

A background graphic featuring a dark blue diagonal band across the page. To the left of the band is a grey area with a pattern of white 3D cubes. To the right is a blurred image of a city skyline with tall buildings.

Palmers Island Planning Proposal


Independent Assessment
Appendices

Lot 2 DP 598769, School Rd, Palmers Island NSW

Submitted to NSW Department of Planning, Infrastructure and Environment

APRIL 2020

REPORT REVISION HISTORY

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01	22/04/2020	Confidential Draft, incorporated into Assessment Report
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02	30/04/2020	Updated Appendices, provided as a separate Report
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INTRODUCTION

The NSW Department of Planning, Industry, and Environment (the Department) engaged City Plan Strategy and Development to independently assess Planning Proposal PP_2017_CLARE_007_01, seeking a rezoning to facilitate the establishment of marine based industry at Palmers Island, NSW (the planning proposal).

The planning proposal has already undergone several preparatory steps.

- In November 2016, notwithstanding Council officer recommendations, Council resolved to support the planning proposal subject to a 40% reduction to the proposed IN4 Working Waterway zone.
- In December 2016, the planning proposal was submitted to the Department for Gateway determination.
- Between December 2016 and July 2017, the planning proposal was amended in response to the Department's request updates to the Traffic Impact Assessment and Noise Impact Studies. It was again supported by Council and re-submitted to the Department for Gateway determination.
- In November 2017, the Department issued a Gateway determination that the planning proposal (as amended) should not proceed because:
 - It is inconsistent with the North Coast Regional Plan, Marine-Based Industry Policy - Far North Coast and Mid North Coast NSW, and Clarence Valley Industrial Lands Policy,
 - The potential noise and visual impacts on the amenity of the surrounding locality are considered unacceptable,
 - It is inconsistent with SEPP 71 - Coastal Protection and section 117 Direction 1.2 Rural Zones; and
 - There is no demonstrated need for additional zoned land in this location.
- In April 2018, the Northern Regional Joint Regional Planning Panel (the Panel) reviewed the Gateway determination and additional information provided in the proponent's application and recommended the planning proposal proceed.
- In August 2018, the Department issued an alteration of Gateway determination enabling the planning proposal to proceed, subject to conditions.
- Between May and July 2019, Clarence Valley Council refer the planning proposal to the State agencies nominated in the Gateway determination for comment and place the planning proposal on exhibition.
- In October 2019, Clarence Valley Council forward the planning proposal to the Department without making a recommendation on whether it should proceed.

The purpose of our engagement was to independently consider whether the Planning Proposal has suitably addressed matters raised by the relevant planning authorities and community and consider whether the LEP amendment should be made.

This document details the body of evidence that has informed our review. It has been prepared to support our Independent Assessment Report, which provides our assessment insights, conclusions, and recommendations.



Statement of Environmental Effects
Name of Property
Site Address to go here
Project #
Date

APPENDIX 1: COMPLIANCE / CONSISTENCY TABLES

A1.1: STATE ENVIRONMENTAL PLANNING POLICIES

Policy	Applicable	Comment
SEPP No. 19 Bushland in Urban Areas Under review	No	Not applicable This policy does not apply within the LGA.
SEPP No. 21 Caravan Parks	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP No. 33 Hazardous and Offensive Development	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP No. 36 Manufactured Home Estates	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP No. 47 Moore Park Showground	No	Not applicable This policy does not apply to the Clarence Valley LGA.
SEPP No. 50 Canal Estate Development Under review	No	Not applicable While this policy applies to most of NSW, the site does not currently contain, nor does it intend to contain, canal estate development.
SEPP No. 55 Remediation of Land	No	Inconsistent An historical version of this SEPP applied during the time the planning proposal has been under assessment. In April 2020, the relevant provisions were transferred to a new Ministerial Direction 2.6.
SEPP No. 64 Advertising and Signage	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP No. 65 Design Quality of Residential Flat Development	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP No. 70 Affordable Housing (Revised Schemes)	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.

Policy	Applicable	Comment
Under review		
SEPP (Aboriginal Land) 2019	No	Not applicable The site is not identified on the Land Application Map to which this SEPP applies.
State Environmental Planning Policy (Affordable Rental Housing) 2009 Under review	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (Building Sustainability Index: BASIX) 2004	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (Coastal Management) 2018	Yes	Unresolved The site is within the land application map to which the SEPP applies. It is also located within the 'Coastal Environment Area' and the 'Coastal Use Area'. The planning proposal does not adequately address considerations in regard to the Coastal Management SEPP. This includes Clauses 13, 15 and 16 which collectively deal with a range of matters such as potential impacts to and from coastal hazards, visual impacts / scenic qualities, water quality and ecology.
State Environmental Planning Policy (Concurrences and Consents) 2018	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (Education Establishments and Child Care Facilities) 2017	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (Exempt and Complying Development Codes) 2008	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
State Environmental Planning Policy (Gosford City Centre) 2018	No	Not applicable This policy does not apply within the LGA.
SEPP (Housing for Seniors or People with a Disability) 2004 Under review	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.

Policy	Applicable	Comment
SEPP (Infrastructure) 2007 Under review	No*	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not specifically relevant to rezonings. *We note that the proposal is likely to qualify as a traffic-generating development and would need to be referred to TfNSW for assessment. RMS considered the planning proposal and raised no objection subject to the provision of adequate road infrastructure and waterway navigational safety.
State Environmental Planning Policy (Koala Habitat Protection) 2019	No	Not applicable This policy applies within the LGA and sets out the procedures for preparing koala plans of management, and assessing DAS where koala plans of management are required. Council's Comprehensive Koala Plan of Management does not apply to the site.
SEPP (Kosciuszko National Park-Alpine Resorts) 2007	No	Not applicable This policy does not apply within the LGA.
SEPP (Kurnell Peninsula) 1989	No	Not applicable This policy does not apply within the LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007 Under review	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (Penrith Lakes Scheme) 1989	No	Not applicable This policy does not apply within the LGA.
State Environmental Planning Policy (Primary Production and Rural Development) 2019	No*	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is mostly not relevant to rezonings. *This SEPP does provide a mechanism to identify State Significant Agricultural Land. At the time of writing there is not State significant agricultural land within the vicinity of the site.
SEPP (State and Regional Development) 2011	No	Not applicable While this policy applies to the whole of NSW, the nature of the SEPP is not relevant to rezonings.
SEPP (State Significant Precincts) 2005	No	Not applicable The site is not within a declared State Significant Precinct.

Policy	Applicable	Comment
SEPP (Sydney Drinking Water Catchment) 2011 Under review	No	Not applicable This policy does not apply within the LGA.
SEPP (Sydney Region Growth Centres) 2006	No	Not applicable This policy does not apply within the LGA.
SEPP (Three Ports) 2013	No	Not applicable The site is not identified on the Land Application Map to which this SEPP applies.
SEPP (Urban Renewal) 2010	No	Not applicable The site is not identified on the Land Application Map to which this SEPP applies.
SEPP (Vegetation in Non-Rural Areas) 2017	No	Not applicable This policy does not apply within the LGA.
SEPP (Western Sydney Employment Area) 2009	No	Not applicable This policy does not apply within the LGA.
SEPP (Western Sydney Parklands) 2009	No	Not applicable This policy does not apply within the LGA.
Draft SEPP (Environment) Draft	No	Not applicable This policy seeks to consolidate seven existing SEPPs, none of which apply to the LGA or proposal.

A1.2: MINISTERIAL DIRECTIONS

Direction	Applicable	Comment
1. Employment and Resources		
1.1 Business and Industrial Zones 1 May 2017	Yes	Inconsistent - unjustified Under Clause 3, this direction applies as the planning proposal seeks to rezone part of the site to an industrial zone. The planning proposal is inconsistent with Clause 4(a) of this Direction, which requires a planning proposal to ensure proposed new employment areas are in accordance with a strategy that is approved by the Secretary. The proposed development of the site is expected significantly conflict with neighbouring land uses, such as residential and recreational/tourism pursuits but is not supported by a justifying strategy or statement to demonstrate these impacts can be ameliorated.
1.2 Rural Zones 14 April 2016	Yes	Inconsistent - accepted The planning proposal is inconsistent with clause 4 of Direction 1.2 Rural Zones as it would rezone land from a rural zone to an industrial zone. We understand the Panel considered this inconsistency to be minor and, consequently, the inconsistency was approved through the amended Gateway determination.
1.3 Mining, Petroleum Production and Extractive Industries 1 July 2009	No	Not applicable This direction applies when a planning proposal would prohibit or otherwise restrict resource extraction. There are currently no known extractive resources identified within the site.
1.4 Oyster Aquaculture 1 July 2009	Yes	Unresolved Clause 5(a) of this Direction requires the planning proposal authority to complete its consultation with Department of Primary Industries - Fisheries and provide a copy of any objection or supporting information with the statement to the Director-General of the Department of Planning before undertaking community consultation. The planning proposal is inconsistent with this Direction because Priority Oyster Aquaculture Areas located within 10km of the site were identified as relevant to the planning proposal by Department of Primary Industries - Fisheries in June 2019, after community consultation had been undertaken. The extent to which this inconsistency is justified cannot be determined because the significance of potential impacts has not been identified in the planning proposal.
1.5 Rural Lands 28 February 2019	Yes	Inconsistent - unjustified Ministerial Direction 1.5 Rural Lands applies under clause 3(b) as the planning proposal will affect land within an existing rural zone. The planning proposal is either not consistent or has not yet

Direction	Applicable	Comment
		<p>resolved the clause 4 or clause 5 considerations required to justify the rezoning.</p> <p>The extent to which this inconsistency is justified cannot be determined because the significance of potential impacts has not been identified in the planning proposal, noting the Department of Primary Industries - Agriculture is not supportive of the proposal.</p>
2. Environment and Heritage		
2.1 Environment Protection Zones 14 April 2016	Yes	Unresolved <p>This direction applies to all planning proposals.</p> <p>Under Clause 4, the planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The planning proposal does not identify, or consider the protection of, potential aquatic habitat within the site.</p>
2.2 Coastal Management 3 April 2018	Yes	Inconsistent - unjustified <p>The planning proposal has not adequately addressed Clause 4 of this Direction, which requires the planning proposal to include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land. <p>The extent to which this inconsistency is justified cannot be determined as:</p> <ul style="list-style-type: none"> ▪ The proposal does not adequately address considerations in regard to the Coastal Management SEPP and Coastal Management Act. This includes Clauses 13, 15 and 16 of the SEPP which collectively deal with a range of matters such as potential impacts to and from coastal hazards, visual impacts / scenic qualities, water quality and ecology; and ▪ The flood and hydraulic studies do not provide for the ongoing management of flood mitigation and coastal protection works.
2.3 Heritage Conservation 1 July 2009	Yes	Unresolved <p>OEH recommended the completion of an Aboriginal cultural heritage assessment or evidence of consultation with the Yaegl Prescribed Body Corporate. We note the Yaegl Local Aboriginal Land Council was consulted during the exhibition but have been</p>

Direction	Applicable	Comment
		unable to confirm whether this meets the OEH requirements as the LALC may not be the same entity as Prescribed Body Corporate. Off-site impacts require to progress the development (e.g. roadworks or works within the waterway) have not been considered.
2.4 Recreation Vehicle Areas 14 April 2016	No	Not applicable This direction applies to all planning proposals when identifying suitable zones, locations and provisions for recreational vehicle areas. The proposal does not intend to include the specified uses, and these uses are not permissible by default in the proposed zones.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs 2 March 2016	No	Not applicable This direction does not apply within the LGA.
2.6 Remediation of Contaminated Land 17 April 2020	Yes	Consistent - unresolved procedural concern Land within site subject to rezoning was found to be contaminated but has been remediated. The identification and consideration of contamination issues during the plan-making process is considered to be technically inconsistent with these provisions within the context of the Act, which may render the planning proposal invalid.
3. Housing, Infrastructure and Urban Development		
3.1 Residential zones 14 April 2016	No	Not applicable This direction applies to planning proposals that will affect land within an existing or proposed residential zone. The site is not in proximity to existing or proposed residential zoned land and does not propose such zoning.
3.2 Caravan Parks and Manufactured Home Estates 14 April 2016	No	Not applicable This direction applies to all planning proposals when identifying suitable zones, locations and provisions for caravan parks or MHEs. The proposal does not intend to include the specified uses, and these uses are not permissible in the proposed zones.
3.3 Home Occupations 1 July 2009	No	Not applicable This direction does not apply as dwelling houses are prohibited in the proposed zones.

Direction	Applicable	Comment
3.4 Integrating land use and transport 14 April 2016	No	Not applicable This direction does not apply, as the planning proposal does not intend to create, remove or alter a zone or provision relating to urban land.
3.5 Development Near Regulated Airports and Defence Airfields As amended 20 August 2018	No	Not applicable This direction applies to planning proposals relating to land near a 'regulated airport' which includes a defence airfield. 'Palmer's Island Airstrip' / McIntyres Airfield is a privately operated airport located approximately 5km south of the site. It is not identified as an airport to which the Airports Regulations 1997 applies, so is not considered to be a 'regulated airport'.
3.6 Shooting Ranges 16 February 2011	No	Not applicable This direction applies to all planning proposals seeking to affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range. The site does not adjoin an existing shooting range.
3.7 Reduction in non-hosted short-term rental accommodation period 15 February 2019	No	Not applicable This direction does not apply within the LGA.
4. Hazard and Risk		
4.1 Acid sulfate soils 1 July 2009	Yes	Unresolved This direction applies where a planning proposal applies to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils (ASS) Planning Maps. The planning proposal is inconsistent with this direction as it seeks to intensify uses on land mapped as containing Class 3 and a small portion of Class 2 ASS and is not accompanied by an acid sulfate soils study consistent with the Planning Guidelines. The extent to which this inconsistency is justified cannot be determined because the significance of potential impacts from ASS disturbance caused by significant works within the riverbank has not been identified in the planning proposal.
4.2 Mine Subsidence and Unstable Land 14 April 2016	No	Not applicable. This direction does not apply as the subject land is not within a Mine Subsidence District and is not known to have been identified as unstable land.
4.3	Yes	Unresolved

Direction	Applicable	Comment
Flood Prone Land 1 July 2009		<p>This direction applies to the planning proposal as the site is identified as flood prone land.</p> <p>The planning proposal is inconsistent with Clauses 6(a), 6(b), and 6(c).</p> <p>The planning proposal is accompanied by a flood impact assessment by BMT, who previously prepared Council's floodplain risk management plan (Lower Clarence Flood Model Update 2013). The study identifies changes to flood behaviour that would adversely affect adjoining properties, but does not provide adequate consideration of how these impacts would be managed in accordance with relevant principles. Further flood modelling is required to consider whether the future development can progress without creating significant offsite flood impacts, or to make provisions that would allow these impacts to be suitably managed.</p> <p>The extent to which this inconsistency is justified cannot be determined without further modelling.</p>
4.4 Planning for Bushfire Protection 1 July 2009	No	<p>Not applicable</p> <p>The site is not identified as bushfire prone.</p>
5. Regional Planning		
5.1 Implementation of Regional Strategies 1 May 2017	No	<p>Not applicable</p> <p>This direction does not apply within the LGA.</p>
5.2 Sydney Drinking Water Catchments 3 March 2011	No	<p>Not applicable</p> <p>This direction does not apply within the LGA.</p>
5.3 Farmland of State and Regional Significance on the NSW Far North Coast 1 May 2017	No	<p>Not applicable</p> <p>This direction does not apply within the LGA.</p>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast 21 August 2015	No	<p>Not applicable</p> <p>This direction does not apply within the LGA.</p>

Direction	Applicable	Comment
5.9 North West Rail Link Corridor Strategy 30 September 2013	No	Not applicable This direction does not apply within the LGA.
5.10 Implementation of Regional Plans 14 April 2016	Yes	Unjustifiably inconsistent This direction applies to land to which a Regional Plan has been released. As outlined in response to Q3, the planning proposal does not align with key goals and directions contained in the North Coast Regional Plan 2036 and has not adequately addressed these inconsistencies.
5.11 Development of Aboriginal Land Council land 6 February 2019	No	Not applicable This direction applies to planning proposals for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019. As of April 2020, this SEPP does not apply within the LGA.
6. Local Plan Making		
6.1 Approval and Referral Requirements 1 July 2009	Yes	Consistent This direction applies to all planning proposals in relation to provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority. The planning proposal does not currently require any such provisions.
6.2 Reserving Land for Public Purposes 1 July 2009	Yes	Unresolved This direction applies to all planning proposals. Under this direction, a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director General. The site does not currently contain land reserved for a public purpose. However, the road upgrades may require land acquisitions that have not been identified in the planning proposal and have not been considered or approved by the relevant authorities.
6.3 Site Specific Provisions 1 July 2009	Yes	Consistent This direction applies where planning proposals seek to allow a particular development to be carried out and is intended to discourage unnecessarily restrictive site-specific controls. Marine industries are permissible, with consent, in the proposed zones under Council's LEP. No other site-specific controls are required to facilitate future development, including with respect to building height.

Direction	Applicable	Comment
7. Metropolitan Planning		
7.1 Implementation of A Plan for Growing Sydney 25 July 2017	No	Not applicable This direction does not apply within the LGA.
7.2 Implementation of Greater Macarthur Land Release Investigation 5 August 2017	No	Not applicable This direction does not apply within the LGA.
7.3 Parramatta Road Corridor Urban Transformation Strategy 22 December 2017	No	Not applicable This direction does not apply within the LGA.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan 20 August 2018	No	Not applicable This direction does not apply within the LGA.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan 25 September 2018	No	Not applicable This direction does not apply within the LGA.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	Not applicable This direction does not apply within the LGA.

**Statement of Environmental Effects**

Name of Property
Site Address to go here
Project #
Date

Direction	Applicable	Comment
25 September 2018		

A1.3: MARINE-BASED INDUSTRY POLICY

LOCATIONAL CONSIDERATIONS

The Department's Marine-Based Industry Policy - Far North Coast & Mid North Coast NSW highlights issues that need to be addressed in assessing any planning proposal for marine-based industry, stating on page 7 that "Proponents of prospective marine-based industries that meet the criteria can approach the relevant local council seeking preparation of a planning proposal, with a view to permitting the industry."

The extent to which the planning proposal has, or can meet the locational criteria in Sections 2.2 and 2.3 of this Policy have been considered in conjunction with the waterway attributes listed in Appendix 1 of the Policy are presented below.

2.2 Where Marine-based Industry should not occur

Marine-based industry should not occur in:

<ul style="list-style-type: none"> Reserves (listed in section 30A of the National Parks and Wildlife Act 1974 (NPW Act)) or on Lands acquired for future reservation (NP&W Act Part 11 Lands); Land accessed from areas of a Marine Park zoned 'Sanctuary' or 'Habitat Protection'; SEPP 14 and other important wetlands; SEPP 26 littoral rainforests and other lowland rainforests; 	<p>Met</p> <p>The site is not identified as subject to any of the areas described.</p>
<ul style="list-style-type: none"> The habitats of threatened species, populations or ecological communities; or critical habitat listed under the Threatened Species Conservation Act 1995 and/or the Fisheries Management Act 1994; Areas subject to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999, such as habitat for migratory species, Ramsar-listed wetlands, threatened species, etc; and Seagrass, saltmarsh and mangrove areas. 	<p>Unresolved</p> <p>The aquatic habitat mapping provided in the current planning proposal is based on field survey data from December 2004 and is considered out of date.</p> <p>The planning proposal inaccurately states the area is not subject to Commonwealth legislation.</p>
<i>or on a site which:</i>	
<ul style="list-style-type: none"> Contains (or there is a potential for an impact on) any Aboriginal site, place or value of significance to the Aboriginal community. 	<p>Potentially met</p> <p>The site is not known to contain any Aboriginal site, place or value of significance to the Aboriginal community.</p> <p>The Yaegl LALC have been consulted and, in their letter of 4th July 2019, raised no objection the Planning Proposal. We recommend confirming the Yaegl LALC's response satisfies OEH's recommendation to consult with the Yaegl Prescribed Body Corporate, which may not be the same entity.</p>
<ul style="list-style-type: none"> Contains any heritage item identified in a local environmental plan and if present the proposed industry has the potential to affect the significance of the item. 	<p>Met</p> <p>The site does not contain any heritage item identified in a local environmental plan.</p>

2.3 Where Marine-Based Industry can occur

In order to meet the policy definition and intent, any proposed marine-based industry should meet the following criteria:

1. The industry is dependent on access to a navigable waterway.	Unresolved (see note) Boat building and ship building (and associated repair/maintenance) activities are generally accepted as dependent on some form of access to a navigable waterway, noting 'access to a navigable waterway' is not synonymous with a 'marine-frontage site'.
2. The maximum draught of the vessel(s) or product(s) proposed to be built allows it/them to pass safely through the waterway and the waterway's entrance to the sea.	Proven The Planning Proposal identifies the maximum draught of the largest vessel proposed to be built at the facility (35m) is between 1.8m and 2.4m and provides the relevant depths from the river mouth bar to the property frontage (Appendix C, p2).
3. The size or bulk of the vessel(s) or product(s) proposed to be built requires transport by water	Unresolved (see note) Although the proponent's business currently constructs vessels up to 20m in length from a land-based industrial estate in Yamba, the Planning Proposal identifies the typical benchmark threshold for requiring a marine-frontage site is the fabrication of vessels over 10m in length (Appendix C, p2). The proposal is motivated by an intention to expand an existing local business, including through the construction of facilities that would allow for the fabrication of vessels larger than 20m. The largest vessel proposed to be built at the facility is understood to be 35m, which would be unsuitable for transport from a land-based facility and would require transport by water.

Note:

'Access to a navigable waterway' is not synonymous with a 'marine-frontage site'. By way of illustration, access can be achieved either by road/rail from a land-based fabrication facility to a suitable launch site, or directly where activities occur on a site that benefits from marine frontage.

The Planning Proposal appears to be principally motivated by the proponent's intention to expand an existing local business, which currently fabricates vessels up to 20m in length from a land-based industrial estate in Yamba. These are transported by road to a suitable launch-point, which is typically the marina at Yamba.

The proponent is seeking to conduct boat building activities from an additional or alternative location to enable increased production volume and to allow the business to fabricate vessels larger than 20m (Planning Proposal Report, p4).

The largest vessel proposed to be built at the facility described by the Concept Pan is understood to be 35m, which would be unsuitable for transport from a land-based facility and would require transport by water. Notwithstanding this, for the purpose of economic modelling, the Planning Proposal identifies the

mix of vessels constructed annually from the proposed facility would likely be as follows (Planning Proposal Report, p18):

- Twenty (20) vessels at 6.0 to 9.0m, which would be suitable for fabrication at a land-based facility;
- Four (4) vessels at 9.0 to 25m, of which, some may be suitable for fabrication at a land-based facility; and
- One (1) vessel at 25m or greater, which would require transport by water.

This mix suggests that at least 80%, and potentially up to 95% of vessels fabricated at the facility would be capable of fabrication at a land-based facility (either the proponent's existing facility or an alternative land-based facility). On that basis, while marine frontage would be advantageous to one element of the proponent's expansion opportunities (e.g. fabrication of larger vessels), the expansion in the volume of vessels fabricated are not considered to be dependent on marine frontage.

Having satisfied the three criteria above, the proposed marine-based industry needs to be assessed against the following site criteria.

The criteria can be taken as being met if the issue can be sustainably managed, ameliorated or off-set.

4. Any new dredging required for site access would not adversely affect estuarine habitats, marine vegetation, fishery resources and water quality.	Unresolved or not met (where identified) Aquatic habitat, fishery resource, and water quality impacts have not been suitably addressed, noting: <ul style="list-style-type: none"> ▪ Potential aquatic habitat within the site has not yet been identified. ▪ Commercial fishing activities and POAAs have been identified, but the need to consider management, amelioration, or off-set requirements has not been met. ▪ Construction within the site will disturb Class 3 acid sulfate soils, but the need to consider management, amelioration, or off-set requirements has not been met.
5. The site is not located where its development would be likely to adversely affect water quality for other users or impact on water quality or tidal regimes for estuaries, wetlands, marine parks, aquatic reserves or other high conservation value habitats.	
6. Development of the site would not have an adverse effect on oyster aquaculture development or Priority Oyster Aquaculture Areas (POAA) and/or commercial and recreational fishing activities.	
7. The site is not located in a high flood risk precinct or high flood area.	Not met The site subject to flooding from the Clarence River for the 100-year flood, which necessitates the filling of the site above the flood planning level (FPL). This, along with other components of the development, has the potential to change flood behaviour and adversely affected adjoining properties. The need to consider management, amelioration, or off-set requirements has not been met.
8. Water-based access to the site would be practicable given river currents and tidal movements in the locality.	Met The Planning Proposal identifies the maximum draught of the largest vessel proposed to be built at the facility (35m) is between 1.8m and 2.4m and provides the relevant depths from the river mouth bar to the site frontage (Appendix C, p2).

9. The site does not contain high-risk acid sulfate soils which could be disturbed, exposed or drained.	Not met Construction within the site will disturb Class 3 acid sulfate soils, but the need to consider management, amelioration, or off-set requirements has not been met.
10. The main industrial complex (excluding the slipway/s), could be set back to avoid bank erosion issues.	Unresolved We have not investigated this matter.
11. Native vegetation (including riparian vegetation and other trees, shrubs, grasses, etc) would not be disturbed.	Unresolved The aquatic habitat mapping provided in the planning proposal was prepared at a high-level for the Clarence River, and is not considered suitable for site-specific considerations. It was prepared based on field data from 2004, and is considered out of date, noting survey methods and protected listings for the following exclusionary criteria have changed since that time.
12. The proposed development of the site would not conflict with neighbouring land uses (such as residential and recreational/tourism pursuits).	Not met The proposed development of the site will conflict with agricultural, rural residential, and rural tourism uses, including through: The need to consider management, amelioration, or off-set requirements has not been met.
13. Services and infrastructure could be practicably provided.	Unresolved or not met (where identified) The Planning Proposal identifies 'all services' except reticulated sewer are located close to the proposed site. Sewer is proposed to be provided through an on-site disposal system. The services included under the encompassing 'all services' has not been specifically identified, and no further evidence is presented to substantiate this claim. The need to consider whether services and infrastructure could be practicably provided has also not been met, and consideration has not yet been given to management, amelioration, or off-set requirements.

PLAN-MAKING CONSIDERATIONS

Where sites conform with these criteria, Section 3 of this Policy provides considerations for establishing LEP controls, as discussed in Section 5.1 and noting the planning proposal is currently inconsistent with Section 3 of this Policy.

The zone regime proposed in the planning proposal is consistent with that set out in Section 3 of the Department's Marine-Based Industry Policy - Far North Coast & Mid North Coast NSW, which states that "A change of zoning to permit a marine-based industry should utilise the Zone IN4 Working Waterfront of the Standard Instrument LEP. Depending on the local circumstances it may also be necessary to zone the adjoining waterway(s) as Zone W3 Working Waterway to ensure that waterbased activity associated with a marine-based industry is permissible."

The proposed LEP amendments do not incorporate the three additional considerations set out in the Department's Marine-Based Industry Policy - Far North Coast & Mid North Coast NSW, that are intended to ensure that areas identified for marine-based industry are reserved for that purpose - not used for general industrial development which should be located in a general industrial area away from the waterway:

- add a local objective in the IN4 zone land use table, as follows: 'To ensure that any industry requires direct waterfront access or is associated with another industry that requires direct waterfront access, noting this is not identified as a local objective for Zone IN4 in the CVLEP;
- only include land uses as permissible in the Zone IN4 land use table if their presence would be consistent with the policy positions in this paper, noting the planning proposal does not propose any changes to the Zone IN4 land use table, and
- insert an additional clause in the LEP which specifically addresses marine-based industry, noting a model clause is provided in this Policy but has not been considered in this planning proposal.

Section 3 also advises Councils may prepare development control plans to locally customise controls for marine based industry to address such things as river access, boat sizes, co-location, servicing, environmental management, etc. which would provide guidance for the specific detail about the form and nature of development, recognising local conditions. In this regard:

- Clarence Valley Council's Industrial Zones Development Control Plan 2011 sets out local considerations for the proposed IN4 zone, and
- Clarence Valley Council's Development Control Plan Development in Environmental Protection, Recreation and Special Use Zones 2011 sets out considerations for the proposed W4 zone.

Clarence Valley Council's Industrial Zones Development Control Plan 2011 provides site-specific controls for the Marine Industrial Precinct, Harwood Island under Part N. We understand the purpose of identifying site-specific controls was to allow for multiple uses or multiple users to co-locate within this precinct.

The planning proposal does not consider whether a development control plan should be prepared to achieve the outcomes described in Section 3 of the Department's Marine-Based Industry Policy - Far North Coast & Mid North Coast NSW.

A1.4: NORTH COAST REGIONAL PLAN

Direction	Comment
Goal 1: The most stunning environment in NSW	
1: Deliver environmentally sustainable growth	<p>Inconsistent - significant</p> <p>This Direction seeks to focus industrial uses in appropriate locations to minimise land use conflict and environmental harm.</p> <p>The site is not currently identified in any Council or Department strategic document as being within a growth area. The planning proposal does not adequately demonstrate that the site is suitable for the proposed industrial use, including with respect to land use conflict and environmental constraints.</p>
2: Enhance biodiversity, coastal and aquatic habitats, and water catchments	<p>Unresolved</p> <p>This Direction required development to be appropriately located to limit any adverse impact on the region's biodiversity, coastal and aquatic habitats and water catchments.</p> <p>Extensive works are proposed along the riverbank within the site. The planning proposal does not identify, or consider the protection of, potential aquatic habitat within or near the site.</p>
3: Manage natural hazards and climate change	<p>Unresolved</p> <p>This Direction seeks to reduce the risk from natural hazards by identifying, avoiding and managing vulnerable areas and hazards.</p> <p>Flood impacts to adjoining uses have been identified but the planning proposal does not demonstrate how these would be ameliorated.</p>
4: Promote renewable energy opportunities	<p>Able to meet</p> <p>In line with this Direction, energy saving opportunities may be considered at the DA stage.</p>
Goal 2: A thriving, interconnected economy	
5: Strengthen communities of interest and cross-regional relationships	<p>Unresolved</p> <p>The planning proposal can potentially leverage opportunities from its proximity to the Pacific Highway, as envisaged by this Direction. This would rely on significant upgrades to the local road network that have not been fully considered with respect to constructability.</p>
6: Develop successful centres of employment	<p>Unresolved</p> <p>This Direction seeks to create clusters of economic activity in and around centres. Marine industry is identified as a growth industry in the relevant Regional Economic Development Strategy and the site is in geographic proximity to the Harwood site, which is considered a marine industry 'centre.'</p> <p>The planning proposal does not demonstrate how development and operation of the site would qualify as a 'cluster' with respect to the Harwood site, particularly given development of the site would require the duplication of a substantial amount of infrastructure (e.g. transport,</p>

	power, water, wastewater). and environmental protection measures (e.g. riverbank stabilisation, noise mitigation).
7: Coordinate the growth of regional cities	Not applicable
8: Promote the growth of tourism	Unresolved This Direction seeks to facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations. The planning proposal has the potential to lead to land use conflict with surrounding coastal tourism uses. The planning proposal does not demonstrate impacts can be ameliorated.
9: Strengthen regionally significant transport corridors	Unresolved Development facilitated by the planning proposal is likely to rely on significant upgrades to the local road network. This has not been fully considered with respect to constructability.
10: Facilitate air, rail and public transport infrastructure	Not applicable
11: Protect and enhance productive agricultural lands	Inconsistent This Direction seeks to protect and enhance productive agricultural lands by identifying an action for Government to update the Mid North Coast Farmland Mapping Project (2008). The site and surrounding areas are mapped as 'Important Farmland'. The planning proposal does not adequately address the potential impact to agricultural industries, including with respect to the site's agricultural productivity, fragmentation of a contiguous tract of important farmland and flood impacts to adjoining agricultural land.
12: Grow agribusiness across the region	Unresolved This Direction seeks to protect existing agribusiness sites from the encroachment of inappropriate land uses that can limit their operation. The planning proposal has the potential to lead to land use conflict with surrounding agribusinesses, including commercial fishing and aquaculture industries. The planning proposal does not demonstrate impacts can be ameliorated.
13: Sustainably manage natural resources	Not applicable
Goal 3: Vibrant and engaged communities	
14: Provide great places to live and work	Not applicable
15: Develop healthy, safe, socially engaged and well-connected communities	Not applicable
16: Collaborate and partner with Aboriginal communities	Unresolved OEH recommended the completion of an Aboriginal cultural heritage assessment or evidence of consultation with the Yaegl Prescribed Body Corporate. We note the Yaegl Local Aboriginal Land Council was

	consulted during the exhibition but have been unable to confirm whether this meets the OEH requirements as the LALC may not be the same entity as Prescribed Body Corporate.
17: Increase the economic self-determination of Aboriginal communities	Able to meet Opportunities to increase the economic independence of Aboriginal communities through training and employment may be considered by the applicant.
18: Respect and protect the North Coast's Aboriginal heritage	Unresolved The site is not known to contain any heritage values. Development facilitated by the planning proposal is likely to rely on off-site works (e.g. roadworks or works within the waterway). The potential for these works to impact Aboriginal heritage values has not been considered.
19: Protect historic heritage	Unresolved The site is not known to contain any heritage values. Development facilitated by the planning proposal is likely to rely on off-site works (e.g. roadworks or works within the waterway). The potential for these works to impact heritage values has not been considered.
20: Maintain the region's distinctive built character	Unresolved This Direction seeks to deliver development that maintains the unique character of the region. Development of the site is likely to be in conflict with the coastal rural character of its surroundings. The planning proposal does not demonstrate impacts, particularly noise and visual impacts, can be ameliorated.
21: Coordinate local infrastructure delivery	Unresolved This Direction seeks to maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure. While the site is in geographical proximity to the Harwood site, the proposal in this location would require the duplication of a substantial amount of infrastructure (e.g. transport, power, water, wastewater).
Goal 4: Great housing choice and lifestyle options	
22: Deliver greater housing supply	Not applicable
23: Increase housing diversity and choice	Not applicable
24: Deliver well-planned rural residential housing areas	Not applicable
25: Deliver more opportunities for affordable housing	Not applicable



Statement of Environmental Effects
Name of Property
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APPENDIX 2: ADDITIONAL CITY PLAN INPUTS

A2.1: PLANNING HISTORY MILESTONE DATES

Changes have been made to several statutory or strategic considerations since the plan-making process commenced in November 2016. These are summarised below, for context.

Preparatory step	Key Date	Comment
<p>Applicant lodges planning proposal with Council.</p> <p>Council assesses the planning proposal and resolves to submit it to Gateway, subject to modification.</p>	Up to Nov 2016	<p>The Mid North Coast Regional Strategy (2009) was the prevailing regional strategy.</p> <p>Strategic documents in place at the time and have remained unchanged:</p> <ul style="list-style-type: none"> ▪ The Department's Marine-Based Industry Policy – Far North Coast and Mid North Coast NSW (2015) ▪ The NSW Government's Mid North Coast Farmland Mapping Project (2008) ▪ Clarence Valley Council's <ul style="list-style-type: none"> ▫ Industrial Lands Strategy (2007) ▫ Clarence River Way Master Plan (2009) ▫ Clarence Marine Precinct (2010) <p>Applicable Ministerial Directions in force and have remained unchanged:</p> <ul style="list-style-type: none"> ▪ 1.2 Rural Zones ▪ 2.1 Environment Protection Zones ▪ 5.10 Implementation of Regional Plans
The Department reviews the planning proposal (as amended) and determines it should not proceed.	Nov 2016 to Nov 2017	<p>March 2017 - the North Coast Regional Plan 2036 replaces the Mid North Coast Regional Strategy.</p> <p>Changes are made to the following Ministerial Directions:</p> <ul style="list-style-type: none"> ▪ 1.1 Business and Industrial Zones ▪ 5.1 Implementation of Regional Strategies ▪ 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
<p>The proponent requests a review of the Gateway determination and the Panel advises it should proceed.</p> <p>The Department issues an amended Gateway determination for the planning proposal to proceed, subject to conditions.</p>	Nov 2017 to Aug 2018	<p>Changes are made to the following SEPPs:</p> <ul style="list-style-type: none"> ▪ SEPP (Coastal Management) 2018 ▪ Draft SEPP (Remediation of Land) <p>Changes are made to the following Ministerial Directions:</p> <ul style="list-style-type: none"> ▪ 2.2 Coastal Protection
The proposal is amended in response to technical studies required by the Gateway	Aug 2018 to Jul 2019	<p>Changes are made to the following Ministerial Directions:</p> <ul style="list-style-type: none"> ▪ 1.5 Rural Lands

Preparatory step	Key Date	Comment
conditions. The planning proposal is publicly exhibited.		
Council review the submissions received to the exhibited planning proposal and forward the planning proposal to the Department without making a recommendation as to whether it should proceed.	Jul 2019 to Oct 2019	-
Current	Oct 2019 to Apr 2020	In April 2020: <ul style="list-style-type: none"> ▪ Council exhibit a draft Local Strategic Planning Statement. ▪ CI 6 of SEPP 55 repealed and transferred to a new Ministerial Direction 2.6 – Remediation of Contaminated Land.

A2.2: PLANNING PROPOSAL VERSIONS

The planning proposal currently under assessment has been presented in four forms since being initially lodged with Council.

1. Initial Gateway version, meaning the version submitted to the Department in December 2016 (following Council resolution 14.108/16).
2. Modified Gateway version, meaning the version re-submitted to the Department in July 2017 (following Council resolution 14.074/17).
3. Panel version, which is reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination.
4. Exhibited version, meaning the version that was made available to the public and referral agencies for comment between May and July 2019.

The information contained within each version is listed below, for reference. The Palmers Island Planning Proposal currently before the Department remains in the Exhibited version.

Initial Gateway Version			
As submitted to the Department in December 2016 following Council resolution 14.108/16			
Item title	Prepared by	Version	Comment
Palmers Island Marine Industrial Park Planning Proposal Report	Rob Donges Planning Consultant	28/11/2016	
Appendix A: Concept at Set Back Distances Plan	Yamba Welding & Engineering	D – 1/5/2016	
Appendix B: 2008 Survey Detail	Illegible	Illegible	
Appendix C: Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW Assessment	Presumably, Rob Donges Planning Consultant		
Appendix D: SEPP Assessment	Presumably, Rob Donges Planning Consultant		SEPP 55 identified as not relevant
Appendix E: Assessment against s117 Ministerial Directions	Presumably, Rob Donges Planning Consultant		
Appendix F: Flood Information	BMT WBM	30/03/2016	
Appendix G: Environmental Noise Assessment Report	Cover Letter TTM Consulting Pty Ltd	11/11/2016	
	Noise Report TTM Consulting Pty Ltd	7/10/2016	
	Noise Report Appendix A: Development Plan Yamba Welding & Engineering	Illegible – appears to be version C – 10/12/2015	Inconsistent with PP Appendix A: Concept at Set Back Distances Plan
	Noise Report Appendix B: Unattended Noise Monitoring Graphs	07/07/2016 to 16/07/2016	

Initial Gateway Version

As submitted to the Department in December 2016 following Council resolution 14.108/16

Item title	Prepared by	Version	Comment
	TTM Consulting Pty Ltd		
	Noise Report Appendix C: Weather Observations for Yamba during the ambient noise monitoring period		
	TTM Consulting Pty Ltd		
	Noise Report Appendix E: Sample Calculations		
	TTM Consulting Pty Ltd		
	Noise Report Appendix F: Straddle Lift Noise Source Data and Acoustic Treatment Product		
	TTM Consulting Pty Ltd		
Appendix H: Transport and Traffic Assessment Report	Report TTM Consulting Pty Ltd	28/09/2016	
	Traffic Report Appendix A: Proposed Site Plan TTM Consulting Pty Ltd	C – 10/12/2015	Inconsistent with planning proposal Appendix A: Concept at Set Back Distances Plan
	Traffic Report Appendix B: SIDRA Intersection Movement TTM Consulting Pty Ltd	As per report	
Appendix I: Clause 8, SEPP 71 Assessment (Coastal)	Presumably, Rob Donges Planning Consultant	Not specified	
Appendix J: Clause 7, SEPP Rural Lands Assessment	Presumably, Rob Donges Planning Consultant	Not specified	

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Initial Gateway Version			
As submitted to the Department in December 2016 following Council resolution 14.108/16			
Item title	Prepared by	Version	Comment
Appendix K: YWE Pty Ltd Quality Assurance Requirements	Welding Inspection Supervision Services (Peter Harvey)	9/4/2016	
Appendix L: AHIMS Search	AHIMS Web Service	06/03/2013	

Modified Gateway Version			
As submitted to the Department in July 2017 following Council resolution 14.074/17			
Item title	Prepared by	Version	Comment
Palmer's Island Marine Industrial Park Planning Proposal Report	Rob Donges Planning Consultant	23/3/17	
Appendix A: Concept Plan	Yamba Welding & Engineering	Illegible	
Appendix B: 2008 Survey Detail	Illegible	Illegible	Unchanged
Appendix C: Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW Assessment	Presumably, Rob Donges Planning Consultant		Unchanged
Appendix D: SEPP Assessment	Presumably, Rob Donges Planning Consultant		Updated to remove SEPPs that had been repealed. Responses remain unchanged. SEPP 55 identified as not relevant.
Appendix E: Assessment against s117 Ministerial Directions	Presumably, Rob Donges Planning Consultant		Updated, notably to reflect release of North Coast Regional Plan

Modified Gateway Version			
As submitted to the Department in July 2017 following Council resolution 14.074/17			
Item title	Prepared by	Version	Comment
Appendix F: Flood Information	BMT WBM	30/03/2016	Appears unchanged, but attached maps are illegible
Appendix G: Environmental Noise Assessment Report	Noise Report TTM Consulting Pty Ltd	20/03/2017	Updated
	Noise Report Appendix A: Development Plan Yamba Welding & Engineering	Illegible	Consistent with planning proposal Appendix A: Concept Plan
	Noise Report Appendix B: Unattended Noise Monitoring Graphs TTM Consulting Pty Ltd	07/07/2016 to 16/07/2016	Unchanged
	Noise Report Appendix C: Weather Observations for Yamba during the ambient noise monitoring period TTM Consulting Pty Ltd		Unchanged
	Noise Report Appendix E: Sample Calculations TTM Consulting Pty Ltd		Unchanged
	Noise Report Appendix F: Travelift Noise Source Data and Marine Travelift Information TTM Consulting Pty Ltd		New (replaces Straddle Lift Noise Source Data and Acoustic Treatment Product)

Modified Gateway Version As submitted to the Department in July 2017 following Council resolution 14.074/17			
Item title	Prepared by	Version	Comment
Appendix H: Transport and Traffic Assessment Report	Cover letter TTM Consulting Pty Ltd	05/04/2017	New – prepared to address RFIs
	Report TTM Consulting Pty Ltd	28/09/2016	Unchanged
	Traffic Report Appendix A: Proposed Site Plan TTM Consulting Pty Ltd	C – 10/12/2015	Unchanged. Inconsistent with planning proposal Appendix A: Concept Plan
	Traffic Report Appendix B: SIDRA Intersection Movement TTM Consulting Pty Ltd	Not specified	Unchanged
Appendix I: Clause 8, SEPP 71 Assessment (Coastal)	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Appendix J: Clause 7, SEPP Rural Lands Assessment	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Appendix K: YWE Pty Ltd Quality Assurance Requirements	Welding Inspection Supervision Services (Peter Harvey)	9/4/2016	Unchanged
Appendix L: AHIMS Search	Due Diligence statement Rob Donges Planning Consultant	Not specified	New
	AHIMS Web Service	06/03/2013	Unchanged
Appendix M: North Coast Regional	Presumably,	Not specified	New

**Statement of Environmental Effects**

Name of Property
Site Address to go here
Project #
Date

Modified Gateway Version

As submitted to the Department in July 2017 following Council resolution 14.074/17

Item title	Prepared by	Version	Comment
Plan 2036 Consistency Checklist	Rob Donges Planning Consultant		

Panel Version Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination			
Item title	Prepared by	Version	Comment
Cover letter	Yamba Welding & Engineering Pty Ltd	21/12/2017	Contextual information – not considered to form part of planning proposal
Application Form			Administrative document – not considered to form part of planning proposal
Submission Report	Not specified	Not specified	New information, provided to demonstrate: <ul style="list-style-type: none"> ▪ Unsuitability of Harwood site Economic benefits of the proposal
Attachment A: Map detailing road reserves at Harwood	Not specified	Not specified	New information
Attachment B: Extract of the Clarence River and Approaches chart	Not specified	Not specified	New information
Attachment C: Review of additional Planning Issues REZ 2016/0001	Clarence Valley Council	8/11/2016	Contextual information – not considered to form part of planning proposal This identifies the potential for site contamination.
Attachment D: Harwood Planning Proposal Report 2015	NSW Department of Planning and Environment	10/06/2015	Contextual information – not considered to form part of planning proposal Provided to highlight inconsistencies in requirements for assessing planning proposals

Panel Version			
Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination			
Item title	Prepared by	Version	Comment
Attachment E: YWE Comparison of Gateway determination 2014/2017	Not specified	Not specified	Contextual information – not considered to form part of planning proposal Prepared to highlight inconsistencies between 2014 and 2017 determinations
Attachment F: Revenue YWE	Not specified	Not specified	New information Provided to demonstrates economic benefits of the proposal
Attachment G: Action Plan for YWE – Dept of Industry, Innovation and Science	Australian Government Department of Industry and Science (Nathan McGrath)	28/09/2016	New information Provided to demonstrates economic benefits of the proposal
Attachment H: Appendix 1 – Financial Analysis YWE	Australian Government Department of Industry and Science	October 2015	New information Provided to demonstrates economic benefits of the proposal
Attachment I: Appendix 2 – C2392 Industry Summary	Australian Government Department of Industry and Science	April 2016	New information Provided to demonstrates economic benefits of the proposal
Attachment J: Appendix 3 – C2391 Industry Summary	Australian Government Department of Industry and Science	May 2016	New information Provided to demonstrates economic benefits of the proposal
Gateway Determination Report	DPIE		Contextual information – not considered to form part of planning proposal
Palmers Island Marine Industrial Park Planning Proposal Report	Rob Donges Planning Consultant	23/3/17	Unchanged

Panel Version

Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination

Item title	Prepared by	Version	Comment
Appendix A: Concept Plan	Yamba Welding & Engineering	Illegible	Unchanged
Appendix B: 2008 Survey Detail	Illegible	Illegible	Unchanged
Appendix C: Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW Assessment	Presumably, Rob Donges Planning Consultant		Unchanged
Appendix D: SEPP Assessment	Presumably, Rob Donges Planning Consultant		Unchanged SEPP 55 identified as not relevant.
Appendix E: Assessment against s117 Ministerial Directions	Presumably, Rob Donges Planning Consultant		Unchanged
Appendix F: Flood Information	BMT WBM	30/03/2016	Unchanged
Appendix G: Environmental Noise Assessment Report	Noise Report TTM Consulting Pty Ltd	20/03/2017	Unchanged
	Noise Report Appendix A: Development Plan Yamba Welding & Engineering	Illegible	Unchanged Consistent with planning proposal Appendix A: Concept Plan
	Noise Report Appendix B: Unattended Noise Monitoring Graphs	07/07/2016 to 16/07/2016	Unchanged

Panel Version

Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination

Item title	Prepared by	Version	Comment
	TTM Consulting Pty Ltd		
	Noise Report Appendix C: Weather Observations for Yamba during the ambient noise monitoring period		Unchanged
	TTM Consulting Pty Ltd		
	Noise Report Appendix E: Sample Calculations		Unchanged
	TTM Consulting Pty Ltd		
	Noise Report Appendix F: Travelift Noise Source Data and Marine Travelift Information		New (replaces Straddle Lift Noise Source Data and Acoustic Treatment Product)
	TTM Consulting Pty Ltd		
Appendix H: Transport and Traffic Assessment Report	Cover letter	05/04/2017	New – prepared to address RFIs
	TTM Consulting Pty Ltd		
	Report	28/09/2016	Unchanged
	TTM Consulting Pty Ltd		
	Traffic Report Appendix A: Proposed Site Plan	C – 10/12/2015	Unchanged.
	TTM Consulting Pty Ltd		Inconsistent with planning proposal Appendix A: Concept Plan
	Traffic Report Appendix B: SIDRA Intersection Movement	Not specified	Unchanged
	TTM Consulting Pty Ltd		

Panel Version			
Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination			
Item title	Prepared by	Version	Comment
Appendix I: Clause 8, SEPP 71 Assessment (Coastal)	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Appendix J: Clause 7, SEPP Rural Lands Assessment	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Appendix K: YWE Pty Ltd Quality Assurance Requirements	Welding Inspection Supervision Services (Peter Harvey)	9/4/2016	Unchanged
Appendix L: AHIMS Search	Due Diligence statement Rob Donges Planning Consultant	Not specified	New
	AHIMS Web Service	06/03/2013	Unchanged
Appendix M: North Coast Regional Plan 2036 Consistency Checklist	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Other Relevant Document A: Council correspondence	Clarence Valley Council	20/7/2017	Contextual information – not considered to form part of planning proposal
Other Relevant Document B: Department correspondence	Department of Planning	5/07/2017	Contextual information – not considered to form part of planning proposal
Other Relevant Document C: Council correspondence	Clarence Valley Council	22/12/2016	Contextual information – not considered to form part of planning proposal

Panel Version

Reflective of the proponent's application dated 27 December 2018 to the Department requesting an independent review of the Gateway determination

Item title	Prepared by	Version	Comment
Other Relevant Document D: Department correspondence	Department of Planning	12/12/2014	Contextual information – not considered to form part of planning proposal

Exhibited Version

As made available to the public and referral agencies between May and July 2019

Item title	Prepared by	Version	Comment
Palmer's Island Marine Industrial Park Planning Proposal Report	Rob Donges Planning Consultant	3/4/2019	Updated
Appendix A: Concept Plan	Plan 1 Yamba Welding & Engineering	Illegible	Substantially changed
	Plan 2 Yamba Welding & Engineering	Illegible	Substantially changed
	Plan 3 TTM Consulting Pty Ltd	05/04/2019	New – Recommended Acoustic Barriers for the Development
Appendix B: 2008 Survey Detail	Illegible	Illegible	Unchanged
Appendix C: Marine-Based Industry Policy – Far North Coast & Mid North Coast NSW Assessment	Presumably, Rob Donges Planning Consultant		Unchanged
Appendix D: SEPP Assessment	Presumably, Rob Donges Planning Consultant		Updated to remove SEPPs that had been repealed. Responses remain unchanged except for SEPP 55, which is now identified as relevant.
Appendix E: Assessment against s117 Ministerial Directions	Presumably, Rob Donges Planning Consultant		Unchanged
Appendix F:	Letter BMT WBM	01/04/2019	Development plan notes as Rev H – 17/09/2018 appears

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Exhibited Version			
As made available to the public and referral agencies between May and July 2019			
Item title	Prepared by	Version	Comment
Updated Flood Impact Assessment			consistent with planning proposal Appendix A: Concept Plan
Appendix G: Environmental Noise Assessment Report	Noise Report	05/04/2019	Updated
	TTM Consulting Pty Ltd		
	Noise Report Appendix A: Development Plan	Illegible	Consistent with planning proposal Appendix A: Concept Plan
	Yamba Welding & Engineering		
	Noise Report Appendix B: Unattended Noise Monitoring Graphs	07/07/2016 to 16/07/2016	Unchanged
	TTM Consulting Pty Ltd		
	Noise Report Appendix C: Weather Observations for Yamba during the ambient noise monitoring period		Unchanged
	TTM Consulting Pty Ltd		
	Noise Report Appendix E: Sample Calculations		Unchanged
	TTM Consulting Pty Ltd		
	Noise Report Appendix F: Removed		This previously provided noise source data relevant to specific propose lift mechanisms.
Appendix H:	Cover letter	05/04/2017	Unchanged

Exhibited Version As made available to the public and referral agencies between May and July 2019			
Item title	Prepared by	Version	Comment
Transport and Traffic Assessment Report	TTM Consulting Pty Ltd		
	Report TTM Consulting Pty Ltd	28/09/2016	Unchanged
	Traffic Report Appendix A: Proposed Site Plan TTM Consulting Pty Ltd	C – 10/12/2015	Unchanged. Inconsistent with planning proposal Appendix A: Concept Plan
	Traffic Report Appendix B: SIDRA Intersection Movement TTM Consulting Pty Ltd	Not specified	Unchanged
Appendix I: SEPP (Coastal Management) 2018	Presumably, Rob Donges Planning Consultant	Not specified	Updated to reflect SEPP (Coastal Management) 2018 replacing SEPP 71
Appendix J: Clause 7, SEPP Rural Lands Assessment	Presumably, Rob Donges Planning Consultant	Not specified	Unchanged
Appendix K: YWE Pty Ltd Quality Assurance Requirements	Welding Inspection Supervision Services (Peter Harvey)	9/4/2016	Unchanged
Appendix L: AHIMS Search	Due Diligence statement Rob Donges Planning Consultant	Not specified	Unchanged
	AHIMS Web Service	06/03/2013	Unchanged
Appendix M: Phase 1 – Site Contamination Report	Regional Geotechnical Solutions	9/1/2019	New
Appendix N:	BMT	6/2/2019	New – high-level assessment of the

Exhibited Version

As made available to the public and referral agencies between May and July 2019

Item title	Prepared by	Version	Comment
Review of Waterfront Structures			stability of planned waterfront structures
Appendix O: Clarence River Marine Habitat Mapping	NSW Industry and Investment	December 2004	
NOT INCLUDED Appendix M: North Coast Regional Plan 2036 Consistency Checklist	Presumably, Rob Donges Planning Consultant	Not specified	This is referred to in the Planning Proposal report (p 12), and has been provided in previous versions but has been omitted in this version.

A2.3: SITE INSPECTION RECORD

Address	Lot 2 DP 598769, School Rd, Palmers Island NSW
Attendees	Amanda Wetzel, City Plan Regional Director
Date / time completed	11 April 2020 between 10 and 11am (approx)
Weather / conditions	Fine weather; 23-24C
Scope / limitations	<ul style="list-style-type: none"> ▪ <u>Broad site context</u> taken to include access route from Pacific Hwy (approx 5km east of the site along Yamba Rd) and Angourie Rd, Yamba (approx 7km west of the site along Yamba Rd) ▪ <u>Surrounding site context</u> taken to include properties located on Palmers Island and relying on access via School Rd. ▪ <u>Immediate site context</u> taken to include the site and adjoining properties, including those immediately opposite an adjoining public road. ▪ Site viewed from public road reserve only (School Rd and McConnells Ln) ▪ Riverbank at site was not inspected due to access and risk of surveillance (noting COVID-19 travel restrictions were in place)

Notes:

In addition to general considerations, this site inspection focused on the following as key issues:

- Road / access requirements from Pacific Highway
- Compatibility with broader / surrounding area character and uses
- Visual impacts from within the surrounding area

At the time of inspection, roadworks to construct the Woolgooga to Ballina Link of the Pacific Hwy required the broad area to be accessed via a detour. The incoming route taken via MacLean (River St) to Yamba Rd. Consideration of the future site context should refer to the new Pacific Highway route alignment, including the new Clarence River bridge and Yamba and Harwood interchange arrangements.

Broad site context

The site will be accessible from the Pacific Highway via the Yamba interchange, so this point was taken as the westernmost scope for observations. All observations were made from within a vehicle travelling along Yamba Rd.

- Broad area characteristic of a coastal rural area. Agriculture (sugar cane cropping and orchards) are the most visible land use, interspersed with a range of residential, commercial / light industrial (e.g. food takeaway, tourist accommodation, auto repair and servicing) uses either visible or signed from the road.
- Visibility to the site from within this context:
 - Was not observed from Yamba Rd, owing mainly to obstruction by road reserve vegetation.
 - May be possible from properties across the river within Harwood (not verified).
- The low-lying nature of road, and its crossing of several waterways warrant considerations for flood immunity levels / flood evacuation
- Any requirements for road improvements / widening within the network may:
 - rely on land acquisition;
 - require off-site environmental works to the riverbank, noting the proximity to the road to the river in several areas;
 - require additional design/construction measures to provide suitable flood immunity / evacuation;
 - require upgrades to existing, or provision of new bridges, noting at least 2 waterway crossings;
 - require off-site improvements to ensure safety of road users, noting pedestrians, cyclists and horse riders currently rely on the carriageway;
 - require re-alignment to provide suitable visibility to ensure safety at intersections;
 - re-quire the relocation of utilities network infrastructure, noting overhead power lines within the road reserve;
 - be constrained by biodiversity protection measures, noting vegetation in the road reserve; and
 - be constrained by heritage protection measures, noting several properties adjoining the road are identified in the EPI.

Residential areas of Yamba, Angourie and Wooloweyah rely on Yamba Rd to access employment or other services within the area, and so may frequently observe or otherwise be affected by off-site impacts associated with development of the subject site. Angourie Rd was taken as the easternmost scope for broad context observations.

- Characteristic of a coastal rural area. Conservation (riparian / wetlands) and agriculture (sugar cane cropping) interspersed with a range of residential uses, noting tourist/visitor accommodation is also signed along the route. This changes on approach to the township of Yamba, which presents as a laid-back coastal village. The town is serviced by a shopping centre (Yamba Rd) and industrial park (Angourie Rd).
- Visibility to the site from within this context was not observed from Yamba Rd.
- Commercial port at Yamba, and availability of boating facilities for residents (e.g. private jetties), recreational users, and tourist charters suggests a local demand / market for marine industry products.

Surrounding site context

- Surrounding area characteristic of a coastal rural area. Agriculture (orchards, sugar cane cropping) are readily visible from School Rd. Signs indicate the presence of aquaculture (fish hatcheries),

tourist / visitor accommodation (caravan parks), and animal boarding uses typical of a coastal rural area. Residential and rural industry / commercial properties appear to typically be situated closer to the riverbank and accessed via private lanes of varying conditions.

- On approach, the site visibility first becomes possible from the northernmost boundary of 9 School Rd (Palmers Island Public School). The low-lying and flat nature of the area allows views to the site from along the remainder of School Rd, where not obstructed by trees within the road reserve or sugar cane cropping, noting the seasonal nature of these obstructions.
- Any augmentation of Yamba Rd/School Rd interchange may:
 - rely on land acquisition;
 - encroach on NSW Education land at 9 School Rd (Palmers Island Public School);
 - be constrained by heritage protection measures, noting the Silo and Residence at 1096–1130 Yamba Road (Lot 20, DP 714069) are identified in the EPI (I341 and I342 respectively).
- Otherwise, any improvements to School Rd may:
 - rely on land acquisition;
 - require off-site improvements to ensure safety of road users, noting pedestrians (including schoolchildren), cyclists, and horse riders currently rely on the carriageway;
 - re-quire the relocation of utilities network infrastructure, noting overhead power lines within the road reserve;
 - require additional design/construction measures to provide suitable flood immunity / evacuation.

Immediate site context

- The site fronts School Rd (easternmost boundary) and McConnells Ln (northernmost boundary), and so could be accessed from these as public roads.
- Currently appears to be utilised for agricultural purposes (broadacre cropping). Built structures are known to exist within the site but were not inspected from the road reserve due to access/surveillance constraints on the day of inspection. Recommend relying on aerial and streetview imagery (available online) and technical reports as relevant to supplement this limitation.
- The waterfront is understood to be directly accessible from the sites westernmost boundary but was not inspected from the road reserve due to access/surveillance constraints on the day of inspection. Recommend relying on aerial and streetview imagery (available online) and technical reports as relevant to supplement this limitation.
- The flood-prone and poorly drained nature of the site and its surrounds was observable, noting rainfall had occurred the day prior to this inspection. This warrants careful consideration of flood impacts and considerations for the provision of appropriate drainage infrastructure to service the development.

Photos



Taken from McConnells Ln, facing south towards the river. The subject site is located to the left.



Taken from School Rd facing east. The subject site is located on the right.



Intersection of School Rd / Yamba Rd, taken from School Rd. The public school is located to the right. The Residence opposite at 1096–1130 Yamba Road (Lot 20, DP 714069) is identified in the EPI (item I341).



Intersection of School Rd / Yamba Rd, showing the eastern approach. The public school is located to the right. The Silo opposite at 1096–1130 Yamba Road (Lot 20, DP 714069) is identified in the EPI (item I342).



Intersection of School Rd / Yamba Rd, showing the western approach. The public school is located to the left.

A2.4: TELEPHONE INTERVIEW RECORDS

Interviewer	Amanda Wetzel, City Plan Regional Director
Interviewees	Des Schroder, Clarence Valley Council Director Environment, Planning & Community
Date / time completed	17 April 2020 between 11am and 12pm
Location	By phone

The purpose of this interview was to consider matters relating to:

- Council officers' assessment,
- Reports made to elected Council,
- Council officers' involvement in the review of Gateway determination, and
- Community response to the planning proposal.

We understand the applicant has been responsible for directing staff in assessing and progressing the planning proposal. He was not in attendance at the Panel meeting to review the Gateway determination.

Key insights emerging from the interview are summarised below.

Council officers' assessment

- The Harwood site has long (40+ years) been considered the preferred location for marine industry and has spare capacity for additional development. A strategic consideration for this planning proposal has always been related to the justification of developing elsewhere.
- Based on the information that has been made available to Council, the requirement for the proposed development to have marine frontage has not been proven. The proponent does not currently require river frontage, with constructed vessels transported by truck. The only legitimate reason would be a change in business model to build / service bigger boats.
- Based on information that has been made available to Council, the only legitimate issue for the proponent not locating at the Harwood site is the requirement for unfettered marine access. However, since the planning proposal was originally lodged, the concept plan has changed to include a boat lifter, which could be installed at Harwood.
- There are few alternative sites that would be suitable for this type of development, so any site would prove challenging.
- To his knowledge, the proponent has not considered any alternative sites or business / operational models.
- The area surrounding the Harwood site is also industrial in nature. The 'cluster' effect is considered best achieved on the northern bank of the River to maximise investment (including State funding) to upgrade road infrastructure and carry out environmental protection works.
- The applicant is unlikely to be aware of the magnitude of costs (including off-site costs) that would be required to enable development to proceed, noting:
 - Roadworks are likely to be technically resolvable but the required cost may be prohibitive.
 - There is not enough information available to understand what works would be required within the River.
 - Flood impacts to adjoining properties remain unresolved.
 - The noise wall solution is unproven, and the assessments to date have not accounted for cumulative impacts. Noise is already an issue in the local area as evidenced by the volume of complaints already made to Council.

- If the LEP were amended as proposed, Council would not prepare a site-specific DCP, but would likely need to impose strong conditions of consent to deal with the above. This reflects Council officers' view that this planning proposal is progressing to facilitate the proponent's development, rather than any marine industry in this location.

Reports made to elected Council

- Initial report was made to Council with officers' recommendation not to proceed.
- Once elected Council have resolved against an officers' recommendation, this is taken as the 'current position' of Council. Subsequent reports are written on the assumption that the current position remains, and so may not fully reconsider whether to proceed unless they have been specifically directed to do so.
- Some Councillors, including the Mayor, have declared conflicts of interest throughout the plan-making process.
- The balance between retaining/attracting jobs and addressing broader community concerns has been an ongoing challenge for elected Council. The final resolution of Council (with a no / neutral recommendation of support) was the only way to progress the planning proposal.

Review of Gateway determination

- Council staff were not provided a copy of the proponent's application requesting a review of Gateway determination prior to the Panel meeting and so did / could not provide a response to any additional information included in that application. To date, this information still has not been made available to Council staff.
- The timeframe requested for a response by Council did not allow the matter to be considered by elected Council again because no Council meeting was scheduled in January. For that reason, Council staff reverted to the last-considered position in order to meet the response timeframe.
- Council staff recalled attendance / participation by the proponent's planning consultant and QC, who were not identified in the Panel Report.

Community response

- Council referred the planning proposal to public agencies at the same time it was placed on public exhibition. The information provided to public agencies was the same as that provided to the community, and it has not been amended since.
- The conflicts already raised from tourism industry and sugar industry stakeholders have not been resolved.
- Council have approved new developments, including new dwellings, on adjoining sites. Some were only constructed after the Gateway refusal, which, in the eyes of the community, was final. Impacts to these properties have not been fully considered in the planning proposal.
- The community in objection are well-resourced and likely to pursue a legal challenge if the plan proceeds.

Interviewer	Amanda Wetzel, City Plan Regional Director
Interviewees	Jeremy Gray, DPIE Director Northern Region Jon Stone, DPIE Senior Planning Officer - Northern Region
Date / time completed	20 April 2020 between 9 and 10am
Location	By phone

The purpose of this interview was to consider matters relating to:

- Department officers' assessment, and
- Department officers' involvement in the review of Gateway determination.

Given the officers' assessment considerations are readily documented, the focus of this interview was on what concerns remain with the planning proposal currently before the Department.

Key insights emerging from the interview are summarised below.

Department officers' assessment

- A challenge in determining the strategic merit of the planning proposal relates to the justification that the Harwood site is unsuitable for the proponent's specific development. No evidence has been provided to consider what, if any, alternative sites have been considered or to substantiate that the Harwood site is unsuitable.
- Each version of the planning proposal has been presented with inconsistent or inaccurate information or unresolved issues, warranting multiple requests for additional information / clarification.
- The likelihood of the development progressing is a secondary, but legitimate consideration for this planning proposal because it has arisen from the proponent's need to find an alternative site to the Harwood site. Proceeding with the planning proposal in pursuit of economic benefits needs to be considered in this regard, as that benefit will not be realised if the development does not proceed.
- Community submissions to planning proposals would normally be directed to Council, as planning proposal authority. Department officers acknowledged the Department has directly received a high level of correspondence from surrounding landowners and the broader community, compared with other planning proposals, and so officers are aware of the community concerns. This has not influenced the objectivity of their assessment, but has influenced the decision to prioritise / expedite the assessment, and to gain an expert independent perspective.

Review of Gateway determination

- The Department did not provide a copy of the proponent's application requesting a review of Gateway determination to Council in the notification.
- The Department relayed Council's response to the notification of a review of Gateway Determination in their Justification Assessment Report but did not separately provide the Panel a copy of the Council Report cited in that response. They are unaware of whether that report was subsequently sourced by the Panel members.
- The site inspection and panel briefing(s) occurred on the same day, and the Department officers had a separate (10-15 minute) briefing with the Panel prior to a wider briefing involving the proponent and Council representatives. This was considered standard practice.
- Department officers were of the view that the Panel members did not interrogate the information contained in the Departments Justification Assessment Report during their separate briefing, and so appeared generally accepting of the Department's stated positions.

- Department staff recalled attendance / participation by the proponent's planning consultant and QC, and a Clarence Valley Councillor who were not identified in the Panel Report.
- Department staff recalled a presentation by the proponent's planning consultant and QC, which focused on the economic / employment benefits that would be afforded by the development and the unsuitability of the Harwood site.
- Department staff noted limited discussion regarding land-based issues. They also maintain the position that the Clarence Valley Marine Precinct 2010 document is considered out-dated and was not conceived or endorsed as a land use and development planning document.
- Department staff noted Council representatives did not respond to any issues raised during the briefing.
- The Department does have an opportunity to go against the Panel's advice, but rarely does. The amended Gateway was issued in accordance with standard practice.