

Ordinary Council Meeting

Minutes

Grafton - 23 May 2023 - 2:00pm



AGENDA

	Page
01 OPENING OF ORDINARY MEETING	
<ul style="list-style-type: none"> • Affirmation/Prayer • Acknowledgement of Country • Announcement – Recording of Meeting • Statement of Ethical Obligations 	
02 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE	
03 DISCLOSURES AND DECLARATIONS OF INTEREST	
04 CONFIRMATION OF MINUTES	
<ul style="list-style-type: none"> • Ordinary Meeting of Council held 18 April 2023 	
05 MAYORAL MINUTES	
05.23.003 Damaging Increase in Emergency Services Levy Costs	5
05.23.004 GM Mid Term Performance Review	7
06 NOTICE OF MOTIONS	
06.23.005 Naming of Iluka Reserve (1037709) 'Memorial Park'	8
06.23.006 Address Community and Business Concerns Raised After the February and March 2022 Severe Weather and Flood Declarations	9
07 REPORTS	
OFFICE OF THE GENERAL MANAGER	
07.23.066 Remuneration for Mayor, Deputy Mayor and Councillors for 2023/2024	11
07.23.067 Councillor Listening Tours	13
ENVIRONMENT & PLANNING	
07.23.068 Development Application DA2022/0473 - Four multi dwelling housing units, swimming pools, four (4) lot strata subdivision and demolition of existing dwelling and shed	14
07.23.069 Gay Marsden v Clarence Valley Council - Land and Environment Court Case No.2022/00290330 - Outcome of Class 1 Appeal	15
07.23.070 Nuclear Free Zone	16
CORPORATE & COMMUNITY	
07.23.071 Council Meeting Checklist - Update on Actions Taken	17
07.23.072 Items for Information	18
07.23.073 Petition Lodged	19
07.23.074 Q3 2022/2023 Governance Report	20
07.23.075 Policy Report	21
07.23.076 2021/2022 Annual Report Updated May 2023	23
07.23.077 Committees Report	24
07.23.078 2022/2023 Monthly Finance Report - April 2023	25
07.23.079 Monthly Investment Report - April 2023	26

WORKS & CIVIL

07.23.080	Disaster Recovery Funding Arrangements (DRFA) - Regional Roads Repair Tender	27
07.23.081	Local Traffic Committee	28
07.23.082	Acquisition of Part Lot 1 DP 335225 and Sale of Part Lots 721 and 722 DP 1148111 to the Adjoining Landowners	29
07.23.083	Proposed Road Closure of Part Rushforth Road Reserve, Elland	30
07.23.084	Proposed Renewal of Lease over part Hoof Street Road Reserve, Grafton, for the Purpose of Grazing	31
07.23.085	Clarence River Flood Study Review	32

08 CONFIDENTIAL BUSINESS**09 QUESTIONS WITH NOTICE**

Nil

10 LATE ITEMS OF BUSINESS AND MATTERS ARISING**11 CLOSE OF ORDINARY MEETING**

1. OPENING OF ORDINARY MEETING

MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Grafton, 23 May 2023 commencing at 2:00pm and closing at 4.45 pm.

AFFIRMATION – Cr Steve Pickering delivered the Affirmation.

We, the Councillors of the Clarence Valley declare that we will undertake the duties of the office of Councillor in the best interests of our community and faithfully and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.

ACKNOWLEDGEMENT OF THE TRADITIONAL CUSTODIANS OF THE LAND – Cr Allison Whaites delivered the Acknowledgement of the Traditional Custodians of the Land.

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

ANNOUNCEMENT – The General Manager delivered the Announcement.

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

Speakers are asked not to make insulting or defamatory statements and to take care when discussing other people's personal information. No other persons are permitted to record the meeting unless specifically authorised by Council to do so.

STATEMENT OF ETHICAL OBLIGATIONS – The General Manager delivered the Announcement.

All Councillors are reminded under section 3.23 of the Code of Meeting Practise, of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

PRESENT

Cr Greg Clancy, Cr Bill Day, Cr Peter Johnstone, Cr Debrah Novak, Cr Steve Pickering, Cr Jeff Smith, Cr Ian Tiley, Cr Karen Toms and Cr Allison Whaites

General Manager (Laura Black), Director – Corporate & Community (Alex Moar), Director – Environment & Planning (Adam Cameron), Director – Works & Civil (Jamie Fleeting) and Minutes Secretary (Michelle West)

2. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

Nil

3. DISCLOSURES AND DECLARATIONS OF INTEREST**Declarations received at the commencement of the Ordinary Council Meeting**

Name	Item	Nature of Interest, Action and Reason
Laura Black (General Manager)	07.23.004	<ul style="list-style-type: none"> ▪ Pecuniary – Leave the Meeting ▪ The report relates to the review of my performance per contract. (October-March)
Cr Johnstone	08.23.005	<ul style="list-style-type: none"> ▪ Significant Non-Pecuniary – Leave the Meeting ▪ Member of the Joint Regional Planning Panel

COUNCIL RESOLUTION

Johnstone/Toms

That the Minutes of Ordinary Meeting of Council dated 18 April 2023, copies of which have been circulated, be taken as read and be confirmed.

Voting recorded as follows

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

Against: Nil

CARRIED

4. MAYORAL MINUTES

**ITEM 05.23.003 MAYORAL MINUTE
DAMAGING INCREASE IN EMERGENCY SERVICES LEVY COSTS**

Meeting	Council	23 May 2023
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

I am calling on Councillors to support representations to the NSW Government in response to the highly damaging increase in the Emergency Services Levy (ESL) imposed on all councils without warning for the 2023/2024 financial year.

The ESL is a cost imposed on councils and insurance policy holders to fund the emergency services budget in NSW. The majority is paid as part of insurance premiums, with a further 11.7 per cent funded by councils and 14.6% by the NSW Government. The ESL represents cost shifting at its worse, as it is imposed on councils without any mechanism for councils to recover costs.

PROPOSED MOTION

That Council writes

1. to the Treasurer, the Minister for Emergency Services, the Minister for Local Government and local State Member(s):
 - a. expressing Council's strong opposition to the NSW Government's last minute decision to impose an enormous Emergency Services Levy (ESL) cost increase on councils for 2023/2024 by scrapping the ESL subsidy for councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;
 - b. noting that as a consequence of the unannounced 73% increase in the State Emergency Service budget and an 18% increase in the Fire and Rescue NSW budget, Council's 5.4% rate increase to provide essential community services and infrastructure has been significantly eroded.
 - c. advising that the Government's decision may/will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects;
 - d. calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023/2024
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable councils to recover the full cost
 - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government.
2. to the Chair of the Independent Pricing and Regulatory Tribunal (IPART) advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023/2024 rate cap, which has resulted in additional financial stress.
3. to the President of LGNSW seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution.

COUNCIL RESOLUTION - 05.23.003

Tiley

That Council writes

1. to the Treasurer, the Minister for Emergency Services, the Minister for Local Government and local State Member(s):
 - a. **expressing Council's strong opposition to the NSW Government's last minute decision to impose an enormous Emergency Services Levy (ESL) cost increase on councils for 2023/2024 by scrapping the ESL subsidy for councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;**

- b. noting that as a consequence of the unannounced 73% increase in the State Emergency Service budget and an 18% increase in the Fire and Rescue NSW budget, Council's 5.4% rate increase to provide essential community services and infrastructure has been significantly eroded.
 - c. advising that the Government's decision may/will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects;
 - d. calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023/2024
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable councils to recover the full cost
 - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government.
2. to the Chair of the Independent Pricing and Regulatory Tribunal (IPART) advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023/2024 rate cap, which has resulted in additional financial stress.
 3. to the President of LGNSW seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution.

Voting recorded as follows

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

Against: Nil

CARRIED

**ITEM 05.23.004 MAYORAL MINUTE
GM MID TERM PERFORMANCE REVIEW**

Meeting	Council	23 May 2023
Submitted by	Cr Ian Tiley	
Attachments	Nil	

SUMMARY

The Committee reports to Council that the General Manager mid-term review was completed in accordance with Council's resolution and in accordance with the OLG Guidelines on the Appointment and Oversight of General Managers.

PROPOSED MOTION

That Council note that the mid-term review of the performance of the General Manager Ms Laura Black has been conducted by the Council's Performance Review Committee with Deputy Mayor Cr Clancy not in attendance.

GM Laura Black left the room at 2.05pm

COUNCIL RESOLUTION - 05.23.004

Novak/Whaites

That Council

- 1. note that the mid-term review of the performance of the General Manager Ms Laura Black has been conducted by the Council's Performance Review Committee with Deputy Mayor Cr Clancy not in attendance.**
- 2. that a copy of the mid term review be provided to all councillors as a confidential attachment.**

Voting recorded as follows

For: Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whaites

Against: Clancy

CARRIED

GM Laura Black returned to the room at 2.07pm

5. NOTICES OF MOTION**ITEM 06.23.005 NOTICE OF MOTION
NAMING OF ILUKA RESERVE (1037709) 'MEMORIAL PARK'**

Meeting	Council	23 May 2023
Submitted by	Councillor, Karen Toms	
Attachments	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

This Notice of Motion is on behalf of the Iluka Chapter of the Maclean RSL Sub-Branch and Iluka History Group Inc. who are seeking Council approval to name the park located on Reserve 1037709, 'Memorial Park'.

PROPOSED MOTION

That Council:

1. as Crown Land Managers of Reserve 10370709, support Iluka Chapter of the Maclean RSL Sub-Branch and Iluka History Group Inc. request to name this reserve 'Iluka Memorial Park'.
2. undertake all necessary actions to facilitate the naming of this reserve, should council support point one of this motion,
3. note the Centenary Celebrations of the Soldiers Memorial Hall adjacent to the park is being planned for September 2023.
4. if possible, complete the process according to Council's Naming of Parks and Facilities Policy in time for the Centenary celebrations.

COUNCIL RESOLUTION - 06.23.005

Toms/Day

That Council:

1. as Crown Land Manager of Reserve 10370709, support Iluka Chapter of the Maclean RSL Sub-Branch and Iluka History Group Inc. request to name this reserve 'Iluka Memorial Park'.
2. note the Yaegl TOAC recommendation for the Reserve to be named 'Iluga'.
3. undertake all necessary actions to facilitate the naming or dual naming of this reserve, should council support point one of this motion,
4. note the Centenary Celebrations of the Soldiers Memorial Hall adjacent to the park is being planned for September 2023.
5. if possible, complete the process according to Council's Naming of Parks and Facilities Policy in time for the Centenary celebrations.

Voting recorded as follows

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

Against: Nil

CARRIED

**ITEM 06.23.006 NOTICE OF MOTION
ADDRESS COMMUNITY AND BUSINESS CONCERNS RAISED AFTER THE
FEBRUARY AND MARCH 2022 SEVERE WEATHER AND FLOOD DECLARATIONS**

Meeting	Council	23 May 2023
Submitted by	Cr Debrah Novak	
Attachments	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

SUMMARY

The NSW severe weather and flood declarations for the Clarence Valley in March 2021 and February and March 2022 along with the local ponding, tidal inundation, stormwater, rainfall, storm tidal peaks and drainage impacts continue to raise concerns and fears from many who reside and work here. This in conjunction with climate generated extreme weather events, the completion of major infrastructure projects in Grafton and the Motorway, future rezoning, and developments in the area, are of a major concern to several villages and their residents, businesses and farmers and the CVC Community Climate Change Committee.

PROPOSED MOTION

That Council

1. note the:
 - a) Lower Clarence Flood Model Update 2022 – attached to the Clarence River Flood Study Report.
 - b) NSW Flood Inquiry recommendations
<https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinquiry>
 - c) NSW Government Response to the NSW Parliamentary Select Committee on the Response to Major Flooding across NSW in 2022.
<https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinquiry>
 - d) CSIRO Northern Rivers Resilience Initiative updates
<https://www.csiro.au/en/research/natural-disasters/floods/Northern-NSW-Resilience-Initiative>
2. investigate adopting a new fee for the independent peer review of flood and stormwater impacts for all development applications that propose more than 50,000m³ of filling (when in an urban area) in the Flood Planning Area of the Clarence Valley Local Environmental Plan 2011, and the fee be incorporated into the 2023/2024 Fees and Charges.
3. review the Clarence Valley Council's Development Control Plans (DCP) to align with current best-practice floodplain development guidance from the Department of Planning and Environment, including updating objectives and controls about flood evacuation.
4. develop and/or host flood awareness education material relevant to the Clarence Valley, in collaboration with the State Emergency Service / Reconstruction NSW (as the lead combat agency).
5. note the current stormwater study being undertaken by Council staff for the West Yamba Urban Release area which will inform future maintenance and capital works, and that this study can be used to assist in the assessment of development applications.
6. note the proposed implementation of the Stormwater Service Charge which will be used to improve maintenance works for stormwater infrastructure across the floodplain.
7. provide a biannual newsletter to keep community stakeholders informed about the Clarence Valley Council's current flood studies that are currently being undertaken.
8. seek advice and provide a report to an ordinary meeting within three months, about the budget and resources required to develop a natural disaster resilience strategy, framework and policies for the Clarence Valley community, businesses, and farmers and make representations to Clarence State MP Richard Williamson, Federal MP Kevin Hogan, Northern Rivers Reconstruction Authority, NSW Agricultural Minister MP Tara Moriarty and NSW Small Business Minister, MP Steve Kamper to secure the required funds to carry out this work.
9. invite nominations from the Clarence Valley business, Agriculture, Landcare, First Nations, Disability, Youth and housing sectors to join the CVC Climate Change Committee.

POINT OF ORDER

Novak

Cr Novak called point of order.

The Chair upheld the point of order. Chair advised the word obsession not necessary.

Council Resolution – 06.23.006

Novak/Whaites

That Council

1. note:
 - a) The Lower Clarence Flood Model Update 2022 – attached to the Clarence River Flood Study Report.
 - b) The NSW Flood Inquiry recommendations
<https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinginquiry>
 - c) The NSW Government Response to the NSW Parliamentary Select Committee on the Response to Major Flooding across NSW in 2022. <https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinginquiry>
 - d) The CSIRO Northern Rivers Resilience Initiative updates
<https://www.csiro.au/en/research/natural-disasters/floods/Northern-NSW-Resilience-Initiative>
 - e) The current stormwater study being undertaken by Council staff for the West Yamba Urban Release Area (informs future maintenance and capital works, and that this study can be used to assist in the assessment of development applications)
 - f) The proposed implementation of the Stormwater Service Charge which will be used to improve maintenance works for stormwater infrastructure across the floodplain.
2. write to the Australian Prime Minister, The Hon Anthony Albanese MP and NSW Premier the Hon Chris Minns MP seeking advice and clarification about building on floodplains after their 2022 media comments.
3. write to the Chairman of Flood Plain Management Australia, Ian Dinham and invite him to give feedback on the Lower Clarence 2023 Flood Model update.
4. investigate adopting a new fee for the independent peer review of flood and stormwater impacts for all development applications that propose more than 50,000m³ of filling (when in an urban area) in the Flood Planning Area of the Clarence Valley Local Environmental Plan 2011, and the fee be incorporated into the 2023/2024 Fees and Charges.
5. review the Clarence Valley Council's Development Control Plans (DCP) to align with current best- practice floodplain development guidance from the Department of Planning and Environment, including updating objectives and controls about flood evacuation.
6. develop and/or host flood awareness education material relevant to the Clarence Valley, in collaboration with the State Emergency Service / Reconstruction NSW (as the lead combat agency).
7. provide a biannual newsletter to community stakeholders to keep them informed about the Clarence Valley Council's current flood studies that are currently underway.
8. seek advice and provide a report to an ordinary meeting within three months, about the budget and resources required to develop a natural disaster resilience strategy, framework and policies for the Clarence Valley community, businesses, and primary industries and make representations to Clarence State MP Richard Williamson, Federal MP Kevin Hogan, Northern Rivers Reconstruction Authority, NSW Agricultural Minister MP Tara Moriarty and NSW Small Business Minister, MP Steve Kamper to secure the required funds to carry out this work.
9. seek advice from the General Manager and provide a report to an ordinary meeting within three months if it is permissible to increase membership of the CVC Community Climate Change Committee from 15 to 25 members to include nominations from Clarence Valley business, Primary Industry, Landcare, First Nations, disability, youth and housing.
10. call for community submissions (citizen scientists) from residents for inclusion in the Clarence Valley whole of catchment flood study.

Voting recorded as follows

For: Novak, Pickering, Smith, Tiley, Toms, Whaites

Against: Clancy, Day, Johnstone

CARRIED

7. REPORTS**OFFICE OF THE GENERAL MANAGER****ITEM 07.23.066 REMUNERATION FOR MAYOR, DEPUTY MAYOR AND COUNCILLORS FOR 2023/2024**

Meeting	Council	23 May 2023
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

Council has been advised in OLG Circular 23-03 dated 10 May 2023 (<https://www.olg.nsw.gov.au/council-circulars/22-14-2022-23-determination-of-the-local-government-remuneration-tribunal/>) of the Local Government Remuneration Tribunal's determination of an increase of 3% to mayoral and councillor fees payable for the 2023/2024 financial year, with effect from 1 July 2023.

OFFICER RECOMMENDATION

That

1. council note the determination of the Tribunal.
2. fees payable to the elected members increase by 3% for the 2023/2024 financial year.
3. the Deputy Mayor's allowance be \$7,140 plus 3% to be funded from the Mayor's allowance.

MOTION

Whaites/Novak

That:

1. Council note the determination of the Tribunal.
2. fees payable to the elected members not increase from the amount adopted in 2022/2023.
3. the Deputy Mayor's allowance remain the approved allowance that was adopted in 2022/2023.

Voting recorded as follows

For: Novak, Smith, Whaites

Against: Clancy, Day, Johnstone, Pickering, Tiley, Toms

The Motion was put and declared LOST

COUNCIL RESOLUTION - 07.23.066

Toms/Tiley

That

1. council note the determination of the Tribunal.
2. fees payable to the elected members increase by 3% for the 2023/2024 financial year.
3. the Deputy Mayor's allowance be \$7,140 plus 3% to be funded from the Mayor's allowance.

Voting recorded as follows

For: Clancy, Day, Johnstone, Pickering, Tiley, Toms

Against: Novak, Smith, Whaites

CARRIED

COUNCIL RESOLUTION - 07.23.066a

Day/Clancy

That Council lodge a Motion to the next Local Government NSW Association Annual Conference requesting the NSW Government undertake a review of s248 and s249 of the Local Government Act to remove the need for councils to approve the annual remuneration increase for mayors, deputy mayor and councillors as determined by the NSW Local Government Remuneration Tribunal.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.067 COUNCILLOR LISTENING TOURS

Meeting	Council	23 May 2023
Directorate	General Manager	
Attachments	Nil	

SUMMARY

One Listening Tour was coordinated in April, this report provides an overview of the topics discussed at each location.

OFFICER RECOMMENDATION

That the information contained in the report be noted.

MOTION

Day/Smith

That the:

1. information contained in the report be noted.
2. that staff report to councillors the issues raised in the minutes.

Voting recorded as follows

For: Nil

Against: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whaites

The Motion was put and declared LOST

COUNCIL RESOLUTION - 07.23.067

Toms/Novak

That the information contained in the report be noted.

Voting recorded as follows

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

Against: Nil

CARRIED

ENVIRONMENT & PLANNING

ITEM 07.23.068 DEVELOPMENT APPLICATION DA2022/0473 - FOUR MULTI DWELLING HOUSING UNITS, SWIMMING POOLS, FOUR (4) LOT STRATA SUBDIVISION AND DEMOLITION OF EXISTING DWELLING AND SHED

Meeting	Council	23 May 2023
Directorate	Environment & Planning	
Prepared by	Acting Coordinator Development Services, James Hamilton	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. DA2022-0473 - Amended Architectural Plans ⇒ B. DA2022-0473 - Perspective images ⇒ C. DA2022-0473 - Submissions ⇒ D. DA2022-0473 - Section 4.15 Assessment ⇒ E. DA2022 0473 - Concept Stormwater Management Plan (Separate Cover) ⇒	

SUMMARY

<i>Applicant</i>	CHP Developments (Aust) Pty Ltd
<i>Owner</i>	CHP Developments (Aust) Pty Ltd
<i>Address</i>	4 Harbour Street Yamba being Lot 1 DP 726415
<i>Submissions</i>	Yes – four (4) submissions

Council is in receipt of a Development Application DA2022/0473 for demolition of an existing dwelling, construction of four (4) multi unit dwellings, swimming pools and four (4) lot strata subdivision at 4 Harbour Street, Yamba being Lot 1 DP 726415.

In accordance with the Community Participation Plan, the application was notified and four (4) submissions were received. The application is referred to Council for determination due to the public interest in the proposal and the applicant seeking several variations to the Residential Zones Development Control Plan 2011.

This report is submitted to Council for consideration and provides an assessment and recommendation for determination.

OFFICER RECOMMENDATION

That Council:

1. support the proposed variations to Residential Zones Development Control Plan 2011; and
2. approve Development Application DA2022/0473 subject to the draft Advices and Conditions contained in Schedule 1.

COUNCIL RESOLUTION - 07.23.068

Toms/Novak

That Council:

1. support the proposed variations to Residential Zones Development Control Plan 2011 for Development Application DA2022/0473; and
2. approve Development Application DA2022/0473 subject to the draft Advices and Conditions contained in Schedule 1.
3. insert an additional condition that the applicant shall submit amended plans that increase the front setback to Harbour Street to a minimum of 3.6m to ensure the setback is consistent with the adjoining 5 Harbour Street, Yamba

Voting recorded as follows

For: Johnstone, Novak, Pickering, Tiley, Toms, Whaites

Against: Clancy, Day, Smith

CARRIED

ITEM 07.23.069 GAY MARSDEN V CLARENCE VALLEY COUNCIL - LAND AND ENVIRONMENT COURT CASE NO.2022/00290330 - OUTCOME OF CLASS 1 APPEAL

Meeting	Council	23 May 2023
Directorate	Environment & Planning	
Prepared by	Acting Coordinator Development Services, James Hamilton	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Statement of Facts and Contentions filed (Separate Cover) ⇒ B. Joint Expert Coastal Engineering Report filed (Separate Cover) ⇒ C. Joint Expert Planning Report filed (Separate Cover) ⇒ D. Revision K Plans (Separate Cover) ⇒ E. Court Judgement (Separate Cover) ⇒	

SUMMARY

The purpose of this report is to advise Council of outcome following orders made by the Land and Environment relating to a Class 1 appeal to the NSW Land and Environment Court, Case No. 2022/00390330 relating to a determination of Council to refuse Development Application DA2021/0303 for a dwelling house at 5 Carrington Street, Palmers Island.

A judgement was made by Commissioner of the Court on 14 March 2023 to uphold the appeal and grant consent, subject to conditions.

OFFICER RECOMMENDATION

That Council:

1. note the judgement made by the NSW Land and Environment Court to uphold an appeal (Case No. 2022/00390330) and determine Development Application DA2021/0303 by granting consent subject to conditions.
2. note the legal costs incurred by Council in relation to this matter total \$40,047.14 (including GST).
3. note the budget variation reported in Monthly Financial Report, tabled as a separate item.

COUNCIL RESOLUTION - 07.23.069

Day/Novak

That Council:

1. note the judgement made by the NSW Land and Environment Court to uphold an appeal (Case No. 2022/00390330) and determine Development Application DA2021/0303 by granting consent subject to conditions.
2. note the legal costs incurred by Council in relation to this matter total \$40,047.14 (including GST).
3. note the budget variation reported in Monthly Financial Report, tabled as a separate item.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.070 NUCLEAR FREE ZONE

Meeting	Council	23 May 2023
Directorate	Environment & Planning	
Prepared by	Waste & Sustainability Coordinator, Ken Wilson	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	Nil	

SUMMARY

This report forwards a recommendation of the Clarence Valley Climate Change Advisory Committee requesting that Council consider declaring the Clarence Valley a nuclear free zone.

OFFICER RECOMMENDATION

That Council support the Climate Change Advisory Committee recommendation and declare the Clarence Valley local government area as a nuclear free zone.

COUNCIL RESOLUTION - 07.23.070**Pickering/Clancy**

That Council support the Climate Change Advisory Committee recommendation and declare the Clarence Valley local government area as a nuclear free zone.

Voting recorded as follows

For: Clancy, Day, Pickering, Smith, Tiley

Against: Johnstone, Novak, Toms, Whaites

CARRIED

CORPORATE & COMMUNITY**ITEM 07.23.071 COUNCIL MEETING CHECKLIST - UPDATE ON ACTIONS TAKEN**

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Personal Assistant to the Mayor & Councillors, Lee Boon	
Reviewed by	General Manager, Laura Black	
Attachments	A. Completed Checklist (Separate Cover) ⇨ B. Outstanding Checklist (Separate Cover) ⇨ C. Rolling Checklist from 2019-2021 (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 rolling checklist.

COUNCIL RESOLUTION - 07.23.071**Day/Whaites**

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

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.072 ITEMS FOR INFORMATION

Meeting	Council	23 May 2023
Directorate	General Manager	
Attachments	<p>A. Climate Change Advisory Committee Meeting Minutes 3 February 2023 (Separate Cover) ⇨</p> <p>B. Dundurrabin Community Centre 355 Management Committee Meeting Minutes 8 March 2023 (Separate Cover) ⇨</p> <p>C. Lanitza_Kungala Community Hall Committee Minutes 26 March 2023 (Separate Cover) ⇨</p> <p>D. Wooloweyah Parks & Reserve Management 355 Committee Minutes 2 April 2023 (Separate Cover) ⇨</p> <p>E. Biodiversity Advisory Committee Meeting Minutes 5 April 2023 (Separate Cover) ⇨</p> <p>F. Access Advisory Committee Meeting Minutes 14 April 2023 (Separate Cover) ⇨</p>	

SUMMARY

Committee minutes attached are for noting.

OFFICER RECOMMENDATION

That the Items for Information as listed below be noted:

- Climate Change Advisory Committee Meeting Minutes: 3 February 2023
- Dundurrabin Community Centre 355 Management Committee Meeting Minutes: 8 March 2023
- Lanitza/Kungala Community Hall 355 Committee Meeting Minutes: 26 March 2023
- Wooloweyah Parks & Reserve Management 355 Committee Meeting Minutes: 2 April 2023
- Biodiversity Advisory Committee Meeting Minutes: 5 April 2023
- Access Advisory Committee Meeting Minutes: 14 April 2023

COUNCIL RESOLUTION - 07.23.072**Day/Whaites**

That the Items for Information as listed below be noted:

- Climate Change Advisory Committee Meeting Minutes: 3 February 2023
- Dundurrabin Community Centre 355 Management Committee Meeting Minutes: 8 March 2023
- Lanitza/Kungala Community Hall 355 Committee Meeting Minutes: 26 March 2023
- Wooloweyah Parks & Reserve Management 355 Committee Meeting Minutes: 2 April 2023
- Biodiversity Advisory Committee Meeting Minutes: 5 April 2023
- Access Advisory Committee Meeting Minutes: 14 April 2023

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.073 PETITION LODGED

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	A. Petition Lodgement Form Gilletts Ridge Road Redacted ⇒ B. Petition Gilletts Ridge Road Redacted [N=38] ⇒ C. 6c.21.067 Minutes Strategies for Future Unsealed Sealed Road Network Improvement 25 May 2021 ⇒	

SUMMARY

This report asks Council to receive a petition in accordance with Council's Petitions Policy V1.0 (ITEM 07.22.117a).

OFFICER RECOMMENDATION

That Council receive the petition titled Pavement of Gilletts Ridge Road between Briner Bridge and Lower Coldstream Road and place it on Council's website in accordance with Council's Petitions Policy V1.0.

COUNCIL RESOLUTION - 07.23.073**Pickering/Clancy**

1. Receive the petition titled Pavement of Gilletts Ridge Road between Briner Bridge and Lower Coldstream Road and place it on Council's website in accordance with Council's Petitions Policy V1.0.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.074 Q3 2022/2023 GOVERNANCE REPORT

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	A. Q3 2022/2023 Updated Disclosures of Interests ⇒	

SUMMARY

This report summarises the status of legal proceedings, complaints lodged, Government Information (Public Access) applications, new and/or updated Disclosures of Interests returns and insurance claims for Q3 2022/2023 (1 January 2023 to 31 March 2023).

OFFICER RECOMMENDATION

That Council:

1. receive and note the Q3 2022/2023 Governance Report
2. approves the publication of the Q3 updated Disclosures of Interest on Council's website

COUNCIL RESOLUTION - 07.23.074

Day/Whaites

That Council:

1. receive and note the Q3 2022/2023 Governance Report
2. approves the publication of the Q3 updated Disclosures of Interest on Council's website

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.075 POLICY REPORT

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	A. Complaint Management Policy V6.0 [Draft] ⇒ B. Aboriginal Signage V5.0 [Draft] ⇒ C. Media Policy 1.0 [Draft] ⇒ D. Keeping Animals Policy V2.0 [Draft] ⇒ E. Borrowing Policy V9.0 [Draft] ⇒ F. Footpath and Cycleway Maintenance Policy V5.0 [Draft] ⇒ G. Playground Policy V2.0 [Draft] ⇒ H. Cultural Sports Trust Fund Policy V7.0 [Draft] ⇒	

SUMMARY

This report asks that Council adopt two (2) policies and place one (1) new policy on exhibition and five (5) revised Council policies on exhibition and, subject to there being no submissions that change the intent of the policies, that they be adopted.

OFFICER RECOMMENDATION

That Council:

1. adopt the following policies:
 - a) Complaint Management Policy V6.0 (Attachment A)
 - b) Aboriginal Signage Policy V5.0 (Attachment B)
2. place the following policies on exhibition and, subject to there being no submissions that change the intent of the policies, that they be adopted:
 - c) Media Policy V1.0 [Draft] (Attachment C)
 - d) Keeping Animals Policy V2.0 [Draft] (Attachment D)
 - e) Borrowing Policy V8.0 [Draft] (Attachment E)
 - f) Footpath and Cycleway Maintenance Policy V5.0 [Draft] (Attachment F)
 - g) Playgrounds Policy V2.0 [Draft] (Attachment G)
 - h) Cultural Sports Trust Fund Policy [Draft] V7.0 (Attachment H)

COUNCIL RESOLUTION - 07.23.075

Johnstone/Day

That Council:

1. **adopt the following policies:**
 - a. **Complaint Management Policy V6.0 (Attachment A)**
 - b. **Aboriginal Signage Policy V5.0 (Attachment B)**
2. **place the following policies on exhibition and, subject to there being no submissions that change the intent of the policies, that they be adopted:**
 - d. **Keeping Animals Policy V2.0 [Draft] (Attachment D)**
 - f. **Footpath and Cycleway Maintenance Policy V5.0 [Draft] (Attachment F)**
 - g. **Playgrounds Policy V2.0 [Draft] (Attachment G)**
 - h. **Cultural Sports Trust Fund Policy [Draft] V7.0 (Attachment H)**
3. **That the wording on section 3.7e of the Media Policy V1.0 [Draft] (Attachment C) be changed from “must seek” to “would be wise to seek” and the Media Policy be subsequently placed on exhibition and, subject to there being no submissions that change the intent of the policy, that it be adopted.**
4. **Refer the Borrowing Policy V8.0 [Draft] (Attachment E) to a councillor workshop.**

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.076 2021/2022 ANNUAL REPORT UPDATED MAY 2023

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

This report asks that Council endorse the updated 2021/2022 Annual Report; that it is placed on Council's website, and that the URL for the updated 2021/2022 Annual Report be sent to the Office of Local Government.

OFFICER RECOMMENDATION

That Council:

1. endorse the updated 2021/2022 Annual Report that includes relevant financial data
2. endorse updated 2021/2022 Annual Report is made available to the community on Council's website
3. endorse the URL link to the updated 2021/2022 be sent to the Office of Local Government (OLG) in order that the Minister for Local Government be advised of its availability.

COUNCIL RESOLUTION - 07.23.076

Day/Whaites

That Council:

1. endorse the updated 2021/2022 Annual Report that includes relevant financial data
2. endorse updated 2021/2022 Annual Report is made available to the community on Council's website
3. endorse the URL link to the updated 2021/2022 be sent to the Office of Local Government (OLG) in order that the Minister for Local Government be advised of its availability.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.077 COMMITTEES REPORT

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Governance Officer, Bligh Grant	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

This report asks that Council note the resignations of members of two 355 Committees and approve the recommended appointment to one 355 Committee.

OFFICER RECOMMENDATION

That Council:

1. note the resignations of Shakti (Sally) Lade (by email) as Co-Secretary of the Dundurrabin Community Centre Management Committee, effective 5 October 2022.
2. note the resignation of Sandy Knight (by email) from the Jackadgery Hall Management Committee effective 4 May 2023.
3. approve the appointment of Leonie Pankhurst to the Dundurrabin Community Centre Management Committee (recommended by email), as of 5 October 2022.

COUNCIL RESOLUTION - 07.23.077**Day/Whaites**

That Council:

1. note the resignations of Shakti (Sally) Lade (by email) as Co-Secretary of the Dundurrabin Community Centre Management Committee, effective 5 October 2022.
2. note the resignation of Sandy Knight (by email) from the Jackadgery Hall Management Committee effective 4 May 2023.
3. approve the appointment of Leonie Pankhurst to the Dundurrabin Community Centre Management Committee (recommended by email), as of 5 October 2022.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.078 2022/2023 MONTHLY FINANCE REPORT - APRIL 2023

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Financial Accountant, Nick Harvey	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	A. 2022/2023 Monthly Income & Expenditure Statements by Service ⇒ B. Monthly Grant Application Summary - April 2023 ⇒	

SUMMARY

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

Budget variations identified in this report impact the General Fund end of year result by \$40,000. The reserve fund variations identified in this report will decrease the balance of the Financial Reserves by \$397,297.

OFFICER RECOMMENDATION

That Council:

1. note the monthly financial information report for April 2023 attached to this report.
2. endorse the proposed General Fund variations as set out in this report totalling \$40,000, which will be included in the 2022/2023 General Purpose Financial Statements Refer to Audit report.
3. endorse the proposed variations, which decrease the Financial Reserves by \$397,297, which will be included in the 2022/2023 General Purpose Financial Statements Refer to Audit report.
4. note and endorse the grant applications as identified in Attachment B.

COUNCIL RESOLUTION - 07.23.078**Day/Whaites**

That Council:

1. note the monthly financial information report for April 2023 attached to this report.
2. endorse the proposed General Fund variations as set out in this report totalling \$40,000, which will be included in the 2022/2023 General Purpose Financial Statements Refer to Audit report.
3. endorse the proposed variations, which decrease the Financial Reserves by \$397,297, which will be included in the 2022/2023 General Purpose Financial Statements Refer to Audit report.
4. note and endorse the grant applications as identified in Attachment B.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.079 MONTHLY INVESTMENT REPORT - APRIL 2023

Meeting	Council	23 May 2023
Directorate	Corporate & Community	
Prepared by	Financial Accountant, Nick Harvey	
Reviewed by	Director - Corporate & Community, Alex Moar	
Attachments	A. Movement of Funds Between Months - Apr 2023 ⇒	

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 April 2023 be noted.

COUNCIL RESOLUTION - 07.23.079

Day/Whaites

That the report indicating Council's funds investment position as at 30 April 2023 be noted.

Voting recorded as follows

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

Against: Nil

CARRIED

WORKS & CIVIL**ITEM 07.23.080 DISASTER RECOVERY FUNDING ARRANGEMENTS (DRFA) - REGIONAL ROADS REPAIR TENDER**

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Manager Civil Services, Devin Simpson	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	Nil	

SUMMARY

This report is seeking Council's delegation to the General Manager to accept open tenders for Regional Road pavement repair works that follow the February/March 2022 floods and eligible funding under the Disaster Recovery Funding Arrangements (DRFA).

Tenders are due to close on 22 May and there is insufficient time to report the tender outcome to the May ordinary meeting. To expedite the repair works and minimise road safety risks awarding the tender prior to the June ordinary meeting is considered advantageous to council by enabling works to commence as soon as practicable.

OFFICER RECOMMENDATION

1. That Council under Section 377 of the Local Government Act, delegate to the General Manager to accept tenders for the DRFA funded Regional Roads Repair Package.
2. That the outcome of the tender be reported to the June Ordinary Meeting.

COUNCIL RESOLUTION - 07.23.080**Day/Whaites**

1. That Council under Section 377 of the Local Government Act, delegate to the General Manager to accept tenders for the DRFA funded Regional Roads Repair Package.
2. That the outcome of the tender be reported to the June Ordinary Meeting.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.081 LOCAL TRAFFIC COMMITTEE

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Support Officer (Operations), Julie Wilks	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Local Traffic Committee Minutes 3.5.23 (Separate Cover) ⇒ B. 010.23 Prince Street Marketta (Separate Cover) ⇒ C. 011.23 Northern Rivers Aquatic Event Maclean (Separate Cover) ⇒ D. 012.23 Sheehans Lane Gulmarrad - New Intersection (Separate Cover) ⇒	

SUMMARY

This report lists the recommendations made at the 3 May 2023 meeting of the Local Traffic Committee.

OFFICER RECOMMENDATION

That the recommendations of the Local Traffic Committee determined on 3 May 2023 be adopted by Council.

COUNCIL RESOLUTION – 07.23.081**Johnstone/Novak****That Council:**

1. adopt Items (011/23 - Northern Rivers Aquatic Event Maclean) and (012/23 - Sheehan's Lane Gulmarrad – New Intersection) as determined by the Local Traffic Committee on 3 May 2023.
2. note that Item (010/23 Prince Street Marketta) was endorsed by the mayor, in accordance with S226 (d) of the Local Government Act 1993 due to the timing of the event between meetings of the council.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.082 ACQUISITION OF PART LOT 1 DP 335225 AND SALE OF PART LOTS 721 AND 722 DP 1148111 TO THE ADJOINING LANDOWNERS

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Coordinator Property, Eloise Casson	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Valuation of Part Lots 721 and 722 DP 1148111 for Disposal (Confidential) B. Counteroffer for Purchase of Part Lots 721 & 722 DP 1148111 (Confidential)	

SUMMARY

This report considers the counteroffer received from the landowners of Lot 1 DP 335225 for the purchase of part Lots 721 and 722 DP 1148111, being 72-74 River Street, Maclean, adjoining their property (depicted dark blue on figure 1).

This report will also consider the proposed reallocation of expenses for Council's acquisition of part Lot 1 DP 335225 to rectify the encroachment of the driveway servicing 72-74 River Street, Maclean, on this property.

OFFICER RECOMMENDATION

That Council

1. accept the adjoining landowner's counteroffer for the purchase of Part Lots 721 and 722 DP 1148111 (depicted dark blue on figure 1) as outlined in Confidential Attachment B.
2. advise the adjoining landowner they are to meet all costs involved in the acquisition, land swap, registration of easement and purchase of additional portions of Lots 721 and 722 DP 1148111, including, but not limited to, survey fees, their own legal fees, and Council's legal fees.

COUNCIL RESOLUTION - 07.23.082**Day/Whaites**

That Council

1. accept the adjoining landowner's counteroffer for the purchase of Part Lots 721 and 722 DP 1148111 (depicted dark blue on figure 1) as outlined in Confidential Attachment B.
2. advise the adjoining landowner they are to meet all costs involved in the acquisition, land swap, registration of easement and purchase of additional portions of Lots 721 and 722 DP 1148111, including, but not limited to, survey fees, their own legal fees, and Council's legal fees.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.083 PROPOSED ROAD CLOSURE OF PART RUSHFORTH ROAD RESERVE, ELLAND

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Support Officer (Acquisitions & Disposals), Hannah Webber	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Recommended Disposal Price - Rushforth Road Reserve, Elland (Confidential)	

SUMMARY

This report is to consider the permanent road closure of part Rushforth Road reserve, Elland, and transfer the ownership to the adjoining landowner. The request is made by the adjoining landowner of Lot 4 DP 806903 being 925 Rushforth Road, Elland.

OFFICER RECOMMENDATION

That Council:

1. permanently close part of Rushforth Road reserve, Elland, in line with the provisions of the *Roads Act 1993* (depicted grey in figure 1)
2. transfer the closed road to the adjoining landowners of Lot 4 DP 806903 for the recommended purchase price outlined in confidential Attachment A.
3. authorise the General Manager to execute all documents relating to the closure and sale to affect the above requirements.
4. instruct the landowners that they are to meet all costs associated with the road closure.

COUNCIL RESOLUTION - 07.23.083**Day/Whaites**

That Council:

1. permanently close part of Rushforth Road reserve, Elland, in line with the provisions of the *Roads Act 1993* (depicted grey in figure 1)
2. transfer the closed road to the adjoining landowners of Lot 4 DP 806903 for the recommended purchase price outlined in confidential Attachment A.
3. authorise the General Manager to execute all documents relating to the closure and sale to affect the above requirements.
4. instruct the landowners that they are to meet all costs associated with the road closure.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.084 PROPOSED RENEWAL OF LEASE OVER PART HOOF STREET ROAD RESERVE, GRAFTON, FOR THE PURPOSE OF GRAZING

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Support Officer (Acquisitions & Disposals), Hannah Webber	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Submission Received During Public Exhibition Period ↗	

SUMMARY

This report is to consider the renewal of lease over part Hoof Street road reserve, Grafton, for the purpose of grazing. The request is made by the landowners of Lot 26 DP841516, which adjoins the road reserve.

OFFICER RECOMMENDATION

That Council:

1. renew the lease over part Hoof Street road reserve, Grafton in accordance with the provisions of the *Roads Act 1993* (depicted yellow in figure 1).
2. authorise the General Manager to execute all documents relating to the lease renewal to affect the above requirements.

COUNCIL RESOLUTION - 07.23.084**Day/Whaites**

That Council:

1. renew the lease over part Hoof Street road reserve, Grafton in accordance with the provisions of the *Roads Act 1993* (depicted yellow in figure 1).
2. authorise the General Manager to execute all documents relating to the lease renewal to affect the above requirements.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.085 CLARENCE RIVER FLOOD STUDY REVIEW

Meeting	Council	23 May 2023
Directorate	Works & Civil	
Prepared by	Manager Water Cycle, Greg Mashiah	
Reviewed by	Director (Works & Civil), Jamie Fleeting	
Attachments	A. Lower Clarence Flood Model Update 2022 (Draft) (Separate Cover) ⇒	

SUMMARY

Consultants BMT have been engaged to update the current Lower Clarence Flood Model, which was last updated in 2013. The flood study update accounts for changes to the floodplain since 2013, including the new Pacific Motorway and the second bridge at Grafton. The model has also been calibrated against the March 2021 and March 2022 floods.

The updated model uses a much finer modelling grid, which enables the model to more accurately simulate flood behaviour and areas of inundation. The study has also considered two climate change scenarios, being the Intergovernmental Panel on Climate Change (IPCC) Representative Concentration Pathways (RCP) RCP 4.5 (more likely, middle range scenario) and RCP 8.5 (less likely, worst-case scenario). The extreme flood in the model is under review using a hydrologic model validation of the Probable Maximum Flood (PMF) in consultation with the Department of Planning and Environment. However, all other aspects of the model have high confidence and can proceed to the next stage. Determining the PMF is a technical requirement that does not need to delay the rest of the model.

OFFICER RECOMMENDATION

That Council,

1. adopt the revised Lower Clarence Flood Model Update, 2022 noting that the draft flood report will be updated to reflect comments yet to be received from DPE.
2. endorse the revised flood model Climate Change 1 (RCP 4.5) as the basis for establishing flood planning levels (residential floor levels) in accordance with Council's existing floor heights policy (with the exception of North Grafton for the time being).
3. note the extreme flood level requires further validation using a hydrologic assessment of the Probable Maximum Flood.
4. prepare a planning proposal to amend the Clarence Valley Local Environmental Plan 2011 to replace the existing flood mapping with the revised flood mapping for Climate Change 1 (RCP 4.5) scenario, as contained in the Lower Clarence Flood Model Update 2022.
5. commence preparation of a Floodplain Risk Management Study and Plan in accordance with the NSW Floodplain Development Manual, noting that this process will also determine flood planning levels in North Grafton and the extreme flood/probable maximum flood.

POINT OF ORDER

Johnstone

Cr Johnstone says "as an aeronautical engineer I feel I'm being misrepresented by the councillor".

The Chair overruled the point of order.

POINT OF ORDER

Clancy

Cr Clancy says "I have a number of colleagues that are not all greens that may have expertise in this field".

The Chair upheld the point of order but allowed Cr Toms to continue.

MOTION

Toms/Novak

That Council:

1. engage an independent flooding consultant to undertake a high-level review and validation of the 2022 Flood Study update modelling methodology.
2. subject to concurrence from DPE that the high level review (and validation) has not significantly altered the 2022 Flood Study update, adopt a final report addressing any comments-received from DPE and the peer review and place the final report on Council's website.
3. endorse the revised flood model Climate Change 1 (RCP 4.5) as the basis for establishing flood planning levels (residential floor levels) in accordance with Council's existing floor heights policy (with the exception of North Grafton for the time being).
4. note the extreme flood level requires further validation using a hydrologic assessment of the Probable Maximum Flood.
5. prepare a planning proposal to amend the Clarence Valley Local Environmental Plan 2011 to replace the existing flood mapping with the revised flood mapping for Climate Change 1 (RCP 4.5) scenario, as contained in the Lower Clarence Flood Model Update 2022.
6. commence preparation of a Floodplain Risk Management Study and Plan in accordance with the NSW Floodplain Development Manual on receipt of the Final Flood Study report (as per dot point 2) noting that the process will also determine flood planning levels in North Grafton and the extreme flood/probable maximum flood.

Voting recorded as follows

For: Novak, Pickering, Toms, Whaites

Against: Clancy, Day, Johnstone, Smith, Tiley

The Motion was put and declared LOST

COUNCIL RESOLUTION – 07.23.085

Johnstone/Day

That the matter be deferred for one month to allow further consideration by councillors and a Councillor workshop be conducted prior to the June Council meeting.

Voting recorded as follows

For: Clancy, Day, Johnstone, Smith, Tiley

Against: Novak, Pickering, Toms, Whaites

CARRIED

COUNCIL RESOLUTION**Whaites/Day**

That Council move into closed session to consider the following items in accordance with the Local Government Act 1993.

Voting recorded as follows

For: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Whaites

Against: Toms

CARRIED

Moved into confidential at 4:30pm

Cr Johnstone left the room at 4:30pm in confidential session.

Cr Johnstone returned to the room at 4:31pm

MOTION**Toms/Novak**

That Item 08.23.005 Grafton Olympic Pool – Demolition for Public Safety be accepted and tabled as a Late Item of Business and considered in Closed Session under s10A(2) (f) as the report contains matters affecting the security of public safety.

Voting recorded as follows

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

Against: Nil

CARRIED**COUNCIL RESOLUTION****Whaites/Clancy**

That Council move into closed session to consider the following items in accordance with the Local Government Act 1993.

Voting recorded as follows

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

Against: Nil

CARRIED

6. CONFIDENTIAL BUSINESS**COUNCIL RESOLUTION****Pickering/Novak**

That Council seek the consent of Hon. Paul Scully MP, Minister for Planning and Public Spaces, to issue Orders under the Environmental Planning and Assessment Act 1979 to demolish existing structures at the Grafton Olympic Pool, being part Lot 1 DP1115980 and part Reserve D540035, as new evidence indicates there is likely risk to public safety.

Voting recorded as follows

For: Clancy, Day, Novak, Pickering, Smith, Tiley, Toms, Whaites

Against: Nil

CARRIED

Cr Johnstone returned to room at 4:44pm.

9. QUESTIONS WITH NOTICE

Nil

10. LATE ITEMS OF BUSINESS AND MATTERS ARISING

Nil

11. CLOSE OF ORDINARY MEETING

There being no further business the Council Meeting closed at 4:45pm



CERTIFICATION OF MINUTES

I certify that the preceding 36 pages are the Minutes of the meeting of Clarence Valley Council held on 23 May 2023.

Signed by:

Ian Tiley
Mayor / Chairperson