

Ordinary Council Meeting

Minutes

Grafton - 26 September 2023 - 3:00pm



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1. OPENING OF ORDINARY MEETING

MINUTES of the ORDINARY MEETING of the CLARENCE VALLEY COUNCIL at Grafton, 26 September 2023 commencing at 3:00pm and closing at 7:33pm

AFFIRMATION – Cr Whaites 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 Pickering 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

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

COUNCIL RESOLUTION

Tiley/Pickering

That Council allow an exemption to clause 15.23 of the Code of Meeting Practice to allow video recording of the meeting by NBN.

Voting recorded as follows

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

Against: Nil

CARRIED

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 – Environment & Planning (Adam Cameron), Director – Works & Civil (Jamie Fleeting) and Minutes Secretary (Lee Boon)

2. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE

Director – Corporate & Community (Alex Moar)

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

Name	Item	Nature of Interest, Action and Reason
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Cr Smith	07.23.175	<ul style="list-style-type: none"> ▪ Non-Significant Non-Pecuniary – Remain in the Meeting ▪ Member of the Grafton Jacaranda Festival
Cr Smith	07.23.181	<ul style="list-style-type: none"> ▪ Non-Significant Non-Pecuniary – Remain in the Meeting ▪ Member of the Grafton Jacaranda Festival
CR DAY	07.23.158	<ul style="list-style-type: none"> ▪ NON-SIGNIFICANT NON-PECUNIARY – REMAIN IN THE MEETING ▪ SIGNED A PETITION AGAINST A SIMILAR DEVELOPMENT ON BEHALF OF A FRIEND IN 2020, BEFORE ELECTED TO COUNCIL.
CR TOMS	07.23.162	<ul style="list-style-type: none"> ▪ NON-SIGNIFICANT NON-PECUNIARY – REMAIN IN THE MEETING ▪ DIRECTOR OF JKT & SONS P/L ▪ CONTRACT MANAGER OF ILUKA RIVERSIDE HISTORY PARK ON CROWN LANDS
CR PICKERING	07.23.178	<ul style="list-style-type: none"> ▪ NON-SIGNIFICANT NON-PECUNIARY – REMAIN IN THE MEETING ▪ RESIDENT OF ULMARRA
CR JOHNSTONE	07.23.160	<ul style="list-style-type: none"> ▪ SIGNIFICANT NON-PECUNIARY – LEAVE CHAMBER ▪ NEIGHBOUR OF ONE OF THE PROPERTIES AND MADE REPRESENTATIONS TO COUNCIL ON THIS MATTER BEFORE BECOMING COUNCILLOR
ADAM CAMERON - DIRECTOR ENVIRONMENT & PLANNING	07.23.160	<ul style="list-style-type: none"> ▪ NON-SIGNIFICANT NON-PECUNIARY – REMAIN IN THE MEETING ▪ PROPERTY IS AFFECTED BY ONE OF THE PLANNING PROPOSALS

4. CONFIRMATION OF MINUTES

COUNCIL RESOLUTION

Novak/Toms

That the Minutes of Ordinary Meeting of Council dated 22 August 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, Whaites

Against: Nil

CARRIED

COUNCIL RESOLUTION

Toms/Novak

That the Order of Business be changed to allow Items 07.23.154 and 07.23.155 to be considered prior at the commencement of the meeting prior to any Mayoral Minutes and Notices of Motion.

Voting recorded as follows

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

CARRIED

ITEM 07.23.154 ELECTION OF A MAYOR FOR THE PERIOD OF SEPTEMBER 2023-SEPTEMBER 2024

Meeting	Council	26 September 2023
Directorate	General Manager	
Prepared by	Personal Assistant to the Mayor & Councillors, Lee Boon	
Reviewed by	General Manager, Laura Black	
Attachments	A. Role & Delegation of the Mayor B. Nomination Form for Election of MAYOR	

SUMMARY

This report deals with the election of a mayor.

OFFICER RECOMMENDATION

That

1. the General Manager, as Returning Officer, call for nominations for the election of a mayor.
2. the form of the mayoral election be by way of:
 - i. Open voting (by show of hands) **OR**
 - ii. Ordinary ballot (a secret ballot on paper by placing an X against the candidate of choice) **OR**
 - iii. Preferential ballot (a ballot on paper by placing 1,2,3, etc against each candidate in preferential order)(delete two methods to form resolution)
3. each of the nominees be invited to address the meeting for a maximum of 5 minutes

Mayor Tiley vacated the Chair at 3:06pm

COUNCIL RESOLUTION - 07.23.154**Day/Toms**

That

1. the General Manager, as Returning Officer, call for nominations for the election of a mayor.
2. the form of the mayoral election be by way of open voting (by show of hands).
3. each of the nominees be invited to address the meeting for a maximum of 5 minutes.

Voting recorded as follows

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

Against: Nil

CARRIED

The Returning Officer advised that the following nominations for Mayor had been received:

1. Cr Debrah Novak (D Novak/S Pickering)
2. Cr Steve Pickering (S Pickering/K Toms)
3. Cr Peter Johnstone (P Johnstone/ Smith)

ELECTION**COUNCILLOR – VOTES**

Cr Novak – Cr Novak

Cr Pickering – Crs, Pickering, Toms, Whaites

Cr Johnstone – Crs, Johnstone, Clancy, Day, Tiley, Smith

Cr Novak with the lowest number of votes was excluded.

A second ballot was conducted by a show of hands for the remaining two candidates.

Cr Pickering – Crs, Pickering, Toms, Whaites, Novak

Cr Johnstone – Crs, Johnstone, Clancy, Day, Tiley, Smith

Following the ballot the Returning Officer announced that Councillor Johnstone had a count of 5 votes and Councillor Pickering had a count of 4 votes, and declared Councillor Johnstone the Mayor for the period September 2023 to September 2024.

ITEM 07.23.155 ELECTION OF A DEPUTY MAYOR FOR THE PERIOD OF SEPTEMBER 2023-SEPTEMBER 2024

Meeting	Council	26 September 2023
Directorate	General Manager	
Prepared by	Personal Assistant to the Mayor & Councillors, Lee Boon	
Reviewed by	General Manager, Laura Black	
Attachments	A. Nomination Form for Election of DEPUTY MAYOR	

SUMMARY

This report deals with the election of a deputy mayor.

OFFICER RECOMMENDATION

That

1. Council elect a deputy mayor for the period September 2023 – September 2024.
2. the General Manager, as Returning Officer, call for nominations for the election of deputy mayor and conduct the election by way of Open Voting (by show of hands).
3. each of the nominees be invited to address the meeting for a maximum of 3 minutes.

COUNCIL RESOLUTION - 07.23.155

Toms/Day

That

1. Council elect a deputy mayor for the period September 2023 – September 2024.
2. the General Manager, as Returning Officer, call for nominations for the election of deputy mayor and conduct the election by way of Open Voting (by show of hands).
3. each of the nominees be invited to address the meeting for a maximum of 3 minutes.

Voting recorded as follows

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

Against: Nil

CARRIED

The Returning Officer advised that the following nominations for Deputy Mayor had been received:

1. Cr Karen Toms (S Pickering/K Toms)
2. Cr Jeff Smith (J Smith/D Novak)

ELECTION

COUNCILLOR - VOTES

Cr Toms – Crs, Toms, Whaites, Novak, Pickering

Cr Smith – Crs, Smith, Tiley, Clancy, Day, Johnstone

Following the ballot the Returning Officer announced that Councillor Smith had a count of 5 votes and Councillor Toms had a count of 4 votes, and declared Councillor Smith Deputy Mayor for the period September 2023 to September 2024.

COUNCIL RESOLUTION

Toms/Pickering

That the Order of Business be changed to allow Item 07.23.184 to be considered before remaining reports tabled by staff.

Voting recorded as follows

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

Against: Nil

CARRIED**ITEM 07.23.184 RFT22/41 - REGIONAL AQUATIC FACILITY (GRAFTON OLYMPIC POOL) ON CROWN LANDS**

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Senior Parks & Recreation Officer, Rachele Passmore	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. RFT22/41 - Tender Recommendation Report (Confidential) B. Consolidated Funding Strategy (Confidential)	

SUMMARY

This report presents a recommendation on the Request for Tender for the construction of the Regional Aquatic Facility (Grafton Olympic Pool Redevelopment).

OFFICER RECOMMENDATION

That Council, as Crown Land Manager of Grafton Westward and General Douglas MacArthur Park Reserve (R540035):

1. accept the tender from Hines Construction Pty Ltd for RFT22/41 Regional Aquatic Facility (Grafton Pool Redevelopment) at a cost of \$29,141,586 (GST Inclusive) to be funded in accordance with the funding strategy – Attachment B.
2. accept the schedule of rates submitted from Hines Construction Pty Ltd for the earthworks, total cost to be calculated based on actual quantities as determined by a geotechnical engineer during the project works.
3. delegate 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.

MOTION

Day/Clancy

That Council as Crown Land Manager of Grafton Westward and General Douglas MacArthur Park Reserve (R540035):

1. Decline to accept the tender offers for RFT22/41 Regional Aquatic Facility (Grafton Olympic Pool) as the tenders received were higher than anticipated.
2. Revise the Aquatic Centre project to begin with:
 - a. replacement of the 50m pool (stage 2),
 - b. demolition of the existing dive pool and 50m pool and importing fill as required to make the ground flat,

- c. the completion of the other works for which grant funding has already been received,
 - d. and any other matters that will need to be completed to ensure the operation of the new 50m pool.
3. Defer commencement of the remainder of the project until after the election of the next council.
 4. Prepare a report for the October Ordinary Council Meeting setting out the expected timescale and recommendations for the completion of the project as set out in item 2.
 5. Receive a report at each subsequent Ordinary Council Meeting on the progress of the project until completion.

Voting recorded as follows

For: Clancy, Day, Johnstone, Smith

Against: Novak, Pickering, Tiley, Toms, Whaites

The Motion was put and declared LOST

POINT OF ORDER

Toms

Cr Toms directed to Mayor "You are debating".

The Chair overruled the point of order.

POINT OF ORDER

Toms

Cr Toms directed to Mayor " Those motions are not Council decisions, yes you put up a foreshadowed motion 12 months ago, it hasn't been tested and it was a 50-metre pool only and it is not a Council decision.

The Chair overruled the point of order.

POINT OF ORDER

Toms

Cr Toms directed to Cr Day "There is nothing in this report about a decision, of this motion before us, about the South Grafton pool.

The Chair overruled the point of order

POINT OF ORDER

Toms

Cr Toms directed to Cr Smith "Cr Smith is saying a few things that aren't actually true. He's been pushing for a staged project, the officers recommendation is a staged process and the fact that some things have disappeared or something, there have been lawful Council decisions and resolutions so I'm not sure if he wasn't here at the time, I just need to pull him up if he's not telling the truth."

The Chair overruled the point of order.

POINT OF ORDER

Clancy

Cr Clancy directed to Novak "It's not really acceptable under our code of conduct to being so personal to you about this issue, it's the issue we should be talking about the issue, not personalities and your ability.

The Chair did not rule on the point of order.

POINT OF ORDER

Clancy

Cr Clancy directed to the Mayor. "Please I think you need to call Councillor Novak into order, thank you"

The Chair upheld the point of order.

That Council adjourn for a 5 minute break at 4:51pm.

The Council meeting resumed at 4:56pm

COUNCIL RESOLUTION - 07.23.184

Pickering/Novak

OFFICER RECOMMENDATION

That Council, as Crown Land Manager of Grafton Westward and General Douglas MacArthur Park Reserve (R540035):

1. accept the tender from Hines Construction Pty Ltd for RFT22/41 Regional Aquatic Facility (Grafton Pool Redevelopment) at a cost of \$29,141,586 (GST Inclusive) to be funded in accordance with the funding strategy – Attachment B.
2. accept the schedule of rates submitted from Hines Construction Pty Ltd for the earthworks, total cost to be calculated based on actual quantities as determined by a geotechnical engineer during the project works.
3. delegate 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.

Voting recorded as follows

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

Against: Clancy, Day

CARRIED

COUNCIL RESOLUTION - 06.23.015

Toms/Pickering

That Council adjourn the meeting for 5 minutes.

Voting recorded as follows

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

Against: Clancy

CARRIED

That Council adjourn for a 5 minute break at 4:57pm.

The Council meeting resumed at 5:02pm.

5. MAYORAL MINUTES

Nil

6. NOTICES OF MOTION

ITEM 06.23.015 NOTICE OF MOTION PROPOSED CHANGE TO BOOKINGS OF ILUKA TENNIS COURTS		
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Meeting	Council	26 September 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

Council commenced a trial using an online booking system for the use of selected tennis courts across the Clarence Valley in December 2021/ early January 2022.

Glenreagh and Iluka were the first two locations chosen for a twelve-month trial according to a media release 23 December 2021.

I have not received any feedback from the Glenreagh community, unlike the Iluka community, who have repeatedly complained as the new system has removed the ability for locals and tourists to play tennis in Iluka at night after 6pm.

This motion proposes council enter into an agreement with Club Iluka as it does with Yamba Bowlo Sports and Leisure club who are council's booking agents for the two tennis courts in River Street Yamba. These courts are available for booking at night.

PROPOSED MOTION

That Council

1. make formal representations to Club Iluka's CEO to discuss further the possibility of the club taking over the bookings on behalf of council facilitating the return of the use of the Iluka courts at night.
2. provide a report to councillors on or before the December Ordinary Council meeting on the trial, including the data collected about court usage from the locations selected for the online system and the courts that were not included in the trial, including income received from the almost 70 tennis courts across the Clarence Valley.

COUNCIL RESOLUTION - 06.23.015

Toms/Day

That Council

1. make formal representations to Club Iluka's CEO to discuss further the possibility of the club taking over the bookings on behalf of council facilitating the return of the use of the Iluka courts at night.
2. provide a report to councillors on or before the December Ordinary Council meeting on the trail, including the data collected about court usage from the locations selected for the online system and the courts that were not included in the trial, including income received from the almost 70 tennis courts across the Clarence Valley.

Voting recorded as follows

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

Against: Nil

CARRIED

VOTE BY EXCEPTION - 07.23.157

Toms/Pickering

That the following items be adopted as recommended:

07.23.157

07.23.162

07.23.164

07.23.165

07.23.166

07.23.167

07.23.170

07.23.172

07.23.173

07.23.175

07.23.177

07.23.181

07.23.182

Voting recorded as follows

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

Against: Nil

CARRIED

7. REPORTS**OFFICE OF THE GENERAL MANAGER****ITEM 07.23.156 COMMUNITY ASSET PROGRAM (CAP)**

Meeting	Council	26 September 2023
Directorate	General Manager	
Prepared by	General Manager, Laura Black	
Reviewed by	General Manager, Laura Black	
Attachments	A. Correspondence to Regional Development NSW ⇒ B. Correspondence from Regional Development NSW ⇒	

SUMMARY

Council was invited to make an application under the Community Assets Program (CAP) for up to \$7.5 million. The CAP is a \$70 million program under the \$207 million Community Local Infrastructure Recovery Package funded under the Disaster Recovery Funding Arrangements and provides funding for the repairs, restoration and betterment of directly impacted community infrastructure. The application portal and all communications with Council in relation to the CAP indicate a notional allocation of \$2 million to Clarence Valley Council.

OFFICER RECOMMENDATION

That Council seek the support of the Local State Member, Richie Williamson MP to coordinate an urgent meeting with the Minister for Regional NSW, the Hon. Tara Moriarty MLC with the Mayor and senior staff to discuss the outcome of the CAP Panel deliberations.

COUNCIL RESOLUTION - 07.23.156**Day/Pickering**

That Council seek the support of the Local State Member, Richie Williamson MP to coordinate an urgent meeting with the Minister for Regional NSW, the Hon. Tara Moriarty MLC with the Mayor and senior staff to discuss the outcome of the CAP Panel deliberations.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.157 COUNCILLORS LISTENING TOUR

Meeting	Council	26 September 2023
Directorate	General Manager	
Attachments	Nil	

SUMMARY

One Councillor Listening Tour was completed in September.

OFFICER RECOMMENDATION

That the information contained in the report be noted.

COUNCIL RESOLUTION - 07.23.157

Toms/Pickering

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 07.23.158 DA2020/0543 - 36 LOT SUBDIVISION - ORION DRIVE, YAMBA

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Acting Coordinator Development Services, James Hamilton	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. DA2020-0543 - Proposed Plans ⇨ B. DA2020-0543 - Aquatic Habitat Assessment (Separate Cover) ⇨ C. DA2020-0543 - Submissions - first round (Separate Cover) ⇨ D. DA2020-0543 - Submissions - second round (Separate Cover) ⇨ E. DA2020-0543 - Environmental Impact Statement (Separate Cover) ⇨ F. DA2020-0543 - Soil and Water Assessment (Separate Cover) ⇨ G. DA2020-0543 - NSW RFS Determination ⇨ H. DA2020-0543 - Section 4 15 Assessment ⇨	

SUMMARY

<i>Applicant</i>	Newton Denny Chapelle
<i>Owner</i>	Natural Wonders Early Learning Group Pty Ltd
<i>Address</i>	Orion Drive, Yamba (being Lot 100 DP 1039467)
<i>Submissions</i>	First Round – 62 submissions against including a petition with 19 signatories Second Round – 6 submissions against including 1 petition with 31 signatories

Development Application DA2020/0543 is for Designated Development and seeks approval for a 36 lot subdivision at Orion Drive, Yamba being Lot 100 DP 1039467. The subject lot is in private ownership and is a navigable waterway that connects to Oyster Channel. The lots to be created are intended to be 'wet' lots similar to those approved in the Yamba Shores Estate. Development of these lots will be restricted to water recreation structures only.

The proposed development was advertised and notified in accordance with the Community Participation Plan. A total of 68 submissions were received during the two exhibition periods for the proposal which raised concerns regarding the impacts to the environment, waterway, amenity, flooding and servicing the development. The majority of these submissions were received during the first exhibition period whereby the application included two (2) dwellings to be constructed over the navigable waterway. These dwellings have since been removed from the application. The matters raised are discussed in detail in the Key Issues section of this report.

The application is referred to Council for determination due to the public interest in the proposal. The report provides an assessment of the application and a recommendation for Council's consideration.

OFFICER RECOMMENDATION

That Council approve Development Application DA2020/0543 subject to the draft Advices and Conditions contained within Schedule 1.

COUNCIL RESOLUTION - 07.23.158

Day/Tiley

That Council defer considering the DA2020/0543 for one month to allow Yaegl Traditional Owners to be consulted.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.159 LOWER CLARENCE FLOOD MODEL 2022 UPDATE AND FLOOD PLANNING LEVELS

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Manager Development & Land Use Planning, Murray Lane; Manager Water Cycle, Greg Mashiah	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Report 6b.20.096 to 15 December 2020 Council meeting ⇒	

SUMMARY

Consultants Jeremy Benn Pacific (JBP) have completed a high level review and validation of the Lower Clarence Flood Model Update 2022 (2022 Flood Model), and following concurrence from the Department of Planning & Environment (DPE), Council is advised, that the review did not significantly alter the model. Accordingly, the 2022 Flood Model has been adopted and placed on Council's website in accordance with Point 2 of Council resolution 06.23.009 at the 27 June 2023 meeting.

This report provides updated advice about the next steps to establish interim Flood Planning Levels forward of completing a new Floodplain Risk Management Study and Plan for the Clarence River floodplain, and the process for updating the Floodplain Management Controls in Council's Development Control Plans (DCPs).

The consensus recommendation from the Floodplain Risk Management Committee (FRMC) meeting of 11 September 2023 is that proposed interim Flood Planning Levels be placed on public exhibition for 28 days for comment and that flood planning levels be adopted through the Development Control Plans (DCP). Council officers support the FRMC's recommendation.

OFFICER RECOMMENDATION

That Council:

1. note concurrence from the Department of Planning & Environment that the high level peer review and validation of the Lower Clarence Flood Model 2022 Update did not significantly alter the model and therefore the model has been adopted and placed on Council's website.
2. note the Department of Planning advice they will not support a planning proposal to change the Flood Planning Levels in the Local Environment Plan maps prior to completion of a Floodplain Risk Management Plan.
3. publicly exhibit proposed interim Flood Planning Levels (as contained in the adopted Lower Clarence Flood Model Update 2022) for a minimum of 28 days, being 1% AEP Climate Change 1 (RCP 4.5) scenario as the Defined Flood Event + 500mm Freeboard, including communication material that explains and seeks feedback on proposed changes.
4. consider any submissions received during exhibition on the interim flood planning levels before adopting the finalised interim Flood Planning Levels.
5. commence the process of modifying Floodplain Management Controls in Council's Development Control Plans to align with the interim Flood Planning Levels, including:
 - a) Controls that require all new residential development to have a primary habitable floor level above the 1% AEP Climate Change 1 (RCP 4.5) scenario as the Defined Flood Event + 500mm Freeboard
 - b) Removal of clauses that permit Primary Habitable Floor Levels in North Grafton below the interim Flood Planning Levels.
 - c) Include Objectives and Controls that permit habitable floor levels below the Flood Planning Level in limited circumstances, such as being limited to alterations and additions to existing dwellings.
 - d) Update controls that any development below the Flood Planning Level must be constructed from Flood Compatible Building Components.
 - e) Any other necessary amendments to effect these changes.
 - f) Reporting the draft amendments to Council for endorsement before exhibition.

COUNCIL RESOLUTION - 07.23.159

Toms/Novak

That Council:

- 1. defer consideration of the impact of the Lower Clarence Flood Model 2022 on flood planning levels for future property development pending a workshop where the communications plan for public exhibition is discussed**
- 2. receive a report to the October 2023 Ordinary Council meeting on Item 1 above**

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.160 CLARENCE VALLEY COUNCIL LOCAL ENVIRONMENTAL PLAN 2011 - HOUSEKEEPING AMENDMENT 2023 - REZ2023/0001

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Strategic Planner, Jasmine Oakes	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Planning Proposal REZ2023.0001 CVLEP Housekeeping Amendment 2023 (Separate Cover) ↗	

SUMMARY

An annual review (Housekeeping) of the *Clarence Valley Local Environmental Plan 2011* (CVLEP) has been undertaken to update provisions, schedules, mapping layers and to ensure a clear and robust development assessment process (Planning Proposal REZ2023/0001).

This report seeks Council endorsement to submit Planning Proposal (REZ2023/0001) (**Attachment A**) to the Department of Planning and Environment (DPE) requesting a Gateway determination.

OFFICER RECOMMENDATION

That Council:

1. Endorse Planning Proposal REZ2023/0001 - *Clarence Valley Local Environmental Plan 2011* Housekeeping Amendment 2023 (**Attachment A**).
2. Delegate authority to the General Manager to:
 - (a) edit and finalise the planning proposal as required;
 - (b) execute all documentation associated with the local plan making functions;
 - (c) submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination; and
 - (d) seek to be the local plan-making authority.
3. In the event that a Gateway determination is issued, publicly exhibit the planning proposal, in accordance with Gateway conditions, legislative requirements and Council's Community Participation Plan.
4. Endorse finalisation of Planning Proposal REZ2023/0001 subject to no submissions being received that require further consideration by Council.
5. Note that if submissions are received that require further consideration of Council, this matter will be reported to the next available Council meeting after submissions close.

Having declared a conflict, Cr Johnstone left the meeting at 5:37 pm.
Cr Smith took the Chair.

COUNCIL RESOLUTION - 07.23.160

Clancy/Tiley

That Council:

1. Endorse Planning Proposal REZ2023/0001 - *Clarence Valley Local Environmental Plan 2011* Housekeeping Amendment 2023 (**Attachment A**).
2. Delegate authority to the General Manager to:
 - (a) edit and finalise the planning proposal as required;
 - (b) execute all documentation associated with the local plan making functions;
 - (c) submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination; and
 - (d) seek to be the local plan-making authority.
3. In the event that a Gateway determination is issued, publicly exhibit the planning proposal, in accordance with Gateway conditions, legislative requirements and Council's Community Participation Plan.
4. Endorse finalisation of Planning Proposal REZ2023/0001 subject to no submissions being received that require further consideration by Council.

5. Note that if submissions are received that require further consideration of Council, this matter will be reported to the next available Council meeting after submissions close.

Voting recorded as follows

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

Against: Nil

CARRIED

Cr Johnstone returned to the meeting at 5:38 pm.

ITEM 07.23.161 LOCAL HERITAGE GRANTS 2023/2024

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Senior Strategic Planner, Deborah Wray	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Clarence Valley Council Heritage Grants 2023/2024 ↗	

SUMMARY

Council has received 15 applications under the 2023/2024 Local Heritage Grants program. In line with previous rotations of the priority area to different areas of the valley, the priority this year is to support works in the Maclean area (former Maclean Shire area). Last year the priority area was Grafton and South Grafton area and the year prior to that was the Ulmarra - Nymboida area.

Works to Heritage Items and contributory buildings within Heritage Conservation Areas are the focus. The applications are sorted into Group 1 within the priority area and Group 2 applications from outside the priority area. Council has received \$12,500 grant funding from Heritage NSW and has \$40,000 allocated in its operational budget. It is recommended that Council allocates grants of up to \$2,000 per project as advertised totalling \$34,180. The residue heritage funding will be allocated to investigate signage and streetscape entry improvements to Heritage Conservation Areas.

OFFICER RECOMMENDATION

That Council endorses allocation of funding to applicants in accordance with the 'Grant Offer' column in the table at **Attachment 1** to this report with each Applicant required to sign a written agreement and comply with any relevant conditions and acquittal requirements.

COUNCIL RESOLUTION - 07.23.161**Pickering/Toms**

That Council endorses allocation of funding to applicants in accordance with the 'Grant Offer' column in the table at Attachment 1 to this report with each Applicant required to sign a written agreement and comply with any relevant conditions and acquittal requirements.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.162 COMMUNITY LAND, CROWN RESERVES AND OTHER PUBLIC PLACES PLAN OF MANAGEMENT - DRAFT

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Senior Strategic Planner (Public Land/Native Title), Dr Danny Parkin	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Draft Generic PoM Final - Post Exhibition (Separate Cover) ⇒ B. Combined generic PoM submissions (Separate Cover) ⇒ C. Public Hearing Report - CVC generic PoM (Separate Cover) ⇒	

SUMMARY

The exhibited draft *Community Land, Crown Reserves and other Public Places Plan of Management* (generic PoM) has been finalised following public exhibition and public hearings. The generic PoM guides the use, management and embellishment of 375 individual Council controlled parks and reserves and other lands used as public open space.

OFFICER RECOMMENDATION

That Council:

1. note the submissions received and the outcomes of the public hearings conducted regarding the public exhibition of the draft *Community Land, Crown Reserves and other Public Places Plan of Management* (generic PoM).
2. remove the New Street Road Reserve from the draft generic PoM as it does not contribute to the provision of public open space and make arrangements to dedicate as public road.
3. adopt the draft generic PoM as amended.
4. delegate authority to the General Manager to make any minor edits for publishing purposes.
5. give public notice of the adoption, as soon as practicable after the adoption.
6. forward a copy of the adopted generic PoM to the Minister for Lands and Property as a record of the Crown reserves included under the generic PoM.
7. bring an amended generic PoM back to Council within 12 months, addressing the matters raised in the submissions and the public hearing report, including the requirement to add additional categories to Wherrett Park, to be placed on public exhibition.

COUNCIL RESOLUTION - 07.23.162**Toms/Pickering**

That Council:

1. note the submissions received and the outcomes of the public hearings conducted regarding the public exhibition of the draft *Community Land, Crown Reserves and other Public Places Plan of Management* (generic PoM).
2. remove the New Street Road Reserve from the draft generic PoM as it does not contribute to the provision of public open space and make arrangements to dedicate as public road.
3. adopt the draft generic PoM as amended.
4. delegate authority to the General Manager to make any minor edits for publishing purposes.
5. give public notice of the adoption, as soon as practicable after the adoption.
6. forward a copy of the adopted generic PoM to the Minister for Lands and Property as a record of the Crown reserves included under the generic PoM.
7. bring an amended generic PoM back to Council within 12 months, addressing the matters raised in the submissions and the public hearing report, including the requirement to add additional categories to Wherrett Park, to be placed on public exhibition.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.163 SITE MANAGEMENT PLANS FOR GENERAL DOUGLAS MACARTHUR PARK AND WESTWARD PARK, GRAFTON

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Senior Strategic Planner (Public Land/Native Title), Dr Danny Parkin	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. General Douglas MacArthur Park SMP ↗ B. Westward Park SMP ↗ C. Submission - Westward Park SMP - Grafton Girl Guides ↗	

SUMMARY

Site Management Plans (SMP) for General Douglas MacArthur Park and Westward Park, Grafton have been finalised. These SMPs will be operational plans under the *Community land, Crown Reserves and other Public Places Plan of Management*.

OFFICER RECOMMENDATION

That Council adopt the Site Management Plans for General Douglas MacArthur Park and Westward Park.

COUNCIL RESOLUTION - 07.23.163

Clancy/Day

That Council adopt the Site Management Plans for General Douglas MacArthur Park and Westward Park and insert a clause under vegetation management that all new and replacement trees and shrubs be local provenance native species where possible.

Voting recorded as follows

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

Against: Nil

CARRIED

CORPORATE & COMMUNITY

ITEM 07.23.164 POLICY REPORT

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Coordinator Corporate & Customer Experience, Lynette Burley	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	<ul style="list-style-type: none"> A. Code of Meeting Practice V15.0 [draft] ⇒ B. Donated facilities on public land V4.0 [draft] ⇒ C. Naming of parks, reserves and facilities V4.0 (inc. Attachments A&B) [draft] ⇒ D. Commercial recreation activities on public land V3.0 [draft] ⇒ E. Borrowing Policy V9.0 [draft] including feedback from Ernst and Young ⇒ F. Structures and Vegetation in close proximity to flood levees Policy V3.0 [draft] ⇒ G. Environmental Management Policy V1 [draft] ⇒ 	

SUMMARY

This report asks that Council place four (4) 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. place the following policies on exhibition and subject to there being no submissions that change the intent of the policies that they be adopted:
 - a. Code of Meeting Practice (Attachment A)
 - b. Donated facilities on public land V4.0 (Attachment B)
 - c. Naming of parks, reserves and facilities V4.0 (Attachment C)
 - d. Commercial recreational activities on public land V3.0 (Attachment D)
2. note the adoption of the following policies that received submissions that did not change the intent of the policy.
 - a. Borrowing Policy V9.0 (Attachment E)
 - b. Structures and Vegetation in close proximity to flood levees Policy V3.0 (Attachment F)
 - c. Environmental Management Policy V1.0 (Attachment G)
3. note the adoption of the following policies, as no submissions were received:
 - a. Playground Policy V2.
 - b. Risk Management Signage at Recreational Facilities Policy V5.0

COUNCIL RESOLUTION - 07.23.164**Toms/Pickering**

That Council

1. place the following policies on exhibition and subject to there being no submissions that change the intent of the policies that they be adopted:
 - a. Code of Meeting Practice (Attachment A)
 - b. Donated facilities on public land V4.0 (Attachment B)
 - c. Naming of parks, reserves and facilities V4.0 (Attachment C)
 - d. Commercial recreational activities on public land V3.0 (Attachment D)
2. note the adoption of the following policies that received submissions that did not change the intent of the policy.
 - a. Borrowing Policy V9.0 (Attachment E)
 - b. Structures and Vegetation in close proximity to flood levees Policy V3.0 (Attachment F)
 - c. Environmental Management Policy V1.0 (Attachment G)

-
3. note the adoption of the following policies, as no submissions were received:
- a. Playground Policy V2.
 - b. Risk Management Signage at Recreational Facilities Policy V5.0

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.165 COMMITTEES REPORT

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Coordinator Corporate & Customer Experience, Lynette Burley	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

This report asks that Council note the resignations of members of three (3) 355 Committees.

OFFICER RECOMMENDATION

That Council:

1. note the resignation of Aimee Rush (by email) from the Dundurrabin Community Centre Management Committee, effective 9th August 2023.
2. note the resignation of Stephen Rush (by email) from the Dundurrabin Community Centre Management Committee effective 9th August 2023.
3. note the resignation of Sam Ayling (by email) from Dundurrabin Community Centre Management Committee, effective 1st August 2023

COUNCIL RESOLUTION - 07.23.165**Toms/Pickering**

That Council:

1. note the resignation of Aimee Rush (by email) from the Dundurrabin Community Centre Management Committee, effective 9th August 2023.
2. note the resignation of Stephen Rush (by email) from the Dundurrabin Community Centre Management Committee effective 9th August 2023.
3. note the resignation of Sam Ayling (by email) from Dundurrabin Community Centre Management Committee, effective 1st August 2023

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.166 GOVERNANCE REPORT - ANNUAL DISCLOSURES OF INTEREST

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Coordinator Corporate & Customer Experience, Lynette Burley	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	A. 2022/2023 Councillors Annual Returns Redacted (Separate Cover) ⇒ B. 2022/2023 Annual Disclosure of Interest redacted - Designated People (Separate Cover) ⇒ C. Exit Return redacted - Greg Allsop ⇒ D. Commencement Return redacted - Jess Kennedy ⇒	

SUMMARY

This report asks that Council accept the Annual Disclosures of Interest Returns for nine (9) Councillors, twenty eight (28) Designated Persons, one (1) Exit Return, and one (1) Commencement Return and that they be published on Council's website.

OFFICER RECOMMENDATION

That Council note

1. the Annual Disclosures of Interest for Councillors (Attachment A) and publish them on Council's website.
2. the Disclosures of Interest for Designated Persons (Attachment B, C and D) and publish them on Council's website.

COUNCIL RESOLUTION - 07.23.166**Toms/Pickering**

That Council note

1. the Annual Disclosures of Interest for Councillors (Attachment A) and publish them on Council's website.
2. the Disclosures of Interest for Designated Persons (Attachment B, C and D) and publish them on Council's website.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.167 PETITION LODGED

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Coordinator Corporate & Customer Experience, Lynette Burley	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	A. The Regional Aquatic Facility - Lodgement form ⇒ B. The Regional Aquatic Facility (handwritten) redacted - Petition (Separate Cover) ⇒ C. The Regional Aquatic Facility (electronic) redacted - Petition (Separate Cover) ⇒	

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 The Regional Aquatic Facility and place it on Council's website in accordance with Council's Petitions Policy V1.0.

COUNCIL RESOLUTION - 07.23.167**Toms/Pickering**

That Council receive the petition titled The Regional Aquatic Facility 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 07.23.168 CLARENCE VALLEY CITIZENS OF THE YEAR 2024 - AWARDS

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Coordinator Business & Executive Support, Bryanna Boyd	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

Council Resolution 07.22.175 resolved to hold the Clarence Valley Citizens of The Year Awards in conjunction with Council's Australian Citizenship Ceremony on January 25th each year. This report details the proposed dates nomination dates for 2024 Clarence Valley Citizens of The Year Awards and seeks the nomination of a Councillor to be the event advocate.

OFFICER RECOMMENDATION

That Council:

1. endorse the Clarence Valley Citizens of the Year Awards and Australian Citizenship Ceremony to be held as a combined event on 25 January at 10am in Yamba.
2. endorse the proposed nomination dates for 2024 Clarence Valley Citizens of The Year Awards
3. nominate a Councillor as the Advocate for the event

COUNCIL RESOLUTION - 07.23.168**Johnstone/Pickering**

That Council:

1. endorse the Clarence Valley Citizens of the Year Awards and Australian Citizenship Ceremony to be held as a combined event on 25 January at 10am in Yamba.
2. endorse the proposed nomination dates for 2024 Clarence Valley Citizens of The Year Awards.
3. nominate Councillor Novak as the Advocate for the event.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.169 ITEMS FOR INFORMATION

Meeting	Council	26 September 2023
Directorate	General Manager	
Attachments	<p>A. Minister for Local Government - Emergency Services Levy Response (Separate Cover) ⇨</p> <p>B. Member for Clarence - Response regarding Emergency Services Levy (Separate Cover) ⇨</p> <p>C. Member for Clarence - Response regarding Armidale Road (Separate Cover) ⇨</p> <p>D. Member for Clarence - Response regarding Pensioner Concession Increase (Separate Cover) ⇨</p> <p>E. Member for Clarence - Response regarding Regional Water Assets (Separate Cover) ⇨</p> <p>F. Member for Clarence - Response regarding Water Security (Separate Cover) ⇨</p> <p>G. Member for Clarence - Response regarding CMA Priorities (Separate Cover) ⇨</p> <p>H. Letter from Spatial Services Regarding Shirley Way (Separate Cover) ⇨</p> <p>I. Letter from University of Wollongong (Separate Cover) ⇨</p> <p>J. Arts Northern Rivers - Board Meeting - Minutes - 25 August 2023 (Separate Cover) ⇨</p> <p>K. Biodiversity Committee Meeting Minutes 14 June 2023 (Separate Cover) ⇨</p> <p>L. Biodiversity Committee Meeting Minutes 17 August 2023 (Separate Cover) ⇨</p> <p>M. Clarence Regional Library Committee Meeting Minutes 28 July 2023 (Separate Cover) ⇨</p> <p>N. Floodplain Risk Management Committee Minutes 11 September 2023 (Separate Cover) ⇨</p>	

SUMMARY

Correspondence and committee minutes are attached for noting.

OFFICER RECOMMENDATION

That the Items for Information as listed below be noted

- Correspondence from Minister for Local Government
- Correspondence from Member for Clarence (Various topics)
- Correspondence from Spatial Services Regarding
- Correspondence from University of Wollongong
- Arts Northern Rivers - Board Meeting - Minutes - 25 August 2023
- Biodiversity Committee Meeting Minutes 14 June 2023
- Biodiversity Committee Meeting Minutes 17 August 2023
- Clarence Regional Library Committee Meeting Minutes 28 July 2023
- Floodplain Risk Management Committee Minutes 11 September 2023

COUNCIL RESOLUTION - 07.23.169

Toms/Whaites

That Council

1. Note the Items for Information as listed below

- **Correspondence from Minister for Local Government**
- **Correspondence from Member for Clarence (Various topics)**
- **Correspondence from Spatial Services Regarding**

- Correspondence from University of Wollongong
 - Arts Northern Rivers - Board Meeting - Minutes - 25 August 2023
 - Biodiversity Committee Meeting Minutes 14 June 2023
 - Biodiversity Committee Meeting Minutes 17 August 2023
 - Clarence Regional Library Committee Meeting Minutes 28 July 2023
 - Floodplain Risk Management Committee Minutes 11 September 2023
2. Write to the Minister for Roads as advised by Narelle Underwood, Executive Director of Spatial Services and include the information from Shirley Adams daughter.
 3. Seek the support of the local member Richie Williamson MP in making representations to the Minister for Roads.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.170 COUNCIL MEETING CHECKLIST - UPDATE ON ACTIONS TAKEN

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Personal Assistant to the Mayor & Councillors, Lee Boon	
Reviewed by	General Manager, Laura Black	
Attachments	A. Actions List - Outstanding ⇨ B. Actions List - Completed ⇨ C. Rolling Checklist from 2019-2021 ⇨	

SUMMARY

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

OFFICER RECOMMENDATION

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

COUNCIL RESOLUTION - 07.23.170**Toms/Pickering**

That the schedule of actions 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 07.23.171 MONTHLY FINANCE REPORT - AUGUST 2023

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Financial Accountant, Nick Harvey	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	A. Monthly Income & Expenditure Statements By Service - August 2023 ⇒	
	B. Monthly Grant Application Summary - August 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 (\$363,830). The reserve fund variations identified in this report will decrease the balance of the Financial Reserves by \$15,000.

OFFICER RECOMMENDATION

That Council:

1. note the monthly financial information report for August 2023 attached to this report.
2. endorse the proposed General Fund variations as set out in this report totalling (\$363,830), for inclusion in the September Quarterly Budget Review Statement to be reported in October 2023.
3. endorse the proposed variations, which decrease the Financial Reserves by \$15,000, to be included in the September Quarterly Budget Review Statement to be reported in October 2023.
4. note and endorse the grant applications as identified in Attachment B.

COUNCIL RESOLUTION - 07.23.171

Toms/Pickering

That Council:

1. note the monthly financial information report for August 2023 attached to this report.
2. endorse the proposed General Fund variations as set out in this report totalling (\$363,830), for inclusion in the September Quarterly Budget Review Statement to be reported in October 2023.
3. endorse the proposed variations, which decrease the Financial Reserves by \$15,000, to be included in the September Quarterly Budget Review Statement to be reported in October 2023.
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

COUNCIL RESOLUTION

Smith/Day

That Council adjourn the meeting for 5 minutes.

Voting recorded as follows

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

Against: Nil

CARRIED

That Council adjourned for a 5 minute break at 5:57pm.
The Council meeting resumed at 6:02pm.

ITEM 07.23.172 MONTHLY INVESTMENT REPORT - AUGUST 2023

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Financial Accountant, Nick Harvey	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	A. Movement of Funds Between Months - August 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 31 August 2023 be noted.

COUNCIL RESOLUTION - 07.23.172

Toms/Pickering

That the report indicating Council's funds investment position as at 31 August 2023 be noted.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.173 EXTENSION TO OFFICE OF LOCAL GOVERNMENT FINANCIAL REPORTING REQUIREMENTS SOUGHT

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Financial Accountant, Nick Harvey	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

This report requests Council to seek an extension for lodgement of the 2022/2023 Annual Financial Statements to the Office of Local Government Financial Reporting Requirements following challenges experienced with asset revaluations and resourcing constraints. The extension is supported by the Audit Risk Improvement Committee (ARIC) and Council's Auditor, Thomas Noble Russell (TNR)

OFFICER RECOMMENDATION

That Council submit a request to the Office of Local Government for extension for lodgement of the 2022/2023 Annual Financial Statements to 22 December 2023.

COUNCIL RESOLUTION - 07.23.173

Toms/Pickering

That Council submit a request to the Office of Local Government for extension for lodgement of the 2022/2023 Annual Financial Statements to 22 December 2023.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.174 CULTURAL AND SPORTS TRUST FUND 2023

Meeting	Council	26 September 2023
Directorate	Corporate & Community	
Prepared by	Project Officer, Lainie Edwards	
Reviewed by	Director Corporate & Community, Alex Moar	
Attachments	Nil	

SUMMARY

Separate requests for assistance from the Clarence Valley Cultural and Sports Trust fund have been received on behalf of Thomas Beohm and Charlie Rouse.

OFFICER RECOMMENDATION

That Council approve a donation from the Clarence Valley Cultural and Sports Trust Fund for \$300 **each** to assist:

Thomas Beohm and **Charlie Rouse** who have both been selected to compete at the Hockey NSW Australian U13's Carnival in Newcastle between the 22nd – 29th September 2023.

COUNCIL RESOLUTION - 07.23.174

Pickering/Novak

That Council approve a donation from the Clarence Valley Cultural and Sports Trust Fund for \$300 each to assist:

Thomas Beohm and **Charlie Rouse** who have both been selected to compete at the Hockey NSW Australian U13's Carnival in Newcastle between the 22nd – 29th September 2023.

Voting recorded as follows

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

Against: Nil

CARRIED

WORKS & CIVIL**ITEM 07.23.175 ALCOHOL PROHIBITED AREA TEMPORARY REVOCATION - JACARANDA FESTIVAL**

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Senior Parks & Recreation Officer, Rachele Passmore	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. Draft Program - Jacaranda Festival 2023 ⇒	

SUMMARY

Jacaranda Festival is planned to run from Friday 20 October to Sunday 5 November, 2023. The Festival consists of events that permit the sale and consumption of alcohol within Market Square, See Park and Memorial Park, Grafton. Market Square, See Park and Memorial Park are an alcohol prohibited area and approval of the sale and consumption of alcohol within the park requires a temporary revocation of the alcohol prohibited area. This report seeks Council's endorsement for the temporary revocation of the alcohol prohibited area in Market Square, See Park and Memorial Park, Grafton.

OFFICER RECOMMENDATION

That Council revoke the alcohol prohibition area at Market Square, See Park and Memorial Park for the 2023 Jacaranda Festival from Friday 20 October 2023 to Sunday 5 November 2023.

COUNCIL RESOLUTION - 07.23.175

Toms/Pickering

That Council revoke the alcohol prohibition area at Market Square, See Park and Memorial Park for the 2023 Jacaranda Festival from Friday 20 October 2023 to Sunday 5 November 2023.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.176 ENCROACHMENT OF PRIVATE WATER RECREATION STRUCTURES ONTO COUNCIL DRAINAGE RESERVES BY ADJOINING LANDOWNERS

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Coordinator Property, Eloise Casson	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. Complaints Received from Yamba Water Recreation Structure Owners ⇒ B. Legal Advice - Yamba Water Recreation Structures (Confidential) C. Quotes - Pontoon Removal and Legal Fees (Confidential)	

SUMMARY

Council is currently exposed to risk associated with privately owned water recreation structures which encroach onto Council owned drainage reserves due to some adjoining landowners refusing to enter into tenure agreements, which were due on 1 July 2023.

Council staff have obtained legal advice to inform the proposed process to mitigate Council's risk associated with the encroachment of these structures on Council land.

OFFICER RECOMMENDATION

That Council supports the regulatory process as outlined in this report that will be undertaken by Council staff.

POINT OF ORDER

Clancy

Cr Clancy directed to Cr Toms. "There's implications there that Councillors, and as the seconder of this motion I'm being implicated. I have had no involvement in encouraging people to take the action they have taken. I've heard what they are doing and I'm concerned about what is happening."

The Chair overruled the point of order.

FORESHADOWED MOTION

Toms/Whaites

That Council

1. supports the regulatory process as outlined in this report that will be undertaken by Council staff.
2. combines the separate fees for tenure and application to one annual cost in its draft 2024/2025 fees and charges, to take effect 1 July 2024 following adoption and in doing so provide credit for those property owners who are compliant and have paid the 5 year application fee.

AMENDMENT TO MOTION

Clancy/Day

That Council

3. supports the regulatory process as outlined in this report that will be undertaken by Council staff.
4. combines the separate fees for tenure and application to one annual cost in its draft 2024/2025 fees and charges, to take effect 1 July 2024 following adoption and in doing so provide credit for those property owners who are compliant and have paid the 5 year application fee
3. any charges paid to Clarence Valley Council, in respect to private water recreation structures, between 2004 to June 2021 (while this land was community title) may be used as a credit by request, if request is made by 30 December 2023.

Voting recorded as follows

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

Against: Novak, Whaites

The Amendment to Motion was put and declared CARRIED. The amendment became the substantive motion.

COUNCIL RESOLUTION - 07.23.176

Toms/Whaites

That Council:

- 1. supports the regulatory process as outlined in this report that will be undertaken by Council staff.**
- 2. combines the separate fees for tenure and application to one annual cost in its draft 2024/2025 fees and charges, to take effect 1 July 2024 following adoption and in doing so provide credit for those property owners who are compliant and have paid the 5 year application fee.**
- 3. any charges paid to Clarence Valley Council, in respect to private water recreation structures, between 2004 to June 2021 (while this land was community title) may be used as a credit by request, if request is made by 30 December 2023.**

Voting recorded as follows

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

Against: Nil

CARRIED

COUNCIL RESOLUTION

Tiley/Toms

As the council meeting is unlikely to finish by 7pm the meeting be extend the time to 8pm under section 18.2.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.177 TENURE APPLICATION AND RENEWAL FEE WAIVER FOR COMMUNITY GROUPS

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Coordinator Property, Eloise Casson	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	Nil	

SUMMARY

This report considers implementing an application fee waiver for Community groups applying for new tenures or renewing current tenures over Council owned or managed land.

OFFICER RECOMMENDATION

That Council:

1. advertise for a 28-day public exhibition period, Council's intention to waive application fees for Community groups applying for new tenure agreements or renewing current tenure agreements over Council owned or managed land, if they can provide documentation confirming not-for-profit status.
2. implement the proposed waiver on completion of the public exhibition period, if no submissions objecting to the waiver are received.

COUNCIL RESOLUTION - 07.23.177**Toms/Pickering**

That Council:

1. **advertise for a 28-day public exhibition period, Council's intention to waive application fees for Community groups applying for new tenure agreements or renewing current tenure agreements over Council owned or managed land, if they can provide documentation confirming not-for-profit status.**
2. **implement the proposed waiver on completion of the public exhibition period, if no submissions objecting to the waiver are received.**

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.178 ULMARRA SEWERAGE INVESTIGATION

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Manager Water Cycle, Greg Mashiah	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. Ulmarra Sewer Investigation Report (Separate Cover) ⇨	

SUMMARY

At its meeting of 27 September 2022 Council resolved to engage a consultant to undertake an investigation of all options for the sewerage of Ulmarra. The investigation is reported for Council's information.

OFFICER RECOMMENDATION

That Council note the Ulmarra Sewer Investigation report.

COUNCIL RESOLUTION - 07.23.178**Pickering/Novak**

That Council defer consideration of the Ulmarra Sewer Investigation report for up to two months, pending a presentation by the independent authors of the report on their findings and options.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.179 BULK WATER SUPPLY AGREEMENT ADVISORY COMMITTEE - FURTHER EXTENSION OF TERM

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Manager Water Cycle, Greg Mashiah	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	Nil	

SUMMARY

At its meeting of 18 April 2023 Council resolution 07.23.049 established a Bulk Raw Water Supply Agreement Advisory Committee, which has a current sunset clause of 30 September 2023. The Bulk Water Supply Agreement discussions with Coffs Harbour City Council (CHCC) will not be completed by 30 September and it is therefore recommended that the Advisory Committee's term be extended until 22 December 2023.

OFFICER RECOMMENDATION

That Council extend the terms of the Bulk Water Supply Agreement Advisory Committee to 22 December 2023.

COUNCIL RESOLUTION - 07.23.179

Pickering/Novak

That Council extend the terms of the Bulk Water Supply Agreement Advisory Committee to 22 December 2023.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.180 WOOLI FLOOD STUDY AND FLOODPLAIN RISK MANAGEMENT STUDY & PLAN

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Manager Water Cycle, Greg Mashiah	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. Draft Woolli Floodplain Risk Management Study and Plan (Separate Cover) ⇒ B. Draft Woolli Flood Study (Separate Cover) ⇒	

SUMMARY

At its meeting of 11 September 2023, the consensus recommendation from the Floodplain Risk Management Committee (FRMC) is that the draft Woolli Flood Study be adopted (subject to the addition of a Flood Frequency Analysis), the draft Woolli Floodplain Risk Management Study and Plan (Woolli FRMS&P) be placed on public exhibition and, subject to there being no submissions that change the intent of the plan, it be adopted. The FRMC's consensus recommendation is endorsed by Council officers.

OFFICER RECOMMENDATION

That:

1. the draft Woolli Flood Study be adopted, subject to the addition of a Flood Frequency Analysis.
2. for exhibition purposes the Woolli Flood Planning level be the 1% AEP event (2100 RCP 4.5), with freeboard to be determined through the Development Control Plan (DCP) process.
3. the Woolli Floodplain Risk Management Study and Plan be placed on public exhibition for 28 days and, subject to there being no submissions that change the intent of the plan, it be adopted.

COUNCIL RESOLUTION - 07.23.180

Toms/Day

That:

1. the draft Woolli Flood Study be adopted, subject to the addition of a Flood Frequency Analysis.
2. for exhibition purposes the Woolli Flood Planning level be the 1% AEP event (2100 RCP 4.5), with freeboard to be determined through the Development Control Plan (DCP) process.
3. the Woolli Floodplain Risk Management Study and Plan be placed on public exhibition for 28 days and, subject to there being no submissions that change the intent of the plan, it be adopted.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.181 LOCAL TRAFFIC COMMITTEE

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Support Officer (Operations), Julie Wilks	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. Local Traffic Committee Minutes ⇒ B. Local Traffic Committee 022/23 Attachment ⇒	

SUMMARY

This report outlines the recommendations proposed by the Local Traffic Committee, following consideration of an out-of-meeting agenda item circulated via email.

OFFICER RECOMMENDATION

That the recommendation of the Local Traffic Committee determined on 7 September 2023 be adopted by Council.

COUNCIL RESOLUTION - 07.23.181

Toms/Pickering

That the recommendation of the Local Traffic Committee determined on 7 September 2023 be adopted by Council.

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.182 RFT22/52 - ALICE STREET LEVEE REHABILITATION

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Manager Water Cycle, Greg Mashiah	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. RFT22-52 Alice Street Levee Rehabilitation - Tender Evaluation Committee Report (Confidential)	

SUMMARY

Council called schedule of rates tenders for the Alice Street Levee rehabilitation which opened on 25 July 2023 and closed on 4 September 2023. One complying tender was received. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Ledonne Constructions Pty Ltd (Ledonne) is the most advantageous for Council and recommends this tender be accepted.

OFFICER RECOMMENDATION

That Council awards Tender RFT22/52 *Alice Street Levee Rehabilitation* to Ledonne Constructions Pty Ltd using the tendered schedule of rates price of \$866,810 (including GST), to be funded from Financial Project 941078 (Alice Street Levee Rehabilitation Works).

COUNCIL RESOLUTION - 07.23.182

Toms/Pickering

That Council awards Tender RFT22/52 *Alice Street Levee Rehabilitation* to Ledonne Constructions Pty Ltd using the tendered schedule of rates price of \$866,810 (including GST), to be funded from Financial Project 941078 (Alice Street Levee Rehabilitation Works).

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 07.23.183 RFT 22/49 YAMBA LIBRARY AND COMMUNITY CENTRE REDEVELOPMENT

Meeting	Council	26 September 2023
Directorate	Works & Civil	
Prepared by	Coordinator Project Management, Rick Johnson	
Reviewed by	Director Works & Civil, Jamie Fleeting	
Attachments	A. RFT22/49 - Tender Recommendation Report (Confidential) B. Consolidated Funding Strategy (Confidential)	

SUMMARY

This report presents a recommendation on the Request for Tender (RFT) for the Yamba Library and Community Centre redevelopment.

OFFICER RECOMMENDATION

That Council:

1. Accept the tender from Bennett Constructions for RFT22/49 Yamba Library and Community Centre Redevelopment at a cost of \$16,256,053.00 (GST inclusive) to be funded in accordance with the funding strategy – Attachment B.
2. Delegate 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.

POINT OF ORDER

Toms

Cr Toms directed to Cr Day. "What Cr Day just said is not accurate, it was completely cleared up at a workshop in this very room"

The Chair upheld the point of order.

COUNCIL RESOLUTION - 07.23.183

Toms/Novak

That Council:

1. **Accept the tender from Bennett Constructions for RFT22/49 Yamba Library and Community Centre Redevelopment at a cost of \$16,256,053.00 (GST inclusive) to be funded in accordance with the funding strategy – Attachment B.**
2. **Delegate 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.**

Voting recorded as follows

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

Against: Clancy, Day

CARRIED

COUNCIL RESOLUTION - 07.23.184

Pickering/Toms

That the order of Business be changed to bring the late item of business forward, before the Confidential Item.

Voting recorded as follows

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

Against: Nil

CARRIED

COUNCIL RESOLUTION

Johnstone/Tiley

That the late item of business 10.23.002 Regional Growth Environment and Tourism Fund be accepted.

Voting recorded as follows

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

Against: Nil

CARRIED

10. LATE ITEMS OF BUSINESS AND MATTERS ARISING**ITEM 10.23.002 REGIONAL GROWTH ENVIRONMENT AND TOURISM FUND**

Meeting	Council	26 September 2023
Directorate	General Manager	
Prepared by	Personal Assistant to the Mayor & Councillors, Lee Boon	
Reviewed by	General Manager, Laura Black	
Attachments	Nil	

SUMMARY

Local Member for Clarence, Richie Williamson MP has brought to the attention of Council a budget announcement for the Clarence Valley of \$6.72 million for Calypso Yamba Holiday Park Redevelopment under the Regional Growth Environment and Tourism Fund.

OFFICER RECOMMENDATION

That Council seek the urgent support of the Local State Member, Richie Williamson MP to coordinate an urgent meeting with the Minister for Regional NSW, the Hon. Tara Moriarty MLC with the Mayor and senior staff to discuss the State Government budget announcement of \$6.72 million for the Clarence Valley for Calypso Yamba Holiday Park Redevelopment, and how the funds can be accessed.

COUNCIL RESOLUTION - 10.23.002**Toms/Tiley**

That Council seek the urgent support of the Local State Member, Richie Williamson MP to coordinate an urgent meeting with the Minister for Regional NSW, the Hon. Tara Moriarty MLC with the Mayor and senior staff to discuss the State Government budget announcement of \$6.72 million for the Clarence Valley for Calypso Yamba Holiday Park Redevelopment, and how the funds can be accessed.

Voting recorded as follows

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

Against: Nil

CARRIED

8. CONFIDENTIAL BUSINESS**OFFICER RECOMMENDATION**

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

1. 08.23.007 Procurement Advice Regarding Smart Energy Park - Mid Scale Solar Farm and Landfill Gas to Energy Project - 10A(2) (c) *The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and 10A(2) (d(ii)) The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*

COUNCIL RESOLUTION

Pickering/Day

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

1. 08.23.007 Procurement Advice Regarding Smart Energy Park - Mid Scale Solar Farm and Landfill Gas to Energy Project - 10A(2) (c) *The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business and 10A(2) (d(ii)) The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council*

Voting recorded as follows

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

Against: Nil

CARRIED

ITEM 08.23.007 PROCUREMENT ADVICE REGARDING SMART ENERGY PARK - MID SCALE SOLAR FARM AND LANDFILL GAS TO ENERGY PROJECT

Meeting	Council	26 September 2023
Directorate	Environment & Planning	
Prepared by	Senior Waste and Sustainability Officer, Richard Roper	
Reviewed by	Director Environment & Planning, Adam Cameron	
Attachments	A. Grafton Regional Landfill - Landfill Gas and Solar Project Market Sounding and Procurement Strategy (Confidential)	
CONFIDENTIAL	<p><i>The General Manager advises that the following matter be dealt with in Closed Session as the matter and information are confidential in accordance with the Local Government Act 1993 Section</i></p> <p><i>10A(2) (c) The report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business</i></p> <p><i>10A(2) (d(ii)) The report contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the council</i></p>	

COUNCIL RESOLUTION

Toms/Pickering

That Council move to Open session and the resolution (08.23.007) remain confidential until the procurement process is completed.

Voting recorded as follows

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

Against: Nil

CARRIED

9. QUESTIONS WITH NOTICE

Nil

11. CLOSE OF ORDINARY MEETING

There being no further business the Council Meeting closed at 7.33pm.



CERTIFICATION OF MINUTES

I certify that the preceding 51 pages are the Minutes of the meeting of Clarence Valley Council held on 26 September 2023.

Signed by:

A handwritten signature in black ink, appearing to read 'P Johnstone', is written above a horizontal line.

Peter Johnstone

Mayor / Chairperson