

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

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| DATE OF DETERMINATION | 25 October 2024 |
| DATE OF PANEL DECISION | 25 October 2024 |
| DATE OF PANEL MEETING | 23 October 2024 |
| PANEL MEMBERS | Dianne Leeson (Chair), Stephen Gow and Michael Wright |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | None |

Public meeting held by teleconference on 23 October 2024, opened at 2.00pm and closed at 3.04pm.

MATTER DETERMINED

PPSNTH-215 – Clarence Valley – DA2023/0241 - 110 and 120 Carrs Drive, Yamba – 216 Dwelling
Manufactured Home Estate and Communal Facilities (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Development application

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to refuse the application for the reasons as attached to the Council Assessment Report, with the following amendments:

- Reason 3 – update State Environmental Planning Policy (Housing) 2021 reference to Section 125(1)
- Reason 6c – amend to read as follows:
Clause 5.21 Flood Planning – the assessment associated with the impacts of flooding have not been completed therefore the consent authority is not satisfied the proposed development will not adversely impact flood behaviour, flood affectation, safe occupation and evacuation of land (especially considering the vulnerability of likely residents of the proposed development) and whether measures proposed to mitigate flooding impacts will be sufficiently effective.

The Panel agrees with the Council assessment report that the proposed development is inconsistent with several clauses of *Clarence Valley Local Environmental Plan 2011* (LEP), and related provisions of *Clarence Valley Development Control Plan 2011* (DCP), or that insufficient information was provided to enable detailed assessment. This includes but is not limited to:

- LEP Clause 5.21 Flood Planning – in particular flood behaviour, flood affectation, potential impacts of the development and associated filling proposed on other developments in the locality. Arrangements for safe flood evacuation are a further concern, especially given the probable age and consequent mobility constraints/vulnerability of likely residents of the estate.
- LEP Clause 7.2 Earthworks – there is insufficient information available regarding stormwater management for the development to determine whether the existing hydrological and water quality conditions will be maintained.

3. The proposed development relies upon significant additional filling of the subject site. Insufficient information was evident as to the approved source location for this and the environmental impacts of transport of the material to the site, nor of the impacts of the required filling operations on the site itself. Accordingly, the Panel could not be satisfied as to the environmental and amenity impacts of this required filling activity as part of the project, having regard to the provisions of cl. 7.2 of the Clarence Valley LEP 2011 and s.4.15(1)(b) of the Environmental Planning and Assessment Act 1979.

The Panel is not satisfied that the impacts of the development on biodiversity values have been adequately accounted for in the Biodiversity Assessment Report (BDAR). The Panel is not satisfied that the proposed development has taken steps to avoid or minimise impacts of the proposed development on vegetated areas comprising Threatened Ecological Communities. A reduced development footprint would be less impactful.

The Panel notes the proposed development has been designed to be consistent with the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*. However, the Panel gives weight to *Part X Urban Release Area Controls* of the DCP which are directly applicable to the site. The Panel is not satisfied that the proposed development meets key aims under Part X2 of the DCP, which are to:

- Ensure that the development is at a density that respects the natural and man-made constraints of the land, or
- Provide mixed housing opportunities, through encouraging a range of housing types and sizes to develop a diverse and rich local community.

The Panel considers the proposed development to be inward-facing and not engaging with surrounding developments, lacking diversity in dwelling product and form, being too dense to achieve desired character and amenity, and lacking in adequate public domain space and treatment.

For the above reasons, the Panel concludes the development as proposed is not in the public interest.

CONDITIONS

Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Flooding
- Stormwater
- Biodiversity
- Climate Change
- Flood evacuation
- Lack of masterplan for West Yamba
- Urban design
- Traffic
- Construction impacts
- Inconsistent with amenity/locality of Yamba
- Negative impacts on Yamba's ambience, small village atmosphere, tourism and employment opportunities.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no further matters requiring assessment, were raised during the public meeting.

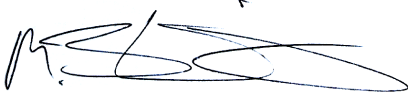
PANEL MEMBERS



Dianne Leeson (Chair)



Stephen Gow



Michael Wright

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | PPSNTH-215 – Clarence Valley – DA2023/0241 |
| 2 | PROPOSED DEVELOPMENT | 216 Dwelling Manufactured Home Estate and Communal Facilities |
| 3 | STREET ADDRESS | 110 and 120 Carrs Drive, Yamba |
| 4 | APPLICANT/OWNER | The Trustee for Yamba Land Trust |
| 5 | TYPE OF REGIONAL DEVELOPMENT | General development over \$30 million |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Environmental Planning and Assessment, 1979 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2021 Water Management Act, 2000 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Clarence Valley Local Environmental Plan 2011 Draft environmental planning instruments: Draft Remediation of Land SEPP Development control plans: <ul style="list-style-type: none"> Clarence Valley Residential Zones Development Control Plan Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council Assessment Report: 9 October 2024 Written submissions during public exhibition: 89 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Leslie Reeves, Robert Cairns, David Robinson, Lynne Cairns, Stan Cousins, Helen Tyas Tunnal Council assessment officer – James Hamilton, Murray Lane On behalf of the applicant – Craig McGaffin Total number of unique submissions received by way of objection: 18 |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> Briefing: 1 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Ian Tiley and Peter Johnstone <u>Council assessment staff</u>: James Hamilton, Chris Dear, Murray Lane and Adam Cameron <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis |

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| | | <ul style="list-style-type: none">• Briefing: 24 July 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ian Tiley and Peter Johnstone○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane and Adam Cameron○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis• Final briefing to discuss Council’s recommendation: 23 October 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright○ <u>Council assessment staff</u>: James Hamilton, Murray Lane, Adam Cameron, Chris Dear and Rachel van Gerven○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis |
| 9 | COUNCIL RECOMMENDATION | Refusal |
| 10 | DRAFT CONDITIONS | N/A |