

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSNTH-129
DA Number	DA2021/0558
LGA	Clarence Valley Council
Proposed Development	Multi Dwelling Housing (136 Dwellings, one exhibition home, community facilities including clubhouse, swimming pool, gym and cinema, associated infrastructure and landscaping)
Street Address	8 Park Avenue, Yamba NSW 2464
Applicant/Owner	Applicant: Hometown Australia Management Pty Ltd Owner: Parkes Menai P/L
Date of DA lodgement	2 August 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 21 • 21
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Schedule 7(2) of State Environmental Planning Policy (State and Regional Development) 2011 - General development over \$30 million (Development that has a capital investment value of more than \$30 million)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Local Government Act 1993 • Environmental Planning and Assessment Regulation 2000 • Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Coastal Management) 2018 • Clarence Valley Local Environmental Plan 2011 • Clarence Valley Council Residential Zones Development Control Plan • North Coast Environmental Plan 2036 • NSW Coastal Design Guidelines
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects – Hometown Australia Management P/L • Plans – JKH Build Design • Landscape Concept Plans – JKH Build Design • Traffic Engineering Assessment - TTM Revision D dated 6/10/2021 • Engineering Services Report - Newton Denny Chapelle dated October 2021 • Social Impact Assessment - Aigis Group dated September 2021 • Residential Zones DCP Assessment • Submissions
Clause 4.6 requests	<ul style="list-style-type: none"> • Nil
Summary of key submissions	<ul style="list-style-type: none"> • Stormwater/drainage and flooding • Maintenance of existing drain • Traffic impacts and parking • Adequacy of infrastructure and services to cater for increase in population • Impacts on privacy of adjoining landowners • Pedestrian access from development through to Wattle Park and Yamba Shopping Fair • Lowering of property prices from development • Lack of landscaped area • Size of house sites • Supporting submissions
Report prepared by	Carmen Landers, Acting Coordinator Development Services

Report date	4 February 2022
Summary of s4.15 matters	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
<i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	
Conditions	
Have draft conditions been provided to the applicant for comment?	Yes
<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	

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Executive Summary

This report considers Development Application DA2021/0558 being for a Multi Dwelling Housing development comprising 136 dwellings, one exhibition home, community facilities (including clubhouse, swimming pool, gym and cinema), associated infrastructure and landscaping upon Lot 101 DP1228576, being No. 8 Park Avenue, Yamba.

The proposed development constitutes ‘regional development’ requiring referral to the Northern Regional Planning Panel (NRPP) for determination as it is for general development with a capital investment greater than \$30 million under Schedule 7(2) of the *State Environmental Planning Policy (State and Regional) 2011*. While Council officers are responsible for the assessment of the DA, the NRPP is the determining authority.

The subject site is zoned R3 Medium Density Residential under the *Clarence Valley Local Environmental Plan 2011* (LEP). The proposed multi dwelling housing development is permissible in the zone with development consent.

A detailed assessment has been undertaken against the provisions of the LEP, other relevant environmental planning instruments and the Clarence Valley Council Residential Zones Development Control Plan 2011 (DCP). That detailed assessment is contained in the section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) assessment forming part of this report (see section 4.1). However, a summary of the relevant clauses that list matters the consent authority must be satisfied with as set out in the relevant instruments is contained in the below table.

Environmental Planning Instrument	Clause	Summary / Recommendations
SEPP No. 55 – Remediation of Land	Clause 7: Contamination and remediation to be considered in determining development application	The subject land was filled using dredge material from the Clarence River as approved under DA2002/0085 and Council staff are satisfied that the land is not contaminated and is suitable for the intended residential use.
SEPP (State and Regional Development) 2011	Schedule 7 Clause 2	The proposed development triggers the regional development criteria set out in Schedule 7(2) of the SEPP (State and Regional Development) 2011 being general development with a capital investment value of more than \$30 million
SEPP (Coastal Management) 2018	Clause 13: Development on land within the Coastal Environment Area	Council is satisfied that the development has been designed, sited and will be managed to avoid adverse impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment; coastal environmental values and natural coastal processes; and Aboriginal cultural heritage, practices and places.

Clarence Valley Local Environmental Plan 2011	Clause 5.21: Flood Planning	Council is satisfied that the development is compatible with the flood behaviour of the land and will not result in any risk to life in the event of a flood.
	Clause 7.1: Acid Sulfate Soils	The subject land is identified as containing Class 2 Acid Sulfate Soils (ASS). The land was filled in 2002 with dredged sand from the Clarence River and testing was undertaken at the time to ensure any ASS were managed appropriately during the works. It is likely that due to the period of time the material has been standing on-site that any potential acid sulfate soils will have been washed away during rainfall events over time. However if ASS are disturbed or discovered during construction, an appropriate condition will be included to treat any soil that may be exposed. If triggered, this will include the preparation of an ASS Management Plan.
	Clause 7.2: Earthworks	<p>The applicant has demonstrated that the earthworks for the development are unlikely to have any disruption, or any detrimental effect on, existing drainage patterns and soil stability in the locality and are unlikely to result in adverse impacts to adjoining properties. Fill imported to the site must be free of building and other demolition waste, and only contain Virgin Excavated Natural Material (VENM) as defined in Part 3 of Schedule 1 to the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>Council staff are satisfied that through the imposition of conditions, earthworks are unlikely to have an adverse impact on adjoining properties.</p>
	Clause 7.4: Floodplain Risk Management	Council's mapping system identifies the part of the site as located below the 1:100 year flood level with most of the site being identified as being affected by the Probable Maximum Flood level as such Clause 7.4 must be considered. The development is not inconsistent with the objectives

		of Clause 7.4 and is not for a sensitive use listed in 7.4(3).
	Clause 7.8: Essential Services	Council staff are satisfied that all services essential for the proposed development are available to be connected and adequate arrangements will be made to connect each stage of the development. Draft conditions of consent requiring adequate servicing also form part of Schedule 1 Draft Conditions.

The development complies with the standards and requirements of the LEP and DCP and is consistent with the relevant objectives.

The DA was notified to adjoining and nearby property owners and advertised in accordance with requirements of Council's Community Participation Plan. A total of 21 submissions (15 objections, 4 supporting and 2 non objections raising concerns about certain aspects of development) were received during the exhibition period.

The main issues raised within the submissions include:

- Stormwater/drainage and flooding
- Maintenance of existing drain
- Traffic impacts and parking
- Adequacy of infrastructure and services to cater for increase in population
- Impacts on privacy of adjoining landowners
- Pedestrian access from development through to Wattle Park and Yamba Shopping Fair
- Lowering of property prices from development
- Lack of landscaped area
- Size of house sites

These issues and more are discussed in detail within the Section 4.15 of the EP&A Act assessment contained within this report (see section 4.1). It is considered that the concerns raised in the submissions have been adequately addressed in the design of the development or through the imposition of appropriate conditions of consent.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the EP&A Act, including suitability of the site and the public interest, and is considered acceptable.

The draft conditions of consent have been reviewed by the applicant and there are no outstanding matters.

Section 1: Recommendation

It is recommended that Development Application DA2021/0558 (NRPP reference No. PPSNTH-129) for a Multi Dwelling Housing development comprising 136 dwellings, one exhibition home, community facilities (including clubhouse, swimming pool, gym and cinema), associated infrastructure and landscaping upon Lot 101 DP1228576, No. 8 Park Avenue, Yamba, be approved subject to the imposition of advices and conditions contained in Schedule 1 – Draft Advices and Conditions attached to this report.

The recommendation is provided for the following reasons:

- The development is consistent with the R3 Medium Density zone objectives to provide for the housing needs of the community and provide a variety of housing types within a medium density residential environment.
- The development is consistent with the goals and actions contained in the North Coast Regional Plan 2036 in that it provides additional housing in an identified growth area without adversely impacting on the matters of environmental significance.
- The development provides for water sensitive urban design in accordance with Part H Sustainable Water Controls of the Residential Zones DCP.
- Stormwater design for the development will improve existing stormwater impacts currently being experienced by dwellings located to the south of the site.
- The development is consistent with the following objects of as contained in section 1.3 of the EP&A Act:
 - (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
 - (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
 - (c) *to promote the orderly and economic use and development of land,*
 - (d) *to promote the delivery and maintenance of affordable housing,*
 - (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
 - (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
 - (g) *to promote good design and amenity of the built environment,*
 - (h) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
 - (i) *to provide increased opportunity for community participation in environmental planning and assessment.*

Section 2: Site Description & Location

The subject land is known as Lot 101 DP1228576, No. 8 Park Avenue, Yamba.

The site has an area of 6.652 hectares and is located on the northern side of Yamba Road, approximately 3km west of the Yamba Street business district and 500m east of the Yamba Fair Shopping precinct. A detailed description of services and infrastructure available in the Local Government Area is provided in the Social Impact Assessment, prepared by AGIS Group (Attached).

The western boundary of the site is adjoined by Wattle Park and on all other boundaries by a mix of established attached and detached housing. Vehicular access is from the eastern side of Park Avenue, with pedestrian-only access to the western side of Park Avenue. The site is located approximately 100m west of the Clarence Estuary Nature Reserve.

The subject land was filled with dredged material under approval DA2002/0085 issued by the former Maclean Shire Council. DA2002/0085 granted approval for the clearing of vegetation, erection of temporary dredge line and booster pump, dredge filling of subject land, construction of retaining walls and stormwater drains.



Figure 1 - Site Plan (Source: CVC Intramaps)

A subdivision was approved on the land for 21 development lots under SUB2014/0007. This consent will be required to be surrendered should the current application be approved and a draft condition to this effect is contained in Schedule 1 – Draft Advices and Conditions.

Section 3: Details of Proposal

The proposal consists of a Multi Dwelling Housing development comprising 136 dwellings, one exhibition home, community facilities (including clubhouse, swimming pool, gym and cinema), associated infrastructure and landscaping. It is proposed to manage the site under a private Residential Land Lease Community under the *Residential (Land Lease) Communities Act 2013*. As described by the applicant, the key elements of the proposal are:

- *Multi-Dwelling Housing: The proposed development fits within the definition of Multi-Dwelling Housing - a term listed under the land use table of the R3 Zone in the Clarence Valley Local Environmental Plan 2011, as permissible with consent.*
- *Exhibition home: The proposed exhibition home fits within the definition of an Exhibition Home – a term listed under the land use table of the R3 zone in CVLEP, as permissible with consent.*
- *Resident Clubhouse and facilities: The ancillary Resident Clubhouse and facilities are located centrally within the subject site. All facilities are ancillary for resident use only – they are not a standalone commercial use nor are they accessible to the public.*
- *Car parking/access: Vehicle ingress/egress will be via the eastern arm of Park Avenue and pedestrian access to both the eastern and western arm of Park Avenue. The proposal includes the construction of private internal roads to provide access to each future dwelling. Each home will have a double garage and 68 visitor car parking spaces are proposed throughout the site.*
- *Civil works: Stormwater drainage works are proposed, including internal stormwater detention, pits, pipes and associated infrastructure. External stormwater upgrades in the eastern arm of Park Avenue are also proposed.*
- *Retaining walls and earthworks: are proposed to create suitable building pads for future dwellings*
- *Landscaping: Extensive landscaping is proposed and the development provides 35% landscape space plus Resident Clubhouse facilities.*

The proposal does not involve subdivision of land or dedication of land. The proposal seeks approval for the entirety of the development and includes a variety dwelling designs. The application incorporates a 'House Type Matrix' along with architectural plans and elevations, confirming the variety of designs, facades and materials incorporated. The type of housing proposed are manufactured homes. As a condition of Consent, Hometown Australia (HTA) is requesting that each dwelling require a subsequent approval via Section 68 Approval under *Local Government Act 1993*. This DA and subsequent Section 68 Approvals provides certainty and clarity about the dwelling types and approvals.

The development has not been lodged as a Seniors Housing Estate under the State Environmental Planning Policy (Housing) 2021, however it is proposed to be marketed and managed as an over 50's estate.

Section 4: Statutory Development Assessment Framework

The development is listed as development for which regional panels may be authorised to exercise the consent authority functions of councils under Schedule 4A of the EP&A Act.

4.1: Section 4.15 Assessment

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,

State Environmental Planning Policy No. 55 Remediation of Land

Under the provisions of *State Environmental Planning Policy 55 Remediation of Land* (Clause 7), Council must not consent to the carrying out of development unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

As stated above, the subject land was filled with dredge material from the Clarence River under approval DA2002/0085. Council staff are satisfied that the land is not contaminated and is suitable for the intended residential use.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 Traffic Generating Development - The development does not trigger the traffic generating requirements under Column 3 of the Table in Schedule 3 of the SEPP as the development does involve the construction of 300 dwellings to a general road or 75 dwellings with access to a classified road.

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development triggers the regional development criteria set out in Schedule 7 of the SEPP (State and Regional Development) 2011 under Clause 2 being general development with a capital investment value of \$30million. As such the matter is reported to the JRPP for determination.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The subject land is subject to consideration under the Vegetation in Non-Rural Area SEPP as the land is zoned R3 medium density.

Clause 7 of the SEPP sets out the provisions for when a permit or approval is required for clearing as follows:

- (1) *A person must not clear vegetation in a non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.*
- (2) *A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 4.*
- (3) *Subclause (2) does not apply to clearing on biodiversity certified land under the [Biodiversity Conservation Act 2016](#), Part 8.*
- (4) *Clearing of vegetation is not authorised under this clause unless the conditions to which the authorisation is subject are complied with.*
- (5) *Subclause (4) extends to a condition that imposes an obligation on the person who clears the vegetation that must be complied with before or after the clearing is carried out.*

The site is mainly cleared with the exception of one tree located on the site which will be retained as part of the open space landscaped area. As such, no clearing is required for the development.

State Environmental Planning Policy (Coastal Management) 2018

Part of the land is identified as being within the coastal zone and coastal environment area which triggers consideration under the provisions of Clause 13 of the *State Environmental Planning Policy (Coastal Management) 2018*, which reads:

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

It is considered that the proposed development is not likely to have an adverse impact on the hydrological or ecological environment, will not impact on the water quality or marine or native vegetation and will not impact on coastal environmental values or natural coastal processes.

Council is satisfied that the development has been designed, sited and will be managed to avoid adverse impacts on the hydrological and ecological environment. Proposed stormwater runoff from the site has been designed to reduce impacts currently experienced by adjoining properties to the south with new stormwater infrastructure being provided with adequate onsite stormwater detention that has consideration for tail water conditions which take into account downstream tidal influence at the location of discharge. As a result of downstream tidal influence, additional onsite storage and network provision has been made to accommodate stormwater runoff from the developed site during concurrent high tide and heavy rainfall events. This is detailed in the Engineering Services Report prepared by Newton Denny Chapelle (refer to Attachments) and discussed further under the stormwater considerations in the submissions section of this assessment.

There are no expected adverse impacts on coastal environmental values and natural coastal processes, or Aboriginal cultural heritage, practices and places from the development.

Clarence Valley Local Environmental Plan 2011

The subject land is zoned R3 Medium Density Residential under the provisions of the *Clarence Valley Local Environmental Plan 2011*. The proposed multi dwelling housing development including clubhouse, exhibition home and communal facilities is permitted with consent and complies with the following objectives of the zone:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The following definitions apply to the development:

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

Clause 4.1 Minimum subdivision lot size - No subdivision is proposed as part of the development.

Clause 5.10 Heritage Conservation - The objectives of clause 5.10 are as follows:

- (a) *to conserve the environmental heritage of Clarence Valley,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The subject land is not located within a heritage conservation area and no items of heritage significance are located on or within the vicinity of the land.

A search was undertaken using the Aboriginal Heritage Information Management System (AHIMS) and there were four (4) Aboriginal Sites of significance within 1km of the site (extract of plan below) and none within 200m of the site. The proposed development is not likely to result in any impact on Aboriginal objects or places of significance given the proximity to the land.

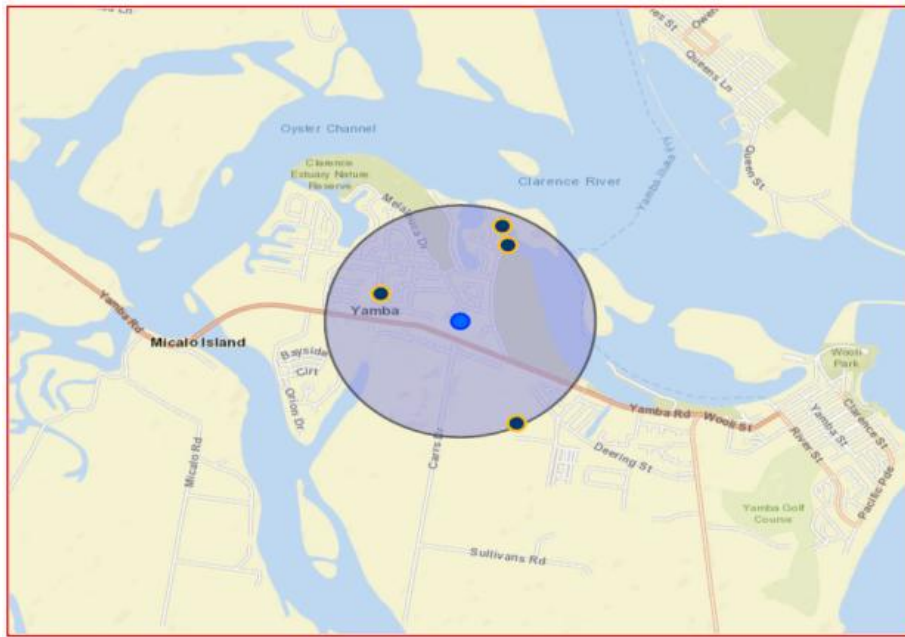


Figure 2 AHIMS Web Services (AWS) 7 February 2022

Clause 5.21 Flood Planning - Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*
 - (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
 - (b) *the intended design and scale of buildings resulting from the development,*
 - (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
 - (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Part of the site is identified as being located within the flood planning area and as such the provisions of Clause 5.21 apply.

The majority of the site has been previously filled to a reduced level (RL) of approximately 2.8m AHD with a small area at the entrance of the site (Park Avenue East) located below the 1:100 year flood level of 2.51m AHD. As the majority of existing ground levels on the site are currently above the 1 in 100 year flood level, the proposed development will not result in any additional displacement of flood water during a 1 in 100 year riverine flood event. It is considered that the proposed additional filling of the site will have no detrimental flooding affects on other development or properties given the stormwater management for the development is shown to meet pre-development flows and the site does not act as a flood storage area or flowpath. Minimum habitable floor levels apply to habitable buildings, and for other buildings, the Australian Building Codes Board Standard for Construction of Buildings in Flood Hazard Areas applies.

The primary habitable floor level of all dwellings must be a minimum 500mm above the 1:100 year flood level (3.01m AHD). Additional fill is required to be placed on the site to achieve the minimum flood level (plus freeboard) and enable sufficient grade for on-site stormwater drainage. It is anticipated that the proposed development will result in a maximum fill height of 1.6m above existing levels in the south easter corner of the site. This will result in an expected 32,850m³ of fill to be imported to the site. This equates to approximately 2,600 truck movements.

Clause 7.1 Acid Sulfate Soils - The land is identified as containing Class 2 Acid Sulfate Soils (ASS) under Clause 7.1 of the LEP. Clause 7.1(2) states that development consent is required for the carrying out of works in Class 2 soils in the following circumstances:

- *Works below the natural ground surface.*
- *Works by which the watertable is likely to be lowered.*

Clause 7.1(3) of the LEP states that development consent must not be granted for the carrying out of works unless an ASS Management Plan has been prepared for the work.

The subject land is identified as containing Class 2 Acid Sulfate Soils (ASS). The land was filled in 2002 with dredged sand from the Clarence River and testing was undertaken at the time to ensure any ASS were managed appropriately. This required twice weekly sampling (for laboratory analysis) of the dredge slimes and fill material to verify the material did not contain acid sulfate material.

It is likely that at the time of placement of fill material, the material was free of ASS. However, if ASS are disturbed or discovered during construction, especially within the road reserve for infrastructure works, an appropriate condition will be included to treat any ASS that may be exposed. This will require the preparation of an ASS Management Plan which will form part of the Earthworks Management Plan. An appropriate condition to this effect is contained in the Schedule 1 – Draft Advices and Conditions.

Clause 7.2 Earthworks - Earthworks are required for the development and as such the provisions of Clause 7.2 of the LEP are to be considered. Before granting consent for earthwork, the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

As part of the application, the applicant submitted Bulk Earthworks and Site Earthworks plans which showed a cut and fill across the site with a maximum 1.6m fill along the southern boundary.

Prior to any construction occurring on the site, detailed earthworks levels, identifying cut and fill areas and depths will be required to be approved by Council as part of the Construction Certificate. This will further ensure compliance with the objectives of Clause 7.2 of the LEP.

The fill works will alter the existing natural drainage pattern of the site and are required to capture stormwater runoff from the developed site so that it can be managed as per the Stormwater Management Plan redirecting a majority of existing runoff away from neighbouring properties to the south. This is further discussed under the stormwater considerations of this report.

Clause 7.4 Floodplain risk management – Council’s mapping system identifies the part of the site as located below the 1:100 year flood level with most of the site being identified as being affected by the Probable Maximum Flood level (refer to Figure 3). Council’s Flood Risk Management plan allows the granting for consent for dwellings on land affected by flooding provided habitable floor levels are 500mm above the 1:100 year flood level. All dwellings and buildings within the multi dwelling housing development will comply and therefore, the development is not inconsistent with the objectives of Clause 7.4.

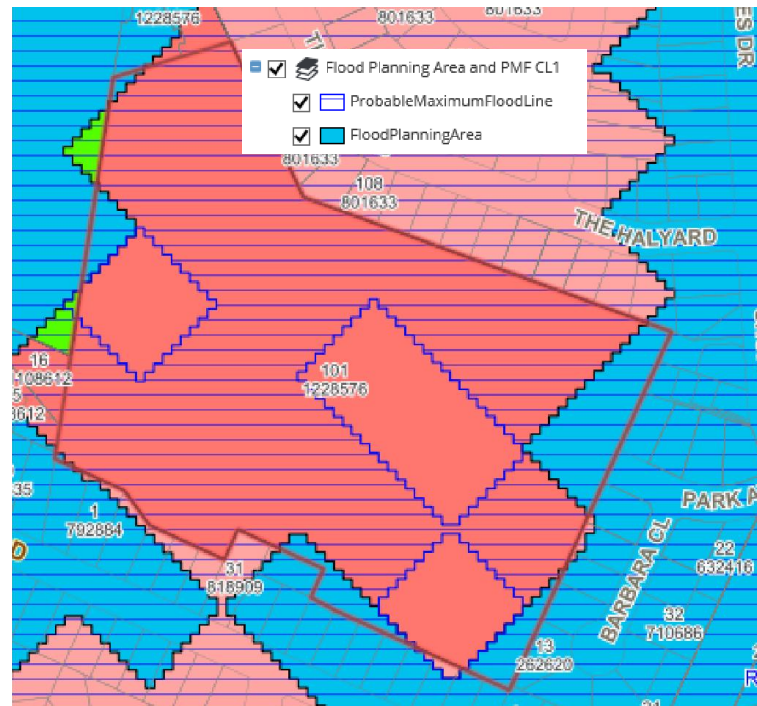


Figure 3 Flood Planning area

Clause 7.5 Coastal risk planning - The land is not identified as being affected by any coastal hazards on the Coastal Risk Planning Map.

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

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable road access.

The proposed development will be connected to reticulated water, electricity and sewer and will provide for suitable road access and stormwater disposal. Draft conditions of consent have been imposed as per Schedule 1 to ensure that each stage of the development provides for adequate servicing.

Approval from Essential Energy has been previously given for the installation of two (2) substations to service the site for the expected density. Suitable conditions have been placed on the approval to ensure compliance with the electrical authority.

North Coast Regional Plan 2036

The development site is land identified within the Clarence Valley Urban Growth Area in the NSW Government Department Planning and Environment –North Coast Regional Plan (NCRP) 2036.

The development is considered to be not inconsistent with the goals of the NCRP in that it provides for housing choice and lifestyle options within an identified growth area. One goal of the plan is to pursue suitable housing densities in the right locations to create a more compact urban footprint and protect significant environmental areas with future housing to be directed to locations that can accommodate more housing that have existing or planned infrastructure and services. Given the land is zoned medium density close to existing shopping precincts, the proposed multi dwelling housing development will provide a role in providing future demand for dwelling houses inline with the goals of the NCRP.

Overall, the development will deliver a sustainable land use consistent with the zoning of land that will not adversely impact on the North Coast's biodiversity and environmental values.

- (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),**

There are no draft environmental planning instruments applying to the land.

- (iii) any development control plan,**

The proposed development is subject to the provisions of the Residential Zones Development Control Plan (the DCP) and in particular Part C General Controls, Part D Floodplain Management Controls, Part G Parking and Vehicular Access Controls, Part H Sustainable Water Controls, Part I Erosion and Sedimentation Controls and Part J Subdivision and Engineering Controls.

The Applicant has prepared a detailed assessment against the DCP which shows the development generally complies with the provisions with the exception of two (2) variations requested by the Applicant pursuant to Clause A9 of the DCP. Council staff generally accept the assessment undertaken.

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. The policies have been considered and the proposed development is not inconsistent with the objectives of those policies. The proposal is compliant with the height limit, setbacks (side, front and rear) and 35% landscaped area requirement (36.8% proposed). The Applicant has provided a landscape plan to show landscaping of the common areas, internal roads and for dwellings, landscaping will assist in soften the impact of the density of the development.

Essential services will be provided to the development, 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 Construction Certificate to ensure compliance with the LEP and Clause C27 of the DCP.

Variation to Clause C5.2 Cut and Fill: this clause permits a maximum height of cut and fill of 1.2m above and below existing ground levels, unless incorporated into building design. The highest part of fill along the southern part of the site will be approximately 1.6m. The majority of the site requiring filling will be below 1.0m. Additional filling of the land is necessary to achieve minimum floor levels to comply with flooding controls and to allow for stormwater drainage across the site

to the centrally located stormwater detention devices. There is suitable area within the site behind both existing and proposed retaining walls on the south and eastern boundaries to accommodate appropriate batters of 1:4, and all retaining walls will be wholly located on the subject site. With the exception of the batter along the southern retaining wall, all surface water will be captured and directed to the proposed stormwater treatment devices. The batter and filled area along the southern boundary will be retained as communal open space and will be landscaped therefore reducing the potential impacts on privacy and provide a 10-31 metre buffer to the existing residences adjoining the development. The Applicant has demonstrated that the impacts from the filling of land can be suitably managed to minimise impacts off-site through retaining and battering the fill, managing drainage and providing landscaped screening. It is therefore recommended that a variation be supported to Clause C5.2

Variation to Clause C20 Private Open Space: Clause C20 of the DCP requires that all units have:

- an area of private open space (POS) of 50m²
- a minimum dimension of 4.5m,
- have suitable solar access,
- be accessed directly from living areas and be located behind the building setback line.

The request for variation provided by the applicant states that none of the units have an area of POS that complies with the minimum 50m² area and that each dwelling will only have approximately 30m² POS area which includes the rear alfresco and rear setback. The Applicant indicates the POS areas are low maintenance, high quality open space that is fit for purpose and the lifestyle offered.

Furthermore, the Applicant suggests a mandated increase in private open space would be counter to the broader planning objectives of housing choice, affordability and may impact quality. The POS areas that are available will be relatively level, will be suitably screened from the adjoining unit and will have direct access to living areas.

To offset the non-compliance with the required POS provisions for each unit, multiple areas of communal facilities, open space and gardens are provided to service the development, including clubhouse, cinema, pool and bowling green that are readily accessible by all units. On the basis that each area of POS is suitably screened from adjoining units and the street and the addition of the common facilities and open space provided, it is considered that a variation be supported in this instance.

Part D Floodplain Management Controls - The proposed development is consistent with the controls as set out within Part D of the DCP. Please refer to Clause 7.4 and 5.21 of the CVLEP considerations above.

Part E Native Vegetation Management - The Part E Native Vegetation Management controls only apply when clearing of native vegetation is proposed independently of a development application lodged under Part 4 of the EP&A Act. Hence, Part E of the relevant DCP does not apply to this application.

Part G Parking and Vehicular Access Controls – Of the six (6) dwelling designs provided, all are proposed to be two (2) bedrooms therefore requiring the provision of one (1) car space per dwelling, each dwelling is provided with two covered car spaces. One (1) visitor space is required per two (2) dwellings, therefore generating the need for 68 visitor spaces, 68 visitor car spaces are provided across the site. Five (5) of these spaces are proposed to be accessible spaces.

The development is required to provide at least three (3) service/delivery vehicle spaces (1 per 50 dwellings up to 200 dwellings). No designated delivery/service vehicle spaces have been provided

however the DCP permits the use of visitor carparking spaces as dual use, considering the surplus number of parking spaces proposed there is suitable parking on-site to accommodate both service vehicle and visitor parking. All parking and access to the site will be conditioned to comply with AS 2890 and NRDC.

Part H Sustainable Water Controls -The principles of water sensitive design are incorporated in the submitted Stormwater Management Plan (SWMP) contained in the Engineering Services Report, which meets Council's Sustainable Water controls and current water quality pollution targets. The concept plan has proposed the use of underground stormwater tanks which will provide 865m³ of attenuation to manage stormwater quantity, and a mixed use of proprietary gross pollutant traps and hydrodynamic separators as well as grass swales to manage stormwater quality. The applicant has provided sufficient detailed design and modelling to demonstrate that the proposed development can achieve pre and post development flows from the site as per the requirements of 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 or accredited certifier as part of the Earthworks Management Plan prior to any Construction Certificate being issued in accordance with the provisions of Part I of the DCP. This plan will be compatible with the 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.

Clause J6 & J9 – The Traffic Engineering Assessment by TTM Revision D dated 6/10/2021 assessed the external road network servicing the development site and it was determined that existing intersection treatment and road widths are adequate for the anticipated traffic generated by the development. Internal road design, parking and site access have been reviewed and are generally in accordance with the design requirements of AS2890 for internal access.

Clause J10 of the DCP sets out the provisions for stormwater management. The SWMP provided with the DA has been prepared generally in accordance with Part J10 and Part H of the DCP. As discussed above, Council staff are satisfied that the SWMP demonstrates that the proposed development can achieve a neutral or beneficial outcome with regard to stormwater being discharged from the site.

Clause J12 of the DCP sets out the requirements for services for the development. Services are required to be provided to the development site. Prior to the issue of Construction Certificate and/or Public Works Certificate, water and sewer reticulation modelling is required to be provided demonstrating that the existing Council infrastructure has the capacity to cater for the demand of the development.

The 1997 Yamba Sewerage Strategy Study specified a peak wet weather sewer flow from the site of 6.52L/s. This has been applied as a condition of consent. However, if the development exceeds this limit, the developer will be responsible for the design and construction of augmentation to the existing downstream network to accept the additional flows from the development to Council's satisfaction.

Electricity and telecommunications will be provided in accordance with the relevant service provider and applicable standards.

Part Y Controls for Biodiversity and Habitat Protection - The Part Y Controls for Biodiversity and Habitat Protection do not apply to land zoned R3 Medium Density.

- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,**

The applicant has not offered to enter in a planning agreement under section 7.4 of the Act.

- (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,**

Environmental Planning and Assessment Regulation

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

Local Government (LG) Regulation 2005

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

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

The proposed dwellings are required to comply with the controls for manufactured homes under the provision of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. A condition to this affect has been included in Schedule 1 – Draft Advices and Conditions.

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

The built environment will be slightly impacted through the infill of vacant land. However, through adequate landscaped area and compliant setbacks, the development will minimise any potential impacts to adjoining properties.

There are no adverse environmental impacts expected as a result of the development as the site is cleared and has been previously filled.

The proposed development will provide a multi dwelling housing development comprising 136 dwellings which is consistent with the medium density zone. The development is considered to be consistent with the objectives of the R3 medium density zone and inline with the goals of the North Coast Regional Plan 2036 to provide additional housing availability which will likely have positive social outcomes. A Social Impact Assessment by Agis Group dated September 2021, was also prepared and submitted as part of the application. In conclusion of that report, and on balance, the development is likely to be beneficial to the local (Yamba and its surrounds) and the regional local government area communities

Economically, the proposed development will have a positive outcome for the area through increased employment opportunities during construction works and once the development is completed offer a mix of housing diversity to the area, including the provision of more affordable housing.

Overall, if appropriately conditioned for matters such as stormwater management, traffic management, retention of privacy for adjoining residences, any potential impacts from the development will be mitigated and/or minimised.

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

Studies undertaken (including traffic, servicing and stormwater) have accounted for the maximum density that could be accommodated on the land in accordance with the relevant planning provisions.

Furthermore, the development is consistent with the objectives of the R3 zone and North Coast Regional Plan 2036 as it will provide for additional housing availability in a medium density environment. The proposed multi dwelling housing development is a good use of vacant R3 medium zoned land and as such, the site is considered suitable for the proposed multi dwelling housing development.

(d) any submissions made in accordance with this Act or the regulations,Stormwater/Drainage and Flooding:

A number of submissions raised the issue of drainage in the vicinity of the subject development as a concern. In particular, owners of residential properties adjacent to the subject land, and fronting Yamba Road, raise strong concerns as their properties currently receive localised flooding in times of heavy rain. Currently there is a large open stormwater drain on the subject land that runs behind those adjacent lots. There is a retaining wall separating the subject land (which has been filled as detailed above) from the lots fronting Yamba road. Easements are provided over the drain, and these easements will be retained. Concerns regarding the ongoing maintenance of this drain was also raised in the submission. An extract of Deposited Plan showing easements is provided below in Figure 4 with a full copy contained in the Attachments.

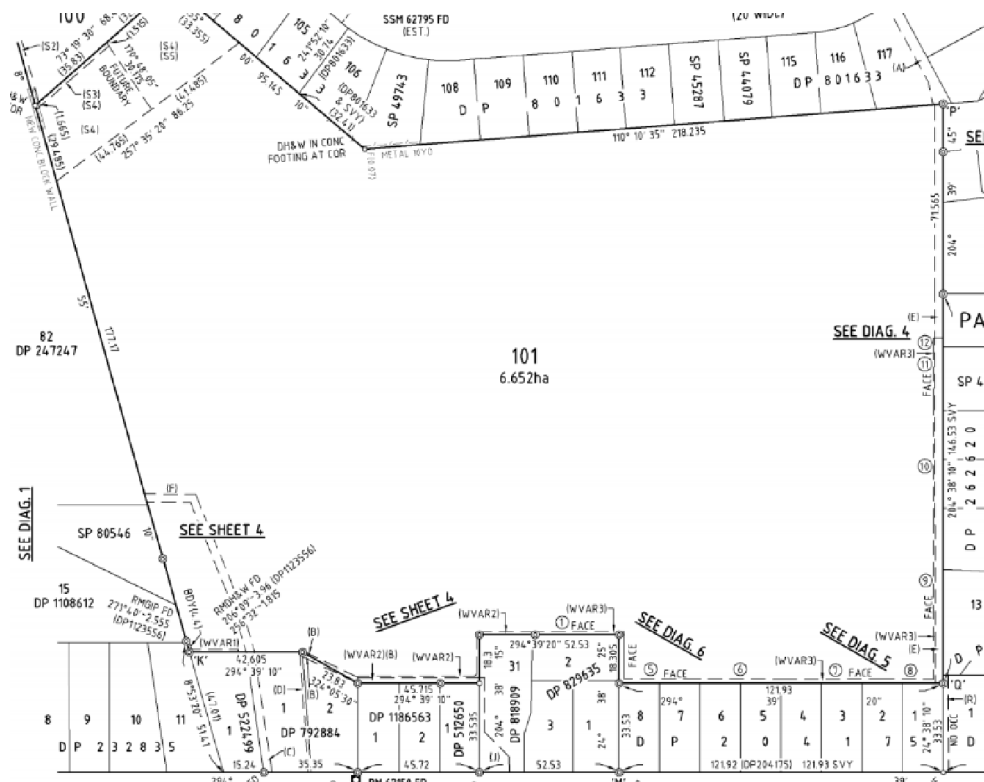


Figure 4 – Extract of DP 1228576

A photo taken from a submission provides an example of the stormwater runoff impacts from the existing site during heavy rainfall events (refer Figure 5).

Photo 1: Stormwater pouring over retaining wall from proposed development site rear of 125 Yamba Road



Figure 5 Extract of submission

Along the southern boundary of the site is an existing interallotment concrete dish drain which connects to a pit and pipe system along the eastern boundary of the site. This currently captures and conveys stormwater from the neighbouring properties to the south of the site (fronting Yamba Road) and discharges to The Halyard. This drain pre-exists the previous approval issued for subdivision under SUB2014/0007 and civil works approval CC2016/0660.

As part of this application, a stormwater management plan (SWMP), MUSIC and DRAINS modelling for the proposed development was submitted. The SWMP demonstrates that the development of the site meets the DCP Part H Sustainable Water Controls for quality and quality discharging from the site with consideration for tail water conditions which take into account downstream tidal influence at the location of discharge. As a result of downstream tidal influence, additional onsite storage and network provision has been made to accommodate stormwater runoff from the developed site during concurrent high tide and heavy rainfall events (refer to Engineering Services Report, prepared by Newton Denny Chapelle and dated October 2021 in the attachments).

The proposed earthworks and stormwater designs separate flows from the developed site and existing interallotment system along the southern boundary. Therefore, the development catchment and the existing southern drainage catchment will be separated and discharged independently.

As a result of the proposed earthworks associated with the development, it is anticipated that the stormwater catchment area from the site that contributes to the southern drainage line will be reduced from the existing catchment area of approximately 6,200m² to 2350m². The total reduction in catchment from the site to the southern boundary drain is approximately 3850m².

It should be noted that, in order to increase the capacity of the existing southern drainage line, the system would need upgrading and/or the catchment be reduced. Therefore, by reducing the catchment size from the site which drains to the existing interallotment drain, the capacity of the existing drainage line will be increased.

Maintenance of existing drain

Concerns were raised within the submissions regarding the ongoing maintenance of the existing interallotment drainage line along the southern boundary of the land. Council acknowledges that the maintenance of this drain has been on ongoing issue for many years and has contributed to poor functionality of the drain.

As part of this development, and to ensure future ongoing maintenance and functionality of the onsite drainage networks (existing and proposed), the Stormwater Management Plan must include maintenance manuals for any WSUD systems and Stormwater Management Devices to be incorporated into the developments on going Maintenance Schedule. This shall include details of access to and maintenance of the existing stormwater drainage lines on the site. The maintenance manuals must consider construction and operational phases. An appropriate condition of consent (No. 18) has been included in Schedule 1 – Draft Advices and Conditions.

Traffic impacts and parking

A number of submissions raised concerns with the potential traffic impacts from the proposed development including:

- Impacts from increase in traffic pre and post development in Park Avenue, Shores Drive, Yamba Road and on intersection
- Impacts from heavy plant and machinery during construction
- One entry and exit point to service the development
- Inadequate internal access widths
- Lack of parking

A Traffic Engineering Assessment Report was prepared by TTM dated 6 October 2021 addressing the traffic impacts on Park Avenue, Shores Drive and Yamba Road inclusive of intersections (copy of report in Attachments).

The traffic generated from the proposed development has been assessed based on a peak hour trip generation rate consistent with the Transport for New South Wales Technical Direction TDT 2013/04a.

A revised intersection analysis of the Park Avenue and Shores Drive intersection was also undertaken using acceptable traffic generation rates. This analysis showed that this intersection will continue to function as a level of service A for the 10 year forecast to 2033.

TTM also conducted traffic surveys and traffic forecasts for a 10 year horizon of the Yamba Road and Shores Drive roundabout. The assessment concluded that the roundabout, will continue to operate under levels of service (LOS) A and B as defined by Austroads Guidelines for intersection design during the opening year of the development. As stated within the TTM report, during the design year scenarios, the roundabout may experience LOS B and C conditions. These conditions are acceptable in accordance with the Austroads Guidelines as mentioned above. Council's assessing engineer supports the finding of the report.

The proposed development will result in an additional 1,100 vehicle trips per day along Park Avenue which has a 12.5m carriageway width which is adequate for a maximum traffic volume of 3000 vehicles per day in accordance with the Northern Rivers Design & Construction Guidelines (Table D.1.5).

Some of the submissions raised concerns regarding impacts of heavy plant and machinery related both on Council's existing road infrastructure and adjoining properties during construction. In response to those concerns Council will require a pavement condition report to be provided for Park Avenue (East) and the Park Avenue/Shores Drive intersection. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the Public Works 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. Payment of a bond is also required to

be lodged prior to commencement of works to ensure defect rectification of Council public roads should they be damaged during construction.

Additionally, the developer is required to have dilapidation reports prepared for dwellings that adjoin the site in Park Avenue (East and West). Appropriate conditions to this effect are contained in Schedule1 - Draft of Advices and Conditions.

All internal accesses will comply with AS2890 which will ensure internal roadways are adequate for standard vehicles. Manoeuvring diagrams were also provided demonstrating that adequate onsite manoeuvring areas have been provided for garbage collection vehicles.

Parking for the development complies with the multi dwelling housing provisions of the Part G of the DCP which requires:

- 1 space per 2 bedroom dwellings plus
- 1 visitor car parking space per 2 units or part thereof
- 1 service delivery vehicle space - per 50 dwellings up to 200 dwellings

All dwellings are proposed to be two (2) bedrooms therefore one (1) car parking space per dwelling is required. Each dwelling is provided with two (2) car parking spaces with an additional 68 visitor car parking spaces located across the site. This results in a total of 340 car parking spaces being provided for the site; an excess of 136 spaces.

Adequacy of infrastructure and services to cater for increase in population

Concerns were raised within the submissions that the township of Yamba does not have adequate infrastructure and services to cater for a potential increase in population from the development, including a lack of doctors, health professionals, shopping options and parking.

As part of the application, a Social Impact Assessment by Aigis Group was prepared which considered the potential effects across the broader community particularly in relation to service and infrastructure capacity including health services and infrastructure, emergency services, traffic and transport and retail service access.

The report concluded that:

The development of an additional 136 small scale dwellings, with a potential increase in population of up to 272 residents, is relatively small in the context of the local and regional populations. However, the local community in particular already has an older demographic profile, and it is likely that the development will further contribute to this characteristic. As such, some effects, such as demand for medical services, may increase. However, such increases are likely to be commensurate to the proportional net population increase and in the context of the range of services available in the local and broader regional areas.

There are likely to be impacts on nearby residents during the construction stage, however these are clearly not enduring in nature. The potential for, and any actual, impacts that eventuate, should be managed through implementation of a CMP. Longer term effects on amenity may result for some residents, although these might also be mitigated to some extent by benefits relating to occupation of previously vacant land. These impacts can be managed through an engagement mechanism in the PoM for the village once operational. It is considered that an increase in population will attract more professionals to the Lower Clarence area as demand for general practitioner and other medical needs increases.

It is expected that incoming residents will have assessed their potential purchase and on that basis, the effects on these households are likely to be positive. Once resident in the village, the PoM should provide for engagement with residents and resolution of issues to the extent practicable.

There will be a range of economic effects resulting from the proposed development. These include the positive stimuli associated with the development and construction stage, some proportion of which may be beneficial to locally and/or regionally based businesses. There will also be less significant but more enduring economic benefit derived from regular and occasional maintenance and upkeep of the site. This will apply to HTA assets on the site (e.g. grounds maintenance) and the eventual installation/construction of individual dwellings, from time to time. The local economy may also enjoy additional activity due to the increased population, however this is likely to be relatively modest, corresponding with the relatively small proportional change in population.

It is concluded that, on balance, the project is likely to be beneficial to the local (Yamba and its surrounds) and the regional (LGA) communities.

Comment:

Private Health and medical services are delivered by the private sector, and often only become viable in larger towns with the right mix of potential clients. It is considered that the development could actually contribute to the market delivering private healthcare services to Yamba by attracting more professionals to the Lower Clarence area as demand for general practitioner and other medical needs increases. However, it is the state's role to provide public healthcare services and public education to service the area.

Yamba is serviced currently by the Maclean Hospital and Grafton Base Hospital and two (2) public schools. Two (2) high schools are available nearby in Townsend and Maclean.

Council is investing in the Treelands Drive Community Centre redevelopment which will provide additional community services to cater for any population increases created from the development.

The design of the development is considered to provide high walkability to nearby shops and services including the existing community health services facility, local doctors and community centre.

Based on the information provided in the social impact assessment, staff support the conclusion that the development will not significantly contribute to increasing the population of Yamba or placing unreasonable demand on infrastructure or services as the development will occur over time and impacts will be absorbed for each stage.

Impacts on privacy of adjoining landowners

Concerns were raised within submissions about the impact on privacy of adjoining dwellings, particularly those to the south along Yamba Road given the increase in height of the land from additional fill and location of parkland and existing pool type fencing along sections of the boundary.

The provision of additional fill and height increases in sections over the land are required to enable sufficient grade to divert stormwater runoff away from the existing drain along the southern boundary and allow capture and management of stormwater onsite.

As shown on Figure 5 below, the dwellings will be setback a minimum 10.640m up to maximum 31.990m from the dwellings located along the southern boundary in Yamba Road, which will help maintain the amenity of existing residences.

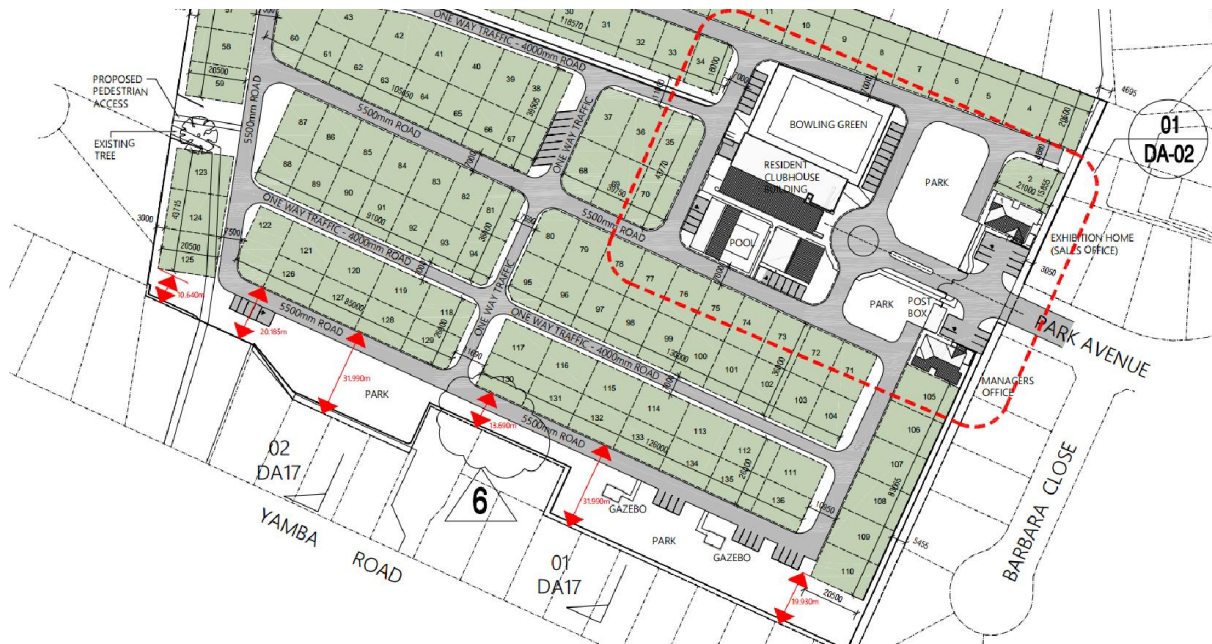


Figure 5 – Site Master Plan showing setbacks to southern boundary

Currently, the existing boundary fence is made up of a mix of colorbond and pool type fencing. There is no doubt that if the existing pool type fence remains then there will be overlooking and privacy issues between the subject land and adjoining property owners. In response to concerns raised within the submissions, it will be required that the developer provide suitable enclosed fencing/privacy screening to protect the amenity of existing residences. A draft condition to this effect is contained in Schedule 1 – Draft Advices and Conditions.

Additionally, suitable landscaping must be provided within the park areas to ensure privacy and amenity of existing residences are protected. Species to be used within this area are subject to further Council approval to ensure that any plantings do not cause overshadowing or adverse impacts to existing north facing rear private open space areas of existing dwellings along Yamba Road. Overall, the impacts on privacy are equal to, or better, than a if the proposed development were a typical residential subdivision.

Pedestrian Access from development through to Wattle Park and Yamba Shopping Fair

Concerns were raised within the submissions regarding the provision of additional pedestrian access via Wattle Park through to Park Avenue (west) through to Yamba Shopping Fair precinct as follows:

- Where pedestrian access is proposed via Wattle Park, footpaths should be constructed up to the existing footpath fronting No. 49 Park Avenue.
- Consideration should be taken regarding privacy of existing dwellings located in Park Avenue (west) in relation to the location of footpath.

As part of providing suitable pedestrian access to and from the site, the developer will be required to construct a concrete footpath from the development to the existing footpaths in Park Avenue (west) and Shores Drive. The footpath design shall match existing widths where relevant to Park Avenue and Shores Drive. A condition requiring the construction of footpaths, taking into account the retention of privacy of existing residences has been included in Schedule 1 – Draft Advices and Conditions. Note, the footpath design will form part of the Public Works Certificate (PWC) and will require approval from Council.

The pedestrian access through the development site through to Wattle Park is not a public thoroughfare and will be managed as private access.

Lowering of property prices from development

Concerns were raised within the submissions that the proposed development will devalue properties within the vicinity of the site.

Impacts to the value of properties from such a development are difficult to quantify as property values are impacted by various market forces. This is not considered a valid line of objection.

Lack of landscaped area

Concerns were raised within the submissions that the development provided for a lack of landscaped area and room for deep plantings.

The subject land is zoned R3 Residential Medium Density. Clause C19 of the DCP requires a minimum 35% site area to be provided as landscaped area. The development complies with the provision of the DCP and provides for a total 36.8% of the site as landscaped area. Landscaping plans were provided as part of the application and appropriate conditions have been included in Schedule 1 – Draft Advices and Conditions to ensure works completed generally in accordance with plans. An amended schedule of plantings is required to be submitted prior to the issue of a Construction Certificate to ensure suitable species within the landscaped area to assist in maintaining the privacy whilst not creating unacceptable overshadowing of the private open space areas for adjoining owners.

Size of house sites

A minimum site area does not apply in the R3 zones in Yamba under the provisions of Clause C12 of the DCP. The site has an area of approximately 6.652 hectares which equates to approximately 489m² site area per dwelling house when taking communal open space areas into account. The development is considered to be consistent with the medium density zoning objectives and will provide for a mix of housing in a medium residential environment.

Submissions in support of application

Four (4) submissions were received in support of the application on economic and social grounds. An additional two (2) submissions did not oppose the development but raised concerns regarding certain aspects of the proposal. Their concerns have been discussed above under (d).

(e) 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 R3 Medium Density Residential zone and through the imposition of conditions.

The proposed development is considered to be consistent with the following objects of the EP&A Act:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*

- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

4.2: Internal Officer Consultation / Comments

Officer	Consultation / Comment
Development Engineer	Supported with conditions
Environmental Health	Supported with conditions
Building Services	Supported with conditions
Civil Services	Supported with conditions

Schedule 1

Draft Advices and Conditions of Consent for DA2021/0558

Definitions

ET means an 'equivalent tenement'. This is the demand or loading a development will have on infrastructure in terms of water consumption or sewage discharge for an average residential dwelling or house.

ITP means Inspection and Testing Plan in accordance with **NRDC**.

manufactured home means a self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—

- (a) that comprises one or more major sections, and
- (b) that is not a motor vehicle, trailer or other registrable vehicle within the meaning of the [Road Transport Act 2013](#),
and includes any associated structures that form part of the dwelling.

major section means a single portion of a manufactured home or relocatable home—

- (a) containing a total living space of at least 20 cubic metres, excluding the living space contained in an associated structure, and
- (b) comprising the major components of the portion of the home, including the following—
 - (i) the chassis or frame,
 - (ii) the external and internal walls,
 - (iii) the roof and ceilings,
 - (iv) the floors, windows and doors,
 - (v) the internal plumbing and wiring,
 - (vi) the tiling,
 - (vii) the kitchen, bathroom and laundry fittings, other than stoves, refrigerators, washing machines and other white goods,
 - (viii) the built-in cupboards and cabinets.

NATA means National Association of Testing Authorities

NorBE means the control and mitigation of developed stormwater quality and flow-rate quantity to achieve a neutral or beneficial outcome for post-development conditions when compared to pre-development conditions, in accordance with **NRDC**.

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

- a Northern Rivers Local Government Development and Design Manual (AUS-SPEC)
- b Northern Rivers Local Government Construction Manual (AUS-SPEC)
- c Northern Rivers Local Government Handbook of Stormwater Drainage Design (AUS-SPEC)
- d Northern Rivers Local Government Handbook for Driveway Access To Property (AUS-SPEC)
- e Sewerage Code of Australia (WSA 02 - 2002)
- f Water Supply Code of Australia (WSA 03 - 2002)
- g Pressure Sewerage Code of Australia (WSA 07-2007)
- h Clarence Valley Council 'MUSIC' Guidelines (Draft)
- i Clarence Valley Council Street lighting Strategy

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage. WSA documents are subject to copyright and may be obtained from the 'Water

Services Association of Australia'. For 'MUSIC' guidelines and policy documents contact Council's development engineer.

PWC means Public Works Certificate and includes Section 138 approval under the *Roads Act 1993* and Section 68 approval under the *Local Government Act 1993*.

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

TfNSW means Transport for New South Wales.

WSUD means Water Sensitive Urban Design

Clarence Valley Council Development Control Plans include Sustainable Water Controls which identify the measures required in the various land use zones. Council endorses the Queensland 'Water By Design - Healthy Waterways' reference and technical guidelines for the design and construction of WSUD drainage systems.

The **WSUD** documents may be accessed via the 'Water-By-Design' web-site.

Advices

1. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
 - a Roads Act 1993 Sections 138 & 139 - approval for works on a road issued by Council and/or TfNSW;
 - b Local Government Act Section 68 - drainage, water & sewer approval;
 - c Approval of Civil engineering works for development on private property. (Refer Environmental Planning and Assessment Act 1979 Section 6.5(2), Building Professionals Act Section 74A - Categories C1 to C6 inclusive and Building Professionals Regulation Section 20C

Application to Council for public and/or private property works requires payment in accordance with the Council's adopted 'Fees and Charges'. The application form may be downloaded from Council's website.

2. A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works. Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005.

Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.

Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.

3. A completed 'Design Certification Report' with supporting documentation, in accordance with the requirements of **NRDC** must be submitted to Council and/or accredited private certifier with the submission of the **PWC** application.

Approval of a **PWC** will be current for a period of two years after which time Council may require the alteration to the Engineering Design to comply with current standards. Engineering plans for the **PWC** are required in electronic format to be confirmed with Council before lodgement.

4. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a **PWC** has been issued by Council and/or accredited private certifier.

Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.

5. To obtain a Certificate of Compliance for water and or sewer works, Council requires completion of any works on Council's water or sewer infrastructure specified as a condition of this consent and 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 application form for a Certificate of Compliance is available on Council's website.

The proposed development has been assessed as contributing additional 80.6 ET demand on Council's water supply, and an additional 101 ET loading on Council's sewerage system in accordance with the adopted Water Directorate Guidelines. This includes an applicable credit for pre-existing uses. The headworks charges at 2021/22 financial year rates are:

Water Headworks \$5,017.00 x 80.6 additional ET	= \$ 404,370.20
Sewer Headworks \$12,269.00 x 101 additional ET	= 1,239,169.00

Category:	Water ET	Sewer ET
Dwelling – 2 Bedroom	0.60	0.75

The contribution(s) amounts 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 indexed in accordance with Consumer Price Index (CPI) 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.

6. Certification of constructed **Civil Works** by the supervising engineer and/or registered surveyor is required prior to public infrastructure being accepted "on maintenance" and/or "practical completion" being granted for private property works.
7. All building and construction work, which includes subdivision and civil works, which cost \$25,000 or more require the payment of the long service levy prior to a Construction Certificate being issued. The levy is required under the Building and Construction Industry Long Service Payments Act 1986. The total value of works must be included on the Construction Certificate Application form.
8. 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. Fill imported to the site must be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997.
- b Any conditions on the use of the material and a report from a registered NATA laboratory on the key geotechnical properties used in the assessment of each fill type.
- c Measures proposed to prevent adverse impact to adjoining properties and to local drainage. Provision is to be made for the mitigation of and free passage of surface stormwater away from affected sites. These measures are to be acceptable to Council.
- d The acid sulfate status of the development land. Where the development is subject to acid sulfate soils, the appropriate treatment of the works shall be detailed in accordance with Council and the NSW Acid Sulfate Soil Management Advisory Committee requirements

The Earthworks Management Plan must :

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

The following information will be required for earthworks undertaken:

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

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

- 9. No construction is to be commenced until a Construction Certificate has been issued.

10. Prior to work commencing on a development the applicant must give notice to Council of their intention to commence work. Such notice shall be in the form of a Notice of Commencement form and must be submitted to Council at least two (2) business days before work commences.
11. All community buildings and facilities shall be accessible in accordance with the requirements of Part D3 of the Building Code of Australia.
12. Car parking spaces for people with disabilities are to be provided as required by Part D3.5 of Building Code of Australia.
13. The Construction Certificate plans shall detail dimensional compliance with the requirements of AS 1428.1-2009 for access and facilities.
14. 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.
15. The submission of a further Development Application will be required for any further extension of development on the site.

Conditions

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

Plan No	Drawn by	Title	Plan Date	Revision
DA-01		Site Masterplan	23/9/2021	05
DA-02		Site Entry Area Plan	23/9/2021	02
DA-03		Roof Plan	23/9/2021	02
DA-04		Resident Clubhouse Building Plan	23/9/2021	02
DA-05		Resident Clubhouse External Elevations	5/7/2021	01
DA-06		Resident Clubhouse Section	5/7/2021	01
DA-07		Exhibition Home (Sales Office)	5/7/2021	01
DA-08		Managers Office	5/7/2021	01
DA-09		Residential Land Lease Site Concept House Type A	24/9/2021	03
DA-10		Residential Land Lease Site Concept House Type B	24/9/2021	03
DA-11		Residential Land Lease Site Concept House Type C	24/9/2021	03
DA-12		Residential Land Lease Site Concept House Type D	24/9/2021	03
DA-13		Shed Details	23/9/2021	02
DA-14		Staging Plan and Construction Access	23/9/2021	02
DA-15		Community Amenity and	23/9/2021	04

		Landscape Area		
DA-16		Waste Management Plan	23/9/2021	02
DA-17		Site Section	1/10/2021	03
DA-18		Residential Land Lease Site Concept House Type E	24/9/2021	01
DA-19		Residential Land Lease Site Concept House Type F	24/9/2021	01
DA-20		Site Masterplan House Type Matrix	23/9/2021	05
L-01		Landscape Masterplan	23/9/2021	02
L-02		Street Landscape Concepts – 01	5/7/2021	01
L-03		Street Landscape Concepts – 02	5/7/2021	01
L-04		Part Site Pan Landscape Concept	23/9/2021	02
L-05		Street Sections - 01	5/7/2021	01
L-06		Street Sections - 02	5/7/2021	01
L-07		Street Sections – 03	23/9/2021	02
L-08		Resident Clubhouse Area Landscape Concept Plan	23/9/2021	02
L-09		Bowling Green Landscape Concept Plan	23/9/2021	02
L-10		Sales Office Landscape Concept Plan	23/9/2021	02
L-11		Managers Office Landscape Concept Plan	23/9/2021	02
L-12		Planting Types 01 and 02	5/7/2021	01
L-13		Planting Types 3, 4 and 5	5/7/2021	01
L-14		Shed Area Landscape Concept Plan	23/9/2021	02
L-15		Residential Land Lease Site Landscape Concept	23/9/2021	02

2. Payment to Council of the contributions pursuant to Section 7.11 of the Environmental Planning and Assessment Act:

Clarence Valley Contribution Plan 2011 Open Space/Recreation Facilities

Rate per other Residential Accommodation dwelling

Coastal \$2,638.15 x 135 = \$356,150.25 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per other Residential Accommodation dwelling

Maclean surrounds \$2,638.15 x 135 = \$356,150.25 GL S94CVCCFMaclean

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Other Residential Accommodation Dwelling \$49.75 x 135 = \$6,716.25

GL S94CVCPOMResAcco

Yamba Urban By-pass and Urban Intersections Contributions Plan 2000

West Yamba (existing) \$650.40 x 2 persons x 135 = \$175,608.00

GL S94YBPWestYambaER

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 to be paid to Council prior to issue of the release of the section 68 approval to install dwellings for each stage of the development.

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.

Engineering Conditions

3. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to issue of the Occupation Certificate or commencement of use, for each and every stage of the development. This may require payment of a fee.
4. The developer must bear all costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
5. Any activity to be carried out on any part of the road reservation requires the prior approval of Council under the NSW Roads Act 1993.
6. The developer must design and construct all civil works, in accordance with **NRDC** and the approved plans. Civil construction works must be supervised by a suitably qualified and experienced engineer or registered surveyor who must certify the completed works prior to the release of any Occupation Certificate or commencement of use, whichever occurs first. The Council will hold a bond in accordance with Council's fees and charges for constructed public infrastructure works until such time as Council accept the works 'Off Maintenance'.

Prior to commencement of works or issue of any Building Construction Certificate, a practising qualified engineer experienced in structural design and soil mechanics is required to verify the on-site civil engineering works :

- a including earthwork batters and retaining walls, have been designed to be structurally adequate.
 - b will not be affected by landslip either above or below the works.
 - c will not be affected by subsidence either above or below the works
 - d includes adequate drainage to ensure the stability of the development
7. An **ITP** must be submitted for approval with the application for a **PWC**. The supervising engineer or registered surveyor must arrange for the hold/witness point inspections, and accompany Council and/or accredited Private Certifier on the inspection unless alternative arrangements are made. Hold Point, Witness Point, On / Off Maintenance and/or Practical Completion inspections involving public infrastructure must be attended by Council officers.

Where Council is the Certifying Authority for civil engineering works the applicant must give Council one (1) business day's notice to attend inspections.

Hold Point, Witness Point and Audit inspections must be documented by the ITP and include the following works (but not limited to):

- a Pre-start Meeting (Attended by Council and/or Accredited Private Certifier, Principal Contractor & Supervising Engineer and/or Registered Surveyor)
 - b Erosion & Sedimentation Controls
 - c Earthworks
 - d Roadworks
 - e Stormwater Drainage
 - f Sewer
 - g Water
 - h Other Services
 - i 'On Maintenance' (Public Infrastructure)
 - j Practical Completion (Works on Private Property)
 - k 'Off Maintenance' (Acceptance of Public infrastructure by Council)
8. Prior to the issue of any Occupation Certificate or commencement of use, whichever occurs first, 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.
9. A **TCP** 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 **TfNSW** to prepare **TCP's** and must be endorsed by Council prior to the occupation of the road reserve and commencement of work.
10. The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the Development Engineer at the following email address council@clarence.nsw.gov.au. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community. As a minimum, the CMP must address the following areas:
- Health and Safety**
- a Public safety, amenity and site security;
 - b Traffic Control and Management;
 - c Pedestrian management;
 - d Construction hours;
 - e Noise control (All reasonable and feasible mitigation measures must be applied to reduce the potential noise and air quality impacts to sensitive receivers as a result of the construction of the proposal);
 - f Contractor vehicle parking;
 - g Locating existing utilities and services
 - h Health and Safety requirements.
- Environment**
- a Air quality management;
 - b Erosion and sediment control- base information, monitoring and management;
 - c Waste management;
 - d Material stockpiling;
 - e Vegetation management;
 - f No go zones;
 - g Soil Contamination - an Unexpected Find Procedure/s in the unlikely event that Asbestos Containing Material or Contamination is discovered, disturbed or occurs during the works;

- h Heritage management including an Unexpected Find Procedure/s in the unlikely event that any items of Aboriginal or non-Aboriginal Heritage is discovered, disturbed or occurs during the works;

Quality

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

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

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

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

- 11. 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 **PWC**.
- 12. A detailed Water Reticulation Design Plan must be submitted for assessment and approval by Council, prior to the issue any Building Construction Certificate or **PWC**. This shall include an assessment of the existing water supply to ensure sufficient flows are available for the proposed development including fire fighting flows as per AS 2419.

Connection to the public water reticulation system requires the approval of Council under the NSW Local Government Act.

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.

- 13. A single property service with a single meter servicing the whole property shall be installed. Council recommends individual isolation valves be installed on each dwelling unit. Privately owned water meters may be installed within the property, but such private meters will be the responsibility of the property and will not be read or maintained by Council. The single Council water meter shall be supplied and installed by Council upon payment of the applicable water connection fee in the fees and charges and shall be located in an accessible location at the property boundary for maintenance and reading purposes.

14. A Sewerage Reticulation Design plan must be submitted for approval prior to issue of any Building Construction Certificate/with the application for a **PWC**.

The maximum peak wet weather flow permitted to discharge the site is 6.52L/s. Sufficient detailed analysis shall be provided to Council to demonstrate that the proposed development does not exceed the maximum allowable peak wet weather flow.

If the development exceeds the maximum peak wet weather flow specified, an analysis of the downstream affected sewerage reticulation network must be undertaken to determine the extent of upgrading required so that the downstream sewerage network has sufficient capacity to accept flows from the development.

Any upgrade to the existing sewerage network system, to Council's satisfaction, will be the sole responsibility of the applicant and will require approval under a Public Works Certificate. All cost shall be borne by the applicant.

Connection to the public sewerage reticulation system requires the approval of Council under the NSW Local Government Act.

15. Preliminary road pavement designs must be submitted to Council as part of the **PWC** application for remedial works within Park Avenue. Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**.

Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm for all roads. Details of the bitumen spray-seal designs are to be submitted to Council for approval prior to sealing.

Works to and on public road reserve requires the approval of Council or other Roads Authority under the NSW Roads Act.

16. concrete footpaths are to be provided from the development to the existing footpath in Park Avenue and Shores Drive, in accordance with NRDC, Clarence Valley Council - Bike Plan and Pedestrian Access and Mobility Plan, AS1428 and AS2890. Footpath design shall match existing widths where relevant to Park Avenue and Shores Drive.

Detailed plans are to be provided for the site and connection to exiting facilities in Shores Drive and Park Avenue (west) for approval as part of the application for **PWC**. Plans must consider the privacy of existing residences located adjacent the new footpath through Wattle Park and should include landscaping/fencing, where required, to limit the potential for overlooking.

17. A pavement condition report is to be provided for Park Avenue (East), Shore Drives (between Park Avenue and Yamba Road) and the Park Avenue/Shores Drive intersection. The report must be completed by a suitably qualified engineer and/or Geotechnical Testing Authority, and is to be submitted to Council prior to the issue of the **PWC**. 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.

Payment of a bond is required to ensure maintenance of the abovementioned road prior to commencement of works. The bond amount shall be determined by a suitably qualified engineer and/or Geotechnical Testing Authority and is to be submitted to Council for acceptance and approval. Should the pavement condition become unsafe, Council may provide maintenance without notice. Note: Council will endeavour to contact the applicant whenever Council considers maintenance is required. Any maintenance works carried out by Council, will be met at the full

cost of the applicant. Should Council Any maintenance works undertaken by Council, without notice,

18. 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 must be prepared to reflect these standards and guidelines. The Stormwater Management Plan (SWMP) that demonstrates **NorBe** must be prepared in accordance with **NRDC** and submitted to Council for approval prior to the issue of any Building Construction Certificate.

The SWMP must consider any adjacent property or infrastructure affected by the development. Design details of the drainage system and point of discharge must be submitted with the Stormwater Management Plan for approval by Council and/or accredited private certifier prior to issue of the **PWC**. Connection to the public drainage system requires the approval of Council under the NSW Local Government Act.

The Stormwater Management Plan must include maintenance manuals for any WSUD systems and Stormwater Management Devices to be incorporated into the development Maintenance Schedule. This shall include details of access to and maintenance of the existing stormwater drainage lines on the site. The maintenance manuals must consider construction and operational phases

On-site detention (OSD) and water quality control systems for the development need not be provided until a building is occupied on the lot, but the Stormwater Management Plan must demonstrate **NorBe** by calculation and details acceptable to Council.

19. The property is affected by flooding of the Clarence River. The 'Lower Clarence Flood Model Update 2013' was adopted by Council Resolution 13.043/14 on 18 March 2014. 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.

All works are to minimise the adverse effects of flooding in accordance with the relevant parts of the Clarence Valley Council Development Control Plans and **NRDC**.

20. An easement is to be created to provide for conveyance of existing inter-allotment 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.
 - d Easement widths must be in accordance with **NRDC**.

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

21. Prior to the release of any Occupation Certificate or commencement of use, whichever occurs first, which dedicates additional infrastructure to Council, a completed asset register works return must be submitted to Council. The return is to be in the format approved by Council.

22. In accordance with **NRDC** and prior to the release of any Occupation Certificate or commencement of use, whichever occurs first, the applicant must provide Work as Executed Plans (WAE) for all works and certification from the supervising professional engineer or registered surveyor, that the works have been constructed in accordance with the approved plans and specifications.

Where sewer works are involved the **WAE** must include sewer junction sheet records in accordance with the requirements of Clarence Valley Council.

23. Prior to release of any Occupation Certificate or commencement of use, whichever occurs first, where the total value of works to become Council infrastructure is greater than \$10,000, a maintenance bond is required for 5% of the contract value for works that will become Council infrastructure or \$2,500 whichever is greater. This is required in each stage of the development

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

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

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

24. Prior to release of any Occupation Certificate or commencement of use, whichever occurs first, the pedestrian pathway / cycleway / development shall be lit to the minimum standard of Australian Standard AS 1158 (Public Lighting Code) and 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 Construction Certificate.
25. Car parking, driveways, manoeuvring and access areas must be constructed, sealed, line marked and drained in accordance with the approved plans and made available thereafter. Internal parking and access is to be designed in accordance with AS2890, the relevant parts of the applicable Council DCP and **NRDC**. All vehicular access within the site must be accessible by B99 vehicles.
26. 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 any Building Construction Certification.

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.

27. Any fill earthworks to be undertaken on the site must be carried out in accordance with the placement and compaction of fill described in AS 3798, Level 1 inspection and testing and **NRDC**.
28. Prior to release of any Occupation Certificate or commencement of use, whichever occurs first, for any stage, certification from the Geotechnical Inspection And Testing Authority who undertook Level 1 inspection and testing, will be required confirming that each lot is suitable for the intended purpose. All testing as required in AS3798 and **NRDC** must be submitted.

29. A Works-As-Executed plan prepared by a registered surveyor, showing both original levels and finished surface levels after filling material has been placed on the site and compacted, is to be submitted to and approved by Council or accredited private certifier prior to the issue of any Occupation Certificate or commencement of use, whichever occurs first..
30. 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.
31. 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 any Building 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 principal geotechnical professionals who will be certifying the design and construction, insurances held and any other relevant material.
32. Erosion and Sediment Control is to be implemented in accordance with the relevant parts of the applicable Council Development Control Plans, 'NSW Managing Urban Stormwater - Soils and Construction (Blue Book)' and NRDC. These controls are to be maintained and managed by the applicant and/or the appointed contractor until an Occupation Certificate is issued or commencement of use, whichever occurs first, or the development is accepted 'Off Maintenance'.
33. A detailed Erosion and Sediment Control Management Plan for each stage of the development must be submitted for assessment and approval by Council or accredited private certifier, prior to issue any Building Construction Certificate or **PWC** for the relevant stage. This shall be compatible with the Stormwater Management Plan and must include procedures for clean-up and restoration of public / private property and infrastructure. All such remedial works are to be completed to the satisfaction of Council or accredited private certifier. This shall include **WSUD** components of the proposed drainage system.
34. During the course of the works, the applicant must ensure that vehicles and plant associated with the works do not adversely impact on the roadways to such an extent that cause them to become hazardous for other road users particularly during wet weather. Any such damage is to be rectified by the contractor immediately.
35. During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.
36. All disturbed areas shall be stabilised and revegetated. Turf, seeding or other approved method shall be undertaken in conjunction with or immediately following completion of civil works. Topsoil shall be preserved for site revegetation. All sediment and erosion control measures must be regularly inspected and maintained to ensure they operate to the design specifications and meet the requirements of the NSW Protection of the Environment Operations Act 1997. Weather patterns must be monitored and be coordinated in with the inspection and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion. Person/s responsible for managing sedimentation and erosion controls for the development must be nominated to Council or accredited private certifier in writing together with full 24 hour per day contact details.

39. The development is not to be occupied or used until such time as an Occupation Certificate has been issued.
40. **Working/Construction Hours** Working hours on construction or demolition shall be limited to the following:

7.00 am to 6.00 pm Monday to Friday

8.00 am to 1.00 pm Saturdays

No work permitted on Sundays and public holidays

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

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

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

42. **Adjoining Building Work** A person who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land shall, at their own expense and where necessary:

- a Preserve and protect the building from damage; and
- b If necessary, underpin and support the building in an approved manner, details of which are to be submitted with the application for the Construction Certificate and certified by a professional engineer or an accredited certifier.

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

43. 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 certifier for the work.

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

44. **Toilet Facilities** are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a A standard flushing toilet, connected to a public sewer, or
- b An approved temporary chemical closet.

The provision of toilet facilities in accordance with this condition must be completed before any

other work is commenced.

45. A suitable enclosure shall be provided on site, during construction, for depositing waste materials that could become wind blown. Waste materials shall be disposed of to an approved recycling service or waste depot. No burning of waste materials shall occur.
46. All building work shall be constructed wholly within the boundaries of the property. The location of the boundary shall be verified by a registered surveyor prior to construction commencing. A copy of this survey shall be submitted to Council at the footing/slab inspection.
47. The waste management plan submitted with this application shall be complied with during demolition/construction work and all measures required for the ongoing use of waste management facilities in the development shall be in place prior to the issue of the Occupation Certificate or commencement of use, whichever occurs first..
48. The sales office shall be constructed to be accessible and contain accessible sanitary facilities in accordance with the requirements of part D3 of the Building Code of Australia.
49. The design and construction of the moveable dwellings/manufactured homes shall fully satisfy the relevant requirements contained within the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2021 NSW which shall include the following:

Division 4 of Part 3 (clauses 133 – 136 excepted)

- a) The manufactured homes/movable dwellings shall comprise only one or more major sections that can be easily assembled/installed on the respective sites.
 - b) The manufactured homes/movable dwellings shall be designed and constructed in a manner that enables portability to the respective sites and relocation to another site if required without any significant deconstruction being necessary (i.e. they will need to be either on a chassis or contain sufficient internal rigidity to enable portability in one or more major sections between sites).
50. An approval from Council under Section 68 of the Local Government Act shall be obtained to install individual manufactured homes/movable dwellings on each the site if it can be demonstrated that the dwellings satisfy the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2021 NSW.
 51. A Construction Certificate shall be obtained in respect of all buildings on the site that are not exempt development, or, are not defined as relocatable homes under the Local Government Manufactured Homes Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2021 Regulation.
 52. A system of fire hydrants must be installed to conform to AS 2419 and requirements of NSW Fire and Rescue is to be provided throughout the development to service future dwelling units in addition to hydrants which may be necessary to service buildings under the National Construction Code. Such a system is to be approved in principle prior to issue of any construction certificate or Section 68 approval under the Local Government Act and is to be operative at the time of issue of any Occupation Certificate or prior to occupation of any dwelling that is subject of a Section 68 approval.
 53. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in

accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council. If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.

At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:

1. The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 2. That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
54. The building work involving the installation, modification or extension of a **relevant fire safety system** cannot commence unless:
- a plans have been submitted to Council as the principal certifying authority that show:
 - i in the case of building work involving the installation of the relevant fire safety system-the layout, extent and location of key components of the **relevant fire safety system**, or
 - ii (ii) in the case of building work involving the modification or extension of the relevant fire safety system-the layout, extent and location of any new or modified components of **the relevant fire safety system**, and
 - b specifications have been submitted to Council as the principal certifying authority that:
 - i describe the basis for design, installation and construction of the **relevant fire safety system**, and
 - ii identify the provisions of the Building Code of Australia upon which the design of the system is based, and
 - c those plans and specifications:
 - i have been certified by a compliance certificate referred to in section 6.4 (e) of the Act as complying with the relevant provisions of the Building Code of Australia, or
 - ii have been endorsed by a competent fire safety practitioner as complying with the relevant provisions of the Building Code of Australia.

relevant fire safety system means any of the following:

- a a hydraulic fire safety system including:
 - i a fire hydrant system (including street hydrants) or
 - ii a fire hose reel system, or
 - iii a sprinkler system (including a wall-wetting sprinkler or drencher system), or
 - iv any type of automatic fire suppression system of a hydraulic nature,
- b a fire detection and alarm system,
- c a mechanical ducted smoke control system.

The principal contractor for building work must ensure that the most recently endorsed copy of the plans and specifications for any **relevant fire safety system** for the building that were required to be submitted to the principal certifying authority:

- a are kept on the site of the building work, and
- b are made available for inspection on request by the certifying authority, consent authority, council and Fire and Rescue NSW at the times during which the building work is carried out.

55. To meet Council's Floodplain Management Controls the floor level of the primary habitable floor

level is to be a minimum of 3.01 metres Australian Height Datum (AHD).

Swimming Pool

56. The installation and maintenance of the swimming pools child resistant barrier shall comply with the requirements of the Swimming Pools Act 1992 and AS 1926.1 -2012 and be fitted with a self-closing, self-latching, outward opening gate prior to filling the pool with water. No plantings or climbable items shall be positioned within the 900mm non-climb zone (NCZ) on the outside of the pool fence or within the 300mm NCZ on the inside of the pool fence.
57. Any external pool lighting is to be positioned and/or shielded to prevent a glare nuisance.
58. The swimming pool/spa pool pump and filtration equipment must not be used in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a before 8.00 am or after 8.00 pm on any Sunday or public holiday, or
 - b before 7.00 am or after 8.00 pm on any other day.
59. Temporary fencing that complies with AS 1926.1 shall be provided around the pool if the permanent fencing cannot be installed before the pool is filled.
60. The swimming pool water recirculation and filtration system must comply with AS 1926.3-2010. The installation contractor shall provide Council with an Installation Certificate attesting to the products being selected and installed in accordance with the requirements of that standard.
61. The Principal Certifier shall be notified for the purpose of a final inspection of the pool and fencing as soon as possible after installation and before use of the pool.
62. The swimming pool waste water is to be disposed of to the sewer via a surcharge gully with a minimum 100mm air gap between the waste outlet and the top of the gully surrounds.
63. An approved CPR and pool safety sign is to be provided within the pool enclosure in accordance with the requirements of the Swimming Pools Act 1992 prior to the final inspection.
64. The pool shall be registered on the NSW Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au before issue of an Occupation Certificate.

Trade Waste

65. Approval to discharge liquid trade waste to Council's sewerage system shall be obtained prior to issuing the Occupation Certificate.
66. An application to discharge liquid trade waste to Council's sewerage system shall be submitted for assessment with the Construction Certificate application. Detailed trade waste drainage plans shall be submitted with the application.
67. All sinks and floor wastes in food preparation areas shall contain basket arrestors.
68. All liquid trade waste from the kitchen shall discharge through a 1000L grease arrestor. The grease arrestor shall be installed in accordance with AS/NZS3500, the plumbing code of Australia and Council requirements. It shall be located in an area accessible for the pump out contractor.

- 69. Chemical and oil storage containers shall be contained in a roofed and bunded area. The bund shall have the capacity to contain at least 110% of the volume of the largest container or other acceptable means of containment that prevents flow to the sewerage system or environment in the case of accident, leakage or spills.
- 70. Pool filter backwash shall be collected in a holding tank and be discharged into the sewerage system at a controlled rate.

Landscaping

- 71. The landscape concept plan submitted with the DA is acceptable. A detailed landscaping plan is to be submitted to Council for approval prior to the release of the construction certificate. This plan must comply with the requirements of Council's Residential Development Control Plan and is to indicate:
 - a The type of plants to be used (i.e. Shrubs, trees groundcovers, including species if known).
 - b The purpose of each planting (i.e shade, privacy etc).
 - c The edge treatment proposed where garden beds abut grass.
 - d A maintenance programme for the initial 6 months after planting.
- 72. All landscaping works are to be completed in accordance with the approved plan prior to the Occupation Certificate being issued or prior to occupation of any dwelling that is subject of a Section 68 approval.
- 73. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.

General

- 74. Development Application SUB2014/0007 must be surrendered prior to issue of any Construction Certificate.
- 75. A dilapidation report is required for all dwellings that adjoin the site in Park Avenue (East and West).
- 76. Privacy screening or enclosed fencing must be installed along the boundary of the site in any location where there is the potential to overlook adjoining dwellings.