

JOINT REGIONAL PLANNING PANEL (Northern)

JRPP No	2014NTH019
DA Number	SUB2014/0016
Local Government Area	Clarence Valley Council
Proposed Development	161 Lot Subdivision
Street Address	22 Carrs Drive, Yamba
Applicant/Owner	Applicant: Outline Planning Consultants Pty Ltd Owner: Yamba Residential Subdivision Pty Ltd
Number of Submissions	51 (28 Objections and 23 Supporting)
Regional Development Criteria (Schedule 4A of the Act)	<p>Clause 9 Coastal subdivision</p> <p>Development within the coastal zone for the purposes of subdivision of the following kind:</p> <p>(b) subdivision of land for residential purposes into more than 100 lots, if the land:</p> <p>(ii) is wholly or partly in a sensitive coastal location,</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 14 – Coastal Wetlands • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 62 – Sustainable Aquaculture • State Environmental Planning Policy No. 71 – Coastal Protection • Clarence Valley Local Environmental Plan 2011 • Development Control Plan for Development in Residential Zones • Development Control Plan for Development in Environmental Protection, Recreation and Special Use Zones • Clarence Estuary Management Plan • NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast,
List all documents submitted with this report for the panel's consideration	<p>Amended Subdivision Plan Dwg 14140.DA1.P01 Revision E Engineering Drawings</p> <p>West Yamba Flood Impact Assessment (BMT WBM June 2015)</p> <p>Preliminary Contamination Assessment (Environmental Engineering Solutions April 2015)</p> <p>Traffic Impact Assessment (Bitzios Consulting 5 June 2015)</p> <p>AHIMS Search</p> <p>Department of primary Industries - Office of Water General Terms of Approval dated 28 October 2014</p> <p>Draft DCP – West Yamba Urban Release Controls Submissions</p>
Recommendation	Approved subject to conditions
Report by	Carmen Landers
Report date	9 July 2015

Assessment Report and Recommendation Cover Sheet

Summary

Application	2014NTH019 – SUB2014/0016 – 161 Lot Subdivision
Applicant	Outline Planning Consultants
Owner	Yamba Residential Subdivision Pty Ltd
Address	22 Carrs Drive, Yamba
Submissions	51 (28 objections and 23 supporting)

Development Application SUB2014/0016 (JRPP Reference No. 2014NTH019) seeks consent for a 161 lot subdivision and associated subdivision works such as filling, earthworks, drainage works and roads

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and the relevant environmental planning instruments which are discussed in detail in this report.

The application was advertised and notified in accordance with Part B of the Residential Zones DCP and 51 submissions were received during the exhibition period; 28 objections and 23 supporting. The issues raised in the submissions have been discussed within this report.

Recommendation

That Development Application SUB2014/0016 (JRPP reference No. 2014NTH019) be approved subject to the imposition of Advices and Conditions contained in the Draft Schedule attached to this report.

Details of proposal

The applicant is proposing to create a 161 lot Torrens Title residential subdivision to be developed in three stages; Stage 1 - 57 lots; Stage 2 - 54 lots; and Stage 3 - 50 lots (refer to Figure 1 Siteplus Pty Ltd Drawing No. 14140.DA1.P01 Revision E dated 7 July 2014). One residue allotment (proposed Lot 162) will be created for ecological and drainage purposes. This lot is to be retained for conservation and rehabilitation to offset the removal of the Endangered Ecological Community (EEC) located on existing Lot 1722 DP1035524.

The 161 residential allotments are to be located within the residential zone portion of Lot 1722 DP1035524 land with the residue E2 zone to be consolidated with Lot 51 DP861895 and designated for environmental protection.

The subdivision will involve the construction of public roads and other infrastructure including drainage works, bulk earthworks, filling of land and associated tree removal.

Site Description & Location

The subject site consists of Lot 1722 DP1035524 (15.81 hectares) zoned part R1 General Residential and part E3 Environmental Management; Lot 51 DP861895 (15.24 hectares) zoned part E2 Environmental Conservation, part E3 Environmental Management and part SP2 Infrastructure; and Lot 8 DP1062514 (1.697 hectares) zoned SP2 Infrastructure. The land is currently known as No. 22 Carrs Drive, Yamba.

The land forms part of the West Yamba Urban Release Area (WYURA) which was rezoned in April 2010 to allow for the expansion of the area in line with the Mid North Coast Regional Strategy designated growth areas.

As stated within the Statement of Environmental Effects by Outline Planning Consultants, the site is bounded to the north by the proposed Yamba Bypass corridor and existing residential development, to the west by Crown foreshore land adjoining Oyster Channel, to the south by a high tension power line running along the (unformed) Miles Street road reserve, and to the east by Carrs Drive. A local primary school, St James is situated on the opposite side of Carrs Drive, to the south east of the site.

The majority of Lot 1722 DP1035524 is cleared for grazing, with some vegetation retained along the western boundary. This lot is zoned R1 General Residential and E2 Environmental Conservation. An Endangered Ecological Community (EEC) Swamp Sclerophyl Forest located within the north eastern portion of the land is to be cleared as part of the proposed subdivision. This will be offset on Lot 51 DP861895.

More Swamp Sclerophyl Forest is located within the south western portion of Lot 1722 along with another EEC of Subtropical Coastal Floodplain Forest. This part of the allotment forms part of the residue and will be consolidated with Lot 51 DP861895 to form proposed Lot 162.

An existing dwelling and associated ancillary structures are located on Lot 1722. This will be required to be decommissioned and removed as part of Stage 3 works.

Lot 8 DP1062514 is zoned SP2 Infrastructure which is dedicated for use of the future expansion of the Yamba Bypass. Drainage works associated with the subdivision will be located within this lot.

Lot 51 DP861895 is zoned part E2 Environmental Conservation, part E3 Environmental Management and part SP2 Infrastructure. This lot will be designated for the environmental protection and drainage to service the development.

Lot Details	Area	Zoning	Proposed
Lot 1722 DP1035524	15.81 hectares	R1 General Residential; and E3 Environmental Management	<ul style="list-style-type: none">• 161 Residential Lots within the R1 General Residential Zone• EEC to be removed and offset• Existing dwelling and ancillary structures to be removed as Stage 3• Residue E3 to be consolidated within Lot 51 to form Proposed Lot 162
Lot 51 DP861895	15.24 hectares	E2 Environmental Conservation; E3 Environmental Management; and SP2 Infrastructure	<ul style="list-style-type: none">• To be designated for environmental protection• Drainage works• Internal Service Road
Lot 8 DP1062514	1.697 hectares	SP2 Infrastructure	<ul style="list-style-type: none">• To be retained for Yamba Bypass• Drainage works

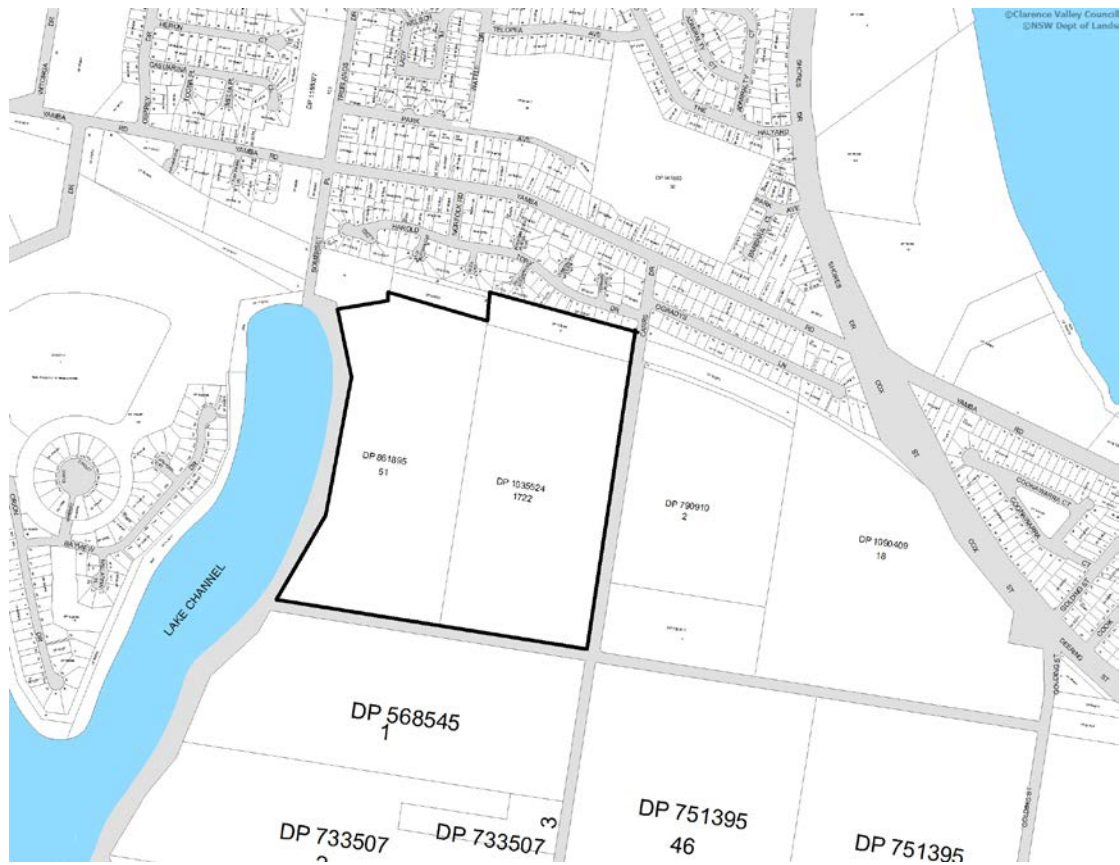


Figure 2 – Site Plan (Source CVC Mapping)



Figure 3 – Aerial Site Plan (Source CVC Mapping)

SECTION 79C EVALUATION FOR SUB2014/0016
Lot 51 DP 861895, Lot 1722 DP 1035524 and Lot 8 DP 1062514
22 Carrs Drive YAMBA NSW 2464

Proposal: 161 Lot Residential Subdivision

(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:

(a) the provisions of:

(i) any environmental planning instrument, and

State Environmental Planning Policy 14 – Coastal Wetlands

The subject land is not identified as being located within a designated State Environmental Planning Policy (SEPP) No. 14 wetland area, however one wetland located adjacent the north western section of the site in Oyster Channel. The proposed development will retain the large intact EEC's in proposed Lot 162 and through compensatory plantings near the foreshore and rehabilitation works will not have an adverse impact on the identified SEPP 14 wetland.

State Environmental Planning Policy 55 – Remediation of Land

Under the provisions of *State Environmental Planning Policy 55 Remediation of Land*, Council must not consent to the carrying out of development unless it has considered whether the land is contaminated.

A Preliminary Contamination Assessment Report was prepared by Environmental Engineering Solutions (dated April 2015) in accordance with the *Managing Land Contamination Planning Guidelines* (DUAP and EPA 1998) and submitted in support of the application. A desk-top site history assessment of the site and adjacent areas was undertaken and information to assist in the site history was collected. Based on the desk-top assessment and the site inspection undertaken, it was considered that two areas of environmental concern (AEC) required further investigation:

- Agricultural use including cattle grazing
- Above ground fuel tank

As stated within the report, soil sampling was undertaken on the site and none of the samples submitted were found to have levels reaching or exceeding the relevant assessment criteria (HIL A) and were consistent with natural background levels. The report concluded that the site is suitable for the proposed residential development and Council's Senior Environmental Officer concurs with the findings of the submitted report.

State Environmental Planning Policy 62 – Sustainable Aquaculture

Sustainable Aquaculture requires that all development which has the potential to have an adverse impact on oyster aquaculture is referred to the NSW DPI for comment.

There are a number of Priority Oyster Aquaculture Areas (POAAs) in the Clarence Estuary, however, the closest lease to the subject site is currently in the process of being phased out.

The remaining POAAs are a substantial distance from the proposed subdivision and are unlikely to be impacted by the proposed subdivision.

State Environmental Planning Policy 71 – Coastal Protection

The land is subject to the provisions of State Environmental Planning Policy 71 – Coastal Protection as it is located within the coastal zone. An assessment against the main provisions of the SEPP is contained in the Assessment Table attached. It is concluded that the proposed design will not adversely impact on coastal views or amenity and will not restrict public access to the foreshores.

Clarence Valley Local Environmental Plan 2011

Under the Clarence Valley Local Environmental 2011 (LEP), the subject lands are zoned as follows:

Lot 1722 DP1035514 - Part E3 Environmental Management and part R1 General Residential

Lot 51 DP861895 – Part E2 Environmental Conservation, part E3 Environmental Management and part SP2 Infrastructure

Lot 8 DP1062514 – SP2 Infrastructure

The proposed 161 lot residential subdivision will be located within the R1 General Residential Zone. The development is permissible with consent and is consistent with the following objectives of the zone:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Part of an internal service road will be located within the E3 Environmental Management zone on Lot 51 DP861895 and this is permissible subject to development consent. Drainage works also associated with the development will be located within the E3 zone, however these works are considered to be ancillary to the development and are therefore permissible.

Clause 4.1 Minimum subdivision lot size

There is no minimum lot size for subdivision of land within the R1 General Residential zone component of Lot 1722 DP1035524 under the provisions of Clause 4.1 of the LEP as shown on the Lot Size map. All of the 161 residential allotments are located within this zone and vary in size from 450m² to 1011m² which complies with the provision of the LEP.

There is a minimum lot size of 3 hectares required for the E3 component of the land located on existing Lot 1722 DP1035524 and a minimum lot size of 10 hectares per lot for land located on Lot 51 DP861895.

It is proposed that the residue part of Lot 1722 after subdivision will be consolidated with Lot 51 DP861895 to create one larger allotment of 18.611 hectares. This complies with the minimum lot size required for both of the allotments.

Clause 5.5 Development within the coastal zone

The subject lands are located within the coastal zone and therefore Clause 5.5 of the LEP is required to be considered. Development consent must not be granted on land within the coastal zone unless the consent authority has considered:

- 2(a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
- (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*

Comment:

Access to the foreshore was considered as part of the application. However it was concluded that the conservation of proposed Lot 162 is considered to be more important as public access to the foreshore is already available at the end of Carrs Drive which includes a boat ramp to launch recreational fishing boats and water vessels.

Furthermore, there are maintenance issues associated with providing access to the foreshore through the subdivision for which there could be a long term financial burden to Council.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
- (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

Comment:

As the WYURA is developed over time, there will be a gradual transformation to the natural scenic quality in the area as the appearance changes from a rural residential area to a residential urban area.

The overall built form will be made up of single dwellings consistent with the character of other residential living zones. This is considered to be suitable in terms of its relationship with the surrounding area and impact to the natural scenic quality.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
- (i) *any significant overshadowing of the coastal foreshore, and*
 - (ii) *any loss of views from a public place to the coastal foreshore, and*

Comment

Protection of proposed Lot 162 in perpetuity will ensure that the amenity of the coastal foreshore is not adversely affected by the development and there is no significant overshadowing expected. There may be a few mechanisms to achieve protection in perpetuity of Lot 162, however, as per the condition of consent details of such are to be provided as part of Stage 1.

- (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

Comment

The visual amenity of the coast will not be adversely affected by the proposed development as proposed Lot 162 will provide a buffer to the foreshore.

- (e) *how biodiversity and ecosystems, including:*

- (i) *native coastal vegetation and existing wildlife corridors, and*
- (ii) *rock platforms, and*
- (iii) *water quality of coastal waterbodies, and*
- (iv) *native fauna and native flora, and their habitats, can be conserved, and*

Comment

Three (3) Endangered Ecological Communities (EEC) were recorded on the subject lands:

- Swamp Sclerophyl Forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions;
- Subtropical coastal floodplain forest of the NSW North Coast Bioregion; and
- Swamp oak floodplain forest of the NSW North Coast, Sydney Basin and South East Corner Bioregions

The development proposes clearing of the Swamp Sclerophyl forest located on Lot 1722 DP1035524 and this type of forest has a high conservation value. It is proposed to offset the clearing of this EEC through compensatory plantings and rehabilitation of Lot 51 DP861895. This will form part of proposed Lot 162 which will include all of the E3 Environmental Management and E2 Environmental Conservation zones into one allotment. There will be no dwelling entitlement on this land and protection in perpetuity will be required as part of the conditions of consent. This is considered acceptable by Council's Environmental Services Section.

It should be noted that the *Native Vegetation Act 2003* does not apply to land zoned R1 General Residential. However the Threatened Species Conservation Act applies, hence the need for offsetting any loss to this high conservation value community.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

Comment

The subject land forms part of the WYURA which has been zoned for residential purposes since April 2010. The cumulative impacts of the proposed development has been considered as part of that rezoning process for the whole WYURA area and it is concluded that the development of the subject land is not inconsistent with the objectives of Clause 5.5 or the NSW Coastal Policy.

Clause 5.5(3) states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

- a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*
- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
- (d) *the proposed development will not:*
 - i. be significantly affected by coastal hazards, or*
 - ii. have a significantly impact on coastal hazards, or*
 - iii. increase the risk of coastal hazards in relation to any other land.*

Comment

The proposed development has been considered under Clause 5.5 and it is unlikely that the proposed development will have an adverse impact on any existing access to or along the foreshore. The development site is not likely to be affected or have an adverse impact on coastal hazards. Provided that stormwater quality and quantity controls, as conditioned are complied with, there is unlikely to be any negative effect on water quality from the development.

Overall, the proposed development is considered to be generally consistent with the objectives of the Clause to provide for the protection of the coastal environment of the State for the benefit of both present and future generations. This ensures the principles of ecologically sustainable development are met and maintains the principles of the NSW Coastal Policy.

Clause 5.9 Preservation of trees or vegetation

The proposed development is not inconsistent with the objective of Clause 5.9 to preserve the amenity of the area, including biodiversity values through the preservation of trees. The development proposes to offset the clearing upon Lot 1722 DP1035524 within proposed Lot 162 and this will be required to be protected and maintained as such, as part of the conditions of consent.

Clause 5.10 Heritage Conservation

During the rezoning of the WYURA, Aboriginal sites of significance were recorded within the vicinity of the proposed development site. An Aboriginal Heritage Information Management System (AHIMS) search was conducted for the purposes of this application and no Aboriginal Sites or places were recorded within 50m to 200m of the development site. Four (4) Aboriginal sites were recorded within 1 kilometre of the development site.

It is considered that the protection of proposed Lot 162 in perpetuity together with replantings and vegetation restoration works, will provide a further buffer to the Aboriginal sites as identified. For protection purposes these sites will not be identified within this report. Furthermore, the location of Aboriginal sites within the vicinity of the development site adjacent Oyster Channel supports the argument to prohibit public access through the subdivision to the foreshore.

As the area has Aboriginal significance, conditions will be placed on any approval to ensure that if any relics or artefacts are found during works on the site, then work shall cease immediately and the Office of Environment and Heritage be contacted.

The Local Aboriginal Land Council were also consulted during the assessment process. However no submission was received from their office.

Clause 6.2 Public Utility Infrastructure

All lots within the proposed development will be required to connect to all available services. Any extension to existing public infrastructure to service the development will be at the Developers expense.

Clause 6.3 Development Control Plan

Clause 6.3 of the LEP requires the preparation of development control plan (DCP) for development on land within an urban release area. The objective of the clause is to ensure that development on land in the WYURA occurs in a logical and cost effective manner.

The matters to be considered under Clause 6.3 are as follows:

(3) A development control plan must provide for all of the following:

- (a) *a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,*
- (b) *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
- (c) *an overall landscaping strategy for the protection and enhancement of riparian areas, remnant vegetation, wildlife corridors and native flora and fauna habitats, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
- (d) *a network of passive and active recreational areas,*
- (e) *stormwater and water quality management controls,*
- (f) *amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and impacts on adjoining agricultural land, and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
- (g) *detailed urban design controls for significant development sites,*
- (h) *measures to encourage higher density living around transport, open space and service nodes,*
- (i) *measures to accommodate and control appropriate neighbourhood commercial uses,*
- (j) *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking,*
- (k) *measures to conserve Aboriginal cultural heritage on the land.*

Furthermore, Clause 6.3(7) requires that a DCP for the WYURA must also provide for the following:

- (a) *measures to ensure adequate setback from the overhead electricity lines located in the vicinity of Miles Street,*
- (b) *in relation to any proposed business centre:*
 - (i) *details of the scale and location of the centre, and*
 - (ii) *controls to ensure the centre is located on an accessible site in close proximity to the existing school in Carrs Drive, and*
 - (iii) *controls to ensure the size of the centre does not compromise the commercial hierarchy of Yamba and will result in a commercial area of a size proportional to residential demands.*

Comment

The applicant prepared a DCP for the development site as part of the application, however this was unacceptable in its current format. Due to section 74C (2) of the *Environmental Planning and Assessment Act 1979* (herein referred to as the Act) the DCP would have had to either:

- *form an amendment to Council's existing "Clarence Valley Residential Zones Development Control Plan 2011" (CVRZDCP 2011) in the correct format (e.g. a new Part/chapter to existing DCP); or,*
- *be proposed as a stand alone DCP for the land addressing a range of other factors or alternatively call up provisions of the existing DCP and be accompanied by a corresponding amendment to remove land from the existing DCP.*

In the case of a stand alone DCP for the land being prepared, it would need to incorporate other parts of the existing Residential Zones DCP. Of the two alternatives, an amendment to incorporate Urban Release Area controls into the existing DCP was preferred to minimise the number of potential stand alone DCP's and to ensure coordination of key planning matters such as infrastructure provision, drainage, filling and traffic management.

A report to Council (Item No. 13.094/15) recommending adoption of the Draft DCP is to be considered at the July 2015 Council Meeting. The Draft DCP incorporates information provided with the application and where information has not been provided, suitable conditions have

been placed within the Draft Schedule to ensure compliance with the provisions of the DCP. Therefore, it is considered that the development has met the provisions of Clause 6.3 of the LEP. A copy of the Draft DCP (as reported to Council's Meeting 21 July 2015) is contained within the attachments.

Clause 7.1 Acid Sulfate Soils

The subject land is identified as containing Class 2 Acid Sulfate soils on the Acid Sulfate Soils Map and is therefore subject to the provisions of Clause 7.1. Details provided with the application state that Actual Acid Sulfate Soils (AASS) are located in surface (i.e. topsoil) samples, with soils containing Potential Acid Sulfate Soils (PASS) located from a depth of 1.5m below natural ground level. The PASS soils are unlikely to be affected by the proposed subdivision, given the land will be filled to approximately 1.5m above natural ground level.

Details of how the AASS will be managed will be required to form part of the earthworks management plan and submitted to Council prior to a Civil Construction Certificate being issued.

Clause 7.2 Earthworks

A Flood Impact Assessment Report for the development has been prepared by BMT WBM who developed the Lower Clarence River Flood Model on behalf of Council. This report has considered the impact of filling of the development site on the surrounding area including drainage patterns and it is concluded that the proposed engineering design has mitigated the effects of filling in this location.

Furthermore, an Earthworks Management Plan is required to be submitted and approved prior to the issue the Civil Construction Certificate which will further ensure compliance with the objectives of Clause 7.2 of the LEP.

Clause 7.3 Flood Planning

Detailed flood modelling has been undertaken by BMT WBM Pty Ltd and as stated above that consultant is responsible for developing the 'Lower Clarence Flood Model Update 2013' and previous flood modelling. They are also the flood modelling consultant for other WYURA developers. The report concluded that:

- *The site and WYURA are shown to be inundated by the 20 and 100 year ARI events but not the 5 year ARI event under baseline (existing) conditions.*
- *Peak flood elevations at West Yamba are approximately 1.7m AHD and 2.1m AHD for the 20 and 100 year ARI events respectively.*
- *Peak baseline inundation levels at West Yamba are lower (typically by 0.4m) than corresponding levels of the northern side of the Yamba Road. This is due to the elevated Yamba Road constraining overtopping.*
- *Peak design flood levels at West Yamba occur as a result of storm surge (as opposed to riverine/catchment flooding) based on Council's adopted design scenarios.*
- *Mitigation of the WYURA relies principally on a large floodway located outside of the site area.*
- *No notable flood level impacts are predicted for the 5 and 20 year ARI events.*
- *The mitigated 100 year ARI event shows some impacts (increases in peak flood level) greater than 0.03m limited to the perimeter of the WYURA. These are not predicted to affect existing dwellings or other receptors within the tolerance shown.*
- *No flood level impacts to dwellings are predicted for a 100 year ARI riverine only flood, i.e. a flood with no tidal/storm surge component. Peak level increases were observed along the channel between Deering Street and Yamba Road as a result of additional conveyance of floodwater by the floodway.*

- *Modelling of the site only, i.e. without the remainder of the WYURA, shows no significant impacts on peak flood levels.*

In consideration of the above, it can be concluded that the modelling demonstrated that the proposed development provides flood and drainage systems for the WYURA and the development, mitigating the impact on surrounding property and infrastructure due to the development. Therefore, the proposed development is not inconsistent with the objectives of Clause 7.3 of the LEP.

- (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), and**

The proposed development was subject to consideration under the Draft Biodiversity LEP as the land is identified as land on the Existing Native Vegetation Map. The draft clause is as follows:

DRAFT 8 - BIODIVERSITY

- (1) *The objectives of this clause are to protect, maintain and improve native biodiversity, including:*
 - (a) *protecting biological diversity of native flora and fauna; and*
 - (b) *protecting the ecological processes necessary for their continued existence; and*
 - (c) *encouraging the recovery of threatened species, communities or populations and their habitats.*
- (2) *This clause applies to development on land that is identified as having existing Native Vegetation as shown on the **Existing Native Vegetation Map**.*
- (3) *Development consent must not be granted to development on land to which this clause applies, unless the Clarence Valley Council has taken into consideration the following matters:*
 - (a) *Identification of any potential adverse impact of the proposed development on any of the following:*
 - (i) *a native vegetation community;*
 - (ii) *the habitat of any threatened species, population or ecological community;*
 - (iii) *a regionally significant species of plant, animal or habitat;*
 - (iv) *a habitat corridor;*
 - (v) *a wetland;*
 - (b) *A description of any proposed measures to be undertaken to ameliorate any such potential adverse impact.*
- (4) *Development consent must not be granted to development on land to which this clause applies, unless the consent authority is satisfied that the development is consistent with the objectives of clause (1) above:*
 - (a) *The development is designed, sited and managed to avoid potential adverse environmental impact, or*

- (b) *If a potential adverse impact cannot be avoided, the consent authority must be satisfied the development:*
- (i) *is designed and sited so as to have minimal adverse impact, indicating proposed measures to address any identified impacts; and*
 - (ii) *incorporates and provides evidence of effective measures which consent authority is satisfied meets the objectives and achieves improved biodiversity value.*

The EEC to be cleared as part of the development is not identified as Existing Native Vegetation on the map in Figure 4 below. However, being identified as an EEC under the *Threatened Species Conservation Act 1995* adequate offsetting of this area is proposed within proposed Lot 162. The development is not inconsistent with the objectives of the Draft Clause and it is unlikely that there will be any adverse impacts from the development on biodiversity in the area.



Figure 4: Extract from Clarence Valley Draft Biodiversity Local Environmental Plan 2011 (Existing Native Vegetation)

- (iii) **any development control plan, and**

The proposed development is subject to the provisions of the Residential Zones DCP and in particular Part C General Controls, Part D Floodplain Management Controls, Part E Vegetation Controls, Part H Sustainable Water Controls, Part I Erosion and Sedimentation Controls and Part J Subdivision and Engineering Controls.

The proposed development is also subject to the provisions of the Environmental Protection, Recreation and Special Use Zones DCP. No works other than drainage, an internal road and environmental conservation works are proposed within the E2 and E3 zones, and it is considered these works are not inconsistent with the controls within the DCP.

Residential Zones DCP

Part C General Development Controls for Residential Zones

Clause C6 of the DCP requires consideration of the NSW Coastal Policy and NSW Coastal Design Guidelines. This has been discussed in other sections of this report and in summary the proposed development is not inconsistent with the objectives of those policies.

Essential services will be provided to all lots within the subdivision in accordance with Clause C24 and any extensions or upgrade to existing infrastructure will be the responsibility of the developer.

The potential disturbance of Acid Sulfate Soils will be dealt with in an Earthworks Management Plan to be submitted prior to the issue of any Civil Construction Certificate to ensure compliance with the LEP and Clause C27 of the DCP.

Part D Floodplain Management Controls

The proposed development is not inconsistent with the controls as set out within Part D of the DCP. As discussed in detail in other sections of this report a detailed Flood Impact Assessment was undertaken by BMT WBM Pty Ltd and the flood modelling demonstrated that the proposed development provides flood and drainage systems for the WYURA and the development, mitigating the impact on surrounding property and infrastructure due to the development.

Part E Vegetation Controls

The proposed development is not inconsistent with the provisions set out in Part E Vegetation Controls as the proposal is offsetting clearing of an EEC on Lot 1722 DP1035524 through compensatory plantings and the protection of proposed Lot 162 in perpetuity. This will form part of the conditions on any consent.

Part H Sustainable Water Controls

The principles of water sensitive design are incorporated in the submitted Stormwater Management Plan which meets Council's Sustainable Water controls and current water quality pollution targets in line with Part H of the DCP.

Part I Erosion and Sediment Control

A detailed Erosion and Sedimentation Control Plan for each stage is required to be submitted and approved by Council prior to a Civil Construction Certificate being issued in accordance with the provisions of Part I of the DCP. This plan will be compatible with the Stormwater Management Plan (SWMP) and will include procedures for clean-up and restoration of public and/or private property.

Part J Subdivision and Engineering Controls

Overall, the proposed development is not inconsistent with the provisions of Part J of the DCP. A variety of lot sizes to meet market demand, have been provided and building plans for the lots less than 560m² have been provided to demonstrate that lots are suitable for the intended use.

Part J11 of the DCP requires the provision of street planting. A detailed landscape plan was provided as part of the application indicating suitable locations and species of proposed street planting within the subdivision. However, a Section 94 Contribution will be applied in lieu of the planting trees.

Clause J12 of the DCP sets out the requirements for services for the development. Services are required to be provided to each allotment created by the subdivision. Prior to any Construction Certificate being issued Council will require a servicing strategy for the whole West Yamba development to ensure there is orderly and logical servicing of development in the West Yamba area. When a strategy is adopted developer contributions from the developer preparing the strategy will be reduced on a pro-rata basis to cover the cost of the strategy. However, if Council adopts a strategy prepared by another developer in the meantime then no reduction will be given and the developer will be required to follow the adopted strategy. Council has encouraged developers to work together to develop the strategy to ensure that it represents the intentions of all developers.

A servicing strategy or a Developer Servicing Plan (DSP) will be required before urban development can be connected to the upgraded Yamba Sewerage Treatment Plant.

As of April 2015 Council does not have a DSP in place incorporating the WYURA. Completed subdivision development would require construction of a rising main to the sewerage treatment plant (STP) and if this is constructed before a new DSP is in place, the developer would be liable to pay the full cost of this unless initial or "early stage" West Yamba developer parties can negotiate cost sharing arrangements with other developer/land holder parties within the WYURA.

Existing water mains are unlikely to have adequate capacity for the potential number of residential lots in the WYURA. As of April 2015 Council has not undertaken detailed hydraulic modelling of the water supply system in this area. If subdivision development occurs before hydraulic modelling is completed, the intended developer will be required to investigate water supply requirements.

Other infrastructure such as energy/electricity and telecommunication services/NBN will also need to be planned for and provided for the developed WYURA. Satisfactory arrangements will need to be made with designated State and Local Authorities to determine availability, timing and cost arrangements, including the payment of contributions where required.

Notwithstanding the above issues in terms of servicing, the development may proceed with the adoption of appropriate conditions.

(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

The applicant originally included a voluntary planning agreement (VPA) with the application to dedicate Lot 8 DP1062514 to Council (being land zoned for Yamba motorway) in lieu of payment of part or all of the Section 94 contributions. In order to speed up the process, and with support from Council staff, the applicant submitted a Clause 55 request under the Act to amend the application by withdrawing the VPA component. This was accepted and Section 94 contributions will be applied on any development approval in accordance with Council's current Section 94 plans that apply to the land.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

The proposed development is not inconsistent with the matters prescribed within the Regulation.

(v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),

The subject land is located within sub-catchment 21 of the Clarence Estuary Management Plan which is identified as a high value area in terms of estuary significance located in a moderate risk area.

Through the implementation of stormwater quality and quantity controls the proposed development is unlikely to have an adverse impact on the water quality and estuary in this location. Bioretention swales are to be provided supported by 'MUSIC' modelling and a Stormwater Management Plan.

(g) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Through the offsetting of clearing and protection of proposed Lot 162, the natural environment is unlikely to experience any adverse impacts from the proposed development. However there will be an impact on the built form of the area.

As stated earlier in this report, the WYURA will undergo a gradual transformation of the natural scenic quality of the area as it is developed and the character will change from a rural residential landscape to an urban landscape. The overall built form will be made up of single dwellings consistent with the character of other residential living zones which is considered to be suitable in terms of its relationship with the surrounding area and impact to the natural scenic quality.

Socially the proposed development will provide 29 smaller allotments which could accommodate affordable housing in accordance with Council's adopted Affordable Housing Policy. The smaller allotments will allow construction of a variety and mix of housing types having a positive social outcome.

Economically, the proposed development will have a positive outcome for the area through increased employment opportunities during construction works and once the subdivision is completed during the construction of individual dwellings on the allotments.

(h) the suitability of the site for the development,

The site is suitable for the proposed development as approved subject to the imposition of suitable conditions.

(i) any submissions made in accordance with this Act or the regulations,

The proposed development was advertised and notified in accordance with the provisions of Part B of the Residential Zones DCP. Fifty one (51) submissions were received during the exhibition period; 23 in support and 28 objections. The issues raised in the submissions are discussed below:

1. Increase in traffic during construction and potential access to Harold Tory Drive

Concerns have been raised within the submissions regarding the number of truck movements during construction of the subdivision, and in particular number of trucks for filling of the land. Furthermore, the submissions raised concerns regarding the potential for construction traffic to gain access to Carrs Drive via Harold Tory Drive given the busy intersection of Carrs Drive and Yamba Road.

Comment

Traffic has been considered as part of the application and a Traffic Management Plan is required to be submitted prior to the issue of a Civil Construction Certificate.

A haulage program for all fill material must be designed to avoid travel on Carrs Drive at school starting and finishing time periods. Haulage must be avoided between 8.30am - 9.10am and 2.40pm - 3.20pm. The haulage program is to form part of the Earthworks Management Plan.

No access to the site is to be gained through Harold Tory Drive during the construction period and this will form a condition of consent.

2. Increase in traffic from 161 additional allotments once constructed

The submissions raised concerns regarding the impact of additional traffic from 161 allotments and in particular the impact on Carrs Drive and Yamba Road.

Comment

Bitzios Consulting were engaged to undertake a Traffic Analysis of the West Yamba road network with the addition of two (2) residential subdivision developments located on Carrs Drive; this development and the future development east of Carrs Drive. The analysis specifically relates to the impact on the:

- Treelands Drive/Yamba Road intersection
- Carrs Drive/Yamba Road intersection
- Shores Drive/Yamba Road intersection

The impact on the existing road network traffic flow by an increase in traffic due to the WYURA was assessed by professional traffic consultants BITZIOS in accordance with the RMS 'Guide to Traffic Generating Developments' for a ten year design period 2016-2026. Upgrade works/contributions were identified and have been conditioned as part of the consent to ensure that the Yamba Road network has the capacity to accept the additional traffic from the proposed development.

3. Impacts from noise during and after construction

Concerns were raised within the majority of objections that the noise during construction (i.e. works associated with the filling of the land) would adversely impact on the surrounding residential area. Furthermore, concerns were raised that there will be a marked increase in noise to the area once the development is constructed.

Comment

To limit noise disturbance to the surrounding area during construction, the hours of operation will be limited to those as set out below:

7.00 am to 6.00 pm Monday to Friday

7.00am to 1.00pm Saturdays

No work permitted on Sundays and public holidays

Once constructed, the subdivision will generate noise levels similar to that of other developed residential areas which is considered acceptable in a residential zoned area.

4. Dust and pollution

The submissions have raised concerns regarding the potential health hazard of dust from compacting fill on the site during construction which may affect residents conducting outdoor activities. Additionally, concerns about air pollution from dust and increased traffic after construction was also raised.

Comment

It is acknowledged that there may be impacts from dust during the construction phase of the development particularly whilst filling of the site is being undertaken. Draft conditions of consent are proposed to ensure that during dry weather, standard dust suppression methods are to be used as

often as is necessary to ensure that adjoining properties are not adversely affected by dust. An Earthworks Management Plan, Traffic Management Plan, Construction Management Plan and Erosion and Sedimentation Control Plan are also required to be developed and implemented for the site which will minimise any potential impacts from the development to adjoining residential. Furthermore, there is a 60 metre buffer (being the proposed Yamba bypass land) between the development site and the adjoining residential area in Harold Tory Drive which will provide a buffer between the development and existing residential homes.

All roads within the subdivision are required to be sealed in accordance with Council standards which will reduce any dust from the land once it is developed.

5. Habitat loss

One of the submissions identified the subject land as a habitat area for many birds and animals.

Comment

One (1) EEC located on the north eastern portion of Lot 1722 is proposed to be removed as part of the development. An Ecological Assessment report by JWA Ecological Consultants Pty Ltd was submitted with the Development Application and it concluded that through the implementation of the proposed amelioration measures the proposed development is unlikely to have a significant impact on flora and fauna in the area. Conditions will also be imposed to ensure that a Habitat Restoration Plan is developed and implemented for the site to reduce any impact on the remaining native vegetation and identified EEC's.

6. Density of the proposal

One of the submissions identified that the density of the development is of concern and that the Clarence Valley Council had capped the population of the WYURA to some 2,400-2,500 people.

Comment

Prior to the rezoning of the WYURA, a draft LEP was exhibited which contained a number of planning objectives including:

- An overarching objective for a population of about 2,000-2,500 people
- A residential zone density of about 10 dwellings per hectare.

These objectives were not included in the final LEP and therefore Council cannot impose a single dwelling density of 10 dwellings per hectare using the current legislative controls.

As stated within the Background Section of the Draft DCP for the WYURA:

The quantum and footprint of the West Yamba urban zoning was influenced and informed by the extensive strategic planning history which acknowledged the difficult environmental constraints of the area. It envisaged a development outcome that would see the future West Yamba urban development develop at an average density of about 10 single dwelling equivalents per hectare based predominantly on the relatively highly constrained context of the location and environment. The urban zoning should be capable of yielding 1144 dwellings/lots based on the notional average density (10 single dwelling equivalents per hectare). Unfortunately legal drafting constraints would not permit desired density or population outcomes to be articulated into the amended LEP both at the time of "Amendment No. 20" and the CVLEP 2011.

7. Flood modelling

Concerns were raised within the one of the submissions regarding the submitted Flood Report.

Comment

The initial flood modelling provided with the application relied on differing assumptions and criteria to the 'Lower Clarence Flood Model Update 2013 Report' by Council's consultants. Thus, the modelling reports were reviewed by an independent expert, Dr. G. O'Loughlin who identified issues that required resolution. Further modelling was undertaken by BMT WBM Pty Ltd that have addressed the issues identified by the independent consultant and those raised within the objections. The amended flood report has satisfied the concerns in regard to this development. In summary, the amended report has demonstrated that the filling of the proposed development does not impact on any existing property or infrastructure in the vicinity of the development.

8. Carrs Drive carriageway and safety for vehicles and pedestrians

One of the submissions stated that Carrs Drive is hazardous to vehicles users and pedestrians including children accessing the primary school by bicycle.

Comment

Carrs Drive is required to be upgraded to a collector road standard in accordance with the Northern River Design Construction Manual (NRDC). This requires the widening of Carrs Drive which will improve safety for road users.

A cycle lane exists along Carrs Drive on private property being Lot 2 DP790910 to which Council has a Deed of Agreement with the land owner to allow public access for pedestrians and cyclists. This will eventually be dedicated to Council and become part of the road reserve.

9. Submissions in support of the proposal

23 submissions were received in support of the application stating that the development will provide future employment opportunities and business expansion for both Yamba and the Clarence Valley. The submissions also support the development as it provides for a number of low cost housing allotments.

Comment

Economically, the proposed development will have a positive outcome for the area through increased employment opportunities during construction works and once the subdivision is completed, positive economic benefits will arise from the construction of individual dwellings on the allotments. The proposal also provides for 29 smaller sized lots which allow the construction of mix of housing types which is consistent with Council's Affordable Housing Policy.

(j) the public interest.

The public interest has been considered as part of the proposal and issues raised in the submissions received have been discussed throughout this report. It is anticipated that the proposed development is not likely to have a negative impact on the public interest through the orderly development of land zoned R1 General Residential and through the imposition of conditions.

Officer: Carmen Landers
Date: 8 July 2015

SEPP 71 – COASTAL PROTECTION

CHECKLIST

Matters for consideration under clause 8, regarding Development Applications

Clause 8 Matters for consideration	Comment
(a) the aims of this Policy as set out in clause 2	The aims of the Policy are addressed in the heads of consideration detailed below.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The proposed development will not impact on the adjoining coastal foreshore available for public use.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	Access to the foreshore was considered as part of the application, however it was concluded that the conservation of proposed Lot 162 is considered to be more important as public access to the foreshore is already available at the end of Carrs Drive which includes a boat ramp to launch recreational fishing boats and water vessels.
(d) the suitability of the development given its type, location and design and its relationship with the surrounding area	The proposed development is considered to be in keeping with the future desired character of the WYURA and is not inconsistent with the objectives of the zone.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	The proposal will not overshadow any coastal foreshore nor is there any public land around the development which will have its views blocked by the proposal.
(f) the scenic qualities of the New South Wales Coast, and means to protect and improve these qualities	The proposal will not have any detrimental impact on the scenic qualities of the NSW Coast, being consistent with other development in the area.
(g) measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats	The development proposes clearing of the Swamp Sclerophyl forest located on Lot 1722 DP1035524 and this type of forest has a high conservation value. It is proposed to offset the clearing of this EEC through compensatory plantings and rehabilitation of Lot 51 DP861895. This will form part of proposed Lot 162 which will include all of the E3 Environmental Management and E2 Environmental Conservation zones into one allotment. There will be no dwelling entitlement on this land and protection in perpetuity will be required as part of the conditions of consent. This is considered acceptable by Council's Environmental Services Section.
(h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	The proposal will have no impact on aquatic habitat.
(i) existing wildlife corridors and the impact of the development on these corridors	Although the land is identified as part of a wildlife corridor, the majority of the property is cleared grazing lands. The proposed vegetation offset requirements will, as stated above, increase the areal extent of the vegetation on the property; improve connectivity between areas of retained vegetation and adjoining lands to the north and south;

	provide a fauna corridor along the margin to Oyster Channel.
(j) the likely impact of coastal processes and coastal hazards on the development and any likely impacts of development on coastal processes and hazards	The subject property is not affected by coastal processes and coastal hazards.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	The proposal will have no impact on water based activities.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	The development is unlikely to have an adverse effect on aspects of cultural significance for aboriginals and no Aboriginal places or sites are located on the development site.
(m) likely impacts of development on the water quality of coastal water bodies	The development will not adversely impact on water quality.
(n) the conservation and preservation of items of heritage, archaeological or historic significance	The Local Aboriginal Land Council was notified of the application and no submissions were received. To ensure that Aboriginal heritage is protected the following condition has been placed upon the approval: <i>Should any aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and the Director of National Parks and Wildlife Service shall be contacted immediately and any directions or requirements of the Service complied with.</i>
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact cities and towns	Not applicable.
(p) only in cases in which a development application in relation to proposed development is determined : (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	The proposed development is not likely to have any adverse cumulative impacts on the environment a discussed throughout this report.
<p>CONCLUSION</p> <p>It is concluded that there is no inconsistency with the aims or heads of consideration under clauses 2 and 8 of SEPP 71.</p>	

Schedule 1
Draft Advices and Conditions of Consent for SUB2014/0016

Advices

1. A private certifier accredited for Civil Construction may be engaged for all or part of the civil engineering works other than water supply and sewer works. Accreditation of private certifiers for sewer and water supply works is not available under the Building Professionals Act 2005.

A private certifier who issues a Construction Certificate must forward a copy of the Certificate along with a copy of the plans to which the Certificate relates, to Council at least two days before work commences on the development.

2. A Civil Construction Certificate approval is required for this development. Payment to Council of fees for design assessment and construction inspections is required in accordance with the current adopted fees and charges at the time of application. The application form may be downloaded in PDF format from Council's website.
3. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a Civil Construction Certificate for civil works has been approved.
4. To obtain a Certificate of Compliance for water and or sewer works, Council will require payment of contributions in accordance with Section 64 of the Local Government Act, 1993, which applies Section 306 of the Water Management Act, 2000. The current contributions are:

Water Headworks \$5,207.40 x 160 additional lots = \$833,184.00

Sewer Headworks \$10,414.80 x 160 additional lots = \$1,666,368.00

The contribution(s), as assessed, will hold for a period of 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this determination will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

Where any works are required on Councils water or sewer infrastructure, as a condition of this consent, they must be completed in accordance with the conditions of consent prior to the release of the certificate of compliance.

5. The name of the person/s responsible for the civil work design is to be submitted to Council for approval prior to the submission of the Civil Construction Certificate Plans. Details of qualifications, accreditations and insurances must also be submitted. Certification of the Civil Construction Certificate design is required to be in accordance with NRDC.

Approval of the Civil Construction Certificate Plans will be current for a period of two years after which time Council may require the alteration to the Engineering Design to comply with standards current at that date unless the work has been substantially commenced. One (1) copy of the engineering plans for the Civil Construction Certificate are required in hardcopy and one electronic copy in PDF format (saved at the original drawing size).

The Civil Construction Certificate must include consideration of any proposed staging of the

development and any 'temporary' or 'transitional' works due to that staging. Additional design, construction and documentation due to staging requirements must be at the applicants cost.

6. The developer is responsible for ensuring that all inspections are undertaken, documented and certified in accordance with NRDC. Copies of all documentation and certification must be provided to Council and/or accredited private certifier prior to issue of the Subdivision Certificate. An Inspection and Testing Plan in accordance with NRDC is required.
7. Onsite detention (OSD) and WSUD systems provided in accordance with NRDC may be used to mitigate volumetric flow-rates and manage water quality subject to Council approval. Design details of the systems and points of discharge must be submitted with the Stormwater Management Plan. At the allotment scale, to reduce the impact on Council systems, rainwater tanks with a dedicated detention volume, WSUD systems or other alternative methods may be approved by Council. A Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-user encumbrance on the land title may be required to ensure future building development compliance.
8. It is the developer's responsibility to make satisfactory arrangements with other property owners affected by the development, and to meet all costs associated with the development.
9. 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 Civil Construction Certificate Application form.
10. 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 (e.g. residential, commercial or industrial buildings) 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, hanging swamps, 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.
- 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 following information will be required for earth works 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.

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 plan for the full site as a minimum with details of the earthworks for each stage lodged with the Civil Construction Certificate application for that stage.
- c Be compatible with the Civil Construction Certificate plans and Stormwater Management Plan.

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.

- 11. Prior to issue of the Subdivision Certificate, a bond for the installation of the pressure sewer 'on-property' works will be payable to Council in accordance with Council's fees and charges. The amount is currently \$12,853.00 per additional lot. This bond may be released after the property has been connected to the pressure sewer network; either by a private certified contractor, or by arrangement for Council to undertake the work. Requirements for pressure sewerage system installation and operation are outlined in Clarence Valley Council's Pressure Sewer Policy.
- 12. If a bond is required, payment of the bond is the responsibility of the person acting on the consent at any time. Council will only release a bond when a replacement bond to the

satisfaction of Council has been submitted, where works or conditions of consent (requiring the bond) are still outstanding.

Bonds will only be accepted on works that have been assessed by Council or accredited private certifier as being a minimum of 50% completed. Bonded amounts must be for a minimum of 130% of the contract cost, supported by an engineer's schedule of rates cost estimate and subject to a signed 'Deed of Agreement'.

There is a bond application fee applicable for the lodging of bonds as set out in Council's fees and charges.

13. Council requires a servicing strategy for the whole of the West Yamba Urban Release Area (WYURA) to ensure there is orderly and logical servicing of development in the West Yamba area. When a strategy is adopted, developer contributions from the developer preparing the strategy will be reduced on a pro-rata basis to cover the cost of the strategy. However, if Council adopts a strategy prepared by another developer in the meantime, then no reduction will be given and the developer will be required to follow the adopted strategy. Council has encouraged developers to work together to develop the strategy to ensure that it represents the intentions of all developers.

A servicing strategy or a Developer Servicing Plan (DSP) will be required before urban development can be connected to the upgraded Yamba Sewerage Treatment Plant.

As of April 2015 Council does not have a DSP in place incorporating the WYURA. Completed subdivision development would require construction of a rising main to the sewerage treatment plant (STP) and if this constructed before a new DSP is in place, the developer would be liable to pay the full cost unless initial or "early stage" West Yamba developer parties can negotiate cost sharing arrangements with each other.

A temporary connection of the first stage to existing gravity sewer reticulation may be permitted subject to the Sewerage Reticulation Management plan approved by Council in accordance with conditions of this approval, demonstrating that the existing reticulation has capacity to accept that stage, and that the servicing strategy outlines how that stage will ultimately be connected to the rest of the WYURA pressure sewer system. Any works required to change the temporary connection to the permanent arrangements would be borne by the developer, and would be bonded as part of approving a temporary connection.

Existing water mains are unlikely to have adequate capacity for the potential number of residential lots in the WYURA. As of April 2015 Council has not undertaken detailed hydraulic modelling of the water supply system in this area. If subdivision development occurs before hydraulic modelling is completed, the intended developer will be required to investigate water supply requirements.

Other infrastructure such as energy/electricity and telecommunication services/NBN will also need to be planned and provided for the developed WYURA. Satisfactory arrangements will need to be made with designated State and Local Authorities to determine availability, timing and cost arrangements, including the payment of contributions where required.

14. A Notice of Commencement form must be submitted to Council at least two (2) business days before work commences. The form may be downloaded in PDF format from Council's website.
15. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2015/16 financial year are \$73.00 per lot (minimum \$146.00).

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 plan numbered 14140.DA1.P01 dated 7 July 2014 Revision E drawn by Siteplus, as amended in red, or where modified by any conditions of this consent.

Section 94 Contributions

2. Payment to Council of contributions pursuant to Section 94 of the Environmental Planning and Assessment Act:

Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities

Coastal \$3,413.00 x 160 = \$546,080.00 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Maclean surrounds \$3,413.00 x 160 = \$546,080.00 GL S94CVCCFMaclean

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Lot \$65.00 x 160 = \$10,400.00 GL S94CVCPoMDwell

Street Tree Planting (residential subdivisions only)

Yamba: \$92.00 x 160 lots = \$14,720.00 GL S94TreePlantYamba

Yamba Urban By-pass and Urban Intersections Contributions Plan 2000

West Yamba \$625.00 x 2.6 per lot x 160 = \$260,000.00 GL S94YBPWestYamba

N.B.

The contribution(s) as assessed will apply for 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this notice **will be adjusted** in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

The contributions are payable to Council prior to the release of the Subdivision Certificate and are to be based on the number of additional allotments created in the relevant stage.

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary and if so will become the contribution payable.

All contribution plans are available for inspection at Clarence Valley Council Offices, 50 River Street, Maclean and 2 Prince Street, Grafton.

Working Construction Hours

3. Working hours on the construction project being limited to the following:

7.00 am to 6.00 pm Monday to Friday

7.00 am to 1.00pm Saturdays

No work permitted on Sundays and public holidays

The builder to be 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.

Demolition/Removal of Existing Building

4. A detailed Waste Management and Minimisation Plan shall be submitted to and approved by Council prior to demolition work commencing. The plan shall include, but shall not be limited to, the identification of the materials to be re-used, the quantities of waste to be managed as part of the demolition process, and the proposed destination of materials for re-use, recycling or disposal.
5. Demolition work is to be carried out in accordance with AS 2601.
6. The existing septic tank is to be pumped clean and decommissioned with a mixture of lime mix backfill and receipts for such are to be submitted to Council upon completion of works. Council is to be notified for inspection of decommissioning.

Engineering Conditions

7. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate for each and every stage of the development. This may require payment of a fee.
8. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
9. The developer must design and construct all civil works, in accordance with NRDC and approved Civil Construction Certificate. Civil Construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to release of the Subdivision Certificate for each stage. The Council will hold each Subdivision Certificate or a bond in accordance with Council's fees and charges against the works until such time as Council is satisfied to take over the system.

Prior to commencement of works or issue of a Civil Construction Certificate, A practising qualified engineer experienced in civil design, structural design and soil mechanics is required to verify that the civil engineering works :

- a Including earthwork batters and retaining walls, have been designed to be structurally adequate
 - b Will not be affected by subsidence either above or below the works
 - c Includes adequate drainage to ensure the stability of the development
10. An Inspection and Testing Plan (ITP) must be submitted for approval with the Civil Construction Certificate. The supervising engineer or registered surveyor must arrange for the hold point inspections, and accompany Council or accredited Private Certifier on the inspection unless alternative arrangements are made. Where Council is the Certifying Authority for civil engineering works the applicant must give Council one (1) business days' notice to permit hold point inspections of the following Hold Point Inspections during construction:
 - a Roadworks & Earthworks

- i Installation of sedimentation and erosion controls
 - ii Stripped and prepared subgrade, prior to filling
 - iii Floor of cut and associated drainage
 - iv Finished Fill surface and associated drainage
 - v Pavement sub-grade
 - vi Pavement sub-base layers (at discretion of Development Engineer)
 - vii Pavement pre-seal
- b Stormwater
 - i Prior to covering of pipeline with select fill and backfilling of trenches
 - ii In accordance with the ITP and management plan for WSUD systems
- c Sewer
 - i Prior to commencement of work
 - ii Prior to covering of pipeline with select fill and backfilling of trenches
 - iii Pressure testing
- d Water
 - i Prior to commencement of work
 - ii Pressure testing
 - iii Prior to covering of pipeline with select fill and backfilling of trenches;
- e 'On Maintenance' (Practical Completion)
- f 'Off Maintenance' (Acceptance of Public Infrastructure by Council)

Plus any other part of the works specific to the development that the Development Engineer or Water Cycle Supervisor may request. Note: Council must be the Certifying Authority for water supply and sewer works.

11. Prior to the issue of the Subdivision Certificate telecommunications, low voltage electricity and street lighting services must be provided to the development and/or all lots within the subdivision in accordance with the requirements and specifications of the relevant service authorities, Australian Standards, the relevant parts of the applicable Clarence Valley Council Development Control Plans and NRDC.
- a All new services are to be provided within the service allocations in accordance with NRDC, unless an agreement has been obtained from Council for an alternative location.
 - b Written agreement of non compliance with the service allocations will be required from the affected service authorities.
 - c Service locations are to be clearly dimensioned on the Civil Construction Certificate plans.
 - d All service locations are to be approved by Council and the relevant service authority with regard to WSUD components of the proposed stormwater drainage system.
 - e Council must be consulted, and agreement obtained, prior to any variation in location of services during construction due to field conditions.
 - f Any variation to the service location from that approved with the Civil Construction Certificate plans must be clearly documented on the work as executed plans. A registered surveyor must be engaged to locate a service prior to backfilling where it is necessary to clearly demonstrate the location of the service/s.
 - g In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the developer is required (at the developer's expense) to install a fibre ready, pit and pipe work network (including trenching, design and third party certification) to NBN Co's specifications, to allow for the installation of Fibre To The Home (FTTH)

broadband services, or other requirements as advised in writing by NBN Co.

12. Prior to the issue of the Subdivision Certificate for each and every stage of the development, Council will require satisfactory evidence that all requirements of the relevant telecommunications and power authorities have been complied with and all required contributions have been lodged.
13. A Traffic Control Plan must be prepared and submitted to Council showing how vehicle and pedestrian traffic will be safely managed within the work site and road reserve. This plan must be prepared by a person authorised by the RMS to prepare Traffic Control Plans and must be approved by Council prior to the commencement of work.
14. Construction and Traffic Management Plans must be submitted to and approved by Council or the principal certifying authority prior to the commencement of work. The plans must document traffic management (pedestrian and vehicular) and the proposed method of work with regard to NRDC, the RMS 'Traffic Control at Worksites' manual and the 'NSW Work Health and Safety Act (2011) and the Regulations'. The approval of Council under the Roads Act 1993 is required for any construction works within and occupation of, public road reserve. The road reserve is classed as the property boundary to opposite property boundary and includes roadway, nature strip and verge.
15. 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.

16. A servicing strategy or a Developer Servicing Plan (DSP) must be completed by the applicant before urban development can be connected to the upgraded Yamba Sewerage Treatment Plant. The DSP must consider the total contributing catchment from the West Yamba Urban Release Area and the capacity of the existing sewerage reticulation system. The DSP, the design reticulation system and proposed connection point must be approved by Council.

Water Reticulation

17. Prior to issue of the Subdivision Certificate the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with NRDC.
18. A detailed Water Reticulation Management Plan must be submitted for assessment and approval by Council, prior to the issue of a Civil Construction Certificate. This shall include an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows. Note: Individual allotment water services, meter locations and their installation are not required for land subdivision until a building application for each individual lot is lodged with Council. Water service conduit crossings are required to be installed.

Any upgrade to the existing water service to the property will be subject to the costs outlined in Council's list of fees and charges.

Sewerage Reticulation

19. A separate property sewer connection shall be provided to each lot. Prior to release of the Subdivision Certificate for each and every stage, pressure sewerage reticulation infrastructure is to be provided to service the development, in accordance with the requirements and specifications of Council including, Clarence Valley Council's Sewer & Water Connection and Pressure Sewerage Policies.
20. Prior to the issue of a Civil Construction Certificate a detailed Sewerage Reticulation Management plan must be submitted for assessment and approval by Council.
21. The granting of an easement for sewerage purposes of minimum 3.0m over any pressure sewer reticulation within any lots in the subdivision.

Intersection upgrades

22. Prior to the issue of a Subdivision Certificate for Stage 1, the developer must provide engineering designs for intersection treatments at Treelands Drive - Yamba Road Intersection, Shores Drive - Yamba Road Intersection and Carrs Drive - Yamba Road Intersection. The designs must be in accordance with Council requirements and consider existing traffic volumes and growth in Yamba Road and the recommendations of the Traffic Impact Assessment prepared by BITZIOS dated 5 June 2015, Project No P2053 Version 002, pp. 1-20. Subject to Council approval, these designs will be used to determine works required, cost to construct and a program for construction. The designs shall be prepared at the developers cost. The developer must construct the required works or may enter into a voluntary planning agreement with Council.

Roadworks

23. Road design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and NRDC. Design plans must be submitted to Council and/or accredited private certifier for a Civil Construction Certificate approval. Works on public roads and road reserves require the approval of Council.
24. Benkelman beam testing of the finished base course of all new roadwork's will be required. The testing is to be undertaken by a NATA registered authority with accreditation for using the Benkelman beam.
25. WSUD components are to be included in a detailed Construction, Inspection, Testing, Establishment and Staging Management Plan to be submitted for assessment and approval with the Civil Construction Certificate application. Internal road reservation widths are to be in accordance with NRDC plus additional width necessary to contain proposed WSUD components as approved by Council.
26. All roads shall be constructed with an asphaltic concrete surface.

Road pavement and asphaltic concrete surface designs are to be in accordance with NRDC and must be submitted to Council and/or accredited private certifier for a Civil Construction Certificate approval.

The minimum depth of compacted asphaltic concrete surface for internal roads must be 30mm and 40mm for Carrs Drive (collector road). All internal roads with kerb & guttering will require installation of sub-soil drainage in accordance with NRDC standard drawings.

Road and pavement designs must consider the effects of high water tables and salt content. Stabilised pavement and concrete road pavement suitable for the intended design loadings may be used subject to submission of designs for the assessment and approval of Council and/or accredited private certifier.

Design plans for the total length of Carrs Drive are to be provided, including notation of the extent of works for each stage, prior to the issue of the Subdivision Certificate for Stage 1. Design details of the road and drainage temporary and/or transition works for the existing section of Carrs Drive, from the intersections of Harold Tory Drive and O'Gradys Lane to the proposed 2 x 3600mm x 650mm reinforced concrete box culverts.

Carrs Drive (collector road) must be :

- 11m wide carriageway (kerb invert to kerb invert)
- 2m wide sealed shoulders
- 3.5m wide sealed travel lanes
- Allow for table drains, services corridor (considering maintenance access) and pedestrian / bicycle pathways

The type cross-section details for Carrs Drive must be approved by Council with a Civil Construction Certificate for Stage 1.

27. Civil Construction Certificate applications must include design calculations for and any necessary upgrade of, existing stormwater drainage, swales, channels, pipelines and affected services and/or utilities. Existing culverts will be subject to a condition assessment by a qualified engineer and may be subject to removal and replacement in accordance with Council's requirements.
28. Prior to the issue of any Civil Construction Certificate engineering calculations must be provided which clearly indicate the capacity of table/swale drains, the maximum flow velocities and their resistance to scour. Where table/swale drains are used they must be designed to minimise velocity of flow to that necessary to achieve draining of the table/swale minimising ponding and must be treated to minimise scour.

Table/Swale drains within the road reservation must be designed to protect the road pavement from infiltration of ponded water. .

Batters on table/swale drains must be suitable for mowing with a maximum grade of 1v in 4h.

29. Prior to release of the Subdivision Certificate, street name signs are to be provided to all intersections in accordance with Council's specifications. The name of the proposed road(s) will require written approval from Council.
30. The dedication, free of cost to Council, of any road widening required to ensure the existing or proposed road formation is located within the road reserve.
31. Prior to the issue of a Civil Construction Certificate for Stage 1 a 'Pedestrian Access and Mobility Plan and Bike Plan (PAMP)' shall be submitted to demonstrate how pedestrians and cyclists circulate through the proposed development. This includes access to Carrs Drive and Yamba Road in accordance with the requirements of Council.

32. All road Intersections must satisfy safe intersection sight distance requirements for the speed zone of the road servicing the development in accordance with NRDC.
33. Prior to approval of the Civil Construction Certificate for Stage 1, the developer must investigate and provide details of a future bus stop in Carrs Drive to service the estate. Design and construction must be in accordance with NRDC and Austroads at the developers cost. The timing of these works will be subject to staging of the development.

Comments from the bus company/s servicing the area containing the development must be sought, and any reasonable requirements of the bus company are to be considered in the design for each stage involving these facilities. A copy of the comments should be provided to Council. Council will consider these comments in assessing the Civil Construction Certificate. A concept bus route must be submitted with the first Civil Construction Certificate Application for Stage 1.

34. The haulage of fill and other construction materials must be via Yamba Road and Carrs Drive. For the duration of the construction program the developer will be responsible for the repair of any development related damage to Carrs Drive, including the existing intersections with Yamba Road, O'Gradys Lane and Harold Tory Drive.

An existing road seal and pavement condition report is to be provided for Carrs Drive. The report must be completed by a suitably qualified and independent engineer or Geotechnical Testing Authority (NATA), and is to be submitted to Council prior to the issue of the first Civil Construction Certificate. The analysis in the report is to consider the impact of heavy vehicle and construction traffic and recommend measures to be taken to maintain the existing pavement condition during the construction phase of the development.

A program of regular inspection and maintenance activity must be included in the report. Council will undertake random audits and visual inspections of the existing road network during the construction and maintenance period.

35. Payment of a bond is required to ensure maintenance of Carrs Drive, in the amount of \$50,000 prior to commencement of works. Should the pavement condition become unsatisfactory Council may provide maintenance without notice to the applicant. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required.

The bond is to be administered by a legal agreement setting out the terms of the bond, and is subject to the movement of the Consumer Price Index. The bond amount required shall be reviewed by Council for each and every stage of the development and may be increased by Council subject to the extent of works and construction and maintenance costs current at the time of the required works.

Should it become necessary for Council to call up all or any part of the bond during the construction phase of the development then the bond amount must be made up to the amount as above before any further work is undertaken on the development.

Stormwater Drainage and Flooding

36. 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 and NRDC. A Stormwater Management Plan (SWMP) that demonstrates NorBe must be prepared in accordance with NRDC.

The SWMP must consider any adjacent property or infrastructure affected by the development. Design details for the drainage system and point of discharge must be submitted for approval by Council and/or accredited private certifier prior to issue of the Civil Construction Certificate for each and every stage.

The SWMP must include a specific management plan for any WSUD systems. Construction and operational phases must be considered.

All inter-allotment and Council owned stormwater drainage systems on private property must be located within drainage easements.

On-site detention (OSD) and water quality control systems for individual proposed lots need not be provided until a building is occupied on the lot, but the Development Application must demonstrate NorBe by calculation and details acceptable to Council. If this option is taken, a Section 88E easement, 88B easement, Positive Covenant or Restriction-as-to-User encumbrance for stormwater management on the land title of individual allotments is required to ensure future building development compliance.

37. The property is flood affected. All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the Council Development Control Plans and NRDC. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. The 1% Annual Exceedence Probability (AEP) water level in the vicinity of the site is RL 2.2 m AHD and the Extreme Flood Level is RL 3.8 m AHD. Development on the site must be undertaken in compliance with the flood plain management controls listed in the Council DCP for the relevant land use zone.
38. A drainage easement is required over the whole of Lot 8 DP1062514, burdening Lot 8 DP1062514 in favour of Clarence Valley Council. An easement is to be created to provide for conveyance of interallotment drainage through the subject land. The easements shall be provided as follows:
- a Where there is no Council infrastructure contributing to the drainage scheme the easements shall be in favour of the properties requiring the benefit and not Council.
 - b Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system then the easement must benefit Council only. This easement must be an easement in gross.
 - c Where there is water draining off roads, Council land or Council drainage infrastructure in the upstream drainage system and there are properties draining directly to the drainage system then the easement must benefit Council and these properties

The right to release, vary or modify the easement to be assigned to Clarence Valley Council where Council has a benefit.

39. The developer shall construct the proposed 2 x 3600mm x 650mm reinforced concrete box culvert's for the West Yamba Urban Release Area flood and drainage system across Carrs Drive, as part of the Stage 1 works, at the developers cost. Transitional and/or temporary works may be required for the existing section of Carrs Drive.

Voluntary Planning Agreement Alternative

40. In lieu of imposed conditions to construct strategic infrastructure within this consent, the applicant may enter into a voluntary planning agreement (VPA) with Council for the provision of strategic flood management, road, drainage, water and sewerage infrastructure. Funding shall be based on a negotiated apportionment that must consider (but not be limited to):
- The total contributing catchment of the West Yamba Urban Release Area (WYURA) compared to the number of lots due to the development.
 - The cost of the land resumption, services relocations and traffic management during construction for the design and construction of signalised traffic treatments or roundabouts at Shores Drive - Yamba Road Intersection, Carrs Drive - Yamba Road Intersection and Treelands Drive - Yamba Road Intersection
 - The requirements determined by the water and sewerage 'Servicing Strategy', as conditioned
 - The cost of upgrading and / or maintaining the existing road, drainage water and sewerage networks due to the impacts of the proposed development

The VPA must be completed, or the infrastructure required constructed, prior to the issue of the Subdivision Certificate for each and every stage.

Certification

41. Prior to the release of any Subdivision Certificate for each and every stage, which dedicates 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.
42. In accordance with NRDC and prior to the release of a Subdivision Certificate for each and every stage, the applicant must provide Work as Executed Plans by a registered surveyor 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.

The Plan must include:

- Pressure sewer boundary kit details and sewer junction sheet records in accordance with the requirements of Clarence Valley Council where sewer works are involved.
 - Detailed records of the materials used, inspection and testing for the construction of WSUD systems.
 - Details of both original levels and finished surface levels after filling material has been placed on the site and compacted
43. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, WSUD components, pipelines, road batters, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.

Lighting

44. Prior to release of the Subdivision Certificate the development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and consider the NSW Police 'Safer By Design' guidelines. Details of how this will be achieved, including location, types and energy efficiency of lighting devices, must be approved by Council prior to issue of the Civil Construction Certificate.

Maintenance Bond

45. Prior to release of the Subdivision Certificate for each and every stage and acceptance 'On Maintenance', a maintenance bond for the constructed civil engineering works must be paid to Council. The bond may be in cash or by unconditional financial institution guarantee.

The bond required is the larger sum of :

- 5% of the contract sum where the total value is more than \$50,000 or;
- \$2,500

All work is subject to a maintenance period of six (6) months from the date of 'On Maintenance' or Practical Completion as certified by Council or accredited private certifier. The maintenance period may be extended by Council due to staging requirements, material or construction work compliance reasons or if a Subdivision Certificate approval is delayed beyond the maintenance period. The maintenance period and bond amounts for WSUD systems must be in accordance with the Council or accredited private certifier approved stormwater management plan.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council and/or accredited private certifier to confirm compliance and performance of 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 and agree to accept the works. The documentation, compliance and performance of the constructed works must be in accordance with NRDC for Council to accept responsibility for the infrastructure.

Earthworks

46. 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 Civil 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.

47. Earthworks must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and NRDC.
48. Prior to release of a Subdivision Certificate for each and every stage, certification from the Geotechnical Inspection And Testing Authority (NATA) who undertook Level 1 inspection and testing, in accordance with AS3798, will be required confirming that each lot is suitable for the intended purpose. All testing and documentation as required under AS3798 and NRDC must be submitted.
49. 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.
50. Where earthworks are proposed for the site, professional details of the Geotechnical Inspection And Testing Authority involved in the project are to be submitted to Council or

accredited private certifier for approval. Details of the Geotechnical Engineer involved in the design must be submitted prior to the issue of the Civil Construction Certificate whilst details of the Geotechnical Inspection And Testing Authority involved in the construction must be submitted prior to the commencement of works. The details are to include NATA accreditation, qualifications and accreditations of the principle geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.

51. The design of retaining walls for site regrading and fill earthworks must be in accordance with AS4678 Earth retaining structures for a minimum design life of 100 years using recommendations made by a Geotechnical Authority. The design and construction supervision shall be carried out by a Qualified Certified Structural or Civil Engineer (NPER 3 Registered).

Retaining walls, including footings, shall be no closer than 150mm to the property boundary and contained wholly within the development site. The designs shall consider the close proximity to the coast, acid sulphate soils and probable flood conditions.

Erosion and Sedimentation Control

52. 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.
53. A detailed Erosion and Sediment Control Management Plan (ESCMP) for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a Civil Construction Certificate for the relevant stage. The ESCMP plan shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All remedial works are to be completed to the satisfaction of Council. This shall include WSUD components of the proposed drainage system.
54. The applicant must ensure that vehicles or plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become untrafficable for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
55. During dry weather, standard dust suppression methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by dust.
56. Effective measures are to be taken to prevent any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like at all times.
57. All disturbed areas shall be stabilised and revegetated. Turfing 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 with inspection and maintenance programs. Control measures must 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 24 hour per day contact details for the extent of construction and maintenance period, for each and every stage.

Integrated Development

58. Compliance with the General Terms of Approval and advice of the NSW Department of Primary Industries - Office of Water, as contained in their letter dated 28 October 2014, consisting of five (5) pages, and as attached to this Notice of Determination.
59. For any part of the site that comes under the jurisdiction of another Government department, a Controlled Activity approval (or similar approval) may be required. Any such approval must be obtained and provided to Council prior to issue of the Civil Construction Certificate.

Under section 91E of the Water Management Act 2000 an approval is required to undertake controlled activities on waterfront land. A 'Controlled Activity Approval' from the Department of Primary Industries - Office of Water, under Part 3, Chapter 3 of the Water Management Act 2000, is required prior to the commencement of works.

Heritage

60. Should any aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and the Director of National Parks and Wildlife Service shall be contacted immediately and any directions or requirements of the Service complied with.

Environment

61. A Habitat Restoration Management Plan with native tree/shrub planting schedules outlining appropriate management practices is to be submitted to and approved by Council, and implemented prior to the release of Stage 1.

The Plan must include:

- A Schedule of timing of works to be undertaken
 - A statement of commitment by the consent holder to funding the proposed works for a minimum five (5) year period
 - A Statement of commitment by the consent holder that the works will be completed by a qualified and experienced bush regeneration personnel
 - A mechanism to fund and in perpetuity the ongoing maintenance of the environmental protection land
 - A mechanism to protect in perpetuity the ongoing maintenance of the environmental protection land
 - The amelioration measures as outlined in the JWA Ecological Consultants Pty Ltd October 2014 Ecological Assessment
 - Details of compensatory offset for loss of habitat and the Endangered Ecological Community located on Lot 1722 DP1035524.
62. For all trees at the interface with any development related works, compliance with the provisions of Australian Standard *AS4970-2009 Protection of Trees on Development Sites*.
 63. Prior to any construction (including clearing and earthworks) commencing on the site, temporary fencing must be erected around the boundary of the development site to distinguish the development site from adjacent environmental conservation/management land.
 64. Site sheds, materials, machinery and waste are to be located and stored or deposited, temporarily or otherwise on the development site so that no impacts occur on retained vegetation.
 65. Proposed Lot 162 must be consolidated with a residential allotment as part of Stage 1.