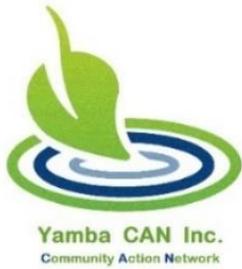


**Submission
No 164**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Yamba Community Action Network Inc
Date Received: 6 November 2023



Yamba CAN Inc
YAMBA 2464

6 November 2023

Portfolio Committee No 7
Planning and Environment
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY 2000

**Inquiry into the planning system and the impacts of climate change
on the environment and communities**

Thank you for providing the opportunity to lodge a submission and also for the work the Portfolio Committee No. 7 undertakes and champions.

Yamba Community Action Network (Yamba CAN) Inc is a community group based in Yamba in the Northern Rivers in the Clarence Valley Council Local Government Area (CVC).

Yamba CAN advocates maintaining a vibrant township and local area with a progressive culture that respects and protects our unique and fragile environment, particularly on the Yamba floodplain.

Yamba CAN invites the Portfolio Committee 7 to visit Yamba to undertake a site inspection of elevated development mounds in Carrs Drive, Orion Drive and Park Avenue impacting existing residents' lives and livelihoods.

Yamba CAN is addressing all the Terms of Reference.

Yamba CAN does not wish to provide evidence at the hearing.

This submission, in response to the Portfolio Committee 7 inquiry into how the planning system can best ensure that people and the natural and built environment are protected from climate change impacts and changing landscapes, is provided over the following pages.

Yamba CAN is looking forward to the outcome of the Portfolio Committee 7's findings.

Yours sincerely

Col Shephard
Chair
Yamba Community Action Network (Yamba CAN) Inc.

Lynne Cairns
Secretary
Yamba Community Action Network (Yamba CAN) Inc.

(a) developments proposed or approved:

(i) in flood and fire prone areas or areas that have become more exposed to natural disasters as a result of climate change,

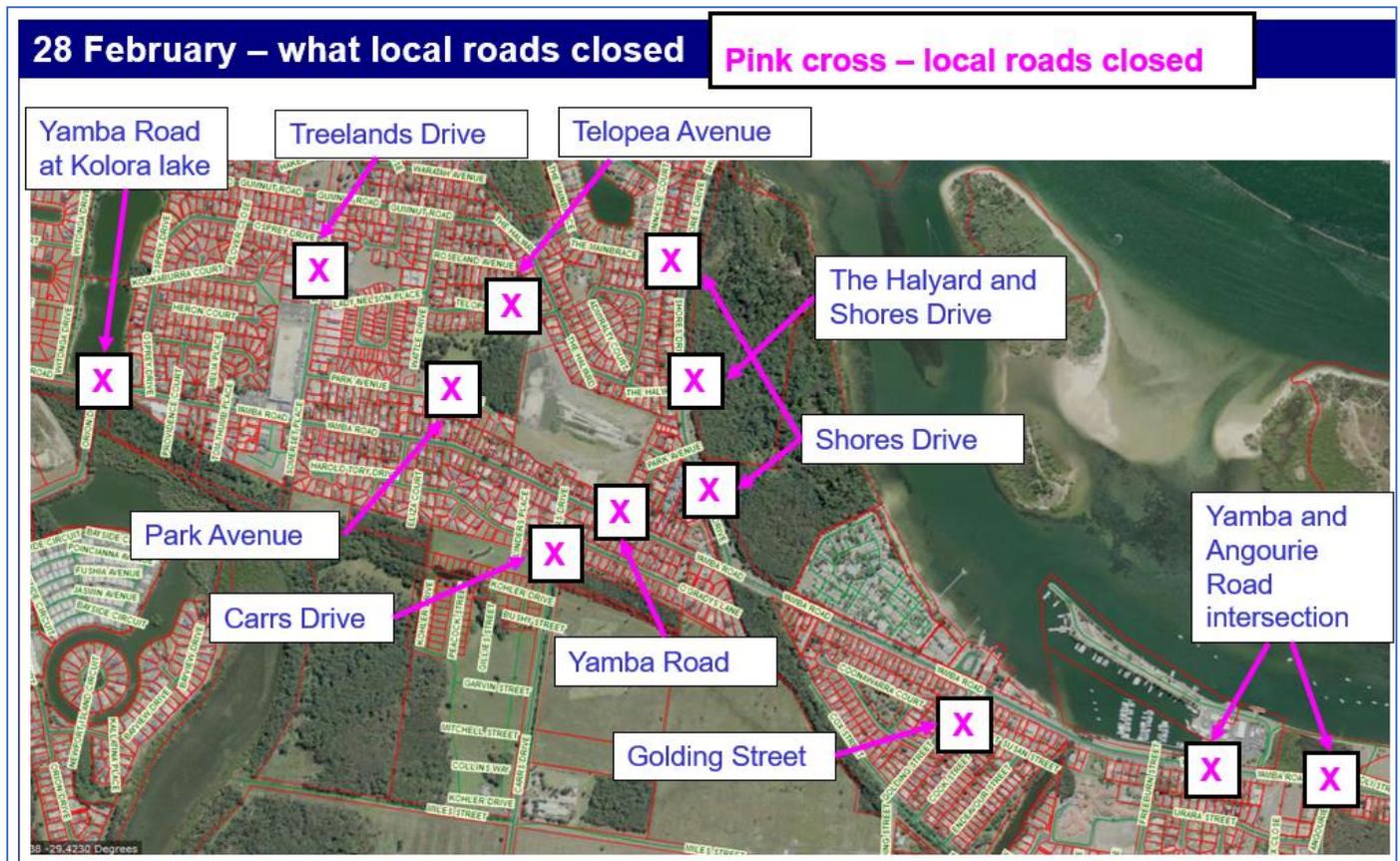
Flood prone areas:

With extreme weather events being an accepted result of climate change flooding due to both stormwater and riverine flooding impacts have already become common. The intensity of these events has increased with record flooding occurring in many areas. The flooding which occurred in the Tweed, Richmond, Brunswick and Clarence valleys in 2022 are examples of impacts.

On 28 February 2022 Yamba received 274mm of heavy rain in 24 hours. This rainfall was not unprecedented. Stormwater inundated homes and many roads were closed. After the stormwater dissipated the Clarence River flood crest reached Yamba two days later and homes were again inundated and roads remained closed. Yamba has one road in and out and the town was cut off for seven days. Residents in the whole of the west Yamba area were unable to reach the SES designated evacuation centre, the Yamba Bowling and Sporting Club. Yamba Fair closed due to stormwater inundation in the carpark and Treelands Drive and Coles closed after running out of food. Quite a number of homes were flooded with stormwater followed by riverine water.

Residents were not provided with information that they could register their home as flooded; nor were many aware of State Government assistance such as the back home grant.

Yamba was very fortunate that the February/March floods in 2022 did not coincide with a king tide. If that had occurred many more homes would have been inundated with water and sewage.

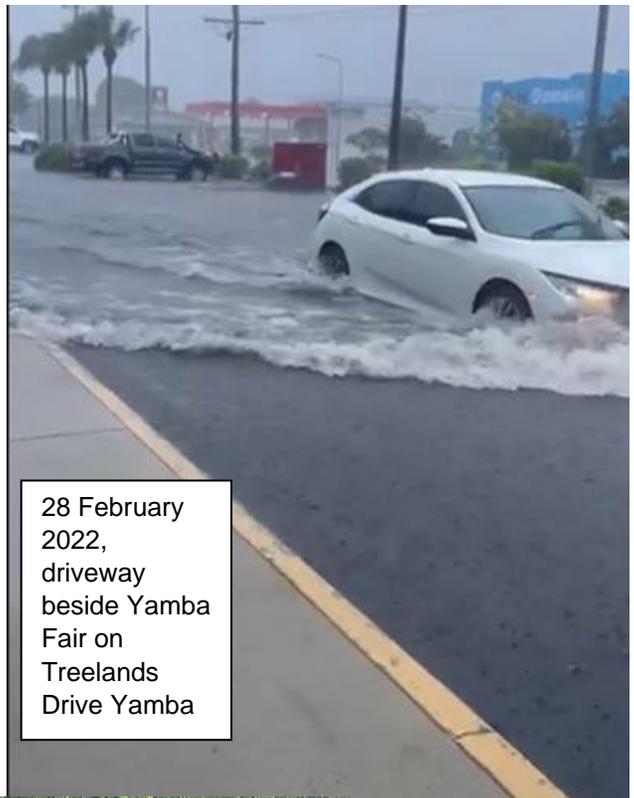




28 February 2022, Yamba closed when Kolora Lake overtopped in February 2022 – SES manning the closure



28 February 2022, Shores Drive Yamba closed by stormwater



28 February 2022, driveway beside Yamba Fair on Treelands Drive Yamba

Shores Drive after the flood crest reached Yamba two days after the stormwater flooding dissipated



28 February 2022, Yamba Road cut by Kolora Lake overtopping to the south



28 February 2022, just prior to Yamba Road being closed due to stormwater flooding. West of Carrs Drive intersection.

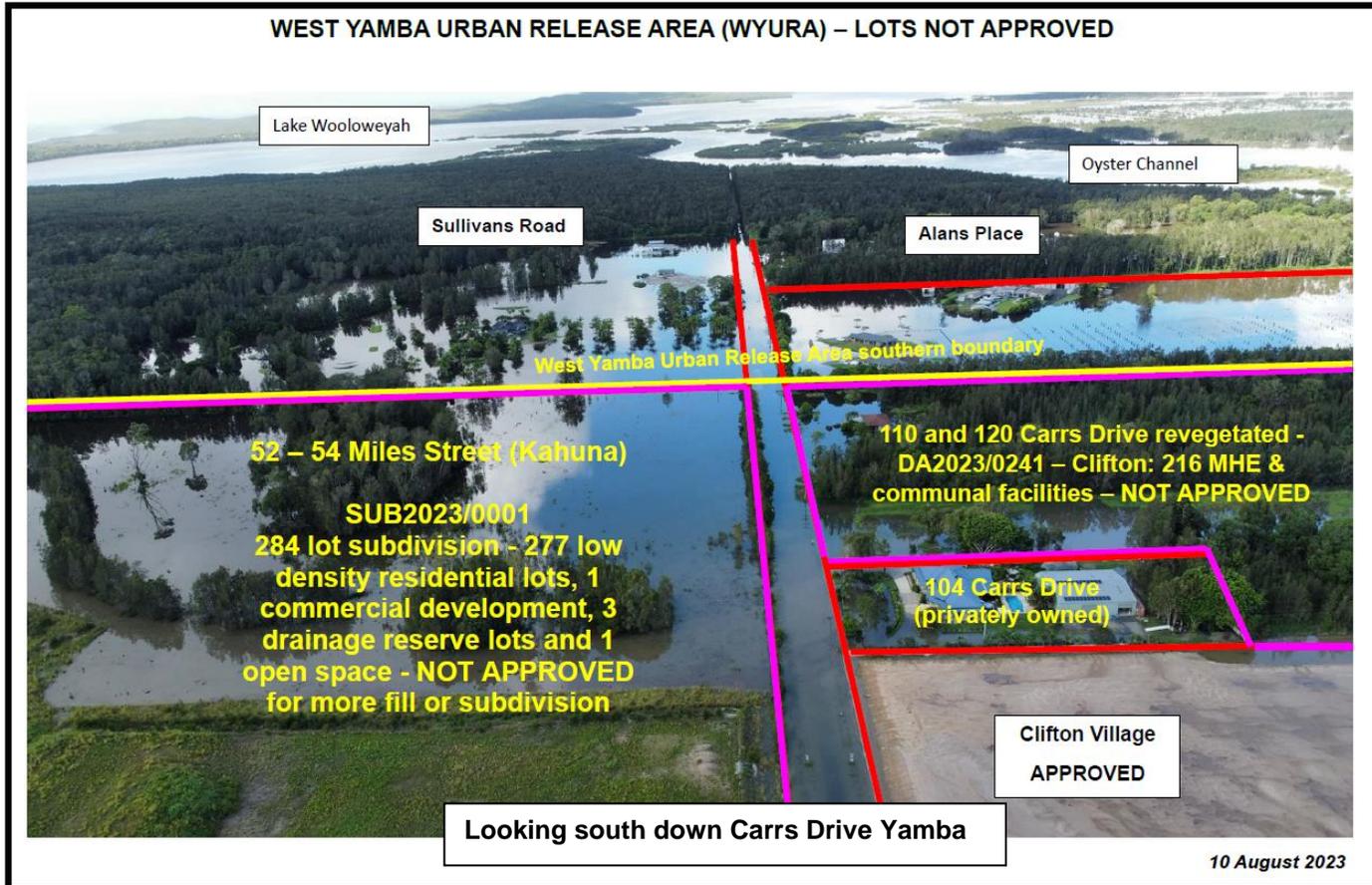


28 February 2022, Looking across Yamba Road closed. West of Carrs Drive intersection



West Yamba (the West Yamba Urban Release Area – WYURA) is a classic example of an inappropriate development and poor planning under current conditions with little regard for future impacts of sea level rise and extreme weather events due to climate change as demonstrated by the images below.

Drone photo taken in February 2022 (photo updated with developments on 10 August 2023.)



This is a quarterly update for the community about planning and development in the West Yamba Urban Release Area. Council prepares this update with the aim of improving communication with our community about how development is progressing and being managed in this area.

Approved – 161 Lots over 3 Stages

SUB2014/0016 - Status: Under construction

- Filling of Stage 2 is complete
- Part of Stage 3 filling is currently being undertaken to enable civil construction works in Stage 2
- Conditions require upgrading of Carrs Drive. Council holds a bond from the developer to ensure Carrs Drive will be upgraded.

Approved – 197 Manufactured homes

DA2018/0373 - Status: Under construction

- Haulage of material is complete. Internal civil and dwelling construction is under way for stages 3 - 5.
- Upgrade to Carrs Drive is currently underway for access to the site. Future upgrades to Carrs Drive will be required as part of future stage.
- Approval to operate has been issued for Stages 1 and 2.

Under Assessment – 216 Manufactured homes

DA2023/0241 - Status: Information Request

- Council has requested additional information from the applicant about the proposal including urban design, stormwater, flooding and biodiversity
- Upon receiving a response from the applicant, Council will publicly advertise the application for 28 days.

KEY

--- Water - - - - - Sewer ■ General residential ■ West Yamba urban release area

Approved – 53 Senior living units and 2 lot subdivision

DA2020/0725 - Status: Construction not started

- Conditions require upgrading of Carrs Drive
- Filling of the site is required.

Under Assessment – 294 lot Subdivision

SUB2023/0001 - Status: Information Request

- This application seeks consent for 277 low density residential lots, 1 medium density residential development lot, 1 commercial development lot, 1 low density development lot, 3 drainage reserve lots and 1 open space reserve lot
- Council has requested additional information on the proposal including urban design, stormwater, flooding and biodiversity
- Council has received part of the additional information requested, with flood impact assessment still to be undertaken in accordance with the new 2022 Flood Model.
- Council will publicly exhibit the application for 28 days once all information is received.

Approved – Earthworks and Filling of Land

DA2018/0553, DA2019/0492, DA2019/0181 - Status: Completed

- Filling of this site was undertaken from 2019 under three separate approvals.

Key Issue: Road and pedestrian network status

- Council will require an integrated Pedestrian Access and Management Plan/s to support future developments in West Yamba
- A collective Traffic Impact and Management Plan is required to be prepared for future development sites to the east of Carrs Drive
- The Traffic Impact and Management Plan will be generally reflective of the road hierarchy plan as defined in Part X of the DCP.

Key Issue: Flooding and hydrology

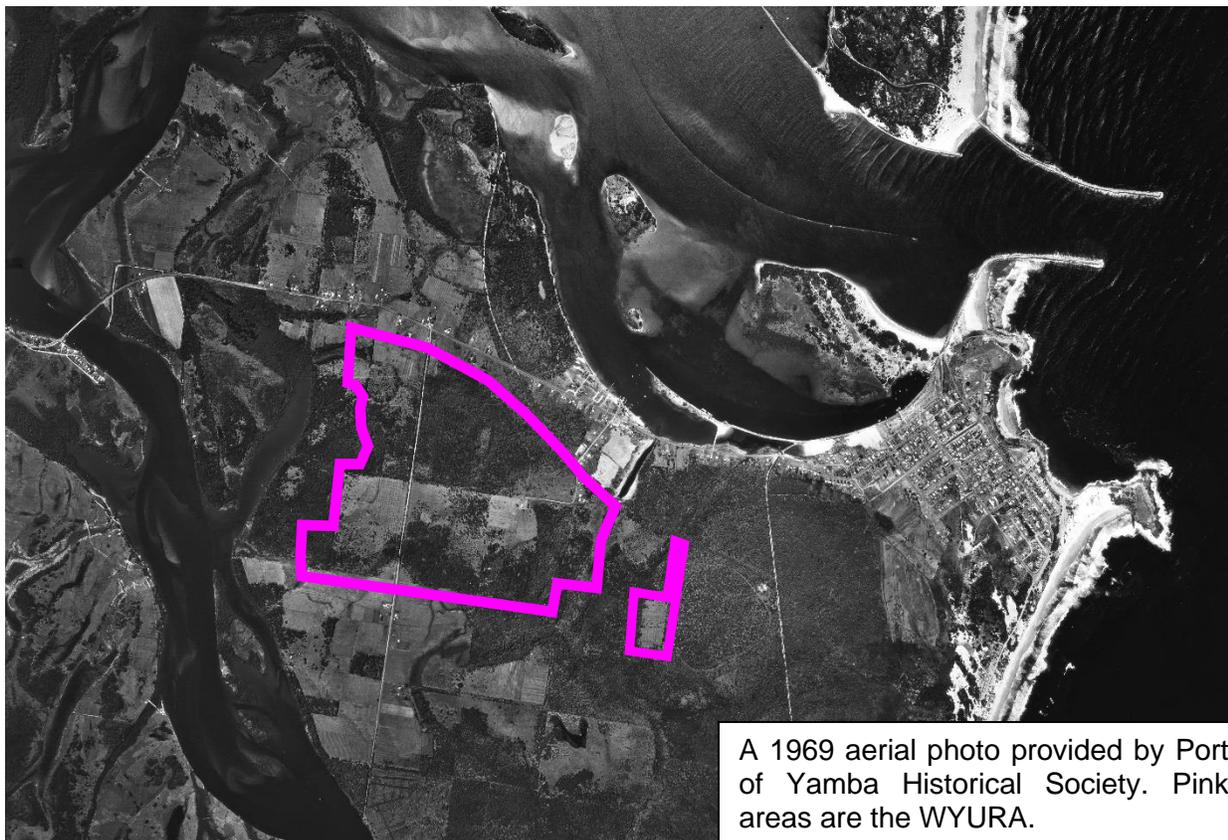
- Council is thoroughly assessing flooding and hydrology impacts across West Yamba. Council has engaged an independent flood specialist to assist with assessment of SUB2023/0001.
- Council has now adopted the Clarence Flood Model Update 2022 to include the most up-to-date information about floods, rainfall, climate change and infrastructure. This information is available through Council's website.
- Council will request that applicants with current and future development applications consider impacts associated with the new 2022 Flood Model.
- Council will undertake detailed assessment of the management of stormwater, both internal and external to development sites, as part of all future development applications.

Key Issue: Earthworks and filling

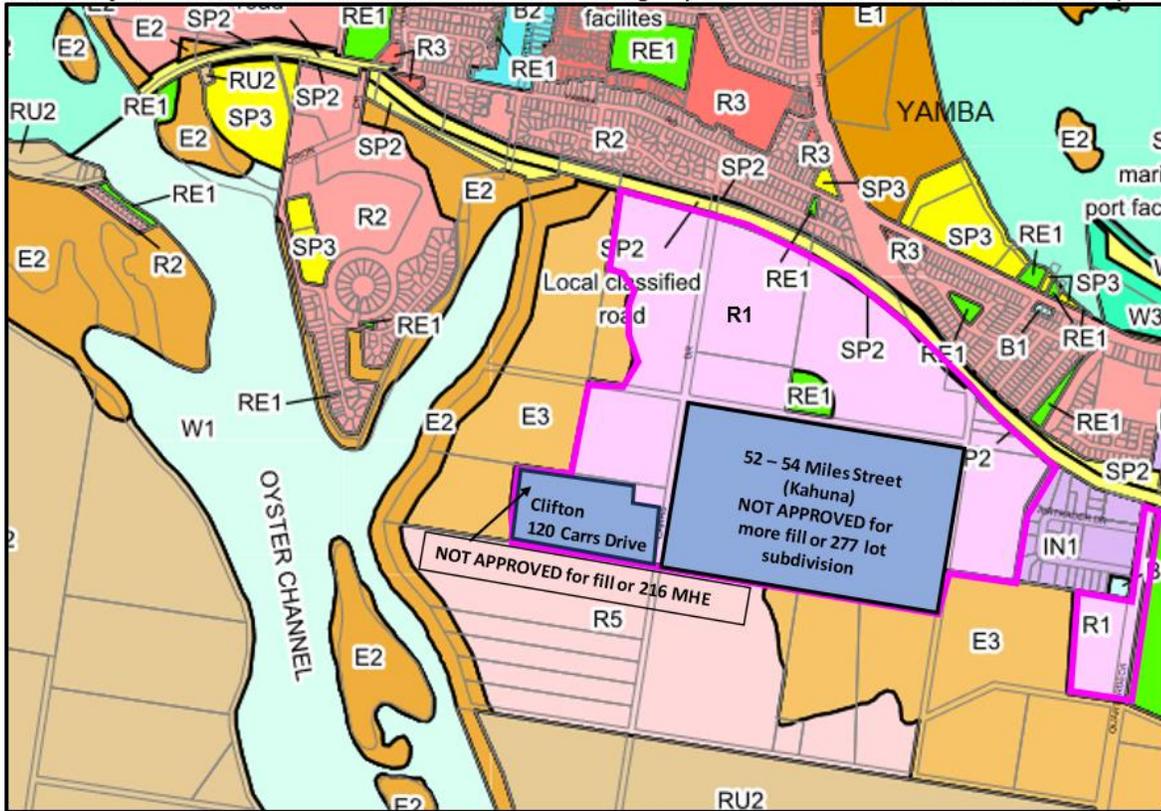
- The developers are required to repair ongoing damage to Carrs Drive caused by construction, including haulage of fill. Council and the developers are committed to ensuring the safety of Carrs Drive road users.
- Council holds bonds from the developers to ensure Carrs Drive is repaired.



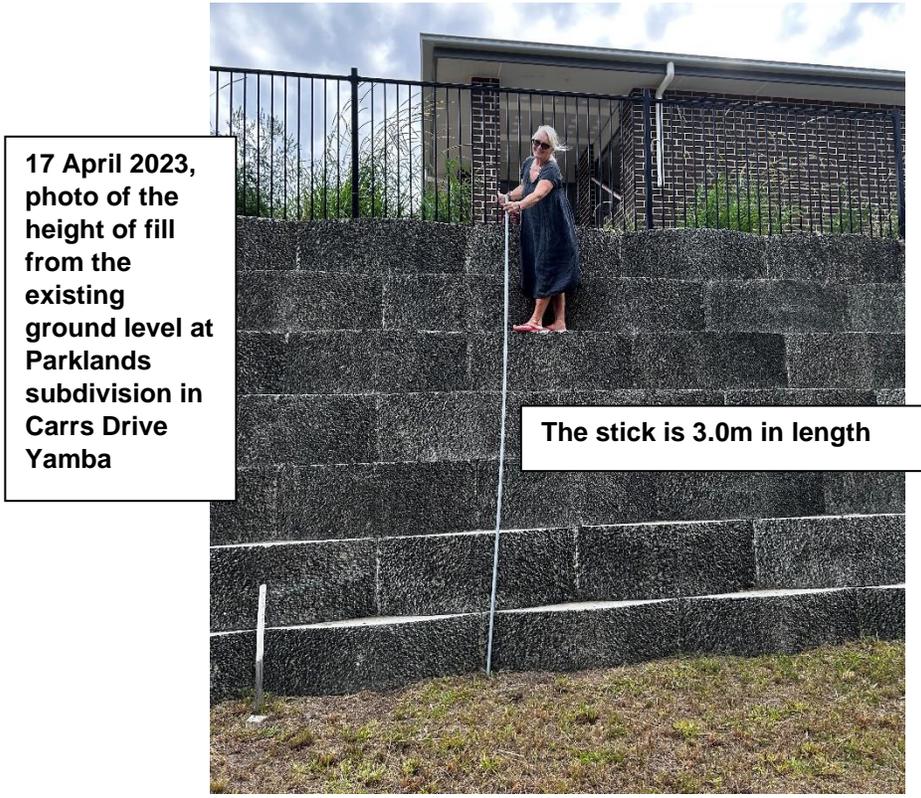
As previously mentioned above, the rainfall of 274mm in 24 hours was not unprecedented. On 2 March 1999 in 24 hours 300mm rain was experienced in Yamba. Why homes were not impacted, and roads not closed in 1999 was because there was no fill on the Yamba floodplain. West Yamba (the WYURA) was a floodway, flow path and stormwater and riverine storage area.



A 1969 aerial photo provided by Port of Yamba Historical Society. Pink areas are the WYURA.



<p>Recreation Zones RE1 Public Recreation E2 Environmental Conservation E3 Environmental Management C2 Environmental Conservation E1 NP and Nature Reserve</p>	<p>Residential Zones R1 General Residential R2 Low Density Residential R3 Medium Density Residential R5 Large Lot Residential</p>	<p>Rural Zones RU2 Rural Landscape Special Purpose Zones SP2 Infrastructure SP3 Tourist IN1 General Industrial</p>	<p>Rural Zones RU2 Rural Landscape W1 Natural Waterways Special Purpose Zones SP2 Infrastructure SP3 Tourist</p>
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17 April 2023,
 photo of the
 height of fill
 from the
 existing
 ground level at
 Parklands
 subdivision in
 Carrs Drive
 Yamba

The stick is 3.0m in length

**A Yamba
Road home
flooded with
stormwater
and sewage
February
2022**



**Another
Yamba Road
home
initially
flooded with
stormwater
February
2022**



February 2022. These natural disaster events will potentially become more catastrophic



Fire Prone areas:

In September 2019 residents to the south of Yamba, at Wooloweyah and Angourie, were urged to seek shelter, with a nearby bushfire upgraded to an 'Emergency Level' warning. Strong winds fanned the flames towards homes, with more than 9,000 hectares scorched by the fire.

The fire impacted on the southern side of Wooloweyah and Angourie. The wind direction changed to southerly and pushed the fire north towards Yamba. An air tanker dropped retardant south of the at-risk villages of Angourie and Wooloweyah in a bid to slow down its onslaught. Helicopters were water bombing the fire after filling their water buckets from the Clarence River.

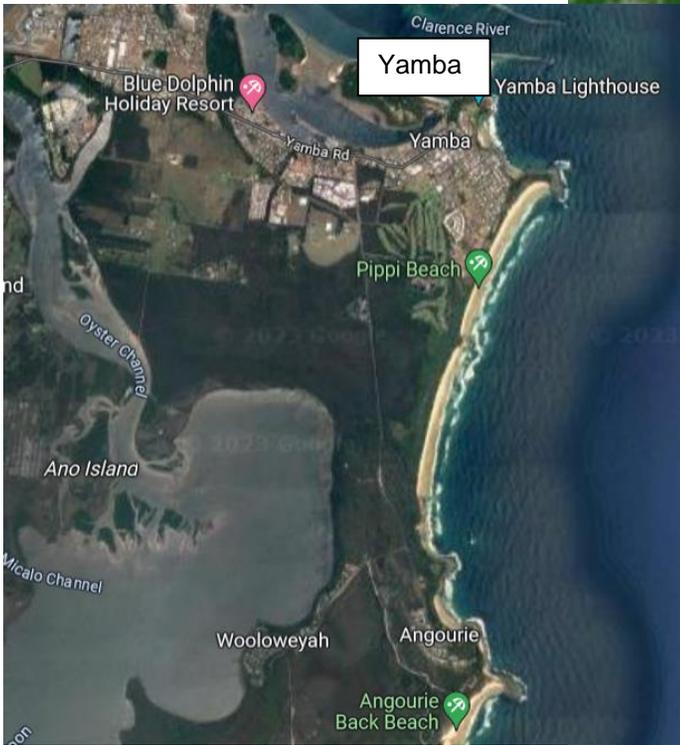
About 300 homes were at risk with the one road in and out closed due to the fire and backburning operations. Many residents were trapped in Angourie and Wooloweyah, with some escaping by walking along the beachfront, leaving their homes and vehicles behind. Fortunately, no lives were lost.

After the fire, mention was made of a number of concerns including:

- one road in and out.
- lack of information and sufficient warning to evacuate allowing residents time enough to leave.
- residents not being notified of the backburning operation.
- the build-up of vegetation and fuel loads in the Yuraygir National Park.
- better coordination between relevant agencies.

Subdivisions and manufactured housing estates (MHEs) near fire prone areas must have conditions applied to dwellings being constructed: such as the proximity to combustible materials near structures and appropriate fire protection infrastructure including watering systems for use in the event of fire. Compliance with planning conditions is always problematic in most local government areas. Methods must be developed to ensure compliance with fire protection conditions.

September 2019 fire verging on Angourie and Wooloweyah, heading towards Yamba



(ii) in areas that are vulnerable to rising sea levels, coastal erosion or drought conditions as a result of climate change,

Sea level rises predicted by the end of this century show that much of coastal New South Wales (NSW) will be inundated. Using Yamba as an example the image below shows how under current conditions areas planned for subdivision are negatively impacted by sea levels and along with significant areas of the town will be further impacted this century.



Yamba predicted seal levels by century end

Existing planning addressing flooding and sea level impacts commonly fails to achieve sustainable outcomes which do not prevent negative impacts on the existing residents, and commercial and industrial areas. There is no real assessment of the predicted impacts caused by climate change and the predicted extremes in weather that are already being experienced. West Yamba is one example of poor planning, where filled areas already impact on existing residents, and commercial and industrial areas. Difficulties will inevitably arise in relation to servicing the residents in developments on mounds of fill, such as goods, services, support, medical treatment and evacuation. Planning for the future impacts of climate change must prevent development in areas where there is a real and known negative impact due to the increased probability of flooding due to natural disasters caused by climate change.

In relation to coastal erosion and/or landslips, in February/March 2017 and again in February 2020 residents living on Pilot Hill in Yamba, adjacent to Main Beach, were notified by CVC about fears of a landslip due to heavy rainfall events over a number of days. Residents were on “red alert” to evacuate. Council has been monitoring the landslip risk over many years. Landslip risk zones and stability strategies were identified in a technical report.

With the inevitable sea level rise and the increase in intensity of weather events the probability of increased and more dramatic coastal erosion and landslips will occur. Existing areas where coastal erosion and/or landslips exist should have a planned retreat plan to reduce the impact on individuals and cost to the community for flawed continuous attempts at holding back the effects of extreme ocean impacts. Future planning in areas such as these must ensure that approvals for any residential or commercial structures are prevented.

(iii) in areas that are threatened ecological communities or habitat for threatened species,

The existing loss of biodiversity with the resultant loss of species is occurring due to poor planning and management. Unfortunately, it is typical of governments to ignore future issues and not address these losses until they become critical. A typical example is the expense of protecting and enhancing koala habitat due to the failings of government to protect habitat. The advent of climate change increases the need for suitable planning to protect and enhance habitat.

Planning approvals commonly have a negative impact on the area of forests and native vegetation. All too often developments are approved by Council or the Regional Planning Panels with less and less green space. MHEs are often approved without any requirement for green space.

Green spaces have environmental benefits that can help mitigate the effects of urbanisation by providing natural habitats for wildlife, promoting biodiversity, and assisting with stormwater management.

Planning decisions across all levels of government must ensure the protection of existing ecosystems on micro and macro scales as well as ensure that connectivity through corridors exist and are created where they do not exist.

(b) the adequacy of planning powers and planning bodies, particularly for local councils, to review, amend or revoke development approvals, and consider the costs, that are identified as placing people or the environment at risk as a consequence of:

(i) the cumulative impacts of development,

- Approvals of development applications for residential use should never be given on a recognised flood plain. The cumulative impacts of development can also be seen at point a) (i) above.
- CVC Development Control Plan Part X WYURA under Objectives states:
“02. Minimise flood and drainage impacts of the development in the WYURA on adjoining residential neighbourhoods and property including ensuring that there is no net increase in the number of existing dwellings whose habitable floor levels become inundated by the ultimate filling and development of the entire WYURA.

04. Ensure that any stage of the overall WYURA development is successfully integrated and does not prejudice or detrimentally impact overland flow path/s, existing watercourses and stormwater management network.”

Neither Object 02 and 04 have been met as photos on the previous pages demonstrate.

- CVC is a statutory body and has a statutory duty of care to its residents.

In 2009 a Floodplain Risk Management Plan (FRMP) was adopted by CVC after a study was done. The Plan concerns environmental issues relating to flooding, in particular new residential development on flood-labile land and the impacts of increased human activity. The FRMP states *“a Master Plan be prepared to achieve a holistic strategy to ensure development is integrated and does not create problems when addressing cumulative issues in West Yamba. This would include the potential impacts of increased human activity - nutrients, sedimentation, runoff - on the nearby exclusion zones during a flood or ocean event when WSUD capacities are exceeded.”* The Master Plan to be prepared prior to developments being approved. The (2009 FRMP) also recommended that Stormwater study be completed and that this was outside the scope of the 2009 FRMP.

A Master Plan was never prepared although development has been allowed to go ahead on the floodplain.

The new development areas on the floodplain resulted in water diversion into existing residents' properties and homes in west Yamba. Yamba's stormwater drainage system was unable to cope, causing flooding. Yamba's stormwater drainage system requires thorough investigation for upgrading. A comprehensive drainage and flood study is required (see second dot point at point (e) on page 18).

As a Master Plan that takes into consideration Stormwater in accordance with FRMP was not prepared, and developments have been allowed to proceed on the floodplain, it appears CVC and State Planning Departments have failed in their duty of care to residents.

- The Lower Clarence Flood Model (LCFM) 2022 currently on exhibition does not address stormwater inundation and flooding in Yamba.
- The West Yamba Urban Release Area acts as a storage for flood waters and the Yamba Bypass drains flood waters into Oyster Channel, neither of which have been addressed in the LCFM 2022. The ongoing fill required for the approved developments in the WYURA and elsewhere in Yamba is negatively impacting, causing stormwater inundation and flooding into existing residents' properties and homes and potentially adversely affecting the safe occupation and efficient evacuation of residents or exceed the capacity of existing evacuation routes for the surrounding area in the event of stormwater and/or riverine flooding.
- Lake Wooloweyah has not been properly considered and modelled in the LCFM 2022, and an independent evaluation of its flood function is needed. The absence of post-flood data collection in February/March 2022, essential for effective flood risk management, may compromise the principles outlined in flood risk management guidelines.
- Yamba is in a similar predicament to that which appeared in *The Sunday Telegraph* on 29 October 2023 on pages 1, 6 and 7 in relation to building on a floodplain. Although not in a bathtub, Yamba's population growth is attributed to development on the floodplain, similar to Sydney's northwest, in the Hawkesbury area potentially putting 23,000 lives at risk if the area was developed. Yamba currently has a population of about 7,000. If all proposed and approved developments are constructed and inhabited the population will likely be about 10,000.

06 NEWS The Sunday Telegraph | October 29, 2023



The horror scene in Couraille Ave, Homebush West.

Housing developments dumped after BATHTUB PULLS PLUG ON HOMES

EXCLUSIVE
Jessica McSweeney
Linda Silimalis

Thousands of new homes proposed across Sydney's northwest will no longer go ahead after a secret state government flood report declared there was a "risk to life" in the "bathtub" of the Hawkesbury area.

In a major blow to an estimated 1030 landholders, homes at Marsden Park North and parts of West Schofields will not be built, while plans for a new Riverstone Town Centre will also be scrapped.

The decision to stop building homes on "high risk flood plains" follows the release under Freedom of Information laws of a 74-page flood evacuation modelling report to *The Sunday Telegraph*.

Commissioned by the former Coalition government to examine evacuation routes, the report was never made public despite multiple requests for it to be released to end the "limbo" for landholders after development was paused after the catastrophic 2020 floods.

The report modelled different flood events to determine the "risk to life" – people unable to evacuate within 12 hours due to floodwaters or being trapped on the roads.

It found the number of people unable to evacuate increased significantly if "all potential development was to occur", with the impact greatly worsened under climate change.

"For example, for a 1 in 500 chance per year flood (similar to the worst flood on record) the risk to life would increase from an estimated 980 people under committed development to around 23,700 people by 2041," it said.

In acknowledging some landholders will be "shocked" at the decision, the government has set up a hotline while appointing a planning expert to liaise with those affected by the decision.

Western Sydney Minister Pruie Car said the decision was necessary to ensure communities on were better protected.

"By stopping unsafe development in dangerous areas on flood plains, and with our government's work to reduce the risk of disasters before they happen, we're making sure communities across Western Sydney, in areas including Penrith, Blacktown and Riverstone, are finally supported and better protected," she said.

"When we consider new housing areas, we will consider both the potential for those homes to be inundated in floods, as well as the impact of more homes will have on the ability of both new and existing residents to evacuate in emergencies."

Ms Car said the report would also help the government "better plan" evacuations while also reducing the risks to emergency service workers responding to floods.

The report described the Hawkesbury-Nepean Valley as having "the highest unmitigated flood risk exposure in Australia" as a result of the "bathtub effect" from having multiple tributaries flowing in and only the Hawkesbury River allowing it to drain out.

"Floodwaters back up and rise rapidly, causing deep and widespread flooding across the flood plain," it said.

"The effects are much like a bathtub with multiple taps turned on, but only one plug hole to let the water out.

THE BATHTUB EFFECT

- Hawkesbury-Nepean Valley has five "taps" feeding water in and only one "drain" to out
- It attracts rain from Wallacia to Brooklyn and takes in more than 500 square kilometres
- More than 140,000 people live or work here
- Between 2020 and 2022, the area flooded six times

WHO IS AFFECTED BY THE REPORT?

MARSDEN PARK NORTH (1):

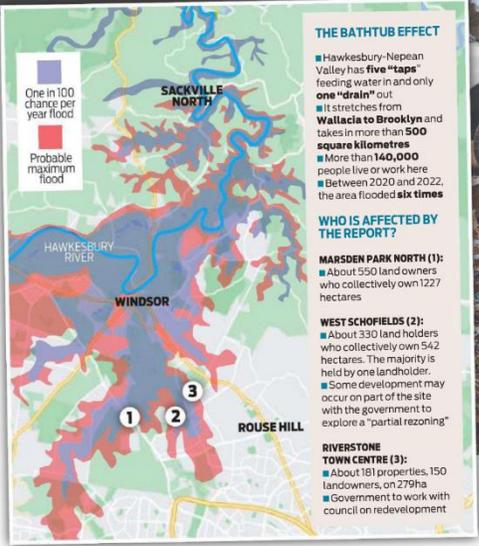
- About 550 landowners who collectively own 1227 hectares

WEST SCHOIELDS (2):

- About 330 landholders who collectively own 542 hectares. The majority is held by one landholder.
- Some development may occur on part of the site with the government to explore a "partial rezoning"

RIVERSTONE TOWN CENTRE (3):

- About 161 properties, 150 landowners, on 279ha
- Government to work with council on redevelopment



Western Sydney Minister Pruie Car.

- Council's draft Local Housing Strategy is currently on exhibition and states on page 51 under Mitigation Measures:

“Proper land use planning to avoid building in high-risk areas, along with resilient infrastructure, ensures homes can function during and after disaster events. Critically, the recommendations from the flood and bushfire inquiries highlight the need for a risk-based approach to planning for natural hazards and include prioritising and encouraging new development in safe areas and ensuring evacuation routes are available and of sufficient capacity where new development is permitted in disaster-likely areas.”

Unfortunately, this has not occurred in the Clarence Valley Council LGA for decades.

Over the past few years, the number of homes, units, townhouses and developments in Yamba have increased, negatively impacting on the lifestyle and amenity of residents.		
Kahuna, Carrs Drive	277 residential lots	Partially filled – lots not approved
Clifton, Carrs Drive - existing	193 MHE	Approved – filled and being constructed
Clifton – new DA, Carrs Drive	216 MHE	Not approved
Senior living	52 senior living units	Approved – not filled/constructed
Parklands – 3 stages	161 lot subdivision	Approved – being filled/constructed
Park Avenue	136 MHE	Partially filled – more fill & MHE's approved (see page 19 below)
Orion Drive	78 MHE – 71 two storey and 7 single storey	Approved – filled and being constructed (see page 19 below)
Palm Lakes Resort	Approx. 184	Existing/approved
Grevillea Waters	156 MHE	Existing/approved
The Dunes estate	24 lots	Approved – filled and being constructed
The Links estate	68 lots	Approved -
Total number of homes	1545 homes	493 not approved 1028 being constructed or existing
Other developments approved: Quays estate Stage 2 (24 lots), Stage 3A (11 lots) (about another 25 to 30 lots yet to be released); 6 lot subdivision Sullivans Road; Carroona aged care facility 84 units; 17 apartments 6 Yamba Road; 14 townhouses Mulgi Street. 186 extra homes, units and townhouses.		

- The existing residents of the whole of West Yamba were unable to reach the designated SES Clarence Valley SES designated Flood Evacuation Centre on 28 February 2022 as the roads were closed. The SES Clarence Valley Plan actually states not to drive or wade through any water at all.
- **Other impacts include:**
 - Unable to access required goods, services, support and medical and health treatment due to storm and riverine water inundation and flooding, causing road closures.
 - Homes flood damaged.
 - Water supply risks.
 - Power outages causing food wastage.
 - Sewer pumps failing.
 - Public transport paused.
 - Increased house insurance premiums.
 - Devaluation of properties.
 - Infrastructure damage.
 - Water quality issues in creeks and rivers, harm to aquatic life by pollutants and increased sediment.
 - Habitat destruction.

(ii) climate change and natural disasters,

The February/March 2022 floods in the Northern Rivers have highlighted the need for better planning strategies to fully consider climate change and natural disasters.

It appears that thorough consideration of climate change and natural disasters concerns is often in the too hard basket for Council and the Regional Planning Panel. Residents are becoming more concerned and are losing confidence in Planning authorities.

Weather events are becoming more extreme, triggering more catastrophic natural disasters.

(iii) biodiversity loss,

Biodiversity is currently facing significant threats due to human activities such as habitat destruction, pollution, over-exploitation of resources, and climate change. Conservation efforts are essential to protect and preserve biodiversity to ensure the long-term health of the planet and its inhabitants.

A 1969 aerial photo provided by Port of Yamba Historical Society showing the WYURA on page 6 above, along with other photos of the Yamba floodplain area demonstrate the biodiversity destruction, particularly habitat destruction due to the ongoing developments.

(iii) rapidly changing social, economic and environmental circumstances

The increasing population in Yamba is negatively impacting on the amenity and lifestyle of residents. There is significant pressure and burden on the demand for social services, healthcare, suitable housing, schools, public transport, road networks, right down to the availability of parking spaces. All profoundly impacting on society as a whole, the social structures, demographics, cultural norms, and economic and financial well-being. Economic changes can also influence the business and commercial environment and can affect employment opportunities in the area.

Overcoming the inadequacy of environmental planning is crucial for ensuring sustainable development and protecting the environment. Environmental planning inadequacies can result from various factors, including inadequate data, insufficient regulations, and limited stakeholder engagement. A review or audit of previously approved development applications (DAs) may assist in highlighting shortcomings and inadequacies in the planning process. Any identified shortcomings and/or inadequacies can then be considered and improved in future DAs.

To address inadequacies in planning powers and planning bodies, local and state governments may need to reassess their legal frameworks, allocate more resources to planning departments, and develop more collaborative and comprehensive planning strategies. Strengthening planning powers can help ensure more sustainable and orderly development, better infrastructure, and improved quality of life for residents.

(c) short, medium and long term planning reforms may be necessary to ensure that communities are able to mitigate and adapt to conditions caused by changing environmental and climatic conditions, as well as the community's expectation and need for homes, schools, hospitals and infrastructure.

- CVC appears to be quite powerless to review, amend or revoke development approvals. In April 2023 a Councillor submitted a motion to prepare a planning proposal for submission to the Department of Planning and Environment requesting that the vacant land, which do not have development approval for subdivision, in the West Yamba Urban Release Area (WYURA) be rezoned from Residential (R1) to Conservation (C2) zoning or a mix of Conservation (C2) and Rural (RU2) based on the impacts of further development on the environment and the risk to human life and property from future flooding. Unfortunately, the motion was lost five votes to two.
- Clarence Valley Council LEP 2011 (a legal document) clause 5.21 sets out flood planning provisions. Under this clause, consent for developments on land within the flood planning area must not be granted, unless the development meets the following:

(1) The objectives of this clause are as follows—

- a) to minimise the flood risk to life and property associated with the use of land,
- b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
- d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- a) is compatible with the flood function and behaviour on the land, and
- b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
- (b) the intended design and scale of buildings resulting from the development,
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

A number of these requirements in CVC's LEP appear to be contravened when developments on the Yamba floodplain have been approved.

Yamba CAN Inc recommends that legislation needs to be introduced to ensure Councils comply with their LEPs and certain measures put in place if compliance is not undertaken.

- No post flood data collection has been undertaken for the February/March 2022 stormwater and riverine flooding in Yamba. **A comprehensive stormwater study and data collection survey on the Yamba floodplain needs to be undertaken as soon as possible in relation to the February/March 2022 stormwater and riverine flooding events.** SES need to be involved and provided with the data collected in order to accurately update the CVC SES Local Flood Plan.
- The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 s65 (3) (a) and (b)* are being overlooked with a number of the currently approved MHEs in Yamba. These include Clifton, Orion Drive and Park Avenue. Please see page 19 below.
- Development applications with a cost estimate over \$30m are forwarded to the Northern Regional Planning Panel (NRPP) to be approved or refused. More times than not the NRPP approves these developments.

Of concern is that the two Councillors representing Council on the NRPP are excluded from NRPP (as seen in the Planning Panels Code of Conduct, Conflicts of Duties point 3.19) if they have voted on a particular development in a Council Meeting or been present at a Council Meeting at which the development was discussed. Councillors would have a more thorough knowledge of a development and community members' concerns in relation to the development and should not be excluded.

Yamba CAN Inc recommends that the NRPP Code of Conduct requires review.

- Under the *EP&A Act 1979 s5.27*, review rights for third parties are restricted to the narrow category of State Significant Infrastructure (SSI) which includes large-scale industrial development such as:
 - new education facilities, hospitals and correctional centres
 - chemical industries
 - manufacturing facilities
 - mining and extraction operations
 - tourist and recreation facilities
 - some port facilities
 - waste management facilities
 - energy generating facilities.

A proposal is considered State Significant if it:

- is over a certain size
- is in a sensitive environmental area
- will exceed a specific capital investment value.

A third party can only bring judicial review proceedings against an SSI approval if the SSI is not for critical infrastructure. Any proceedings must commence within 3 months after public notice of the decision was given.

Actions brought by third-party objectors, community groups or public interest litigants serve an important purpose in administrative review processes, placing scrutiny upon controversial decisions and encouraging increased transparency in the decision-making process.

A number of reviews and articles have been undertaken about the jurisdiction of the Land and Environment Court and found that many individuals and community groups felt that the current rights of appeal were too restrictive and failed to allow them to take action against developments they oppose.

One such article is “Does the “One-Stop Shop” Need Refurbishing? Evaluating the Review Jurisdiction of the NSW Land and Environment Court” by Christopher Pearce at the following link:

file:///C:/Users/blcai/Downloads/One_Stop_Shop-1.pdf

Objectors not being provided the opportunity to lodge an appeal to the Land and Environment Court on merit grounds is a real impediment to the community’s democratic rights.

Yamba CAN Inc recommends the EP&A Act requires review in relation to third parties being provided broader criteria and an opportunity to oppose a wider range of developments.

- As mentioned at point b) (i) on page 13 above, Yamba is in a similar predicament to that which appeared on page 6 in *The Sunday Telegraph* on (29 October 2023). Although not in a bathtub Yamba population growth is attributed to development on the floodplain, similar to the Hawkesbury area. Exacerbating the situation is the fact that Yamba has one road in and out.

Yamba CAN Inc recommends that an evacuation modelling study be undertaken of the Yamba area.

Different flood events (both stormwater and riverine flooding) need to be modelled to determine risk to life. Evacuation routes need to be assessed. Concern is that the SES will experience an increased burden in times of natural disasters.

(d) alternative regulatory options to increase residential dwelling capacity where anticipated growth areas are no longer deemed suitable, or where existing capacity has been diminished due to the effects of climate change

- Yamba CAN is fully aware that there is a housing shortage. However, building on the floodplain, even on elevated, filled mounds is not a viable option, particularly given the increased propensity of stormwater and riverine flooding impacts on existing homes and the increased burden on SES in times of evacuation, as well as the increased potential of risk to life.

(e) any other related matters.

- Emergency Management Plans (ERP). Yamba CAN is aware that in Council's Conditions of Consent (a legal document) for MHEs, an ERP is required to be formulated by an appropriately qualified person. A copy of the ERP is to be provided to Council prior to a MHE operating.

It came to Yamba CAN's attention that one MHE that has been operating for at least two years did not have an ERP. Upon enquiry to Council, the owner of the MHE was contacted and requested to provide an ERP. A copy of the ERP was provided to Yamba CAN. The ERP was not formulated by an appropriately qualified person (it was formulated by a Fire Warden); it was based on Queensland acts and regulations (QLD Work Health Safety Act 2011 and Regulation 2011, QLD Fire and Rescue Service Act 1990 and Regulation 2001 and QLD Building Fire and Safety Regulation 2008); it states "See Appendix 7 for further details on this assessment" and Appendix 7 "Community Emergency Response Risk Assessment" is a blank page; and the field for the Assembly area is blank; "Appendix 9 Evacuation Diagrams" is a blank page.

Further to this the MHE does not have a dedicated on-site manager and during the February 2022 flood as there was no manager on-site an elderly resident drove his 4WD through flood water to get to the nearest pharmacy that was open to obtain prescription medication for some of the residents of the MHE.

Yamba CAN is aware that some Councils are not enforcing compliance possibly due to being poorly resourced with both staff and funding.

Council has stipulated that residents in new developments in West Yamba are not to be an added burden on SES during a natural disaster event.

Yamba CAN recommends Councils are required to have regular audits undertaken by an external party such as State Government and that Councils are not required to pay for the audit so as to ensure the audit is unbiased.

- **A Stormwater Drainage Study** was undertaken by Council at Iluka. The study was flawed as:
 - It was only online.
 - Those participating were required to drag and drop a photo, showing some flooding, on to a map, locating where the photo was taken.
 - Three questions appear in a pop-up screen:
 1. Can you tell us the date and time of the image.
 2. What were the weather conditions prior to the event.
 3. What do you consider to be the cause of the incident.

Only two residents participated in the Study.

Yamba CAN discovered many residents did not take part in the Study because they either did not know of the Study or they were not able to undertake the Study online.

Council has informed they will be undertaking the same Study for residents in Yamba.

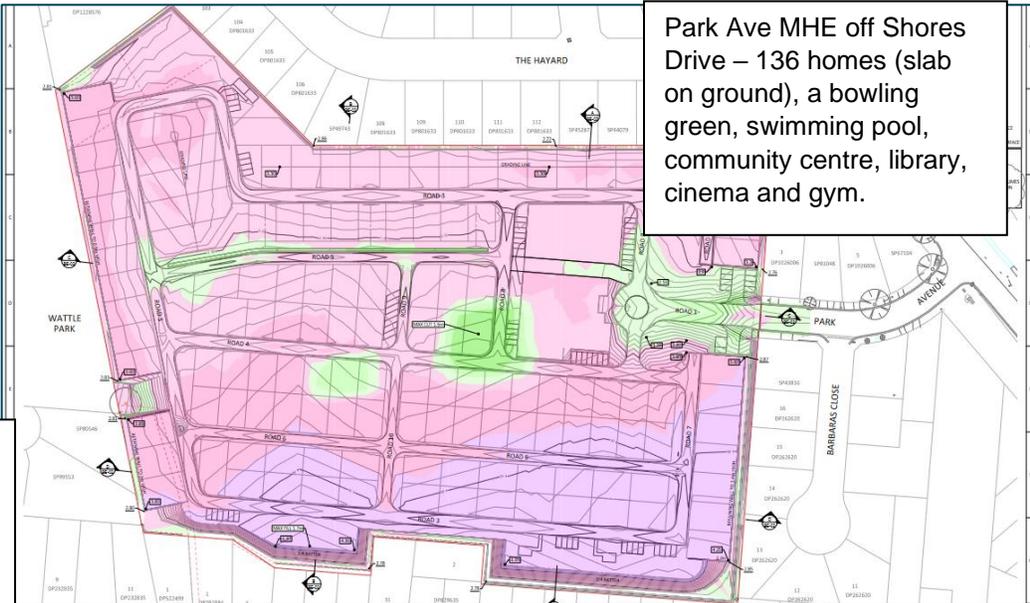
Yamba CAN has voiced concerns that such a Study is inadequate and unsatisfactory and provided Council with a copy of a very comprehensive, six-page, hardcopy Flood Study that was letterboxed to residents in Moonee Creek Catchment in Coffs Harbour.

Yamba CAN recommends Council undertake a similar Flood Study in Yamba as was provided to Moonee Creek Catchment.

Neither Orion Drive and Park Ave MHEs are in accordance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 "section 65 (3) the clearance beneath the home must (a) provide adequate underfloor cross-flow ventilation."



Orion Drive MHE – 71 two-storey homes with lift and 7 single storey homes (all slab on ground), a clubhouse, spa, pool, sauna, library, cinema, billiards room, carpet bowls room, crafts room, indoor golf, bar and a BBQ area.



Park Ave MHE off Shores Drive – 136 homes (slab on ground), a bowling green, swimming pool, community centre, library, cinema and gym.

Clarence Valley Council, Maclean Chambers April 2023 – a motion in Council to rezone vacant land in WYURA that does not have development approval – was unfortunately



lost.

A big thank you to Sue Higginson MLC for visiting and providing a deputation to the Council Meeting

