

16 June 2022

The General Manager
Clarence Valley Council
Locked Bag 23
Grafton NSW 2460

Att: Carmen Landers

Via: NSW Planning Portal

Dear Carmen,

RESPONSE TO PLANNING PANEL DEFERRAL – PROPOSED MULTI-DWELLING HOUSING (RESIDENTIAL LAND LEASE COMMUNITY) & ASSOCIATED FACILITIES – 8 PARK AVENUE, YAMBA - DA2021/0558

I refer to the above Development Application and the Northern Regional Planning Panel 'Record of Deferral' dated 15 March 2022 (referred to herein as 'the Deferral'). This letter has been prepared by Hometown Australia (HTA) in response to the Deferral and is supported by additional reporting and documentation for approval.

EXECUTIVE SUMMARY

At its meeting of 10 March 2022, the Northern Regional Planning Panel resolved to defer the development application (DA2021/0558), as follows:

"The Panel agreed to defer the determination of the matter under the applicant provides a Flood Emergency Management and Evacuation Plan, to satisfy the relevant LEP and DCP requirements, prepared in consultation with the NSW State Emergency Services, satisfies the requirements of the Clarence Valley Council Residential Zones Development Control Plan and is satisfactory to the Director of Works & Civil."

The Deferral states the required information is to be submitted to Council within three months of the date of the deferral record (15 March 2022). HTA confirms the actions and information required by the Panel have been completed and submitted to Council on 16 June 2022, being three months from the deferral record.

In response to the Deferral, HTA engaged Bewsher Consulting Pty Ltd to independently review the flood risks associated with the development, liaise with SES and Council, and prepare a 'Flood Emergency Management Plan & Flood Risk Assessment' (FEMP). **Attached** to this letter is an FEMP (dated 14 June 2022) which addresses the reasons for the deferral.

The FEMP concludes the development proposal is consistent with NSW floodplain development practice and Council's LEP and DCP controls. By way of summary, the FEMP states:

1. The proposed FEMP will allow the flood risks to occupants to be safely managed consistent with the SES' existing flood strategy for Yamba, Council's LEP and DCP controls, and the requirements of the NSW Floodplain Development Manual.
2. The provision of a fully equipped community refuge on the site above the reach of the largest possible flood will not only provide a safe haven for Parkside's occupants but also the local community. This will assist the SES' flood emergency management in the area during extreme floods.
3. The development cannot have any adverse flood impacts on adjacent properties given that the site is already substantially filled above the 1 in 100 chance per year flood level.
4. The additional filling and reshaping of the site's ground surface and the construction of a new stormwater system, will not only provide for proper drainage of the site but will also improve stormwater drainage for the adjacent residential developments.
5. There is an existing approval for more than a dozen residential super-lots on the site. We are advised by Council that the development flowing from this subdivision was envisaged to comprise 185 three bedroom dwellings compared to the 136 two bedroom dwellings within the current Application. The presence of a dedicated community manager and a coordinated warning/evacuation system, and the smaller number of dwellings/occupants means that the flood risk of the current Application is significantly less than that which may occur if the existing super-lots are subsequently developed as envisaged when the land was subdivided.

HTA will accept conditions of Consent requiring compliance with the FEMP.

ADDITIONAL INFORMATION

In addition to the FEMP, HTA submits the following information for Council assessment:

- **Statement of Environmental Effects (Amended 16 June 2022).** The SEE Report has been amended to capture the additional information submitted herein.
- **Architectural Design.** The architectural design package has been updated as follows:
 - Updated plans and elevations for the Resident Clubhouse building, confirming the finished floor level will be above the defined Probable Maximum Flood Level of RL3.63m AHD. This confirms the Resident Clubhouse will satisfy the requirement of the FEMP to provide a 'fully equipped community refuge on the site above the reach of the largest possible flood'.
 - 'Proposed Stormwater Flow Path – Diagrammatic' comparing the existing and proposed ground level and stormwater flows from the site. The diagrams are explained in the letter (**attached**) by Newton Denny Chapelle dated 16 June 2022 and summarised below.

No changes to the remaining architectural design package are proposed.

- **Landscape Design.** In response to Panel comments about plant selections, amenity and privacy, HTA engaged Studio 151 Landscape Architects to prepare a 'Landscape Development Application' package. The package (**attached**) includes:
 - Additional detail about streetscaping, parks, buffer/batter planting, fencing and plant selection.
 - Additional detailed cross sections and renders, showing the quality of landscape environment for privacy, amenity and safety.
 - An amended 'Planting Palette' confirming only native plant species (no exotic or weed species) will be used. The palette highlights species that are 'Clarence River Floodplain & Estuary Native Plant Species'.

The amended Landscape Design package does not alter the quantity of open space detailed in the development application and assessment against the Residential DCP.

- **Stormwater Drainage Advice.** In response to Panel comments regarding site fill and stormwater drainage, Newton Denny Chapelle Consulting (NDC) has provided additional letter advice (**attached**). In summary, the advice confirms:
 - Existing perimeter drains within the HTA site receive overland stormwater flows from adjoining properties fronting Yamba Road and The Halyard.
 - Existing ground levels grade to the external boundary, resulting in stormwater from the site entering the perimeter drains.
 - Proposed ground levels reverse the primary flow of stormwater away from the perimeter drains and toward the new central drainage system.
 - Additional drainage is proposed above the existing retaining wall along the southern portion of the site, to intercept flows from the earthworks batters and prevent them from going over the face of the wall.

HTA will accept conditions of Consent requiring compliance with the proposed engineering and stormwater solutions.


DISCUSSION

The FEMP and additional documentation fulfill the requirements of the Panel and underlines HTAs commitment to developing and operating a high-quality managed residential community. HTA submits the proposed development warrants approval on the basis that:

1. It is objectively in the public interest and fulfils key statutory planning objectives for the site and locality.
2. It provides certainty for all stakeholders and a clear pathway for compliance, approvals and construction.
3. HTA will be a single point of contact and responsibility for compliance, maintenance, privacy, safety and amenity. This provides greater certainty than alternative residential tenures with fragmented ownership.
4. Long-term social benefits of housing, security and amenity resulting from the development will prevail. Construction impacts are not enduring and will be managed.

5. The proposal is in keeping with reasonable expectations for development of the site, the R3 Zone and the local area, acknowledging that:
- The proposal meets LEP and DCP objectives by efficiently providing housing choice and meeting the housing needs of the community close to infrastructure and services.
 - Council approved the existing fill and drainage system, approved master-lot subdivision and granted construction certification to enable medium density development of the site.
 - Council's previous assessment of the site envisaged up to 185 x 3-bedroom dwellings on the site, compared to the proposed 136 x 2-bedroom, single storey dwellings.
 - Adjoining properties in the R3 Zone have been developed at higher densities on flood prone land.
 - The proposal presents a solution to pre-existing stormwater drainage issues.

The following is a response to the 'Reasons for the decision of the minority of the Panel', being Cr Tiley and Cr Clancy.

Reasons for the decision of the Minority of the Panel	HTA Response
<p>1. The allocation of open space does not meet the requirements of CO20.2 of the Residential DCP. There is 30m² per residence allocated rather than the required 50m².</p>	<p>The SEE and supporting assessment of the Residential DCP provides clear and objective assessment of the proposed private open space for each dwelling. Key points from the assessment include:</p> <ul style="list-style-type: none"> • The design provides housing choice, low-maintenance homes and assists affordability. • Residents are provided quality private space connecting to internal living spaces, and significant communal open space areas close to their home. • The proposed residential density of 21 dwellings per hectare is below the average density of development in the surrounding R3 zoned land (30 dwellings per hectare). • Development on adjoining sites (below) provide small open space close to neighbours and with large hardstand areas. 
<p>2. The Statement of Environmental Effects is confined to impacts on the site, which is virtually cleared of vegetation other than one fig tree but the development has the</p>	<p>Submitted with this response is an updated Landscape Design package. The package provides increased detail in the design, materials and plant selections. The plant palette</p>

<p>potential to impact on the surrounding environment, in particular the Clarence Estuary Nature Reserve, 100m to the east. The potential impacts include the spread of weed species and non-local native and exotic species used in the landscaping and predation, or disturbance, of small mammals, reptiles, amphibians and birds by dogs and cats, mostly by cats.</p>	<p>includes only native species appropriate to the local conditions and does not include any exotic or weed species.</p> <p>Parkside will be a managed community with a high standard of maintenance guaranteed for the long-term. The proposed changes to landscape species resolves the concerns listed in Item 2 and HTA will accept conditions of Consent requiring compliance to ensure no weed species are used in future.</p> <p>HTA disagrees with any suggestion that the proximity of the site to the Nature Reserve and/or the potential for impacts on the Nature Reserve warrants refusal of the development. In this regard:</p> <ul style="list-style-type: none"> • Grass clippings and weeds are visibly left unmanaged in or adjacent to the Reserve (see photo below). By contrast, the subject site is located >100m from the Reserve and will be a highly maintained community with appropriate waste management. • Dwellings in the local area use a wide variety of landscape species unregulated by Council. The proposal will not create new or additional impacts on the Reserve. • The subject site has been slashed on a regular basis for many years and some properties adjoining the subject site throw green waste into the perimeter drain. The proposal will significantly improve the standards of maintenance and landscaping. • Dwellings closer to the Reserve may have pets that wander into the Reserve. The proposal will not create new or additional impacts on the Reserve. 
<p>3. The development has the potential to impact on surrounding residences as the fill existing at the site</p>	<p>Please refer to the FEMP and further advice by NDC Consulting attached. In summary:</p>

<p>already causes flooding of adjacent properties and there is to be an additional 32,850m³ of fill dumped at the site. Despite assurances that the additional stormwater effects can be managed this additional fill, and the large number of houses with non-absorbent surfaces, is likely to place extra pressure on existing and proposed drains and retention structures.</p>	<ul style="list-style-type: none"> • The development cannot have any adverse flood impacts on adjacent properties given that the site is already substantially filled above the 1 in 100 chance per year flood level. • The additional filling and reshaping of the site's ground surface and the construction of a new stormwater system, will not only provide for proper drainage of the site but will also improve stormwater drainage for the adjacent residential developments. • The proposal is now designed to capture and direct stormwater away from the southern boundary. • Localised stormwater flooding may continue due to factors outside of HTAs site/control, such as structures in adjoining properties and a lack of maintenance of downstream stormwater outlets.
<p>4. Social impacts involve the proposed development being much higher than the surrounding residences and this can create a reduction in privacy for those residents. Some ameliorating measures are proposed but they may not be enough. The additional number of residents at the site will increase the demand on State Emergency Services who do not have the capacity to cater for "additional" urban densities (Yamba Risk Management Study October 2008). The site is likely to become an island during major flooding and although the residences are unlikely to suffer water damage in a 1:100 year flood access is likely to be cut along with services and higher flood levels are possible. The noise and physical impact on residences and roads from numerous truck movements during construction is also a social impact.</p>	<p>The DA was supported by a Social Impact Assessment (AIGIS Group; September 2021) which states (inter alia) potential impacts during construction are 'clearly not enduring' and longer-term impacts can be managed.</p> <p>The proposal includes clear measures to protect the privacy of surrounding residences, including landscaping, fencing and substantial setbacks. In relation to flooding, the attached Flood Emergency Management Plan & Flood Risk Assessment (Bewsher Consulting; 14 June 2022) provides a comprehensive analysis of flood risk and practical solutions that will be implemented by HTA.</p> <p>Since the 2008 Yamba Risk Management Study, Council has retained the land in the R3 zone, approved subdivision of the site to enable medium density residential and continued to approve development in the area, including the West Yamba Urban Release Area. The FEMP was prepared in consultation with the SES and Council and provides the most up-to-date management plan for the site.</p>
<p>5. If the site was on land above the flood-plain it would potentially be suitable as it is presently cleared of vegetation, other than introduced grasses, and is relatively flat. Approving residential development on floodplains, considering the scale of the recent floods and the likelihood of more severe flooding in the future, is risky. Even though the land is unlikely to flood in a 1:100 year flood event this level of flooding may be exceeded in the future. The flooding at Lismore was considered to far</p>	<p>The FEMP attached provides a comprehensive analysis of flooding, risk and emergency management. Contrary to Item 5, the FEMP states:</p> <p><i>"The proposed FEMP will allow the flood risks to occupants to be safely managed consistent with the SES' existing flood strategy for Yamba, Council's LEP and DCP controls, and the requirements of the NSW Floodplain Development Manual.</i></p> <p>...</p>

<p>exceed the 1:100 year level. The inability for the State Emergency Services to cope with the additional population has been identified in the Yamba Floodplain Risk Management Study (October 2008). Figure 5 of that study maps the site as low risk in a 1:100 year flood event but high risk in a Probable Maximum Flood (PMF).</p>	<p><i>"Having reviewed the flood risks to people and property which would result from approval of the development, and having developed a FEMP in accordance with the SES' existing flood strategy for Yamba, it is our opinion that the development proposal is consistent with NSW floodplain development practice and Council's LEP and DCP controls."</i></p>
<p>6. 15 objections were received from members of the community, several of whom appear to have a good knowledge or experience with the issues of floodplain management and stormwater management.</p>	<p>At the completion of the public notification period, HTA responded to all submissions, including four (4) submissions in support of the DA. The DA provides a clear and comprehensive solution to managing stormwater on the site and will ensure uncontrolled flows of stormwater from the site no longer occur.</p>
<p>7. For reasons above, Ian Tiley and Greg Clancy consider that the public interest is best served by refusing this development.</p>	<p>HTA strongly disagrees with Item 7. The proposal is objectively in the public interest by providing safe, secure and high amenity housing choice. The DA provides a clear pathway for compliance and long-term management.</p>

Should you wish to discuss any aspect of this application, please contact me on 0421 109 183 or email jwaugh@hometownaustralia.com.au

Yours Sincerely



Joe Waugh

Planning Manager

HOMETOWN AUSTRALIA
C O M M U N I T I E S