

Ordinary Council Meeting

Business Paper

Maclean - 25 October 2022 - 2:00pm



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5. MAYORAL MINUTES

ITEM 05.22.016 MAYORAL MINUTE CLARENCE VALLEY COUNCIL - NSW STATE ELECTION PRIORITIES

Meeting	Council	25 October 2022
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

The next quadrennial NSW State election will be conducted in March 2023. This presents an opportunity for Council to lobby all election candidates for the purpose of securing support and funding commitments for Council priorities. This Minute seeks council support to such process and also invites suggestions for inclusion in Council's advocacy.

PROPOSED MOTION

That Council lobby all election candidates for the State seat of Clarence to endeavour to secure commitments for support and funding of major council projects and works priorities and other matters of concern to NSW local government.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

BACKGROUND

Suggested Priorities

Some (but not all) of Councils important projects for which funding (or additional funding) is needed include North Grafton swimming pool redevelopment, Maclean Civic precinct, Treelands Drive library, and Maclean boardwalk completion. Additional funding for roads (to be itemised) is always a major issue and requirement as is continuing funding to eventually replace councils remaining timber bridges.

LGNSW seeks Council's support, for example, in regard to the ever increasing Emergency Services Levy and the lack of accounting transparency for the Rural Fire Services "Red Fleet" given it is not the responsibility of local government to recognise depreciating State Government assets.

This is not necessarily a complete list. For example, matters which relate to the Commonwealth government are not included. Other projects may be suggested by senior staff and Councillors.

It is intended to meet with candidates to ensure they understand our community's priorities and why funding commitments are needed. This is a critical time to invest in our growing community and to stimulate the local economy with the creation of local jobs for local people.

Summary

As candidates for the next State election are currently being announced it is time for Council to strongly advocate for support for its major projects, which is the intent of this Minute. Council has a strong obligation to ensure the voices of our residents and businesses are heard by candidates vying for the State Election.

ITEM 05.22.017 MAYORAL MINUTE APPLICATION FOR MEMBERSHIP OF NORTHERN RIVERS JOINT ORGANISATION (NRJO)

Meeting	Council	25 October 2022
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

The aim of this Minute is to seek Council's support to obtain full membership of the NRJO. As Council is aware it declined, at its April 2022 meeting, to seek full membership. It is evident that non full membership is disadvantaging the Clarence community, particularly in light of the flooding devastation earlier this year and subsequent State Government initiatives.

PROPOSED MOTION

That Council now make application to the Northern Rivers Joint Organisation seeking full membership in lieu of the Council's current Associate non-voting status.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

BACKGROUND

As was advised in my April 2022 minute, prior to 2017 CVC and previously the pre-merged Clarence Councils including the County Councils were all members of the Northern Rivers Regional Organisation of Councils (NOROC).

In 2017, the NSW Parliament passed the Local Government Amendment (Regional Joint Organisations) Act 2017, to establish a network of joint organisations (JOs). The JOs are local government entities with legal powers to enable councils to work together at a regional level and with state agencies and other organisations to achieve better planning, economic development, and service delivery outcomes in regional NSW. At that time CVC declined to join a Joint Organisation and has had Associate non-voting status with the NRJO.

NSW has a network of thirteen joint organisations to strengthen collaboration and engagement between State and local governments and improve infrastructure and service delivery to regional communities. Each Joint organisation comprises member councils, State agencies and other key stakeholders as determined by each joint organisation board.

Eighty-seven councils in regional NSW are members of the thirteen joint organisations: Canberra Region, Central NSW, Far North West, Far South West, Hunter, Illawarra Shoalhaven, Mid North Coast, Namoi, New England, Northern Rivers, Orana, Riverina and Murray, and Riverina. In 2021 I represented Armidale Regional Council on the New England JO.

The NSW Government invested \$8.2 million in helping to establish joint organisations and strengthen their strategic capability and delivery of regional priorities.

NRJO issues and activities

The NRJO, currently a grouping of six councils on the Northern Rivers, works collaboratively on issues of common concern. The JO highlights a number of reasons/advantages for CVC becoming a member, joining the regional entity, and the several strategic regional governance, collaboration and advocacy benefits and opportunities including:

1. The NRJO is part of a state wide network of JO's.
2. Member councils have an official seat at the regional table enabling them to shape regional decision-making.
3. The JO is formed under the Local Government Act as a local government entity with legislative powers to enable the member councils to work together at a regional level.
4. As a peak regional representative organisation, the JO is the recognised united voice in leading advocacy on issues of regional significance.
5. The NRJO enjoys a culture of collaboration to leverage positive historical working relationships.
6. The JO has a commitment to better focus on regional issues and priorities.

One issue has been the capped statutory fees and charges (especially DA fees) since year 2000 and the impacts on each member council. Other matters being addressed are a JO policy on renewable energy. It is examining alternate mechanisms for the dispersal of tourists across the region. The JO and RDA Northern Rivers are partnering in a project to audit available industrial and employment land. The JO is undertaking a study regarding establishment and operation of specialist employee pools within the Northern Rivers Councils. A Northern Rivers brand is being developed. JO workshops are reviewing strategies and key priorities. It is vital that CVC is a part of these and other matters of mutual interest.

As Council is aware, in July, for the purposes of the major flood rebuild, the NSW Government created the Northern Rivers Reconstruction Corporation (NRRC). This entity is to be supported by an advisory board which is to include the mayors of the Northern Rivers.

In a media release on 20 September the Northern Rivers Resilience Initiative (NRRRI) was announced. The release stated inter alia that progress under the NRRRI would be regularly discussed with local mayors "via the existing Northern Rivers Joint Organisation meetings".

I am of the view that CVC and our community would be disadvantaged by only being an associate, non-fee paying member of the NRJO given this announcement.

The six full member councils are currently working together on a koala mapping project with government funding under the NSW Koala Strategy which seeks to double the NSW koala population over time.

As councillors are aware the recently formed Yamba Community Action Network (CAN) have corresponded to each of us and reiterated much of the advice contained in the April 2022 mayoral minute. The letter stated inter alia "Yamba CAN believes joining with the NRJO Councils would be paramount as an effective means to gain strength and positive outcomes jointly advocating for the benefit of the Northern Rivers and all Clarence Valley communities".

Process of seeking NRJO

In the April Mayoral Minute councillors were informed that a change in membership needs to be by Government Proclamation. The following are the steps that would be followed:

- Clarence Valley Council passes a resolution seeking to join the NRJO, this must be an unqualified resolution approving the inclusion of its area in the North Rivers Joint Organisation area.
- CVC the writes to the Chair of the NRJO seeking membership.
- Letter would be tabled at NRJO Board meeting for discussion.
- NRJO board would pass a resolution to accept Clarence Valley Council as a member.
- NRJO writes to the Minister for Local Government to request Clarence Valley be added to the NRJO as a new member."

Financial considerations

This situation is I understand the same. The budget of the JO is \$266,725 of which \$201,000 are membership fees from the six full member councils. There is no longer a State Government contribution. Should council obtain membership its membership fee would be approximately \$ 46,000 for 2022 / 2023 fiscal year.

Summary

The current Northern Rivers Strategic Regional Plan 2025, prepared by the Northern Rivers Regional Development Committee state on the cover page – Many communities, Three Rivers, One Region. Clarence is one of the three rivers and is very much a part of the Northern Rivers Region and should continue to be so for many reasons of collaboration, joint interests, and aspirations. Being a full member of the NRJO in lieu of the current situation is in the best interests of the Council and our Clarence LGA and communities.

ITEM 05.22.018 MAYORAL MINUTE CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Meeting	Council	25 October 2022
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

The intent of this minute is to seek councils support to continuing advocacy to obtain constitutional recognition of local government.

PROPOSED MOTION

That Council

1. Request Local Government NSW to advocate to the Federal Government that it collaborate with all Australian Local Government bodies to progress a Constitutional referendum to secure the recognition of Local Government in the Australian Constitution.
2. Declares its support for financial recognition of Local Government in the Australian Constitution so that the Federal Government has the power to fund Local Government directly and also for inclusion of Local Government in any new Preamble to the Constitution.
3. Lobby the Federal Local Government Minister and Council's Federal Parliamentary Representative in support of progressing constitutional recognition in the Australian Constitution.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

BACKGROUND

Since 1974, there have been three proposals seeking the recognition of Local Government in the Australian Constitution. The previous attempts in 1974 and 1988 both failed to secure a majority of votes in a majority of States and Territories. A third attempt was proposed for the Federal election to be held in 2013. However, a change of leadership in the Government of the day and the resulting change in the election date meant that the referendum did not proceed.

On that most recent occasion, the then Government had well advanced plans to support the proposal, including:

- The support of both an Expert Panel on Constitutional Recognition of Local Government and a Joint Select Committee on Constitutional Recognition of Local Government.
- Draft wording of the proposed changes to section 96 of the Constitution and associated legislation.
- Funding allocated in forward budget estimates to the Australian Electoral Commission to conduct the referendum, with the then Department of Regional Australia, Local Government, Arts and Sport to undertake a national education campaign to provide information on the referendum process.

Since its inception in 1901, the third tier of government has not enjoyed constitutional recognition. Rather Councils have been "creatures" of state governments. It is regularly maintained that local government, as the level of government closest to people, is best placed to address and service the needs, as well as advance the values and aspirations of communities. Logically this should mean recognising local government in the Commonwealth Constitution.

Without recognition in the Commonwealth Constitution, local governments are subject to state legislation and extinguishment by the State government of the day and are technically (refer to the Pape case) ineligible to receive financial funding and support directly from the federal government. Protection of local governments in this manner would enable direct federal funding and acknowledge the critical role local government performs in Australia's democracy.

In July 2022 the Federal Minister for Local Government Ms Kristy McBain acknowledged that councils had long campaigned for constitutional recognition.

She stated at the time, that the Government's priority for its first term was to ensure there was an Indigenous voice to parliament recognised in the Constitution. She flagged that "Constitutional recognition of local government was likely to be "on the radar" of a second term Albanese Labor government.

Summary

It is important that local government continues to advocate for recognition, as the third tier of government, in the Australian Constitution. I encourage councillors to support the three part recommendation in this Minute.

ITEM 05.22.019 MAYORAL MINUTE CLARENZA AND NORTH GRAFTON SEWERAGE TREATMENT PLANTS (STP)

Meeting	Council	25 October 2022
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

The purpose of this Minute is to provide the opportunity for the Council to consider, and if considered appropriate to support the transfer of peak wet weather sewerage flow to the Clarenza STP in lieu of supporting construction of an STP at North Grafton. I agreed with Cr Toms to submit this Minute to provide the Council the opportunity to consider the alternate proposal.

At its September 2022 OCM, when considering report item 07.22.220, which addressed the various points made in Councils resolution of 28 June 2022, council resolved that the report be noted. Cr Toms was indisposed and had to leave the meeting prior to this matter being considered. The Councillor had earlier that day, notified by email her in intention to move a different motion to the Officer Recommendation.

PROPOSED MOTION

That Council

1. Withdraw its support for construction of a replacement Sewerage Treatment Plant at North Grafton on the area currently leased to MI Organics.
2. Determine that its preferred option is to transfer peak wet weather to Clarenza STP, which would permit abandonment of the North Grafton STP site.
3. Note that this preferred option is obtained from the GHD Clarence Valley North Grafton Treatment Plant Replacement Environmental Impact Statement dated February 2019.
4. Note that all three considered options meet EPA guidelines.
5. Now advise the relevant government agencies of this determination.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

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

BACKGROUND

The main objective of the North Grafton STP replacement is to comply with the Pollution Reduction Program (PRP), minimise risk to the environment and public health, improve the ecological health of the Clarence River, increase the capacity to meet the predicted future population, and undertake the development in accordance with environmentally sustainable principles.

Clarence Valley Council (CVC) proposes to replace the North Grafton Sewage Treatment Plant (STP) with a new facility on the site currently leased to MI Organics. The North Grafton STP has been operating since the 1930's and has been upgraded a number of times since then, including in the 1950's and most recently in 2009. Replacing the North Grafton STP is required by a Pollution Reduction Program (PRP) issued under the current Environmental Protection Licence 717 (EPL).

The site is referred to as Lot 1 DP 721369, corner of Duke Street and Kirchner Street, Grafton and currently accommodates the STP and a landscape supplies business (MI Organics). The Grafton waste transfer and recycling station are also situated on the site. The site is approximately 3.5 hectares in area and sits on relatively flat land adjacent to the Clarence River. The site is zoned SP2 (Infrastructure) with a small portion zoned RE1 (Public Recreation) and RU1 (Primary Production) under *Clarence Valley Local Environmental Plan (LEP) 2011*. The cemetery immediately south of the site is also zoned SP2 (Infrastructure). Land zoned RU1 (Rural Landscape) is located immediately north and west of the site and land zoned RE1 (Public Recreation) and W2 (Recreational Waterways) associated with the Clarence River is located east of the site.

Surrounding land uses include: North: North Street followed by agricultural land. East: Corcoran Park Grafton's premier waterfront reserve and the Australian Navy Cadets immediately east of the site and the Clarence River approximately 100 m east of the site. South: Kirchner Street immediately south of the site followed by Grafton Cemetery and residential properties of Grafton approximately 300 m south of the site. West: The Grafton Waste Transfer and Recycling Centre immediately west of the site followed by agricultural land, two dams and residential properties of Grafton approximately 450 m west of the site.

Land adjacent to the existing STP site is within the town levee, however the Environmental Impact Statement (EIS) advises the site would be inundated under 2% AEP flood events. Figures in Appendix C of the EIS show the extent of flooding.

Recent flooding of sewage treatment plants in Lismore, Ballina and Byron Bay Local Government Areas is a timely wakeup call that placing Sewage Treatment Plants in identified flood planning areas should be avoided. Lismore sewage treatment plant was inundated in February this year, resulting in megalitres of untreated sewage being released each day into the Wilson's River, which flows into the Richmond River. Moreover the flooding events of 2022 experienced in QLD, NSW, Tasmania and Victoria are being described, as unprecedented, but climate change impacts such as extreme rainfall, flooding events and bushfires, are likely to increase into the future, making these events the new norm.

North Grafton Sewage Treatment Plant Strategy Report WS14064-October 2014, prepared by NSW Public Works investigated a range of options for the upgrading of North Grafton Sewage Treatment Plant (STP), including:

1. Transfer to Clarenza STP and decommissioning of the North Grafton STP
 2. Replacement of the North Grafton STP with a modern STP and
 3. Increased recycled water reuse by irrigation to reduce discharge to the Clarence River.
- June 2017 Council resolved to replace the North Grafton STP.

Staff then commissioned GHD to undertake an Environmental Impact Assessment (EIS). Their 1114 page report Clarence Valley Council North Grafton Sewage Treatment Plant Replacement Environmental Impact Statement, February 2019 [is available via this hyperlink](#).

Table 3.2 Options Analysis Summary, Page 13, examined four options for the future of North Grafton STP.

1. Transfer to, and expansion of the Clarenza STP at peak wet weather flows (PWWF).
2. Transfer to, and expansion of the Clarenza STP at 3xADWF
3. Replacement of the North Grafton STP
4. Do nothing (this was not assessed by PWA (2017), as it did not meet the PRP requirement, but has been added for completeness

The options analysis summary of the key risks and advantages/disadvantages of the options is shown in Table 3-2 page 13.

Table 3-2 indicates, there is not much difference between the first three options. All meet the EPA requirements but the replacement of the North Grafton STP is the most cost effective solution of the three. This was recommended as the preferred option, which was endorsed by Council at its meeting on 27 June 2017.

The EIS (which is the environmental approval for the project) was reported to Council on three occasions – the EIS tender was awarded at Council's 20 February 2018 meeting (Resolution 16.003/18), a variation to the contract for additional assessment was approved at Council's 18 September 2018 meeting (Resolution 15.159/18) and following public exhibition the EIS itself was reported to the Council meeting of 25 June 2019 for determination with Council unanimously resolving to approve the EIS and proceed with the design for the North Grafton Sewage Treatment Plan upgrade.

The Clarenza option has no such infrastructure near by and has spare capacity at present but also has the capacity to be increased to 25K for future needs as mentioned in the analysis of the options.

Financial considerations

These and other relevant issues were provided in the officer's report to the September OCM. If the recommendation in this Minute is adopted there may be a need for a further report thereon. Clarenza STP does not have sufficient spare capacity for the load from North Grafton and would need to be augmented before any transfers could be accepted. The capital cost of this was estimated at \$31.6 million in 2017, compared with the current adopted option of \$26.8 million.

Summary

I recognise and appreciate the support from Cr Toms in preparing this Minute. After several years of consideration, it is time to decide and to move forward with this important matter.

ITEM 05.22.020 MAYORAL MINUTE RATE PEG METHODOLOGY REVIEW

Meeting	Council	25 October 2022
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

This Minute is intended to secure Councils support to having input into the current IPART rate peg methodology review.

PROPOSED MOTION

That Council lodge a submission to the IPART rate peg methodology review and convey suggestions for improvement to the present system of establishment of the rate peg limit.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

BACKGROUND

IPART has been setting the rate peg for councils across NSW since 2010 under delegation from the Minister for Local Government and has now released an Issues Paper, which sets out some of the principal factors that affect how the rate peg is set.

The rate peg is designed to protect ratepayers from excessive increases in council rates by limiting the total amount by which councils can increase revenue from rates each year. IPART calculates the rate peg by applying a methodology that comprises the Local Government Coast Index (LGCI), a productivity factor and a population factor. Currently the LGCI and productivity factor are the same for all councils while the population factor was introduced for 2022-23 rating year and varies depending on population growth in each council area.

There is currently a two year lag between the time period when the above factors are measured and when councils can apply the rate peg to their general income. This caused the recent situation of IPART determining a point seven of one percent rate peg when inflation was over five percent.

In late August 2022 Local Government Minister Ms Wendy Tuckerman issued Terms of Reference for the Review as follows: -

1. Possible approaches to set the rate peg methodology to ensure it is reflective of inflation and costs of providing local government goods and services;
2. Possible approaches to stabilising volatility in the rate peg, and options for better capturing more timely changes in both council's costs and inflation movements.
3. Alternate data sources to measure changes in council's costs.
4. Options for capturing external changes, outside of council's control, which are reflected in council's costs.
5. The effectiveness of the current LGCI approach;
6. Whether the population growth factor is achieving its intended purpose

The Minister also requested that IPART have regard to: -

- A. The Government's commitment to protect ratepayers from excessive rate increases and to independently set a rate peg that is reflective of inflation and cost and enabling financial sustainability for councils.
- B. The differing needs and circumstances of councils and communities in metropolitan, regional and rural areas of the State;
- C. Ensuring the rate peg is simple to understand and administer.

Summary

Submissions to the Issues Paper are due on 4 November 2022. General rates are council's largest revenue source, apart from Government Grants and are vital to enabling continuation the existing range and level of services that our communities expect. I encourage council to lodge a submission on this important matter.

6. NOTICES OF MOTION

Nil

7. REPORTS

OFFICE OF THE GENERAL MANAGER

ITEM 07.22.223 RATE PEG FOR CLARENCE VALLEY COUNCIL FOR 2023/2024

Meeting	Council	25 October 2022
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	A. Information Paper - rate peg for councils for 2023/2024 ↓	

SUMMARY

This report advises Council and community of the rate peg set for Clarence Valley Council for 2023/2024.

OFFICER RECOMMENDATION

That the rate peg set by IPART for Clarence Valley Council be noted and that Council consider its application in preparation of the 2023/2024 budget.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership
Objective We will have an effective and efficient organisation

KEY ISSUES

IPART has set the rate for Clarence Valley Council at a total 5.4%.

Change in population	Supplementary valuations percentage	Population factor	Rate peg (including population factor)
2.4%	0.7%	1.7%	5.4%

Council will give consideration to application of the rate peg when it sets its 2023/2024 budget.

BACKGROUND

The attached document includes the background information relating to setting of the rate peg.

COUNCIL IMPLICATIONS**Budget/Financial**

Nil in relation to adopting the recommendation of this report.

Asset Management

Nil in relation to adopting the recommendation of this report.

Policy and Regulation

Nil in relation to adopting the recommendation of this report.

Consultation

Nil in relation to adopting the recommendation of this report.

Legal and Risk Management

Nil in relation to adopting the recommendation of this report.

Climate Change

Nil in relation to adopting the recommendation of this report.

Rate peg for NSW councils for 2023-24

29 September 2022

IPART has set the 2023-24 rate peg for each council at between 3.7% and 6.8%, depending on its population factor. The population factor ranges from 0% to 3.1% (see Table 2 for the population factor and rate peg for each council).

The rate peg for 2023-24 is based on the change in the Local Government Cost Index (LGCI), an adjustment for changes in the superannuation guarantee and a population factor that is specific to each council.

The rate peg is the maximum percentage councils can increase their income from rates by. Revenue from rates represents one of the main sources of income for councils in NSW. The importance of rates revenue varies for different councils but, on average, it represents more than a third of councils' combined total income. Councils also receive income from other sources including grants and contributions, and fees and charges for goods and services they deliver. The rate peg does not constrain income from these other sources.

The rate peg protects ratepayers from excessive rate increases, while ensuring councils receive a fair amount of income from rates which enables them to provide quality services for their communities.

We have used our existing methodology

We are currently reviewing the rate peg methodology. We will be looking at new approaches to setting the rate peg that reflect, as far as possible, changes in inflation and local government costs, while continuing to protect ratepayers from excessive rate increases.

The rate peg for 2023-24 was calculated using our existing rate peg methodology. This involves considering annual changes in the average costs faced by NSW councils and each council's population growth. We have also adjusted for the change to the superannuation guarantee for 2021-22.

The 2023-24 rate peg before adjusting for population growth is 3.7%

The rate peg in 2023-24, before adjusting for population growth, is below the Australian Bureau of Statistics' (ABS) year-ended Consumer Price Index (CPI) inflation rate of 5.3% to June 2022.^a The CPI measure of inflation is the percentage change in a basket of goods and services consumed by the typical household. The CPI inflation rate for Sydney of 5.3% reflects the change in prices for the typical household between the June quarter 2021 and the June quarter 2022.

The LGCI used to calculate the rate peg is the percentage change in a basket of cost components incurred by a typical council in NSW, weighted according to the 2019 cost survey of NSW councils. The rate peg reflects the sharp rise in prices in 2021-22, but only of those cost components that are measured in the LGCI. The rate peg in 2023-24 is calculated with a year-on-year methodology and is the change in average price between the 2020-21 and 2021-22 financial year.

The year-on-year methodology we use for the LGCI differs from the quarter-on-quarter methodology used to calculate headline inflation by the ABS. Year-on-year inflation tends to be more stable than quarter-on-quarter inflation and is more reflective of costs over a full year.

The rate peg is based on the costs of a typical council

The CPI and the LGCI measure the change in prices of different cost components. The key drivers of CPI inflation in the 2021-22 financial year not measured in the rate peg include:

- Housing, which reflects 25% of the CPI and rose 6.5%.
- Food and non-alcoholic beverages, which reflects 17% of the CPI and rose 6.0%.
- Furnishings, household equipment and services, which reflects 9% of the CPI and rose 5.6%.

A key component of the rate peg is employee costs, which reflect approximately 38.6% of the LGCI. Employee costs have increased to a lesser extent than inflation as for most councils they are set by a state award. The NSW public sector wage price index rose by 2.03% in the 2021-22 financial year. Construction works - road, drains, footpaths, kerbing, bridges are also a significant component of the LGCI, contributing 22.0%. The road and bridges construction index rose 5.2% in the 2021-22 financial year.

The rate peg is a lagged measure

The rate peg for 2023-24 is based on the change in the average price of the costs incurred by a typical council between the 2020-21 and 2021-22 financial year. This is the most up to date actual data currently available. A 2-year lag exists between when the data is first collected, and the rate peg is applied by councils.

^a Sydney CPI inflation rate. The national CPI inflation rate to June 2022 is 6.1%.

We are reviewing our methodology and welcome feedback

We have begun a review of the rate peg methodology. We will be looking at new approaches to setting the rate peg that reflect, as far as possible, changes in inflation and local government costs, while continuing to protect ratepayers from excessive rate increases.

IPART will be consulting extensively as part of this review and is interested in all stakeholder views. We want to hear from both councils and ratepayers about what is and isn't working with the rate peg, and how it could be improved.

We have received the [terms of reference](#) from the Minister for Local Government for this review, and we are seeking feedback from stakeholders on our recently published [Issues Paper](#).

The rate peg will maintain per capita general income

Our approach to the rate peg includes a population factor for each council. The population factor is calculated to maintain per capita general income over time as councils' populations grow. The population factor is calculated as the change in residential population less any increase in general revenue from supplementary valuations.

We set the rate peg for 2023-24 using the following formula:

$$\text{Rate peg} = \text{change in LGCI} - \text{productivity factor} + \text{other adjustments} + \text{population factor}$$

The components of the rate peg for 2023-24 are:

- The change in the LGCI to June 2022 of 3.5%.
- A productivity factor set to 0.0% because the ABS indices we use for the LGCI incorporate improvements in labour and capital productivity.
- An adjustment of 0.2% for the increase in superannuation guarantee payments from 9.5% in 2020-21 to 10.0% in 2021-22.
- A population factor for each council (see Table 2 for the population factor for each council).

The NSW Government has undertaken to fully fund the increase in councils' 2023-24 emergency services levy (ESL) contributions, so the rate peg does not include increases in the cost of the ESL^b.

^b LGCI uses the ESL payments lagged by one year. For example, the LGCI for 2023-24 uses the change in the ESL between 2021-22 and 2022-23.

We note:

- 41 (32%) of the 128 councils received a population factor greater than 0% and a rate peg between 3.7% and 6.8%.
- Many councils will receive additional income from supplementary valuations. For example, 105 councils (82%) received additional income from supplementary valuations in 2020-21. Of those, 23 councils (18%) received more income from supplementary valuations than was required to maintain per capita income.

Background information

What is the rate peg?

The rate peg is the maximum percentage amount by which a council may increase its general income for the year. For most councils, general income consists entirely of rates income. The rate peg does not apply to stormwater, waste collection, water and wastewater charges.

Councils can increase general income by up to the rate peg, less than the rate peg, or not at all. If a council does not apply the full rate peg increase, it will be able to catch up on the shortfall in general income over any one or more of the next 10 years.

The rate peg applies to general income in total, and not to individual ratepayers' rates. This means that councils may increase categories of rates by more than, or less than the rate peg percentage, as long as the total increase in general income remains within the rate peg. Individual ratepayer's rates are also affected by other factors, such as land values determined by the Valuer General of NSW.

The rate peg is typically based on the change in the Local Government Cost Index (LGCI), a productivity factor, any special adjustments and, since 2022-23, a population factor for each council. However, IPART has discretion over the rate peg percentage and can adjust the rate peg above or below the percentage produced by the LGCI, productivity factor and population factor, if we consider this appropriate. The 2023-24 rate peg will also include an adjustment for the change in the superannuation guarantee in 2021-22.

We have begun a review of the rate peg methodology. While the rate peg for 2023-24 of 3.7% (before applying the population factor for each council) is below the rate of CPI inflation for the 2021-22 financial year, it reflects the movement in the costs incurred by a typical council in providing services to its community.

What else can councils do to vary their income?

Councils may want or need to increase their general income by more than the rate peg in some years – for example so they can introduce new services, improve service quality or to become more financially sustainable. Councils can seek additional increases to general income above the rate peg on a temporary or permanent basis by applying to IPART for a special variation (SV). Councils can also apply to IPART to increase their minimum rates above the statutory limit (MR increase).

Councils applying for an SV or MR increase must consult with their communities and satisfy the criteria listed in the OLG's SV/MR increase Guidelines. The latest edition of the Guidelines was published in November 2020 and will apply to 2023-24 SV/MR increase application assessments. The Guidelines are available on [IPART's website](#). Councils applying for an SV or MR increase for 2023-24 must apply to IPART by 3 February 2023. IPART's website also includes general information on the requirements and recent applications from councils.

What is the LGCI?

The LGCI is a price index for councils in NSW. It measures price changes over the past year for goods, materials and labour used by an average council. It is similar in principle to the CPI, which is used to measure changes in prices for a typical household.

The LGCI is designed to measure the average change in prices of a fixed 'basket' of goods and services that are purchased by councils, relative to the prices of the same basket in a base period.

- The index has 26 cost components, such as employee benefits and on-costs, and building materials for roads, bridges and footpaths. The cost components represent the purchases made by an average council to undertake its typical activities. To measure changes in these cost components, we mainly use ABS price indexes for wages costs, producer and consumer prices.
- The ABS uses quality adjustments in its price measures to take into account improvements in labour and capital productivity.

To calculate the LGCI over the year to June 2022, we combined the 26 cost components using expenditure weights based on NSW councils' expenditure in 2017-18 and 2018-19. We have in the past updated the expenditure weights every four to five years to ensure the relativities between cost components remain accurate. The last reweight of the LGCI was completed in May 2020, using the results of the 2019 cost survey of councils.

The cost components measure price changes over the year to June 2022, compared to the year to June 2021, with the exception of the ESL, where we have used forecast costs for 2022-23 to measures in the ESL from 2021-22 to 2022-23. The NSW Government has undertaken to fully fund the increase in ESL contributions, so that councils will pay the same amount they paid last year.

For more information on the LGCI see our [LGCI Information Paper](#). For more information about the 2019 council cost survey, see our [website](#).

What price changes influenced the LGCI?

The change in the LGCI over the year to June 2022 was 3.5%. The main contributors to the change include:

- An increase of 2.0% in employee benefits and on-costs, measured by the ABS Wage Price Index for the NSW public sector.
- Increases in automotive fuel of 30.3% measured by the ABS Consumer Price Index for automotive fuel – Sydney.
- Increases in gas, and water and sewerage of between 2.3% and 4.0% measured by the ABS Sydney Consumer Price Indices for gas and other household fuels, and water and sewerage.
- An increase of 5.2% in construction works – roads, drains, footpaths, kerbing, bridges costs, measured by the ABS Producer Price Index for roads and bridge construction – NSW.
- An increase of 1.7% in other business services, measured by the ABS Producer Price Index for other administrative services, not elsewhere classified.
- Increases in motor vehicle maintenance and motor vehicle parts of 5.2% and 5.9% respectively, measured by the ABS Producer Price Indices for Motor vehicle parts and motor vehicle repairs and servicing.

Table 1 on page 9 shows the price changes in all cost components of the LGCI.

What adjustments have we made?

The 2023-24 rate peg will include an adjustment of 0.2% to allow for the change in the superannuation guarantee in 2021-22.

The rate peg is largely measured by the changes in the LGCI, in which labour costs are based on the Wage Price Index (WPI) published by the ABS. However, the WPI does not include non-wage costs such as superannuation. It therefore does not capture the increases in labour costs faced by employers arising from increases in the superannuation guarantee.

The 2021-22 change in the superannuation guarantee was 0.5% (from 9.5% to 10.0%). When weighted at 38.6% (the weight of labour costs in the LGCI), it represents an additional 0.2% change in councils' labour costs. This adjustment allows the rate peg to more accurately measure the cost of labour for councils.

How do we calculate the population factor?

The population factor is calculated for each council and is equal to the annual change in its residential population, adjusted for revenue received from supplementary valuations. The population factor is equal to the maximum of the change in residential population less the supplementary valuations percentage or zero.

Councils with no or negative population growth will have a population factor of zero, ensuring no council receives a lower increase in general income, relative to a rate peg calculated using the LGCI, productivity factor and any adjustments. Councils that have recovered more from supplementary valuations than is required to maintain per capita general income as their population grows will also have a population factor of zero.

The population factor is calculated using the following formula:

$$\text{Population factor} = \max(0, \text{change in population} - \text{supplementary valuations percentage})$$

The change in population has been calculated using the estimated residential population (ERP) for 2020 and 2021 published by the ABS. This is the most up to date ABS population data.

The calculation is shown in the following formula:

$$\text{Change in population} = \max\left(0, \frac{\text{ERP 2021}}{\text{ERP 2020}} - 1\right)$$

The supplementary valuations percentage for each council is calculated using the following formula:

$$\text{Supplementary valuations percentage} = \max\left(0, \frac{\text{supplementary valuations}}{\text{notional general income yield}}\right)$$

In this formula:

supplementary valuations mean the total value of adjustments to a council's general income for 2020-21 that the council made under paragraphs 509(2)(b) and (c) of the *Local Government Act 1993* (LG Act). This is the amount recorded as 'Plus or minus adjustments' in each council's 'Special schedule - Permissible income for general rates' for 2021-22 submitted to the Office of Local Government (OLG) in the 2021-22 Financial Statements.

notional general income yield means the general income of the council for 2020-21 prior to adjustment under paragraphs 509(2)(b) and (c) of the LG Act. This is the amount recorded as 'Last year notional general income yield' in each council's 'Special schedule - Permissible income for general rates' for 2021-22 submitted to the OLG in the 2021-22 Financial Statements.

The supplementary valuations percentage is calculated based on supplementary valuations revenue and notional general income yield for the same year as the ERP data. Each year we will update the formula.

Worked example

For example, a council has a rate peg of 4.1%. Its ERP grew by 0.9% in 2021-22 while it received income from supplementary valuations equal to 0.5% of the notional general income yield over the same period.

We calculated the council's rate peg as follows:

$$\text{Change in population} = \max\left(0, \frac{35,046}{34,730} - 1\right) = 0.9\%$$

$$\text{Supplementary valuations percentage} = \max\left(0, \frac{\$120,000}{\$25,186,000}\right) = 0.5\%$$

$$\text{Population factor} = \max(0, 0.9\% - 0.5\%) = 0.4\%$$

$$\text{Rate peg} = 3.5\% - 0\% + 0.2\% + 0.4\% = 4.1\%$$

For more information on the population factor, see our final report on including population growth in the rate peg on our [website](#).

Ratepayers can access council hardship measures

We encourage ratepayers that are experiencing hardship or finding it difficult to pay their rates to contact their council. Councils offer a range of measures that can provide assistance to ratepayers in these circumstances.

Table 1 Change in the LGCI for the year ended June 2022

Cost components	Weight as at end June 2021 %	Price change to end June 2022 (% annual average)	Contribution to index change (percentage points)
Operating cost components			
Employee benefits and on-costs ^a	38.6	2.0	0.78
Plant and equipment leasing	0.3	2.8	0.01
Operating contracts	2.1	2.0	0.04
Legal and accounting services	0.8	3.3	0.03
Office and building cleaning services	0.3	2.2	0.01
Other business services	6.2	1.7	0.10
Insurance	1.2	0.9	0.01
Telecommunications, telephone and internet services	0.4	-0.9	0.00
Printing, publishing and advertising	0.6	15.3	0.09
Motor vehicle parts	0.3	5.9	0.02
Motor vehicle repairs and servicing	0.4	5.2	0.02
Automotive fuel	0.7	30.3	0.23
Electricity	1.9	-4.8	-0.09
Gas	0.1	4.0	0.00
Water and sewerage	0.4	2.3	0.01
Road, footpath, kerbing, bridge and drain building materials	2.5	5.2	0.13
Other building and construction materials	0.7	7.8	0.05
Office supplies	0.3	2.9	0.01
Emergency services levy ^b	1.5	0.0	0.00
Other expenses ^c	8.4	3.9	0.33
Capital cost components			
Buildings – non-dwelling	4.2	7.8	0.32
Construction works – roads, drains, footpaths, kerbing, bridges	22.0	5.2	1.15
Construction works – other	2.5	5.2	0.13
Plant and equipment – machinery, etc.	3.0	4.3	0.13
Plant and equipment – furniture, etc.	0.1	7.4	0.01
Information technology and software	0.6	1.8	0.01
Total change in LGCI	100.0		3.5

a. Employee benefits and on-costs includes salaries and wages.

b. The NSW Government has undertaken to fully fund the increase in 2021-22 ESL contributions.

c. Includes miscellaneous expenses with low weights in the index.

Note: Figures may not add due to rounding. Percentage changes are calculated from unrounded numbers.

Table 2 Population factors and rate pegs for all councils

Councils with a population factor greater than 0% for 2023-24 are indicated by bolded blue font.

Council	Change in population	Supplementary valuations percentage	Population factor	Rate Peg (including population factor)
Albury City	1.3%	1.6%	0.0%	3.7%
Armidale Regional	0.0%	0.2%	0.0%	3.7%
Ballina Shire	1.2%	1.0%	0.2%	3.9%
Balranald Shire	0.0%	0.0%	0.0%	3.7%
Bathurst Regional	1.2%	1.1%	0.1%	3.8%
Bayside	0.5%	0.7%	0.0%	3.7%
Bega Valley Shire	0.9%	0.5%	0.4%	4.1%
Bellingen Shire	0.8%	0.0%	0.8%	4.5%
Berrigan Shire	0.3%	0.3%	0.0%	3.7%
Blacktown City	1.1%	2.4%	0.0%	3.7%
Bland Shire	0.0%	0.0%	0.0%	3.7%
Blayney Shire	0.4%	0.3%	0.0%	3.7%
Blue Mountains City	0.0%	0.0%	0.0%	3.7%
Bogan Shire	0.0%	0.0%	0.0%	3.7%
Bourke Shire	0.0%	0.0%	0.0%	3.7%
Brewarrina Shire	0.0%	0.0%	0.0%	3.7%
Broken Hill City	0.0%	0.0%	0.0%	3.7%
Burwood	0.0%	0.4%	0.0%	3.7%
Byron Shire	1.2%	0.3%	0.9%	4.6%
Cabonne	0.6%	0.2%	0.4%	4.1%
Camden	6.2%	3.1%	3.1%	6.8%
Campbelltown City	0.9%	0.5%	0.4%	4.1%
Canterbury-Bankstown	0.0%	0.0%	0.0%	3.7%
Carrathool Shire	0.0%	0.0%	0.0%	3.7%
Central Coast	0.4%	0.3%	0.1%	3.8%
Central Darling Shire	0.3%	0.6%	0.0%	3.7%
Cessnock City	2.9%	2.8%	0.1%	3.8%
City of Canada Bay	0.0%	0.9%	0.0%	3.7%
City of Parramatta	0.0%	0.7%	0.0%	3.7%
City of Ryde	0.0%	1.1%	0.0%	3.7%
City of Sydney	0.0%	0.0%	0.0%	3.7%
Clarence Valley	2.4%	0.7%	1.7%	5.4%
Cobar Shire	0.0%	0.0%	0.0%	3.7%

Council	Change in population	Supplementary valuations percentage	Population factor	Rate Peg (including population factor)
Coffs Harbour City	0.6%	0.5%	0.1%	3.8%
Coolamon Shire	0.3%	0.4%	0.0%	3.7%
Coonamble Shire	0.0%	0.0%	0.0%	3.7%
Cootamundra-Gundagai Regional	0.0%	0.3%	0.0%	3.7%
Cowra Shire	0.4%	0.3%	0.2%	3.9%
Cumberland City	0.0%	0.0%	0.0%	3.7%
Dubbo Regional	0.3%	1.1%	0.0%	3.7%
Dungog Shire	1.2%	0.5%	0.7%	4.4%
Edward River	0.8%	0.1%	0.7%	4.4%
Eurobodalla Shire	1.0%	0.4%	0.6%	4.3%
Fairfield City	0.0%	0.5%	0.0%	3.7%
Federation	1.1%	0.4%	0.6%	4.3%
Forbes Shire	0.1%	0.1%	0.1%	3.8%
Georges River	0.0%	0.4%	0.0%	3.7%
Gilgandra Shire	0.0%	0.3%	0.0%	3.7%
Glen Innes Severn	0.0%	0.0%	0.0%	3.7%
Goulburn Mulwaree	0.8%	1.5%	0.0%	3.7%
Greater Hume Shire	1.6%	0.6%	1.0%	4.7%
Griffith City	0.1%	0.4%	0.0%	3.7%
Gunnedah Shire	0.2%	0.1%	0.1%	3.8%
Gwydir Shire	0.5%	0.1%	0.4%	4.1%
Hawkesbury City	0.4%	0.4%	0.0%	3.7%
Hay Shire	0.0%	0.5%	0.0%	3.7%
Hilltops	0.0%	0.0%	0.0%	3.7%
Hornsby Shire	0.0%	0.2%	0.0%	3.7%
Hunters Hill	0.0%	0.0%	0.0%	3.7%
Inner West	0.0%	0.0%	0.0%	3.7%
Inverell Shire	0.0%	0.2%	0.0%	3.7%
Junee Shire	0.9%	0.8%	0.1%	3.8%
Kempsey Shire	0.6%	1.0%	0.0%	3.7%
Kiama Municipal	1.4%	0.0%	1.4%	5.1%
Ku-ring-gai	0.0%	0.4%	0.0%	3.7%
Kyogle	0.6%	0.2%	0.4%	4.1%
Lachlan Shire	0.0%	0.0%	0.0%	3.7%
Lake Macquarie City	1.1%	1.3%	0.0%	3.7%

Information Paper

Rate peg for NSW councils for 2023-24

Council	Change in population	Supplementary valuations percentage	Population factor	Rate Peg (including population factor)
Lane Cove	0.0%	0.1%	0.0%	3.7%
Leeton Shire	0.0%	0.0%	0.0%	3.7%
Lismore City	0.3%	0.5%	0.0%	3.7%
Lithgow City	0.2%	0.2%	0.0%	3.7%
Liverpool City	1.6%	1.2%	0.4%	4.1%
Liverpool Plains Shire	0.0%	0.0%	0.0%	3.7%
Lockhart Shire	0.0%	0.4%	0.0%	3.7%
Maitland City	3.5%	1.3%	2.2%	5.9%
Mid-Coast	0.8%	0.6%	0.2%	3.9%
Mid-Western Regional	0.8%	0.4%	0.3%	4.0%
Moree Plains Shire	0.0%	0.1%	0.0%	3.7%
Mosman	0.0%	0.1%	0.0%	3.7%
Murray River	2.0%	1.6%	0.4%	4.1%
Murrumbidgee	0.0%	0.7%	0.0%	3.7%
Muswellbrook Shire	0.0%	0.2%	0.0%	3.7%
Nambucca Valley	0.2%	0.9%	0.0%	3.7%
Narrabri Shire	0.0%	0.1%	0.0%	3.7%
Narrandera Shire	0.0%	0.0%	0.0%	3.7%
Narromine Shire	0.0%	0.1%	0.0%	3.7%
Newcastle City	0.9%	0.9%	0.0%	3.7%
North Sydney	0.0%	0.7%	0.0%	3.7%
Northern Beaches	0.0%	0.3%	0.0%	3.7%
Oberon	0.1%	0.4%	0.0%	3.7%
Orange City	0.7%	0.9%	0.0%	3.7%
Parkes Shire	0.0%	0.0%	0.0%	3.7%
Penrith City	1.3%	3.6%	0.0%	3.7%
Port Macquarie-Hastings	1.9%	0.9%	1.0%	4.7%
Port Stephens	1.6%	0.9%	0.7%	4.4%
Queanbeyan-Palerang Regional	2.0%	1.1%	0.9%	4.6%
Randwick City	0.0%	0.5%	0.0%	3.7%
Richmond Valley	0.3%	0.4%	0.0%	3.7%
Shellharbour City	2.3%	2.4%	0.0%	3.7%
Shoalhaven City	1.6%	0.7%	0.9%	4.6%
Singleton	0.8%	0.6%	0.2%	3.9%
Snowy Monaro Regional	1.0%	0.7%	0.3%	4.0%

Council	Change in population	Supplementary valuations percentage	Population factor	Rate Peg (including population factor)
Snowy Valleys	0.0%	0.4%	0.0%	3.7%
Strathfield	0.0%	0.2%	0.0%	3.7%
Sutherland Shire	0.8%	1.1%	0.0%	3.7%
Tamworth Regional	0.4%	0.8%	0.0%	3.7%
Temora Shire	0.0%	0.5%	0.0%	3.7%
Tenterfield Shire	0.5%	0.0%	0.5%	4.2%
The Hills Shire	2.6%	2.1%	0.5%	4.2%
Tweed Shire	1.1%	0.8%	0.3%	4.0%
Upper Hunter Shire	0.0%	0.1%	0.0%	3.7%
Upper Lachlan Shire	1.8%	2.3%	0.0%	3.7%
Uralla Shire	0.0%	0.0%	0.0%	3.7%
Wagga Wagga City	1.0%	0.8%	0.1%	3.8%
Walcha	0.0%	0.0%	0.0%	3.7%
Walgett Shire	0.0%	0.1%	0.0%	3.7%
Warren Shire	0.0%	0.1%	0.0%	3.7%
Warrumbungle Shire	0.0%	0.0%	0.0%	3.7%
Waverley	0.0%	0.4%	0.0%	3.7%
Weddin Shire	0.0%	0.1%	0.0%	3.7%
Wentworth Shire	0.7%	1.2%	0.0%	3.7%
Willoughby City	0.0%	0.2%	0.0%	3.7%
Wingecarribee Shire	1.1%	0.7%	0.4%	4.1%
Wollondilly Shire	1.4%	2.0%	0.0%	3.7%
Wollongong City	0.4%	0.7%	0.0%	3.7%
Woollahra Municipal	0.0%	0.2%	0.0%	3.7%
Yass Valley	1.7%	1.1%	0.5%	4.2%

Note: Councils with a population factor greater than zero are shown in blue bold font.

Note: Figures may not add due to rounding. Percentage changes are calculated from unrounded numbers.

ITEM 07.22.224 REGIONAL GROWTH ENVIRONMENT AND TOURISM FUND

Meeting	Council	25 October 2022
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

This report seeks consideration by the Council of alternative uses for the Regional Growth Environment and Tourism Fund (RGETF) should the required grant milestone not be met by 31 October 2022.

OFFICER RECOMMENDATION

That Council makes representations to the Deputy Premier, the Hon. Paul Toole MP to seek the redistribution of the remainder of Regional Growth – Environment and Tourism Funds to redevelopment of the Grafton Regional Aquatic Centre.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

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

KEY ISSUES

Council was awarded Regional Growth – Environment and Tourism Growth Funds for the redevelopment of Calypso Holiday Park. The Restart NSW funding deed was signed by in December 2018 totalling \$6.72M. Approximately \$400,000 has been expended to date in the development of the design and in preparation of the tender documentation.

As Council has been unable to progress the project within the timeframe of the grant, Restart NSW has advised that the funds will be withdrawn.

The outstanding milestone being confirmation of the conditions of an Indigenous Land Use Agreement (ILUA) by 31 October 2022.

Preliminary investigation through the Department of Regional Development NSW has found that legislative change is required to enable the redistribution of funds to an alternative purpose within the LGA.

BACKGROUND

As above

COUNCIL IMPLICATIONS**Budget/Financial**

There is approximately \$6.3m in unexpended grant funds allocated to the upgrade of Calypso Holiday Park. If the milestone is not met and funds are not redistributed, Council will need to consider other means of funding the Calypso Holiday Park upgrade.

Asset Management

The recommendation of this report seeks to retain grant funds for the redevelopment of an alternative Council owned asset to the one they were intended.

Policy and Regulation

Nil

Consultation

Council Officers have undertaken consultation with the funding body (Restart NSW) throughout the project development to date.

Legal and Risk Management

As detailed in the report, should Council not be able to meet the milestone before 31 October 2022, it is the intention of the State Government to withdraw funds.

Climate Change

Nil

ITEM 07.22.225 ALTERNATE ACTIVITIES DURING CLOSURE OF GRAFTON OLYMPIC POOL

Meeting	Council	25 October 2022
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

This report seeks Council's consideration of allocation of funds to coordinate alternative activities during the summer period in Grafton following the recent closure of the Grafton Olympic Pool.

OFFICER RECOMMENDATION

That Council endorse allocation of a budget of \$70,000 (PJ996750) to be included in the Q2 Quarterly Budget Review Statement reported in February 2023 to create a program of events in Grafton including:

- Operation of the Grafton Olympic Pool Waterslide and picnic area with a subsidised \$2 entry fee payable by patrons for session use during the months of December, January and February or until construction commences.
- A supervised Splash Pool/Slide located in Grafton with the patrons paying the entry fee charged directly by the operator for up to 5 days in January.
- Free art classes at Grafton Regional Art Gallery for up to three weeks in January.
- Subsidised entry to the Archibald Exhibition for use at Grafton Regional Art Gallery during the period of exhibition, with a capped budget of \$5,000.

LINKAGE TO OUR COMMUNITY PLAN

Theme Society

Objective We will have access and equity of services

KEY ISSUES

At its Ordinary Meeting held 27 September 2022, it was resolved (MIN07.22.193) that Council close the Grafton Olympic Pool for the 2022/2023 season.

This report details alternative activities that could be made available for community access during the summer holiday period when the pool would normally experience its highest patronage.

Option 1.

Grafton Olympic Pool Waterslide and picnic area will remain open during December, January and February or until such time as construction commences for session entry. Current normal fee for use is \$2 entry and it is proposed the fee be charged.

Option 2.

Hire a supervised Splash Pool/Slide (3 sessions daily), to be located at a yet to be determined location for up to five days pending availability. Normal entry fee to be charged by operator per entry. Total cost to Council – maximum \$50,000.

Option 3.

Free art classes (approx. \$1,000 per session for artists and educator) at the Grafton Regional Art Gallery for three weeks in January. Total cost to Council approx. \$15,000.

Option 4.

50% subsidised entry to the Archibald Exhibition at Grafton Regional Art Gallery. Total cost to Council dependent on take up, budget required to be capped at \$5,000.

Of note:

1. Entry fees are proposed as access cannot be easily quarantined to residents most affected by the closure of the Grafton Olympic Pool as this detail is not known and therefore access to proposed activities is open to anyone on a first come best dressed basis.
2. Council may resolve to remove options when determining the matter and if doing so the budget allocation should be amended accordingly.

BACKGROUND

As above.

COUNCIL IMPLICATIONS

Budget/Financial

Allocation of \$70,000 will be recorded in the Q2 Quarterly Budget Review Statement (QBRS) and will be drawn from the Grafton Olympic Pool operational PJ96750 where funds permit. Should there be insufficient funds at this time, the deficit variation will be identified in the QBRS.

Asset Management

Nil relating to the recommendation of this report.

Policy and Regulation

As the slide only entry is not identified separately in Council's Annual Fees and Charges, Council is required to resolve specifically to charge it.

Consultation

Staff from the Open Spaces, Community Industry and Engagement, Community Development and Grafton Regional Art Gallery sections have been consulted in the preparation of this report.

Legal and Risk Management

Nil relating to the recommendation of this report.

Climate Change

Nil relating to the recommendation of this report.

ITEM 07.22.226 SIGNIFICANT PRIORITY PROJECTS BOOK

Meeting	Council	25 October 2022
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	A. CVC Priority Projects 2022/2023 V2.0 ↓	

SUMMARY

This report presents Council's significant projects requiring State and Federal funding and requires consideration of priority.

OFFICER RECOMMENDATION

That

1. Council adopt the revised priority order of the significant projects as identified in the attached significant projects book.
2. A copy of the revised significant project book be referred to the Local Federal Member for Page, Kevin Hogan MP and the Local State Member for Clarence, Chris Gulaptis MP.
3. A copy be forwarded to all local State candidates.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

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

KEY ISSUES

The significant projects book enables Council to have a conversation with external funding bodies where it is beyond the scope of Council to fund with own source income.

The revised priority order for projects is provided in response to requests from local Members for greater guidance.

Projects 1 – 4 are listed in priority order as follows (with remaining projects in no particular order):

1. Regional Aquatic Centre - Grafton
2. Rediscover Grafton – CBD Upgrade
3. Maclean Flood Levee Renewal
4. Grafton Regional Saleyard Roof
5. See Park Masterplan

The priority is based on funding and design preparedness to deliver and also where contributions already exist.

The revised priority considers the current status of the Regional Aquatic Centre – Grafton and the fact the Cultural and Community Precinct – Maclean project is now funded and has commenced.

BACKGROUND

As Above

COUNCIL IMPLICATIONS**Budget/Financial**

The significant projects book provides a cost proposal for individual projects.

Asset Management

The significant projects book details proposed asset construction, upgrade and renewal, but does not include whole of life costs, which are considered in Council's Long Term Financial Plan.

Policy and Regulation

N/A

Consultation

The identified significant projects aim to meet the needs of the community as identified in Council's Community Strategic Plan.

Legal and Risk Management

N/A

Climate Change

Considered in design phase for significant projects.

Clarence Valley Council Significant projects

2022 – 2023

V.2.0



PROJECTS

Regional Aquatic Centre - Grafton.....	3
Rediscover Grafton - CBD upgrade.....	5
Maclean Flood Levee renewal.....	7
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REGIONAL AQUATIC CENTRE - GRAFTON

TOTAL PROJECT COST: \$21M

Picture an inclusive, contemporary aquatic facility with a variety of water spaces and support facilities to service needs of the local community and visitors alike – that's the vision for the new Regional Aquatic Centre in Grafton.

The new facility will be able to host regional and State level competitions in the 8 lane 50m pool, while the 25m pool will support cool down activities and will also be to FINA standards. Of huge benefit will be the move to all year round swimming facilities and all ability access. Reconstructing the current public pool will also reduce maintenance costs, with energy efficient options included in the design.

In stages the project delivers a new 50m eight lane outdoor pool and grandstand, a new 25m eight lane heated indoor pool, beach entry learn to swim and program pool, additional and upgraded amenities, shared and recreation space, waterslide, splashpad and dive pool.

The Centre is envisaged as a driver in tourism growth toward the hinterland and is well placed to service the needs of visiting teams to the Brisbane 2035 Olympics seeking to train in a similar climatic environment, and in close proximity to SE QLD.

Council has an approved DA for elements requiring development consent. The project is shovel ready and we will be progressing a two stage tender in late 2022.



1

3



Artist's impression of the new indoor facility and 50m pool (Stage One of the Grafton Aquatic Centre redevelopment). Stage 2 (not yet designed) in pink



REDISCOVER GRAFTON - CBD UPGRADE



TOTAL PROJECT COST: \$20-25M

2

Grafton is the economic heart of the Clarence Valley with unrealised potential, centred around the renewal of the CBD. Since the highway bypass was opened, the local community has been working on ideas to attract visitors, support economic activity and provide a great place for people to enjoy. Taking advantage of our sub-tropical climate and links to the Clarence River, the initiative will transform the way people use Prince St and the CBD, making it a more attractive place to socialise, connect and support local businesses.

With the support of the local community, the Grafton Chamber of Commerce, Transport for NSW and many other stakeholders, Council finalised the Grafton Precinct Plan, Transport Strategy and Car Parking Audit and Strategy in July 2021. Implementing these plans will meet many of the aspirations of the community identified in the Community Strategic Plan:

5

- encourage people to re-discover Grafton and support tourism, business confidence and investment
- celebrate the culture and heritage of Grafton, particularly our First Nations People
- make the CBD greener, cooler and more attractive through shade, trees and landscaping
- make the CBD safer and more accessible for the whole community
- provide more opportunities for outdoor dining, events and space for shared experiences
- Ensure adequate, safe and accessible car parking within the Grafton CBD as well as adequate parking for RVs

The new Grafton Bridge and realigned route of the Summerland Way creates an opportunity to slow the speed of vehicles and provide a different reason to visit and spend time in Grafton. A place-making approach to improving Prince Street and the surrounding CBD includes: wider footpaths; support for outdoor dining and a café culture; shared spaces and more shade trees, arbors and a greener, cooler environment; nose-in car parking; more parking for RV's and visitors, bicycles and space for events; better links to the waterfront; opportunities to tell the story of the local community through public art, way-finding signage and other public realm improvements.

Council is continuing to work with key stakeholders and the community to progress the actions identified in the plans. This includes applying for grant funding as it becomes available, progressing immediate priorities, and trialling changes in the street.

The CBD upgrade is a big project that is currently not funded by Council. The next steps to implement the overall plan include further trialling and testing of initiatives, identifying funding sources and progressing concept design in consultation with businesses, landowners and our diverse community.





MACLEAN FLOOD LEVEE RENEWAL

TOTAL PROJECT COST: \$6 MILLION

The flood levee protecting the town of Maclean was constructed in 1975 and provides protection up to approximately the 5% Average Exceedance Probability (AEP) event. A 500m long stretch of the levee has suffered from undermining from wind/wave action and is in danger of losing its integrity. If left untreated the levee structure may fail during smaller than 5% AEP flood events and thus put the adjacent road and residences at risk of flood damage.

Clarence Valley Council's Floodplain Risk Management Committee has identified this project as its highest priority floodplain project, and a detailed design and environmental planning assessment has been prepared. If Council's current floodplain renewal allocation was devoted solely to this shovel-ready project, it would take over five years to complete.

3



Stage	Task	Time frame
1	Tender documentation	8 weeks
2	Tender and assessment	10 weeks
3	Construction	52 weeks

7

GRAFTON REGIONAL SALEYARD ROOF

TOTAL PROJECT COST: \$6.4M

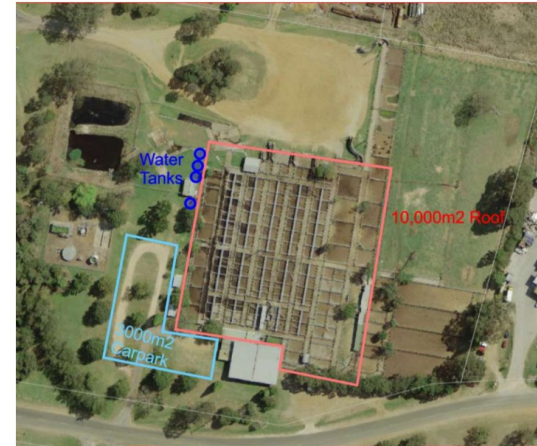
Placing a roof over the selling pens and yards at the Grafton Saleyard will not only improve the welfare and wellbeing of the animals, but will also reduce the impact on the wastewater treatment system by diverting clean water flow from the pens for potential reuse in water tanks.

The scope of the works is set to include:

- a new ventilated 10,000m² roof over the selling pens and yards
- pen fencing and catwalk upgrades
- pen water drainage and reticulation system
- water capture and reuse system
- pen soffall upgrades
- shade sails over the delivery yards; and
- a carpark upgrade.

4

This project is needed to support the largest agricultural industry in our LGA and keep pace with market demands and expectations from our cattle industry.





SEE PARK MASTERPLAN AND UPGRADE

TOTAL PROJECT COST: \$2M

5

Featuring a sensory playground that links water, flora and fauna, the concept masterplan for See Park is designed to couple built infrastructure with the park's natural assets.

The plan was completed based on feedback received from the community consultation sessions and engagement, with community stakeholders forming a large part of the process.

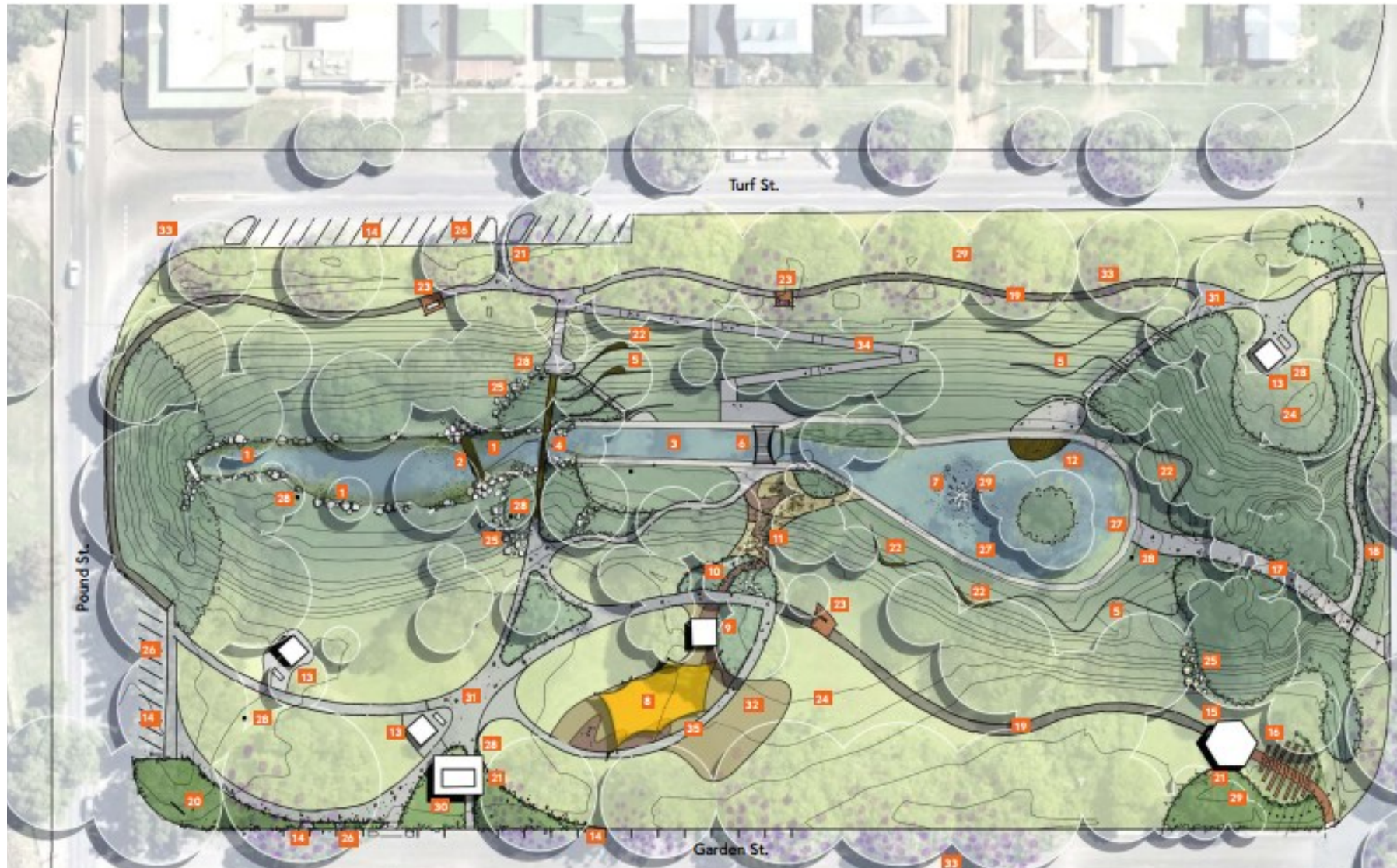
Key items for inclusion in the design have been addressed, with a nature-based play space, new park shelters and barbecue spaces and accessible pathways that will link all areas of the park.

Other key features include a toddler playground extension, additional water crossings, feature lighting in the water fountain and pond, retaining walls for terraced seating and informal park amphitheatre, naturalised water edging, and a new accessible amenities block.

The See Park concept masterplan considered Council's strategic planning documents, policies and procedures, along with the Everyone Can Play guidelines. Development of the plan also considered the heritage and natural values of the park.

Funding for implementation of the plan will be considered in future Council budgets and grant funding.

Masterplan





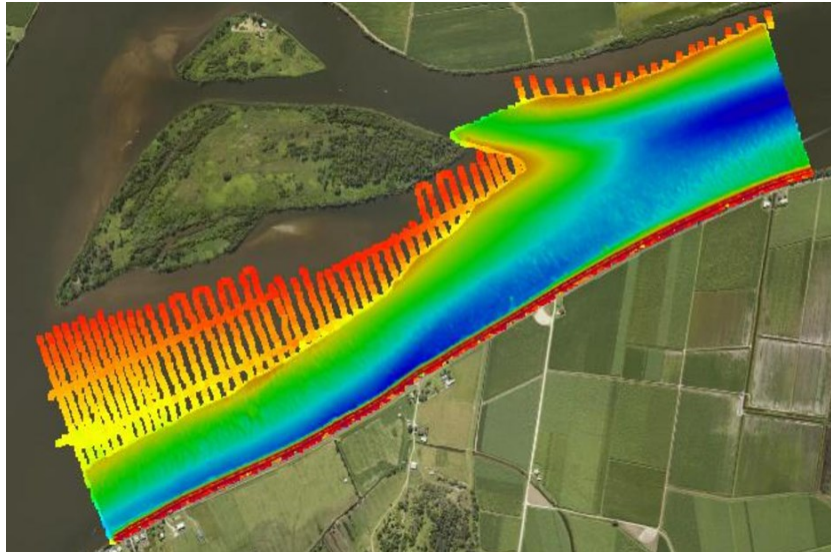
GRAFTON REGIONAL AIRPORT RUNWAY UPGRADE

TOTAL PROJECT COST: \$20M



The upgrade to the Clarence Valley Regional Airport runway will support critical emergency services operations, including air ambulance and rural fire service aircraft operations during bushfire seasons. It will also assist with maintaining, securing and attracting regular passenger transport through the facility and build the capacity of the airport to service local industry and the agricultural sector.





RIVERBANK RESTORATION – MACLEAN TO FARLOWS LANE

TOTAL PROJECT COST: \$15M

The section of Yamba Road between the Maclean town boundary and Farlows Lane is subject to significant riverbank erosion due to the presence of the river channel very close to the bank.

Watermains that service Lower Clarence towns and villages such as Yamba, Iluka, Harwood, Woombah, Chatsworth, Ashby and one of the largest employers in the Clarence Valley – the Harwood Sugar Mill – are located on Yamba Road along this section. Were a significant riverbank slip to occur, it would not only cut access to Yamba Road but could potentially result in a complete failure of the water supply.

Limited rock protection is provided along this section between the low and high tide levels, but this will not prevent a major slip. A fully engineered rock protection option, which protects both the water mains and the road, is estimated to cost around \$15 million. This will ensure a secure and safe water supply for residents, businesses and commercial operations into the future.

NYMBOIDA FISHWAY – SAVING OUR SPECIES

TOTAL PROJECT COST: \$6M

Constructing a fishway at Nymboida will facilitate passage of the endangered and iconic Eastern Freshwater Cod (*Maccullochella ikei*), also known as the Clarence River Cod.

Currently, fish passage is only possible during flood events, limiting the specie's chances of survival.

Clarence Valley and Coffs Harbour City Councils secured access to the region's drinking water source on the Nymboida River by purchasing headworks from State Owned Corporation Essential Energy in October 2021. These headworks include a weir on the Nymboida River, which is identified in the draft *North Coast Regional Water Strategy* as a high priority fish barrier.

Despite its priority status, construction of a fishway on the Nymboida weir faces numerous challenges due to difficulties with site access.



Stage	Task	Time frame
1	Detailed design	26 weeks
2	Environmental assessment	12 weeks
3	Tender documentation – design and construct	16 weeks
4	Tender and assessment	10 weeks
5	Fishway construction	26 weeks



Sinkhole located over water supply tunnel which needs urgent repair.

NYMBOIDA WATER SUPPLY TUNNEL RENEWAL

TOTAL PROJECT COST: \$5M

Urgent renewal of the Nymboida Water Supply Tunnel is needed to give an estimated 30 years' further useful life and secure access to water supply for over 100,000 customers serviced by the Clarence Valley & Coffs Harbour Regional Water Supply Scheme.

In October 2021, Clarence Valley and Coffs Harbour City Councils secured access to their drinking water source on the Nymboida River by purchasing headworks from State Owned Corporation Essential Energy.

The tunnel connecting the river to the supply pipeline, which was built in the 1920s, is in very poor condition (including a large sinkhole as shown to the left) and has an estimated remaining useful life of three years. Renewal of the tunnel will facilitate continuing development of residential, commercial (including agricultural) and industrial sectors within both council areas.

WATER PIPELINE FROM GRAFTON TO MINNIE WATERS & WOOLI

TOTAL PROJECT COST: \$22M

A new watermain from Grafton to Minnie Waters and Wooli will bring the towns' water supply up to a standard enjoyed through the rest of the Clarence Valley.

Two freshwater lakes, Lake Hiawatha (Wooli) and Lake Minnie Water (Minnie Waters), have supplied the villages since the early 1970s, however water quality from these lakes for drinking purposes is becoming more difficult to manage with ever-increasing public health drinking water management systems. Currently, public access to the freshwater lakes is banned to prevent contamination to the water supply, although First Nations rights to access and use are maintained.

The new water main will remove the need for separate water supply treatment plants at these two villages and will give the residents and tourists an improved water supply that is consistent with the standard of water throughout the Clarence Valley.

Other advantages are that customers along the water main route may be able to connect to a potable water supply and hydrants installed along the watermain route will assist in fire fighting operations.

It would also mean the two freshwater lakes could be opened to recreational activities such as swimming, kayaking/canoeing, bush walking, bird watching, fishing and picnicking.





BROOMS HEAD REVETMENT WALL EXTENSION

TOTAL PROJECT COST: \$4M

Construction of a wall north of the existing wall to Ocean Road bridge will protect the Brooms Head Caravan Park and Ocean Road Bridge and provide longer-term protection to several houses close to the beach.

The caravan park has 291 sites including cabins (52 are long stay) and is a popular destination for locals and travelers.

An extension to the revetment wall was identified in the 2017 Brooms Head and Lake Cakora Coastal Zone Management Plan and a detailed design, environmental assessment and cost assessment has been completed.

The works will maintain and improve safe public access to beaches and headlands consistent with the goals of the NSW Coastal Policy. The new revetment will be capable of withstanding 1 in 100-year-event.

Views to the beach and lake entrance from adjacent public land will be maintained by limiting revetment crest levels to current heights.

Stage	Task	Time frame
1	Tender and assessment	10 weeks
2	Construction	26 weeks



CLARENCE RIVER WATERMAIN CROSSINGS

HARWOOD

TOTAL PROJECT COST: \$10M

The installation of a new water main crossing of the Clarence River at Harwood will ensure the residents, businesses, and commercial operations a secure and safe water supply into the future. This includes one of the largest employers in the Clarence Valley being the Harwood Sugar Mill and the townships of Iluka, Woombah Chatsworth Is and Ashby.

The existing steel watermain constructed in the 1970s is attached to the old Harwood Bridge and has a section of submarine pipeline to allow for the bridge lift span. This section of submarine pipeline is inspected annually by commercial divers and is deemed to present a moderate to high risk of failure.

A failure of the submarine section of pipeline would require commercial divers to undertake repairs, if in fact repairs can be achieved.

Water supply for the customers on the northern side of the Harwood Bridge would last for about two days. Alternate arrangements would be required for water supply via large tanker trucks and bottled water along with extreme water restrictions.

The new watermain would be installed underneath the river using Horizontal Directional Drilling and High-Density Polyethylene Pipe, which would place the watermain within the bedrock of the river and ensure the security of the water supply for the next 80 to 100 years.



GRAFTON

TOTAL PROJECT COST: \$6M

The installation of a new submarine watermain river crossing of the Clarence River in Grafton will ensure the security of the water supply for the next 80 to 100 years for residents, businesses and commercial operations into the future. This includes the city of Grafton and the townships of Junction Hill, Mountain View and Copmanhurst.

The existing watermains that service the above areas are all located on the original Grafton Bridge and have the potential risk of failure in the event of damage to the bridge. The existing water mains are also in a location that makes maintenance and repairs difficult as they are adjacent to the train tracks.

If the existing watermains could not supply water to the Grafton City side of the Clarence River, water loss to our customers would be immediate and depending on the extent of the damage to the bridge and the watermains, the water supply may not be restored for months.

A new watermain would be installed under the river using Horizontal Directional Drilling and High-Density Polyethylene Pipe, placing the water main within the bedrock of the river and ensuring the security of the water supply for the next 80 to 100 years.





CLARENCE VALLEY CULTURE AND COMMUNITY PRECINCT MACLEAN – PHASE 1

TOTAL PROJECT COST: \$15.6M (TBC)

BUSHFIRE LOCAL ECONOMIC RECOVERY FUNDING – STAGE ONE: \$4.997M

PROPOSED CVC (\$7.11 & RESERVES): \$2.6M

LRCIP: \$3M

PROJECT SHORTFALL: \$5M

The existing Maclean Civil Hall building is in a dilapidated condition, with poor arrangement of performance space and back-stage areas, inadequate internal comfort inside the auditorium and out-of-date street presence. It needs significant improvement to offer a vibrant space for the arts, events and civic activities, and once again be an asset the Clarence Valley can be proud of.



Funded construction
commencing 2023

On the Maclean Civic Hall site, stage one of the new Clarence Valley Culture and Community Precinct Maclean will see the construction of a spacious performance auditorium with tiered seating for 260+, suitable for both local performances and touring artists. The redevelopment will also include the creation of a ticket office and entry foyer/gallery space, public amenities, enhanced stage and backstage areas, workshop, multi-purpose rooms, storage areas, covered parking and an external verandah/circulation zone that will host a café or restaurant with capacity to cater for large events and weddings. These facilities will flow onto a new public green space that connects with the mighty Clarence River.

The redevelopment of the Maclean Civic Hall has been funded under the Bushfire Local Economic Recovery Fund (BLERF), as it responds directly to the community's needs in the wake of the 2019-2020 bushfires. However, opportunity exists now to build on this with additional funding and address the performing arts needs of the LGA.

The second stage of the Clarence Valley Culture and Community Precinct Maclean will include the relocation of the library on the adjacent site, along with a refurbishment of the Council Chambers and administration offices at 50 River Street.

Funded construction
commencing 2023



ITEM 07.22.227 CLARENCE VALLEY ABORIGINAL ADVISORY COMMITTEE

Meeting	Council	25 October 2022
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

This report seeks Council's approval of an engagement framework to replace the former Clarence Valley Aboriginal Advisory Committee.

OFFICER RECOMMENDATION

That Council

1. Not re-establish a Clarence Valley Aboriginal Consultative Committee (CVACC) as it was formerly structured.
2. Establish one Aboriginal community round table meeting per annum that aims to strengthen relationships with the Aboriginal community, and to provide direct access to the Council to discuss issues of concern, in the following locations:
 - a. Yamba
 - b. Maclean
 - c. Grafton
3. Nominate a Councillor as host/chair for each of the Aboriginal community round tables identified above.
4. Invite the four Local Aboriginal Land Councils and the Traditional Owners Corporations to meet with the Mayor and councillors twice per annum.
5. As requested by the LALC, nominate a Councillor as chair to support the Baryulgil Square/Malabugilmah (Jana Ngalee) LALC twice yearly meeting.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES

Since July 2022, the Mayor and senior staff have been consulting with Aboriginal residents, communities and organisations. The purpose of this engagement was to seek the Aboriginal community's views on issues important to them and how they would like to be consulted by Council.

Representatives of Gumbaynggirr, Bundjalung and Yaegl Country were consulted at locations across the Clarence Valley with the following feedback received:

Maclean – strong interest in meeting with councillors, issues with the previous (CVACC) model was attendance due to distance required to be travelled to attend meetings.

Yamba– as above regarding attendance, strong interest in a forum to meet and talk openly about the issues facing local communities.

Grafton– as above regarding attendance, strong interest in building strong relationships with council. Strong preference for upper and lower Clarence focussed meetings.

Baryulgil/Malabugilmah – seeks meetings onsite alternatively between the villages, with a councillor as chair.

Summary

All feedback indicated a strong desire to meet with Council directly, and a preference for local meetings to discuss local issues with those directly affected.

At Yamba, Maclean and Grafton, a preference was expressed for a less formal gathering that provides the Aboriginal community an opportunity to informally raise important issues and generally build relationships with Council. While there was discussion about whether attendance at less formal gatherings by LALCs and Traditional Owners organisations was required, there were no fixed views expressed on whether this was essential.

There was general consensus that it would be beneficial to hold general “round table” meetings with the Aboriginal community, and individual meetings with the LALCs and Traditional Owners organisations. The need to openly discuss issues important to the Aboriginal community and the importance of building positive relationships between Council and the Aboriginal community was seen as key objectives of any future consultation.

Baryulgil and Malabugilmah preferred more formal meetings coordinated by the Baryulgil Square and Jana Ngalee Local Aboriginal Land Councils. These meetings would be chaired by a Clarence Valley Councillor and also involve council staff and other government agencies and organisations.

Should Council resolve per the recommendation of this report, a schedule of meetings will be prepared commencing from late 2022 in consultation with Aboriginal stakeholders as identified in Table 1 below.

The engagement program will be supported by Council’s Community Projects Officer (Aboriginal).

Table 1 – Engagement program and frequency

Meeting	Frequency
Yamba Aboriginal community round table	1 pa
Maclean Aboriginal community round table	1 pa
Grafton Aboriginal community round table	1 pa
Baryulgil/Malabugilmah (Baryulgil Square and Jana Ngalee LALCs)	2 pa
Birrigan Gargle LALC	2 pa
Yaegl LALC	2 pa
Grafton Ngerrie LALC	2 pa
Yaegl TOAC	2 pa

Council’s Community Projects Officer (Aboriginal) will work with local Aboriginal services and groups to promote the Aboriginal Community round tables.

Cultural awareness training will be available for any councillor wishing to participate.

BACKGROUND

At the Ordinary Meeting of Council, held 26 April 2022 Council resolved:

COUNCIL RESOLUTION - 05.22.003

Tiley

That Council note the information contained in this Minute and support the proposed process for re-establishing a Clarence Valley Aboriginal Consultative Committee as soon as practicable.

Voting recorded as follows

For: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whites

Against: Nil

CARRIED

COUNCIL IMPLICATIONS

Budget/Financial

Meeting arrangements can be funded from existing budgets in the current financial year.

Asset Management

Nil

Policy and Regulation

Nil

Consultation

As detailed in the report. Predominantly, attendees at sessions were representatives of Local Aboriginal Land Councils, Traditional Owners and Aboriginal Elders.

Legal and Risk Management

Nil

Climate Change

Nil

ENVIRONMENT & PLANNING

ITEM 07.22.228 REV2021/0011 REVIEW OF CONSENT CONDITIONS OF DA2021/0116 LAST RITES BAR, 2-4 YAMBA STREET YAMBA

Meeting	Council	25 October 2022
Directorate	Environment & Planning	
Prepared by	Senior Development Planner, Patrick Ridgway	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	<p>A. REV2021-0011 Applicant's Review Request DA2021-0116 2-4 Yamba Street YAMBA NSW 2464 (Separate Cover) ⇨</p> <p>B. REV2021-0011 Applicant Submission 19.9.2022 re DA2021-0116 2-4 Yamba Street YAMBA NSW 2464 (Separate Cover) ⇨</p> <p>C. REV2021-0011 Notice of Determination of Application DA2021-0116 (Separate Cover) ⇨</p> <p>D. REV2021-0011 Minutes and Attachments from Council Meeting held 25 May 2021 - 6b 21 026 - DA2021-0116 (Separate Cover) ⇨</p> <p>E. REV2021-0011 Submissions re DA2021-0116 2-4 Yamba Street YAMBA NSW 2464 (Separate Cover) ⇨</p> <p>F. REV2021-0011 Noise Assessment Report 20.8.2021 2-4 Yamba Street YAMBA NSW 2464 CC2021-0581 (Separate Cover) ⇨</p> <p>G. REV2021-0011 Section 4 15 Assessment ↓</p> <p>H. REV2021-0011 Clarence Valley Council Noise Complaint Response Measurements (Confidential)</p>	

SUMMARY

<i>Applicant</i>	Dane Byrne / Mohawk & Beard Pty Ltd
<i>Owner</i>	Barry & Phillip Jones
<i>Address</i>	2-4 Yamba Street Yamba NSW 2464
<i>Submissions</i>	4 objections from nearby properties and 1 submission in support

Council granted consent for a Small Bar and Restaurant at its meeting of 25 May 2021 (Item 6b.21.026) under DA2021/0116. The development is located in the Yamba CBD in an area with land use Zone B2 Business (Local Centre). The approval included conditions of consent to address the potential noise impacts from the venue. The applicant is seeking a review to two of the conditions of consent, being condition 6 and condition 4. Council staff support a proposed change to condition 6 and do not support the proposed change to condition 4. It is also recommended that condition 2 be amended to remove ambiguity between the conditions.

Council has received 4 objections and 1 submission in support from the exhibition of the review application. Council has also received noise complaints from the operation of the Last Rites Bar. Finalising this review application, in accordance with the recommendations, will then allow appropriate compliance action to proceed to protect the amenity of nearby residents, while providing certainty to the bar operators. The applicant has now been afforded sufficient time to respond to Council's requests to manage noise levels for nearby residents and Council staff intend to enforce the requirements of the consent, as reviewed, until a satisfactory and reasonable outcome is achieved.

OFFICER RECOMMENDATION

That Council:

1. Approve an amendment to Condition 2 to reflect the approved hours of operation as set out in condition 5 of the consent and remove part 2(b) which conflicts with condition 6 as modified by this review as follows:

The development must be designed and operated such that, with regard to music and patron noise:

 - a. *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) by more than 5dB at the boundary of any affected residence between the opening hours specified in condition 5.*

~~b. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) between 11:30pm and 07:00am at the boundary of any affected residence.~~

2. Not approve the requested amendment to Condition 4 of DA2021/0116, and
3. Approve a variation to Condition 6 of DA2021/0116 be as follows:
'The noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 11.30pm and 7.00 am on Monday, Thursday, Friday and Saturday, and 10pm and 7.00am on Sundays and Public Holidays and at no time on Tuesdays and Wednesdays during opening hours'

LINKAGE TO OUR COMMUNITY PLAN

Theme Economy

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

KEY ISSUES

Introduction

Council granted consent for a Small Bar and Restaurant at its meeting of 25 May 2021 (Item 6b.21.026) under DA2021/0116. The approval included conditions of consent that were imposed to address the potential noise impacts from the venue raised in the submissions. There were 3 submissions objecting to the application and 42 submissions in support to the original application.

The applicant lodged a review to the consent on 26 November 2021 to two of the conditions being:

- Condition 6 – The applicant submits that the condition is impossible to meet in that it limits the noise from the premises to not be audible within any habitable room within any residential premises during opening hours, as such the applicant has proposed the condition be modified; and
- Condition 4 – The applicant submits that the condition should be reviewed as it places an unreasonable financial burden in the engagement of an acoustic consultant each time should noise generated from the premises be determined to be 'offensive'.

Council has received 4 objections and 1 submission in support from the exhibition of the review application (**Attachment E**). Additionally, the owners and occupants of one of the nearby residential units have engaged a legal representative who have requested Council to enforce the above conditions of consent as it is claimed that their client is experiencing a loss of amenity, impacting on their mental health and potential loss of rentable income from one of the units listed under airbnb.

Conditions of consent and noise attenuation

The conditions of consent that relate to hours of operation and noise attenuation are provided below. A full copy of the consent is provided in **Attachment C**.

2. The development must be designed and operated such that, with regard to music and patron noise:
 - a. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 11:30pm at the boundary of any affected residence.
 - b. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) between 11:30pm and 07:00am at the boundary of any affected residence.
3. The equivalent continuous A-weighted level of noise from the mechanical plant, measured over a 15 minute period, shall not exceed the background noise level by more than 5dB at 1 metre from the façade of the most affected residential receiver who has not given written permission for an exceedance of this condition.

4. Should a complaint be received by Council and the noise be determined “offensive”, the applicant shall engage a suitably qualified acoustic consultant at their expense to assess the noise and recommend reasonable and feasible methods of attenuation to be undertaken.
5. The approved opening/operating hours are:
 - Monday, Thursday and Friday - 3.00pm – 11.30pm
 - Tuesday and Wednesday - closed
 - Saturday 11.30am – 11.30pm
 - Sundays and Public Holidays 11.30am – 10.00pm
6. The noise from the licensed premises shall not be audible within any habitable room in any residential premises during opening hours.
7. The specific details on the noise reduction and mitigation will need to be provided to Council's satisfaction prior to issue of the Construction Certificate.
8. The specific details on the noise reduction and mitigation will need to be provided to Council's satisfaction prior to issue of the Construction Certificate. Sound proofing measures are to be supported by an acoustic consultant's report that determines that the measures in place are adequate to protect the surrounding locality from nuisance or offensive noise.
9. The premises is to operate at all times in accordance with the Alcohol Plan of Management. An amended Alcohol Plan of Management is to be submitted for approval noting that Sunday and Public Holiday closing hours are to be amended to 10.00pm.
10. A Security Plan of Management (SPM) that demonstrate security management measures:
 - How the behaviour of staff and patrons when entering and leaving the premises will be managed to minimise disturbance to the surrounding neighbourhood, and
 - Crowd control measures on-site and off-siteis to be provided to Council for approval prior to the issue of an Occupation Certificate.
11. The Security management measures in the SMP are to be in place at all times.

Following the issue of the Notice of Determination for DA2021/0116 in May 2021 for the Last Rites Bar confirmation was sought from Tecton Consultants (the applicant's private certifier) that the submitted acoustic report and Alcohol and Security Plan of Management were to Council's satisfaction prior to the issue of a Construction Certificate (CC2021/0581). This included the submission of a Noise Assessment Report dated 20 August 2021 (**Attachment F**). On assessment, Council's Environmental Officer advised that the recommendations and measures outlined in the acoustic report satisfied Council's requirements. The basis of Council's satisfaction was that the measures recommended in the report were to be implemented. It appears that an Occupation Certificate was issued without all of these measures being in place. The fifteen (15) recommendations and measures included:

- strict control of the doors during music performances is **critical** to ensuring the management of noise emissions from the premises and that the doors should remain closed when amplified music is played or during live performances.
- the installation of a heavy-set theatre curtain directly inside the bifold doors and this would be drawn during live music performances to further reduce noise breakout
- the insulation measures proposed for the roof/ceiling was to have two layers of 100mm thick acoustic insulation bats with no gaps and the design of the bifold doors to be acoustically rated at RW35 or greater.

Complaints regarding noise impacts have been received by Council from adjoining neighbours since consent has been issued. On investigation, while noise generated in the area has been linked to the bar, there have been other incidences that were found to be unrelated to the Last Rites Bar, including groups of people making noise after visiting other venues or parties.

These matters have been raised with the applicant following Council's engagement of a noise consultant which determined that noise from the venue was considered to be 'offensive' and the 'triggering' of condition 4.

Council engaged an independent noise consultant who took noise measurements in April/May 2022 from the neighbours property. On Saturday 7 May 2022 the noise at a particular time was considered to be 'offensive' between 10.00pm & 10.30pm that night. In response, the applicant was advised in writing of the requirement of condition 4 to engage a noise consultant to recommend noise attenuation measures.

Following a 'show cause letter' issued on 30 June 2021 the owners advised Council on 20 July 2022 that they had engaged a noise consultant (Design Collaboration Pty Ltd) for advice around sound attenuation and legal advice surrounding the reasonableness and validity of allegations raised by Council. A request for access to the noise assessment undertaken was also requested by the owners; this is not included as an attachment as a public document, though it is attached as a confidential attachment to the report (**Attachment H**).

Investigating noise complaints and impacts takes considerable time and Council resource to observe and examine and Council has engaged a qualified noise consultant to independently measure and assess the noise impacts in line with the complaints. This has allowed for a reasonable level of fairness to the Last Rites Bar to address Council's concerns and considering the recent difficult economic times for small businesses due to COVID, floods and downturn in tourism.

To date Council staff have exercised the necessary discretion in dealing with noise complaints and allowed the applicant the lawful right to the review of the conditions of the consent under the *Environmental Planning and Assessment Act 1979*.

A further response to the show cause letter, including a review of Condition 4 of the consent, Council is provided in **Attachment B**.

Condition 4

The applicant has submitted that Condition 4 sets them an impossible task and is highly problematic in that anytime a noise complaint is received that Council determines is 'offensive' they will be personally financially penalised with the cost of consultant reports and this will likely delete their budget for material attenuation measures. They are seeking for the imposition of the condition to be reviewed.

Comment:

'Offensive noise' is defined in the dictionary of the *Protection of the Environment Operations Act 1997* (POEO Act) as noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

The measurement of actual noise levels and whether they are 'offensive' is a difficult task as there are many factors that influence noise levels including the location of the noise source, background noise levels, prevailing weather conditions, audibility, the time the noise is made and duration. Noise levels can also be subjective depending on a person's acceptance/tolerance and whether the noise is atypical for an area and whether it is 'offensive'. While some levels of noise should be reasonably expected and or tolerated in and around the CBD, any noise that is in the 'offensive' noise range should be discouraged and/or not tolerated. The onus for regulating and attenuating noise should be a requirement of the consent holder which is the intention behind Condition 4.

Council's staff do not consider Condition 4 to be unreasonable as it provides a means for Council to prevent 'offensive' noise generation and allow for improvements to noise mitigation. The condition provides both certainty to the consent holder and the community about the consent holder's obligations throughout the life of the development. Once effective physical and practical noise management measures are in place there should be no need for Council to request further acoustic consultant reports. The condition has been reasonably placed on the consent in response to submissions from surrounding nearby residences that raised concerns on noise impacts.

The applicant has advised that they have obtained grant money through the Australian Office of Live Music to upgrade sound equipment and attenuation. Materials that have been ordered have been delayed due to the construction boom shipping delays.

Under the *Environmental Planning and Assessment Act 1979*, authorised Council officers have the power to issue a range of compliance orders on developers and property owners/occupiers. There are Notice of Intention requirements to give an order and Council's have to consider any submissions to a Notice before exercising Council's discretion to issue a final order. Unlike a penalty notice, a Development Control Order (DCO) requires some form of specific performance or remedial action to be undertaken. Failure to comply with a DCO may result in Council taking civil proceedings in the Land and Environment Court to enforce the order.

The applicant has now been afforded sufficient time to respond to Council's 'show cause letter' as well as the consideration of the conditions under a review of Council's determination. Following the review of the consent by Council, should Council agree with the recommendations in this report, Council staff will be in a position to undertake further enforcement/compliance action in regard to compliance with condition 4 or other conditions of the consent. Council staff intend to enforce the requirements of the consent, as reviewed, until a satisfactory and reasonable outcome is achieved.

Condition 6

The applicant is requesting that condition 6 be amended to read '*The noise from the licensed premises shall not be audible within any habitable room in any residential premises during opening hours between the hours of midnight and 7:00am.*'

In addition to their comments in the review application, the applicant also made comments for the review of the conditions on 26 November 2021 and 19 September 2022 (see attached) and the applicant's comments include that condition 6:

- Is highly problematic and sets an impossible task for the business;
- Does not provide a 'level playing field' in comparison to other Yamba businesses;
- Noise limits need to be reflective of the CBD as a whole and not cherry pick 'quiet' pockets
- Sound testing was undertaken in April/May during a quiet time of the year, off the back of COVID, floods and reduced tourist visitors;
- They have obtained grant money through the Australian Office of Live Music to upgrade sound equipment and attenuation. Materials that have been ordered have been delayed due to the construction boom shipping delays;
- They are proposing to install ceiling batts over the existing ceiling insulation, sound foam over the stage, a heavy-set wool stage curtain, and internal ceiling panels to reduce reverberation
- If any of our patrons are heard during the day while our bi-fold doors are open (much like the operation of most other bar/cafes/restaurants in Yamba), then we are automatically in breach of this condition;
- Provides a clear path for vexatious complaints by our objectors and is in no way consistent with conditions placed on surrounding businesses. It is noted that we have our bi-fold doors open from approx. 5pm until 8pm which is consistent with other food/drink businesses within Yamba business zone, particularly those who offer Al Fresco dining. Music within our venue is reduced to quite background music when the bifold doors are open.
- CVC recently signed up for a case study on ways to explore and expand live music options within the Clarence Valley (Live and Loud) in order to capitalise on the social and economic value live music brings to the community.
- The vast majority of businesses within Yamba CBD do not have specific condition within their DA consent relating to (patron) noise, only us. This is not a "level playing field" as told to us by our assessing officer when discussing how consent conditions are applied. Our planner consistently used the Paradiso Bar at 10 Clarence Street Yamba as reference as a comparable business and stated that our consent conditions would be in alignment with that venue. Paradiso Bar is allowed to operate until 11:30pm and has bi-fold doors and windows open at all hours of trade. This venue is located amongst an abundance of residential receivers and has the same condition as us depicted in (our) Condition 6 however theirs states: *The noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 11:30pm and 7:00am.*

Comment

Council's Environmental Health Officer has provided comments to the consent conditions and notes that when referencing condition 6 to the NSW Environmental Protection Authority Noise Guide for Local Government

(EPA Noise Guide) the usual condition applied is to restrict noise levels on residences to between the hours of 12 midnight to 7am.

In this respect the condition of the consent is more onerous than that which would ordinarily be recommended under the EPA Noise Guide. It is noted that Condition 5 restricts the opening hours to Monday, Thursday and Friday 3pm - 11.30pm ; Tuesday and Wednesday – closed; Saturday 11.30am – 11.30pm & Sundays and Public Holidays 11.30am – 10.00pm; condition 2 outlines the recommended level emissions as outlined in the EPA Noise Guide.

Furthermore, Additionally, Clause 57 & 8 of the *Protection of the Environment Operations (Noise Control) Regulation 2017* provides reference to time periods for musical instruments and amplified sound equipment.

57 Use of musical instruments

A person is guilty of an offence if—

- (a) *the person causes or permits a musical instrument to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—*
 - (i) *before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or*
 - (ii) *before 8 am or after 10 pm on any other day,...*

8 Use of electrically amplified sound equipment

(1) A person is guilty of an offence if—

- (a) *the person causes or permits electrically amplified sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—*
 - (i) *before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or*
 - (ii) *before 8 am or after 10 pm on any other day,...*

In this clause— electrically amplified sound equipment means any electrical or battery powered device that can be used to make or amplify sound including television sets and home entertainment systems.

The time periods set by the NSW Legislation for musical instruments and electrically amplified sound equipment impacts on residential premises allows for up to midnight for Friday, Saturday and the day immediately before a public holiday to midnight and 10pm on any other day.

The opening/operating hours (Condition 5) of the business generally fall within the above Regulations and the EPA Noise Guide and provide reasonable time restrictions on the consent (in this location) to help mitigate noise generation and have been reasonably applied to the development.

There is a reasonable expectation for a bar, restaurant or café in a commercial area that noise will be generated from a premise and to allow entertainment, though there needs to be a limit to noise generation which should not exceed the 'offensive' noise criteria.

- In determining if a condition is reasonable, the Newbury Principle or Test can be used. The Newbury Test is named after *Newbury District Council v Secretary of State for the Environment* [1981] AC 578, and is widely used by the Land and Environment Court of NSW. The principle is that a condition must:
 - serve a planning purposes;
 - be clear, concise and measurable;
 - must relate to the development; and
 - must be reasonable having regard for the scope of development and must be enforceable (the Wednesbury Principle).

Whether a proposed condition fairly and reasonably relates to the development depends on each situation. Generally, there should be a nexus between the proposed condition and the development for which consent is granted. Nexus relates to a reasonably perceived connection between the proposed condition and the environmental impact that the condition seeks to mitigate. The condition, as currently worded, likely goes beyond the environmental impact that the condition seeks to mitigate.

It is recommended that Condition 6 be amended as proposed for the following reasons:

- The consent should be corrected to reflect the recommended wording under the NSW EPA Noise Guide as it is unreasonable for the business to comply with the condition that requires that any noise generated

from the licensed premises to not be audible within any habitable room in any residential premises at all times; This would be problematic for any business to comply with,

- The condition reflects the approved hours of operation for reasonable and non offensive noise to be generated,
- The condition as currently worded could be perceived as being unreasonable in accordance with the Newberry Principle,
- The condition conflicts with other conditions (conditions 2, 4, & 5) of the consent that detail the required noise limits and allow for noise mitigation measures,
- Amending condition 2 will removes ambiguity between the conditions of consent (see comments below),
- Condition 4 provides that no offensive noise is to be generated from the business and Council can lawfully enforce this requirement and protect the amenity of nearby properties, and
- Retaining the current wording of the condition leaves it open for Council to have legal action taken against it for not enforcing the conditions of consent.

Condition 6 conflicts with the terms of condition 2(b) (see comments below) and it is recommended that the ambiguity be corrected, and Condition 6 be modified to read:

6. *The noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 11.30pm and 7.00 am*

It is submitted that Condition 6 provides a stricter approach to the potential noise impacts (to that specified in 2(b)), removes the difficulty of the requirement to assess noise against the background noise levels, operates from 11.30 when The Last Rites Bar operational hours cease and noise impacts will be easier to measure and enforce.

Condition 2

Condition 2 already reflects the NSW EPA Noise Guide recommendations:

2. *The development must be designed and operated such that, with regard to music and patron noise:*
 - a. *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 11:30pm at the boundary of any affected residence.*
 - b. *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) between 11:30pm and 07:00am at the boundary of any affected residence.*

Notably, Part (b) of condition 2 refers to the hours between 11.30pm and 7.00am which conflicts with the proposed changes to condition 6. The noise criteria in part 2(a) of the condition is consistent with what is ordinarily allowed under the NSW Environmental Protection Authority Noise Guide and will remain as the noise criteria on the consent. Condition 4 remains enforceable for 'offensive' noise as discussed above.

It is recommended that condition 2 be amended to reflect the approved opening hours as follows:

2. *The development must be designed and operated such that, with regard to music and patron noise:*
 - a. *The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) by more than 5dB at the boundary of any affected residence between the opening hours specified in condition 5.*
 - b. ~~*The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) between 11:30pm and 07:00am at the boundary of any affected residence.*~~

Issues raised in submissions

The issues raised in the submissions have been summarised and comments are provided below:

Issue	Comment
Clause 6 should not be amended to protect the amenity of nearby residences.	As outlined in this report, the application was originally advertised and notified as per Council's requirements and 3 separated objections were received along with 42 submissions in support. Following the submission of the review application the application was again advertised and notified and 4 objections were received

<p>The amendment should not be supported as the bar wants to push the boundaries.</p>	<p>along with 1 submission in support. All persons who previously made a submission to the application were also re-notified. Notably there are a number of nearby residences in Harbour Street and Woolli Street including the nearby Caravan Park. The objections received constitute a small percentage of all residential properties in this area – though some will be potentially more impacted than others due to their location. Reasons why Council staff support the variation to condition 6 have been outlined in this report. There are a number of conditions in the consent that have been imposed to protect the amenity of nearby residences and these are considered to be reasonable in regard to the recommended NSW EPA noise guidelines. Once reviewed, Council staff will have more certainty in taking compliance action on the consent in regard to enforcing the conditions.</p>
<p>Operating as a live venue style night club. Yamba does not need any more restaurants and cafes and no more bars</p>	<p>The hours of operation of the Bar are consistent with the EPA Noise guidelines and are much more restrictive than that of a night club whose hours would normally extend to the early morning. The hours of operation of the consent have been more onerous than other business in the Yamba CBD and have been reasonably applied to protect the amenity of nearby properties due to the location of the venue and it also being proposed as a 'live music venue'. The use is permitted and suited to a commercial zone. Council cannot restrict the number of food and drink premises within an area in a free market economy.</p>
<p>Noise assessment submitted with the application is not sufficient A sound engineer is needed to assess the sounds and measures that are in place.</p>	<p>Condition 4 of the consent requires a more rigorous assessment of the noise impacts. It is Council staff opinion that this should not be amended as requested by the applicant so that further noise mitigation can be undertaken in consultation with a suitably qualified acoustic consultant.</p>
<p>Building and location is insufficient for a live venue</p>	<p>The bar and restaurant are a type of food and drink premises that are permitted in the B2 Local Center under the Clarence Valley Local Environmental Plan. The suitability of the site was assessed under the original application.</p>
<p>Devaluation of property, ruined amenity, mental health and income of rentable income of airbnb unit</p>	<p>The consideration of property values and rentals are not a requirement under the <i>Environmental Planning and Assessment Act 1979</i> and other planning instruments, and the value will differ in regard to separate opinion. The bar and restaurant are a type of food and drink premises that are permitted in the B2 Local Center under the Clarence Valley Local Environmental Plan and development approval has been issued. The type of business approved on the site is not one that is out of character with the area or what would be ordinarily expected in the CBD. There are consent conditions that can be enforced to protect the amenity of the area.</p>
<p>Tables and chairs on the street further exacerbate the situation</p>	<p>The tables and chairs are permitted under Council's Outdoor Dining Policy / Vibrant Places over Council's road reserves. These are considered separately to the development application. These policies are under review across the LGA to ensure that a consistent approach is applied.</p>
<p>We live 150-200m from the bar and still hear the noise Lack of sound proofing Unable to open retail business on a Sunday afternoon due to the loud music emitting from the bar</p>	<p>The conditions of consent to mitigate the potential impacts on the amenity have been discussed in detail above. Council staff will be able to enforce condition 4, if retained, following the determination of this review.</p>
<p>I am in support of the Last Rites Bar. The condition on the consent is an obvious typo and the premises should move on with essential business and stop wasting time and costs to ratepayers</p>	<p>The submission in support has been noted and these issues form part of the assessment of the review application.</p>

BACKGROUND

Notice of Determination DA2021/0116 was issued on 1 June 2021 following the resolution of Council at its meeting of 25 May 2021 (Item 6b.21.026).

The Application for review REV2021/0011 was lodged on 21 November 2021. The application was placed on exhibition between 21 December 2021 and 28 January 2022.

Since commencing the use, potential noise impacts have been a major issue with the operation of the business. The history of complaints, Council's involvement and the applicant's response has been discussed in detail above.

COUNCIL IMPLICATIONS

Budget/Financial

There may be financial costs to Council should the applicant be able to 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

NA

Policy and Regulation

Environmental Planning and Assessment Act, 1979

Environmental Planning and Assessment Regulation 2000

Clarence Valley Local Environmental Plan 2011

Business Zones Development Control Plan (DCP)

NSW Environmental Protection Authority Noise Guide for Local Government (EPA Noise Guide)

Protection of the Environment Operations (Noise Control) Regulation 2017

Consultation

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

<i>Internal Section or Position</i>	<i>Comment</i>
Council's Environmental Health Officer	Comments in regard to noise guidelines

Legal and Risk Management

The applicant has sought a review of Council's determination in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979*. After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision or vary the conditions of a development consent.

Climate Change

Climate change consideration of the development were assessed under DA2021/0116. The review does not change that assessment.

SECTION 4.15 EVALUATION FOR REV2021/0011
- Lot 1 DP 506131- 2-4 Yamba Street YAMBA NSW 2464

Proposal:

Council granted consent for a Small Bar and Restaurant at its meeting of 25 May 2021 (Item 6b.21.026) under DA2021/0116. The approval included conditions of consent to address the potential noise impacts from the venue. The applicant is seeking a review to two of the conditions of consent, being condition 6 and condition 4 of consent. Council staff support the proposed change to condition 6 and do not support the proposed change to condition 4.

The Application for review REV2021/0011 was lodged on 21 November 2021. The application was placed on exhibition between 21 December 2021 and 28 January 2022.

Since commencing the use, potential noise impacts have been a major issue with the operation of the business. The history of complaints, Council's involvement and the applicant's response/submissions are discussed below.

Council has received 4 objections and 1 submission in support from the exhibition of the review application.

Additionally the owners and occupants of one of the near by residential units have engaged a legal representative who have requested Council to enforce the above conditions of consent as it is claimed that their client is experiencing a loss of amenity, impacting on their mental health and potential loss of rentable income from one of the units listed under airbnb.

Council engaged an independent noise consultant who took noise measurements in April/May 2022 from the neighbours property. On Saturday 7 May 2022 the noise at a particular time was considered to be 'offensive' between 10.00pm & 10.30pm that night. In response, the applicant was advised in writing of the requirement of condition 4 to engage a noise consultant to recommend noise attenuation measures on 30 June 2022, though this has not been undertaken.

An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so. (*Environmental Planning and Assessment Act 1979* S8.33). After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

The applicant lodged a review to the consent on 26 November 2021 to two of the conditions being;

- Condition 6 - The applicant submits that the condition is impossible to meet in that it limits the noise from the premises to not be audible within any habitable room within any residential premises during opening hours, as such the applicant has proposed the condition be modified; and
- Condition 4 - The applicant submits that the condition should be reviewed as it places an unreasonable financial burden in the engagement of an acoustic consultant each time should noise generated from the premises be determined to be 'offensive'.

Council has received 4 objections and 1 submission in support from the exhibition of the review application (**Attachment E**). Additionally the owners and occupants of one of the near by

residential units have engaged a legal representative who have requested Council to enforce the above conditions of consent as it is claimed that their client is experiencing a loss of amenity, impacting on their mental health and potential loss of rentable income from one of the units listed under airbnb.

Council engaged an independent noise consultant who took noise measurements in April/May 2022 from the neighbours property. On Saturday 7 May 2022 the noise at a particular time was considered to be 'offensive' between 10.00pm & 10.30pm that night. In response, the applicant was advised in writing of the requirement of condition 4 to engage a noise consultant to recommend noise attenuation measures on 30 June 2022, though this has not been undertaken.

Conditions of consent and noise attenuation

The conditions of consent that relate to hours of operation and noise attenuation are provided below. A full copy of the consent is provided in **Attachment C**.

2. The development must be designed and operated such that, with regard to music and patron noise:
 - a. The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 11:30pm at the boundary of any affected residence.
 - b. The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Frequency (31.5Hz – 8kHz inclusive) between 11:30pm and 07:00am at the boundary of any affected residence.
3. The equivalent continuous A-weighted level of noise from the mechanical plant, measured over a 15 minute period, shall not exceed the background noise level by more than 5dB at 1 metre from the façade of the most affected residential receiver who has not given written permission for an exceedance of this condition.
4. Should a complaint be received by Council and the noise be determined "offensive", the applicant shall engage a suitably qualified acoustic consultant at their expense to assess the noise and recommend reasonable and feasible methods of attenuation to be undertaken.
5. The approved opening/operating hours are:
 - Monday, Thursday and Friday - 3.00pm – 11.30pm
 - Tuesday and Wednesday - closed
 - Saturday 11.30am – 11.30pm
 - Sundays and Public Holidays 11.30am – 10.00pm
6. The noise from the licensed premises shall not be audible within any habitable room in any residential premises during opening hours.

7. The specific details on the noise reduction and mitigation will need to be provided to Council's satisfaction prior to issue of the Construction Certificate.
8. The specific details on the noise reduction and mitigation will need to be provided to Council's satisfaction prior to issue of the Construction Certificate. Sound proofing measures are to be supported by an acoustic consultant's report that determines that the measures in place are adequate to protect the surrounding locality from nuisance or offensive noise.
9. The premises is to operate at all times in accordance with the Alcohol Plan of Management. An amended Alcohol Plan of Management is to be submitted for approval noting that Sunday and Public Holiday closing hours are to be amended to 10.00pm.
10. A Security Plan of Management (SPM) that demonstrate security management measures:
 - How the behaviour of staff and patrons when entering and leaving the premises will be managed to minimise disturbance to the surrounding neighbourhood, and
 - Crowd control measures on-site and off-site
 is to be provided to Council for approval prior to the issue of an Occupation Certificate.
11. The Security management measures in the SMP are to be in place at all times.

Following the issue of the Notice of Determination for DA2021/0116 in May 2021 for the Last Rites Bar confirmation was sought from Tecton Consultants (the applicant's private certifier) that the submitted acoustic report and Alcohol and Security Plan of Management were to Council's satisfaction prior to the issue of a Construction Certificate (CC2021/0581). This included the submission of a Noise Assessment Report dated 20 August 2021 (**Attachment F**). On assessment, Council's Environmental Officer advised that the recommendations and measures outlined in the acoustic report satisfied Council's requirements. The basis of Council's satisfaction was that the measures recommended in the report were to be implemented. It appears that an Occupation Certificate was issued without all of these measures being in place. There sixteen (15) recommendations and measures included:

- strict control of the doors during music performances is **critical** to ensuring the management of noise emissions from the premises and that the doors should remain closed when amplified music is played or during live performances.
- the installation of a heavy-set theatre curtain directly inside the bifold doors and this would be drawn during live music performances to further reduce noise breakout
- the insulation measures proposed for the roof/ceiling was to have two layers of 100mm thick acoustic insulation bats with no gaps and the design of the bifold doors to be acoustically rated at Rw35 or greater.

Numerous complaints have been received by adjoining neighbours since consent has been issued, mainly from one neighbouring property). On investigation, while noise generated in the area has been linked to the bar, there have been other incidences that were found to be unrelated to the Bar including groups of people making noise after visiting other venues or parties.

These matters have been raised with the applicant following Council's engagement of a noise consultant which determined that noise from the venue was considered to be 'offensive' and the

'triggering' of condition 4. Following a 'show cause letter' issued on 30 June 2021 the owners advised Council on 20 July 2022 that they had engaged a noise consultant (Design Collaboration Pty Ltd) for advice around sound attenuation and legal advice surrounding the reasonableness and validity of allegations raised by Council. A request for access to the noise assessment undertaken was also requested by the owners; this is not included as an attachment as a public document, though is attached as a confidential attachment to report (**Attachment H**).

A further response to the show cause letter, including a review of Condition 4 of the consent, Council is provided in **Attachment B**.

The Bar has also installed Closed Circuit TV monitoring for security purposes and to monitor activity on the footpath.

Condition 4

The applicant has submitted that Condition 4 sets them an impossible task and is highly problematic in that anytime a noise complaint is received that Council determines is 'offensive' they will be personally financially penalised with the cost of consultant reports and this will likely delete their budget for material attenuation measures. They are seeking for the imposition of the condition to be reviewed.

Comment:

To date Council staff have exercised the necessary discretion in dealing with noise complaints (manly from the adjoining neighbour) and allowing the applicant the lawful right to the review of the conditions of the consent under the *Environmental Planning and Assessment Act 1979*.

Investigating noise complaints and impacts takes considerable time to observe and examine and Council has engaged a qualified noise consultant to independently measure and assess the noise impacts in line with the complaints. This has allowed for a reasonable level of fairness to the Last Rites Bar to address Council's concerns and considering the recent unprecedented difficult economic times for small businesses due to COVID, floods and downturn in tourism applying.

'Offensive noise' is defined in the dictionary of the *Protection of the Environment Operations Act 1997* (POEO Act) as noise:

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

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

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

The measurement of actual noise levels and whether they are 'offensive' is a difficult task as there are many factors that influence noise levels including the location of the noise source, background noise levels, prevailing weather conditions, audibility, the time the noise is made and duration. Noise levels can also be subjective depending on a person's acceptance/tolerance and whether the noise is atypical for an area and whether it is 'offensive'. While some levels of noise should be reasonably expected and or tolerated in and around the CBD, any noise that is in the 'offensive' noise range should be discouraged and/or not tolerated. The onus for regulating and attenuating noise should be a requirement of the consent holder which is the intention behind condition 4.

Council's staff do not consider Condition 4 to be unreasonable as it provides a means for Council to prevent 'offensive' noise generation and allow for improvements to noise mitigation. The condition provides both certainty to the consent holder and the community about the consent holder's obligations throughout the life of the development. Once effective physical and practical noise management measures are in place there should be no need for Council to request further acoustic consultant reports. The condition has been reasonably placed on the consent in response to submissions from surrounding nearby residences that raised concerns on noise impacts.

The applicant has advised that they have obtained grant money through the Australian Office of Live Music to upgrade sound equipment and attenuation. Materials that have been ordered have been delayed due to the construction boom shipping delays. The applicant is now in a better financial position improve the noise attenuation measures.

Under the *Environmental Planning and Assessment Act 1979*, authorised Council officers have the power to issue a range of compliance orders on developers and property owners/occupiers. There are Notice of Intention requirements to give an order and Council's have to consider any submissions to a Notice before exercising Council's discretion to issue a final order. Unlike a penalty notice, a Development Control Order (DCO) requires some form of specific performance or remedial action to be undertaken. Failure to comply with a DCO may result in Council taking civil proceedings in the Land and Environment Court to enforce the order.

The applicant has now been afforded sufficient time to respond to Council's 'show cause letter' as well as the consideration of the conditions under a review of Council's determination. Following the review of the consent by Council, should the elected Councillors Council agree with the recommendations in this report, Council staff will be in a position to undertake further enforcement/compliance action in regard to compliance with condition 4 or other conditions of the consent. Council staff intend to enforce the requirements of the consent, as reviewed, until a satisfactory and reasonable outcome is achieved.

Condition 6

The applicant is requesting that condition 6 be amended to read '*The noise from the licensed premises shall not be audible within any habitable room in any residential premises ~~during opening hours~~ between the hours of midnight and 7:00am.*'

In additional to their comments in the review application, the applicant also made comments for the review of the conditions on 26 November 2021 and 19 September 2022 (see attached) and the applicant's comments include that condition 6:

- Is highly problematic and sets an impossible task for the business;
- Does not provide a 'level playing field' in comparison to other Yamba businesses;
- Noise limits need to be reflective of the CBD as a whole and not cherry pick 'quiet' pockets
- Sound testing was undertaken in April/May during a quiet time of the year, off the back of COVID, floods and reduced tourist visitors;
- They have obtained grant money through the Australian Office of Live Music to upgrade sound equipment and attenuation. Materials that have been ordered have been delayed due to the construction boom shipping delays;

- They are proposing to install ceiling batts over the existing ceiling insulation, sound foam over the stage, a heavy-set wool stage curtain, and internal ceiling panels to reduce reverberation
- If any of our patrons are heard during the day while our bi-fold doors are open (much like the operation of most other bar/cafes/restaurants in Yamba), then we are automatically in breach of this condition;
- Provides a clear path for vexatious complaints by our objectors and is in no way consistent with conditions placed on surrounding businesses. It is noted that we have our bi-fold doors open from approx. 5pm until 8pm which is consistent with other food/drink businesses within Yamba business zone, particularly those who offer Al Fresco dining. Music within our venue is reduced to quite background music when the bifold doors are open.
- CVC recently signed up for a case study on ways to explore and expand live music options within the Clarence Valley (Live and Loud) in order to capitalise on the social and economic value live music brings to the community.
- The vast majority of businesses within Yamba CBD do not have specific condition within their DA consent relating to (patron) noise, only us. This is not a “level playing field” as told to us by our assessing officer when discussing how consent conditions are applied. Our planner consistently used the Paradiso Bar at 10 Clarence Street Yamba as reference as a comparable business and stated that our consent conditions would be in alignment with that venue. Paradiso Bar is allowed to operate until 11:30pm and has bi-fold doors and windows open at all hours of trade. This venue is located amongst an abundance of residential receivers and has the same condition as us depicted in (our) Condition 6 however theirs states: *The noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 11:30pm and 7:00am.*

Comment

Council 's Environmental Health Officer has provided comments to the consent conditions and notes that when referencing condition 6 to the NSW Environmental Protection Authority Noise Guide for Local Government (EPA Noise Guide) the usual condition applied is to restrict noise levels on residences to between the hours of 12 midnight to 7am.

In this respect the condition on the consent is more onerous than that which would ordinarily be recommended under the EPA Noise Guide. It is noted that Condition 5 restricts the opening hours to 11.30pm Monday, Thursday, Friday and Saturday and condition 2 outlines the recommended level emissions as outlined in the EPA Noise Guide.

Additionally, Clause 57 & 8 of the *Protection of the Environment Operations (Noise Control) Regulation 2017* provides reference to time periods for musical instruments and amplified sound equipment.

57 Use of musical instruments

A person is guilty of an offence if—

(a) the person causes or permits a musical instrument to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—

- (i) before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or
- (ii) before 8 am or after 10 pm on any other day,...

8 Use of electrically amplified sound equipment

(1) A person is guilty of an offence if—

(a) the person causes or permits electrically amplified sound equipment to be used on residential premises in such a manner that it emits noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open—

- (i) before 8 am or after midnight on any Friday, Saturday or day immediately before a public holiday, or
- (ii) before 8 am or after 10 pm on any other day,...

In this clause— electrically amplified sound equipment means any electrical or battery powered device that can be used to make or amplify sound including television sets and home entertainment systems.

The time periods set by the NSW Legislation for musical instruments and electrically amplified sound equipment impacts on residential premises allows for up to midnight for Friday, Saturday and the day immediately before a public holiday to midnight and 10pm on any other day.

The opening/operating hours (Condition 5) of the business generally fall within the above Regulations and the EPA Noise Guide and provide reasonable time restrictions on the consent (in this location) to help mitigate noise generation and have been reasonably applied to the development.

There is a reasonable expectation for a bar, restaurant or café in a commercial area that noise will be generated from a premise and to allow entertainment, though there needs to be a limit to noise generation which should not exceed the 'offensive' noise criteria.

In determining if a condition is reasonable, the Newbury Test can be used. The Newbury Test is named after a 1981 court case in the Land and Environment Court of NSW. The findings of which make it clear that a condition must:

- be imposed for a planning purpose – not an ulterior one;
- fairly and reasonably relate to the development that is the subject of the development application; and
- not be so unreasonable that no planning authority would have imposed it.

Whether a proposed condition fairly and reasonably relates to the development depends on each situation. Generally, there should be a nexus between the proposed condition and the development for which consent is granted. Nexus relates to a reasonably perceived connection between the proposed condition and the environmental impact that the condition seeks to mitigate. The condition, as currently worded, likely goes beyond the environmental impact that the condition seeks to mitigate.

It is recommended that Condition 6 be amended to match the approved operating hours of up to 11.30pm for the following reasons:

- The consent should be corrected to reflect the recommended wording under the NSW EPA Noise Guide as it is unreasonable for the business to comply with the condition that

requires that any noise generated from the licensed premises to not be audible within any habitable room in any residential premises at all times; This would be problematic for any business to comply with,

- The condition reflect the approved hours of operation for no noise to be generated after 11.30pm that is audible within any habitable room within any residential premises,
- The condition as currently worded could be perceived as being unreasonable in accordance with the Newberry Principle,
- The condition conflicts with other conditions (conditions 2, 4, & 5) of the consent that detail the required noise limits and allow for noise mitigation measures,
- Condition 4 provides that no offensive noise is to be generated from the business and Council can lawfully enforce this requirement and protect the amenity of nearby properties, and
- Retaining the current wording of the condition leaves it open for Council to have legal action taken against it for not enforcing the conditions of consent.

(1) Matters for consideration – General

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and**

Clarence Valley Local Environmental Plan 2011

The subject land is zoned B2 Local Centre under the provisions of the Clarence Valley Local Environmental Plan 2011. Restaurant/cafes are a type of food and drink premises and are a permissible use within the B2 zone. An extension to the existing premises is permitted subject to the consideration of a development application. The following definitions apply:

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Note. Restaurants or cafes are a type of **food and drink premises**—see the definition of that term below.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

The proposed extension to the existing food and drink premises is consistent with the following objectives of the B2 Local Centre Zone:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To reinforce and support the central business districts of Maclean, Iluka and Yamba as the commercial centres for these towns.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To enable other land uses that are compatible with and do not detract from the viability of retail, business, entertainment and community uses within the zone.

Signage for the premises will be required to be exempt under the provisions of the Schedule 2 of the LEP otherwise a separate DA will be required to be lodged.

Clause 7.8: Essential Services

The subject site has access to reticulated water, electricity and sewer. The site has access to Coldstream Street, a Council maintained road.

State Environmental Planning Policy (Coastal Management) 2008

The subject land is located within the Coastal Zone and Coastal Environment Area under the Coastal Management SEPP. It is considered that because this application is purely for an outdoor dining area there will be no likely impacts from the development on any of the coastal areas and the development is consistent with the aims of the policy.

- (i) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and**

n/a

- (ii) **any development control plan, and**

Business Zones DCP

Clause	Control	Complies
C4: Disabled access and facilities	Compliance with BCA and AS1428.1	The premises has existing amenities and will continue to use the toilets as constructed.
C13: Air, water & noise pollution	Activities in business zones should not create a pollution problem by the discharge of an unacceptable level of air, water or noise emissions.	The development has the potential for noise pollution. An has been conditioned to meet best practice guidelines.

C14: Waste Management	Any waste that is generated must be disposed of in accordance with the Protection of the Environment & Operations Act 1997 and Regulations and the Local Government Act 1993. Waste management must be based on the principles of waste avoidance and maximising reuse and recycling of materials. Liquid trade waste application required to dispose of liquid trade waste to sewer.	Can be suitably managed as per the exiting waste disposal. A trade waste approval is in place for the premises.
E2: Number of car parking spaces		Parking and vehicular access under Part F requires that commercial developments have space per 30m ² of GFA. Parking is available at the rear of the complex that the bar will be located in. There is no increase in commercial floor area and there is no resultant increase in parking demand or requirements.
Part R: Yamba Town Controls	See DCP	The controls relate to height, shop top housing, setbacks, awnings & building material and colours. No changes to the existing building heights, setbacks, awnings or building materials / colours are proposed. No shop top housing is proposed.

- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

n/a

- (iii) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

The proposed development is not inconsistent with the matters prescribed within the Regulation.

- (a) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The proposed development will have limited environmental impacts on the natural and built environment as the intended changes to the premises are minor in terms of internal additions required to support the intended changes. The proposed development will generate some economic activity within the locality and create employment opportunities. There may be minor economic benefits if local labour, materials and produce are used within the proposed development.

The social impacts to adjoining residences has been considered and through the proposed noise attenuation methods and an overall reduction in the hours of operation, any potential impacts to neighbouring residences will be minimised.

(b) the suitability of the site for the development,

The site is suitable for the proposed development subject to the imposition of suitable conditions to ensure noise does not adversely impact on the amenity of the neighbourhood above unacceptable levels.

(c) any submissions made in accordance with this Act or the regulations,

The issues raised in the submissions have been summarised and comments are provided below:

Issue	Comment
<p>Clause 6 should not be amended to protect the amenity of nearby residences. The amendment should not be supported as the bar wants to push the boundaries.</p>	<p>As outlined in this report, the application was originally advertised and notified as per Council's requirements and 3 separated objections were received along with 42 submissions in support. Following the submission of the review application the application was again advertised and notified and 4 objections were received along with 1 submission in support. All persons who previously made a submission to the application were also re-notified. Notably there are a number of nearby residences in Harbour Street and Wooli Street including the nearby Caravan Park. The objections received constitute a small percentage of all residential properties in this area – though some will be potentially more impacted than others due to their location. Reasons why Council staff support the variation to condition 6 have been outlined in this report. There are a number of conditions in the consent that have been imposed to protect the amenity of nearby residences and these are considered to be reasonable in regard to the recommended NSW EPA noise guidelines. Once reviewed, Council staff will have more certainty in taking compliance action on the consent in regard to enforcing the conditions.</p>
<p>Operating as a live venue style night club. Yamba does not need any more restaurants and cafes and no more bars</p>	<p>The hours of operation of the Bar are consistent with the EPA Noise guidelines and are much more restrictive than that of a night club whose hours would normally extend to the early morning. The hours of operation of the consent have been more onerous than other business in the Yamba CBD and have been reasonably applied to protect the amenity of nearby properties due to the location of the</p>

	venue and it also being proposed as a 'live music venue'. The use is permitted and suited to a commercial zone. Council cannot restrict the number of food and drink premises within an area in a free market economy.
Noise assessment submitted with the application is not sufficient A sound engineer is needed to assess the sounds and measures that are in place.	Condition 4 of the consent requires a more rigorous assessment of the noise impacts. It is Council staff opinion that this should not be amended as requested by the applicant so that further noise mitigation can be undertaken in consultation with a suitably qualified acoustic consultant.
Building and location is insufficient for a live venue	The bar and restaurant are a type of food and drink premises that are permitted in the B2 Local Center under the Clarence Valley Local Environmental Plan. The suitability of the site was assessed under the original application.
Devaluation of property, ruined amenity, mental health and income of rentable income of airbnb unit	The consideration of property values and rentals are not a requirement under the <i>Environmental Planning and Assessment Act 1979</i> and other planning instruments, and the value will differ in regard to separate opinion. The bar and restaurant are a type of food and drink premises that are permitted in the B2 Local Center under the Clarence Valley Local Environmental Plan and development approval has been issued. The type of business approved on the site is not one that is out of character with the area or what would be ordinarily expected in the CBD. There are consent conditions that can be enforced to protect the amenity of the area.
Tables and chairs on the street further exacerbate the situation	The tables and chairs are permitted under Council's Outdoor Dining Policy / Vibrant Places over Council's road reserves. These are considered separately to the development application. These policies are under review across the LGA to ensure that a consistent approach is applied.
We live 150-200m from the bar and still hear the noise Lack of sound proofing Unable to open retail business on a Sunday afternoon due to the loud music emitting from the bar	The conditions of consent to mitigate the potential impacts on the amenity have been discussed in detail above. Council staff will be able to enforce condition 4, if retained, following the determination of this review.
I am in support of the Last Rites Bar. The condition on the consent is an obvious typo and the premises should move on with essential business and stop wasting time and costs to ratepayers	The submission in support has been noted and these issues form part of the assessment of the review application.

(d) the public interest.

The public interest has been considered as part of this application and through the implementation of the proposed conditions of consent, any potential land use conflicts between the premises and surrounding residences will be reduced.

Officer: Pat Ridgway, Senior Development Planner

Date: 4 October 2022

ITEM 07.22.229 LANDFILL CELL CONSTRUCTION PROGRESS REPORT

Meeting	Council	25 October 2022
Directorate	Environment & Planning	
Prepared by	Waste & Sustainability Coordinator, Ken Wilson	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	Nil	

SUMMARY

At its meeting held on 28 June 2022, Council accepted the tender from Valley Earthworks for the construction of a new landfill cell and leachate storage dam at the Grafton Regional landfill. This report provides a construction update and advises that variations to project costs are required due to unforeseen circumstances.

OFFICER RECOMMENDATION

That Council receive the progress report and note the variation to costs that will be funded from the Landfill Augmentation Reserve IR 107910 and included in the December Quarterly Budget Review Statement to be reported in February 2023.

LINKAGE TO OUR COMMUNITY PLAN

Theme Environment

Objective We will foster a balance between sustainable development and the environment considering climate change impacts

KEY ISSUESProgress Report

Works commenced on site on the 19 July 2022 and are now well advanced as indicated by the photograph at Plate 1. Bulk excavation of 146,000m³ of soil and rock is nearing completion and the engineered earthworks to construct the leachate dam has been completed. Work will shortly commence on constructing the 1-metre thick compacted clay liner in the new landfill cell and leachate dam subject to weather and suitability of ground conditions. Procurement of all services and materials are on track.



Plate 1 – View of active earthworks within the site of the new landfill cell. [Note: An area of unexpected rock strata is located towards the right end (as viewed in the above image) of the cell]

Variations

As bulk excavation works progressed it became evident that much of the material being excavated contained excessive rock which would not meet the standard required to construct the compacted clay liner within the new cell and leachate dam. This rock material was not found in pre-construction geotechnical investigations nor when the previous six landfill cells were constructed. Several options have been explored in consultation with the contractor and design engineer to ensure the integrity of the cell liner and to contain extra costs. It has been determined that the best solution is to crush and screen sufficient excavated material to reduce the size of rock materials and ensure construction of the clay liner meets required specifications. The additional crushing and screening process will result in a substantial cost variation due to the quantities involved as detailed in the Budget/Financial section of this report.

The bulk excavation in the lowest southeast section of the cell (refer to Plates 1 and 2) has also exposed a solid rock shelf that is requiring heavy plant to break up to facilitate excavation. This has triggered the provisional rock breaking rate that was included in the tendered schedule of rates. This results in a substantial variation as detailed below. Groundwater has also come to the surface in the same area causing compaction concerns. This is currently being investigated and may result in a future variation.



Plate 2 – Photo of partially excavated exposed rock shelf discovered at southeast section of the new landfill cell.

Project Delays

Regular periods of rain have interrupted works and as at the 30 September, 15 days have been lost due to wet weather and it is anticipated that a further delay of 25 days will result from the crushing and screening variation. Project delays will not impact on landfill operations.

BACKGROUND

Tender T22/016 was called on the 18 April 2022 for the construction of Cell 4C and an additional leachate storage dam. With the landfill footprint expanding there is a need to expand the capacity of leachate storage to ensure compliance with EPA licensing conditions. The design of the cell and leachate dam was undertaken by consultants Golder P/L. A schedule of quantities was specified based on the design which formed the basis of the schedule of rates and lump sum tender. Any variation to actual quantities during construction will be subject to the tendered schedule of rates.

COUNCIL IMPLICATIONS

Budget/Financial

The project budget will require additional funds to be allocated from the Landfill Augmentation reserve IR 107910 to cover the reported cost variations and contingencies. Sufficient funds are available in the landfill augmentation reserve to cover the variation. An adjustment will be included in the December Quarterly Budget Review Statement.

Anticipated costs associated with the crushing and screening are \$555,974 and anticipated cost for rock breaking is \$283,000, being a total variation in the order of \$838,974.

Asset Management

Construction of the new landfill cell and leachate dam will result in additional assets that require inclusion within, and management in accordance with, the relevant asset management plan. The new cell and leachate dam are required to provide additional landfill capacity in accordance with the Grafton Regional Landfill Management Plan.

Policy and Regulation

N/A

Consultation

Consultation to determine the optimal resolution of these challenges has occurred with the contractor, design engineer and relevant staff in Council's Leadership team.

Legal and Risk Management

The key risk associated with the development of a landfill cell is the compliance with the rigorous construction standards for the cell lining. The proposed crushing and screening solution is considered the best approach to limit additional costs and ensure compliance with the cell lining construction specifications.

Climate Change

Landfill operations are a significant greenhouse gas emission source. A gas capture and destruction system is used at the Grafton Regional Landfill to reduce emissions and other initiatives are utilised to help offset landfill emissions.

ITEM 07.22.230 LGNSW EXCELLENCE IN ENVIRONMENT AWARDS CEREMONY - COMMUNITY MEMBER ATTENDANCE

Meeting	Council	25 October 2022
Directorate	Environment & Planning	
Prepared by	Manager Environment & Regulatory Services, Scott Lenton	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	Nil	

SUMMARY

Council has been selected as a finalist in the 2022 LGNSW Excellence in Environment Awards for our role in coordination of the Caring for our Coastal Emu Project (Partnerships to protect the endangered population) in the Natural Environment Protection & Enhancement: On-Ground Works category. The Awards ceremony will be held on Tuesday 6 December 2022 in Sydney. This report seeks Council endorsement to fund attendance by a community member to recognise their instrumental role in the Project inception and success.

OFFICER RECOMMENDATION

That Council fund 100% of reasonable travel, accommodation and subsistence costs, consistent with Council's Staff Travel Expenses Protocol, for Ms Barbara Linley from Lions Club of Clarence – Environmental to attend the 2022 LGNSW Excellence in Environment Awards in Sydney on 6 December 2022 with expenses to be assigned to Project No 994540.

LINKAGE TO OUR COMMUNITY PLAN

Theme Environment

Objective We will preserve and enhance our natural environment

KEY ISSUES

Council is provided with two(2) complimentary tickets for attendance at the 2022 LGNSW Excellence in Environment Awards on 6 December 2022, comprising a finalists forum in the morning and the Awards ceremony after lunch. It is preferred that one of these tickets be allocated to Council's Coordinator Natural Resource Management and Projects given their key role in the Project on Council's behalf. In addition, it is preferred that Council provide and fund the opportunity for Ms Barbara Linley from the Lions Club of Clarence – Environmental group to attend in recognition of her instrumental role in motivating for positive management of our endangered population of coastal emus that resulted in the Caring for our Coastal Emu project, in particular on-ground actions along and adjacent to Brooms Head Road where emus frequently cross that road and are at risk of vehicle strike.

Given Ms Linley is not a Council employee it is appropriate that Council make resolution as to whether or not they support this request and further, whether funding or reimbursement of reasonable travel, accommodation and subsistence expenses is supported.

Council's Staff Travel Expenses Protocol enables reimbursement for accommodation expenses for up to \$265 per night (capital city), reasonable travel costs and subsistence, such as meals. Ordinarily travel to Sydney would involve air flights from either Ballina-Byron or Coffs Harbour airports, in the absence of flights from Grafton Regional Airport, dependent on costs and other circumstances. Return airfares would reasonably be expected to cost \$300-400 per person. Meal expenses for a dinner and breakfast (lunch is included at the Awards) would be up to \$75 per person.

Attendance will provide very worthwhile networking opportunities with environmental professionals and exposure to learnings about other Award-worthy environmental projects completed by local Councils across NSW. This provides motivation and impetus for Council to lead and collaborate on future environmental projects that benefit our community and our environment.

BACKGROUND

The Caring for our Coastal Emu Project rose from Ms Linley's concern for the current and future welfare of our unique coastal emu population. Ms Linley's energy and collaborative approach resulted in community members, NSW agencies and Council joining forces to raise the profile of the coastal emus and their endangered status in the community, reduce speed limit to 80 km/hr on a 7-kilometre section of Brooms Head Rd, install speed-activated warning signs, and commence fencing trials to enable safer and easier passage of emus across Brooms Head Rd. This Project has also been the catalyst for additional management effort by NSW Department of Planning and Environment in an effort to support longevity of the coastal emu population through monitoring nest sites, commencing a trial involving captive incubation of wild eggs, raising and re-release of young birds, as well as monitoring of pests (eg wild dogs and pigs) that threaten emus.

The nomination for the Awards was submitted by Council staff to seek industry recognition of the successful collaboration and on-ground outcomes of the Caring for Our Coastal Emu Project.

COUNCIL IMPLICATIONS

Budget/Financial

Attendance of the Award ceremony on 6 December 2022 will involve travel (likely by air), accommodation (1 night) and subsistence (meals, etc). It is expected that total costs for two attendees will be in the order of \$1350. Expenses in the circumstances would be assigned to Project No 994540].

Asset Management

N/A

Policy and Regulation

Council's Staff Travel Expenses Protocol

Consultation

Ms Linley has advised that she would be available to attend the Awards on 6 December 2022.

Legal and Risk Management

N/A

Climate Change

N/A

ITEM 07.22.231 DIGGERS HEADLAND RESERVE - VEGETATION MANAGEMENT PLAN - ADOPTION

Meeting	Council	25 October 2022
Directorate	Environment & Planning	
Prepared by	Natural Resource Management Officer, Heather Mitchell	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Final Diggers Reserve VMP (Separate Cover) ⇒	

SUMMARY

The draft Diggers Headland Reserve Vegetation Management Plan (VMP) has been exhibited, submissions received and considered, and the draft VMP updated. This report now seeks Council's adoption of the revised draft Diggers Headland Reserve Vegetation Management Plan (attached to this report) that includes amendments in response to feedback received in public submissions.

OFFICER RECOMMENDATION

That Council adopt the Diggers Headland Reserve Vegetation Management Plan.

LINKAGE TO OUR COMMUNITY PLAN

Theme Environment

Objective We will preserve and enhance our natural environment

KEY ISSUES

At the March 2022 Ordinary Council Meeting, Council considered a report (item 07.22.044) on the draft Diggers Headland Reserve Vegetation Management Plan and Council resolved as follows:

That Council place the draft Diggers Headland Reserve Vegetation Management Plan on public exhibition for a minimum period of 28 days and if there are no submissions or comment received that the Plan be adopted.

The draft Plan was exhibited for 30 days and was available online. There were four submissions received (see Table 1 for summary of comments), with the submissions focused on minor editing, with no substantive changes to the objectives of the Plan. Hence, this report is provided to Council to consider public comment and recommended changes to the Plan. Table 1 presents comments and Council officer response.

Table 1: Summary of Submissions

Submission	Issue presented in submission	CVC Response
1	<p>Summary</p> <p>p.4, 4th para Suggest change "The Reserve includes ..." to "The Reserve surrounds" as the freehold allotments are outside the Reserve and not under native title determination.</p> <p>p.4, 5th para If a weed buffer of 2km is to be secured around the village, this will extend well into Yuraygir National Park and provision will need to be made to include NSW National Parks & Wildlife Service within the VMP.</p>	VMP edited to include 'surrounds' and remove 2km buffer.
	<p>3. Aims and Objectives</p> <p>p.5, 2nd para If restricted access is to apply to Aboriginal cultural sites, Diggers DuneCare members will need to know the location of these sites.</p> <p>p.5, 4th para objective 2. Protect life and property through implementing the NSW RFS Diggers Camp</p>	Noted. Fire is managed through the Clarence Valley Bush Fire Risk Management Plan and respective Village Protection Strategy.

	<p>Village Protection Strategy (May 2018). The VPS includes a fire exclusion zone along the steep hill behind the houses on the west side of Nugget Street. CVC tritter once or twice a year 5-10m either side of the fire trail along the top of this hill. However, the remainder of this steep hill behind the houses has been left to adjacent owners to maintain by clearing fallen and dead timber and cutting back smilax and coastal wattle. This material must then be removed from the hill for there to be any prospect of excluding wildfire from this zone. Although Crown Reserve and immediately adjacent to private property, Council have never maintained this steep hill to a standard which would have a chance of excluding fire.</p> <p>p.6, Objective 9. Does investigating unauthorised activities include water tanks and water lines on the hill behind Nugget Street, and removing old tanks no longer in use? CVC, in conjunction with the RFS, for a number of years planned to undertake a hazard reduction burn of this Nugget Street hill but were hesitant because of private infrastructure, i.e., tanks and polypipe water lines.</p>	<p>The Hill is maintained through weed management by Council's bush regeneration team. Fire is managed through APZ fire trail at top of Ridge.</p> <p>Water tanks are out of scope of plan - refer to the Reserve Plan Of Management</p>
	<p>4. Location p.6, Figure 1 It is not clear from this map which is the actual boundary of the Reserve. The Reserve boundary can only be determined by referring to Figure 2 on p.13 or Figure 3 on p.21.</p>	Clear boundary to be added
	<p>4.2 Vegetation controls p.8, 2. Tree removal ... Description of area of nature strips is confusing.</p>	Noted. No change, to be read in conjunction with whole paragraph.
	<p>4.3 View maintenance p.9 Council "tree poisoning" sign on edge of escarpment opposite northern houses in Nugget St has been there at least ten years but no trees have been planted the CVC in that time. This despite the sign saying in effect that this sign will remain until trees planted have grown.</p>	Noted - tree planting to be considered in operational plan for 22/23
	<p>5. Threatened species and communities 5.1 Coastal emu p.10 Although possibly too little, too late for the emu around Diggers, mention must be made of the proliferation of unleashed dogs within the village and in the adjoining Reserve and national park. Because of Diggers "remote" location and infrequent CVC Ranger visits, the village appears to have a reputation for anything goes with visitors and their unleashed dogs. The presence of the latter is not compatible with the wandering emu.</p>	Noted. Roaming domestic pets are the jurisdiction of Council Rangers. If feral dogs are present, then Local Land Services will be notified.
	<p>6. Management zones and priorities Table 1: General management activities p.14, Action 1 Monitor and manage APZs and fuel loads in bushland areas Responsibility for this must include both RFS and NP, particularly as RFS is the lead agency in such matters and NP surround the Reserve and freehold. We ageing residents look forward to the time when Council actively manages the APZ on the steep hill behind Nugget St. p.14, Action 9 How does CVC propose to notify residents prior to spraying? Advising one resident in the village,</p>	<p>Noted. Council will continue to support Landcare in efforts to educate neighbouring landowners, including new residents. Council has responsibility for APZ management and collaborates with RFS and NPWS</p>

	who may not currently be in residence, to notify all others does not seem satisfactory when it is Council's responsibility. Perhaps a letter/email to all registered owners in the village?	
	<p>Table 2: Management zones and actions</p> <p>Zone 1 p.16, Action 16 Will remove rubbish include removal of old, rusting and no longer used water tanks along the fire trail, and at whose expense if property ownership has changed since installation of old tank? Another Action in Zone 1 should include the creation and maintenance of the Nugget Street APZ given Objective #2 (p.5) is the implementation of the Diggers Camp VPS.</p> <p>Zone 3 p.18, Action 29 Recognising the "Midden" in this area requires delineation to be known to DuneCare working in the area, or does "recognised" mean something else? p.19, Action 32 I am not aware of any "fire trail" in Zone 3. The western side of Zone 3 is bounded by Miners St and the Boorkoom Rd.</p> <p>Zone 4 p.20, Action 35 & 37 I am not aware of any trees that have been illegally removed, nor fruit trees planted, in this Zone.</p>	Fire is managed through the Clarence Valley Bush Fire Risk Management Plan and respective Village Protection Strategy.
	<p>Table 3: Flora List for Diggers Headland Reserve p.23-25 This extensive alphabetical list by Genus name goes only to the letter "I". Should this list include also the letters J to Z?</p> <p>8. Appendix 1</p> <p>8.2 Restoration objectives p.27 I suggest a fifth objective should be to minimise wildfire.</p> <p>8.3 Recording and monitoring p.27-28 Is it proposed that DuneCare will undertake, beyond our usual before and after photos and brief notes, these numerous record keeping activities?</p>	Flora list extends over 4 pages, from A-Z. Dune Care will continue to report annual activities to Council in the same way as usual.
2	Needs to be proofread for spelling, punctuation, italics Check that the legislation references are up to date Flora lists corrections, I to Ls, italics for species names and additions	Noted, a draft document was exhibited and edits to be carried out accordingly. Legislation is current and refers to NSW threatened species as appropriate.
	Could the VMP include plans for studies and surveys to give a baseline of fauna and flora to work from and monitor into the future	This would be subject to external funding and could be the focus of applications from Dune Care to various funding bodies.
	Could the weed list be separate to the map Figure 2	The weed list accompanies the map to help distinguish the 4 zones. No change.
	Table 2 – how will residents be informed How does council see the work allocated to Land being managed in the future. Vegetation types need to be referenced in the table. Action 28 – not to keep mowing of the grass in zone Action 32 – no planting required in this zone	Council will contact residents prior to undertaking spraying Council will continue their support for Diggers Dune Care group, and all of the actions listed in the table have CVC's responsibility, and will assist Dune Care where needed.
	Threatened species legislation questions	The TS legislation in the document is current. <i>Swamp sclerophyll forest on</i>

		<p><i>Coastal Floodplain</i> is the EEC attributed to a portion of the vegetation on the Reserve. Other EEC's are listed in Section 5 of the document, as per NSW legislation. Often remnant coastal vegetation is depauperate and does not contain the full suite of species and can be therefore accurately assigned to one of several EEC's however for the purpose of vegetation management on the Reserve, the acknowledgment of the rarity and importance of conservation of the vegetation by assigning the most appropriate EEC provides the best management outcome. Should any change to the species composition of a listed EEC, or as a result of a dedicated survey by an accredited ecologist, then an alternative EEC will be ascribed to the vegetation and the Plan will be updated accordingly. No change.</p>
	Five additional species for species list	Additional species added
	Figure 3 – species names and general comments	The map differs from the old plan however any omissions such as the Turpentine will be added.
	Appendix – weed control	Trade names of chemicals were used to inform the community group of well known brands to avoid confusion. Weed control techniques are aligned with the NSW Weed wise methods. Coral berry and camphor laurel to be added.
	Photos for some vegetation communities don't show the native grasses	Photos of vegetation communities to be replaced where needed.
3	<p>3...Aims and Objectives 1. Place "Protect life and property through implementing the NSW RFS Diggers Camp Village Protection Strategy Plan" as the first point priority in this VMP, not putting it as the second objective. Integrate same within the first objective aim within the "Manage the natural environments....." Statement. There is no mention of the provision for residents yet holiday camping is provided in the VMP. Camping activity should not be a priority. This activity is restricted to school holiday periods only. FYI there is no supervision over these periods to enforce the no fires regulation within the camping reserve, which is a common campers activity being a high risk to the natural and built environment.</p>	Noted. Campground management is out of scope of this VMP - refer to the Reserve Plan Of Management.
	<p>4...Location: "It is important that all activities on DHR are conducted in such a way that any potential impacts on these significant surrounding environments are minimized". The Regional RFS has advised residents over many years the Diggers Camp village is one of the two most at risk villages prone to wildfire in the Clarence LGA.</p> <p>4.2... Vegetation Controls: Some residents continue to plant on the 'nature strips' and dispose of vegetation waste within same. Significant plant outs on footpath in Miner Street have occurred over the years restricting pedestrian access and importantly creating a potential fire bomb. That one was subject to a claimed written</p>	<p>Noted.</p> <p>Council will continue to support Landcare in efforts to educate neighbouring landowners, including new residents.</p> <p>Noted - tree planting to be considered in operational plan for 22/23.</p>

	<p>approval by a council officer without any consultation with the adjoining land holders, no consultation with the Diggers Care Dune Care and was in conflict with the VMP over these times.</p> <p>4.3. View Maintenance: It is important that the substantial sign at the northern end of Zone 2 is retained and maintained insitu as stated on the sign until the native vegetation is reinstated and significantly mature before removing same. The sign requires some perpendicular attention and clean up as it has been obviously interfered. The triangular area opposite continues to suffer from the 'weeding' of the young banksias within.</p>	
	<p>5.1... Coastal Emu: The emus have been driven out of Diggers Camp due the increasing popularity of Diggers being a place for dog owners to allow their pets free range on the reserve and headland. There is no encouragement or requirement from council for landowners to fence, enclose or restrict pets within their respective properties. The endangered Beach Stone Curlew is under threat for the same reason of unleashed dogs on the beach.</p>	<p>Owners of dogs have a responsibility to ensure they are properly contained to private property and not allowed to roam. Private residents or visitors can report stray dogs to Council and Council rangers can conduct patrols or talk to dog owners who do not adhere to their responsibility as a pet owner. If feral dogs are present, then Local Land Services will be notified.</p>
	<p>6...Management Zones and Priorities: Zone One: Special mention should be made of the grove of <i>Todea Barbara</i> fern trees alongside and within the melaleuca wetland. These ferns are uncommon on the north coast and require delicate management. Action 16 should not be a responsibility of Landcare volunteers, needs the authorised body to undertake such action to avoid conflict between parties.</p>	<p>Noted. Report to include <i>Todea Barbara</i> area in Zone one. Note this was already in the species list. Dune Care removed from Action 16. Council has responsibility for APZ management and collaborates with RFS and NPWS</p>
	<p>Zone 3 Action 30: Most significant stand of Mallee Turpentine within this zone needs to be carefully managed and protected. There are established adhoc tracks within this dune area, particular evidence of use over the camping season. The crest here is used as a viewing point and drinking spot over the beach lagoon. It will be important to discourage people traffic from this fragile location which is adjacent to the recorded aboriginal relics and middens site. Non endemic palms are becoming increasingly dominate within this zone, whereas there has been no recorded palms here until the last twenty years. These palms are suspect to be escapees from nearby landholders and require either removal or culling.</p>	<p>To be monitored and actioned as required</p>
	<p>7...References: Recognise & acknowledge Ms. M. Morley Botanist (Environment Australia Gov.) and Dennis Milne Community Nurseryperson/ Plant Identifier as the persons who carried out the original flora recordings and surveys over the reserve</p>	<p>For this report, the species list was adapted from Swain's so this remains the recognised reference. No change.</p>
	<p>8.1...Restoration Aims: The smilax vine is an effective deterrent to discourage access to fragile and culturally significant sites and gives protection to endangered species.</p>	<p>Noted.</p>
	<p>9...Para. 4: Blady grass, very common within the reserve is a very helpful in giving protection to new small plants keeping the ground cooler, shading the plantings, moister and providing wind protection.</p>	<p>Noted.</p>
4	<p>General comments on set out of document.</p>	<p>Noted.</p>
	<p>Table 2: List weeds in Appendix</p>	<p>Changed.</p>

BACKGROUND

Diggers Headland Reserve is a picturesque Crown recreation reserve surrounding the small coastal hamlet of Diggers Camp on the North Coast of New South Wales. The Reserve is integral to the nature-based tourist attractions of the region being surrounded by Yuraygir National Park and overlooking the Solitary Islands Marine Park.

Clarence Valley Council is appointed as Crown Land Manager of Diggers Reserve and is responsible for care, control and management of the reserve. The challenge for management is to carefully integrate public recreation with the important environmental values of the reserve and adjacent environs and to guide its use and development in a way that meets the future needs and expectations of the community, including local residents and visitors alike.

The Diggers Camp Dune Care group was established in 1990 and have worked many thousands of hours on weed control on the Council managed Reserve. The impacts of weeds, domestic animals, septic systems, encroachments, and social pressures relating to public use of the reserve are some of the management issues recognised in this plan.

The plan identifies management zones and vegetation management actions necessary in each zone, particularly regarding weeds. The plan aims to improve native vegetation condition and management on the reserve.

The land is zoned RE1 Public Recreation and native title held by the Yaegl Traditional Owners Aboriginal Corporation exists over the Crown Land portion.

COUNCIL IMPLICATIONS

Budget/Financial

Council activities identified in the plan will be funded annually through the Sub Service Parks Reserve—project number 945111 – Bush Regeneration. Funding opportunities through external grants will be sought to compliment other operational activities linked to the plan. Review of submissions, editing and publishing of the Plan is covered by staff recurrent budgets.

Asset Management

The proposed *Diggers Headland Reserve Vegetation Management Plan* provides management direction, actions and strategies to protect and enhance the natural assets growing on this reserve. It will be used to guide Council and community efforts in managing this ecologically important resource.

Policy and Regulation

Biodiversity Conservation Act 2016
Crown Land Management Act 2016
Biosecurity Act 2015
Local Government Act 1993

Consultation

The Draft Plan was placed on public exhibition for 30 days for comments. As native title exists on the reserve, Council also referred the plan directly to NTSCorp and Yaegl Traditional Owners Aboriginal Corporation RNTBC for comment. Persons making submissions have been acknowledged and advised that the final adopted Plan will be available on Council's website.

Legal and Risk Management

This vegetation management plan has been written to provide for the management of Crown land having regard to the principles of Crown land management and community expectations. Providing clear direction for Council and any other person completing vegetation management works on the Reserve reduces risk of inappropriate actions taking place.

Climate Change

Maintaining and improving our natural environment assists in increasing ecosystem resilience to changes brought about by climate change.

CORPORATE & GOVERNANCE

ITEM 07.22.232 LOCAL PART-DAY PUBLIC HOLIDAYS 2023-24

Meeting	Council	25 October 2022
Directorate	Corporate & Governance	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	A/Director - Corporate & Governance, Alex Moar	
Attachments	A. DPC Guidelines for Local Public Holiday and Local Event Day Applications 2022 ↓ B. Exhibition and Letters of Support for Gazetted Holidays ↓	

SUMMARY

Application for proposed 2023-24 local part public holidays to NSW Government Department of Premier and Cabinet (DPO&C) Industrial Relations (I/R).

OFFICER RECOMMENDATION

That Council:

Resolve to authorise an application for the following part-day local public holidays for the calendar year of 2023 and 2024, noting the Guidelines for Local Public Holiday and Local Event Day Applications (Attachment A) and the feedback received from the consultation process (below and Attachment B).

Event	2023 date & duration	2024 date & duration	Location/applicable to
Maclean Show	Wednesday 26 April 2023 1-5 pm	Wednesday 17 April 2024 1-5 pm	The Police Patrol Districts of Maclean, Yamba and Iluka, within the Clarence Valley local government area
Ramornie Races	Wednesday 12 July 2023 - 1-5 pm	TBA	Grafton City within the Clarence Valley Council area
Grafton Cup	Thursday 13 July 2023 - 1-5 pm	TBA	Grafton City within the Clarence Valley Council area
Jacaranda Festival	Thursday 2 November 2023 - 1-5 pm	Thursday 31 October 2024 1-5 pm	Grafton City within the Clarence Valley Council area

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES

Instructions for applying for local part-day public holidays:

On 17 August 2022 DP&C I/R wrote to the General Manager inviting applications for local public holidays—half-day or part-day) for 2023-24, noting:

- it is expected that 'Council would undertake a public consultation process to assess community sentiment as well as the costs and benefits to regional businesses and local communities [etc.]'
- that applications fulfill several criteria (statement of history regarding the proposed events; an account of the consultation process; letters of support; alternative dates, etc.).
- that applications be accompanied by a Council resolution, and:
- those applications should be received by Friday 11 November 2022.

Consultation process:

Prospective dates/times (as above) for the local part-day public holidays were obtained from the relevant organisations—the Maclean District Business Chamber, the Clarence River Jockey Club (CRJC) and the Jacaranda Festival Inc. On Friday 2 September 2022 these were advertised in Council's 'Noticeboard' Electronic Direct Mail (EDM) service.

A Council webpage was created, providing the DP&C's 'Guidelines' (inclusive of information about industrial relations for the days) and maps for the areas impacted. The webpage was available from 2 September to 5 October, conforming to the 28-day exhibition period for policies under the Local Government Act (see Attachment B).

Additionally, all schools in the LGA were emailed directly, as were bus services and, where they had a relevant email address, local banks were also contacted.

Feedback received

Letters of support for the proposed dates were received from The Clarence River Jockey Club (CRJC) the Jacaranda Festival Inc. and the Maclean District Business Chamber (Attachment B). Email correspondence was received from one transport company and one bank, both of which voiced no objections. The feedback from the public exhibition of the proposed dates is provided below:

Submitter	Submission (summary—see <u>Attachment B</u> for details)	Comment from Council
Andrew Patterson, Copmanhurst 2460 and Principal, Copmanhurst Public School	I note that the gazetted half day public holiday for the Jacaranda Festival is exclusively for schools within Grafton. Students at my school, Copmanhurst Public School, have always been allowed the half day public holiday for Jacaranda and in fact there was a time this was a whole day public holiday. Small schools including Copmanhurst are encouraged to participate in Jacaranda concerts, school days, parades etc but now we are being told they no longer qualify for the part day holiday because they are not Grafton schools. If the festival is going to be exclusive for Grafton and not inclusive of the surrounding small towns and villages (who are all part of the Clarence Valley LGA) then we will most likely decline any approaches to participate in Jacaranda activities.	The local half day public holiday was originally endorsed by Grafton City Council. When Clarence Valley Council was formed the local public holiday was only requested for the boundary of Grafton City Council. This has never changed and is no different this year.
Heath Simpson, Tucabia 2460	Jacaranda Half Day: Currently students from small schools within the LGA who attend Jacaranda Thursday must be marked as an UNJUSTIFIED absence and are therefore discouraged from attending. If Jacaranda is intended to be a Clarence Valley event rather than an exclusively Grafton event, this will need to be addressed. Schools and communities from outside the Grafton City boundary are encouraged to participate then punished for doing so.	As above
Louise Hankinson Waterview Heights 2460	I work at two small schools in the local area, Tucabia and Nymboida. Both of these schools have children who experience some effects of isolation and distance from the nearest major centres. As small schools with small enrolments, students do sometimes miss out on sporting opportunities (not enough numbers to make a team, etc.), after school activities and other opportunities as transport costs are high. Even just booking a bus from Nymboida to town for the school costs approx. \$400, so excursions can be prohibitive. Excluding the students from a major community event such as Jacaranda Thursday just seems like an additional and purposeful exclusion of the students from the small communities that surround Grafton. A public holiday for all the surrounding towns and villages that have Grafton as its nearest hub would encourage greater family participation in Jaca Thursday and would be a more inclusive policy. People in Tucabia and Nymboida do their shopping in Grafton, do business in Grafton, seek medical services in Grafton, and excluding	As above

	<p>them from major community events does not make sense.</p> <p>Please reconsider the decision to exclude all the surrounding communities that view Grafton as its central hub from the half day public holiday. Please allow students and families from these smaller communities to enjoy the same opportunities as the children and families who live in Grafton and allow Jaca Thursday to be a celebration for the whole community.</p>	
Michelle Dalgliesh Coutts Crossing 2460	<p>I have been advised that schools outside of Grafton city limits are not included in the gazetted half day Jacaranda public holiday. This essentially excludes all small school families from participating in Jacaranda Thursday festivities. Students, staff and families from Coutts Crossing Public School have previously enjoyed contributing to the Jacaranda events, such as the float parade. In previous years, our small school families have proudly represented our school at different Jacaranda events and have felt like we made valuable contributions to this special community celebration. The exclusion of small schools from the Jacaranda public holiday further isolates small rural schools and outlying Clarence Valley communities. Unfortunately, until such time that the half day Jacaranda Public Holiday is revised to include our small school community, Coutts Crossing Public School will no longer be participating in any Jacaranda events.</p> <p>I wish to formally request that the half day Jacaranda public holiday is reviewed, with consideration to include our small school community in future years.</p>	As above
David Cooper Gulmarrad 2463	<p>I believe that local public holidays, IE half days should start at 12-00 midday not 1-00 pm as half a day is obviously 12-00 midday as most of council outdoor staff start at 6-00 am or 7-00am then 1-00pm is either 7 or 6 hours worked which is plainly more than a half day. This has been a cause of ongoing disgruntlement for outdoor staff and needs changing.</p>	Dates/times are proposed by the organisation requesting the public holiday.
David Schwartz Yamba 2464	<p>There are 3 public half day holidays proposed for Grafton area alone and only 1 for Maclean/Yamba. 2 of the Grafton half day holidays are associated with the Winter Horse Racing Carnival. The rest of the shire gets NO public holidays? Now I know in Australia there is a half day Melbourne Cup public holiday on the first Tuesday in November, but I am unsure if there are any other declared public holidays for horse racing meetings - yet here in the Clarence we're continuing the long tradition of a half day for the Ramornie and a half day for the Grafton Cup. Now I once went to a Grafton winter race meeting; I'm no teetotaler but I was appalled by the display of public drunkenness by those attending!</p> <p>So my issue is why are we having 2 half day public holidays for insignificant horse races, surely we can find a more worthy cause if we need extra holidays at all (which I find difficult to comprehend, most of the world has far fewer holidays than the Aussie worker.</p>	For Council to note
Denis Banks Grafton 2460	<p>Local public holidays should commence from 12pm to support a true half day holiday</p>	Dates/times are proposed by the organisation requesting the public holiday.
Heather Ellem	<p>I support the proposed local public holidays. It's important for tourism and community engagement.</p>	For Council to note

Coutts Crossing 2460		
Karin Lisle Coffs Harbour 2450	I agree we should have a half day public holiday for Jacaranda Festival, it is an important festival for the Clarence Valley. However, I absolutely DO NOT support any half day public holiday that promotes gambling and will not support the other holidays that are proposed.	For Council to note
Rae-Ann Finlay South Grafton 2460	Why 1-5 pm for Jacaranda when we all know the fun is in the morning	Dates/times are proposed by the organisation requesting the public holiday.

BACKGROUND

Clarence Valley consistently hosts four events that have been accompanied by part-day public holidays: Two for the two major races (Ramornie Handicap and Grafton Cup on adjacent days in July), one for the Jacaranda Festival (the first Thursday in November) and one for the Maclean Show (the first Wednesday in May). The first three of these local public holidays only apply to the Grafton City area; the half-day public holiday for the Maclean Show applies to the police patrol districts of Maclean, Yamba and Iluka. All of these events are longstanding fixtures on the local calendar—for instance, the Jacaranda Festival will be celebrating its 88th year next month—and all provide a focal point for the community and a boost to the local economy.

COUNCIL IMPLICATIONS

Budget/Financial

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

Asset Management
As above

Policy and Regulation

As above

Consultation

All local schools; companies responsible for local transport (bus services); Chambers of Commerce (Grafton; Maclean); Jacaranda Festival.

Legal and Risk Management

N/A

Climate Change

N/A



Guidelines for Local Public Holiday and Local Event Day applications

The following guidelines are provided to assist in the making of applications to the Minister for the Public Service and Employee Relations for the declaration of local public holidays and local event days under the *Public Holidays Act 2010* (NSW).

Under the *Public Holidays Act 2010* all public holidays and local event days (including part-days) must be declared by Order of the Minister and published on the NSW legislation website.

In determining whether to apply for a local public holiday or local event day, it is important that the Council be mindful of the potential impact the application will have upon businesses and communities located within designated public holiday areas.

Declaration of a Local Public Holiday

In circumstances where a local public holiday is declared by the Minister, a bank located in the designated holiday area will be required to close during the declared public holiday hours unless the bank is exempted from the requirement to close under Part 3A of the *Retail Trading Act 2008*. Shops located within the designated holiday area are free to open without restriction.

Where it is proposed to request a half-day public holiday, consideration should be given to the effect the half day holiday will have on local schools and on the transport of students who attend school on the day. **In this regard, it is expected that the consultation process with local schools will take account of the transport arrangements for students on the half day.**

Implications for Employers

The public holiday provisions contained in the National Employment Standards of the *Fair Work Act 2009* (Cth) apply to local public holidays declared under the *Public Holidays Act 2010*. This means that all employees irrespective of their former entitlements and whose place of work is within a local public holiday area will be entitled to be absent from work for the day or part day declared to be a public holiday. In addition, employees who work on the day or part day may have an entitlement to penalty rates under a relevant award or enterprise agreement.

In considering an application to the Minister for a public holiday or part-day holiday, it is expected that the Council will consult with the affected community and other relevant stakeholders as to the impact of a local public holiday or part-holiday on businesses located in the local government area.

Declaration of a Local Event Day

The capacity for the Minister to declare a local event day or part day at the request of a local council is also available under the *Public Holidays Act 2010*. The Minister must be satisfied that the day or part day is, and will be observed as, a day of special significance to the community in the area concerned.

The declaration of a local event day or part day does **not preclude banks or shops located within the designated holiday area from opening or trading on the day.**

Implications for Employers

A declared local event day does not automatically mean that employers in the particular locality are compelled to treat the day as a public holiday. Entitlements to paid leave or penalty rates on a local event day will only arise where agreed to at the workplace level, usually in the form of an enterprise agreement or by contract. This goes some way to restoring the industrial arrangements that existed prior to changes in the Commonwealth workplace laws.

The application process

An application for the declaration of a local public holiday or local event day (including a part-day holiday or event day) must be made in writing to the Executive Director, Employee Relations, Department of Premier and Cabinet and contain the following information:

1. a statement regarding the history of the event and whether the event day has traditionally been observed as a full or half-day public holiday.
2. the date, the designated area and, if relevant, the hours during which the public holiday or local event day is to be observed;
3. the extent of community consultation undertaken in respect of the proposal;
4. copies of advertisements seeking public comment and a summary of the public's responses;
5. a summary of correspondence to, and responses from, relevant stakeholders, including bank managers; school principals; and chambers of commerce regarding the Council's proposal.
6. internal reports or information prepared for consideration by the Council and a copy of the Council's resolution authorising the making of the application;
7. where an application is made for a public holiday or part-day holiday, details of:
 - alternatives considered by the Council including the declaration a local event day; and
 - arrangements for school students (including the provision of transportation for students attending schools on the day of a part-day public holiday).

Biennial declaration of public holidays and local event days

Applications may be made for the declaration of public holidays and local event days (and part days) over a consecutive two-year period for the holding or celebration of annual events, such as a local show day, race day or carnival.

However, in making an application for a full or part-day public holiday it is expected that the Council will provide additional information focused on the economic and social importance of the event for the designated holiday area. This could include information provided by event organisers, local businesses or relevant industry surveys or statistics.

Additional information required for biennial applications

Where a Council intends to make a biennial application for the declaration of public holidays or local event days (including part-day declarations), the Council must conduct a consultation process as to the proposal and provide the following information:

- the level of support for and against the application from local businesses and stakeholders
- the benefits to the local community in terms of employment, business activity, tourism and industry promotion of the region
- demonstration of the economic benefits to the local community in terms of employment, business activity, tourism and industry promotion of the region
- details of the importance of the event from a social and community perspective

Sections 5 and 8 of the *Public Holidays Act 2010*

Copies of sections 5 and 8 of the *Public Holidays Act 2010* relating to the declaration of local public holidays and local event days have been included for the information of the Council in Appendix A.

Appendix A

Sections 5 and 8 of the Public Holidays Act 2010

5 Additional public holidays

- (1) The Minister may by order published on the NSW legislation website declare a specified day or part-day in a particular year to be a public holiday. The order must be published at least 7 days before the public holiday.
- (2) The order can declare a public holiday for the whole State or for a specified part of the State.
- (3) The Minister may by order published on the NSW legislation website cancel a public holiday declared under this section. The order must be published at least 7 days before the public holiday.

8 Local event days

- (1) The Minister may by order made at the request of the council of a local government area declare a specified day or part-day to be a local event day in the local government area or in a specified part of the local government area.
- (2) The Minister is not to declare a local event day unless satisfied that the day or part-day is, and will be observed as, a day of special significance to the community in the area concerned.
- (3) The order declaring a local event day must be published on the NSW legislation website at least 7 days before the local event day.
- (4) The declaration of a local event day does not make the local event day a public holiday.

Home (<https://www.clarence.nsw.gov.au/Home>) / **2023 Local Public Holidays: Community Consultation**

2023 Local Public Holidays: Community Consultation

On display until 05 October 2022, 05:00 PM

On 17th August, the NSW Department of Premier & Cabinet (DP&C) called for applications for local half or part-day local public holidays.

Applications are due to DP&C by Friday 11 November and must be accompanied by a Council resolution and feedback from extensive community consultation.

The following part-day local public holidays have been proposed by the Maclean Show Society, Clarence River Jockey Club and the Jacaranda Festival:

Event	2023 Date & duration	2024 Date & duration	Location/applicable to
Maclean Show	Wednesday 26 April 2023 1-5 pm	Wednesday 17 April 2024 1-5 pm	The Police Patrol Districts of Maclean, Yamba and Iluka, within the Clarence Valley local government area
Ramornie Races	Wednesday 12 July 2023 1-5 pm	TBA	Grafton City within the Clarence Valley Council area
Grafton Cup	Thursday 13 July 2023 1-5 pm	TBA	Grafton City within the Clarence Valley Council area

Jacaranda Festival	Thursday 2 November 2023 1-5 pm	Thursday 31 October 1-5 pm	Grafton City within the Clarence Valley Council area
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Previous submissions to proposed dates have focused on the implications for workplaces/pay rates. Council is not an industrial relations regulator. Advice in this regard is included in the DP&C's 'Guidelines for Local Public Holiday and Local Event Day applications'.

Submissions close **5pm Friday 20th October**.

Make a Submission (<https://www.clarence.nsw.gov.au/Forms/Make-a-submission>)

Related Information

[Guidelines for Local Public Holiday and Local Event Day](https://www.clarence.nsw.gov.au/files/assets/public/home-page/on-exhibition/dpc.-guidelines-for-local-public-holiday-and-local-event-day-applications-2022.pdf) ^(PDF, 129KB) [\(/files/assets/public/home-page/on-exhibition/dpc.-guidelines-for-local-public-holiday-and-local-event-day-applications-2022.pdf\)](https://www.clarence.nsw.gov.au/files/assets/public/home-page/on-exhibition/dpc.-guidelines-for-local-public-holiday-and-local-event-day-applications-2022.pdf)

[Police Patrol District map](https://www.clarence.nsw.gov.au/files/assets/public/business-and-infrastructure/files/public_holidays_maclean.pdf) (https://www.clarence.nsw.gov.au/files/assets/public/business-and-infrastructure/files/public_holidays_maclean.pdf)

[City of Grafton map](https://www.clarence.nsw.gov.au/files/assets/public/business-and-infrastructure/files/public_holidays_grafton_area.pdf) (https://www.clarence.nsw.gov.au/files/assets/public/business-and-infrastructure/files/public_holidays_grafton_area.pdf)



27 September 2022

JULY RACING CARNIVAL – 2023 PART-DAY HOLIDAYS

Governance Officer
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

Dear Clarence Valley Council.

Thank you for the opportunity to provide information supporting the application to have Council approve part-day public holidays for the two main days of the July Racing Carnival.

I can confirm that the dates for the 2023 July Carnival as Ramornie Handicap Day, Wednesday 12 July 2023, and Grafton Cup Day, Thursday 13 July 2023.

As Council is no doubt aware, the July Racing Carnival is the 'biggest event' that happens in the Clarence Valley each year not only in its direct economic stimulus to Grafton and the Valley but also in its ability to showcase Grafton not only nationally but with the advent of worldwide betting interest internationally to a large audience that view the event on pay television networks and internet providers.

It is fair to say that even through the last three July Racing Carnivals have been heavily impacted by Covid 19 restrictions, there has been significant visitor participation in the race days.

The carnival will only remain popular with visitors to the Valley whilst ever it remains a sporting event with 'Atmosphere'. This can only be achieved whilst ever there is participation from the local community and the reality is this can only occur if the part day holidays remain in place.

Whilst the economic stimulus is obvious to business like Accommodation Houses, Restaurants, Petrol Stations, Supermarkets etc., there is a much greater influence on the Valley by way of additional wages paid to part time employees at the race meetings in July. Over the two main days alone there are in the vicinity of 500 casual staff who are employed at the races. The great majority of these casual staff live permanently in the Clarence Valley and the direct benefit to them and its clear flow-on are of great importance. For this reason alone, it is imperative that we retain the two part-day holidays into the future.

2

Prior to 2013 for other business there was a major issue with the cost of wages at penalty rates because of the full Half Day Public Holiday(s) extending into the nighttime hours which was especially felt by the Pubs, Clubs & Restaurants. This issue however is now of much lesser impact on business in the valley due to the shorter holiday rate hours (1pm-5pm). In fact, the single employer with the largest number of staff receiving penalty rates on the part-day holidays is most likely the CRJC. In the short term we would be the biggest benefactor if the half day holidays were removed but the long-term negative impact on the Carnival overall would be immeasurable.

These changes have ensured that race day support industries are now given an opportunity to provide entertainment and visitor facilities, which no doubt has improved the complete Carnival experience for both Clarence Valley residents and visitors alike.

Clearly it has now become much more viable for the local business mentioned above to operate, this has made it more attractive for people to remain in the valley after the races rather than drift away to neighbouring towns such as Coffs Harbour.

I am sure the current part-day public holiday time limit 1pm-5pm has had a significant positive impact for the other business in the valley especially those providing food and beverage facilities after the races and I feel a continuation of those restrictions will continue to benefit the valleys business and ensure the long term viability and popularity of the July Racing Carnival.

I would be happy to discuss this matter further and provide any other information if required.

Additionally, the CRJC would also like to offer its support for the proposed Maclean Show part-day public holiday on Wednesday 26 April 2023 1-5pm and the proposed Jacaranda Festival part-day public holiday Thursday 2 November 2023 1-5 pm. Both events have a similar positive influence on the community.

Yours faithfully,



Michael Beattie
Chief Executive Officer
Clarence River Jockey Club

Grafton Jacaranda Festival Inc.*Jacaranda City, Grafton NSW Australia*

Governance Officer
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

27 September 2022

Dear Clarence Valley Council

RE: Grafton Jacaranda Thursday – Part-Day Public Holiday – 2023-24

Please accept this as a letter of support for the Jacaranda Thursday part day holidays proposed for the following dates:

Thursday 2 November 2023

Thursday 31 October 2024

The Grafton Jacaranda Festival will be celebrating its 89th year in 2023 and 90th year in 2024. The festival is Australia's longest running floral festival, steeped in tradition, community participation and celebration. Established in 1934, the festival coincides with the flowering of Grafton's iconic jacaranda trees.

The Festival program of events takes place from the last weekend in October to the first weekend in November. The Festival attracts over 35,000 intra and interstate, national and international visitors to Grafton each year, injecting over \$2 million in economic benefit to the Clarence Valley.

Jacaranda Thursday has been part of this tradition for many years. This event is the major part of the 10 day festival and is celebrated from 6am in the morning with a free community breakfast. Road closures are put in place to allow for entertainment all day on the main streets of Grafton's CBD and in the public park, Market Square. The first half of the day, local business dress up and perform skits to the crowds of people on the streets enjoying over 150 market stalls and the entertainment.

The part-day public holiday on Jacaranda Thursday is very important to allow business owners and employees to take the time to join in the festivities of the festival with their families and friends.

Kind regards,

Mark Blackadder
Festival Manager

info@jacarandafestival.com
jacarandafestival.com

0429 167 732
PO Box 400 Grafton NSW 2460

Grafton Jacaranda Festival Inc.

Jacaranda City, Grafton NSW Australia

**27 September 2022****Clarence Valley Council****Re: Feedback on proposed dates for 2023 Race Days, Grafton & 2023-24 Maclean Show****Dear Council,**

Thank you for seeking the views of Grafton Jacaranda Festival Inc. regarding the proposed dates for the half-day public holidays (1-5pm) accompanying the 2023 Grafton race days as proposed by the Clarence River Jockey Club (CRJC) and for the 2023-24 Maclean Show days as follows:

- Ramornie Handicap: Wednesday July 12th
- Grafton Cup: Thursday July 13th
- Maclean Show: Wednesday 26th April 2023 1-5 pm and Wednesday 17th April 2021 1-5 pm

On behalf of the Grafton Jacaranda Festival Inc. I can confirm that these days are suitable from our perspective and that they make a valuable contribution to the business and civic fabric of Grafton and the Valley more generally.

If you require any further information, please do not hesitate to be in touch.

Sincerely,

Mark Blackadder,

Mark Blackadder

Festival Manager

0429 167 732

manager@jacarandafestival.com

jacarandafestival.cominfo@jacarandafestival.com
jacarandafestival.com0429 167 732
PO Box 400 Grafton NSW 2460

Bligh Grant

From: Maclean Chamber President <president@macleanchamber.com.au>
Sent: Tuesday, 20 September 2022 2:26 PM
To: Bligh Grant
Subject: RE: Consultation on Local Part-day public holidays 2023-24

Hi Bligh,

The Maclean Chamber has no issues with these date.

Kind Regards,

Christine Tyler

President

Maclean District Business Chamber

PO Box 273, Maclean NSW 2463

secretary@macleanchamber.com.au | www.macleanchamber.com.au



Disclaimer:

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From: Bligh Grant <Bligh.Grant@clarence.nsw.gov.au>
Sent: Tuesday, 20 September 2022 1:15 PM
To: Maclean Chamber President <president@macleanchamber.com.au>
Cc: Bligh Grant <Bligh.Grant@clarence.nsw.gov.au>
Subject: Consultation on Local Part-day public holidays 2023-24

Good afternoon Grafton Chamber,

These dates have been gazetted for consultation with the public and submissions will remain open until 20 October (see [here](#)).

In line with the practice of previous years, Council now seeks the opinion of the Chamber on the other proposed part-day public holidays, as per the table below.

Event	2023 Date & duration	2024 Date & duration	Location/applicable to
Maclean Show	Wednesday 26 April 2023 1-5 pm	Wednesday 17 April 2024 1-5 pm	The Police Patrol Districts of Maclean, Yamba and Iluka, within the Clarence Valley local government area
Ramornie Races	Wednesday 12 July 2023 1-5 pm	TBA	Grafton City within the Clarence Valley Council area
Grafton Cup	Thursday 13 July 2023 1-5 pm	TBA	Grafton City within the Clarence Valley Council area
Jacaranda Festival	Thursday 2 November 2023 1-5 pm	Thursday 31 October 1-5 pm	Grafton City within the Clarence Valley Council area

If you could please advise, I can include in the Report to Council in October.

Many thanks,

Bligh.

Bligh Grant
Governance Officer
02 6641 7203
www.clarence.nsw.gov.au



We acknowledge the Bundjalung, Gumbaynggirr and Yaegi people as the Traditional Owners of the land on which we live and work. We honour the First Nations peoples culture and connection to land, sea and community. We pay our respects to their Elders past, present and emerging.



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ITEM 07.22.233 Q1 2022/2023 GOVERNANCE REPORT

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	A/Director - Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) applications, new and/or updated Disclosure of Interest returns and insurance claims for Q1 2022-23 (1 July 2022 to 30 September 2022).

OFFICER RECOMMENDATION

That Council receive and note the Q1 2022/2023 Governance Report.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES*Legal Activities*

Council sought legal advice across various activities: Property, land acquisition, employment matters and environmental and regulatory services. There were no outlays for court proceedings taken by or against Council to report.

Complaints Management

No complaints were received this quarter.

Government Information (Public Access) (GIPA) Applications

During the period, six (6) GIPA formal applications were determined, a decrease from 8 in Q4 2021-22 and 11 in Q3 2021-22. The applications were for a diverse range of information. Summaries of the information provided and reasons for the non-provision of information as per the GIPA Act are available on Council's Disclosure Log of Access Applications page <https://www.clarence.nsw.gov.au/Council/Governance-and-transparency/Disclosure-log-of-access-applications>. For all six applications, partial access was determined. The bases for withholding information under Section 14 of the GIPA Act were: (i) responsible and effective government; (ii) individual rights, judicial process and natural justice and (iii) business interests of agencies and other persons. Information was also withheld due to legal privilege under Schedule 1(5) of the GIPA Act.

No internal or external reviews of formal access applications were requested during the quarter.

Disclosures of Interests Returns

Compulsory annual disclosures of interest returns were reported at the September Ordinary Council Meeting. Updated returns for Q1 2022/2023 have been called for and will be reported on at the November OCM.

Insurance Claims

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

Public Liability: 59 claims were lodged this quarter, 49 were incurred by Civil Services, four incurred by Water Cycle; three incurred by Open Spaces & Facilities; one incurred by Development and Land Use Planning (see legal action below) and one incurred by Environment and Regulatory Services.

Council is continuing to receive a large volume of pothole claims, 45 out of the 59 claims lodged this quarter were related to potholes.

Property: A bus shelter on Heinz Rd, Pillar Valley was vandalised and written off. It is believed a truck may have run into it.

INSURANCE CLAIMS 1 July 2022 TO 30 September 2022

Activity	Total Claims	Not Pursued	Declined	Settled	Pending	Notification	Total Amount Settled
Public Liability	59	2	21	7	27	2	\$3,537.00
Property	1	0	0	0	0	0	\$5,000.00
Total	60	2	21	7	27	2	\$8,537.00

LEGAL MATTERS

Party	Matter	Legal Action Commenced	Status
Marsden vs Council	Class 1 Appeal has been lodged with the NSW Land and Environment Court appealing Council's refusal of DA2021/0303 and to uphold its decision under Review REV202022/0002, being a development application for a two (2) storey dwelling at 5 Carrington Street, Palmers Island (Lot(s) 20 & 21 DP 2107)	29/09/2022	Pending
Bowing vs Council	Injury	05/07/2022	Pending
Turnbull vs Council	Financial Loss & Harassment	31/05/2022	Pending

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

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

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

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

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

BACKGROUND

Legal Proceedings

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

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

Complaints Management

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

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

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

Under the policy, Council has committed to respond substantially to any complaint (other than a competitive neutrality complaint) within 21 business days after it is received. The report is also to contain details of the amounts, costs and expenses paid or received by the Council.

Government Information (Public Access) Applications

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

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

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

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

Disclosures of Interests

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

Insurance Claims

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

COUNCIL IMPLICATIONS**Budget/Financial**

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

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

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

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

Asset Management

N/A

Policy and Regulation

Complaints Management Policy

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

Privacy and Personal Information Protection Act 1998

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

Council's suite of insurance policies

Civil Liabilities Act 2002 No 22

Consultation

Insurance Officer; Finance

Legal and Risk Management

As above

Climate Change

N/A

ITEM 07.22.234 POLICY REPORT

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	A/Director - Corporate & Community, Alex Moar	
Attachments	A. Art Collection Policy V5.0 (Separate Cover) ⇒ B. Enterprise Risk Management Policy V7.0 (Separate Cover) ⇒ C. Community Gardens Policy V3.0 (Separate Cover) ⇒	

SUMMARY

This Report asks that Council adopts one (1) policy with minor changes following a period of exhibition and place two (2) updated policies on exhibition.

OFFICER RECOMMENDATION

That Council:

1. Consider the submission to the Art Collections Policy V5.0 (Attachment A) and adopt the policy with minor changes.
2. Place the following revised policies on exhibition and, subject to there being no submissions that change the intent of the policies, that they be adopted:
 - a. Enterprise Risk Management Policy V7.0 (Attachment B)
 - b. Community Gardens Policy V3.0 (Attachment C)

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES**1. Art Collections Policy V5.0**

This policy was placed on exhibition following the July OCM (ITEM 07.22.174). The intents of the revised policy were:

- to steer the Gallery's resources away from two collections, namely 'The Clarence Valley Photographs of John William Lindt' (est. 2004) and the 'O'Grady Collection' (est. 2008) by closing them to new acquisitions, noting that they are well developed; and:
- to implement a minor change to deaccession arrangements, where artifacts obtained as gifts to the Gallery will not be returned to the donor, as the donor has already received the benefit of a tax deduction for the gift.

One submission to the revised policy was received, as follows:

Submitter	Comment	Response & update
Helen McBean Yamba 2464	<p>5 Grafton Regional Gallery Collections</p> <p>The closing of two regional collections, The Clarence Valley Photographs of John William Lindt and the O'Grady Collection, is of concern. This means that no work can be acquired through purchase, gift or donation. These collections are not complete.</p> <p>It is fair enough that the Grafton Regional Gallery chooses not to spend money from its acquisition budget for these collections as a way of not purchasing works by dead artists to suit that particular value of the moment. However these two collections are by significant artists who lived and worked in</p>	<p>Council appreciates the view about prospective donations to the two collections; however, operating costs for the Gallery involve not merely outlays for acquisitions; but also, for administration, maintenance, storage, etc. Under the policy, the Gallery is required to 'acquire artworks that</p>

	<p>the Clarence Valley. They are an important part of the visual art history of our region.</p> <p>They can stay open.</p> <p>The O’Grady Collection has small to minor works with a few major works. Many major works are in private hands. The collection cannot be closed to the accepting major works.</p> <p>There are some portraits of Aboriginal people by Lindt missing and very few of landscape works by Lindt in the collection. Lindt is recognised internationally as one of the first artists to photograph the landscape for artistic pursuit.</p> <p>The two collections need to stay open to the opportunities that will occur over time.</p> <p>7 Acquisitions Section 7.1 first paragraph:</p> <p>Change define to defined</p> <p>The word ‘comprehensive’ is of concern. It is beyond the remit of this regional gallery to present a comprehensive collection of Australian artworks. This impossible task reduces the gallery to pursuing the same set of artworks held by many other galleries and institutions, an expensive exercise that creates a collection of minor works rather than masterpieces that does not convey a sense of place and identity of the Clarence Valley.</p> <p>Consider finishing the sentence at periods, ie delete ‘to create a comprehensive collection of Australian artworks’ as this is well covered in the next paragraph.</p> <p>11 Deaccessioning of Artwork Third paragraph – insert comma after Gallery staff and after Committee.</p> <p>END</p>	<p>reflect and support contemporary Australian visual arts practice with a focus on the contemporary and historical visual arts history of the Clarence Valley [etc.]. A balance must be achieved utilising the available resources.</p> <p>As such, it is recommended that the changes to the policy be adhered to.</p> <p>All other minor suggestions to the policy have been considered. In particular, the word ‘comprehensive’ has been replaced with ‘significant’ (see Attachment A).</p> <p>Council thanks the submitter for their contribution.</p>
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2a. Enterprise Risk Management Policy V7.0

This policy demonstrates and guides Council’s commitment to implementing organisation-wide risk management principles, systems and processes that ensure the consistent, efficient, and effective assessment of risk in all council’s planning, decision-making, and operational processes.

The policy was due for renewal and has been updated (Attachment B) as per the model policy in the Risk Management and Internal Audit for local councils in NSW Guidelines August 2021 (draft) from the Office of Local Government. As the policy is based on the model policy and been rewritten, there is no track changes provided. ARIC has reviewed the draft policy and have endorsed it to be presented to Council for the exhibition and adoption process.

2b. Community Gardens Policy V3.0

This policy provides for the safe establishment and community management of community gardens, supporting access to fresh produce, food security, reducing food miles, increasing wellbeing and building skills.

The policy was due for renewal and now incorporates the legislative/regulatory framework, alongside increasing the amount for public liability, as well as providing guidelines and checklists for the establishment of community gardens and including provisions for Native Title, where appropriate (Attachment C noting that the policy has been substantially reformatted and as such is not provided with tracked changes).

BACKGROUND

As above

COUNCIL IMPLICATIONS

Budget/Financial

The Enterprise Risk Management Policy V7.0 is an essential component of managing both tactical and strategic risks across Council's activities, as required by various instruments and guidelines.

Asset Management

As above

Policy and Regulation

As above

Consultation

Grafton Regional Gallery; Open Spaces and Facilities, Leadership Team and other key internal stakeholder and ARIC for Enterprise Risk Management Policy V7.0.

Legal and Risk Management

As above

Climate Change

N/A

ITEM 07.22.235 2022/23 QUARTERLY BUDGET REVIEW STATEMENT - SEPTEMBER 2022

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	Manager Finance & Systems, Kate Maginnity	
Reviewed by	A/Director - Corporate & Community, Alex Moar	
Attachments	A. Quarterly Budget Income Statement By Fund - September 2022 (Separate Cover) ⇒ B. Quarterly Budget Income & Expenditure Statements by Service - September 2022 (Separate Cover) ⇒ C. Statement of Restricted Cash Reserve Funds - September 2022 ↓ D. Quarterly Contracts and Other Expenses September 2022 ↓ E. Monthly Grant Application Summary - September 2022 ↓	

SUMMARY

This report presents to Council the September 2022 Quarterly Budget Review Statement (QBRS) for the period 1 July 2022 to 30 September 2022.

Budget adjustments for the quarter ended 30 September 2022 (subject to council resolution) result in a net General Fund impact of \$60,000 increasing the current year projected budget result to a \$96,052 deficit.

The reserve funding variations identified in this report will decrease the reserve funds by a further \$48,000, resulting in a current year projected reserve funds movement of \$20,559,903.

OFFICER RECOMMENDATION

That Council:

1. Receive and note the information in the Quarterly Budget Review Statement to September 2022.
2. Approve General Fund variations detailed in this report totalling \$60,000, which results in a projected General Fund budget deficit of \$96,052 for the year.
3. Approve the variations for the Financial Reserves as detailed in this report totalling \$48,000, which results in a projected decrease in the External and Internal Reserves Funds of \$20,559,903.
4. Note and endorse the receipt of funds due to successful grant applications as detailed in Attachment E.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have an effective and efficient organisation

KEY ISSUES***Major Budget Variations Proposed***

Following is a list of the major proposed variations identified since the adoption of the Revised Budget in June 2022, during the month September 2022, noting budget variations have previously been reported to Council during the month of August (CM 07.22.178) & September (CM07.22.212).

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
311	Service – Roads & Drainage Infrastructure Delivery Sub-Service – Local Roads <ul style="list-style-type: none"> Allocate TfNSW Safer Roads Program grant funding to Iluka Road – Woombah to Iluka road safety improvement works - \$1,510,000 	\$Nil	\$Nil	N/A
312	Service – Roads & Drainage Infrastructure Delivery Sub-Service – Regional Roads <ul style="list-style-type: none"> Allocate Fixing Country Bridges grant to Bluff Bridge - \$11,287,971 	\$Nil	\$Nil	N/A
315	Service – Roads & Drainage Infrastructure Delivery Sub-Service – Traffic Facilities <ul style="list-style-type: none"> Allocate TfNSW Walking & Cycling Funding Program to fund the detailed design of a shared User Pathway to connect along Cameron St from Jubilee St to Maclean CBD - \$42,000 	\$Nil	\$Nil	N/A
	<ul style="list-style-type: none"> Allocate Country Passenger Transport Infrastructure Grants Scheme to the below projects: <ul style="list-style-type: none"> New Bus Shelters - \$46,000- various locations 	\$Nil	\$Nil	N/A
	<ul style="list-style-type: none"> Bus Shelter Accessibility Upgrades - \$27,500 – various locations 	\$Nil	\$Nil	N/A
Various	Service – Roads & Drainage Infrastructure Delivery Sub-Service – Various <ul style="list-style-type: none"> Allocate Road Safety Program grant funding to the following projects: <ul style="list-style-type: none"> Grafton CBD – Wombat Crossings - \$100,000 Minnie Water Road – Road Safety Works - \$85,000 Angourie Road Safety Works - \$75,000 Sandon Road Line Marking - \$6,500 Annual Local Government Road Safety Project - \$10,000 	\$Nil	\$Nil	N/A
Various	Service – Various Sub-Service – Various <ul style="list-style-type: none"> Allocate NSW Severe Weather & Flood – Complex & Immediate Support grant as follows <ul style="list-style-type: none"> Improved drainage and flood immunity initiatives - \$1,500,000 Repair of Recreational Assets - \$400,000 Economic Recovery Partnership with Chambers of Business - \$100,000 	\$Nil	\$Nil	N/A

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
445	Service – Regulatory Services Sub-Service – Regulatory Services <ul style="list-style-type: none"> Allocate remaining Category D Local Government Recovery – Companion Animals and Support grant to Implement Animal Control and Animal Shelter Improvements focussed on animal housing - \$290,000 	\$Nil	\$Nil	N/A
	TOTAL Proposed General Fund / Reserve Balance Impact	\$Nil	\$Nil	

Explanation of Attachment

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

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

BACKGROUND

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

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

The QBRS includes:

Attachments

- Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Fund (Attachment A):
 - Consolidated
 - General
 - Water
 - Sewer
 - Holiday Parks
 - Clarence Regional Library
 - Domestic Waste Management
- Statement of Income and Expenditure providing a summary of Council's revised financial position at the end of the quarter by Sub-Service (Attachment B).
- Statement of Restricted Cash Reserve Funds providing a projected year end position (Attachment C).
- Statement of Material Contracts entered into by Council and details of Consultancies and Legal Expenses during the quarter (Attachment D).
- Grant Summary - details and current status of any grant applications Council has lodged. (Attachment E).

Other Matters:

- Quarterly Budget Review – Provides the proposed variations for the month of September. Summarises the General Fund budget variations during the quarter and the impact on the overall projected result and reserves.
- Key Performance Indicators – Provides a projected result against the benchmark for Council's General Fund key performance.

COUNCIL IMPLICATIONS**Budget/Financial**

The table below summarises the General Fund budget variations endorsed during the quarter (CM 07.22.178 August and CM 07.22.212 September) and the impact on the overall projected result.

The proposed General Fund budget variations for the September 2022 Quarter will result in a Revised 2022/23 Budget as at 30 September 2022 of a \$96,052 Deficit. The proposed Reserve Funds variations for the September 2022 Quarter has resulted in a Revised 2022/23 Budget Reserve Funds movement as at 30 September 2022 of a \$20,559,903 reduction.

September 2022 Quarter Budget Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	\$0	\$0	\$0	Nil	07.22.178
August	\$60,000	\$0	\$0	Deficit	07.22.212
September Proposed	\$0	\$0	\$0	Deficit	
Total	\$60,000	\$0	\$60,000	Deficit	

Original Adopted Budget			\$36,052	Deficit
September Quarter Variations	\$0	\$0	\$60,000	Deficit
Revised Budget as at 30 September 2022			\$96,052	Deficita

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

September 2022 Quarter Reserve Funds Variations	Council Minutes Actioned	Budget Review Variations	Total Quarterly Variations	Net Impact	Council Minute Reference
July	(\$882,000)	\$0	(\$882,000)	Increase	07.22.178
August	\$930,000	\$0	\$930,000	Decrease	07.22.212
September Proposed	\$0	\$0	\$0	Decrease	
Total	\$48,000	\$0	\$0	Decrease	

Original Adopted Budget Reserve Funds Movement			\$20,511,903	Decrease
September Quarter Variations	\$48,000	\$0	\$48,000	Decrease
Revised Reserve Movement Budget as at 30 September 2022			\$20,559,903	Decrease

KEY PERFORMANCE INDICATORS

The indicators adopted in the Long Term Financial Plan 2022/23 – 2031/32 measure Council's financial position and its financial performance. These indicators are aligned with the Fit for the Future Ratios and focus on long term sustainability.

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

GENERAL FUND	Forecast Indicator	Benchmark
Operating Performance Ratio	(7.02%)	Min > 0%
Own Source Revenue Ratio	68.70%	Min > 60%
Building & Infrastructure Asset Renewal Ratio	152.41%	Min > 100%
Infrastructure Backlog Ratio	0.02%	Max < 2%
Asset Maintenance Ratio	101.0%	Min > 100%
Debt Service Ratio	3.15%	< 12%
Real Operating Expenditure per Capita	\$2,038.87	Inclining Trend

Asset Management

N/A

Policy and Regulation

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

Consultation

Report was prepared in consultation with the Accounting staff and Section Budget managers.

Legal and Risk Management

N/A

Climate Change

N/A

Appendix 1

Report by Responsible Accounting Officer – 2022/23 September Quarter Budget Review

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

It is my opinion that the Quarterly Budget Review Statement for Clarence Valley Council for the quarter ended 30 September 2022 indicates that Council's projected short term financial position at 30 June 2023 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The estimated available working capital for Council's General Fund as at 30 June 2022 was \$7.908M.

For clarification, the available working capital is regarded as funds that are currently not restricted for any use by Council for either internal or external purposes. In summary, the estimated balance of available working capital as at 30 June 2023 is as follows:

Estimated Balance of Working Capital	Amount \$'000
General Fund working capital as at 30 June 2022	\$7,908
Adopted original budget for 2022/23 – Deficit	\$36
Variations for September 2022 Quarterly Review – Deficit	\$60
Estimated Balance of Working Capital at 30 June 2023	\$7,812

Council's adopted benchmark goal for the General Fund working capital is for it to be maintained above \$4M. The estimated balance of the working capital for General Fund at 30 June 2023 of \$7.812M is above Council's benchmark and can be considered a satisfactory result as at 30 June 2023. However, Council must continue to maximise its revenue and contain expenditure to budget expectations to ensure the forecast Working Capital for 2022/23 does not deteriorate to unsatisfactory level.

Signed Kate Maginnity, Responsible Accounting Officer, Clarence Valley Council
Date 11/10/2022

Clarence Valley Council

ATTACHMENT C

Quarterly Summary of Restrictions - September 2022

Summary By Fund

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Proposed Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
1 - CVC General Fund	91,887	(10,589)	882	(9,707)	82,180
2 - CVC Water Fund	43,983	1,753	(930)	823	44,806
3 - CVC Sewer Fund	15,228	2,189		2,189	17,416
4 - Holiday Parks	6,523	(4,584)		(4,584)	1,939
5 - Clarence Regional Library	383	102		102	485
7 - CVC Domestic Waste Management Fund	1,105	(2,893)		(2,893)	(1,788)
Total	159,108	(14,022)	(48)	(14,070)	145,038

GENERAL FUND RESTRICTIONS

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
External Restrictions					
Unexpended Loans					
Floodplain Infrastructure & Natural Resources Unexpended Loans	27				27
Unexpended Grants	24,547	(6,747)		(6,747)	17,799
s94 Contributions	10,981	1,541		1,541	12,523
Deposits, Bonds & Retentions	2,743				2,743
Income in Advance					
Held as Custodian	515	(35)		(35)	480
Externally Restricted Other	720	114		114	834
Total General Fund External Restrictions	39,533	(5,127)	0	(5,127)	34,406
Internal Restrictions					
General Purpose Reserves					
Employee Leave Entitlements	4,030				4,030
Unspent Financial Assistance Grant	9,138	116		116	9,254
Election Cost Reserve	308	133		133	441
Council S94 Development Funds	30				30
Strategic Building Reserve	2	66	882	948	950
Public Pool Improvements	177				177
Aerodrome Resealing & Building					
Public Toilet Refurbishment Program	109				109
Cemetery Reserve	148	(20)		(20)	128
Hargraves Villas					
Emergency Services Reserves	661				661
Insurance Reserves	213	35		35	248
Wharf & Boatramp Upgrades					
Youth Projects					
Ageing & Access					
Lake Kolora Embellishment					
Mobile & Public Library Projects					
Software Implementation Reserves	704				704
Waste Management Reserves	1,708				1,708
Building Asset Renewals	410				410
Halls & Community Centres					
Maclean & District Improvements	599				599
Miscellaneous Administrative Reserves	3,315	(1,269)		(1,269)	2,046
Commercial Property Improvements					
Community Cultural & Heritage Programs	11				11
Miscellaneous Engineering Projects					
Environmental & Noxious Weeds Projects	616	(218)		(218)	398
Coastal & Estuary Management	353	(259)		(259)	93
Regional Development & Tourism Projects	19				19
Strategic Development Programs	105				105
Parks & Reserves Improvements	298	(289)		(289)	9
Sporting Facilities Improvements	296	(177)		(177)	119
Roads Reserves	1,953	(875)		(875)	1,078
Total General Purpose Reserves	25,201	(2,757)	882	(1,875)	23,326
Fleet Plant Reserves					
Light Fleet Financial Reserves	984	484		484	1,469
Heavy Fleet Financial Reserves	4,569	(760)		(760)	3,809
Small Plant Reserve	559	(363)		(363)	197
Total Fleet Plant Reserves	6,112	(638)	0	(638)	5,474

	Estimated Opening	Original	Adopted Variations	Proposed Revised Budget	Projected Balance as at 30 June
Infrastructure Asset Reserves					
Infrastructure Assets Renewals Reserve	1,131	(268)		(268)	863
Total Infrastructure Asset Reserves	1,131	(268)	0	(268)	863
Regional Landfill Financial Reserves					
Regional Landfill Reserves	12,183	(251)		(251)	11,932
Total Regional Landfill Reserves	12,183	(251)	0	(251)	11,932
Commercial Waste Financial Reserves					
Commercial Waste Service Reserve	1,495	(40)		(40)	1,455
Total Commercial Waste Reserves	1,495	(40)	0	(40)	1,455
Saleyards Financial Reserves					
Saleyards Asset Replacement	197	(180)		(180)	17
Total Saleyards Reserves	197	(180)	0	(180)	17
Quarry Operations Financial Reserves					
Quarry Operations & Rehabilitation	701	(143)		(143)	558
Total Quarry Operations Reserves	701	(143)	0	(143)	558
Sustainability Financial Reserves					
Sustainability Reserve	4,957	(1,185)		(1,185)	3,772
Total Sustainability Reserves	4,957	(1,185)	0	(1,185)	3,772
Floodplain Infrastructure & Natural Resources Financial Reserves					
Floodplain Management Reserves	377				377
Total Floodplain Reserves	377	0	0	0	377
Total General Fund Internal Restrictions	52,354	(5,462)	882	(4,580)	47,774
TOTAL GENERAL FUND RESTRICTIONS	91,887	(10,589)	882	(9,707)	82,180

OTHER FUNDS EXTERNALLY RESTRICTED

Water Fund

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
Easements Payable					
Developer Contributions	10,527	1,260		1,260	11,787
Specific Purpose Unexpended Grants					
Water Supplies	33,456	493	(930)	(437)	33,019
WATER FUND TOTAL	43,983	1,753	(930)	823	44,806

Sewer Fund

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
Specific Purpose Unexpended Loans					
Developer Contributions	10,969	1,443		1,443	12,412
Sewerage Supplies	4,259	746		746	5,005
SEWER FUND TOTAL	15,228	2,189	0	2,189	17,416

Holiday Parks

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
Specific Purpose Unexpended Grants	77				77
Holiday Parks	6,446	(4,584)		(4,584)	1,862
CCRT FUND TOTAL	6,523	(4,584)	0	(4,584)	1,939

Clarence Regional Library Fund

	Estimated Opening	Original	Adopted Variations	Proposed Revised Budget	Projected Balance as at 30 June

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
Specific Purpose Unexpended Grants					
Clarence Regional Library Reserve	383	102		102	485
CRL FUND TOTAL	383	102	0	102	485

Domestic Waste Management Fund

Account Description	Estimated Opening Balance 1/7/2022* \$'000	Original Budget \$'000	Adopted Variations Sept Qtr \$'000	Proposed Revised Budget Sept Qtr \$'000	Projected Balance as at 30 June \$'000
Domestic Waste Management Reserve	1,105	(2,893)		(2,893)	(1,788)
DWM FUND TOTAL	1,105	(2,893)	0	(2,893)	(1,788)

TOTAL RESERVES

159,108	(14,022)	(48)	(14,070)	145,038
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* Estimated Opening Balances used for 1/7/2022 as End of Financial Year processes for the year ended 30/6/2022 are still in progress.



Clarence Valley Council

Attachment D

2022/23 Budget review for the quarter ended 30 September 2022

Contracts, Consultancies & Legal Costs

PART A - Contract Listing

Contracts entered into during the 3 months, 1 July 2022 to 30 September 2022, excluding contractors that are on Council's preferred supplier list. Minimum reporting level is 1% of estimated income from continuing operations of Council or \$50,000 - whichever is the lesser. Does not include employment contracts. Excludes those contracts that have already been reported to council or have resulted from a council resolution.

Contractor	Contract Detail & Purpose	Contract Value	Commencement date	Duration of contract	Budgeted (Y/N)
No new contracts entered into during the 3 months are reportable.					

PART B - Consultancy and Legal expenses

Expenditure on Consultancies & Legal Expenses to 30 September 2022

	Expenditure YTD \$	Budgeted (Y/N)
Consultancies	\$969,579	Y
<u>Legal Expenses</u>		
Planning & Development	\$0	Y
Rates & Water Debt Recovery	\$0	Y
Other Legals	\$50,571	Y
Total Legal Expenses	\$50,571	

Definition of consultant

A person or organisation engaged under contract on a temporary basis to provide recommendations or high level Specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors

Does not include employment contracts

This statement forms part of Council's Quarterly Budget Review Statement (QBRS) for the quarter ended 30/09/22 and should be read in conjunction with the total QBRS Report.

Clarence Valley Council

Consultants by Dollars (greater than minimum reporting level of \$50,000)

Period from 01-Jul-2022 to 30-Sep-2022



Note: Five consultants had total YTD values greater than minimum reporting threshold of \$50,000

<u>Consultant Name</u>	<u>Consultant Description</u>	<u>Major Projects</u>	<u>Actual</u>	<u>Committed</u>	<u>Total YTD</u>
Blanc Space Agency	Events	996016 - Cultural Heritage Project	\$ 36,364	\$ 72,727	\$ 109,091
G & K Construction Services Pty Ltd	Contract Administration and Construction Advice	540550 – Grafton Waterfront Structural Works 540105 – Ulmarra Riverside & Village Precinct (URVP) Project	\$ 37,800	\$ 95,100	\$ 132,900
Hill PDA Pty Ltd	Strategic Planning, Economic and Development Advisory Consultants	994397 - Employment Lands Strategy	\$ 5,909	\$ 132,663	\$ 138,572
Impact Environmental Consulting Pty Ltd	Contract Preparation Consultant	994500 - Commerical Waste Operations	\$ -	\$ 57,306	\$ 57,306
Five Design Pty Ltd	Planning and design consultant	540550 – Grafton Waterfront Structural Works 540105 – Ulmarra Riverside & Village Precinct (URVP) Project 994598 – Grafton CBD Car Parking Strategy 997173 - Grafton Highway Bypass	\$ 46,144	\$ 151,578	\$ 197,723
TOTAL YTD			\$ 126,217	\$ 509,374	\$ 635,591

% of Total Consultants Costs YTD 66%

Grant Application Summary – September 2022

This document aims to summarise the current grant application activities during the month ended 30 September 2022.

Proposed Grant Applications

There are currently no proposed grant applications requiring endorsement by Council.

Grant Applications Pending Announcement

The following grants have been applied for and Council is currently awaiting announcement as to whether we have been successful in our bid to source these funds.

Grant: Office of Regional Youth - Summer Break Youth Activities Program – \$15,000

The objective of the program is to provide enhanced social and recreational youth activities and programs over the summer-school holidays for young people (aged 12-24 years) who are doing it tough. This program linked to the 2022-23 Operational Plan deliverable – ‘develop a youth program to support the delivery of relevant and inclusive your programs.’ Receiving these funds will allow for more activities, events and programs for our young people and to activate youth spaces during school holidays. The Regional Youth Summer Break Activities Program will fund 27 youth activities over the 2023 summer-school holidays in areas across the Clarence Valley including Grafton, Iluka, Coutts Crossing, Lawrence, Junction Hill, Yamba, Maclean / Townsend, Minnie Water, Wooli, Copmanhurst and South Grafton.

Grant: Dept Planning & Environment – Regional Housing Strategic Planning Fund – Round 1 - \$150,000

A grant application has been lodged to seek funding to prepare a Clarence Valley Housing Strategy. This strategy will provide an evidence base to inform policy and decisions with regard to housing needs, including social and affordable housing. The strategy will also ensure social and economic issues are addressed to support the community and sustainable economic activity and local industries (especially key workers in health, manufacturing, hospitality, tourism, and others). It will also identify “supply chain” opportunities and constraints – what housing land is zoned, subdivided, approved for a dwelling, available services and the like and areas where any of steps are constraining housing supply.

Grant: Department of Regional NSW – Stronger Country Communities Fund – Round 5 - \$1,453,482

A grant application has been lodged to seek funding to part fund the Grafton Aquatic Centre Redevelopment. The Centre requires redevelopment to address structural asset of end of life issues and to respond to changing and growing demand for high amenity aquatic recreation facilities.

Should this funding application be successful then it will be used to facilitate part of stage 1 of the project and to allow commencement of potential early works to demolish existing buildings and pools on site and to facilitate the construction of the splash pad. Council is applying for further grant funding to support this application and is in a strong financial

borrowing capacity position to seek loan funds to match grant funds received in the future should Council resolve to do so.

Grant Program: TfNSW NSW Fixing Country Bridges – Round 2

Following the replacement of all bridges funded under FCB rounds 1 and 2A Council will have 124 timber bridge assets on our Local and Regional road network. Council submitted applications for a total of 75 bridge replacement projects under FCB round 2. These bridges are listed with their priority and funding value sought in table below.

It was not known at the time of submitting applications for round 2 that the program would involve a preliminary round 2A in which Council successfully received the funding for Bluff Bridge. It is expected that the outcome of the remaining applications will be announced towards the end of 2022

Bridge Name	FCB round 2 application priority	FCB round 2 funding sought
Shark Creek Bridge , Byrons Lane	2	\$ 1,913,816
Cloughers Creek Bridge, Coalmine Road	3	\$ 2,140,376
Cattle Creek Bridge, Ramornie Station Road	4	\$ 1,072,684
Rocky Creek Bridge, Ewingar Road	5	\$ 929,892
Deep Creek Bridge, Collum Collum Road	6	\$ 929,892
Beanball Creek Bridge, Mcphersons Crossing Road	7	\$ 603,290
Bridge No 3, Somervale Road	8	\$ 539,290
Bridge No 4, Coombadjha Road	9	\$ 680,248
Bridge over Clarence River Part 1, No 2, Carnham Road	10	\$ 641,848
Bridge No 3, Coombadjha Road	11	\$ 680,248
Bridge No 5, Coombadjha Road	12	\$ 590,648
Scrubby Creek Bridge, Coombadjha Road	13	\$ 680,248
Four Mile Lane Bridge	14	\$ 680,248
Rogans Bridge, Wattle Point Road	15	\$ 656,453
Massey Road Bridge	16	\$ 656,453
Sherwood Creek Bridge, Kungala Road	17	\$ 809,893
Barrys Bridge, Barrys Bridge Rd	18	\$ 630,693
Bridge over Clarence River Part 1, No 1, Carnham Road	19	\$ 758,693
Bridge No 6, Coombadjha Road	20	\$ 745,893
Nymboida River Bridge, Harness Cask Road	21	\$ 809,893
Bridge No 1, Laytons Range Road	22	\$ 502,693
Bridge No 3, Cassons Creek Road	23	\$ 528,293
Bridge No 2, Somervale Road / Red Root Road	24	\$ 581,420
Mill Creek Bridge, Dilkoon Road	25	\$ 278,075
Allens Water Bridge, Montrose Loop Road (West end)	26	\$ 680,248
Turnbulls Bridge, Turnbulls Road	27	\$ 731,448
Blicks River Bridge, Goddards Road	28	\$ 758,693
Merchin Creek Bridge, Marengo Road	29	\$ 566,853
Glen Fernaigh Ck Bridge, Cedar Log Road	30	\$ 520,757
Billys Creek Bridge No 1, Schultz Road	31	\$ 680,248
Stockyard Creek Bridge, Cangai Post Office Road	32	\$ 929,892
Cangai Bridge, Cangai Bridge Road	33	\$ 3,036,376
Broadwater Bridge, Hanging Rock Road	34	\$ 6,374,260
Broadwater No 2 Bridge, Hanging Rock Road	35	\$ 745,883
Bridge over Clarence River Part 2, Carnham Road	36	\$ 9,863,540

Bridge Name	FCB round 2 application priority	FCB round 2 funding sought
Carnham Creek Bridge, Carnham Road	37	\$ 656,453
Dead Horse Gully Bridge, Lankeys Creek Road	38	\$ 656,453
Trib Lankeys Creek Bridge, Lankeys Creek Road	39	\$ 680,248
Cowans Creek Bridge, Friars Lane	40	\$ 929,892
Smiths Creek Road Bridge	41	\$ 451,653
Smiths Creek Bridge, Wombat Creek Road	42	\$ 992,870
Donald Knox Bridge, Upper Fine Flower Road	43	\$ 1,461,234
Dry Creek Bridge, Upper Fine Flower Road	44	\$ 1,053,093
Frames Bridge, Punchbowl Road	45	\$ 630,693
Stockyard Creek Bridge, Punchbowl Road	46	\$ 680,248
Ernie Baldwin Bridge, Plain Station Road	47	\$ 3,817,896
McCalls Creek, Deep Creek Road	48	\$ 1,019,492
Coles Bridge, Coongbar Road	49	\$ 1,582,773
Mooreheads Bridge, Moorheads Road	50	\$ 1,333,234
Fourteen Mile Creek Bridge, Eighteen Mile Road	51	\$ 929,892
Flaggy Creek Bridge, Meyers Road	52	\$ 438,693
School Bridge, Rogan Bridge Road	53	\$ 1,057,892
Franks Creek Bridge, Southgate Ferry Road	54	\$ 656,453
Bridge No 1, Trenayr Road	55	\$ 463,067
Bridge No 2, Trenayr Road	56	\$ 808,248
Levenstrath Bridge, Levenstrath Road	57	\$ 489,893
Mcphersons Crossing Road Bridge	58	\$ 3,689,896
Poley Bridge, Rushforth Road	59	\$ 2,012,376
Stokes Waterhole Bridge, Somervale Road	60	\$ 1,057,892
Blaxlands Creek Bridge, Wild Drake Road	61	\$ 4,076,084
Sherwood Creek Trib 2 Bridge, Athol Glen Rd	62	\$ 680,248
Tallawudjah Creek Bridge, Binnun Place	63	\$ 597,557
Dundoo Ck Bridge No 2, Kungala Road	64	\$ 1,845,234
Bridge No 1, Dinjerra Rd	65	\$ 801,892
Bridge No 2, Laytons Range Road	66	\$ 502,693
Bridge No 3, Laytons Range Road	67	\$ 579,653
Friday Creek Bridge, Old Glen Innes Road	68	\$ 2,140,376
Deep Creek / Munns Creek Bridge, Old Glen Innes Road	69	\$ 2,498,776
Glens Creek Bridge, Old Glen Innes Road	70	\$ 1,845,234
Bridge near school hall, Old Glen Innes Road	71	\$ 630,693
Straight Bridge, Old Glen Innes Road	72	\$ 2,473,176
Munns Creek Bridge, Rumble Road	73	\$ 615,631
Chinamans Creek Bridge, Sheepstation Creek Road	74	\$ 630,693
Nymboida River Bridge, Tyringham Road	75	\$ 4,076,084
TOTAL		\$ 95,923,942

Grant: Regional NSW – Business Case and Strategy Development Fund - Round 1 - \$485,000

The Regional Economic Development Strategy identifies key strategic imperatives, which include further expanding our engines of growth (including tourism, agriculture, marine manufacturing and logistics), and to grow the population. Funding has been sought to support the business case development and implementation of strategies for Clarence

Valley Regional Airport expansion and development, progressing the CVC Employment Land Strategy and the Harwood Marine Waste to Wages Project.

Successful Grant Applications

Council has been successful in the following recent funding applications:

Grant: TfNSW Walking & Cycling Funding Program - \$42,000 – 2022/23

Funding has been sought to progress the below footpath and pedestrian mobility related projects as identified in the Pedestrian Access Mobility Plan 2015. Should funding be received, work would be scheduled for completion in 2022/23.

- **Shared User Path to connect along Cameron Street from Jubilee Street to Maclean CBD - Detailed Design Only - \$42,000**
This project is the number one highest priority in the Clarence Valley Pedestrian Access and Mobility Plan 2015.

Grant: 2022-23 Country Passenger Transport Infrastructure Grants Scheme - \$73,500 – 2 year program - 2022/23 - 2023/24

Council has applied for funding under the biennial CPTIGS grant scheme to build new, or upgrade existing bus shelters and surrounding infrastructure, which will make it easier for our rate payers to access public transport. Locations have been determined in consultation with our local bus companies and /or nomination after completion of a passenger transport infrastructure audit. Should funding be received, work would be scheduled for completion in 2022/23 and 2023/24.

- **New Bus Shelters - \$46,000** – Locations include: Craig St Grafton, Treelands Drive Yamba, Skinner St Grafton, Spring St South Grafton
- **Accessibility Upgrades - \$27,500** – Locations include: Yamba Road Yamba, Coldstream St Yamba, Bent St Sth Grafton, Armidale Road South Grafton, Arthur Street Grafton

Grant: TfNSW Safer Roads Program - \$1,510,000 – 2022/23

Funding has been sought to provide road safety improvement works at the below locations. Should funding be received, work would be scheduled to begin in 2022/23.

- **Iluka Road – Woombah to Iluka - \$1,510,000**
Road safety improvement works, design and project development works to be completed in 22/23 with construction occurring in 23/24

ITEM 07.22.236 MONTHLY INVESTMENT REPORT - SEPTEMBER 2022

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	Finance Officer (Treasury), Heather Sydenham	
Reviewed by	A/Director - Corporate & Community, Alex Moar	
Attachments	A. Movement of Funds Between Months - September 2022 ↓	

SUMMARY

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

OFFICER RECOMMENDATION

That the report indicating Council's funds investment position as at 30 September 2022 be noted.

LINKAGE TO OUR COMMUNITY PLAN

Theme	Leadership
Objective	We will have an effective and efficient organisation

KEY ISSUES**Source of Funds Invested**

The funds invested are funds held under internal and external restrictions. External restrictions 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 2021 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

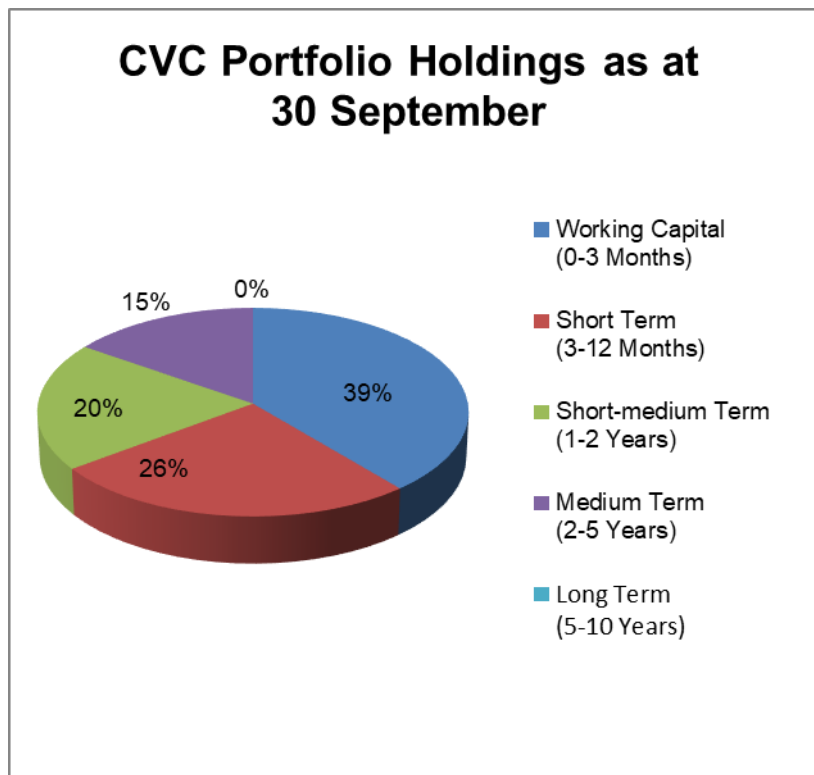
Tabled below is a summary of Council's investments as at 30 September 2022 which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 30/09/2022				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,500,000	2.62%	Yes
AA	100.00%	76,478,538	44.46%	Yes
A	60.00%	19,250,000	11.19%	Yes
BBB	50.00%	71,769,681	41.73%	Yes
TOTAL INVESTMENTS		171,998,219	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 30 September 2022. Excluding “at-call” working capital, 25.58% of Council’s investments are maturing within the next twelve months.



Individual Institution or Counterparty Limits

Tabled below is a summary of Council’s investments as at 30 September 2022 which details compliance with Council’s Investment Policy Counterparty Limits.

Individual Institution or Counterparty Limits as at 30/09/2022					
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	4.65%	Yes
BoQ	BBB+	15.00%	10,000,000	10.47%	Yes
ME Bank	BBB+		8,000,000		
CBA	AA-	30.00%	3,000,000	1.74%	Yes
Credit Union Australia	BBB	15.00%	-	0.00%	Yes
Defence	BBB	15.00%	10,000,000	5.81%	Yes
ING Direct	A	15.00%	14,000,000	8.14%	Yes
MyState	BBB+	15.00%	9,000,000	5.23%	Yes
NAB	AA-	30.00%	23,000,000	13.37%	Yes
NTTC	AA-	30.00%	3,000,000	1.74%	Yes
P&N	BBB	15.00%	20,000,000	11.63%	Yes
RaboDirect	A+	15.00%	4,000,000	2.33%	Yes
Suncorp	A+	15.00%	2,000,000	1.16%	Yes
Westpac	AA-	30.00%	10,000,000	5.81%	Yes
TOTAL TERM DEPOSITS			124,000,000	72.09%	
MANAGED FUNDS					
TCorp	AAA	40.00%	-	0.00%	Yes
Blackrock*	n/a	n/a	-	0.00%	Yes
TOTAL MANAGED FUNDS			-	0.00%	
FUNDS AT CALL					
AMP	BBB	15.00%	8,453,978	4.92%	Yes
AMP	BBB	15.00%	1,065,703	0.62%	Yes
ANZ	AA-	30.00%	6,829,037	3.97%	Yes
CBA	AA-	30.00%	24,567,804	14.28%	Yes
CBA	AA-	30.00%	7,081,697	4.12%	Yes
TOTAL FUNDS AT CALL			47,998,219	27.91%	
TOTAL INVESTMENTS			171,998,219	100.00%	

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*.

Register of Investments - Clarence Valley Council as at 30/09/2022					
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	-	0.00%	At-Call	0.00%	AAA
AMP Bank Ltd	8,453,978	4.92%	At-Call	2.80%	BBB
AMP Bank Ltd	1,065,703	0.62%	At-Call	0.50%	BBB
ANZ Banking Group Ltd	6,829,037	3.97%	At-Call	2.55%	AA-
Commonwealth Bank of Australia	24,567,804	14.28%	At-Call	2.20%	AA-
Commonwealth Bank of Australia	7,081,697	4.12%	At-Call	0.20%	AA-
AMP Bank Ltd	2,000,000	1.16%	14/11/2022	0.55%	BBB
Defence Bank	2,000,000	1.16%	21/11/2022	0.62%	BBB
Defence Bank	2,000,000	1.16%	02/12/2022	0.64%	BBB
ING	1,000,000	0.58%	04/10/2022	3.66%	A
National Australia Bank	2,000,000	1.16%	10/09/2022	0.05%	AA-
National Australia Bank	2,000,000	1.16%	18/11/2022	0.60%	AA-
National Australia Bank	2,000,000	1.16%	01/12/2022	0.60%	AA-
National Australia Bank	2,000,000	1.16%	2/12/2022	0.60%	AA-
RaboDirect (Australia) Ltd	1,000,000	0.58%	05/12/2022	3.21%	A+
Westpac Bank	3,000,000	1.74%	12/11/2021	1.22%	AA-
Westpac Bank	1,000,000	0.58%	16/11/2021	1.63%	AA-
	67,998,219	39.53%		1.71%	
SHORT TERM (3-12 MONTHS)					
AMP Bank Ltd	2,000,000	1.16%	02/06/2023	1.00%	BBB
AMP Bank Ltd	1,000,000	0.58%	31/08/2023	0.75%	BBB
AMP Bank Ltd	3,000,000	1.74%	01/09/2023	4.25%	BBB
Bank Of Queensland Ltd	2,000,000	1.16%	08/02/2023	3.55%	BBB+
Bank Of Queensland Ltd	2,000,000	1.16%	21/08/2023	3.60%	BBB+
Defence Bank	2,000,000	1.16%	03/03/2023	0.50%	BBB
Defence Bank	2,000,000	1.16%	09/03/2023	0.53%	BBB
Defence Bank	2,000,000	1.16%	20/06/2023	4.00%	BBB
ING	2,000,000	1.16%	02/03/2023	0.55%	A
ING	3,000,000	1.74%	20/06/2023	4.00%	A
ME Bank Ltd	1,000,000	0.58%	06/07/2023	3.80%	BBB
MyState	2,000,000	1.16%	04/05/2023	2.95%	BBB
MyState	2,000,000	1.16%	07/07/2023	3.80%	BBB
National Australia Bank	2,000,000	1.16%	06/03/2023	0.60%	AA-
National Australia Bank	2,000,000	1.16%	05/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.16%	15/06/2023	0.55%	AA-
National Australia Bank	2,000,000	1.16%	10/08/2023	0.60%	AA-
P&N Bank	3,000,000	1.74%	13/03/2023	0.55%	BBB
RaboDirect (Australia) Ltd	1,000,000	0.58%	17/08/2023	3.40%	A+
RaboDirect (Australia) Ltd	2,000,000	1.16%	19/09/2023	3.40%	A+
Suncorp	2,000,000	1.16%	11/05/2023	2.95%	A+
Westpac Bank	2,000,000	1.16%	13/03/2023	3.59%	AA-
TOTAL SHORT TERM (3-12 MONTHS)	44,000,000	25.58%		2.27%	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
SHORT - MEDIUM TERM (1-2 YEARS)					
Bank Of Queensland Ltd	3,000,000	1.74%	21/02/2024	1.71%	BBB+
Commonwealth Bank of Australia	3,000,000	1.74%	10/05/2024	3.60%	AA-
ING	3,000,000	1.74%	10/05/2024	3.66%	A
ING	2,000,000	1.16%	13/05/2024	3.66%	A
ING	3,000,000	1.74%	15/05/2024	3.66%	A
ME Bank Ltd	2,000,000	1.16%	18/07/2024	4.26%	BBB
MyState	2,000,000	1.16%	05/03/2024	1.70%	BBB
MyState	3,000,000	1.74%	14/06/2024	4.45%	BBB
National Australia Bank	2,000,000	1.16%	08/07/2024	0.80%	AA-
P&N Bank	2,000,000	1.16%	11/12/2023	1.25%	BBB
P&N Bank	3,000,000	1.74%	12/02/2024	1.73%	BBB
P&N Bank	3,000,000	1.74%	14/06/2024	4.53%	BBB
P&N Bank	2,000,000	1.16%	16/09/2024	4.40%	BBB
Westpac Bank	1,000,000	0.58%	20/06/2024	0.85%	AA-
TOTAL SHORT-MEDIUM TERM (1-2 YEARS)	34,000,000	19.77%		3.03%	
MEDIUM TERM (2-5 YEARS)					
Bank Of Queensland Ltd	2,000,000	1.16%	02/12/2024	1.60%	BBB+
Bank Of Queensland Ltd	1,000,000	0.58%	06/08/2025	4.09%	BBB+
ME Bank Ltd	5,000,000	2.91%	09/06/2027	4.50%	BBB
National Australia Bank	2,000,000	1.16%	12/01/2026	1.00%	AA-
National Australia Bank	3,000,000	1.74%	22/02/2027	2.40%	AA-
Northern Territory Treasury Corp	3,000,000	1.74%	15/12/2026	1.50%	AA-
P&N Bank	2,000,000	1.16%	29/11/2024	1.70%	BBB
P&N Bank	2,000,000	1.16%	17/12/2024	1.62%	BBB
P&N Bank	2,000,000	1.16%	16/06/2025	4.67%	BBB
P&N Bank	1,000,000	0.58%	16/02/2026	2.49%	BBB
Westpac Bank	3,000,000	1.74%	15/10/2024	1.00%	AA-
TOTAL MEDIUM TERM (2-5 YEARS)	26,000,000	15.12%		2.50%	
TOTAL INVESTMENTS	171,998,219	100.00%		2.23%	

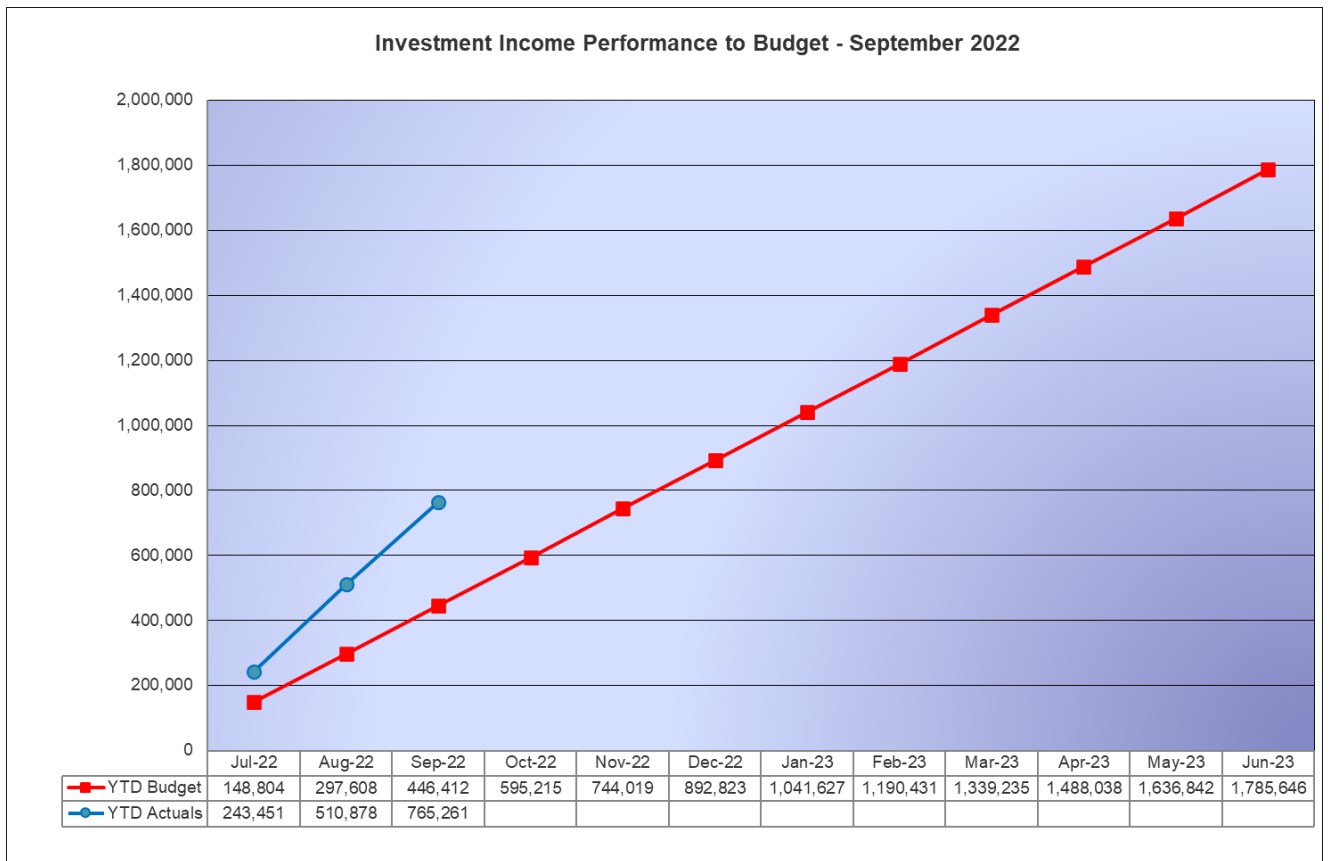
COUNCIL IMPLICATIONS

Budget/Financial

Portfolio Investment Returns to 30/09/2022			
	Actual	Budget 2022/23	Over/(Under)
This Month			
Cash Deposits & FRNs	\$254,383	\$148,804	\$105,579
Managed Funds	\$0	\$0	\$0
	\$254,383	\$148,804	\$105,579
Year to Date			
Cash Deposits & FRNs	\$765,073	\$446,412	\$318,661
Managed Funds	\$189	\$0	\$189
	\$765,262	\$446,412	\$318,850

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.

- Actual results have shown that total interest income to 30 September 2022 is \$318k above the 2022-23 YTD budget of \$446k.

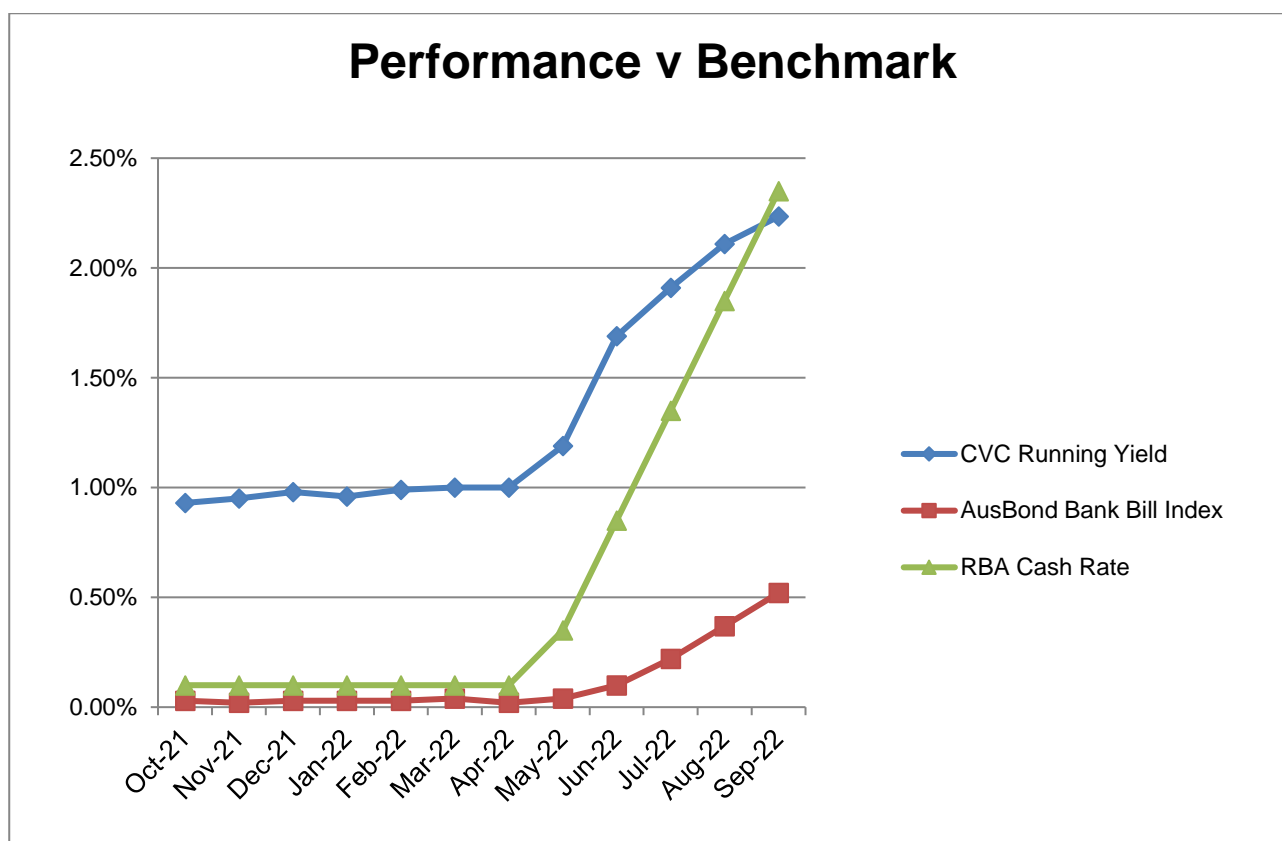


Running yields* to 30 September 2022 have been:

AMP Business	0.50%
AMP 31 Day Notice	2.80%
ANZ Premium Business	2.55%
CBA General	2.20%
24hr Call Account	0.20%
Term Deposits	2.32%
Total	2.23%

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

- The RBA cash rate at the end of September was 2.35%. The benchmark AusBond Bank Bill Index was 0.52% for September.
- The current running yield of the total investment portfolio now stands at 2.23% (Aug 2.11%). The RBA cash rate has risen to 2.35%. The CVC running yield has therefore fallen below the RBA cash rate by 0.12%.



The following investments were transacted during September:

- AMP Bank \$3.0m TD matured 01/09/2022 - reinvested at 4.25% for 1 year – matures 01/09/2023
- NAB Bank \$2.0m TD matured 10/09/2022 – reinvested at 0.05% for 1 year – matures 10/09/2023
- RaboBank \$2.0mTD matured 13/09/2022 and was redeemed
- P & N Bank \$2.0m TD was invested 15/09/2022 at 4.40% for 2 years – matures 16/09/2024

Asset Management

N/A

Policy and 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 impacts of the current investment portfolio are now being considered as each investment matures. In line with section 5.11 of the current Investment Policy, preference is given to Financial Institutions that publicly state that they do not invest in nor finance the fossil fuel industry. It should be noted that investments under this section of the policy will only be made providing that the rate of return is equivalent or more favourable and that the investment does not increase the overall risk of Council's investment portfolio.

Total value of investments currently held with Financial Institutions that do not invest nor finance the fossil fuel industry remains at \$12.0M.

Movement of funds between months

Portfolio Credit Limits - movement over the reporting month						
Credit Rating Long Term	Total Investments Held (Current Month)	% of Total Investments (Current Month)	Total Investments Held (Previous Month)	% of Total Investments (Previous Month)	Movement \$	Movement %
AAA	4,500,000	2.62%	4,500,000	2.68%	-	-
AA	76,478,538	44.46%	72,690,030	43.22%	3,788,508	5.21%
A	19,250,000	11.19%	21,250,000	12.63%	(2,000,000)	(9.41%)
BBB	71,769,681	41.73%	69,751,215	41.47%	2,018,466	2.89%
TOTAL INVESTMENTS	171,998,219	100.00%	168,191,245	100.00%	3,806,974	2.26%

Individual Institution or Counterparty Limits - movement over the reporting month						
Financial Institution	Total Investments Held (Current Month)	% of Total Investments (Current Month)	Total Investments Held (Previous Month)	% of Total Investments (Previous Month)	Movement \$	Movement %
TERM DEPOSITS						
AMP	8,000,000	4.65%	8,000,000	4.76%	-	-
ANZ*	-	0.00%	-	0.00%	-	-
BoQ	10,000,000	5.81%	10,000,000	5.95%	-	-
Bendigo	-	0.00%	-	0.00%	-	-
Bendigo*	-	0.00%	-	0.00%	-	-
CBA	3,000,000	1.74%	3,000,000	1.78%	-	-
CBA*	-	0.00%	-	0.00%	-	-
Credit Union Australia	-	0.00%	-	0.00%	-	-
Defence	10,000,000	5.81%	10,000,000	5.95%	-	-
G&C Mutual	-	0.00%	-	0.00%	-	-
IMB	-	0.00%	-	0.00%	-	-
ING Direct	14,000,000	8.14%	14,000,000	8.32%	-	-
Macquarie	-	0.00%	-	0.00%	-	-
ME Bank	8,000,000	4.65%	8,000,000	4.76%	-	-
MyState	9,000,000	5.23%	9,000,000	5.35%	-	-
NAB	23,000,000	13.37%	23,000,000	13.67%	-	-
NAB*	-	0.00%	-	0.00%	-	-
NTTC	3,000,000	1.74%	3,000,000	1.78%	-	-
P&N Bank	20,000,000	11.63%	18,000,000	10.70%	2,000,000	11.11%
People's Choice	-	0.00%	-	0.00%	-	-
RaboDirect	4,000,000	2.33%	6,000,000	3.57%	(2,000,000)	(33.33%)
Rural Bank	-	0.00%	-	0.00%	-	-
Suncorp	2,000,000	1.16%	2,000,000	1.19%	-	-
Westpac	10,000,000	5.81%	10,000,000	5.95%	-	-
Westpac*	-	0.00%	-	0.00%	-	-
TOTAL TERM DEPOSITS	124,000,000	72.09%	124,000,000	73.73%	-	-
MANAGED FUNDS						
TCorp	-	0.00%	-	0.00%	-	-
TOTAL MANAGED FUNDS	-	0.00%	-	-	-	-
FUNDS AT CALL						
AMP	8,453,978	4.92%	8,435,950	5.02%	18,028	0.21%
AMP	1,065,703	0.62%	1,065,265	0.63%	438	0.04%
ANZ	6,829,037	3.97%	6,816,120	4.05%	12,917	0.19%
CBA	24,567,804	14.28%	20,793,415	12.36%	3,774,389	18.15%
CBA	7,081,697	4.12%	7,080,495	4.21%	1,202	0.02%
TOTAL FUNDS AT CALL	47,998,219	27.91%	44,191,245	26.27%	3,806,974	8.61%
TOTAL INVESTMENTS	171,998,219	100.00%	168,191,245	100.00%	3,806,974	2.26%

Other Internal Reserves (detail)

Other Internal Reserves	
Environmental & Noxious Weeds Projects	0.57%
Software Implementation Reserves	0.49%
Maclean & District Improvements	0.46%
Public Pool Improvements	0.41%
Coastal and Estuary Management	0.38%
Sporting Facilities Improvements	0.32%
Other Parks Improvements	0.31%
Floodplain Management Reserves	0.31%
Saleyards Asset Replacement	0.26%
Election Cost Reserve	0.18%
Insurance Reserves	0.14%
Emergency Services Reserves	0.12%
Strategic Development Programs	0.10%
Unspent General Loans	0.06%
Regional Development & Tourism Projects	0.03%
Council s7.11 Development Funds	0.02%
Public Toilet Refurbishment Program	0.02%
Community Cultural & Heritage Programs	0.02%
Miscellaneous Administrative Reserves	0.01%
Mobile & Public Library Projects	0.01%
CCS - General Fund	1.51%
Total Other Internal Reserves	5.73%

ITEM 07.22.237 COUNCIL MEETING CHECKLIST - UPDATE ON ACTIONS TAKEN

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	Corporate Support Officer, Karlie Chevalley	
Reviewed by	A/Director - Corporate & Community, Alex Moar	
Attachments	A. Completed Checklist Items (Separate Cover) ⇒ B. Outstanding Checklist Items (Separate Cover) ⇒ C. Rolling Checklist from Feb 22 (Separate Cover) ⇒	

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.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

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's recommendation is adopted.

BACKGROUND

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

COUNCIL IMPLICATIONS**Budget/Financial**

N/A

Asset Management**N/APolicy and Regulation**

Local Government Act 1993 S355 (1)

Consultation

Staff, Managers

Legal and Risk Management**N/AClimate Change**

N/A

ITEM 07.22.238 ITEMS FOR INFORMATION

Meeting	Council	25 October 2022
Directorate	General Manager	
Attachments	A. Biodiversity Committee Minutes: 30-8-2022 (Separate Cover) ⇒ B. Climate Change Committee Minutes: 29-10-2021 (Separate Cover) ⇒ C. Climate Change Committee Minutes: 17-6-2022 (Separate Cover) ⇒ D. Climate Change Committee Minutes: 2-9-2022 (Separate Cover) ⇒ E. Dundurrabin Community Centre Minutes: 7-9-2022 (Separate Cover) ⇒ F. Coaldale Barretts Creek Hall Committee Minutes: 30-7-2022 (Separate Cover) ⇒ G. Coaldale Barretts Creek Hall Committee Minutes: 24-9-2022 (Separate Cover) ⇒ H. Coaldale Barretts Creek Hall Committee EOFY Statement July 2021-2022 (Separate Cover) ⇒ I. Lanitza-Kungala Community Hall Committee Minutes: 12-10-2022 (Separate Cover) ⇒	

SUMMARY

Committee minutes attached are for noting.

OFFICER RECOMMENDATION

That the Items for Information as listed below be noted:

- Biodiversity Committee Meeting Minutes: 30 August 2022
- Climate Change Committee Meeting Minutes: 29 October 2021
- Climate Change Committee Meeting Minutes: 17 June 2022
- Climate Change Committee Meeting Minutes: 2 September 2022
- Dundurrabin Community Centre Minutes: 7 September 2022
- Coaldale Barretts Creek Hall Committee Minutes: 30 July 2022 & 24 September 2022
- Coaldale Barretts Creek Hall Committee EOFY Statement July 2021/2022
- Lanitza-Kungala Community Hall Committee Minutes: 12 October 2022

ITEM 07.22.239 RATE PEG METHODOLOGY SUBMISSION TO IPART

Meeting	Council	25 October 2022
Directorate	Corporate & Community	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

This reports seeks Council's support to lodge a submission to IPART's Review of the Rate Peg Methodology. The submission is due by 4 November 2022. The Issues paper can be found here [Issues Paper - Review of rate peg methodology - September 2022 | IPART](#).

OFFICER RECOMMENDATION

That Council makes a submission to IPART's review of the rate peg methodology including the matters detailed in the report.

LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

KEY ISSUES

At its Ordinary Meeting held 21 April 2021, Council resolved to make a submission to IPART's review of the rate peg to include population growth. While in support of the inclusion, Council maintained that ABS population growth data, which is lagged by three years, is not an appropriate measure of population growth in the current year. And is therefore not an appropriate measure for considering rate peg to fund increased services and infrastructure to meet the demands of population growth.

Indicative of this is the fact that IPART's proposed rate peg for 2023/2024 is the third highest in the State, based on population change that occurred in 2020/2021 during the COVID pandemic. However, the demands of an increased population on councils is felt immediately. In the case of Clarence Valley Council, 2020/2021 saw a significantly increased demand for development and building services, growth in the number of requests for information and GIPA requests, counter services and rating enquiries, increased reports for regulatory services and facility and open space maintenance. Remuneration to service these demands will not begin to be met until 2023/2024 under the current methodology.

While the exact cost of population increase is difficult to quantify, suffice to say it impacts activity across the organisation and is often dependent on level of service experience of residents and their expectation of service levels in their new local government area. Generally speaking, it is observed that residents expect at least equal levels of service to the area they came from, which can be problematic for regional and rural councils, when the resident's previous location was metropolitan and many services including road infrastructure is State funded either directly or through non-government services.

Per Council's submission in 2021, it is considered that a more accurate real time indicator of population change would be the inclusion of building approvals as an indicator of growth. While the population data is a guide, the number of building certificates/construction certificates issued by Council is a better guide than development applications (DA) as DA's only indicate that a development is approved but is not indicative of construction commenced and occupied.

Council is also of the view that the population growth factor should be set for groups of "like councils". For example, councils located on the coast should have their population growth assessed separately to councils located west of the great divide and metropolitan councils which should be grouped together along with Wollongong, Newcastle and the Central Coast. As social population movements broadly fit the categories of farm and tree change, coastal sea change and metropolitan living.

In house and own source resourcing is the way in which councils can increase productivity however IPARTs consideration of productivity gains is unrealistic for non-metropolitan councils with comparatively smaller rate bases. Examples of key issues include:

- significant skills shortages across the sector result in costly competition to attract skilled labour to non-metropolitan councils;
- the greatest operational efficiencies require significant investment in IT systems, cloud migration and upskilling of staff and communities;
- skills shortages rely on outsourcing activity and functions for commercial rates.

Ultimately the problem lies in the fact that the Local Government Cost Index (LGCI) is always calculated on an historical cost basis. In this case the LGCI has been calculated “as at 30/6/2021” while the CPI seems to have been on a continual rise since July 2021, and all indications are that inflation will continue to rise for a while to come. The following is more than likely in relation to the current & future rate pegs:

	Council Awarded Rate Peg	CPI may run at	Potential Revenue Deficit
YE 21/22	2.0%	4.2%	2.2%
YE 22/23	0.7%	4.5%	3.8%

This means there is up to a 6% revenue shortfall to be felt by Council in the current year and this gap stands to increase should the methodology behind IPART’s rate peg calculation not change.

A review of the weighting of the cost components of the LGCI is required as the proportion of Council’s budget spent on roads and bridges (predominantly contractual arrangements) in 2020/2021 was over 37.24%, while the LGCI assumes 26.9% and the allocation to business services (consultants and professional services) was over 11.68%, while the LGCI assumes 6.2%. These allocations are subject to significant market variability that is well beyond the control of local government, as they are in high demand.

While the rate peg does provide protection to rate payers from excessive rate increases, it also continues the practice of delivery of services that fall short of the expectations of ratepayers. Comparison of any non-metropolitan council customer satisfaction survey will typically show low satisfaction levels with road infrastructure, aged community facilities and those services such as planning and building services where professional staff shortages exist.

BACKGROUND

The role of the rate peg is to protect ratepayers from excessive rate increases, and to create a financial incentive for councils to improve their productivity and efficiency. However, it also needs to allow councils’ rates income to vary annually to reflect, as far as possible, changes in the cost of providing services due to factors such as inflation and population growth. Otherwise, they may have to reduce the quality or scope of their services to their communities or seek other sources of income.

COUNCIL IMPLICATIONS

Budget/Financial

Nil in relation to adopting the recommendation of this report.

Asset Management

Nil in relation to adopting the recommendation of this report.

Policy and Regulation

Nil in relation to adopting the recommendation of this report.

Consultation

Nil in relation to adopting the recommendation of this report.

Legal and Risk Management

Nil in relation to adopting the recommendation of this report.

Climate Change

Nil in relation to adopting the recommendation of this report.

WORKS & CIVIL**ITEM 07.22.240 TENDER 22/27 - SYSTEM INTEGRATOR**

Meeting	Council	25 October 2022
Directorate	Works & Civil	
Prepared by	Mechanical/Electrical Engineer, Deanne Eaton	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Tender 22/27 - Tender Evaluation Report (Confidential)	

SUMMARY

Council called Schedule of Rates tenders to provide System Integrator services to Council's Water Cycle section, which opened on 1 August 2022 and closed on 31 August 2022. The tender is for a two-year period, with two extension options, each of two years. Three complying Tenders were received. The tender evaluation panel (TEP) considers, having regard to all the circumstances, that the Tender from SafeGroup Automation Pty Ltd is the most advantageous to Council and recommends that this Tender be accepted.

OFFICER RECOMMENDATION

That Council:

1. Award Tender RFT 22/027 System Integrator to SafeGroup Automation Pty Ltd at the Schedule of Rates tendered, to be funded from Water Cycle operating budgets and related capital works projects.
2. Delegate authority to the General Manager to exercise the 2 x 2 year extension options on completion of satisfactory periods of engagement.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

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

KEY ISSUES

At the closing date and time Council received three complying Tenders from SafeGroup Automation Pty Ltd, Alliance Automation Pty Ltd and 360 Engineering. Tenders were assessed using a Tender Evaluation Panel (TEP) comprising staff from Council's Water Cycle and Information Technology sections, with a weighting of 60% price and 40% non-price. A detailed report from the TEP is included in the Confidential Attachments.

SafeGroup Automation had the highest non price score in accordance with the tender evaluation criteria. Key to the non price assessment was experience and past performance in similar upgrade works. SafeGroup Automation has extensive experience in this area, having worked with Byron Bay, Rous, Lismore, Coffs Harbour, Gosford, Wyong and others upgrading their water and sewer monitoring and telemetry from RADTEL to ClearSCADA. SafeGroup also has extensive experience with Clarence Valley Council.

Pricing was presented as a schedule of rates. For the purposes of the Tender Evaluation, a typical annual support program was chosen with hours allocated to the various Engineering roles based on experience to date. This enabled the comparison of the Tenderers based on realistic information.

The TEP considers that, in accordance with Clause 178(1)(a) of the *Local Government (General) Regulation, 2021* the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council, is from Safegroup Pty Ltd and recommends that this tender be accepted.

During the past 6 years Council has undertaken an upgrade program to move from the unsupported and end of life RADTEL system to ClearSCADA. SafeGroup Automation was successful in the previous tender RFT16/040 System Integrator (Resolution 16.001/17) and has been providing these services to Council since 2017. During this time Council has upgraded most of its monitoring systems to ClearSCADA, with only a portion of Grafton Sewage Pumps stations still in progress. Having a robust and reliable monitoring and control system is vital to Council's ongoing regulatory compliance obligations.

The TEP recommends a 2 year contract with option for additional 2 x 2 extensions on completion of satisfactory periods of engagement.

BACKGROUND

Council's Water and Sewer treatment and transfer assets are spread across a vast area and consist of a range of different mechanical and electrical components. To enable real time monitoring of the assets and processes, Council has a SCADA (Supervisory Control and Data Acquisition) system in place. This system requires specialist Engineers to maintain and upgrade it. These specialist engineers are supplemented by Councils inhouse expertise. SCADA support and System Integrator Services are vital to Councils ongoing monitoring and control of its treatment and transfer assets.

COUNCIL IMPLICATIONS

Budget/Financial

General support and system integration maintenance is funded from the water, sewer or flood plain operational budgets. Capital and project work is funded from the approved capital project budget. Nominal cost per year for support services is \$48,350 (GST inclusive). Projects are costed separately at the agree schedule of rates There are no other budgetary implications from the acceptance of this tender.

Asset Management

N/A

Policy and Regulation

The local supply provisions of the policy were assessed by the project manager as not being relevant due to the specialist nature of the services being sources by the tender.

Consultation

N/A

Legal and Risk Management

N/A

Climate Change

N/A

ITEM 07.22.241 RFT22/28 GRAFTON NETBALL COURT REDEVELOPMENT

Meeting	Council	25 October 2022
Directorate	Works & Civil	
Prepared by	Senior Parks & Recreation Officer, Rachelle Passmore	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Tender Recommendation Report (Confidential)	

SUMMARY

The report presents the outcome of the open tender that was called for the design and construction of the Grafton Netball Courts, located at Westward Park (Reserve D540035) and seeks Council's endorsement to award the contract.

OFFICER RECOMMENDATION

That Council as Crown Land Manager of Westward Park (D540035):

1. Accepts the tender from Sports Build Pty Ltd for RFT22/28 Grafton Netball Court Redevelopment for the design and construction of eight outdoor hard courts and lighting at a cost of \$1,257,916 (Incl GST).
2. The project is to be funded from the Grafton Netball Court Redevelopment (FP 540116 Sub Service 341) and Grafton Netball Lighting (FP 540117 Sub Service 341).
3. Delegates authority to the General Manager to approve appropriately deemed variations to the contract and those variations be reported to Council within the Quarterly Budget Review Statement (QBRs) once the contract is finalised.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

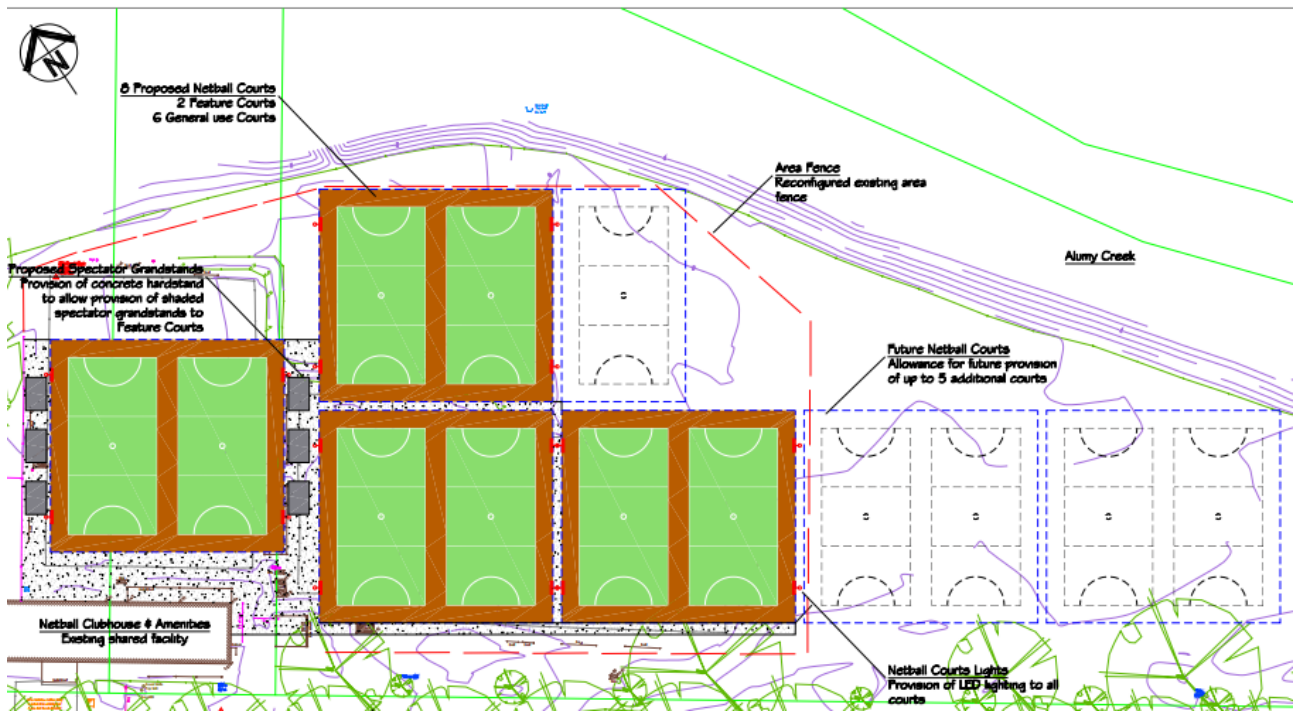
Objective We will have communities that are well serviced with appropriate infrastructure

KEY ISSUESDesign

The project includes the design and construction of eight outdoor netball courts and lighting to a regional standard. The courts will be compliant with the Netball Australia National Facilities Policy for a regional level facility.

The proposed project also meets the objectives of the Clarence Valley Sports Facilities Plan, Office of Sport Strategic Plan, the North Coast Regional Sport and Active Recreation Plan and the Grafton Netball Strategic Plan.

The design is based on the concept plan which has provision for an additional five courts if they were in considered a requirement into the future and based on funds becoming available at that time.



The project will include eight concrete-based netball courts, a three-coat acrylic surface, line marking, netball posts and goals with LED lighting to 200LUX.

Tenders

Two (2) tenders were received in response to the Request for Tender process, the tenderers being listed in alphabetical order in the following table and throughout report:

Tenderer	ABN	Address
Court Craft (Aust) Pty Ltd	41 003 169 015	55 Loftus Street, RIVERSTONE NSW 2765
Sports Build Pty Ltd	36 600 598 365	12 Wright Place, ARMIDALE NSW 2350

Tender Assessment

A Tender Evaluation Panel (TEP) evaluated the submissions against the mandatory participation criteria to ensure compliance with the evaluation plan. The two (2) tenders received were deemed compliant and were short listed to the evaluation assessment.

The TEP reviewed the two (2) tenders against the non-price (technical) criteria independently and then as a group to form a consensus score. The TEP then reviewed the two (2) tenders against the price criteria as a group.

After consideration of the tender submissions, scoring, and project reference checks, the TEP considered the offer from Sports Build Pty Ltd as the most advantageous to council and recommends this tender be accepted.

Details of the assessment carried out by the TEP are included in the confidential attachment.

BACKGROUND

The Grafton netball courts require replacement following years of repairs and maintenance. In response to this need, Council with the support of Netball NSW and the Grafton Netball Association were successful in an application for funding through round two of the Regional Sport Facility Fund. Additionally, an allocation of \$200,000 is committed in the 2022/23 capital works program for lights which are also included in the current project scope.

The project includes the demolition and reuse where possible of seven outdoor netball courts, the design and construction of eight outdoor netball courts with related infrastructure and court lighting to a regional standard.

The tender documentation was developed with tenders called Monday, 8 August 2022, and closed with a one-week extension on Friday 9 September 2022.

COUNCIL IMPLICATIONS

Budget/Financial

Council successfully applied for grant funding of \$947,382.00 from the New South Wales Government Regional Sports Facility Fund Round 2.

The total available budget for the tender is \$1,197,382.00 (ex GST) which includes allocations from the following funding sources:

Source Description	Ex GST
NSW Government, Regional Sport Facility Fund (CAP00268, FP 540116)	\$947,382
Clarence Valley Council, Sport Committee 2020/21 (Item 6.a.21.023)	\$10,000
Grafton Netball Court Association	\$40,000
Clarence Valley Council, 2022/23 capital works (CAP00310, FP 540117)	\$200,000
TOTAL	\$1,197,382

The tender price submitted by Sports Build Pty Ltd is \$1,143,560.00 (ex GST) leaving a balance of \$53,822 (ex GST) for project contingency.

Asset Management

The proposed Grafton netball court redevelopment is a new asset, replacing the existing seven courts and will be included into Council's Asset Management Plans.

The existing seven hard courts will be disposed and replaced with eight new courts including LED lighting.

Policy and Regulation

The tendering process followed is consistent with the requirement of the Local Government Act 1993, Local Government (General) Regulation 2021 and Council's Sustainable Procurement Policy – Supporting Local Business.

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

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

Consultation

Consultation was undertaken with the Grafton Netball Association and Netball New South Wales including the Clarence Sports Committee. Additionally, an onsite meeting was held during the tender process with prospective tenderers on 16 August 2022.

Consultation regarding the redevelopment has also occurred with Crown Lands during the funding application process and various departments of Council including the Native Title Manager.

Legal and Risk Management

Two (2) submissions were received in response to the Request for Tender process, the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Court Craft (Aust) Pty Ltd	41 003 169 015	John Loughlin	Managing Director
Sports Build Pty Ltd	36 600 598 365	Jeremy Blanch Joanne Purvis	Managing Director Director

No native title claim or determination has been made over this land at this point of time. Consequently, native title continues to exist in the absence of any formal (Federal Court) determination or non-claimant application to seek a determination that native title does not exist in the area of the proposed work.

The Grafton Netball Association facility and existing bitumen courts may be deemed to be a previous exclusive possession act (ie. a public work) under s23B(7) of the *Native Title Act 1993* (Cth). If so, native title would be deemed to be extinguished within the footprint of these works under s20(2) of the *Native Title (New South Wales) Act 1994*.

Nonetheless, the proposed redevelopment includes the construction of two netball courts on an existing grassed area. Native title would continue to exist on this area. Notification of the construction of this part of the re-development would be required under Subdivision J of the *Native Title Act 1993* (Cth). The construction of these two netball courts would be deemed compensable under the Act. Compensation could be payable at any point in the future to the appointed traditional owners, if claimed.

Climate Change

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

ITEM 07.22.242 RFT22/31 SEWER MAIN REHABILITATION

Meeting	Council	25 October 2022
Directorate	Works & Civil	
Prepared by	A/Senior Engineering Officer, Matt Godfrey	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. RFT 22/31 Sewer Main Rehabilitation Tender Evaluation Report (Confidential)	

SUMMARY

Council called a schedule of rates tender for sewer main relining services, which opened on 12 August 2022 and closed on 16 September 2022. Four (4) complying tenders were received. The Tender Evaluation Panel (TEP) considers, having regards to all the circumstances, that the tender from Wilmot Civil Pty Ltd T/as Wilmot Pipelining is the most advantageous for Council and recommends that this tender be accepted.

OFFICER RECOMMENDATION

That Council:

1. Awards Tender RFT22/031 Sewer Mains Rehabilitation to Wilmot Civil Pty Ltd T/as Wilmot Pipelining using the provided Schedule of Rate price of \$1,530,036.60 (including GST), to be funded from Financial Project 910016 (Sewer Rehabilitation Relining).
2. Delegates authority to the General Manager to approve appropriately deemed variations to the contract and those variations be reported to Council within the Quarterly Budget Review Statement (QBRs) once the contract is finalised.

LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

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

KEY ISSUES

At the closing date and time Council received four tenders:

Tenderer	Director(s)
Cable Pipe Locations Pty Ltd	Shane Buckley
Interflow Pty Ltd	Daniel Weaver, David William Lilley, John Albert Weaver, Michael Joseph Weaver, Paul Vincent Borg, Graham Reid
Veolia Operations Pty Ltd	Daniel Spiller
Wilmot Civil Pty Ltd T/as Wilmot Pipelining	Andrew Wilmot

Tenders were assessed by a Tender Evaluation Panel (TEP) comprising Water Cycle staff using a weighting of 70% price and 30% non-price criteria. 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, 2021 the Tender which having regard to all the circumstances (price and non-price) appears to be the most advantageous to Council is from Wilmot Civil Pty Ltd Tas Wilmot Pipelining and recommends that this tender be accepted.

BACKGROUND

Council has extensive sewer main infrastructure that is required to be maintained and renewed on a maintenance schedule based on the design life of products used as well as the asset condition. Sewer main rehabilitation requires cleaning of sewer pipes, CCTV to determine asset condition and then the pipes are relined while in situ with minimal disturbance to customers.

COUNCIL IMPLICATIONS**Budget/Financial**

The 2022-23 sewer relining budget is \$1,500,000 from FP910016 (Sewer Rehabilitation Relining). Tender advertising costs were \$168, so the available 2022-21 funding for this project is therefore \$1,499,832

The recommended tender's price as per the quantities nominated in the tender is \$1,390,942.36 (ex GST). As this is a schedule of rates contract, payment will be based on actual quantities of cleaning, CCTV and relining.

Council staff will undertake administration of this Contract.

Asset Management

Relining of sewer mains renews the assets and is identified in the Sewerage Asset Management Plan as renewal work. As part of the revaluation of the sewer network a significant CCTV program was undertaken in 2020/21 which assisted in identifying sewer mains which needed relining. The relining is based on sewer mains identified as Condition 4 and 5.

Policy and Regulation

The tendering process followed is consistent with the requirement of the Local Government Act and the Local Government (General) Regulation 2021 including Council's Sustainable Procurement Policy – Supporting Local Business.

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

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

Consultation

N/A

Legal and Risk Management

The sewer relining program will require the contractor to enter some private properties in order to access manholes. The contractors are required to have appropriate Covid 19 safety plans.

Climate Change

Not applicable to this tender.

8. CONFIDENTIAL BUSINESS**9. QUESTIONS WITH NOTICE**

Nil

10. LATE ITEMS OF BUSINESS AND MATTERS ARISING**11. CLOSE OF ORDINARY MEETING**