

Submission  
No 183

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

**Name:** Name suppressed  
**Date Received:** 3 November 2023

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Partially  
Confidential

In 2022 the then prime minister and the then NSW Premier both stated there should be no more development approved on floodplains. Planning protocols need to catch up with reality.

### **West Yamba History of Contentious Zoning.**

The last two decades has seen a lot of misinformation from Clarence Vally Council and concern from the local Yamba community about un-wiseness of rezoning floodprone seasonal wetlands for large scale housing developments, that require millions of tonnes of landfill, and will sit several meters higher than homes in neighbouring streets.

The West Yamba site is situated next to national parks and has wetlands containing 7 identified Endangered Ecological Communities. The effects of displaced stormwater runoff into existing lower lying homes, which are adjacent to the proposed subdivisions are well documented and it is obvious as the fill is changing the delicate water table of our river delta area.

Most of West Yamba lies between zero and 2m above sea level. When West Yamba's zoning was being changed from rural to residential by Clarence Vally Council, Council's fifteen years ago then representative, Deputy General Manager (Civil and Corporate), Rob Donges, stated in the Sydney Morning Herald that he **NEW** turning the West Yamba Flood Plain into an urban growth area, would pose a flooding risk and lead to safety complications for surrounding homes. See the below article for evidence.

**2007 Sydney Morning Herald article, "Coming to this swamp – suburbia", describes Mr Donges as the "architect" of the West Yamba development and quotes him at the time:**

And even the proposal's architect, the council's environment and planning director, Rob Donges, acknowledges it is out of step with today's planning regime. "There are acknowledged problems there. It is flood-prone, low-lying land with a high water table," he said. "We have never hidden the fact that if we were to start the process of West Yamba today there would be doubts as to whether council would proceed."

The council has not yet received the findings of a flood risk management plan, commissioned to examine the effects of altering the area's natural drainage corridors, but Mr Donges has recommended the draft local environment plan go ahead anyway.

He insists the wheel has turned too far to stop now.

"It has a long history and commitments [have been] made by the council."

A Department of Planning spokeswoman, Lyndall Derrig, said the Clarence Valley was identified in the Mid North Coast Regional Strategy as the future hub of another 7000 dwellings.

"Flooding issues will be assessed carefully in the department's consideration of the draft [local environment plan, which] also proposes to protect and zone lands with significant environmental values."

## **2022 Floods**

During the horrific flooding across the northern rivers in 2022, (which was the worst floods Yamba had ever seen) my property on Yamba road had six inches of runoff stormwater inside the living areas. Yamba was cut off by road for 10 days and, at the time we had an 8 month old bay who had just started crawling.

### **Flooding at my property on Yamba Road**

<https://www.youtube.com/watch?v=6BxImLBnoZo>

After this event in 2022 many in our community were experiencing significant stormwater runoff flooding in much higher volumes than ever before. The community began to discuss how the water flowpaths had changed due to the millions of tonnes of stockpiled fill at the West Yamba site. The site at Miles street still does not have an approved DA on it, but the filled floodplain was already shifting stormwater that previously it caught in its low lying wetlands was this was being pushed into the urban area and peoples homes.

### **Negligent Council ?**

Many home owners and residents tried to address this with council and were met with a largely toxic culture of blaming us for where we live, or denying to engage in any dialogue. Councillor Greg Clancy, Councillor Jeff Smith and the Mayor Ian Tiley were the only exceptions and tried to look at the problem with open eyes.

**As evidence of this unprofessional culture of disdain I have attached an email response my partner received from Councillor Karen Toms when trying to discuss the matter with her.  
Doc titled CrToms  
CrClancy Email history.**

There is a solution, but our Council won't listen to its residents or legal advice. An EDO lawyer in the middle of 2022 gave advice to the NSW Coastal Residents United network regarding the possibility of back zoning flood prone lands without approved DA's on it, this advice was then confirmed by legal advice provided to council. In March 2023 Councillor Greg Clancy sort a Notice of Motion (NOM) to Council. Regarding the possibility to rezoning these flood prone seasonal wetland areas back to Rural or to Conservation or to mixture to the two. **See below for details of the motion.**

***Submitted by Cr Greg Clancy***

*To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.*

**SUMMARY** *Approved development of the Yamba floodplain under the provisions of the West Yamba Urban Release Area (WYURA) planning approval has resulted in large amounts of fill being transported to the site, particularly along Gardeners Road, Yamba Road and Carrs Drive. The constant truck movements (1 every 10 minutes), has caused great consternation among a number of Yamba residents. The large amount of fill would appear to be exacerbating localized flooding around the Carrs Drive roundabout and the area surrounding it. There is also concern that the large amount of fill is affecting, and will increasingly affect, the drainage of the area, adversely affecting low lying residences and the environment.*

***PROPOSED MOTION That Council:***

- 1. note the legal advice tabled at the February Ordinary Council Meeting that compensation would not be payable in the event that the Department of Planning and Environment, on the recommendation of Council, was to approve a rezoning of lands in the West Yamba Urban Release Area (WYURA) from residential R1 to C2 or a mix of C2 and RU2 depending on the results of the planning study;*
- 2. 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.*

This motion was defeated in vote by council, with many councillors stating that as this had never been done before they did not feel it was appropriate to be the first LGA to do so, or they feared financial repercussions from developers, who had invested in these areas.

**Solutions**

Since then 10,000 homes planned for in Western Sydney have been canceled and the land rezoned due to the flood prone nature of that land and risk and short sightedness of developing that land. The Planning and public spaces minister Paul Scully said about the site "***New developments could impact the ability of both new and existing residents to evacuate safely during emergencies which puts more lives at risk***". Yamba faces these same issues, with retirement homes at Grevillia Waters being unable to evacuate, with St James School facing more and more closures due to flooding and residents on Carrs Drive and Sullivans Lane having up to 4 foot of water around their homes. There is NO evacuation plan from the SES about how any of these potential new developments could be safely evacuated nor how the existing residents could be evacuated in the case of a major disaster. Clarence Valley council **MUST** be held to the same standard as Western Sydney, not hide behind red tape and

commitments to developers. **Our council has an obligation to seek support from the NSW state government to find suitable solutions within its existing laws, in order to rezone the West Yamba flood plain to a zoning more suitable to its topography.**

Many Thanks for tanking the time to read this email and to make inquires into planning decisions and seem questionable.