

DATE OF DETERMINATION	3 November 2022
DATE OF PANEL DECISION	3 November 2022
DATE OF PANEL MEETING	26 October 2022
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ian Tiley and Greg Clancy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 26 October 2022, opened at 3pm and closed at 7:35pm.

MATTER DETERMINED

PPSNTH-129 – Clarence Valley – DA2021/0558 at 8 Park Ave, Yamba – multi-dwelling housing (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 approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:2 in favour, against the decision were Ian Tiley and Greg Clancy.

REASONS FOR THE DECISION

The majority of the Panel determined to approve the application for the following reasons:

1. The majority of panel members (the majority) agree with the conclusions of the Council’s assessment report that the use is permissible in the R3 zone, is consistent with relevant zone objectives and generally consistent with relevant provisions of the applicable planning instruments.
2. The majority believe that the site of the proposed development is suitable for the intended use- it is appropriately zoned, centrally located, has satisfactory road access and all other necessary infrastructure, and is largely free of environmental and land use constraints.
3. The majority has carefully considered the requirements of clause 5.21 of the Clarence Valley LEP and conclude as follows:
 - i. The proposal is compatible with the flood function and behaviour of the land because it is located outside of any floodways and is filled to be above the 1%AEP or designated flood planning level. The majority conclude that, given the existence of fill above the flood level, the proposed development will have no material effect on flood behaviour.
 - ii. The proposal will not adversely affect flood behaviour on other properties or developments because the new development, being placed on top of the existing fill, will not create any additional impediments to flood flows nor direct floodwater onto neighbouring land.
 - iii. The proposal will not adversely affect safe occupation and/or efficient evacuation of people from the land, nor exceed the capacity of evacuation routes. This is because the development will be above the flood planning level thus allowing shelter-in-place for all but

the most extreme flood events, there will be considerable warning times for coming flood events due to the site's downstream location, flood free land will be available nearby and be accessible by road and, in extreme events, safe refuge will be available in the new community centre.

- iv. The proposal will not cause any material risk to life from flooding because all residences will be above the flood planning level and effective centrally managed emergency arrangements developed in conjunction with the SES and subject to conditions of consent will be available to either evacuate vulnerable residents or to provide shelter-in-place.
4. The Panel carefully considered the peer review of flooding issues and noted that it contained some errors in relation to flood levels. Following consultation with Council's senior water resources engineer, the Panel accepted Council's established flood planning level as the appropriate benchmark noting that it incorporates an appropriate allowance for climate change effects.
 5. With respect to stormwater management and drainage to neighbouring properties the majority conclude that the proposal will have positive effects, namely:
 1. Most runoff from the site will be redirected away from neighbouring properties to a new central on-site drain that will discharge to Council's stormwater system.
 2. The capacity of the main drain adjoining neighbouring properties will be increased.
 3. The above two measures will significantly reduce the risks of overflows to neighbouring properties.
 4. A new on-site detention basin will attenuate peak stormwater flows, and be designed to maintain pre-development discharge rates.
 5. Pumps will be installed to assist stormwater flows from flatter parts of the perimeter drains.
 6. The above two measures will mean the capacity of the downstream stormwater network will not be adversely affected.
 7. Water quality control measures will be installed meaning the quality of stormwater leaving the site will be improved.
 6. The majority believe the proposal will have positive socio-economic impacts because it will add to the stock and diversity of housing available in Yamba thus improving housing choice and affordability.
 7. The majority conclude that the proposal will have no adverse impacts on the built environment and will have positive impacts on the natural environment because of improvements in the management and quality of stormwater discharges including those going to the Clarence River nature Reserve.
 8. The majority have carefully considered all issues raised in submissions, both written and oral, and conclude that all issues raised will be addressed by the design of the proposal and management measures or conditions imposed. Consequently, there are no residual issues that warrant refusal of the application.
 9. The majority conclude that the proposal is orderly development, that will be socially and environmentally beneficial and that approval is in the public interest.

Ian Tiley disagreed with the majority decision for the following reasons:

- Not satisfied that the site of the proposed development was suitable for the intended use because the area below the prescribed flood planning level is to be filled, which would further exacerbate flooding of properties in proximity.
- The site is incompatible with flood behaviour and function given the experience of major flood events in February and March 2022, and water run off management consideration is unacceptable.

- The application did not satisfy the Clarence Valley Council Local Environmental Plan 2011 clause 5.21 parts (a) to (d) inclusive.
- The application did not satisfy Clarence Valley Council DCP Residential Zones 2011 requiring that “The filling of flood lie land must not increase the flood risk on other land within the floodplain”.
- Sufficient regard was not taken of the Independent Peer Review for the Flood Emergency Management Plan which stated that the intended response strategy was “divergent from state guidance and practice and was considered inadequate from a flooding and emergency management perspective.
- The Review stated that the current evacuation proposal was deemed unsatisfactory.
- The application did not adequately address the concerns of National Parks and Wildlife Service in respect of increased runoff from the development site and impacts on the Clarence Estuary Nature Reserve.
- Much more deep consideration needs to be given to climate change impacts on the floodplain and planning impacts must better adapt to the climate crisis.

Greg Clancy disagreed with the majority decision for the following reasons:

In general, Cr Clancy doesn't believe that the development is good for Yamba and its existing and future residents as the site has a number of problems mostly associated with stormwater management and flooding that Cr Clancy believes are insurmountable. Despite the site being raised with fill it is still on the floodplain and the fill has created problems itself. Cr Clancy is not convinced that the stormwater control measures are adequate and that the impact on the Clarence Estuary Nature Reserve have been adequately addressed. Cr Clancy doesn't believe that the flood emergency evacuation plan is adequate, and it fails to address a number of critical issues. The peer review report clearly illustrates the flaws and omissions in the flood evacuation plan. Cr Clancy accepts that previous decisions of council and the Planning Department have made a refusal more complicated, but believes that there are still strong planning reasons to refuse, being:

- The relevant sections of the 4.15 evaluation in the Environmental Planning & Assessment Act are (1)(a)(i),(iii), (b), (c), (d) and (e) covering environmental planning instruments, development control plan, likely impact on environment and social and economic impacts, suitability of the site, submissions made, and the public interest.
- There are aspects of all of these sections that are not satisfactorily met by the development application. It does not fully meet the provisions of the LEP and the DCP, it will have serious impacts on the environment and social and economic values of surrounding residences and residents, the site is not suitable having to be elevated by large amounts of fill which is causing drainage problems in the surrounding area, a large number of submissions opposing the development were received, many providing reasonable argument to refuse, and Cr Clancy doesn't believe that approval is in the public interest.
- Clause 5.21 of the Clarence Valley LEP 2011 states “consents for developments on land within the flood planning area must not be granted, unless the development:
 - a) Is compatible with flood function and behaviour of the land
 - b) Will not adversely affect flood behaviour of other developments and properties
 - 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
 - d) Incorporates appropriate measures to manage risk to life in the event of a flood
 - e) Will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or the reduction in the stability of river banks or watercourses.
- Part D of the Clarence Valley Council Residential Zones DCP 2011 states “D3.1 (a) The proposed development should not result in any increased risk to human life. D3.1 (c) The proposal should only be permitted where effective warning time and reliable access is available for evacuation.....to an area free of risk from flooding”.
- Cr Clancy believes that there will be an increased risk to human life and that there is not a suitable evacuation plan to move people to an area free of risk from flooding.

- For the above reasons Cr Clancy believes that the development application should be refused.

CONDITIONS

The Development Application was approved subject to the conditions in the Supplementary Council Assessment Report of 11 July 2022 with amendments to the following:

- Definitions and advices
- Amend conditions: 1, 2, 3, 4, 5, 6, 7, 8, 19, 20, 21, 22, 23, 24, 29, 39, 46, 65, 66, 68, 69, 70 and 71

The approved conditions are attached at Schedule 2.

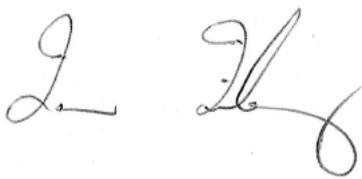
CONSIDERATION OF COMMUNITY VIEWS

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:

- Flood impacts
- Adequacy of flood emergency management and evacuation plans
- Stormwater/drainage
- Impacts on neighbouring properties
- Impact of stormwater on the Nature Reserve
- 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

The Panel notes that Council also received some submissions in support of the development application.

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

PANEL MEMBERS	
 Paul Mitchell (Chair)	 Penny Holloway
 Stephen Gow	 Greg Clancy
 Ian Tiley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-129 – Clarence Valley – DA2021/0558
2	PROPOSED DEVELOPMENT	Multi Dwelling Housing (136 Dwellings, one exhibition home, community facilities including clubhouse, swimming pool, gym and cinema, associated infrastructure and landscaping)
3	STREET ADDRESS	8 Park Avenue, Yamba
4	APPLICANT/OWNER	Applicant: Hometown Australia Management Pty Ltd Owner: Parkes Menai P/L
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"> ○ 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 ○ North Coast Environmental Plan 2036 ○ NSW Coastal Design Guidelines • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Clarence Valley Council Residential Zones Development Control Plan • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • 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: 4 March 2022 • Addendum Council Assessment Report: 4 March 2022 • Written submissions during public exhibition: 21 • Verbal submissions at the public meeting on 10 March 2022: <ul style="list-style-type: none"> ○ Leslie Reeves, Peter Maslen, Bob Cairns and Stan Cousins ○ On behalf of the applicant – Joseph Waugh, Chris Pickford ○ Council assessment officer – Chris Dear and Carmen Landers • Supplementary Council Assessment Report: 11 July 2022 • Written submissions received after the first public meeting: 12 • Verbal submissions at the public meeting on 20 July 2022: <ul style="list-style-type: none"> ○ Bob Cairns, Lynne Cairns on behalf of Valley Watch Inc, Stan Cousins, Helen Tyas Tunggal, Roslyn Woodward, Cate Faehrmann MP on behalf of NSW Greens, Wendi Moffitt and Barbara Rook ○ On behalf of the applicant – Joseph Waugh, Drew Bewsher, Chris Pickford and Geoff Dearden ○ Council assessment officer –Carmen Landers and Chris Dear

		<ul style="list-style-type: none"> • Peer review of Flood Emergency Management Plan by Rhelm: 29 September 2022 • Supplementary Council Assessment Report: 19 October 2022 • Written submissions received after the second public meeting • Verbal submissions at the public meeting on 26 October 2022: <ul style="list-style-type: none"> ○ Cate Faehrmann MP on behalf of NSW Greens, Bob Cairns, Lynne Cairns, Leslie Reeves, Ian Warlters, Stan Cousins, Lynne Broughton, Debrah Novak, Helen Tyas Tunggal, Alex Devantier, Duncan Dey, Roslyn Woodward on behalf of Valley Watch Inc, Wendi Moffitt and Andrew Taylor ○ On behalf of the applicant – Joseph Waugh, Drew Bewsher, Chris Pickford and Geoff Dearden ○ Council assessment officer – Murray Lane and Greg Mashiah
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Final briefing to discuss council’s recommendation: 10 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ian Tiley and Greg Clancy ○ <u>Council assessment staff</u>: Carmen Landers, Adam Cameron, Kerry Harre and Chris Dear ○ <u>Department staff</u>: Carolyn Hunt, Stuart Withington and Lisa Foley • Final briefing to discuss council’s recommendation: 20 July 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ian Tiley and Greg Clancy ○ <u>Council assessment staff</u>: Carmen Landers, Randall Evans, Adam Cameron, Patrick Ridgway, Murray Lane and Chris Dear ○ <u>Department staff</u>: Carolyn Hunt, Jane Gibbs and Lisa Foley • Site visit: 9 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Ian Tiley ○ <u>Council assessment staff</u>: Murray Lane, Patrick Ridgway, James Hamilton and Chris Dear ○ <u>Department staff</u>: Jane Gibbs • Final briefing to discuss council’s recommendation: 26 October 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, Ian Tiley and Greg Clancy ○ <u>Council assessment staff</u>: Patrick Ridgway, Greg Mashiah, Sarah Sousou, Adam Cameron, Murray Lane and Chris Dear ○ <u>Department staff</u>: Carolyn Hunt, Jane Gibbs, Stuart Withington and Lisa Foley • Briefing to discuss amendments to council’s recommended Conditions of Consent: 1 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway and Stephen Gow ○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane and Chris Dear ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Supplementary Council Assessment Report dated 11 July 2022

SCHEDULE 2

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

FEMP means Flood Emergency Management Plan.

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 an 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 and 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* meaning

connection to Council's drainage, water and sewer systems requires the approval of Council under the *NSW Local Government Act*.

Works within public road reserves require the approval of the Roads Authority as defined in the *NSW Roads Act* and for local roads Council is the Roads Authority

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

Approval of a **PWC** will remain current for a period of two years after which time reapplication is required and Council may require alteration to the Engineering Design to comply with the applicable standards. Engineering plans for the **PWC** are required in electronic format compatible with Council's IT system and this is 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 an 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.

Conditions (ie below should be conditions)

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 Council's 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 be prepared by a Geotechnical Engineer whose qualifications and experience are satisfactory to Council's Development Engineer or nominated delegate. This plan must include where relevant:
 - a An initial site inspection and verification report confirming that appropriate preparation of the foundation for placement of fill has occurred, including the provision of surface drainage arrangements and a geotechnical assessment of factors that can influence placement of fill on the site.
 - 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, which must be acceptable by Council, are available to enable structures to be built on the affected parts of the land.

Where the Geotechnical Engineer or Council's Development Engineer determines that any of the following factors are 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) or material that meets a relevant waste resource recovery exemption from the NSW Environment Protection Authority (EPA) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, or dredged materials subject to all necessary approvals.
- 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. .
- 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 Earthworks Management Plan is to be assessed by Council's Development Engineer or delegate and either amended as necessary or approved as submitted. No earthworks are to occur until Council's (or private certifier) approval of the Earthworks Management Plan is obtained.

Following completion of earthworks the information listed below is to be provided to Council's Development Engineer :

- a Details of NATA certified laboratory which conducted the geotechnical testing including in situ (principally dry density assessment) testing for each fill type.
- b The 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 soil tests must be correlated with results from the laboratory testing of similar material.
- c Recorded dates of placement and survey data recording the aerial extent of fill and the reduced level prior to construction and at completion.
- d 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.
- e 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 proposal to change in the source of fill material from that given in the approved Earthworks Management Plan , the Principal Certifying Authority must be notified and the PCA's approval must be obtained for the new source prior to the import of any of the material occurring. A report from a suitably qualified and experienced geotechnical

engineer certifying that the new source material is suitable for the intended purpose must be provided. The report must include any conditions on the use of the material and the results of testing undertaken by a NATA registered laboratory on the key geotechnical properties in the assessment of fill type. The Earthworks Management Plan must be amended as necessary and resubmitted for approval by the PCA or Council's Development Engineer.

9. No construction is to be commenced until a Construction Certificate has been issued by the PCA.
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 during construction.
15. The submission of a Modification Application or further Development Application will be required for any 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	JKH Build Design	Site Masterplan	23/9/2021	05
DA-02	JKH Build Design	Site Entry Area Plan	23/9/2021	02
DA-03	JKH Build Design	Roof Plan	23/9/2021	02
DA-07	JKH Build Design	Exhibition Home (Sales Office)	5/7/2021	01
DA-08	JKH Build Design	Managers Office	5/7/2021	01
DA-09	JKH Build Design	Residential Land Lease Site Concept House Type A	24/9/2021	03
DA-10	JKH Build Design	Residential Land Lease Site Concept House Type B	24/9/2021	03
DA-11	JKH Build Design	Residential Land Lease Site Concept House Type C	24/9/2021	03
DA-12	JKH Build Design	Residential Land Lease Site Concept House Type D	24/9/2021	03
DA-13	JKH Build Design	Shed Details	23/9/2021	02
DA-14	JKH Build Design	Staging Plan and Construction Access	23/9/2021	02
DA-15	JKH Build Design	Community Amenity and Landscape Area	23/9/2021	04
DA-16	JKH Build Design	Waste Management Plan	23/9/2021	02

DA-17	JKH Build Design	Site Sections	16/6/2022	04
DA-18	JKH Build Design	Residential Land Lease Site Concept House Type E	24/9/2021	01
DA-19	JKH Build Design	Residential Land Lease Site Concept House Type F	24/9/2021	01
DA-20	JKH Build Design	Site Masterplan House Type Matrix	23/9/2021	05
LDA000	Studio 51	Coverpage	14/6/2022	02
LDA100	Studio 51	Landscape Site Plan	10/6/2022	02
LDA101	Studio 51	Landscape Plan 1	10/6/2022	02
LDA102	Studio 51	Landscape Plan 2	10/6/2022	02
LDA103	Studio 51	Landscape Detailed Plan 01	08/6/2022	01
LDA104	Studio 51	Landscape Detailed Plan 02	10/6/2022	02
LDA105	Studio 51	Landscape Detailed Plan 03	08/6/2022	02
LDA106	Studio 51	Landscape Detailed Plan 04	08/6/2022	01
LDA107	Studio 51	Landscape Detailed Plan 05	10/6/2022	02
LDA108	Studio 51	Landscape Detailed Plan 06	10/6/2022	02
LDA109	Studio 51	Landscape Detailed Plan 07	10/6/2022	02
LDA110	Studio 51	Typical Residential Site Landscape Plan	14/6/2022	02
LDA200	Studio 51	Landscape Sections 01	08/6/2022	01
LDA201	Studio 51	Landscape Sections 02	10/6/2022	02
LDA202	Studio 51	Landscape Sections 03	08/6/2022	01
LDA300	Studio 51	Landscape Planting Palette	14/6/2022	03

2. The following Resident Club House plans submitted with the application are not approved and are to be amended as follows:

DA-04	JKH Build Design	Resident Clubhouse Building Plan	8/6/2022	03
DA-05	JKH Build Design	Resident Clubhouse External Elevations	8/6/2022	02
DA-06	JKH Build Design	Resident Clubhouse Section	8/6/2022	02

- a. areas for showering in the amenities rooms/areas;
- b. provide suitable storage area/s for emergency management and flood shelter equipment or provisions;
- c. the facilities in (a) and (b) shall be located in the Resident Club House or within the gym/cinema area;
- d. the facilities in (a) and (b) are to be informed by a suitably qualified expert in flood risk management and must be accessible and functional during a Probable Maximum Flood Event (PMF); and
- e. details about finished floor levels and finished ground levels to provide access and refuge during a PMF event, in accordance with Condition 3.

The amended plan must be submitted to Council for approval prior to the commencement of any works.

3. The amended plans for the Resident Club House are to show the finished floor levels of the building and finished ground levels. The plans must show how the finished floor levels are to be constructed to be above the probable maximum flood (PMF) level to a minimum floor level of 3.63 metres Australian Height Datum (AHD). The plans must also detail how the minimum floor level of 3.63m AHD is achieved with no additional importation of fill required to the site, other than generally in accordance with the Bulk Earthworks Plan, reference 210217-DA-BE, Revision B., by Newton Denny Chappelle and dated 30/09/21.

4. Payment to Council of the contributions listed below 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 \$ 2,718.60 x 135 = \$367,011 GL S94CVCOSCoastal

Clarence Valley Contributions Plan 2011 Community Facilities

Rate per other Residential Accommodation dwelling

Maclean surrounds \$ 2,718.60 x 135 = \$367,011 GL S94CVCCFMaclean

Clarence Valley Contributions Plan 2011 Plan of Management

Rate per Other Residential Accommodation Dwelling \$51.25 x 135 = \$6,918.75

GL S94CVCPoMResAcco

Yamba Urban By-pass and Urban Intersections Contributions Plan 2000

West Yamba (existing) \$1461.25 x 135 = \$197,268.75 GL S94YBPWestYambaER

5. The contributions listed in Condition 3 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 a section 68 approval under the *Local Government Act 1993* 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 and on Council's Web site

www.clarence.nsw.gov.au .

Engineering Conditions

6. 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 fee in accordance with Council's adopted fees and charges ~~if an inspection by Council's officers is required.~~
7. The developer must bear all costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
8. Any activity to be carried out on any part of a road reservation requires Council's prior approval under the *NSW Roads Act 1993*.
9. 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 accepts the works 'Off Maintenance'.

Prior to commencement of works or issue of any Building Construction Certificate, a suitably qualified and experienced geotechnical and/or civil engineer must verify the on-site civil engineering works, specifically :

- a earthwork batters and retaining walls have been designed to be structurally adequate.

- b Land will not be affected by landslip either above or below the works.
- c Land will not be affected by subsidence either above or below the works
- d The works include adequate drainage to ensure the stability of the development.

10. 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 days' 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)

11. 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.

12. 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.

13. 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.

- 14. 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**.
- 15. 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.

- 16. 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.

17. 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.

18. 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.

19. 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 existing 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.

20. 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.

21. All stormwater falling on the property is to be collected within the property and discharged in accordance with the relevant parts of the applicable Clarence Valley Council Development Control Plans and **NRDC**. A Stormwater Management Plan (SWMP) must be prepared to reflect these standards and guidelines. The 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 or **PWC**.

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 Building Construction Certificate or **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.

22. Provision for a stormwater dish drain shall be made at the toe of earthworks batters along the southern boundary of the lot. This drain shall be provided generally in accordance with drawing *210217-DA-SW-02: Proposed Southern Drainage Plan* prepared by *Newton Denny Chapelle* dated 30/09/2022.

In addition, a pump system shall be installed in the existing southern drainage line located at the rear of the lot to reduce ponding water within the drain and minimise nuisance retention after rain events. Provision shall be made to ensure pump operation can continue during a power outage. Consideration shall be given to impacts of noise generated by the pump system and shall be designed to minimise impacts on adjoining properties. Detailed design of the stormwater and pump systems shall be submitted for review and approval by Council. These systems will be the sole maintenance responsibility of the property owner. The approved stormwater system shall be installed and operational prior to completion of Stage 1 of the development.

23. 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**.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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 or commencement of works, whichever occurs first.

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.

30. 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.

31. 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.

32. 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..

33. Any excavation resulting in disturbance of more than one tonne of soil at any depth below natural ground surface or work that is likely to lower the watertable, shall comply with the Acid Sulfate Soils Management Plan prepared by HomeTown Australia dated 7 March 2022.
34. 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.
35. 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'.
36. 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.
37. 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.
38. 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.
39. 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.

Building Conditions

39. The buildings approved under this development are not to be occupied or used until such time as an Occupation Certificate has been issued or prior to giving written notice to Council of the installation of a relocatable home or associated structure in accordance with section 159 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 2021*; whichever is required.
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).
40. 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*.
41. Any Local Government Act Section 68 application lodged with Council to install movable dwellings on the site shall be accompanied by an assessment prepared by a person accredited by the Assessor Accrediting Organisation confirming that the design of the dwellings will have a level of energy and water efficiency substantially equivalent to the current Basix energy and water efficiency requirements. If the dwellings do not meet the definition of a manufactured home/movable dwelling, then the dwellings will need to be the subject of a construction certificate application. Any subsequent application for a construction certificate for the dwellings will need to be accompanied by a Basix certificate in respect of each dwelling.
42. 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.
43. 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.
44. 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:

- a. 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
- b. 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.

45. 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.

46. 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) and the probable maximum flood level is 3.63 metres AHD for the Resident Club House, as required by Conditions 2 and 3.

Swimming Pool

47. 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.
48. Any external pool lighting is to be positioned and/or shielded to prevent a glare nuisance.
49. 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.
50. 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.
51. 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.
52. 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.
53. 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.
54. 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.
55. 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

56. Approval to discharge liquid trade waste to Council's sewerage system shall be obtained prior to issuing the Occupation Certificate.
57. 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.
58. All sinks and floor wastes in food preparation areas shall contain basket arrestors.
59. 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.
60. 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.

61. Pool filter backwash shall be collected in a holding tank and be discharged into the sewerage system at a controlled rate.

Landscaping

62. 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.
63. 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.
64. The onsite landscaping is to be maintained on a regular basis, to comply with the approved plans.

General

65. Development Application SUB2014/0007 must be surrendered prior to issue of any Construction Certificate to ensure this former approval is not acted upon in any way that may impact on the proper implementation of this Development Consent.
66. A dilapidation report is required for all dwellings that adjoin the site in Park Avenue (East and West) prior to commencement of works to provide a basis for comparison should any damage occur to these buildings as a result of the demolition/construction works.
67. 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.

Flood Emergency Management Plan (FEMP)

68. The draft Flood Emergency Management Plan (FEMP), prepared by Bewsher Consulting Pty Ltd and dated 29 June 2022 must be updated in accordance with this condition and is to be submitted to Council for review and approval prior to the issue of a Construction Certificate or an Approval to Operate under Section 68 of the Local Government Act 1993, whichever occurs first.

The FEMP and any updates must be undertaken by a suitably qualified engineer with qualifications and experience deemed suitable by Council's Director Works and Civil and prepared in consultation with the NSW State Emergency Services (SES). The SES comments are to be included with the plan.

The FEMP is to specify all necessary operational details including:

- a. The person or persons responsible for implementation of the plan and their required qualifications and experience.
 - b. The induction and/or training procedures to be provided for all residents.
 - c. Flood event notification or warning procedures.
 - d. The support and monitoring arrangements to be implemented for those residents who shelter-in-place.
 - e. The means of and routes to be followed in evacuations.

- f. The locations where evacuees are to be taken and support to be provided at these locations.
- g. Necessary flood management equipment, as specified by a suitably qualified emergency management consultant including details of a radio to listen to broadcasts on radio by the Emergency Broadcaster (ABC).

69. All development on the site must be operated and managed at all times in accordance with an approved FEMP and/or any subsequent updates to this plan approved by Council.

70. The FEMP must be reviewed and where appropriate updated every five (5) years or following any flood event exceeding the 5% Annual Exceedance Probability to incorporate the latest available flood data.

Following updates of the FEMP, the revised plan must be submitted to Council for review and be approved Council's Director Works and Civil. All amendments required by Council are to be made and the FEMP is then to be finalised and made available to affected parties as required by the final plan.

71. An on-site manager is to be present at all times during operation of the proposed development, and must be qualified to manage the Flood Emergency Management Plan and the Evacuation Plan for the site.