

Richmond
Valley
Council



AGENDA

Ordinary Council Meeting

I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Tuesday, 22 October 2024

Time: 6pm

**Location: Council Chambers
10 Graham Place, Casino**

**Vaughan Macdonald
General Manager**

Statement of Ethical Obligations

In accordance with Clause 3.23 of the Model Code of Meeting Practice, Councillors are reminded of their Oath or Affirmation of Office made under section 233A of the *Local Government Act 1993* and their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Oath or affirmation of office

The Oath or Affirmation is taken by each Councillor whereby they swear or declare to:

Undertake the duties of the office of Councillor in the best interests of the people of the Richmond Valley and Richmond Valley Council, and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

Conflicts of interest

All Councillors must declare and manage any conflicts of interest they may have in matters being considered at Council meetings in accordance with Council's Code of Conduct.

All declarations of conflicts of interest and how the conflict of interest was managed will be recorded in the minutes of the meeting at which the declaration was made.

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1 ACKNOWLEDGEMENT OF COUNTRY

The Mayor will provide 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**3 PUBLIC ACCESS****4 APOLOGIES**

5 MAYORAL MINUTES

5.1 MAYORAL MINUTE - HER EXCELLENCY THE HONOURABLE MARGARET BEAZLEY AC KC, GOVERNOR OF NEW SOUTH WALES, AND MR DENNIS WILSON VISIT TO THE RICHMOND VALLEY

Author: Robert Mustow

RECOMMENDATION

That Council writes to Her Excellency the Honourable Margaret Beazley AC KC, Governor of New South Wales, and Mr Dennis Wilson to thank them for visiting the Richmond Valley area and showing support and encouragement to our community.

REPORT

This month, I was delighted to welcome Her Excellency the Honourable Margaret Beazley AC KC, Governor of New South Wales, and Mr Dennis Wilson to the Richmond Valley, to meet our incoming Council and spend time with local community groups and volunteers from the Richmond Valley area.

While in Casino, the Governor and Mr Wilson learned more about the work of Bulgarr Ngaru Medical Aboriginal Corporation and visited Casino and District Memorial Hospital to thank staff and supporters for their work. They also enjoyed a tour of the NRLX facility and were keen to learn about the region's agricultural heritage. Later that day, the Governor and Mr Wilson were guests of honour at the opening of the Casino Show.

At Woodburn, the Vice Regal couple enjoyed a community morning tea to thank community volunteers and organisations for their continued efforts in flood recovery. They also visited the Mid Richmond Neighbourhood Centre to learn more about its flood recovery and youth programs.

The Governor and Mr Wilson also visited Evans Head, taking the opportunity to thank volunteers of the Heritage Aviation Museum and Evans Head-Casino Surf Lifesaving Club. After laying a wreath at Evans Head War Cemetery, they met with members of the Woodburn/Evans Head RSL Sub-branch and later travelled to New Italy Museum for a tour, afternoon tea and to meet with volunteers and descendants of the original settlers.

This was a wonderful opportunity for members of our community to meet the Vice Regal couple and to receive acknowledgement for the hard work of the many local organisations and volunteers who contribute to our community every day.



Richmond Valley Council visit



New Italy Museum Tour

ATTACHMENT(S)

Nil

6 CONFIRMATION OF MINUTES

6.1 MINUTES ORDINARY MEETING HELD 20 AUGUST 2024

Director: Vaughan Macdonald

Responsible Officer: Julie Clark

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Meeting held on 20 August 2024.

REPORT

Refer attached Minutes.

ATTACHMENT(S)

- 1. Unconfirmed Minutes 20 August 2024 (under separate cover)**

6.2 MINUTES EXTRAORDINARY MEETING HELD 9 OCTOBER 2024**Director: Vaughan Macdonald****Responsible Officer: Julie Clark****RECOMMENDATION**

That Council confirms the Minutes of the Extraordinary Meeting held on 9 October 2024.

REPORT

Refer attached Minutes.

ATTACHMENT(S)

- 1. Unconfirmed Extraordinary Minutes 9 October 2024 (under separate cover)**

7 MATTERS ARISING OUT OF THE MINUTES

8 DECLARATION OF INTERESTS

(Councillors to specify details of item and nature of interest)

9 PETITIONS

Nil

10 NOTICE OF MOTION

Nil

11 MAYOR'S REPORT**11.1 MAYORAL ATTENDANCE REPORT 16 AUGUST -15 OCTOBER 2024****Author: Robert Mustow****RECOMMENDATION**

That Council receives and notes the Mayoral Attendance Report for the period 16 August – 15 October 2024.

August

- 16th St Michael's Residential Aged Care resident 100th birthday celebration
- 17th Richmond Valley Business Awards
- 18th Vietnam Veterans Memorial Service Evans Head
- 19th Northern Rivers Community Leaders Forum
- 20th Richmond Valley Council Ordinary meeting
- 21st Rous Council meeting
- 27th Richie Williamson MP visit to Casino
- 27th Citizenship Ceremony
- 29th CWA - French international day
- 30th NRRT Meeting – Mullumbimby
- 31st Casino Truck Show thank you dinner

September

- 5th Legacy Week wreath laying ceremony
- 7th Parkrun Casino – 200th event
- 8th World Suicide Prevention Day Casino
- 15th Casino Annual Fun Run
- 22nd Millie's Cancer fundraising event
- 22nd Spring Orchid Show - Woodburn
- 23rd Performing Arts Festival – Small Schools Casino and Kyogle
- 24th Casino SES Youth Internship Program
- 25th St Mary's Year 12 Graduation Mass
- 25th Lions Club Youth Public Speaking competition
- 26th Casino High School Year 12 Graduation ceremony
- 26th Centenary Celebrations Coraki Fire Station
- 27th Casino Christian School Year 12 graduation ceremony
- 27th Casino Cobras Senior Presentation night
- 29th 2024 Casino Show Society young woman of the year dinner

October

- 1st VRA Rescue NSW - Casino AGM
- 7th Malibu Classic presentation Evans Head
- 9th Richmond Valley Council – Welcome and briefing
- 9th Her Excellency the Honourable Margaret Beazley AC KC, Governor of NSW, and Mr Dennis Wilson discussion with Councillors and the General Manager.
- 9th Richmond Valley Council Extraordinary meeting
- 10th New Italy Museum afternoon tea with Her Excellency the Honourable Margaret Beazley AC KC, Governor of NSW, and Mr Dennis Wilson

- 11th NRLX visit with Her Excellency the Honourable Margaret Beazley AC KC, Governor of NSW, and Mr Dennis Wilson.
- 11th Casino Show Official opening
- 12th Her Excellency the Honourable Margaret Beazley AC KC, Governor of NSW, and Mr Dennis Wilson morning tea with residents of Woodburn, Broadwater and surrounds.
- 15th White Cane Day – Walk around Casino
- 15th Richmond Valley Councillor Information Session

ATTACHMENT(S)**Nil**

12 DELEGATES' REPORTS**12.1 DELEGATES' REPORT AUGUST 2024 - ROUS COUNTY COUNCIL****Director:** Vaughan Macdonald**Responsible Officer:** Robert Mustow**RECOMMENDATION**

That Council receives and notes the Delegates' Report – Rous County Council for August 2024.

REPORT

Council delegates are required to report on meetings/forums attended on Council's behalf.

Cr Robert Mustow and Cr Sandra Humphrys have provided the following summary of the main items of business for the Rous County Council Ordinary Meeting held on 21 August 2024.

ATTACHMENT(S)

- 1. Rous County Council Meeting Summary 21 August 2024**

Rous County Council Meeting 21 August 2024

Summary of main items of business



1. Presentation – Laurie Lefcourt (Chair) ARIC Annual Performance Report

The Chairperson of the Rous County Council Audit, Risk and Improvement Committee, delivered a presentation reporting on the performance of Committee during 2023-24. A detailed performance report was also presented to Council outlining that the Committee had effectively fulfilled its responsibilities throughout the year.

2. Preliminary 2023/24 End of Financial Year Summary and Budget Carry Forwards

The Preliminary 2023/24 End of Financial Year Summary report (including proposed carry forwards) was provided.

Carryovers for 2024/25 reflect the planned scope of works outlined in the Long-Term Financial Plan. Delays in large multi-year projects like the Future Water Program, Gallans Road Precinct, and Smart Metering and Backflow made up a significant portion of the proposed carryovers. Most of the changes were due to timing rather than overall budget alterations.

Council approved both the preliminary financial results and the carryovers as presented.

3. Purified Recycled Water Investigation report

Council received an update on the result of investigations into the feasibility of Purified Recycled Water (PRW). Investigations included an evaluation of Direct Potable Reuse (DPR) schemes at all regional wastewater treatment plants.

Regulatory issues were identified as a key barrier to PRW. Cost effectiveness was also identified as a relevant consideration.

Council resolved to receive the report and defer further PRW pilot investigations until conditions change and PRW became a viable Stage 3 option. Future PRW work will be reviewed in the next Integrated Water Cycle Management Strategy.

Further information can be found on link <https://rous.nsw.gov.au/future-water-project>

4. Desalination Options

The review of temporary desalination found it poses significant implementation risks and is not practical for emergency water supply during severe droughts. As a result, it is not a reliable emergency measure.

Council resolved to:

1. Receive and note the *Desalination Options Assessment Report* (June 2024)
2. Include Temporary Desalination as an option for consideration in an adaptive approach for the next revision of the Drought Management Plan.

3. Continue to focus planning efforts on preventative measures to reduce the impact of future droughts, through additional source augmentations.
4. Note the significant cost of a Permanent Desalination plant and poor comparison to previously costed groundwater and surface water alternatives.
5. Include Permanent Desalination, and the learnings from the Report, as an option for consideration in the next update to Rous's Integrated Water Cycle Management Strategy (IWCM).

Further information can be found on link <https://rous.nsw.gov.au/future-water-project>

5. Revised policies

Council adopted a range of policies as part of its routine program of review:

- (a) Workplace Surveillance
- (b) Human Resources – Employment Conditions Policy
- (c) Equal Employment Opportunity (EEO) Policy and Management Plan.

6. Information reports

A range of information reports were provided including:

i) Regional Demand Management Plan 2023-2024: Annual report

Key achievements include:

- Establishing standardized definitions and policies for water supply connections, ensuring all new connections are metered. This will enhance data collection and reporting for better demand management.
- Expanding water sustainability education through engaging presentations and collaborations, mapping educational content to the Australian curriculum, and increasing participation in Water Night 2023 through a successful marketing campaign.

Challenges faced:

- The Behaviour Change Pilot Program, intended to promote lasting water efficiency habits among residential users, faced setbacks. A tender process yielded unsatisfactory results, leading to the decision to have an internal staff member lead the initiative.

Looking ahead, a detailed plan for the behaviour change program is being developed, leveraging community interest post-natural disasters of 2022. The program will be rolled out in 2024/2025 and 2025/2026 with expert guidance and peer reviews.

ii) Tenders awarded by General Manager under delegation 1 April 2024 to 30 June 2024

Tender/Contract	Start Date	Initial Value (Incl GST)	Contractors Name	Category
Construct New Switch Room – Night Cap Water Treatment Plant ¹	12/12/2023	\$297,323.53	O'Brien Electrical & Plumbing Lismore NSW	Construction

¹Contracts register record originally entered incorrectly against Group Manager

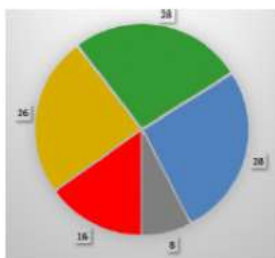
iii) Investments

- The RBA cash rate is 4.48%.
- The 90-day average bank bill swap rate (BBSW) is also 4.45%.
- Total funds invested is \$32,032,220 This includes term investments and cheque account balance.
- Weighted Average Return is 4.68%. This represents an increase of 12 basis point compared from the June 2024 result (4.56%) and is 23 basis points above Council’s benchmark (the average 90-day BBSW rate of 4.45%)
- Interest earned is \$139,523. Interest earned compared to the original budget is \$20,448 above the pro-rata budget.
- Cheque account balance is \$766,431.
- ‘Weel’ (credit card) account balance \$49,350.
- Ethical holdings is \$2,500,000 (7.80% of current holdings)

iv) Water production and consumption – June 2024

Council	June 2022 (kL)	June 2023 (kL)	June 2024 (kL)	% of Total Sales
Ballina Shire Council	295,346	297,311	282,086	39.47%
Byron Shire Council	176,961	210,375	161,094	22.54%
Lismore City Council	229,085	232,550	232,825	32.58%
Richmond Valley Council	41,335	47,537	38,616	5.4%
TOTAL MONTHLY CONSUMPTION BY CONSTITUENT COUNCILS	742,727	787,773	714,621	

v) Delivery program | Operational plan result for year ending 30 June 2024



- 28 of the indicators are blue (28%)
- 28 of the indicators are green (28%)
- 26 of the indicators are amber (26%)
- 16 of the indicators are red (16%)
- 8 of the indicators are grey (8%)

Blue: Complete.
 Green: On track according to schedule or not yet due to have started.
 Amber: In progress but behind schedule.
 Red: Corrective action required.
 Grey: No longer required.

7. **Confidential Matters**

Perradenya Estate – update report

Council resolved to receive and note the report.

Council’s business paper and draft meeting minutes can be found via the following link: <https://rous.nsw.gov.au/business-papers-and-meeting-minutes>

13 MATTERS DETERMINED WITHOUT DEBATE

Each Councillor is given the opportunity to indicate which items they wish to debate or question. Item numbers identified for debate or questioning will be read to the Meeting.

Following identification of the above items a motion will be moved in regard to the balance of items being determined without debate.

13.1 MATTERS TO BE DETERMINED WITHOUT DEBATE**RECOMMENDATION**

That items identified be determined without debate.

14 GENERAL MANAGER

14.1 IRON GATES DEVELOPMENT: NOTICE OF INTENTION TO APPEAL

Author: Vaughan Macdonald

EXECUTIVE SUMMARY

The proposed Iron Gates residential development at Evans Head, has a long, complex and controversial history dating back more than 40 years. There have been numerous development applications and legal challenges over that time, however this report focuses on the most recent determination of the Land and Environment Court, which overturned the Northern Region Planning Panel's previous refusal of the development.

Council now has an option to appeal the Land and Environment Court's decision, if it believes there are sufficient questions of law that may be challenged. This report considers the options, relevant legal advice, current and potential costs relating to the matter to support Council's final determination on whether or not it wishes to proceed with an appeal.

RECOMMENDATION

That Council:

1. Notes the long and complex history of the Iron Gates development and the significant community interest in this matter;
2. Notes the judgement of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* regarding this matter and acknowledges the constraints of Section 57 (1) of the *Land and Environment Court Act 1979* in limiting appeal options to questions of law;
3. Further notes the expert legal advice received regarding this matter, concluding that an appeal from the Judgement under s.57(1) of the *Land and Environment Court Act 1979* would not enjoy reasonable prospects of success;
4. Acknowledges the significant expenditure of Council resources in addressing the Land and Environment Court matter and notes the estimated further expenditure and resourcing to pursue an appeal;
5. Having regard to these considerations and noting that a successful appeal of the matter will not preclude future development from occurring on the site, determines not to pursue this matter in the Court of Appeal and advises the Court of this decision;
6. Continues to work with all stakeholders to achieve the best possible outcome for the community from the approved development, in accordance with the development consent conditions.

DELIVERY PROGRAM LINKS

Objective 12: Provide great service

12B Deliver consistent regulatory and compliance services

12B1 Provide transparent and timely development assessment and planning services

BUDGET IMPLICATIONS

The Iron Gates matter has a long and complex history and the three local councils involved in this process – firstly Woodburn Shire Council, then Richmond River Shire Council and finally Richmond Valley Council – have all expended considerable time and resources in addressing the various development applications and subsequent court matters arising. In the most recent Land and Environment Court matter, Council's direct costs in responding to the action so far have been in excess of \$350,000, with an additional \$80,000 in staff time and expenses.

Should Council proceed to appeal, further costs would be incurred, depending on the length of the matter, with estimates of direct costs in the range of \$80,000. Should the appeal be unsuccessful, Council may also be liable for the respondents' costs. The extent of respondent costs that would need to be paid would be determined by the Court but could reasonably be expected to exceed \$100,000. In summary, an appeal to the Court of Appeal could incur costs of up to \$200,000.

There will also be costs to Council if the development proceeds in line with the consent. However, there are mechanisms under the Local Government Act and the Environmental Planning & Assessment Act to recoup these costs from the developer and future residents of the site that can include developer contributions and Special Rates that could be applied to those who reside in the development in the future.

REPORT

The proposed Iron Gates residential development, at Evans Head, has a long, complex and controversial history dating back to the former Woodburn Shire Council in 1975. Since that time, multiple development applications have been lodged and amended, NSW planning regulations have changed, and numerous court matters have been heard. An indicative chronology is at Attachment 1.

The most recent judgement was handed down in the Land and Environment Court on 31 July 2024. See [Iron Gates Land and Environment Court Judgement and Reports - Richmond Valley Council \(nsw.gov.au\)](#) This decision overturned the Northern Regional Planning Panel's previous refusal of the development and granted approval to the application, albeit in an amended form. The judgement was handed down shortly before the commencement of the Caretaker period for the 2024 local government election, so there was limited time to complete a thorough review of the decision and to seek additional advice on the matter. To enable the incoming Council to fully consider its response, a Notice of Intention to Appeal was lodged, reserving Council's appeal rights until 31 October 2024. Lodgement of the notice does not commit the incoming Council to proceeding with an appeal but provides additional time for consideration of the issues and the prospects of success.

While there has been considerable community debate regarding the Iron Gates development over the past 49 years, the decision currently before Council is not about the merits of the development proposal, but rather the prospects of success in an Appeal.

Section 57 (1) of the *Land and Environment Court Act 1979* makes it clear that Council's right to appeal this matter is limited to questions of law arising from the Court's decision. Council must therefore decide whether it believes there are sufficient questions of law to warrant an appeal and, if so, whether there is sufficient prospect of success to justify further expenditure on an appeal.

To assist Councillors in preparing for this decision, Council sought expert legal advice from Jason Lazarus SC on matters of law which may arise from the judgement and the prospects of success of an appeal. The Memorandum of Advice has been circulated to Councillors to allow sufficient time to consider the matters raised and is Attachment 2. A further opportunity was provided for the incoming Council to ask questions of the legal team which represented RVC in the Land and Environment Court matter and to seek further clarification of any issues.

Background

Since the Iron Gates matter first came before Council in the 1980s, there have been three development applications lodged in relation to residential subdivisions for the land, as well as further applications for an access road and a compensatory wetland. Numerous variations have occurred, and multiple court actions have arisen.

This report specifically addresses the third residential development application (DA2015/0096) which was originally lodged on 27 October 2014, as this is the subject of the most recent Land and Environment Court matter.

Since DA2015/0096 was lodged, the application has been amended multiple times, both before and after its refusal by the Northern Regional Planning Panel in September 2022. Prior to the Panel's decision, the application had been publicly exhibited five times, due to various amendments, with more than 900 public submissions received. It was further exhibited prior to the Land and Environment Court hearing, following further amendments and additional amendments occurred during the court proceedings.

The application that was subsequently approved by the Land and Environment Court, on appeal, is not the same proposal that went before the Regional Planning Panel in 2022. Significant changes have occurred, including: A change to Community Title subdivision; addition of a proposed natural disaster 'shelter in place' facility; changes to the location and staging of development; changes to stormwater design and the amount of fill proposed, and removal of the proposed foreshore reserve.

The Land and Environment Court matter was heard by the Chief Judge, Justice Preston, over the course of two weeks from 3rd to 14th June 2024, with Council (First Respondent) representatives in attendance each day, to respond to ongoing amendments and other emerging issues. Ms Simone Barker was the Second Respondent in the matter and was represented by her own legal team. The Court upheld the applicant's appeal and approved the amended development application.

Council filed a Notice of Intention to Appeal with the Supreme Court of NSW on 27 August 2024, to reserve the in-coming Council's right of appeal until 31 October 2024. The Second Respondent did not file a Notice of Intention to Appeal. However, should Council proceed to appeal, it would be open to the Second Respondent to join the appeal and raise issues with the Judgment from her own perspective.

Legal advice on the prospects of a successful appeal

Council sought a legal opinion in relation to the prospects of an appeal of the judgement of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council*. This legal opinion was provided by J E Lazarus SC (the Memorandum of Advice is attached).

In Mr Lazarus' Memorandum of Advice, he noted that any appeal to the Court of Appeal in this instance is limited to an appeal against an Order or decision of the Court on a question of law. Merit issues relating to the judgement of Preston CJ cannot be considered by the Court of Appeal.

Mr Lazarus identified four potential questions of law which might be potentially amenable to an appeal under s 57(1) of the *Land and Environment Court Act 1979* if error were to be demonstrated, namely:

- (a) Whether the DA could validly rely on unauthorised works already constructed and not proposed to be removed;
- (b) Whether the proposed development should have been properly characterised as 'designated development';
- (c) Which 'Koala SEPP' applied to the proposal, and the consequences of any application of the correct SEPP; and
- (d) Whether the Court had the power to impose a condition requiring the dedication of land containing bioswales (particularly where the evidence was that the Council was concerned about the cost of maintenance and did not have the equipment to clean the bioswales), which is a decision of a financial nature.

In the issue of unauthorised works Preston CJ had ruled that there was no legal principle as to why a consent cannot be sought to carry out development that would amend a building or works that were unlawful for future use. In reviewing the matter, Mr Lazarus concluded that he did not discern any error in Preston CJ's approach to that question.

In regard to the designated development issue, Council argued that the proposed development was designated development for the purposes of the EPA Act because one of the lots of the land, Lot 277, was proposed to be subdivided under the community title subdivision to create residential lots to the south of an area identified as coastal wetlands. Preston CJ rejected this argument for three separate reasons, noting that the part of the lot identified as coastal wetlands would remain intact under the proposal. In reviewing this matter, Mr Lazarus concluded that, in appealing this matter, Council would need to successfully challenge all three reasons presented by Preston CJ and he did not perceive any errors in these findings.

The issue of which Koala SEPP should be used for assessment of this application is complex. However, Mr Lazarus was of the view that Preston CJ was correct in concluding that, as all of the area of native vegetation that is a potential koala habitat is now within the "future investigation area", the DA did not seek consent to carry out development in the area of native vegetation on the land that the consent authority was satisfied was a potential koala habitat. While he also concluded that there may have been an error in not taking the guidelines into consideration in determining the DA, there was difficulty in appealing this matter, as it had not been raised during the proceedings. Additionally, it was also unclear as to whether taking the guidelines into account would have made any difference to the findings.

The matter of the dedication of the bioswales to Council was viewed by Mr Lazarus SC as a merit based determination that was open to the Court to make and he noted that no submission was made to the Court at the time that it lacked the power to impose the conditions proposed by the applicant. As such, it was difficult to see how the imposition of the applicant's proposed conditions (and rejection of the Council's) could be the subject of an appeal to the Court of Appeal. Having reviewed these matters, Mr Lazarus concluded that, in his view, "an appeal from the Judgment under s 57(1) of the LEC Act would not enjoy reasonable prospects of success".

Possible outcomes

Council also sought guidance from its legal advisors on possible outcomes and scenarios should the appeal proceed.

Should Council decide to proceed, it would need to confirm its intentions by 31 October 2024 and, in consultation with its legal representatives, determine which questions of law it wishes to pursue through the Appeal. Court of Appeal proceedings are generally heard within an 8 to 10 month timeframe, with the proceedings being listed for hearing once the appeal materials have been filed with the Court. The hearing would usually be one to two days, depending on the number of issues raised in the Summons for determination by the Court of Appeal. In the interim, the developer would be free to proceed with the approved development, however, there is a risk that any works commenced may be required to be removed, depending on the decision.

Should Council be successful in the appeal, there are a number of possible outcomes. One scenario that could arise if the Court of Appeal finds an error has been made by the lower court Judge, is that the Court can revert the application to the Land and Environment Court for determination, and it can be listed again before the same Judge. There are a number of examples of cases where a matter has been the subject of an appeal, remitted from the higher Court to the Land and Environment Court and the determination has resulted in a similar outcome to the original judgement. Alternatively, the developer could simply choose to submit a new development application for the site and the assessment process would start again.

Should Council be unsuccessful in one or more matters within the Appeal, it is likely to be liable for the Respondent's costs, as well as its own legal expenses. The extent of these costs would be determined by the Court.

Should Council decide not to appeal the matter, the development could proceed, as approved. Additional development consent(s) would be required for Stage 2 and the community shelter in place facility, as well as further approvals for matters such as civil works. Council would be responsible for ensuring that the developer complied with the conditions of consent.

CONSULTATION

In considering this matter, Councillors have had the opportunity to consult with Council's officers, legal advisors and receive further legal advice regarding possible prospects of an appeal.

CONCLUSION

The Iron Gates development is a long-standing issue that has polarised the local community for more than 40 years. It is likely to continue to do so, regardless of the outcome of this matter. The site has been zoned for residential development since the 1980s and subsequent councils have had to deal with repeated development applications, and repeated court action, as various developers have attempted to establish housing at Iron Gates. The latest decision from the Land and Environment Court opens the way for an amended version of the development to proceed and Council now faces the difficult choice of whether or not to attempt an appeal of this decision. In this regard, the appeal is limited to questions of law, rather than the merits of the development.

Having regard to the legal advice that there are limited prospects to successfully appeal questions of law in this matter, the potential financial impacts on council of devoting further resources to pursuing an appeal, and the very real possibility that development may still occur on the site, even if the appeal is successful, it is recommended that Council does not proceed to appeal this matter and work with the applicant and all stakeholders to achieve the best possible overall outcome for the community from the approved development, in accordance with the conditions of consent.

ATTACHMENT(S)

- 1. Indicative Chronology**
- 2. Memorandum of Advice - J E Lazarus SC**

IRON GATES RESIDENTIAL DEVELOPMENT PART 1 – PREVIOUS APPLICATIONS

The Iron Gates Land

- The Iron Gates is located about a kilometre to the west of the Evans Head township.
- The land is identified as Lots 276 & 277 DP755624, and Lots 163 & 164 DP831052 (formerly Lots 163 & 164 DP755624).
- Total land area 100.07 hectares



Ownership

- In 1975 Richmond River Council was first officially approached by Me-Ling Properties Pty Ltd, a family-owned company headed by the sole Director Mr Sam McCormack (formerly of Casino), to rezone the Iron Gates property for residential development. Mr McCormack later changed the company name to **Iron Gates Properties Pty Ltd**.
- Mr McCormack suffered severe financial impacts as a result of the failure of DA111/1988 (the first residential subdivision DA), he subsequently negotiated to sell the estate to the Ingles Group, a Gold Coast property development group, headed by Mr Graeme Ingles.
- The option to purchase was taken up by Mr Ingles in the mid 1990's through the company **Iron Gates Pty Ltd**. The terms of the option saw Mr McCormack retained as the Mortgagee.
- Following the failure of DA149/1992 (the second residential subdivision DA) and Court Orders to remediate the site, Iron Gates Pty Ltd went into liquidation.
- Through a course of events, details of which are unknown to Council, the land ended up in the ownership of **Goldcoral Pty Ltd** in the mid 2010's.
- Goldcoral Pty Ltd is principally owned by the Ingles Group, Graeme Ingles as a Director.
- Following the refusal of DA2015/0096 (the third residential subdivision DA), Goldcoral Pty Ltd launched a NSW Land and Environment Court

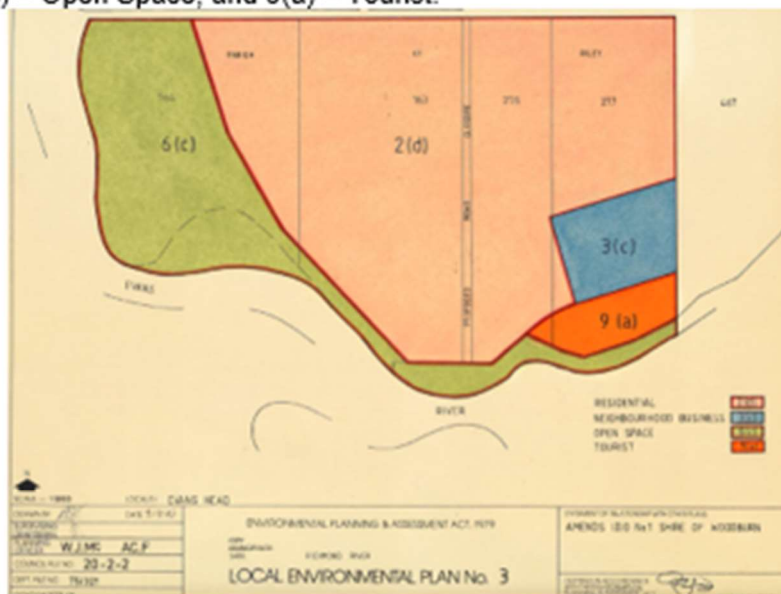
appeal. Early in the appeal process, Goldcoral Pty Ltd went into receivership with a manager appointed to oversee the appeal.

Zoning

- *Interim Development Order No.1 – Shire of Woodburn (IDO)* was the first Planning Scheme for the Shire of Woodburn commencing on 13 February 1970—Iron Gates was Zoned Non-Urban A.



- *Richmond River LEP No 3* commenced on 9 December 1983 and amended the IDO to rezone the Iron Gates for urban development—Iron Gates was Zoned 2(d) – Residential; 3(c) – Business Neighbourhood; 6(c) – Open Space; and 9(a) – Tourist.

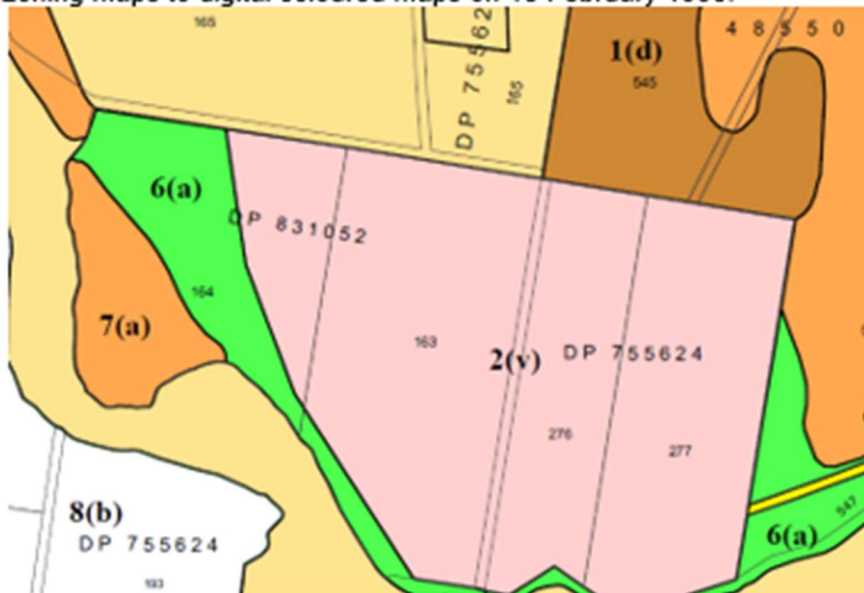


- *Richmond River LEP 1992 (RRLEP92)* was a new comprehensive Planning Scheme that repealed the Woodburn and Tomki Shire IDOs upon its commencement on 31 December 1992—Iron Gates was Zoned

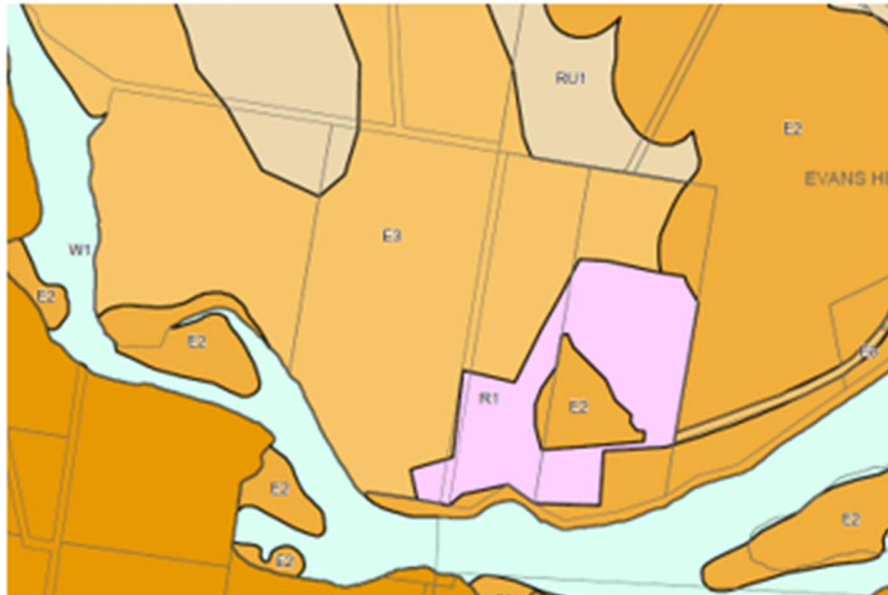
2(v) Village; 6(a) Open Space; and 7(a) Environmental Protection (Wetlands).



- Despite the change in zoning over the Iron Gates, the extent of urban land remained unchanged.
- Richmond River LEP 1992 (Amendment No 8) converted the paper zoning maps to digital coloured maps on 13 February 1998.



- Richmond Valley LEP 2012 (RVLEP12) was a new Comprehensive Standard Instrument LEP that repealed the RRLEP92 when it commenced on 21 April 2012—Iron Gates was Zoned R1 General Residential; E2 Environmental Conservation; E3 Environmental Management; and RU1 Primary Production.



- RVLEP12 reduced the extent of urban zoned land based on the findings of the *Joint Expert Report on Bush Fire and Ecological Issues – Supreme Court of Queensland Case No. S9495 of 1999 – Iron Gates Pty Ltd (in Liquidation) and Graeme Ingles v Richmond River Shire Council and Ors – 28 Nov. 2008.*

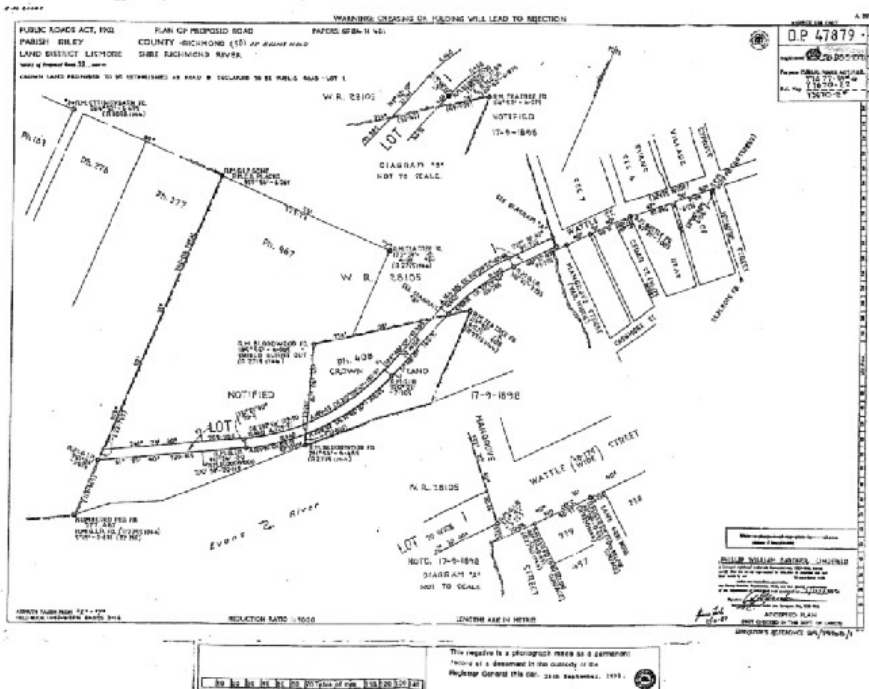


- The Joint Expert Report reached agreement that area 1 on "Plan 1" was the "development site", with differing opinions over the level of constraints applying to area 2. The RVLEP12 zone boundaries were drafted to generally reflect the development site and conservation area boundaries from Plan 1.

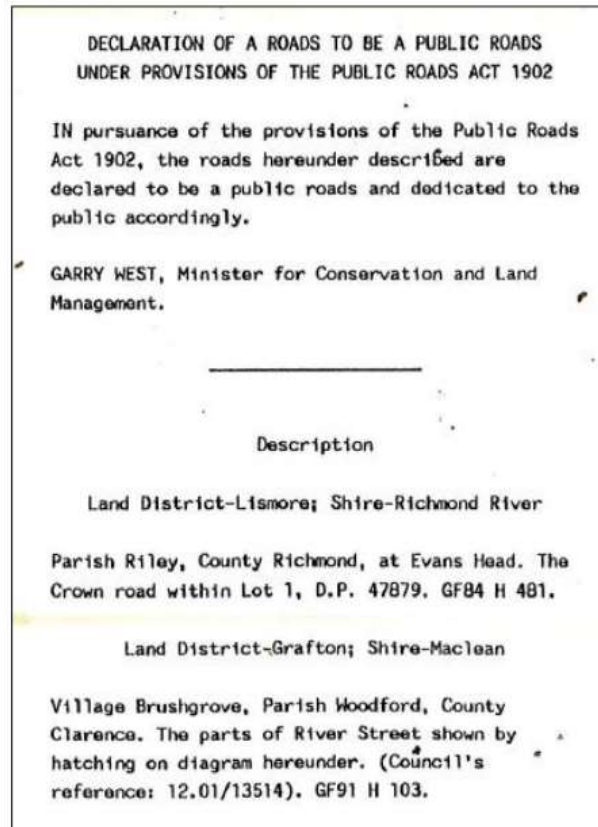
DA110/1988 – Access Road

- DA110/1988 was lodged to construct an access road to link the Iron Gates estate with Evans Head via Wattle Street and crossing Crown land including a SEPP14 – Coastal Wetland (No. 147).

- The proposed route of the road was along Lot 1 DP47879 (which consisted of a 20 metre wide strip of land established between Wattle Street Evans Head and the proposed Iron Gates Estate for the purpose of creating a public road).

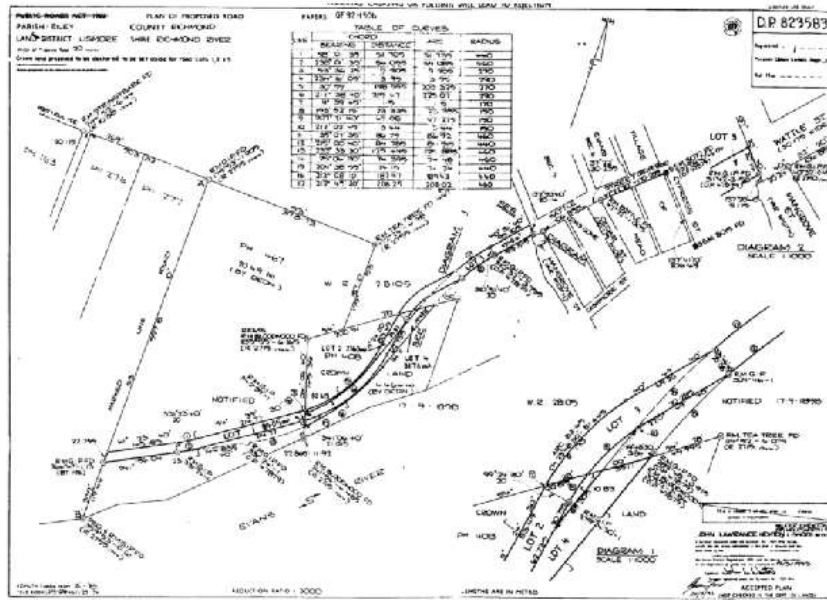


- The DA was, by virtue of SEPP14, designated development and required an Environmental Impact Statement (EIS) and concurrence of the Director of Planning.
- Concurrence of the Director was denied to the original EIS as the Department required the application to consider and assess impacts of additional/alternative routes for the access road.
- An amended EIS was submitted to Richmond River Council which assessed 3 access routes. This amendment was publicly exhibited.
- DA110/88 was determined by granting consent at the Ordinary Meeting of Council on 17 July 1990. The Notice of Consent was endorsed on 19 July 1990, subject to 16 conditions, with the concurrence of the Director, for the Wattle Street access road option.
- The access road land was acquired from the Crown for the sum of \$2,725 (at the cost of the Developer) and the road was opened by Gazette on 26 September 1991.



- A deviation to the access road was proposed by Mr McCormack to avoid several trees of Aboriginal significance (located towards the western end of the road corridor), and further damage to an Aboriginal Midden (located towards the eastern end of the road corridor). This deviation was proposed even though the Applicant held an Aboriginal Heritage Impact Permit (AHIP) from NSW National Parks and Wildlife Service to destroy the midden. Mr McCormack wanted to work with the community rather than against it, and believed deviating the road was the best option.
- Mr McCormack successfully negotiated with NSW Lands and the NSW Aboriginal Land Council, which had an Aboriginal Land Claim lodged over the adjoining Crown Lands, to acquire additional land for deviation of the road.
- Richmond River Council met with the Department of Planning and Walker & Newton Surveyors on site to establish the edge of the SEPP14 Coastal Wetland boundary. This was an attempt to avoid the road deviation creating any additional impacts on the SEPP14 coastal wetland, and therefore avoid the Section 102 modification application being designated development. A peg was placed at an agreed location at the outer edge of the physical wetland. (The location of the SEPP14 boundary, as pegged, would be challenged in the LEC. Judgement determined that the SEPP14 boundary is in fact not relative to the habitat on the ground but defined by outer edge of the heavy black line displayed on the SEPP14 Coastal Wetland maps).

- Approval was given by the Council under Section 102 to deviate the alignment of the road. (This deviation was later judged by the LEC to be a breach of the EP&A Act – see Wilson v Iron Gates et al Appeal.)
- The deviated alignment of the access road (Lots 1, 2 & 3 DP823583) was Gazetted on 4 June 1993 as Public Road.



NOTIFICATION UNDER THE CROWN AND OTHER ROADS ACT 1990, OF ACQUISITIONS OF LANDS FOR THE PURPOSES OF A ROAD, OF DECLARATION OF ROADS TO BE PUBLIC ROADS AND OF THE CLOSING OF ROADS

IN pursuance of the provisions of the Crown and Other Roads Act 1990, the lands hereunder described are acquired for the purposes of a road, such parts specified opened as roads and together with the additional roads particularised hereunder are declared to be opened as public roads and dedicated to the public accordingly (except where otherwise stated) and the roads so specified are hereby closed.

GEORGE SOURIS, M.P.,
Minister for Land and Water Conservation.

Description
Parish — Riley;
County — Richmond;
Land District — Lismore;
Shire — Richmond River

Opening of a road within vacant Crown Land over W.R. 28105, D.P. 823583 (Council's reference: Rds: 6/132 (A166), GF92 H 506.

Crown Land declared to be set aside for road: Lots 1, 2 and 3. Crown Land affected and areas set aside for road: W.R. 28105, notified 17th September, 1898 (1.47 hectares); vacant Crown Land (2360 square metres).

Note: The whole of Lots 1, 2 and 3 are to become road and are opened as public road.

- The access road (Iron Gates Drive) was substantially constructed in 1996 along the alignment of the deviated access road, this included a bridge, culverts, pedestrian pathway, water and sewer infrastructure, and a sealed carriageway. Prior to those works and infrastructure being completed and formally handed to Council as assets, the Wilson v Iron Gates Pty Ltd LEC appeal was filed.
- The Wilson appeal found that deviated sections of the road were in breach of development consent. The Court stopped short of requiring the road to be remediated, as it is a Gazetted public road, but restrained Iron Gates Pty Ltd from using the access road to service the Iron Gates development until the deviated sections of road obtained the necessary consents.
- These orders still apply to the deviated sections of road albeit that the restraining orders apply to Iron Gates Pty Ltd which no longer exists.
- It is unclear whether the granting of consent to DA2015/0096 and parts of Iron Gates Drive satisfy the LEC's requirement for additional consents, as parts of the sections of deviated road were within SEPP14 Coastal Wetland and would require such consent to be designated development (although changes to the SEPPs have made it unclear as to which SEPPs do and don't apply as a result of savings and transitional provisions).
- The NSW Rural Fire Service requires certain works to be undertaken to the access road to comply with Planning for Bushfire Protection. These works were added as amendments to DA2015/0096 in September 2019 and included upgrading of Iron Gates Drive to ensure it conforms to the RFS bushfire planning requirements, and to ensure the constructed road is fit for purpose. All work required by the RFS is proposed outside the SEPP14 Coastal Wetland boundary (as saved) to avoid designated development, although there are several trees within the SEPP14 boundary that will need to be pruned/trimmed. Legal advice has deemed that this pruning/trimming does not trigger designated development.
- Legal advice also identifies this to be a public road and that Council only needs to be satisfied that the road is fit for purpose to service the development within DA2015/0096. It also notes that previous court orders are not to be considered by Council

DA111/1988 – First residential subdivision application

- DA111/1988 was lodged to subdivide the property into 610 residential lots plus commercial and tourist precincts.
- Conditional consent was granted on 20 October 1988, with a 3-year consent period within which the development needed to be commenced.
- Construction work for the development started at the same time as work started on constructing the access road (DA110/88), being just within the 3-year consent period for DA111/88.
- An LEC appeal was lodged by The Richmond Evans Environment Society (TREES) shortly after the 3-year consent period had exceeded. Judgement in the case found that DA111/88 had lapsed because condition 2 of the consent needed to be satisfied before any work could be relied upon for "commencement". Condition 2 required the construction of an access road prior to "commencement" of the consent. As the access road was still under construction condition 2 had not been

satisfied and the consent lapsed on 21 October 1991. This is now part of established case law.

DA149/1992 – Second residential subdivision application

- DA149/92 was lodged by Iron Gates Properties Pty Ltd on 9 October 1992 for stage 1 of a potentially larger urban development. It was confined to the south-eastern corner of Lots 276 & 277, and consisted of 110 residential lots, incorporating reserves for the littoral rainforest, environmental buffers, perimeter access, wildlife corridors and active open space.
- Mr McCormack engaged an Ecologist, Dr Leon Lim from Countrywide Ecological Services, to prepare an ecological assessment of the land with particular consideration of the 8 part test under Section 4A of the EP&A Act.
- Dr Lim liaised with the NSW National Parks and Wildlife Service (NPWS) during the ecological assessment process. Both parties had agreed that the south-eastern corner of the property was highly disturbed and that a Fauna Impact Statement (FIS) would not be required for this part of the property, however, a FIS would be required for the balance of the Iron Gates estate (Stage 2). The NPWS later reneged on its FIS position.
- At the Ordinary Meeting of Council on 16 March 1993 it was resolved that a Fauna Impact Statement (FIS) was not required for Stage 1, and DA149/92 was determined by granting consent subject to 26 conditions.
- The consent notice was issued on 23 March 1993.
- Oshlack v Richmond River Council & Iron Gates Developments was lodged with LEC in 1993. The appeal targetted various elements of the development but largely focused on the absence of a Fauna Impact Statement (FIS). The Court concluded the decision whether to require an FIS, or not, was one for Council to make and that it could rely on information supplied by the Developer in making its decision. The Case was dismissed.
- The land was subsequently sold to the Ingles Group in 1994.
- The new owner tried to change the layout of DA149/92 several times, but Council's advice was that only minor changes could be accepted without going through a Section 102 modification process (to become section 96, and now section 4.55 of the EP&A Act).
- Engineering designs were prepared for development of Stage 1 in 2 parts being "1A" & "1B". These engineering plans were approved by Council on 31 March 1995.
- Iron Gates Pty Ltd commenced construction of Stage 1A of DA149/92 in July 1996. They also recommenced construction of the Access Road (DA110/88).
- Towards the end of constructing Stage 1A and the access roads, several appeals were lodged with the LEC:
 - Oshlack v Iron Gates Pty Ltd & Richmond River Shire Council (Case No 40152 of 1996) — Appeal against the subdivision and breaches of development consent;
 - Wilson v Iron Gates Pty Ltd & Richmond River Council (Case No 40172 of 1996) — Appeal against the access road; and
 - EPA v Iron Gates Pty Ltd (Case No 50083 of 1997) — Pollution incident resulting from discharge of acidic tannin- stained stormwater from open drains into Evans River.

Land & Environment Court Appeals

Oshlack v Iron Gates

- On 6 March 1997 Justice Stein declared that Iron Gates Pty Ltd had carried out earthworks and clearing of vegetation in breach of section 76(2) of the *EP&A Act*; had breached certain conditions of consent; and had caused damage to the habitat of a threatened species (koalas) in breach of section 118D of the *National Parks and Wildlife Act 1974*.
 - Order 4. Iron Gates Pty Ltd *“be restrained from carrying out any development pursuant to Development Consent No 149/92.”*
 - Order 5. Iron Gates Pty Ltd *“be restrained from carrying out further works of and incidental to the clearing, formation and construction of an access road on any part of Lots 1, 2 and 3 DP823583 in so far as any such works are outside of the boundaries of Lot 1 in DP47879 without obtaining prior approval in accordance with the Environmental Planning and Assessment Act, 1979.”*
 - Order 6. Iron Gates *“be restrained from using as an access road to and from Portions 276 and 277 Parish of Riley any parts of Lots 1, 2 and 3 DP823583...”*
- Justice Stein deferred any question of mandatory orders for remediation and reinstatement.
- On 4 July 1997 Justice Pearlman ordered-
 - Order 1. The first respondent (Iron Gates Pty Ltd) shall remediate the land known as the Iron Gates site, being portions 276 and 277, Parish of Riley, in deposited plan 755624 (“the site”) in accordance with the remediation plan annexed and marked “A”.
 - Order 2. The work in order 1 shall commence immediately, be pursued as quickly as reasonably practical and shall be completed within two years of the judgement.
- The EPA was also successful with its pollution case, with a fine of \$50,000 plus costs being awarded against Iron Gates Pty Ltd.
- Following issue of these orders and fines, Iron Gates Pty Ltd went into liquidation and the remediation was never commenced.

Wilson v Iron Gates

- On 2 December 1996, Justice Stein restrained the first respondent (Iron Gates Pty Ltd) from *“... carrying out further works on the access road on Lots 1, 2 and 3 DP823583 in so far as any such work is outside Lot 1 in DP47879 unless and until the requisite approvals under the EPA Act are obtained.”* These requisite approvals being either a s102 modification application (now s.4.55 modification application) or a fresh development application.
- In addition, he made the following declarations:
 - *that construction of the access road, and its use, on any part of Lots 1, 2 and 3 DP 823583, in so far as any such construction is outside Lot 1 DP 47879, is unlawful.*
 - *that no subsisting consent has been granted under the Act in respect of any road construction on those parts of Lots 1, 2 and 3 DP 823583 as fall outside Lot 1 DP 47879.*

- *that the carrying out of construction works on any part of Lots 1, 2 and 3 DP 823583 as fall outside Lot 1 DP 47879 is in breach of development consent No. 110/88.*

Supreme Court – Civil Lawsuit

- In 1999, Iron Gates Pty Ltd (In Liquidation) & Graeme Ingles lodged a civil damages claim with the Supreme Court of Queensland (Case No. S9495 of 1999) against:
 - Richmond River Shire Council;
 - Walker Newton Pty Ltd and its principal Lindsay Walker—which was the applicant for DA149/92 and were also engaged as a local surveying firm during construction;
 - Ardill Payne & Associates Pty Ltd and its principal David Ardill—which was a local engineering firm engaged during construction;
 - WP Brown & Partners Pty Ltd and its principal Gary Spence—which was an engineering firm that provided support for many of Ingles' property development projects;
 - Keilar Fox & McGhie Pty Ltd and its principal Paul Ring—which was a surveying firm that provided support for many of Ingles' property development projects;
 - Iron Gates Developments Pty Ltd and its principal Sam McCormack—the former owner of the Iron Gates and responsible for obtaining development consents DA149/92 and DA110/88.
- The case was for negligence and provision of defective advice which Ingles relied upon when purchasing and developing the land. He sought damages for lost profit from development of the subdivision and future stages to a value exceeding \$20 Million.
- Richmond River Shire Council engaged Hannigans Solicitors, as well as the services of Mr Tony Barlow Barrister of Brisbane, and Mr Anthony Morris QC of Brisbane, to mount a defence.
- The Case was set down for hearing over a 30-day sitting period in the Brisbane Supreme Court from 2 February 2009 (some 10 years after the process commenced).
- In the weeks prior to the scheduled hearing, Ingles sought to settle the case by withdrawing the appeal subject to each party bearing its own costs. The terms of the settlement were not made public.

State Significant Development

- On the 29 October 1996 the Minister for Planning, Mr Craig Knowles MP, called up any development of the Iron Gates property as State Significant Development.
- This section 101 direction has now ceased.
- *SEPP (Major Projects) 2005*, provided (Schedule 2(1) Coastal Areas) that development within the Coastal Zone involving a subdivision to create more than 25 lots is State significant development for the purposes of Part 3A of the Act. This SEPP has now been repealed.

IRON GATES RESIDENTIAL DEVELOPMENT PART 2 – CURRENT APPLICATION Summary @ 8 Oct 2024

DA2015/0096 – Third residential subdivision application

- DA2015/0096 was lodged with Council on 27 October 2014 for a 178 residential lot subdivision, plus 3 public reserve lots, 2 fire trail lots and 3 residue lots.
- This was a Regionally Significant Development due to it subdividing land within a Sensitive Coastal Location, and Integrated Development requiring approvals from NSW Heritage, NSW Office of Water, and NSW Rural Fire Service.
- The application was publicly exhibited (the first exhibition) from 3 November 2014 to 8 December 2014.
- This application was placed on stop the clock, pending approval of the Master Plan (see below), but also to address a request for information (RFI).
- During the course of the Master Plan and DA process the Applicant supplied additional information. These amendments were publicly exhibited from 4 November 2015 to 7 December 2015.
- From 2015 to 2018 the application fundamentally stayed on stop the clock pending the outcome of the Master Plan application that was with the Department. The RFS indicated it would only support the Master Plan if Planning for Bushfire Protection measures along Iron Gates Drive were incorporated in the DA, Council did not want to amend the DA without having the final Master Plan approval, and the Department would not approve the Master Plan without an RFS approval.
- Attempts to further amend DA2015/0096 started in October 2018 with a submission to incorporate Iron Gates Drive planning for bushfire protection upgrades, and changes to the subdivision layout. Council informed the Applicant it would only accept a comprehensively reviewed application, including all support documents, where everything to be relied upon for assessment of the application was resubmitted as a single bundle of documents (that is, all previously relied upon documents would be withdrawn).
- On 17 January 2019, a revised application and supporting documents was submitted as an amendment to the original application. These documents were reviewed by Council and Malcolm Scott (an independent planning consultant engaged by Council to assess the application) but not accepted due to remaining inconsistencies and omissions in the application.
- The amended development application was resubmitted on 26 July 2019, but was still waiting on owner's consent from the Crown for works within Crown roads and the foreshore reserve. This Crown Owner's consent was issued on 16 September 2019 and the amendment was accepted on 19 September 2019.

Master Plan

- SEPP71 – Coastal Protection (as saved) provided that any subdivision of land within a Sensitive Coastal Location must not be granted

development consent without a Master Plan endorsed by the Minister for Planning.

- A Master Plan waiver was requested by Goldcoral Pty Ltd (the current owner), in November 2014 (after DA2015/0096 was lodged with Council).
- On 6 May 2015, the Department of Planning and Environment determined that a Master Plan was required.
- A Master Plan was submitted to the Department.
- Determination of the application was delayed until biodiversity offset requirements of the NSW Office of Environment & Heritage, and Planning for Bush Fire Protection requirements of NSW Rural Fire Service were resolved.
- The Office of Environment and Heritage had negotiated offsets for clearing work within the estate and along the access road, this included retirement of credits over the rainforest (and a Stewardship arrangement for the management of the rainforest in perpetuity).
- NSW Rural Fire Service was satisfied with planning for bushfire protection measures so long as they were integrated into DA2015/0096 (which formed part of the September 2019 amendments).
- The Department of Planning, Industry and Environment was satisfied with the Master Plan and recommended it be approved by the Minister. However, the Minister was hesitant about the proposal and requested a design review by the Government Architect.
- The Government Architect's design review was undertaken in October 2020 and raised several fundamental concerns with the proposed draft master plan, which were generally attributed to a lack of an integrated urban and landscape design. Numerous recommendations were provided by the GANSW for improving the urban design and amenity of the project including matters relating to place and context, the overall subdivision plan (including streets, interfaces, access, connection, and lot sizes), built form, integration with the natural environment and ongoing place management.
- The Master Plan application was withdrawn on 19 July 2021, and replaced by an amendment to DA2015/0096 for a "concept development" under section 4.23 of the EP&A Act. Via a series of legal provisions this "concept" DA substitutes for a Master Plan, as long as it addresses the master planning requirements of SEPP71.

DA2015/0096 – September 2019 amendment

- The September 2019 amended application was for
 - Subdivision of land to create 184 lots (including 175 residential lots, 3 residue lots, 4 public reserves, 1 drainage reserve & 1 sewer pump station lot)
 - Upgrades to Iron Gates Drive, including clearing work
 - Demolition of existing structures including a dwelling
 - Subdivision works including road works; drainage; water supply; sewerage; landscaping, embellishment work, and street tree planting; bulk earthworks; and vegetation removal



- Council acknowledged receipt of the amended development application on 19 September 2019, and publicly exhibited the application (for the third time) for 46 days from 3 October 2019 to 18 November 2019.

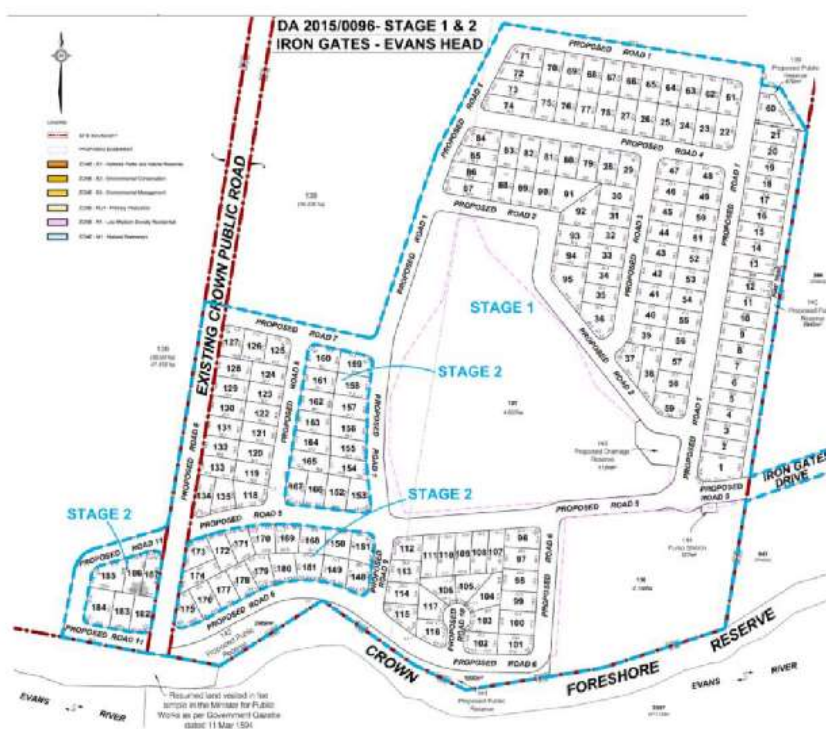
DA2015/0096 – 2020 amendment

- DA2015/0096 was subsequently amended in July 2020, which included:
 - minor changes to several lot boundaries;
 - inclusion of a Stormwater Management Plan; and
 - remove parkland embellishments from the Crown foreshore reserve.
- These were minor amendments that were not publicly exhibited.

DA2015/0096 – 2021 amendment

- DA2015/0096 was further amended in July 2021 to make the application a “concept” development under s.4.23(3) of the EP&A Act (in lieu of a Master Plan).
 - The amended application was accepted by the Northern Regional Planning Panel on 13 September 2021 for a Concept DA to be carried out in two stages as described below:
 - Stage 1
 - Completion of all subdivision work for the Stage 1 and future Stage 2 lots, including but not limited to:
 - Clearing and earthworks.
 - Roadworks and drainage.

- Sewer and water supply (including service connections to the Stage 1 lots and future Stage 2 lots).
- Electricity and communications (including connections to the Stage 1 lots and future Stage 2 lots).
- Embellishment of the proposed public reserves adjacent to the Evans River foreshore.
- Creation of:
 - 135 residential lots comprising Lots 1 to 135.
 - Creation of 4 public reserve lots comprising Lots 139 to 142.
 - Creation of 1 sewer pump station lot comprising Lot 144.
 - Creation of 1 drainage reserve lot comprising Lot 143.
 - Creation of 3 super lots (comprising Lots 145, 146, 147).
 - Creation of a residue lot (Lot 138).
 - Creation of 2 Rainforest Lots 137, & 136.
- Upgrading of Iron Gates Drive.
- Stage 2
 - Subdivision of super lots 145,146 &147 to create 40 residential lots. No subdivision work is required for Stage 2 as all subdivision infrastructure will be provided with Stage 1.



- This amendment was publicly exhibited (for the fourth time) from 24 September 2021 to 24 October 2021.

- During the course of the DA, the application had been referred to integrated development authorities for:
 - Aboriginal Heritage Impact Permit (AHIP) under Section 90 of the National Parks and Wildlife Act 1974—NSW Heritage within the Department of Premier and Cabinet
 - Controlled Activity Approval and Aquifer Interference Approval under Section 91 of the Water Management Act 2000—Department of Planning, Industry and Environment – Natural Resources Access Regulator (NRAR)
 - Bush Fire Safety Authority under Section 100B of the Rural Fires Act 1993—NSW Rural Fire Service
- Council received several General Terms of Approval (FTAs) from each of RFS and NSW Heritage during the course of the DAs many amendments, but NRAR failed to provide any correspondence until 17 January 2022 when it declared that a Controlled Activity Approval was not required. When NRAR was questioned about the need for the Approval (to dewater during construction) it deferred the matter to the NSW Office of Water
- When exhibiting an Integrated Development application, the Regulation requires a notice to nominate the Integrated Approvals that are required and the agency responsible. As the agency responsible for the Water Management Act approval had changed to the Office of Water, and not NRAR as previously advertised, Council elected to exhibit the application for a fifth time. This exhibition took place from 18 February 2022 to 19 March 2022.
- Office of Water requested additional information (RFI) on 6 April 2022 which was addressed by DAC on 12 April 2022. However, OW issued a 2nd RFI on 9 May 2022 for a geotechnical assessment, along with the Lot and DP for the Dewatering, and potential volumes to be extracted. The applicant engaged Martens & Associates to undertake the geotechnical assessment with OW agreeing to a 3-month delivery timeframe.

Planning Panel Hearing

- Despite not having all GTAs the Northern Regional Planning Panel (NRPP) wanted to expedite determination of the DA
- NRPP set a hearing date of 7 September 2022 to determine the DA.
- Council's independent planning consultant, Malcolm Scott finalised his assessment of the DA on 29 June 2022, with a recommendation to refuse.
- The NRPP engaged Kim Johnston Planning to undertake a peer review of the DA and Scott's assessment report. Her report of July 2022 concurred with Scott's recommendation and raised several additional concerns.
- The Panel met on the 7 September 2022. It invited those who had made submissions, and registered to speak, to deliver their verbal presentations before determining the DA by way of refusal for the following reasons:
 - 1. The proposal is unsatisfactory from a bushfire risk perspective. While being mindful of the fact that the Rural Fire Service has issued its General Terms of Approval. the Panel believes that the

application has failed to demonstrate that the risks given below have been resolved:

- Iron Gales Drive provides the only vehicular access to the site. It has a constrained carriageway for a significant length in particular where it passes through wetland and a narrow bridge. The Panel is not satisfied that suitable access for firefighting and other emergency service vehicles concurrent with evacuation of residents could occur safely and effectively.
 - The absence of a perimeter road around all the proposed residential area is not consistent with good practice in subdivision design, and the proposed fire trail on the eastern side of the proposed subdivision appears inadequate because of restricted space for vehicle movements, including turning, and level variations between the proposed fire trail, adjacent allotments and land to the north. Consequently, the Panel is not satisfied that sufficient protection for future residents would be available.
 - The intrusion of Asset Protection Zones into a large number of proposed residential lots, combined with the lack of ready public access to these lots means that maintenance of low fuel loads in these areas is likely to be problematic and difficult for regulators to monitor, meaning the practical effectiveness of these measures cannot be assured.
 - The narrow width of some important access roads and the consequent need to ban on street parking there to provide access for firefighting and emergency vehicles is likely to be operationally impractical.
- 2. The proposal is likely to have unacceptable ecological impacts, principally because of the substantial earthworks and filling required, insufficient buffers adjoining littoral rainforests, wetlands and the foreshore and poor subdivision design, particularly an excessive development footprint and the road which separates proposed Lots 136 and 137.
 - 3. The proposed stormwater management system, particularly incorporation of on-site infiltration, is unsatisfactory because it would create risks of standing water, sodden ground and mosquito breeding.
 - 4. The application does not include satisfactory arrangements for evacuation of residents or shelter-in-place during flood events. A specific concern is that the latter may be impractical because no on-site retail or necessary community facilities are proposed.
 - 5. The design of the proposed subdivision is unsatisfactory. It relies on excessive earthworks and filling creating the need for overly high retaining walls, has insufficient buffers to ecologically important rainforest, wetland and foreshore areas, and is unsatisfactory from a bushfire protection perspective.
 - 6. The development application is unsatisfactory in that it does not satisfy several applicable statutory requirements including SEPP 55 in relation to land contamination because further

contamination investigations were recommended but not conducted, SEPP 71 in relation to potential for conflict between land and water based activities, Threatened Species Conservation Act requirements in relation to proper assessment of impacts on koalas, littoral rainforests and other important species or communities, and the RVLEP and DCP in relation to subdivision design, especially incorporation of appropriate buffers, suitable road design and effective measures for management of risks and ecological impacts.

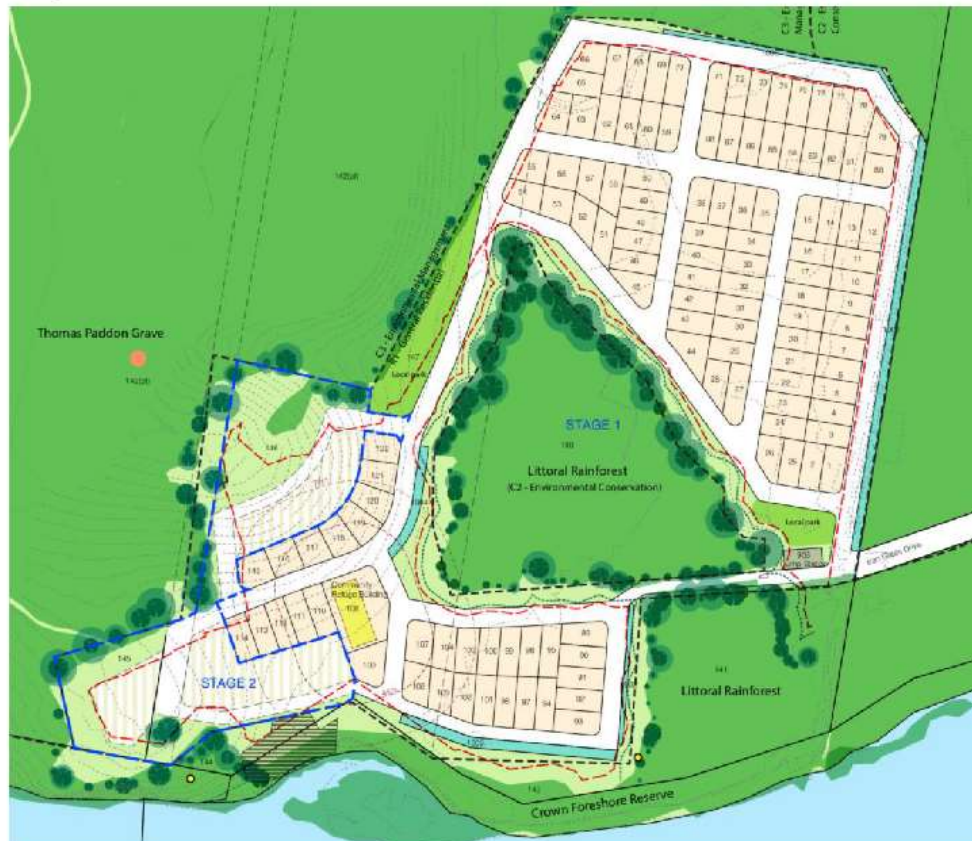
- 7. For the reasons given above the proposal does not represent orderly development nor is it consistent with the principles of ecologically sustainable development and its approval would not be in the public interest.

○

Land & Environment Court Appeal

- Goldcoral Pty Ltd filed a Class 1 Application with the LEC on 19 September 2022.
- Shortly thereafter the company was placed into receivership with a manager appointed. The manager elected to proceed with the appeal.
- A section 34 Mediation Conference was held on 6 March 2023, which included addresses from 6 residents, a site inspection, and mediation sessions in the Chamber. There were no notable outcomes from this mediation.
- The Applicant filed a notice of motion to amend the development application on 16 June 2023. With the matter listed for hearing on 18 July 2023 with Registrar Froh. Judgement was made on 18 September 2023 to refuse the motion.
- A further motion was filed with the Court and heard on 30 November 2023 to amend the development application. The Court was satisfied with the amendment.
- The amended application consisted of:
 - Concept Proposal for:
 - Indicative land uses.
 - Indicative layout of development, including development footprint.
 - Indicative dwelling typologies.
 - Protection of approximately 6 hectares of land for environmental conservation.
 - Key development principles and requirements for future development.
 - Detailed proposal for the subdivision and construction of the Stage 1 Subdivision, including:
 - Demolition of existing buildings, roads, stormwater and sewage infrastructure present on the site.
 - Subdivision of the site into 129 Torrens Title lots, for the creation of 121 residential lots, future community refuge (1 lot), two (2) public open space lots, two (2) lots for future Stage 2 subdivision and one (1) residue lot.
 - Construction of internal roads, stormwater, sewage and other utility infrastructure.

- Vegetation management works, including vegetation removal and retention, environmental protection works, and ongoing environmental management.
- Bulk earthworks to establish site levels and residential lots.
- Establishment of a site for a Community Refuge Building for community use during severe bushfire and flooding events.
- Upgrades to Iron Gates Drive, including road widening and reconstruction, and vegetation trimming.



○ A separate future Development Application would be submitted to Council in relation to the proposed Stage 2 Subdivision, which would comprise approximately 17 residential lots. Construction of dwellings on all subdivided lots, and any other development for which separate development consent is required including the construction of the Community Refuge and embellishment of the proposed open space areas, would also be subject to separate planning approval.

- Joint Expert Reports were prepared for the Court. These consisted of:
 - Bushfire
 - Ecology
 - Planning
 - Engineering
 - Aboriginal Cultural Heritage
- Council was represented for each except the Aboriginal Cultural Heritage.

- The LEC matter was heard over the course of 2 weeks from 3 to 14 June 2024, before Justice Preston, Chief Judge of the NSW Land & Environment Court.
- During the proceedings the Chief Judge gave the Applicant latitude to amend the application. On 11 June 2024 a motion was received to further amend the application. This motion was accepted by the Court and the application was amended.
- Preston CJ handed his Judgement on 31 July 2024 by upholding the appeal and granting development consent to DA2015/0096 subject to conditions.
Link to the Judgement –
<https://www.caselaw.nsw.gov.au/decision/190fcc04a16d179340e31c89>
- Approval was granted for:
 - **Development Description:** Concept proposal for subdivision of 240 Iron Gates Drive, Evans Head, and detailed proposal for Stage 1 of the subdivision.
 - **Concept Proposal**
 1. Concept proposal for the subdivision of 240 Iron Gates Drive Evans Head, being Lot 163 DP831052 and Lots 276 and 277 DP755624 (the land), provision and upgrade of infrastructure, and upgrade of Iron Gates Drive.
 2. Part of the land to be subdivided as a community title scheme under the Community Land Development Act 2021.
 3. The use of part of the land zoned R1 General Residential under Richmond Valley Local Environmental Plan 2012 identified as “Stage 1” for:
 - (a) residential development comprised of dwelling houses and dual occupancy development;
 - (b) open space purposes associated with the residential development; and
 - (c) a Community Building for use by residents and visitors during times of flood and fire emergency and for other facilities subject to any necessary development consent.
 4. Land zoned C2 Environmental Conservation will be set aside and managed into the future to retain and enhance ecological values of existing and proposed vegetation.
 - **Stage 1 Subdivision**
 1. Demolition of existing buildings, roads, and stormwater and sewage infrastructure present on the site.
 2. Subdivision of the land into 126 lots comprising:
 - (a) 123 lots subdivided into a community scheme established under the Community Land Development Act 2021 comprising:
 - i. One community property lot (Lot 1) containing the land retained and managed for conservation purposes and the community building;
 - ii. 122 community development lots, being
 - a. 121 residential allotments (Lots 2-122); and
 - b. one residue lot (Lot 123) for future subdivision (to be the subject of a future development application); and

- (b) the following lots not forming part of the community scheme:
 - i. one public open space lot (Lot 147);
 - ii. one sewer pump station lot (Lot 148);
 - iii. one residue lot (Lot 142); and
 - iv. public roads including stormwater infrastructure.
- 3. Construction of internal roads, and stormwater, water, sewerage and other infrastructure.
- 4. Vegetation management works on part of the community property, including vegetation removal and retention, environmental protection works, and ongoing environmental management.
- 5. Bulk earthworks.
- 6. Upgrades to Iron Gates Drive; and
- 7. Provision of or upgrades to water and sewer infrastructure in Iron Gates Drive as required.



Disclaimer:

While every effort has been made to ensure the accuracy of the information contained in this document; inaccuracies, errors or omissions may occur. Richmond Valley Council takes no responsibility for any actions taken based on information contained in this document.

RICHMOND VALLEY COUNCIL v GOLDCORAL

MEMORANDUM OF ADVICE

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SYDNEY

Attention: Ms Cecilia Rose

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Liability limited by a scheme approved under the Professional Standards Legislation.

Introduction

1. My instructing solicitors act for Richmond Valley Council (**the Council**).
2. My advice has been requested in relation to the prospects of an appeal to the Court of Appeal from a judgment of Preston CJ in *Goldcoral Pty Ltd (Receiver and Manager Appointed) v Richmond Valley Council* [2024] NSWLEC 77 (**Judgment** or **J**). His Honour upheld a Class 1 appeal by the applicant, and granted consent to development application DA 2015/00096 for a concept proposal for the subdivision of land at 240 Iron Gates Drive, Evans Head, and a detailed proposal for Stage 1 of the development (**DA**).
3. As his Honour's decision was in Class 1 of the Land and Environment Court's jurisdiction, the right to appeal to the Court of Appeal is limited to an "appeal ... against an order or decision ... of the Court on a question of law": *Land and Environment Court Act* 1979 (NSW) (**LEC Act**), s 57(1). It is the underlying decision from whose decision the appeal lies, and not the appeal itself, which must be "on a question of law": *B&L Linings Pty Ltd v Chief Commissioner of State Revenue* (2008) 74 NSWLR 481 at [70]. The question of law to be identified enlivening the appeal need not constitute the ultimate decision of the Court below so long as it is material to the decision: *B&L Linings* at [125]; *Darley Australia Pty Ltd v Walfertan Processers Pty Ltd* (2012) 188 LGERA 26 at [78].
4. There were a number of legal issues resolved by Preston CJ which might potentially be amenable to an appeal under s 57(1) of the LEC Act if error were to be demonstrated, namely:
 - (a) whether the DA could validly rely on unauthorised works already constructed and not proposed to be removed;
 - (b) whether the proposed development should have been properly characterised as "designated development";
 - (c) which "Koala SEPP" applied to the proposal, and the consequences of any application of the correct SEPP; and
 - (d) whether the Court had the power to impose a condition requiring the dedication of land containing bioswales (particularly where the evidence was that the Council was concerned about the cost of maintenance and did not have the equipment to clean the bioswales), which is a decision of a financial nature.
5. I propose to address each of those issues in turn. I am not aware of any arguable basis upon which it could be contended on appeal that any of his Honour's merit findings were

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legally flawed. I have not addressed any of the issues raised by Ms Barker, the second respondent, as the Council would likely not be considered to have standing to argue on appeal issues that it did not raise in the proceedings below.

The unauthorised works issue

6. Preston CJ dealt with the unauthorised works issue at J [49]-[55]. The Council's argument in the proceedings below was, in essence, that as the DA relied upon an internal road and drainage channel constructed by the previous landowners on the subject land, and the public road and infrastructure works on Iron Gates Drive, all of which was unlawful, consent could not validly be granted to the DA on the basis that that would result in the applicant gaining an illegitimate advantage from these unlawful works.
7. In support of that argument, the Council relied upon his Honour's previous judgment in *Ralph Lauren Pty Ltd v New South Wales Transitional Coastal Panel* (2018) 235 LGERA 345 at [128], citing *Kouflidis v Salisbury City Corporation* (1982) 29 SASR 321 at 324. In *Ralph Lauren*, the issue was whether the Court could be satisfied that proposed works to repair sea walls unreasonably limited public access to or the use of Belongil Beach pursuant to s 55M(1)(a)(i) of the *Coastal Protection Act* 1979 (NSW) and whether the proposed works will impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore pursuant to cl 88(3)(a) of *Byron Local Environmental Plan 1988*. While his Honour did observe that "the consideration of such future development is to be done without regard to the past unlawful works and unlawful use" (*Ralph Lauren* at [128]), that was in the context of upholding an argument by the panel that the relevant reference point for determining whether the limitation on public access to and use of the beach caused by the proposed works is unreasonable is not the existing (unlawful) works but rather the beach without the existing works ([72]).
8. In the Judgment, Preston CJ rejected the Council's argument as "misguided", holding that there is no legal principle that development consent cannot be sought to carry out development to erect a building or to carry out works that would amend a building or works that are unlawful, and then to use in the future the new or amended building or works, as recognised in *Ralph Lauren* at [128]: J [53]. The issue in these proceedings was not an issue as to the appropriate "baseline" or reference point by which to assess particular environmental impacts (as was the case in *Ralph Lauren*), but rather whether there was some legal principle precluding the grant of development consent which utilised in some way works that had been constructed unlawfully.
9. I do not discern any error in Preston CJ's approach to that question.

Section 30 of the *Interpretation Act*

10. Both the “designated development” and the “Koala SEPP” issues involve to some extent the application of s 30 of the *Interpretation Act* 1987 (NSW). It is therefore convenient that I address at this juncture the applicable principles relevant to the operation of that provision.
11. Section 30 of the *Interpretation Act* is in the following terms:

“30 Effect of amendment or repeal of Acts and statutory rules

- (1) *The amendment or repeal of an Act or statutory rule does not—*
- (a) *revive anything not in force or existing at the time at which the amendment or repeal takes effect, or*
 - (b) *affect the previous operation of the Act or statutory rule or anything duly suffered, done or commenced under the Act or statutory rule, or*
 - (c) *affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act or statutory rule, or*
 - (d) *affect any penalty incurred in respect of any offence arising under the Act or statutory rule, or*
 - (e) *affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty,*
- and any such penalty may be imposed and enforced, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, as if the Act or statutory rule had not been amended or repealed.*
- (2) *Without limiting the effect of subsection (1), the amendment or repeal of an Act or statutory rule does not affect—*
- (a) *the proof of any past act or thing, or*
 - (b) *any right, privilege, obligation or liability saved by the operation of the Act or statutory rule, or*
 - (c) *any amendment or validation made by the Act or statutory rule, or*
 - (d) *the operation of any savings or transitional provision contained in the Act or statutory rule.*
- (3) *This section applies to the amendment or repeal of an Act or statutory rule in addition to, and without limiting the effect of, any provision of the Act or statutory rule by which the amendment or repeal is effected.*
- (4) *In this section, a reference to the amendment or repeal of an Act or statutory rule includes—*
- (a) *a reference to the expiration of the Act or statutory rule,*

- (b) a reference to an amendment or repeal of the Act or statutory rule effected by implication,
 - (c) a reference to the abrogation, limitation or extension of the effect of the Act or statutory rule, and
 - (d) a reference to—
 - (i) the exclusion from the application of the Act or statutory rule, or
 - (ii) the inclusion within the application of the Act or statutory rule,
- of any person, subject-matter or circumstance.”*

12. The High Court has recently observed that:

... s 30 of the Interpretation Act 1987 (NSW) ... spans matters of proof or procedure and matters of legal right or substance. It instantiates the presumption against retrospective operation so that, subject to contrary intention, the amendment or repeal of an Act does not affect a variety of reasonable expectations, including “the proof of any past act or thing” as well as “any right, privilege, obligation or liability saved by the operation of the Act”.

(Stephens v The Queen (2022) 273 CLR 635 at [44], citations omitted)

13. Section 30 applies to an environmental planning instrument (s 5(6)), including any portion of it: s 5(3). Section 30 did not always apply to planning instruments. Before 2005, s 34(4) of the *Environmental Planning and Assessment Act 1979 (NSW) (EPA Act)* provided that the alteration or repeal of a planning instrument did not affect acquired or accrued rights or privileges under that instrument. In 2005, this provision was repealed, and s 5(6) was inserted in the *Interpretation Act* to apply certain of its provisions, including s 30, to planning instruments. Before its repeal, s 34 was applied by the Court of Appeal in *The Dubler Group Pty Ltd v Minister for Infrastructure, Planning and Natural Resources (2004) 137 LGERA 178* to rights which had been acquired under SEPP 53, in that case, a right to be immune from alterations to SEPP 53. Without savings provisions, SEPP 53 was amended to remove the immunity and apply its provisions to the appellant’s land, thereby rendering its development application prohibited. The Court of Appeal held that the appellant had an accrued right to a determination of its development application under the provisions of SEPP 53 which had existed when the application was lodged, despite the amendment to the SEPP setting aside the provision creating the immunity in favour of the appellant.
14. The traditional position concerning changes in planning law during the processing of a development application is that the application must be determined according to the law in existence at that date: *Sofi v Wollondilly Shire Council (1975) 31 LGERA 416*; *Nalor*

Pty Ltd v Bankstown City Council (1980) 2 NSWLR 630. The relevant right to apply for development consent is a power to take advantage of the enactment with the expectation of a benefit if the application is determined in favour of the applicant. That is not a “right” within the meaning of s 30. In *The Dubler Group* case, the right which the appellant enjoyed was created by the provision conferring immunity from the SEPP for pending applications. That right, the Court of Appeal held, put the Dubler Group in a special position.

15. The reasoning in *The Dubler Group* turned on the construction of the statutory language in s 34(4)(b), namely “any right, privilege, obligation or liability acquired, accrued or incurred under the instrument”, which was the equivalent of s 30(1)(c) of the *Interpretation Act*. In the more recent decision of *Council of the City of Ryde v Network Developments NSW Pty Ltd* [2022] NSWLEC 101, Pepper J considered the application of s 30(1)(c), in addition to s 30(1)(b), in the context of an amendment to the *Ryde Local Environmental Plan* to omit “multi dwelling housing” as a permissible development in the R2 zone, while at the same time inserting a transitional provision making clear that the amendments made to the plan did not apply to pending development applications. Her Honour decided that, as s 30(1) of the *Interpretation Act* is subject to any contrary intention (s 5(2) of that Act), a contrary intention was manifested by the plain and unambiguous words of cl 1.8A(3) (the relevant transitional provision), namely that the provision only applies to development applications and not, as was the case there, to an application for a complying development certificate.
16. Notwithstanding that determinative finding, her Honour also proceeded to make findings in *obiter* concerning the application of s 30(1)(b) and (c) of the *Interpretation Act*. In relation to s 30(1)(b), her Honour held that while the application for the complying development certificate was lodged prior to the commencement of the relevant amending plan, as it had not yet been determined, nothing had “commenced” pursuant to s 30(1)(b) and therefore s 30(1)(b) had no application: at [69]-[71]. In so far as s 30(1)(c) was concerned, Pepper J sought to distinguish *The Dubler Group* and the more recent decision of the Court of Appeal in *In the Matter of Richards Contracting Co Management Pty Ltd* (2021) 104 NSWLR 385. It was said that the decision in *The Dubler Group* was distinguishable because the development application in that case had been determined by way of refusal and therefore, the relevant “right” within the meaning of s 30(1)(c) had already accrued prior to the change in the law: [86].
17. However, in my view, the reasoning in *The Dubler Group* is not so easily distinguished. Contrary to what her Honour appears to have held, the development application in *The*

Dubler Group had not been determined by way of refusal, but rather the appellant appealed to the Land and Environment Court against the deemed refusal of the application. It would not matter in any event even if the council had in that case actually refused the development application. What mattered was that the relevant transitional provision in that case “put a person who had made a development application in a special position in the determination of the development application” ([29]), merely upon lodgement of the development application. As the Court of Appeal reasoned, “the appellant had acquired an entitlement to have its development application determined according to SEPP 53 as it stood at the time the development application was lodged”, which was “more than ‘a power to take advantage of an enactment’, because advantage had already been taken of SEPP 53 and the entitlement had arisen” ([36]).

18. There is, however, an important difference between s 34 of the EPA Act and s 30 of the *Interpretation Act*. The former was not subject to a contrary intention, unlike the latter: *The Dubler Group* at [27]; s 5(2), *Interpretation Act*. The section only applies “except in so far as the contrary intention appears ... in the ... instrument concerned”: *Bandelle Pty Ltd v Sydney Capitol Hotels Pty Ltd* [2020] NSWCA 303 at [31]; *Stephens* at [44].

The designated development issue

19. The Council’s argument that the proposed development was designated development for the purposes of the EPA Act depended upon cl 2.7(2) of the *State Environmental Planning Policy (Resilience and Hazards) 2021 (RAH SEPP)*. Clause 2.7(1) and (2) of the RAH SEPP are in the following terms:

2.7 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent—*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following—*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*

(d) any other development.

Note—

Clause 2.14 provides that, for the avoidance of doubt, nothing in this Part—

(a) *permits the carrying out of development that is prohibited development under another environmental planning instrument, or*

(b) *permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

(2) *Development for which consent is required by subsection (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.*

20. The argument of the Council was that development was proposed to be carried out on land identified as coastal wetlands because one of the lots of the land, Lot 277, was proposed to be subdivided under the community title subdivision to create residential lots to the south of the area identified as coastal wetlands, and that the subdivision of the land is “development” as defined in s 1.5(1)(b) of the EPA Act.
21. Preston CJ rejected the Council’s argument for three independent reasons:
- (a) section 30(2)(b) and (d) of the *Interpretation Act* operated to save the applicant’s accrued right under cl 21(1) of the *State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)* to have the DA determined under the former planning provisions of *State Environmental Planning Policy No 14 – Coastal Wetlands (SEPP 14)* and *State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)*, and not the provisions of RAH SEPP: J [74]-[76];
 - (b) the proposed subdivision does not involve the division of that part of the land identified as coastal wetlands under the RAH SEPP into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition, as the part of Lot 277 identified as coastal wetlands remains intact, not divided: J [78]; and
 - (c) the mere procuring of the registration of a plan of subdivision in the Office of the Registrar-General does not involve the carrying out of any development “on land” and therefore does not fall within the terms of cl 2.7(1)(d) of the RAH SEPP: J [79]-[80].
22. I do not perceive any error in Preston CJ’s analysis of the s 30 *Interpretation Act* issue, in so far as his Honour held that the “right” saved by s 30(2)(b) of the *Interpretation Act*

- was the right that accrued by the operation of the savings provision in cl 21(1) of the Coastal SEPP, which created the right of the applicant to have its development application determined under the former planning provisions of SEPP 14 and SEPP 71, rather than the RAH SEPP: J [75]. That conclusion accords with authority, in particular the decision of the Court of Appeal in *The Dubler Group*, as I have explained above.
23. The only qualification that I consider relevant to his Honour's findings on this topic is whether s 5(2) of the *Interpretation Act*, the effect of which is to make s 30 subject to contrary intention, requires any different conclusion. It is arguable that such a contrary intention is manifested by the fact that while the provisions of the Coastal SEPP were generally transferred into Chapter 2 of the RAH SEPP, the savings provision in cl 21(1) of the Coastal SEPP was not transferred: Schedule 3, cl 1(1) of the RAH SEPP. It is therefore arguable that this lack of transfer of cl 21(1) of the Coastal SEPP to Chapter 2 of the RAH SEPP is an indication of an intention on the part of the maker of the policy that the savings provision in cl 21(1) of the Coastal SEPP was not to continue to save the operation of the former planning provisions in SEPP 14 and SEPP 71 for a pending development application. That argument would rely upon the application of s 5(2) of the *Interpretation Act* not only to the instrument being repealed or amended but also to the instrument which effects the repeal or amendment.
24. It may also be relevant that there was a "note" that appeared after cl 5 of Schedule 3 to the RAH SEPP when it was originally made:
- "Savings and transitional provisions in the instruments repealed by this section are not transferred to this Policy. They continue to have effect because of the Interpretation Act 1987, sections 5(6) and 30(2)(d)."*
25. While I accept that s 34 of the *Interpretation Act* does not apply to environmental planning instruments by virtue of its exclusion from the list of provisions in s 5(6) of the Act, it is at least arguable that that circumstance does not displace the common law rules of interpretation.¹ One of those common law rules is the "mischief" rule which permits reference to be made to extrinsic materials for the purpose of discovering the mischief which the statute (here the relevant provisions of a SEPP) was intended to deal.² On that assumption, it might arguably be permissible to have regard to the above note in identifying the reason why cl 21(1) of the Coastal SEPP was not transferred to the RAH SEPP when the Coastal SEPP was repealed.

¹ DC Pearce, *Statutory Interpretation in Australia* (10th ed, 2024) at [3.8].

² Pearce at [3.4]; *Cavanagh v Wollondilly Shire Council (No 2)* [2019] NSWLEC 181 at [53]-[56].

26. However that may be, in order for the Council to succeed on an appeal on the designated development ground, it would need not only to succeed on the s 30 *Interpretation Act* issue, but also on the separate conclusions reached by the Chief Judge concerning the other reasons why the proposed development was not designated development. In relation to J [78], I am not aware of any error in his Honour's finding that the proposal would not subdivide the part of Lot 277 that is "land identified as 'coastal wetlands' ... on the Coastal Wetlands and Littoral Rainforests Area Map". Nor am I persuaded that there is any error in his Honour's conclusion at J [79]-[80] that, properly construed, to carry out development "on land" within the meaning of cl 2.7(1) of the RAH SEPP involves doing something on the land, and that the expression "any other development" in cl 2.7(1)(d) similarly requires something to be done on the land more than the mere procuring of the registration of a plan of subdivision. That finding was one which it was open for the Court to have made, and is one that was also supported by the *ejusdem generis* rule of construction, the effect of which would in this case be to read down the expression "any other development" to development of a similar kind to that specified in cl 2.7(1)(a) to (c) of the RAH SEPP, each of which involved the carrying out of physical works on the relevant land.

The koala issue

27. Preston CJ determined at J [85]-[90] that:
- (a) the former provisions of *State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)* applied, rather than Chapter 3 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity SEPP)* on the basis that cl 15 of *State Environmental Planning Policy (Koala Habitat Protection) 2019 (SEPP Koala 2019)* saved the application of SEPP 44 to the applicant's DA;
 - (b) the effect of s 30(2)(b) and (d) of the *Interpretation Act* was to save the right that accrued under cl 15 of SEPP Koala 2019 for the DA to be determined under the provisions of SEPP 44; and
 - (c) the subsequent repeal (by *State Environmental Planning Policy (Koala Habitat Protection) 2020 (Koala SEPP 2020)*) and transfer (by the Biodiversity SEPP) did not affect that right.
28. It may be arguable that Koala SEPP 2020 manifested a contrary intention (within the meaning of s 5(2) of the *Interpretation Act*) by not making provision for any saving or

transitional regime concerning pending development applications, so as to give effect to the conventional position that the consent authority must make its determination on the basis of the law and planning controls as they exist at the time of its determination, and also in light of the fact that, by contrast, there was such a savings provision in Koala SEPP 2019. However, even if that be so, it would not appear that there would be any material change in the planning controls or jurisdictional requirements had Chapter 3 of the Biodiversity SEPP applied rather than SEPP 44. That is to say, even if the Chief Judge was in error in determining that SEPP 44 applied, that error would not have been material to his Honour's ultimate conclusion on this issue.

29. Assuming his Honour was correct in deciding that SEPP 44 applied, I am not persuaded that any legal error has been made in deciding that the land on which the development (as amended) was proposed to be carried out did not contain a core koala habitat as defined in cl 4 of SEPP 44, notwithstanding the agreement between the parties' experts on that topic. In my view, his Honour was correct in concluding that, on the facts, as all of the area of native vegetation that is a potential koala habitat is now within the "future investigation area", the DA did not seek consent to carry out development in the area of native vegetation on the land that the consent authority was satisfied was a potential koala habitat: J [107]. Nor do I readily discern any legal error in his Honour's further conclusion on the basis of the evidence before the Court that the area of native vegetation in the south-western corner of the land was not a "core koala habitat" within the meaning of cl 4 of SEPP 44: J [109]-[110].
30. There is, however, one legal error that the Chief Judge appears to have committed in his Honour's consideration of the koala issue, namely failing to take the "guidelines" into consideration in determining the DA, in breach of cl 10 and 17(1) of SEPP 44. Those guidelines are constituted by Section 2 of the Department of Planning Circular No B35 issued on 22 March 1995. Clauses 10 and 17(1) of SEPP 44 were mandatory provisions, and obliged the Court exercising the power of the Council as consent authority, to take the guidelines into consideration.
31. There are, however, two insuperable difficulties with any ground of appeal raising this non-compliance in an appeal to the Court of Appeal:
 - (a) the issue does not appear to have been raised by either party in the proceedings before Preston CJ, and the guidelines were not tendered. Ordinarily matters which were not the subject of submissions in the Court below should not be permitted to be raised for the first time on appeal: *Sydney Metro v Expandamesh Pty Ltd* [2023] NSWCA 200 at [87]. In addition, it is usually considered that an

error will not be material to the decision if the matter complained of on appeal was a matter that was not the subject of submissions made in the Court below in a way that called for a reasoned consideration of that matter: *Housing Commission of NSW v Tatmar Pastoral Co Pty Ltd* [1983] 3 NSWLR 378 at 385-386; and

- (b) whether consideration of the guidelines would have made any difference to any of the findings made by his Honour is by no means clear. The guidelines address a number of different topics, and relevantly for present purposes section 2.1 deals with the issue of investigating potential koala habitat for core koala habitat. It primarily relates to the nature and extent of surveys and investigations required for that purpose. So far as I am aware, there was no suggestion that the survey work carried out on behalf of the applicant did not meet those standards, and in any event there was no contention to that effect ultimately pressed by the Council at the hearing.

Bioswale conditions

- 32. There was debate in the proceedings before Preston CJ concerning various conditions of consent. One of the contested issues in relation to proposed conditions concerned whether the road reserves containing the internal estate roads and bioretention swales, and the public open space in proposed Lot 147 (the proposed public park) should be dedicated to the Council or retained and managed by the community association. The applicant proposed to dedicate those lands to the Council; the Council proposed conditions requiring the concept plan and the plan of community title subdivision to be amended to include proposed Lot 147 and all internal estate roads and bioswales to form part of Lot 1, the community property lot.
- 33. The Council's argument was in essence a financial one, namely that it was concerned about the ongoing cost of maintenance and that it did not have the equipment necessary to clean the bioswales. Preston CJ addressed this issue at J [167]-[177], accepting the applicant's proposed conditions on this topic, and rejecting the Council's.
- 34. This was a merit determination which it was open to the Court to make. No submission was made to the Court that it lacked the power to impose the conditions proposed by the applicant, eg whether it was unlawful to impose a condition of consent requiring the dedication of land, even if the land dedication was offered by the developer, unless the dedication was pursuant to a voluntary planning agreement offered by the developer, or

the condition was authorised by a contributions plan under s 7.11 of the EPA Act³, noting that dedication of roads may fall into a different category because of s 9 of the *Roads Act* 1993 (NSW).⁴ As such, it is difficult to see how the imposition of the applicant's proposed conditions (and rejection of the Council's) could be the subject of an appeal to the Court of Appeal.

Conclusion

35. For the above reasons, in my view, an appeal from the Judgment under s 57(1) of the LEC Act would not enjoy reasonable prospects of success.

Dated: 26 September 2024



J E Lazarus SC

7th Floor Wentworth Selborne

³ *L&G Management Pty Ltd v Council of The City of Sydney* [2021] NSWLEC 149

⁴ *Urban Apartments Pty Ltd v Penrith City Council* [2023] NSWLEC 1094

15 COMMUNITY SERVICE DELIVERY

15.1 NORTHERN REGIONAL PLANNING PANEL - COUNCIL APPOINTED DELEGATES

Director: Angela Jones

Responsible Officer: Tony McAteer

EXECUTIVE SUMMARY

Following the 2024 local government election, Council is required to reconsider its current appointments to the Northern Regional Planning Panel (NRPP). The Regional Planning Panel has five members, three appointed by the NSW Government and two selected by Council. Under the guidelines, at least one of the council members must have expertise in one or more of the following areas: Planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, or tourism. Panel members may only be appointed for up to three years, although members are eligible for re-appointment.

Council's first Panel member role has traditionally been filled by a Councillor, with an alternate/backup Councillor delegate also appointed.

In recent years, Council's second Panel member role has been filled via an expert from Lismore City Council under a reciprocal arrangement whereby an expert from Richmond Valley Council holds a similar role on Lismore's Planning Panel equivalent.

This report seeks to appoint a Councillor delegate, and their alternate, to confirm the continued reciprocal Planning Panel arrangement with Lismore City Council, and to determine appropriate remuneration for Council's Panel members.

RECOMMENDATION

That Council:

1. Appoints a Councillor as one of Council's delegates on the Northern Regional Planning Panel, as well as a second Councillor as the Councillor backup/alternate delegate;
2. Reconfirms its reciprocal Planning Panel arrangement with Lismore City Council by appointing Mr Eber Butron as Council's second (expert) Planning Panel delegate, along with Mr Brendan Logan as his backup/alternate; and
3. Sets remuneration for Councillor attendance at Panel meetings/hearings at:
\$240 per meeting/hearing, plus allowances for travel and meals as per Council's *Payment of Expenses and Provision of Facilities to Councillors*; policy.

DELIVERY PROGRAM LINKS

Objective 10: Lead and advocate for our community

10C Lead with integrity

10C1 Provide representative and accountable community governance

BUDGET IMPLICATIONS

The Northern Regional Planning Panel would normally meet for Richmond Valley development assessment and determination hearings and briefings no more than two or three times a year, so it is expected that the budget implications for Councillor attendance should be approximately \$1,000 per annum, based on the recommended remuneration. The reciprocal arrangement with Lismore City Council potentially offers savings to both councils, as these expenses are addressed through existing staff budgets and employment conditions.

It is recommended that Councillor remuneration for representing Council at Panel meetings/hearings should be:

\$240 per meeting/hearing, plus allowances for travel and meals as per Council's *Payment of Expenses and Provision of Facilities to Councillors*. This is in line with current arrangements.

REPORT

Section 4.4 of the Department of Planning, Housing and Infrastructure's *Sydney and Regional Planning Panel Operational Procedures* requires Council to appoint two members to appear on its behalf at Northern Regional Planning Panel (NRPP) hearings. At least one of these members must have expertise in one or more of the following areas:

- Planning
- The environment
- Traffic and transport
- Tourism
- Architecture
- Urban design
- Law
- Heritage
- Land economics, or
- Engineering

Traditionally, Council has appointed one Councillor delegate, (and a backup/alternate), and one professional officer (and a backup/alternate/s) as its two Panel members. On 19 December 2023, Council nominated Councillor Hayes as one of Council's representatives on the NRPP, with Councillor Cornish as the Alternate Delegate. The Guidelines require councils to review their appointments within 12 months of each local government election.

In recent years, Council has had a reciprocal arrangement with Lismore City Council to fill its second (expert) NRPP representative role. This arrangement has worked well for both councils with:

- Richmond Valley Council's Director of Community Service Delivery, Angela Jones appointed to represent Lismore at its Planning Panel hearings, with the Manager of Development & Certification, Andy Edwards, and Strategic Land-use Planner, Tony McAteer as backup/alternates, and
- Lismore City Council's Chief Community Officer, Eber Butron, appointed to represent Richmond Valley at its Planning Panel hearings, with Chief Operating Officer, Brendan Logan as the backup/alternate.

Lismore City Council has confirmed a desire to continue this reciprocal arrangement, and this report recommends continued endorsement of the arrangement and Lismore's nominees.

CONSULTATION

Nil

CONCLUSION

The Northern Regional Planning Panel requires two Council representatives. These roles have traditionally been filled by a Councillor and an expert staff member from Lismore City Council, via a reciprocal arrangement with Council. Alternate delegates are also appointed, with each representative serving for up to three years.

Under the Department of Planning, Housing and Infrastructure's guidelines Council is required to review its representatives within 12 months of a local government election.

ATTACHMENT(S)

Nil

16 PROJECTS & BUSINESS DEVELOPMENT

Nil

17 ORGANISATIONAL SERVICES

17.1 FINANCIAL ANALYSIS REPORT - AUGUST AND SEPTEMBER 2024

Director: Ryan Gaiter

Responsible Officer: Rylee Vidler

EXECUTIVE SUMMARY

The purpose of this report is to inform Council of the status and performance of its cash and investment portfolio in accordance with the *Local Government Act 1993* s.625, Local Government (General) Regulation 2021 cl.212, Australian Accounting Standard (AASB 9) and Council's Investment Policy.

The value of Council's cash and investments at 31 August and 30 September 2024 is shown below:

Month	Bank Accounts	Term Deposits	Floating Rate Notes	Fixed Rate Bonds	TCorp IM Funds	Total
August	\$20,543,774	\$30,000,000	\$6,750,390	\$4,500,000	\$16,815,504	\$78,609,668
September	\$24,539,992	\$30,000,000	\$6,750,390	\$4,500,000	\$16,956,455	\$82,746,837

The weighted average rate of return on Council's cash and investments at 31 August 2024 was 4.22% which was above the Bloomberg AusBond Bank Bill Index for August of 0.38%, which is Council's benchmark.

The weighted average return on Council's cash and investments for September was 5.89% which was above the Bloomberg AusBond Bank Bill Index for September of 0.36%.

RECOMMENDATION

That Council adopts the Financial Analysis Report detailing the performance of its cash and investments for the months of August and September 2024.

DELIVERY PROGRAM LINKS

Objective 11: Manage resources responsibly

11A Manage finances responsibly and provide value for money

11A1 Undertake long-term financial planning and ensure compliance with financial regulation

BUDGET IMPLICATIONS

As at 31 August 2024, Council has earned \$394,923 in interest and \$369,236 in fair value gains from funds held in TCorp, for a total investment income of \$764,159. This equates to 32.55% of the annual budget for interest and investment income of \$2,347,506.

As at 30 September 2024, Council has earned \$645,817 in interest and \$510,188 in fair value gains from funds held in TCorp, for a total investment income of \$1,156,005. This equates to 49.24% of the annual budget for interest and investment income of \$2,347,506.

Future fair value gains or losses will continue to be monitored and reported to Council.

REPORT

Reserve Bank of Australia (RBA) Cash Rate Update

The RBA held the cash rate at 4.35% per annum at its August and September meetings.

Rate of Return

The weighted average rate of return on cash and investments in August was 4.22%, a decrease in 466 basis points from the previous month. The rate of return is 384 basis points above the Bloomberg AusBond Bank Bill Index of 0.38% which is Council's benchmark.

Council's NSW Treasury Corporation IM Funds returned net gains of \$28,158 during the month of August. The Medium-Term Growth Fund (MTGF) returned a gain of \$14,764 and the Long-Term Growth Fund (LTGF) returned a gain of \$13,394.

August had a volatile start for financial markets however most recovered and ended the month with a gain. US and Australian bond yields fell, while European yields remained steady. Following the August meeting, the RBA is not predicting a rate cut will occur in 2024.

The weighted average rate of return on cash and investments in September was 5.89%, an increase in 167 basis points from the previous month. The rate of return is 553 basis points above the Bloomberg AusBond Bank Bill Index of 0.36% which is Council's benchmark.

Council's NSW Treasury Corporation IM Funds returned net gains of \$140,952 during the month of September. The Medium-Term Growth Fund (MTGF) returned a gain of \$96,877 and the Long-Term Growth Fund (LTGF) returned a gain of \$44,075.

During September, the US Federal Reserve delivered the first rate cut in the cycle, however, the RBA is still concerned with inflation and continues to not expect a rate cut in the 2024 year. Many equity markets increased, and bond yields declined in most advanced economies.

The MTGF has a recommended investment timeframe of seven or more years (original investment was October 2018) and the LTGF has a recommended investment timeframe of 10 or more years (original investment was June 2021) during which time it is expected that there will be ups and downs in fair value gains. However, it should be noted that, despite the variation in returns, there has been no impact on the principal sum originally invested by Council.

Term deposits and floating rate notes continue to offer increasing rates of return, which is positive, however, some banking institutions are still limiting the number of deposits they will accept, and others are not accepting any deposits at present.

Council's Cash and Investments Portfolio

Council held cash and investments of \$78,609,668 at 31 August 2024. This was made up of Council's Business Online Saver Account (\$16,752,000), Macquarie Cash Management Account (\$2,007,623), Term Deposits (\$30,000,000), Floating Rate Notes (\$6,750,390), Bonds (\$4,500,000), NSW Treasury Corporation Investments (\$16,815,504) and other bank accounts (\$1,784,151).

Council's investment portfolio had maturity dates ranging from same day up to 1,742 days. Term deposits, floating rate notes and bonds of \$41,250,390 represented 52.47% of the total portfolio as at 31 August 2024.

Council made the following new investments during August 2024:

Banking Institution	Investment Type	Environmentally Sustainable Investment	Amount Invested	Investment Term	Interest Rate
National Australia Bank	Term Deposit	N	\$2,000,000	3 months	4.95%
AMP Bank	Term Deposit	N	\$1,000,000	5 months	5.00%
Judo Bank	Term Deposit	Y	\$2,000,000	6 months	5.00%
Total			\$5,000,000		

Council had the following investment maturities during the month of August 2024:

Banking Institution	Investment Type	Environmentally Sustainable Investment	Amount Invested	Interest Earned
Judo Bank	Term Deposit	Y	\$1,000,000	\$25,430
National Australia Bank	Term Deposit	N	\$2,000,000	\$24,953
Judo Bank	Term Deposit	Y	\$2,000,000	\$50,860
Total			\$5,000,000	\$101,244

Council had \$16,815,504 in longer term investments being the MTGF and LTGF held with NSW Treasury Corporation as at 31 August 2024. The investment values and fair value returns are shown below:

Investment Holding	Fair Value 31 August 24	Fair Value Gain/(Loss) at 31 August 24	Fair Value Gain/(Loss) YTD	Fair Value Gain/(Loss) Life of Investment
Medium Term Growth Fund	\$13,285,887	\$14,764	\$258,433	\$2,280,858
Long Term Growth Fund	\$3,529,617	\$13,394	\$110,803	\$529,617
Total	\$16,815,504	\$28,158	\$369,236	\$2,810,475

Council held cash and investments of \$82,746,837 at 30 September 2024. This was made up of Council's Business Online Saver Account (\$21,847,000), Macquarie Cash Management Account (\$2,007,879), Term Deposits (\$30,000,000), Floating Rate Notes (\$6,750,390), Bonds (\$4,500,000), NSW Treasury Corporation Investments (\$16,956,455) and other bank accounts (\$685,113).

Council's investment portfolio had maturity dates ranging from same day up to 1,742 days. Term deposits, floating rate notes and bonds of \$41,250,390 represented 49.85% of the total portfolio as at 30 September 2024.

Council made the following new investments during September 2024:

Banking Institution	Investment Type	Environmentally Sustainable Investment	Amount Invested	Investment Term	Interest Rate
National Australia Bank	Term Deposit	N	\$2,000,000	6 months	5.00%
Total			\$2,000,000		

Council had the following investment maturities during the month of September 2024:

Banking Institution	Investment Type	Environmentally Sustainable Investment	Amount Invested	Interest Earned
Judo Bank	Term Deposit	Y	\$2,000,000	\$33,534
Total			\$2,000,000	\$33,534

Council had \$16,956,455 in longer term investments being the MTGF and LTGF held with NSW Treasury Corporation as at 30 September 2024. The investment values and fair value returns are shown below:

Investment Holding	Fair Value 30 September 24	Fair Value Gain/(Loss) at 30 September 24	Fair Value Gain/(Loss) YTD	Fair Value Gain/(Loss) Life of Investment
Medium Term Growth Fund	\$13,382,763	\$96,876	\$355,310	\$2,377,734
Long Term Growth Fund	\$3,573,692	\$44,075	\$154,878	\$573,692
Total	\$16,956,455	\$140,951	\$510,188	\$2,951,426

Environmentally Sustainable Investments (ESI's)

Council's cash and investments portfolio of \$78,609,668 at 31 August 2024 includes \$41,065,504 or 52.2% with no direct investment in the fossil fuel industry.

Council's cash and investments portfolio of \$82,746,837 at 30 September 2024 includes \$39,206,456 or 47.4% with no direct investment in the fossil fuel industry.

These percentages include Council's investments with NSW Treasury Corporation and Northern Territory Treasury Corporation.

NSW Treasury Corporation has a stewardship approach to ESIs which focuses on managing environmental, social and governance (ESG) risks and opportunities, particularly climate change which is expected to impact portfolios over the long term. The stewardship policy states NSW Treasury Corporation believes incorporating these principles into investment decisions results in better risk-adjusted financial outcomes. Even though NSW Treasury Corporation takes this stewardship approach, its monthly reporting only highlights the different asset classes, not individual investments, and the level of investment in the fossil fuel industry.

Northern Territory Treasury Corporation utilises funds to assist with its infrastructure requirements such as housing, transport, health, and education services. While no statement has been provided on its investment strategy, it has been assumed that providing funding towards its own infrastructure will not involve direct investment in the fossil fuel industry.

CONCLUSION

During the months of August and September 2024, Council's investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

As at 31 August 2024 Council's cash and investments totalled \$78,609,668 with \$20,543,774 of this being funds held in bank accounts. The weighted average rate of return was 4.22% and total investment revenue equals 32.55% of budgeted revenue for the year to 31 August 2024.

As at 30 September 2024 Council's cash and investments totalled \$82,746,837 with \$24,539,992 of this being funds held in bank accounts. The weighted average rate of return was 5.89% and total investment revenue equals 49.85% of budgeted revenue for the year to 30 September 2024.

ATTACHMENT(S)

1. RVC Investment Pack - August 2024 (under separate cover)
2. RVC Investment Pack - September 2024 (under separate cover)

17.2 DRAFT FINANCIAL STATEMENTS 2023/2024

Director: Ryan Gaiter

Responsible Officer: Hayley Martin

EXECUTIVE SUMMARY

Council's draft financial statements for the year ended 30 June 2024 have been prepared and subjected to external audit by the Audit Office of New South Wales. A copy of the draft financial statements and draft auditor's report have been provided separately to Councillors for information.

Council's external auditor, the Audit Office of New South Wales has advised that its representative firm, HLB Mann Judd GCNC will be attending the Ordinary Meeting of Council 19 November 2024 and will provide a presentation on the 2023/2024 financial statements and the final audit report.

Council's operating result from continuing operations for 2023/2024 was a surplus of \$26.955 million, compared to a budgeted surplus of \$12.175 million. Council recorded a deficit before capital grants and contributions of \$14.446 million for 2023/2024, compared to the original budgeted deficit of \$1.628 million.

Council experienced a number of challenges this year with increased depreciation, loss on disposal of assets and the challenges facing the economy as a whole with escalating cost of materials and labour.

Total revenue decreased slightly to \$109.782 million, from \$125.401 million in 2022/2023 with \$41.401 million in capital grants and contributions, which is consistent with the previous year. Council received \$13.329 million in operating grants and contributions during 2023/2024, which was a decrease of \$13.306 million from the previous year which largely comprised of disaster recovery funding.

Total operating expenditure was \$82.827 million, a slight increase from \$81.144 million in the previous year.

Council's overall financial position remains strong with net assets of \$1.163 billion, including cash and cash equivalents of \$82.296 million. Council has met the benchmark in five out of nine of its key performance measure ratios.

RECOMMENDATION

That Council:

1. Adopts the general purpose financial statements, special purpose financial statements and special schedules for the year ended 30 June 2024.
2. Certifies the following in respect of the general purpose financial statements and special purpose financial statements for the year ended 30 June 2024:
 - (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 2024 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;
3. Fixes Tuesday 19 November 2024 as the date for the meeting to present the financial statements for the year ended 30 June 2024 to the public, invites submissions in writing and provides appropriate public notice of this meeting;
4. Adopts the restricted assets (reserves) schedule as detailed in this report.

DELIVERY PROGRAM LINKS

Objective 11: Manage resources responsibly

11A Manage finances responsibly and provide value for money

11A1 Undertake long-term financial planning and ensure compliance with financial regulation

BUDGET IMPLICATIONS

Nil.

REPORT

Council's operating result from continuing operations for 2023/2024 was a surplus of \$26.955 million, compared to a budgeted surplus of \$12.175 million. Council received \$13.329 million in operating grants and contributions during 2023/2024 and \$41.401 million in capital grants and contributions during 2023/2024.

Council's operating result before capital grants and contributions was a deficit of \$14.446 million, compared to the original budgeted deficit of \$1.628 million. This is reflective of the challenges facing the economy as a whole with escalating cost of materials and labour and is heavily influenced by natural disaster recovery and the availability of operating grants.

Largely impacting on this result was an increase in depreciation expense, much of which is due to accounting standards requiring Council to index its asset values annually to reflect the fair value of the asset. These indexation rates, released by the Australian Bureau of Statistics in July, after the end of the financial year, reflect the increasing cost of replacing those assets in line with current market conditions. As the cost of construction is increasing, so is the cost to replace our assets,

hence the increase. In addition, Council has revised the remaining life of the Casino Sewage Treatment Plant in line with the expected timeframe for replacement, resulting in an increase in depreciation. This is intended to reduce future impacts on Council's result when the asset is replaced.

Councils across NSW are experiencing significant financial challenges which are having a huge impact on the sector. Council's submission, one of 129 submissions to the NSW Government's *Inquiry into the Ability of Local Governments to Fund Infrastructure and Services*, highlighted the challenges councils are facing in funding the needs of their communities and maintaining the required level of service. Council relies heavily on external funding to meet its existing service levels and continue to renew its infrastructure. The cost of supplies, materials, and everyday operating expenses, such as electricity and fuel, have continued to rise at a rate much greater than Council's revenue, which has impacted on Council's bottom line.

Council's financial position is sound with net assets of \$1.163 billion, including cash and cash equivalents of \$82.296 million. Available working capital is sufficient to manage Council's day-to-day operations and provide a safeguard against unforeseen and unbudgeted expenditures after taking into account the level of internally restricted reserves. The balance of these reserves has remained stable in recent years even through the pandemic, disaster recovery and the completion of consecutive large capital works programs and is sufficient to fund future budgeted works. During the year, unexpected expenses were funded from higher-than-expected interest income, including the change in operating structure of the NRLX. This had a one-off impact on Council's operating result of \$1.5m for the 2023/2024 year. Council's move toward a leasing structure of the NRLX will see a more positive outcome as a future deficit of \$200,000 is forecast for the 2024/2025 year, which is a significant improvement on previous results under the old operating structure and will further improve when loan borrowings from the facility upgrade are finalised in 2024/2025.

Over the past 10 years council's operations have increased substantially, with operating expenditure increasing from \$46m in 2014/2015 to \$83m in 2023/2024, operating income (excluding capital grants) from \$44m to \$68mil and capital works program from \$17m to \$60m in 2023/2024. That's an investment in our community going from \$63m to \$143m per annum. Whilst council has only achieved two operating surpluses (excluding capital grants) over the past 10 years, the majority of council's key performance indicators still remain above the industry benchmark.

Accounting for the net loss on disposal of assets has further impacted the operating result due to significant infrastructure replacements such as the Casino Swimming Pool as well as numerous sports grounds upgrades. Again, this accounting process has been impacted by the current economic market in terms of resale values for assets along with the increased indexation rates being applied annually and will be addressed in Council's budget moving forward.

The summarised financial results for the year ended 30 June 2024 are as follows:

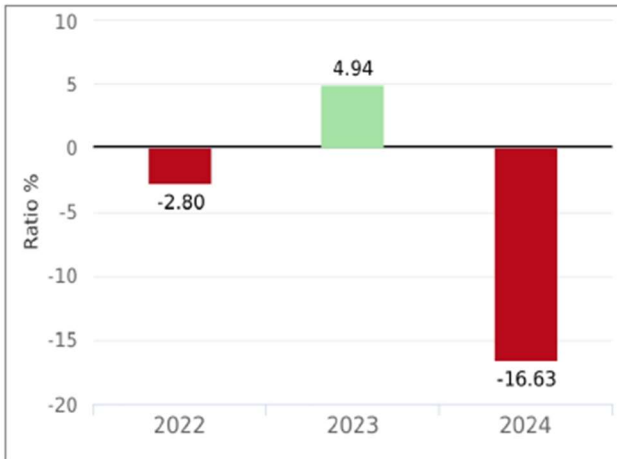
Income Statement	Actual 2024 \$'000	Actual 2023 \$'000
Total Income from Continuing Operations	109,782	125,401
Total Expenses from Continuing Operations	82,827	81,144
Operating Result from Continuing Operations	26,955	44,257
Net Operating Result before grants and contributions provided for capital purposes	(14,446)	2,954

Statement of Financial Position	Actual 2024 \$'000	Actual 2023 \$'000
Total Current Assets	89,846	100,704
Total Non-Current Assets	1,125,927	941,505
Total Assets	1,215,773	1,042,209
Total Current Liabilities	30,836	33,306
Total Non-Current Liabilities	21,020	20,345
Total Liabilities	51,856	53,651
Net Assets	1,163,917	988,558
Equity		
Accumulated Surplus	460,852	433,897
Revaluation Reserves	703,065	554,481
Total Equity	1,163,917	988,378

Statement of Cash Flows	Actual 2024 \$'000	Actual 2023 \$'000
Cash Flows from Operating Activities - receipts	104,628	124,974
Cash Flows from Operating Activities - payments	(55,140)	(61,902)
Net Cash provided (or used in) Operating Activities	49,488	63,072
Cash Flows from Investing Activities - receipts	836	269
Cash Flows from Investing Activities - payments	(66,859)	(53,606)
Net Cash provided (or used in) Investing Activities	(66,023)	(53,338)
Cash Flows from Financing Activities - receipts	2,600	0
Cash Flows from Financing Activities - payments	((3,962)	(3,809)
Net Cash provided (or used in) Financing Activities	(1,362)	(3,809)
Net Increase/(Decrease) in Cash & Cash Equivalents	(17,897)	5,925
Cash and Cash Equivalents - beginning of year	55,497	49,572
Cash and Cash Equivalents - end of year	37,600	55,497
Plus: Investments on Hand - end of year	44,696	35,088
Total Cash, Cash Equivalents and Investments	82,296	90,585

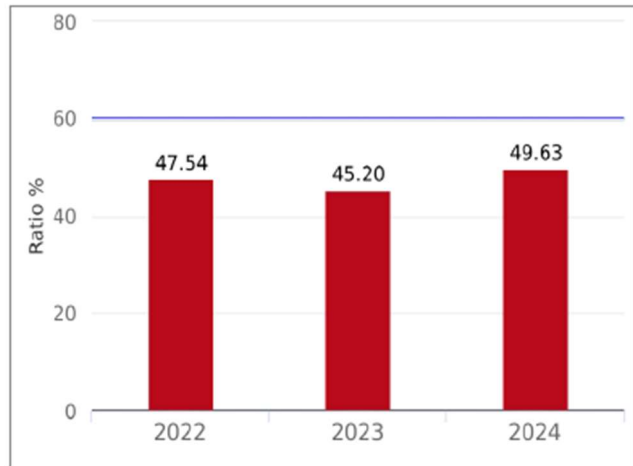
Council's key performance measures remain satisfactory, with the majority of these being above the industry benchmark. These are summarised below:

Operating performance ratio



Benchmark: — > 0.00%

Own source operating revenue ratio

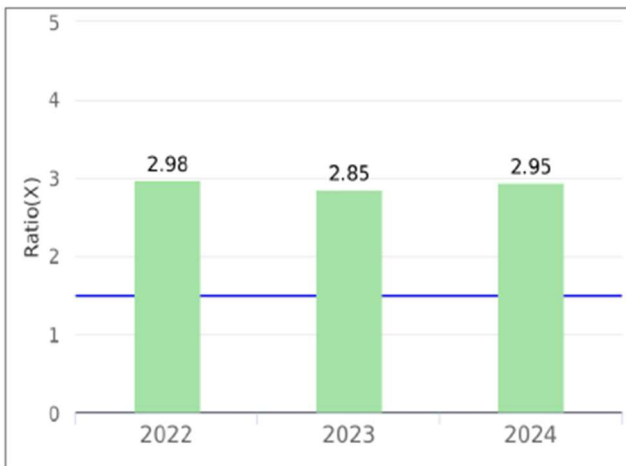


Benchmark: — > 60.00%

Council’s operating performance ratio on a consolidated basis was -16.63% for 2023/2024. Council’s operating income, in particular operating grants and contributions, decreased from 2022/2023 with the actual amounts of grants received dependent upon decisions made by the State and Federal Governments after the original budget is adopted and heavily impacted by natural disaster funding. The industry benchmark for this ratio is > 0.00% and achieving this will remain as a key focus moving forward.

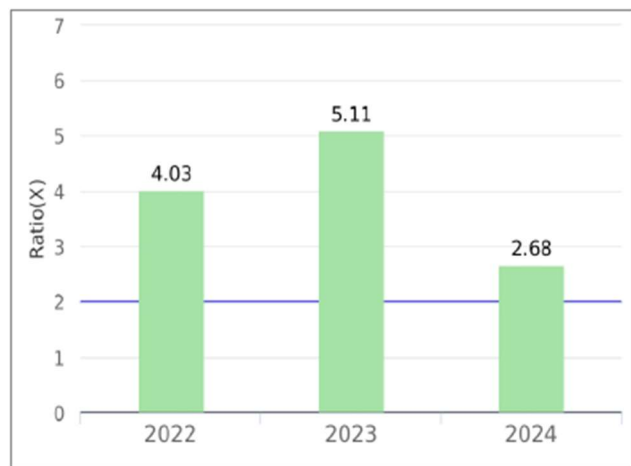
Council’s own source operating revenue ratio has remained relatively consistent at 49.63%. This ratio is heavily impacted by grant funding which have been quite high over the past few years. The industry benchmark is > 60.00%.

Unrestricted current ratio



Benchmark: — > 1.50x

Debt service cover ratio

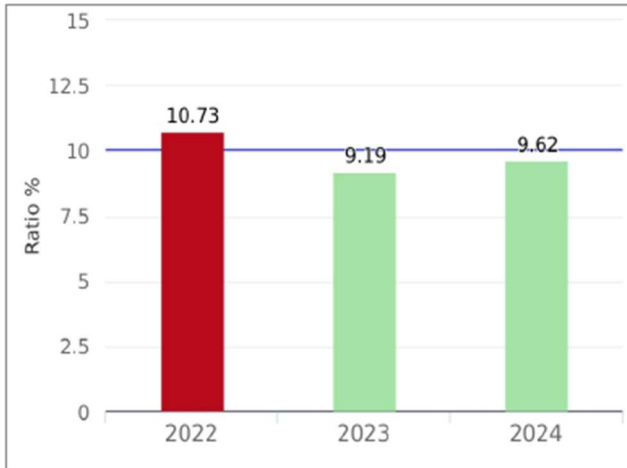


Benchmark: — > 2.00x

Council’s unrestricted current ratio has remained consistent with previous years at 2.95, meaning Council now has \$2.95 in unrestricted current assets for every \$1 of current liabilities. This ratio is well above the benchmark of > 1.50x.

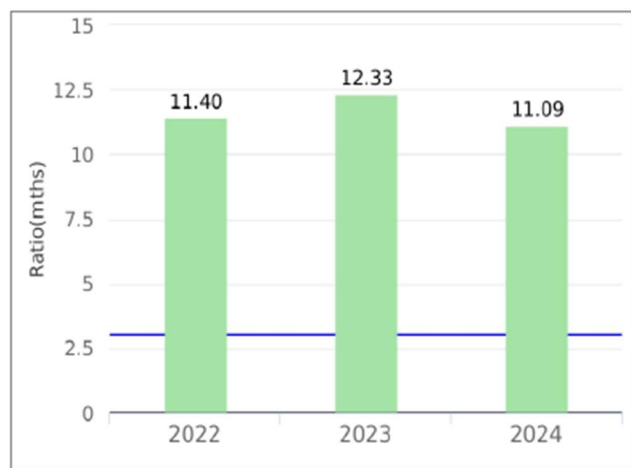
The debt service cover ratio was 2.68 for 2023/2024. This ratio measures the availability of operating cash to service debt including interest, principal and lease payments. This ratio is above the benchmark of > 2.00x.

Rates and annual charges outstanding percentage



Benchmark: — < 10.00%

Cash expense cover ratio

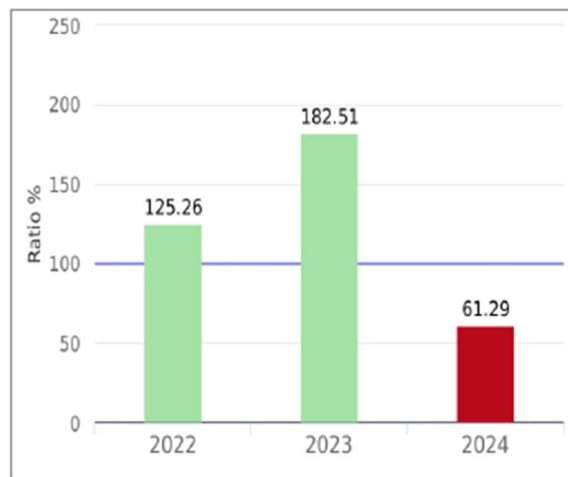


Benchmark: — > 3.00months

Council's rates and annual charges outstanding percentage remains comparable to the previous year at 9.62% on a consolidated basis. This ratio meets the industry benchmark of < 10.00%, however is still impacted by the fact that Council levies its water and sewerage annual charges in arrears. The general fund ratio is a more representative measure of outstanding rates and annual charges which has also remained relatively stable at 3.97%, from 3.21% in 2022/2023. Given the number of challenges with cost-of-living pressures facing households over the last 12 months, this is a positive result and demonstrates that Council continues to actively monitor and pursue outstanding balances through its debt recovery practices.

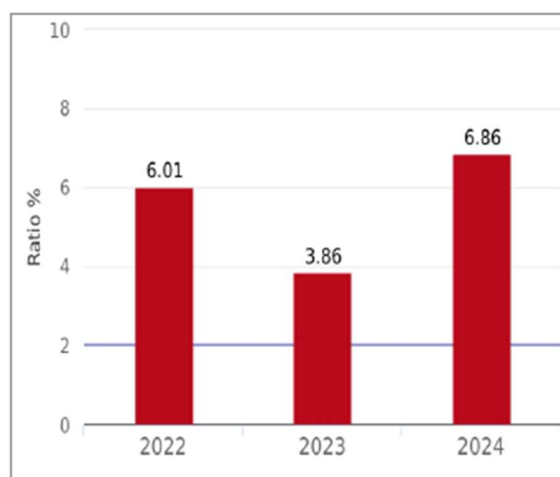
The cash expense cover ratio remains comparable to previous years at 11.09 months for 2023/2024. This ratio indicates the number of months Council can continue paying for its immediate expenses without additional cash inflow and is well above the benchmark of > 3 months.

Building and infrastructure renewals



Benchmark: — > 100.00%

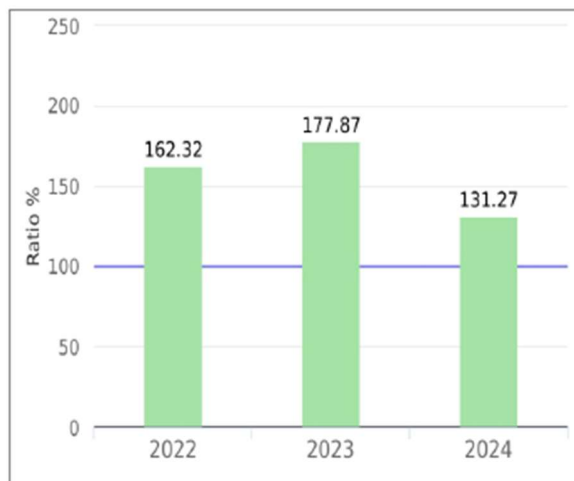
Infrastructure backlog ratio



Benchmark: — < 2.00%

Council's buildings and infrastructure renewals ratio has declined to 61.29%. This ratio was largely impacted this year by additional impairment being raised on council's infrastructure assets due to the finalisation of asset inspections and essential public asset restoration applications. The industry benchmark is $\geq 100.00\%$.

Council's infrastructure backlog ratio was 6.86% for 2023/2024. This is again impacted by the revised amount of impairment on infrastructure assets due to disaster restoration works and will continue to be impacted by any future natural disasters. The industry benchmark is < 2.00%.

Asset maintenance ratio

Benchmark: — > 100.00%

Council's asset maintenance ratio was 131.27% for 2023/2024. This is above the benchmark of > 100.00%, which indicates that Council is investing sufficient funds to stop its infrastructure backlog growing.

Council's overall financial position remains strong with net assets of \$1.163 billion, including cash and cash equivalents of \$82.296 million. Available working capital is sufficient to manage Council's day-to-day operations and provide a safeguard against unforeseen and unbudgeted expenditures after taking into account the level of internally restricted reserves. During the year, unexpected expenses were funded from higher-than-expected interest income, including the change in operating structure of the NRLX. This had a one-off impact on Council's operating result, which was forecast in the March Quarterly Budget Review Statement, however the move toward a leasing structure and the finalisation of the borrowing at the end of this financial year will see a more positive outcome in future years.

The schedule of restricted assets (reserves) held by Council as at 30 June 2024 is as follows:

Restricted Asset	30 June 2024 \$'000	30 June 2023 \$'000
External Restrictions		
Bonds and Deposits	535	536
Developer Contributions - General Fund	3,478	3,690
Developer Contributions - Water Fund	3,203	2,852
Developer Contributions - Sewerage Fund	6,480	5,739
Specific Purpose Unexpended Grants	13,642	6,390
Specific Purpose Unexpended Loans – General Fund	1,052	0
Water Supplies	6,056	5,534
Sewerage Services	6,141	8,919
Domestic Waste Management	4,912	7,137
Stormwater Management	1,330	1,096
Other	2,957	2,728
Total External Restrictions	49,786	53,492
Internal Restrictions		
Employee Leave Entitlements	1,631	1,481
Richmond Upper Clarence Regional Library	44	139

Restricted Asset	30 June 2024 \$'000	30 June 2023 \$'000
Other Waste Management	4,382	6,266
Insurance Reserve	1,848	2,455
Plant Replacement	2,388	4,199
Real Estate and Infrastructure	4,288	3,038
Petersons Quarry	1,449	2,503
Woodview Quarry	1,693	2,440
Quarry Rehabilitation	634	515
Road Rehabilitation Reserve	2,649	2,272
Northern Rivers Livestock Exchange	-	160
Rural Road Safety Program	121	91
Unexpended Special Rates Variations	833	865
Financial Assistance Grant Advance Payment	5,767	6,397
TfNSW State Roads Maintenance Contract	6	6
Public Cemeteries Perpetual Maintenance Reserve	114	186
Carry Over Works	3,780	3,035
Event Funding	43	75
Northern Rivers Rail Trail Maintenance	640	655
Total Internal Restrictions	32,310	36,778
Total Restrictions	82,096	90,270
Total Cash, Cash Equivalents and Investments	82,296	90,585
Unrestricted Cash, Cash Equivalents and Investments	200	315

CONSULTATION

Council will advertise the financial statements for the year ended 30 June 2024 to the public and invite submissions in writing, with submissions closing at 4:00pm, Tuesday 26 November 2024. Any submissions will be reported to the December 2024 Ordinary Meeting.

Council must also make available copies of the financial statements for inspection by the public from the date public notice is given until the day after the meeting where the financial statements were presented.

CONCLUSION

To formalise the financial reporting process, there are legislative steps that Council is required to follow. In accordance with Section 413 2(c) of the *Local Government Act 1993*, the following statements are required to be included in the resolution of this report to enable Council to adopt the financial statements for the year ended 30 June 2024:

- (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 2024 and:
- (iv) The reports are in accordance with Council's accounting and other records,
- (v) 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

In accordance with Section 418 of the *Local Government Act 1993*, Council must fix a date for a meeting to be held where the financial statements for the year ended 30 June 2024 are presented to the public. Council must also give public notice of this date and invite submissions in writing from the public, with copies of the financial statements available for inspection until 4pm on Tuesday 26 November 2024.

ATTACHMENT(S)**Nil**

18 GENERAL BUSINESS

Nil

19 MATTERS FOR INFORMATION**RECOMMENDATION**

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

19.1 INFRASTRUCTURE RECONSTRUCTION UPDATE

Director: Ben Zeller

Responsible Officer: Kim Anderson

RECOMMENDATION

That Council receives and notes the information provided in the Infrastructure Reconstruction Update.

REPORT

The natural disaster flood event of March 2022 caused damage to approximately 75% of the Richmond Valley's 1065km road network. Following the event, emergency and immediate reconstruction works were undertaken to restore road access for the community at a cost of \$15.36 million. Funding is provided to Council for expenses incurred to complete works considered urgent, and essential to support immediate recovery of a community. The table below provides the expenditure cost for the initial stages on the road network.

	Emergency Works (EW)	Immediate Reconstruction Works (IRW)
Local Roads	\$ 5,668,077	\$ 8,180,420
Urban Roads	\$ 185,972	\$ 40,748
Regional Roads	\$ 819,851	\$ 123,681
Crown Roads	\$ 83,693	\$ 258,344
Total Spent	\$ 6,757,592	\$ 8,603,192

The natural disaster restoration program transitioned to the essential public asset reconstruction (EPAR) working phase commencing 1 April 2023. This process involves activities to fully reconstruct an essential public asset to pre-disaster capacity and condition. This requires Council to submit estimated reconstruction costs for approval prior to the commencement of any physical works.

Transport for NSW (TfNSW) appointed industry consulting firm Indras in August 2023 as a pilot project to assess and evaluate existing disaster management processes performed by Council and to embed new processes to be followed for all future disaster events.

Managed under the Asset Systems and Planning Department of Council, the Infrastructure Recovery has a dedicated a team of five staff either full time or part time working on a range of duties ensuring all repairs from disaster events are claimed, programmed, and finalised. Administration processes are now in place that can be activated for all future events which help ensure the funding claimed is approved and we receive the best outcome for the Richmond Valley.

Key Dates and Timelines relating to Disaster Recovery Funding Arrangements (DRFA):

- Emergency Works (EW) were extended from 30 September 2022 to 31 December 2022.
- Immediate Reconstruction Works (IRW) expired on 31 December 2022.
- All IRW's were converted to EPARs by mid November 2022.
- EPARs claim deadlines were extended from 31 December 2023 to 30 June 2024.
- EPARs approvals to be finalised by 30 September 2024 (limited individual claim extension applied).

Transport for NSW Applications and Claims

The Infrastructure Recovery team successfully achieved the milestone submission deadline of 30 June 2024 including finalising all project tenders representing market financial total upper limit values. This milestone was focused on reducing Council's financial risk for complex projects such as landslips where costings, unit rates and quantities were unable to be used.

Council has been working with the TfNSW assessment team for final approvals due 30 September 2024. Only 3 EPAR claims remain under revision and assessment for final determination.

Application Status	EPAR Projects
Approved claims by TfNSW – Concurrence by Council	87
Under Assessment by TfNSW	1
Approved claims by TfNSW – Objection by Council	2
Approved with concurrence total value	\$ 49,326,987

These approvals are critical to the overall reconstruction effort to ensure there is sufficient time, relevant appropriate project scope, and funding for Council's Asset Delivery Teams, to deliver the reconstruction works.

A total of 87 EPAR claims have been approved with concurrence on project scope and costings valued at \$49.3 million. Council is working with TfNSW on two claims which have been approved for \$1.1 million, however it is objecting to this approved value based on its assessment of costs related to the scope of works. Currently one claim is under assessment by TfNSW relating to verge cleanups based on Council's application value of \$3.4 million.

At this stage, the estimate of the total cost of restoring and improving our road network will be approximately \$75.8 million made up of EW, IRW, EPAR's and Betterment funding. In addition to this, Council has also been successful in obtaining funding for other road and bridge reconstruction projects including Tatham Bridges (\$21 million), Thearles Canal (\$1.4 million), Dairy Flat (\$4.2 million), and Broadwater Bridge (\$1.5 million) bringing the total reconstruction investment in the road network to over \$100 million.

Expenditure to repair flood damage on Councils buildings and facilities, open spaces and recreational areas, water, sewerage, and stormwater drainage infrastructure are not captured under this EPAR process and are additional to the above figures.

Funds spent to date

The table below identifies funds spent to date (as of 30 September 2024) on the reconstruction effort:

Emergency Works (EW)	Immediate Reconstruction Works (IRW)	Essential Public Asset Restoration (EPAR)	TOTAL
\$ 6,757,592	\$ 8,603,192	\$ 14,530,777	\$ 29,891,561

Roadworks Delivery Program:

Council has focused on providing efficiencies through incorporating the capital program, grant funding, and EPAR works with an aim to improve the overall road network. Council has developed a delivery program for funded works including EPAR approvals programmed for completion by December 2026. The delivery works will be completed using approved qualified contractors as well as Council's asset delivery and roads and drainage teams.

The landslips and embankment repair EPAR's have all claims approved, tenders awarded, and contractors appointed. These projects include Naughtons Gap Road, Bentley Road, MR145 Woodburn-Coraki Road, Upper Mongogarie, Upper Cherry Tree and East Coraki Road land slip.

The forward schedule program includes work packages for urban town works, unsealed roads, sealed roads heavy patching, bridge repairs, culvert replacements, signage, guard rails, and verge cleanup activities across all affected areas of the Richmond Valley.

ATTACHMENT(S)

Nil

19.2 DEVELOPMENT APPLICATIONS DETERMINED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT FOR THE PERIOD 1 AUGUST 2024 - 31 AUGUST 2024 AND 1 SEPTEMBER 2024 - 30 SEPTEMBER 2024

Director: Angela Jones

Responsible Officer: Andy Edwards

RECOMMENDATION

That Council receives and notes the Development Application report for the period 1 August 2024 to 30 September 2024.

REPORT

This report provides a summary of development activity on a monthly basis. All Development Applications determined in the month are outlined in this report, including Section 4.55 approvals, applications which were refused and withdrawn, and applications with no development value, such as subdivisions.

Council receives a fortnightly summary of the status of applications (including all received) and notifications of all determinations of Development Applications are included in the Community Newsletter on a monthly basis.

August 2024

The total number of Development Applications and Complying Development Applications determined within the Local Government area for the period 1 August 2024 to 31 August 2024 was twenty-two (22) with a total value of \$37,419,860.70.

During this period there were four (4) applications determined with a Clause 4.6 Variation being DA2024/0176 – 7-9 Dyraaba Street & 90-94 Colches Street, Casino, DA2024/0158 – 35 Cassino Drive, Casino, DA2024/0140 – 17 McDonald Place, Evans Head and DA2024/0132 – 156 Ainsworth Road, Mongogarie.

One application was withdrawn being DA2024/0152 – 385 Gores Road, Spring Grove due to not demonstrating compliance in regard to RFS access requirements.

September 2024

The total number of Development Applications and Complying Development Applications determined within the Local Government area for the period 1 September 2024 to 30 September 2024 was twenty-three (23) including three (3) privately certified Complying Development Certificate with a total value of \$8,166,299.00

During the month of September development applications older than 12 months with an outstanding request for additional information were reviewed. Discussions were conducted with owner/applicants which resulted in three (3) applications withdrawn and one (1) application surrendered.

The graph below shows the number of development applications processed by Council over five financial years.

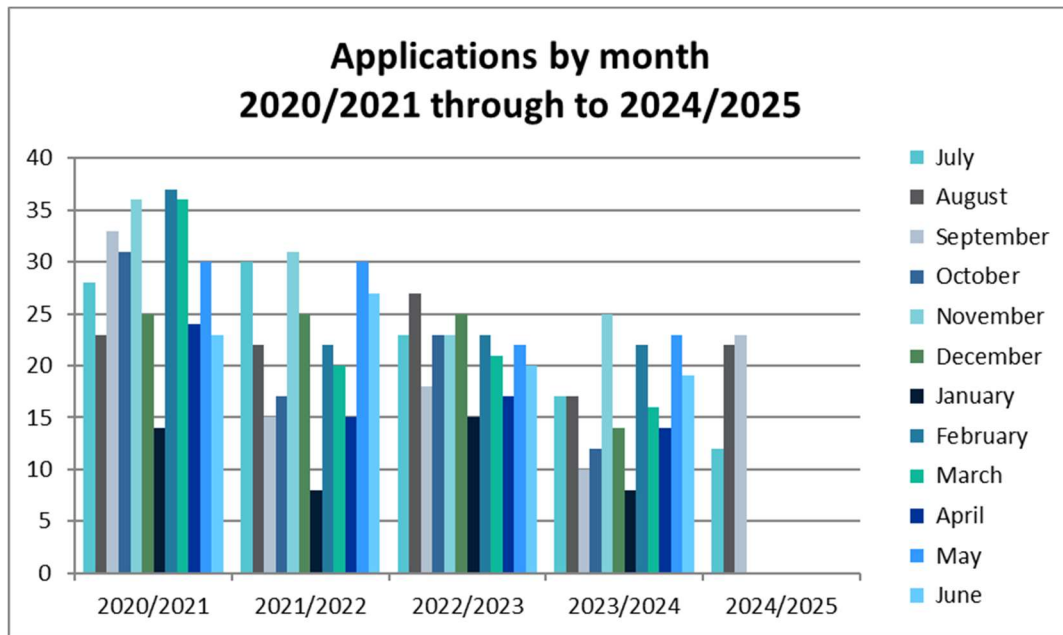


Figure 1: Monthly number of development applications and CDC's processed by Council over five financial years.

Figure 2 provides the annual value of Development Consents including CDCs issued by Council and private certifiers over five financial years. Figure 3 provides a detailed review of the value for the reporting months of August and September 2024.

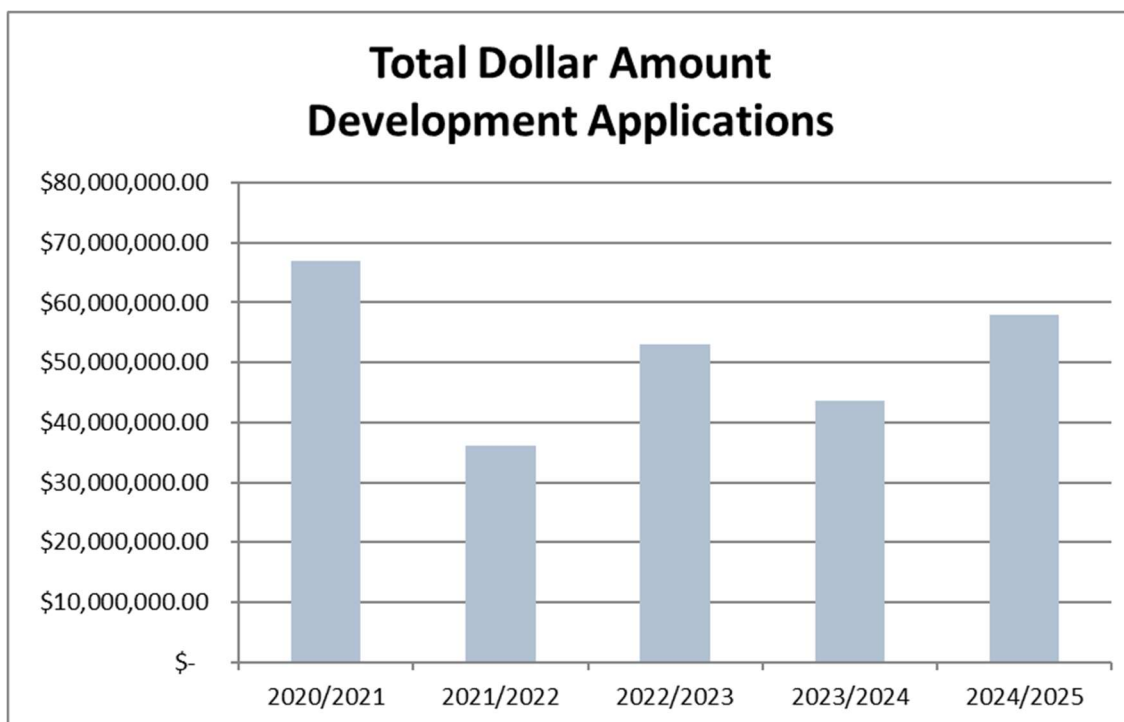


Figure 2: Annual value of development

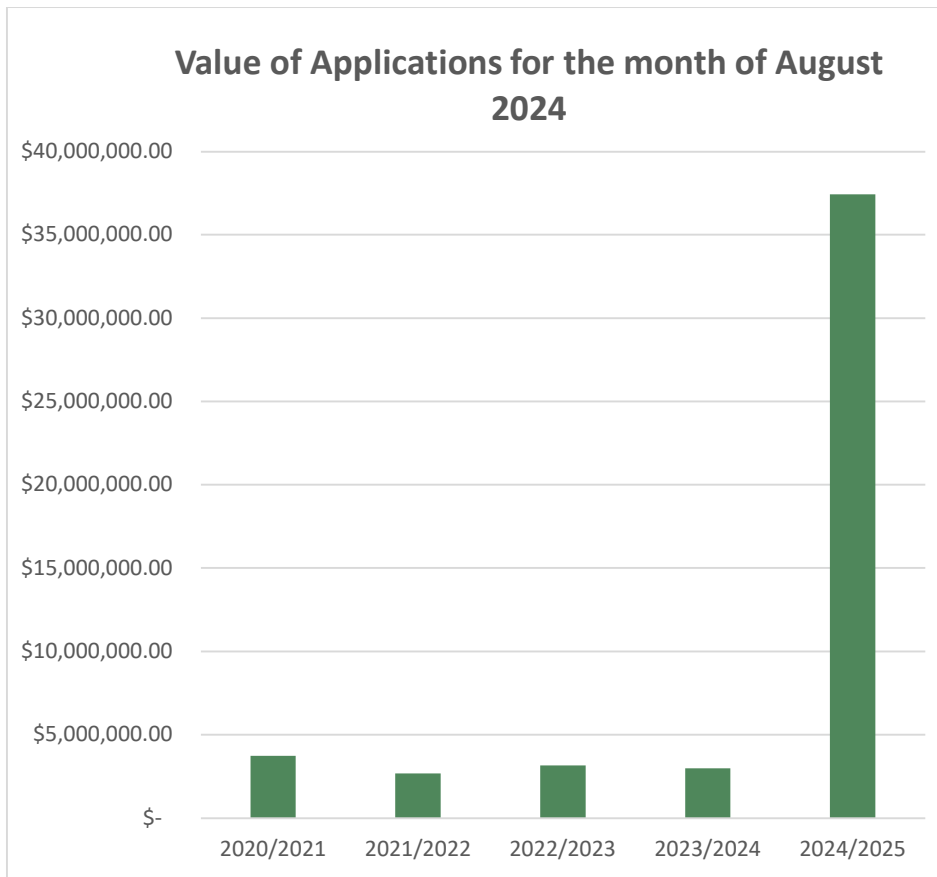


Figure 3: Value of development for the month of August 2024

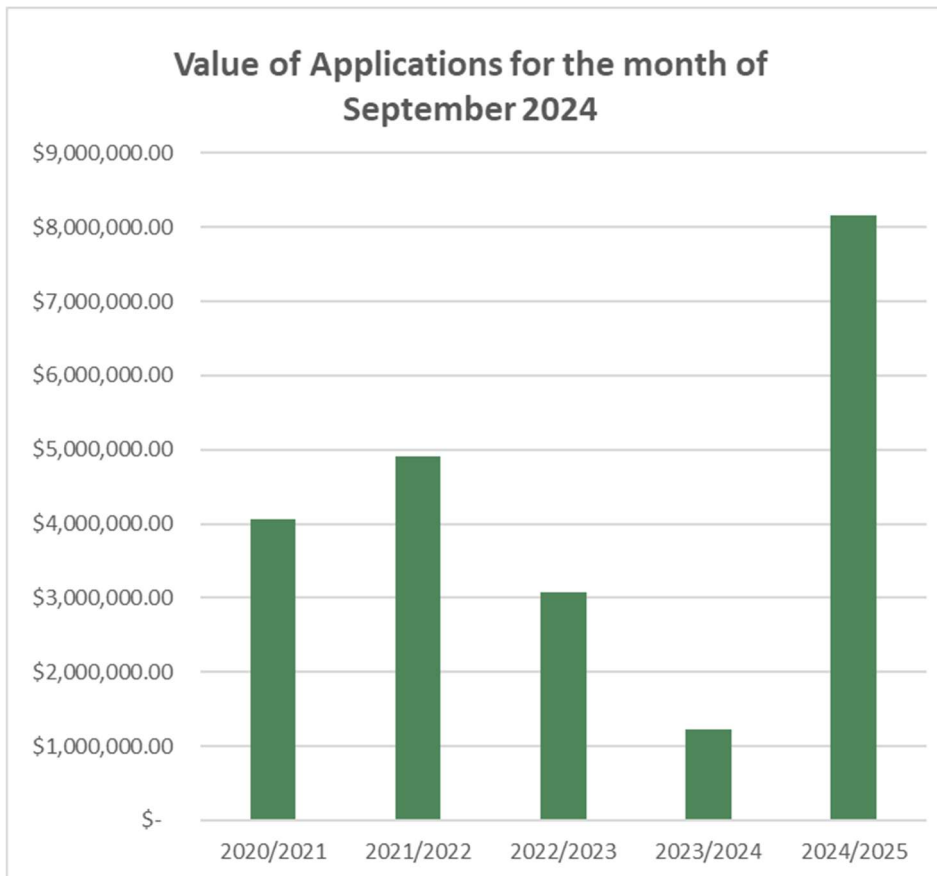


Figure 3: Value of development for the month of September 2024

Number of Development Applications

The number of applications received by Council does not necessarily reflect the value of developments, as single large developments can be equivalent in value to a large number of more standard type developments such as sheds, dwellings and small commercial developments.

Figures 4 and 5 detail the number of applications determined by Council over the past five years.

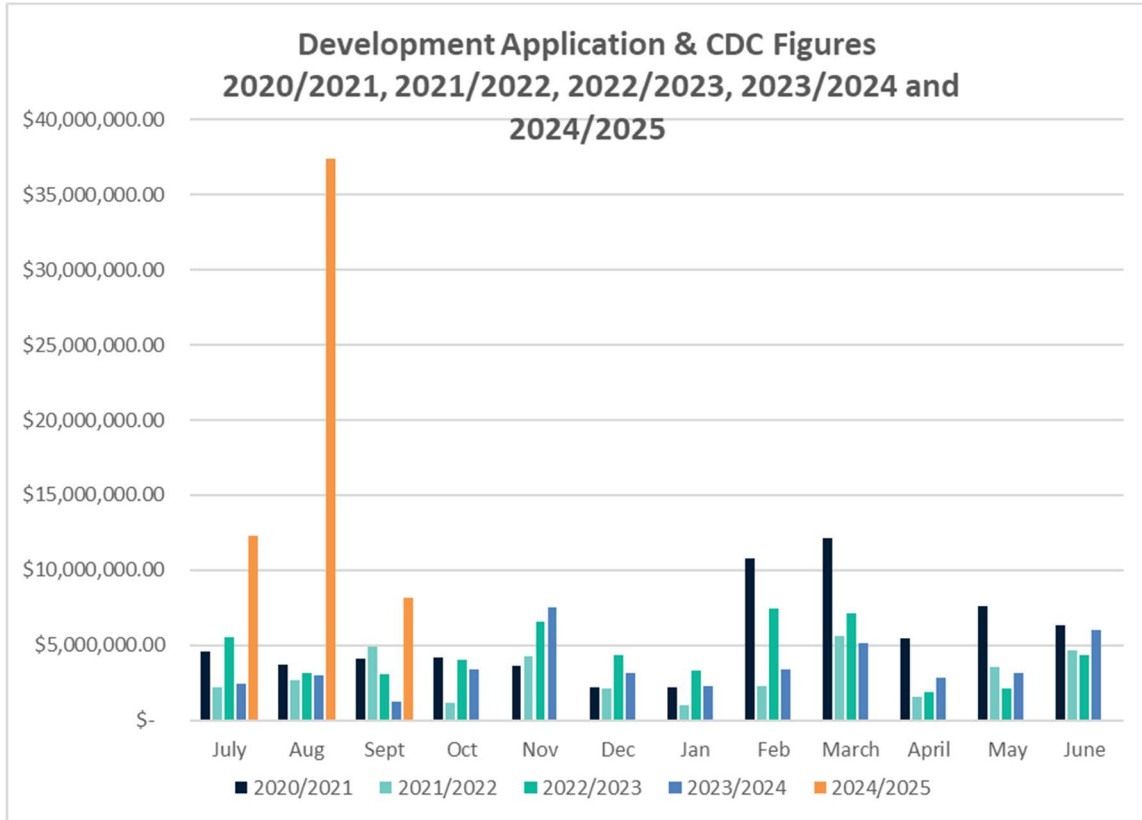


Figure 4: Value of development applications per month over five financial years.

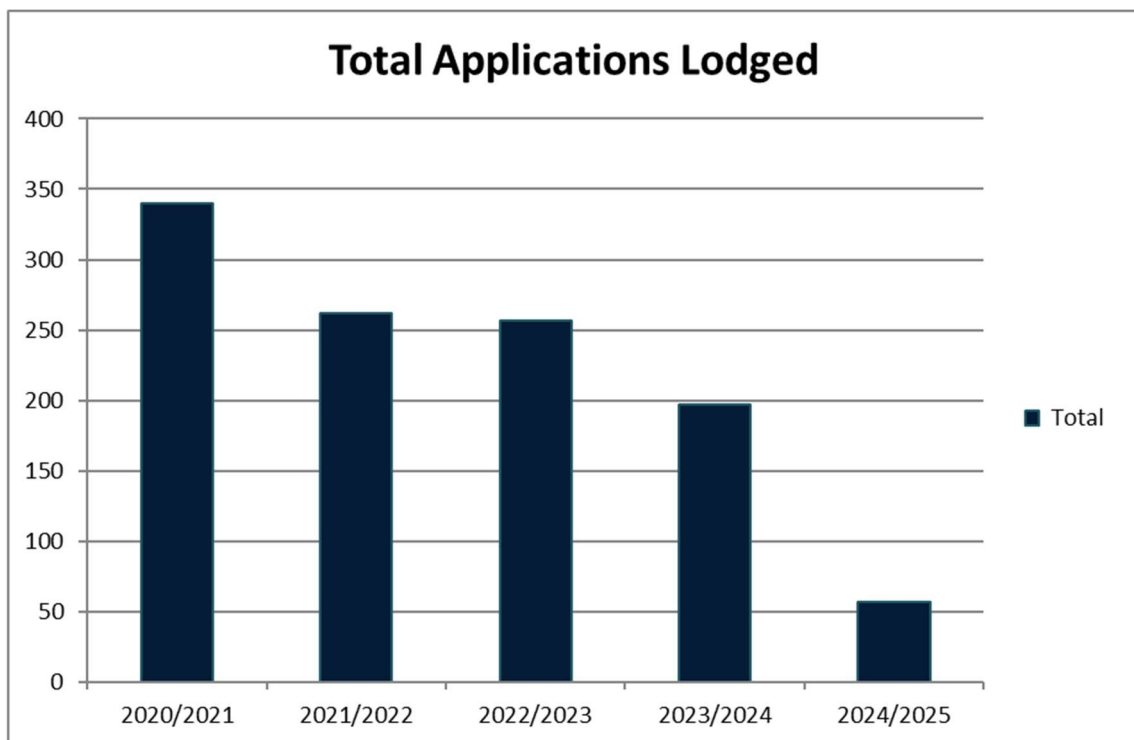


Figure 5: Number of Development Applications & CDCs per annum over five financial years

Activity for the month of August 2024

General Approvals (excluding Subdivisions, Section 4.55)	17
Section 4.55 amendments to original consent	4
Operational Consent	-
Subdivision	1
Refused	-
Rejected	-
Complying Development (Council Approved)	-
Complying Development (Private Certifier Approved)	-
Amended Complying Development (Private Certifier Approved)	-
TOTAL NUMBER OF DEVELOPMENT APPLICATIONS DETERMINED	22
Withdrawn	1
Average assessment days for applications determined in August 2024 (Planning & Building Combined)	31
No. of Integrated development applications determined in August 2024	1
No. of Designated development applications determined in August 2024	-

Activity for the month of September 2024

General Approvals (excluding Subdivisions, Section 4.55)	16
Section 4.55 amendments to original consent	2
Operational Consent	-
Subdivision	1
Refused	-
Rejected	-
Complying Development (Council Approved)	1
Complying Development (Private Certifier Approved)	3
Amended Complying Development (Private Certifier Approved)	-
TOTAL NUMBER OF DEVELOPMENT APPLICATIONS DETERMINED	23
Withdrawn/Surrendered	4
Average assessment days for applications determined in September 2024 (Planning & Building Combined)	30
No. of Integrated development applications determined in September 2024	-
No. of Designated development applications determined in September 2024	-

ATTACHMENT(S)

Nil

**Summary of Development Applications determined under the Environmental Planning and Assessment Act
for the period 1 August 2024 to 31 August 2024**

Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
DA2024/0146	Barker Architects	C M Gooley	13 Seamist Lane, Evans Head	External works only. New external entry stairs and covered deck, new window shrouds, refurbished deck and viewing platform.	10/04/2024	18/04/2024	22/08/2024	\$150,700.00
MA2024/0009	Richmond Valley Council	Richmond Valley Council	Casino Memorial Park and Swimming Pool, 84 Centre Street, Casino	S4.55(1(A) Modification - Minor amendments to internal layout of the Swim Club and adjacent Stores, extend the approved hours of operation to include opening from 5.30am weekdays and 7.00am weekends and public holidays, and to allow construction traffic associated with the construction of the new swim club stage to gain access to the site from Centre Street	7/05/2024	11/06/2024	29/08/2024	\$550,000.00
DA2024/0181	Ardill Payne & Partners	A S Ramsey & C A Ramsey	171 Sextonville Road, Casino	To undertake the demolition/removal of an existing flood damaged dwelling house and in-ground swimming pool and the construction of a new two storey dwelling house	27/06/2024	11/07/2024	5/08/2024	\$1,820,000.00
DA2024/0182	Evolve Planning Services Pty Ltd	K M Giacobetti & F Giacobetti	46 Cherry Street, Evans Head	New Dwelling	27/06/2024	5/07/2024	14/08/2024	\$824,996.00
DA2025/0001	R J Hayes	H M Johnston & I M Johnston	127 Ocean Drive, Evans Head	Alterations and additions to existing dwelling inclusive of extensions to the ground and upper level, new concrete swimming pool, colourbond roof, driveway area and associated works	1/07/2024	12/07/2024	9/08/2024	\$610,500.00
DA2025/0002	Northern Rivers Pools	W J Morgan & K P Morgan	142 Bridge Street, Coraki	Installation of an in-ground fibreglass swimming pool, its associated equipment and fencing	2/07/2024	5/07/2024	7/08/2024	\$60,070.00
DA2025/0003	The Shed Company	J J Santin & M Santin	61 Woodburn Street, Evans Head	7.5m x 8m Gable Roof Colorbond Shed with a request to vary the DCP in regard to side & rear setbacks	4/07/2024	16/07/2024	8/08/2024	\$18,890.00
MA2025/0001	Verte Design & Drafting Pty Ltd	L A Watson	68 Barker Street, Casino	S4.55(1A) Modification - Raising a floor level and moving location of dwelling 500 mm	8/07/2024	10/07/2024	5/08/2024	\$585,000.00

Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
DA2025/0007	M Hutchinson	G L Edmonds & J A Bilston	48-50 Colches Street, Casino	Removal of existing 1.2m high fence and replacement with a 1.8m high aluminium fence to the Child Care Centre boundary	10/07/2024	11/07/2024	2/08/2024	\$12,000.00
MA2025/0002	Planit Consulting	Sle Freehold Pty Ltd	15-19 Oak Street, Evans Head	Section 4.55 (1A) Minor amendments to the approved building alterations	10/07/2024	22/07/2024	20/08/2024	\$491,388.70
DA2025/0010	S D Henderson	K M Cowan	89 Centre Street, Casino	Additional bedroom, relocate WC and new rear patio area	11/07/2024	16/07/2024	16/08/2024	\$84,700.00
DA2025/0012	N L Lammers	R A Lammers & N L Lammers	41 Cypress Street, Evans Head	Resited dwelling and associated works	11/07/2024	25/07/2024	21/08/2024	\$100,000.00
DA2025/0013	R Hanby	S G Lane	1930 Bentley Road, Bentley	Two lot Torrens Title subdivision of RU1 zoned land, each comprising of minimum area of 40ha or more	12/07/2024	22/07/2024	20/08/2024	\$9,295.00
DA2025/0014	Newton Chapelle Denny	P L Liebke & K A Liebke	8 Pitt Street, Broadwater	Construction of a dwelling house	12/07/2024	24/07/2024	30/08/2024	\$569,398.00
DA2025/0015	J P Quinn	Baxter Torelli Investments Pty Ltd	47-49 Woodburn Street, Evans Head	Demolition of the existing residence (house) for re-location	16/07/2024	18/07/2024	12/08/2024	\$100,000.00
DA2025/0017	Newton Chapelle Denny	Pagotto Superannuation Fund Pty Ltd	108-116 Richmond Street, Woodburn	Change of use to a Health Services Facility (Medical centre) including demolition work, building fit out, carparking and associated works.	23/07/2024	29/07/2024	22/08/2024	\$495,770.00
MA2025/0005	Newton Chapelle Denny	P J Fuhrmann, J A Fuhrmann & H M Smethurst	23 Beech Street, Evans Head	S4.55(1A) - The modification incorporates a change to the exterior cladding of the dual occupancy building from a dark to a light colour scheme.	5/08/2024	13/08/2024	15/08/2024	\$1,540,000.00
DA2025/0027	R D Nutt	NSW Reconstruction Authority	34 Cedar Street, Woodburn	Relocation of existing dwelling to Kyogle, NSW including ancillary site clean-up works	7/08/2024	12/08/2024	30/08/2024	\$121,091.00

Summary of Council Certified Complying Development Applications determined under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								

Summary of Flood Affected Development Applications determined under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								

Summary of Privately Certified Applications determined under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Submitted to Council for Registration	Date Accepted	Determination Date	Estimated Cost
Nil								

Summary of Development Applications determined under the Environmental Planning and Assessment Act with a Clause 4.6 Variation for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
DA2024/0176	J L McCaughey	JL McCaughey Pty Ltd	7-9 Dyraaba Street, Casino & 90-94 Colches Street, Casino	Extension to the existing General Industry (staff amenities block, store and plant room), and construction of a Warehouse (cold storage) and Distribution Centre, Car Park and Signage.	30/05/2024	3/06/2024	8/08/2024	\$7,617,500.00
DA2024/0158	HPC Planning	H E McCaughey & P W McCaughey	35 Cassino Drive, Casino	Construction of a Transport Depot, Warehouse (cold storage) and Distribution Centre and Signage	24/04/2024	10/05/2024	1/08/2024	\$16,244,800.00

DA2024/0140	Newton Denny Chapelle	17 The Evans Pty Ltd	17 McDonald Place, Evans Head	The construction of a shop top housing development comprising ground floor commercial space and ten (10) residential units within the first and second floor. The proposal is inclusive of demolition of the existing building, removal of existing vegetation, and ground floor carparking. The project involves awnings above the footpaths adjacent McDonald Place and Elm Street, and incorporates kerbside dining to service the commercial space.	2/04/2024	7/05/2024	8/08/2024	\$4,970,042.00
DA2024/0132	Byron Bay Planning & Property Consultants	A J Bevan	156 Ainsworth Road, Mongogarie	Proposed detached dual occupancy dwellings (two dwellings to create a dual occupancy)	19/03/2024	4/04/2024	29/08/2024	\$443,720.00

Summary of Development Applications Refused under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								
Summary of Development Applications issued under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								
Summary of Development Applications Withdrawn under the Environmental Planning and Assessment Act for the period 1 August 2024 to 31 August 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Date Withdrawn	Estimated Cost
DA2024/0152	P J St Clair	P J St Clair	385 Gores Road, Spring Grove	As built structure to create a dual occupancy and ancillary works	16/04/2024	1/05/2024	23/08/2024	\$92,558.00

**Summary of Development Applications determined under the Environmental Planning and Assessment Act
for the period 1 September 2024 to 30 September 2024**

Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
DA2023/0190	J McCarthy & B Squires	Kofuku Pty Ltd	100 Centre Street, Casino	Alterations and additions to the Cecil Hotel, including conversion of the first floor to a function room with associated amenities and ancillary works.	7/08/2024	7/08/2024	26/09/2024	\$1,772,000.00
DA2024/0129	Newton Denny Chapelle	S S Thompson & G A Pritchett	945 Woodburn Coraki Road, Bungawalbin	Decommissioning and change of use of an existing dwelling to a farm building, and construction of a new dwelling	6/06/2024	6/06/2024	19/09/2024	\$330,000.00
DA2025/0006	Newton Denny Chapelle	Ampol Australia Petroleum Pty Ltd	32 Dyraaba Street, Casino	Replacement of fuel infrastructure at an existing fuel storage depot and service station	10/07/2024	23/07/2024	10/09/2024	\$511,500.00
DA2025/0008	J S Nelson	J S Nelson	27 Colches Street, Casino	Demolition of existing 6x4m shed and erection of new colourbond 10x7m shed made up of 2 enclosed bays and 1 open bay, skillion roof and 6x10 concrete apron with a request to vary the DCP	10/07/2024	16/07/2024	20/09/2024	\$46,000.00
DA2025/0011	K E Anderson	T & K Anderson Investments Pty Ltd	935 Spring Grove Road, Spring Grove	Staged alterations and additions to residential dwelling and construction of a farm shed	11/07/2024	29/07/2024	12/09/2024	\$174,167.00
DA2025/0016	R J Hayes	R L McFarlane & L J McFarlane	74 Trustums Hill Road, Woodburn	Additions to existing dwelling, installation of an in-ground fibreglass swimming pool in front of existing shed and construction of a new shed with awning and associated works.	19/07/2024	29/07/2024	2/09/2024	\$349,800.00
MA2025/0003	Barker Studio Pty Ltd	P R Wotherspoon & J J Wotherspoon	23 Riverview Street, Evans Head	S4.55(1A) Modification to extend approved rear deck roof by 18m ² with pitch change	24/07/2024	26/07/2024	10/09/2024	\$549,650.00
DA2025/0020	B A Harley	B J Gooley & S A Gooley	53 Verulam View, Spring Grove	Brick veneer dwelling with metal roof	29/07/2024	2/08/2024	2/09/2024	\$1,026,000.00
DA2025/0021	S L Coe	S L Coe	1272 Caniaba Road, Clovass	Shed with bathroom and utilities	31/07/2024	7/08/2024	6/09/2024	\$149,000.00
MA2025/0004	GeoLink Consulting Pty Ltd - Coffs Harbour	Northern Co-Operative Meat Co Ltd	10615 Summerland Way, Casino	S4.55(1A) – Deletion of conditions relating to provision of access to accommodation units for people with a disability	2/08/2024	19/08/2024	10/09/2024	\$1,300,000.00

Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
DA2025/0024	Big River Sheds Pty Ltd	M A Underhill	11 Daisy Place, Fairy Hill	Erect a colourbond shed on a concrete slab	4/08/2024	9/08/2024	12/09/2024	\$58,164.00
DA2025/0028	M C Kenny	M C Kenny & S G Kenny	23 Laurel Avenue, Casino	Installation of a fibreglass composite inground swimming pool and associated fencing	7/08/2024	14/08/2024	12/09/2024	\$58,880.00
DA2025/0029	Approved Services Pty Ltd	P J Kingston & T R T Kingston	Ginibi Drive, Swan Bay	New dwelling	8/08/2024	16/08/2024	25/09/2024	\$490,569.00
DA2025/0032	D Johns	N M Conlan & B W Conlan	75 Haughwood Road, Bora Ridge	Farm shed with amenities	13/08/2024	20/08/2024	2/09/2024	\$94,700.00
DA2025/0033	S A Banning	S A Banning	710 Shannonbrook Road, Shannon Brook	Installation of an above ground swim spa with lockable lid and associated pool fencing.	13/08/2024	19/08/2024	17/09/2024	\$53,350.00
DA2025/0034	R J Hayes	T M H Ezzy	28 Ash Street, Evans Head	Conversion of an existing dwelling and secondary dwelling to create a detached dual occupancy development and Strata Title Subdivision	16/08/2024	20/08/2024	17/09/2024	\$10,340.00
DA2025/0036	B E Harley	R N Gooley	17 Musgraves Road, North Casino	New dwelling	20/08/2024	28/08/2024	19/09/2024	\$401,000.00
DA2025/0037	North Coast Sheds & Garages Pty Ltd	S L Whybro	3 Douglas Crescent, Fairy Hill	Construction of a shed (12m x 12m)	21/08/2024	28/08/2024	23/09/2024	\$73,274.00
DA2025/0038	North Coast Sheds & Garages Pty Ltd	P Trotter	44 Trustums Hill Road, Woodburn	Construction of a shed	21/08/2024	3/09/2024	23/09/2024	\$60,300.00

Summary of Council Certified Complying Development Applications determined under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
CDC2025/0002	M K Peebles	M K Peebles	19 McElroy Street, Casino	Dual occupancy development - construction of a 60sqm detached secondary dwelling	14/08/2024	19/08/2024	4/09/2024	\$220,000.00

Summary of Flood Affected Development Applications determined under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								

Summary of Privately Certified Applications determined under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Submitted to Council for Registration	Date Accepted	Determination Date	Estimated Cost
CDC2025/0005	East Coast Building Consultants	C P Baldwin-Mathias & K A A Flack	78 Johnston Street, Casino	Installation inground fibreglass swimming pool	05/09/2024	16/09/2024	4/09/2024	\$74,105.00
CDC2025/0006	Techton Building Services	J M Roberts	2/18-22 Oak Street, Evans Head	Change of use to a Pizza shop and internal fitout	20/09/2024	25/09/2024	19/09/2024	\$50,000.00
CDC2025/0007	Castle Kane Group Building Surveyors Pty Ltd	Dantome Pty Ltd	87-89 Walker Street, Casino	Partial refurbishment and replacement of signage to shop	27/09/2024	9/10/2024	27/09/2024	\$313,500.00

Summary of Development Applications determined under the Environmental Planning and Assessment Act with a Clause 4.6 Variation for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								
Summary of Development Applications Refused under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								
Summary of Development Applications issued an Operation Consent under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (In Portal)	Date Accepted (In Portal)	Determination Date	Estimated Cost
Nil								
Summary of Development Applications Withdrawn under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Withdrawn Date	Estimated Cost
DA2021/0189	D J Balch	D J Balch	17 Bruton Street, Casino	Above ground swimming pool and associated pool fencing	22/01/2021	25/01/2021	24/09/2024	\$15,370.00
DA2022/0033	M H De Beer	M H De Beer	111 Queensland Road, Casino	Change of use from shed to living area with addition of bathroom, wall lining and flooring	10/08/2021	12/08/2021	19/09/2024	\$19,000.00
DA2024/0010	Newton Denny Chapelle	D J & M J Gambley	49-53 Cope Street, Casino	Re-subdivision of three (3) lots into two (2) lots, and the construction of a multi dwelling house development comprising of eight (8) single storey dwellings, to be undertaken in three (3) stages	19/07/2023	8/08/2023	26/09/2024	\$1,659,617.00

Summary of Development Applications Surrendered under the Environmental Planning and Assessment Act for the period 1 September 2024 to 30 September 2024								
Application ID	Applicant	Owners	Location	Development	Date Received (in Portal)	Date Accepted (In Portal)	Surrendered Date	Estimated Cost
DA2022/0126	TMMM Constructions Pty Ltd t/as GJ Gardner Homes Grafton	R N Gooley & J M Waters	17 Musgraves Road, North Casino	Dwelling	23/12/2021	4/01/2022	17/09/2024	\$451,376.00

19.3 AUDIT, RISK AND IMPROVEMENT COMMITTEE MINUTES, 28 AUGUST 2024**Director: Ryan Gaiter****Responsible Officer: Latoya Cooper****RECOMMENDATION**

That Council receives and notes the Minutes of the Audit, Risk and Improvement Committee held on 28 August 2024.

REPORT

At the August Audit, Risk and Improvement Committee meeting, strategic updates were provided on a recent Cyber Security Penetration Test, the risks associated with the upcoming Technology One CiA Live project, the recent adoption of Council's Water for Life 2050 Strategy and a strategic update on Council's ongoing work to improve risk management across the organisation with the assistance of Council's Insurer, Civic Risk Mutual.

During the reporting period, there were eleven (11) internal audit actions completed and two (2) external audit actions completed, leaving 17 audit actions in progress as at 30 June 2024.

The next upcoming audit on Council's Physical Asset Security is scheduled to be completed during November 2024, with the findings to be presented to the scheduled February 2025 Audit, Risk and Improvement Committee meeting.

ATTACHMENT(S)

- 1. Audit, Risk and Improvement Committee, Minutes 28 August 2024 (under separate cover)**

19.4 CODE OF CONDUCT COMPLAINT STATISTICS**Director: Ryan Gaiter****Responsible Officer: Kate Allder-Conn****RECOMMENDATION**

That Council receives and notes the Code of Conduct complaint statistics for the period 1 September 2023 to 31 August 2024.

REPORT

Councils in NSW are required to report on Code of Conduct complaint statistics, within three months of the end of September each year.

The requirements are outlined in Clause 11.1 and 11.2 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, with the report having been forwarded to the Office of Local Government.

Council has received no Code of Conduct complaints against Councillors or the General Manager during this reporting period of 1 September 2023 to 31 August 2024.

A copy of the complaint statistics report for the reporting period is attached.

ATTACHMENT(S)

- 1. Code of Conduct Complaint Statistics (1 September 2023 - 31 August 2024)**

Model Code of Conduct Complaints Statistics 2023-24 Richmond Valley Council		
Number of Complaints		
1	The total number of complaints received in the reporting period about councillors and the General Manager (GM) under the code of conduct from the following sources:	
i	Community	<input type="text" value="0"/>
ii	Other Councillors	<input type="text" value="0"/>
iii	General Manager	<input type="text" value="0"/>
iv	Other Council Staff	<input type="text" value="0"/>
2	The total number of complaints finalised about councillors and the GM under the code of conduct in the following periods:	
i	3 Months	<input type="text" value="0"/>
ii	6 Months	<input type="text" value="0"/>
iii	9 Months	<input type="text" value="0"/>
iv	12 Months	<input type="text" value="0"/>
v	Over 12 months	<input type="text" value="0"/>

Overview of Complaints and Cost		
3 a	The number of complaints finalised at the outset by alternative means by the GM or Mayor	<input type="text" value="0"/>
b	The number of complaints referred to the Office of Local Government (OLG) under a special complaints management arrangement	<input type="text" value="0"/>
c	The number of code of conduct complaints referred to a conduct reviewer	<input type="text" value="0"/>
d	The number of code of conduct complaints finalised at preliminary assessment by conduct	<input type="text" value="0"/>
e	The number of code of conduct complaints referred back to GM or Mayor for resolution after preliminary assessment by conduct reviewer	<input type="text" value="0"/>
f	The number of finalised code of conduct complaints investigated by a conduct reviewer	<input type="text" value="0"/>
g	Cost of dealing with code of conduct complaints via preliminary assesment	<input type="text" value="0"/>
h	Progressed to full investigation by a conduct reviewer	<input type="text" value="0"/>
i	The number of finalised complaints investigated where there was found to be no breach	<input type="text" value="0"/>
j	The number of finalised complaints investigated where there was found to be a breach	<input type="text" value="0"/>
k	The number of complaints referred by the GM or Mayor to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police	
i	ICAC	<input type="text" value="0"/>
ii	NSW Ombudsman	<input type="text" value="0"/>
iii	OLG	<input type="text" value="0"/>
iv	Police	<input type="text" value="0"/>
v	Other Agency (please specify)	<input type="text" value="0"/>
	<input type="text"/>	
l	The number of complaints being investigated that are not yet finalised	<input type="text" value="0"/>
m	The total cost of dealing with code of conduct complaints within the period made about councillors and the GM including staff costs	<input type="text" value="0"/>

Preliminary Assessment Statistics		
4	The number of complaints determined by the conduct reviewer at the preliminary assessment stage by each of the following actions:	
a	To take no action (clause 6.13(a) of the 2020 Procedures)	<input type="text" value="0"/>
b	To resolve the complaint by alternative and appropriate strategies (clause 6.13(b) of the 2020 Procedures)	<input type="text" value="0"/>
c	To refer the matter back to the GM or the Mayor, for resolution by alternative and appropriate strategies (clause 6.13(c) of the 2020 Procedures)	<input type="text" value="0"/>
d	To refer the matter to another agency or body such as the ICAC, the NSW Ombudsman, OLG or the Police (clause 6.13(d) of the 2020 Procedures)	<input type="text" value="0"/>
e	To investigate the matter (clause 6.13(e) of the 2020 Procedures)	<input type="text" value="0"/>
f	Other action (please specify)	<input type="text" value="0"/>
	<input type="text"/>	

Investigation Statistics		
5	The number of investigated complaints resulting in a determination that there was no breach , in which the following recommendations were made:	
a	That the council revise its policies or procedures	<input type="text" value="0"/>
b	That a person or persons undertake training or other education (clause 7.40 of the 2020 Procedures)	<input type="text" value="0"/>
6	The number of investigated complaints resulting in a determination that there was a breach in which the following recommendations were made:	
a	That the council revise any of its policies or procedures (clause 7.39 of the 2020 Procedures)	<input type="text" value="0"/>
b	In the case of a breach by the GM, that action be taken under the GM's contract for the breach (clause 7.37(a) of the 2020 Procedures)	<input type="text" value="0"/>
c	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 (clause 7.37(b) of the 2020 Procedures)	<input type="text" value="0"/>
d	In the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Local Government Act 1993 and that the matter be referred to OLG for further action (clause 7.37(c) of the 2020 Procedures)	<input type="text" value="0"/>
7	Matter referred or resolved after commencement of an investigation (clause 7.20 of the 2020 Procedures)	<input type="text" value="0"/>
Categories of misconduct		
8	The number of investigated complaints resulting in a determination that there was a breach with respect to each of the following categories of conduct:	
a	General conduct (Part 3)	<input type="text" value="0"/>
b	Non-pecuniary conflict of interest (Part 5)	<input type="text" value="0"/>
c	Personal benefit (Part 6)	<input type="text" value="0"/>
d	Relationship between council officials (Part 7)	<input type="text" value="0"/>
e	Access to information and resources (Part 8)	<input type="text" value="0"/>
Outcome of determinations		
9	The number of investigated complaints resulting in a determination that there was a breach in which the council:	
a	Adopted the independent conduct reviewers recommendation	<input type="text" value="0"/>
b	Failed to adopt the independent conduct reviewers recommendation	<input type="text" value="0"/>
10	The number of investigated complaints resulting in a determination where:	
a	The external conduct reviewers decision was overturned by OLG	<input type="text" value="0"/>
b	Council's response to the external conduct reviewers recommendation was overturned by OLG	<input type="text" value="0"/>
11	Date Code of Conduct data was presented to council	<input type="text" value="22/10/24"/>

19.5 CUSTOMER EXPERIENCE REPORT 1 JULY - 30 SEPTEMBER 2024

Director: Angela Jones

Responsible Officer: Sharon Banning

RECOMMENDATION

That Council receives and notes the Customer Experience Report for the period 1 July – 30 September 2024.

REPORT

Customer Service Contact Centre Data - Key Statistics

Council is committed to providing a high-level of customer service to the community. The Customer Service Charter and Standards were adopted by Council at the 25 June 2019 meeting and reviewed at the 19 April 2022 meeting. As a result, quarterly reporting on Council's performance against the Customer Service Standards is prepared and tabled for Council. This report also contains details on the resolution of customer requests made through the contact centre. Analysis is undertaken to determine what strategies or areas of improvement may be required.

Call Statistics

A total of 6755 calls were handled by the contact centre team during the reporting period, which is a 1.1 percent increase for the same period of the previous year, and a 5.4 percent increase on the previous quarter's volumes. The contact centre has exceeded all service targets for the reporting period, including 81.2 percent of calls answered within industry standard of 20 seconds, average time each caller spends in the queue is 21 seconds and the percentage rate for calls abandoned is less than one percent and average call time 3.07 minutes.

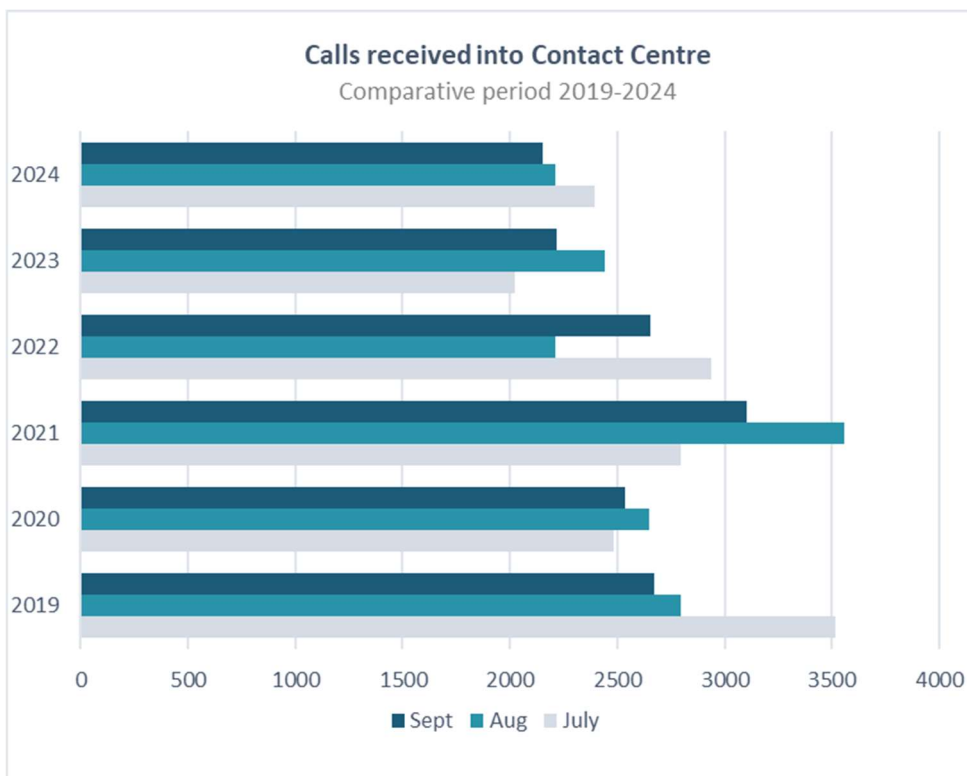


Figure 1: Calls received into the call centre, comparison year on year

Receipt and Administration Statistics

A total of 3193 receipts were processed for the reporting period, a 0.69 percent increase for the same period the previous year. The month of August saw an increase in the number of receipts processed, which can be attributed to the rates instalment period. Data indicates customers are utilising alternative payment options as face-to-face receipting has declined from previous years.

Customer preferred payment methods are as follows: 57 percent EFTPOS, 25 percent as cash payments, 8 percent by cheque, and the remaining 10 percent were paid via direct bank transfer.

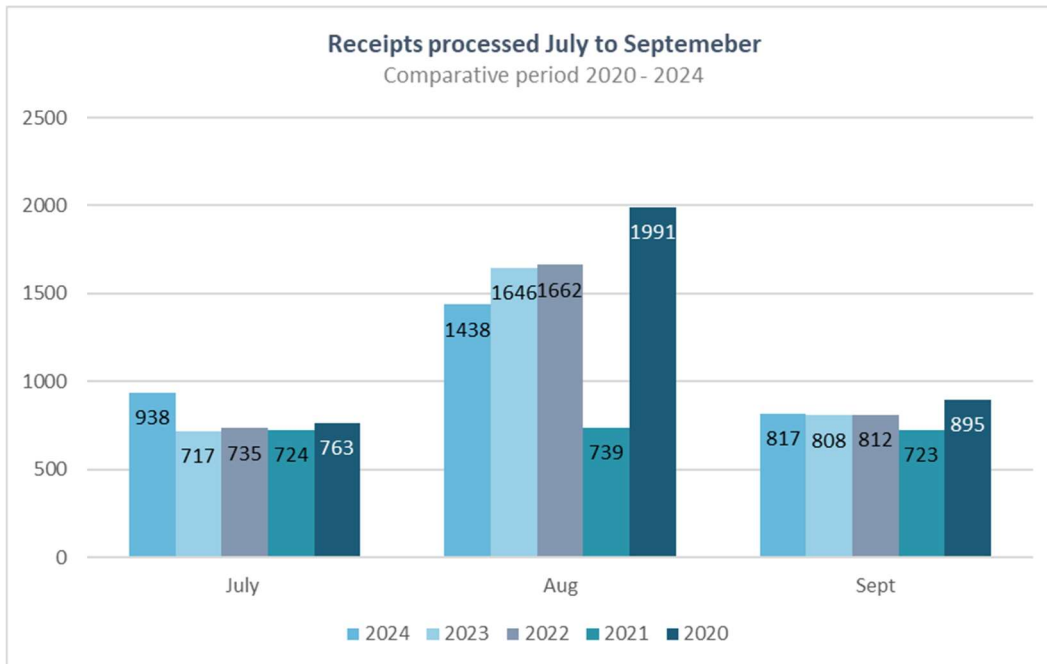


Figure 2: Total number of receipts

Certificates and Customer Requests

98 percent of Section 735A, 10.7 and 603 certificates were completed within set timeframes in accordance with Council’s service standards. Of the certificate applications received, 49.6 percent were 10.7 planning certificates, 39.3 percent 603 rates certificates and 11.1 percent were outstanding notice searches. Property search enquiries increased by 24.1 percent for 10.7 certificate searches compared to this quarter in 2023, with a 65.3 percent increase in 603 certificate enquiries.

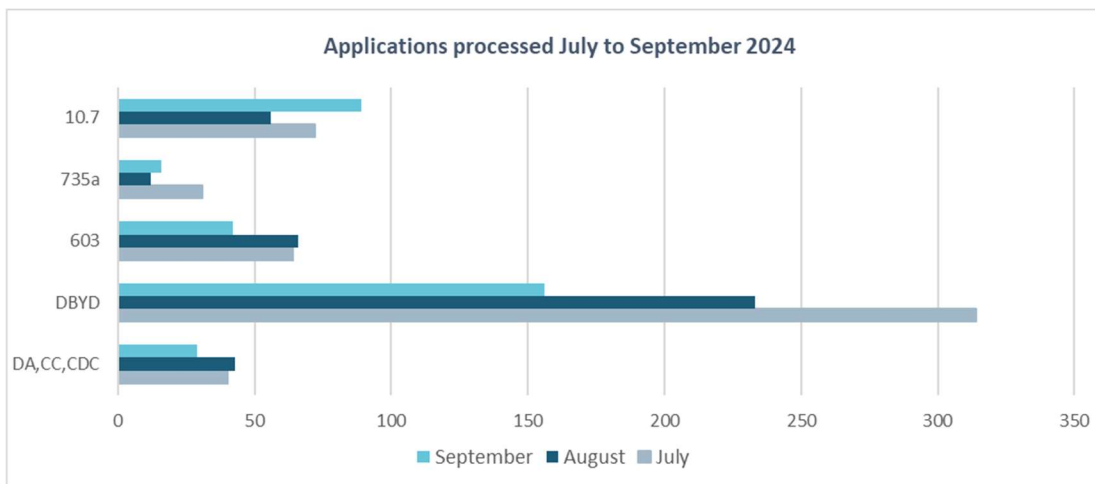


Figure 3. Applications received.

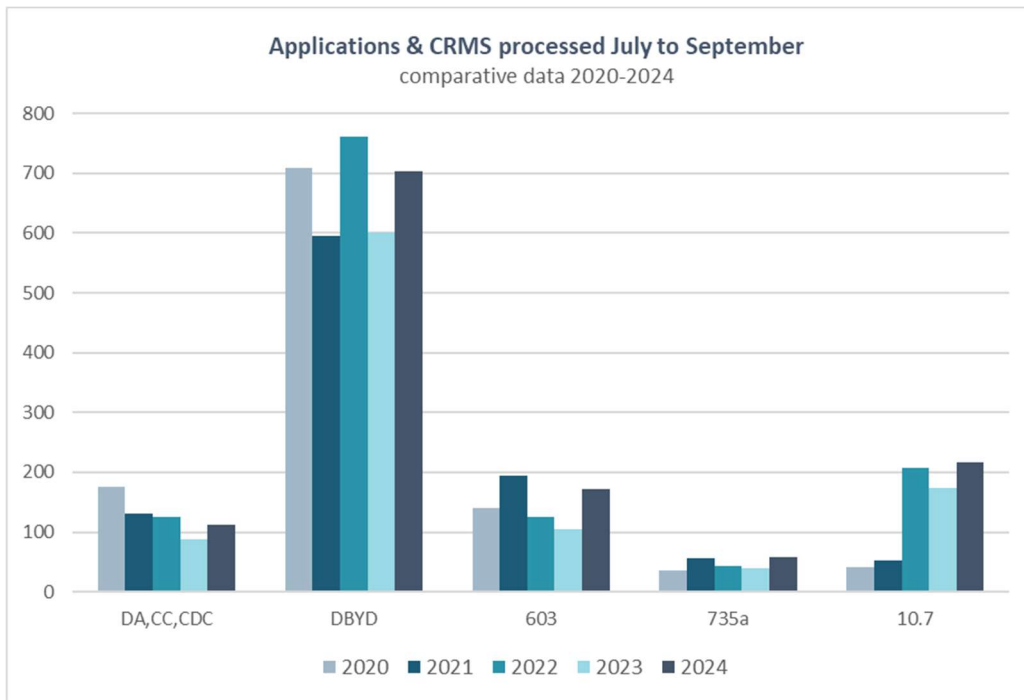


Figure 4. Applications comparison

Customer Request Management System - Key Statistics

During the reporting period, 1889 new requests were logged, a decrease of 5.5 percent compared to the previous quarter and 19 percent increase on the same reporting period of the previous year.

Roads and Drainage requests have doubled in volume in comparison to the previous year reporting period. The rise can be attributed to continuous wet weather delaying maintenance programs on rural road network and contributing to the hastening deterioration of road surfaces.

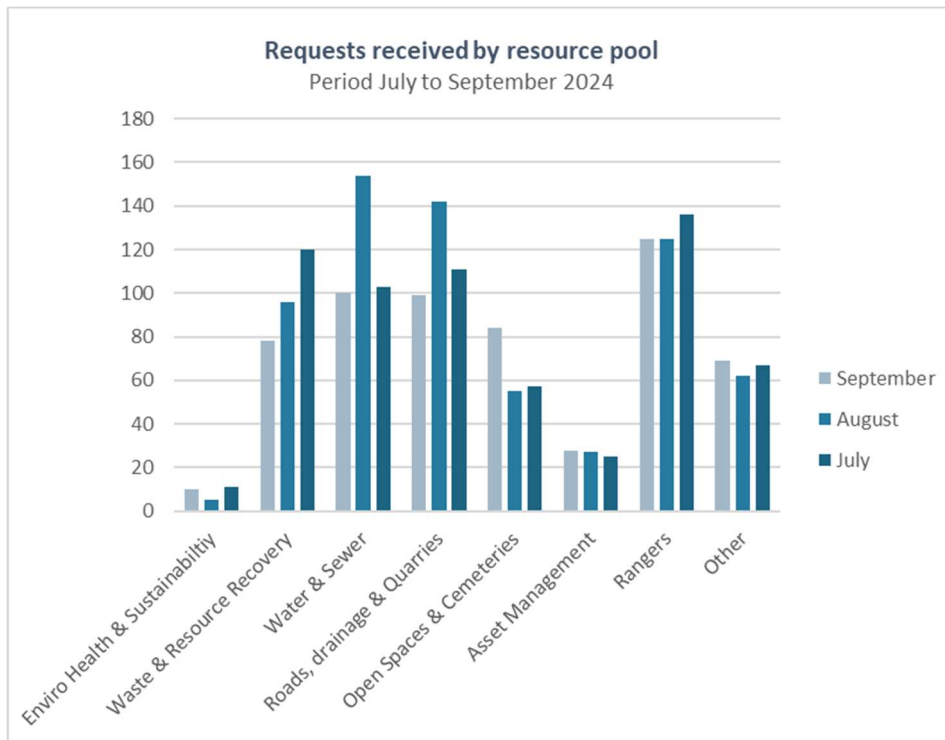


Figure 5: Number of requests

Cemeteries

NSW Government recently established Cemeteries and Crematoria NSW (CCNSW), an authority tasked with licencing all Councils, churches and private enterprise operating cemeteries and crematoriums within NSW. Its primary focus is ensuring all people in NSW have access to sustainable and affordable burial and cremation services, which are respectful of culture and faith and provided in a consistent, transparent and accountable manner.

A notable change has been the introduction of a consumer contract of Perpetual Interment Right replacing the previous Right of Burial / Reservation. The contract uses “plain english” and sets out the standards / service / fees, a consumer can expect for a basic interment option.

As part of its role, CCNSW monitors consumer complaints and mediates issues unable to be resolved at a local level, involving operators of cemeteries and crematoria. A requirement of the cemetery licence is for operators to have a documented complaints handling process and the register of complaints / resolutions reported annually.

CCNSW has established standard maintenance requirements for cemeteries along with inspection regimes for headstones and trees within cemeteries. Evidence of Council’s safe work method statements, maintenance plans and inspection schedules are also reportable.

A reporting portal has been developed for administrators to lodge annual cemeteries returns and compliance reporting. The additional compliance and reporting requirements have increased the administrative workload for both office and operational staff.

All staff involved with cemetery activities have undertaken CCNSW mandated cultural and religious training. To ensure this training aligned with our local Aboriginal cultural and spiritual requirements, the knowledge and experience of Aboriginal elder and Liaison Officer Mr Sam Walker was sought to provide guidance on local funeral customs and traditions.

From July 1, interment data reported via the portal will attract a government levy, paid by the consumer upon a burial or ashes placement, excluding interments for children under 12 years of age and persons without means. The levy is remitted to CCNSW annually.

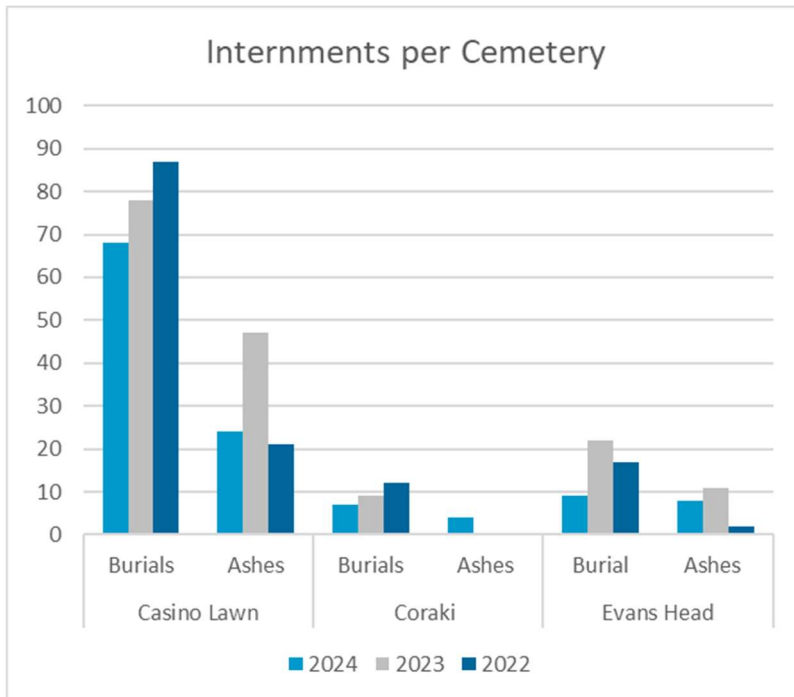


Figure 6: Number of internments annually per cemetery.

Development Concierge

The Development Concierge fielded 538 enquiries during the reporting period, majority of the enquiries in relation to residential alterations and additions, including swimming pools and sheds. An enquiry type maintaining popularity is “Can I subdivide my property?” Increased land and property values have owners considering subdivision as a pathway for their family members to the enter the real estate market and own their first home.

The Development Concierge remains committed to customer response service levels, by end of next business day. Complex enquiries are researched in consultation with technical staff and the customer followed up with verbal and email correspondence.

Our website library of development information and resources is under continuous review with the addition of thirty-one revised factsheets for public referencing. To support Council certifiers requirement for the inclusion of a waste management and construction management plan to accompany a DA application, templates and factsheets are being prepared to assist applicants in their preparation and will be available on the website.

The First Responders continue to offer a Portal Assist service to applicants, providing full case management throughout the assessment process. The Teams pre-assessment timeframes are the most competitive compared against our neighbouring LGAs and currently comparable with the Ministers for Planning and Public Spaces, revised Statement of Expectations.

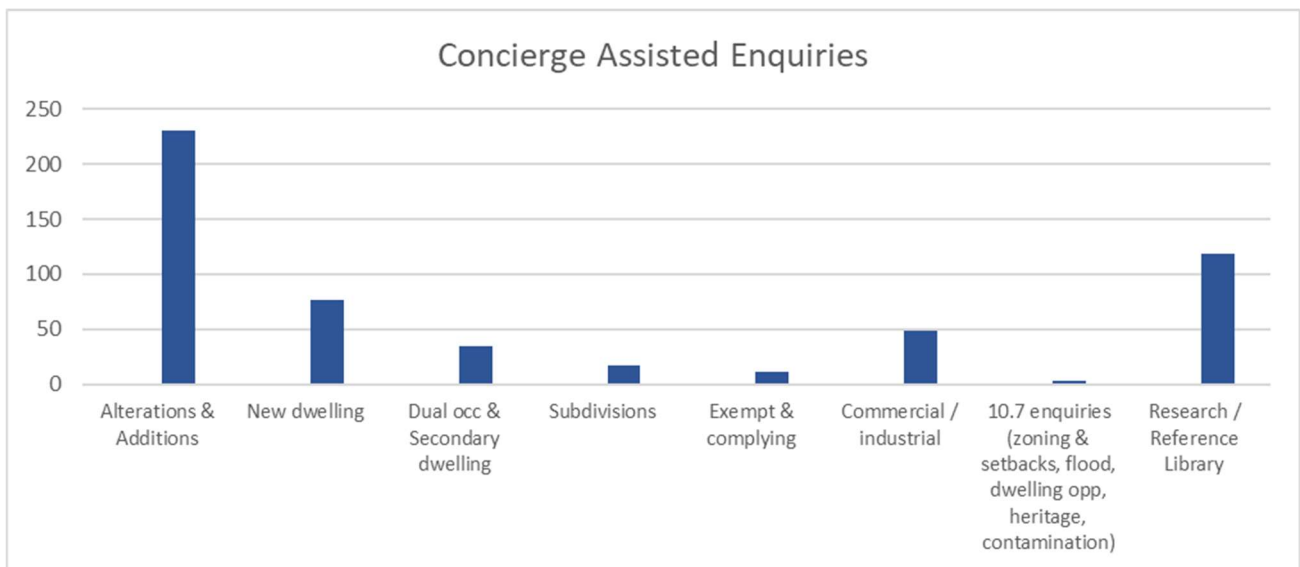


Figure 7: Concierge enquiries by type

E-Planning Portal – Key Statistics

To combat the national housing crisis, NSW Governments has been set a target for an additional 377 000 homes in NSW by 2029. To achieve this, all councils have been given Notice to reduce assessment times in-line with the Minister’s expectations, in the hope of fast tracking the approval process and achieving the new home target within the tight timeframe. Council’s pre-assessment and assessment times will be monitored monthly by the Department of Planning to ensure councils are maintaining their assigned assessment times.

Prior to the Minister’s expectation of assessment times, our Council regularly delivered the most efficient assessment times across all development types, of all the councils in the Northern Rivers area.

Council Summary											Last Refreshed Date	
Development Applications (DAs, Mods & Reviews)											29/09/2024	
67	51	51	8	49	51	\$54M	42	32				
Submitted	Lodged	Determined	Avg Days to Lodge	Avg Days to Determine	Approved	Cost of Dev Approved	Dwellings* Approved	Under Assessment (*)				
OLG Classification	Submitted	Lodged	Avg Days to Lodge	Determined	Avg Days to Determine	Median Days to Determine	Approved	Cost of Development Approved	Dwellings* Approved	Applications Under Assessment	Dwellings* Under Assessment	
Regional City Councils	67	51	8	51	49	33	51	\$54,184,523	42	32	9	
RICHMOND VALLEY COUNCIL	67	51	8	51	49	33	51	\$54,184,523	42	32	9	
Total	67	51	8	51	49	33	51	\$54,184,523	42	32	9	

Figure 8: RVC planning portal summary

Application Type	Totals	July	August	September
Total DA Received	67	24	25	18
Total CC Received	41	15	15	11
Complying Development	4	1	3	0
Subdivision Certificate	11	7	2	2
S138 - Road Reserve Activities	14	4	3	7
S68 - Plumbing Permits & Events	141	37	62	42
PC Appointments	24	7	10	7
Occupation Certificate	20	7	6	7
Building Certificate	4	2	0	2
Private Certificate	22	9	4	9

Figure 9: Applications received via the NSW Planning Portal

OneRoad – Key Statistics

Members of the Customer Experience team collaborate with Roads & Drainage, Events and Assets teams, as well as Emergency Services to ensure all scheduled and unplanned road incidents are entered through the One Road portal in a timely manner. Road users can be confident conditions and closures on Live Traffic app, are current and regularly updated and includes details of expected delays and provides alternate routes to minimise disruptions.

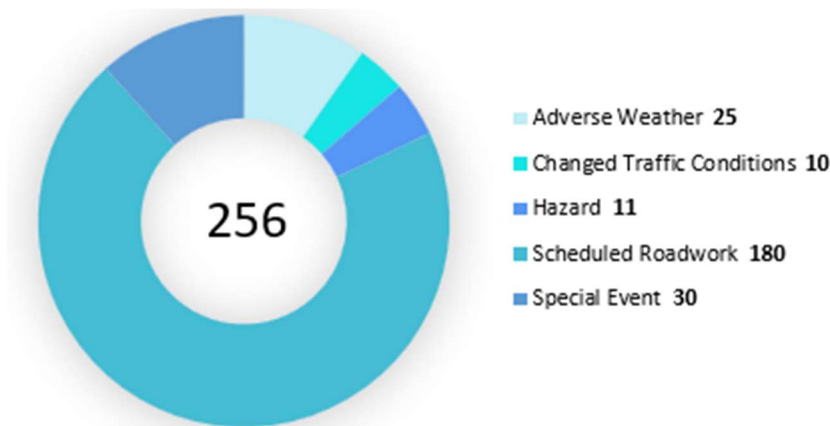


Figure 10: Total planned and unplanned road incidents recorded

Opportunities for Improvement

Following a review of the report results, an opportunity for improvement has been identified. These areas as highlighted below will be the focus of the Customer Experience team in the coming months.

- Continue to work closely with customers lodging applications via the e-planning portal to ensure submission to lodgement timeframes are maintained to required standards.
- Work with operational teams to review service level targets and monitor outcomes and adjust as required.
- Continue to provide ongoing training and support to our new staff members to increase their knowledge base enabling them to achieve 80 percent first contact resolution whilst maintaining and exceeding our quarterly call centre targets.

CONCLUSION

The information contained in this report demonstrates the significant volume of tasks and actions which are required to be completed by Council's frontline Customer Experience staff. The Customer Service Standards are met and, more often than not, exceeded.

Analysis of Customer Service Contact Centre data, Customer Request Management System and the Development Concierge statistics enables identification of opportunities to improve Council's customer service and ensure processes are efficient and effective.

In accordance with Council's Customer Service Framework, staff continue to strive for high standards of customer service to the community, to monitor performance and implement efficiencies and improvements to process.

ATTACHMENT(S)

Nil

19.6 GRANT APPLICATION INFORMATION REPORT - AUGUST AND SEPTEMBER 2024

Director: Ryan Gaiter

Responsible Officer: Rylee Vidler

RECOMMENDATION

That Council receives and notes the Grant Application Information Report for the months of August and September 2024.

REPORT

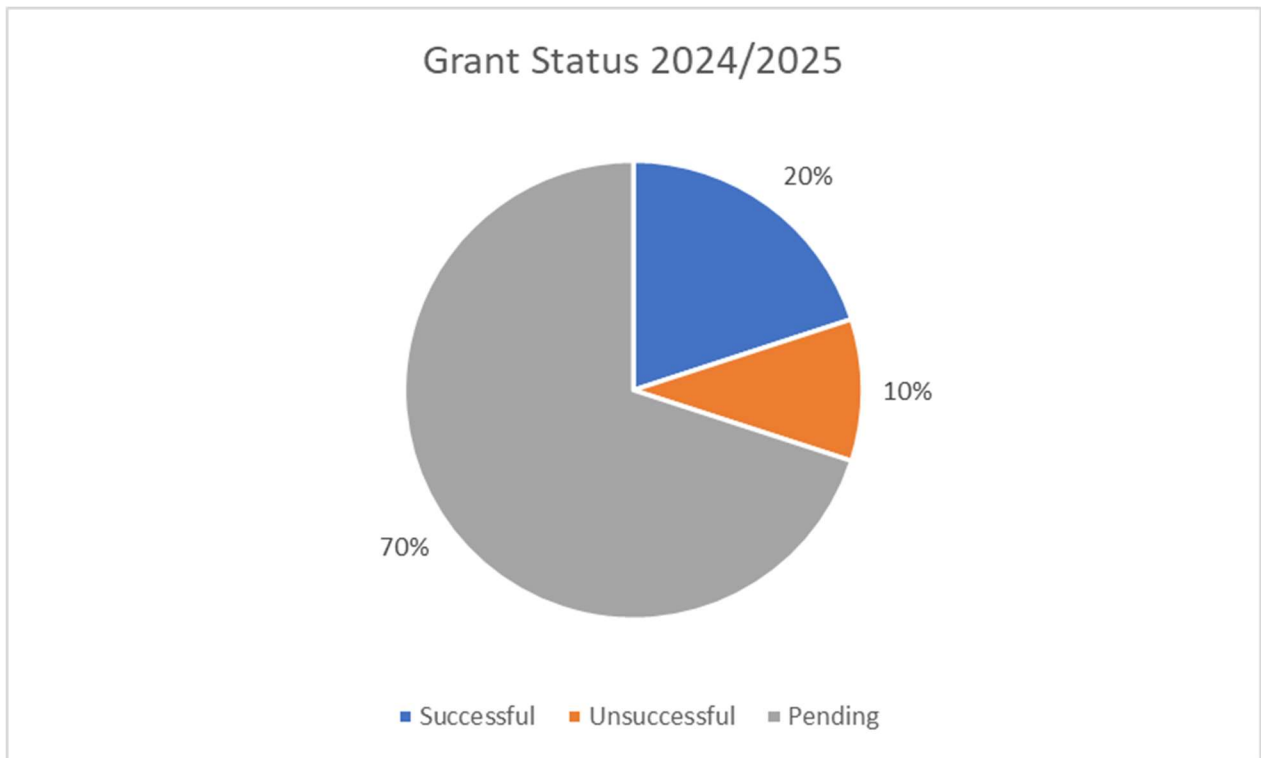
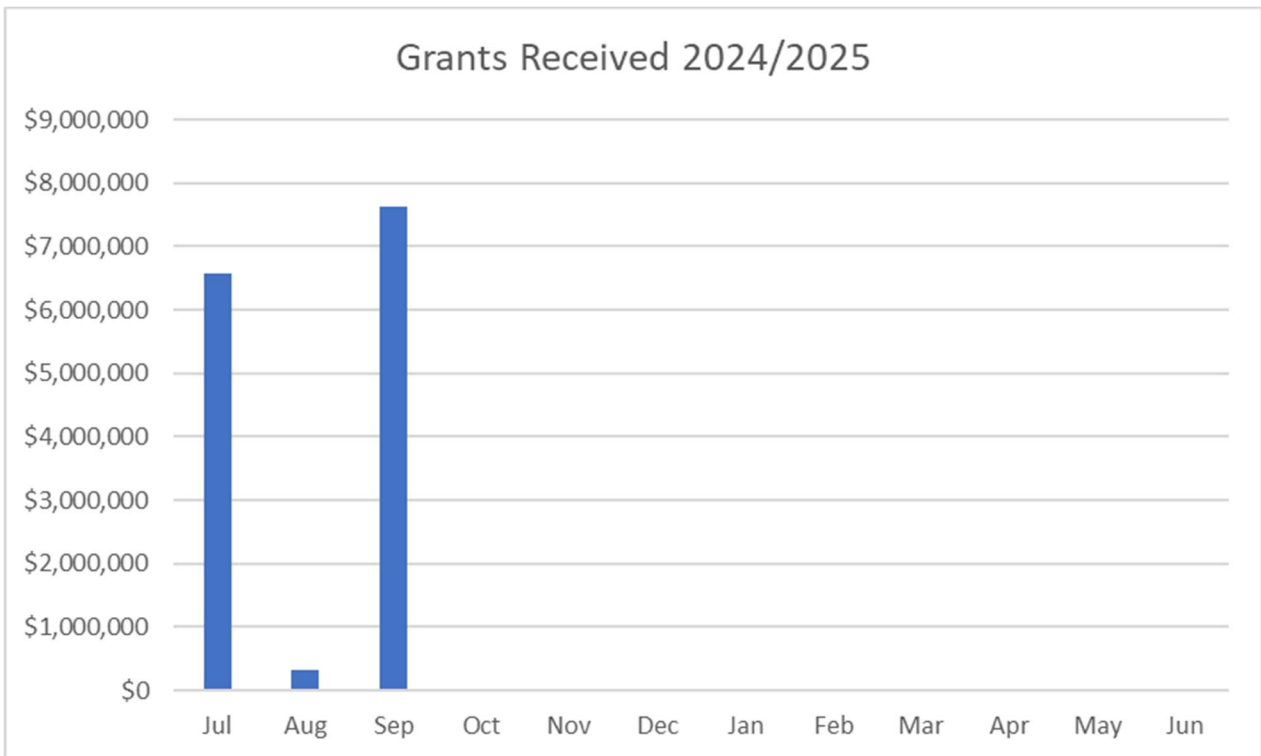
This report provides information on grant applications that have been approved, grants that have been received, grant applications that were unsuccessful and grant applications that were submitted for the months of August and September 2024.

During the reporting period, there were two grants approved (one in August and one in September) and seven submissions made (three in August and 4 in September). Council was notified of one prior year grant application that was unsuccessful (August).

Council received funding for six grants totalling \$7,954,864. Three of these grants were received in August (\$318,790) and three were received in September (\$7,636,074).

A summary of grants approved and received, as well as the status of applications for the current financial year to 30 September 2024 is shown below:





Grants that have been approved - August

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted	Date Approved
NSW Severe Weather and Flooding from 22 February onwards - AGRN 1012 EPAR Works	Transport for NSW (State)	Disaster Recovery Funding Arrangements (DRFA)	\$ 34,397,952	\$34,397,952	\$ -	N/A	August - Various
<p>Comment: Council has been approved for the following new EPAR projects: Bentley Road Landslip, Casino Unsealed Roads 2, Casino Town Roads 2, Casino Town Roads 3, Casino Town Roads 4, Casino Town Roads 5, Casino Town Roads 6, Casino Town Roads 7, Coraki Town Roads 2, Coraki Town Roads 4, Grading 3, Grading 7, Casino Town Roads 8, Culvert Repairs 5, Bungawalbyn Area, Coombell and Bennis Roads, Bundocks Road, Grenfell Street and Coraki Streets.</p> <p>Note: This is a cumulative total for all EPAR projects approved, previously reported \$25,843,599. There are currently 59 EPAR submissions approved.</p>							

Grants that have been approved - September

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted	Date Approved
NSW Severe Weather and Flooding from 22 February onwards - AGRN 1012 EPAR Works	Transport for NSW (State)	Disaster Recovery Funding Arrangements (DRFA)	\$ 48,918,942	\$48,918,942	\$ -	N/A	September - Various
<p>Comment: Council has been approved for the following new EPAR projects: MR145, multiple bridge repairs, 2415 Busbys Flat Road, Richmond Terrace, Ainsworth Road and various other roads throughout the Richmond Valley LGA.</p> <p>Note: This is a cumulative total for all EPAR projects approved, previously reported \$34,397,952. There are currently 84 EPAR submissions approved.</p>							

Grants that have been received - August

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted	Date Received	Total Received
Financial Assistance Grant 2024/25	NSW Local Government Grants Commission (Federal)	Financial Assistance Grant	\$ 6,842,387	\$ 6,842,387	\$ -	N/A - Annual Allocation	\$ 268,790 16 August 2024	\$ 6,036,017
Comment: Quarter 1 instalment of the 2024/2025 FAG Grant.								
Shade Sails for Crawford Square	Department of Community & Justice (State)	Community Building Partnerships	\$ 128,778	\$ 30,000	\$ 98,778	27 October 2023	\$ 30,000 28 August 2024	\$ 30,000
Comment: Total funding received to commence works.								
Casino Truck Show	Destination NSW (State)	Regional Event Flagship Stream	\$ 20,000	\$ 20,000	\$ -	9 April 2024	\$ 20,000 30 August 2024	\$ 20,000
Comment: Total funding received following successful event.								

Grants that have been received - September

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted	Date Received	Total Received
NSW Severe Weather and Flooding from 22 February onwards - AGRN 1012 EPAR Works	Transport for NSW (State)	Disaster Recovery Funding Arrangements (DRFA)	\$ 48,918,942	\$48,918,942	\$ -	Various dates	\$ 5,179,840 25 September 2024	\$16,270,088
Comment: Progress payment for works completed on Naughtons Gap Road Landslip.								
Betterment of Naughtons Gap Road	Transport for NSW (State)	Regional Roads and Transport Recovery Package	\$ 3,021,840	\$ 3,021,840	\$ -	1 December 2022	\$ 1,813,104 25 September 2024	\$ 2,115,288
Comment: Progress payment for works completed on Naughtons Gap Road Landslip betterment.								
Betterment of Casino Junior Rugby League Clubhouse	Regional NSW (State)	Community Assets Program	\$ 1,607,825	\$ 1,607,825	\$ -	27 March 2024	\$ 643,130 26 September 2024	\$ 643,130
Comment: 40% of funding received to commence construction.								

Grant Applications Submitted - August

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted
Casino Enabling Infrastructure to Summerland Estate Development	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Housing Support Program - Community Enabling Infrastructure	\$29,145,014	\$29,145,014	\$ -	16 August 2024
Comment: This funding will allow Council to provide critical water and sewage infrastructure to service up to 1,600 homes in the new residential precinct at Summerland Estate.						
Essential Infrastructure to activate Summerland Estate Casino and early works for new sewage treatment plant	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Housing Support Program - Community Enabling Infrastructure	\$36,110,360	\$33,110,360	\$ 3,000,000	16 August 2024
Comment: This funding will allow Council to provide critical water and sewage infrastructure to service up to 1,600 homes in the new residential precinct at Summerland Estate and provide enabling infrastructure to support timely construction of the new Casino Sewage Treatment Plant which will service future stages of the Summerland Estate development.						
Casino Country Music Muster	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Revive Live Supporting Australian Live Music	\$ 60,000	\$ 50,000	\$ 10,000	23 August 2024
Comment: This funding will be spent on improving the events accessibility and artists producing original music.						

Grant Applications Submitted - September

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted
MR145 - Road realignment at Coopers Lagoon	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Safer Local Roads and Infrastructure Program	\$ 3,300,000	\$ 2,640,000	\$ 660,000	30 September 2024
Comment: This funding will allow Council to improve the road geometry to reduce crash accidents.						
Crawfords Road Culvert Replacement and Road Reconstruction	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Safer Local Roads and Infrastructure Program	\$ 2,200,000	\$ 1,760,000	\$ 440,000	30 September 2024
Comment: This funding will allow Council to reconstruct 800m of road and replace collapsed multiple cell culvert.						
Richmond Terrace	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Safer Local Roads and Infrastructure Program	\$ 9,300,000	\$ 5,000,000	\$ 4,300,000	30 September 2024
Comment: This funding will allow Council to reconstruct the slipping section of road including geotechnical piling, road reconstruction, replacement of damaged stormwater culverts and collapsed kerb, gutter and footpath.						
Savilles Road Culvert Replacement	Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Federal)	Safer Local Roads and Infrastructure Program	\$ 400,000	\$ 320,000	\$ 80,000	30 September 2024
Comment: This funding will allow Council to replace collapsed stormwater drainage culvert.						

Unsuccessful Grant Applications - August

Project Name	Funding Body	Funding Name	Project Value	Grant Funding	Council Funding	Application Submitted	Advised Unsuccessful
Richmond Valley Housing Strategy	Department of Planning and Environment	Regional Housing Strategic Planning Fund Round 2	\$ 150,000	\$ 150,000	\$ -	29 September 2023	1 August 2024
Comment: Funding was oversubscribed with a success rate of 25%.							

ATTACHMENT(S)

Nil

19.7 CORRESPONDENCE - SUBMISSION: INQUIRY INTO OPTIONS FOR ESSENTIAL WORKER HOUSING IN NSW**Author: Vaughan Macdonald****RECOMMENDATION**

That Council receives and notes Richmond Valley Council's Submission - Inquiry into provision of essential worker housing in NSW - September 2024.

SUMMARY OF CORRESPONDENCE

Submissions were invited following the establishment of The Legislative Assembly Select Committee on Essential Worker Housing to inquire into and report on options for essential worker housing in New South Wales.

The Committee's inquiry will focus on establishing an appropriate definition of essential worker housing for the NSW Government to adopt, as well as identifying options to increase housing supply for essential workers.

The Committee will table a report to Parliament on its findings by 7 March 2025.

ATTACHMENT(S)

- 1. The NSW Legislative Assembly has established a Select Committee on essential worker housing.**
- 2. RVC Submission - Inquiry into provision of essential worker housing in NSW - September 2024**

**LEGISLATIVE ASSEMBLY**

Select Committee on Essential Worker Housing

19 June 2024

MEDIA RELEASE**New Select Committee on Essential Worker Housing**

A Select Committee has been established to inquire into the options for Essential Worker Housing.

Essential workers are employed in a range of industries including education, medicine, emergency services, healthcare and other frontline services. They are key to the functioning, safety and wellbeing of metropolitan and regional NSW.

The Select Committee on Essential Worker Housing will investigate possible definitions of essential worker housing, including criteria for establishing worker cohorts and geographical areas that might be prioritised in future planning initiatives.

The Committee will also investigate planning tools and resources that might be drawn on to increase essential worker housing across NSW. This includes possible programs to incentivise private development of essential worker housing, and opportunities to include essential worker housing in developments on government-owned land.

The Committee will consider measures to ensure NSW's essential worker housing is economically sustainable and available in perpetuity.

Chair of the Committee and Sydney MP Alex Greenwich said the inquiry will engage with stakeholders to identify options for essential worker housing in NSW.

"NSW's essential workers keep schools, hospitals and communities running, but without a sufficient supply of affordable housing it can be impossible for them to find suitable accommodation close to work.

Police officers, teachers and nurses working in Sydney regularly commute well over an hour to get to work.

In regional and remote NSW, insufficient housing supply leads to worker shortages in healthcare, law enforcement, hospitality and tourism and community services.

It is important to ensure that essential workers are included in the NSW Government's plans to increase housing supply."

The Committee is inviting submissions from essential workers, community housing providers, legal and research centres, local governments and councils, community groups and the public. More information, including the inquiry's terms of reference and details on how to make a submission, is available on the Committee's [webpage](#).

Submissions close on **Friday, 13 September 2024**.

**Media contact: Alex Greenwich MP, Chair
(02) 9267 5999**

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13 September 2024

NSW Legislative Assembly
Select Committee on Essential Worker Housing

By Email: EssentialWorkerHousing@parliament.nsw.gov.au

Submission: Inquiry into options for essential worker housing in NSW

Thank you for the opportunity to provide feedback on the inquiry into options for essential worker housing in NSW. While Richmond Valley Council acknowledges the intent of the Inquiry, it is concerned at the possibility of State-led policy solutions that advantage one group of workers over another, in an already constrained housing market, by attempting to classify who is 'essential' and who is not. In regional NSW, all workers are essential to our local economy – and all of them need somewhere to live. Council believes the NSW Government's energies would be better directed at resolving the broader housing crisis in regional and metropolitan NSW, which will, by default, ease the pressure on working families.

Our Council has experienced the challenges, first-hand, of not only attracting skilled workers to regional communities, but in sourcing suitable accommodation to house them. As you would be aware, the Northern Rivers region is currently in the grips of a severe housing crisis, following the catastrophic 2022 floods, which saw more than 1000 homes lost from an already constrained housing market. In this environment, Council has taken the view, in its long-term Community Strategic Plan, that housing is a basic right for all community members, regardless of their employment status and that we should adopt appropriate strategies to ensure that no-one is left behind in finding a suitable and safe place to live.

Council believes the NSW Government should take the same view and focus its energies on addressing the broader housing crisis within NSW, rather than attempting to distort the market with incentives for one group of workers over another. However, Council appreciates that it will take some time to achieve a resolution to housing shortages. In the interim, it believes there are a number of approaches that could be taken to open up more opportunities for workers in regional NSW and these are outlined below.

Rebalancing the rental market

The 2021 census showed that there were some 300,000 unoccupied homes in NSW, with the highest numbers being recorded in popular holiday areas. Clearly the lucrative short-term accommodation market is impacting on the amount of housing stock available for long-term residential tenancies. While Council acknowledges that short-term rentals play an important role in supporting tourism industries in regional NSW, these rental properties currently enjoy a disproportionate advantage over other commercial tourist accommodation. Homes rented out for casual holiday lets have access to significant tax incentives, while not being subject to the same oncosts and regulatory oversight as equivalent tourist accommodation. This has served to increase the supply of short-term holiday homes exponentially, to the detriment of the residential rental market.

Love where we live and work



There are a number of policy levers that could be used to recalibrate the balance in this market, such as supporting NSW councils to levy commercial rates on short-term rental properties or requiring development approval for conversion of long-term rental stock to short-term holiday lets. Advocating to the Australian government to consider recalibrating tax incentives to favour long-term residential investment properties should also be considered. This would potentially free up thousands of rental homes for working families within a comparatively short timeframe.

Resuming responsibility for housing State front-line workers

In the past, NSW government agencies – particularly NSW Health and the Department of Education – played a stronger role in providing housing for their key workers in regional NSW. A significant number of homes for nurses, police officers and teachers were provided in regional NSW, easing the pressure on local housing markets and encouraging skilled workers to relocate to these areas. These agencies have now stepped back from direct provision of housing, increasing the pressure on the private market and disadvantaging lower-paid workers who cannot compete for limited rental stock. Council believes there is significant opportunity to utilize government land for key worker housing, particularly in the health sector. In this regard, it has taken the lead in identifying a dedicated Health Precinct around the public hospital in Casino, within Council's long-term Growth Management Strategy. However, while Council can pave the way for NSW Government to utilize these provisions, it is up to the relevant agencies to seize the opportunities provided and invest in housing development on these sites.

Investing in emerging growth centres

There are a number of emerging growth centres in regional NSW, including the Richmond Valley, where there is ample, flood-safe land to provide a range of affordable housing types. However, current NSW Government policy favours established growth centres with funding incentives, rather than investing in emerging areas, which would benefit more from assistance.

For example, recently announced funding for Round 3 of the Accelerated Infrastructure Fund, supporting housing activation in regional NSW provided generous funding for established growth centres, such as the Shoalhaven, Port Macquarie and Tweed, while excluding emerging areas such as the Richmond Valley from participating in the funding scheme. Established growth areas already provide sufficient return on investment to make them attractive to private developers. It is in emerging areas, where returns are more marginal, that government incentives can have the greatest influence in unlocking housing for working families.

The funds that better-resourced councils in growth centres such as Port Macquarie received through this scheme could have unlocked twice as many homes in the Richmond Valley by investing in essential infrastructure that our council is currently unable to fund. Despite endorsement by the NSW Government as a Regional Jobs Precinct, and acknowledgement in the NSW Reconstruction Authority's Resilient Lands Strategy as a priority residential release area, the Richmond Valley continues to be excluded from housing acceleration funding. If the NSW Government wants to increase housing options for workers in regional NSW, then investing in emerging centres, such as the Richmond Valley, will provide far greater value for money than sinking funds into established areas where there is already a competitive private market. In this regard, the Inquiry may wish to recommend a review of current housing activation schemes, to encourage much-needed investment in emerging growth centres.

Thank you for the opportunity of providing feedback to the Inquiry. Council trusts that you will consider the need to address the broader housing supply issues in NSW within the context of your review. In regional NSW all workers are 'essential' to our local economy and all deserve access to basic rights, such as housing. We trust that you will consider some of the short-term options to ease housing pressures, suggested within our submission, as well as the longer-term need to ultimately increase housing supply throughout NSW.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Vaughan Macdonald', written in a cursive style.

Vaughan Macdonald
General Manager

20 QUESTIONS ON NOTICE

Nil

21 QUESTIONS FOR NEXT MEETING (IN WRITING)