



# **ATTACHMENTS**

**Tuesday, 19 November 2019**

**UNDER SEPARATE COVER**

**Ordinary Council Meeting**



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# **MINUTES**

## **Ordinary Council Meeting 22 October 2019**



## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**MINUTES OF RICHMOND VALLEY COUNCIL  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS, 10 GRAHAM PLACE, CASINO  
ON TUESDAY, 22 OCTOBER 2019 AT 5.00 PM**

*Please note: these minutes are subject to confirmation at the next Council Meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.*

**PRESENT:** Cr Robert Mustow (Mayor), Cr Stephen Morrissey (Deputy Mayor), Cr Sam Cornish, Cr Robert Hayes, Cr Sandra Humphrys, Cr Jill Lyons, Cr Daniel Simpson

**IN ATTENDANCE:** Vaughan Macdonald (General Manager), Angela Jones (Director Infrastructure & Environment), Ryan Gaiter (Chief Financial Officer/Manager Mid-Richmond), Kate Alder-Conn (Governance Officer) and Julie Clark (Personal Assistant to the General Manager and Mayor).

Thomas, Noble & Russell, Partner Geoff Dwyer – presentation of Item 15.1 2018/19 Richmond Valley Council Financial Statements.

## **1 ACKNOWLEDGEMENT OF COUNTRY**

The Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

*"Richmond Valley Council recognises the people of the Bundjalung Nations as Custodians and Traditional Owners of this land and we value and appreciate the continuing cultural connection to lands, their living culture and their unique role in the life of this region in the past, present and future."*

## **2 PRAYER**

The meeting opened with a prayer by the General Manager.

## **3 PUBLIC ACCESS AND QUESTION TIME**

### **3.1 PUBLIC ACCESS AND QUESTION TIME - ITEM 17.3 CORAKI RURAL TRANSACTION CENTRE**

Mr Don Burgess addressed the meeting in relation to Item 17.3 Coraki Rural Transaction Centre (CRTC) seeking Council to provide financial relief from collecting rates from the Centre.

An alternative proposal is for Council to hold a workshop to devise a strategy which would assist CRTC achieve long term financial sustainability. CRTC currently have an operating loss of \$4,000 pa.

Suggested there are two paths available; one is to close the Centre's operations in 12 months, or the second is to develop a business plan and improve on the current financial status.

Commented Council's Delivery Program appears to align priorities with those of CRTC, where important values such as volunteerism, assisting the disadvantaged and communicating with the

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

community through the publishing of the Coraki District News are provided.

**RESOLUTION 221019/1**

Moved: Cr Robert Mustow

Seconded: Cr Robert Hayes

That Mr Don Burgess address be extended for an additional 5 minutes, to allow completion.

**CARRIED**

The Mayor encouraged CRTC to apply for Council's financial assistance funding and thanked Mr Burgess for his address to the meeting.

**4 APOLOGIES**

Nil

**5 MAYORAL MINUTES****5.1 MAYORAL MINUTE - BUSHFIRE RECOVERY RELIEF****RESOLUTION 221019/2**

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council:

1. Note the significant impacts of the Busbys Flat Road fires and Council's role in the response and recovery effort,
2. Commends the efforts of Council staff who responded quickly and in a very committed manner to support the efforts of the emergency services,
3. Commends the untiring efforts of all emergency services personnel to respond to this natural disaster and how this has saved many lives and properties during these catastrophic events;
4. Note the General Manager is the Chair of Local Recovery Committee which includes NSW Government agencies and together will guide the recovery effort,
5. Note the resource implications of the recovery effort for Council and that efforts to recoup costs through the section 44 and NDRRA funding arrangements will be pursued,
6. Note some minor fees have been waived by the General Manager to support ratepayers to have access to information to enable them to consider their recovery options,
7. Authorise the General Manager to negotiate suitable funding arrangements through the Local Recovery Committee to minimise the impact on Council and provide support to those impacted by the natural disaster, and
8. An update will be provided at the next Councillor Information Session.

At the request of Cr Hayes and supported by fellow Councillors, the following point 9 was added to the Mayoral minute motion.

9. Acknowledge the Mayor for his leadership and also his partner for their continual support in providing on ground assistance, during the Disaster.

**CARRIED**

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**6 CONFIRMATION OF MINUTES****6.1 MINUTES ORDINARY MEETING HELD ON 17 SEPTEMBER 2019****RESOLUTION 221019/3**

Moved: Cr Sandra Humphrys

Seconded: Cr Jill Lyons

That Council confirms the Minutes of the Ordinary meeting held on 17 September 2019.

**CARRIED****6.2 MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING (HELD ELECTRONICALLY) ON 4 SEPTEMBER 2019****RESOLUTION 221019/4**

Moved: Cr Sam Cornish

Seconded: Cr Robert Hayes

That Council receives and endorses the recommendation contained within the minutes of the Local Traffic Committee unanimously recommending installation of a "No Trucks" restriction to the section of Redwood Lane between Duke Street and Cedar Street Meeting held electronically on 4 September 2019.

**.CARRIED****7 MATTERS ARISING OUT OF THE MINUTES****7.1 NOTICE OF MOTION - TOWN ENTRY SIGNS (ORDINARY MEETING 17 SEPTEMBER 2019)**

Cr Robert Hayes referred to Item 10.1 Notice of Motion – Town Entry Signs, 17 September 2019, Ordinary Meeting and enquired when a report be provided to Council for consideration?

The General Manager advised the matter will be workshopped at a Councillor Information Session, in the near future, prior to being presented to Council.

**8 DECLARATION OF INTERESTS**

Nil

**9 PETITIONS**

Nil

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**10 NOTICE OF MOTION**

Nil

**11 MAYOR'S REPORT****11.1 MAYOR ATTENDANCES 10 SEPTEMBER - 16 OCTOBER 2019****RESOLUTION 221019/5**

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council receive and note the Mayor's attendance report 10 September – 16 October 2019 noting the removal of two attendances on 12 October (due to cancellation of the events).

**CARRIED****12 DELEGATE'S REPORTS**

Nil

**13 MATTERS DETERMINED WITHOUT DEBATE****13.1 MATTERS TO BE DETERMINED WITHOUT DEBATE****RESOLUTION 221019/6**

Moved: Cr Sandra Humphrys

Seconded: Cr Jill Lyons

That items 15.2, 15.3 & 17.4 identified be determined without debate.

**CARRIED**

**14 GENERAL MANAGER'S REPORTS****14.1 OUTCOME OF THE INDEPENDENT PRICING AND REGULATORY TRIBUNAL (IPART) REVIEW INTO THE COST OF THE 2020 NSW GOVERNMENT ELECTIONS****EXECUTIVE SUMMARY**

Following a tender process for the administration of the 2020 Local Government Elections, Council resolved at the February 2019 Ordinary Meeting to enter into an election arrangement by contract with the NSW Electoral Commissioner and delegated authority to the General Manager to negotiate and execute the contract with the NSW Electoral Commissioner, subject to the outcomes of the Independent Pricing and Regulatory Tribunal (IPART) review into the cost of Local Government Elections.

IPART's final report has now been released, together with the NSW Government response to the report and subsequent advice from the NSW Electoral Commission (NSWEC), on the 2020 Local Government Election cost estimate. The General Manager is now in a position to negotiate and execute the contract with the NSWEC.

There are anomalies that have been identified in relation to the final IPART report, the NSW Government response to the report and advice received from the NSWEC on the 2020 Local Government Election – Cost Estimate. Under IPART's new funding model, costs will be assigned as either direct or core costs and allocated to councils or the NSW Government accordingly. The NSW Government has announced it intends to fund the NSWEC's core costs in relation to the administration of local government elections, thereby reducing councils' election costs, however the NSWEC cost estimate is much higher than expected.

The proposed cost estimate for the 2020 Local Government Election received by the NSWEC is an increase of 34% on the actual cost of the 2016 Local Government election.

The NSW Government's response to the final IPART report includes a commitment in identifying further opportunities for reducing council's election costs.

**RESOLUTION 221019/7**

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That Council write to the Member for Clarence, Chris Gulaptis MP, the Local Government Minister and the President of LGNSW seeking their support to lobby on behalf of Local Government to reduce the cost per elector for future elections through endorsing and encouraging a more cost-effective voting system in accordance with the NSW Government response to the IPART review.

**CARRIED**

**15 FINANCIAL REPORTS****15.1 2018/2019 RICHMOND VALLEY COUNCIL FINANCIAL STATEMENTS****EXECUTIVE SUMMARY**

Council's financial statements for the year ended 30 June 2019 have been prepared and subjected to external audit by the Audit Office of New South Wales. A copy of the draft financial statements and the draft Auditor's Report have been provided separately to Councillors for their information.

*A Powerpoint presentation by Council's Auditor Thomas, Noble & Russell was provided by Mr Geoff Dwyer.*

**RESOLUTION 221019/8**

Moved: Cr Robert Mustow

Seconded: Cr Daniel Simpson

That:

1. Council adopt the general purpose financial statements, special purpose financial statements and special schedules for the year ended 30 June 2019.
2. Council certify the following in respect of the general purpose financial statements and special purpose financial statements for the year ended 30 June 2019:
  - (a) Council's general purpose financial statements and special purpose financial statements have been prepared in accordance with:
    - (i) The *Local Government Act 1993 (NSW)* and the regulations made thereunder, and
    - (ii) The Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board, and
    - (iii) The Local Government Code of Accounting Practice and Financial Reporting.
  - (b) The general purpose financial statements and special purpose financial statements present fairly Council's financial position and operating result for the year ended 30 June 2019 and:
    - (i) The reports are in accordance with Council's accounting and other records,
    - (ii) The signatories to this statement being the Mayor, a Councillor, General Manager and Responsible Accounting Officer are not aware of anything that would make the financial statements false or misleading in any way,
    - (iii) Council fix Tuesday 19 November 2019 as the date for the meeting to present the financial statements for the year ended 30 June 2019 to the public and invite submissions in writing. Council provide appropriate public notice of this meeting
    - (iv) Council receive and note the Auditor's reports and thank the Auditors, Thomas, Noble and Russell and the Audit Office of New South Wales for their presentation, and
    - (v) Council adopt the restricted assets (reserves) schedule as detailed in this report.

**CARRIED**



## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**15.2 FINANCIAL ANALYSIS REPORT - SEPTEMBER 2019****EXECUTIVE SUMMARY**

The purpose of this report is to inform Council on the status and performance of its investment portfolio in accordance with the *Local Government Act 1993* (Section 625), *Local Government (General) Regulation 2005* (Clause 212), Australian Accounting Standard (AASB 139) and Council's Investment Policy.

The value of Council's Investment Portfolio as at 30 September 2019 including General Bank Accounts and Trust Funds is shown below.

Investment Portfolio	General Bank Accounts	Trust Funds	Total
\$48,486,536	\$621,742	\$87,050	\$49,195,329

The weighted average rate of return on Council's investments for September 2019 was 2.82% which is above the 90 Day Bank Bill Index for September of 0.95%.

**RESOLUTION 221019/9**

Moved: Cr Sandra Humphrys

Seconded: Cr Jill Lyons

Recommended that Council adopt the Financial Analysis Report detailing investment performance for the month of September 2019.

**CARRIED****15.3 INVESTMENT POLICY UPDATE****EXECUTIVE SUMMARY**

Council reviews its Investment Policy on an annual basis or whenever it is deemed necessary to effect a change in the policy. The policy was presented to Council in July 2019 but has since been revised to include important information about Environmentally Sustainable Investments (ESI's). These changes are detailed within this report.

**RESOLUTION 221019/10**

Moved: Cr Sandra Humphrys

Seconded: Cr Jill Lyons

That Council note the recommended change and adopt the revised Investment Policy.

**CARRIED****16 TENDER REPORTS**

Nil

**17 GENERAL BUSINESS****17.1 RICHMOND VALLEY COUNCIL - REVIEW OF ENVIRONMENTAL CHARTER****EXECUTIVE SUMMARY**

Council adopted an Environmental Charter in July 2016. The Charter sets out Council's commitment to environmental sustainability in its operation and activities. The resolution to adopt the Charter in 2016 also included for it to be reviewed annually, however at the Ordinary Council meeting held on 15 August 2017, it was resolved to amend this requirement so that the Charter would be reviewed every two years.

In accordance with the above resolution, the charter was presented to the Ordinary Council meeting held on 20 August 2019 however was deferred until Council workshopped potential changes, prior to it being adopted.

Richmond Valley Council undertakes a range of environmental projects and activities consistent with the Community Strategic Plan and the adopted Environmental Charter helps establish Council's future direction and commitment to all environmental matters.

There is a growing demand for business, including local government, to demonstrate a responsible approach to its business activities. There are also several legislative responsibilities placed on Councils to meet environmental standards and comply with certain requirements.

The Environmental Charter adopted in 2016 has been reviewed in line with Council's Community Strategic Plan and it is recommended for adoption with no amendments.

**RESOLUTION 221019/11**

Moved: Cr Daniel Simpson

Seconded: Cr Jill Lyons

That Council adopt the Environmental Charter for a further review in two years.

**CARRIED**

## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**17.2 NORTHERN REGIONAL PLANNING PANEL - NOMINATION OF TECHNICAL EXPERT REPRESENTATIVE****EXECUTIVE SUMMARY**

On 16 July 2019, Councillor Hayes was nominated as one of Council's representatives on the Northern Regional Planning Panel. Council's second (technical expert) representative position, formally held by the Director of Planning at Kyogle Council, was held over pending continued enquiries with adjoining Councils.

Since that time, Council has made further enquiries with neighbouring Councils resulting in the General Manager of Lismore City Council (LCC) formally seeking to enter into a reciprocal expert Panel Membership arrangement with Richmond Valley Council (RVC).

The purpose of this report is to outline the negotiations undertaken with LCC and to seek authorisation for the General Manager to enter into a reciprocal Panel membership arrangement to provide technical expert representation on the Panel.

**RESOLUTION 221019/12**

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

Recommended that:

1. Delegation be granted to the General Manager to enter into a resource sharing (reciprocal) arrangement with an adjoining Council to ensure Richmond Valley Council has a Northern Regional Planning Panel member which meets the technical expertise requirements of the *Environmental Planning and Assessment Act 1979*, and
2. Delegation be granted to the General Manager to subsequently appoint an appropriate technical member (and an alternative, as required) to the Northern Regional Planning Panel.

**CARRIED**

## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**17.3 CORAKI RURAL TRANSACTION CENTRE****EXECUTIVE SUMMARY**

Council has been approached by Coraki Rural Transaction Centre (CRTC) requesting financial support. The request states that the CRTC is currently running at an operating loss of approximately \$4,000.00 each year which is being funded from their reserves and is not sustainable in the long term. The request goes on to recommend a solution where Council either reduces or eliminates the CRTC land and sewerage rates. Council at this point in time does not have any specific policy for allowing financial assistance on general land rates for not-for-profit or other community organisations.

**RESOLUTION 221019/13**

Moved: Cr Daniel Simpson

Seconded: Cr Sandra Humphrys

That:

1. Council note the consultation which has taken place between Council staff and the Coraki Rural Transaction Centre to try and assist with reducing their operational costs.
2. Council consider whether a policy should be written to assist not-for-profit and community organisations suffering financial hardship, by workshopping the matter at Councillors November Information Session.

**CARRIED****17.4 ACCESSIBILITY, LIVEABILITY AND AGED ADVISORY COMMITTEE****EXECUTIVE SUMMARY**

Council Officers have assessed the functionality of the current Accessibility, Liveability and Aged Advisory Committee of Richmond Valley Council and identified that the demand and support for this group has not been sufficient to substantiate the ongoing facilitation. The functions which formed part of the original purpose of the committee are well covered in other community committees which also currently exist.

**RESOLUTION 221019/14**

Moved: Cr Sandra Humphrys

Seconded: Cr Jill Lyons

That:

1. Council disband the Accessibility, Liveability and Aged Advisory Committee and;
2. Council ensure that accessibility and liveability remain agenda items on other relevant community forums;
3. The Members of the Committee be formally thanked for their contribution and encouraged to remain engaged with Council through the consultation opportunities outlined in this report.

**CARRIED**

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

**18 MATTERS FOR INFORMATION****RESOLUTION 221019/15**

Moved: Cr Stephen Morrissey

Seconded: Cr Jill Lyons

Recommended that the following reports submitted for information be received and noted.

**CARRIED****18.1 LAUNCH OF YOUR COUNCIL WEBSITE - MINISTER FOR LOCAL GOVERNMENT****RESOLUTION 221019/16**

Moved: Cr Stephen Morrissey

Seconded: Cr Jill Lyons

That Council receive and note the Launch of Your Council Website – Minister for Local Government Report.

**CARRIED****18.2 DISCLOSURE OF INTERESTS - COUNCILLORS AND DESIGNATED PERSONS****RESOLUTION 221019/17**

Moved: Cr Stephen Morrissey

Seconded: Cr Jill Lyons

That the Disclosure of Interest Pecuniary Interest Returns for the period 1 July 2018 to 30 June 2019 be received and noted.

**CARRIED****18.3 DEVELOPMENT APPLICATIONS DETERMINED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT FOR THE PERIOD 1 SEPTEMBER 2019 TO 30 SEPTEMBER 2019****RESOLUTION 221019/18**

Moved: Cr Stephen Morrissey

Seconded: Cr Jill Lyons

That Council receive and note the development application report for the period 1 September 2019 to 30 September 2019.

**CARRIED****18.4 GRANT APPLICATION INFORMATION REPORT - SEPTEMBER 2019****RESOLUTION 221019/19**

Moved: Cr Stephen Morrissey

Seconded: Cr Jill Lyons

That Council receive and note the Grant Application Information Report for the month of

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## ORDINARY COUNCIL MEETING MINUTES

22 OCTOBER 2019

September 2019.

**CARRIED****19 QUESTIONS ON NOTICE**

Nil

**20 QUESTIONS FOR NEXT MEETING (IN WRITING)****20.1 QUESTIONS IN WRITING FROM CR JILL LYONS**

Cr Jill Lyons submitted the following questions in writing:-

1. Regarding the sinking road problem in Coraki at the intersection of Richmond Terrace and Allwood St is the council considering what action to take?  
If action is being considered what might be included in that consideration?
2. Regarding the recently re-fenced area along the riverside behind Windsor Park Coraki does the Council propose to maintain a mowing schedule and how that would be implemented?  
With regard to that area the dual use by people and animals would seem to be undesirable both for people and animals.  
Has the council excluded the area's use for animal grazing?

The Meeting closed at 6.20 pm.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 19 November 2019.

.....  
**CHAIRPERSON**



# **MINUTES**

## **Internal Audit and Risk Committee Meeting 22 October 2019**

## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

22 OCTOBER 2019

**ORDER OF BUSINESS**

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<b>2</b>	<b>APOLOGIES .....</b>	<b>3</b>
<b>3</b>	<b>DECLARATION OF INTERESTS .....</b>	<b>3</b>
<b>4</b>	<b>MATTERS FOR CONSIDERATION .....</b>	<b>3</b>
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## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

22 OCTOBER 2019

**MINUTES OF RICHMOND VALLEY COUNCIL  
INTERNAL AUDIT & RISK COMMITTEE MEETING  
HELD AT THE COUNCIL CHAMBERS, 10 GRAHAM PLACE, CASINO  
ON TUESDAY, 22 OCTOBER 2019 AT 4.00 PM**

**PRESENT:** Cr Robert Mustow (Mayor), Cr Stephen Morrissey (Deputy Mayor), Cr Daniel Simpson, Cr Sandra Humphrys, Cr Jill Lyons (arrived at 4:22 pm), Cr Robert Hayes (arrived at 4:24 pm), Cr Sam Cornish (arrived at 4:43 pm)

**IN ATTENDANCE:** Vaughan Macdonald (General Manager), Ryan Gaiter (Chief Financial Officer/Manager Mid-Richmond), Ben Zeller (Manager Projects and Performance), Dean Fordham (Principal Accountant), Kate Alder-Conn (Governance Officer) and Charlene Reeves (Project Support Officer)

**PRESENT:** Geoff Dwyer (Thomas Noble & Russell)

**1 WELCOME**

Cr Mustow welcomed everyone to the meeting.

**2 APOLOGIES**

Nil.

**3 DECLARATION OF INTERESTS**

Nil.

**4 MATTERS FOR CONSIDERATION**

**4.1 2018/2019 FINANCIAL STATEMENTS AND AUDITOR'S REPORTS**

**EXECUTIVE SUMMARY**

Council's financial statements for the year ended 30 June 2019 have been prepared and subjected to external audit by the Audit Office of New South Wales. A copy of the draft financial statements and the draft Auditor's Reports have been provided separately to Councillors for their information.

Council's external auditor, the Audit Office of New South Wales and their representative firm, Thomas, Noble and Russell advised they will be attending the Internal Audit Committee Meeting as well as the Ordinary Meeting of Council to present the Auditor's Reports for the financial year ending 30 June 2019. The reports to be presented to the Internal Audit Committee include the Report on the Conduct of the Audit and the Engagement Closing Report.

**COMMITTEE RESOLUTION IA221019/1**

Moved: Cr Sandra Humphrys

Seconded: Cr Stephen Morrissey

That the Committee considered:

1. The Report on the Conduct of the Audit for the year ended 30 June 2019; and
2. The Auditor's Engagement Closing Report for the year ended 30 June 2019.

**CARRIED**

INTERNAL AUDIT & RISK COMMITTEE MEETING MINUTES

22 OCTOBER 2019

The Meeting closed at 4:52 pm.

.....  
**CHAIRPERSON**



# **MINUTES**

## **Internal Audit & Risk Committee Meeting**

**6 November 2019**

## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

6 NOVEMBER 2019

**ORDER OF BUSINESS**

<b>1</b>	<b>WELCOME.....</b>	<b>3</b>
<b>2</b>	<b>APOLOGIES .....</b>	<b>3</b>
<b>3</b>	<b>DECLARATION OF INTERESTS .....</b>	<b>3</b>
<b>4</b>	<b>MATTERS FOR CONSIDERATION .....</b>	<b>3</b>
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## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

6 NOVEMBER 2019

**MINUTES OF RICHMOND VALLEY COUNCIL  
INTERNAL AUDIT & RISK COMMITTEE MEETING  
HELD AT THE COUNCIL CHAMBERS, 10 GRAHAM PLACE, CASINO  
ON WEDNESDAY, 6 NOVEMBER 2019 AT 4.30 PM**

**PRESENT:** Cr Robert Mustow (Mayor), Cr Stephen Morrissey (Deputy Mayor), Cr Sam Cornish, Cr Robert Hayes, Cr Daniel Simpson, Cr Jill Lyons (arrived at 5:18 pm), Cr Sandra Humphrys (arrived at 5:05 pm)

**IN ATTENDANCE:** Vaughan Macdonald (General Manager), Angela Jones (Director Infrastructure & Environment), Ryan Gaiter (Chief Financial Officer/Manager Mid-Richmond), Ben Zeller (Manager Projects and Performance), Charlene Reeves (Project Support Officer) and Julie Clark (Personal Assistant to the General Manager and Mayor)

**PRESENT:** Jarrod Lean and Adam Kim (Grant Thornton) (via telephone)

**1 WELCOME**

Cr Daniel Simpson welcomed everyone to the meeting.

**2 APOLOGIES**

**COMMITTEE RESOLUTION IA061119/1**

Moved: Cr Robert Mustow

Seconded: Cr Sam Cornish

That the apologies received from Cr Jill Lyons and Cr Sandra Humphrys advising they will be late to the meeting was accepted.

**CARRIED**

**3 DECLARATION OF INTERESTS**

Nil.

**4 MATTERS FOR CONSIDERATION**

**4.1 STATUS OF THE 2019/2020 INTERNAL AUDIT PLAN**

**COMMITTEE RESOLUTION IA061119/2**

Moved: Cr Stephen Morrissey

Seconded: Cr Sam Cornish

The Committee received and noted the contents of the report.

**CARRIED**

## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

6 NOVEMBER 2019

**4.2 DEVELOPMENT APPLICATION REVIEW****COMMITTEE RESOLUTION IA061119/3**

Moved: Cr Robert Mustow

Seconded: Cr Robert Hayes

That:

1. The Committee received and noted the Development Application Review conducted by Grant Thornton.
2. The recommendations for improvement are implemented within the agreed timeframes.

**CARRIED****4.3 PROGRESS OF LONG-STANDING ACTION ITEMS****COMMITTEE RESOLUTION IA061119/4**

Moved: Cr Robert Mustow

Seconded: Cr Stephen Morrissey

That:-

1. The Committee notes the Progress of Long-Standing Action Items report
2. The Internal Audit Executive Officer and Grant Thornton review the eight action items identified to be closed and bring a report back to the next meeting advising if consensus is reached to close those eight action items.

**.CARRIED****4.4 PROGRESS OF OUTSTANDING INTERNAL AND EXTERNAL AUDIT ITEMS****COMMITTEE RESOLUTION IA061119/5**

Moved: Cr Stephen Morrissey

Seconded: Cr Robert Hayes

The Committee received and noted the contents of the Progress of Outstanding Internal and External Audit Items report.

**CARRIED**

## INTERNAL AUDIT &amp; RISK COMMITTEE MEETING MINUTES

6 NOVEMBER 2019

**4.5 INTERNAL AUDIT AND RISK MANAGEMENT FRAMEWORK****COMMITTEE RESOLUTION IA061119/6**

Moved: Cr Daniel Simpson

Seconded: Cr Sandra Humphrys

That:

1. The Committee received and noted the contents of the Internal Audit and Risk Management Framework report.
2. The Internal Audit Executive Officer write a submission to the NSW Government stating the preference of all Councillors to remain on the Committee with independent member/s and that Council is not in a position to fund the model outlined in the discussion paper.

**CARRIED**

The Meeting closed at 5:25 pm.

.....  
**CHAIRPERSON**

**NOTICE TO APPLICANT OF DETERMINATION OF A  
DEVELOPMENT APPLICATION****Environmental Planning and Assessment Act, 1979**

**Cherie Smith – Acting Coordinator Planning Services**  
Telephone: (02) 6660 0300

To: Vision Planning Pty Ltd  
PO Box 1444  
BALLINA NSW 2478

Being the applicant in respect of: **Development Application No. DA2020/0034**

**Subdivision to create two lots being Lot 1 (334.8m<sup>2</sup>) and Lot 2 (398.1m<sup>2</sup>)**

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, notice is hereby given of the determination by the Council, as Consent Authority, of the Development Application lodged **26 August 2019** relating to the land described as follows:

**Lots 1 & 2 DP 913055 – 135 River Street (Pacific Highway), Woodburn**

The Development Application has been determined by:

**GRANTING OF CONSENT** subject to the conditions specified in the notice.

This consent operates from **Insert date of Council determination**

Lapses on **TBA**

**IMPORTANT NOTICE**

**THIS IS A LEGAL DOCUMENT. ENSURE THAT YOU READ THE DOCUMENT CAREFULLY,  
AND PARTICULARLY NOTE ALL ATTENDANT INSTRUCTIONS AND CONDITIONS**



**DETAILS OF CONDITIONS**

The conditions of consent are set out as follows:

1. In granting this development consent, Council requires:

- the development,
- all roads/civil works,
- lot boundaries, and
- areas,

subject to any amendment or modification called for in the following conditions, to be substantially in accordance with Statement of Environmental Effects, and/or supporting documents submitted with the application, and the stamped approved plan(s)

- Plan showing proposed subdivision - Ref. 19004-2F sheet 2 of 2 dated 05.09.2019 prepared by Abbott & Macro.
- Statement of Environmental Effects Ref 05/2019 dated August 2019 prepared by Vision Planning Pty Ltd.

**Reason:** To correctly describe what has been approved.

2. The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in **Council's Revenue Policy**.

**Reason:** To comply with environmental planning instrument.

3. The street numbering shall be installed at each premises and street numbers for each lot shall be nominated on the Deposited Plan Administration Sheet **prior to release of the Subdivision Certificate**.

**Reason:** To provide visual identification of allotments and allocation of street numbers on the Subdivision Certificate.

**INFORMATION TO APPLICANTS****ADVISORY NOTES**

**NOTE 1:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act, 1979 are to be complied with:

- (i) A Construction Certificate is to be obtained from the Consent Authority or an Accredited Certifier in accordance with Section 6.7 of the Act.
- (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
- (iii) Council is to be given at least two (2) days notice of the persons intention to commence building works, in accordance with Section 6.6 of the Act.

**NOTE 2:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue of any relevant documentary evidence or certificates.

**NOTE 3:** In accordance with Clause 98(1) of the Environmental Planning and Assessment Regulation, it is a condition of Development Consent for development that involves any building work, that the work must be carried out in accordance with the requirements of the Building Code of Australia.

**NOTE 4:** If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs, and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of the Australian Standard 1428 – Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The granting of the development consent does not negate the owner/applicant's obligations under Part 6 of the *National Parks and Wildlife Act 1974*, where it is declared an offence to harm, or desecrate, an Aboriginal object or declared Aboriginal Place. The Office of Environment and Heritage's *Due Diligence Code of Practice* should be used to determine whether harm is likely, and whether consent in the form of an Aboriginal Heritage Impact Permit (AHIP) is required.

**NOTE 7:** Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

**NOTE 8:** Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact : Telstra's Network Integrity Team on Phone Number 1800 810 443.

**NOTE 9:** Any future works or development to the existing dwellings will require the dwellings to be brought into compliance with the Building Code of Australia.

**PREScribed CONDITIONS OF DEVELOPMENT CONSENT**

Under the provisions of Clause 98 of the Environmental Planning and Assessment Regulation for the purposes of Section 4.17(11) of the Environmental Planning and Assessment Act the following conditions are Prescribed Conditions:

1. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**Reason:** *Required by Clause 98 of the Regulation.*

2. In the case of residential building work for which the Home Building Act 1989 requires there be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force.

**Reason:** *Required by Clause 98 of the Regulation.*

3. Any Development that requires building work, subdivision work or demolition work a sign must be erected on the development site in a prominent position before the commencement of any work showing:
  - a) Name, address and telephone number of the Principal certifying Authority for the work.
  - b) Name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours.
  - c) Stating that unauthorised entry to the work site is prohibited.

NOTE: The sign must be of rigid and durable material and maintained on the site until work has been completed. The sign must be easily read by anyone in any public road or public place adjacent to the site.

**Reason:** *To ensure compliance with Section 4.17(11) of the Environmental Planning and Assessment Act, 1979 and Clauses 98A and 227A of the Accompanying Regulation.*

4. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) protect and support the building, structure or work from possible damage from the excavation, and
  - (b) where necessary, underpin the building, structure or work to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**Reason:** *To ensure compliance with Section 4.17(11) of the Environmental Planning and Assessment Act, 1979 and Clauses 98E of the Accompanying Regulation.*

**DATE FROM WHICH CONSENT OPERATES**

Sections 4.20 and 8.13 of the Environmental Planning and Assessment Act provides that the consent shall become effective and operate from the date endorsed upon the notice, **except** in the case of designated development to which objections have been lodged, when the consent shall become effective 28 days after the consent is issued.

Where an appeal is lodged, either by the applicant or an objector in respect of designated development, the consent shall remain in deferment and not become effective until the appeal has been determined. The consent shall be void if, on appeal, the development is refused.

#### **COMPLIANCE**

The development shall be carried out in accordance with the application, and "approved plans" as may be attached to this consent, and as amended by the foregoing conditions. **All conditions** shall be complied with prior to occupation of the development and, where appropriate, during the operating life of the development.

#### **REVIEW OF DETERMINATION**

Under the provisions of Sections 8.25 to 8.5 of the Environmental Planning and Assessment Act 1979, an applicant may request the Council to review a determination of the application. The request for a review must be made within six (6) months after the date of the determination.

#### **RIGHT OF APPEAL**

If you are dissatisfied with this decision, Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

Where an appeal is made in the case of a designated development, each person who objected is required to be given notice of the appeal, and will have the right to be heard at that hearing.

Except in the case of designated development, there is no provision within the Act for a third party (objector) to appeal against the consent issued by the Council.

#### **LAPSING OF CONSENT**

Section 4.53 of the Environmental Planning and Assessment Act provides that a development consent lapses five years after the date from which it operates. Therefore, this consent lapses five years from the date of operation of this consent UNLESS:

- building, engineering, or construction work relating to this development is commenced on the land within the period of operation of the consent, or
- if no such works are required, the use of the premises commences within the period of operation of the consent.

#### **MODIFICATION OF CONSENTS**

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act an applicant may apply to Council for modification of the consent.

#### **NOTICE TO COMPLETE**

Where development has been commenced, but the work not completed, Schedule 5 provides that the Council may issue an order requiring completion of the work within a specified time, being not less than twelve months.

For and on behalf of Richmond Valley Council.

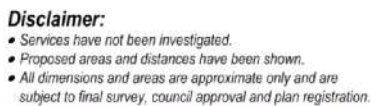
per: Andy Edwards  
**Manager Development and Environment**

Encl.

Cc: Ms P M Marchant  
PO Box 105  
WOODBURN NSW 2472

DA2020/0034

- 5 -



**PLAN SHOWING PROPOSED SUBDIVISION  
(BOUNDARY ADJUSTMENT OF LOTS 1 & 2  
IN DP 913055 135 & 137 River Street**

Locality: <b>WOODBURN</b>	Datum: <b>N/A</b>	Ref: <b>19004-2F</b>	Surveyor: <b>SC VP JB AH</b>
LGA: <b>RICHMOND VALLEY</b>	Origin: <b>N/A</b>	Date: <b>05.09.2019</b>	Drawn: <b>SC</b>
Parish: <b>RILEY</b>	RL: <b>N/A</b>	RR: <b>1:300 @ A4</b>	Checked: <b>SC</b>
County: <b>RICHMOND</b>	LB: <b>N/A</b>	FB: <b>N/A</b>	Data Files: <b>D01,M01</b>
Client: <b>Patricia Marchant</b>			Sheet: <b>2 of 2</b>

33 Martin St | Ballina NSW 2478 | T 02 6686 8939 | F 02 6686 8139 | E [office@chrisabbottsurveying.com](mailto:office@chrisabbottsurveying.com) | [www.chrisabbottsurveying.com.au](http://www.chrisabbottsurveying.com.au)  
Chris Abbott Surveying | ABN 66 149 995 522 | Liability limited by a scheme approved under Professional Standards Legislation

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Version: 1 Version Date: 09/09/2019

**ABBOTT & MACRO**  
Land and Engineering Surveyors



## Clause 4.6 Development Standard Variation Report

135 and 137 River Street, Woodburn

August 2019

Our Ref: 05/2019

Date: August 2019



**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

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**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

**Clause 4.6 Application to Vary a Development Standard –  
Minimum Lot Size Requirement.**

**1 The Subject Site**

The subject sites, as seen in the aerial site photos below, are described in Real Property terms as the following:

- Lot 1 DP 913055, 135 River Street, Woodburn, and
- Lot 2 DP 913055, 137 River Street, Woodburn.

Lot 1 is 429m<sup>2</sup> in size and contains an existing dwelling. Lot 2 is 278m<sup>2</sup> in size and contains an existing dwelling. As seen from the aerial photos below each allotment is not regular in shape. Both allotments have access to River Street and School Lane, Woodburn



**Plate No.1 – Aerial Site Photo:** Lot 1 DP 913055, 135 River Street, Woodburn, (source: <http://maps.six.nsw.gov.au/>)



**Plate No.2 – Aerial Site Photo:** Lot 2 DP 913055, 137 River Street, Woodburn, (source: <http://maps.six.nsw.gov.au/>)



**Plate No.3 – Aerial Locality Plan:** Lot 1 & 2 DP 913055, 135 & 137 River Street, Woodburn.(source: <http://maps.six.nsw.gov.au/>)

**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

The subject properties are located approximately 200m to the south west of Woodburn main street. The subject site is located within the Richmond Valley. Both allotments contain existing dwellings and each property has access from both River Street and School Lane.

**Site Context**

The subject properties are located approximately 200m to the south west of Woodburn main street. The subject site is located within the Richmond Valley. Both allotments contain existing dwellings and each property has access from both River Street and School Lane.

**2 Proposed Development**

Development consent is sought for a subdivision (boundary adjustment) between Lot 1 and 2 DP 913055, 135 and 137 River Street Woodburn to create amended lot sizes of 334.8m<sup>2</sup> (Lot 1) and 398.1m<sup>2</sup> (Lot 2). The proposed subdivision (boundary adjustment) has the benefit of rectifying the existing building, access, on-site dwelling car parking and stormwater encroachments upon Lot 2 and providing a north facing private open space area with solar access for the existing dwelling on Lot 2.

The existing lot layout and proposed subdivision (boundary adjustment) lot layout plans can be viewed within Appendix A of the submitted Statement of Environmental Effects (SoEE) document.

**3 Clause 4.6**

Clause 4.6 of the BMLEP 2015 permits departures from development standards in certain circumstances. In this case, it is necessary to consider if compliance with the development standard is consistent with the aims of the policy and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* being:

5(a) to encourage:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

The aims and objectives of Lismore LEP 2012 Clause 4.6 are as follows:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Under Clause 4.6(3) and (4) of the Richmond Valley LEP 2012, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:

**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

*(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*

These matters, along with case law judgements from the NSW Land and Environment Court, are addressed below.

It is noted that Richmond Valley (the consent authority) specifies under Richmond Valley LEP 2012 a substantial number of development standards that cannot be varied under Clause 4.6, these standards are listed in Clause 4.6(8).

The proposed standard being varied in this instance is *Clause 4.1 – Minimum subdivision lot size*. However, *Clause 4.6(8)* is not a listed development standard that is excluded from departure under Clause 4.6.

It must therefore be assumed that the development standards for subdivision as set out in Clause 4.1, are development standards that can have an appropriate degree of flexibility applied under Clause 4.6.

As detailed within the accompanying SoEE document the proposed subdivision (boundary adjustment) development complies with all development standards other than that which is the subject of this report. The project is also consistent with the RU5 – Village objectives and relevant Clause 4.1 objectives.

**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

#### 4 Environmental Planning Instrument Details (Lismore LEP 2012)

**4.2 What is the name of the environmental planning instrument that applies to the land?**  
Richmond Valley Local Environmental Plan 2015 (LEP 2012)

**4.3 What is the zoning of the land?**  
*RU5 – Village*

**4.4 What are the objectives of the zone?**

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

**2.2 What is the development standard being varied?**  
*Clause 4.1 – Minimum subdivision lot size in the RU5 – Village zone of the Richmond Valley LEP 2012, in particular, the requirement for each allotment to have a minimum lot size of 600m<sup>2</sup>.*

**2.3 Under what clause is the development standard listed in the environmental planning instrument?**  
*Clause 4.1 – Minimum subdivision lot size in the RU5 – Village zone of the Richmond Valley LEP 2012, in particular the following:*

*Clause 4.1 (2) outlines that the clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan. Clause 4.1 (2) outlines that the clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*

*Clause 4.1 (3) outlines that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*Clause (4A) is also relevant as it relates to the RU5 - Village zone. Despite subclause (3) this section of the clause details that:*

- (a) land within Zone RU5 - Village may be subdivided to create lots of at least 600 square metres, but only if the consent authority is satisfied that each lot is, or will be, serviced by a water reticulation system and sewerage system, and*
- (b) development consent may be granted to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, but only where that lot comprises the entire residue of a subdivision under clause 4.2 or 4.2A.*

**2.4 What are the objectives of the development standard?**  
*The objectives of the minimum lot size development standard are to ensure that lot sizes have a practical and efficient layout to meet their intended use, and to prevent the fragmentation of rural lands.*

**2.5 What is the numeric value of the development standard in the environmental planning instrument?**  
*The proposed minimum size shown on the Lot Size Map for both lots the subject of this application is 600m<sup>2</sup>.*



**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

**2.6 What is proposed numeric value of the development standard in your development application?**

The proposed subdivision (boundary adjustment) seeks to amend the existing non-compliant lot sizes of from 429m<sup>2</sup> to 334.8m<sup>2</sup> (Lot 1) and 278m<sup>2</sup> to 398.1m<sup>2</sup> (Lot 2).

**2.7 What is the percentage variation (between your proposal and the environmental planning instrument)?**

The proposed subdivision (boundary adjustment) seeks to amend the existing non-compliant lot size percentage variation from 429m<sup>2</sup> (29%) to 334.8m<sup>2</sup> (44%) for Lot 1 and 278m<sup>2</sup> (53%) to 398.1m<sup>2</sup> (33%) for Lot 2. The existing lot configuration has a combined overall variation for both lots of 82% whilst the amended lot configuration has a combined overall variation for both lots of 77%, accordingly the amended lot configuration is more compliant with Council's minimum lot size requirements than the existing lot configurations.

**3 NSW Land and Environment Court Case Law**

Several key Land and Environment Court (NSW LEC) judgements have refined the manner in which variations to development standards are required to be approached. The key findings and direction of each of these matters are outlined in the following discussion.

**3.2 Wehbe v Pittwater [2007] NSW LEC 827**

The decision of Justice Preston in *Wehbe v Pittwater [2007] NSW LEC 827*, (expanded on the findings in *Winten v North Sydney Council*), identified 5 ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary. It was not suggested that the five ways were the only ways that a development standard could be shown to be unreasonable or unnecessary.

The five ways outlined in *Wehbe* include:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In the *Micaul* decision Preston CJ confirmed that the requirements mandated by SEPP 1 (as discussed in *Wehbe*) are only relevant in demonstrating that compliance with a development standard is unreasonable or unnecessary for the purpose of Clause 4.6(3)(a).

**3.3 Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC**

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe v Pittwater [2007] NSW LEC 827* and demonstrate the following:

1. Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;

**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

2. That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
3. That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs;
4. All three elements of clause 4.6 have to be met and it is best to have different reasons for each but it is not essential.

### **3.4 Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7**

In *Randwick City Council v Micaul Holdings*, the Court allowed a departure from development standards, provided the processes required by clause 4.6 are followed, a consent authority has a broad discretion as to whether to allow a departure from development standards under clause 4.6, even where the variation is not justified for site or development specific reasons.

Preston CJ noted that *the Commissioner did not have to be satisfied directly that compliance with each development standard was unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request had adequately addressed the matter in clause 4.6(3)(a) that compliance with each development standard was unreasonable or unnecessary.*

### **3.5 Zhang v City of Ryde**

Commissioner Brown reiterated that clause 4.6 imposes three preconditions which must be satisfied before the application could be approved:

- 1. The consent authority must be satisfied that the proposed development will be consistent with the objectives of the zone;*
- 2. The consent authority must be satisfied that the proposed development will be consistent with the objects of the standard which is not met; and*
- 3. The consent authority must be satisfied that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.*

It is only if all of these conditions are met that consent can be granted to the application, subject to an assessment of the merits of the application.

The Commissioner applied the now familiar approach to determining consistency with zone objectives by considering whether the development was antipathetic to the objectives.

In contrast to four2five, the reasons relied on to justify the departure from the standards in this case were not necessarily site specific.

**Clause 4.6 Variation Report**  
135 and 137 River Street, Woodburn

#### **4 Consideration**

The following section addresses the provisions of clause 4.6 of the Richmond Valley LEP 2012 together with principles established in the NSW Land and Environment Court Case Law outlined above.

**Clause 4.6(3)(A) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?**

In order to demonstrate that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, the Five (5) Part Test established in *Winten v North Sydney Council* and expanded by Justice Preston in *Wehbe v Pittwater* [2007] NSW LEC 827 is considered:

The five ways outlined in *Wehbe* include:

##### **Five (5) Part Test - *Wehbe v Pittwater***

- 1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).***

The objective of the standard is: ***to ensure that that lot sizes have a practical and efficient layout to meet their intended use and prevent the fragmentation of rural lands.***

The proposed subdivision (boundary adjustment) is consistent with the objectives of this clause for the following reasons:

- (a) The existing allotments do not comply with the minimum lot size provisions of the LEP lot size map and therefore it is not possible that the new allotments will be able to comply with the minimum lot size however the amended lot sizes are numerically more consistent with the LEP minimum lot size as well as ensuring that the proposed amended lot sizes have a more practical and efficient layout that addresses the existing building and stormwater pipe encroachment as well as solar access improvements to the existing dwelling on Lot 2 which helps to assist the subject allotments to meet their individual residential land use needs;
- (b) the subject land and lots are located within the urban area of Woodburn and will not fragment any rural land.

For the reasons highlighted above it has been demonstrated that the objectives of the standard are achieved by the proposed subdivision notwithstanding non-compliance with the minimum lots size standard.

- 2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).***

The underlying objective or purpose of the minimum lot size standard has merit but compliance with the standard is not possible as the combined sizes of the existing lot sizes and existing dwelling locations on the land would not allow for any configuration of the land so that one or both lots comply with the minimum lot size standard. Furthermore it has been demonstrated above that the objectives of the standard are achieved by the proposed subdivision notwithstanding non-compliance with the underlying objective of the minimum lot size standard.



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**3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).**

As detailed within the Statement of Environmental Effects and this report, the existing allotments do not comply with the minimum lot size provisions of the LEP lot size map and compliance would mean that the subject allotments would have to be amalgamated and one of the existing dwellings demolished. To require the landowner to do this would not in this instance improve the compliance of the development with the objectives as it has been demonstrated that the proposed boundary adjustment meets the objectives and purpose of the minimum lot size and therefore compliance is unreasonable.

**4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).**

This exception to development standard request does not rely on this reason. However it is noted that a large proportion of the existing urban allotments within Woodburn do not meet the Council's minimum lot size requirement for this locality and perhaps consideration should be given to reducing the minimum lot size or amending Clause 4.1 to allow boundary alterations in urban areas that do not create any additional lots or an opportunity for additional lots or dwelling opportunities.

**5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).**

This exception to development standards request does not rely on this reason.

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved without compliance. Furthermore, compliance is not possible as the combined sizes of the existing lot sizes and existing dwelling locations on the land would not allow for any configuration of the land so that one or both lots comply with the minimum lot size standard. Whilst it is not possible that the new allotments would be able to comply with the minimum lot size this report details how the amended lot sizes are numerically more consistent with the LEP minimum lot size requirement. The SoEE and this report have demonstrated the following benefits of the proposed subdivision (boundary adjustment):

1. the existing allotments do not comply with Council's minimum lot size;
2. the proposed subdivision rectifies the existing boundary encroachment upon the dwelling on Lot 2 and Council's reticulated stormwater system;
3. the proposed subdivision rectifies the existing boundary encroachment for the existing driveway servicing Lot 2 and provides on-site vehicle car parking for the dwelling on Lot 2;
4. the proposed subdivision allows the dwelling on Lot 2 to be provided with improved solar access to the living areas of the dwelling and a north facing private open space outdoor

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- area that does not impact the private open space or solar access of the existing dwelling on Lot 1;
5. for the above reasons the proposed subdivision meets the objectives and purpose of the minimum lot size
  6. the proposed subdivision does not create any additional lots;
  7. the proposed subdivision does not create an opportunity for additional lots or dwelling opportunities.

For the above reasons it is considered that compliance with Clause 4.6(3)(a) is satisfied.

**Clause 4.6(3)(B) – Are there sufficient environmental planning grounds to justify contravening the development standard?**

Yes, the proposal is consistent with development in the locality. Allowing a variation to this control in this instance does not contravene the standard because compliance is not possible as the combined sizes of the existing lot sizes and existing dwelling locations on the land would not allow for any configuration of the land so that one or both lots comply with the minimum lot size standard.

Furthermore it is considered that there sufficient environmental planning grounds to vary the standard because the proposed subdivision (boundary adjustment) has the following environmental planning benefits:

1. the proposed subdivision rectifies the existing boundary encroachment upon the dwelling on Lot 2 and Council's reticulated stormwater pipe system;
2. the proposed subdivision rectifies the existing boundary encroachment for the existing driveway servicing Lot 2 and provides on-site vehicle car parking for the dwelling on Lot 2;
3. the proposed subdivision allows the dwelling on Lot 2 to be provided with improved solar access to the living areas of the dwelling and a north facing private open space outdoor area that does not impact the private open space or solar access of the existing dwelling on Lot 1;
4. the proposed subdivision does not create any additional lots;
5. the proposed subdivision does not create an opportunity for additional lots or dwelling opportunities.

**Clause 4.6(4)(A)(ii) – Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone which the development is proposed to be carried out.**

The proposed development is consistent with the objectives of the standard (see Cl 4.6(3)(A)). An assessment of consistency with the objectives of the Zone is provided below:

**RU5 – Village zone objectives:**

- (a) *to ensure that lot sizes have a practical and efficient layout to meet their intended use*

**Comment:** The existing allotments do not comply with the minimum lot size provisions of the LEP lot size map and therefore it is not possible that the new allotments will be able to comply with the minimum lot size however the amended lot sizes are numerically more consistent with the LEP minimum lot size as well as ensuring that the proposed amended lot sizes have a more practical and efficient layout that addresses the existing building and stormwater pipe encroachment as

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well as solar access improvements to the existing dwelling on Lot 2 which helps to assist the subject allotments to meet their intended residential land use need.

*(b) to prevent the fragmentation of rural lands.*

**Comment:** the subject land and lots are located within the urban area of Woodburn and therefore in accordance with this objective the proposed subdivision (boundary adjustment) will not fragment any rural land.

For the reasons outlined above the

proposed development is not contrary to the public interest, because it is consistent with the objectives of the standard (see Cl 4.6(3)(A)) and objectives for development within the zone.

**Clause 4.6(5)(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,**

**Comment:** The non-compliance will not raise any matter of State or Regional Significance.

**Clause 4.6(5)(b) the public benefit of maintaining the development standard,**

**Comment:** The proposed development is not contrary to the public interest, accordingly there can be no quantifiable or perceived public benefit in maintaining the standard.

**Clause 4.6(5)(c) any other matters required to be taken into consideration by the Secretary before granting concurrence**

**Comment:** It is considered that there are no other matters outside those discussed in this report that need to be taken into consideration by the Secretary before granting concurrence.

**Clause 4.6(5)(d) how would strict compliance hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Act.**

**Comment:** Strict compliance with the standard is not possible because the existing allotments do not comply with the minimum lot size provisions of the LEP lot size map and compliance would mean that the subject allotments would have to be amalgamated and one of the existing dwellings demolished. This is not possible as the subject allotments are legally created lots with a dwelling entitlement. Furthermore, the proposed subdivision is consistent with the objectives specified in section 5(a)(i) and (ii) because the the proposed subdivision (boundary adjustment) assists in *the proper management, development and conservation of the village of Woodburn* and is considered to be consistent with the *orderly and economic use and development of land*.

**Clause 4.6 Variation Report**  
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**Summary of Justification / Conclusion**

In summary, this clause 4.6 variation request, to the minimum lot size requirements for lots in the *RU5 – Village* zoned area of Woodburn under Richmond Valley LEP 2012 satisfies the **four tests imposed by Clause 4.6** being:

1. That compliance with the relevant development standard must be **unreasonable or unnecessary** in the circumstances of the case;
2. That there are **sufficient environmental planning grounds** to justify contravening the development standard;
3. That the applicant's written request has **adequately addressed the matters** required to be demonstrated by subclause 3;
4. That the proposed development would be in the public interest because it is **consistent with the objectives of the particular standard and the objectives for development within the relevant zone.**

The proposed development seeks a variation under Clause 4.6, to Richmond Valley LEP 2012 Clause 4.1 – *Minimum subdivision lot size* in the *RU5 – Village* zoned area of Woodburn, in particular the requirement that each lot has a minimum lot size of 600m<sup>2</sup>.

The SoEE and this report have demonstrated that the proposal is consistent with development in the locality. Allowing a variation to this control in this instance does not contravene the standard because compliance is not possible as the combined sizes of the existing lot sizes and existing dwelling locations on the land would not allow for any configuration of the land so that one or both lots comply with the minimum lot size standard.

Furthermore, there are environmental planning grounds to vary the standard because the proposed subdivision (boundary adjustment) has the following environmental planning benefits:

1. the existing allotments do not comply with Council's minimum lot size;
2. the proposed subdivision rectifies the existing boundary encroachment upon the dwelling on Lot 2 and Council's reticulated stormwater system;
3. the proposed subdivision rectifies the existing boundary encroachment for the existing driveway servicing Lot 2 and provides on-site vehicle car parking for the dwelling on Lot 2;
4. the proposed subdivision allows the dwelling on Lot 2 to be provided with improved solar access to the living areas of the dwelling and a north facing private open space outdoor area that does not impact the private open space or solar access of the existing dwelling on Lot 1;
5. for the above reasons the proposed subdivision meets the objectives and purpose of the minimum lot size
6. the proposed subdivision does not create any additional lots;
7. the proposed subdivision does not create an opportunity for additional lots or dwelling opportunities.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, as the proposal complies with the *First, Second, Third and Fifth Way of the Five Part Test* outlined in *Wehbe*, in that the objectives of the standard are achieved, the standard is not relevant to the development and compliance with the standard would be unreasonable or unnecessary notwithstanding the non-compliance with the standard.

The proposed subdivision (boundary adjustment) development is in the public interest because it is consistent with the objectives of the particular standard, the objectives for development within the zone and Clause 4.2C of LEP 2012 and Section 5(d)(i) and (ii) of the EPA Act.



**COUNCIL ASSESSMENT REPORT**

<b>DA Number</b>	DA2020/0034
<b>LGA</b>	Richmond Valley Council
<b>Proposed Development</b>	Subdivision to create two lots being Lot 1 (334.8m <sup>2</sup> ) and Lot 2 (398.1m <sup>2</sup> )
<b>Street Address</b>	135-137 River Street, Woodburn
<b>Applicant/Owner</b>	Vision Town Planning/ Ms P M Marchant
<b>Date of DA lodgement</b>	26 August 2019
<b>Number of Submissions</b>	N/A
<b>Recommendation</b>	Development application number DA2020/0034 be approved subject to conditions contained in in the proposed conditions of consent at Appendix A.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning &amp; Assessment Act 1979</li> <li>• Environmental Planning &amp; Assessment Regulation 2000</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• Richmond Valley Local Environmental Plan 2012</li> <li>• Richmond Valley Development Control Plan 2015</li> <li>• Planning Circular PS 18-003 Variations to Development Standards</li> </ul>
<b>Documents submitted with this report for consideration</b>	<p>Councils Development File - DA2020/0034.</p> <p>Development Plans</p> <ul style="list-style-type: none"> <li>• Plan showing proposed subdivision Ref. 19004-2F Sheet 2 of 2 dated 05.09.2019</li> <li>• Applicants request to Vary a development standard</li> <li>• Recommended conditions of consent</li> </ul>
<b>Report prepared by</b>	Cherie Smith, Development Assessment Planner
<b>Report date</b>	

**Subdivision to create two lots being Lot 1 (334.8m<sup>2</sup>) and Lot 2 (398.1m<sup>2</sup>)  
Development Application Number DA2020/0034  
Assessment Report and Recommendation**

**1. Executive Summary**

Development Application DA2020/0034 seeks consent for a subdivision to create lots being Lot 1 (334.8m<sup>2</sup>) and Lot 2 (398.1m<sup>2</sup>) at 135-137 River Street Woodburn. The application has been prepared by Vision Town Planning.

The proposal relates to the re-subdivision of two existing lots in order to rectify encroachments that currently exist. The development proposes creation of two lots both below minimum lot size and also in excess of 10% of the development standard, therefore the application requires determination by Council.

Clause 2.6 of the Richmond Valley Local Environmental Plan 2012 provides that subdivision is permissible with development consent.

Clause 4.6 of the Richmond Valley Local Environmental Plan 2012 provides circumstances under which a development standard may be varied. The Secretary's concurrence must be obtained.

Planning Circular PS 18-003 Variations to Development Standards, issued on 15 December 2017 advises of arrangements for when councils may assume the Secretary's concurrence to vary development standards. Councils are notified that only a full council can assume the Secretary's concurrence where the variation to a numerical standard is greater than 10%, or the variation is to a non-numerical standard. The determination of such applications cannot be made by individual council officers under delegation.

As the application proposes creation of two lots both exceeding the minimum lot size standard by greater than 10% the application must be determined by Council.

The application was not required to be notified.

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and the relevant environmental planning instruments. The following environmental planning instruments require matters that the consent authority must be satisfied about before granting consent.

- Environmental Planning & Assessment Act 1979
- Environmental Planning & Assessment Regulation 2000
- State Environmental Planning Policy (Coastal Management) 2018
- Richmond Valley Local Environmental Plan 2012
- Richmond Valley Development Control Plan 2015

The proposed conditions are contained within Appendix B to this report.

#### **Recommendation**

It is recommended that;

1. Pursuant to clause 4.6 of Richmond Valley Local Environmental Plan 2012 a variation in respect of clause 4.1 Minimum subdivision lot size be approved, and,
2. Development application number DA2020/0034 be approved subject to conditions contained in Schedule of recommended Consent Conditions at Appendix A.

#### **Attachments**

Appendix A                      Recommended Conditions of Consent.

## 2. Development Proposal

Development Application DA2020/0034 seeks consent for a subdivision seeks consent for a subdivision to create lots being Lot 1 (334.8m<sup>2</sup>) and Lot 2 (398.1m<sup>2</sup>) at 135-137 River Street Woodburn.

Property Description	Lots 1 & 2 DP 913055
Property Address	135-137 River Street, Woodburn
Registered Owners	Ms P M Marchant
Applicant	Vision Town Planning
Existing Use	Residential dwelling houses
Property Zoning	RU5 Village
Integrated Referrals	N/A
Concurrence Referrals	N/A
Other Pubic agency Referrals	N/A

The application seeks consent for a subdivision to create two lots below minimum lot size. The proposal involves the re-subdivision of two existing lots, both of which are currently below minimum lot size. Currently the dwelling, driveway and on-site carparking for Lot 2 are located over the boundary as shown in the following survey.



It is proposed to adjust the lot areas and re-subdivide the lots by transferring 94.2m<sup>2</sup> in the following manner.

Address	Current Lot	Existing Area	Proposed Area
135 River Street	Lot 1	429m <sup>2</sup>	334.8m <sup>2</sup>
137 River Street	Lot 2	303.9m <sup>2</sup>	398.1m <sup>2</sup>

The proposed Lot arrangement including the proposed new boundary location, lot areas, dwellings, access and parking areas is shown below.

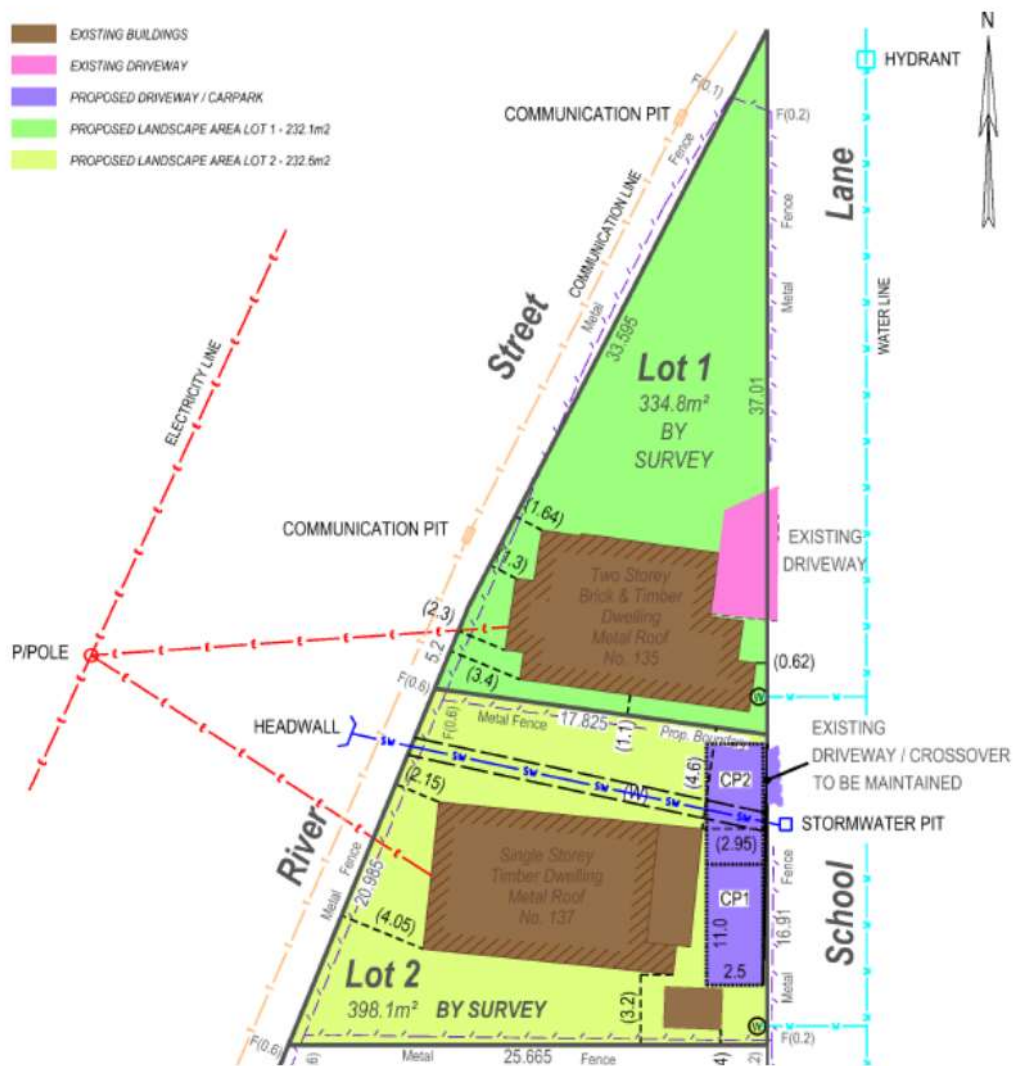


Figure 1 – Proposed Development

### 3. Referrals

The following referrals were undertaken as part of the assessment process:

**External - Nil**

**Internal**

Department	Comment
Development Engineer	Brian Eggins Senior Administration Officer - Acceptable subject to conditions.
Building Certifier	Andrew Clark Coordinator Building Services –Acceptable. Although has recommended an advisory note be added to the consent to notify that any future works or development to the existing dwellings will require the dwellings to be brought into compliance with the Building Code of Australia. This is due to the existing dwelling being located in close proximity to the existing School Lane boundary.

### 4. Environmental Planning and Assessment Act 1979

Section 1.7: Application of the Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The provisions of Part 7 of the Biodiversity Conservation Act and Part 7a of the Fisheries Management Act contain additional requirements with respect to assessments, consents and approvals under the EPA Act.

The development does not involve a prescribed impact, does not involve removal of native vegetation and is not located within an area mapped on the Biodiversity Values Map.

Section 2.22: Community Participation

Part 1 of Schedule 1 sets out the mandatory requirements for community participation.

The development application was not required to be exhibited or notified in accordance with Richmond Valley Council Development Control Plan 2015.

Section 4.2: Development that needs consent

The proposal is seeking consent under Part 4 of the Act.

Clause 2.6 of the Richmond Valley Local Environmental Plan states that land to which the plan applies may be subdivided with consent. This application is on land which the RVLEP applies and therefore consent can be granted for subdivision.

Section 4.13: Consultation and concurrence

The application does not require consultation or concurrence with any agency.

Section 4.15: Evaluation

Section 4.15 details matters the consent authority is to take into consideration in determining an application. Consideration of the matters is provided in detail throughout this report.



<b>Provision</b>	<b>Comment</b>
(1)(a)(i) – Environmental planning instruments	Refer to section 5.
(1)(a)(ii) – Draft environmental planning instruments	No draft instruments are applicable
(1)(a)(iii) – Development control plans	Refer to section 6.
(1)(a)(iiia) – Planning Agreements	No planning agreements relate to the application.
(1)(a)(iv) – The Regulations	Refer to section 7.
(1)(a)(v) – Repealed	N/A
(1)(b) – Likely impacts of the development	Refer to section 8.
(1)(c)(i) – Site suitability	Refer to section 9.
(1)(d)(i) – Submissions	N/A
(1)(e)(i) – The public interest	Refer to section 11.

#### Section 4.46: What is “integrated development”?

The proposal is not integrated development in accordance with Section 4.46 of the EP&A Act.

#### Section 7.12: Conditions subject to a contributions plan

A consent authority may only impose a condition relating to contributions if it is a contribution kind allowed and in accordance with a contributions plan.

A contribution is not applicable to the development.

### **5. Environmental Planning Instruments - Section 4.15(1)(a)(i)**

The Environmental Planning instruments applying to this application are;

- State Environmental Planning Policy (Coastal Management) 2018
- Richmond Valley Local Environmental Plan 2012

#### **5.1 State Environmental Planning Policy (Coastal Management) 2018**

This policy aims to promote an integrated and coordinated approach to land use planning in the coastal zone consistent with the objectives of the Coastal Management Act 2016.

The SEPP provides development standards to be considered for land within identified on the coastal management maps. The property is mapped as being within both the Coastal Use area and the Coastal Environment Area. The table below identifies the matters the consent authority must be satisfied as to prior to granting consent.

<b>Clause/Development Standard</b>	<b>Comment</b>
<b>Division 3 Coastal environment area</b>	
<b>Clause 13 Development on land within the coastal environment area</b>	
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following: (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (b) coastal environmental values and natural coastal	The proposed development relates to subdivision only with no required buildings or works therefore there is not impact on any matters under this clause.

<p>processes,</p> <p>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</p> <p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p> <p>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(f) Aboriginal cultural heritage, practices and places,</p> <p>(g) the use of the surf zone.</p>	
<p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>The proposed development has been designed to reflect existing structures and therefore there is no impact on any matters under this clause.</p>
<p>(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</p>	<p>N/A</p>
<b>Division 4 Coastal use area</b>	
<b>Clause 14 Development on land within the coastal use area</b>	
<p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:</p> <p>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <p>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that:</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</p> <p>(c) has taken into account the surrounding coastal and built</p>	<p>There is no foreshore access, no works or structures are proposed therefore no impact to any matters under this clause.</p>

environment, and the bulk, scale and size of the proposed development.	
(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> .	N/A.
<b>Division 5 General</b>	
<b>Clause 15 Development in coastal zone generally—development not to increase risk of coastal hazards</b>	
Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	N/A – land is not within the coastal hazard area.
<b>Clause 16 Development in coastal zone generally—coastal management programs to be considered</b>	
Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.	N/A – no certified program exists.



Coastal Management SEPP	100%
Coastal Use	100%
Coastal Environment	100%

### 5.7 Richmond Valley Local Environmental Plan 2012

The site is zoned as RU5 Village as shown in Figure 7 below.



Figure 7 – RVLEP Zoning

#### Objectives of the zone

The RU5 Village zone objectives are:

- (a) To provide for a range of land uses, services and facilities that are associated with a rural village.
- (b) To minimise conflict between land uses within the zone and land uses within adjoining zones.

- The proposed subdivision is demonstrated to be consistent with these objectives because it involves the re-subdivision of the existing lots only.
- The existing dwelling houses provide residential accommodation in a village setting
- All services, and facilities are existing to the dwellings and are not impacted by the subdivision. As part of the registration of the subdivision a new easement will be created over the existing public stormwater pipe.
- No structures or land uses are proposed therefore land use conflict is not caused by the proposed subdivision
- The subdivision is a practical and efficient design. It provides a solution to the encroachments, equitable distribution of the available space, vehicular access to each lot, on-site parking, essential services and open spaces to each of the existing dwellings.
- The proposed subdivision reflects the existing physical structures and use of the land currently.

Richmond Valley LEP contains a number of provisions that are of relevance to the application. These are detailed in the table below.

Clause	Compliance
2.6 Subdivision – consent requirements	The application is seeking consent for the subdivision.
2.7 Demolition The demolition of a building or work	There is no demolition included in this application.

may be carried out only with development consent	
4.1 Minimum lot size	The minimum lot size for the subject site is 600m <sup>2</sup> . Both proposed lots do not comply with this standard.
4.6 Exceptions to development standards.	The proposed development is seeking a variation to the minimum lot size standard pursuant to this clause. See below for detailed consideration of clause 4.6 matters.
6.1 Acid sulfate soils	The proposed development is located on land mapped Class 3 acid sulfate soils. No works are proposed and all structures are existing therefore investigations under the clause are not required.
6.2 Essential Services Requires a consent authority consider that essential services (water, electricity, sewage, stormwater drainage and road access) are available or suitable arrangements for its provision have been made.	The existing dwellings are connected to all essential services no adjustments are required. An easement over the existing stormwater line will be obtained as part of registration of the new titles.
6.3 Earthworks	No earthworks are required.
6.5 Flood Planning	The site is floodprone however the dwellings are existing. No new lots or dwellings are proposed or enabled by the subdivision.
6.6 Terrestrial Biodiversity	The site falls within the mapped Terrestrial Biodiversity area by virtue of its proximity to the Richmond River and Rocky Mouth Creek only. No vegetation removal or works are required for the purpose of the subdivision.
6.8 Riparian land and watercourses	The site falls within the mapped Riparian Land and Watercourses area by virtue of its proximity to the Richmond River and Rocky Mouth Creek only. No vegetation removal or works are required for the purpose of the subdivision
6.10 Wetlands	N/A

**Clause 4.6 Exceptions to development standards.**

A request has been received with DA2020.0034 to vary the 600m<sup>2</sup> minimum lot size as required under clause 4.1 of RVLEP for both proposed lots. The applicants request is contained within Councils Development file.

Clause 4.6 sets out strict criteria which enable such a variation to be considered and approved. The consent authority must consider matters prescribed under clause 4.6 as detailed below.

Clause 4.6 Exceptions to Development Standards
<p>(1) The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</li> <li>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</li> </ul> <p>Comment: The development is seeking flexibility in the application of the Minimum lot size in order to rectify existing encroachments and provide suitable lots with provision for access, parking and open spaces to the existing dwellings.</p>
<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p> <p>Comment: The minimum lot size clause 4.13 is not excluded pursuant to subclause (8) below.</p>
<p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p> <ul style="list-style-type: none"> <li>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</li> <li>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</li> </ul> <p>Comment: The applicant has provided the required a written request. Justification of the variation is given in subclause 4) below.</p>
<p>(4) Development consent must not be granted for development that contravenes a development standard unless:</p> <ul style="list-style-type: none"> <li>(a) the consent authority is satisfied that: <ul style="list-style-type: none"> <li>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</li> <li>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</li> </ul> </li> <li>(b) the concurrence of the Secretary has been obtained.</li> </ul> <p>Comment (a)(i): The applicant's written request is considered to comprehensively demonstrate and justify that strict compliance with the Minimum Lot size standard in this instance is both unnecessary and unreasonable.</p> <ul style="list-style-type: none"> <li>• Both the existing lots are below minimum lot size and will remain below minimum lot size. Due to their existing size it is not possible for the lots to comply with the minimum</li> </ul>



lot size standard.

- The proposal rectifies the existing boundary encroachment of the existing dwelling, stormwater system and driveway servicing Lot 2.
- The dwelling on proposed Lot 2 will be provided with improved areas of north facing open space.
- The dwelling on proposed Lot 1 retains compliant setbacks and maintains its current north facing private open space.
- The proposed subdivision does not create any additional lots or the opportunity for additional lots.

Comment (a)(ii): The proposed development is in the public interest as it is consistent with objectives of the minimum lot size standard and the objectives for development in the zone.

The Minimum Lot size clause has the following objectives:

- (a) to ensure that lot sizes have a practical and efficient layout to meet their intended use, and
- (b) to prevent the fragmentation of rural lands.

The land is zoned RU5 Village with the following objectives:

- (a) To provide for a range of land uses, services and facilities that are associated with a rural village.
- (b) To minimise conflict between land uses within the zone and land uses within adjoining zones.

The proposed subdivision is demonstrated to be consistent with these objectives because;

- The subdivision is a practical and efficient design. It provides a solution to the encroachments, equitable distribution of the available space, vehicular access to each lot, on-site parking, essential services and open spaces to each of the existing dwellings.
- The proposed subdivision reflects the existing physical structures and use of the land currently.
- No structures or land uses are proposed therefore land use conflict is not caused by the proposed subdivision.
- All services, and facilities are existing to the dwellings and are not impacted by the subdivision. As part of the registration of the subdivision a new easement will be created over the existing public stormwater pipe.

Comment (b): Concurrence of the Secretary has been obtained.

As detailed above Planning Circular PS18-003 contains notification to consent authorities of arrangements for when the Director-General's concurrence may be assumed. Determination of the variation by Council is required as precondition of the assumed concurrence.

5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Comment: Contravention of the standard in this instance is not of significance for the region or State. The unique circumstance of this instance being that both existing lots are

currently below minimum lot size as well as the physical structures and encroachments demonstrate there is not diminishing of the public benefit should a variation be granted in this instance.
(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3). Comment: The required records are to be kept.
(8) This clause does not allow development consent to be granted for development that would contravene any of the following: (a) a development standard for complying development, (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated, (c) clause 5.4, (ca) clause 6.1.  Comment: The application is not in respect of complying development, or in connection with BASIX commitments. The variation relates to a standard under clause 4.1 and is not excluded.

#### 6. Development Control Plans – Section 4.15(1)(a)(iii)

##### Richmond Valley Development Control Plan 2015

As the development relates to the re-subdivision of two existing lots in order to rectify existing encroachments, provisions of the DCP are not relevant to the proposed development. Following subdivision each lot will contain a single dwelling house, separate access and on-site parking areas reflective of the current utilisation of these lots. That is, currently access, parking and a dwelling encroach over the common property boundary. The proposed subdivision resolves these issues.

Part	Comment
Part G Subdivisions	The application seeks consent for the subdivision of land in accordance with Cl. 2.6 of the LEP.
G.4	N/A
G.5	The application does not meet minimum lot size requirements and therefore seeks a variation. The variation must be approved by Council and cannot be determined under delegation.
G.6 Integrated Development	N/A
G.7 Design Standards/Controls	The proposed subdivision has been designed to reflect the existing structures and facilities on the land and rectify these encroachments.
Part H-1 Flood Planning	Site is mapped as being affected by flooding. Both dwellings are existing



Part H-2 Bushfire Prone Land	and no new lots or dwellings are proposed.  The property is not mapped as bushfire prone land.
Part H-3 Acid Sulfate Soils	See Section 5.7 assessment of the Richmond Valley Local Environmental Plan (clause 6.1 of the table).
Part H-4 Natural Resources	See Section 5.7 assessment of the Richmond Valley Local Environmental Plan (Clause 6.6, 6.8 and 6.10 of the table).
Part I Other Considerations	N/A
Part J Notification and Advertising	The application was not required to be notified or advertised.

#### **7. The Regulations – Section 4.15(1)(a)(iv)**

The matters relevant to the application as provided in the Environmental Planning and Assessment Regulation are detailed below.

<b>Environmental Planning and Assessment Regulation 2000</b>		
<b>Part</b>	<b>Provision</b>	<b>Comment</b>
Cause 25J and 25K	Section 7.12 levy— determination of proposed cost of development  Maximum percentage	N/A.
Part 6 Division 7	Public participation – Other Advertised Development	The Application was not required to be advertised and notified.
Part 6 Division 8 Additional matters to be considered:	Demolition   Paper Subdivisions  Dark Sky Planning	N/A – the application does not include any demolition.   N/A  The development and is not within a dark sky planning area.
Part 9	Fire Safety and BCA compliance	N/A – there are no buildings proposed as part of the development.

**8. The Likely Impacts of the Development - Section 4.15(1)(b)**

The proposed development is not considered to have any impacts to the environment. The proposed development relates to the re-subdivision of two existing lots only and does not have any environmental impacts. There are no building works, new lots or dwellings. There are no changes to the existing pattern of land use. The proposed re-subdivision enables correction of the existing physical encroachments and reflects the existing arrangement of structures on the land.

The only matter of significance with the application is that it proposes two lots both being below the minimum lot size standard as required by clause 4.1 of Richmond Valley Local Environmental Plan 2012. The proposed variation exceeds 10% and therefore the application must be determined by Council. This has been addressed and considered by way of the above clause 4.6 variation request and this report.

**9. Site suitability - Section 4.15(1)(c)(i)**

An inspection of the site was undertaken on 22 October 2019. The site is centrally located within the village of Woodburn. It is adjacent the Pacific Highway (River Street) however vehicular access is provided from School Lane. The site is currently used for the purposes of low density residential dwellings with a single dwelling house located on each lot. Each dwelling is currently located within close proximity of the existing road boundaries.

The proposed re-subdivision will rectify existing encroachments on the common boundary line only and is therefore suitable in this location. An advisory note has been recommended by Councils Certifier advising any future works or development to the existing dwellings will require the dwellings to be brought into compliance with the Building Code of Australia.

**10. Submissions - Section 4.15(1)(d)(i)**

N/A

**11. The Public Interest - Section 4.15(1)(e)(i)**

The proposed subdivision will rectify existing encroachments. The proposed lots do not comply with the minimum lot size standard in accordance with Richmond Valley Local Environmental Plan and therefore a variation request must be received and considered by the consent authority. As detailed in this report the variation and this application cannot be determined under delegation and therefore must be determined by full Council. A separate Determination Report has been prepared for this purpose.

The variation request has been submitted by the applicant and it is considered in both this report and the Council Determination Report.

Approval of the application is therefore a matter of public interest and will be considered by full council at the next available Council meeting.

**12. Conclusion and Recommendation**

DA2020/0034 proposes to subdivide Lots 1 & 2 DP 913055 to create two new lots in order to rectify existing encroachments. Both of the proposed lots do not comply with the minimum lot size of 600m<sup>2</sup> established by Clause 4.1 of the Richmond Valley Local Environmental Plan 2012.

A written request has been submitted by the applicant (under clause 4.6 of the LEP) that seeks a variation to the minimum lot size to permit the proposed lots. Because the variation request exceeds 10% it must be determined by full Council. A separate Determination report and draft conditions of consent have been prepared.

The proposed development is permissible with consent pursuant to the Richmond Valley Local Environmental Plan 2012. A full assessment of the application in accordance with legislative requirements has been undertaken.

The submitted Statement of Environmental Effects and additional information adequately addresses the legal requirements and provides recommendations in support of the development.

The Development Assessment Panel endorsed the Draft proposed conditions at its meeting of 24 October 2019.

It is recommended that;

1. Recommended that the variation request to clause 4.1 of Richmond Valley Local Environmental Plan 2012 be approved, and,
2. Development application number DA2020/0034 be approved subject to conditions contained in the proposed conditions of consent at Appendix B.

.....  
Cherie Smith  
Development Assessment Planner

**14. Statement of Reasons**

Division 4 to Schedule 1 of the Environmental Planning and Assessment Act 1979 requires a consent authority provide public notification of decisions and the reasons for those decisions. The reasons for the decision of this development application are;

- The proposed development is permissible with consent pursuant to the Richmond Valley Local Environmental Plan
- The proposed development complies with the relevant provisions of Richmond Valley Council Local Environmental Plan 2012 excepting clause 4.1 Minimum subdivision lot size.
- A request to vary development standards pursuant to clause 4.6 of Richmond Valley Council Local Environmental Plan 2012 has been submitted. In accordance with the Secretary's written notification of assumed concurrence dated 21.02.2018 as notified in Planning Circular PS 18-003 Variations to Development Standards the application was determined by full Council at its meeting dated (insert date of determination by Council).
- The proposed development complies with the relevant State Environmental Planning Policies, being, State Environmental Planning Policy (Coastal Management) 2018,
- The proposed development complies with relevant provisions of Richmond Valley Development Control Plan 2015.
- The proposed development complies with Environmental Planning & Assessment Regulation 2000.
- The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality provided it is managed and operated in accordance with the Consent granted and Statement of Environmental Effects.
- The proposed development is considered suitable for the proposed site.
- Site inspection was undertaken on 22 October 2019.
- The proposed development is considered to be of significant public benefit and not contrary to the public interest.
- Consent conditions have been recommended as contained within the development consent notice and in Appendix B of this report.





## **Richmond Valley Council Community Participation Plan 2019**

for Council's planning functions under the  
*Environmental Planning and Assessment Act 1979*

November 2019

Richmond Valley Council  
Community Participation Plan 2019

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### Commencement of this Community Participation Plan

This Community Participation Plan (CPP) was adopted by resolution of Richmond Valley Council on *19 November 2019*, and is effective when published on the New South Wales Planning Portal website – [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au)

### Amendments to this Community Participation Plan

The table below outlines amendments to the *Richmond Valley Council Community Participation Plan 2019*:

Amend. No.	Date of Resolution of Council	Effective Date	Part to which the Amendment Relates	Summary of Amendment
Nil				



## Glossary of Acronyms

BDAR	Biodiversity Development Assessment Report
CES	Community Engagement Strategy
CPP	Community Participation Plan
CSP	Community Strategic Plan
DAP	Development Assessment Panel
DCP	Development Control Plan
DPIE	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Reg	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
GIPA	<i>Government Information (Public Access) Act 2009</i>
LEP	Local Environmental Plan
LGA	Local Government Area
LGAct	<i>Local Government Act 1993</i>
LSPS	Local Strategic Planning Statement
NCRP	North Coast Regional Plan
NRPP	Northern Regional Planning Panel
NSW	New South Wales
PA	Planning Agreement
REF	Review of Environmental Effects
RPP	Regional Planning Panel
RSD	Regionally Significant Development
RVC	Richmond Valley Council
RVLEP	<i>Richmond Valley Local Environmental Plan 2012</i>
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SIS	Species Impact Statement
SOR	Statement of Reasons
SSD	State Significant Development
SSI	State Significant Infrastructure
the Act	see EP&A Act
the Reg	see EP&A Reg





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## 1. Introduction

This is Richmond Valley Council's Community Participation Plan (CPP). It has been prepared under Section 2.23 of the NSW *Environmental Planning and Assessment Act 1979* (the Act).

### 1.1. What is a Community Participation Plan?

A Community Participation Plan (CPP) sets out when and how Council will engage its community across the range of town planning functions it performs under the Act.

A CPP must meet the minimum requirements for community participation set out in Schedule 1 to the Act, including any additional requirements provided in the *Environmental Planning and Assessment Regulation 2000* (the Reg).

This CPP identifies:

- the mandatory community engagement requirements of the Act, including variations to those requirements (where permitted);
- how community engagement will be undertaken;
- the minimum period for community engagement; and
- how the community can make submissions.

### 1.2. What is community engagement?

Community engagement is a planned process with the specific intent of:

- keeping the community informed about planning matters that effect it;
- encouraging effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning;
- providing planning information in plain language, easily accessible and in a form that facilitates community participation in planning;
- providing opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered;
- inclusively and actively seeking views that are representative of the community;
- encouraging the proponents of major developments to consult members of the community, that may be affected by a proposal, before an application for planning approval is made;



- ensuring planning decisions are made in an open and transparent way including the reasons for those decisions (including how community views have been taken into account); and
- employing community participation methods that are appropriate to the significance and likely impact of proposed development, or the strategic planning.

#### **Why is community participation important?**

- It builds community confidence in the planning system
- Community participation creates a shared sense of purpose, direction and understanding of the need to manage growth and change, while preserving local character
- It provides access to community knowledge, ideas and expertise

### **1.3. Limitations of the Community Participation Plan**

This Community Participation Plan (CPP) only relates to Council's planning functions under the Act and excludes engagement requirements for:

- non-Council planning functions under the Act; and
- Council's delivery of non-town planning related services, functions or infrastructure—see Council's *Community Engagement Strategy* under the *Local Government Act 1993*

### **1.4. Land to which this Community Participation Plan applies**

This Community Participation Plan (CPP) applies to all land within the Richmond Valley Council Local Government Area.

### **1.5. What Council Planning Functions are covered by this CPP?**

Council's planning functions under the Act are divided into 2 main streams: Development Assessment (under Parts 4 & Part 5 of the Act); and Strategic Planning (under Parts 2 & 3 of the Act). The functions requiring community engagement are as follows-

#### **Development Assessment**

This CPP will apply where RVC is the consent authority for the following application types:

- **Local Development** (*other than complying development, designated development or State significant development*)

Local development is the most common type of Development Application with projects ranging from home extensions to commercial, retail and industrial developments.





- ***Nominated Integrated Development***

*Nominated Integrated Development* (as defined by clause 89(4) of the Reg) refers to a development application requiring any one or more of the following Integrated Development approvals (under section 4.46 of the Act):

- *Heritage Act 1977*—Section 58 approval in respect of the doing or carrying out of any act, matter or thing with respect to a State Heritage Listed item; artefact; or archaeological sites;
- *Water Management Act 2000*—Sections 89, 90 or 91 in respect of water use approval; water management work approval; or an activity approval; or
- *Protection of the Environment Operations Act 1997*—Sections 43(a), 43(b), 43(d), 47, 48, 55 or 122 licences for an Environment Protection Licence (EPL).

- ***Threatened Species Development***

*Threatened Species Development* (as defined by Clause 89(4) of the Reg) refers to a development application where a:

- Biodiversity Development Assessment Report (BDAR) is required by Section 7.7 of the *Biodiversity Conservation Act 2016*; or
- Species Impact Statement (SIS) is required by Section 221ZW of the *Fisheries Management Act 1994*,

because the development is likely to significantly affect threatened species.

- ***Designated Development (Part 4)***

Designated Development refers to development which could have potentially high environmental impacts, and/or is proposed to be located in or near an environmentally sensitive area. Designated Development must be accompanied by an Environmental Impact Statement (EIS).

Designated Development can be declared by an environmental planning instrument (such as an LEP or SEPP) but the main source of such declarations is under Schedule 3 of the Reg.

- ***Regionally Significant Development***

Development is declared to be Regionally Significant Development (RSD) under Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* (except for complying development; development without consent; State Significant Development; or development for which a person or body other than council is the consent authority). These are usually larger developments or within sensitive locations.



This CPP applies to RSD in the same way it would apply to Local Development, even though the development will be determined by the Northern Regional Planning Panel (NRPP).

- **Modification of Development Consents**

After development consent has been issued, the Applicant or anyone entitled to act on the Applicant's behalf can apply to Council for approval to modify that development consent.

An application to modify is made under Section 4.55 of the Act (or Section 4.56 for consents granted by the Land and Environment Court), but the development must be substantially the same as the development granted consent.

- **Activities requiring an EIS under Part 5 of the Act**

An activity, not requiring development consent under Part 4 of the Act, may require preparation of an Environmental Impact Statement (EIS) where an assessment under Part 5 of the Act has found it is likely to significantly affect the environment.

This CPP only applies where Council is the determining authority (or is the *Nominated Determining Authority* where there is more than one determining authority) for the Part 5 Activity.

- **Paper Subdivisions**

'Paper subdivisions' denotes land comprising lots that have recognition only on paper and, in most cases, with no formed roads, drainage, reticulated water, sewer or electricity. Most paper subdivisions have existed for many years, some originating as long ago as the late 1800s or early 1900s. Such land is likely to be largely undeveloped, often with little or no development potential under existing land use zonings, which is made all the more difficult due to there being a large number of individual property owners.

Schedule 7 of the Act provides a means to develop such land by a Subdivision Order. Once made, the Subdivision Order will apply to the land and give the relevant Planning Authority additional powers to enable it to develop the land in accordance with a Development Plan, including compulsory acquisition of land; levying of developer contributions; broad powers of entry; and powers to carry out subdivision works on behalf of all the owners.

There are a number of things needed before a Subdivision Order can be made. Of importance to this CPP is engagement with all land owners, including notification/advertisement of a proposed Ballot Paper, and of the adopted Development Plan.



This CPP would only apply where Council is the relevant Planning Authority for the purposes of a Subdivision Order.

### **Strategic Planning**

Council's strategic planning functions incorporate the preparation of plans and strategies including:

- **Community Participation Plan**

A Community Participation Plan (CPP) sets out when and how Council will engage its community across all its planning functions under the Act.

- **Local Strategic Planning Statement**

Local Strategic Planning Statements (LSPS) set out the vision for land-use planning in a LGA, including the special character and values that are to be preserved and promoted into the future.

A LSPS must:

- identify the planning priorities for an area;
- explain how these priorities are to be delivered; and
- demonstrate how Council will monitor and report on how the priorities will be implemented.

- **Local Growth Management Strategy**

The Local Growth Management Strategy (LGMS) sets out how urban growth will be delivered and managed by translating the North Coast Regional Plan's (NCRP) visions and guiding principles into more detailed priorities for growth and change at the local level.

- **Planning Proposals**

Planning Proposals are the primary support document during the preparation of:

- a Local Environmental Plan (LEP);
- a LEP amendment; or
- an amendment to a State Environmental Planning Policy (SEPP).

Planning Proposals outline the intent of an LEP or amendment: by explaining what development might/will be expected; and justifying the proposal when measured against strategies, policies, and merit considerations.

The Planning Proposal (PP) will evolve and change as it passes through each of assessment and preparation phases for producing an LEP or amendment.

- Preliminary assessment by Council—(where Council did not prepare the Planning Proposal) the PP is to justify





Council's initial support for the proposal and for it to seek a Gateway Determination;

- Gateway Determination—the PP explains to the Department of Planning, Industry and Environment (DPIE) what is intended by the LEP or amendment so it can be assessed against strategies, policies, and merit considerations;
- Agency consultation—the PP, and support studies, must demonstrate how a proposal stacks up against policy inconsistencies or issues relevant to Government Agencies (the minimum Agency consultation will be conditioned in the Gateway Determination);
- Community engagement—the PP must explain in plain English what development is likely to result from the Planning Proposal. The minimum engagement requirements for a Planning Proposal will be tailored to the specific proposal as a condition on the Gateway Determination (The generic minimum exhibition period is 28 days, as provided by clause 4 of Schedule 1 to the Act, or such different period as conditioned in the Gateway Determination);
- Parliamentary Counsel's Office (PC)—the PP advises on what the LEP or amendment is to achieve, and PC drafts the legal document based on this information.

- **Development Control Plan**

A Development Control Plan (DCP) is prepared by Council to provide guidelines, controls and development standards for the regulation of development permitted by the Local Environmental Plan.

- **Contributions Plans**

Contributions Plans allow Council to levy contributions on development consents to assist the provision of community facilities or infrastructure to meet future demand created by development.

There are 2 types of contribution plan provided in the Act, they being:

- Section 7.11 (formerly Section 94) Contribution Plan; and
- Section 7.12 (formerly Section 94A) Fixed Rate Contribution Plan.

Note. The *Local Government Act 1993* also provides for levying contributions towards augmentation of water and sewer infrastructure, known as Section 64 Contributions. Section 64 contributions are not covered by this CPP.

- **Planning Agreements**

A Planning Agreement (also known as a Voluntary Planning Agreement) is a contractual offer by a developer to Council to dedicate land; make monetary contributions; or provide





another type of material public benefit, to be used for or applied towards a public purpose such as:

- a community facility;
- affordable housing;
- transport or other infrastructure relating to the development;
- the funding of recurrent expenditure relating to the provision of community facilities, affordable housing or transport or other infrastructure;
- the monitoring of the planning impacts of development; and/or
- the conservation or enhancement of the natural environment.

Planning Agreements are entered into in relation to a Development Application or a LEP amendment, and are binding on the land to which the associated Development Application or LEP amendment relates.

#### **1.6. Mandatory Participation Requirements under Schedule 1 to the Act**

Part 1 of Schedule 1 to the Act sets out mandatory community participation requirements, being the minimum requirements for public exhibition and engagement with the community on various planning functions (see Annexure A for details).

Alternative mandatory requirements are provided by this CPP for how development applications (other than complying development certificates, designated development, or State significant development) will be exhibited. For example: Schedule 1 provides a minimum exhibition period of 14 days for development applications, however, this CPP also provides for development that need not be exhibited, and for development that must be exhibited for a longer period.

The *Environmental Planning and Assessment Regulation 2000* (Reg) may also prescribe additional mandatory requirements for community participation or make changes to the Part 1 mandatory requirements (see Chapter 1.7 and Annexure B for details).

#### **1.7. Additional Engagement Requirements of the Planning Regulation**

The *Environmental Planning and Assessment Regulation 2000* (Reg) defines additional mandatory community engagement requirements, but may also vary those provided in Schedule 1 to the Act. An overview of those additional engagement requirements under the Reg and how they apply to this CPP are provided in Annexure B.



## 1.8. Relationship to other Plans and Strategies

### Richmond Valley Made 2030 Community Strategic Plan

The *Richmond Valley Made 2030 Community Strategic Plan* (CSP) identifies the priorities of our community for the future of our local area, and provides information about Council's service response to these priorities as well as input from other Agencies.

The CSP sets out the community's goals and objectives over the coming 10 years and is supported by a four year Delivery Program, and annual Operational Plans (including Financial Estimates and a Revenue Policy).

This CPP addresses the following key strategies of the CSP:

- **Connecting People and Places** - PP3 Working Together
  - Good communication and engagement between council and the community
  - PP3.1 Improve our Engagement/Consultation with the Community
  - PP3.3 Ensure that Council is reaching all target groups for relevant community issues
  - PP3.6 Improve our communication with the community
- **Growing our Economy** – EC1 Driving Economic Growth
  - PP1.6 Improved customer satisfaction with the DA process
- **Making Council Great** – CS1 Leading and Advocating for our Community
  - CS1.1 Improve decision making by engaging stakeholders and taking community input into account
  - CS1.3 Ensure transparency and accountability in council's operations

### Richmond Valley Council Community Engagement Strategy

The *Richmond Valley Council Community Engagement Strategy* (CES) and this CPP serve very similar community engagement functions, albeit the CPP is only focused on planning functions under the EP&A Act.

The CES:

- provides a framework to guide Council's engagement with the community in a meaningful and appropriate way;
- provides for a consistent and flexible process for staff to guide the selection of the most appropriate methods and level of engagement for projects or decisions;
- supports an environment of trust and confidence established with community and stakeholders by engender a long term sustainable and productive relationship and commitment to a shared vision for Richmond Valley; and



- strengthens Council initiatives which involve community and stakeholder partnerships, most particularly to involve the community in the co-creation of Council's Community Strategic Plan.

More specifically the Community Engagement objectives are to:

- involve community and stakeholders in the development of Richmond Valley Council's Community Strategic Plan;
- upskill Richmond Valley Council staff in community engagement techniques, tools and ideas to improve community participation;
- identify Councillor participation opportunities at community events and campaigns; and
- improve communication with the broad community using new technologies.

This CPP shall prevail where there is an inconsistency between this CPP and the CES for community engagement on planning matters.

### **Richmond Valley Local Environmental Plan 2012**

The *Richmond Valley Local Environmental Plan 2012* (RVLEP) is the principle planning instrument for establishing Land Zones and land use permissibility in the Richmond Valley LGA.

The RVLEP does not contain specific community engagement requirements; however, engagement under the Act, the Reg & this CPP is required in connection with the implementation of the Plan, and any future amendments.

Amendments to the RVLEP are made via Planning Proposals under Division 3.4 of the Act. See *Planning Proposals* in Chapter 1.5 of this CPP for details on community engagement for Planning Proposals.

### **Richmond Valley Development Control Plan 2015**

The *Richmond Valley Development Control Plan 2015* (RVDCP) is primarily responsible for guiding development by:

- giving effect to the aims of the LEP;
- facilitating development that is permissible under the LEP;
- achieving the objectives of land zones;
- providing for (or exclude) notification or advertising of applications under Part 4 of the Act. (Note. These requirements form part of a CPP and will must be repealed from the DCP. Subsequent amendments to the Act are proposed to repeal s.3.43(1)(c))
- specifying criteria that Council can take into consideration in determining whether or not to give a development control order; and
- making provisions for anything permitted by the Act to be prescribed by a development control plan.





### **Richmond Valley Council Local Strategic Planning Statement**

A Local Strategic Planning Statement (LSPS) provides an overview of strategic planning for the LGA, having regard to economic, social and environmental matters. It identifies planning priorities for the LGA that are consistent with any strategic plan(s) applying to the area and the applicable Community Strategic Plan (CSP).

At the time of writing this CPP, Council was preparing its first LSPS. This first LSPS will be built around meeting the requirements of the *North Coast Regional Plan 2036* (NCRP), and actions from the CSP, while embracing community engagement that underpinned both these documents.

Future editions/reviews of the LSPS will be synchronised with Council's preparation of the CSP to ensure more robust community engagement is conducted and that both documents better align.

While extensive community engagement will not feature in the preparation of the first LSPS, the draft will be exhibited for a minimum period of 28 days.

### **Richmond Valley Local Growth Management Strategy**

A key deliverable of the *North Coast Regional Plan* (NCRP) is Action 1.3 for local councils to prepare Local Growth Management Strategies (LGMS) for their respective areas. The LGMS is to delivery and manage urban growth by translating the NCRP visions and guiding principles into more detailed priorities for growth and change at the local level.

Council has various strategic plans for managing growth, however, most need review. A review has commenced and a Draft LGMS will be publicly exhibited in accordance with this CPP.

#### **1.9. Community Engagement Tools**

There are a vast range of community engagement tools available to Council, including:

- Published Notices
- Written Notices
- Informal Written Notices
- RVC Website
- Social Media
- RVC Views Community Newsletter
- Press Releases
- Letterbox Drops
- Rate Notice Inserts
- Public Hearings
- Public Access at a Council Meetings
- Display Notices in Council's Administration Centres
- Display Notices in Council's Libraries
- Signposted Display Notices on, or in the vicinity of, the land



- Mobile Library - Display Notices and/or Drop In interviews
- Display Notices at DPIE
- Public Forums/Meetings
- Meet with Community Groups
- Interviews by appointment
- Pop Up Stall/Information Stand at venues or events
- Online or Telephone Surveys

A broad description of each tool is provided in Annexure C along with how each may be employed by this Community Participation Plan (CPP).

Note. Not all the tools will/can be used. Chapters 3 and 4 of this CPP outline the various development assessment and strategic planning functions of Council and define the minimum consultation periods and engagement tools to be employed. Additional tools may be employed on a needs basis.

#### 1.10. Consultation period

Council will notify and/or advertise planning matters as per the minimum consultation period specified for that matter provided for in the Tables to Chapters 3.3 & 4.3 of this CPP.

#### 1.11. How is the commencement and conclusion of the consultation period calculated?

The minimum consultation period shall be calculated from:

- the day following a Published Notice first appearing in a newspaper; or
- 4 days following the posting of Written Notices,

whichever occurs last.

#### Consultation Period inclusive of Weekends

When calculating the minimum consultation period it shall be inclusive of weekends.

#### Consultation Period exclusive of Public holidays and Christmas Period

When calculating the minimum consultation period, the following shall be excluded:

- public holidays;
- weekdays when Council's Administration Centres do not open; and
- the Christmas period between 20 December and 10 January (inclusive).

Note. Community engagement can occur over these excluded days, but should not commence on or during these periods.

#### Where multiple exhibition periods apply

Where multiple engagement periods apply to a Planning Matters, the longer of those minimum consultation periods shall be used.



### 1.12. How does Council determine who will be notified in writing?

#### **Informal Written Notice**

Where Informal Written Notice is to be given, Council will post the notice to adjoining property owners. Such notices will be posted to the Service Address provided by the property owner, and held by Council in its Property and Rating database.

The Service Address for a property is the same address used to post rate notices.

#### **Written notices and other formal notifications**

Where Written Notice is to be given, Council will post the notice to adjoining property owners, or the owners of other properties considered by Council may be affected by the matter. Such notices will be posted to the Service Address provided by the property owner, and held by Council in its Property and Rating database.

The Service Address for a property is the same address used to post rate notices.

#### **Written notice to persons that made submissions**

A Written Notice is to be given to any person that made a written submission on a planning matter and that matter is being re-notified. Such notices will be posted to the address provided in the original submission(s).

### 1.13. Notification to properties in adjoining local government areas

Where a Written Notice is to be given to an adjoining property located within an adjoining local government area, the Council will:

- contact the adjoining LGA for the contact details of those property owners; or
- send the notice to the adjoining LGA requesting it forward the notices to the affected property owners.

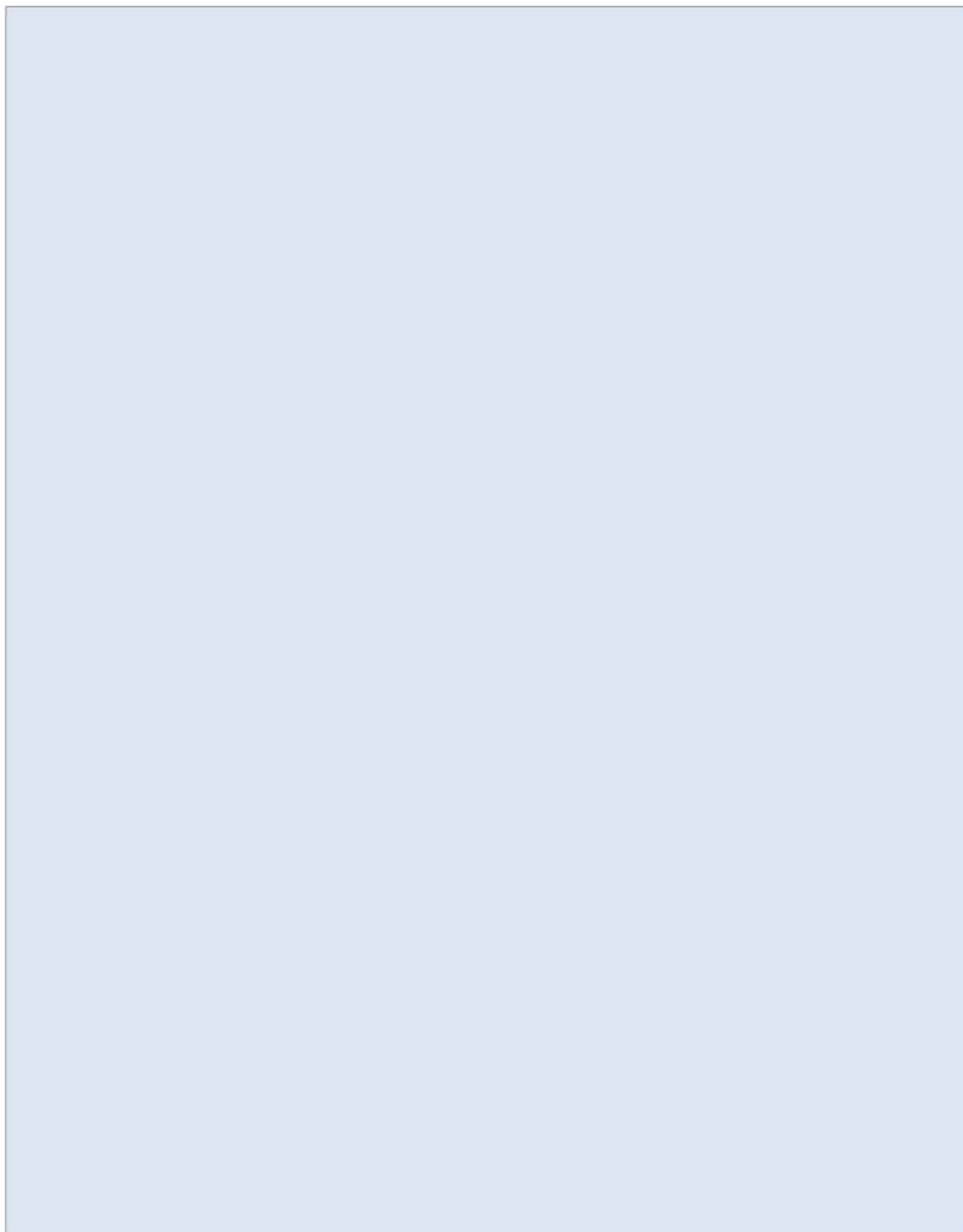
If practical, and neither of the above options is available, Council may do a letterbox drop to the residents of the applicable properties.

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## 2. The Richmond Valley Community



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### 3. Development Applications

A Development Application is a formal application process for seeking consent to undertake development requiring consent under Part 4 of the Act. Applications are usually made to the local council and consist of a standard application form and support documentation including a Statement of Environmental Effects (SEE) (or Environmental Impact Statement (EIS) where the application is for Designated Development), technical reports/studies and plans.

#### 3.1. Objectives of consultation for Development Applications

It is the objective of this Chapter to:

- provide a framework for the notification and/or advertising of development applications; applications to modify development consents; reviews of determination; and determinations;
- provide opportunity for the community to provide feedback on development applications, including the communities attitude towards a proposal, so these can be considered as part of the assessment process;
- establish a clear & consistent process by prescribing the minimum expectations for community engagement of development applications;
- identify applications that will be notified and/or advertised, and identify those that need not;
- ensure that community participation is undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and its Regulation.

#### 3.2. Consultation goal

An effective consultation program does not necessarily mean that all interested parties will be satisfied with the outcome. Rather, it is about ensuring that a development proposal has been fully explored, concerns identified and considered, and, where possible, alternatives considered or conditions applied.



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### 3.3. Mandatory Requirements

The minimum engagement requirements for development applications, and associated application types, are provided in the following Table:

Application Type	Minimum Consultation Period	Minimum Engagement Tools
<b>1. Development Application for Local Development</b>		
A. Considered likely to have minimal impact on the environment and adjoining owners  (see 3.5 <i>Local Development Engagement Requirements</i> for further details)	Nil	<ul style="list-style-type: none"> <li>Informal written notice</li> </ul>
B. Local Development other than 1A., 1C. and 1D., where it is only necessary to notify adjoining land owners  (see 3.5 <i>Local Development Engagement Requirements</i> for further details)	14 days	<ul style="list-style-type: none"> <li>Written Notice only</li> </ul>
C. Local Development other than 1A., 1B. and 1D.  (see 3.5 <i>Local Development Engagement Requirements</i> for further details)	14 days	<ul style="list-style-type: none"> <li>Published Notice &amp;</li> <li>Written Notice</li> </ul>
D. Development identified for additional engagement – a longer exhibition period is considered necessary by Council due to potential adverse impact on the environment or adjoining owners  (see 3.5 <i>Local Development Engagement Requirements</i> for further details)	28 days	<ul style="list-style-type: none"> <li>Published Notice &amp;</li> <li>Written Notice</li> <li>Social Media post</li> <li>Website post (including access to digital copy of application)</li> <li>public access, if reported to Council</li> </ul>



Application Type	Minimum Consultation Period	Minimum Engagement Tools
<b>2. Designated Development</b>		
A. Designated Development	28 days (see clause 78, 79 & 80 of Reg. for exhibition notice requirements – Published, Written and Signpost)	<ul style="list-style-type: none"> <li>Published Notice               <ul style="list-style-type: none"> <li>On 2 separate occasions</li> <li>across 2 or 3 columns in the display section of the newspaper</li> </ul> </li> <li>Written Notice</li> <li>Display Notice</li> <li>Signpost Notice on the Land</li> <li>Social Media post</li> <li>Website post (including access to digital copy of EIS)</li> </ul>
B. Part 5 – EIS	28 Days (see clause 233 of Reg for information that must be included in notices)	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> <li>Display Notice</li> <li>Signpost Notice on the Land</li> <li>Social Media post</li> <li>Website post (including access to digital copy of EIS)</li> </ul>
<b>3. Integrated Development</b>		
A. Integrated Development (other than Nominated Integrated Development)	As per minimum engagement requirement elsewhere provided in this CPP	<ul style="list-style-type: none"> <li>As per requirements for the Development Application</li> </ul>
B. Nominated Integrated Development – as defined by clause 89 of the Reg (see Chapter 1.5 of this CPP)	28 days (see clause 87 of the Reg for information that must be included in notices)	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> </ul>
<b>4. Threatened Species Development</b>		
A. Threatened Species Development – as defined by clause 89 of the Reg (see Chapter 1.5 of this CPP)	28 days (see clause 87 of the Reg for information that must be included in notices)	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> </ul>

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Application Type	Minimum Consultation Period	Minimum Engagement Tools
<b>5. Regionally Significant Development</b>		
A. Regionally Significant Development	28 days	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> <li>Social Media post</li> <li>Website post (including access to digital copy of application)</li> </ul>
<b>6. Modification Application</b>		
A. Modifications involving minor error, misdescription or miscalculation  Section 4.55(1) (or formerly s96(1)) of the Act	Nil	Nil
B. Modifications involving minimal environmental impact  Section 4.55(1A) and s4.56 (or formerly s.96(1A) & s96AA respectively) of the Act	Nil, or 14 days, if the original application was notified or advertised	<ul style="list-style-type: none"> <li>Written Notice</li> </ul>
C. Other Modification where original DA was designated developments  Section 4.55(2) and s4.56 (or formerly s.96(1A) & s96AA respectively) of the Act	14 days, or such longer period as determined by Council having regard to the merits of the application	<ul style="list-style-type: none"> <li>As per original application</li> <li>Written notice to all persons that made written submissions to the original application or any subsequent modification application(s)</li> </ul>
D. Other Modification where original DA was: <ul style="list-style-type: none"> <li>not designated development; and</li> <li>the original application involved written notification or published notification (other than Informal Written Notice)</li> </ul> Section 4.55(2) or s4.56 (or formerly s.96(1A) & s96AA respectively) of the Act	14 days, or such longer period as determined by Council having regard to the merits of the application	<ul style="list-style-type: none"> <li>As per original application</li> <li>Written notice to all persons that made written submissions to the original application or any subsequent modification application(s)</li> </ul>

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Application Type	Minimum Consultation Period	Minimum Engagement Tools
<p>E. Other Modification where original DA was:</p> <ul style="list-style-type: none"> <li>not designated development; and</li> <li>the original application <u>did not involve</u> written notification or published notification (other than Informal Written Notice)</li> </ul> <p>Section 4.55(2) or s.4.56 (or formerly s.96(1A) &amp; s96AA respectively) of the Act</p>	14 days	<ul style="list-style-type: none"> <li>Written notice to all persons that made written submissions to the original application or any subsequent modification application(s)</li> </ul>
<b>7. Review of Determination</b>		
A. Review of Determination	Nil	
B. Review of Determination – where the original determination was refusal	14 days	<ul style="list-style-type: none"> <li>In the same manner as the original application; or</li> <li>If the original application was not advertised or notified, a written notice to objectors &amp; adjoining land owners</li> </ul>
C. Review of Determination – where written submissions were received for the original application	14 days	<ul style="list-style-type: none"> <li>In the same manner as the original application</li> <li>Written Notice to those that made submissions on the original application, and adjoining land owners</li> </ul>
<b>8. Determinations</b>		
A. Notification of Determinations	Nil	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Website</li> <li>Written Notice to persons that made submissions</li> </ul>
B. Statement of Reasons	Nil	<ul style="list-style-type: none"> <li>Website</li> </ul>



### 3.4. Excluded Development

Some development types do not require development consent from Council and there is no pathway for formal community participation. This CPP does not relate to applications that fall within the following categories: exempt development;

- ☐ complying development; and
- ☐ development without consent (unless triggered by Part 5 of the Act).

### 3.5. Local Development Community Engagement Requirements

Local Development Applications are required to be engaged in accordance with Items 1A, 1B, 1C & 1D in the Table to Chapter 3.3. The following Table identifies the Local Development Types for engagement.

Local Development Type	Item			
	1A	1B	1C	1D
<b>Internal works to any building</b> having minimal environmental impact	<input type="checkbox"/>			
<b>Minor Alterations to a development</b> having minimal environmental impact		<input type="checkbox"/>		
<b>Change of use-</b>				
<input type="checkbox"/> Change of use—no new building works or minor internal/ external building works with no considered off site impacts	<input type="checkbox"/>			
<input type="checkbox"/> Change of Use—with off-site impacts to adjoining land only expected		<input type="checkbox"/>		
<input type="checkbox"/> Change of Use—with off-site impacts expected			<input type="checkbox"/>	
<b>Remediation of Contaminated Land – Category 1</b> remediation work under SEPP55 (refer to clause 9 of SEPP55 for details of what constitutes a class 1 remediation work)				<input type="checkbox"/>
<b>Extend hours of operation-</b>				
<input type="checkbox"/> Extend hours of operation		<input type="checkbox"/>		
<input type="checkbox"/> Extend hours of operation—so as to operate outside any of the following times- ⇒ between 7.00 am to 5.00 pm Monday to Friday, or ⇒ between 8.00 am to 12 noon Weekends and Public Holidays			<input type="checkbox"/>	



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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Extend hours of operation—so as to operate at any time- ⇒ between 10.00 pm to 7.00 am Monday to Friday; or ⇒ between 2.00 pm to 8.00 am Weekends and Public Holidays.				<input type="checkbox"/>
<b>Building Height-</b>				
<input type="checkbox"/> Building height of any development- ⇒ 3 storeys or greater; or ⇒ where the building height will exceed 10 metres above existing ground level				<input type="checkbox"/>
<b>Development with a value of work exceeding \$20M</b>				<input type="checkbox"/>
<input type="checkbox"/> Demolition of a building—excluding heritage items		<input type="checkbox"/>		
<input type="checkbox"/> Demolition—heritage listed item			<input type="checkbox"/>	
<b>Agriculture-</b>				
<input type="checkbox"/> Extensive agriculture			<input type="checkbox"/>	
<input type="checkbox"/> Intensive plant agriculture				
<input type="checkbox"/> Intensive livestock agriculture				<input type="checkbox"/>
<b>Farm buildings-</b>				
<input type="checkbox"/> Farm buildings	<input type="checkbox"/>			
<input type="checkbox"/> Farm buildings—within 50 metres of a dwelling not located on, or associated with, the land		<input type="checkbox"/>		
<b>Keeping of certain animals (non-commercial)-</b>				
<input type="checkbox"/> Keeping of certain animals (non-commercial)- ⇒ >10 Dogs ⇒ >20 fowl and poultry ⇒ keeping of rooster(s)		<input type="checkbox"/>		
<b>Animal boarding or training establishments</b>				<input type="checkbox"/>
<b>Residential Accommodation (including ancillary structures)-</b>				
<input type="checkbox"/> Single storey dwelling-houses. <input type="checkbox"/> Minor alterations and additions to a dwelling. <input type="checkbox"/> Ancillary structures with minimal impact on adjoining land.	<input type="checkbox"/>			

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Local Development Type	Item			
	1A	1B	1C	1D
<ul style="list-style-type: none"> <li><input type="checkbox"/> Single Dwelling houses up to two storeys and located on R1 or RU5 zoned land.</li> <li><input type="checkbox"/> Ancillary structures up to 2 storeys</li> <li><input type="checkbox"/> Dual occupancy</li> <li><input type="checkbox"/> Secondary dwellings</li> <li><input type="checkbox"/> Shop top housing: where no alterations to commercial floor space</li> <li><input type="checkbox"/> DCP Variation request for Building Line Setback; Building Height Plane; Floor Space Ratio/Site Coverage; or minimum landscaped area</li> <li><input type="checkbox"/> Significant additions to any of the above (As determined by Assessing Officer, Management or the DAP)</li> </ul>		<input type="checkbox"/>		
<ul style="list-style-type: none"> <li><input type="checkbox"/> With a LEP Variation request</li> <li><input type="checkbox"/> With a DCP Variation request (other than Building Line Setback, Building Height Plane or Floor Space Ratio/Site Coverage).</li> <li><input type="checkbox"/> Any development where there will be &lt;20 dwellings located on the same land</li> <li><input type="checkbox"/> Attached dwellings</li> <li><input type="checkbox"/> Boarding houses</li> <li><input type="checkbox"/> Group homes</li> <li><input type="checkbox"/> Hostels</li> <li><input type="checkbox"/> Significant additions to any of the above (As determined by Assessing Officer, Management or the DAP)</li> </ul>			<input type="checkbox"/>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Any development where there will be 20 or more dwellings located on the same land, including- ⇒ Manufactured Home Estates</li> <li><input type="checkbox"/> Significant additions to the above (As determined by Assessing Officer, Management, or the DAP)</li> </ul>				<input type="checkbox"/>

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Local Development Type	Item			
	1A	1B	1C	1D
<b>Heritage items or buildings within a Conservation Area-</b>				
<input type="checkbox"/> Minor works.	<input type="checkbox"/>			
<input type="checkbox"/> Minor alterations or additions to heritage listed item or a building in a heritage conservation area.		<input type="checkbox"/>		
<input type="checkbox"/> Work that are likely to materially affect the significance of a heritage item. <input type="checkbox"/> Conservation incentive for development not otherwise supported by RVLEP (Clause 5.10(10)).			<input type="checkbox"/>	
<b>Commercial premises (including other forms of Retail Premises)-</b>				
<input type="checkbox"/> Roadside stalls	<input type="checkbox"/>			
<input type="checkbox"/> Minor alterations and additions to a Commercial Premises, or ancillary structures, with minimal impact to adjoining land		<input type="checkbox"/>		
<input type="checkbox"/> Office premises <input type="checkbox"/> Business premises <input type="checkbox"/> Retail premises – ⇒ including additions (As determined by Assessing Officer, Management or the DAP) ⇒ may incorporate Shop top housing <input type="checkbox"/> Minor alterations and additions to a Commercial Premises, or ancillary structures, with potential impact to adjoining land only		<input type="checkbox"/>		
<input type="checkbox"/> Industrial retail outlets <input type="checkbox"/> Wholesale supplies <input type="checkbox"/> Veterinary hospitals <input type="checkbox"/> Any other type of Commercial Premises (or retail premises) not elsewhere defined including- Restaurants, Cafes and Kiosks			<input type="checkbox"/>	



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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Amusement centres <input type="checkbox"/> Entertainment facilities <input type="checkbox"/> Registered clubs <input type="checkbox"/> Pubs <input type="checkbox"/> Function centres <input type="checkbox"/> Service stations <input type="checkbox"/> Highway service centres <input type="checkbox"/> Sex service premises <input type="checkbox"/> Home occupation (sex services)				<input type="checkbox"/>
<b>Restricted premises-</b>				
<input type="checkbox"/> Restricted premises- ⇒ within existing commercial premises, and ⇒ occupying floor area <100m <sup>2</sup> , and ⇒ displays not visible from street		<input type="checkbox"/>		
<input type="checkbox"/> Restricted premises				<input type="checkbox"/>
<b>Tourist and visitor accommodation-</b>				
<input type="checkbox"/> Farm stay accommodation <input type="checkbox"/> Bed and breakfast accommodation <input type="checkbox"/> Alterations that do not increase occupant numbers or increase the building foot print area.		<input type="checkbox"/>		
<input type="checkbox"/> Additions to Tourist and visitor accommodation that alter the occupant numbers or increase building foot print area. <input type="checkbox"/> Primitive Camp Ground <input type="checkbox"/> Tourist and visitor accommodation not elsewhere defined in this Table			<input type="checkbox"/>	

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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Backpackers' accommodation <input type="checkbox"/> Hotel or motel accommodation <input type="checkbox"/> Serviced apartments <input type="checkbox"/> Eco-tourist Facilities <input type="checkbox"/> Caravan Parks <input type="checkbox"/> Camping grounds (other than primitive camp grounds)				<input type="checkbox"/>
<b>Industrial development, Rural Industry and Storage-</b>				
<input type="checkbox"/> Light Industry		<input type="checkbox"/>		
<input type="checkbox"/> General Industry <input type="checkbox"/> Boat building and repair facilities <input type="checkbox"/> Vehicle body repair workshops <input type="checkbox"/> Vehicle repair stations <input type="checkbox"/> Storage premises <input type="checkbox"/> Depots <input type="checkbox"/> Warehouse or distribution centres <input type="checkbox"/> Rural Industry—with gross floor area <500m <sup>2</sup> <input type="checkbox"/> Storage Premises			<input type="checkbox"/>	
<input type="checkbox"/> Heavy Industry <input type="checkbox"/> Heavy Industrial Storage Establishments <input type="checkbox"/> Extractive Industries <input type="checkbox"/> Potentially Offensive or Hazardous Industry <input type="checkbox"/> Offensive or Hazardous Industry <input type="checkbox"/> Rural Industry—with gross floor area of 500m <sup>2</sup> or greater				<input type="checkbox"/>

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Local Development Type	Item			
	1A	1B	1C	1D
<b>Infrastructure (Water and Waste)</b>				
<input type="checkbox"/> Water and Waste reticulation systems—where a large part of the infrastructure will be located below the ground		<input type="checkbox"/>		
<input type="checkbox"/> Water and Waste Infrastructure—not elsewhere defined			<input type="checkbox"/>	
<input type="checkbox"/> Alterations or additions to water and waste infrastructure				
<input type="checkbox"/> Water reticulation systems—where a large part of the infrastructure will be located above the ground				<input type="checkbox"/>
<input type="checkbox"/> Sewage systems				
<input type="checkbox"/> Waste or resource management facilities				
<input type="checkbox"/> Water storage facilities				
<input type="checkbox"/> Water treatment facilities				
<b>Electricity generating works-</b>				
<input type="checkbox"/> Capacity to generate up to 10Kw		<input type="checkbox"/>		
<input type="checkbox"/> Capacity to generate >10Kw			<input type="checkbox"/>	
<input type="checkbox"/> Wind turbines—located on land zoned R1, R5, RU5, IN1				
<input type="checkbox"/> Electricity Generating Works—capable of generating <10Mw				<input type="checkbox"/>
<b>Infrastructure – Transport</b>				
<input type="checkbox"/> Jetties		<input type="checkbox"/>		
<input type="checkbox"/> Moorings				
<input type="checkbox"/> Car parks—where the car park will be capable of accommodating <10 vehicles				
<input type="checkbox"/> Car parks—where the car park will be capable of accommodating up to 50 vehicles but not <10 vehicles (Car parks as ancillary development shall be as per the primary development type)			<input type="checkbox"/>	
<input type="checkbox"/> Airstrips				
<input type="checkbox"/> Transport Infrastructure—not elsewhere defined in this Table				

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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Airports <input type="checkbox"/> Helipads <input type="checkbox"/> Boat Launching Ramps <input type="checkbox"/> Car parks—where the car park will be capable of accommodating >50 vehicles (Car parks as ancillary development shall be as per the primary development type) <input type="checkbox"/> Passenger Transport Facilities <input type="checkbox"/> Transport Depots <input type="checkbox"/> Truck Depots <input type="checkbox"/> Wharf or Boating Facilities <input type="checkbox"/> Mooring Pens <input type="checkbox"/> Charter and Tourism Boating Facilities <input type="checkbox"/> Air Transport Facilities <input type="checkbox"/> Freight Transport Facilities <input type="checkbox"/> Port Facilities <input type="checkbox"/> Marinas				<input type="checkbox"/>
<b>Community infrastructure-</b>				
<input type="checkbox"/> Information and education facilities <input type="checkbox"/> Minor alterations to existing community infrastructure where impacts are likely to only affect adjoining land		<input type="checkbox"/>		
<input type="checkbox"/> Community Infrastructure—not elsewhere defined in this Table <input type="checkbox"/> Alterations to existing community infrastructure			<input type="checkbox"/>	

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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Emergency services facilities <input type="checkbox"/> Child care centres <input type="checkbox"/> Community facilities <input type="checkbox"/> Places of public worship <input type="checkbox"/> Public administration buildings <input type="checkbox"/> Research stations <input type="checkbox"/> Respite day care centres <input type="checkbox"/> Cemeteries (other than for private burials) <input type="checkbox"/> Mortuaries <input type="checkbox"/> Funeral Homes <input type="checkbox"/> Crematoria <input type="checkbox"/> Correctional centres <input type="checkbox"/> Industrial training facilities <input type="checkbox"/> Education establishments				<input type="checkbox"/>
<b>Health services facilities-</b>				
<input type="checkbox"/> Health consulting rooms <input type="checkbox"/> Medical centres <input type="checkbox"/> Other health services facilities			<input type="checkbox"/>	
<input type="checkbox"/> Hospitals				<input type="checkbox"/>
<b>Recreation-</b>				
<input type="checkbox"/> Environmental facilities <input type="checkbox"/> Recreation areas <input type="checkbox"/> Water recreation structures		<input type="checkbox"/>		
<input type="checkbox"/> Recreation facilities (indoor) <input type="checkbox"/> Recreation facilities (outdoor)			<input type="checkbox"/>	
<input type="checkbox"/> Recreation facilities (major)				<input type="checkbox"/>

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Local Development Type	Item			
	1A	1B	1C	1D
<b>Events-</b>				
<input type="checkbox"/> Events—small short term events (such as small festivals, markets, etc. )		<input type="checkbox"/>		
<input type="checkbox"/> Events—larger events				<input type="checkbox"/>
<input type="checkbox"/> Events involving amplified sound				
<b>Subdivision of land-</b>				
<input type="checkbox"/> Subdivision of Land—No new lots to be created	<input type="checkbox"/>			
<input type="checkbox"/> Strata Subdivision				
<input type="checkbox"/> Community Title Subdivision				
<input type="checkbox"/> Subdivision of Land—Containing <10 lots		<input type="checkbox"/>		
<input type="checkbox"/> Subdivision of Land—Containing 10 or more lots but <25 lots			<input type="checkbox"/>	
<input type="checkbox"/> Subdivision of Land—Containing or more 25 lots				<input type="checkbox"/>
<b>Signage-</b>				
<input type="checkbox"/> Building Identification Sign	<input type="checkbox"/>			
<input type="checkbox"/> Business Identification Signs				
<input type="checkbox"/> Flashing or Animated Signage		<input type="checkbox"/>		
<input type="checkbox"/> Advertising Structures- ⇒ with a display area for each sign up to 10m <sup>2</sup> ; and ⇒ total signage area on the land <20m <sup>2</sup>				
<input type="checkbox"/> Signage—not elsewhere defined in this Table				
<input type="checkbox"/> Signage—with a height >8 metres above existing ground level			<input type="checkbox"/>	
<input type="checkbox"/> Signage—with a display area >10m <sup>2</sup>				
<b>Miscellaneous-</b>				
<input type="checkbox"/> Environmental protection works	<input type="checkbox"/>			
<input type="checkbox"/> Cemeteries for private burials		<input type="checkbox"/>		
<input type="checkbox"/> Exhibition homes				
<input type="checkbox"/> Exhibition villages (consisting of <6 dwellings)				



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Local Development Type	Item			
	1A	1B	1C	1D
<input type="checkbox"/> Exhibition villages (consisting of more than 6 dwellings) <input type="checkbox"/> Flood mitigation works <input type="checkbox"/> Boat Building & Repair Facilities			<input type="checkbox"/>	
<input type="checkbox"/> Open cut mining <input type="checkbox"/> Extractive Industries <input type="checkbox"/> Temporary Uses—where the use would otherwise be prohibited in the Zone				<input type="checkbox"/>

### **Council may increase the Exhibition Period**

Notwithstanding the Table to this clause, Council may notify and/or advertise Local Development Applications for a longer period if in its opinion, and given the circumstances of the case, it believes it is in the best interests of the community for the development to be notified and/or advertised for a longer period.

### **3.6. How can the Public view Development Applications**

During the consultation period applications will be freely available for viewing/inspection by any person, at the locations, and during the times specified in the Published Notice and/or Written Notice.

#### **Council Administration Centres**

As a default, a copy of the application may be freely viewed/inspected by any person at Council's Administration Centres (Casino and Evans Head), during normal business hours on Mondays to Fridays (excluding public holidays and weekends).

- **Council Administration Centres**

- ☐ Casino—10 Graham Place CASINO
- ☐ Evans Head—25 Woodburn Street EVANS HEAD

#### **Website**

Where the Table to Chapter 3.3 specifies an application requires: a *Website post (including access to a digital copy of the application)*; or if Council elects to make an application available via its website, the application and support documents will be published on the Richmond Valley Council's On-Exhibition web page during the consultation period.

- **On-Exhibition Page**

<https://www.richmondvalley.nsw.gov.au/council/on-exhibition/>



### 3.7. Deficient Development Applications

Council reserves the right to delay public exhibition/notification of applications it considers to be deficient, such as:

- the application is indecipherable or does not contain essential information to enable assessment of the application (ie lacks a Statement of Environmental Effects or plans, it does not adequately consider planning controls, etc;
- there is no owners consent; or
- insufficient fees were paid.

The application will be publicly exhibited as soon as is practicable following receipt of a complete application.

### 3.8. Re-exhibition of advertised development

Applications under this Chapter may require re-exhibition if the application is modified (prior to determination), and in Council's opinion-

- the modification is significant; or
- the modification could potentially create new impacts to the environment or an adjoining property; or
- it would be in the public interest to re-exhibit the application given the length time since the application was last exhibited.

The application will be re-exhibited as per the minimum engagement requirements for the application type.





## 4. Strategic Planning

Council prepares a range of strategic planning documents including:

- Land use strategies and studies, such as:
  - Local Strategic Planning Statements
  - Local Growth Management Strategy
- Local Environmental Plans
- Development Control Plans
- Contributions Plans
- Planning Agreements
- Paper Subdivision Notices
- Community Participation Plans

Council also reviews and amends these plans on an ongoing basis, either as a result of internal reviews or by request of property owners.

### 4.1. Objectives of consultation for Development Applications

It is the objective of this Chapter to:

- provide a framework for the notification and/or advertising of strategic planning documents (including amendments);
- provide opportunity for the community to provide feedback on strategic planning, including the communities attitude towards a proposal, so these can be considered as part of the assessment process;
- establish a clear & consistent process by prescribing the minimum expectations for community engagement during the preparation of strategic planning documents;
- ensure that community participation is undertaken in accordance with the *Environmental Planning and Assessment Act 1979* and its Regulation.

### 4.2. Consultation goal

An effective consultation program does not necessarily mean that all interested parties will be satisfied with the outcome. Rather, it is about ensuring the best outcomes for the community have been fully explored, concerns identified, and, where possible, alternatives considered.



#### 4.3. Mandatory Requirements

The minimum engagement requirements for strategic planning matters are provided in the following Table:

Strategic Document	Minimum Consultation Period	Minimum Engagement Tools
<b>1. Community Engagement Plan (CPP) (Div.2.6 of the Act)</b>		
A. Draft Community Engagement Plan (CPP) (Div.2.6 of the Act)	28 days	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Social Media post</li> <li>Website post (digital copy of draft CPP)</li> <li>Display Notice</li> </ul>
<b>2. Planning Instruments (Part 3 of the Act)</b>		
A. Draft Local Strategic Planning Statement (S.3.9 of the Act)	28 days	<ul style="list-style-type: none"> <li>Published Notice (twice)</li> <li>Social Media post (twice)</li> <li>Website post (digital copy of draft Document)</li> <li>Display Notice</li> </ul>
B. Planning Proposals (to prepare an LEP or LEP Amendment) (Div.3.4 and 3.5 of the Act)	As per Gateway Determination condition(s)  (usually a minimum 28 days will apply, but may be 14 days, or can be waived if a minor administrative change is proposed or it is to correct an error)	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> <li>Social Media post</li> <li>Website post (digital copy of Planning Proposal)</li> <li>Display Notice</li> </ul>
C. Draft Development Control Plan (Div.3.6 of the Act)	28 days	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> <li>Social Media post</li> <li>Website post (digital copy of draft Plan)</li> <li>Display Notice</li> </ul>
Notice of an approved DCP		<ul style="list-style-type: none"> <li>Newspaper               <ul style="list-style-type: none"> <li>notice to be given within 28 days of making a decision to adopt a DCP</li> </ul> </li> </ul>
D. Local Growth Management Strategy  or any other Strategy requiring community engagement under the Act	28 days	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Written Notice</li> <li>Social Media post</li> <li>Website post (digital copy of draft Plan)</li> <li>Display Notice</li> </ul>

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Strategic Document	Minimum Consultation Period	Minimum Engagement Tools
<b>3. Infrastructure Contributions and Finance (Part 7 of the Act)</b>		
A. Planning Agreement Contemporaneously (concurrently) with the Development Application or Planning Proposal to which it relates	The minimum exhibition period for the Development Application or Planning Proposal  (see clauses 25D & 25E of the Reg for exhibition requirements)	<ul style="list-style-type: none"> <li>As per DA or Planning Proposal</li> <li>Social Media post</li> <li>Website post (digital copy of draft Agreement)</li> <li>Display Notice</li> </ul>
Separate to the Development Application or Planning Proposal	The minimum exhibition period for the Development Application or Planning Proposal but to be done as soon as possible after any notice has been given for the relevant Development Application or Planning Proposal  (see clauses 25D & 25E of the Reg for exhibition requirements)	<ul style="list-style-type: none"> <li>As per DA or Planning Proposal</li> <li>Social Media post</li> <li>Website post (digital copy of draft Agreement)</li> <li>Display Notice</li> </ul>
B. Draft Contributions Plan (S.7.11 or 7.12 (formerly S.94 and 94A) of the Act)	28 days	<ul style="list-style-type: none"> <li>Published Notice</li> <li>Social Media post</li> <li>Website post (digital copy of draft Plan)</li> <li>Display Notice</li> </ul>
<b>4. Paper Subdivisions (Schedule 7 of the Act)</b>		
A. Paper Subdivision – Notice of Consent Ballot	14 days before ballot papers are issued  (see clause 268ZB of the Reg for exhibition notice requirements)	<ul style="list-style-type: none"> <li>Published Notice <ul style="list-style-type: none"> <li>local newspaper, and</li> <li>daily newspaper with circulation generally in NSW</li> </ul> </li> </ul>

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Strategic Document	Minimum Consultation Period	Minimum Engagement Tools
B. Paper Subdivisions – Notice of Consent Ballot closing	28 days prior to Consent Ballot closing  (see clause 268ZB of the Reg for exhibition notice requirements)	<ul style="list-style-type: none"> <li>• Signpost Notice on Land</li> <li>• Display Notice</li> <li>• Social Media post</li> <li>• Website post (including access to digital copy of proposed development)</li> </ul>
C. Paper Subdivisions – Notice of Adoption of Development Plan	Within 28 days of decision	<ul style="list-style-type: none"> <li>• Published Notice</li> </ul>
D. Paper Subdivisions – Notice of Development Plan Amendment	28 days	<ul style="list-style-type: none"> <li>• Published Notice               <ul style="list-style-type: none"> <li>◦ daily newspaper with circulation generally in NSW</li> </ul> </li> </ul>

#### 4.4. How can the Public view Strategic Planning Documents

During the consultation period Strategic Planning documents will be freely available for viewing/inspection by any person, at the locations, and during the times specified in the Published Notice and/or Written Notice.

##### **Council Administration Centres**

A copy of the relevant Strategic Planning document may be freely viewed/inspected by any person at Council's Administration Centres (Casino and Evans Head), during normal business hours on Mondays to Fridays (excluding public holidays and weekends).

- **Council Administration Centres**

- Casino—10 Graham Place CASINO
- Evans Head—25 Woodburn Street EVANS HEAD

##### **Website**

The Strategic Planning document will be published on the Richmond Valley Council's On-Exhibition web page during the consultation period.

- **On-Exhibition Page**

<https://www.richmondvalley.nsw.gov.au/council/on-exhibition/>





## 5. Submissions

### 5.1. Submission Period

The submission period will be equivalent to the stated consultation period calculated for the planning matter in accordance with Chapters 3 and 4 of this CPP.

#### Informal Written Notice

There is no submission period associated with an Informal Written Notice. Notwithstanding, any person may make a written submission, but only those submissions received prior to Council's assessment of the Application can be considered.

### 5.2. Making a submission

Any person is entitled to make a submission, whether or not they have received a Written Notice.

Submissions must be:

- ☐ in writing;
- ☐ addressed to the General Manager, and
- ☐ delivered to Council either:
  - electronically by—
    - ☐ email to- [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)
    - ☐ online by filling out a Quick Contact Form at- <https://richmondvalley.nsw.gov.au/council/on-exhibition>
  - post—
    - ☐ Locked Bag 10 CASINO NSW 2470
  - deliver to a Council Administration Centre—
    - ☐ Casino—10 Graham Place CASINO
    - ☐ Evans Head—25 Woodburn Street EVANS HEAD

To guarantee acceptance of a submission, it must be received within the submission period.

#### What should a submission include?

Submissions must be in writing and should include the following:

- ☐ reference to the application or planning matter;
- ☐ if an objection, give reasons for the objection;
- ☐ the postal address or email address of the person(s) making the submission; and
- ☐ public disclosure of political donations or gifts, if the submission is in relation to a development application or planning proposal.



### 5.3. Petitions

Petition will be treated as a single submission. The head petitioner or, where not nominated, the first petitioner will be acknowledged for the purposes of future contact on the planning matter. Only the head petitioner will be advised of any related meeting times or will receive written confirmation of a determination or outcome on the matter.

### 5.4. Anonymous Submissions

Objectors have a right to remain anonymous if they choose. However, should an objector need to substantiate their objections, anonymous objections may be given less weight in the overall consideration of the planning matter. Furthermore, Council will be unable to acknowledge receipt of anonymous submissions or provide details of determinations and outcomes.

### 5.5. Submissions to be Public Documents

All submissions will be registered against the relevant application or strategic planning matter and become public records. In the great majority of cases, Council is obliged by the requirements of the *Government Information (Public Access) Act 2009* (GIPA) to allow access to its files, even when the matter is the subject of litigation. As such submissions may be-

- inspected by third parties (including the Applicant) by way of a Government Information Public Access (GIPA) application or subpoena;
- reported to Council along with a summary of matters raised in the submission (and which may include a copy of the submission attached to a report); or
- forwarded to the Applicant to encourage them to address issues raised.

Council will do its best to redact the personal details (name and contact details) of submitters from submissions prior to their viewing by the public.

Note. Council may be required to supply unaltered copies of submissions under subpoena or to Government Agencies. As such the personal details of the submitter may be retained on the submission. Once Council forwards the submission it will have no control over how these submissions will be handled, or what access the public may have to the submission.

### 5.6. Defamatory Statements or Language

Council accepts no responsibility for defamatory statements, inappropriate language, or other similar matters, that have been included in submissions. Any such matters are included in submissions at the risk of the person making the statement.





### 5.7. How Council deals with Submissions

All submissions received during the submission period will be:

- acknowledged as soon as practicable by Council following the conclusion of the submission period; and
- the submitter will be notified in writing of the final determination or decision.

### 5.8. Declaration of Political Donations

Section 10.4 of the *Environmental Planning and Assessment Act 1979* (Act) requires the public disclosure of donations or gifts when lodging or commenting on:

- a Development Application, or any like application; or
- the preparation of a Local Environmental Plan (or LEP amendment), or a Development Control Plan.

The intent of this law is designed to improve the transparency of the planning system.

#### Who should make a Disclosure?

Disclosure of a reportable political donation and/or gift is to be made by a person having a financial interest in the relevant planning matter within the period: commencing two years before the planning matter was lodged, and ending when the matter is determined. This includes:

- all reportable political donations made to an elected Councillor of Richmond Valley Council; and
- all gifts made to any Councillor or employee of Richmond Valley Council.

#### How and when to make a disclosure

If you are required to make a disclosure of a reportable political donation or gift under the Act, the disclosure is to be made:

- in, or in a statement accompanying, the relevant planning matter if the donation or gift was made before the application or submission was made; or
- if the donation or gift is made afterwards, in a statement by the person to whom the relevant planning matter was made, within seven days after the donation or gift is made.

#### What is a Reportable Political Donation or Gift?

A reportable political donation includes those of or above \$1,000.

A reportable gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note. A reportable political donation or gift made to a Councillor or Council includes any donation made at the time the person or Councillor was a candidate for election to Council.



### **Offences**

A person is guilty of an offence under the Act only if the person fails to make a disclosure of a political donation or gift, in accordance with Section 10.4, that the person knows, or ought reasonably to know, was made and is required to be disclosed.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

### **Further Information**

For further information, refer to the Department of Planning, Industry & Environment's webpage and Circular PS 08\_009-

<https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/Donations-and-Gift-Disclosure>



## Annexure A. Mandatory Participation Requirements under Schedule 1 to the Act

Part 1 of Schedule 1 to the Act sets out mandatory community participation requirements, being the minimum requirements for public exhibition and engagement with the community on various planning functions.

Alternative mandatory requirements may be provided by this CPP for how development applications (other than complying development certificates, designated development, or State significant development) will be exhibited. These are contained in the Table to Chapter 3.5 of this CPP.

The *Environmental Planning and Assessment Regulation 2000* (the Reg) may also prescribe additional mandatory requirements for community participation or make changes to the Part 1 mandatory requirements (see Chapter 1.7 and Annexure B for details).

### Part 1 Mandatory community participation requirements

#### Division 1 Minimum public exhibition periods for plans

1	Draft community participation plans (Division 2.6)	28 days
2	Draft regional or district strategic plans (Division 3.1)	45 days
3	Draft local strategic planning statements (Division 3.1)	28 days
4	Planning proposals for local environmental plans subject to a gateway determination (Division 3.4)	28 days or: (a) if a different period of public exhibition is specified in the gateway determination for the proposal—the period so specified, or (b) if the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition
5	Draft development control plans (Division 3.6)	28 days
6	Draft contribution plans (Division 7.1)	28 days

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### **Division 2 Minimum public exhibition periods for development applications and other matters**

7	Application for development consent (other than for complying development certificate, for designated development or for State significant development)	14 days or: (a) if a different period of public exhibition is specified for the application in the relevant community participation plan—the period so specified, or (b) if the relevant community participation plan specifies that no public exhibition is required for the application—no public exhibition
8	Application for development consent for designated development	28 days
9	Application for development consent for State significant development	28 days
10	Application for modification of development consent that is required to be publicly exhibited by the regulations	The period (if any) determined by the consent authority in accordance with the relevant community participation plan
11	Environmental impact statement obtained under Division 5.1	28 days
12	Environmental impact statement for State significant infrastructure under Division 5.2	28 days
13	Re-exhibition of any amended application or matter referred to above required by or under this Schedule	The period (if any) determined by the person or body responsible for publicly exhibiting the application or matter





## **Annexure B. Engagement Requirements of the Planning Regulation**

The *Environmental Planning and Assessment Regulation 2000* (the Reg) defines mandatory community engagement requirements, but may also vary those provided in Schedule 1 to the Act. Following is an overview of additional engagement requirements provided under the Reg, and how they apply to this CPP.

### **Draft Development Control Plan**

A draft Development Control Plan (DCP) must be publicly exhibited in accordance with clause 18 of the Reg. A council must:

- give public notice in a local newspaper of the places, dates and times for inspecting the draft DCP;
- publicly exhibit a copy of the draft DCP and a copy of the relevant LEP at the places, on the dates and during the times set out in the notice; and
- specify in the notice the period during which submissions about the draft DCP may be made to the council (which must include the period during which the Draft DCP is being publicly exhibited).

The minimum exhibition period for a Draft DCP is 28 days (as provided by clause 18 of the Reg, and clause 5 in Schedule 1 to the Act).

### **Draft Planning Agreements**

Clauses 25D & 25E outline how a Planning Agreement, or an agreement to amend or revoke a Planning Agreement, must be notified in connection with a Development Application (DA) or Planning Proposal (PP).

- In each case it must be publicly exhibited concurrently (contemporaneously) with the DA or PP; or if this is not possible, as soon as possible after such notice was given.
- A public notice must specify the arrangements for the public to inspect the draft Agreement, including an explanation note summarising the objectives, nature, effect, and merits of the draft Agreement.

The minimum period for exhibition of a Planning Agreement is 28 days (as provided by section 7.5(1) of the Act).

Following adoption of a Planning Agreement, Council must forward a copy of the Planning Agreement to the Minister, and report on compliance with the Agreement within its Annual Report(s).



### **Draft Contributions Plans**

A draft Contributions Plan must be publicly exhibited in accordance with clause 28 of the Reg. A council must:

- give public notice in a local newspaper of the places, dates and times for inspecting the draft Plan;
- publicly exhibit a copy of the draft Plan and a copy of any support documents at the places, on the dates and during the times set out in the notice; and
- specify in the notice the period during which submissions about the draft Plan may be made to the council (which must include the period during which the Draft Plan is being publicly exhibited).

The minimum period for exhibiting a Draft Contributions Plan is 28 days (as provided by clause 6 of Schedule 1 to the Act)

### **Designated Development**

Clauses 78, 79 & 80 outline the minimum requirements for how designated development must be publicly exhibited. A council must:

- publish a notice, give written notice, and display a signposted notice on the land;
- give at least 2 separate Published Notices (within the display section of a newspaper and appear across 2 or 3 columns);
- provide specified information about the application in the notices; and
- identify the places where the application and documents may be inspected.

This CPP adopts a minimum 30 day exhibition period for designated development. (There are inconsistencies between the Act and the Reg on the minimum exhibition period for designated development (clause 78(2) of the Reg—has a minimum 30 days (starting the day after notice is given under clause 80); and clause 8 of Schedule 1 to the Act—has a minimum of 28 days). Under normal circumstances the requirements of the Act would prevail over the Regulation, however, Part 2 of Schedule 1 provides for a Regulation to amend or prescribe additional mandatory requirements for community engagement. To remove doubt, this CPP has adopted 30 days.)

### **Other advertised development**

Clauses 87, 88 and 89 outline minimum requirements for publicly exhibiting “Other Advertised Development”. However, “Other Advertised Development” is no longer defined in the Reg. The term had formerly referred to:

- Nominated Integrated Development;
- Threatened Species Development;
- Class 1 Aquaculture Development, and
- Advertised Development as defined in a DCP.





The minimum exhibition periods for most of these items are now captured by Schedule 1 to the Act or this CPP, however, clauses 87, 88 & 89 of the Reg must still be consulted on how, what and where such applications will be exhibited. This includes:

- giving Written and Published Notices as soon as practicable after lodgement;
- Written Notice to be given to the own or occupier of land adjoining land to which the application relates, and to public authorities having an interest in the application;
- Published Notice is to appear in a local newspaper;
- notices to include certain details about the application as well as where the application can be inspected, the period of exhibition, and that written submissions can be made to Council.

- ***Nominated Integrated Development***

The minimum period for exhibiting Nominated Integrated Development is 28 days (as provided by clause 89(3) of the Reg)

- ***Threatened Species Development***

The minimum period for exhibiting Threatened Species Development is 28 days (as provided by clause 89(3) of the Reg)

- ***Advertised Development***

The minimum period for exhibiting Advertised Development is generally 14 days, however, the Table to Chapter 3.3 of this CPP identifies circumstances where development need not be exhibited (other than an informal notification), or where a longer period of exhibition is required.

Note.

Class 1 aquaculture development has been repealed.

*Nominated Integrated Development* is defined in clause 89 of the Reg as any development application (not threatened species development or Class 1 aquaculture development) that requires an integrated development approval (as listed within section 4.46(1) of the Act) under the *Heritage Act 1977*, *Water Management Act 2000*, or *Protection of the Environment Operations Act 1997*.

## **Review of Determination**

An application seeking a review of determination must be notified or advertised in accordance with Clause 113A of the Reg:

- for a period not exceeding 14 days, but otherwise in the same manner as the original development application was notified or advertised; or
- such other period as provided in a DCP for such an application.

Note. This CPP requires a review of determination to be notified or advertised if the original determination was a refusal, or there were written submissions



received for the application. Fourteen (14) days has been adopted for notification or advertising. See the Table to Chapter 3.3 of this CPP for requirements.

- a Written Notice and/or Published Notice is to contain a brief description of the original application and the land it relates; and
- contain a statement that submissions may be made during the exhibition period specified.

### **Application to Modify Development Consent**

There are various types of modifications that can be made to development consents.

- ***Modification involving minor error, misdescription or miscalculation - Section 4.55(1) of the Act***

Neither the Act nor the Reg require such modification applications to be publicly exhibited.

- ***Modification of Consent involving Minimal Environmental Impact - Section 4.55(1A) or Section 4.56 of the Act***

Clause 117 of the Reg outlines that a modification application with minimal environmental impact is only required to be notified or advertised if required by a DCP.

Note. This CPP substitutes for the requirements of a DCP. The Table to Chapter 3.3 of this CPP does not require such applications to be notified or advertised, unless the original application was advertised or notified.

- ***Other modifications involving Designated Development - Section 4.55(2) or Section 4.56(1) of the Act***

Clause 118 of the Reg outlines the requirements for notifying a Section 4.55(2) or 4.56(1) application to modify designated development consents (except for those with minimal environmental impact). This includes:

- notice of the application being published in a local newspaper;
- Written Notice be given to each person who made a submission in relation to the original application;
- notices are to contain certain information about the development consent and modification(s) sought;
- notices to specify the application can be inspected during the exhibition period, and written submissions may be made to Council during the exhibition period; and
- a statement that, if the application is approved, there is no right of appeal to the Court by an objector.

The minimum period for exhibiting a modification to designated development is 14 days, starting the day following the published notice (as provided by clause 118(6) of the Reg)



Note. This CPP may specify a longer notification or advertising period. See the Table to Chapter 3.3 of this CPP for requirements.

• ***Other modifications excluding Designated Development - Section 4.55(2) or Section 4.56(1) of the Act***

Clause 119 of the Reg requires applications seeking a Section 4.55(2) or Section 4.56(1) modification of a development consent (other than designated development or a modification involving minimal environmental impact) to be notified or advertised:

- for a period not exceeding 14 days, but otherwise in the same manner as the original development application was notified or advertised; or
- such other period as provided in a DCP for such an application

Note. This CPP substitutes for the requirements of a DCP. It adopts a minimum exhibition period of 14 days, or such longer period as determined by Council having regard to the merits of the application. See the Table to Chapter 3.3 of this CPP for requirements.

- the notice or advertisement must contain a brief description of the original application and the land it relates; and
- contain a statement that submissions may be made during the exhibition period specified.

**Public notification of determinations**

If public notice, under section 4.59 of the Act, is given of the granting of development consent, or a complying development certificate, the validity of the consent or certificate cannot be questioned in any legal proceedings unless commenced within 3 months of the notice being given.

Clause 124 of the Reg requires such notices to:

- appear in a local newspaper, along with a description of the land and the development; and
- include a statement that the consent or certificate is available for public inspection.

**Part 5 Activities for which an EIS is required**

Clauses 233, 234 & 235 outline the minimum requirements for notification and advertising of Part 5 activities for which an Environmental Impact Statement (EIS) is required, including:

- the need for a Published Notice and Written Notice;
- information that must be contained in the notices about the application;
- a requirement for at least 2 separate Published Notices to be given in a daily newspaper circulating generally throughout the State, and in a local newspaper (and that it





- must be in the display sections of those newspapers and appear across 2 or 3 columns);
- places where the application and documents may be inspected;
- a minimum 30 day exhibition period; and
- any person may make written representations to Council before the closing date for the exhibition period.

Note. Clause 11 of Schedule 1 to the Act specifies a minimum 28 day period for exhibiting a Part 5 EIS.

This CPP specifies the minimum period for exhibiting a Part 5 EIS will be 30 days and must be displayed at the:

- Council's principal offices; and
- Sydney office of The Environment Centre (NSW) Pty Ltd.

### **Paper Subdivisions**

Clause 268ZB outlines the requirements for giving notice of a consent ballot to adopt a Paper Subdivision Development Plan. Council must:

- not less than 14 days before the issuing of ballot papers—publish a notice of a consent ballot in a local newspaper, and a daily newspaper circulating generally throughout NSW;
- not less than 28 days before the ballot closes—display a signpost notice on, or in the vicinity of, the land;
- include certain information about the Development Plan in the above notices; and
- make the proposed Development Plan publicly available.



## Annexure C. Community Engagement Tools

Council may use a range of traditional and modern communication methods to engage and inform the community, and gain feedback on, planning matters. The Tables to Chapters 3.3 & 4.3 outline the minimum engagement periods and tools to be used: however, additional tools may be employed as required.

- Published Notices
- Written Notices
- Informal Written Notices
- RVC Website
- Social Media
- RVC Views Community Newsletter
- Press Releases
- Letterbox Drops
- Rate Notice Inserts
- Public Hearings
- Public Access at a Council Meetings
- Display Notices in Council's Administration Centres
- Display Notices in Council's Libraries
- Signposted Display Notices on, or in the vicinity of, the land
- Mobile Library - Display Notices and/or Drop In interviews
- Display Notices at DPIE
- Public Forums/Meetings
- Meet with Community Groups
- Interviews by appointment
- Pop Up Stall/Information Stand at venues or events
- Online or Telephone Surveys

Following is a summary of how the engagement tools would be used by this CPP.

### Published Notice

A Published Notice (also referred to as an "advertisement" in this CPP) is the publication of a notice in a newspaper and/or Council Community Newsletter.

Unless otherwise stated in this CPP the following will be used for Published Notices-

- **Valley Views – Richmond Valley Council Newsletter**

Richmond Valley Council publishes a monthly Community Newsletter. The Newsletter is circulated by post to the Service Address of all Ratepayers. *Valley Views* is also



available on the *Richmond Valley Council Facebook Page* and is emailed to registered subscribers.

- **Newspapers**

***The Richmond River Express Examiner*—(default newspaper)**—This is a free newspaper published weekly (currently on Wednesdays) having circulation throughout the LGA.

*The Richmond River Express Examiner* will be the default for Published Notices. Subject to the Reg, Published Notices may appear in the display section or Council's consolidated advertisement section.

***The Northern Star*—(alternative newspaper)**—This is a paid/subscription newspaper published daily, except Sundays, with circulation throughout the Northern Rivers Region.

Urgent notices required to be given between publications of *The Richmond River Express Examiner* may be published in the display section of *The Northern Star* as an alternate.

- **Daily Newspaper Circulating throughout NSW**

***The Daily Telegraph*—(default newspaper)**—This is a newspaper published daily with circulation throughout New South Wales.

*The Daily Telegraph* will be the default newspaper for notices required to be published in a newspaper with daily circulation in the State.

### **Written Notice**

A Written Notice (also referred to as a “notification” in this CPP) refers to a letter being sent to the owner(s) of land.

The Reg provides that Written Notice to:

- one owner or occupier of land—is taken to be notice to all owners and occupiers of that land, and
- the Owners Corporation of a Strata scheme—is taken to be notice to all owners or occupiers of each lot within the strata scheme.

Written Notices will be sent to the Service Address held by Council for the owner of the land.

### **Informal Written Notice**

An Informal Written Notice refers to a letter sent to the owner of land as a curtesy, when no other formal notification (Written or Published Notices) is required to be given for a development application.

Informal Written Notices will be sent to the Service Address held by Council for the owner of the land.





### **Display Notice and Viewing of Documents in Council's Administration Centres**

During the exhibition period, planning matters and support material will be freely available for viewing by the public at either of Council's Administration Centres in Casino and Evans Head.

Council may also display a notice in the foyer of each of its Administration Centres, as required.

- **Council's Administration Centres are located at-**

- Casino—10 Graham Place CASINO
- Evans Head—25 Woodburn Street EVANS HEAD

### **Signposted Display Notices on, or in the vicinity of, the land**

A copy of the Published Notice may be displayed on, or in the vicinity of, the land.

Signposted display notices must be located in a position, and be of sufficient size, to enable it to be viewed and read from a public place.

If it is not possible to locate the display notice on the land, it should be located in the vicinity of the land and clearly identify the land to which the notice relates.

- **Default Notice**

Council's default display notice will consist of a laminated A3 poster containing a copy of the Published Notice.

### **Richmond Valley Council Website**

The Richmond Valley Council website is the primary tool for delivery of information to its community.

The On-Exhibition page displays all notices relating to matters on public exhibition, including non-town planning related matters.

- **Richmond Valley Council website**

<https://richmondvalley.nsw.gov.au/>

- **On-Exhibition Page**

<https://richmondvalley.nsw.gov.au/council/on-exhibition/>

A digital copy of:

- a development assessment matter will be provided on the On-Exhibition page when required by the Table to Chapter 3.3 (as a very minimum); and
- all strategic planning matters will be provided on the On-Exhibition page.



### **Social Media**

Where this CPP requires notices to be posted on Social Media the default will be-

- ***Richmond Valley Council Facebook Page—(Default)***

Richmond Valley Council regularly publishes news and event information on its Facebook page. It also offers the community an opportunity to provide feedback in the form of comments, however these comments will not be considered as formal written submissions for the purposes of this CPP.

<https://www.facebook.com/RichmondValleyCouncil/>

### **Press Releases and Media Statements**

Press Releases are official statements issued by Council to the media. The Mayor, General Manager, and Director of Infrastructure & Environment are authorised to issue Press Releases, and to make official statements to the media.

All enquiries should be directed to Council's Manager of Communications, Events and Tourism – 02 66600300, or email [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au).

### **Letterbox Drops**

Letterbox Drops are targeted at the occupiers of land: as opposed to Written Notices that are targeted at the property owner. Notices can be distributed in several ways:

- ***Australia Post***

Australia Post will distribute brochures and notices to all post office boxes and letter boxes within a defined locality as a paid service. It can be used as an efficient means of distribution notices to a large area and volume of households.

- ***Hand Delivery***

Hand delivered notices may be a more efficient way of distributing brochures and notices to a small number of properties.

### **Rate Notice Inserts**

Rate notices are posted to all ratepayers in mid-to-late July, and again in mid-to-late October, January and April to those electing to pay rates in instalments. This is a paid service provided by the distributor of Council's rate notices.

### **Public Access at a Council Meeting**

Members of the community can register to give a 5 minute presentation to Councillors at a General Council Meeting on an item contained in the Meeting Agenda. Such presentations are normally conducted at the beginning of the meeting; however, they may be



conducted at a separate meeting if there is a large demand for presentations.

- **Registering for Public Access**

To register for public access please contact Council's Governance Section – 0266600300 or email [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au), prior to 4.30pm on the Monday before the Scheduled Council Meeting.

### **Public Hearing**

A Public Hearing is a formal process for a person to give a verbal presentation to a Panel on issues raised in their submission.

Each person who registers to present to a Public Hearing will be given a defined period of time to speak on their submission.

A Public Hearing will be conducted if:

- required by a Gateway Determination on a Planning Proposal;
- it reclassifies "community land" to "operational land" under the *Local Government Act 1993*; or
- Council decides to conduct a Public Hearing (due to an issue; or where a submission has raised an issue of such significance to warrant a hearing).

### **Display Notices in Council's Libraries**

Council may display a copy of the Published Notice for a Strategic Planning matter on the Community Notice Board at its libraries in Casino, Coraki, Evans Head, and the mobile library. A copy of the Strategic Planning documents may also be available for inspection, but can also be made available upon request.

### **Mobile Library - Drop In interviews**

Council staff may travel with the Mobile Library as it services the Richmond Valley Community. Advanced notice of attendance will be provided in a Published and/or Written Notice, including the dates and times staff will be available for interview in the Mobile Library.

- **Mobile Library Timetable**

The Mobile Library timetable (correct at time of publication)-

- Woodburn @Duke Street
  - each Tue. 9.45am to 11.15am
- Woodburn General Public School
  - each Tue. 11.45am to 12.15pm (except during school holidays)
- Broadwater Community Hall
  - each Tue. 1.45pm to 3pm
- Stratheden School





- week 1 only - Wed. 12 noon to 12.30pm (except during school holidays)
- Leeville School
  - week 2 only – Thur. 9.10am to 9.45am (except during school holidays)
- Rappville School
  - week 2 only – Thur. 10.30am to 11am (except during school holidays)
- Rappville @Nandabah Street
  - week 2 only – Thur. 11.10am to 11.45am
- Whiporie
  - week 2 only - Thur. 1pm to 3pm (except during school holidays)

#### **Display at Department of Planning, Industry & Environment (DPIE) Office**

Council is required to exhibit a copy of an Environmental Impact Statement (EIS) at the offices of the Department of Planning, Industry & Environment.

Council will provide a copy of the Published Notice, along with a copy of the Application Form and the EIS, for display and viewing at the-

- Northern Region Offices of the Department of Planning, Industry & Environment—Level 3, 49 Victoria Street GRAFTON NSW

#### **Public Forums/Meetings**

Public forums and meetings may be organised to provide information to the community, and to receive feedback, on a town planning matter. Forums can be run as-

- **Group Sessions**

Where a large group is given a presentation from Council and the community is welcomed to speak from the floor by making statements, posing questions, suggesting solutions; and maybe asked to vote on an opinion.

- **Small Group Sessions**

This is where a Group Session is split into smaller groups, each with a mediator/presenter. Each group may focus on a specific task or issue, and provide feedback to the group; answer questions; or work together to suggest solutions to a problem.



### **Meet with Community Groups/Schools**

At the invitation of a Community Group or School, Council staff may attend a meeting/class to present information on a relevant planning matter.

Appointments can be arranged by calling 02 66600300 or emailing [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au).

### **Interviews by appointment**

Council staff are available by appointment to meet with community members on a one-on-one interview basis to discuss and receive feedback on a relevant planning matter. Appointments can be arranged by calling 02 66600300 or emailing [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au).

### **Pop Up Stall/Information Stand at venues or events**

- ***Pop up Stall***

This is a temporary stall set up in a public location or at a community event where the public can provide spontaneous feedback.

- ***WalkShop***

This involves Council staff or a consultant walking around with a community stakeholder, or interest group, and recording their ideas on a project or area.

### **Online or Telephone Surveys**

Council may conduct a poll or survey using any of the following:

- ☐ telephone poll or survey
- ☐ online survey
- ☐ Facebook



**Richmond Valley  
Development Control Plan 2015  
(Amendment No.1) –  
Community Participation Plan**

November 2019



Richmond Valley  
Development Control Plan 2015 (Amendment No.1) –  
Community Participation Plan

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## **1. Citation**

This Plan may be cited as *Richmond Valley Development Control Plan 2015 (Amendment No.1) – Community Participation Plan*. It constitutes an amendment to the *Richmond Valley Development Control Plan 2015* as provided by Section 3.43(4) of the *Environmental Planning and Assessment Act 1979*.

## **2. Commencement**

This Plan commences on 1 December 2019, or publication of *Richmond Valley Council Community Participation Plan 2019* on the NSW Planning Portal, whichever occurs latter.

## **3. Land to which this Plan applies**

This Plan applies to all land within the Richmond Valley Council local government area.

## **4. Relationship to other Planning Instruments**

This Plan provides for the amendment of *Richmond Valley Development Control Plan 2015*, which provides more detail in regards to provisions in the *Richmond Valley Local Environmental Plan 2012*.

## **5. Aims of this Plan**

The aim of this Plan is to amend the *Richmond Valley Development Control Plan 2015* by omitting the Notification and Advertising of Development sections of the Plan, in lieu of those requirements being incorporated into the *Richmond Valley Council Community Participation Plan 2019*.

## **6. Amendment of Richmond Valley Council Development Control Plan 2015**

[1] Omit Part J from the *Richmond Valley Development Control Plan 2015*.