to any public exhibition of the proposal.</p>
<p>Direction 24: Deliver well-planned rural residential housing areas</p>	<p>In response to Action 24.1 the proposal states that:</p>

NCRP Directions and Action	Comment
<p>Action 24.1 - Facilitate the delivery of well-planned rural residential housing areas by:</p> <ul style="list-style-type: none"> ▪ 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). 	<p><i>“The proposal is consistent and compatible with the locality and adjoining R5 zone and associated development. The proposal is of very minor significance and would effectively and orderly integrate into this rural residential area, maintaining well planned outcomes”.</i></p> <p><u>Staff Comment</u> Again, the proposal relies on the minor significance argument which if accepted creates an undesirable precedent for future proposals of a similar nature particularly those sites that already contain an existing rural dual occupancy arrangement and/or are located adjacent to existing zoned large lot residential zones/areas.</p> <p>Until the proposal is justified by a local strategy (eg local growth management strategy or rural residential strategy) or by a regional strategy/plan it will remain inconsistent with this Action.</p>

Minister’s section 9.1 planning directions

The planning proposal has sought to justify this proposal against the key section 9.1 Planning Directions on the following basis:

1. Direction 1.2 Rural Zones

The following extract from pages 19-20 of the planning proposal is relevant:

“This Planning Proposal seeks to rezone a small and limited section of land that adjoins land zoned and developed as R5 large lot residential land. The proposal is not specifically referenced in the CVSS 1999 or NCRP 2036 growth maps, however the Waterview Heights area is specifically referenced in the strategy as being suitable for rural residential/large lot residential purposes, and also having potential to be developed further as a village.

Due to the existing use on the site the proposed rezoning would not impact on the development/creation of this village precinct. The proposal is not specifically referenced in the NCRP 2036, however an assessment against the Assessment Criteria provided in the DPIE guide to preparing planning proposals (given the lack of Sustainability Criteria in the NCRP 2036) demonstrates that the proposal is consistent with the criteria and justified given its site-specific merit (refer to Section 4.2.1).

The proposal would not adversely impact or conflict with intensive or significant agricultural land and can effectively integrate with existing R5 land and co-exist in this locality.

Given the small amount of land proposed to be rezoned, the fact that the proposal adjoins existing large lot residential land and is currently used as a large lot residential style development the proposal is considered to be of minor significance and inconsequential. The proposal is therefore acceptable”.

Staff Comment

The proposal is not justified by a local strategy or by a regional strategy/plan. Until the proposal is justified by a local strategy (eg local growth management strategy or rural residential strategy) or by a regional strategy/plan it will remain inconsistent with this direction. The current rural lands strategy (RLS) process will not address or resolve areas suitable for future rural residential/large lot residential expansion either in a general sense or specific sense. The RLS will investigate the long-term strategic direction for rural areas in the Council area and will help inform future planning decisions and policies for rural lands. A specific rural residential or residential housing strategy is needed to cater for any new future rural residential opportunities.

The proposal relies on the minor significance argument which if accepted creates an undesirable precedent for future proposals of a similar nature particularly those sites that already contain an existing rural dual occupancy arrangement and/or are located adjacent to existing zoned large lot residential zones/areas.

2. Direction 1.5 Rural Lands

The following extract from page 21 of the planning proposal is relevant:

“Although not specifically identified as a growth area in strategic plans, the proposal is on balance generally consistent with the relevant aims and objectives as outlined in Section 4.2.1 and 4.2.2.

The proposal is of minor significance and aligned with the objectives of this Direction. The subject land is already partly used for rural residential lifestyle purposes, immediately adjacent to existing R5 zoned land. There is no land in proximity identified to be State Significant Farmland or Biophysical Strategic Agricultural Land. The proposal would not cause the loss of or conflict with intensive or important agricultural land/activity.

Environmental values are suitably protected and would not be significantly affected. The site is suitable for R5 purposes and use, with an existing dwelling and associated services/improvements already established on the proposed subdivision lot.

The proposal would not cause fragmentation of rural land and is suitably sited to integrate directly with adjoining R5 land. Given these features and context, and consistency with the Direction objectives, the proposal is of minor significance and justified”.

Staff Comment

The proposal is not justified by a the NCRP or by Council's adopted Local Strategic Planning Statement (LSPS). The latter foreshadows the undertaking of a Rural Residential Strategy as part of a wider local growth management strategy (LGMS). As mentioned under direction 1.2 above the current RLS process will not address or resolve areas suitable for future rural residential/large lot residential expansion either in a general sense or specific sense.

Until the proposal is justified by a local strategy (eg local growth management strategy, rural residential strategy or LSPS) or by a regional strategy/plan it will remain inconsistent with this direction. The proposal relies on the minor significance argument which if accepted creates an undesirable precedent for future proposals of a similar nature particularly those sites that already contain an existing rural dual occupancy arrangement and/or are located adjacent to existing zoned large lot residential zones/areas.

3. Direction 2.6 Remediation of Contaminated Land

In response to this direction the planning proposal states:

“The subject land is assumed to have been historically used for livestock grazing and dwellings. Based on a review of the available desktop data and observations made during an inspection of the site, the land is unlikely to have been contaminated by previous land uses and practices. A Phase 1 Preliminary Contamination Investigation, in accordance with relevant guidelines, has been prepared confirming that there is no identified contamination on-site and that the proposed large lot residential use is considered suitable (Refer to Appendix E)”.

Staff Comment

The planning proposal was referred to Council's Environmental Health Officer (EHO) for comment, particularly in relation to the supporting Preliminary Site Contamination Inspection report. Council's EHO supports conclusion and recommendation of the report that:

- the soil within the proposed Lot 1 is not subject to contamination by previous land uses and practices; and
- it is considered that the soil contamination status reported is not prohibitive to the proposed development (i.e. subdivision of land/rezoning to RU5 for large lot residential).

Council's EHO further comments that should further development in relation to the proposed residue lot occur it is likely that further assessment may be required as it is not addressed within the initial report.

4. Direction 4.4 Planning for Bushfire Protection

The planning proposal asserts consistency with this Direction as follows:

“...The land subject to this Planning Proposal is not mapped, or proximal to land mapped (it is approximately 2km from the nearest bushfire prone mapping), as bushfire prone according to Council's

bushfire prone land mapping. Notwithstanding this, it is noted that the site is situated in rural surrounds with varying levels of interspersed vegetation. Although the dwelling and infrastructure is existing, subject to the Gateway Determination, it may then be prudent to undertake a Bushfire Attack Level (BAL) assessment to ensure adequate protection”.

Staff Comment

Although the proposal can be considered to be consistent with Direction 4.4 it is recommended that consultation be undertaken with NSW Rural Fire Service should the proposal achieve a positive Gateway determination. Council has commenced a process of revising the bush fire prone land mapping for the local government area. It is likely that the subject land will be recommended to be classified as bushfire prone land in revised mapping based on topography, vegetation type and bushfire history.

5. Direction 5.10 Implementation of Regional Plans

The proponent acknowledges a degree of inconsistency with the NCRP but considers that the proposal is of minor significance and achieves the overall intent of the NCRP as it does not undermine the achievement of its vision, land use strategy, goals, directions or actions.

Staff Comment

As mentioned against some of the relevant NCRP Directions and Actions above the proposal's justification relies on the minor significance argument which if accepted creates an undesirable precedent for future proposals of a similar nature particularly those sites that already contain an existing rural dual occupancy arrangement and/or are located adjacent to existing zoned large lot residential zones/areas.

The proposal will remain inconsistent with the NCRP and this direction until the proposal is justified by a local strategy (eg local growth management strategy, rural residential strategy or LSPS).

Biodiversity and koala habitat protection

The planning proposal is accompanied by a Biodiversity Assessment Report (BAR) which comprises Appendix F of the proposal.

The planning proposal indicates the ecological field assessment recorded the following key results:

- No threatened ecological communities (TECs) occur at the site.
- No threatened flora species occur at the site.
- One Rufous Bettong (*Aepyprymnus rufescens*) (listed as vulnerable under the BC Act) was observed dispersing from grassy understorey during random meander surveys in eastern portion of the site.
- The preferred Koala feed trees Forest Red Gum and Grey Box are common at the site.
- The Koala Spot Assessment Technique survey results indicate that Koalas utilise the site at varying (low to high) levels.
- One hollow-bearing tree (Grey Box, 80cm DBH, with one medium and 3 small limb hollows) occurs within the proposed rezoning alignment on the western boundary. Numerous hollow bearing trees occur more broadly within the site and provide habitat for hollow-obligate fauna such as gliders, microbats and nesting birds.
- No significant habitat for threatened fauna occurs within the development site, which does not occur more broadly at the site and locality.

The planning proposal and BAR also state that no vegetation removal is required as the dwellings already exist and their future rezoning and proposed new lot boundaries are already fenced. It concludes based on this proposed lack of intensification and field assessment results that biodiversity impacts of the proposal are negligible, particularly with the retention of woody vegetation within the site. It further states that should intensification of development be proposed in the future (e.g. additional residences as the theoretical maximum of four additional dwellings may be possible based on the rezoning), this would be subject to further detailed biodiversity assessment and Council approval as part of any future development application(s).

Staff Comment

Council's Natural Resource Management Officer (Biodiversity) has provided comment on this matter as follows:

1. The biodiversity assessment in Appendix F of the planning proposal dated 21/3/21 for Lot 231 DP 880455 Hampton Road, Waterview Heights, has satisfied Council's environmental requirements at this stage of the proposal.
2. Further to this, the proposal is subject to SEPP (Koala Habitat Protection) 2020 (KSEPP 2020), and the site was surveyed and koalas were found to utilise the site. The application of the SEPP to the proposal found that the site contains core koala habitat and therefore a plan of management (PoM) is required to accompany any development on the site.
3. As the proposal seeks to rezone land from a rural to non-rural zone, SEPP (Koala Habitat Protection) 2021 (KSEPP 2021) will apply to any future development applications, and Council wants to ensure that no issues that may be unresolvable, arise at the DA stage due to the rezoning. Therefore, should the proposal progress, the applicant is asked to also consider the requirements of KSEPP 2021 as the rezoned land will be subject to this SEPP including the expanded preferred koala food tree list.
4. Additionally, the proposal triggers Clause 17 of KSEPP 2020 which states:
"...as the Minister may require Council to prepare an environmental study of the land if, under a planning proposal, a council proposes to zone or rezone land that is a potential koala habitat or a core koala habitat otherwise than as an environment protection zone".

It is expected that the process would be that if a PoM was submitted for the Department's approval, and after review, if there were major concerns or issues with the PoM and the development's potential impact on koalas, that a Local Environmental Study (LES) be required at that stage under clause 17. It would then be prepared to support the PoM, for the Department's approval.

If the matter reaches the Gateway stage the DPIE may require further assessment prior to public exhibition. Further, the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment should be consulted if this matter progresses to the public exhibition stage.

Land contamination

Council must not include land to be rezoned unless it has considered whether the land is contaminated. It is a requirement of Minister's section 9.1 Planning Direction 2.6 Remediation of Contaminated Land for Council to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines before supporting a planning proposal.

The revised planning proposal dated 10 March 2021 is accompanied by a Phase 1 Preliminary Site Contamination Investigation at Appendix E. It concluded that:

- Based on a review of the available desktop data, observations made during the site inspection and sampling and laboratory testing results, it is determined that the soil within the proposed rezoning area/Lot 1 is not subject to contamination by previous land uses and practices.
- The soil contamination status reported is not prohibitive to the proposed development (i.e. subdivision of land/ rezoning to RU5 for large lot residential). Therefore, no further investigation (detailed site assessment) is required.

Staff Comment

Council's Environmental Health Officer advises that:

- It appears as though all identified levels of contaminants are under the specified Health Investigation Levels from the National Environment Protection Measure.
- The recommendation that the site being developed will be appropriate for residential use and rezoning to RU5 Large Lot Residential is supported.
- In regard to the residual lot, should further development occur on this site it is likely that further assessment may be required as it is not addressed within the initial report.

Mechanism for achieving desired outcome

The minimum development potential of this proposal, as submitted, is 1 additional allotment and 2 additional dwellings as a dual occupancy on each of the 2 lots that would result from the planning proposal. However, as advised to the proponent in letter dated 5 November 2020 the maximum development potential of the proposal is:

- 2 additional allotments, as proposed Lot 1 will be capable of subdivision into 2 lots if a lot size of 4,000 m² is applied; and

- 4 additional dwellings - made up of 2 potential dwellings as dual occupancies on the lots that accommodate the existing dwellings; and 2 potential dwellings (as dual occupancy) on the potential additional lot that could be created from proposed Lot 1.

In light of the maximum development potential under the submitted planning proposal the proponent was advised that the recommendation that is likely to be made to Council is that Council support the planning proposal on the basis that a lot size of say 9,000 m² being applied to the part of the land that is proposed to be rezoned to R5; with such approach not impacting the intention/goal of the client landowner as stated in the planning proposal, including in the Proposal objective at page 6.

The proponent was invited to submit a revised planning proposal that seeks to achieve its objective by:

- Rezoning part of the existing lot (proposed Lot 1, 9,800 m²) to R5; and
- Applying a lot size of 9,000 m² to the part of the land that is proposed to be rezoned to R5.

A revised and updated planning proposal was submitted on 12 March 2021. The proponent's landowner client declined to change the way of amending the CVLEP to achieve the desired outcome of the planning proposal. In arguing support of a proposed lot size of 4,000 m² on the Lot Size Map the proponent advised:

"Despite proposed Lot 1 (to be zoned R5) being 9800 m², and that at this stage the existing occupancy (i.e. two existing dwellings) is intended to remain unchanged, application of a minimum 4000sqm lot size is considered to be logical and reasonable as this is consistent with, and effectively provides for an orderly minor extension of, the adjoining R5 areas. This arrangement allows for the existing dwellings to be accommodated on independent lots, whilst offering limited future/further flexibility in the use of the land should the need or desire arise, subject to merit assessment and Council approval.

There are also other lots in the R5 zone locality that exceed 8000sqm yet have the 4000sqm minimum lot size control applied. Therefore, in our view this arrangement is not unreasonable nor inconsistent in the local context as it aligns with neighbouring planning controls and provides for a cohesive approach. The limited additional theoretical development potential (e.g. for dual occupancy or further subdivision) is restrained and not a forgone conclusion as site constraints and environmental planning merits may influence whether any further limited development potential (beyond the current proposed subdivision) is possible or acceptable. Therefore, provision of the 4000sqm minimum lot size control is considered to be acceptable and would not likely give rise to adverse outcomes".

Staff Comment

There are no valid or outstanding planning reasons or need in this particular case to achieve the outcome of 1 additional large lot residential lot of 9,800 m² by choosing to amend the Lot Size map for part of the land from 40 ha to 4,000 m². If the notion of achieving the outcome of 1 additional large lot residential lot of 9,800 m² is supported in principle it should only be on the basis of using a minimum lot size that will not allow any further subdivision of the proposed Lot 1.

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.

Option 2 - Support the planning proposal on the basis that it be amended as follows:

1. To achieve the planning proposal objective by:
 - (a) Rezoning part of the existing lot (proposed Lot 1, 9,800 m²) to R5; and
 - (b) applying a lot size of 9,000 m² 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.

Options 2 and 3 are not supported by Council staff and in the event Council supports the proposal with or without amendment then in accordance with Council's adopted Community Participation Plan 2019 the Council needs to provide reasons for such decision.

COUNCIL IMPLICATIONS

Budget/Financial

The applicant has paid the 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.

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.

Council's Natural Resource Management Officer (Biodiversity) has also provided advice as outlined in 'Key Issues' under the Biodiversity and koala habitat protection heading.

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
Attachment	2. DPI Agriculture letter
To be tabled	1. <i>Planning proposal Lot 231, DP 880455 - Hampton Road, Waterview Heights</i>

ITEM	6b.21.037	PLANNING PROPOSAL REZ2020/0004 – SOUTH MACLEAN HIGHWAY SERVICE CENTRE
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Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

<i>Proponent</i>	Hargreaves Property Group
<i>Date Received</i>	14 July 2020; additional information requested 11 September 2020 and information provided 16 April 2021
<i>Owner</i>	Maclean Service Centre Pty Ltd
<i>Subject land</i>	Lot 2 DP 634170, Schwonberg Street, Townsend
<i>Current Zoning CVLEP 2011</i>	RU2 Rural Landscape (RU2)
<i>Proposal</i>	To enable an additional use of the subject land for the purposes of a highway service centre, subject to granting of development consent

A planning proposal has been submitted to Council seeking to enable an additional use of land under the Clarence Valley Local Environmental Plan 2011 (CVLEP) to allow, with development consent, the construction of a highway service centre on land east of the Pacific Motorway at Townsend. This report seeks endorsement from Council to refer the planning proposal to the NSW Department of Planning, Industry and Environment (DPIE) for Gateway determination.

The proposed siting of a Highway Service Centre in the Maclean locality has been the subject of regional planning since 1995. Ministerial Local Planning Direction 5.4 - *Commercial and Retail Development along the Pacific Highway, North Coast* provides direction to local councils and a table of suitable locations for new service centres where these are 'out of town' and not already zoned for urban uses. This list includes Maclean (southern interchange).

The proposed site is flood prone and will require up to 5 metres of fill (156,000 tonnes of soil) to be imported to the site to establish a pad above the required flood level. This is expected to have negligible impact on local flooding within the low-lying area to the east of the highway. Council's Engineers are satisfied the site can accommodate the proposed development.

OFFICER RECOMMENDATION

That Council support planning proposal REZ2020/0004 to amend the Clarence Valley Local Environmental Plan 2011 that seeks to enable an additional use of land, being Lot 2 DP 634170, Schwonberg Street, Townsend, for the purposes of a highway service centre, subject to development consent, and refer the planning proposal to the NSW Department of Planning, Industry and Environment for Gateway determination.

Having declared an interest in this item, Cr Novak left the Committee meeting at 4.46pm and returned at 4.47pm.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Simmons, Williamson

Against: Nil

Having declared an interest in this item, Cr Novak left the Council meeting at 4.52pm and returned at 4.54pm.

COUNCIL RESOLUTION – 6b.21.037**Williamson/Ellem**

That Council support planning proposal REZ2020/0004 to amend the Clarence Valley Local Environmental Plan 2011 that seeks to enable an additional use of land, being Lot 2 DP 634170, Schwonberg Street, Townsend, for the purposes of a highway service centre, subject to development consent, and refer the planning proposal to the NSW Department of Planning, Industry and Environment for Gateway determination.

Voting recorded as follows:

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

Against: Nil

CARRIED**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 proposed siting of a highway service centre in the South Maclean locality has been the subject of regional planning since 1995. Ministerial Local Planning Direction 5.4 “Commercial and Retail Development along the Pacific Highway, North Coast” provides direction to local councils and a table of suitable locations for new service centres where these are ‘out of town’ and not already zoned for urban uses. These locations include Chinderah (north and south-bound), Ballina, Maclean (southern interchange), Woolgoolga (northern interchange at Arrawarra), Nambucca Heads, Kempsey, Port Macquarie, Taree and Tomago.

The site (refer to Figure 1) was previously occupied by the Maclean Sewage Treatment Plant. Following installation of the new STP at Woodford Island this site was decommissioned in 2010 and the land was subsequently sold. A planning proposal was prepared by Council in 2017 to rezone the land from SP2 Special Purpose Infrastructure to RU2 Rural Landscape consistent with the surrounding zoning. No submissions were received through community consultation on that proposal, and this site was subsequently changed to the RU2 zone in 2018. Further background can be found in the following Council reports – Items 16.023/16, 14.134/17 and 14.051/17. Decontamination and rehabilitation of the site to residential standard was completed prior to resale.

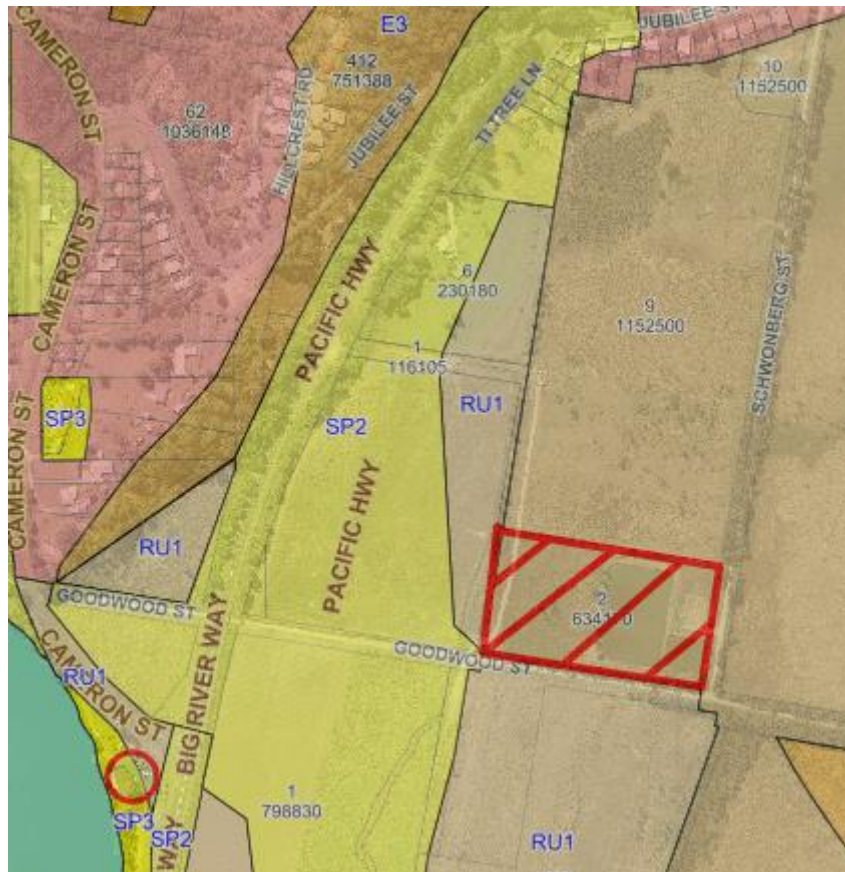


Figure 1 – Proposed site for highway service centre (shown bordered and hatched red) in relation to the location of Ferry Park visitor centre (shown by red circle).

A spur road has been partially constructed off the new interchange towards Goodwood Street adjacent to the proposed highway service centre site as part of the new Pacific Motorway upgrade.

KEY ISSUES

Strategic context

The siting of a highway service centre adjacent to the southern interchange at Maclean, along with a range of other locations between Tweed Head and Hexham (near Newcastle) has been adopted in Ministerial Local Planning Direction 5.4 - Commercial and Retail Development along the Pacific Highway, North Coast since 1995. The current proposal follows through and is consistent with that planning direction.

Specific considerations for the proposed site are relevant and these are presented and discussed below.

Existing zoning & proposed change

The site is zoned RU2 Rural Landscape and highway service centres are prohibited in the RU2 zone under the CVLEP.

This planning proposal requests a change to Schedule 1 of the CVLEP to enable an additional use of land on the subject land for the purposes of a highway service centre. The following clause has been provided by the applicant:

1. *Use of Certain Lands at Townsend*
 - (1) *This clause applies to Lot 2 DP 634170 Schwonberg Street, Townsend and identified as "Area D" on the Additional Permitted Uses Map.*
 - (2) *Development for the purpose of a Highway Service Centre is permitted with development consent.*

The objectives of the RU2 Rural Landscape zone provide scope to require a service centre and ancillary signage to fit in with desired character of this site near the entrance to Maclean and within the surrounding rural landscape.

Engineering Comments

A planning proposal considers feasibility and suitability of a development to the proposed location and should provide sufficient information to identify relevant considerations such as environmental risks, site specific requirements and similar contextual matters. Council staff identified several potential engineering and environmental considerations relevant to the site and requested additional information to assess the proposal soon after it was submitted in September 2020. The requested information was provided in late April and May 2021. The responses provided generally address Council's preliminary comments and Council's Engineer has advised that the information provided is adequate for this stage of the development.

A summary of the engineering considerations is provided below:

Earthworks/Geotechnical

Preliminary comments highlighted concerns regarding compaction/suitability of the underlying soil, influence of groundwater, filling of the site and its suitability for commercial development.

A Geotechnical Investigation Report now provides detail on the concerns raised. The report provides that *'preliminary analysis undertaken in the current assessment indicates site preloading with wick drains may provide one viable geotechnical design solution, although further detailed analysis and design will be required to establish the most cost-effective ground improvement option'*. Additionally, preliminary testing indicated that *'the site could be made suitable for the proposed development providing appropriate ground/site preparation measures are performed'*.

Further, the report advises that, *'some long term 'creep' consolidation of the subsurface material at the site is anticipated. The structural design of buildings and civil design of roads and drainage will need to take account of the anticipated long-term settlements (including differential settlements). Settlement sensitive structures should consider the use of piled footings and adequate articulation'*. Given the proposed lightweight, single storey structures, it is expected this creep can be managed and the design can make appropriate allowances for any long-term settlement. Such measures would require further detail for DA and Construction Certificate approvals, however, Council's Engineer advises that they are not considered necessary at this stage.

Flooding

The proposed site is located within the Clarence River floodplain and is subject to flooding. Preliminary information provided by the applicant recognised that the development could have potential impacts on flooding via obstruction and loss of floodplain storage. Council staff requested further information to better assess the potential impacts on local flooding.

The submitted Flooding Assessment, prepared by GHD, considers the site and proposed development in 'worst case scenarios', based on the updated Lower Clarence River Flood model, developed for the Pacific Highway upgrade.

The report concludes that *'The flood impact assessment has identified the impact of filling due to the proposed development and loss of flood storage within the Clarence River floodplain has negligible (<1 mm) effect on flood levels in the area'*. The report does state though, that it is assumed the updated flood model represents the 'as constructed' design geometry and drainage associated with the Pacific Highway upgrade.

Table 3-3 Flood afflux at the site

Location	20% AEP			5% AEP			1% AEP		
	Existing Scenario (mAHD)	Proposed Scenario (mAHD)	Flood Afflux (mm)	Existing Scenario (mAHD)	Proposed Scenario (mAHD)	Flood Afflux (mm)	Existing Scenario (mAHD)	Proposed Scenario (mAHD)	Flood Afflux (mm)
North of Pad	Nil	Nil	Nil	3.712	3.713	1	4.401	4.401	< 1
South of Pad	Nil	Nil	Nil	3.712	3.713	1	4.401	4.401	< 1
East of Pad	Nil	Nil	Nil	3.712	3.713	1	4.401	4.401	< 1
West of Pad	Nil	Nil	Nil	3.712	3.713	1	4.401	4.401	< 1

Traffic and site access

The site is positioned to service south bound Pacific Highway traffic but can also be accessed from north bound traffic via the highway overpass, along with local traffic. Heavy vehicle access to the site, internal parking/manoeuvring as well as access to the site via the unsealed portion of Schwonberg Street was raised by Council staff.

The submitted Traffic Impact Assessment recognised a total requirement of 25 heavy vehicle parking spaces, 21 car parking spaces, 1 service vehicle space and multiple spaces for buses and/or RV's. The current proposal satisfies these requirements and provides additional car parking spaces. Due to the nature of the development, parking requirements and provisions on-site will be assessed at DA stage and will be required to be in accordance with AS 2890 standards.

Sweep paths of heavy vehicles to and through the site currently show non-compliance. Sweep path analysis will be required at DA stage and it is foreseen that minor changes can be made to accommodate design vehicles as further detailed design requires.

The report identifies sufficient intersection sight distance and maintains a high level of service for all intersections to the development based on traffic volumes recorded prior to operational use of the Pacific Highway upgrade. Further traffic data may be required at DA stage which more accurately represents local traffic patterns around the development.

The traffic consultants did not observe any pedestrian or vehicle use of Schwonberg Street in their site assessment, but that is not to say that local traffic will not utilise this access upon completion of the development. The condition and geometry of the unsealed section of Schwonberg Street is not suitable to accommodate increased traffic volumes and design considerations at DA stage should be considered to discourage its use as an access to the highway service centre. Given Schwonberg Street offers the most direct access to/from the site for residents east of the Pacific Motorway the specifics of how access along and use of this thoroughfare will be best managed will need to be determined in the future if the planning proposal is adopted.

Concern was also raised by Council staff regarding construction traffic and its impact to the local road network. The proposal requires importing approximately 156,000m³ fill material to the site, or around 7,000 truck and dog loads. These impacts will be assessed by Transport for NSW regarding the Pacific Motorway network and construction traffic and their impacts to the road network can be conditioned at DA stage and assessed under dilapidation reports once all fill sources are more formally determined and agreed.

Services

Services are available to the site or can be extended to service the development. Servicing plans will be required at DA stage.

Options

The options available to Council include:

Option 1 – Support the planning proposal, as per the Officer Recommendation.

Option 2 – Not support the planning proposal.

Option 3 – Not support the planning proposal as submitted and require some amendment to the proposal.

Option 1 is the preferred option.

Options 2 and 3 are not supported by Council staff and if Council resolves to not support the proposal with or without amendment then in accordance with Council's adopted Community Participation Plan 2019 the Council needs to provide reasons for such decision.

COUNCIL IMPLICATIONS

Budget/Financial

The applicant has paid the required fees for processing the planning proposal. Additional fees, in accordance with Council's adopted Fees and Charges will apply if the proposal progresses beyond the Gateway.

Asset Management

A 400mm diameter watermain running under the site is part of the trunk main servicing Gulmarrad and Brooms Head. An air valve is located adjacent to the site. The pipeline is adjacent to the edge of the power easement. Settlement is a concern, however, Council's Engineer advises that the indicative plans and future conditions on any development application (as applicable) will be adequate to ensure the protection of Council assets.

Policy or Regulation

As stated above the proposal is consistent with Ministerial Local Planning Direction 5.4. Further consideration of Council policies in relation to economic, social and environmental impacts will be undertaken following the Gateway determination and community consultation.

In summary, the key legislation and planning policy is:

- *Environmental Planning and Assessment Act 1979* - including relevant State Environmental Planning Policies and Minister's Section 9.1 Directions
- North Coast Regional Plan

Consultation

A decision to support this proposal being sent to DPIE for a Gateway determination is a normal part of the planning process. Consultation with adjoining landowners and the wider community will typically occur after a Gateway determination from DPIE. This Council report may generate some interest, however, consultation will only occur as future steps in the process.

Legal and Risk Management

A decision to support this proposal being sent to DPIE for a Gateway determination is a normal part of the planning process. A Council determination at this stage does not preclude Council reaching an informed decision to approve or refuse the planning proposal at future steps, particularly based on community feedback and detailed considerations. Further, a DA will need to be submitted if the planning proposal is supported and finalised.

Climate Change

The proposal has included consideration of flooding calculations which include impacts of climate change. The impact of a highway service centre on CO2 emissions has not been considered in detail. Council could investigate requirements for electric vehicle charging facilities in association with the new facility at future DA stage, along with other sustainability initiatives to both mitigate emissions associated with road transport.

Prepared by	Stephen Timms, Senior Strategic Planner (Policy) and Scott Lenton, Acting Strategic Planning Coordinator
Attachment	Planning proposal – Maclean Highway Service Centre, Lot 2, DP 634170, Schwonberg Street, Townsend (July 2020)

ITEM 6b.21.038 DRAFT FISHER PARK PLAN OF MANAGEMENT

Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	To be tabled	

SUMMARY

A draft plan of management (PoM) has been prepared for Fisher Park, Grafton. This draft PoM updates the existing plan of management adopted by the Grafton City Council on 28 August 2000. This report seeks endorsement to exhibit and finalise the PoM if the nature of submissions allows.

OFFICER RECOMMENDATION

That Council:

1. Note the preparation of the draft plan of management for Fisher Park, Grafton;
2. Place the draft plan of management on public exhibition for a period of not less than 28 days as required under the *Local Government Act 1993*;
3. Accept written submissions on the draft plan of management for a period of not less than 42 days from when the plan of management is placed on public exhibition as required under the *Local Government Act 1993*; and
4. Adopt the draft plan of management at the end of the exhibition period provided there is no submission received that requires a review of the intent and substantial changes to be made to the draft plan of management, as exhibited.

COMMITTEE RECOMMENDATION

Novak/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

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

COUNCIL RESOLUTION – 6b.21.038

Williamson/Ellem

That Council:

1. Note the preparation of the draft plan of management for Fisher Park, Grafton;
2. Place the draft plan of management on public exhibition for a period of not less than 28 days as required under the *Local Government Act 1993*;
3. Accept written submissions on the draft plan of management for a period of not less than 42 days from when the plan of management is placed on public exhibition as required under the *Local Government Act 1993*; and
4. Adopt the draft plan of management at the end of the exhibition period provided there is no submission received that requires a review of the intent and substantial changes to be made to the draft plan of management, as exhibited.

Voting recorded as follows:

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

CARRIED

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

Fisher Park, Grafton is 'community' land vested in Council in fee simple. It is situated on two land parcels, Lot 1 DP 1155133 and Lot 244 DP 751371 encompassing a total area of 90,900 m² and is zoned RE1 – Public Recreation under the Clarence Valley LEP 2011.

Fisher Park is the Clarence Valley's principal and premier venue for Hockey, Cricket, AFL and Tennis and is also used by schools, organisations and the community for multiple sporting, active and passive recreational activities. The park also contains an area of cultural heritage significance to the local First Nations People.

The current Fisher Park PoM was adopted by Grafton City Council on 28 August 2000. This plan has served the management and use of the park well, though it is dated and requires updating.

A PoM is a statutory requirement of the *Local Government Act 1993* for land classified as 'community' under the Act.

Section 41 of the *Local Government Act 1993* requires that any amendment to a PoM can only proceed by means of a new plan of management so adopted.

Council's Strategic Planning section has prepared the draft Fisher Park PoM with the intent to replace the current PoM and to provide direction for the development, management and use of the land and facilities into the future.

KEY ISSUES

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

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

In addition, 'community' land that has been categorised as an 'Area of Cultural Significance' under s36D of the Act by a Council resolution, must have a site-specific PoM adopted for the land.

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

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

Subject to Council resolving to place the draft PoM on public exhibition, the exhibition period is proposed to be conducted from Friday, 25 June to Monday, 9 August 2021 with the draft PoM to be adopted at the end of this period if there are no submissions received requiring a substantial amendment to the draft plan. This provides the opportunity for a more streamline and efficient finalisation of the PoM given the timing of the local government elections in September and greater priorities for the incoming Council to consider.

COUNCIL IMPLICATIONS**Budget/Financial**

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

Asset Management

Fisher Park is vested in Council in fee simple and is owner of the assets there upon.

The Hockey Complex area, which includes 2 water-based hockey fields, clubhouse, and bunkhouse/function centre is under a lease agreement with the Grafton Hockey Association Inc. The Grafton Hockey Association Inc is responsible for the general operations and maintenance of the hockey complex.

Similarly, the Grafton City Tennis Club hold a lease agreement over the Tennis Complex and are responsible for the general operations and maintenance of the Tennis Complex comprising clubhouse, pro-shop and tennis courts.

Policy or Regulation

Local Government Act 1993

Consultation

The following internal sections of Council were consulted during the preparation of the draft Fisher Park PoM:

<i>Internal Section/officer</i>	<i>Comment</i>
Open Spaces and Facilities	Supported with comments
Natural Resource Management	Supported with comments
Cultural Heritage Officer	Supported with comments
Property	Supported with comments

External consultation was undertaken with representatives from the Grafton Hockey Association Inc, Grafton City Tennis Club, Clarence River Cricket Association (seniors), Clarence River Junior Cricket Association, Grafton Tigers AFL, and Skatepark users. An on-site meeting was also conducted with the then CEO of the Grafton Ngerrie LALC, Brett Tibbett, to identify Aboriginal cultural matters that needed to be appropriately addressed within the PoM. The draft PoM was also tabled at Grafton Ngerrie LALC board meeting held Tuesday, 9 March 2021 with no request for changes to be made to the draft PoM.

Legal and Risk Management

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

The draft Fisher Park PoM details how Council will manage the land, and in particular describes how the land may be used and further developed.

Climate Change

Climate change is considered as part of the management issues section of the draft PoM, refer to Section 7.2: Weather impacts and climate change in the PoM to be tabled with this report. Management actions in response to the impacts of climate change are included at Section 8 of the draft PoM.

Prepared by	Jasmine Oakes, Plans of Management Officer and Dr Danny Parkin, Senior Strategic Planner (Public Land/Native Title)
To be tabled	Draft Fisher Park Plan of Management

ITEM 6b.21.039 2021/2022 COMMUNITY INITIATIVES PROGRAM – ROUND 1

Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Yes	

SUMMARY

This report summarises the assessment of applications received from community organisations for a donation from Council as part of the 2021/2022 Community Initiatives Program Round 1.

OFFICER RECOMMENDATION

That Council approve donations under the 2021/2022 Community Initiatives Program – Round 1 to the value of \$58,195.50 in accordance with the recommendations set out in the attached schedule.

COMMITTEE RECOMMENDATION

Williamson/Baker

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.039

Williamson/Ellem

That Council approve donations under the 2021/2022 Community Initiatives Program – Round 1 to the value of \$58,195.50 in accordance with the recommendations set out in the attached schedule.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.1 We will have proud and inviting communities

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

BACKGROUND

Organisations seeking a donation from Council are asked to apply for Community Initiatives Program funding. Round 1 of this program was open for 8 weeks from 1 March to 30 April 2021, and promoted through local media, on Council's website, and via email notification through the Community Projects Officer's extensive database of contacts.

Applications were submitted online via the SmartyGrants link on Council's website, with applications from 46 organisations received. Applications were considered in line with the Program Guidelines and Donations Policy and recommendations for funding have been made in relation to each one. The recommendations appear in the attached schedule.

Objectives of Council's adopted Donations Policy are:

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

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

KEY ISSUES

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

COUNCIL IMPLICATIONS

Budget/Financial

The proposed 2021/2022 Donations budget allocation is **\$105,000** (Service 4010, Sub Service 410 Community Development PJ# 997113-7353-2534), to be confirmed when the draft budget is approved at the June Council meeting.

This budget is for donations granted through the Community Initiatives Program Rounds 1 and 2, the Sport & Cultural Trust fund, and DA fee waiver requests received throughout the year.

The recommended donations contained in the Schedule total **\$58,195.50** leaving a balance of **\$46,804.50** to be available for Round 2 allocations in December 2021, Sport & Cultural Trust fund applications and DA fee waiver requests throughout the year.

Rates and fee waiver recommendations shown in the attached schedule are estimates only. Actual donation amounts may differ slightly once the annual budget is approved and actual rates levied, and fees and charges are known.

Asset Management

N/A

Policy or Regulation

Donations Policy
Community Initiatives Program guidelines

Consultation

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

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Sammy Lovejoy, Community Projects Officer – Community Grants
Attachment	Schedule of Recommendations – 2021/2022 Community Initiatives Program – Round 1

ITEM	6b.21.040	PROPOSED ROAD NAME – ROAD RESERVE OFF BLACK MOUNTAIN ROAD, NYMBOIDA
Meeting	Environment, Planning & Community Committee	15 June 2021
Directorate	Environment, Planning & Community	
Reviewed by	Director - Environment & Planning (Adam Cameron)	
Attachment	Nil	

SUMMARY

This report is in response to Council's resolution from the May meeting (Item No. 6b.21.027) which resolved to defer the road naming matter to the June meeting to allow more extensive public consultation. In line with the requirements of the *Roads Act 1993*, notification and advertisement of the 2 road name proposals requires 28 days (4 weeks) for the exhibition period. As such, the item will be reported to the next available Council meeting following the end of the exhibition period. Exhibition commences 4 June 2021 closing 2 July 2021.

OFFICER RECOMMENDATION

That Council note that in order to allow time for the notification and exhibition of the 2 road name proposals, it will be necessary to report the outcomes of the submissions to the July Committee meeting.

COMMITTEE RECOMMENDATION

Williamson/Novak

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Clancy, Novak, Simmons, Williamson

Against: Nil

COUNCIL RESOLUTION – 6b.21.040

Williamson/Ellem

That Council note that in order to allow time for the notification and exhibition of the 2 road name proposals, it will be necessary to report the outcomes of the submissions to the July Committee meeting.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

This matter was originally reported to the May meeting (Item No. 6b.21.027) for determination. At that meeting, Council resolved:

That Council defer consideration of this item to allow more extensive consultation and opportunity for submissions and deputations, with the matter being reported to the Environment, Planning & Community Committee meeting in June 2021.

KEY ISSUES

Notification and exhibition of 2 road name proposals for the road reserve off Black Mountain Road, Nymboida.

Due to the required 28-day exhibition period under the *Roads Act 1993*, Council staff are unable to report the matter to the June meeting for determination. As stated above, re-exhibition to allow further community consultation will occur between 4 June and 2 July. Accordingly, Council staff will report the matter to the next available meeting thereafter.

COUNCIL IMPLICATIONS**Budget/Financial**

Assessment of the proposals have 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

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*.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Alex Clark, Trainee Planner
Attachment	Nil

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, 15 June 2021, commencing at 2.00pm and closing at 3.25pm.

MEMBERS

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

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)

DISCLOSURE AND DECLARATIONS OF INTEREST - Nil

ITEM 6c.21.072 LOT 81 DP 1052936 - APPROVED WATER STRUCTURES

Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/General Manager - (Laura Black)	
Attachment	Nil	

SUMMARY

While considered operational, all avenues have been exhausted to resolve this matter at an administrative level and given the involvement of Councillors, the report seeks a resolution of Council to finalise it.

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.

MOTION

Toms/Simmons

That Council

1. Move the pontoon at Lot 82 DP 1054947 and amend the lease agreement to enable the use of the legal structure at boat ramp at Lot 81 DP 1052936.
2. Use the reserve funds from the lease agreements for water structures.

Voting recorded as follows:

For: Toms

Against: Ellem, Simmons, Lysaught, Kingsley

The Motion was put and declared LOST.

COMMITTEE RECOMMENDATION

Lysaught/Kingsley

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Simmons

Against: Toms

MOTION

Toms/Novak

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 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. 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.

AMENDMENT TO MOTION

Williamson/Baker

That point 5 be amended as follows:

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.

Voting recorded as follows:

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

Against: Lysaught

CARRIED

COUNCIL RESOLUTION – 6c.21.072**Toms/Novak****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.**

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

FORESHADOWED MOTION

Lysaught/

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.

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

- 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 1. an aerial image of the pontoon and boat ramp at Lot 81 DP1052936, circa 2012.



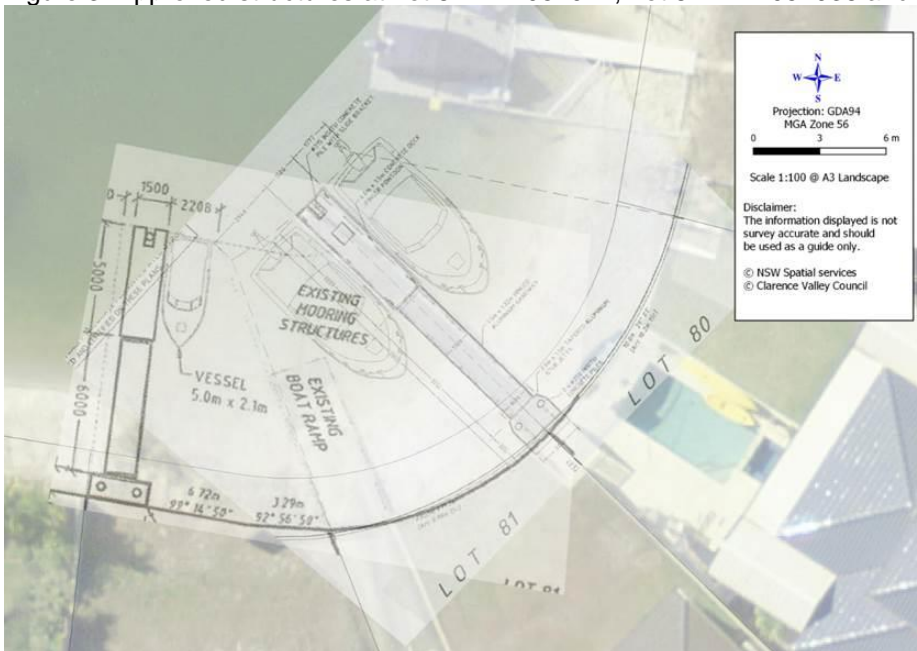
- 2015 The property at Lot 81 DP1052936 changed hands and after which simultaneous use of the two approved water structures by two vessels commenced.

Figure 2. an aerial image of two water structures in use at Lot 81 DP1052936, prior to construction of the pontoon at Lot 82 DP1054947, circa 2015-2016.



2016 An application to construct a pontoon was received from the owner of Lot 82 DP1054947.

Figure 3. Approved structures at Lot 82 DP1054947, 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.

While under assessment, and since approval of the pontoon at Lot 82 DP 1054947 in 2016, Council has received numerous objections from the owner of Lot 81 DP 1052936, who considers that mooring a vessel on the eastern side (per design) of the pontoon at Lot 82 DP 1054947 restricts access to the second water structure (boat ramp) constructed at Lot 81 DP 1052936.

KEY ISSUES

The owner of Lot 81 DP 1052936 requests removal of a condition on the Lease Agreement with Lot 82 DP 1054947, which requires any vessel to be moored on the eastern side of the pontoon. The condition is contained in the structural design plan that the Lease Agreement relates to, to remove the condition would require redesign of the pontoon to allow for mooring on the western side.

Any amendment to an existing lease agreement requires the consent of all parties. The owner of Lot 81 DP 1052936 believes this is not the case, arguing that Council can apply to NCAT (NSW Civil and Administrative Tribunal) to amend the lease agreement without consent. In relation to leases, NCAT deals with retail leases between landlords and tenants for use of commercial premises to operate a retail shop and not Lease Agreements issued under the Local Government Act.

Mooring a vessel on the western side of the pontoon, which is already on the western boundary of the property is considered likely to have an impact on current use of the water frontage at Lot 83 DP 1058382, as any vessel would now be moored directly in front of the neighbouring Lot. See figures 2 and 3.

Clause 4.4(b) (multiple Structures) of the Lease Agreement for use of water structures states "If approval of multiple structures on the Premises is approved by Council it is the Lessee's responsibility to ensure the safe maneuvering of all equipment to and from the approved structures." It is acknowledged that this is a recent inclusion and was not present in original agreements.

Staff consider:

- it is reasonable to assume that when assessment of the second water structure (boat ramp) at Lot 81 DP 1052936 was undertaken, consideration was not given to an existing structure at the property and therefore unlikely given to simultaneous use of two structures and that the property owner may own and operate two vessels (based on the facts presented in the Background to this report); and
- it is not reasonable to assume that the water frontage adjoining Lot 82 DP1054947 would always be vacant of water structures, providing unimpeded access to two water structures at Lot 81 DP 1052936 simultaneously.

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.

At a meeting of the two property owners of Lots 81 DP 1052936 and Lot 82 DP 1054947, with the Acting General Manager, Mayor and Councillor Toms, at the invitation of owner of Lot 81 DP 1052936, a verbal agreement was made in relation to access on two occasions per year for 48 hours with adequate notice.

Legal advice was sought in relation to inclusion of this arrangement as a Clause in the agreement for Lot 82 DP 1054947. The advice provides that as the arrangement is a civil agreement that Council cannot enforce and that the Agreement is for the use of land managed by Council for construction of a structurally sound water structure, it would be inappropriate to include this instrument. And that such an arrangement would be better served by a legal agreement drawn up by the parties either with the assistance of legal advisors or the Community Justice Centre.

The section of drainage reserve (canal) adjoining the subject properties is classified as operational land. All water structures on Council-owned Land (Drainage Reserves) are subject to Agreements. 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.

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

Nil

Policy or Regulation

Local Government Act 1993

Consultation

Owners of Lot 81 DP 1052936 and Lot 82 DP 1054947 met with the A/General Manager, Mayor and Cr Toms at the request of the owner of Lot 81 DP 1052936 on Monday 7 June 2021 to discuss the intention of reporting the matter to Council. Both were invited to make a deputation to Council, as will be the owner of Lot 83 DP 1058382 as one of the options available to Council is considered to impact on this property.

Legal and Risk Management

Identified in 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

Nil

Prepared by	Laura Black, A/General Manager
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Kingsley/Novak. That Council meeting adjourn at 5.39pm. CARRIED. The meeting recommenced at 5.49pm.

ITEM	6c.21.073	RATES BAD AND DOUBTFUL DEBTS REVIEW AND WRITE-OFF
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/Manager - Finance & Supply (Michael Salvestro)	
Attachment	Confidential	

SUMMARY

This report presents to Council a list of outstanding rates billing accounts that are recommended to be written off.

OFFICER RECOMMENDATION

That the attached list of outstanding rates billing debts, totalling \$8,268.33 be written off as bad debts unable to be recovered.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.073

Williamson/Ellem

That the attached list of outstanding rates billing debts, totalling \$8,268.33 be written off as bad debts unable to be recovered.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

In accordance with Section 607 of the Local Government Act 1993, and Clause 213 of the Local Government (General) Regulation 2005, a write-off of debt as detailed in this report must be approved by a resolution of Council.

The confidential attachment contains a listing of outstanding rates billing debts that are recommended for write-off as all avenues to recover the debt have been taken and where the rate accounts are for leases of land, the subject land cannot be sold under Section 713 of the Local Government Act, 1993.

KEY ISSUES

The four accounts representing \$8,268.33 for consideration for write-off in this financial year are a result of terminated State Forest Leases, terminated Crown Permissive Occupancies and terminated Crown Leases. Attempts to recover the outstanding rates have been exhausted.

COUNCIL IMPLICATIONS**Budget/Financial**

The total debt under consideration is \$8,268.33 (Rates \$5,507.47, Interest \$2,257.86 and Legals \$503.00). Of this, \$4,058.91 will be written off against the Bad and Doubtful Debts expense account (993065-7353-2515) which has a budget of \$15,000. The remaining \$4,209.42 had previously been provided for as a Bad and Doubtful Debts expense and will be written back against the provision for Doubtful Debts account (1-999-5274).

Asset Management

N/A

Policy or Regulation

Local Government Act 1993

Clause 123 of the Local Government (General) Regulation 2005

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Paula Krahe, Revenue Co-Ordinator
Confidential	Rates Bad and Doubtful Debts Write-Off List 2020-21

ITEM	6c.21.074	POLICIES – DRAFT AFFORDABLE HOUSING, COMMUNICATIONS POLICY
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	To be tabled	

SUMMARY

The two policies to come before Council in June 2021 are the Draft Affordable Housing Policy V4.0 and the revised Communications Policy V1.0 post-public exhibition.

OFFICER RECOMMENDATION

That Council

1. Place the draft Affordable Housing Policy 4.0 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.
2. Adopt the Communications Policy 1.0.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

MOTION

Novak/Toms

That

1. Council place the draft Affordable Housing Policy 4.0 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.
2. Council defer adopting the Communications Policy until the Office of Local Government have finalised their Model Media Policy.
3. The Office of Local Government Media Policy when finalised go out on public exhibition.
4. After the exhibition period ceases the Office of Local Government Media Policy and Clarence Valley Council Communications Policy come back to Council for adoption.

AMENDMENT TO MOTION

Williamson/Lysaught

That Council

1. Place the draft Affordable Housing Policy 4.0 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.
2. Adopt the Communications Policy 1.0.
3. Provide the Communications Policy 1.0 to the Office of Local Government as they formulate a Model Media Policy.

Voting recorded as follows:

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

Against: Novak, Toms, Clancy

CARRIED

PROCEDURAL MOTION

Williamson/Lysaught

That for the remainder of this meeting that all speeches, debates and right of replies be limited to 3 minutes to ensure the meeting finishes at the prescribed time.

Voting recorded as follows:

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

Against: Novak, Toms, Clancy

CARRIED

AMENDMENT TO PROCEDURAL MOTION – LAPSED FOR WANT OF A SECONDER

Baker

For the remainder of this meeting that all speeches and right of replies be limited to 2 minutes.

The Mayor adjourned the Council meeting at 6.16pm to seek advice from the A/General Manager.

COUNCIL RESOLUTION – 6c.21.074

Novak/Toms

That Council

- 1. Place the draft Affordable Housing Policy 4.0 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.**
- 2. Adopt the Communications Policy 1.0.**
- 3. Provide the Communications Policy 1.0 to the Office of Local Government as they formulate a Model Media Policy.**

Voting recorded as follows:

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

Against: Novak, Toms, Clancy

CARRIED

FORESHADOWED MOTION

Lysaught

That Council

1. Place the draft Affordable Housing Policy 4.0 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.
2. Adopt the Communications Policy 1.0.

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

Draft Affordable Housing Policy V4.0

Affordable housing is an acute public policy problem increasingly felt in regional Australia. The purpose of this policy is to utilise planning mechanisms, in relation to new large-scale developments, to provide diverse housing stock. The aim is to deliver affordable and appropriate housing for the future demographic needs of Clarence Valley Local Government Area (LGA).

Communications Policy 1.0

In response to the submissions following the period of public exhibition, Council communicates its actions broadly to a wide audience, it is not contained to communicating with Media only and therefore a Communication Policy is considered most appropriate. The Policy has undergone a review for minor grammatical inconsistencies, but feedback has not changed the intent of the policy. Responses to feedback is contained in the attached table and submission in full are also attached to the report.

A summary of the submissions and Council's responses are contained in Attachment C: Submissions to Communications Policy.

KEY ISSUES*Draft Affordable Housing Policy 4.0*

The Clarence Valley is undersupplied with smaller more manageable dwellings, with about one third the NSW average in this housing type. Using the NSW benchmark, there is a shortfall of around 6,000 smaller more manageable dwellings. The high median age and the proportion of 'lone person' and 'couple with no children' households suggest that a need exists for such dwellings, and that this will increase significantly with an aging population. This of course must be balanced against the demands of the market, so that the demand for such dwellings may increase with time, and ongoing monitoring of supply relative to demand is required.

There is a need to diversify housing stock and tenure options to meet the changing needs of the Clarence community, including the aging of the population, decreasing average household size and socio-economic profile. Development of smaller, more manageable, well-located dwellings allows for:

- Positive 'aging in place'
- To provide for the needs of younger people, families and lower income households.

The needs of older, asset poor, people who are currently in private rental will also be an increasingly serious issue for the Clarence Valley.

Communications Policy 1.0

Please see above and Council's responses to the submissions in Attachment C.

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation*Draft Affordable Housing Policy 4.0*

Options that may assist in meeting the aims of the policy:

- State Environmental Planning Policy (Affordable Rental Housing)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability)
- Manufactured Home Estates and Caravan Parks

Communications Policy 1.0

As previously canvassed.

Consultation*Draft Affordable Housing Policy 4.0*

To be placed on public exhibition

Communications Policy 1.0

Feedback from submissions incorporated.

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Bligh Grant, Governance Officer
To be tabled	Attachment A. Draft Affordable Housing Policy 4.0 Attachment B. Communications Policy 1.0 Attachment C. Communications Policy Submissions

ITEM	6c.21.075	REMUNERATION FOR COUNCILLORS, MAYOR AND DEPUTY MAYOR FOR 2021/2022
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Corporate & Governance	
Reviewed by	Manager - Organisational Development (Alex Moar)	
Attachment	Yes	

SUMMARY

The Local Government Remuneration Tribunal has determined an increase of 2% to mayoral and councillor fees for the 2021/22 financial year, with effect from 1 July 2021.

OFFICER RECOMMENDATION

That

1. Council note the determination of the Tribunal.
2. Fees payable to the elected members increase by 2% for the 2021/2022 financial year.
3. The Deputy Mayor allowance be 4/52 of the Mayoral allowance.

COMMITTEE RECOMMENDATION

Simmons/Lysaught

That

1. Council note the determination of the Tribunal.
2. Fees payable to the elected members increase by 2% for the 2021/2022 financial year.
3. The Deputy Mayor allowance be \$7,000 plus 2% to be funded from the Mayoral allowance.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.075

Lysaught/Baker

That

1. Council note the determination of the Tribunal.
2. Fees payable to the elected members increase by 2% for the 2021/2022 financial year.
3. The Deputy Mayor allowance be \$7,000 plus 2% to be funded from the Mayoral allowance.

Voting recorded as follows:

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

Against: Clancy, Novak

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.2 Create awareness of Council's roles, responsibilities and services

BACKGROUND

The Local Government Remuneration Tribunal (the Tribunal) has determined an increase of 2% to mayoral and councillor fees for the 2021/2022 financial year, with effect from 1 July 2021.

The Tribunal is required to determine the remuneration categories of councils and mayoral offices at least once every 3 years under section 239 of the *Local Government Act 1993* (the Act). The Tribunal last undertook a significant review of the categories as part of its 2020 review and will next review these categories in 2023.

The Tribunal found that the allocation of councils into the current categories continued to be appropriate having regard to the 2020 review, the current category model and criteria and the evidence put forward in the submissions received.

Sections 248 and 249 of the Act require councils to fix and pay an annual fee to councillors and mayors from 1 July 2021 based on the Tribunal's determination for the 2021/2022 financial year.

KEY ISSUES

- The level of fees paid depends upon the category Council has been placed in by the Tribunal.
- Councillors may elect to set their fees at either the maximum rate prescribed for the category or at a lesser rate, either at or above the minimum category, but no higher than the maximum amount determined by the Tribunal.
- If a council does not fix a fee, the council must pay the minimum fee determined by the Tribunal.
- In June 2020 the Tribunal determined that Clarence Valley Council was classified as a Regional Centre. In 2021 the Tribunal has determined that it remains in this category (one of 24).
- In February 2021 the Tribunal wrote to all mayors and GMs and LGNSW soliciting submissions; 18 submissions were received; nine councils requested recategorization; four sought the creation of new categories. No new categories were created by the Tribunal.
- The variations in the payment schedules for the different categories is contained in Appendix B Local Government Remuneration Tribunal Annual Report and Determination 23 April 2021 (p. 10).

The ranges in fees for Clarence Valley as a Regional Centre are as follows:

	Councillor		Mayor Additional Fee	
	Minimum	Maximum	Minimum	Maximum
Regional Centre	14,000	24,810	29,330	61,280

The following table shows the fees for the current 2020/2021 paid to Councillors and the Tribunal's determination of an increase of 2% which would take effect from 1 July 2021.

	Current (2020/21)	Recommended increase (2%) (2021/22)
Councillors	\$24,320 (x9 = \$218,880.00)	\$24,810.00 (x9 = \$223,290.00)
Mayor (additional)	\$60,080.00	\$61,280

Historically, the Deputy Mayor allowance was 4/52 of the Mayoral allowance, however in July 2020 Council resolved (6c.20.104) to make the allowance \$7,000 for the year 1 July 2020 to 30 June 2021 instead of \$4,622.

If Council were to return to the generally accepted rate of 4/52 then the Deputy Mayor allowance for 2021/22 would be \$4,713.88.

COUNCIL IMPLICATIONS

Budget/Financial

If adopted the 2021/2022 budget for Councillor Fees, which is currently proposed at \$278,960 in total, will be adjusted by \$5,610.00 in Q1 of the 2021/2022 Quarterly Budget Review Statement.

Asset Management

N/A

Policy or Regulation

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

Consultation

N/A

Legal and Risk Management

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

Climate Change

N/A

Prepared by	Governance Officer, Bligh Grant
Attachments	A. OLG Circular 21-06 12 May 2021 B. Local Government Remuneration Tribunal - Annual report and determination 2021

ITEM	6c.21.076	COUNCIL MEETING CHECKLIST – UPDATE ON ACTIONS TAKEN
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Office of General Manager	
Reviewed by	A/General Manager - (Laura Black)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

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

COMMITTEE RECOMMENDATION

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.076

Williamson/Ellem

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

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

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

Strategy 5.1.4 Ensure transparent and accountable decision making for our community

BACKGROUND

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

KEY ISSUES

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

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

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

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

N/A

Policy or Regulation

Local Government Act 1993 S355 (1)

Consultation

Staff and Managers

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Lesley McBay, Coordinator Executive Support
Attachment	Checklist

ITEM 6c.21.077 LOCAL TRAFFIC COMMITTEE

Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

This report lists the recommendations made at 2 June 2021 meeting of the Clarence Valley Council Local Traffic Committee.

OFFICER RECOMMENDATION

That the recommendations of the Local Traffic Committee included in the Minutes of its 2 June 2021 meeting be adopted by Council.

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.077

Williamson/Ellem

That the recommendations of the Local Traffic Committee included in the Minutes of its 2 June 2021 meeting be adopted by Council.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

The following agenda items were considered at the Local Traffic Committee held on 2 June 2021.

Item: 020/21 Marandowie Drive, Iluka – Further Speed Zone Review

That:

1. Clarence Valley Council's pedestrian access and mobility plan (PAMP) be updated, commencing with the village of Iluka as a priority.
2. The request for speed zone reduction not be referred to TfNSW.
3. That Mr Geldof be advised of Council's recommendation.

Item: 021/21 Jacaranda Festival Road Closures

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

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

Item: 022/21 Driveway Warning Signage – 141 Whiteman Creek Road

That a Caution Driveway sign be installed to the north of 141 Whiteman Creek Road, The Whiteman in accordance with AS 1742.2 (see figure 1).

Item: 023/21 Grafton Hotel Nose in Parking

That approval be provided to install line marking, wheel stops and signage to formalise 45 degree 'Nose In' parking on the southern side of Fitzroy Street, Grafton from Post Office Lane extending east approximately 70m to the unnamed lane way.

Item: 024/21 Ulmarra Precinct Plan

That

1. The Traffic Committee approve the plans for construction of the Ulmarra Precinct Streetscape.
2. That Council incorporate a 40km/hr pedestrian zone as part of this precinct plan.

Item: 025/21 Grafton Waterfront

That the Committee concur with:

1. The removal of parking at Prince Street to facilitate the pedestrian arrival plaza
2. The restricted access to Waterfront end of Prince Street
3. The addition of formulised access and parking at Villiers Street
4. The addition of formulised access and parking at Salty Seller Reserve
5. That Council incorporate a 10km/hr pedestrian zone as part of the precinct plan.

KEY ISSUES

Agenda, minutes, and relevant attachments are attached.

COUNCIL IMPLICATIONS**Budget/Financial**

The additional signage and line marking that will be installed will cost approximately \$6,000. This can be accommodated within existing operational budgets.

Asset Management

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

Policy or Regulation

N/A

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

Prepared by	Tony Smith – Maintenance Engineer
To be tabled	Traffic Committee Minutes

ITEM	6c.21.078	LIFEGUARD SERVICE, PATROLLED BEACH SUMMARY 2020 - 2021 ON CROWN LAND
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	To be tabled	

SUMMARY

This report provides a summary of the 2020/2021 lifeguard service (excluding volunteer lifeguards) at the patrolled beaches in the Clarence Valley for information.

OFFICER RECOMMENDATION

That Council as Crown Land Manager receive and note this information report regarding the lifeguard service provided at Yamba Main Beach, Wooli Beach, Turners Beach (Yamba), Pippi Beach (Yamba), Minnie Water Main Beach, Iluka Bluff Beach and Brooms Head Beach.

COMMITTEE RECOMMENDATION

Simmons/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.078

Williamson/Ellem

That Council as Crown Land Manager receive and note this information report regarding the lifeguard service provided at Yamba Main Beach, Wooli Beach, Turners Beach (Yamba), Pippi Beach (Yamba), Minnie Water Main Beach, Iluka Bluff Beach and Brooms Head Beach.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.2 We will have a safe, active and healthy region

Strategy 1.2.2 Improve outcomes for the Clarence Valley through partnerships with key agencies and community organisations

BACKGROUND

The Australian Lifeguard Service is engaged to perform lifeguard services at seven locations within the Clarence Valley local government area on a schedule commensurate to usage patterns. A requirement of the contract is to provide a Season Report. Key statistics from this Season Report are summarised and a copy of the Season Report is included as Attachment A for information.

KEY ISSUESLifeguard Service

Lifeguard services are provided by Council's contractor (Australian Lifeguard Service), these services are summarised below in Table 1:

Table 1 – Summary of Lifeguard Services

Beach	Patrol Dates	Days of Service	Patrol Times
Iluka Bluff Beach, ILUKA	21/12/2019 to 27/01/2020	7 days	9am - 5pm
	10/04/2020 to 26/04/2020	7 days	9am - 4pm
Turners Beach, YAMBA*	14/12/2019 to 20/12/2019	7 days	9am - 5pm
	21/12/2019 to 27/01/2020	7 days	9am - 5pm
	04/04/2020 to 26/4/2020	7 days	9am - 4pm
Main Beach, YAMBA	21/09/2019 to 13/10/2019	5 days	9am - 4pm
	14/12/2019 to 27/01/2020	5 days	9am - 5pm
	04/04/2020 to 26/4/2020	5 days	9am - 4pm
Pippies Beach, YAMBA	21/12/2019 to 27/01/2020	7 days	9am - 5pm
	9/04/20 to 13/04/2020	7 days	9am - 4pm
Brooms Head Main Beach, BROOMS HEAD	21/12/2019 to 27/01/2020	7 days	9am - 5pm
	10/04/2020 to 26/04/2020	7 days	9am - 4pm
Minnie Water Main Beach MINNIE WATER	21/12/2019 to 27/01/2020	5 days	9am - 5pm
	10/04/2020 to 26/04/2020	5 days	9am - 4pm
Wooli Beach, WOOLI	21/12/2019 to 27/01/2020	7 days	9am - 5pm
	10/04/2020 to 26/04/2020	7 days	9am - 4pm

NOTE: * 2 lifeguards at Turners Beach Easter Long Weekend – 02/04/2021 to 05/04/2021.

Lifeguard services on weekends and public holidays are provided by volunteers and this information is not included in this report.

Beach Visitations

There were a total of 166,644 people who visited Clarence Valley beaches during this period, at the following locations:

Brooms Head	18,804
Iluka Bluff	21,303
Minnie Waters	10,533
Pippi Beach	36,879
Turners Beach	29,873
Wooli Beach	9,067
Yamba Main Beach	40,185

In comparison to the 2019/20 season, there were 47,610 additional people at the Clarence beaches during this time, as represented below in Figure 1:

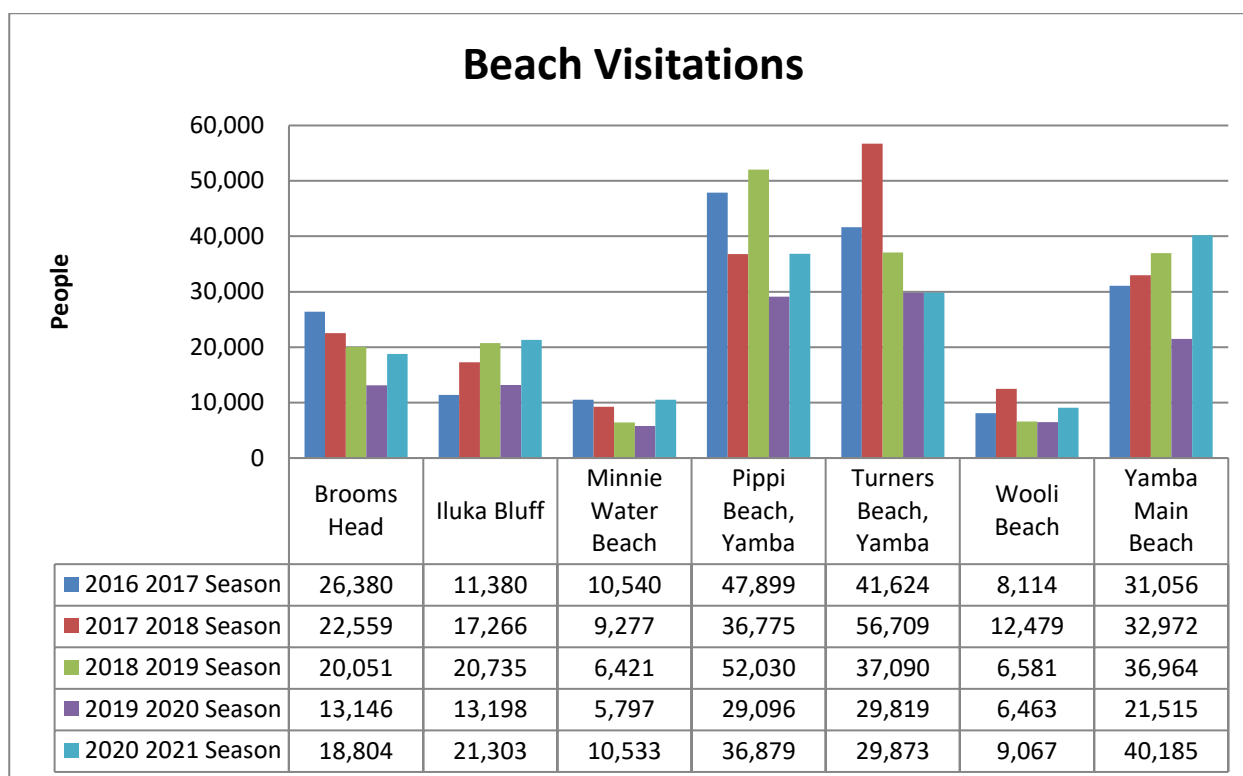


Figure 1 – Season Beach Visitations by Location

Significant increases were recorded across all patrolled beaches. This is consistent with the whole of the north coast of New South Wales as a result of COVID restrictions and travel bans as well as the community holidaying at home.

Service Statistics

A summary of statistics for Clarence Valley beaches is as follows in Table 2:

Table 2 – Life Guarding activity by Location

Beach	Rescues Performed	Preventative Actions	First Aid Treatments	Law Enforcements	Public Relations
Brooms Head	3	2,780	13	48	1,782
Iluka Bluff	3	1,263	17	33	986
Minnie Water Beach	2	1,101	7	42	874
Pippi Beach, Yamba	2	2,444	11	66	1,802
Turners Beach, Yamba	16	4,607	281	119	3,776
Wooli Beach	2	1,346	7	24	1,418
Yamba main Beach	6	6,482	57	188	3,726
TOTAL	34	20,023	393	520	14,364

It has also been noted that there is a significant increase across all areas above. These figures correlate with the higher beach visitation; and public relations with the community, particularly around the COVID campaigns (Keep a towel length apart).

The increase in first aid has been attested to a strong presence of blue bottles at the Yamba beaches.

Further operational information is included in Attachment A, Surf Lifesaving Services, Season Report 2020 / 2021.

COUNCIL IMPLICATIONS

Budget/Financial

The contract to supply the surf life saving services is funded from PJ 994165, cost centre 845.

Asset Management

N/A

Policy or Regulation

The following references are applicable to this report:

- Project Blueprint - 2016

Consultation

Regular consultation has occurred with Council's surf life saving contractor throughout the season.

Legal and Risk Management

There is a significant safety risk to the community if the lifeguard service is not provided, particularly during the peak season. Additionally, there is a further risk at some Clarence Valley beaches due to their remote locations.

Climate Change

Rising sea levels will bring significant change to Australia's coastal zone in the coming decades. Many coastal environments including beaches are closely linked to the sea level which could result in beach loss.

Additionally the lifeguard service could be affected by extreme and more frequent adverse weather events, which was witnessed during the summer period with the intense bushfires and smoke inundation.

Prepared by	Rachelle Passmore – Senior Parks & Recreation Officer
To be tabled	A – Surf Lifesaving Services, Season Report 2020/2021

ITEM 6c.21.079 2 PRINCE ST ADMINISTRATION BUILDING UPGRADE – PROGRESS UPDATE

Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	Nil	

SUMMARY

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

OFFICER RECOMMENDATION

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

COMMITTEE RECOMMENDATION

Kingsley/Simmons

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.079

Williamson/Ellem

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

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Infrastructure

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

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

BACKGROUND

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

KEY ISSUES**Project Status Report**

Overall: This project is on-track to be delivered on-time, within budget and to the approved quality standards.

Schedule: Construction screw piling activities have been delayed due to the recent flood events. However, these activities are not on the critical path and the completion date remains on-track for the 3 September 2021.

Deliverables:

- Design Review:
 - Design review and requirements documentation completed on 16th September 2020.
- Procurement Phase:
 - Tender Plan completed on 11th August 2020.
 - EOI 20-23 Opened on 19th August 2020.
 - EOI 20-23 Closed on 9th September 2020.
 - EOI 20-23 Evaluated & reported to Council on 16th September 2020.
 - Council approved EOI recommendation on 22nd September 2020.
 - RFT 20-22 Opened on 25th September 2020.
 - RFT 20-22 Closed on 23rd October 2020.
 - RFT 20-22 Evaluated and reported to Council on 10th November 2020.
 - Council approved RFT 20-22 recommendation on 24th November 2020.
 - GC21 Construction Contract Awarded to FDC Fitout and Refurbishment (NSW) Pty Ltd on 30th November 2020.
- Construction Phase:
 - Site Establishment completed on 22nd January 2021
 - Review of preconstruction plans completed on 27th January 2021
 - Current works status
 - Basement – 57% progressed
 - Ground Floor – 34% progressed
 - First Floor – 35% progressed
 - Roof – 25% progressed
 - External Works – 24% progressed
 - Completion on track for 3rd September 2021

Quality Metrics

Variations: To date we have a total of 14 Variations valuing \$380,998.54.

Approved variations to date with a value of \$304,341.12 include:

- Supply and install hat section to incoming fibre
- Mechanical Units adjustments
- New Telecommunication Mast support
- Collaborative Workspace Design fee
- Workstation return screens
- Workstation Pedestals
- Electric desks x 4
- Substation Connection Interface Upgrade
- Part Window Upgrade
- Contaminated soil removal from site

Pending variations include AV works – we are in negotiations with FDC on the value of this variation. Balance of remaining contingency is \$375,254.92.

Requests for Information (RFI): To date 62 RFI's have been raised, 56 closed with 6 remaining open. There are no overdue RFI's awaiting information from CVC.

Extension of Time (EOT): There are no EOT requests raised by FDC. Notwithstanding there have been recent wet weather events.

Safety: No incidents, LTIs or near misses reported. The site is being well managed for WH&S risks.

Aboriginal Participation in Construction (APIC): On average for the month of February and March, FDC inform APIC rates has been calculated at 4%, exceeding the minimum 1.5% requirement. APIC obligations are being actively monitored and managed by FDC.

Local Content: FDC inform that they have engaged local mechanical designers, demolition, mechanical trades, structural steel suppliers, hydraulic trades and continue to employ local based trades where possible currently calculated at 30%.

Key Project Risk

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

To date there has been no information received from FDC to suggest impact to time for any reason including COVID-19. It is also acknowledged that this is an ongoing global risk, and the situation is being monitored.

Other Issues

Current AV system to the Chambers is in negotiation with FDC on the costs and additional two CCTV cameras being costed to interface with the Memorial Park boundary as part of the Grafton Waterfront project.

COUNCIL IMPLICATIONS

Budget/Financial

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

The table below summarises the projects financial position:

Project Code	530100
Project Budget*	\$8,054,629
Actuals	\$2,031,831
Current Commitment	\$5,436,914
Total (Actuals + Commitment)	\$7,468,745

Notes: *Includes contingency

Asset Management

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

Policy or Regulation

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

Consultation

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

Legal and Risk Management

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

Climate Change

The upgrade to the plant/solar will include improved technology and mitigation measures reduce emissions impact.

Prepared by	Leah Munro, Project Manager
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ITEM 6c.21.080 ROTARY CLUB OF YAMBA STORAGE UPDATE

Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Nil	

SUMMARY

This report provides an update on the Rotary Club of Yamba (Yamba Rotary) storage and move to a permanent location in Yamba.

OFFICER RECOMMENDATION

That Council receive and note the report on the Rotary Club of Yamba storage facility.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.080

Williamson/Ellem

That Council receive and note the report on the Rotary Club of Yamba storage facility.

Voting recorded as follows:

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

Against: Nil

CARRIED

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

Yamba Rotary lost all possessions in December 2019 when the storage facility that they occupied on Yamba Golf Club land was destroyed in an arson attack. An insurance claim was lodged to cover most of the replacement of possessions and the facility.

At the February 2020 meeting Council resolved to support Yamba Rotary to use the current former SES facility that is part of the Yamba Works Depot property as follows:

That Council support Yamba Rotary and acknowledge their enormous contribution over many years to the Clarence Valley community:

1. *Develop an agreement to access part of the SES facility at the Yamba Works Depot until 30 June 2021 at no cost.*
2. *Assist the club to find an alternate location to construct a storage area to meet their needs.*
3. *Report back to Council the details of Council's assistance and outcomes of point 2 by December 2020.*

KEY ISSUES

In relation to items 1-3 of the February 2020 resolution –

1. Temporary storage at the former SES facility has occurred since 2020 and can continue beyond June 2021 until a permanent location is established.
2. A site for the future location of Yamba Rotary has been identified in early to mid 2020 at the Yamba STP site and agreed to.

Council has recently been assisting Yamba Rotary to find additional grant funding for the shed and equipment to be built and used beyond those funds obtained from the insurance claim.

COUNCIL IMPLICATIONS**Budget/Financial**

Yamba Rotary have indicated that there will not be a capital or ongoing operational cost or financial implication involving their request for use of the shed or their future shed.

Asset Management

The future Yamba Rotary shed will be an asset belonging to Rotary and not add to Council's current assets.

Policy or Regulation

N/A

Consultation

On going discussions have been held with Yamba Rotary on their needs and requests.

Legal and Risk Management

The future Yamba Rotary site can be located on Council's property and will be able to be effectively managed under a tenure agreement without compromising the use of the Yamba STP site.

Climate Change

Reusing and adapting the buildings will have a net positive benefit for the environment and climate.

Prepared by	Peter Birch, Manager Open Spaces and Facilities
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ITEM 6c.21.081 MID SCALE SOLAR FARM

Meeting	Corporate, Governance & Works Committee	25 June 2021
Directorate	Works & Civil	
Reviewed by	Manager - Open Spaces & Facilities (Peter Birch)	
Attachment	To be tabled	

SUMMARY

A preliminary investigation has been undertaken into the opportunity to develop a mid scale solar farm on land at the Grafton Regional Landfill & Resource Recovery Facility. This report provides a status report on the preliminary investigation prior to proceeding with the next stage.

OFFICER RECOMMENDATION

That Council receive and note the report on the establishment of a Mid Scale Solar Farm at the Grafton Regional Landfill & Resource Recovery Facility.

COMMITTEE RECOMMENDATION

Lysaught/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.081

Williamson/Ellem

That Council receive and note the report on the establishment of a Mid Scale Solar Farm at the Grafton Regional Landfill & Resource Recovery Facility.

Voting recorded as follows:

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

Against: Nil

CARRIED

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

At its meeting in November 2018 Council adopted a strategy developed by 100% Renewables to meet the adopted targets of reducing greenhouse gas emissions by 40% before 2030 and provide 50% of Council's electricity demand from renewable energy before 2030. One of the adopted actions was to investigate the development of a mid scale solar farm on Council land.

100% Renewables were engaged to undertake a preliminary investigation into a mid scale solar farm on a site located at the Grafton Regional Landfill & Resource Recovery Facility. The proposed 3.5 ha site will not be developed for landfill purposes and is adjacent to a 11kV power line making it suitable for a solar farm project.

Preliminary investigation was commenced under the current year's Operational Plan.

KEY ISSUES

The report by 100% Renewables provides a detailed overview of the issues related to the development of a mid scale solar farm including:

Site Potential – The preliminary investigation found the proposed site to be suitable for the development of a mid scale solar farm. The attributes of the site include:

- Proximity to 66kV and 11kV distribution lines
- North-east facing land with limited shading
- High monthly mean daily global solar irradiation
- Mostly a flat terrain
- Multiple design opportunities due to flat terrain, the report considers 4 proposals
- Proximity to road infrastructure
- The 3.5 ha site has the capacity to develop a 4.2 MW solar farm that could produce 6024 MWh/annum of electricity which would be equivalent to 52.93% of Councils electricity demand and reduce emissions by 5422t CO₂e or 38% of Councils current emissions footprint.

Planning Advice – The proposed development would be defined as electricity generating works (solar energy system). This type of development is permissible within the proposed sites RU2 Rural Landscape zone under Clause 34(7) of the Infrastructure SEPP. The proposal will be subject to a normal Development Application process.

Battery Storage – Many new solar farm developments are now including battery storage to increase revenue opportunities and to assist network stability. The preliminary investigation indicates that with the current cost of battery storage it may not be viable to include storage at this point unless external funding is received. Battery storage will be included in the proposed detailed feasibility to further test the business case.

Co-Benefits – apart from reducing Councils greenhouse gas emissions and providing long-term certainty of energy costs, there are a number of co-benefits in developing a local energy generator including local job creation, economic development and innovation, education and training and leadership encouragement to local community groups and business to consider similar community projects.

Funding – The report touches on potential funding opportunities including significant grant funds that have been made available to similar projects. It is noted that depending on the cost which will be subject to final design of the solar farm, substantial funding is available from the sustainability reserve with \$5,000,000 factored into forward financial planning with delivery anticipated for 2022/23.

Next Step – The next step will be to develop a detailed feasibility report which will include a detailed business case to ensure all risks are identified and addressed prior to going to construction. Provision has been made in the draft 2021/22 operational plan to undertake this phase of the project.

COUNCIL IMPLICATIONS

Budget/Financial

Solar Farm – Grafton Regional Landfill PJ 994455. The 2021/22 draft operational plan makes provision for \$100,000 to undertake the proposed detailed feasibility study and develop tender documentation. This study will address long term maintenance and operation cost with a firm understanding of potential returns on investment. At this point the project is anticipated to have a 10-year payback with an operational life of between 25 and 30 years.

Asset Management

N/A

Policy or Regulation

N/A

Consultation

Essential Energy has been consulted to determine the feasibility of connecting the proposed solar farm to the electricity grid. The 100% Renewables strategy was subject to community consultation.

Legal and Risk Management

The proposed detailed feasibility report will identify the legal and operational risks associated with the development of the proposed mid scale solar farm.

Climate Change

The proposed mid scale solar farm will make a significant contribution to greenhouse gas emission reduction and meeting Council adopted targets.

Prepared by	Ken Wilson, Waste & Sustainability Coordinator
To be tabled	Preliminary Investigation of Mid Scale Solar Farm at Grafton.

ITEM	6c.21.082	WORKS REPORT
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Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	To be tabled	

SUMMARY

Reports on capital and major maintenance works carried out by the Works and Civil Group until late May 2021.

OFFICER RECOMMENDATION

That the Works report be received and noted.

COMMITTEE RECOMMENDATION

Kingsley/Ellem

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Ellem, Toms, Simmons

Against: Nil

COUNCIL RESOLUTION – 6c.21.082

Williamson/Ellem

That the Works report be received and noted.

Voting recorded as follows:

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

Against: Nil

CARRIED

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 May 2021.

Project:	McPhillips Road Bridge Replacement	
Project Description:	Replacement of timber bridge over Halfway Creek on McPhillips Road	
Budget:	\$595,134	
Expenditure:	\$118,284	

<p>Status:</p>	<ul style="list-style-type: none"> • Temporary side-track diversion has been constructed • Timber bridge has been removed • Sheet piling around abutments underway 	
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<p>Project:</p>	<p>Wooli Boat Ramp Replacement</p>	
<p>Project Description:</p>	<p>Replacement of existing boat ramp with a longer and wider two-lane ramp. Upgrade of the washdown area, addition of a rigging bay, and upgrade of carpark</p>	
<p>Budget:</p>	<p>\$257,000</p>	
<p>Expenditure:</p>	<p>\$162,536</p>	
<p>Status:</p>	<ul style="list-style-type: none"> • New ramp is constructed • Gabion basket retaining wall around wash down area complete • All concrete works including wash down area, rigging bay, footpaths and kerbs complete • Carpark pavement works and bitumen sealing to occur in July 2021. 	
		

<p>Project:</p>	<p>Iluka Sewage Treatment Plant (STP) Biosolids Hardstand Area</p>	
<p>Project Description:</p>	<p>Design and construction of a biosolids hardstand area at Iluka STP to store dewatered biosolids</p>	
<p>Budget:</p>	<p>\$445,000</p>	
<p>Expenditure:</p>	<p>\$20,218</p>	
<p>Status:</p>	<ul style="list-style-type: none"> • Tender awarded to Ledonne Constructions at the 23 February Council meeting • Environmental approval (REF) prepared and determined in April • Construction scheduled for completion in mid June 	
		

<p>Project:</p>	<p>McKittrick Park Lighting Upgrade Project</p>	
<p>Project Description:</p>	<p>To replace field lighting to LED and higher standard with 6 new galvanised steel poles and LED light fittings</p>	
<p>Budget:</p>	<p>\$440,000</p>	
<p>Expenditure:</p>	<p>\$240,000 (not financially complete)</p>	
<p>Status:</p>	<ul style="list-style-type: none"> • Completed. 	
		

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management

Maintenance standards are undertaken in accordance with that detailed in the relevant Asset Management Plan. Capital works are as detailed in the Delivery Plan and Operational Plan.

Policy or Regulation

There are no policy or regulation implications.

Consultation

Consultation has been held internally with Civil Services Section and Water Cycle Section and Open Spaces and Facilities Section.

Legal and Risk Management

There are no legal or risk management implications.

Climate Change

There are no climate change implications.

Prepared by	Jamie Fleeting, Greg Mashiah, Peter Birch
To be tabled	Works Program

ITEM 6c.21.083 MONTHLY INVESTMENT REPORT – MAY 2021

Meeting	Corporate, Governance & Works Committee	15 June 2021
Directorate	Corporate & Governance	
Reviewed by	A/Manager - Finance & Supply (Michael Salvestro)	
Attachment	Yes	

SUMMARY

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

OFFICER RECOMMENDATION

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

COMMITTEE RECOMMENDATION

Kingsley/Lysaught

That the Officer Recommendation be adopted.

Voting recorded as follows

For: Kingsley, Lysaught, Toms, Simmons

Against: Ellem

COUNCIL RESOLUTION – 6c.21.083

Lysaught/Simmons

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

Voting recorded as follows:

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

Against: Clancy, Ellem, Novak

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Leadership

Objective 5.2 We will have an effective and efficient organisation

Strategy 5.2.1 Operate in a financially responsible and sustainable manner

BACKGROUND

This report has been completed in accordance with the *Local Government Act 1993*, Part 9, Division 5, Clause 212 of the *Local Government (General) Regulation 2005*, and Council's Investment Policy, which requires a monthly report to Council. The report is to include the source and amount of funds invested, terms of performance, and a statement of compliance in relation to the *Local Government Act 1993*.

KEY ISSUES**Source of Funds Invested**

The funds invested are funds held under internal and external restrictions. External Restricted Funds are primarily from Sewer & Water, Granting Bodies and Developer Contributions. Internal restrictions are primarily sourced from General Revenue Funding and Unspent Loans.

Based on the audited 30 June 2020 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	6.37%	Plant Equipment Reserve	7.47%
Water Supply Funds	29.31%	Regional Landfill Reserves	4.12%
Developer Contributions	18.52%	Fin. Assist Grants paid in advance	4.66%
Unexpended Grants	4.80%	Waste Mngmt / Commercial Waste	3.75%
Domestic Waste Management	1.28%	Infrastructure Assets Renewals	1.35%
Holiday Parks	1.79%	Employee Leave Entitlements	2.72%
Deposits, Retentions and Bonds	1.75%	Roads & Quarries Reserves	2.71%
Other External	1.58%	Strategic Building Reserve	1.22%
		Building Asset Renewals	0.87%
		Other (refer attachment for further detail)	5.73%
	<u>65.40%</u>		<u>34.60%</u>
		Total External & Internal Reserves	<u>100.00%</u>

Portfolio Credit Limits

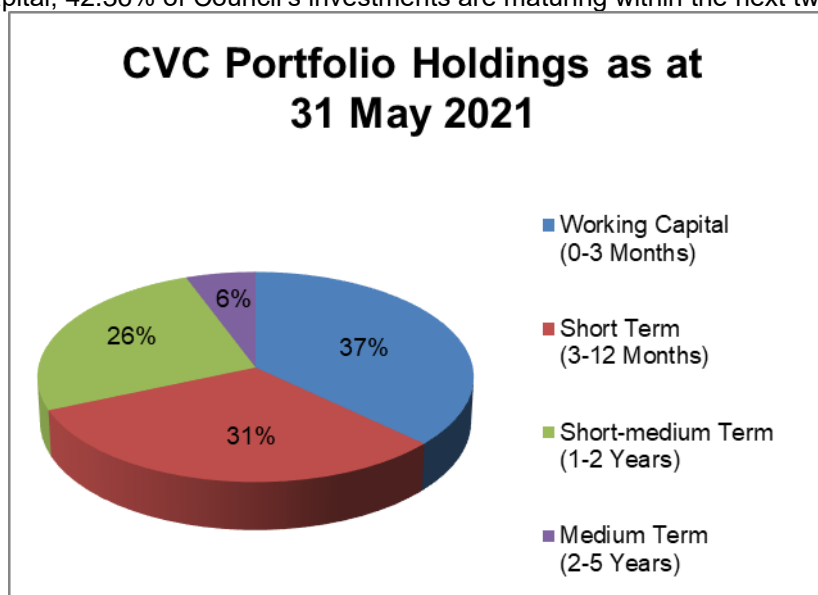
Tabled below is a summary of Council's investments as at 31 May 2021 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 31 May 2021				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,990,245	3.99%	Yes
AA	100.00%	44,206,883	35.33%	Yes
A	60.00%	21,250,000	16.99%	Yes
BBB	50.00%	54,662,672	43.69%	Yes
TOTAL INVESTMENTS		125,109,800	100.00%	

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

Portfolio Holdings by Maturity

Illustrated and tabled below is a summary of Council's investments by maturity as at 31 May 2021. Excluding "at-call" working capital, 42.36% of Council's investments are maturing within the next twelve months.



Individual Institution or Counterparty Limits

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

Individual Institution or Counterparty Limits as at 31 May 2021					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
TERM DEPOSITS					
AMP	BBB	15.00%	8,000,000	6.39%	Yes
BoQ	BBB+	15.00%	14,000,000	11.19%	Yes
Bendigo	BBB+	15.00%	3,000,000	2.40%	Yes
CBA	AA-	30.00%	3,000,000	2.40%	Yes
Credit Union Australia	BBB	15.00%	2,000,000	1.60%	Yes
Defence	BBB	15.00%	10,000,000	7.99%	Yes
ING Direct	A	15.00%	13,000,000	10.39%	Yes
ME Bank	BBB	15.00%	8,000,000	6.39%	Yes
NAB	AA-	30.00%	14,000,000	11.19%	Yes
P&N	BBB	15.00%	3,000,000	2.40%	Yes
RaboDirect	A+	15.00%	9,000,000	7.19%	Yes
Westpac	AA-	30.00%	5,000,000	4.00%	Yes
TOTAL TERM DEPOSITS			92,000,000	73.54%	
MANAGED FUNDS					
TCorp	AAA	40.00%	490,245	0.39%	Yes
TOTAL MANAGED FUNDS			490,245	0.39%	
FUNDS AT CALL					
AMP	BBB	15.00%	8,354,028	6.68%	Yes
AMP	BBB	15.00%	1,058,644	0.85%	Yes
ANZ	AA-	30.00%	6,788,183	5.43%	Yes
CBA	AA-	30.00%	9,357,275	7.48%	Yes
CBA	AA-	30.00%	7,061,425	5.64%	Yes
TOTAL FUNDS AT CALL			32,619,555	26.07%	
TOTAL INVESTMENTS			125,109,800	100.00%	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
WORKING CAPITAL (0-3 MONTHS)					
T-CorpIM Cash Fund	490,245	0.39%	At-Call	0.00%	AAA
AMP Bank Ltd	8,354,028	6.68%	At-Call	0.55%	BBB
AMP Bank Ltd	1,058,644	0.85%	At-Call	0.50%	BBB
ANZ Banking Group Ltd	6,788,183	5.43%	At-Call	0.05%	AA-
Commonwealth Bank of Australia	9,357,275	7.48%	At-Call	0.00%	AA-
Commonwealth Bank of Australia	7,061,425	5.64%	At-Call	0.05%	AA-
AMP Bank Ltd	1,000,000	0.80%	31/08/2021	0.80%	BBB
Bank Of Queensland Ltd	2,000,000	1.60%	04/06/2021	1.15%	BBB+
Bank Of Queensland Ltd	1,000,000	0.80%	29/06/2021	3.45%	BBB+
Bank Of Queensland Ltd	1,000,000	0.80%	06/07/2021	0.95%	BBB+
Bank Of Queensland Ltd	2,000,000	1.60%	08/07/2021	0.95%	BBB+
Credit Union Australia	2,000,000	1.60%	07/07/2021	0.50%	BBB
National Australia Bank	2,000,000	1.60%	11/08/2021	0.85%	AA-
RaboDirect (Australia) Ltd	2,000,000	1.60%	14/06/2021	3.02%	A+
RaboDirect (Australia) Ltd	1,000,000	0.80%	21/06/2021	3.07%	A+
TOTAL WORKING CAPITAL (0-3 MONTHS)	47,109,800	37.65%		0.57%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	2,000,000	1.60%	02/12/2021	1.60%	BBB
AMP Bank Ltd	3,000,000	2.40%	05/03/2022	0.95%	BBB
Bank Of Queensland Ltd	1,000,000	0.80%	02/12/2021	3.80%	BBB+
Bank Of Queensland Ltd	1,000,000	0.80%	02/12/2021	0.54%	BBB+
Bank Of Queensland Ltd	1,000,000	0.80%	09/05/2022	3.60%	BBB+
Bendigo Bank	3,000,000	2.40%	15/10/2021	0.45%	BBB+
Commonwealth Bank of Australia	3,000,000	2.40%	12/11/2021	0.55%	AA-
Defence Bank	2,000,000	1.60%	17/12/2021	0.50%	BBB
ING	2,000,000	1.60%	29/11/2021	1.55%	A
ING	3,000,000	2.40%	11/02/2022	1.60%	A
ING	2,000,000	1.60%	21/02/2022	1.60%	A
ING	3,000,000	2.40%	21/02/2022	1.60%	A
ME Bank Ltd	1,000,000	0.80%	15/02/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.60%	03/03/2022	0.45%	BBB
ME Bank Ltd	2,000,000	1.60%	09/05/2022	0.50%	BBB
ME Bank Ltd	3,000,000	2.40%	11/05/2022	0.50%	BBB
National Australia Bank	2,000,000	1.60%	10/09/2021	0.75%	AA-
National Australia Bank	2,000,000	1.60%	02/12/2021	0.50%	AA-
Westpac Bank	1,000,000	0.80%	16/11/2021	1.24%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	39,000,000	31.17%		1.06%	

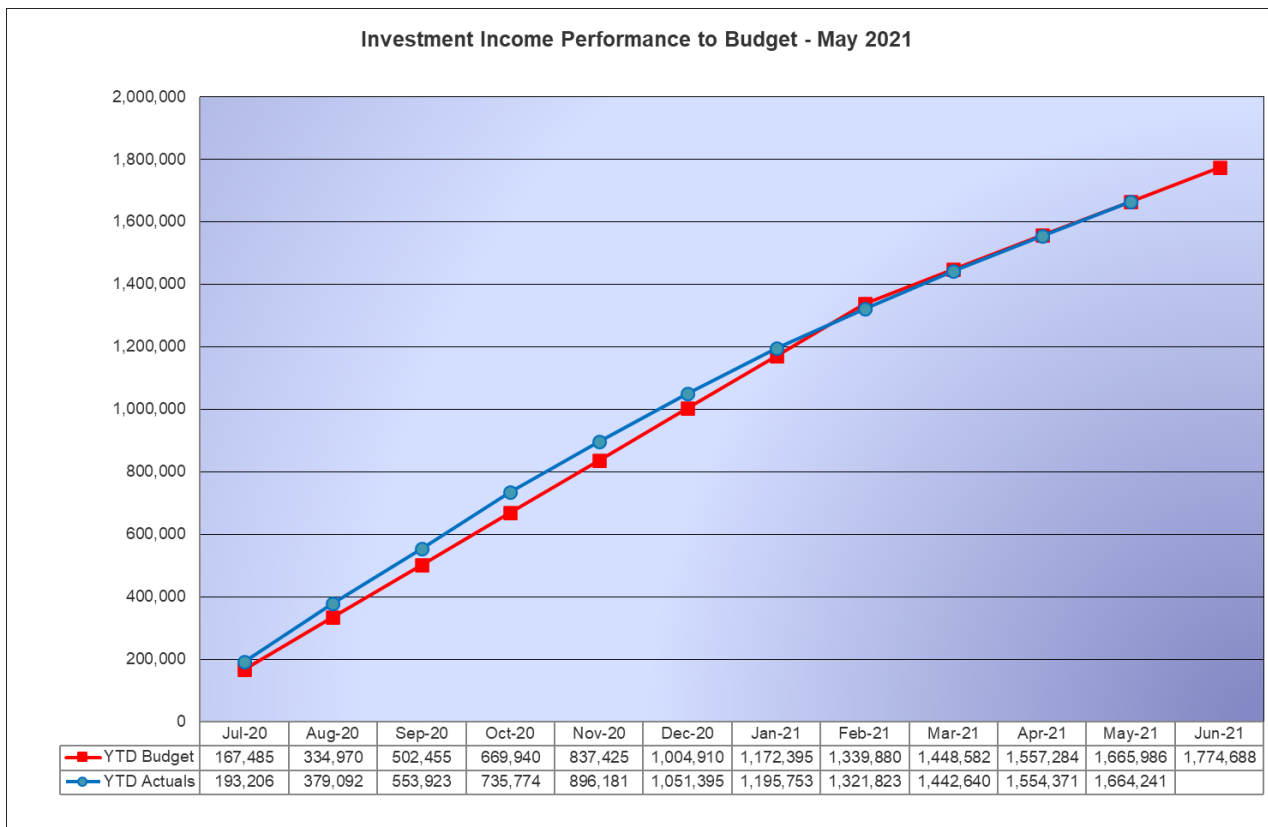
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
SHORT - MEDIUM TERM (1-2 YEARS)					
AMP Bank Ltd	2,000,000	1.60%	14/11/2022	0.55%	BBB
Bank Of Queensland Ltd	1,000,000	0.80%	03/08/2022	3.60%	BBB+
Bank Of Queensland Ltd	2,000,000	1.60%	08/02/2023	3.55%	BBB+
Defence Bank	2,000,000	1.60%	21/11/2022	0.62%	BBB
Defence Bank	2,000,000	1.60%	02/12/2022	0.64%	BBB
Defence Bank	2,000,000	1.60%	03/03/2023	0.50%	BBB
Defence Bank	2,000,000	1.60%	9/03/2023	0.53%	BBB
ING	1,000,000	0.80%	04/10/2022	3.66%	A
ING	2,000,000	1.60%	02/03/2023	0.55%	A
National Australia Bank	2,000,000	1.60%	18/11/2022	0.60%	AA-
National Australia Bank	2,000,000	1.60%	01/12/2022	0.60%	AA-
National Australia Bank	2,000,000	1.60%	06/03/2023	0.60%	AA-
P&N Bank	3,000,000	2.40%	13/03/2023	0.55%	BBB
RaboDirect (Australia) Ltd	2,000,000	1.60%	13/09/2022	3.40%	A+
RaboDirect (Australia) Ltd	1,000,000	0.80%	05/12/2022	3.21%	A+
Westpac Bank	2,000,000	1.60%	18/07/2022	1.06%	AA-
Westpac Bank	2,000,000	1.60%	13/03/2023	0.96%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	32,000,000	25.58%		1.26%	
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	2,000,000	1.60%	21/08/2023	3.60%	BBB+
National Australia Bank	2,000,000	1.60%	12/01/2026	1.00%	AA-
RaboDirect (Australia) Ltd	1,000,000	0.80%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.60%	19/09/2023	3.40%	A+
TOTAL MEDIUM TERM (2-5 YEARS)	7,000,000	5.60%		2.77%	
TOTAL INVESTMENTS	125,109,800	100.00%		1.03%	

COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 31 May 2021			
	Actual	Budget 2020/21	Over/(Under)
This Month			
Cash Deposits & FRNs	\$109,819	\$108,682	\$1,137
Managed Funds	\$51	\$20	\$31
	\$109,870	\$108,702	\$1,168
Year to Date			
Cash Deposits & FRNs	\$1,662,711	\$1,663,926	(\$1,215)
Managed Funds	\$1,530	\$2,060	(\$530)
	\$1,664,241	\$1,665,986	(\$1,745)

- Actual results have shown that total interest income to 31 May 2021 is \$1.7K under the 2020-21 YTD revised budget of \$1.666M.

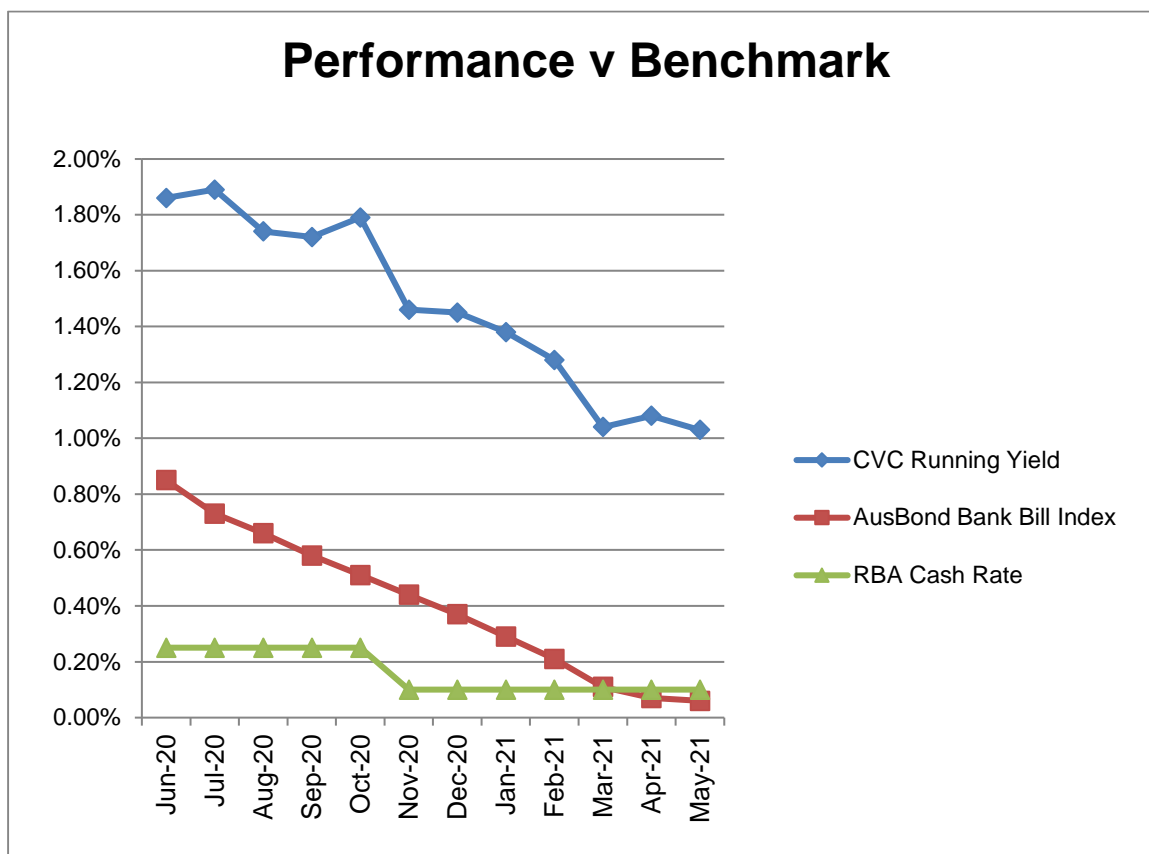


- Running yields* to 31 May 2021 have been:

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	0.00%
Term Deposits	<u>1.33%</u>
Total	1.03%

*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 May was 0.10%. The benchmark AusBond Bank Bill Index was 0.06% for May.
- The current running yield of the total investment portfolio remains at elevated levels above the cash rate. At month-end, it stood at +1.03% (April 1.08%).



The following investments were transacted during May:

- ME Bank \$2.0m TD matured 7/5/2021 - reinvested at 0.50% for 1 year – matures 9/5/2022
- Macquarie Bank \$3.0m TD matured 11/5/2021 – redeemed
- NEW ME Bank \$3.0m TD – invested 11/5/2021 at 0.50% for 1 year – matures 11/5/2022
- AMP \$2.0m TD matured 17/5/2021 - reinvested at 0.55% for 546 days – matures 14/11/2022

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 – May 2021

d. INFORMATION ITEMS

ITEM	6d.21.005	ITEMS FOR INFORMATION
Meeting	Council	22 June 2021
Directorate	Office of General Manager	
Reviewed by	A/General Manager - (Laura Black)	
Attachment	Yes	

OFFICER RECOMMENDATION

That the Items for Information as listed below be noted:

1. Clarence Valley Transport Committee – Minutes for 19 November 2020.
2. Clarence Regional Library Committee – Minutes for 14 May 2021.
3. Clarence Valley Cultural Committee – Minutes for 3 May 2021.
4. Ilarwill Hall Management Committee – Minutes for 27 April and 11 May 2021

COUNCIL RESOLUTION – 6d.21.005

Williamson/Ellem

That the Items for Information as listed below be noted:

1. Clarence Valley Transport Committee – Minutes for 19 November 2020.
2. Clarence Regional Library Committee – Minutes for 14 May 2021.
3. Clarence Valley Cultural Committee – Minutes for 3 May 2021.
4. Ilarwill Hall Management Committee – Minutes for 27 April and 11 May 2021

Voting recorded as follows:

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

CARRIED

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

e. TENDERS

ITEM	6e.21.010	RFT 10039681 - DESIGN AND CONSTRUCTION OF LAWRENCE RESERVOIR
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Meeting	Council	22 June 2021
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Confidential	

SUMMARY

In June 2017 the Lawrence reservoir was taken out of service due to its poor condition and was subsequently demolished in 2019/20. Public Works Advisory called open tenders, closing on 27th April 2021, for the design and construction of a replacement Lawrence reservoir. Three tenders were received. The Tender Evaluation Panel (TEP) considers, having regards to all the circumstances, that the tender from Hornick Constructions Pty Ltd is the most advantageous for Council and recommends that this tender be accepted. As the tendered price exceeds the available budget, a budget variation will be required.

OFFICER RECOMMENDATION

That:

1. Council accept the tender from Hornick Construction Pty Ltd for RFT 10039681 Design and Construction of Lawrence reservoir replacement at Lawrence at a cost of \$1,775,000 (exc GST), to be funded from PJ902037.
2. The 2021/2022 budget allocation for Financial Project 902037 be increased by \$1.121 million, funded from the Water Fund, to cover the shortfall and provide for possible variations.
3. The General Manager be authorised to approve variations up to 15% of the contract sum.

COUNCIL RESOLUTION – 6e.21.010

Williamson/Ellem

That:

1. Council accept the tender from Hornick Construction Pty Ltd for RFT 10039681 Design and Construction of Lawrence reservoir replacement at Lawrence at a cost of \$1,775,000 (exc GST), to be funded from PJ902037.
2. The 2021/2022 budget allocation for Financial Project 902037 be increased by \$1.121 million, funded from the Water Fund, to cover the shortfall and provide for possible variations.
3. The General Manager be authorised to approve variations up to 15% of the contract sum.

Voting recorded as follows:

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

Against: Nil

CARRIED

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

In 2017 the 50 year old 1.1ML Lawrence reservoir was taken offline due to water quality concerns and replaced with small, temporary water tanks. Investigations found that the reservoir could no longer be used for the storage of potable drinking water and the tank was demolished in 2019/2020.

Hydraulic modelling reported to the May 2019 Council meeting when considering the reservoir demolition indicated a smaller (0.75ML) reservoir would provide sufficient capacity for the projected growth at Lawrence.

However, subsequent water supply network modelling taking into account demand which occurred during the October/November 2019 bushfires for refilling water tankers suggested a minimum 1.7ML reservoir at Lawrence was required. The existing reservoir site was insufficient in size to provide for a 1.7ML reservoir, and at its meeting of 20 September 2020, Council resolved to compulsorily acquire part of the adjoining Lawrence Primary School for the reservoir.

KEY ISSUES

Design and Construct tenders for the replacement 1.7ML reservoir were assessed by a TEP comprising water cycle staff and Public Works Advisory staff using a weighting of 70% price and 30% non price. Three tenders were received by the closing date and time.

The TEP assessed two tenders as conforming and one tender (from Precision Civil Infrastructure P/L) as non-conforming due to significant non-compliances for two key criteria of key personnel and concept design/methodology, based on the information supplied with the tender. The Tender non-conformances could not be addressed without provision of additional information and, as such, the TEP had no option but to pass over this Tender. A detailed report from the TEP is included in the Confidential Attachments.

The TEP 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 Hornick Constructions 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. It is therefore 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 902037 (Reservoir renewals) was \$1.075 million, with an estimate of \$0.925 million for the 1.7ML reservoir and \$0.150 million for the property acquisition. The budget for the reservoir construction was based on the DPIE Water reference rates. At its meeting of 25 May 2021 Council resolved (Resolution 6a.21.022) to defer \$0.96 million of this allocation to 2021/2022 in recognition that there would be no expenditure on construction in the 2020/2021 financial year. The recommended Tenderer's price of \$1.775 million is approximately 92% above the budget estimate.

An analysis of tendered prices has indicated that the main reason for the difference between the budget estimate and tenders received is an increase in market price during the Covid-19 pandemic and constraints in moving materials, equipment and labour. As noted in report 6a.21.022 to the 25 May 2021 Council meeting:

Staff have recently observed long lead times with some products and material supplies that would ordinarily be available "off the shelf"... reinforcing steel used in concrete were also impacted. Due to the shortage of material supplies, the purchase costs have also increased. The delay in material supplies and increases in supply cost will in some instances adversely impact on project delivery timelines and project costs.

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 Lawrence reservoir is an important water storage for the Lawrence Community and impacts such as no water at times could occur if there is a major water main break or water is used for firefighting.*
3. Retender the work using the same scope of work. *As this was an open tender it is not considered retendering will give any lower priced tenders. It is recognised that there are current material supply shortages across the building industry and this may have affected prices.*
4. Reject all tenders and retender the work using a revised (reduced) scope of work. *A smaller reservoir is an option, however, the price reduction would not be significant enough to warrant the building of an asset that will not be suitable for future growth in the Lawrence area.*

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.*

Under the Contract, public liability and works insurance are through the Principal and the cost of insurance is \$5,300. It is considered the best outcome for Council would be if the full scope of work was undertaken at this time and it is therefore recommended the 2021/2022 budget allocation for Financial Project 902037 be increased by \$1.121 million, funded from the water fund, to cover the budget shortfall plus the 15% variation allowance. Water fund modelling has indicated that the proposed budget increase will not adversely impact the water fund performance, and that following this variation Council will still have sufficient funds to pay the projected 2020/21 water fund dividend.

Asset Management

The Lawrence reservoir will be a new asset.

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

Legal and Risk Management

The Tendering process has followed the requirements of the Local Government Act and Regulation.

Directors of the two companies that were assessed are:

Name of Company	Name of Partners and Directors
Hornick Constructions Pty Ltd	1- Lyn Hornick 2- Kirsteen Hornick 3- Adam Hornick 4- Reece Hornick
Quay Civil P/L	1- Christopher Kennedy

Climate Change

As outlined in the background section, a 1.7ML reservoir was specified in the tender in response to water demand from fire tankers experienced during the October/November 2019 fires. A predicted climate change impact is an increase in the severity and frequency of severe fire weather. Proceeding with the construction of a 1.7ML reservoir at Lawrence will provide greater resilience by enabling fire fighting demand to be met.

Prepared by	Laurie Day, Water Cycle Project Coordinator and Greg Mashiah, Manager Water Cycle.
Confidential	Tender Evaluation Panel Report

ITEM	6e.21.011	RFT21/10 - ABORIGINAL COMMUNITIES WATER AND SEWER PROGRAM – OPERATION AND MAINTENANCE CONTRACT FOR BARYULGIL, MALABUGILMAH AND JUBULLUM
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Meeting	Council	22 June 2021
Directorate	Works & Civil	
Reviewed by	Manager - Water Cycle (Greg Mashiah)	
Attachment	Confidential	

SUMMARY

Council currently has a contract with DPIE - Water to provide water and sewerage services to the discreet Aboriginal communities of Baryulgil, Malabugilmah and Jubullum under the Aboriginal Communities Water and Sewer Program (ACWSP). Jubullum is located in the Tenterfield Shire, however, due to geographical locations, it is more practical for service provision to contract services for all three Communities at once.

Council contracts out the service provision under the agreement and tenders have been called for a new contract for a period of two years with up to three one year extensions, beginning on 1st July 2021. Tenders were called by an open tender process on tenderlink and it is recommended that the tender be awarded to Ecotechnology Australia Pty Ltd T/a Ecoteam.

OFFICER RECOMMENDATION

That Council:

1. Award Tender RFT21/10 Operation and Maintenance of Baryulgil, Malabugilmah and Jubullum Water Supply and Sewerage Schemes to Ecotechnology Australia Pty Ltd in the amount of \$912,000 (including GST) for a period of two years, with up to three one year extensions, to be funded from Project Numbers 902081, 902082, 906071 and 906072.
2. The General Manager be authorised to exercise the contract extension options subject to satisfactory contractor performance.

COUNCIL RESOLUTION – 6e.21.011

Williamson/Ellem

That Council:

1. Award Tender RFT21/10 Operation and Maintenance of Baryulgil, Malabugilmah and Jubullum Water Supply and Sewerage Schemes to Ecotechnology Australia Pty Ltd in the amount of \$912,000 (including GST) for a period of two years, with up to three one year extensions, to be funded from Project Numbers 902081, 902082, 906071 and 906072.
2. The General Manager be authorised to exercise the contract extension options subject to satisfactory contractor performance.

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 1 Society

Objective 1.3 We will have a diverse and creative culture

Strategy 1.3.2 Support a diverse and rich local Aboriginal and Torres Straight Islander Culture

BACKGROUND

In July 2008, the NSW State Government commenced a program to improve the standard of water supply and sewerage services in selected Aboriginal communities. The program is jointly funded by the State and the NSW Aboriginal Land Council, and the parties agreed to commit \$200 million over a 25 year period.

Under the program Clarence Valley Council has been providing sewer and water services to Malabugilmah and Baryulgil communities through a contractor since November 2010, as well as providing services to the Jubullum community since 2013. The current contract finishes at the end of June 2021.

Council called open Tenders for the purpose of providing sewer and water services to the three remote Aboriginal Communities. Tenders opened on 14 May 2021 and closed on 4 June 2021. Two conforming tenders were received.

KEY ISSUES

The Tender Evaluation Panel (TEP) comprised two water cycle staff and the Senior Project Officer from the ACWSP. The ACWSP fully funds the program and wished to use a 60/40 non price: price ratio for evaluation of tenders. The Land Council's of each Community were consulted to determine the non price criteria to ensure a suitable tenderer was chosen based on the specific needs of the three communities.

Two tenders were received and one other submission which consisted of a business card only, no other information. The business card submission was passed over. Initial evaluation by the TEP determined that the two other tenders were conforming.

After full evaluation of both tenders using the scoring matrix stated in the tender evaluation plan it was determined that the tender should be awarded to Ecotechnology Pty Ltd T/a Ecoteam.

Ecoteam is Council's current contractor providing sewer and water services to Baryulgil, Malabugilmah and Jubullum. The lump sum price tendered for two years is approximately 3% higher than the current tendered price. This increase is considered reasonable and is in line with anticipated CPI increases over the period.

In the tender, Ecoteam has acknowledged the significant amount of back log capital works improvements to the water and sewer infrastructure in the Communities that has been completed in the last two years, this will ultimately reduce the number of days that a contractor needs to visit the sites. When the number of visits reduces, the monthly operation and maintenance costs will also reduce.

A detailed tender assessment is included in the Confidential Attachment.

The TEP considers that the tender from Ecoteam, having regard to all the circumstances, appears to be advantageous to Council. The TEP therefore recommends that the Ecoteam tender in the amount of \$912,000.00 (including GST) for the 24 month period be accepted, and that the General Manager be authorised to exercise the contract extension options subject to satisfactory contractor performance.

The Directors of Ecoteam are Keith Bolton and Lise Bolton.

COUNCIL IMPLICATIONS**Budget/Financial**

The Aboriginal Communities Sewer and Water program aims to be "cost neutral" for Council, with DPIE-Water reimbursing reasonable operational, management and emergency call out costs. If the contract extension options are proposed to be enacted the Contractor will be requested to submit a revised fee schedule for the 12 month extension and DPIE-Water concurrence (as the program's funding administrator) to the proposed fees obtained prior to extending the Contract.

Payment for regular operations and maintenance is in advance while payment for any emergency works is in arrears. The agreement includes a 10% management fee for Council on the Contractor's costs, and to date the management fee has more than covered Council's costs.

Asset Management

Nil. Ownership of sewer and water assets under the program remains with the Aboriginal communities.

Policy or Regulation

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

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken: Local suppliers, contractors and/or consultants were notified through alerts via Tenderlink.

Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

The local supply provisions of the Policy were assessed by the Project Manager as not being relevant due to the specialist nature of the goods/services being sourced by the tender.

Consultation

DPIE Water, Land Councils (via ACWSP Officers)

Legal and Risk Management

The Contract format of a two year contract with up to three one year extensions if contractor performance is assessed as satisfactory addresses Contractor performance risk and also possible program funding risk because, as payment for regular operations is in advance, were the funding to be withdrawn Council could manage the risk by not extending the operations contract.

Climate Change

N/A

Prepared by	Laurie Day, Water Cycle Project Coordinator
Confidential	Tender Evaluation Panel Report

ITEM	6e.21.012	OPTION TO RENEW AGREEMENT FOR MANAGEMENT AND OPERATION OF CALYPSO YAMBA AND BROOMS HEAD HOLIDAY PARK – ON CROWN LAND
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Meeting	Council	22 June 2021
Directorate	Works & Civil	
Reviewed by	Director - Works & Civil (Jamie Fleeting)	
Attachment	Confidential	

SUMMARY

This report is seeking Council as Crown Land Manager to endorse the option to renew the agreements awarded to CM & PA Easdown Pty Ltd for the management and operation of Calypso Yamba Holiday Park for a further term of 3 years and Brooms Head Holiday Park for a further term of 3 years.

OFFICER RECOMMENDATION

That Council as Crown Land Manager:

1. Endorse the continuation of the agreement with CM & PA Easdown Pty Ltd for the management and operation of Calypso Yamba Holiday Park on the same terms for a further term of 3 years from 29 August 2021 – 28 August 2024.
2. Annual retainer for the further term is \$268,585 (inc GST).
3. Amend the new contract in accordance with subclause 17.2 of the existing agreement.
4. Endorse the continuation of the agreement with CM & PA Easdown Pty Ltd for the management and operation of Brooms Head Holiday Park on the same terms for a further term of 3 years from 8 September 2021 – 7 September 2024.
5. Annual retainer for the further term is \$377,072.25 (inc GST).
6. Amend the new contract in accordance with subclause 17.2 of the existing agreement.

Having declared an interest in this item, Cr Toms left the Council meeting at 6.36pm returned at 6.37pm.

COUNCIL RESOLUTION – 6e.21.012

Kingsley/Ellem

That Council as Crown Land Manager:

1. **Endorse the continuation of the agreement with CM & PA Easdown Pty Ltd for the management and operation of Calypso Yamba Holiday Park on the same terms for a further term of 3 years from 29 August 2021 – 28 August 2024.**
2. **Annual retainer for the further term is \$268,585 (inc GST).**
3. **Amend the new contract in accordance with subclause 17.2 of the existing agreement.**
4. **Endorse the continuation of the agreement with CM & PA Easdown Pty Ltd for the management and operation of Brooms Head Holiday Park on the same terms for a further term of 3 years from 8 September 2021 – 7 September 2024.**
5. **Annual retainer for the further term is \$377,072.25 (inc GST).**
6. **Amend the new contract in accordance with subclause 17.2 of the existing agreement.**

Voting recorded as follows:

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

Against: Nil

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 3 Economy

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

Strategy 3.1.1 Promote the Clarence region as a wonderful place to invest, live, work and visit

BACKGROUND

At its June 2016 meeting, Council resolution 16.010/16 resolved:

That Council as corporate Trust Manager of the Clarence Coast Reserve Trust:

1. *accept the tender from CM & PA Easdown Pty Ltd for the management and operation of the Calypso Yamba Holiday Park under RFT16/014 with a retainer of \$200,165 (incl. GST) plus commissions to be funded from PJ996780 – Calypso Holiday Park*

At its June 2018 meeting, Council resolution 16.015/18 resolved:

That Council as Corporate Trust Manager of the Clarence Coast Reserve Trust, having examined the value for money assessment provided in the confidential recommendations.

1. *accept the tender from CM & PA Easdown Pty Ltd for RFT18/010 for the management and operation of the Brooms Head Holiday Park at a cost for retainer of \$363,000 (incl. GST) plus commissions to be funded from Caravan Park – Administration /Management (PJ996780 Cost Centre 882)*

KEY ISSUES

In accordance with Clause 17.1 Option to Renew, CM & PA Easdown Pty Ltd (Easdown) have notified Council of their desire to exercise the options to renew and they have complied with the provisions of the agreement with the operations of the Holiday Parks.

Easdown and their teams are performing well in terms of revenue, occupancy and customer satisfaction. The teams complete many maintenance tasks with skilled in-house staff that contribute to reduced operating expenses.

Extension of the management contract will allow the current management teams to continue or Council as Crown Land Manager can choose to not offer an extension and re-tender the management contracts for Calypso Yamba and Brooms Head Holiday Parks.

COUNCIL IMPLICATIONS

Budget/Financial

Management remuneration costs are met from the park's operational budget PJ996780. The remuneration provision is incentive based consisting of a base retainer and provisional commission paid monthly and adjusted annually which is calculated as percentages of actual operating revenue.

- CYHP's current annual retainer for the period 2016 to 2021 was \$200,165 (including GST) per annum and will increase to \$268,585 including GST (\$262,365 excluding GST)
- BHHP's current annual retainer for the period 2018 to 2021 was \$363,000 (including GST) per annum retainer will be increased by CPI in accordance with Schedule 2 of the contract to \$377,072.25 including GST (\$342,796.38 excluding GST).

Asset Management

N/A

Policy or Regulation

The management contract extension process is compliant with the *Local Government (General) Regulation 2005*.

Consultation

N/A

Legal and Risk Management

Clause 17.2 Actions on Renewal of Agreement states:

Subject to 17.1(c) ((c) The Principal may in its sole discretion extend this Agreement for the further term or terms specified in Schedule 1). The Principal shall grant to the Contractor and the Contractor shall accept from the Principal a continuation of this Agreement on the same terms as this Agreement (including the obligations of the Guarantors who must sign the further Agreement as Guarantors as a condition of the grant of a further Agreement) except that:

- (a) the remuneration shall be in accordance with Schedule 2, and
- (b) this clause shall be deleted, and
- (c) the commencement date and the expiry date shall be adjusted so that the commencement date is the first day of the commencement of the option period and the expiry date is the last day of the option period.

As there is are 2 options associated with these agreements, Clause 17.2 (b) shall not enacted until the commencement of the final option.

Climate Change

N/A

Prepared by	Peter Birch, Manager Open Spaces and Facilities
Confidential	Option to renew CM & PA Easdown – Calypso Yamba Holiday Park

7. NOTICE OF MOTIONS

ITEM	07.21.010	FUNDING FOR NEW LAWRENCE BRIDGE
Meeting	Corporate, Governance & Works	22 June 2021
Directorate	Notice of Motion	
Submitted by	Cr Jason Kingsley	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

I propose that the following report and Notice of Motion be submitted to Council.

PROPOSED MOTION

That;

Council support the request from the Lawrence Bridge Action Group (LBAG) and write to The Hon. Gladys Berejiklian MP (NSW Premier), The Hon John Barilaro MP Deputy Premier (Minister for Regional New South Wales, Industry and Trade), The Hon Paul Toole MP (Minister for Regional Transport and Roads), The Hon [Andrew Constance](#) MP (Minister for Transport and Roads), The Hon Rob Stokes MP (Minister for Planning and Public Spaces), [The Hon Michael McCormack MP](#) Deputy Prime Minister (Minister for Infrastructure and Transport and Regional Development), The Hon Catherine King MP (Shadow Minister for Infrastructure, Transport and Regional Development), Chris Gulaptis MP (Member for Clarence and Parliamentary Secretary for Regional Roads and Infrastructure) and The Hon Kevin Hogan MP (Member for Page) to seek a funding commitment to build a new bridge at Lawrence to replace the Bluff Point Ferry.

COUNCIL RESOLUTION – 07.21.010**Kingsley/Simmons**

That Council support the request from the Lawrence Bridge Action Group (LBAG) and write to The Hon Gladys Berejiklian MP (NSW Premier), The Hon John Barilaro MP Deputy Premier (Minister for Regional New South Wales, Industry and Trade), The Hon Paul Toole MP (Minister for Regional Transport and Roads), The Hon Andrew Constance MP (Minister for Transport and Roads), The Hon Rob Stokes MP (Minister for Planning and Public Spaces), The Hon Barnaby Joyce MP Deputy Prime Minister and Minister for Infrastructure and Transport and Regional Development, The Hon Catherine King MP (Shadow Minister for Infrastructure, Transport and Regional Development), Chris Gulaptis MP (Member for Clarence and Parliamentary Secretary for Regional Roads and Infrastructure) and The Hon Kevin Hogan MP (Member for Page) to seek a funding commitment to build a new bridge at Lawrence to replace the Bluff Point Ferry.

Voting recorded as follows:

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

Against: Clancy

CARRIED

LINKAGE TO OUR COMMUNITY PLAN

Theme 2 Our Infrastructure

Objective 2.1 We will have a safe and efficient network of arterial roads and supporting infrastructure

Strategy 2.2.5 Provide required public transport infrastructure and work with key partners to expand the provision of cost effective public transport

BACKGROUND

The Bluff Point Ferry (Lawrence Ferry) has been in operation since the late 1800's servicing the needs of Lawrence and surrounding communities.

Over the past 50 years the increase in population in the village of Lawrence and surrounds along with the increase in vehicular traffic passing through Lawrence has required the upgrade of the Lawrence ferry on 4 occasions. In 1971 the then ferry was upgraded to a 6 car ferry followed by a 12 car ferry in 1982. In the early 2000's, the 12 car ferry was replaced by an 18 car ferry and a few years later in 2012 the 18 car ferry was replaced with a 24 car ferry to keep up with the increasing demand.

In early 2019, recognising the increasing traffic volume and demand TfNSW (formally RMS) introduced the trial of a second 18 car ferry operating alongside of the existing ferry during peak periods (7.30am – 9.30am & 4.00pm – 6.00pm) Monday to Friday. Following a review of the second ferry trial, TfNSW concluded the need for an additional ferry was warranted and the second ferry continues to operate during peak periods Monday to Friday.

There have been no less than three bridge committee/bridge action groups formed since the 1970's, with the most recent, the Lawrence Bridge Action Group (LBAG) forming in 2018. LBAG met with TfNSW early in 2018 presenting three different locations for a new bridge to replace the existing ferries. Following this meeting, TfNSW requested the RMS to carry out a viability study. The RMS agreed to investigate the locations, prepare a viability study and provide indicative costs to construct a bridge by the end of 2019. The viability study and construction cost have now been completed and LBAG are seeking Council's support in lobbying the state and federal governments for funding to build a new bridge and replace the two ferries.

KEY ISSUES

The population of Lawrence and surrounding areas has more than doubled since the 1980's placing more demand on the Lawrence Ferry.

On average over the 4 years prior to the Pacific Highway Upgrade there was an approximate 8% annual increase in traffic using the Lawrence Ferry, requiring the need for an additional ferry to assist in servicing the peak morning and afternoon demand. Average wait times for the ferry on a normal operating day are approximately 10 minutes. However, wait times of 30 minutes or more can be experienced during school holidays and/or peak periods.

During cane season there are approximately 7500-8000 semi-trailer movements across the ferry carrying around 80 000 tonnes of harvested cane. This equates to 3700 (approx.) loaded semi-trailers (GVM capacity of 43 tonnes) and 4000 unloaded semi-trailers (GVM of 22 tonnes). Each semi-trailer reduces the ferries vehicle carrying capacity by 3-4 standard vehicles, which can further increase wait times.

Vehicles with long overhang or low-slung vehicles drag on the ferry flaps and concrete ramp often causing damage to the vehicle and/or the ferry and related infrastructure. In some cases, vehicles get stuck attempting to board the ferry and are diverted back through Grafton.

In addition, the road between Lawrence and Maclean is a designated regional bus route (385), which services the community as well as local schools.

At times of flood the ferry is out of commission indefinitely leaving the residents of Lawrence and traffic that rely on the ferry stranded. This is also the case with minor river rises of just 1 metre AHM. During these periods, alternate access to Maclean or the Lower River is available via Tullymorgan Road or through Grafton via the Summerland Way and along the Pacific Highway. However, both routes are substantially longer (Summerland Way approx. 80 kilometres one way/160 kilometres return) and the Tullymorgan Road route is an unsealed road. Increase in traffic on the Tullymorgan Road further deteriorates the road and increases the cost of maintenance to council.

The ferry is also closed during special events such as the Grafton Bridge to Bridge Ski Classic, sailing regattas etc.

Ferry wait times can also impact on the ability of emergency services such as ambulance, police, SES, RFS etc. to respond to critical incidents. And in the case of ferry outages, these impacts could result in life or death situations.

The capital cost to upgrade the current 24 car ferry in 2012 was \$5.3 million.

The cost of a new bridge is estimated at approximately \$110 million. The ferry is operated by a private contractor under a contract with TfNSW, therefore the actual annual running and maintenance cost of the ferry are not available. However, approximate annual running and maintenance costs of around 1 million

dollars per year were previously verbally provided to LBAG at a meeting with TfNSW staff and to Councillors at a briefing from TfNSW in October 2020. It could be reasonably assumed that over time, funding a new bridge would on balance be a more cost effective solution than the current annual operating and maintenance costs of a ferry.

ITEM 07.21.011 RESCISSION MOTION FOR COUNCIL RESOLUTIONS – 6B.21.024 AND 6B.21.025 – 19 GUMNUT ROAD

Meeting	Council	22 June 2021
Directorate	Notice of Motion	
Submitted by	Cr Debrah Novak	
Attachment	Nil	

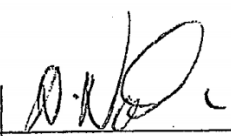
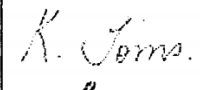
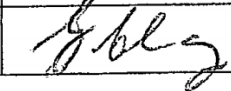
To the General Manager, Clarence Valley Council, we, the undersigned, give notice of intention to move at the next Council Meeting, rescission of the resolutions taken at the 25 May 2021 Council meeting in respect of the following items:

- 6b.21.024 MOD2021/0016 – Proposed Planter Boxes, as Built Additional Timber Decking Including Access Ramps, Increase in Studio Roof, Reduction of the Openings Within the External Walls, Increase in Floor Area, Use of Non-Flood Compatible Materials and Change in Location of Planter Box - 19 Gumnut Road, Yamba

and

- 6b.21.025 DA2021/0153 – Proposed Retractable Privacy Screen and Existing Retractable Awning and Rainwater Tank - 19 Gumnut Road, Yamba

If the rescission motions are successful we will move that the two items be not approved.

Signed:	
Cr Novak	
Cr Toms	
Cr Clancy	

MOTION

Toms/Novak

That the resolutions for Items 6b.21.024 and 6b.21.025 be rescinded.

Voting recorded as follows:

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

LOST

PROCEDURAL MOTION

Williamson/Lysaught

That the Council meeting be extended to 7.15pm.

Voting recorded as follows:

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

MOTION: Ellem/Novak -That Cr Toms be given an extension of 2 mins for her debate. CARRIED.

Voting recorded as follows:

For: Ellem, Novak, Toms, Clancy, Simmons

Against: Lysaught, Williamson, Baker, Kingsley

MOTION: Williamson - That the motion be put. CARRIED.

Voting recorded as follows:

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

Against: Toms, Novak, Clancy

8. CONFIDENTIAL BUSINESS - Nil

9. QUESTIONS WITH NOTICE

ITEM	09.21.003	QUESTIONS WITH NOTICE
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Meeting	Council	22 June 2021
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CR KAREN TOMS

Please find following my questions on notice as per our Code of Meeting Practice.

- Please CONFIRM the conditions in the attachments in the May 2021 Environment, Planning & Community Committee Item 6b.21.024 Attachment B pages 12 -18 conditions 2-30 are the same as the conditions for MOD2021/0016?
Answer: Significantly the same, though they will be adjusted in accordance with Council's resolution if the Mod is approved by Council.
- Does the survey plan or report dated 26 March 2021 have the AHD floor level of the as built studio at 19 Gumnut Road Yamba?
Answer: No. As reported in Item 6b.21.024 (May 2021), the studio is not considered part of the primary habitable floor area.
- Please provide the dates and details of any survey in Councils possession for 19 Gumnut Road Yamba in relation to DA2019/0439, MOD2021/0016 and DA2021/0153?
Answer: Identification Survey dated 26 March 2021 and Levels Survey Report dated 5 May 2021.
- The survey plan dated 26 March 2021 shows the western boundary measurement from the rear wet boundary to the studio wall as 7.45m. Please provide why the studio eave of 1.2m was not taken into account?
Answer: Schedule C2 of the Residential DCP allows minor structures (such as eaves) within the rear boundary setback area.
- Why was a survey not undertaken in accordance with Conditions of Consent or Councils DCP (at DA lodgement and prior to commencement of construction) for DA2019/0439 (now MOD2021/0016)?
Answer: The builder did not book the first scheduled inspection (footings) with Council. A structural engineer carried out that inspection. Following subsequent inspection of the site by Council's officers the required survey report was requested and received.
- The as built extended studio roof, to the east, is the closest structure to the rear wet boundary and breaches Condition 14. Why was the NE corner of the as built studio roof not used as the survey measurement (done by a registered surveyor on 26 March 2021) as required by Point 14 of the Conditions of Consent for DA2019/0439 (now MOD2021/0016)?
Answer: Refer to answer of Question 4 above.

7. In relation to Councils Report 25 May 2021 page 65 Point 2. Inconsistencies with DA2019/0439 a) Decking and access ramps. Please provide the details and calculation figures to obtain the conservative 11sqm of decking that exceeds the development standards of the State Environmental Planning Policy (exempt and complying development codes) 2008?
Answer: The Codes SEPP allows certain decks up to 25m2 to be built as exempt development (i.e. development not needing development consent). The areas were measured using Objective Trapeze software assessment tool.
8. Structural engineers certifications and certificates have been required for the as built development at 19 Gumnut Road Yamba for MOD2021/0016 and DA2021/0153. Please provide a list with the dates and details of these certifications and certificates and what structure they refer to?
Answer: These are technical issues that Council's Building Surveyors will determine if they are necessary and what they need to refer to.

CR DEBRAH NOVAK

1.ITEM 6b.21.031:

- a) The application for this MHE development was up until last week an Over 55's Lifestyle Resort. Can this description be simply changed by the applicant at a deputation?
Answer: As the application was not lodged under the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, the application is only being considered under the provisions of SEPP 36 – Manufactured Homes and not an over 55's estate. The developer may wish to market the estate as an over 55's home estate, however Council has no control over who may reside in the homes.
- b) Are the advices and conditions in the business paper based on the new description of general housing?
Answer: The advices and conditions contained in Schedule 1 are based on the controls set out in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 for Manufactured Homes Estates.
- c) Are there or would there be different requirements /consent conditions between general housing and Over 55's for MHE housing?
If the development was lodged as an over 55's under the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, assessment would also be required to be undertaken under that policy. If lodged for over 55's only, a restriction on title would be required so that occupants would be restricted to over 55's or people with a disability in line with the SEPP.
- d) Are Council allowed to approve / support an onsite manufacture of the homes with out a noise level or traffic investigation report prior to commencement of the building activity?
*Answer: Council is bound by the controls set out in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
 Clause 41 states:
 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.*
- An applicant can lodge an Objection to this under Clause 82A of the Local Government Act 1993. DPIE are the consent authority to vary this requirement not Council. A link to the DPIE information sheet that outlines that process is provided below.*
- https://www.planning.nsw.gov.au/~/_/media/Files/DPE/Factsheets-and-fags/approval-and-operation-of-caravan-parks-camping-grounds-and-manufactured-home-estates-2010-07.ashx*
2. ITEM 6e.21.012 - have any formal complaints been received from customers to CVC about the management of the Calypso and Brooms Head Holiday Parks since June 2016?
Answer: No

3. ITEM 6b.21.037 - Will floodwaters surrounding the 5 metre fill for the new service centre impact the height of the flood waters experienced around the Ferry Park building during a flood?
Answer: A flood impact assessment would be submitted as part of the future development application. The process for floodplain management controls is set-out in Part D Floodplain Management Controls of the residential DCP.

4. ITEM 6a.21.028 Page 13: is it the updated Community Strategic Plan - The Clarence 2027 that will be submitted with the IPART Docs or is it the old one? Isn't this the plan that is currently online and community are being asked to contribute to until August?
Answer: The current CSP is valid until a new Council adopts a revised CSP late in 2021. Preparation has commenced to revise the CSP.

10. LATE ITEMS OF BUSINESS AND MATTERS ARISING - Nil**11. CLOSE OF ORDINARY MEETING**

There being no further business the Council meeting closed at 7.15pm.