

Date: 26th June 2025

Our Ref: 180336

Clarence Property
Attention: Mr Simon Dougherty

Delivered via email: simon.dougherty@clarenceproperty.com.au

Dear Sir,

Re: Yamba Quays - Pontoons

1. Introduction

Newton Denny Chapelle has been engaged by Yamba Quays Pty Ltd to coordinate a pre-lodgement meeting with Clarence Valley Council to review the opportunity to apply a masterplan for the provision of pontoons for those lots in Stages 4 & 5.

In line with our instruction, a pre-lodgement meeting was held with Council on 1 April 2025. Council was provided with a masterplan prepared by Aqua Pontoons (dated 19 October 2024) detailing the scope to provide pontoons to all canal lots.

A copy of the minutes are attached to this letter.

The key outcomes from the meeting with Clarence Valley Council are outlined below.

- The subject site is zoned R2 Low Density Residential and W2 Recreational Water Way under the Clarence Valley Local Environmental Plan 2011 (the LEP). The proposed water recreation structures are permitted in the zone either with consent or as exempt development under the LEP.
- Council is generally supportive of the concept arrangement as shown on plan 'Proposed Pontoon & Gangway, dated 19 October 2024 and drawn by Aqua Pontoons'. Due to potential issues with access and manoeuvring of vessels Council's supports the finger pontoon layout on Lot 501.

The planning approval pathway for lots fronting the Oyster Channel is outlined below.

Planning Pathway for Lots 434 to 436 and 512 to 520

- The location of a pontoon servicing these lots will be in Oyster Channel and not located on Council's drainage reserve/canals, therefore a Development Application will be required for any water recreation structure on these lots.
- The proposed development is classified as Integrated Development under the Environmental Planning and Assessment Act.
- Works in, on or under waterfront land require a Controlled Activity Approval (CAA) from the NSW Natural Resource Access Regulator. An exemption to this requirement

exists if the work complies with Clause 32, Schedule 4 of the Water Management (General) Regulation 2018, as shown below:

“Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:

(a) the removal of material from the land,

(b) the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land,

(c) works which change the profile of the waterfront land adjoining the lake or estuary.”

- pontoons that trigger a Development Application and Construction Certificate must seek landowners consent from Crown Lands for the portion of the structure that is located outside the property boundary.
- This section of the bed of the Clarence River and its tributaries are subject to Native Title. For land subject to a Native Title Determination or currently under Native Title Claim. Native Title will be covered by Crown Lands when seeking their land owners consent
- Clarence River Fisherman’s Co-operative have been consulted and have advised raised no objections to the development of pontoons in the Oyster Channel area illustrated in the concept plan.
- Preliminary environmental assessments have identified there is no evidence of seagrass or vegetation where the pontoons are proposed. Additionally, small mangrove stands are colonising the land formed-up as a result of the development and are in areas proximal to existing pontoons to the east and south. As such, there will be no deleterious impacts because of the proposed pontoons. As such, the impacts have been assessed, and the impacts have been appropriately mitigated and compensated for by the presence of the additional habitat.

We trust this information is sufficient for your purposes at this stage to inform landowners on the pathway to secure a pontoon. However, should you require clarification of any aspect of the content of this letter, please do not hesitate contacting Damian Chapelle (dchapelle@ndc.com.au) of this office.

Yours sincerely,

NEWTON DENNY CHAPELLE



DAMIAN CHAPELLE

Town Planner BTP. CPP

9 April 2025

Reference: DMU2025/0009
Contact: James Hamilton

Newton Denny Chapelle
1/31 Carrington Street,
Lismore NSW 2480

Pre- DA lodgement Meeting

DMU Number: DMU2025/0009

Development Proposal: Yamba Quays Stage 4 and 5 - Water Recreation Structures (Pontoon)

Property Address: Della Place YAMBA NSW 2464

Legal Description: Lot 400 DP 1309667

Attached is a meeting record of your deputation on 1 April 2025 to Council's Development Management Unit.

If you believe any aspect of these Minutes is incorrect or any matter discussed has not been included, please advise Council in writing.

Note that where development is permissible with consent this does not necessarily mean that a development application will be approved. As outlined at the DMU Meeting, there is a range of information which you will need to submit with your application. Council will assess any application under the requirements of the Environmental Planning and Assessment Act 1979. As a result of that assessment a determination of the application will be made which could be:

- Approval;
- Approval with conditions; or
- Refusal.

If you require further information please contact James Hamilton of Council's Development and Land Use Planning section on (02) 6643 0233.

Yours faithfully



James Hamilton
Coordinator Development Services

Pre-DA Lodgement Meeting Minutes

Date:	1 April 2025
Time:	9.30am
Applicant:	N Denny Chapelle
Present:	<u>Applicant:</u> Adrian Zakaras Simon Dougherty Jim Hillery <u>Council:</u> James Hamilton (Coordinator Development Services) Greg McCarthy (Coordinator Building Services) Carlo Favetta (Development Engineer)
Property Address:	Della Place YAMBA NSW 2464
Legal Description:	Lot 400 DP 1309667
Zoning: Clarence Valley LEP2011	R2 Low Density Residential W2 Recreational Waterways
Development Proposal:	To review the opportunity for the provision of pontoons for those lots in Stage 4 & 5 with frontage to the Oyster Channel and the canal.
File:	N/A.
Receipt No:	BPOINT Transaction ID 50270866

Important Note:

These minutes are the professional opinion of the Council Officers attending this meeting, in specific reference to this site, and the proposal and plans presented at this meeting only. A site inspection has not been undertaken, and as such, site and locality specific constraints may exist that could affect the development potential of the allotment as discussed herein.

Should an application require notification and/or advertising, any submission received must be given due consideration and may alter what is/is not considered acceptable.

Should an application require referral to a Council meeting for determination, the professional opinions expressed in these minutes may/may not be supported by Council.

In the event that Council policy or a relevant DCP is amended, or the proposal or plans changed by the client, the professional opinions expressed in these minutes may no longer be applicable. In these circumstances, the client is advised to seek current advice from Council.

Proposal:

Plans tabled at the meeting, prepared by Aqua Pontoons, dated 19 October 2024, showed indicative locations for proposed water recreation structures (pontoons) in Stage 4 and 5 of the Yamba Quays development to be released.

Planning Comments:

The subject site is zoned R2 Low Density Residential and W2 Recreational Water Way under the *Clarence Valley Local Environmental Plan 2011* (the LEP). The proposed water recreation structures are permitted in the zone either with consent or as exempt development under the LEP.

Council is generally supportive of the concept arrangement as shown on plan 'Proposed Pontoon & Gangway, dated 19 October 2024 and drawn by Aqua Pontoons'. Due to potential issues with access and manoeuvring of vessels Council's supports the finger pontoon layout on Lot 501.

Planning Pathway for Lots 501 to 511

Schedule 2 – Exempt Development of the LEP specifies criteria for exempt water recreation structures in the Yamba canals/waterways. The controls are detailed below:

Water recreation structures

- (1) Must only be erected on canals and waterways in Yamba that are within Zone R2 Low Density Residential or W2 Recreational Waterways.*
- (2) Must be structurally adequate.*
- (3) Jetties (including any pontoons) must have a maximum length of 13m.*
- (4) Pontoons must have a maximum width of 8m.*

If the water recreation structures comply with the above requirements, a development application is not required however approval under the Local Government Act is required prior to installation of the structure over Council land (i.e the canal). Generally, the pontoons indicated on the tabled plans comply with the above exempt criteria.

If the structure exceeds these criteria, the proposal will be subject to consideration of a Development Application and Construction Certificate.

The proposal is not classified as Integrated Development under Division 4.8 of the *Environmental Planning and Assessment Act 1979* as Department of Primary Industries – Fisheries do not class the canals as being fish habitat due.

Further works in, on or under waterfront land require a Controlled Activity Approval (CAA) from the NSW Natural Resource Access Regulator.

An exemption to this requirement exists if the work complies with Clause 32, Schedule 4 of the Water Management (General) Regulation 2018, as shown below:

“Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:

- (a) the removal of material from the land,*
- (b) the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land,*

(c) works which change the profile of the waterfront land adjoining the lake or estuary.”

Pontoons that trigger a Development Application and Construction Certificate must seek landowners consent from Council for the portion of the structure over Council land (i.e. the canal). The construction and ongoing use of the structure will be subject to a 5-year lease from Council to permit the encroachment on the Council waterway. Further details on the process and requirements for submitting an application can be found [here](#).

It is advised that for pontoons located on Lots 509 to 511 consult with Transport for New South Wales – Maritime to ensure that pontoons do not impact on navigation into and out of the canal.

Planning Pathway for Lots 434 to 436 and 512 to 520

The location of a pontoon servicing these lots will be in Oyster Channel and not located on Council's drainage reserve/canals, therefore a Development Application will be required for any water recreation structure on these lots. These requirements may also apply to Lot 511 if the location of the pontoon is revised from the endorsed plan.

The proposed development is classified as Integrated Development under Division 4.8 of the *Environmental Planning and Assessment Act* and will require General Terms of Approval from the following public authorities:

- NSW Department of Primary Industry - [Fisheries Management Act 1994](#)
- NSW Department of Climate Change, Energy, the Environment and Water – [Water Management Act 1994](#) (unless the below criteria is complied with)

An administration referral fee of \$182.60 is payable to Council per integrated authority.

Any approval will incorporate the public authority's general terms of approval.

Further works in, on or under waterfront land require a Controlled Activity Approval (CAA) from the NSW Natural Resource Access Regulator. An exemption to this requirement exists if the work complies with Clause 32, Schedule 4 of the Water Management (General) Regulation 2018, as shown below:

“Any activity carried out in connection with the construction of a pontoon, jetty or mooring pole on waterfront land relating to a lake or estuary but only if that activity does not require any of the following:

- (a) the removal of material from the land,*
- (b) the depositing of material, other than that which is necessary for the construction of the pontoon, jetty or mooring, on the land,*
- (c) works which change the profile of the waterfront land adjoining the lake or estuary.”*

It is recommended that consultation be undertaken with Transport for New South Wales – Maritime to ensure that pontoons do not impact on navigation in Oyster Channel.

Pontoons that trigger a Development Application and Construction Certificate must seek landowners consent from Crown Lands for the portion of the structure that is located outside the property boundary.

This section of the bed of the Clarence River and its tributaries are subject to Native Title. For land subject to a Native Title Determination or currently under Native Title Claim, please

discuss Native Title with Crown Lands when seeking their land owners consent. Further details on the process and requirements for submitting an application can be found [here](#).

Quotes in relation to costs for submitted Development Applications and Construction Certificates can be generated using the [DA Fee Estimator](#) on Council's website.

Community Participation Plan

If a development application is required for the use, the proposed development will be notified.

Development Control Plan

DCPs Applicable: @ www.clarence.nsw.gov.au

Clarence Valley Council DCP – Development in Residential Zones

Clarence Valley Council DCP – Development in Environmental Protection, Recreation and Special Use Zones

General Considerations

The development application must be accompanied by a Statement of Environmental Effects with full details of compliances and non-compliance with DCP, LEP and other relevant State Environmental Planning Policies applicable.

The proposal is to be accompanied by a site plan drawn to scale with sufficient detail including (but not limited to) services, driveways, existing and proposed buildings / structures, and setbacks, as well as elevations and structural engineering plans of the proposed structure.

Please refer to Council's '[Lodge a Development Application](#)' page available on Council's Website for information to be submitted with your application.

Aboriginal Heritage

For lots proposing a structure within Oyster Channel an Aboriginal Heritage assessment for the site must be undertaken and include a search on the Aboriginal Heritage Information Management System - AHIMS search <https://www.environment.nsw.gov.au/awssapp/login.aspx>. Should any areas or items of Aboriginal Heritage be identified during the search, this may trigger additional constraints or requirements. It is recommended that consultation with Birrigan Gargle Local Aboriginal Land Council be undertaken prior to lodgement.

Site Constraints/Features

The Table below identifies features of the subject land that are relevant to any assessment of planning matters. Relevant aspects need to be considered and addressed in preparation of the DA documentation for the proposed development.

Feature name	Effect on land	Comment
Acid Sulfate Soil (ASS)	ASS Mapping identifies the whole of the subject land to be Class 1 and 2 ASS. Clause 7.1 of the CVLEP applies.	Any disturbance of more than 1 tonne of soil at a depth below the surface will necessitate a preliminary ASS Management Plan assessment to be completed and submitted with a DA.
Flooding	The site is affected by the 1% AEP flood	Refer to the Erection and Tenure of a Water Recreation Structure on Council

		owned Waterways Protocol available on the website – include certification and design requirements regarding flooding.
Coastal Management zone		Refer to Part 2.2 SEPP (Resilience & Hazards)
Canal Revetment Wall		Council will require certification from a suitably qualified engineer that the existing canal revetment wall is not adversely affected by the boating structures.

Flood Planning

Council adopted the Lower Clarence Flood Model Update 2022 (the 2022 Flood Model) on 27 June 2023 (Resolution 06.23.009). The 2022 Flood Model is publicly available on Council's website (<https://www.clarence.nsw.gov.au/files/assets/public/v/1/council/files/flood-plans/lower-clarence-flood-model-update-2023-final-report-small.pdf>) and Flood Mapping is available on Council's online mapping system (<https://maps.clarence.nsw.gov.au/intramaps910/>).

Council has now updated the Clarence Valley Development Control Plans (in effect from 1 January 2025) to include the interim Flood Planning Levels (as contained in the adopted Lower Clarence Flood Model Update 2022) being 1% Annual Exceedance Probability (AEP) Flood – 2090 Climate Change scenario as the Defined Flood Event + 500mm Freeboard.

The 2022 Flood Model includes a Probable Maximum Flood (PMF) which applies to your property. This PMF is larger than the previous Extreme Flood Event included in the 2013 Flood Model.

Section 7.12 Contributions

Section 7.12 contributions apply to non-residential development and are calculated using the estimated value of the development or work as follows:

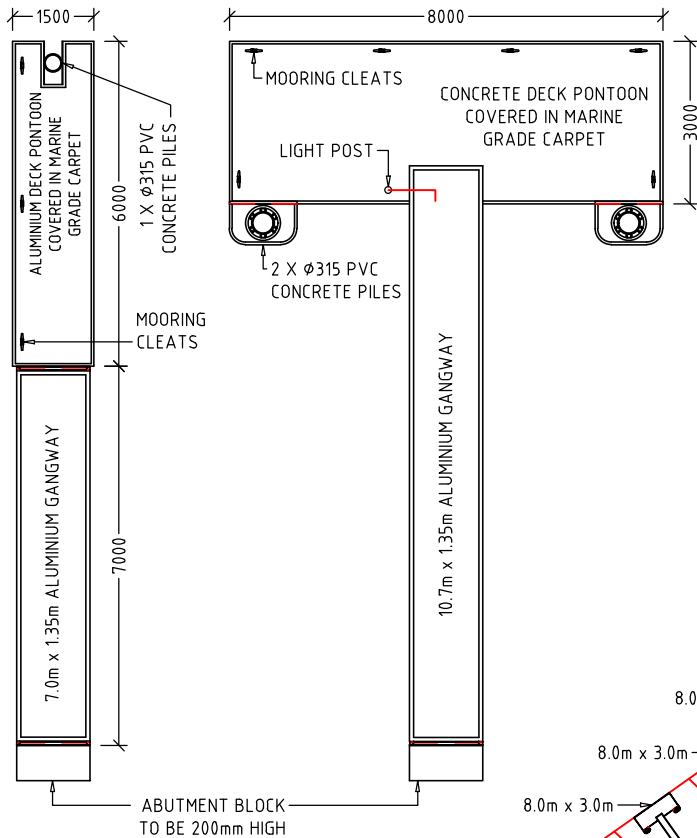
- where the estimated value is less than \$100,000 then no contribution is payable, or
- for development work valued between \$100,000 and \$200,000 the contribution would be the value x 0.005, or
- where the value is greater than \$200,000 the contribution would be the value x 0.01

Health and Building Requirements:

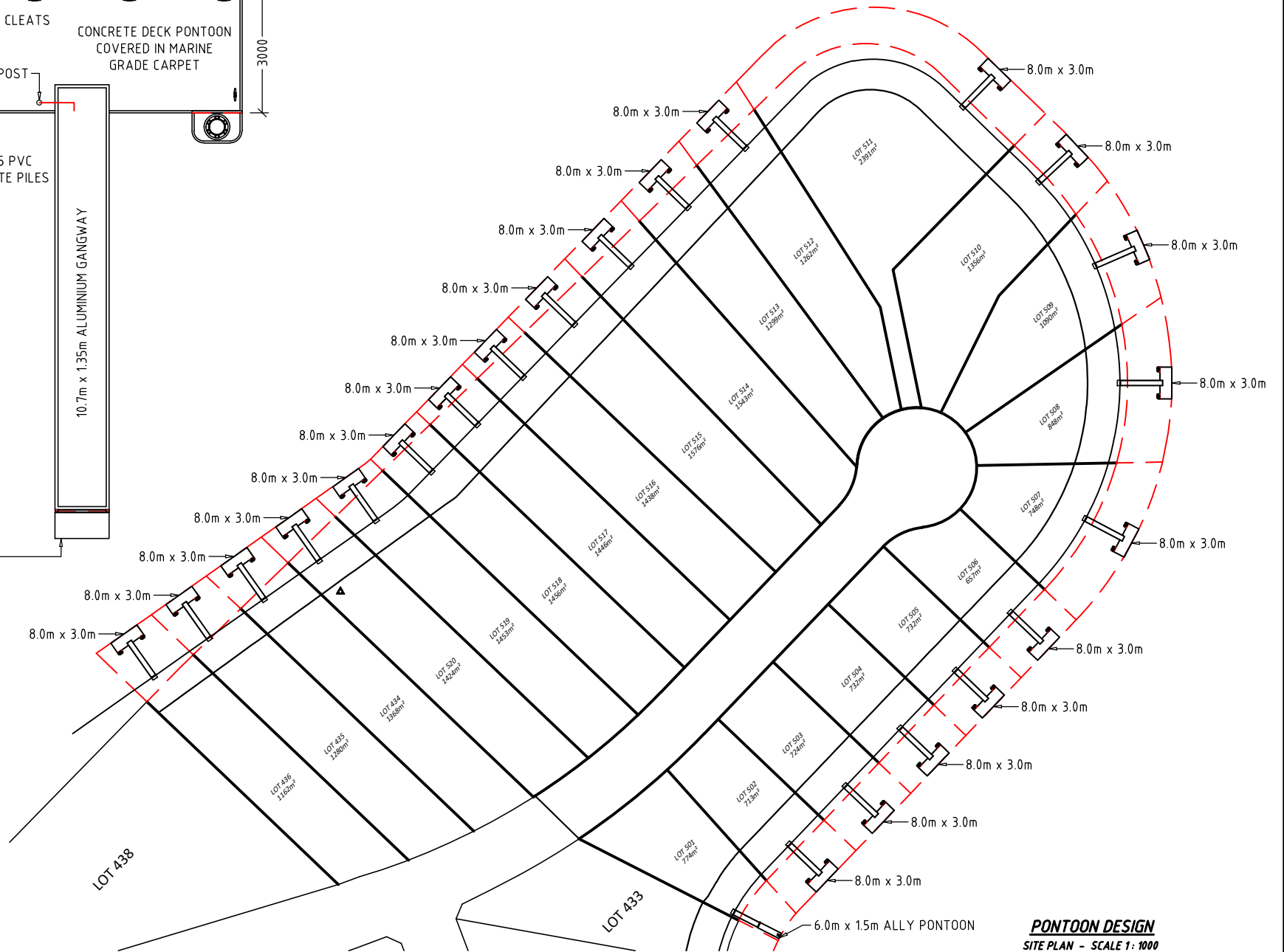
Construction Certificate/Occupation Certificate Applications

A Construction Certificate will need to be obtained before any building works that are not deemed to be exempt development can commence. Full structural details of the proposed works will be required to be included with that application. The release of the Construction Certificate may be dependent on the prior compliance with certain conditions attached to the development consent. An Occupation Certificate will also need to be obtained prior to use or occupation of the proposed works.

A second DMU meeting is available at no additional charge if within 12 months from the date of the minutes.



PONTOON DESIGN
TYPICAL PLANS - SCALE 1:100



PONTOON DESIGN
SITE PLAN - SCALE 1:1000

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REV	DATE	REVISION DESCRIPTION
PAPER SIZE	SCALE	DRAWN BY
A3	AS SHOWN	D.K.E.
		1 OF 1

PROJECT	PROPOSED PONTOON & GANGWAY
DRG. TITLE	LAYOUT PLAN 1
CLIENT	CLARANCE PROPERTIES
ADDRESS	YAMBA QUAYS

DRAWING NO:	AP9492-LP2
DATE:	19/10/2024
REVISION	0

APPROVED:	MARK WICHLINSKI
RPEQ: 1643	