



O'DONOHUE HANNA & ASSOCIATES PTY LTD

LAND & ENGINEERING SURVEYORS | DEVELOPMENT CONSULTANTS

ABN 67 634 043 388

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The Institution of Surveyors NSW
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30th March, 2021.

Reference No.: 12909.

Council Ref.: SUB2021/003

Patrick Ridgway

The General Manager,
Clarence Valley Council,
Locked Bag 23,
GRAFTON, NSW, 2460.

Dear Sir,

Re: Proposed Subdivision of Lot 2 in DP1111970, 115 Jubilee Street, Townsend
DAVID SYDNEY COWLING

Consent SUB2021/0003 was issued by Clarence Valley Council (Council) on the 22nd March, 2021 under delegated authority of Council's Senior Development Planner.

Condition 10 of the Consent requires:-

10. *Prior to the issue of the Subdivision Certificate, Jubilee Street is to be upgraded and sealed in accordance with the requirements of this condition. A Road Design Plan must be submitted for approval with a SWC application.*

Jubilee Street must be upgraded for the full frontage of the lot to provide;

- a Concrete Kerb and Gutter to match existing kerb alignment in Jubilee Street.*
- b Road pavement and seal widening to match existing kerb alignment in Jubilee Street.*
- c Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm with prime.*
- d Minimum depth of suitable compacted sub-base and base material.*
- e Adequate tie-in to existing pavement, seal and stormwater drainage infrastructure in Jubilee Street.*
- f Adequate roadside drainage and verge shaping.*
- g Existing roadside street trees to remain.*

Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and NRDC.

We strongly object to the inclusion of Condition 10 as we consider it unreasonable and unwarranted for the following reasons:-

...2/

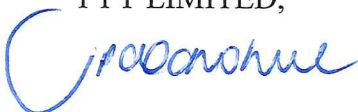
1. The proposal only seeks consent to create one(1) additional vacant lot, as detailed in our Development Application and as shown on the approved plan, with vehicular access and public utility services available to/from Paperbark Drive;
2. The proposal will not result in any change to the business operating with frontage to Jubilee Street;
3. The additional lot will have absolutely zero impact on Jubilee Street as there is no requirement or intention to alter any of the current Council approved access arrangements to/from the land nor extend services from that street to the new lot;
3. It is clear that the proposal will not increase vehicular movements or traffic volumes in Jubilee Street, therefore, the required upgrade is obviously unwarranted from an engineering and/or traffic perspective;
4. The cost of the upgrade (geotechnical testing, detail survey, engineering design and plans, Council fees and charges, road and stormwater construction, construction supervision, works as executed survey and plans and Bond) may deem the proposal economically unviable with the resultant loss of investment, employment opportunities, contributions to Council and future rates. Ongoing Council media releases suggest that such investment and increase in employment opportunities is a Council priority, however, the inclusion of Condition 10 suggests that Council is, in reality, not supportive of local investment at all; and
5. The condition is, unfortunately, another example of a developer being required to undertake work which has no connection to the proposed development.

We respectfully request, then, that Council review Consent SUB2021/0003 and delete Condition 10 as it is wholly unreasonable and unwarranted in this particular circumstance.

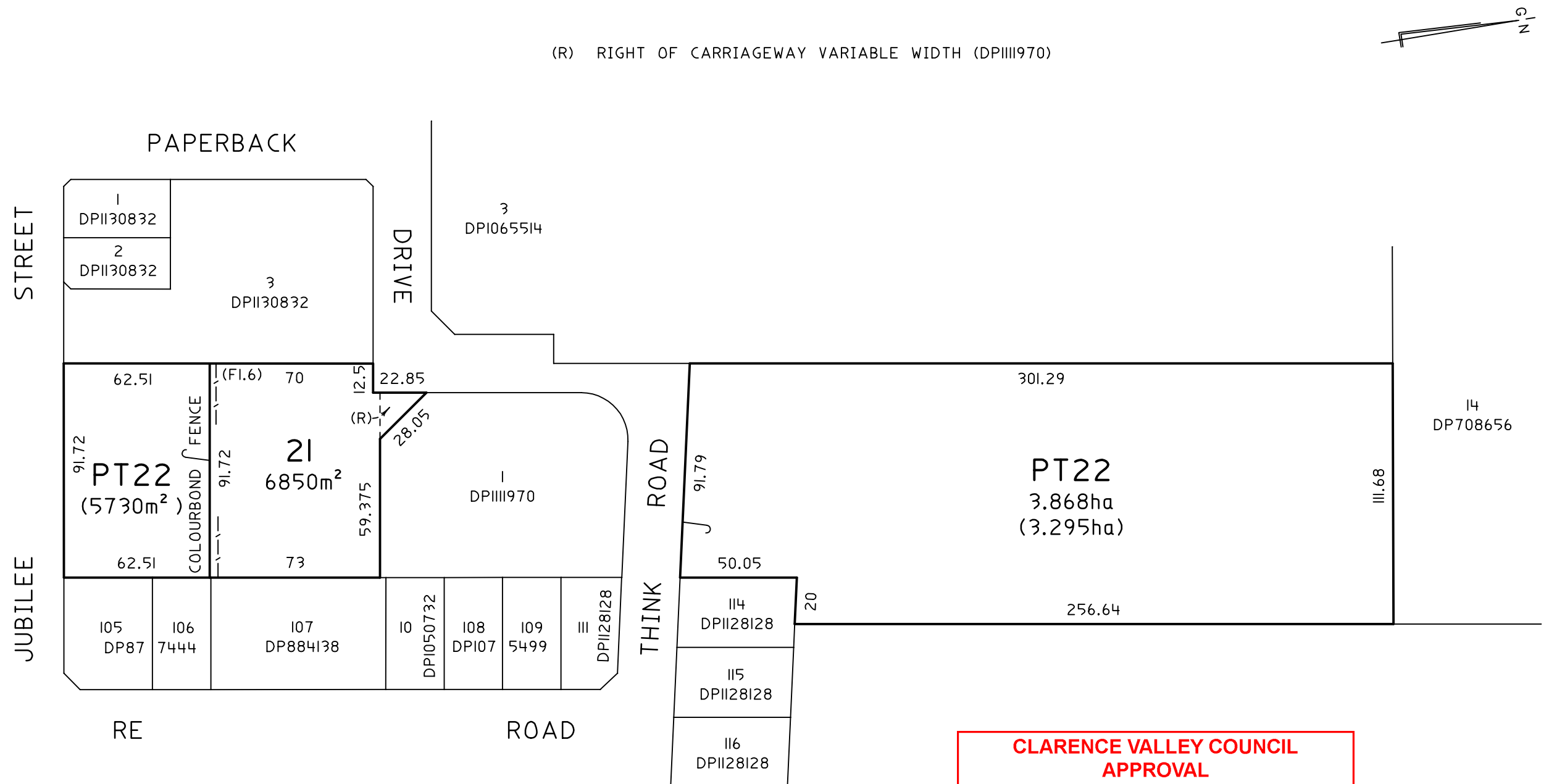
Please do not hesitate to contact the writer should you wish to discuss any aspect of this matter or would like additional information.

We look forward to receiving Council's Amended Notice of Determination at your earliest convenience so this minor development can proceed without further undue delay.

Yours faithfully,
O'DONOHUE HANNA & ASSOCIATES
PTY LIMITED,



J. P. O'Donohue (B. Surv.),
Registered Surveyor
encl.



**CLARENCE VALLEY COUNCIL
APPROVAL**

**This is the plan referred to in Council's
Notice of Determination of SUB2021/0003**

Date: 22/03/2021

O'DONOHUE HANNA & ASSOCIATES PTY LTD

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**PLAN OF THE PROPOSED SUBDIVISION
OF LOT 2 IN DP1111970,
115 JUBILEE STREET TOWNSEND**

LOCALITY:	TOWNSEND
LGA:	CLARENCE VALLEY
PARISH:	TALOUMBI
COUNTY:	CLARENCE
DATUM:	NA
SCALE:	1:2000 @ A3
DRAWING NO:	12909-01
DATE:	17TH DECEMBER, 2020
CLIENT:	M. WICKS



clarence
VALLEY COUNCIL

22 March 2021

Reference: SUB2021/0003
Contact: Pat Ridgway
Your Reference: 12909

O'Donohue Hanna & Associates Pty Ltd
PO Box 1034
GRAFTON NSW 2460

NOTICE OF DETERMINATION OF APPLICATION

Pursuant to Section 4.18(1)(a) of the Environmental Planning and Assessment Act, 1979

Application No: SUB2021/0003
Applicant: O'Donohue Hanna & Associates Pty Ltd
Owner: David Sydney Cowling
Property Address: 115 Jubilee Street TOWNSEND NSW 2463
Legal Description: Lot 2 DP 1111970
Development Proposal: Two lot subdivision

DEVELOPMENT CONSENT

Notice is given that Council has considered your application for the subject development. The determination of the application is an “**operational**” consent.

The Development Application has been determined by:

Consenting to the development with conditions.

Determination of the application was made:

Under delegated authority of Council’s Senior Development Planner.

Determination Date:

22 March 2021

Approved Plans and Documentation

THE DEVELOPMENT SHALL COMPLY WITH THE PLANS LODGED WITH THE APPLICATION AND AS MAY BE AMENDED BY THE FOLLOWING CONDITIONS OF CONSENT AND/OR BY AMENDED PLANS AND DETAILS.

Consent No: SUB2021/0003
Consent Validation Date: 22 March 2021
Page 1 of 7

Definitions

Applicant means O'Donohue Hanna & Associates Pty Ltd or any party acting upon this consent.

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)

AUS-SPEC documents can be obtained from a link under the 'Planning & Building' section of the Clarence Valley Council webpage.

SWC means Subdivision Works Certificate

TfNSW means Transport for New South Wales

ITP means Inspection and Testing Plan in accordance with **NRDC**.

TCP means Traffic Control Plan in accordance with the **RMS** 'Traffic Control at Worksites' guideline.

Advice to Applicant

Council in determining the subject application requests you to take note of the following advice and where pertinent to convey the advice to future owners or tenants:

1. The following approvals are required for this development and are to be issued by Council and/or accredited private certifier as applicable to the development.
 - a Environmental Planning and Assessment Act 1979 Section 6.4(b) - Subdivision Works Certificate;
 - b Roads Act 1993 Sections 138 & 139 - approval for works on a road issued by Council and/or RMS;
 - c Local Government Act Section 68 - drainage, water & sewer approval;
 - d 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.

Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act.

Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.

3. No civil construction works, including the removal of vegetation or topsoil, shall be commenced until a SWC has been issued by Council and/or accredited private certifier.

A private certifier who issues a **SWC** must forward a copy of the Certificate along with a copy of the approved plans and **ITP** to Council two days before work commences on the development.

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.

4. 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.
5. A Subdivision Certificate fee is charged for the endorsement of linen plans. Fees for the 2020/21 financial year are \$250.00 plus \$30.00 per additional lot (minimum \$250.00). An additional fee of \$113.55 is payable if the Subdivision Certificate requires the signing of an 88B instrument by Council.
6. 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.
7. It is the developer's responsibility to make satisfactory arrangements with other property owners affected by the development, and to meet all costs associated with the development.
8. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

Conditions of Consent

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	Plan Date	Sheet No	Revision
12909-01	O'Donohue Hanna & Associates Pty Ltd	17.12.2020	(1 Sheet)	-

2. A Certificate of Compliance for Water and or Sewer works must be obtained from Council prior to release of the Subdivision Certificate. This may require payment of a fee.
3. The developer must bear any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.
4. An ITP must be submitted for approval with the application for a **SWC**. 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 day's notice to attend inspections.

Hold Point, Witness Point and Audit inspections must be documented by the ITP.

5. Prior to the issue of the Subdivision Certificate, 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.
6. 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.
7. Prior to issue of the Subdivision Certificate, the applicant is to provide water supply infrastructure to service all lots in the subdivision, in accordance with the requirements and specifications of the Clarence Valley Council Sewer & Water Connection Policy and NRDC.

The existing water meter servicing the dwelling is to be located within the lot it is servicing as part of the subdivision.

8. Prior to release of the Subdivision Certificate sewerage reticulation infrastructure is to be provided to service all lots in the subdivision, in accordance with the requirements and specifications of Clarence Valley Council's Sewer & Water Connection Policy and NRDC.
9. A sewer junction must be provided to service the proposed new lot in accordance with the provisions of the Local Government (General) Regulation. Cutting in of sewer junctions can only be undertaken by Council. In respect to these works, contact Council's Water Cycle Section.
10. Prior to the issue of the Subdivision Certificate, Jubilee Street is to be upgraded and sealed in accordance with the requirements of this condition. A Road Design Plan must be submitted for approval with a **SWC** application.

Jubilee Street must be upgraded for the full frontage of the lot to provide;

- a Concrete Kerb and Gutter to match existing kerb alignment in Jubilee Street.
- b Road pavement and seal widening to match existing kerb alignment in Jubilee Street.
- c Bitumen spray-seal surfacing must be a 2 coat seal 14 mm / 7 mm with prime.
- d Minimum depth of suitable compacted sub-base and base material.
- e Adequate tie-in to existing pavement, seal and stormwater drainage infrastructure in Jubilee Street.
- f Adequate roadside drainage and verge shaping.
- g Existing roadside street trees to remain.

Design and construction is to be in accordance with the applicable Clarence Valley Council Development Control Plans and **NRDC**.

11. Any existing vehicular crossings is to be re-instated in accordance with NRDC standards to the satisfaction of Council. Details are to be included with the application for a **SWC**.
12. Prior to the release of any Subdivision Certificate, 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.
13. In accordance with **NRDC** and prior to the release of the Subdivision Certificate, 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.
14. Prior to the issue of any Subdivision Certificate, certification is to be provided to Council by a registered surveyor, confirming that all infrastructure (including services, pipelines, access ways and drainage paths) are contained within the respective lots or easements for the lands to be subdivided.

15. Prior to release of the Subdivision Certificate, 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 or if a Subdivision Certificate approval is delayed beyond the maintenance period.

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.

16. 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 the development is accepted 'Off Maintenance'.
17. A detailed Erosion and Sediment Control Management Plan for each stage of the subdivision must be submitted for assessment and approval by Council or accredited private certifier, prior to issue of a **SWC** for the relevant stage. This 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.

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 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.

Reasons

1. To ensure that the development complies with the *Clarence Valley Local Environmental Plan 2011* and relevant Development Control Plan that is applicable to the proposed development.
2. To ensure that the surrounding environment is not detrimentally affected as a result of the development.
3. To ensure works are completed to an appropriate standard and documented.
4. To comply with Council's Sewer and Water Development Services Plans.

Right of Appeal and Validity of Consent

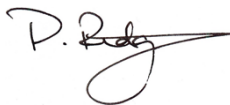
Section 8.2 of the Act provides that you may request a review of your determination by Council. The review must be requested within 6 months of the date of this notice and must be accompanied by the prescribed fee.

Section 8.7 of the Act provides that you have a right of appeal to the Land and Environment Court against Council's decision in the matter, exercisable within 6 months after receipt of this notice.

Consent becomes effective from the consent validation date. Section 4.53 of the Act provides for the period of validity of consent, and it is the applicant's responsibility to ensure that commencement of the development is carried out within the prescribed period. The consent period for this application will be five (5) years.

If you require further information in regard to this notice of determination please contact Pat Ridgway of Council's Environment, Development and Strategic Planning Services section on 02 6645 0288.

Yours sincerely,



Pat Ridgway
Senior Development Planner

SECTION 4.15 EVALUATION FOR REV2021/0004
- Lot 2 DP 1111970- 115 Jubilee Street TOWNSEND NSW 2463

Proposal: The applicant has submitted a Division 8.2 Application (REV2021/0004) requesting a review of the imposition of Condition 10 requiring the upgrade of Jubilee Street for the frontage of the site.

(1) Matters for consideration – General

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and**

Clarence Valley Local Environmental Plan 2011

Clause 7.8 Essential Services of the Clarence Valley LEP 2011 requires Council to be satisfied that any utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available. Such infrastructure includes the supply of suitable road access. As demonstrated in the photographs below, the current road access is not suitable. The upgrade of Jubilee Street for the frontage of the site required by Condition 10 meets Council's obligations of the LEP and as such, the removal of this condition is not supported.



Jubilee Street (facing west) at the boundary of Lot 105 DP877444.



Jubilee Street (facing east) at the boundary of Lot 3 DP1130832



Jubilee Street (facing west) at the boundary of Lot 3 DP1130832

- (ii) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and**

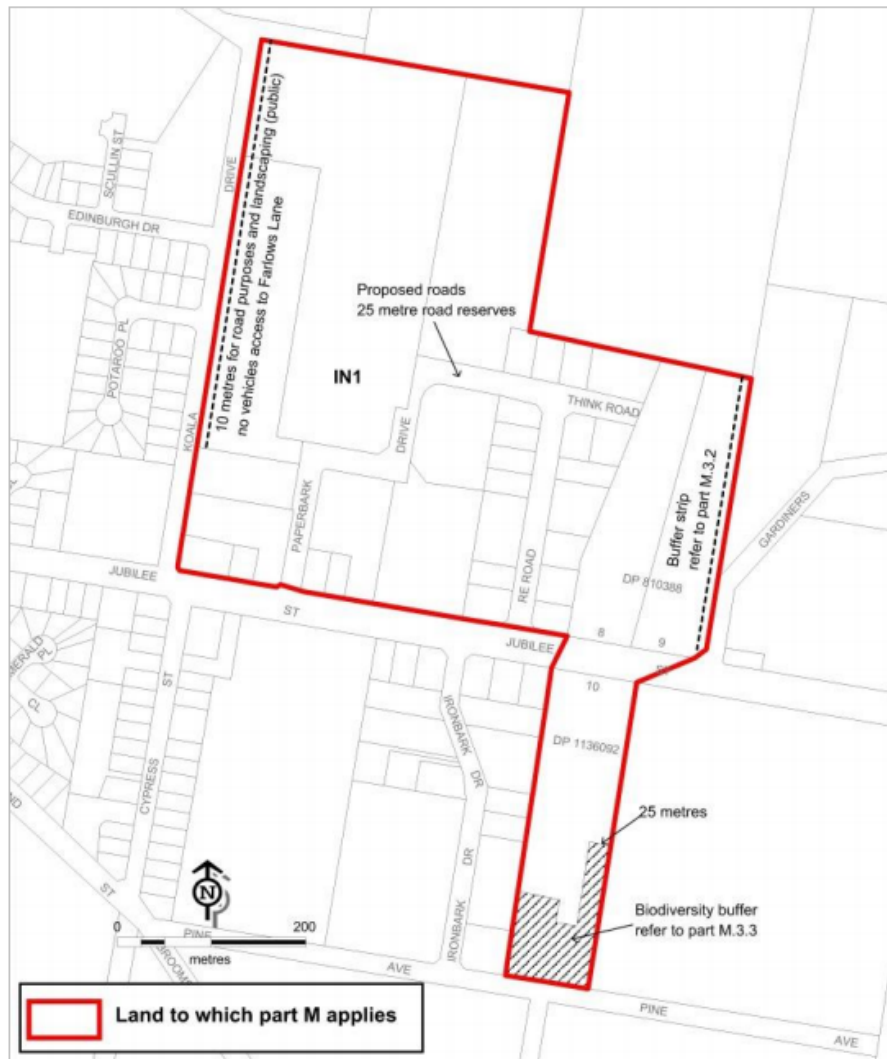
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(iii) any development control plan, and

Industrial Zones DCP

In accordance with Part H4 of the Industrial Zones DCP, the minimum carriageway width required is 13 metres where on-street parallel parking is provided. Furthermore, in accordance with Part M of the Industrial Zones DCP (which applies to the development lot), roads are to be bitumen sealed with kerb and gutter.

MAP M1



Extract of Part M of Industrial Zones DCP

Part H6 of the Industrial Zones DCP also requires suitable road access for industrial development. Further, Clause 7.8 Essential Services of the Clarence Valley LEP 2011 requires Council to be satisfied that any utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available. Such infrastructure includes the supply of suitable road access. As demonstrated in the photographs above, the current road access is not suitable.

In order to provide adequate road and stormwater servicing to the proposed subdivision and provide a better functioning road network servicing the industrial zoning, it will be required that the existing road pavement be widened, sealed and kerb provided to match existing alignment, for the full frontage of Jubilee Street. This is a requirement of the industrial DCP, is consistent with previous development within the area and will reduce the future impacts of traffic on Council's industrial road network in Jubilee Street.

If these works are not required at subdivision stage, it will be the responsibility of the future property owners to undertake these works through development of the created lots. This will ultimately result in an 'end user pays' situation where the developer is not responsible for these costs. If this does not occur, it will be Council's responsibility to construct the works to prevent further damage to the existing road pavement.

For this reason, it is recommended that Council refuse to remove Condition 10 from the consent.

- (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

The applicant has not offered to enter into a planning agreement to provide any monetary contribution towards road upgrading in Jubilee Street.

- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

The proposed development is not inconsistent with the matters prescribed within the regulations.

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The removal of Condition 10 from SUB2021/0003 will have an adverse impact on the surrounding road network

If Council resolves to remove Condition 10, this will ultimately result in additional costs being required for maintenance works of the road. Through retention of the condition, Council will reduce the short term cost of upgrading and long term maintenance cost of the road.

- (c) the suitability of the site for the development,**

The removal of Condition 10 will result in the access not being suitable for the proposed subdivision and any future development.

(d) any submissions made in accordance with this Act or the regulations,

The review did not require advertising or notification under the provisions of Council's Community Participation Plan.

(e) the public interest.

The recommendation to refuse REV2021/0004 by not removing Condition 10 upholds the public interest through compliance with Council's LEP and DCP requirements to provide suitable access to the development site.

Officer: Carmen Landers, Acting Development Services Coordinator

Date: 12 May 2021