

## PANEL ASSESSMENT REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-145 (PAN-180672) DA2021/1287
<b>PROPOSAL</b>	Redevelopment of Grafton Pool (inground pool and grandstand)
<b>ADDRESS</b>	Lot 1 DP1115980 (Reserve D540035) 208 Bacon Street & 72 Turf Street Grafton
<b>APPLICANT</b>	Clarence Valley Council
<b>OWNER</b>	Crown Lands NSW (Council as Land Manager)
<b>DA LODGEMENT DATE</b>	10 January 2022
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 3 of Schedule 6 – Regionally Significant Development (Council related development over \$5 Million in which Clarence Valley Council is the applicant for development) - State Environmental Planning Policy (Planning Systems) 2021
<b>CIV</b>	\$7,843,208.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Variation to side setback
<b>LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&amp;A ACT)</b>	<ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>Clarence Valley Local Environmental Plan 2011</li> <li>Environmental Protection, Recreation and Special Use Zones DCP</li> </ul>
<b>TOTAL SUBMISSIONS</b>	One
<b>KEY ISSUES</b>	Heritage Impact DCP Variation to Turf Street Setback Matters raised in the Panel Briefing 18 May 2022 Variations to Masterplan
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ol style="list-style-type: none"> <li>1. Architectural Plans</li> <li>2. Statement of Environmental Effects</li> <li>3. Heritage Impact Statement</li> <li>4. Landscape plan,</li> <li>5. Architectural interpretations,</li> <li>6. Colourboard pallets and finishes,</li> </ol>

	7. Supplementary Statement of Heritage Impact, 8. Copy of submission (redacted)
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (A7.24)</b>	Nil
<b>PLAN VERSION</b>	7 September 2022
<b>PREPARED BY</b>	Pat Ridgway, Senior Development Planner Clarence Valley Council
<b>DATE OF REPORT</b>	7 September 2022

## EXECUTIVE SUMMARY

Clarence Valley Council as Land Manager for Reserve D540035 has lodged a development application for the redevelopment of the Grafton Aquatic Centre (that is located on the Reserve) for the demolition of the existing pools and structures, new grandstand and indoor pool complex. It is noted that other works outlined in a Masterplan for the Centre will be undertaken separately under Part 5 of the *Environmental Planning and Assessment Act 1979*.

The Grafton Olympic Pool Masterplan was the subject of a report to Council on 28 June 2016 [Item 15.054/16] where it was resolved to ‘*place the Grafton Olympic Pool concept Masterplan on public exhibition for a period of 28 days and seek input from relevant stakeholders and user groups*’. The outcome of the exhibition was reported to Council (the Trust) on 13 December 2016 [Item 15.152/16] where it was resolved to progress the Masterplan design incorporating all elements of Council Resolution into the plan.

The Grafton Olympic pool was built in 1959 and the infrastructure at the Grafton Olympic Pool has been assessed as being at the end of its useful life and extensive water leakage from the pool. Since a new water meter was installed in April 2022 the water loss has been recorded at a rate to 39,418kL/annum, costing \$187,235 in 2021/2022.

Subsequently Council has resolved to proceed with the upgrading of the Centre. Specifically, the development application involves works that are not identified as exempt development in stage 1 of the overall redevelopment; being the demolition of the structures, construction of a new grandstand and indoor pool complex

One (1) submission was received during the exhibition of the application. The applicant has provided additional information regarding the assessment of the heritage impacts on the Heritage Conservation Area. The application is reported to the Northern Regional Planning Panel for conditional approval.

## RECOMMENDATION

It is recommended that Development application DA2021/1287 (PPSNTH-145) be approved subject to the advices and conditions provided in Schedule 1 attached to this report.

## Reasons for Recommendation

Council submits that the recommendation should be supported for the following reasons:

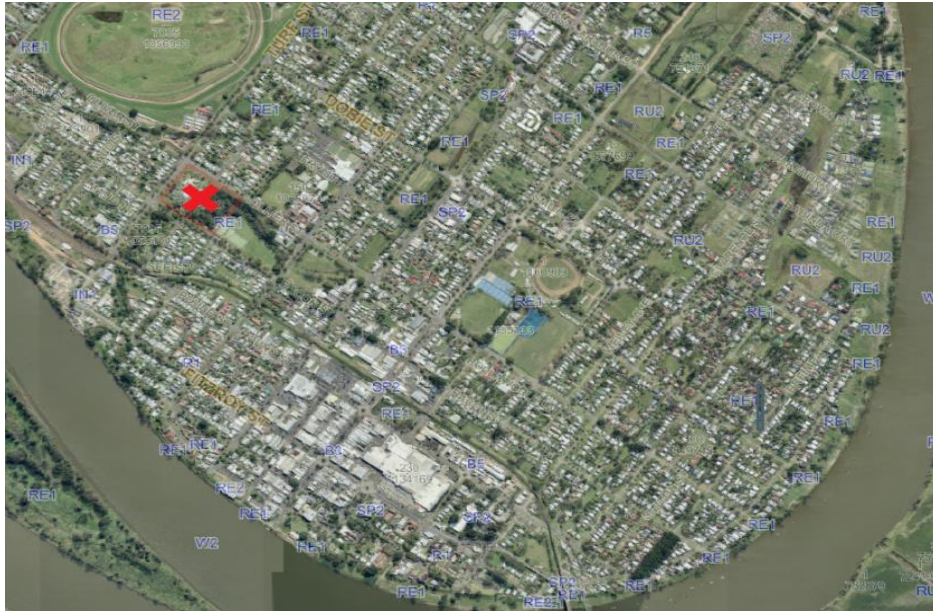
The development application:

- Is permitted with consent in the RE1 Public Recreation Zone,

- Complies with legislative requirements, and Council has appropriately considered potential impacts of the development,
- Is suitable for the location and will have positive social and community benefits, and
- The development is in the public interest

## 1. THE SITE AND LOCALITY

### 1.1 The Site & Location



**Figure 1 – Location Plan**



**Figure 2 - Aerial view of the existing pool complex**





Figure 3 - Concept plan of redeveloped site

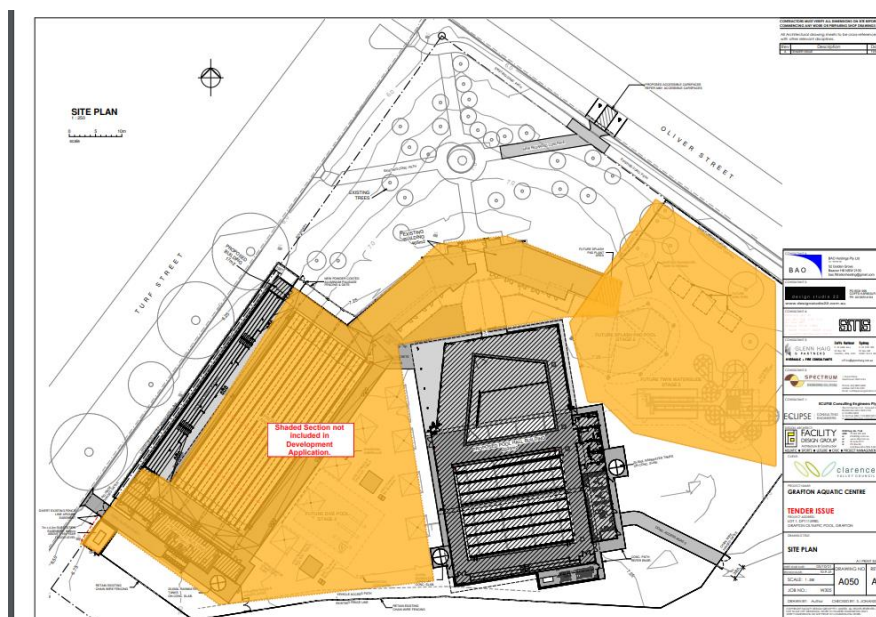
## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

Clarence Valley Aquatic Facilities Strategy prepared in 2013 identified that the existing pool complex is aging and lacks contemporary elements, such as leisure water/interactive water play features, wet deck and heated learn-to-swim pool. The Strategy noted that the Centre is closed in winter and that patronage has been trending downwards. Subsequently Council has resolved to proceed with the upgrading of the Centre in 2 Stages.

Stage 1 involves the removal of the existing pools, grandstand and waterslide and construction of three new pools. Stage 2 will involve upgrading of the administration and amenities building, new dive pool, new water slide, splash pool and shade shelters.

Specifically, the proposal involves works that are not identified as exempt development in stage 1 of the overall redevelopment; being the demolition of the structures, construction of a new grandstand and indoor pool complex. The architectural plans are included as an attachment to this report .



**Figure 4 – components of stage 1 subject to the development application**

The key development data is provided in **Table 1**.

**Table 1: Key Development Data**

<b>Control</b>	<b>Proposal</b>
Site area	3.56 ha
GFA	Grandstand: 240m2 & Indoor Pool complex: 2035m2
Clause 4.6 Requests	Yes – side setback
Max Height	8m for the roof of the grandstand (max height of LEP is 9m)
Landscaped area	Yes
Car Parking spaces	Offsite on-street parking

## **2.2 Background**

The development application was lodged on 10 January 2022. The application was exhibited between 14 January and 11 February 2022 and one (1) submission was received that did not oppose the development though raised concerns as to the closure and timing of the redevelopment and other available facilities.

A request for information was issued in regard to heritage and design elements of the grandstand on 22 April 2022. The applicant has provided additional information to address the issues raised and these are discussed in this report.

A record of briefing of the application was held on 18 May 2022 and the Panel advised that:

- It wanted more attention to the design and improving the appearance of the long & tall grandstand structure
- The potential for crime to be investigated and need for Crime Prevention through Environmental Design (CPTED)
- Peer review of the proposal, being a Council development Application

These matters are discussed in the Key Issues section of this report.

## **2.3 Site History**

Newspaper articles suggest that construction of the pool complex commenced around September 1954-1959 which included the Olympic swimming pool and separate wading pool for children; diving pool; combined kiosk, male & female dressing rooms, clubrooms, chlorination/filtration plant; concrete paths; picnic facilities and fencing. The grandstand was constructed between 1964 & 1978. The waterslide was constructed circa 1980.

A comprehensive history of the pool is provided in the Statement of Heritage Impact Assessment

Action is required urgently to address the risk and safety concerns of pool failure at the Grafton Olympic Pool. Water loss has continued and has caused cavities under the structures which pose a major safety issue and pool failure is possible.

The structural infrastructure at the Grafton Olympic Pool has been assessed as being at the end of its useful life and further maintenance would be superficial and will not address the

current water loss issue. Since a new water meter was installed in April 2022 water loss has been recorded at a rate to 39,418kL/annum, costing \$187,235 in 2021/2022.

Subsequently Council has resolved to proceed with the upgrading of the Centre in 2 Stages with Stage 1 being the removal (demolition) of the existing pools, grandstand and waterslide and construction of three new pools. Stage 2 will involve upgrading of the administration and amenities building under separate approval.

The subject land is located within the Grafton City Centre and is located on the south eastern corner of Turf and Oliver Streets. The land is relatively flat and is within a park traversed by Alamy Creek with the creek and riparian vegetation sitting on a lower level to the south east of the pool complex. The land has a number of ornamental trees, lawn areas and a formal garden entryway with cross pathways and a central circular garden that lead to the administration building.

There has been comprehensive history of consultation with the community and with the elected Councillors including the following strategies, plans and reports in Council's business papers:

- Adoption of the Clarence Valley Open Spaces Strategy 2013, Clarence Valley Sports Facilities Plan, Clarence Valley Aquatic Facilities Strategy and Asset Management Plan
- The Grafton Olympic Pool Masterplan adoption 28 June 2016 [Item 15.054/16]
- Report Item 6c.21.132 – October 2021; Item 6e.21.004 – March 2021; Item 07.20.005 – May 2020; Item 6c.20.048 – April 2020; Item 6c.19.112 – December 2019; Item 15.099/18 – June 2018; Item 15.257/17 – December 2017; Item 15.112/17 – June 2017; Item 13.016/17 – April 2017; Report Item 15.152/16 – December 2016; Item 15.054/16 – June 2016; Item 15.099; 18 June 2018;

### **3. STATUTORY CONSIDERATIONS**

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

##### **State Environmental Planning Policy (Planning Systems) 2021**

###### **Chapter 2: State and Regional Development**

Section 2.19(1) of Schedule 6 declares the proposal regionally significant development as it comprises a Council related development over \$5 Million in which Clarence Valley Council is the applicant for development

##### **State Environmental Planning Policy (Resilience & Hazards)**

###### **Chapter 4: Remediation of Land**

Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.

Research has found that the structures have been present and in use on the site since approximately 1954. The land has been used for public recreation in the past and the use of the land will not change. The land is considered to be suitable for future public recreation use. The proposal is considered to be consistent with the Policy, subject to imposition of relevant conditions of consent in relation to demolition, excavation and construction works.

## Clarence Valley Local Environmental Plan 2021

The land is subject to the provisions of the Clarence Valley Local Environmental Plan (LEP) 2011 and under this LEP the land is zoned RE1 Public Recreation. The proposed development is defined under Clarence Valley LEP 2011 as both a 'recreation facility (indoor)' and a 'recreation facility (outdoor)'. The relevant definitions are listed below:

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)

The demolition of the ageing pool and ancillary structures and the construction of the new grandstand and indoor pool complex is consistent with the land use definitions above and are permitted land uses in the RE1 Zone.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the RE1 zone are:

- To enable land to be used for public open space or recreational purposes;
- To provide a range of recreational settings and activities and compatible land uses; and
- To protect and enhance the natural environment for recreational purposes.

The proposal is consistent with the objectives as it provides for the upgrading of an existing public aquatic centre to bring it up to contemporary community needs. The development enables the land to continue to be used for public open space and recreational purposes and adds to the range of settings and activities. The proposal will be provided with measures to protect and enhance the natural environment for recreational purposes.

## Consideration of the LEP Controls

**Clause 2.7 Demolition requires development consent:** Under this Clause the demolition of a building or work may be carried out only with development consent. The proposal involves demolition of buildings structures and works and consent is sought for this under this proposal.

**Clause 5.10 Heritage Conservation:** This clause requires consent for altering the exterior of any building or work within a heritage conservation area or on land within the vicinity of a heritage item. The land is within the Grafton Heritage Conservation Area and is in the vicinity of a number of heritage items; this is discussed in further detail in the key issues section of this report.

**5.21 Flood planning** This clause requires that development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development is compatible with matters listed in the clause.

Comment: The Development will not alter the flood function and behaviour on the land, will not adversely affect flood behaviour that results in detrimental increases in flood affectation of other development or properties, will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes the surrounding area in the event of a flood, incorporates appropriate measures to manage risk to life in the event of a flood, and will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

**Clause 7.1 Acid Sulfate Soils:** This Clause relates to the risk from potential acid sulfate soils (ASS). The land is within a low risk category Class 4 (shown as purple) on the Potential Acid Sulfate Soils map.

Comment: The subject land is mapped as Class 4 which is a low risk classification of potential acid sulfate soils. A Geotechnical Report has been undertaken by 'Regional Geotechnical Solutions Pty Ltd' that found that the results chromium reducible sulphur (CRS) testing undertaken on representative samples of the alluvial soils indicate they are not actual acid sulfate soils or potential acid sulfate soils.

Any excavation resulting in disturbance of more than one tonne of soil at a depth of greater than 2 metre below natural ground surface, or work that is likely to lower the watertable beyond 2 metre below natural surface shall comply with Councils' Acid Sulfate Soil management provisions, as per the recommended conditions.

**Clause 7.2 Earthworks;** Under this Clause development consent is required for earthworks. The proposal will involve earthworks associated with the demolition of the existing pools and site preparation for the new pools. Council is required to consider the listed matters in relation to earthworks.

Comment: A report was conducted by 'Regional Geotechnical Solutions Pty Ltd' and provided with the application which anticipates excavations in the order of 4 metres will be required for the new pools and that filling to up to 3 metres depth will be required to fill old pool excavations. The report provides that the underlying profile comprises silty clay and silty sand soils which should be readily excavatable with large hydraulic excavators. Based on the soil conditions, groundwater inflows should be controllable using gravity drainage to a sump from where it can be pumped and appropriately discharged as required.

A condition of consent is proposed requiring that any dewatering will require the submission of a Dewatering Management Plan prepared by a qualified water quality expert. Any discharge of ground water will require the appropriate local or state government authority approvals.

**Clause 7.3 Flood Planning;** Under this Clause development consent must not be granted to development on land mapped as flood prone unless the consent authority is satisfied that the development:

- *is compatible with the flood hazard of the land, and*
- *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- *incorporates appropriate measures to manage risk to life from flood, and*
- *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The allotment upon which the Aquatic Centre sits is mapped as being flood prone (1 in 100 year flood event), but the land that will actually accommodate the new pools and buildings is



outside the mapped flood prone area. The proposal provides for a floor level of 7.44m for the buildings and provided the buildings and the substation are set at this level, there should be no unacceptable risk in relation to the expected flood events.

**Clause 7.8 Essential Services:** This clause requires that development consent must not be granted unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- *the supply of water,*
- *the supply of electricity,*
- *the disposal and management of sewage,*
- *stormwater drainage or on-site conservation,*
- *suitable vehicular access.*

Comment: The land is connected to the reticulated water and sewer network and has access to the electrical services in the area. Stormwater will be directed to the existing drainage network in accordance with the plans submitted. The site has access to both Turf and Oliver Streets which are straight flat streets with a 50km/hr speed limit and suitable for access to the Aquatic Centre.

## **Section 4.15 Assessment**

### **(1) Matters for consideration - General**

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

#### **Section 4.15 (1)(a)(i) - Provisions of any Proposed Instruments**

There are no relevant proposed instruments which have been the subject of public consultation under the EP&A Act.

**Section 4.15 (1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved),**

NA

#### **Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The relevant section of Clarence Valley DCP 2011 is the Environmental Protection, Recreation and Special Use Zones DCP, in particular the following sections are relevant to this application:

#### Part C General Development Controls:

##### Part C1 Objectives:

The following objectives should be met in designing development:

- *Development which is responsive to site constraints and the surrounding environment.*
- *Development which is of a high quality and is sensitive to the rural character of the locality in which it is being developed.*
- *Development that is functional and appropriate for the type of use /activity being provided.*
- *Development /uses that provide adequate buffers to residential and other development to reduce conflicts between rural/agricultural uses and residential amenity.*

The development is located within the current confines of the Aquatic Centre and has sufficient setbacks to protect the surrounding environment with the exception of the grandstand location.

The grandstand and indoor pool is considered to be high quality contemporary buildings and the proposal will result in removal of some existing unsightly structures in the Centre; in particular, the old water slide structures and grandstand, and replacement with structures suited to a modern regional aquatic centre.

The development will improve the function of the Aquatic Centre by extending the useability of the Aquatic Centre during cooler periods. The development meets the listed objectives.

Control C4 Streetscape requirements:

The setting of the grandstand within the streetscape is also a heritage impact consideration as the site is located within a Heritage Conservation Area as identified under the LEP.

The applicant addressed controls relevant to this proposal and provided the following comments:

Item	Comment
Presentation to Street	The upgrades to the aquatic centre will result in an overall improvement to the streetscapes with the removal of an unsightly waterslide and provision of contemporary structures to enclose the new 25 metre pool and children's pool and provide for covered seating for the 50 metre outdoor pool. The proposal will result in the removal of four mature trees along the Turf Street frontage, but these can be compensated by additional planting along this frontage; a condition could be imposed to this effect. The wide road reserve and setbacks help mitigate any potential streetscape impacts.
Setbacks	The upgrade works and developments are all within the current confines of the aquatic centre. A variation to the setback to Turf Street is proposed. (discussed below)
Heritage	The proposed development introduces a contemporary architecture to the site which is considered appropriate for this site which is set within a campus like setting of community buildings, sports facilities and bushland areas. The stage 1 works will not change the traditional landscape entryway or administration building and will have no impact upon the context for the historic dwellings in Turf Street.
Building height	The proposal will result in a building height well below the height limit of 9 metre permitted in the surrounding residential area. It being noted that the proposed buildings will not impinge upon any significant views, will not have any privacy impacts and will have no adverse overshadowing impacts upon nearby residential areas.
Buildings on corner blocks	The buildings are set well back from the corner and will not change the address to the street in this Stage 1 proposal provided by the existing administration building and formal landscaped entryway
Roofing	The roofing is a lightweight material that is suited to the function of the buildings. No glare is anticipated from the proposed roof structures.
Fences and walls	There is no change to the fencing proposed and the walls of the buildings are painted rendered blockwork for the tiered seating canopy and a mix of metal, glass and panels for the indoor pool enclosure. These materials are considered to be suitable for the type of buildings proposed. It is also proposed to undertake extensive landscaping with additional planting along Turf Street to assist to screen part of the tiered seating canopy structure.

Landscaping	The aquatic centre sits within a parkland setting and the generous setbacks will maintain the landscape amenity of the locality.
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Control C5 Building Design requirements:

The applicant addressed controls relevant to this proposal are as follows:

Item	Comment
Siting	The development is sited within the existing Aquatic Centre confines and away from land mapped as being flood prone and away from the sensitive creek environment. The Stage 1 development is appropriately sited.
Cut and fill	The cut and fill issues are addressed in the Geotechnical Report; recommendations are made with respect to these matters in that report.
Energy Efficiency	The proposal involves all practical water saving measures.
Materials and colours	The materials and colours are appropriate for the setting with natural greys for the buildings and accent yellow ochre used for the shade structures. These colours sit well within the green parkland setting.
Privacy	The subject land is located within the Westward Park and well away from nearby residences. No adverse impacts in terms of privacy are expected.

Control C17.4 Setbacks:

Setbacks must not exceed the following setbacks, except where alternative setbacks are identified in another Part of this DCP. Minimum setbacks are as follows:

- Front – 10 metres
- Side – 3 metres.

The applicant has requested a variation of the side boundary from 3 metre down to 1.2 metre.

Variations to setbacks can be considered on merit and any request to vary the front setback should meet the setback objectives. The following criteria has been considered in assessing the reduced setback:

- the position of adjacent buildings and their residential character.
- location of existing vegetation
- the effect on sightlines and visibility for pedestrians and vehicles.
- size, shape and grade of the lot.
- the facade of the proposed building or buildings which will face the street and the proposed landscaping which is visible from the street.

The applicant has provided the following response:

*The enclosure for the indoor pools is setback well over 10m from the Oliver Street boundary. The canopy for the 50m outdoor pool tier seating is setback almost to the Turf Street boundary.*

*Justification to vary the setback to Turf Street for the grandstand is provided within the Statement of Heritage Impact – Supplementary Report. Key points to note here include:*

1. *The need to have a well functioning and operational pool complex that provides a clear line of sight for the safety of pool users*
2. *The need to accommodate a potential future diving pool between the 50m pool and the central pool complex.*

3. *Turf Street has a generous road reserve width and road reserve adjacent the pool complex*

*A variation to this setback is considered reasonable having regard to the large road reserve (approximately 40m) and generous nature strip (approximately 16m) and the existing trees in this nature strip which will help screen the canopy structure. The proposal will not impinge upon sightlines, is well sighted to avoid the important gateway corner of Oliver and Turf Street and the setback of the nearby residences fronting Turf Street; these are approximately 44m from the boundary. A variation in this regard is considered reasonable.*

#### Comment

The original concept Masterplan identified a greater setback of the Turf Street boundary and slight orientation offset for the 50 metre pool. During detailed design a number of factors influenced the adjustment to orientate the 50 metre pool parallel and closer to the Turf Street boundary. The grandstand has been located in the proposed position based on operational considerations to incorporate the required structures that have been resolved by Council to be adopted into the Masterplan for the aquatic centre (50 metre Olympic size Pool, Indoor Pool building, grandstand, upgrading of the administration and amenities building, new dive pool, new water slide, splash pool and shade shelters).

The adjacent dwellings on Turf Street are separated from the grandstand by generous road reserve widths with mature heritage listed jacaranda trees a feature of the street. No objections were received in regard to the impacts or location of the grandstand.

The impacts from the reduced setback are supported based on the proposed design options that reduce the bulk and visual impact of the building.

The impacts on the Heritage Conservation Area are further discussed in the Key Issues section below.

#### **Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

NA

#### **Section 4.15(1)(a)(iv) - Provisions of Regulations**

The proposed development is not considered to be inconsistent with the prescribed matters of the Regulation. Demolition of the structures will be required to be in accordance with the asbestos and other provisions of AS 2601; the building will, when completed, comply with fire safety provisions as are applicable to the building's proposed use and the buildings will be required to comply with the Building Code of Australia.

These provisions of the EP&A Regulation 2020 in regard to natural hazards (flood), safety & security, social impacts and economic impacts have been considered and are addressed in the recommended conditions of consent. Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality.

#### **Section 4.15(1)(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The approval of this application will allow for localised economic gains due to the employment of construction businesses during the construction stages. The proposal will have an overall positive economic effect in the redevelopment of the aquatic centre.

Ecologically, the impacts of the development can be adequately managed through the approved conditions of consent.

The development will have a positive social effect through providing suitable services for public facilities. Socially there are minimal potential negative impacts on adjoining properties. The cultural values of the site are maintained.

Conditions of consent ensure that the land is adequately serviced, adequate infrastructure is in place and suitable for the development. The proposal, if implemented with the recommended conditions, will on balance provide an ongoing sustainable development.

#### **Section 4.15(1)(c) - Suitability of the site**

The subject site is considered suitable for the proposed development. The site has a current development approval for an aquatic centre. The development footprint is over an increase area within the reserve, consistent with the Masterplan as amended and in an area that is not considered to be of high ecological significance. There are no unreasonable conflicts with surrounding land uses anticipated and the site is suitable for the proposed development subject to the imposition of conditions.

#### **Section 4.15(1)(d) - Public Submissions**

The proposed development was notified and advertised in accordance with Act, Regulations and Council's Community Participation Plan. During the exhibition period one (1) submission was received. A copy of the submission has been provided to the Panel Secretariat. The concerns raised in the submissions are summarised and considered below:

<i>Submission</i>	<i>Comment</i>
<ul style="list-style-type: none"> <li>• The CVC is in a great position to transform the new pool complex for the community to be proud and use for many years to come.</li> <li>• There could have been an option considered for a 10 lane 50m pool to provide greater pool configuration for swimmers</li> <li>• The diving tower in stage 2 could be closer together for better supervision</li> <li>• The South Pool complex if sold there will be no pool for a long period,</li> <li>• It would be a real shame if what the community ends up are less facilities, with long construction times, or no pool availability at all.</li> </ul>	<p>The community consultation for the Grafton Aquatic Centre has been comprehensive and over some time including Clarence Valley Aquatic Facilities Strategy prepared in 2013 and adoption of the Grafton Olympic Pool Masterplan 2016 which has resulted in the final proposed design for the pool.</p> <p>Construction of the new complex will require that aquatic centre be closed which is unavoidable. The short-term inconvenience to the community will be outweighed by the long-term community benefits.</p>

#### **Section 4.15(1)(e) - Public interest**

The proposed development complies on planning grounds with the relevant legislation and local Council policies ensuring that the public interest is maintained and any potential impacts from the development are minimised.

The proposed development will provide the continuation of important and improved public facilities in the town of Grafton. The assessment of the application has considered the likely impacts of the development and proposed management and mitigation measures as necessary. Therefore, the proposal is considered to be in the public interest and is consistent with the following objects of the Act:



- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been not been referred to any agencies for comment/concurrence/referral as required by the EP&A Act.

### 4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined in the following table:

**Table 2: Consideration of Council Referrals**

Officer	Comments	Resolved
Environmental Health Officer	Conditions of consent have been provided in regard to the Environmental Health requirements	Y
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to traffic generation and car parking. These issues are considered in more detail in the Key Issues section of this report.	Y
Building Surveyor	Conditions of consent have been provided in regard to the Building Surveyor requirements. Comments have been Council's Building Services Section is unable to provide certification services in respect of this development due to the conflict of interest provisions of the Building and Development Certifiers Regulation 2020 as the capital investment value of the project exceeds \$2 million dollars ,(see extract below). Council (as the applicant) will need to engage the services of another Council or a	Y

	private certifier for the certification services on this project.	
Senior Strategic Planner (Public Land/Native Title)	<p>Council's Strategic Planner raised concerns about the development. These have been addressed through:</p> <ul style="list-style-type: none"> <li>• Confirming that a copy of DA was served on Crown Lands as owner prior to lodgement of DA or published as per requirements of cl. 23(3) &amp; (4) of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Advice in regard to there being no valid plan of management authorising works/submission of DA as per requirement of s35 of <i>Local Government Act 1993</i>.</li> <li>• Any a s68 Approvals will be subject to further approvals</li> <li>• Conditioning any approval that that Aboriginal cultural heritage has be considered as per the due diligence requirements under the <i>National Parks and Wildlife Act 1974</i></li> <li>• The requirements of native title or the requirements of the <i>Native Title Act 1993</i> (Cth) are separate considerations to those under the Environmental Planning and Assessment Act 1979.</li> <li>• Formal referral of the application to the Grafton Ngerrie Local Aboriginal Land Council and NTSCorp on the lodgement of the DA was undertaken.</li> </ul>	Y
Trade Waste	Draft conditions of consent have been provided in regard to Council's Trade Waste requirements	Y
Heritage	<p>Council's Heritage Officer/Consultant reviewed the submitted Heritage Impact Statement ('HIS') prepared by the applicant.</p> <p>On assessment it was advised that the Statement of Heritage Impact (SOHI) required a more detailed assessment of the potential impact on the significance and setting of the Grafton Heritage Conservation Area and heritage items in the vicinity of the site, and</p> <p>The heritage impact statement and Statement of Environmental Effects should provide evidence of design options and provide a detailed landscaped setback to this boundary with sufficient width for suitable western facing vegetation to reduce the bulk and visual impact of the building.</p> <p>Further information has been provided, including the submission of an updated SOHI, a landscaped plan, architectural interpretations, colourboard</p>	Y

	<p>pallets and finishes, and Supplementary Statement of Heritage Impact.</p> <p>Conditions of consent have been provided for the proposal to mitigate adverse impacts on heritage values arising from the proposal. It is recommended that conditions are to be imposed on any consent.</p>	
Engineering	Council's Engineering Officer has provided comments and conditions of consent.	Y

### Engineering comments

#### *Stormwater*

*The submitted Eclipse Stormwater Management Plan Report assesses the stormwater quality/quantity impacts of the development and proposes the following measures to met pre-development conditions for the site:*

#### *On-site stormwater detention*

*3x 20,000 L rainwater tanks for reuse and detention. Lower chamber contains permanent volume for reuse internally, with the upper chamber utilising a low-flow and high-flow outlet to detain excessive rainfall volumes. Each tank is divided into the following volume:*

*Tank 1, connected to the eastern side of the new pool hall: 6,000 L reuse & 14,000 L detention.*

*Tank 2, connected to the western side of the new pool hall: 10,000 L reuse & 10,000 L detention.*

*Tank 3, connected to the grandstand and plant room: 15,000 L reuse & 5,000 L detention.*

*2x Ocean Protect Ocean Guards, downstream of stormwater tanks, for removal of pollutants in high-flow events.*

*The proposed measures and supporting assessment in the report are deemed suitable for the development and the development has been conditioned to be in accordance with this report. Provisions shall be in place prior to the issue of Occupation Certificate.*

#### *Traffic/Parking*

*The site has frontage to Turf Street and Oliver Street, which have existing on-street parking areas fronting the site of approximately 50m and 85m respectively. The development proposes to formalise two disabled parking spaces on the Oliver Street frontage of the site*

#### *S64 Headworks - Water/Sewer*

*The development is classified as a community facility. The Development Contributions for Community Facilities policy states the following:*

#### *4. Policy Statement*

*4.1 Community facilities as defined in this policy and provided by Clarence Valley Council or community groups are exempt from the payment of contributions levied under S64 or S94.*

*4.2 Council's Water Fund and Sewer Fund are classified as Category 1 Businesses under the National Competition Policy Guidelines and, as such, exempting community facilities from the payment of S64 Contributions represents a subsidy by the Funds towards each facility so benefitted.*

*Accordingly, the development is not subject to Council's High Consumption charges for non-residential developments.*

#### *Earthworks*

*Due to the scope of works, a Construction Management Plan and Earthworks Management Plan are required to identify/address impacts of the development to adjoining residential properties, public infrastructure.*

#### *Certification of works*

*The standard engineering conditions talk to 'public infrastructure', generally with the intention of this reflecting roads, stormwater, water, sewer etc associated with subdivisions and similar developments.*

*These references to public infrastructure could be interpreted in this instance as the community facility and as such, conditions referencing maintenance bonds/periods and works as executed plans have been provided in the engineering conditions below. It is not known if these aspects of the development will be addressed via contractual arrangements and associated warranty periods for construction works. If these aspects are handled in this way, the applicable conditions below can be removed.*

### **4.3 Community Consultation**

The proposal was notified in accordance with the DCP/Council's Community Participation Plan from 12 January 2022 until 11 February 2022. A total of 1 unique submission, comprising 1 submission raising concerns about the proposal. The issues raised in these submissions can be resolved through conditions:

## **5. KEY ISSUES**

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail.

### **Heritage Impacts & DCP Variation to Turf Street Setback**

More detail was requested by Council on the street scape impacts on the Heritage Conservation Area, including:

- The potential impact of the proposed new grandstand with a 6.5m height to top of roof on the Turf Street site boundary (5.2/5.3m wall) with minimal setback of 1.2m,
- Addressing the impact on the aesthetic significance, views and settings of the Heritage Conservation Area.
- Evidence of design options and provide a detailed landscaped setback to this boundary with sufficient width for suitable western facing vegetation to reduce the bulk and visual impact of the building.
- The departure from the originally supported concept Masterplan layout and in particular moving the grandstand and pool closer to the Turf Street frontage.

In response the applicant has provided updated renders with feature bricks placed on every second break with the down pipe in between. The applicant has also submitted:

- a landscaped plan,
- architectural interpretations,
- colourboard pallets and finishes, and
- Supplementary Information – Statement of Heritage Impact

These have been included as an attachment to the report to the Panel and an example of the architectural interpretations is provided below.



**Figures 5 & 6 two of the architectural interpretations provided.**

An addendum to the SOHI has been provided as follows:

#### Heritage Impact Assessment – Grandstand and 50m Pool Location

The relevant section of the Clarence Valley Local Environmental Plan (Cl5.11 and Schedule 5) require consideration of the impact of the redevelopment on the Turf Street heritage conservation values. Key considerations are:

- the proposed built form,
- architectural merit of mostly single storey existing residential dwellings on the west side of Turf Street,
- the substantial 32m width of the road reserve and
- the street scape vegetation of mostly Jacaranda mimosifolia
- The existing 2m high black chain wire fence with barbed wire top on the boundary of the pool property.

The external façade of the grandstand is approximately 65m long and is setback 1m off the Turf Street boundary. The grandstand has an approximate 2.5m painted and rendered masonry (concrete blockwork) lower element with a laser cut metal transparent art element on top and covered with a flat skillion style roof.

#### Management of Heritage Impact

To address the impact of the external facade of the grandstand facing Turf Street it is proposed to:

- Articulate the masonry element at approximately 6m intervals with vertical earth coloured brick columns, projecting 255mm (one brick), be similar to the front brick heritage element of the pool entry.
- Project slightly a sill treatment on top of the masonry element.
- Paint the masonry element in neutral to warm colours and the top sill component to be a half tone darker than the main wall to provide a highlight definition.
- The laser cut transparent artistic element would include art work representation the following themes being First Nations Bundjalung Nation, aquatic activities and heritage recognition to the Scouts who tragically passed away crossing to Susan Island that gave rise to the need to construct the pool originally. The artwork has yet to be designed or developed and can be submitted prior to that component being installed.
- The roof external colour would be Colourbond Windspray
- Fascia and gutters would be painted Colourbond Woodland Grey.
- Maintain a narrow landscaping width immediately adjacent the grandstand wall will reduce the incidence of gathering and hiding within the landscaping that is an important Crime



Prevention Through Environmental Design (CPTED) consideration. A wider landscaped area will only encourage hiding and inappropriate behaviour especially at a recreation facility.

- Landscaping will be provided of native species mostly from the local area/bioregion. Species will include those that highlight the brick columnar features of the wall locating those between the dominate street Jacaranda mimosifolia, and also screening the masonry element to help reduce the incidence of graffiti and/or the application of signage.

#### Comment

The scale of the proposed wall fronting Turf Street is a substantial departure from the scale of buildings in the immediate surrounding. The proposed treatments and finishes that have been provided demonstrate that the bulk and scale can achieve a reasonable outcome that respects the significance of the Heritage Conservation Area and that the treatments and finishes along with suitable landscaping can reduce the potential visual impacts as well as reduce the overall bulk and scale. A schedule of all external finishes and colours, sympathetic to the significance and setting of the Heritage Item and/or Heritage Conservation Area, in accordance with the provisions of the Clarence Valley LEP 2011 and DCP 2011, will be required to be submitted to, and approved by Council prior to release of the Construction Certificate for the grandstand.

#### **Matters raised in the Panel Briefing 18 May 2022**

##### More attention to the design and improving the appearance of the long & tall grandstand structure

Comment: This issue is addressed in the comments above.

##### The potential for crime to be investigated and need for Crime Prevention through Environmental Design (CPTED)

Comment: The applicant has advised that the current crime prevention measures will continue to apply in regard to maintenance of perimeter fencing, closed circuit TV cameras, sensor lighting. The landscaping along the grandstand has also been kept to a minimum depth to prevent potential crime through providing areas to hide or for unsocial behaviour. The vegetation will also screen and deter graffiti along the lower wall of the structure.

##### Peer review of the proposal, being a Council development Application

Comment: Discussions have been held with the Department's Planning Panel staff in regard to this application, and if a peer review is required. A peer review has not been undertaken on the basis that the application is one of low risk of and there was only one (1) public submission on the application, and that this submission did not raise substantial issues.

##### Community Land and Plan of Management

The following comments are provided to assist the Panel about determining a development application can be determined for a permitted use on land zoned RE1 Public Recreation when that land is classified as "community land" under the Local Government Act 1993 and an adopted plan of management (PoM) does not exist.

General Douglas MacArthur Park (being part Reserve D540035) has been included in the draft Community Land, Crown Reserves and other Public Places Generic Plan of Management

(generic PoM) which is currently with the Department of Planning, Industry and Environment's Crown Lands Division, Council Crown Land Management team for review and consent as owner of the land to place on public exhibition. The proposed redevelopment of the Grafton Pool is to be included as part of the General Douglas MacArthur Park Operational Plan that will annexed to the generic PoM when adopted.

It is open to a consent authority to determine a development application relating to community land that is within Zone RE1 of CVLEP 2011 by way of granting consent to the application even though there is no plan of management applying to the land. The development however will not be able to be lawfully carried out unless a plan of management authorising the use is lawfully adopted by the Council or the land is reclassified by way of a local environmental plan as "operational" land.

### **Variations to Masterplan**

In regard to the location of the grandstand and pool the applicant has submitted the following information:

*A number of design iterations were considered throughout the project to the point that a final detailed design was established. Overall the central and symmetrical layout of the heritage entry, amenities and service areas of the complex drove consideration of the central placement of the covered pool complex that included the 25m and learn to swim pools. This symmetry and the need to orientate the 50m in a preferred north south direction resulted in the only viable location towards the Turf Street side of the complex for the 50M pool. A Peer Review was completed from a safety and operational perspective from industry experts, Royal Life Saving Society who also concluded the preferred location for the grandstand is along the Turf Street boundary.*

*The original concept Masterplan identified a greater setback of the Turf Street boundary and slight orientation offset for the 50m pool. During detailed design a number of factors influenced the adjustment to orientate the 50m pool parallel and closer to the Turf Street boundary that include –*

- 1. The placement of the dive pool back into the original Concept Masterplan by Council. The only viable location for the dive pool if ever constructed would be between the southern end of the 50m pool and the central covered pool complex. The placement keeps the deep water spaces together, and utilises the planned plant room at the southern end of the 50m pool. This meant moving the 50m pool and grandstand closer and parallel to the Turf Street boundary.*
- 2. Accurate survey and pool complex sizing information. During detailed design additional information on the covered pool building size required to service the central pools and survey required necessitated positioning the 50m closer to Turf Street.*
- 3. The need to have a well connected and open space between the 50m pool and the central pool complex to optimise open green space and achieve best practice pool supervision from the entry across the whole complex. Placing the grandstand on the east side of the 50m pool would effectively cut the complex in two and adversely impact on this design.*
- 4. The need to have a 600 seat grandstand to the 50m pool for Regional Event Classification was an important design consideration to complement the eight lane 50m Olympic pool*
- 5. Acoustic screening for the neighbouring properties across the road.*

### **DCP Variation to Turf Street Setback**

This has been addressed in the assessment under the Development Control Plan provisions. The variation from 3m down to 1.2 m is supported by Council staff, subject to the proposed architectural design and landscaping outcomes.

## **1. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the assessment of the relevant planning instruments and controls and key issues as outlined in the report have or can be resolved satisfactorily through imposing the recommended draft conditions at **Attachment A**.

## **Attachment A**

### **Attachment A Draft Advices and Conditions Schedule**

#### **Definitions**

**NRDC** the current civil engineering standards in accordance with the relevant parts of the following guidelines

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Sewerage Code of Australia (WSA 02 - 2002)
- e Water Supply Code of Australia (WSA 03 - 2002)
- f Clarence Valley Council 'MUSIC' Guidelines (Draft)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage.

WSA documents are subject to copyright and may be obtained from the 'Water Services Association of Australia'.

For 'MUSIC' guidelines and policy documents contact Council's development engineer.

#### **Civil Works may include -**

- a Earthworks
- b Roadworks (including car parking)
- c Drainage works
- d Structures
- e Water & Sewerage Reticulation
- f Provision of Utility Services

**TCP** means Traffic Control Plan in accordance with the **TfNSW** 'Traffic Control at Worksites' Technical Manual.

**TfNSW** means Transport for New South Wales

#### **Advices**

1. Owners are advised of the requirements of Clause 5.10 of the Clarence Valley LEP 2011 in relation to the need to obtain prior consent to move, alter, demolish, remove trees, construct fences and buildings, and make changes to the exterior, including changes to the fabric, finish and appearance of a Heritage Item and any building in the Heritage Conservation Area. Many works can be approved through a no fee application for maintenance and works of a minor nature under the Heritage Exemption clause 5.10(3). Further information is available through Council's website.
2. Council's Building Services Section is unable to provide certification services in respect of this development due to the conflict of interest provisions of the Building and Development Certifiers Regulation 2020 as the capital investment value of the project exceeds \$2 million dollars. Council (as the applicant) will need to engage the services of another Council or a private certifier for the certification services on this project.
3. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
  - a Roads Act 1993 Sections 138 & 139 – approval for works on a road issued by Council and/or **TfNSW**;
  - b Local Government Act Section 68 - drainage, water & sewer approval;

Application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.
4. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **Building Construction Certificate** has been issued by Council and/or accredited private certifier.
5. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
6. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
7. The Earthworks Management Plan must include an initial site inspection report. This report should include:
  - a Inspection and verification of an appropriate preparation of the foundation for placement of fill, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence the site. This is to be provided by a competent Geotechnical Authority.
  - b Certification that the land created by the development will be suitable for its intended purpose including any parts of the land that will be left in its natural state or modified by the development.
  - c Identify any problem areas on or adjacent to the development land (e.g. potential land slip areas, very high water tables, salt affected land, highly eroded sites etc) and advise if engineering solutions, acceptable to Council, are available to enable structures to be built on the affected parts of the land.

Where relevant to the project, the following will also be required



- a Details on the selection of fill type(s), the source/s of the fill, including suitability for the intended use, its appropriate handling, placement and compaction, and the area of the development to be filled including depth to be filled. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.
- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.
- d The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements

The Earthworks Management Plan must :

- a Include details of how the works will comply with the Protection of the Environment Operations Act 1997.
- b Provide a concept for the full site as a minimum with details of the earthworks for a particular stage lodged with the construction certificate application for that stage.
- c Compatible with the works plans and the approved Stormwater Management Plan.

The following information will be required for earthworks undertaken:

- a Details of geotechnical laboratory and in situ (principally dry density assessment) testing for each fill type and specified volume of placed fill including records of the date and time of all testing, the source of material tested in the laboratory, and the spatial distribution and reduced level of in situ tests. The latter must be correlated with results from the laboratory testing of similar material.
- b Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.
- c Certification of the completed earthworks (including cut, fill, earth retaining structures as far as the geotechnical aspects) that the work is suitable for the intended use.
- d Certification that excavated materials have been reused or disposed of in accordance with the Protection of the Environment Operations Act 1997 and copies of receipts for disposal where relevant.

Should there be any change in the source of fill material from that previously approved for the development, the Principal Certifying Authority must be notified and approval obtained to the new source prior to the import of any of the material. A report from a practicing geotechnical engineer certifying that the new source material is suitable for the intended purpose must be provided. The report to include any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of fill type. The Earthworks Management Plan to be amended accordingly.

## **CONDITIONS:**

1. The development being completed in conformity with the Environmental Planning & Assessment Act, 1979, the Regulations thereunder, the Building Code of Australia (BCA) and being generally in accordance with the following plan(s) as amended in red, or where modified by any conditions of this consent.

Drawing No	Drawn by	Dated	Sheet S	Revision
Existing Survey	Facility Design Group Pty Ltd	10.9.21	A010	A
Demolition Plan	Facility Design Group Pty Ltd	10.9.21	A030	A
Site Plan	Facility Design Group Pty Ltd	10.9.21	A053	A
Room Schedule	Facility Design Group Pty Ltd	10.9.21	A010	A
Floor and Setout Plan	Facility Design Group Pty Ltd	10.9.21	A100	A
Indoor Slab Setout	Facility Design Group Pty Ltd	10.9.21	A102	A
Outdoor Slab Setout	Facility Design Group Pty Ltd	10.9.21	A103	A
Roof Plan	Facility Design Group Pty Ltd	10.9.21	A104	A
Indoor Depth Markers and Warning Tile Schedule	Facility Design Group Pty Ltd	10.9.21	A131	A
Wall Types	Facility Design Group Pty Ltd	10.9.21	A150	A
Reflected Ceiling Plan	Facility Design Group Pty Ltd	10.9.21	A300	A
Sections 1	Facility Design Group Pty Ltd	10.9.21	A400	A
Sections 2	Facility Design Group Pty Ltd	10.9.21	A401	A
Elevations 1	Facility Design Group Pty Ltd	10.9.21	A500	A
Elevations 2	Facility Design Group Pty Ltd	10.9.21	A501	A
Detail Sections	Facility Design Group Pty Ltd	10.9.21	A600	A
Detail Sections	Facility Design Group Pty Ltd	10.9.21	A601	A
Detail Sections	Facility Design Group Pty Ltd	10.9.21	A602	A
Detail Sections	Facility Design Group Pty Ltd	10.9.21	A603	A
Ramp & Stair plans and handrail	Facility Design Group Pty Ltd	10.9.21	A670	A
Leisure Pool plans	Facility Design Group Pty Ltd	10.9.21	A671	A
Detail Access	Facility Design Group Pty Ltd	10.9.21	A700	A
Change floor plan				
Detail Adult Change	Facility Design Group Pty Ltd	10.9.21	A701	A
Detailed Floor Plan 2	Facility Design Group Pty Ltd	10.9.21	A704	A
Detailed Floor Plan 4	Facility Design Group Pty Ltd	10.9.21	A603	A

2. No construction is to be commenced until a Construction Certificate has been issued.
3. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be submitted to Council at least two (2) days before work commences.
4. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
5. **Working/Construction Hours** Working hours on construction or demolition shall be limited to the following:

**7.00 am to 6.00 pm Monday to Friday**

**8.00 am to 1.00 pm Saturdays**

**No work permitted on Sundays and public holidays**

The builder is responsible to instruct and control sub contractors regarding the hours of work and the requirements of the Protection of the Environment Operations Act 1997 and Regulations.

6. **Site Safety Management Building** equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.

All excavations and back filling associated with the erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

7. A person who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land shall, at their own expense and where necessary:
  - a Preserve and protect the building from damage; and
  - b If necessary, underpin and support the building in an approved manner, details of which are to be submitted with the application for the Construction Certificate and certified by a professional engineer or an accredited certifier.

The person who causes this excavation must, at least seven (7) days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to this owner of the proposed work. (Note: An adjoining allotment of land includes a public road and any other public place. A building includes a fence).

8. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
  - a Stating that unauthorised entry to the work site is prohibited, and
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work, and

Any such sign is to be removed when the work has been completed.

9. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
10. Prior to any work commencing involving the disturbance or removal of any asbestos materials the principal contractor shall give two days written notice to the owner or occupier of any dwelling within 20m of the development site of his intention to carry out the work.
11. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Clarence Valley Council's Asbestos Policy, the relevant requirements of SafeWork.
  - a Work Health and Safety Act 2011 and associated regulations
  - b SafeWork NSW Code of Practice - How to Safely remove Asbestos.

- c Australian Standard 2601 (2001) – Demolition of Structures
- d The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.

A copy of Council's Asbestos Policy is available on Council's web site at [www.clarence.nsw.gov.au](http://www.clarence.nsw.gov.au) or a copy can be obtained from Council's Customer Service Centres.

12. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.  
The Work Plan must include the following information (as applicable):
  - a The name, address, contact details and licence number of the Demolisher/Asbestos Removal Contractor
  - b Details of hazardous materials, including asbestos
  - c Method/s of demolition and removal of asbestos
  - d Measures and processes to be implemented to ensure the health & safety of workers and community
  - e Measures to be implemented to minimise any airborne asbestos and dust
  - f Methods and location of disposal of any asbestos or other hazardous materials
  - g Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
  - h Date the demolition and removal of asbestos will commence

The Demolition Work Plan must be submitted to Council and the Principal Certifier (PC) if the Council is not the PC, not less than two (2) working days before commencing any demolition works involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

**Note** *it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

13. Only a WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10 m<sup>2</sup> of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
14. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.
15. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996. Asbestos waste must be disposed of at an approved waste disposal depot. Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.
16. An Asbestos Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the asbestos related works (prior to an Occupation

Certificate being issued), which confirms that the relevant requirements contained in the conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied

17. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
18. Conditions referencing maintenance bonds/periods and works as executed plans have been provided in the engineering conditions. It is not known if these aspects of the development will be addressed via contractual arrangements and associated warranty periods for construction works. If these aspects are handled in this way, the applicable conditions can be removed in consultation with the Development and Land Use section of Council.
19. The developer must design and construct all civil works, in accordance with **NRDC** and the approved Building Construction Certificate or **Section 138/68**. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of the Occupation Certificate. The Council will a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.
20. Prior to commencement of works or issue of a Building Construction Certificate, A practising qualified engineer experienced in structural design and soil mechanics is required to verify the civil engineering works :
  - a including earthwork batters and retaining walls, have been designed to be structurally adequate.
  - b will not be affected by landslip either above or below the works.
  - c will not be affected by subsidence either above or below the works
  - d includes adequate drainage to ensure the stability of the development
21. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the following email address [council@clarence.nsw.gov.au](mailto:council@clarence.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:

**Health and Safety**

  - a Public safety, amenity and site security;
  - b Traffic Control and Management;
  - c Pedestrian management;
  - d Construction hours;
  - e Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
  - f Contractor vehicle parking;
  - g Locating existing utilities and services
  - h Health and Safety requirements.

**Environment**

  - a Air quality management;
  - b Erosion and sediment control- base information, monitoring and management;
  - c Waste management;
  - d Material stockpiling;
  - e Vegetation management;

- f No go zones;
- g Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;
- h Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;

**Quality**

- a Submission of current insurance certificates;
- b Work method description;
- c Construction equipment to be used;
- d Inspection and testing requirements;
- e Earthworks methodologies;
- f Retaining structure construction methodologies;
- g Concrete jointing methodologies;
- h Subsoil drainage installation methodologies;
- i Stormwater drainage infrastructure installation methodologies;
- j Stormwater Quality Improvement Device installation methodologies
- k Access ways and footway construction methodologies;
- l Landscaping installation methodologies;
- m Utility and services installation methodologies
- n Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the approved CMP. The Unexpected Finds Procedure/s must be implemented during ground disturbance and earthworks activities. All site personnel must be tool boxed on the Unexpected Finds Procedure/s.

Associated **TCPs** must be prepared by a person authorised by **TfNSW** to prepare **TCPs**.

The approval of Council under the Roads Act 1993 is required for construction works within and occupation of, the road reserve. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and footpath.

22. Prior to commencement of works, a sign must be erected in a prominent position on any work site on which work is being carried out:
  - a Stating that unauthorised entry to the work site is prohibited;
  - b Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside of working hours, and
  - c Showing the name, address and telephone number of the principal certifying authority for the work.

Any such sign is to be removed when the work has been completed.

23. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans, the approved Eclipse Stormwater Management Plan Report 10237-001-smp and **NRDC**.

On-site detention (OSD) and water quality control systems for the development shall be in place prior to issue of the **Occupation Certificate**.

24. Prior to the release of Occupation Certificate, which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.
25. In accordance with **NRDC** and prior to the release of the Occupation Certificate, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.
26. Prior to release of the Occupation Certificate, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

All work is subject to a maintenance period of six (6) months from the date of Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended due to material or construction work compliance reasons

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with **NRDC**.

Where constructed works to become public infrastructure have been controlled by private certifier Council must attend the 'Off Maintenance' inspection. The documentation, compliance and performance of the constructed works must be in accordance with **NRDC** for Council to accept responsibility for the infrastructure.

27. The existing car parking, and access areas located in Turf and Oliver Street must be constructed, sealed, line marked. Within these car parking areas there must be a minimum of 2 x disabled car parking spaces with such spaces identified on the Building Construction certificate plan. The car parking is to be in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All car parking spaces must be accessible by B99 vehicles.
28. Accessible grades and paths of travel are to be provided from disabled carparking bays through to the main entrance of the aquatic centre in accordance with AS1428.1 and the Building Code of Australia.
29. Detailed plans of earthworks including an Earthworks Management Plan must be submitted to Council or accredited private certifier for assessment and approval prior to the issue of a Building Construction Certificate.

The Earthworks Management Plan is to be prepared in accordance with Council's guidelines. The guidelines are listed in the Advices section of this Notice.
30. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and **NRDC**.
31. Any excavation resulting in disturbance of more than one tonne of soil at a depth of greater than 2m below natural ground surface, or work that is likely to lower the watertable beyond 2m below natural surface shall comply with Councils' Acid Sulfate Soil management provisions.



32. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an occupation certificate is issued.
33. A detailed Erosion and Sediment Control Management Plan for the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a Building Construction Certificate. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier.
34. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
35. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of earthworks. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.
36. A schedule of all external finishes and colours (including and art work/s) sympathetic to the significance and setting of the swimming pool complex within a Heritage Conservation Area and in accordance with the Heritage provisions of the Clarence Valley LEP 2011 and DCP 2011, , , are to be submitted to, and approved by Council's heritage officer prior to the release of the Construction Certificate.
37. Attention is directed to the NSW Heritage Act 1977 and the provisions in relation to the exposure of relics.
  - a If a relic is suspected or there are reasonable grounds to suspect a relic in the ground, that is likely to be disturbed, damaged or destroyed by excavation; and/or,
  - b Any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation; those responsible for the discovery must notify nominated personnel who will in turn notify the Heritage Council of NSW or its delegate the Office of Environment and Heritage and Heritage NSW Heritage Branch and suspend work that might have the effect of disturbing , damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied. (ss 139,146).

Prior to the commencement of construction, an Unexpected Heritage Finds Procedure for Aboriginal and non-Aboriginal Heritage must be prepared should actual or potential items or areas of Heritage be discovered during construction activities. This procedure must be tool boxed with all work crews and implemented during construction works. Should any Aboriginal or non-Aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and Heritage NSW shall be contacted immediately and any directions or requirements of the Service complied with.

38. An application to discharge liquid trade waste to Council's sewerage system shall be submitted for assessment with the Construction Certificate application. Detailed trade waste drainage plans shall be submitted with the application.
39. Approval to discharge liquid trade waste to Council's sewerage system shall be obtained prior to issuing the Occupation Certificate
40. All sinks and floor wastes in food preparation areas shall contain basket arrestors.
41. Chemical storage containers shall be contained in a roofed and bunded area. The bund shall have the capacity to contain at least 110% of the volume of the largest container or other acceptable means of containment that prevents flow to the sewerage system or environment in the case of accident, leakage or spills.
42. The filter backwash water shall discharge through basket arrestors and then be collected in a holding tank/s. The discharge to sewer from the holding tank/s shall be pumped to sewer at a controlled rate acceptable to Council's Water Cycle Section. The backwash holding tank/s shall be sized to 115% of the volume of the backwash.
43. Chemical and oil storage containers shall be contained in a roofed and bunded area. The bund shall have the capacity to contain at least 110% of the volume of the largest container or other acceptable means of containment that prevents flow to the sewerage system or environment in the case of accident, leakage or spills.
44. The filter backwash water shall discharge through basket arrestors and then be collected in a holding tank/s. The discharge to sewer from the holding tank/s shall be pumped to sewer at a controlled rate acceptable to Council's Water Cycle Section. The backwash holding tank/s shall be sized to 115% of the volume of the backwash.
45.
  - Where dewatering is required the Submission of Dewatering Management Plan prepared by a qualified water quality expert prior to issue of a Construction Certificate that includes but is not limited to the following details:
  - Detail DA consent associated with the dewatering.
  - State why de-watering is necessary and if Water NSW has given approval.
  - Clearly state that the DMP will be used as the basis for approval to enable connection and discharge to Council's stormwater system.
  - Detail de-watering technique.
  - Anticipated dewatering flow rate and total dewatering duration.
  - Controls (that is settling tank, turbidity curtain etc) and method of discharge.
  - Measures and techniques to manage noise, vibration and odour issues.
  - Measures and techniques to manage geotechnical stability issues.
  - Contingency plan in case of emergency situation.
  - Outline analysis / testing that has been undertaken and how that water quality measures against criteria stipulated below. The DMP is to state that further analysis will be undertaken prior to connection to Council's stormwater system. Water quality is to comply with the following; - ANZECC/ARMCANZ (2000) Water Quality Guidelines; and - where guidelines are silent on any elements or

- chemicals present in testing samples the water discharge is to comply with endorsed guideline and recommendations issued by the EPA.
- The DMP is to stipulate that the release of water into Council's stormwater system is to halt immediately where water quality does not meet discharge criteria.
  - The DMP must clearly state that the water quality monitoring will be self-certified by an experienced water quality expert. Water is to be tested bi-weekly
  - The water quality expert monitoring the site is to sign and date all water sample testing – stating that the water quality meets the above-mentioned standards.
  - That a copy of these reports are to be submitted to Council as part of a final report upon completion of discharge.
  - That, upon completion of discharge, a final report is to be submitted to Council by the water quality expert detailing water quality monitoring, compliance with water quality criteria and any necessary actions undertaken to maintain and ensure compliance during the dewatering activity and discharge into Council's stormwater system. The water quality expert is to sign and date this report.
  - Include initial re – testing and the ongoing biweekly testing for life of the stormwater connection.
  - There is to be a name and contact point for the site manager and water quality expert monitoring the discharge.
46. Prior to occupation the applicant or business operator is to be registered in Council's Public Swimming Pool Register and pay the appropriate fee under Council's schedule of fees and charges.
47. The swimming pool or spa is required to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) prior to the issue of any occupation certificate for the swimming pool or spa.
48. The public swimming pool and spa pool shall be operated in accordance with the Public Health Act 2010, Part 3 of the Public Health Regulation 2012 and the current NSW Health Public Swimming Pool and Spa Pool Advisory Document.
49. All recommendations contained in the acoustic report prepared by “Noise and Sound Services”, June 2019, must be implemented during the construction phase, operation and life of the development.
50. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the **NSW Protection of the Environment Operations (Noise Control) Regulation 2017**.
51. An amended landscape plan, prepared by a suitably qualified landscape architect is to be submitted to the Principal Certifier for approval prior to the issue of a Construction Certificate. The plan shall include:
- Materials, height and dimensions of proposed fences, retaining walls and other structures;
  - Layout and spacing of all plants, with each species clearly labelled;
  - Proposed buildings, surface treatments and edging treatment to garden beds including paving, gravel, turf, concrete, car parks, driveways and driveway crossovers;
  - Root barriers to prevent impact on existing and proposed infrastructure where relevant;
  - A ‘Plant Schedule’ that lists:

- a. The Botanical Name and Common Name of all plants, sorted under the headings: Trees, Shrubs and Ground covers **native to the area**;
- b. Quantity of each species;
- c. Planting pot/container sizes;
- d. Species height at maturity;
- e. Section details of proposed planting method and staking;
- f. Details of maintenance period and program.