

OBJECTION AND SUBMISSION TO DA 233/2022

LOT 11 DP 1243930, 11 Ocean Ridge Drive, Way Way

SCOTTS HEAD COMMUNITY GROUP - SAVE SCOTTS HEAD SUB-COMMITTEE

August 2022¶

The Scotts Head Community Group acknowledges the Traditional Custodians of this land, the Gumbaynggirr people. We pay our respects to them, and to all the First Nations people of Australia including their respective individual cultures, and their Elders past, present and future.



ACKNOWLEDGEMENTS

This submission has been prepared with the assistance of many people in the Scotts Head community and beyond, who have spent countless hours reading, researching, reviewing and writing contributions. To all those amazing volunteers - we say thank you!

Complementing that local knowledge and enthusiasm, we also acknowledge the contribution of professional experts and advisors in the areas of: environmental planning and policy, ecology, soil and coastal/estuary issues, hydrology, transport, social impact assessment, health and aged care, and the law.

WHO ARE WE?

The Scotts Head Community Group (SHCG) was formed in 1999 and formally incorporated as an association in 2000. The SHCG is a grass-roots community group made up of members residing in Scotts Head, Way Way, Grassy Head and surrounds.

The objectives of the SHCG are focused on three key areas (summarised from the SHCG constitution):

1. **Communication** - providing a forum to exchange and discuss ideas, foster co-operation and linkages, and identify the needs of residents and ratepayers
2. **Funding** - to actively seek resources to benefit the community and environs of Scotts Head
3. **Environment** - to promote care of the earth and its people, establish our “sense of place”, and promote ecologically sustainable development.

The SHCG has worked hard over many years to pursue these objectives in collaboration with interested individuals, local businesses, other community organisations, Nambucca Valley Council and relevant NSW agencies.

Save Scotts Head

The “Save Scotts Head” campaign is an initiative of the SHCG in direct response to the Ingenia development proposal, noting the official applicant is ‘Sungenia Development Pty Ltd’ (which appears to be a related entity of Ingenia). The Save Scotts Head sub-committee of the SHCG was formed in early 2022 to:

- gather information on the proposal, the planning and development process, and potential implications for the Scotts Head community
- assist the SHCG in sharing information with the community about the proposal, to enable informed community debate, engagement and input
- assist the SHCG to formulate a position on the proposal that reflects and advocates the views of members and the broader community
- assist the SHCG to engage with Council, Ingenia and other community stakeholders

This objection and submission to DA 233/2022 represents the collective views of the SHCG about the development proposal on behalf of its members and supporters.

These views have also been clearly expressed by the broader community via a:

- **Community survey** - which shows **81.5%** of the 228 respondents (almost 25% of the adult population) oppose the Ingenia proposal (Appendix A to this submission)
- **Community petition** - of **272** signatories, also opposing the proposal (Appendix B).

EXECUTIVE SUMMARY¶

This submission sets out the grounds for objection to the development proposal DA 233/2022 at Lot 11 DP 1243930, also known as 11 Ocean Ridge Drive, Way Way.

In short, the SHCG is of the strong, unequivocal view that the proposal is the wrong type of development in the wrong location. In no way does it support delivery of the objects of relevant NSW legislation, the Nambucca local environmental plan, or key planning strategies and guidelines.

The proposal fails statutory requirements

The proposal is incorrectly characterised and assessed in the DA as a “caravan park”. The SHCG contends that the development is in fact either:

- a “manufactured housing estate” (MHE) under the State Environmental Planning Policy (Housing) 2021 (the Housing SEPP). If so, then the DA should be **refused consent** because the proposal has not been properly assessed in accordance with the planning requirements that apply to manufactured housing and indeed is prohibited as it is located on “excluded land” under that SEPP; **or**
- “mutli-dwelling housing”, and if so should be **refused consent** because the DA has not assessed the proposal correctly and because such development is prohibited in the RU2 zone that applies to such land under the Nambucca Local Environmental Plan (LEP).

If the planning authority determines that the proposal has been correctly characterised and assessed as a “caravan park”, then the SHCG further contends that the DA should be **refused consent** as it: exceeds the limits on moveable dwellings set down in clause 7.9 of the Nambucca Valley LEP; is prohibited in the RU1 zone; and is inconsistent with the land use objectives of the RU1 and RU2 zones.

The proposal will have significant, unjustified and unacceptable impacts

The proposal pre-empts any meaningful, comprehensive strategic land use planning for the area south of Scotts Head Road, as committed by past, current and draft regional plans for the North Coast. If it proceeds, the impacts of the development will be detrimental, deep and long-lasting for the community of Scotts Head and the broader Nambucca Valley. It will drive a steep and rapid increase in the permanent population of Scotts Head Village resulting in a “**very high social impact**” of “**transformational magnitude**” (Social Impact Assessment, page 45).

The proposal fails to assess the environmental, social and economic consequences of essential infrastructure needed for the development to proceed. It will require diversion of scarce public resources to provide essential social and utility infrastructure to service an isolated and out-of-character outpost of high density housing that is disconnected from the social fabric of the Village. It will place additional strain on already overburdened medical systems with no firm commitment to provide additional services, lacks genuine public transport and is too far from the Village centre for aged residents to safely walk or cycle to.

The development is not a panacea for the affordable housing challenges facing our community and others on the North Coast; instead it will entrench disadvantage by locking out young families, workers and people over 55 on low incomes. The changing demographics driven by the proposal will adversely impact the social cohesion of the Village, making it increasingly difficult to attract and retain young families and workers, with flow-on consequences to schools, sporting and other community groups, local businesses that rely on younger staff, and service provision for an ageing population.

The proposal will destroy all existing native vegetation and wildlife habitat within the development footprint, and impact the movement of native animals across a landscape that is increasingly fragmented by urban development and roads. Any offsets proposed are illusory, lack specific commitment and deficient. It will degrade Aboriginal cultural heritage values, including via threats to known and potential Aboriginal sites and a recognised significant and sensitive cultural landscape; a loss that is unrecoverable once it occurs. In addition, the development will drastically alter local hydrology, changing a natural, vegetated landscape into almost 100% hard surfaces, with resulting adverse impacts to downstream water quality, volume and flow, and ultimately placing mapped, protected coastal wetlands at risk.

Of particular concern, the development would place a future, ageing resident population directly in harm's way, with current observable risks from bushfires and flood impacts to road access only to increase as climate change accelerates. The risks of flood impacts to permanent residents of caravan parks have been recognised by the NSW Flood Inquiry. In addition, if for no other reason, the prospect of another Black Summer and the risks such an extreme event would pose for up to 561 over-55 residents and the emergency services personnel and volunteers that would be expected to provide protection and evacuation support, should be sufficient to **refuse development consent**.

The development will irrevocably impact the very values that attract tourists, holiday makers and new residents to the area in the first place; the uncrowded beaches, parks, amenity and relaxed-pace of life that make Scotts Head unique as one of the last small, compact, accessible and welcoming places on the NSW coast. It will undermine and ultimately destroy the coastal village character and heritage of this place.

There is only one winner here and many losers if the development proceeds. All benefits accrue to the applicant in the form of sales and profits. All impacts and adverse consequences will fall on the existing community, future residents of the development, Nambucca Valley Council (as service provider), and the natural environment.

Given the cumulative impacts of the development, the threat or risk of serious or irreversible social and environmental damage, and consistent with the principles of ecologically sustainable development (including but not limited to the precautionary principle), the development application should be **refused consent**.

Key deficiencies

To assist the planning authority in its assessment of the proposal, the following tables are provided as part of this Executive Summary.

Table 1 addresses **critical issues** and provides an overview of the key areas where the DA is considered to be deficient or the impacts unjustified and unacceptable. These are then discussed in detail in the body of this submission.

Table 2 outlines issues of **administrative uncertainty** with the application that require clarification. These are important to ensure accuracy with respect to who is responsible for the DA, the location of the development, costings and description of the proposal, and to confirm statutory requirements for lodgement of the DA have been met.

Independent expert reports

This submission is informed by the views of professional, independent experts in the areas of planning, ecology and bushfire.

Advice from these experts is referenced in the relevant parts of this submission. In addition, the reports are attached in full as appendices to this submission:

- **NK Traffic** - Appendix F
- **Blackash Bushfire Consulting** - Appendix G
- **Australian Environmental Surveys** - Appendix H
- **Land and Environment Planning** - Appendix I.

Table 1 - Critical issues

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
Characterisation of the development	<ul style="list-style-type: none"> • The proposal is incorrectly characterised and assessed as a “caravan park”. • If it were correctly characterised as a manufactured housing estate or multi-unit dwellings, the proposal would be prohibited. • If it is a “caravan park”, then it is inconsistent with the Nambucca LEP. 	A1 - page 18 A2 - page 22
Relevant strategic plans	<p>The proposal is inconsistent with the strategic land use and environment protection statements, principles, directions, goals, criteria and other elements of the:</p> <ul style="list-style-type: none"> • North Coast Regional Plan • North Coast Settlement Planning Guidelines • Nambucca Local Strategic Planning Statement 	B1 - B7 - pages 27-46
Environmental planning instruments and development control plans	DA 233/2022 fails to adequately address the requirements of relevant EPIs or DCPs, or satisfy relevant tests and considerations of impact	
	<ul style="list-style-type: none"> • State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks 	C1(a) - page 49
	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 	C1(b) - page 63
	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 	C1(b) - page 68
	<ul style="list-style-type: none"> • Nambucca Local Environmental Plan 2010 (and pending draft LEP) 	C1(b) and (c) - pages 70 & 83
	<ul style="list-style-type: none"> • Nambucca Development Control Plan 2010 	C1(d) - page 84

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
Impacts - environment and heritage		
Aboriginal cultural heritage	<p>The Aboriginal Due Diligence Assessment has:</p> <ul style="list-style-type: none"> • assessed the incorrect development footprint - a fatal flaw • used information that is more than 12 months old - also a critical error. <p>Impacts to Aboriginal heritage are also inadequately assessed, involved no consultation with relevant Aboriginal representatives, and reached deficient and dubious conclusions.</p>	B5 - page 37 C1(f) - page 94
Biodiversity	<p>DA 233/2022 will have unacceptable and permanent impacts to the biodiversity values of the site, removing all native vegetation within the development footprint, including endangered ecological communities and habitat for threatened species. It will diminish wildlife corridor connectivity, and have on-going, flow-on impacts to adjoining and proximate habitat arising from the presence of domestic pets, risks of weed invasion, light and noise, and affect downstream water quality in a sensitive estuarine area.</p> <p>The proposal fails to meet the statutory requirement to avoid and minimise the impacts to biodiversity and should be refused. In addition, as a minimum, an independent review of the BDAR should be commissioned or advice sought from the relevant NSW environment agency.</p>	B2 - page 30 C1(f) - page 97 Appendix H & I
Bushfire	The risk from bushfire to future residents of the development and to emergency services personnel (including volunteer community members) is significant, and the extent, frequency and severity of bushfires are expected to worsen.	B2 - page 32 C1(a) - page 49 C1(f) - page 102 Appendix G
Coastal	DA 233/2022 fails to adequately assess the impacts on coastal matters, as required by the Resilience and Hazards SEPP. It does not consider impacts to the coastal environment area, and will have a detrimental impact to Aboriginal cultural values and the character of the coastal use area.	C1(b) - page 63 C1(f) - page 102
Context / setting / site suitability	DA 233/2022 is the wrong development in the wrong location. It is	C1(b) - pages 58-59

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
	ill-suited, of disproportionate scale and will irreversibly damage the unique, small coastal village character of this place.	C1(f) - page 104 C1(g) - page 152
Flooding and hydrology	The DA fails to adequately assess and consider the full range of flood and hydrology impacts of the proposal, including to existing watercourses, downstream water quality, and the safety of future residents and community emergency services volunteers.	B2 - page 30 C1(b) - pages 76-77 & 80 C1(f) - page 106
Landscape, visual and scenic value	DA 233/2022 will have adverse consequences to the local landscape and scenic qualities of Scotts Head, resulting in a diminution of amenity. These impacts are permanent and unable to be mitigated or offset.	C1(f) - page 114
Public domain	DA 233/2022 will increase pressures on local open space, parks and sporting facilities, and beach access, but without additional resources to support upgrades or ongoing maintenance.	C1(f) - page 115
Soils and contamination	The environmental risks associated with acid sulfate soils, dispersive soils (sodosols), and the scale of earthworks proposed are inadequately addressed by DA 233/2002.	C1(f) - page 116
Stormwater and water quality	The development poses significant risks to downstream water quality, including coastal wetlands on Warrell Creek that are mapped and protected by the Resilience and Hazards SEPP. The DA fails to recognise or assess these impacts and proposes a stormwater solution that is inadequate to protect ecologically sensitive receiving environments.	B2 - page 30 C1(f) - page 118
Sustainability	The proposal provides no genuine commitments with respect to how the development will incorporate contemporary sustainability features.	C1(f) - page 121
Transport - car access and public transport	DA 233/2022 will have adverse and far-reaching transport and traffic issues that extend beyond the site boundary - it will accommodate up to 641 vehicles, which is more than the total number of existing houses in Scotts Head.	B4 - page 35 B6 - page 39 C1(f) - page 122 Appendix F
Transport - pedestrian and cycle access and safety	DA 233/2022 does nothing to promote safe pedestrian and cycling access to and from the site and will place pedestrians, including young children,	C1(f) - page 128

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
	families and the elderly, at risk of harm.	
Utility infrastructure - water, sewer, etc	The DA, and accompanying Water and Sewer Servicing Strategy, is deficient and inadequate and fails to meet the required level of investigation for a development of this scale and servicing complexity.	B6 - page 39 C1(f) - page 130
Impacts - social		
Community engagement	There has been minimal, tokenistic and ineffectual community engagement and consultation in the lead up to the lodgement of DA 233/2022. The lack of direct discussion with local Aboriginal community representatives, including on-site and on-Country, about potential risks to their cultural heritage, is an omission and deficiency of particular significance.	C1(f) - page 134
Community services - health	The development proposal will place significant, unacceptable and unmitigated strain on the full spectrum of medical services across the Nambucca Valley - including GPs, specialists, allied health professionals, ambulance response times, and hospital capacity. This is not only unreasonable and unconscionable, it risks the health and well-being of both the existing and proposed resident population.	B6 - page 39 C1(f) - page 136
Community volunteers	The proposal will place significant pressure on community volunteers, particularly emergency first responders that will be expected to place themselves in harm's way to protect and possibly rescue a resident population of up to 561 over-55s (plus their visitors and guests) in a high risk bushfire location that also experiences regular road access impacts due to floods.	C1(f) - page 139
Housing mix, affordability and need	DA 233/2022 will do nothing to address the affordable housing or rental crisis, which is acute on the Mid and North Coast of NSW. It locks out people under 55 who are desperate for housing and will only be available for those over-55s who are fortunate to have sufficient resources to buy in and then pay the ongoing site fees; essentially downsizers who already own a home.	B7 - page 43 C1(f) - page 140

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
Incident management and emergency planning/response	The DA fails to adequately address the bushfire risks associated with locating a high density, permanent population of up to 561 over-55 residents (with up to 641 vehicles on site) in a known area of bushfire prone land. No emergency or evacuation plan is provided and fire risk present in the locality is downplayed.	C1(a) - page 49 C1(f) - page 142
Population growth and demographic change	The scale and pace of population growth caused by DA 233/2022 will have dramatic, irreversible, unjustified and unacceptable impacts to Scotts Head and the surrounding areas. The consequence will be a “very high social impact” of “transformational magnitude” (Social Impact Assessment, page 45), with a dominant majority of the population being over 50 in a short period of time. Mitigation measures proposed in the DA - to “monitor and adaptively manage social impacts” (Social Impact Assessment, page 74) - are deficient and meaningless.	B1 - page 29 C1(f) - page 142
Public interest	The granting of consent for DA 233/2022 would be inconsistent with the public interest, as informed by application of the principles of ESD (including but not limited to the precautionary principle).	C(1)(h) - page 153
Resident isolation and social cohesion	The development will establish an isolated, segregated enclave of up to 561 over 55s, with minimal connection to the existing community. It will be highly car-dependent, lock out existing local residents and promote an “us versus them” scenario that does nothing to build cohesion but undermines the existing strength of the community.	C1(f) - page 144
Safety, security and crime prevention	The proposal will result in a range of unmitigated risks to the new resident population, with flow-on consequences to community emergency services and related volunteers.	C1(f) - page 145
Village character	The development will irreversibly and adversely alter the character of Scotts Head Village. It will impact the very values that attract people to the area in the first place; the uncrowded beaches, parks, amenity and relaxed-pace of life that make Scotts Head unique as one of the last small, compact, accessible and welcoming places on the NSW coast. It will undermine and ultimately destroy the coastal village character and heritage of this place.	B1 - page 29 B4 - page 35 C1(f) - page 146

ISSUE	OVERVIEW OF SUBMISSION COMMENTS	PART OF SUBMISSION
Impacts - economic		
Economic and employment	Any purported economic or employment benefits from the proposal will be short-term (at best), minimal, deliver no lasting gains, and will be significantly outweighed by the extensive suite of environmental and social impacts caused by DA 233/2022.	B6 - page 39 C1(f) - page 147
Public funding / resources	DA 233/2022 will result in significant financial costs to the community and Council. The burden of providing infrastructure to the site, services to support new residents, and the off-site impacts of a major growth in population will not be fairly shared.	C1(f) - page 149
Tourism and visitors	The proposal will diminish the character and values of Scotts Head Village that attract tourists and visitors in the first place. It will reduce the attractiveness of the Village to the market, impacting local businesses and tourism operators.	C1(f) - page 150

Table 2 - Administrative deficiencies requiring clarification

ISSUE	COMMENT
<p>What is the development?</p>	<p>There are different descriptions and elements referenced across documents, or left unexplained. For example:</p> <ul style="list-style-type: none"> • the Water and Sewer Strategy (page 3) refers to 255 proposed “lots”, but suggests that provision of services would be assessed and approved through a separate process • the Aboriginal Due Diligence Assessment refers variously to a manufactured housing estate (page iv), manufactured housing estate and caravan park (page iv), and a subdivision (title page and page 4, Figure 1-2) • the Preliminary Site Investigation and Desktop Geotechnical Assessment (page i) states that the development is a manufactured home estate • the DA proposes to create “sites” but does not describe what a “site” comprises • the Pre-Lodgement Application Form states that 7.17 hectares of land and canopy will be impacted/removed, compared to 16.81 hectares of native vegetation in the Biodiversity Development Assessment Report (page 2), and the 15.96 hectares referred to in the Statement of Environmental Effects (SEE, page 3) as the “development area” • construction of dwellings appears to not be part of the DA, but will be dealt with via separate approvals and objections under the Local Government Act to show how the definition of “moveable dwellings” is met. <p>A clear and consistent description of the development is essential to determine its characterisation and the relevant planning and assessment rules that apply.</p> <p>In addition, the SEE (page 17) states that Stage 6 of the proposal includes 369 long term sites (more than the 255 sites proposed). This is clearly an error but requires correction to avoid any doubt about the scale of the development.</p>
<p>Who is the applicant?</p>	<p>This varies across the documents and needs to be clear for the sake of transparency, the purposes of determining or refusing consent, and enforcing compliance if consent is granted. For example:</p> <ul style="list-style-type: none"> • the front page of the SEE indicates the applicant is “Sungenia Land Trust”, yet on page 3 of the same document “Ingenia Communities” are identified as the applicant • the Pre-Lodgement Application Form cites “Sungenia Development Pty Limited” as the applicant.

ISSUE	COMMENT
<p>Who is the land owner?</p> <ul style="list-style-type: none"> - does the landowner have a potential conflict of interest? - has landowner's consent been correctly provided? 	<p><u>Potential conflict of interest?</u> The landowner details have been redacted from the public DA information with no explanation of why that is necessary. In the SEE (page 3), Sungenia Land Trust is listed as the landowner, but this is inconsistent with the details shown via a publicly available title search for the land.</p> <p>The DA Pre-Lodgement Application Form (under "Affiliations and Pecuniary Interests") also indicates that:</p> <ul style="list-style-type: none"> • the applicant or owner is a staff member of Nambucca Council and has a relationship with staff or councillors assessing the DA (both questions are answered "Yes" in the form) • the landowner has worked for Nambucca Council. <p>If any of these scenarios are the case then, in order to support the integrity of decision-making and public faith in the planning system, clarifying information about the applicant or landowner and their connections to Council must be:</p> <ul style="list-style-type: none"> • clearly presented to the Northern Regional Planning Panel, and • any real or potential conflicts regarding the assessment of the DA by present or past Nambucca Council staff openly identified and addressed. <p>The SHCG considers that because of the above vagaries, transparency must be paramount.</p> <p><u>Landowner's consent?</u> In addition, given the uncertainties across the documentation as to the applicant for the DA, it is recommended that the planning authority specifically confirm that landowner's consent for the DA has been correctly provided to the correct applicant.</p> <p>This is critical to ensure that the appropriate legislative requirements for a valid DA have been met.</p>
<p>What is the address of the site?</p>	<p>This is inconsistent across the DA documents, which vary between referring to the site as 11 Ocean Ridge, Way Way, 1006 Scotts Head Road, Way Way (Traffic Impact Assessment), and 1063 Scotts Head Road, Way Way (Water and Sewer Servicing Strategy).</p> <p>This is important so that the community has certainty about the location of the site. It will also be important if the development is in fact more appropriately characterised as a MHE, as it is relevant to the application of some of the excluded land categories under the Housing SEPP.</p>

ISSUE	COMMENT
What is the size of the site versus development footprint?	<p>This is also inconsistent across the DA documents. For example:</p> <ul style="list-style-type: none"> the SEE (page 3) states that overall site area is 56 hectares and the development area 15.96 hectares the Pre-Lodgement Application Form states that 7.17 hectares of land and canopy will be impacted/removed, compared to the 16.81 hectares of native vegetation that the Biodiversity Development Assessment Report (page 2) identifies will be cleared the Economic Impact Assessment (page 1) says the site area is 54.99 hectares with a development site area of 16 hectares the Aboriginal Due Diligence Assessment (page 1) refers to a project area of 16.5 hectares. <p>This needs to be clarified as it is important to an understanding of the scale of environmental impact associated with the development.</p>
What is the cost of the development?	<p>The estimated \$45.5 million cost of the development is inaccurate. It fails to account for the full costs of water and sewer services delivery to the site, including any upgrades needed to the water reservoir and sewage treatment plant, which are at this stage are unrecognised and uncoded by the Water and Servicing Strategy.</p> <p>As discussed in Section C(1)(f) of this submission, sewer and water services cannot be treated as merely ancillary to the development; they are essential to its overall feasibility.</p> <p>In addition, the Economic Impact Assessment (page 33) indicates that the total cost of construction is estimated at \$155.3 million, including \$101.7 million just for the dwellings.</p> <p>Clarifying the true cost of the entire development is essential as it impacts the quantum of development contributions to be paid by the applicant and consideration of the social and economic costs to be carried by the community.</p>
Key reports unavailable on commencement of the exhibition period	<p>The exhibition period for DA 233/2022 commenced on 23 July 2022. However, a number of critical documents were unavailable. That included the Biodiversity Development Assessment Report, which is required by law to accompany the DA.</p> <p>It is recognised that this issue was rectified on day 3 of the exhibition period after the SHCG alerted Council.</p>

OVERVIEW OF SUBMISSION

The submission is in four parts:¶¶

Part A - DEVELOPMENT IS INCORRECTLY CHARACTERISED AND IS PROHIBITED

The SHCG considers that the development proposal has been incorrectly characterised and assessed as a 'caravan park'. If it were correctly characterised as a MHE or multi-dwelling housing it would not be permissible and would be prohibited. Even if it is determined to satisfy the requirements to be considered a caravan park, then the development exceeds size limits set by the Nambucca LEP and is inconsistent with zoning objectives and permissible uses and must be refused consent. These conclusions are supported by relevant, contemporary case law and rational application of the applicable planning rules set down in the Housing SEPP and Nambucca LEP. The basis for these positions is set out in Part A of this submission.

Part B - PROPOSAL IS INCONSISTENT WITH RELEVANT STRATEGIC PLANS

The SHCG considers that the proposal is inconsistent with the purpose, intent and objectives of relevant planning strategies, guidelines and similar documents. These are discussed in Part B.

Part C - ENVIRONMENTAL IMPACTS ARE UNACCEPTABLE

The SHCG considers that the individual and cumulative environmental impacts of the proposal are adverse, significant, inadequately assessed, unjustified and unacceptable. Key matters of concern are set out in Part C - which encompass impacts to the existing community, to the site and local environment, and to future residents of the development.

Part D - RECOMMENDED CONDITIONS

This part sets out the matters that the SHCG recommends should be included in any consent conditions, should development consent be granted. It should be noted that:

- the inclusion of the recommended matters in Part D should **not** be construed or interpreted as any evidence of SHCG support for the proposal
- the SHCG is unequivocally opposed to the development and is of the firm view that consent should be refused, primarily because: it has been incorrectly characterised and assessed and would not be permissible even if correctly characterised (Part A); is inconsistent with key planning strategies (Part B); and even if it is found to be permissible or consistent, because it warrants refusal based on a measured, objective assessment of its environmental impacts and merits (Part C)
- Part D of this submission is therefore only included for consideration by the consent authority in the worst case scenario that it determines to grant approval to the development application.

REPORTABLE POLITICAL DONATIONS AND GIFTS

In accordance with section 10.4 of the Environmental Planning and Assessment Act 1979, the SHCG confirms that it has not made any reportable political donations or gifts.

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E - Flood and bushfire photos 2020-22

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H - Independent ecology assessment

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PART A - DEVELOPMENT IS INCORRECTLY CHARACTERISED AND IS PROHIBITED OR INCONSISTENT WITH PLANNING RULES

Overview

The SHCG considers that the development proposal has been incorrectly characterised and assessed by the applicant as a 'caravan park' under the Housing SEPP. This means the DA is fundamentally flawed and has failed to assess the development in accordance with the correct planning rules.

The proposed development may be able to be characterised as a MHE under the Housing SEPP, **or** as multi-dwelling housing under the Nambucca LEP. Under either of these more accurate characterisations, the SHCG contends that the proposal would not be permissible and would be prohibited by relevant environmental planning instruments and statutory definitions.

In addition, even if the development is determined by the planning authority to meet the definition of a 'caravan park' then it would be inconsistent with the relevant objectives for RU1 and RU2 zones, permissible uses in the RU1 zone, and limits on 'moveable dwellings' set out in the Nambucca LEP, and consent would have to be **refused**.

The detailed rationale for these positions is set out below.

The SHCG recommends that DA 233/2022 be **refused** on the basis of these considerations.

A1. The development is incorrectly characterised and assessed

DA 233/3022 is presented by the applicant as a proposal for a 'caravan park' and assessed in accordance with the provisions of Part 9 of the Housing SEPP. The DA (SEE, page 49) specifically seeks to obtain this characterisation, and to meet the definition of 'caravan park', by requesting consent for the operation of two short-term sites within the subject development.

Under Part 9 of the Housing SEPP, 'caravan park' means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be installed or placed.

'Moveable dwellings' have the same meaning as in the Local Government Act 1993, being:

- any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- a manufactured home, or
- any conveyance, structure or thing of a class or description prescribed by the regulations for the purposes of this definition.

What is the dominant purpose?

The SHCG contends that it is neither appropriate nor reasonable to characterise the development as a caravan park, because the **primary and dominant intended purpose** is clearly to establish long-term, residential dwellings that are constructed on-site and in such a manner as to essentially be permanent and fixed in nature. That is, 2-3 bedroom dwellings (including , pole, split-level and two-storey constructions), with kitchens, bathrooms, laundries and multi-vehicle garages. As set out in the DA (subject to a future objection under the relevant Regulation), these so-called “moveable dwellings” are proposed to be constructed in situ, rather than transported in modular sections to the site for installation.

These cannot be construed as ‘caravans’ or ‘moveable’ dwellings in any common, plain English or statutory interpretation or meaning of such terms. The architectural and example streetscape images of the development (Appendix 6, SEE) support this view. Again, it is clear that the style of dwelling proposed and manner of construction provide clear evidence of intended permanency, leading to creation of an established, urban, residential community.

Do two short-term sites make it a caravan park?

The suggestion in the DA that the provision of two short-term sites is sufficient to qualify the entire development as a caravan park (SEE, page 49) is nonsensical. This is a convenient, smokescreen attempt to somehow distract from the fact that the **primary and overwhelming character** of the development is to establish a permanent, constructed and essentially immovable residential property.

The NSW Government *Planning Circular PS 13-001 - How to characterise development*¹ is relevant here. That Circular (pages 2-3) sets out a number of criteria to assist determine the dominant purpose of a development proposal and whether other aspects are ancillary or independent. Relevant criteria from the Circular are considered as follows, with respect to the two short term sites that are part of DA 233/2022:

- **Is the component going to serve the dominant purpose of the development or is it independent?** - the two short term sites are unrelated and independent to the 255 long term sites.
- **What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary** - the two short term sites occupy a miniscule proportion of the development site (well under 1%) compared to the 255 long term sites and community facilities
- **If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use** - the two short term sites are for temporary, time limited use but are also independent and unrelated to the 255 long term sites

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<https://www.planning.nsw.gov.au/-/media/Files/DPE/Circulars/planning-circular-how-to-characterise-development-2013-02-21.pdf?la=en>

- **If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities)** - the two short term sites are not needed to support development or implementation of the dominant use, being the 255 long term sites, and vica versa. The two short term sites are therefore completely independent and unrelated
- **Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative** - the two short term sites are in direct proximity of the 255 long term sites, and are ancillary and non-dominant in that relationship.

The proposal to provide two short term sites for actual caravans is therefore insufficient and unreasonable grounds for the entire development to be characterised as a ‘caravan park’.

Are the dwellings “moveable”?

It is extremely dubious whether the dwellings proposed could be considered “moveable”; they clearly are not on wheels and able to be towed (a caravan); nor will they be capable of being removed from the site in a short space of time.

Based on the description, components and size of the dwellings they will in fact require significant work and time to disassemble and remove from the site (e.g. a two car garage cannot simply be “lifted and shifted”). In that regard, it is difficult to see how there is any genuine differentiation between these so-called “moveable dwellings” and an average, permanently constructed residential dwelling. In fact, it may be comparatively quicker to demolish and remove a standard dwelling, in contrast to the time required to carefully disassemble, pack and then transport to another site the type of dwellings proposed in DA 233/2022 .

It is noted that the DA does not even attempt to demonstrate that the dwellings are moveable. Instead, it proposes that such details will be provided in a future section 82 objection under the Local Government Act to show “how the dwellings are to be constructed and can be removed from the site, consistent with the definition of a moveable dwelling” (SEE, page 31).

Given the dominant use of the DA is the installation of dwellings on 255 long-term sites, it is unreasonable to not provide sufficient evidence to the planning authority that such dwellings will meet the definition of moveable dwellings. Without such information at hand, the planning authority is being asked to take a “leap of faith” that this critical aspect of the proposal can be dealt with later on, and via a process outside of the EP&A Act.

The SHCG therefore contends that clear evidence must therefore be provided upfront in the current DA to demonstrate how the on-site construction of pole homes, split level dwellings and two storey buildings can meet the required statutory definition for “moveable dwellings”.

Ancillary uses

The DA outlines a range of supporting and ancillary features to be provided. That includes an extensive community facility, club house, recreation areas, pool, medical consulting rooms, beauty salon, bar, cinema, library/business centre, gym and yoga rooms, RV parking and maintenance area, and so on. These provide further evidence that the primary purpose is to establish and then support a long-term, permanent residential population on-site.

While the DA identifies a location of short term caravan parking and RV storage, it is clear this is a space for storage when such vehicles are not in use. This aspect of the proposal is therefore only a minor and ancillary use to the overall primary intended use of the site for permanent residential occupation.

When is a development a manufactured housing estate?

The attempted caravan park characterisation is not only illogical but inconsistent with the intention of relevant environmental planning instruments to establish separate assessment regimes for caravan parks and MHEs.

In this regard, the Housing SEPP clearly envisages that there is separation and different planning requirements that apply to caravan parks (Part 9 of the SEPP) and MHEs (Part 8 of the SEPP). This is supported by available guidance from the NSW Government², which states that MHEs are a *“contemporary form of medium density housing development comprising land leased communities in which the residents own or rent manufactured homes on dwelling sites leased from the estate”*.

That Fact Sheet goes on to note that MHEs are self-contained and include at least one kitchen, bathroom, bedroom, living area, toilet and laundry facilities (as distinct from caravans which do not provide this full set of features). Using information from the DA it is clear that the 255 “long-term” sites proposed align with the description of a MHE provided by the Department of Planning Fact Sheet. For instance:

- the development will be medium density in nature
- it is a “land lease” community, whereby the property owner (Ingenia or a related entity) will own the land and lease site to residents (SEE, page 4)
- all dwellings are self-contained, with a kitchen, bathroom(s), multiple bedrooms, living areas, and so on.

As observed above, the Housing SEPP sets up a clear statutory differentiation between caravan parks and MHEs. If the current DA does not have the essential characteristics to meet the definition of a MHE, and therefore warrant assessment under Part 8 of the Housing SEPP, then it is unclear when (if ever) the MHE parts of the SEPP would apply.

² [Approval and operation of caravan parks, camping grounds and manufactured home estates](#), NSW Department of Planning Fact Sheet (2010), accessed July 2022

When is development “multi-unit housing”?

Multi-dwelling housing is defined in both the Nambucca LEP and Development Control Plan (DCP) as meaning 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level.

The current proposal clearly fits this description. This issue is discussed further below (Part A2(c) of this submission).

Conclusion

Given the above, and the details set out in the DA, it is apparent that the type of housing proposed and the range of supporting facilities, together with the long-term land lease arrangements for each dwelling, mean the development cannot be accurately or reasonably characterised as a ‘caravan park’ for the purposes of the Housing SEPP. The SHCG notes that the discussion in *TMT Devco Pty Ltd v Cessnock City Council [2016] NSWLEC1161* is relevant here.

This means the DA is flawed and that the proposal has been assessed against the incorrect provisions of the Housing SEPP. The DA should be **refused consent** on this basis.

A2. If correctly characterised, the development would be prohibited

As above, the SHCG contends that that development is not a ‘caravan park’ for the purposes of the Housing SEPP.

The development could instead be appropriately characterised in one of two ways, either as:

- *Manufactured housing* - under Part 8 of the Housing SEPP; or
- *Multi-dwelling housing* - under the Nambucca LEP.

Even if appropriately characterised as one of these development types, it is clear that the proposal would be prohibited and would have to be **refused consent**. The rationale for this position is set out below.

a) If characterised as a MHE the proposal is on “excluded land” under the Housing SEPP

Clause 122 of the Housing SEPP states that a MHE development may be carried out on any land where development for the purposes of “caravan parks” may be carried out. However, it also provides that MHEs cannot be developed on land within one or more categories of “excluded land” described in Schedule 6 of the SEPP.

A development only needs to fail one of the tests for excluded land in Schedule 6 to be prohibited; it does not become permissible if it passes any or all of the other tests in the Schedule.

If the DA at Lot 11 DP 1243930 were appropriately characterised as a MHE, it would be located on one or more types of excluded land identified in Schedule 6 of the SEPP and therefore prohibited. Specifically it would be on land that is excluded because it is:

- **land identified in an approved planning strategy as containing significant remnant vegetation (Point 5, Schedule 6)** - being land identified by:
 - the [biodiversity map](#) prepared for the 2006 [Mid North Coast Regional Planning Strategy](#), which shows the land as part of a north-south regional fauna corridor, with connections to land reserved as part of the national parks estate
 - the map of “Potential High Environmental Values” in the current [North Coast Regional Plan](#)
 - the map of “Potential High Environmental Value Land” in the [draft North Coast Regional Plan 2041](#).
- **zoned for rural purposes and not adjacent to or adjoining urban zoned land (Point 6, Schedule 6)** - the site of the proposal within Lot 11 is at least several hundred metres from urban zoned land to the east. In addition, it will immediately adjoin a single residential dwelling occupying the eastern part of Lot 11 that has been approved and is under construction consistent with the planning rules that apply to rural land in the RU2 zone (DA 163/2022) . The current proposal - DA 233/2022 - will therefore adjoin that land and that house on rural zoned land; it will not adjoin the urban zoned land in Ocean Ridge Drive. Also, consistent with the decision in *TMT Devco Pty Ltd v Cessnock City Council [2016] NSWLEC1161*, the proximity of the development footprint to land to the north that is zoned R5 is not sufficient to satisfy the requirement to be adjacent to or adjoin urban zoned land.
- **not zoned or reserved under an environmental planning instrument for urban use and not identified as suitable for urban development by an appropriate planning strategy adopted by the Department of Planning and Environment (Point 7, Schedule 6)** - the land is zoned rural, not urban. While it is on land identified as “Investigation Area – Urban Land” under the [North Coast Regional Plan](#) and [Nambucca Local Strategic Planning Statement](#) (LSPS), none of the necessary investigations to assess its urban development potential have ever occurred and it has therefore never been confirmed as actually being “suitable” for urban development.

Hence, the land can only be considered as available for further investigation, not identified as suitable for urban development. This is supported by statements in the [North Coast Regional Plan](#) (page 17), which affirm that “*Investigation areas within the urban growth areas represent potential future land release opportunities. Not all of these areas will be suitable for development and further detailed assessment will be required*”. This is matched by similar statements in the [LSPS](#) (page 44): “*Growth areas show the boundaries of urban areas and, as such, identify both existing and proposed urban lands. Not all land identified within the growth areas can be developed for urban uses. All sites will be subject to more detailed investigations to determine capability and future*”

yield. Land that is subject to significant natural hazards and/or environmental constraints will be excluded from development".

Conclusion

On the basis of the above, if the development was appropriately characterised as a MHE then it would be prohibited as it is proposed on excluded land under the Housing SEPP, and would have to be refused consent,

b) If characterised as a MHE (or a moveable dwelling) the proposal does not meet statutory definitions

The proposal is to construct the dwellings on-site, rather than transport sections to the site for installation (subject to a successful objection under the relevant Regulation). This is stated on page 31 of the SEE.

Under Schedule 7 (Definitions) of the Housing SEPP, manufactured housing is defined as:

"a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling—

(a) that comprises 1 or more major sections that are **each constructed, and assembled, away from the manufactured home estate and transported to the estate** for installation on the estate."

Under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021, a manufactured home is a type of "relocatable home" that "consists of at least 1 major section". The term "major section" is then defined under clause 4 and includes the frame, external and internal works, roof and ceilings, etc.

Clause 41 of that Regulation requires that a manufactured home must **not** be installed on a site unless **each major section** is:

"(a) constructed and assembled at a place of manufacture **outside** the manufactured home estate, and

(b) **transported** to the manufactured home estate from the place"

Similar definitions and restrictions are applied to moveable dwellings (relocatable homes) under the above Regulation.

Conclusion

On the basis of the above, if the development was appropriately characterised as a MHE (or moveable dwelling) then it would not satisfy the required statutory definitions because:

- major sections are proposed to be built on site
- the nature of construction and type of dwellings proposed, mean they cannot reasonably be considered to be readily relocatable or moveable, and in fact are essentially permanent in nature.

The proposal would also have to be **refused** for this reason.

As noted above, the SHCG acknowledges that the applicant intends to lodge an objection under the Regulation to enable on-site construction. The reasons provided in support of this objection in the DA (SEE, page 31) - that this will lead to a higher quality and accessible housing product and more local employment - are vague and without supporting evidence. They also support the argument in this submission that the dwellings will in fact be permanent in nature, and not “moveable” in any reasonable application of that term.

c) If characterised as multi-dwelling housing then the development is prohibited

DA 233/2022 is located predominantly on that part of Lot 11 DP 1243930 that is zoned RU2 Rural Landscape under the Nambucca Local Environmental Plan 2010 (LEP).

Under the RU2 zone, “multi-dwelling housing” (a form of residential accommodation) is currently prohibited.

Multi-dwelling housing is defined in both the Nambucca LEP and Development Control Plan (DCP) as meaning 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level. The current proposal clearly fits this description.

In *TMT Devco Pty Ltd v Cessnock City Council* [2016] NSWLEC1161 the Court held that a manufactured housing estate was characterised as “multi-dwelling housing” and therefore prohibited in the RU2 zone. The first three objectives for the RU2 zone considered in that case (under the Cessnock LEP) and Nambucca LEP are identical.

Conclusion

On the basis of the above, the SHCG is of the view that the proposal could also readily be characterised as multi-dwelling housing. If so, then the current proposal would be prohibited and consent would have to be **refused**.

d) If characterised as a ‘caravan park’ then the development is inconsistent with the Nambucca LEP

Moveable dwelling limits

Despite the above, if the planning authority concludes that the proposal does satisfy the requirements to be assessed as a ‘caravan park’ under the Housing SEPP, then the SHCG contends that DA 233/2022 is inconsistent with clause 7.9 of the Nambucca LEP (Use of moveable dwellings).

Under clause 7.9 development consent must not be granted in the RU2 zone for the use of more than 2 moveable dwellings on a lot. As noted earlier (Part A1 of this submission) a caravan park includes the installation or placement of moveable dwellings, which includes caravans or other portable devices used for human habitation (whether on wheels or not) and manufactured homes.

DA 233/2022 significantly exceeds the moveable dwelling limits set by clause 7.9 of the LEP.

It is noted that the above requirement for consent is removed by clause 7.9(4) of the LEP. That clause provides that the use of a moveable dwelling in a caravan park to which an approval

“applies” under section 68 of the Local Government is permitted without consent. However, in the circumstance of the current DA 233/2022, there is no such approval that “applies”, as no such approval has been sought or obtained. On the basis of information in the DA it is understood that the applicant intends to seek the necessary approval after the grant of development consent.

Extension into RU1 zone

Further, it is also noted that part of the footprint of the proposal extends into the RU1 zone. As observed in the DA (SEE, page 57) caravan parks are prohibited in the RU1 zone. The DA (SEE, pages 58-59) seeks to apply the zone boundary flexibility provisions of clause 5.3 of Nambucca LEP to obtain consent for the development to extend into the RU1 zone.

The stated reasons for this proposed variation are inadequate and primarily to enable maximum development and commercial gain. This matter is further discussed in Part C of this submission. In summary, the proposal to extend the footprint into the RU1 zone is considered inconsistent with the RU1 zone objectives that seek to support primary industries, minimise the fragmentation of resources and minimise conflict between agricultural uses on that land and the proposed caravan park development on the RU2 zoned part of the site.

If the extension were approved into the RU1 zoned area it would in effect sterilise the use of a significant proportion of the remaining RU1 land for primary purposes as such uses (which can include livestock management and crop production) would likely be considered incompatible neighbours to a large, over-55s dwelling area.

Rural zone objectives

DA 233/2022 is also inconsistent with the objectives for the RU2 zone (the majority of the development footprint). That is because it: does not encourage and will prevent and sterilise sustainable primary production opportunities on the site and adjoining rural zoned land; will permanently remove the rural landscape character of the land; does not support a diversity of agricultural uses, including extensive agriculture; and poses risks to water supply and pressure in the existing Scotts Head Village (the Village).

The inconsistencies of the development with the objectives of both the RU1 and RU2 zones are discussed in further detail in Part C1(c) of this submission.

Conclusion

Given the above, if the development were determined to be a caravan park then consent would have to be **refused**:

- due to inconsistency with clause 7.9(3) of Nambucca LEP
- because there is presently no relevant approval that “applies” under clause 7.9(4) that would override the application of clause 7.9(3)
- because caravan parks are prohibited in the RU1 zone and the proposed zone boundary variation to enable the development to extend into this area is not sufficiently justified and inconsistent with the RU1 zone objectives
- because the development is generally inconsistent with the objectives for both the RU1 and RU2 zones.

PART B - PROPOSAL IS INCONSISTENT WITH RELEVANT STRATEGIC PLANS

This part of the submission identifies and discusses the consistency of DA 233/2022 with relevant planning strategies and guidelines - being the North Coast Regional Plan, North Coast Settlement Planning Guidelines, and Nambucca Local Strategic Planning Statement. The vision, goals, planning principles, directions and actions set by these strategic plans are **relevant considerations** for DA 233/2022 because they establish the core priorities for future land use, environment protection, and social development in the region.

The SCHG considers that the proposal to develop a “caravan park” at Lot 11 DP 1243930 is not consistent with these strategic plans - and should therefore be **refused consent** on this basis.

At the time of the preparation of this submission, the draft North Coast Regional Plan 2041 was on exhibition. While not considered in detail below, the DA is also considered inconsistent with the proposed directions set out for this part of Scotts Head in the draft Regional Plan, noting that these are largely consistent with the content of the current adopted Regional Plan.

Overview of key strategic plans

The **North Coast Regional Plan** guides the NSW Government’s land use planning priorities and decisions to 2036. The Regional Plan sets out a vision for the NSW North Coast:

“The best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities” (page 8).

The Regional Plan recognises the critical role of the natural environment in enriching the lives of residents and in sustaining a thriving tourism and lifestyle economy.

The objectives of the **North Coast Settlement Planning Guidelines** are:

- to ensure that residential and employment land uses are located on the most appropriate land; and
- to focus demand for additional housing in established centres and only consider new greenfield release areas where sufficient demand and the need for additional capacity can be demonstrated.

The Guidelines include land release criteria that are to be taken into account when considering the future of land mapped as an investigation area. This is applicable to the land south of Scotts Head Road, which is of a size equivalent to a new urban release area, and the SHCG therefore considers that these criteria are relevant considerations for the current DA 233/2022.

The **Nambucca Local Strategic Planning Statement (LSPS)** sets out the strategic basis for Nambucca Council’s land use planning over the twenty years to 2040, with a focus on the key land use planning actions that need to be undertaken by 2024.

The LSPS recognises a range of challenges for Nambucca Valley, including the growing proportion of older residents and the impact on service provision, and impacts associated with climate change. The LSPS states that Council's approach to growth management is to: "*deliver sustainable settlements through a place-based approach that recognises the unique functionality and identity of each town and village*" (page 6).

How does this submission consider these strategic plans?

The above three strategic plans are comprehensive and detailed, with overlapping and interlinked matters.

For ease of analysis, and to assist the planning authority, Table 3 of this submission (below) groups the key issues from each plan that are relevant to DA 233/2022 into the following categories:

- B1 - Future development
- B2 - Environment and conservation
- B3 - Hazards and constraints
- B4 - People, communities and place
- B5 - Aboriginal cultural heritage
- B6 - Community and infrastructure services
- B7 - Housing and affordability

For each category, this submission then uses a sample of quoted key extracts to illustrate the main points of each strategic plan. An assessment of the consistency of DA 233/2022 with these statements is then provided.

Table 3 - Regional plan compared to DA 233/2022

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>B1 - FUTURE DEVELOPMENT</p> <p>North Coast Regional Plan</p> <p>Key extracts:</p> <ul style="list-style-type: none"> Investigation areas within the urban growth areas represent potential future land release opportunities (page 17). Not all of these areas will be suitable for development and further detailed assessment will be required. Councils will use the urban growth areas to define the land available to investigate for release as they prepare their local growth management strategies (page 17) . Actions: <ul style="list-style-type: none"> 1.2 Review areas identified as ‘under investigation’ within urban growth areas to identify and map sites of potentially high environmental value (page 17). <p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> The scale and form of a new urban area needs to take account of the size and character of any existing adjoining urban area and be aware of the expectations of the local community for their locality (page 15). The impacts on character and public expectations for the expansion of a rural village will be different to those for the expansion of a regional city (page 15). Future urban areas are to be located so as to minimise urban sprawl; and maximise infrastructure and service efficiencies (page 19). 	<p>The proposal is inconsistent with requirements in the strategic plans to only locate new development in areas after comprehensive assessment and after considering the size and character of existing areas.</p> <p>Obligations in the North Coast Regional Plan to undertake investigations to determine whether the land south of Scotts Head Road is capable of, and appropriate for, urban development have never been fulfilled. This means there has never been a comprehensive, evidence-based planning assessment to support decision-making about whether this land is in fact suitable for urban development, including housing of the type now proposed by DA 233/2022.</p> <p>In the absence of such planning, DA 233/2022 represents an ad hoc development proposal that poses significant risks and will undermine future strategic planning for the area. It will provide a poor precedent that may encourage further unplanned, higher density urban sprawl to the south of Scotts Head Road.</p> <p>In effect, it is an attempted ‘leapfrog’ variation to the confirmed Scotts Head urban growth area as it is not supported or informed by any analysis at a strategic level, as required by the Regional Plan, to determine that the land should be made available for urban development. This is a fundamental shortcoming that is not overcome by the environmental impact assessment accompanying the DA.</p> <p>The scale and form of the development - which is essentially a new urban area that will rapidly increase the local population by up to 62.4% (Social Impact Assessment, page 45) - is not consistent with local community expectations. This is demonstrated by a community survey in April 2022, which showed that 81.5% of the 238 respondents oppose the Ingenia proposal (see Appendix A of this submission). The scale and speed of growth was the third highest concern expressed by respondents to that survey.</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> Page 44 - Nambucca Valley Growth Areas: land to the south of Scotts Head Road is mapped as an “Investigation Area - Urban Land” 	<p>The scale of the development, and its associated impact, is also out of proportion with the long-planned for small-scale and coastal village character of Scotts Head. Unlike other larger towns and regional centres, Scotts Head has significantly less relative ability to absorb a development of this scale without severe and long-lasting adverse impacts. As noted in the Social Impact Assessment (page 45) the speed and size of change will have a “very high social impact” of “transformational magnitude”.</p> <p>The relative scale of this impact is shown in a comparison of other regionally based developments by Ingenia in NSW - see Appendix C of this submission. That analysis clearly shows that Scotts Head Village is the smallest community that Ingenia (via Sungenia) has ever targeted, and the development will have by far the largest impact on population growth of any of the comparable Ingenia projects.</p> <p>It is clear that the DA is inconsistent with Principle 4 of the Settlement Planning Guidelines as it will: not reflect community expectations; have greater comparable impacts than developing in a regional city; and will overwhelm the coastal village character of Scotts Head, thus undermining the intended settlement hierarchy of the North Coast.</p> <p>Further discussion about population growth, demographic and social impacts of the proposal is provided in Section C of this submission.</p>
<p>B2 - ENVIRONMENT & CONSERVATION</p> <p><u>North Coast Regional Plan</u></p> <p>Key extracts:</p>	<p>The proposal is inconsistent with commitments in the strategic plans to protect and conserve the natural environment.</p> <p>The DA proposes 255 long term (essentially permanent) caravan/moveable dwelling sites in a coastal bushland area, in a location where no specific decision has even been made to make the land available for urban development.</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<ul style="list-style-type: none"> • The focus for the future is to deliver sustainable land use that protects the North Coast's biodiversity and environmental values, and its stunning environment (page 15). • Opportunities for sustainable growth will be provided that protects highly valued environments for future generations (page 15). • Directing future growth to locations that can sustain additional development, and are readily serviced, will deliver sustainable growth across the region and help protect the environment (page 17). • Enhancing areas of high environmental value is integral to maintaining the biological diversity of the North Coast (page 18). • New development should be appropriately located to limit any adverse impact on the region's biodiversity, coastal and aquatic habitats and water catchments (page 18). • Actions: <ul style="list-style-type: none"> ○ 2.1 Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value (page 18). <p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • New urban growth areas will generally not be supported in the coastal area (page 12). <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p>	<p>Without the necessary investigations having been completed as required by the North Coast Regional Plan, the land remains only potentially available for future urban development. Until that occurs, and it is specifically determined that the site is capable and appropriate for urban development, the DA is inconsistent with both the Regional Plan and Principle 1 of the Settlement Planning Guidelines.</p> <p>Figure 4 of the existing Regional Plan identifies areas of "Potential High Environmental Values", which appear to include the development site and/or surrounding areas. The site is also within the "Potential High Environmental Value Land" in the draft North Coast Regional Plan 2041. In addition, the biodiversity map prepared for the 2006 Mid North Coast Regional Planning Strategy identified the land as part of a north-south regional fauna corridor, with connections to land reserved as part of the national parks estate.</p> <p>The proposed development will have a direct adverse, significant and irreversible impact on the natural environment, by removing almost all vegetation within the development footprint and immediate surrounds. Biodiversity, water quality and environmental values will be diminished, including loss of endangered ecological communities, habitat for threatened species, and loss of wildlife corridor connectivity.</p> <p>Those direct losses will be accompanied by inevitable impacts to surrounding vegetation and habitat associated with bushfire protection, stormwater runoff, increased nutrients and sediment, weed invasion, light and noise, and domestic pets (dog and cat risks to native animals).</p> <p>Taken cumulatively, these combined environmental losses contribute to a medium social impact of potentially moderate magnitude (Social Impact Assessment, page 61).</p> <p>The development is not appropriately located to limit adverse biodiversity impacts and will not enhance areas of high environmental value. It has failed to meet the strict legislative requirement under the Biodiversity Conservation Act 2016 to first avoid</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<ul style="list-style-type: none"> • Water quality will be protected and improved along the coastline, estuaries and upper catchments of the Nambucca Valley (page 11) • The vegetation, biodiversity and habitats of the Nambucca Valley will be protected and enhanced to support sustainable, diverse and abundant wildlife populations (page 11) • Future development should also protect the important ecologically fragile natural coastal and estuarine systems that surround the village (page 27). 	<p>impacts, before seeking to minimise and then offset residual impacts.</p> <p>The development will also put added pressure on off-site environmentally sensitive areas. Coastal wetlands downstream of the site, that are mapped and protected by the Resilience and Hazards SEPP, will be impacted by higher volumes of runoff and diminished water quality, caused by the replacement of existing vegetated, soft surfaces and drainage lines, with hard surfaces and engineered drainage arrangements.</p> <p>According to results of the Nambucca EcoHealth monitoring program, water quality in the estuary at Scotts Head only scores a D+ rating, meaning that it is already poor to very poor³. The current DA will do nothing to help improve that result and will only diminish ecological health in the downstream environment.</p> <p>In addition, the DA makes only token attempts to promote low or zero carbon development outcomes. Any benefits from solar panels on each dwelling will be rapidly cancelled out by the carbon losses associated with vegetation clearing, concrete footings, internal roads, heating and cooling needs of moveable dwellings insulated to the bare minimum standard, and fuel use from a car dependent isolated community.</p> <p>Further discussion about the environmental and biodiversity conservation impacts of the proposal is provided in Section C of this submission.</p>
<p>B3 - HAZARDS AND CONSTRAINTS</p> <p>North Coast Regional Plan</p>	<p>The proposal is inconsistent with the intent of the strategic plans to protect people from current and emerging hazards.</p> <p>The NSW Government has identified that climate change is already</p>

³ https://www.nambucca.nsw.gov.au/files/Assessment-of-River-and-Estuarine-Condition---Nambucca-Ecohealth-Report-July-2018_lowres.pdf, pages 214 and 267

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>Key extracts:</p> <ul style="list-style-type: none"> Many of the features that make the North Coast such a great place to live also make it prone to natural hazards, including bushfires, coastal erosion, rising sea levels, storms, floods, acid sulfate soils and landslips (page 19) Climate change may worsen some of these hazards (page 19). Some developments (such as aged care facilities) can be sensitive to natural hazard events due to the difficulty of evacuation in an emergency. Local environmental plans and development control plans will include appropriate controls for areas subject to natural hazard events (page 19). Actions (page 19) <ul style="list-style-type: none"> 3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards. 3.2 Review and update floodplain risk, bushfire and coastal management mapping to manage risk, particularly where urban growth is being investigated. 3.3 Incorporate new knowledge on regional climate projections and related cumulative impacts in local plans for new urban development. <p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> Primary constraints are generally considered to make the land unsuitable for all types of residential and employment development and should be avoided in most 	<p>affecting the North Coast. Projections show temperatures are expected to keep rising, rainfall patterns will change, and fire weather will increase⁴. An increase in severe and average Forest Fire Danger Index (FFDI) is expected (North Coast Climate Change Snapshot).</p> <p>The proposed development will place an elderly population at significant risk from existing and rapidly escalating natural hazards. In this regard, it is noted that while the proposal indicates a target market of over-55s residents, the average age of residents in Ingenia Lifestyle developments is actually 67 years⁵ and 92% of residents are expected to be over 61 (Social Impact Assessment, page 46).</p> <p>The following comments are made:</p> <ul style="list-style-type: none"> the development site is already at high risk of bushfire attack. Similarly, the main roads to the site are already affected by floods, with access significantly impacted during high rainfall events in early 2021 and again in early 2022. Climate change will further exacerbate these risks the Black Summer fires of 2019/2020 and the catastrophic north coast floods of 2022 provide clear warnings of the dangers now rapidly emerging. Consistent with statutory obligations, it is incumbent on decision-makers to give practical effect to the precautionary principle and the inter-generational equity principle of ESD when making decisions to ensure that people and property are not unnecessarily exposed to environmental and safety risks, either now or in the future it is not only the future resident population of up to 561 over-55s that will be at risk if the development proceeds. Emergency services personnel and first responders,

⁴ <https://www.climatechange.environment.nsw.gov.au/north-coast>

⁵ <https://www.ingeniacommunities.com.au/sustainability/our-stakeholders/residents/>

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>instances when considering land for new urban areas (page 16).</p> <ul style="list-style-type: none"> • Councils should adopt the precautionary principle when considering land with primary constraints for urban development (page 16). • In some instances, a council may seek to identify land in a strategy that requires further investigation before it is determined to be suitable for residential or employment purposes. The inclusion of such investigation areas will only be supported if it has been demonstrated that the land is not subject to any of the primary constraints (page 19). <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • Well planned and prepared communities that are resilient and adaptable to a changing climate (page 11) • New housing needs to be carefully planned to consider risks, such as flooding and bushfire, potential conflicts with other land uses and the environment (page 38). 	<p>including local community RFS and SES volunteers, will face significant risks during emergency events that require diversion of resources to this site, or direct evacuation of up to 561 residents (many with mobility and medical limitations) as well as their guests and visitors. In the peak of summer - when site occupation swells with additional family and visitors - this could lead to disastrous outcomes.</p> <ul style="list-style-type: none"> • the development is not consistent with actions in the Regional Plan requiring risks from natural hazards to be avoided. Indeed, it will increase risks for future residents and emergency services workers by exposing them to such hazards. In addition, as observed in the Social Impact Assessment (pages 55 and 59) the impacts to emergency services and safety risks will give rise to medium social impacts of potentially moderate magnitude. <p>The site of DA 233/2022, or access to the site, is also affected by the following primary constraints identified by the Settlement Planning Guidelines:</p> <ul style="list-style-type: none"> • land within the 1:100 year floodplain (being parts of Scotts Head Road that lead to the entrance to the site) • bushfire prone land • land where there is no available safe evacuation route in the event of flood or bushfire (the secondary emergency route leads to the same road - Scotts Head Road - as the primary entry route to the site) • land of Aboriginal cultural heritage significance, where it is inappropriate for it to be developed for urban purposes • land of high environmental value, as listed in Appendix A of the Guidelines, including threatened ecological communities and threatened species habitat • land containing acid sulfate soils. <p>Further discussion of risks associated with bushfire and flooding is included in Part C of this submission.</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>B4 - PEOPLE, COMMUNITIES AND PLACE</p> <p>North Coast Regional Plan</p> <p>Key extracts:</p> <ul style="list-style-type: none"> As the region grows over the next twenty years, well designed communities will support local character, active lifestyles and provide residents with a greater sense of wellbeing and belonging (page 45). Communities will also be supported with appropriate social infrastructure to respond to local needs (page 45). <p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> New urban areas need to be located within or connected to an existing settlement in a manner which will reinforce the existing social catchment and minimise service costs and travel distance (page 20). <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> Well planned communities and public domain improvements will provide safe, functional and attractive spaces and community facilities for residents and visitors to the Valley (page 10) Promote healthy living choices by providing opportunities for walking, cycling and public transport. Walkable streets that are attractive, legible, well connected, safe and shaded (page 10). 	<p>The proposal is inconsistent with the directions set by the strategic plans to provide well designed, connected and socially cohesive communities, and to protect the character of Scotts Head.</p> <p>The current development proposal is poorly designed, laid out and located. It is positioned in a location known to be at significant risk of bushfires and where road access is impacted by regular and significant flood events. It represents an unplanned and ad hoc extension of the urban footprint to the south of Scotts Head Road, pre-empting the requirements to undertake investigation of the urban capability of this land as required by the North Coast Regional Plan.</p> <p>It will be a gated, closed and isolated community of over-55s, which will diminish, not enhance, social cohesion. This rapid influx of up to 561 over-55 residents will dramatically reshape the demographics of what is currently a small, compact coastal village - leading to up to 62.4% population increase in only several years with a “very high social impact” of “transformational magnitude” (Social Impact Assessment, page 45) - and resulting in a clear, dominant majority of the population being over-50 in a very short timeframe.</p> <p>This dramatic demographic shift in the Village would occur without support for other changes that would be needed - such as housing and infrastructure for young families and workers that will be needed to support an ageing population. The DA does nothing to address the ongoing loss of young people from the area - a trend observed in the LSPS (page 15) - or the provision of affordable housing for younger age groups. As the LSPS observes:</p> <p><i>“A key challenge in this strategy is to increase the amount and range of housing, employment and education opportunities in our community to attract and retain young people and to address the needs of an ageing population”</i> (page 16).</p> <p>The development lacks suitable and safe pedestrian and cycling links, meaning residents will have to drive to reach all local services,</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<ul style="list-style-type: none"> • Scotts Head is a highly desirable place to live and visit and there is therefore some risk that new development could damage the low key, relaxed character of the village that attracts people in the first place (pages 26-27) • Planning for Scotts Head should therefore aim to retain the lower density feel and connections to the public foreshore areas (page 27) • Urban environments that support thriving retail centres and are safe, vibrant, places to work, live or invest (page 54). 	<p>shops and recreational opportunities (including local beaches). There is no genuine public transport proposed to overcome these fundamental shortcomings, all of which undermine any prospect for the development to deliver a socially cohesive outcome where the new residents are integrated into the social fabric of the Village. On any given day it will increase vehicle movements into and from the Village by several hundred, with resulting impacts on parking, traffic and pedestrian safety.</p> <p>The DA is inconsistent with the existing and desired character statements for Scotts Head set out in the LSPS. The high, density and car-dependent nature of the Ingenia development will have a direct, adverse and irreversible impact on the highly valued small, coastal character of Scotts Head Village. It will destroy the low key, relaxed character of the Village, causing a high social impact to the current residents' sense of community (Social Impact Assessment, page 48). That character is unique and Scotts Head represents one of the last places on the NSW coast to retain that type of feel and sense of place.</p> <p>Scotts Head is the smallest regional community in which Ingenia (via Sungenia) has sought to develop in NSW (see Appendix C to this submission). The relative impact on the Scotts Head community will be significantly greater than that experienced in other larger communities where Ingenia projects have been developed, as it has less capacity to absorb an increase both from a physical infrastructure and social resilience perspective.</p> <p>The DA does not support the strategic economic goals of the LSPS. It will further entrench demographic trends associated with an ageing population across Nambucca Valley, and do nothing to address structural economic issues that are impacting the ability to attract and retain young workers to the area. That includes a lack of affordable, suitable housing, healthcare, transport and overall liveability.</p> <p>All the DA will deliver is an additional rapid surge in over-55s to Scotts Head Village - with no complimentary plans in place to facilitate the provision of jobs, housing or transport access for the younger</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
	<p>workforce that will be required to service the needs of the ageing population.</p> <p>In addition, the traffic and overcrowding impacts flowing from up to 561 new residents and up to 641 vehicles accessing the site and local area, will diminish the tourism attractiveness of the Village. In turn, that will impact local businesses that rely on peak holiday period turnover, as it will no longer possess the characteristics that make it one of the most popular and safe family holiday destinations in the Nambucca Valley.</p> <p>Further discussion of the scope of community and economic impacts is undertaken in Part C of this submission.</p>
<p>B5 - ABORIGINAL CULTURAL HERITAGE</p> <p>North Coast Regional Plan</p> <p>Key extracts:</p> <ul style="list-style-type: none"> • The region has a rich and diverse Aboriginal and historic heritage. The Bundjalung, Gumbaynggirr, Dunghutti, Biripi and Yaegl are the first people of the region (page 45).. • Aboriginal cultural heritage and communities will be respected and supported as the region grows (page 45). • Consultation processes on future land use planning should ensure that Aboriginal people have their interests and responsibilities acknowledged, respected and considered through the planning process (page 4*). • Involving Aboriginal people in planning empowers their communities to identify their own issues, strategic directions and solutions (page 48).. • Actions (page 48) <ul style="list-style-type: none"> ○ 16.1 Develop partnerships with Aboriginal communities to facilitate engagement during the planning process, including the development of engagement protocols. 	<p>The DA does nothing to protect and conserve cultural places and values. It will irreversibly diminish the local landscape - which is of value to the local Aboriginal community - by extensive vegetation clearing and earthworks.</p> <p>The SHCG does not speak on behalf of the local Aboriginal people - the Gumbaynggirr people - but provides the following comments.</p> <p>As noted in the LSPS, the “<i>Aboriginal community has a deep cultural connection with the natural environment of the Nambucca Valley</i>” (page 17). Once these values are lost they can never be regained; and they cannot be offset</p> <p>The development only has adverse and negative impacts on the heritage and culture of the Gumbaynggirr people, by clearing and permanently transforming the natural and cultural landscape of the area. This will result in irreversible impacts to land known to contain Aboriginal objects and in close proximity to recorded, significant ceremonial sites.</p> <p>The applicant has shown no respect to the Gumbaynggirr people and the process of engagement by Ingenia with local Aboriginal people,</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<ul style="list-style-type: none"> • Harm to Aboriginal objects and places, or areas of significance to Aboriginal people, should be avoided (page 49). • Any proposed management or development activity must consider the potential impacts on Aboriginal cultural heritage values (page 49). • Actions 18.1 (page 49) <ul style="list-style-type: none"> ◦ Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities. ◦ 18.2 Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified. ◦ 18.4 Prepare maps to identify sites of Aboriginal heritage in 'investigation' areas, where culturally appropriate, to inform planning strategies and local plans to protect Aboriginal heritage. <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • Protect and conserve cultural places and values of our community including built and aboriginal cultural heritage (page 13). • Provide opportunities for artistic and creative expression to strengthen local awareness of these historic and cultural values as well as add features of interest and identity within our community (page 13). 	<p>has been exceptionally poor. According to the DA information they did not involve the community in the Due Diligence Assessment site visit, or undertake direct consultation with relevant knowledge holders about the Aboriginal cultural values of the site or the local area.</p> <p>This is despite the fact that Lot 11 is known to contain recorded Aboriginal objects, with good potential for additional sites to be found, and to be in immediate and close proximity to a significant recorded ceremonial site.</p> <p>The tokenistic approach by Ingenia to the assessment and consideration of Aboriginal cultural heritage values is patronising, disrespectful and fails the fundamental test of needing to obtain the prior, informed consent of Aboriginal people when their heritage is at risk.</p> <p>In 2022 this is unacceptable, inappropriate and inconsistent with best practice environmental impact assessment.</p> <p>The DA fails to meet the requirements of the Regional Plan to accurately identify and then protect Aboriginal objects. It also fails to meet the intent of the National Parks and Wildlife Act 1974 for development proponents to appropriately engage with Aboriginal people at the earliest possible stage and on an ongoing basis during the planning assessment process.</p> <p>As discussed further in Part C1(f) of this submission, there are also specific fundamental flaws with the Due Diligence Assessment that mean it is inadequate and deficient. In particular:</p> <ul style="list-style-type: none"> • the assessment has examined the wrong development footprint - it is based on an entirely different layout to that proposed in DA 233/2022 • the information used to inform the assessment is now older than 12 months. As noted in the report itself, this means the information underpinning the assessment is outdated and invalid.

Strategic plan statements	Consistency of DA 233/2022 with statements
	<p>These failures in the assessment of Aboriginal cultural heritage values and potential development impacts are fatal to the proposal in its current form. They also undermine the ability of the Aboriginal and wider community to make an informed and meaningful contribution to the planning process.</p> <p>Further discussion of the scope of Aboriginal cultural heritage impacts is undertaken in Part C of this submission.</p>
<p>B6 - COMMUNITY AND INFRASTRUCTURE SERVICES</p> <p>North Coast Regional Plan</p> <p>Key extracts:</p> <ul style="list-style-type: none"> • Providing housing, services and facilities that are within walking distance of each other, or easily accessible by public transport, can also help to deliver these outcomes (page 46). • All communities need access to social infrastructure, such as child care facilities and emergency accommodation (page 46). • New development should be located to take advantage of both existing and new road, water, sewer, social and stormwater infrastructure (page 50). • The design of infrastructure should accommodate, wherever possible, the capacity for cost-effective expansion (page 50). • Detailed infrastructure service planning should be undertaken for new major release areas to establish that the land can be feasibly and cost-effectively serviced. This will support the timely and affordable release and development of land (page 50). 	<p>The proposal will have significant adverse impacts to critical services such as healthcare, and fails to meet the infrastructure requirements of the strategic plans.</p> <p><u>Community services</u></p> <p>The development proposal - leading to a rapid population growth in Scotts Head of up to 62.4%, all being over-55s - is not able to be supported by existing community or other services. Indeed, it will compound and exacerbate challenges already faced by the existing community in terms of accessing core critical services, such as GP, specialist and allied health professionals. It will also create demands for other services - such as shopping, aged care and others - that require a young workforce that is non-existent or at least partly absent due to a lack of reliable, affordable rental or for-purchase properties.</p> <p>The age-limitation of 55 means that new residents will be of an age (and will continue to age in place) with high and acute needs for medical services, many of which are simply not available in the Nambucca Valley, That includes reasonable access to GP services - with the existing GP in the Village having no capacity to accept new patients and a large proportion of GP practices within the Nambucca Valley also in the same position.</p> <p>The proposal in the DA to provide medical consulting rooms is illusory</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • The efficient provision of necessary infrastructure is essential for new residential and employment areas (page 20). • The available infrastructure and natural resources must be adequate to service the expected population of the urban area (page 20). • Where proposed new urban areas are isolated they will need to demonstrate they can feasibly provide stand-alone services and infrastructure or be suitably connected to other established urban areas which will provide these facilities (page 20). • New urban areas which are not associated with an existing village or town should not be considered if residents would be heavily dependent upon motor vehicles to access basic social services, infrastructure and employment (page 20). • If the release area is to use facilities and infrastructure in neighbouring existing urban areas then alternative transport modes, such as separate cycle paths, direct walking tracks, and public transport facilities, must be available to reduce reliance on car travel to access these facilities (page 21). • If infrastructure appropriate to the scale of the proposed release area is not available, then mechanisms are to be put in place to provide this infrastructure in a timely and efficient way at no cost to government (page 21). • <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • New housing...should ideally have access to supporting infrastructure and social services, such as schools, health facilities and public transport and it should promote the efficient use of land and infrastructure (page 38). 	<p>and inadequate. Empty rooms without doctors do not equate to improved medical services.</p> <p><u>Transport</u></p> <p>The site is not supported by frequent public transport and even if cycle and walking paths were provided to local shops and services, the distances and hilly terrain would preclude many over-55 residents of the Ingenia development.</p> <p>According to the SEE (page 11), it is at least 1.7 km to drive to the Village centre and beach, on hilly, narrow roads without footpaths in most locations. In addition, the nearest bus stop is 1.2 km away (Traffic Impact Assessment report, page 4) along 90 km/hour road zones, with no footpath or safe verge. Minimal information is provided about the planned operation of a community bus or how it could meet the daily public transport needs of up to 561 over-55 residents.</p> <p>To service such a community, cycle and pedestrian paths would need to be sufficiently wide and of appropriate gradient (particularly to accommodate people with accessibility aids such as motorised scooters). The DA does not account for the make-up of its intended over-55s community, and the fact it will age in place, and as a consequence its transport plans are inadequate and will inevitably drive up vehicle use and dependency. That will have a direct impact on traffic and pedestrian safety in the Village, where space for parking and manoeuvring in the business area and at beaches is already highly constrained, especially during peak holiday periods.</p> <p>The development will therefore essentially be entirely car dependent with no genuine, regular or readily accessible public transport proposed.</p> <p>The development will only deliver adverse consequences to the local transport network. It will result in significant additional vehicle movements every day, placing pressure and wear and tear on the already strained and poor condition local roads. This will require</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
	<p>significant public investment on an ongoing basis.</p> <p>Current roads, parking and pedestrian areas in the Village face being unable to accommodate the additional vehicles arising from the development, noting that at full capacity there will be up to 641 vehicles accessing the site (the proposed available parking). Based on information in the Traffic Impact Assessment Report and analysis by an independent expert (page 27, Appendix F of this submission) there will be a 63% increase in vehicles during the morning peak and 60% in the PM peak.</p> <p>This is further supported by the conclusion of the Social Impact Assessment (pages 52-53) that traffic, road and public transport issues will have a medium social impact.</p> <p><u>Utilities</u></p> <p>The development proposal is on a site with no utility infrastructure and cannot proceed without essential sewer and water works occurring. However, the environmental, social and economic impact of supplying this infrastructure to the site has not been adequately assessed as required by the strategic plans. That includes the physical installation of required pipes, pumps and related assets - all of which will involve significant soil disturbance (in an area of known acid sulfate soils), including in proximity to waterbodies, and in existing residential areas.</p> <p>The potential need for significant upgrades to the sewage treatment plant has also failed to be adequately considered and assessed as part of the DA. The sewage treatment plant (which immediately adjoins a national park and therefore has limited scope for physical expansion) is already unable to cope in some circumstances. Every year since 2008, there has been a reported non-compliance with various requirements of the EPA licence for the plant⁶.</p>

⁶ <https://apps.epa.nsw.gov.au/prpoeoapp/Detail.aspx?instid=2564&id=2564&option=licence&searchrange=general&range=POEO%20licence&prp=no&status=Issued>

Strategic plan statements	Consistency of DA 233/2022 with statements
	<p>As far as the SHCG can ascertain there has been no detailed planning to test the feasibility of service delivery to the site, or implications for housing affordability at the site or rate burdens likely to fall on the wider community. Significant investment of scarce public resources will be required by Council to install and then maintain the required physical infrastructure, particularly in light of existing key capacity constraints in areas such as sewage treatment, potable water supply and road conditions/capacity.</p> <p><u>Who pays?</u></p> <p>The DA will require significant re-allocation of already limited Council resources to support the physical and social infrastructure needs of the development.</p> <p>The inequitable rating and developer contribution arrangements that will apply to this proposal will mean that the shortfall in available funding will be borne by the rest of the rate-paying community. This disparity has already been acknowledged by Nambucca Council⁷.</p> <p>This is an unreasonable and unfair financial burden on both the Council and the local community. Costs will inevitably be passed to the local community either via rate increases, special levies, or loss of investment in other services as Council funds are diverted to service this site, thereby impacting the ability of Council to also supply other essential infrastructure and community services.</p> <p><u>Deferred assessment is inconsistent with strategic plans</u></p> <p>It is not reasonable or appropriate for the physical and cost impacts of utility infrastructure to be assessed through a separate process at a later stage; yet this is what DA 233/2022 proposes.</p>

⁷ Council business papers 13 January 2022, Item 9.9 - Financial Implications of Manufactured Home Estates.
https://www.nambucca.nsw.gov.au/bps/Open/2022/01/CO_13012022_AGN_1181.PDF

Strategic plan statements	Consistency of DA 233/2022 with statements
	<p>To do so would be to downplay and under-represent the full scale of environmental, social and economic impacts associated with this DA, ignoring the direct and cumulative impacts of the proposal. The decision maker can only make an informed decision on the DA when all impacts of the proposal are assessed, rather than merely a subset of impacts at the specific development site.</p> <p>SHCG is of the view that it is unreasonable and poor practice to simply “plonk” a major new development - effectively an urban release area in the context of the small size of Scotts Head - without any apparent detailed investigation and understanding of the broader consequences.</p> <p>This is further supported by the conclusion of the Social Impact Assessment (pages 52-53) that traffic, road and public transport issues will have a medium social impact.</p> <p>Further discussion of the scope of community and utility infrastructure impacts is undertaken in Part C of this submission.</p>
<p>B7 - HOUSING AND AFFORDABILITY</p> <p>North Coast Regional Plan</p> <p>Key extracts:</p> <ul style="list-style-type: none"> • Future housing will be directed to locations that can accommodate more housing and that have existing or planned infrastructure and services (page 53) . • Pursuing suitable housing densities in the right locations will create a more compact urban footprint and protect significant environmental areas (page 53). • Housing that meets the needs of residents on a range of incomes will also be important in addressing affordable and social housing to help reduce social disadvantage and 	<p>The proposal is inconsistent with commitments in the strategic plans to improve the supply and delivery of affordable housing in locations supported by services and infrastructure.</p> <p>The subject site is poorly located on the outskirts of Scotts Head, disconnected from the rest of the Village, and in a location at risk of bushfire and flood related impacts. It will not be on “unconstrained land” and will not protect important environmental areas – indeed it will result in almost the complete clearance of existing native vegetation within the development footprint.</p> <p>The development will not deliver affordable housing to meet the needs of either the existing or future community of the North Coast. It is restricted to over-55s, meaning that young families, and critical</p>

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>provide shelter (page 53).</p> <ul style="list-style-type: none"> • Providing housing diversity and choice will improve affordability, help meet the needs of an ageing population and support the reduction of household size. • Appropriate planning controls and incentives can help deliver more affordable housing. A range of tools will be considered through local planning, such as: <ul style="list-style-type: none"> ◦ promotion of new caravan parks and manufactured home estates on unconstrained land in existing settlements and new land release areas in the urban growth areas (page 57) <p><u>North Coast Settlement Planning Guidelines</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • future urban areas are to...in the case of residential development, provide for a variety of dwelling types and a choice in location, form and affordability (page 20). <p><u>Nambucca Local Strategic Planning Statement (LSPS)</u></p> <p>Key extracts:</p> <ul style="list-style-type: none"> • A diverse range of housing choice that support population 	<p>workers in aged and health care, teaching, emergency services, and trades, will be locked out of the site from the beginning. According to the LSPS, these are the very types of people that are desperately seeking secure accommodation on the North Coast, and are the same workforce that is essential to service an already ageing population.</p> <p>Even for those aged 55, the development will be largely unaffordable. As a comparison, new dwellings at the Ingenia Lifestyle estate at Anna Bay (Port Stephens) sold for a median price of \$770,000 in 2021⁸, with some going for up to \$900,000⁹. Under the 'land-lease' model promoted by Ingenia, this financial outlay only purchases the actual building – the land remains owned by Ingenia.</p> <p>As a consequence, it is likely that the only over-55s that may be able to afford to move into the development are those with either significant financial resources, or looking to sell their existing home to downsize. Pensioners and others that are over-55 and on a low-income will also effectively be locked out, as they will likely struggle to afford to buy into the development and to pay ongoing site rental costs.</p> <p>The development will not free up the existing housing stock in Scotts Head for young families and other locals already in the area. This is because:</p> <ul style="list-style-type: none"> • these types of developments are attracting a growing segment of sea-changers (people leaving the major urban centres), rather than locals, particularly post-COVID¹⁰ • the DA (SEE, page 76) admits that dwellings will be targeted

⁸ Ingenia FY2022 Half Year 1H22 Results Presentation -

<https://app.sharelinktechnologies.com/announcement/asx/9e12676d943026202e7f6874765d308c>

⁹ Ingenia Communities Annual Report 2021, page 11 - <https://onlinereports.irmau.com/2021/INA/12/>

¹⁰ see, for example:

1. Ingenia Virtual Investor briefing at <https://app.sharelinktechnologies.com/announcement/asx/6f0476cb7f993c10827e066bd77cdd9c>. Slide 18 shows increasing interest from capital city "leads" up from 14% in early 2020 to 30% in 2021; Slide 22 shows in the Ingenia Harvey Bay case study site, 62% of residents were new arrivals to the area

2. Colliers International (2016) at <http://eighthgate.com.au/wp-content/uploads/2016/01/Colliers-International-Australian-MHE-White-Paper-FINAL-VERSION.pdf>.

This report (pages 54-55) found that the proportion of residents from within the local statistical area is lower in MHE's supporting the conclusion that MHEs pull from a wider catchment area. The chart at page 55 shows 85% of MEH residents come from outside the local statistical area.

Strategic plan statements	Consistency of DA 233/2022 with statements
<p>growth, a diverse and ageing demographic, and affordability (page 11)</p> <ul style="list-style-type: none"> the Nambucca Valley has amongst the highest rates of disadvantage of all centres outside Sydney, including the highest rate of poverty for children and for people who are employed full time, in all areas outside Sydney” (page 39) Housing affordability and employment generation therefore remain as key challenges in our community to address ongoing disadvantage within our community (page 39). 	<p>at “out of area buyers”, meaning it will do nothing to improve supply for local people over 55. Despite this, the SEE also makes the unsubstantiated claim that this will somehow mitigate further price increases in the existing available housing market</p> <ul style="list-style-type: none"> a survey of the Scotts Head Community in April 2022 shows that only 15% of existing local over-55 homeowners would ‘definitely’ or ‘likely’ consider selling to downsize and move to the Ingenia development (Appendix A to this submission) the median house price in Scotts Head for the 12 months to March 2022 was \$900,000 (Appendix D to this submission), meaning even if large numbers of local over-55s were to downsize, the newly available housing stock in Scotts Head would still be beyond the reach of many in the community. <p>The DA is inconsistent with the housing goals of the LSPS. The form of the development fails to deliver any dwelling variety in design, size, cost/affordability or accessibility. It is a large, high density monoculture of 255 supposedly “movable homes”, only available to over-55s that have sufficient cash to buy in.</p> <p>It will do nothing to meet the demand for affordable housing for either young people, young families, existing local communities, or over-55s on low incomes. As noted above, the development is limited to over-55s on high disposable incomes and is neither affordable in the short or long term.</p> <p>The affordability claims of moveable dwelling developers such as Ingenia (Sungenia) have been debunked by contemporary research that shows:</p> <ul style="list-style-type: none"> it is more expensive over the longer term (20 years) than conventional housing

Strategic plan statements	Consistency of DA 233/2022 with statements
	<ul style="list-style-type: none"> - it generates significant returns for investor-operators but transfers risks and ongoing costs to residents - residents that later need to move into aged care may face difficulties with only having access to the sale proceeds from a second-hand relocatable home.¹¹ <p>Part C of this submission further discusses housing and affordability impacts.</p>

¹¹ see for example:

- Towart and Ruming (2020) *Retirement housing on wheels: Is it as affordable as it says in the marketing brochure?*, at: <https://thefifthestate.com.au/innovation/residential-2/retirement-housing-on-wheels-is-it-as-affordable-as-it-says-in-the-marketing-brochure/>
- Towart and Ruming (2021) *Soaring housing costs are pushing retirees into areas where disaster risks are high*, at: <https://phys.org/news/2021-05-soaring-housing-retirees-areas-disaster.html>
- Towart and Ruming (2021) *Manufactured home estates as retirement living in Australia, identifying the key drivers*, at <https://www.tandfonline.com/doi/abs/10.1080/19491247.2021.2007567?needAccess=true&journalCode=reuj20>

PART C - ENVIRONMENTAL IMPACTS ARE UNACCEPTABLE

This part of the submission discusses the environmental impacts of DA 233/2022, with specific reference to relevant statutory requirements.

The SCHG considers that the proposal to develop a 'caravan park' at Lot 11 DP 1243930 will have a significant, enduring and unacceptable environmental, social and economic impact. In summary, these impacts will accrue in three key areas:

1. **impacts to the existing community** - including significant and unmitigated strain to social and community services (medical and other), transport, traffic and pedestrian safety, costs of upgrading and maintaining utility infrastructure, emergency services personnel and volunteers, and degradation of the sense of place, local amenity and social cohesion.
2. **impacts to the site and local environment** - including the direct, permanent and irreversible loss of significant native bushland and wildlife habitat, potential and likely impacts to Aboriginal cultural heritage, visual and landscape degradation, potential acid sulfate soil and erosion risks, and downstream impacts to protected coastal wetlands associated with increased runoff from the site (leading to reduced water quality and increased volume and speed of water flow).
3. **impacts to the future residents of the site** - including significant material risk to property and life from bushfire and flood events, lack of access to essential medical and related services, lack of genuine public transport and accessible bicycle and pedestrian opportunities, physical and social disconnection from the Village, and costs to address these issues.

Given the breadth and diversity of these impacts, the SHCG also considers that it is not feasible or practicable to mitigate or offset such impacts to a level where they would collectively be considered acceptable.

In the following sections the submission identifies and discusses:

- development impacts that are not adequately assessed or justified
- impacts that are unacceptable
- statutory impact assessment and decision-making preconditions that have not been met.

DA fails to, or incorrectly, assesses all impacts

The SHCG particularly notes and highlights that the DA has failed to identify and assess the full suite of impacts that will occur if the development is to proceed. That includes the impacts associated with installation of new utility infrastructure to service the site (i.e. the poles, pipes and wires) and flow-on works to upgrade critical existing Scotts Head Village assets, such as the sewage treatment plant, water supply capacity and local road network.

The SHCG considers it completely unreasonable, inadequate, and inconsistent with planning law and best practice to take this approach. This is a clear example of “project-splitting” with the intention to downplay the true and cumulative environmental, social and economic cost of the development proposal.

In addition, the Aboriginal cultural heritage impacts of the proposal have been **incorrectly assessed against the wrong development footprint** [see Part C(1)(f) of this submission]. This means that the impacts of the footprint actually presented in DA 233/2022 on Aboriginal cultural heritage have not been assessed. This is a **fatal flaw** in the assessment and means that the planning authority cannot accurately consider the potential impacts to Aboriginal cultural heritage or the adequacy of any proposed mitigation options.

All direct and associated impacts of the proposal must be considered upfront and comprehensively to ensure the planning decision-maker can genuinely make an informed decision - the assessment undertaken for the current DA does not do this. The DA is therefore manifestly flawed and fails to satisfy requirements of the EP&A Act to take into account the full suite of environmental impacts (including social and economic impacts) to the land that is the subject of the DA, or to the surrounding area and community.

On the basis of the considerations above and set out in detail in the remainder of this submission, the SHCG recommends the DA should be **refused consent**.

C1. Environmental Planning and Assessment Act 1979

The key matters to be considered in determining a development application are set out in sections 4.14 and 4.15 of the EP&A Act. These are addressed in detail below.

a) Section 4.14 EP&A Act - Consultation and development consent—certain bush fire prone land

Section 4.14	Assessment
<p>(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—</p> <p>(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled <i>Planning for Bush Fire Protection</i> prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (<i>the relevant specifications and requirements</i>), or</p> <p>(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.</p> <p>(1A) If the consent authority is satisfied that the development does not conform to the relevant specifications and requirements, the consent</p>	<p>The DA is on a site identified as bushfire prone by Nambucca Council's Bushfire Prone Land Map.</p> <p>The SHCG understands that the proposal has been referred to the Rural Fire Service (RFS) as an integrated development application. RFS approval is required because the development triggers the requirements for "special fire protection purpose" development, which take account of the vulnerability of at-risk occupants (in this case, a resident population of over-55s).</p> <p>The Planning for Bushfire Protection Guidelines 2019 recognise that evacuating at-risk members of the community is more challenging because they may be physically or psychologically less able to relocate themselves or are unfamiliar with their surroundings. The Guidelines note that there is a lack of available mechanisms to ensure both caravan parks and MHEs meet relevant construction standards. As a consequence, the solutions to managing bushfire risk for these development types are reliant on adequate asset protection zones (APZs - essentially fuel reduced areas achieved by removing vegetation) and emergency management, such as evacuation arrangements.</p> <p>The SHCG focuses its comments on the following matters, drawing on local knowledge and independent expert advice (see Appendix G of this submission) which concludes that the DA assessment "meets the minimum requirements" (page 4). The full expert report is provided as an appendix to this submission:</p> <ul style="list-style-type: none"> • Blackash Bushfire Consulting - Appendix G. <p><u>Asset Protection Zones</u></p> <p>Given the technical nature of bushfire assessments relevant to establishing the adequacy of APZs, and the construction and protection standards that apply to the types of</p>

Section 4.14	Assessment
<p>authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.</p>	<p>so-called moveable dwellings, the SHCG will generally defer to the expertise of the RFS in this area.</p> <p>The SHCG only notes the following:</p> <ul style="list-style-type: none"> the proposed APZs appear to be based on the contention that the dwellings provided are temporary and “moveable”. As noted in Part A of this submission, the SHCG is of the view that the dwellings proposed are in fact permanent and immovable the proposed APZs appear to be the bare minimum needed to meet the requirements of the Planning for Bushfire Protection Guidelines 2019 the DA relies on a covenant or easement on the land requiring that manufactured homes comply with the relevant building standards for dwellings. This is a risky approach with potential compliance challenges the location of APZs are squeezed in between the riparian area and adjoining property in the south. If APZs need to be extended in the future due to climate change and evolving bushfire circumstances there will be limited opportunities to do so within the site. <p><u>Loss of biodiversity</u></p> <p>The nature and size of the APZ requirements will add significantly to the development footprint and essentially will mean the loss of 100% of any biodiversity values associated with existing native vegetation in this area. This loss will in no way be compensated by landscape plantings within the development, which are for amenity purposes and have no comparable value to existing vegetation. The biodiversity impacts of the proposal are further discussed below [including Part C1(f)].</p> <p><u>Assessment of risk</u></p> <p>The Bushfire Assessment report concludes that because there has not been a lot of recorded fire history in the area, the site is not considered to be in a known fire path and the likelihood of a significant bushfire occurring is therefore unlikely. This is misleading and underplays the potential future evolving risks and changing fire regimes and</p>

Section 4.14	Assessment
	<p>increasingly unpredictable behaviour. This was observed in multiple locations during the 2019/20 Black Summer, when fire did not act as predicted and burnt through long-unburnt areas, just like the bushland surrounding Scotts Head.</p> <p>Given the highly volatile vegetation communities in immediate proximity of the site, including paperbark forest, when combined with high potential ignition sources along Grassy Head and Scotts Head Roads, the overall risk conclusion is inaccurate and it should be considered very high.</p> <p>Climate Change will increase this fire risk potential with an increased number of extreme Fire Danger Index (FDI) days forecast. There is clear continuous fire prone forest vegetation fuels present to the north-west, west and south-west, where fires have potential to run hard under bad fire weather days.</p> <p>The independent bushfire assessment commissioned by the SHCG (Appendix G of this submission) confirms some of the deficiencies in the assessment of risk:</p> <ul style="list-style-type: none"> • “The Bushfire Report provides limited consideration of the isolated (the site is surrounded on four sides by bushland) nature of the development and the potential for the site to be cut off in the event of a bushfire” (page 3) • “...potential exists for the site to be impacted on four sides by bushfire” (page 3). <p><u>Emergency management and evacuation</u></p> <p>In relation to emergency management, the DA is clearly deficient. The Bushfire Assessment Report that accompanies the DA merely notes there is a need to prepare a bushfire emergency/evacuation plan; but no such plan is actually provided. Similar to issues associated with water and sewer supply (see below), the assumption appears to be that this is a matter that can simply be “kicked down the road” for a separate, future assessment.</p> <p>This is poor environmental impact assessment practice and inadequate in the context of the current proposal and site. It is essential that details of the proposed emergency and evacuation plans are made available upfront to the planning authority and for community review, and prior to any decision on the DA being made. This is because:</p>

Section 4.14	Assessment
	<ul style="list-style-type: none"> the proposal will place up to 561 over-55 residents, many of whom will have mobility and medical needs, directly in harm's way access to the Pacific Highway from the site is via Scotts Head and/or Grassy Head Road, both of which are narrow, windy roads known to be in poor condition. The ability for up to 561 residents, plus the existing population of Scotts Head, to evacuate along these routes must be considered now given the type of fuel present in the area, there is very real potential for a high density community of up to 561 over-55s to become trapped, given the site is essentially one way in and out (i.e. via access to Scotts Head Road). This scenario could quickly play out with little warning if a fire were to break out along Scotts Head Road under extreme FDI conditions details on the secondary emergency road access are lacking, particularly information on where it exits to Scotts Head Road and any assessment of whether that is an appropriate location from a traffic safety perspective. The DA does not map this exit, but from local knowledge it is understood to emerge at a curve in the road with limited line of sight. The prospect of up to 641 vehicles exiting safely at this location during an emergency event, with poor visibility due to smoke haze and existing residents also fleeing on the same road, needs to be assessed up-front, not later on the ability to protect resident safety on-site in the event that evacuation is not possible must be addressed. Similarly, any expectations that residents could evacuate to safe locations in Scotts Head (along with the existing resident population) must be tested and evaluated up-front the statement in the Report that there is "relatively low risk" to buildings and that a large-scale evacuation due to bushfire is "unlikely" (page 15) is not supported by clear evidence or assessment. It ignores the reality that the site will remain surrounded by heavily vegetated lands with high fuel loads and that recent lived experience during the Black Summer fires required local residents in the area to go to the Scotts Head Bowling Club as the relevant safe location in that regard, the DA and emergency plan must address the realities of an evacuation scenario and consider where the residents of the development would

Section 4.14	Assessment
	<p>actually safely evacuate to. There is currently no designated evacuation centre in Scotts Head Village that is capable of accommodating the up to 561 new residents plus the existing 986 residents¹². There is no prospect that the Bowling Club (even with current planned renovations) could cater to an influx of potentially more than 1,000 bushfire “refugees” from the local and surrounding areas</p> <ul style="list-style-type: none"> • the implications for emergency responders (most of whom are local community volunteers or paid professionals) must be understood and addressed. The SHCG is extremely concerned at the increased risks to the welfare and safety of local emergency responders, who will be faced with having to make dramatic decisions with limited resources to protect an isolated, ageing population on a site surrounded by bushland (the current DA proposal) while at the same time servicing the needs of the existing Village and surrounding rural residents • climate change is driving increasingly extreme and erratic weather and fire events. Any emergency plan must account for these rapidly changing realities and build-in measures to regularly review, adapt and change plans. <p>The independent bushfire assessment prepared for the SHCG (Appendix G of this submission) also identified several deficiencies with respect to emergency and evacuation planning:</p> <ul style="list-style-type: none"> • “The site is accessed by a single access handle which does not provide APZ’s, increasing the potential of bushfire restricting access to and from the site in the event of a bushfire emergency” (page 3) • “The access for emergency vehicles is not identified within the SEE or Bushfire Report which presents inconsistencies” (page 3) • “The proposed secondary access is not fit for purpose in the event of a bushfire affecting the site as an alternate evacuation point as it is within dense vegetation” (page 3)

¹² ABS 2021 Scotts Head Census QuickStats

Section 4.14	Assessment
	<ul style="list-style-type: none"> • “For a large number of people within the site, it is imperative that the access is assured in the event of a bushfire affecting the site. This could be reduced depending on the emergency management arrangements within the Bushfire Emergency Management Plan which has not been completed” (page 4) • “In the event of a bushfire impacting the site, the access handle within the site is likely to be cut by fire, thus isolating the development” (page 4) • “The Bushfire Emergency Management Plan for the site has not been completed and could require conditions and triggers that the site is not occupied above a certain Fire Danger Rating or if fires are in the vicinity of the site” (p. 4). <p>The Social Impact Assessment (pages 55 and 59) found that impacts to emergency services and safety risks associated with natural disaster response would have a medium social impact of potentially moderate magnitude. The DA must therefore demonstrate now that the above issues are addressed to a sufficient level in an emergency plan to protect lives, property and the environment now and into the future. A failure to do so would be extremely risky and inconsistent with the precautionary principle and the intent and requirements of the Planning for Bushfire Protection Guidelines 2019.</p> <p><u>Water supply</u></p> <p>The SHCG notes there are related issues about the ability of water supply systems to provide adequate capacity and water pressure in the event of a bushfire. These are discussed below, and seriously undermine the credibility of the conclusion in the Bushfire Assessment Report (page 17) that the “<i>proposed water supply is considered adequate</i>”. Indeed, this is in direct contrast to the statement in the Water and Sewer Servicing Strategy (page 25) that it is “<i>expected that on site fire boosting and possible tanks will be required due to the higher flow requirements associated with the development</i>”.</p> <p>Clarification is required about whether additional on-site water infrastructure is required and if this will necessitate further clearing of vegetation or other works.</p>

b) Section 4.15 (1)(a)(i) EP&A Act - Provisions of any environmental planning instrument

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
<p>126 Aims and strategies</p> <p>The aims are to encourage:</p> <ul style="list-style-type: none"> a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and c) the provision of community facilities for land so used, and d) the protection of the environment of, and in the vicinity of, land so used. 	<p>DA 233/2022 fails to achieve these aims:</p> <ul style="list-style-type: none"> a) it is an ad hoc and unplanned development that is inconsistent with the long-held intent of adopted Regional Plans, which require the suitability of land to the south of Scotts Head Road to accommodate residential development to be strategically and comprehensively assessed (see Part B1 of this submission). Such assessments have never occurred. If this proposal proceeds it will undermine the purpose of the North Coast Regional Plan, insert a higher density urban settlement into the area by stealth, and encourage further speculative, isolated and poorly supported development in this part of the Nambucca Valley b) it will diminish the social and economic welfare of the community and efforts in the Regional Plan and LSPS to provide affordable, well designed and supported housing. It will only be accessible to over-55s of medium and higher incomes with the financial capacity to buy into the development; leading to broader demographic change and increased demand on already stretched medical and other community services. In addition, it will have an unreasonable economic impact on existing residents and ratepayers of Nambucca, who will be forced to effectively subsidise the costs of water and sewer provision and road upgrades/maintenance, resulting from the inequitable rules that apply to development contributions and property rating for caravans parks¹³ c) with the potential exception of the medical consulting rooms (if there is any left-over capacity), community facilities on-site will be accessible only to residents of the development, despite the fact (as noted above) that the rest of the community will be subsidising the provision of infrastructure to the site d) the development will significantly degrade the environment of the site,

¹³ Council business papers 13 January 2022, Item 9.9 - Financial Implications of Manufactured Home Estates.
https://www.nambucca.nsw.gov.au/bps/Open/2022/01/CO_13012022_AGN_1181.PDF

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
	requiring removal of almost all vegetation within the development footprint for construction and on adjoining areas for bushfire protection purposes. Extensive cut and fill will be required. The development will also degrade the Aboriginal cultural landscape values of this part of Scotts Head, and have downstream impacts to estuarine environments and protected coastal wetlands associated with the transformation of the site from 100% vegetation to almost 100% hard surfaces.
131. Development consent required for caravan parks (1) Development for the purposes of a caravan park may be carried out only with the development consent of the Council. (2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine— (a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> , and (b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation.	<p>The SHCG notes the requirement for the planning authority to consider the balance of land and short term sites that may be appropriate for the site.</p> <p>In the event that the planning authority determines to grant consent for DA 233/2022, recommended conditions of approval addressing the number of sites are included in Part D of this submission.</p>

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
(3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence.	
<p>132 Subdivision of caravan parks for lease purposes</p> <p>(1) Land may be subdivided for lease purposes under section 289K of the <i>Local Government Act 1919</i>, but only with the development consent of the Council.</p> <p>(2) A Council must not grant such a development consent unless the Council is satisfied that each of the lots intended to be created for lease purposes by the proposed subdivision meets the requirements of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> for a site to be used for long-term residence.</p>	<p>This is noted by the SHCG.</p> <p>As stated above, the recommended conditions of consent in Part D of this submission address the issue of the appropriate mix of long and short term sites.</p>
<p>133. Matters to be considered by Councils</p> <p>Council may grant a development consent required by this Part only after it has considered the</p>	

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
following—	
(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,	<p>The site of DA 233/2022 is manifestly unsuitable for use as a caravan park of the nature proposed, namely so-called “moveable dwellings” that for all practical purposes are in fact permanent, residential dwellings.</p> <p>As noted above in this submission (Part B1 and elsewhere), if it proceeds the development will effectively create a new, higher density urban residential settlement in a location where the strategic suitability assessments required by the North Coast Regional Plan have never been completed. This is unplanned urban sprawl by stealth.</p> <p>The site is:</p> <ul style="list-style-type: none"> • heavily vegetated with important biodiversity values, including habitat for threatened species and wildlife corridor value • known to have, or be in close proximity to, sites of significant Aboriginal cultural heritage value, including a highly significant ceremonial site (Aboriginal Due Diligence Assessment, page 11). The development will adversely impact and diminish this culturally sensitive landscape; these being values that cannot be restored or offset once they are lost • in a known area of bushfire risk, with limited opportunities to evacuate to safe locations in extreme events • isolated and remote from the existing Scotts Head Village, with no pedestrian or bicycle access, or genuine public transport that is capable of servicing up to 561 over-55s. It will result in a gated, remote community of over-55s that is socially disengaged from the remainder of the Village • accessible by narrow, winding roads that are currently in poor condition and subject to regular flood damage. An additional 641 vehicles accessing this site is more than the current total number of existing dwellings in Scotts Head Village, and will lead to further deterioration in the state of the local road system, increasing safety risks to both existing and new residents • unserviced by water, sewer and other essential utility infrastructure. As discussed elsewhere in this submission, there is no preferred water and sewer option for the site and the environmental and economic impacts and costs of service

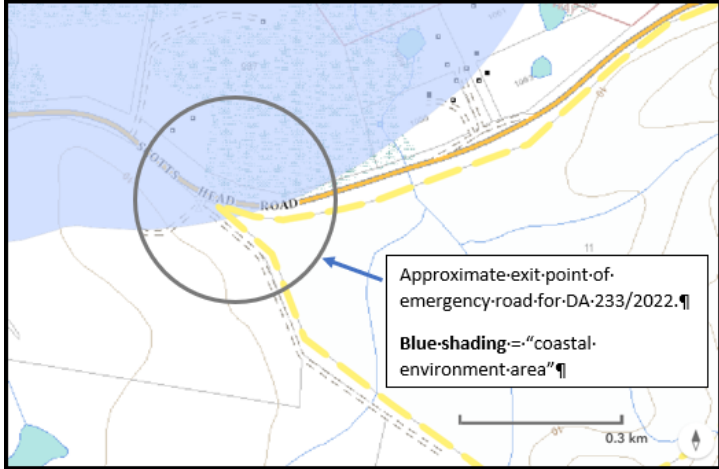
State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
	<p>provision have not been assessed in any detail. This is despite the acknowledged impact that the development will have on water pressure and reliance on other, unapproved developments to assist in resolving this (Water and Servicing Report), and the current capacity and operational constraints of the sewer system (evidenced by regular breaches of the EPA operating licence for the sewage treatment plant)</p> <ul style="list-style-type: none"> known to drain towards areas of important biodiversity value, including downstream areas that include protected coastal wetlands but that already experience poor water quality ratings¹⁴ known to be affected by high fire risk and flood access issues along the road. In this regard, the SEE (page 66) makes the somewhat astonishing statement that in the flood event greater than 1% AEP, both the entry and road and emergency access to the site will not be accessible due to inundation, and recommends in this circumstance that <i>“occupants seek refuge within the development”</i>. <p>In addition, the DA fails to account for or acknowledge that the eastern part of Lot 11 is currently being developed for the purposes of a single residential dwelling (DA 0163/2022). It is unclear whether this development, or the footprint of the current DA, would be separated from Lot 11 by a subdivision at some stage.</p> <p>Similarly, it fails to assess the impacts of the development, both during the multi-year construction period and future operation, on existing site neighbours,</p>
(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,	<p>Assuming the proposal is for long-term sites (essentially permanent residential dwellings) it is not expected to impact or displace tourist accommodation.</p> <p>However, the development will adversely impact on the relaxed, small coastal village character of Scotts Head that is a key reason why tourists come here in the first place. That in turn will have detrimental consequences for the many businesses and accommodation providers that rely on tourism for their economic survival. This is</p>

¹⁴ https://www.nambucca.nsw.gov.au/files/Assessment-of-River-and-Estuarine-Condition---Nambucca-Ecohealth-Report-July-2018_lowres.pdf, pages 214 and 267

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
	<p>discussed further below.</p> <p>In addition, if on-site dwellings were made available as short term holiday rentals (using platforms such as Air BnB), then this would have an adverse impact on existing accommodation providers. The recommended conditions in Part D of this submission address this issue.</p>
(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,	<p>It is widely acknowledged that Scotts Head, like most coastal and other communities, is facing a critical shortage of well-designed, low-cost housing supported by good access to community services, transport and employment opportunities.</p> <p>DA 233/2022 does nothing to address this issue or increase the supply of low-cost housing. It is limited and specifically targeted to well-resourced over-55s. It will not be accessible to under-55s such as young families or workers such as tradespeople, nurses and allied health care, teachers, emergency services, aged care and others that are desperately seeking affordable housing and desperately needed (including to service the needs of an ageing population).</p> <p>The development will also be inaccessible to over-55s on low incomes who may not have the ability to sell their homes to raise funds needed to downsize into a moveable dwelling on this site. As noted above, the average purchase price of the most comparable Ingenia development (at Anna Bay) is in excess of \$700,000, with some dwellings selling for up to \$900,000. In addition, as noted in Part B2 of this submission, contemporary research has highlighted the lack of affordability of land lease developments over the typical 20-year lease period, taking account of the fact that the land is not owned by residents and that the diminished value of the asset over time means residents needing to then sell-out of such developments to enter formal aged care facilities struggle to be able to afford to do so.</p>
(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and	DA 233/2022 proposes a range of internal facilities that will be available only to residents of the site, such as gyms, pool, bar and cinema. However, these are all essentially luxury, non-essential services.

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
services are reasonably accessible to the occupants of the caravan park,	<p>The development will strain an already overburdened local medical system. The proposed inclusion of “medical consulting rooms” will do nothing to address this - as there is no commitment to actually populate such rooms with medical providers. In this regard, the SEE (page 6) only makes vague statements about “<i>undertaking dialogue</i>” to increase medical services, including by providing consulting rooms that have “<i>capacity</i>” to be made available to the existing community.</p> <p>The SHCG is deeply concerned at the particular impacts that an additional up to 561 over-55s will have on medical and allied health services. The SHCG notes that the Social Impact Assessment (page 57) identified reduced access to local health services as having a medium social impact of potentially moderate magnitude. Empty consulting rooms will not mitigate this risk.</p> <p>In other areas, the development and rapid increase in population by up to 62.4% (Social Impact Assessment, p.45) in several years will directly and severely impact the capacity of local roads and parking at the shopping centre and beaches. This will be in addition to existing peak tourism periods, where these facilities are already stretched. As discussed below in this submission, the DA and accompanying Traffic Assessment Report, completely fail to acknowledge or assess these traffic related impacts in the Village or at local beaches.</p> <p>Similarly, the proposal by the applicant to provide a bus to access services further suggests that it is in the wrong location. The lack of detail about the proposed community bus service is also a significant deficiency in the DA. Given the distance to the Village and existing bus stops, and the lack of safe pedestrian access to get to these locations, it is clear that residents of the development will be car-bound and dependent. It is also illogical to expect that a small sized, infrequently operating, community bus can adequately cater to the day-to-day transport needs of up to 561 over-55s of varying mobility and health.</p>
(e) any relevant guidelines issued by the Director, and	It is understood that there are no relevant guidelines. The SHCG will defer to the planning authority’s expertise in this regard.

State Environmental Planning Policy (Housing) 2021 - Part 9 Caravan parks	
Clause	Assessment
(f) the provisions of the <i>Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993</i> .	The SHCG understands that the current Regulation requirements are assessed in Table 3 of the SEE. As these are largely numerical, standard based requirements the SHCG has no specific comments, except to note that deficiencies related to water and sewer services are considered elsewhere in this submission.
Overall conclusion	<p>DA 233/2022 fails to either adequately assess the matters set out in Part 9 of the Housing SEPP, or achieve demonstrable consistency with these requirements. The proposal is inconsistent with the aims and objectives of Part 9 of the SEPP; is not suitable for the location and character of the site; will adversely impact the existing attractiveness of Scotts Head to tourists; fails to support low-cost or affordable housing objectives; and will strain already stretched community facilities and services.</p> <p>As also noted at various points in this submission, the development is directly inconsistent with the requirements of the North Coast Regional Plan. That Plan requires a strategic assessment of the capability of the land to the south of Scotts Head Road to accommodate residential development BEFORE any decision is made to make this area available for such development.</p> <p>In short, it is an inappropriate, ill-planned proposal for this site and for Scotts Head, that will drive rapid and high population growth resulting in “very high social impact” of “transformational magnitude” (Social Impact Assessment, page 45).</p>

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
<p>2.10 Development on land within the coastal environment area</p> <p>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—</p> <p>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</p> <p>(b) coastal environmental values and natural coastal processes,</p> <p>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</p> <p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p> <p>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(f) Aboriginal cultural heritage, practices and places,</p>	<p>Lot 11 DP 1243930 is partly within the 'coastal environment area' mapped by the SEPP. This is relevant to the exit point of the proposed emergency access road associated with DA 233/2022, which is an essential component of the proposal. The development cannot proceed without the provision of this road (or another) that delivers safe emergency access.</p>  <p>Source: Resilience and Hazards SEPP - coastal environment area map https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address</p> <p>However, the DA (SEE) fails to recognise that this aspect of the proposal is within the identified coastal environment area. The DA has therefore not assessed the development (specifically the emergency access road) against the requirements of clause 2.10 of the Resilience and Hazards SEPP. This is also grounds to refuse consent.</p> <p>Hence, the DA is deficient and inadequate with respect to meeting the requirements of clause 2.10 of the Resilience and Hazards SEPP.</p>

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
<p>(g) the use of the surf zone.</p> <p>(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>Even though the DA has not correctly recognised that part of the site is within the coastal environment area, the following comments are provided with respect to the exit point of the emergency access road and the provisions of clause 2.10 of the SEPP:</p> <ul style="list-style-type: none"> the exit point of the emergency access road onto Scotts Head Road is a known area of ecological and hydrological sensitivity. It is immediately adjacent to high quality native vegetation and drains towards mapped protected coastal wetlands in Warrell Creek (see the coastal wetlands map layer in the SEPP), an estuary already known to suffer from poor water quality¹⁵ the DA fails to acknowledge the above or assess the potential impacts and required mitigation measures to protect these values construction of operation of the emergency access road has the potential to impact downstream water quality and will certainly require removal of native vegetation and habitat because the emergency access road exit has not been assessed against these criteria, the planning authority is unable to be satisfied that adverse impacts have been avoided, minimised or mitigated, as required by clause 2.10(2) of the SEPP.
<p>2.11 Development on land within the coastal use area</p> <p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</p> <p>(a) has considered whether the proposed development is likely to cause an adverse impact on the following—</p> <p>(i) existing, safe access to and along the foreshore,</p>	<p>Lot 11 DP 1243930 is within the 'coastal use area' mapped by the SEPP.</p> <p>The SHCG acknowledges that DA 233/2022 is unlikely to have significant adverse impacts with respect to points 1(a)(i) - (iii) and (v) of clause 2.11 of the SEPP.</p> <p><u>Aboriginal cultural heritage, practices and places</u></p> <p>However, it is considered that there is a strong prospect that the DA could have an adverse impact on "Aboriginal cultural heritage, practices and places" (point 1(a)(iv) of clause 2.11).</p> <p>The potential impacts to Aboriginal cultural heritage are further discussed elsewhere in</p>

¹⁵ https://www.nambucca.nsw.gov.au/files/Assessment-of-River-and-Estuarine-Condition---Nambucca-Ecohealth-Report-July-2018_lowres.pdf, pages 214 and 267

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
<p>beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that—</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a) or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, and</p> <p>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>	<p>this submission [below, including Part C1(f)].</p> <p>For now, it is noted that the development site is in close proximity to known and recorded Aboriginal sites, including the Maginyjun site - a ceremonial ground recognised by the Aboriginal Due Diligence Assessment (page 11) as being of immense cultural value to the Gumbaynggir People. That Assessment also recognises that this ceremonial ground is part of a much larger complex within a broader culturally sensitive landscape that includes a range of other sites, including a Dreaming Track, Ochre Quarry, and other significant sites.</p> <p>DA 233/2002 represents a major and irreversible incursion into this cultural landscape. It will forever change the nature of this area, distorting and permanently altering the meaning and importance of this place to Aboriginal people. This will diminish the ability of the Gumbaynggir People to access this part of Scotts Head to connect to Country and culture, and to pass on knowledge and understanding to future generations.</p> <p>While the SHCG does not speak for or on behalf of the Gumbaynggir People, and acknowledges and respects the role of knowledge holders in the community, the SHCG is concerned that the above impacts would have adverse consequences to Aboriginal cultural heritage, practices and places, as required to be assessed by clause 2.11 of the Resilience and Hazards SEPP.</p> <p>Further, the SHCG contends that no genuine or meaningful effort has been made by the applicant to avoid such impacts to cultural landscape values, nor to minimise or mitigate such impacts. To do so would require the applicant to demonstrate at a minimum that consultation had occurred with relevant local Aboriginal community representatives - yet no such consultation has taken place.</p> <p><u>Bulk, scale and size</u> On a separate matter, clause 2.11(c) of the SEPP also requires the consent authority to take into account the bulk, scale and size of the development in the context of the surrounding coastal and built environment.</p>

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
	<p>The DA (SEE, page 53) pays cursory attention to this criteria, referring briefly to the details in the architectural design package.</p> <p>This is inadequate consideration, particularly given the recognised small scale coastal character of the existing Scotts Head Village and the stated aim of relevant planning documents (such as the Nambucca Development Control Plan - see below) to retain this.</p> <p>In this regard, the development is clearly out of scale with the nature of the surrounding, coastal and heavily vegetated landscape, and is incongruent with the size and stated character objectives for the Village. If it proceeds, it will insert a cookie-cutter designed, higher density residential area that does not respond or adapt to the local context or site. Indeed, the architectural design package referenced by the SEE (page 53) and attached as Appendix 6, could be any location in any new suburban residential development anywhere in NSW.</p> <p>In addition, the overall size of the proposal is leviathan and out of scale to existing development in the area. It will increase the population of the the area by up to 62.4% within only several years, a jump that far exceeds the scale of any other comparable development by this applicant or their related entity Ingenia (see Appendix C of this submission) and that will have a very high social impact of transformational magnitude (Social Impact Assessment, page 45).</p> <p>The SHCG is therefore of the view that DA 233/2022 not only inadequately addresses clause 2.11(c) of the Resilience and Hazards SEPP, but that the bulk, scale and size of the proposal is inconsistent and incompatible with the surrounding environment. Hence, the consent authority cannot be “satisfied” that the requirements of clause 2.11 have been met and the development should be refused consent.</p>
4.6 Contamination and remediation to be considered in determining development	<p>It is noted that appendices 18 and 19 submitted with the DA consider issues related to potential site contamination. Given the technical nature of these assessments, the SHCG defers to Council’s expertise on this issue.</p>

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
<p>application</p> <p>(1) A consent authority must not consent to the carrying out of any development on land unless—</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p> <p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>The following brief comments are provided:</p> <ul style="list-style-type: none"> it is recommended that Council confirm the location of the current development site with respect to the former shooting range that existed in the vicinity from local knowledge, it is understood the site may previously have been used as a banana plantation. Risks associated with chemical use from that activity should also be considered. <p>Soil related issues, such as the presence of acid sulfate and dispersible soils, are discussed elsewhere in this submission [Part C(1)(f)].</p>
<p>Overall conclusion</p>	<p>DA 233/2022 has failed to consider the impacts of a critical element of the proposal - namely the exit point of the emergency access road - on the coastal environment area, as required by clause 2.10 of the Resilience and Hazards SEPP.</p> <p>Similarly, the impacts of the DA on the coastal use area have not been adequately</p>

State Environmental Planning Policy (Resilience and Hazards) 2021	
Clause	Assessment
	<p>considered as required by clause 2.11 of the SEPP. That includes impacts to Aboriginal cultural heritage, practices and places, and the incompatibility of the bulk, scale and size of the development with the surrounding coastal and built environment.</p> <p>These are significant deficiencies and in both cases directly affect the consent authority's ability to demonstrate that it can be "satisfied" that the avoid, minimise and mitigate requirements of clauses 2.10 and 2.11 have been met.</p>

State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Note on Koalas - the DA is subject to Chapter 3 of the SEPP by virtue of clause 3.3. That means the DA is to be assessed against the provisions of the Koala SEPP 2020 ¹⁶ (Martin to check and confirm), which are now incorporated into State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Requirements	Assessment
<p>In summary, the SEPP requires the consent authority to be satisfied as to:</p> <ul style="list-style-type: none"> whether or not the land is potential koala habitat if the land is potential koala habitat, whether it is core koala habitat if it is core koala habitat, that a koala plan of management has been prepared and that the development is consistent with the plan. 	<p>The Biodiversity Development Assessment Report (BDAR) provided as Appendix 10 to DA 233/2022 identifies the subject site as potential koala habitat (BDAR, Appendix G, unnumbered page 260). Night surveys, spotlighting and call playback were undertaken for eight nights. Based on survey results and assessment of local records the BDAR concluded that the site was not core koala habitat and no further assessment was required.</p> <p>As discussed in Part C(1)(f) of this submission, the SHCG recommends that given differences between the final BDAR prepared in July 2022 and the initial biodiversity report in March 2022 (which is included as Appendix I to the BDAR) that an independent assessment of the BDAR should be undertaken.</p>

¹⁶ <https://www.planning.nsw.gov.au/Policy-and-Legislation/Environment-and-Heritage/Koala-Habitat-Protection-SEPP/Koala-SEPP-LGA-list>

State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Note on Koalas - the DA is subject to Chapter 3 of the SEPP by virtue of clause 3.3. That means the DA is to be assessed against the provisions of the Koala SEPP 2020 ¹⁶ (Martin to check and confirm), which are now incorporated into State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Requirements	Assessment
	<p>The SHCG also recommends that such a review re-examine the conclusions with respect to the koala habitat values of the site. It is essential that the consent authority have an accurate view of the koala habitat values of the site and potential impacts to these because:</p> <ul style="list-style-type: none"> the NSW Koala Strategy¹⁷ sets a clear goal of doubling koala populations in NSW, and retaining viable habitat will be critical to achieve this outcome habitat loss, fragmentation and domestic pets are known threats to the ongoing survival of koalas the 2015 Koala Habitat Study - Nambucca Shire Council Coastal Area¹⁸ identified the need for further research and monitoring in the area south of the Nambucca River and east of the Pacific Highway the plan of management for Yarriabini National Park¹⁹ (a name that means 'koala rolling down mountain' in the local Dunghutti and Ngambaa languages) notes that the koala is a totemic species for the park (page 9) and that "off-park corridors are important for the long-term conservation of biodiversity in the area, including koalas" (page 10) the Kempsey Koala Plan of Management²⁰ identifies the presence of secondary preferred koala habitat on land to the south of Scotts Head.

¹⁷ <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/programs-legislation-and-framework/nsw-koala-strategy>

¹⁸ https://www.nambucca.nsw.gov.au/files/Nambucca_Koala_habitat_study_FINAL_REPORT_7Dec2015.pdf

¹⁹

<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Parks-plans-of-management/yarriabini-national-park-plan-of-management-210283.pdf>

²⁰

<https://www.kempsey.nsw.gov.au/files/sharedassets/public/docs/departments/str-amp-asset-planning/planning/koala-management/map-1-pkh-kmas.jpg>

State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Note on Koalas - the DA is subject to Chapter 3 of the SEPP by virtue of clause 3.3. That means the DA is to be assessed against the provisions of the Koala SEPP 2020 ¹⁶ (Martin to check and confirm), which are now incorporated into State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Requirements	Assessment
Overall conclusion	The koala habitat values of the site should be reconsidered as part of a recommended independent review of the BDAR.

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>1.2 Aims of Plan</p> <p>(1) This Plan aims to make local environmental planning provisions for land in Nambucca in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.</p> <p>(2) The particular aims of this Plan are as follows—</p> <p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p> <p>(a) to promote development that is ecologically sustainable,</p> <p>(b) to encourage growth in a planned and</p>	<p>DA 233/2022 is inconsistent with and fails to provide support for the LEP aims.</p> <p>It does not promote ecologically sustainable development, and ignores the obligations of the precautionary principle. It will result in significant loss of biodiversity values, requiring substantial offsets. Minimal, if any effort has been made to avoid such losses as required by the Biodiversity Conservation Act 2016 and the end result will be a denuded development site where existing habitat is removed, and hard surfaces lead to poor downstream outcomes for biodiversity.</p> <p>The development is poorly planned and inconsistent with the requirements of the North Coast Regional Plan, which requires a strategic assessment of constraints and opportunities to be undertaken before any decisions are made regarding the suitability of land to the south of Scotts Head Road to be made available for residential purposes. If it proceeds, the development will undermine the Regional Plan and risk setting an</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>co-ordinated manner which will be economically and ecologically sustainable,</p> <p>(c) to protect, manage and enhance areas of high quality landscape, natural and scenic resources and environmental values, including water resources, wildlife habitat and corridors,</p> <p>(d) to protect and promote the use of rural resources for agricultural and primary production and related processing service and value adding industries,</p> <p>(e) to provide opportunities for rural, residential and hobby farm lifestyles on suitable land that is accessible and provided with adequate infrastructure,</p> <p>(f) to protect places and buildings of archaeological or heritage significance, including Aboriginal relics and places.</p>	<p>undesirable precedent for further unplanned expansion in this area.</p> <p>The proposal is inconsistent with the rural land use objectives that apply to the site, and will lead to the direct loss of land available for primary production and sterilise the use of adjoining areas due to the proximity of a large, residential population. The site has no infrastructure to support such development and no clear pathway for how essential utility services like water and sewer would be provided nor who would pay for these.</p> <p>Finally, the development provides no protection for places or objects of Aboriginal cultural value. It will completely change this part of Scotts Head, directly impacting and removing any physical evidence of Aboriginal occupation and use, and irreversibly damaging the cultural landscape values of the area. These broader values and their significance are acknowledged in the Aboriginal Due Diligence Assessment report accompanying the DA.</p> <p>Further discussion of the adverse and unacceptable impacts of the DA on these attributes is discussed below (Part C1(f) of this submission).</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>Zone RU1 - part of the development footprint</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. <p>4 Prohibited - Caravan parks; Multi-dwelling housing</p>	<p>The development is inconsistent and incompatible with the objectives of the RU1 zone. It:</p> <ul style="list-style-type: none"> • does not encourage sustainable primary production and will actively prevent this occurring by the installation of a large, essentially urban development of residential dwellings. As discussed elsewhere in this submission, this is fundamentally a permanent transformation of the site; and there is no prospect it could ever be used for primary production purposes if DA 233/2022 proceeds • does nothing to encourage primary industry diversity, and in fact would remove such opportunities by construction of a large, residential development for long-term (essentially permanent) occupation by up to 561 over-55s • will fragment and alienate rural zoned land, an increasingly scarce resource that is constantly threatened by the encroachment of urban development and poor strategic planning decisions • will lead to direct conflict between land uses; namely between a future higher density residential population and primary production activities on neighbouring land. This will thereby diminish the ability of adjoining rural zoned lands to actually accommodate feasible and profitable agricultural enterprises. <p>Caravan parks are also specifically prohibited under the RU1 zone. The proposal in DA 233/2022 to seek approval to vary this rule is discussed below.</p>
<p>Zone RU2 Rural Landscape - majority of the development footprint</p> <p>1 Objectives of zone</p>	<p>The development is inconsistent and incompatible with the objectives of the RU2 zone. It:</p> <ul style="list-style-type: none"> • does not encourage sustainable primary production and will actively prevent this occurring by the installation of a large, essentially urban development of residential dwellings. As discussed elsewhere in this submission, this is

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To maintain the rural landscape character of the land. • To provide for a range of compatible land uses, including extensive agriculture. • To control development which could have an adverse impact on the Council's urban water supply. <p>4 Prohibited - Multi dwelling housing</p>	<p>fundamentally a permanent transformation of the site; and there is no prospect it could ever be used for primary production purposes if DA 233/2022 proceeds</p> <ul style="list-style-type: none"> • deliberately removes the rural landscape character of the land, as opposed to maintaining it • only provides a mono-cultural land use (higher density residential accommodation) that is incompatible with extensive and other types of agriculture. In addition, the presence of up to 561 residents will directly impact the ability for other rural zoned land in the immediate vicinity to be used for primary production in the future, given the incompatibilities that would arise from noise, odours and other routine consequences of agricultural uses. The wider impact of DA 233/2022 would therefore be to sterilise the primary production potential of adjoining rural zoned land • as noted in the Water and Sewer Servicing Strategy, the proposal poses significant risks to the supply of adequate water supply and pressure capacity in the existing Village, which has implications for the rest of the community and which would also impact on critical issues such as fire water supply. <p>As discussed in Part A2(c) of this submission, the proposal may be more appropriately characterised as 'multi dwelling housing'; consistent with the decision in TMT Devco Pty Ltd v Cessnock City Council [2016] NSWLEC1161. On that basis, the DA would be prohibited by virtue of the provisions of the RU2 zone.</p>
<p>5.3 Development near zone boundaries</p> <p>(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land</p>	<p>DA 233/2022 seeks approval under clause 5.3 of the LEP to enable the footprint of the proposed 'caravan park' to extend into the RU1 zone, where caravan parks are prohibited. Only vague justification is provided in support of this, being that it may better align with creeklines and would allow more housing to be provided (SEE, page 59).</p> <p>The proposed use of clause 5.3 to expand the footprint of the proposal into RU1 zoned land is not supported. As noted above, the development is inconsistent with the objectives of both the RU1 and RU2 zones. The only reason the variation is being</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>uses for the adjoining zone.</p> <p>(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 100 metres from a boundary between Zone RU1 Primary Production and RU2 Rural Landscape, and 20 metres from any other zone boundary not otherwise excluded by this clause.</p> <p>(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—</p> <p>(a) the development is not inconsistent with the objectives for development in both zones, and</p> <p>(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.</p>	<p>sought is to maximise the number of dwellings provided, not to support compatible land use planning, provision of infrastructure or efficient and timely development.</p> <p>On this basis, the SHCG contends that the development must be refused consent as the consent authority cannot reasonably be satisfied that the requirements of clause 5.3(4) of the LEP have been met.</p>
<p>5.10 Heritage conservation</p> <p>(1) Objectives</p> <p>The objectives of this clause are as follows—</p>	<p>The proposal fails to conserve Aboriginal cultural heritage, including areas known to have contained Aboriginal objects and remaining areas of significant spiritual value, including a ceremonial and landscape of cultural importance recognised by the</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(2) Requirement for consent</p> <p>Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(ii) an Aboriginal object,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(8) Aboriginal places of heritage significance</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be</p>	<p>Aboriginal Due Diligence Assessment.</p> <p>As discussed in Part C1(f) of this submission, the Aboriginal Due Diligence Assessment is fatally flawed as it has assessed the impacts of the incorrect development footprint on Aboriginal cultural values.</p> <p>Consistent with the requirement of clause 5.10(8) of the LEP, the consent authority is therefore unable to consider the effect of the proposed development on Aboriginal heritage because an “<i>adequate investigation and assessment</i>” has not been undertaken. Consent should also be refused for this reason.</p> <p>Impacts to Aboriginal cultural heritage and the inadequate and incorrect assessment undertaken by the Aboriginal Due Diligence Assessment are further discussed in Part C1(f) of this submission.</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	
<p>5.21 Flood planning</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(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,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p> <p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the</p>	<p>DA 233/2022 is inconsistent with the objectives and provisions of clause 5.21 of the Nambucca LEP. Further detailed discussion of flood related impacts is discussed elsewhere in this submission, including Part C1(f) below.</p> <p>In summary, the DA:</p> <ul style="list-style-type: none"> • does not minimise flood risk to life and property; indeed it places up to 561 over-55s (and their visitors and guests) directly at risk of being isolated and cut-off during increasingly frequent flood events • increases risks to first responders, including community emergency services volunteers, who will be expected to undertake evacuation and support functions in high risk incidents • does not adequately account for future climate change impacts to flood behaviour, either on the development site or in off-site locations (such as existing flood affected access roads) • provides no evacuation or emergency plan in the event of flood, and simply recommends that “occupants seek refuge within the development” (SEE, page 66) • will generate up to an extra 641 vehicles attempting to leave the site in an event requiring evacuation, in addition to the existing community, and along roads that are narrow, windy and with poor sight distances

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(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</p> <p>(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</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(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.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings</p>	<ul style="list-style-type: none"> • poses risks to sensitive receiving environments downstream, including protected coastal wetlands and parts of Warrell Creek already known to experience poor water quality. <p>On this basis, the consent authority cannot be satisfied that the development: will not adversely affect safe occupation and efficient evacuation in a flood event; and cannot be satisfied that it includes appropriate measures to manage risk to life or that it will not adversely affect the environment.</p> <p>DA 233/2022 should therefore be refused consent for these reasons.</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>resulting from the development,</p> <p>(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,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	
<p>7.1 Acid sulfate soils</p> <p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority</p>	<p>This issue is discussed in more detail in Part C(1)(f) of this submission.</p> <p>In summary:</p> <ul style="list-style-type: none"> the DA (and relevant appendices) incorrectly states that the site is not affected by acid sulfate soils, when it is in fact shown on the acid sulfate soils map accompanying the Nambucca LEP despite this, Appendix 19 of the DA states that an acid sulfate management plan should be developed and implemented however, no such plan has been prepared or provided to the consent authority and the requirements of clause 7.1 of the LEP have therefore not been met.

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>7.4 Public utility infrastructure</p> <p>(1) Development consent must not be granted for development on land unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.</p>	<p>As discussed elsewhere in this submission [including Part C1(f)], water and sewer supply is a critical and essential part of the current proposal, noting there are no services available to the site and existing systems in the Village are already strained, over capacity in some areas, and non-compliant with standards in some instances (including water pressure and regular breaches of EPA licencing conditions at the sewage treatment plant).</p> <p>The DA does not make adequate arrangements to make the necessary infrastructure available, nor does it consider the wider network implications of the development, As discussed in Part C1(f) of this submission the DA:</p> <ul style="list-style-type: none"> • does not contain a preferred water or sewer service option, and intends to leave this decision and the assessment of impacts of a preferred option to another undetermined time and process • relies on other, unrelated and yet to be approved developments to support the delivery of potential preferred options • fails to consider or assess implications for key elements of the broader network, including the water reservoir and whether the operational capacity of the sewage treatment plant can accommodate up to a further 561 permanent residents (especially in addition to existing peak tourism demand) • does not demonstrate a clear solution to ensure surety of water supply for fire fighting purposes • fails to articulate the total cost of upgrades needed, and the proposed sharing of such costs between the applicant and the community (via costs to Council). <p>The SCCG is of the clear view that the consent authority cannot therefore be “satisfied” that the requirements of clause 7.4 of the LEP have been met, and consent must be refused.</p>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>7.7 Floodplain risk management</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) for development with particular evacuation or emergency response issues—to enable evacuation of land subject to flooding in events exceeding the flood planning level,</p> <p>(b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.</p> <p>(2) This clause applies to—</p> <p>(a) land between the flood planning area and the line indicating the level of the probable maximum flood as shown on the Flood Planning Map, and</p> <p>(b) land surrounded by the flood planning area.</p> <p>(3) However, this clause does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p> <p>(4) Development consent must not be granted to</p>	<p>As noted above, and in other parts of this submission, DA 233/2022 is not accompanied by a comprehensive evacuation plan. That is despite recognising that there will be “hazardous flow” in the 1% and 20% AEP that cuts off access to both Scotts Head and Grassy Head Roads, leaving up to 561 over 55 residents and their guests stranded “even in relatively frequent flood events” (Concept Civil, Stormwater and Flooding Report(page 63).</p> <p>In addition, the DA fails to acknowledge the risks to emergency first responders that will arise in having to manage any evacuation from the site, and the stress that will place on already limited rescue infrastructure assets and operational capabilities. Such systemic limitations were recently identified by the NSW Parliamentary flood inquiry²¹.</p> <p>The SHCG contends that consent cannot be granted to the DA as the consent authority is not able to be satisfied that events exceeding the flood planning level will not affect the safe occupation of, and evacuation from, land in use for a “caravan park”. The DA must therefore be refused on that basis.</p>

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<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2866/Report%20No%201%20-%20Response%20to%20major%20flooding%20across%20New%20South%20Wales%20in%202022.pdf>

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land—</p> <p>(a) caravan parks,</p>	
<p>7.9 Use of moveable dwellings</p> <p>(1) This clause applies to a lot in 1 of the following zones—</p> <p>(a) Zone RU1 Primary Production,</p> <p>(b) Zone RU2 Rural Landscape,</p> <p>(2) The use of a moveable dwelling is permitted with consent on a lot to which this clause applies.</p> <p>(3) Development consent must not be granted to the use of a moveable dwelling on a lot to which this clause applies unless—</p> <p>(a) for a lot in a Category A Zone—there will be no more than 2 moveable dwellings on the lot, and</p> <p>(b) for a lot in a Category B Zone—the lot is a lot on which a dwelling house or a dual occupancy may be erected or used under clause 4.2A.</p> <p>(4) The use of a moveable dwelling in a caravan park to which an approval under the Local</p>	<p>This matter is discussed in Part A2(d) of this submission. In summary, it is contended that if the development were determined to be a caravan park then consent would have to be refused:</p> <ul style="list-style-type: none"> • because it exceeds the limits on moveable dwellings in clause 7.9(3) of Nambucca LEP, and • because there is presently no relevant approval that currently “applies” under clause 7.9(4) that would override the application of clause 7.9(3)

Nambucca Local Environmental Plan 2010	
Clause	Assessment
<p>Government Act 1993, section 68, Table, Part F, item 2 applies is permitted without consent.</p> <p>(5) In this clause—</p> <p>Category A Zone means the following zones—</p> <p>(a) Zone RU1 Primary Production,</p> <p>(b) Zone RU2 Rural Landscape,</p> <p>Category B Zone means the following zones—</p> <p>(a) Zone RU1 Primary Production,</p> <p>(b) Zone RU2 Rural Landscape,</p>	
Overall conclusion	<p>DA 233/2022 is inconsistent with the overall aims of the Nambucca LEP and the specific objectives of the RU1 and RU2 zones - as it does not support primary production activities and it is entirely inconsistent with the maintenance of the rural landscape character of the area.</p> <p>The proposal also fails to address or satisfy relevant provisions of the LEP focused on the conservation of Aboriginal heritage (clause 5.10), protection of life and property from flooding (clauses 5.21 and 7.7), management of risks from acid sulfate soils (clause 7.1), provision of adequate utility infrastructure (clause 7.4), and limits on the use of movable dwellings in rural zones (clause 7.9).</p> <p>These are all valid and relevant grounds to refuse consent.</p>

c) 4.15 (1)(a)(ii) EP&A Act - Provisions of any proposed environmental planning instrument

Nambucca Local Environmental Plan amendment 2022	
Proposed amendment	Assessment
At its meeting on 31 March 2022 Council unanimously resolved to progress a planning proposal to the Minister for Planning seeking a gateway determination for an amendment to the Nambucca LEP to prohibit caravan parks in RU2 and RU5 zones.	<p>At the time of this submission the LEP amendment is yet to be exhibited.</p> <p>Nevertheless, the Council resolution represents a clear direction with regard to the prohibition of caravan parks in rural zones under the LEP. If eventually exhibited and adopted, this LEP amendment will mean that proposals of the type set out in DA 233/2022 would not be permissible on the subject land (which is majority zoned RU2).</p> <p>This is a valid, relevant consideration in the DA assessment process.</p>
Overall conclusion	Given the Council's clear intent and public resolution with respect to amending the LEP to prohibit caravan parks in rural zones, the DA should also be refused on this basis.

d) 4.15 (1)(a)(iii) EP&A Act - Provisions of any development control plan (DCP)

Nambucca DCP 2010	
Clause	Assessment
<p>Aims and objectives</p> <p>The following are the key aims of this plan:</p> <ul style="list-style-type: none"> • To achieve a quality design standard for development which is sympathetic with the environment; • To achieve a high level of environmental and social performance for all development; and • To provide a framework of guidelines and controls against which development proposals can be consistently measured. <p>The objectives of this plan are to:</p> <ul style="list-style-type: none"> • Ensure development responds to the character and qualities of the surrounding environment; • Ensure development responds to the features and qualities of the subject site; • Maximize the environmental performance of the development; • Minimize the negative impacts on the amenity of the adjoining properties; • Ensure developments respond to the future desirable character of the locality; • Encourage quality, innovative and sustainable design; • Ensure adaptability of developments by maximising access and mobility. • To encourage development that will contribute 	<p>DA 233/2022 is inconsistent with the DCP aims and objectives. The proposed 'caravan park':</p> <ul style="list-style-type: none"> • is not sympathetic to the environment and will in fact degrade the existing range and quality of natural and cultural values present on the site and in the immediate vicinity, including native plant and animal habitat and landscapes of Aboriginal cultural heritage significance • presents vague commitments to be 'net zero' once operational and to obtain Green Star certification (SEE page 4 and 6), without details of how this will be achieved or what level of certification is intended to be met • does not "respond" to the character, qualities or features of the site or surrounding environment, but instead diminishes these on the site by direct physical intervention and disturbance, and degrades the small, coastal character of Scotts Head Village via rapid population growth that is of very high social impact and transformational magnitude (Social Impact Assessment, page 45) • does not encourage innovation in quality, sustainable design, instead using stock-standard, off the shelf 'cookie-cutter' designs that will result in a generic visual appearance comparable to any average residential development, rather than one that reflects and is sympathetic to the coastal and bushland context of the site • discourages access, mobility and physical health by creating a car-dependent development, occupied by over-55 residents, with no access to genuine public transport, or bike or pedestrian paths to the Village or beaches.

Nambucca DCP 2010	
Clause	Assessment
towards increased levels of physical activity and healthy living patterns.	
<p>Part A - Site Analysis</p> <p>Relevant considerations include the following:</p> <p>A4.9 WATERCOURSES Natural watercourses, drainage channels and riparian zones are to be retained and preserved in their natural state wherever possible, to ensure that their ecological function is not compromised.</p> <p>A5.0 SITE ANALYSIS A site analysis, particularly for larger subdivisions and residential flat buildings, may be required by Council to ensure that the development is of high quality, minimises environmental impacts to its environment and positively contributes to the context and existing character of the locality. A thorough site analysis will ensure that the subdivision layout or building design addresses existing and possible future opportunities and constraints on both the principal site and its surrounds.</p>	<p><i>Note: a number of points in section A4.0 of the DCP are a duplicate of matters already addressed above and elsewhere in this submission and are not repeated here (e.g. impacts and risks to acid sulfate soils, flooding, etc).</i></p> <p>DA 233/2022 will result in substantial modification of the landscape, including existing watercourses and natural drainage lines. This will adversely impact their overall functioning. That includes higher and faster volumes of water flow from the site due to impervious surfaces, which will also affect downstream habitat and water quality in Warrell Creek (the location of mapped protected coastal wetlands).</p>
<p>Part C - Car parking and traffic</p> <p>The objectives of this Part are to:</p> <ul style="list-style-type: none"> ensure each development is self-sufficient in the provision of off street parking facilities; ensure that adequate provision is made for 	<p>The SHCG notes that parking for 641 vehicles will be provided, and defers to Council to determine whether the relevant technical standards for visitor, disabled and bicycle parking have been met.</p> <p>The SHCG is more concerned at the impacts this volume of vehicles will have on the:</p> <ul style="list-style-type: none"> functioning and safety of local roads, including traffic, parking and pedestrian

Nambucca DCP 2010	
Clause	Assessment
<p>people with disabilities and for bicycles;</p> <ul style="list-style-type: none"> • regulate access points so as to protect road capacity and efficiency to carry through traffic by minimising congestion on public roads; • ensure that adequate provision is made for the safe movement of vehicular and pedestrian traffic within and near to any proposed development; and • ensure that off street parking is provided in a manner that enhances the aesthetics of the area. <p>Large scale developments where traffic impacts may present technical, safety or environmental problems shall be accompanied by a Traffic Impact Study.</p> <p>MHEs are to provide 1-2 car parking spaces per dwelling depending on gross floor area, and 1 visitor space per 5 dwellings (section 2.1). Numbers are to be rounded up if they are part spaces (C2.2).</p> <p>1 space per dwelling to be designed for disabled access (C2.4).</p> <p>Bicycle parking to be provided equal to 20% of visitor car spaces (C2.5).</p> <p>A range of other technical and design requirements are specified, such as parking area dimensions, landscaping and pavement design.</p>	<p>access in and around the Village</p> <ul style="list-style-type: none"> • condition of local roads, which are already poor, continuing to degrade, and a substantial financial burden on Council. <p>As discussed elsewhere in this report, including Part C1(f), the Traffic Assessment Assessment for DA 233/2022 is deficient. It does not address the above matters. There is no recognition of the condition of local roads and no assessment of the off-site impacts of the additional vehicles and generated trips. These are significant and unexplained omissions, especially given the known traffic, parking and safety impacts already generated in the Village during peak tourism periods.</p> <p>In addition, there are various issues with respect to the adequacy of the intersection design at the entrance to the site and the related accident potential.</p>
Part D - Sediment and erosion control	The DA does not include an erosion and sediment control plan (ESCP), as required by the DCP, nor does it provide sufficient detail regarding the risk to acid sulfate soils or

Nambucca DCP 2010	
Clause	Assessment
<p>The objectives of this Part are:</p> <ul style="list-style-type: none"> • a to educate the community; • b to minimise erosion and sedimentation arising from land uses and developments; • c to control surface water quantity and flow paths; • d to intercept and contain eroded material from building and development sites within the boundaries of a site; • e to ensure prompt and effective stabilisation of disturbed lands through rehabilitation and landscaping; and • f to improve sediment and erosion control practices within the Local Government Area and to enforce compliance of relevant standards. <p>D2.1 EROSION AND SEDIMENT CONTROL PLAN Development applications requiring disturbance to soil shall be accompanied by an Erosion and Sediment Control Plan (ESCP).</p> <p>D2.1.2 Supporting information to be submitted along with the ESCP may include:</p> <ul style="list-style-type: none"> • A brief description of any areas on site that have the potential for serious erosion or sedimentation, together with the proposed management details • A maintenance strategy for all control measures, including the nomination of responsibility for the follow-up maintenance required; • A brief description of the overall site rehabilitation program; and 	<p>how such risk will be mitigated. Given the extent of cut and fill proposed in the DA documentation, the management of soil and erosion risks is a high priority.</p> <p>Given that the site drains to water bodies containing coastal wetlands mapped and protected by the Resilience and Hazards SEPP, these are further significant omissions that reinforce the inadequacy of the DA.</p> <p>Issues related to soil management, including acid sulfate and dispersible soils, and potential water quality impacts to downstream water bodies and wetlands are further considered in Part C(1)(f) of this submission.</p>

Nambucca DCP 2010	
Clause	Assessment
<ul style="list-style-type: none"> Stormwater management plan. 	
<p>Part H - Residential development</p> <p>The objectives of this Part are to ensure:</p> <ul style="list-style-type: none"> that adequate site analysis has been undertaken at the initial stage of the design process to determine the opportunities and constraints, and the most appropriate building type for residential development of a particular site, within its local context; the development of a variety of housing types which are compatible with the urban scale and particular character of existing townships and consistent with the principles of Ecological Sustainable Development (ESD); that more sustainable urban forms are achieved, thereby reducing the pressure for release of undeveloped land, making better use of land and infrastructure within existing urban areas, and locating more housing with good access to jobs and services; that new development creates unified streetscapes, which contribute positively to the individual residential areas, reinforce the importance of open space areas within developments and provide visually attractive environments; high quality urban design and amenity for all new residential development within the Shire; 	<p>As discussed in Part A of this submission, the SHCG is of the view that the development is incorrectly characterised as a 'caravan park' and is instead an MHE or multi-dwelling housing.</p> <p>Regardless, it is for all intents and purposes a permanent residential development and hence Part H of the DCP is a relevant consideration.</p> <p>In this regard, the proposal:</p> <ul style="list-style-type: none"> promotes an inappropriate higher density style of housing that is incompatible with the stated intended character for Scotts Head Village (see DCP H.2.4 below) will deliver a monoculture of housing that is unaffordable and inaccessible to the under-55 segment of the housing market, where lack of housing is known to be acute, and is thereby inconsistent with the equity related principles of ESD is on an unserviced greenfield site that has not had its urban capability assessed as required by the North Coast Regional Plan, and will create an undesirable precedent for further unplanned urban expansion includes building designs that are not innovative and fail to respond to the desired character of the area.

Nambucca DCP 2010	
Clause	Assessment
<ul style="list-style-type: none"> that the impact of proposals on the amenity of adjoining residents is a prime and initial consideration of applicants when preparing their development proposals; that innovatively designed buildings are constructed that are pleasant to live in, relate to the desired future character of residential areas in the Shire, respond to the particular site characteristics and are environmentally sensitive; and that both adaptable housing and an equitable proportion of affordable housing are encouraged. 	
<p>H2.4 SCOTTS HEAD H2.4.1 Vision “Strengthen and build on the existing coastal village character of Scotts Head as a vibrant, prosperous community.”</p> <p>H2.4.2 Character The desired future character of any development for Scotts Head should: support and enhance its seaside village character and seek to maintain its high quality natural environment when designing new residential areas; encourage innovative, environmentally sustainable housing styles; and encourage the development of a mixed use residential/commercial precinct within the commercial zone to provide a vibrant village core.</p> <p>H2.4.3 Objectives The general objectives for development in Scotts Head are to:</p>	<p>The DA is in direct contradiction to the desired vision for Scotts Head expressed in the DCP.</p> <p>If it proceeds, the development of 255 dwellings and up to 561 people will severely degrade and ultimately destroy the small coastal village character of Scotts Head, impacting its prosperity, vibrancy and social cohesion. This is recognised in the Social Impact Assessment, which concludes that:</p> <ul style="list-style-type: none"> the high and rapid population growth caused by the development will have a “very high social impact” of “transformational magnitude” (page 45) the project will have a “high social impact” related to impacts to current residents’ “sense of community” (page 48) traffic, road infrastructure and public transport issues will have a “medium social impact” (page 52 and 53) impact to existing emergency services and safety risks associated with natural disaster response are of “medium social impact” of potentially “moderate magnitude” (page 55 and 59) reduced access to local health services is ranked as having “medium social

Nambucca DCP 2010	
Clause	Assessment
<ul style="list-style-type: none"> • promote residential development, which is of a high design standard and is sensitive to, reflects and enhances the special physical character of Scotts Head; • encourage the development of a mixed residential/commercial village centre; • optimise the retention of views to and from water bodies, foreshore reserves, public areas, streets and residential allotments; • and maximise the aesthetic character of the residential environment and be consistent with the natural beauty of the area. <p>H2.4.4 Building styles Beach house style or 'eco-friendly' architecturally designed houses, should be encouraged in Scotts Head. Within the commercial zone, mixed use building forms are encouraged having ground floor commercial or retail uses with residential or tourist uses above.</p>	<ul style="list-style-type: none"> • impact of potentially "moderate magnitude" (page 57) • impacts to environmental surrounds and values will have a "medium social impact" of potentially "moderate magnitude" (page 61). <p>Individually and cumulatively this diversity and depth of social impacts is extraordinary and provides clear evidence of the risks associated with DA 233/2022.</p> <p>In relation to H.2.4.4, the building styles proposed in DA 233/2022 are inconsistent with this objective. As noted above, the designs are mundane and generic to common styles used in many current residential developments. There is nothing in the proposed design package that could genuinely be considered a specific response to the unique qualities of the site or surrounding area.</p>
<p>H3.0 DWELLING TYPE GUIDE AND CONTROL SUMMARIES</p> <p>H3.2 MULTI-DWELLING HOUSING AND ATTACHED DWELLINGS (Medium Density)</p> <p><i>Multi-Dwelling housing</i> means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.</p> <p>H3.2.2 Objectives</p>	<p>As discussed in Parts A1 and A2 of this submission the DA is not consistent with the definition of 'caravan park' and would be more appropriately characterised as an MHE or multi-dwelling housing.</p> <p>If characterised as multi-dwelling housing, it would then be prohibited as such a use is not permissible in either the RU1 or RU2 zones.</p>

Nambucca DCP 2010	
Clause	Assessment
<p>Attached Dwellings and Multi-Dwelling housing typically comprise Townhouses and Villas.</p> <p><u>Objectives</u> The following principles are a guide to achieving a good design outcome in relation to Multi-Dwelling housing, attached dwellings and integrated housing.</p> <ul style="list-style-type: none"> • Reflect the character of town, village or street where they are proposed; • Provide high levels of amenity of external and internal spaces, orientation, cross ventilation, solar access and privacy; • Ensure that the form, scale, bulk and height of the proposed development protects the amenity of adjoining properties, and reflects the desired future character of the locality; • Show sensitivity to the local environment and landscape conditions; • Minimise the impact on the environment; • Provide for high levels of internal and external amenity; • Be built around the corner on corner sites so that the development addresses both street frontages; • Align with the street and/or new streets; • Be designed so that pedestrian entrances and open space areas of adjoining development sites are located side by side, and private open spaces are located at the rear of the units; • Be designed in parallel rows where they face two streets; • Provide for housing choice in the Shire; and 	

Nambucca DCP 2010	
Clause	Assessment
Provide for affordable housing in the Shire;	
Overall conclusion	<p>DA 233/2022 is inconsistent with and fails to promote or advance the aims and objects of the Nambucca DCP, or the relevant provisions therein. It is poorly and inappropriately located on a site with high environmental values, with no services. It will substantially modify the landscape, with consequences to biodiversity and watercourses, and applies a design approach that clearly has no relationship or attempted response to the setting and context of the site, which is surrounded by bushland and adjoining a small, coastal village.</p> <p>The social impacts of the proposal will be severe - with rapid population growth in particular leading to transformation of such a scale as to cause very high social impacts (Social Impact Assessment, page 45).</p>

e) 4.15 (1)(a)(iiia) EP&A Act - Provisions of the Environmental Planning and Assessment Regulation

EP&A Regulation	
Clause	Assessment
<p>28 Development applications relating to Biodiversity Conservation Act 2016</p> <p>(2) A development application that is accompanied by a biodiversity development assessment report under the Biodiversity Conservation Act 2016 must contain</p>	<p>The SHCG notes that biodiversity credits information is provided in the DA.</p> <p>However, it is also noted that there are disparities between the original estimation of required credits provided in the initial report in March 2022 (included within Appendix 10 of the DA) and the credit calculations submitted in the final Biodiversity Development Assessment Report (BDAR) in July 2022.</p> <p>Given the statutory significance of the BDAR, and noting that requirements in the Biodiversity Conservation 2016 to avoid and minimise impacts to biodiversity prevail</p>

EP&A Regulation	
Clause	Assessment
the biodiversity credits information.	<p>over the EP&A Act, Council should either:</p> <ul style="list-style-type: none"> • seek and obtain an independent review of the BDAR provided with DA 233/2022, and/or • seek advice from the relevant NSW environment agency about the adequacy of the BDAR. <p>Other matters related to the differences between the March and July biodiversity reports are discussed in Part C(1)(f) of this submission below.</p>
Overall conclusion	It is recommended that Council obtain an independent review of the BDAR by an accredited assessor, or seek advice from the relevant NSW environment agency, to confirm its veracity.

f) 4.15 (1)(b) EP&A Act - Likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

ISSUE	ASSESSMENT / COMMENT
IMPACTS - ENVIRONMENT AND HERITAGE	
Aboriginal cultural heritage	<p>The potential impacts to Aboriginal cultural heritage are a critical issue for DA 233/2022. Any impacts to these values are permanent and unable to be offset; once they occur the values are lost forever and cannot be replaced.</p> <p>The SHCG is of the firm and clear view that the assessment of Aboriginal cultural heritage undertaken for DA 233/2022 is deficient, inadequate, disrespectful to the local Aboriginal people - the Gumbaynggirr - and contains fundamental errors that are fatal to its ability to be considered as part of the assessment of the DA. These are discussed below.</p> <p>In providing these comments the SHCG wishes to be clear that it does not speak on behalf of the local Aboriginal community or the Gumbaynggirr People.</p> <p><u>The Due Diligence Assessment assesses the wrong DA footprint</u> The Aboriginal Due Diligence Assessment prepared by NGH in March 2021 has been undertaken using the wrong development footprint. For this reason alone the assessment is flawed and must be set aside; and the DA must be refused on this basis.</p> <p>The evidence for this is as follows:</p> <ul style="list-style-type: none"> the development footprint (project area) used in the Due Diligence Assessment is shown in Figures 1-2 and 4-2 of that report. Figure 4-2, for example shows the layout of the project area in relation to known Aboriginal sites, as recorded on the NSW Government Aboriginal Heritage Information Management System (AHIMS) the project area in the above figures is not the same, and is in fact significantly different from, the development footprint in Figures 1, 14, 15, 16, 42, etc, of the SEE and similar diagrams used in other reports accompanying the DA. <p>The Due Diligence Assessment is therefore manifestly obsolete; it has assessed the potential Aboriginal cultural heritage impacts of the <u>wrong development footprint</u>. It has also failed to</p>

ISSUE	ASSESSMENT / COMMENT
	<p>take account of any potential impacts associated with the secondary emergency access road, shown in the correct DA footprint, which is in close proximity to recorded site 21-6-0128.</p> <p><u>The Due Diligence Assessment is based on outdated data</u> The NGH report is clear that the results of AHIMS searches are valid for 12 months for the purposes of undertaking a due diligence assessment (pages iv and 7). The NGH report is dated March 2021; however, DA 233/2022 was not lodged until July 2022.</p> <p>By its own admission, the information that underpins the NGH report (namely the AHIMS search) was therefore already out of date months before the DA was lodged. The NGH report is therefore not only based on an assessment of the incorrect development footprint (noted above), it has also used out of date data.</p> <p><u>Disparities between March 2021 report and October 2021 addendum are not reconciled</u> The original March 2021 NGH report concluded that an Aboriginal Cultural Heritage Assessment Report (ACHA) was required (paged vi, 22 and 23). This was because of the presence of a registered site within the project area that had a high likelihood of being harmed by the development (page v) AND “the presence of registered cultural sites nearby” (page 22). The SHCG understands that preparation of an ACHA provides an important mechanism for Aboriginal people and knowledge holders to participate directly in the assessment process that applies to their cultural heritage.</p> <p>Subsequently, in October 2021 NGH issued a half-page addendum letter stating that the recommendations had been revised. Specifically, NGH stated the AHIMS register should be updated to reflect that the registered site had not been relocated and was likely destroyed by natural processes, if it existed at all. NGH also advised that once the site record was amended in this way then no further assessment works would be required.</p> <p>This is an extraordinary and inexplicable change of professional opinion. In the October 2021 addendum, NGH provided no further analysis or new evidence to support their changed position. In addition, NGH ignored their own earlier report and the statement that an ACHA was required not only because of the specific registered site in question, but also because of the presence of other proximate sites.</p> <p>Despite this, based on information provided with the DA, the SHCG understands that the record for this site has been updated in AHIMS to show it has been destroyed. Although this specific matter may be beyond the scope of the assessment of the DA by the planning authority, the change in</p>

ISSUE	ASSESSMENT / COMMENT
	<p>recommendations between NGH reports is of concern, particularly given the lack of substantive information to support the reasonableness of the change that occurred.</p> <p><u>Survey effort was inadequate and knowledge holders not consulted</u></p> <p>The NGH report indicates that only one visual inspection of the site by one person was undertaken - on 11 February 2021. Visibility was noted as 0% in many areas due to the presence of vegetation. In the area of the registered site location, inspections extended up to 100 metres “where accessible” (page 18).</p> <p>The NGH report indicates no engagement to discuss the site values and assessment findings with local Aboriginal community representatives, either before, during or after the site inspection. No information is provided in the SEE or other documents to contradict this. This is despite the Social Impact Assessment prepared in June 2022 (page 50) suggesting that Aboriginal representatives should be consulted about the outcomes of the cultural heritage assessment and changes to the AHIMS register.</p> <p>This is both poor archaeological and community engagement practice. The lack of basic, sufficient site investigation is astounding given available information on recorded sites, and the proximity to a very significant ceremonial site, which is recognised by NGH as part of a broader culturally sensitive landscape (page 11). A one-off site visit is also clearly inadequate and deficient given the widely known concerns of the Aboriginal community reported in the Social Impact Statement (page 50) and the recognition by NGH (page 16) that ceremonial and dreaming sites are only identifiable through consultation with Aboriginal people.</p> <p>In addition, while perhaps not a strict statutory requirement, the lack of engagement with the local Aboriginal community is clearly disrespectful. As discussed above, if the ACHA process had proceeded as recommended by the March 2021 NGH report, this issue may have been at least partially resolved, as Aboriginal stakeholders would have been afforded opportunities to be part of that assessment process. However, for reasons that remain unclear that process did not proceed.</p> <p>The non-existent Aboriginal community engagement is also entirely inconsistent with Directions 16 and 18 of the current North Coast Regional Plan, as discussed in Part B of this submission.</p> <p><u>Inaccuracies and inconsistencies</u></p> <ul style="list-style-type: none"> the assessment says that ‘the recorded shells may not have been part of an Aboriginal midden’ (page v) but then goes on to say in the final recommendations that despite the low

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	<p>level of archaeological potential of the project area and the level of identified disturbance, 'there is a high likelihood that the proposed work will result in harm to the location of the registered midden site' (page v)</p> <ul style="list-style-type: none"> the assessment says that the clearance of woodlands and mature trees required by the project means that although no evidence of culturally modified trees was located (without any detail as to the nature of the search for such trees), it is possible that the project will disturb culturally modified trees (page 6) the assessment concludes that the area is of 'low archaeological potential' because factors considered to be important guides to the existence of aboriginal sites are 'not present' and there 'are no reliable sources of fresh water in the vicinity' (page 21) <ul style="list-style-type: none"> in fact, there are recorded sites on Lot 11, one on the project area itself and numerous sites within the immediate vicinity, 7 within 1km of the project area, including a ceremony and dreaming area just 510m from the project area described by the assessment as being 'of immense cultural value to the Gumbaynggirr People.' (page 11) there is also abundant fresh water, the assessment itself recognising the proximity of Warrell Creek and '1st and 2nd order streams crossing the project area' (pages iv and 14) itself. It makes no mention of the stream that ran between the site and Grassy Head Road which fed into Warrell Creek until it was blocked at the point at which it joined the Creek in the late 1940s. there appears to be a page (or at least some text) missing in the assessment between pages v) and vi). This is a critical part of the summary of final recommendations the assessment fails to assess any of the off-site impacts on surrounding Aboriginal sites of significance, such as impacts arising from the provision of essential infrastructure (water and sewer) to the site, stormwater runoff etc.
Biodiversity	<p>DA 233/2022 will have unacceptable and permanent impacts to the biodiversity values of the site, removing all native vegetation within the development footprint, including endangered ecological communities and habitat for threatened species. It will diminish wildlife corridor connectivity, and have on-going, flow-on impacts to adjoining and proximate habitat arising from the presence of domestic pets, risks of weed invasion, light and noise, and affect downstream water quality in a sensitive estuarine area.</p> <p>The proposal fails to meet the statutory requirement to avoid and minimise the impacts to</p>

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	<p>biodiversity and should be refused. In addition, as a minimum, an independent review of the BDAR should be commissioned or advice sought from the relevant NSW environment agency.</p> <p>The biodiversity impacts from the proposal are extraordinary, unjustified, unacceptable and inconsistent with the stated intention of strategic regional plans (see Part B of this submission), the objectives and provisions of relevant environmental planning instruments (Part C1(b) of this submission), and statutory requirements of the Biodiversity Conservation Act 2016.</p> <p>Given that only 9% of NSW is considered to be in close to natural condition²², and the known risks of continued clearing, the retention of threatened native vegetation and species must be considered a priority. The applicant has also assessed these biodiversity losses as having a “medium social impact...of moderate magnitude” (Social Impact Assessment, page 61).</p> <p>The following comments are provided. These are drawn from local knowledge together with the views of independent planning and ecology experts. The reports of these experts are provided in full as appendices to this submission:</p> <ul style="list-style-type: none"> • Australian Environmental Surveys - Appendix H • Land and Environment Planning - Appendix I <p><u>The “avoid and minimise” test has not been satisfied</u></p> <p>The Biodiversity Conservation (BC) Act 2016 prevails over the EP&A Act - meaning that the requirements of the BC Act must be satisfied before development consent can be granted (<i>IRM Property Group (No. 2) Pty Ltd v Blacktown City Council [2021] NSWLEC 1306; Tomasic v Port Stephens Council [2021] NSWLEC 56</i>)</p> <p>The BC Act establishes a mitigation hierarchy. This requires development to avoid and minimise the impacts of development first. Offsets may only then be considered for residual impacts that remain after all steps have demonstrably been taken to avoid or minimise such impacts.</p> <p>In addition, the avoidance of an impact presupposes that the development is in fact permitted on the land. If a development is not permitted on land, then steps to not impact the biodiversity values on</p>

²² <https://www.soe.epa.nsw.gov.au/all-themes/land/native-vegetation-2018>

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	<p>such land cannot be counted as “avoidance” (i.e. you cannot “avoid” an impact that could not legally occur).</p> <p>These requirements are relevant for DA 233/2022 because:</p> <ul style="list-style-type: none"> the DA does not demonstrate that all reasonable steps have been taken to first avoid and then minimise impacts to biodiversity it appears to primarily rely on “development placement and changed iterations” (Biodiversity Development Assessment Report - BDAR - page iv and Table 15) to meet this requirement however, based on the design iterations shown in Appendix J of the BDAR, and the evolution of the four masterplans (SEE, pages 5-6) it is clear that any adjustment of the development footprint for biodiversity reasons has been marginal at best “avoiding” impacts on most of the RU1 zoned areas of Lot 11 DP 1243930 does not count towards meeting the test of avoidance. This is because “caravan parks” are prohibited in the RU1 zone - and if land cannot be developed for a purpose then there can be no avoidance of the impact of a development that cannot be carried out (<i>Planners North v Ballina Shire Council [2021] NSWLEC 120</i>) there is no commitment in the DA to provide in-perpetuity protection to remaining habitat to the east and west of the development footprint, despite arguing that this is part of the “avoidance” approach (SEE, page 69). It also ignores the fact that a residential dwelling has already been approved on the eastern section of Lot 11 DP 1243930 and is already under construction the proposed retention of “appropriate corridors for fauna movement” (SEE, page 69) is illusory; at best these will be thin, amenity strips of vegetation traversing a high density, residential environment with up to 561 residents and their domestic pets, and will retain minimal biodiversity value the proposal to prepare a Biodiversity Management Plan (SEE, page 69) is not an avoidance measure. <p>The SHCG also notes that the earlier Biodiversity Constraints Report (March 2022, page 13), which is watermarked “confidential-draft” but attached as Appendix I to the BDAR, identifies steps that could be taken to address the “avoid and minimise” test:</p> <ul style="list-style-type: none"> “It is recommended that the applicant designs their development to avoid or minimise impacting on the vegetation in these areas (where possible)” “This process may require consultation with a AQF qualified Consulting Arboriculturist who

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	<p>can advise on measures that will permit building around trees in effort to retain them.”</p> <ul style="list-style-type: none"> • “Regulatory authorities are generally more likely to approve a development that impacts upon TECs if the applicant implements on-site measures to mitigate impacts such as proposing Vegetation Management Plans including planting schedules that enhance the extent of tree and shrub species representative of the TEC that is being impacted.” <p>However, none of these recommendations appear to have been incorporated into the final BDAR that accompanies the DA.</p> <p>Advice provided by independent experts (see Appendix I of this submission, section 4) provides further detailed analysis of whether the “avoid and minimise” test has been met and concludes that it “clearly fails” (page 7).</p> <p>Because it has not clearly demonstrated that all reasonable steps have been taken to avoid and minimise impacts to biodiversity, as required by the BC Act and consistent with the above case law, DA 233/2022 must be refused consent.</p> <p><u>Calculation of impacts and offset requirements</u></p> <p>The BDAR prepared for the DA includes proposed ecosystem and species credits to offset the residual impacts of the proposal. However, there are significant differences between the credit calculations in the final BDAR (dated 1 July 2022) and the draft biodiversity assessment prepared in March 2022 (included as Appendix I to the final BDAR). In some cases, that includes the estimated credits required for the same species.</p> <p>In addition, the SHCG is concerned at what appears to be further potentially significant and unexplained disparities between the March 2022 and July 2022 reports. In particular:</p> <ul style="list-style-type: none"> • the March 2022 report (BDAR Appendix I, Table 13) lists 13 species credit species that are “serious and irreversible impact entities” and states that these “must” be surveyed for by an experienced ecologist to confirm their absence (page 42) • the March 2022 report also recommends that the “applicant commission surveys for these species as soon as possible” (page 42), several of which have specific seasonal or time of year survey requirements • however, it is not clear from the final BDAR prepared in July 2022 that such surveys were completed in the three months between the two reports

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	<ul style="list-style-type: none"> given that some of the species identified in the March 2022 report required surveys in spring and summer, it is presumed that such surveys were not completed in the autumn/winter months between the two reports. <p>Advice provided by independent experts (Appendices H and I of this submission) provides further detailed analysis of the deficiencies in the BDAR provided by the applicant for DA 233/2022.</p> <p>Given the disparities between the two reports, and the range of issues identified with the final BDAR, the SHCG recommends that the consent authority seek:</p> <ul style="list-style-type: none"> an independent review of the biodiversity impacts of the proposal, and the BDAR in particular, and/or advice from the relevant NSW Government environment agency about the adequacy of the assessment. <p><u>Full suite of impacts not adequately assessed</u></p> <p>The DA has also failed to recognise and undertake a sufficiently robust assessment of the full range of potential biodiversity impacts. The following comments are provided:</p> <ul style="list-style-type: none"> no survey was undertaken for the threatened Stuttering Frog, despite the BDAR concluding it had potential to be present and identifying it as a species at risk of “serious and irreversible impact” (BDAR, Table 23) impacts associated with meeting obligations for bushfire management purposes beyond the immediate development footprint are unclear downstream impacts to habitat and sensitive estuarine environments are not identified or assessed the value of existing vegetation and habitat on the site as refugia post the 2019/20 fires has not been recognised or considered the coast to mountain connectivity values of the site, including between two national parks, is not sufficiently considered the impacts of light and noise to native animals is barely mentioned, despite the dramatic transformation that will occur from a quiet and dark place to one that is noisy and light-filled, and despite the risks of such impacts to biodiversity being well-documented in research²³.

²³ <https://wepa.org.au/wp-content/uploads/2019/08/Newport-et-al-The-effects-of-light-and-noise-from-urban-development-on-biodiversity-2014.pdf>

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Bushfire	<p>The risk from bushfire to future residents of the development and to emergency services personnel (including volunteer community members) is significant, and the extent, frequency and severity of bushfires are expected to worsen.</p> <p>Refer to Part C1(a) of this submission above for a detailed discussion of bushfire matters. In summary, the DA:</p> <ul style="list-style-type: none"> • will result in significant loss of biodiversity to accommodate required fire protection measures (APZs) • relies on a flawed assessment of bushfire risk that mistakenly conflates a lack of recorded fire history with a low likelihood of the site being in a fire path, ignoring the proximity of highly volatile vegetation communities and future climate change risks • fails to demonstrate with sufficient evidence that emergency and evacuation events can be safely managed for a population of up to 561 over-55s, plus their guests and visitors [noting that up to 12 people may stay overnight at a dwelling site or camp site (SEE, page 45)] • will result in significant and enhanced risk to emergency first responders, who will be expected to place themselves in harm's way to protect property and life at a poorly planned and located development site. <p>These issues are of such critical safety importance and level of social impact (Social Impact Assessment, pages 55 and 59) that they must be addressed to the satisfaction of the planning authority upfront. They are simply too important to defer to a future post-consent phase; and are integral to the decision on whether consent should be granted in the first instance.</p>
Coastal	<p>DA 233/2022 fails to adequately assess the impacts on coastal matters, as required by the Resilience and Hazards SEPP. It does not consider impacts to the coastal environment area, and will have a detrimental impact to Aboriginal cultural values and the character of the coastal use area.</p> <p><u>Coastal environment area</u></p> <p>As noted in Part C1(b) of this submission, the development footprint - namely the exit point of the proposed emergency access road - includes land that is within the 'coastal environment area' mapped by the SEPP. However, the impacts of this essential component of the proposal have not been assessed as required by clause 2.10 of the Resilience and Hazards SEPP. Those</p>



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	<p>requirements highlight the need for construction of the exit point of the emergency access road to address the protection of areas of ecological and hydrological sensitivity, such as the existing native vegetation and mapped protected downstream coastal wetlands.</p> <p>Because the emergency access road exit has not been assessed against these criteria, the planning authority is unable to be satisfied that adverse impacts have been avoided, minimised or mitigated, as required by clause 2.10(2) of the SEPP.</p> <p><u>Coastal use area</u> The subject site for the DA - Lot 11 DP 1243930 - is also within the 'coastal use area' mapped by the SEPP.</p> <p>As discussed in Part C1(b) of this submission, the proposal will have an adverse impact on matters that are relevant to protection of the coastal use area, as set out in clause 2.11 of the SEPP. The following comments are made in relation to this:</p> <ul style="list-style-type: none"> • regarding Aboriginal cultural heritage, practices and places - the development will have a major and irreversible impact to a highly significant cultural landscape, including a ceremonial ground recognised by the Aboriginal Due Diligence Assessment (page 11) as being of immense cultural value to the Gumbaynggir People • no genuine or meaningful effort has been made by the applicant to avoid such impacts to cultural landscape values, nor to minimise or mitigate such impacts, or to seek to consult with local Aboriginal community representatives on these matters. <p>The potential impacts to Aboriginal cultural heritage are further discussed elsewhere in this submission.</p> <p>On a separate matter, Part C1(b) of this submission also identifies the deficiencies of the DA with respect to clause 2.11(c) of the SEPP, which requires the consent authority to take into account the bulk, scale and size of the development in the context of the surrounding coastal and built environment. In this respect, the SHCG is of the view that design of DA 233/2022 is incompatible with its environs and that the scope of resulting population growth would undermine and ultimately destroy the small scale coastal character of Scotts Head, damaging social cohesion and causing a "very high social impact of transformational magnitude" (Social Impact Assessment, page 45).</p>

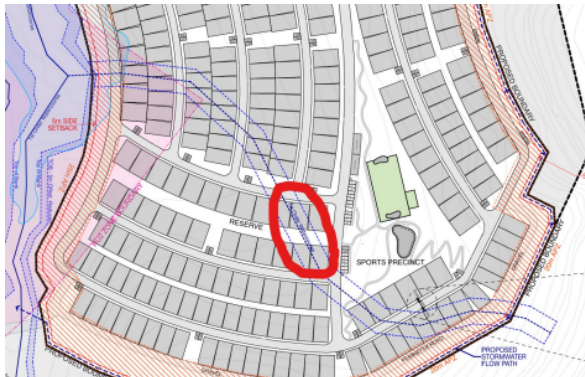
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	<p>Draft NSW Coastal Design Guidelines</p> <p>DA 233/2022 is inconsistent with the draft guidelines, which are on exhibition until September 2022. The draft guidelines are a relevant consideration for the DA because they aim to provide best practice urban design guidance for development within the coastal zone, which includes the coastal environment area and coastal use area (as above - the site of DA 233/2022 is at least partially within both of these areas).</p> <p>DA 233/2022 is inconsistent with the following provisions of the draft guidelines:</p> <ul style="list-style-type: none"> • protecting and enhancing the unique qualities of the place that attract people in the first instance and set it apart from other coastal locations (page 22) • upgrades to public transport, cycle and pedestrian networks in underserved coastal areas (page 22) • restore and enhance access for Aboriginal peoples to undertake care activities (page 22) • identify sensitive coastal ecosystems and avoid impacts to acid sulfate soils (page 25) • incorporate water sensitive urban design to reduce run-off to coastal areas (page 26) • limit coastal sprawl (page 27) • protect and respect Aboriginal sites (page 27) • understand and address natural hazard risks that may impact development (page 29) • consider current and future climate change conditions (page 30) • protect and enhance water quality and hydrological systems, including protecting sensitive downstream environments (page 33) • avoid and minimise impacts to biodiversity, and preserve wildlife corridors and habitat (page 34).
Context and setting	<p>DA 233/2022 is the wrong development in the wrong location. It is ill-suited, of disproportionate scale and will irreversibly damage the unique, small coastal village character of this place.</p> <p><u>Broad context</u></p> <p>Scotts Head Village is a small, isolated coastal settlement; one of the few such examples remaining on the entire NSW coast, with many others having been overwhelmed and subsumed by urban development long ago. It is topographically constrained by beaches, mountains, bushland and creeks. It retains the relaxed, small-scale coastal character that is highly prized by the Nambucca</p>

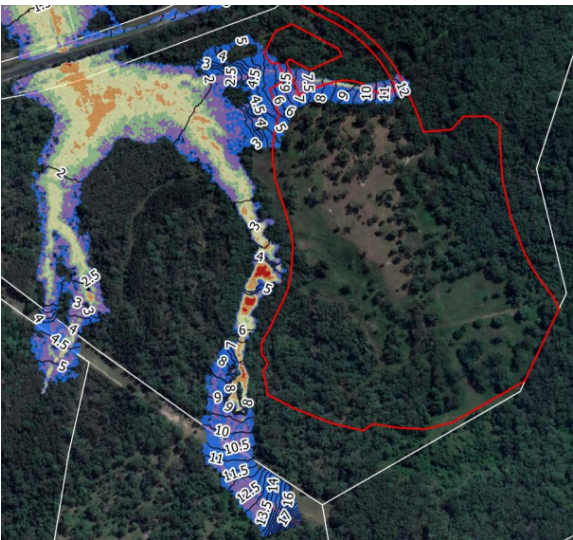
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	<p>Valley community and makes it such a drawcard for holidaying locals from Macksville and surrounds, as well as those seeking low-key campground accommodation, and families and tourists in general.</p> <p>The current proposal will destroy and remove this character. It will overwhelm the Village with people and cars, with rapid population growth in a short period of time having a very high social impact of transformational magnitude (Social Impact Assessment, page 45). That “transformation” will deliver no positive benefits; only damage and adverse environmental, social and economic consequences.</p> <p><u>Subject site</u></p> <p>The subject site is clearly unsuited to the proposed use of a “caravan park”, which in reality does not comprise “moveable dwellings” but permanent, large residential dwellings providing multiple bedrooms, multiple storeys and multi-car garages.</p> <p>As noted elsewhere in this submission, if the development proceeds it will create an entirely new, higher density urban residential settlement in a location where the strategic suitability assessments required by the North Coast Regional Plan have never been completed. This is unplanned, unmitigated urban sprawl by stealth.</p> <p>The site is:</p> <ul style="list-style-type: none"> • heavily vegetated with important biodiversity values, including habitat for threatened species, two endangered ecological communities and wildlife corridor connections between the coast and two national parks • known to have, or be in close proximity to, sites of significant Aboriginal cultural heritage value, including a highly significant ceremonial site (Aboriginal Due Diligence Assessment, page 11). The development will adversely impact and diminish this culturally sensitive landscape; these being values that cannot be restored or offset once they are lost • known to be in an area of high bushfire risk with access for emergency purposes reliant on one road in and out (Scotts Head Road) • isolated, remote and distant from the existing Scotts Head Village, with no pedestrian or bicycle access, or genuine public transport that is capable of servicing the daily needs of up to 561 over-55s. It will result in a gated, car dependent community of over-55s that is socially disengaged from the remainder of the Village • accessible by narrow, winding roads that are currently in poor condition and subject to

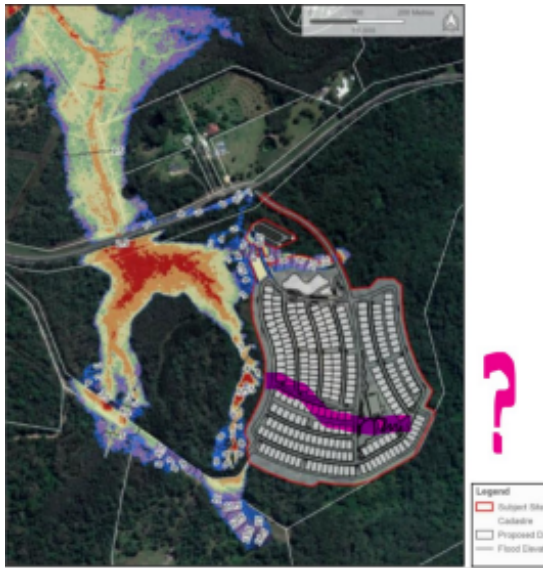
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	<p>regular flood damage. An additional 641 vehicles accessing this site is more than the current total number of existing dwellings in Scotts Head Village, and will lead to further deterioration in the state of the local road system, increasing safety risks to both existing and new residents</p> <ul style="list-style-type: none"> • unserviced by water, sewer and other essential utility infrastructure, and with no preferred water and sewer options identified, assessed or costed. This shortfall in planning for DA 233/2022 is particularly concerning given the recognition in the Water and Servicing Report that the development poses risk to existing water pressure, is dependent on other, unapproved developments for solutions, and available evidence about the capacity and operational constraints of the sewer system • known to drain towards areas of important biodiversity value, including downstream areas that include protected coastal wetlands that already experience poor water quality ratings²⁴ • known to be affected by high fire risk and flood access issues along the road, which pose particular evacuation challenges to an over-55 community which will inevitably include a large number of residents with mobility and medical limitations. <p>The SHCG remains confounded as to why such a constrained site could ever be contemplated for the type, scale and pace of development now proposed by DA 233/2022.</p>
Flooding and hydrology	<p>The DA fails to adequately assess and consider the full range of flood and hydrology impacts of the proposal, including to existing watercourses, downstream water quality, and the safety of future residents and community emergency services volunteers.</p> <p><u>Watercourses</u></p> <p>The development footprint is bisected by two watercourses (first order streams) and adjoins another watercourse along its western edge. Aerial photos clearly show evidence of ground moisture, and related DA plans show first order streams traversing the layout of dwellings.</p>

²⁴ https://www.nambucca.nsw.gov.au/files/Assessment-of-River-and-Estuarine-Condition---Nambucca-Ecohealth-Report-July-2018_lowres.pdf, pages 214 and 267

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	<div data-bbox="718 313 1255 690"></div> <p data-bbox="718 699 1894 760">Location of first order watercourses - Appendix A, Preliminary Site Investigation and Desktop Geotechnical Assessment</p> <div data-bbox="718 794 1297 1143"></div> <p data-bbox="718 1149 1306 1182">Aerial photo (2010) indicating ground moisture</p>

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	 <p>Southern first order stream (red circle added here to highlight words “1st Order Watercourse”) - Appendix 6 of DA 233/2022</p> <p>Despite this evidence, it appears from the DA documentation that only one of the first order streams (in the north of the site) has been modelled as having water. The rationale for excluding the larger first order stream footprint in the southern part of the site from the modelling, or providing information about diversion flows, is unclear and brings into question the accuracy and competency of the overall flood modelling and conclusions.</p>

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	 <p data-bbox="720 836 1650 868">Figure B11 Existing case - Concept Civil, Stormwater and Flooding Report</p>


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	 <p>Figure C4 Developed case (with purple line and question mark included here to show approximate location of missing watercourse) - Concept Civil, Stormwater and Flooding Report</p> <p>This lack of analysis or explanation about the southern first order stream is a significant and unexplained deficiency in the DA.</p> <p><u>Assessment and modelling inadequate</u></p> <p>The following detailed comments are also provided:</p> <ul style="list-style-type: none"> the DA fails to meet the Nambucca DCP requirement that: "Natural watercourses, drainage channels and riparian zones are to be retained and preserved in their natural state wherever possible, to ensure that their ecological function is not compromised", As stated in the DA (Concept Civil, Stormwater and Flooding Report, page 15) natural watercourses are instead proposed to be "adjusted" and "redistributed" the DA indicates that ARR 2019 is used for Intensity Frequency Duration (IFD) data, but the


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	<p>rainfall information used is not provided (whereas the adopted losses are shown in Table 9 of the Concept Civil, Stormwater and Flooding Report). In the flood assessment industry, there are widespread views that the high initial losses provided by ARR 2019 methods should not be adopted</p> <ul style="list-style-type: none"> • there is no reporting in the DA of internal site pre-developed and post-developed flows, and the extent of logical flow increase is unclear • the DA claims that urbanising the site reduces peak flow - this is counter intuitive. Development will change the ground surface, reducing infiltration and increasing runoff. • fundamentally changing the surface characteristics must increase the peak runoff and total runoff volume. If this is not the case, then it is likely that an incomplete analysis has been undertaken by the applicant • the addition of significant on-site storage/detention can adjust the critical duration. However no significant storage is being proposed • the statement in the DA (SEE, B2.8.2) that “peak flows at the outlet of the catchment are reduced in the developed case” is therefore without substance • results of modelling need to detail the storage included in models and the effects - that is, existing flow, increased urbanised flow, and reduced urban flow (reporting on storage required) to reduce the peak flow, for a full range of event durations • statements in the DA suggesting that no on-site storage is warranted are limited in their scope of analysis. Failure to provide storage will result in “Urban stream syndrome”, with impacts to downstream water quality and ecological health. The potential impacts of the DA to the health of Warrell Creek and protected coastal wetlands is discussed elsewhere in this submission. <p><u>Broader risks</u></p> <p>In addition to the above technical deficiencies with the flood and hydrology assessment for DA 233/2022, flood impacts to local road access are also a serious concern with respect to:</p> <ul style="list-style-type: none"> • the safety and well-being of up to 561 over 55 residents, plus their visitors and guests, who may be unable to access food and essential medical supplies during some events • the lack of any specific information on the feasibility of evacuation, even though the Concept Civil, Stormwater and Flooding Report (page 63) clearly recognises that there will be “hazardous flow” in the 1% and 20% AEP that cuts off access both Scotts Head and Grassy Head Roads, leaving occupants stranded “even in relatively frequent flood events” • the flippant suggestion in the DA (SEE, page 66) that when the road is not accessible due to

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	<p>flood inundation “occupants seek refuge in the development”</p> <ul style="list-style-type: none"> risks to first responders, including community volunteers, that will be tasked with evacuating elderly and immobile residents in a major event. <p>The SHCG notes that the report of the 2022 NSW Flood Inquiry²⁵ identifies the flood risks for permanent residents of caravan parks and manufactured housing estates, recognising that these “have been developed in places that are appropriate for tourist purposes but are not always ideal locations for permanent residents” (Finding T, Recommendation 25) . It is recommended that the planning authority not make a final decision on DA 233/2022 until it has considered the recommendations of the NSW Flood Inquiry, together with the findings of the NSW Parliamentary Inquiry²⁶.</p> <p>It is clear that the risks of flood to access are real and getting worse as the predicted impacts of climate change become real. The photos in Appendix E of this submission provide graphic evidence of this (see samples below).</p> <p>The flood risks to people and property, and the water quality risks to the downstream environment, associated with this development are critical issues for DA 233/2022. The SHCG is of the strong view that, consistent with the precautionary principle and planning objectives to minimise exposure of people to hazards, the proposal should be refused consent.</p>

²⁵ <https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinquiry>

²⁶ <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2866/Report%20No%201%20-%20Response%20to%20major%20flooding%20across%20New%20South%20Wales%20in%202022.pdf>

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	 <p data-bbox="718 695 1822 755">2021 floods - corner Orangeblossom Drive and Scotts Head Road (only several hundred metres from the entry point to DA 233/2022)</p>


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	 <p data-bbox="718 1149 1696 1182">2021 - access to Grassy Head Rd and Pacific Highway blocked by floodwaters</p>
<p data-bbox="205 1240 655 1273">Landscape, visual and scenic value</p>	<p data-bbox="718 1240 1873 1333">DA 233/2022 will have adverse consequences to the local landscape and scenic qualities of Scotts Head and surrounding areas, resulting in a diminution of amenity. These impacts are permanent and unable to be mitigated or offset.</p> <p data-bbox="718 1360 1894 1393">The proposal will result in the clearance of around 16 hectares of existing native vegetation on the</p>

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	<p>development site, including trees, shrubs and groundcover - to be replaced with a high density urban setting that is incongruous with the existing rural landscape (which the LEP zone objectives seek to maintain). The suggestion in the SEE (pages 14-15) that extensive landscaping is proposed and that the proposal will seek to protect mature vegetation to provide visual buffers is unrealistic, given the scale of earthworks required and the compressed, densely packed dwelling layout.</p> <p>The development will impact the high quality visual amenity from Yarriabini National Park along the ridgeline from Scotts Mountain to Scotts Head. Once that viewscape is lost it cannot be brought back, but this impact has not been considered by the DA.</p> <p>The development - with 255 dwellings and up to 561 new residents - will also introduce significant noise and light sources that will forever alter the amenity of the site and surrounding lands. It will transform this area from a quiet and dark place at night, to one of constant active and background urban noise and light pollution. This will not only impact the existing tranquillity of this area, but directly impact the ability for native animals to use this space for hunting, roosting and breeding. This impact on biodiversity values is discussed further above.</p> <p>In addition, as also discussed above, the transformation of the landscape that would be wrought by DA 233/2022 would impinge and damage sensitive Aboriginal cultural heritage values. While the SHCG does not speak on behalf of the local Aboriginal community, the suggestion in the SEE (page 32) that Ingenia is committed to further consulting with local indigenous groups to incorporate local arts, textiles and walks within the landscape design is disrespectful and tokenistic. The lack of engagement by the applicant with the local Aboriginal community - particularly by not directly involving the community in preparation of the Aboriginal Due Diligence assessment - suggests that such statements in the SEE should be considered with scepticism.</p>
Public domain	<p>DA 233/2022 will increase pressures on local open space, parks and sporting facilities, and beach access, but without additional resources to support upgrades or ongoing maintenance.</p> <p>The scale and rapid pace of population growth that will be caused by DA 233/2022, with up to 561 new permanent residents and their quests and visitors, will increase demands for access to green space, particularly along the beach front. This will flow on to local parks and sporting locations, such as Buz Brazel Oval, the Village Green and Recreation Hut area, and to similar facilities in the wider Nambucca Valley.</p>

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	<p>The wear and tear associated with this increased usage will need to be managed and mitigated by upgraded public domain infrastructure, and ongoing additional investment in maintenance. However, this issue is not discussed in the DA, nor is there any commitment to an equitable sharing of costs to fund such works. As discussed elsewhere in this submission, it is in fact clear that occupants of the new development will not pay their fair share - in fact as individual residents they will pay no rates at all. In addition, while rates are paid by the overall owner of the property they are likely to be significantly less than the quantum of rates that would be paid if the development were charged at the standard residential rates.</p> <p>As Nambucca Council has already observed, the inequities in both upfront development contributions and rate payments associated with this type of development lead to significant shortfalls in funding on an ongoing basis²⁷.</p> <p>In short, existing residents of the Nambucca Valley LGA will (via their rate payments) subsidise the use and associated upkeep costs of public domain assets by occupants of the 'caravan park'. This is both unreasonable and unfair,</p>
Soils and contamination	<p>The environmental risks associated with acid sulfate soils, dispersive soils (sodosols), and the scale of earthworks proposed are inadequately addressed by DA 233/2002.</p> <p>The Preliminary Site Investigation and Desktop Geotechnical Assessment (Appendix 18 to the DA, pages i and 5) and Preliminary Site Investigation (Appendix 19 to the DA, pages i and 5) state that the site is not affected by acid sulfate soils. This appears to be in direct contrast to the acid sulfate soil maps that accompany the Nambucca LEP (see extract below) which show the site as within class 5 (the area shaded yellow).</p>

²⁷ Council business papers 13 January 2022, Item 9.9 - Financial Implications of Manufactured Home Estates.
https://www.nambucca.nsw.gov.au/bps/Open/2022/01/CO_13012022_AGN_1181.PDF

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	<div data-bbox="718 292 1201 693"> </div> <p data-bbox="718 699 1871 761"> Source: https://eplanningdlprod.blob.core.windows.net/pdfmaps/5700_COM_ASS_006_080_20100629.pdf </p> <p data-bbox="718 790 1871 945"> On this basis, it appears acid sulfate soils are in fact an issue of potential concern at the site. These soils must be carefully managed during construction to prevent serious environmental damage - including the killing of downstream organisms (such as fish and plants), corrosion of concrete and other materials, and toxic water and dust. The Nambucca LEP maps are indicative only, and must be supported by more comprehensive site-based assessment. </p> <p data-bbox="718 976 1871 1159"> As discussed in Part C1(b) of this submission, the LEP also states that development consent must not be granted unless an acid sulfate soil management plan has been prepared and provided to the consent authority. Despite initially indicating that no acid sulfate soils occur at the site, Appendix 19 to the DA (page 26 and Table 12) then states that an acid sulfate management plan should be developed and implemented. This has not been done and the DA is therefore inadequate from an assessment perspective and deficient from a statutory one. </p> <p data-bbox="718 1190 1871 1373"> According to the <i>Australian Soil Atlas</i> there are also sodosols in the area that have not been taken into account by the applicant. These are often dispersive and need to be investigated, mapped and tested at the same time that acid sulfate soils assessments are made and management plans prepared. It is highly likely that sediment/flocculation ponds will be required on site to avoid risk to downstream water quality arising from dispersed soils; yet the DA provides no such details of whether these are proposed, or their necessary location or size. </p>

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	<p>The scale of earthworks and cut and fill proposed at the site (see Appendix 8 to the DA), and the subsequent risks associated with both acid sulfate soils and dispersive soils, are such that soil management must be addressed as a priority and upfront in the planning process. Yet, like many other key environmental matters relevant to this project, the DA simply proposes to leave these to be considered another day. That includes preparation of an acid sulfate soil management plan; and the erosion and sediment control plan required by the Nambucca DCP.</p> <p>Additional risks to downstream water quality and sensitive receivers are further discussed below.</p>
<p>Stormwater and water quality</p>	<p>DA 233/2022 poses significant risks to downstream water quality, including coastal wetlands on Warrell Creek that are mapped and protected by the Resilience and Hazards SEPP. Yet the DA fails to acknowledge the proximity to these coastal wetlands or assess the potential impacts.</p> <p>The development site includes first order watercourses that connect downstream with a third order tributary of Warrell Creek (Concept Civil, Stormwater and Flooding Report, page 8). Warrell Creek contains coastal wetlands mapped and protected by the above SEPP (see below).</p>  <p>Source: https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalManagement</p>

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	 <p>Source: https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address</p> <p>Stormwater from the development site will drain to these ecologically sensitive receiving bodies. The conversion of the site from a 100% vegetated, undeveloped state to almost 100% fully developed and hard surfaces, will drastically alter the amount of stormwater runoff, its velocity and its quality. The amount of stormwater currently flowing from the site towards Warrell Creek is already significant - see https://youtu.be/Qs994ogoY1U</p> <p>Warrell Creek is poorly tidally flushed, with predicted residence times in excess of 60 days (meaning it takes almost two months at present for water in the Creek to refresh). As a consequence, the health of Warrell Creek is rated to be in poor condition - scoring a D minus in the Ecohealth Report - and very poor just upstream of Scotts Head²⁸.</p> <p>Despite this readily available public information, the DA makes no mention of the proximity to protected coastal wetlands, the drainage of untreated urban stormwater to these areas, or the</p>

²⁸ https://www.nambucca.nsw.gov.au/files/Assessment-of-River-and-Estuarine-Condition---Nambucca-Ecohealth-Report-July-2018_lowres.pdf

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	<p>existing poor water quality of Warrell Creek (which risks being exacerbated by the development). This is a significant deficiency in the assessment.</p> <p>The following comments are also made:</p> <ul style="list-style-type: none"> • consideration of water sensitive urban design and water quality issues is very limited - the focus is only on TSS, TN, TP and gross pollutants. The DA needs to consider in detail the existing pollutant load from the site in its pre-developed state, compared to how that load will change as a result of development • the DA (Table 5, Concept Civil, Stormwater and Flooding Report) indicates an 80% reduction in TSS will be achieved, suggesting 24 tons of TSS is collected each year. However, it is unclear how this will be achieved or where this amount of TSS will be disposed of • road related pollutants require particular attention given the sensitive downstream estuary. These are recognised globally as very difficult to capture and treat, and are recognised as very harmful to downstream ecology • the MUSIC model used in the DA assessment is known to be a concept model only (as stated in the MUSIC user manual). Water sensitive urban design infrastructure in such a sensitive environment should instead be identified using a design analysis tool such as the US-EPA-SWMM tool • no stormwater detention or pre-discharge treatment is proposed. The stated rationale is that detention would not assist with the management of peak flows and the speed of discharge from the site. However, this ignores the role of well designed and managed detention systems in filtering and supporting water quality outcomes downstream - which is recognised by the Nambucca DCP • the Concept Civil, Stormwater and Flooding Report (page 15) states that existing natural watercourses in the site are to be “adjusted” to accommodate the development. This is inconsistent with the requirement of the Nambucca DCP to retain watercourses in a natural state • while so-called “biofiltration” areas are proposed (essentially grassy swales), during storm events high flows will bypass the proposed stormwater system (including the single gross pollutant trap - Concept Civil, Stormwater and Flooding Report, page 24) and directly enter

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	<p>the watercourse along the western boundary (Concept Civil, Stormwater and Flooding Report, page 21)</p> <ul style="list-style-type: none"> the sizing of the biofiltration areas and rainwater tanks may not be sufficient for the 16 hectares of development, to manage peak flows, frequency altered durations and total volume. There is inadequate modelling and reporting of results to address this the site contains “<i>dispersible soils which may pollute the stormwater runoff</i>” (Concept Civil, Stormwater and Flooding Report, page 19). Dispersive soils (sodosols) are known to be prone to water erosion, including sheet, tunnel and rill erosion, and require specialised management. However, the DA fails to recognise the seriousness of these risks, nor demonstrate how these will be managed in the design, construction and operation of the stormwater system if the development proceeds it must be conditional on detailed, transparent monitoring and adaptive management requirements (see Part D of this submission). <p>In summary, the assessment of environmental impacts arising from the development is poor and deficient, and the design solutions for the management of stormwater are inadequate to protect the environmental quality of sensitive downstream receivers.</p>
<p>Sustainability - energy, waste and building design</p>	<p>The proposal provides no genuine commitments with respect to how the development will incorporate contemporary sustainability features.</p> <p>DA 233/2022 states that the project is committed to being “net zero” once operational, and to deliver dwellings that meet Green Star criteria (SEE, pages 4 and 6).</p> <p>However, aside from the use of rainwater tanks, no specific detail is provided to demonstrate what steps will be taken to achieve net zero, nor to confirm the level of Green star ratings to be met. The car dependent nature of the development, and lack of public transport and pedestrian and cycle connections to and from the site, further diminish any sustainability credentials presented in the DA.</p> <p>Given the critical need for all new major developments to support accelerated efforts to achieve sustainability and climate change objectives, this is an important omission. This issue is considered further in Part D of this submission.</p>

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	<p>In summary, the SHCG is of the view that if DA 233/2022 obtains consent, then it should be subject to conditions that improve sustainability outcomes, such as provision of solar panels, batteries, electric vehicle charging and so on. Given that the potential lifespan of dwellings in the “land lease” model proposed here is less than traditional types of housing, it is essential that a wide range of measures are applied to reduce their environmental footprint.</p>
<p>Transport - car access and public transport</p>	<p>DA 233/2022 will have adverse and far-reaching transport and traffic issues that extend beyond the site boundary - it will accommodate up to 641 vehicles, which is more than the total number of existing houses in Scotts Head²⁹. These impacts are acknowledged by the Social Impact Assessment (pages 52-53) which identifies traffic, road infrastructure, and greater demand for public transport as having medium social impact.</p> <p>However, the full suite of such impacts arising from the development are either ignored or inadequately assessed by the DA and accompanying Traffic Impact Assessment, which seems to assume that traffic issues only extend as far as ensuring access to the development site is feasible.</p> <p>The following comments and observations are made with respect to that report, its deficiencies and critical impacts that should have been considered. These are drawn from a combination of local knowledge and independent expert advice from consulting traffic and transport engineers - NK Traffic - obtained by the SHCG (Appendix F to this submission).</p> <ul style="list-style-type: none"> • there is no acknowledgement that Scotts Head is the primary connection to the Pacific Highway, and that Grassy Head Rd (via Scotts Head) is the secondary, alternative option to get to the highway. This is critical to understand, as Scotts Head Road has been regularly flooded in recent years and on many occasions the community has either had to: <ul style="list-style-type: none"> ○ exit the longer way to the highway via the poorly maintained Grassy Head Road, which is a challenging route when water is over the road, or ○ stay in place because both roads were inaccessible due to floodwaters. • there is no discussion of the current poor condition and current risks associated with either Scotts Head Road or Grassy Head Road, or the additional wear and tear extra traffic from the development will have, nor who will pay for increased maintenance costs.


²⁹ <https://www.abs.gov.au/census/find-census-data/quickstats/2021/SAL13523> - there are 629 houses in Scotts Head


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	<p>Like many local governments, Nambucca Valley is severely resource constrained and faces significant financial challenges to repair the existing backlog of damage to infrastructure arising from bushfires and extensive floods</p> <ul style="list-style-type: none"> • both roads are narrow and windy and known to be challenging to navigate to the maximum sign-posted speed limit (90 km/h), particularly during poor weather • there is no examination of traffic incident/accident records to document consideration of the capability of existing roads to cope with additional cars. • in this regard, the independent expert report (pages 10, 26 and 27, Appendix F to this submission) notes that: <ul style="list-style-type: none"> - an additional 60%+ vehicles will be added to the road network - it is anticipated that road crashes will be increased at a high rate - traffic generation for the whole development is a critical issue as there is an extremely high percentage of traffic that would be added onto the road system. • the safety of the entry and exit point to the site from Scotts Head Road remains dubious, given it is single lane, 90 km/hr and lines of sight are partially obscured by curves in the road and the raised existing road just to the south of the entry. The independent expert report (pages 26-27, Appendix F to this submission) observes that: <ul style="list-style-type: none"> - there are “too many conflicts at connection points” - vehicle access speeds on surrounding roads are very high and will need to be reduced to manage safe access to the site - exiting and entering the site has the potential to create road safety issues - the existing 90 km/hr speed limit is “exceedingly high” given the geometry of Scotts Head Road, poor site distances, and close proximity of trees • there is no discussion of the flood or bushfire access risks to the proposed over-55s community, or the future climate related risks to road access of increasing extreme weather events • there is no information about the exit point for the secondary emergency access from the site to Scotts Head Road and whether such access can be achieved safely (the exit point is on a tight curve in the road), especially during extreme events when 641 vehicles are attempting to leave the site in smoke haze at the same time existing residents of Scotts Head Village are attempting to do the same • traffic counts were undertaken in a low tourist period, outside of school holidays and at a time in 2021 when COVID restrictions were in place in NSW, Victoria and Queensland, which are traditionally a strong source of visitors. No pre-COVID or peak holiday data was considered for comparison, meaning that the conclusion that existing traffic volumes are generally considered "low" is unsupported (Traffic Assessment Report, page 3)

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	<ul style="list-style-type: none"> based on data in the report there would be a: 63% traffic increase in the AM peak period; and 60% in the PM peak (page 27, Appendix F to this submission) which the independent expert considers “significant” the relevance of data from a 7 year old traffic assessment in another location is unclear (page 7) the report (page 4) notes that the site is within 1.2 km of bus stops but fails to acknowledge there is no safe pedestrian access to these. There are no footpaths to bus stops and pedestrians (being over 55s with a variety of physical and mobility issues) would have to walk along a narrow and sometimes non-existent road verge in a 90 km/h zone as noted in the Social Impact Assessment (page 52), existing buses are regularly at or over capacity, especially when school students are travelling, with passengers often having to stand without access to seatbelted seats. At 90 km/h and with over-55 passengers this represents a significant risk on-site parking is way above required standards. The independent expert (page 28, Appendix F to this submission) observes that this is “excessive” and may suggest the potential for future expansion of the development according to the DA (SEE, page 45) the relevant NSW Regulation governing caravan park use allows up to 12 persons to stay overnight at a dwelling site or camp site. This is merely “noted” by the SEE and not considered by the Traffic Impact Assessment at all. Assuming this is in fact legally permitted, then in a peak visitor scenario (such as over Christmas or on New Year’s Eve) the worst case consequence is that each dwelling on-site could have up to 12 people staying overnight, which would mean a possible maximum of over 3,000 people, plus vehicles, attempting to access the site and surrounding areas. <p>In addition, and quite extraordinarily, there is <u>no assessment of the impact of additional vehicles from the development accessing Scotts Head Village, including the shopping area, beach car parks and local residential streets</u>. This is a fundamental shortcoming in the DA assessment, which as a minimum should have considered:</p> <ul style="list-style-type: none"> impacts to existing on-street parking near shops the limited off-street car parking at the shopping centre the limited parking at the beach, which is regularly full early on summer days or when surf conditions are good (see photos below) the impacts of additional vehicles on top of existing peak tourism periods, when competition for parking is already strong and high vehicle movements are apparent throughout the day

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	<ul style="list-style-type: none"> the additional vehicle trips generated from visitors or family staying with residents of the development, noting also that the summer and peak holiday periods will be a particular issue. <p>In short, the traffic generated by DA 233/2022 would overwhelm the Village, severely impacting local amenity and changing the character of the place in an undesirable way; from a place where cars can generally co-exist with people, to a place dominated by the noise and movement of cars. In peak tourism periods, the SHCG fears that the traffic impacts will risk becoming unmanageable in the Village centre and at the beaches, leading to overcrowding, safety risks and conflict.</p> <p>The single mitigation measure proposed by the applicant - a community bus of indeterminate capacity or service commitments - is manifestly inadequate to service the day to day public transport needs of up to 561 over-55 residents or their additional visitors and guests.</p>  <p>Beach car park - Sunday 24 July 2022 (not school holidays)</p>

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	 <p data-bbox="720 808 1436 841">On street car parking - 24 July 2022 (not school holidays)</p>

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	 <p data-bbox="720 971 1396 1008">Saturday 23 April 2022 - school holidays (post-Easter)</p>

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	 <p data-bbox="718 812 1654 841">Saturday 23 April 2022 - school holidays (post-Easter) - above Little Beach</p>
<p data-bbox="205 979 615 1036">Transport - pedestrian and cycle access and safety</p>	<p data-bbox="718 979 1864 1068">DA 233/2022 does nothing to promote safe pedestrian and cycling access to and from the site and will place pedestrians, including young children, families and the elderly, at risk of harm.</p> <p data-bbox="718 1101 1491 1130"><u>No pedestrian or cycling access to the Village or surrounding area</u></p> <p data-bbox="718 1162 1890 1373">The proposal completely disregards the clear intent and directions set down by key strategic plans applicable to the area, all of which repeatedly emphasise the importance of new developments reducing car dependence and providing connected communities with safe and comprehensive cycling and pedestrian access. The DA provides no commitments to facilitate non-vehicle access to the Village or nearby key attractions, such as local beaches. It merely notes that the nearest bus stop is 1.2 km away, but conveniently fails to recognise that it is along a narrow, 90 km/hr road with no footpath, safe verge, or suitable place to park and leave a car in order to catch the bus.</p>

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	<p>This lack of connectivity will not only exacerbate the vehicle dependent nature of the development; it will also entrench both its physical separation from the Village and the social segregation of new residents from the existing community. This is a poor outcome that will impact social cohesion in the medium to long term.</p> <p>In addition, it does nothing to support the widely recognised need for ageing members of the community to have opportunities to enjoy physical activities in a range of ways, to support improved health outcomes and reduced risk of a range of diseases associated with a sedentary lifestyle. According to the Australian Government, for example, walking is the most popular recreational activity for both males and females in the over-55 age groups, and cycling is the third most popular for men between 55-64³⁰.</p> <p><u>Pedestrians at risk</u></p> <p>As noted in the discussion about traffic above, DA 233/2022 will drive an extraordinary increase in vehicles entering and moving around the Village, shops and beaches. This will immediately increase risks to safe pedestrian movements, particularly given the long, steep nature of roads into the Village which end in tight, limited sight curves.</p> <p>In summer and other peak periods, that risk will grow drastically as visitors and tourists unfamiliar with the layout of the Village and locations of concern swell the already expanded local resident population. During these peak periods, young children regularly roam on bikes, skateboards, scooters and on foot. That is currently possible because overall traffic volumes are largely manageable, and it is part of the special character of the place that children are able to experience such freedoms in relative safety.</p> <p>However, if the development proceeds, the prospect of safe pedestrian movement will be diminished in these popular parts of the Village. Despite this, the Traffic Impact Assessment dedicates no attention to considering these risks or how they may be mitigated by traffic calming or other measures. Again, this is a significant deficiency in the DA assessment given that these increased risks will arise as a direct consequence of the project.</p>

³⁰ https://www.sportaus.gov.au/media-centre/news/australias_top_20_sports_and_physical_activities_revealed

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<p>Utility infrastructure - water, sewer, energy, stormwater, internet, etc</p>	<p>The DA (EES), and accompanying Water and Sewer Servicing Strategy, is deficient and inadequate and fails to meet the required level of investigation for a development of this scale and servicing complexity. It assumes that the provision of water and sewer is merely a technical engineering matter that can be resolved at a future (construction certificate stage) of the development, thereby ignoring the statutory requirement to assess the full “environmental” impacts of essential service provision to the site - which in accordance with the EP&A Act also requires consideration of the social and economic impacts of these aspects of the proposal.</p> <p>The provision of sewer and water to the site - and the impacts and consequences of doing so - cannot be “kicked down the road” for another day to consider. This is a clear example of “project-splitting” in order to disguise the true overall consequences of a development.</p> <p>The ability to resolve water and sewer supply issues is fundamental to whether the development is feasible, appropriate and the environmental, social and economic impacts are acceptable. The servicing strategy is also critical to the provision of water and sewer services to the existing community - given current water pressure limitations, the ageing condition of the water reservoir, known sewer capacity constraints, and an existing recorded pattern of non-compliance at the Scotts Head sewage treatment plant (STP).</p> <p>In addition, adequate water supply and pressure are essential to meet emergency needs - particularly during bushfire events, This issue is absolutely critical for the DA to address - both in relation to the provision of fire hydrants and booster pumps within the development site and iron-clad demonstration that sufficient supply and pressure will be available for fire-fighting purposes in the existing Village.</p> <p>The DA must include a full, upfront, transparent assessment of the complete suite of impacts associated with servicing the site so that the overall cumulative impact of the development can be considered. The provision of water and sewer services are not just an engineering challenge nor are they merely ancillary elements of the project - they involve “impact” questions that it is the role of the DA to address.</p> <p>The DA should be refused on the basis that it does not do this, and noting the inadequacies of the current assessment, the range of unresolved risks and impacts that would arise from servicing the site.</p> <p>The following specific comments are provided.</p>

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	<p><u>No clear preferred option</u> The DA fails to put forward a firm proposed option for either water or sewer servicing. The Water and Sewer Servicing Strategy canvasses a range of options in both areas, but also fails to fully investigate the complete environmental, social or environmental impacts of any of these.</p> <p>The only part of the assessment that comes remotely close to such an assessment is Table 6 in the Strategy, which is a brief, cursory overview of potential impacts associated with the four sewer options. That table also states that the detailed assessment would occur through a future Review of Environmental Factors; again a clear indication of undesirable project-splitting.</p> <p>The lack of clear preferred water and sewer options is unreasonable and inconsistent with best practice environmental assessment for a development of this scale where: the development cannot proceed without guarantee of supply; and where the provision of services has direct off-site implications to the existing community, existing services and Council resources.</p> <p><u>Reliance on other unapproved developments</u> The Servicing Strategy (page 23) indicates that water supply option 1 is “likely” to be preferred. However, it also states that this is reliant on the development of Lot 4 DP 1277973, which involves land and future developments completely unrelated to the current DA 233/2022.</p> <p>This is an unreasonable position and it is untenable for the DA to contemplate this. There is no guarantee that the development of Lot 4 will ever proceed, and even if relevant consents were granted to do so, the timing of such development and its water servicing requirements are unknown at this stage.</p> <p>Water supply to service DA 233/2022 cannot therefore be assumed to be resolved by an as yet undetermined and unknown outcome for other, unrelated developments. The obligation is on the applicant for DA 233/2022 to demonstrate that a fully assessed and costed water supply service can be delivered to the site without reliance on other such developments. The indicative identification of water supply option 1 as preferred is therefore irrelevant and should be discounted.</p> <p><u>Physical/direct impacts of options not adequately assessed</u> As noted above, the DA and Servicing Strategy briefly canvass a range of options for water and sewer supply. No detailed or specific information is provided about the physical environmental impacts of construction including risks to soils (acid sulfate), dewatering needs, downstream water bodies, traffic impacts (road closures etc), or impacts to neighbouring residents during extended</p>

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	<p>construction.</p> <p>These are all impacts that must be considered in the DA but have not been.</p> <p><u>Technical feasibility and impacts to existing supply and services</u></p> <p>The Servicing Strategy records deficiencies in the operation of the existing water and supply systems in Scotts Head, and that the proposed development will exacerbate these:</p> <ul style="list-style-type: none"> • “NVC have noted capacity limitations exist within the existing network” (page 7) • sewer lines are currently exceeding capacity (page 11) • “There are many areas which do not currently meet the minimum pressure targets. These deficiencies would be further exaggerated from any development” (page 23) • “large areas of the Scotts Head network do not meet the typical pressure and flow requirements” (page 24) <p>The Servicing Strategy asserts that the development can provide water supply to the site without reducing existing minimum water pressures and flows in the network, provided that upgrade works are completed (page 24). It also states that the water servicing option will be influenced by the sewer servicing option (page 4).</p> <p>The Strategy does not discuss in any detail the implications of the development needs to the existing water reservoir (which is known to be ageing and faces significant upgrade or replacement at some point in the future), or the existing Scotts Head sewage treatment plant (STP). The STP is also known to face existing operational challenges, particularly during peak tourism periods, and will likely require significant future investment to meet required standards.</p> <p>The existing STP already regularly fails to meet current standards. As noted in Table 3 of this submission (above):</p> <ul style="list-style-type: none"> • every year since 2008, there has been a reported non-compliance with various requirements of the EPA licence for the plant https://apps.epa.nsw.gov.au/prpoeoapp/Detail.aspx?instid=2564&id=2564&option=licence&searchrange=general&range=POEO%20licence&prp=no&status=Issued) • the latest annual returns to the EPA show that the volume limit of the plant was exceeded on seven occasions https://apps.epa.nsw.gov.au/prpoeoapp/Detail.aspx?id=2564&periodid=65737&searchrange=general&option=noncompliance&range=POEO%20licence).

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	<p>In relation to sewer supply, it is noted that the Servicing Strategy refers to an ongoing regional assessment by NSW Public Works to “assess servicing requirements for future development within Scotts Head” (page 9). The SHCG contends that until that assessment is completed then it is not possible to make an informed decision on the current DA 233/2022.</p> <p><u>Fire implications</u></p> <p>The DA and Servicing Strategy do not sufficiently demonstrate that critical water supply and pressure needs will be met at the site during a bushfire event, or that solutions to supply water to the site will not adversely impact fire supply in the existing Village. Given the future predicted risks of extreme weather and bushfire on the north coast, this is an issue that cannot be glossed over.</p> <p>There is also inconsistency between the technical reports accompanying the DA. The Bushfire Assessment Report (page 17), for example, states that the “<i>proposed water supply is considered adequate</i>”. However, the Water and Sewer Servicing Strategy (page 25) advises that it is “<i>expected that on site fire boosting and possible tanks will be required due to the higher flow requirements associated with the development</i>”. These uncertainties must be reconciled by the applicant; sufficient supply and water pressure for fire fighting purposes must be clearly demonstrated.</p> <p><u>Who pays?</u></p> <p>Neither the DA (SEE) or the Water and Sewer Servicing Strategy provide any upfront or ongoing costings for:</p> <ul style="list-style-type: none"> • any of the canvassed or preferred options for water and sewer supply, or • any of the related works that may arise as a result of the development for the water supply reservoir or the Scotts Head STP. <p>Similarly, there is no indication of the proposed apportionment of these total costs between the applicant and the community (i.e. costs to be borne by the Council and hence via ratepayers).</p> <p>This is an extraordinary omission as it goes directly to the social and economic costs of the development and the issue of whether there is a fair and reasonable approach to cost-sharing, or whether a disproportionate burden for infrastructure costs will fall on the existing rate paying community. This issue is further considered in this submission below, with respect to the social and economic impacts of DA 233/2022.</p>

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	<p>For now, it is noted that Nambucca Council has already identified the inequities in development contributions and rate contributions that are associated with these types of developments³¹. The SHCG is concerned that these inequities will also arise if DA 233/2022 is granted consent.</p> <p><u>Overall</u></p> <p>The DA appears to be based on a bare minimum “plug in and walk away” model. That is, it assumes that the development can simply plug into the existing water and sewer systems, with only minor upgrades needed, and that this will be sufficient. It ignores the implications of the development for the underlying structure of these networks - namely the water reservoir and STP - and any necessary upgrades (and the feasibility of doing so) for these. It also conveniently ignores the costs associated with any necessary works or ongoing maintenance, or discussion of who would pay for these.</p> <p>This approach is deficient and means that the true cumulative impact of the development is not accounted for.</p>
IMPACTS - SOCIAL	
Community engagement	<p>There has been minimal, tokensistic and ineffectual community engagement and consultation in the lead up to the lodgement of DA 233/2022. The lack of direct discussion with local Aboriginal community representatives, including on-site and on-Country, about potential risks to their cultural heritage, is an omission and deficiency of particular significance.</p> <p>The DA documents suggest that an “extensive community and stakeholder engagement program” was undertaken. This is inaccurate and misleading and the SHCG considers it important to set the record straight to avoid any implied suggestion that the community has been consulted and is supportive of the project in any way.</p> <p>The following comments are provided with respect to consultation with the SCHG and the residents of Scotts Head:</p>

³¹ Council business papers 13 January 2022, Item 9.9 - Financial Implications of Manufactured Home Estates.
https://www.nambucca.nsw.gov.au/bps/Open/2022/01/CO_13012022_AGN_1181.PDF

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	<ul style="list-style-type: none"> the DA (SEE, page 5) is clear that master planning for the site has been underway at least since November 2020 yet the first engagement with the SHCG did not take place until more than a year later on 7 December 2021 at an informal meeting, where Ingenia representatives were unable to share any information on the specific site, size of the development, or planning assessment pathways after repeated requests from the SHCG to share more information with the community, on 23 December 2021 (two days before Christmas) Ingenia established a website and invited people to register to receive more information about the proposal, but at the time did not actually provide any such information on 17 February 2022, Ingenia eventually provided basic information about the proposed development on the website, almost two months after the so-called “Consultation Hub” was launched on February 19 2022, Ingenia hosted a community information day at the Surf Club in May 2022, social impact consultants for Ingenia attended a meeting with a small group of SHCG members those same consultants also undertook a survey or interview with community members and groups, businesses and the Council, which elicited a total of 36 stakeholders “consulted”. <p>At no stage has there been an opportunity for the community to be consulted on the specific details of the project or the development site. This has been left to the statutory exhibition period. During this period, a request by the SHCG for access to be provided for a planning and biodiversity expert to access the site was also denied. This means that while the applicant and their consultants had full access to the site, the community has had to rely on desktop assessment and review of complex technical appendices to the DA to prepare comments on the proposal. This is clearly not a level playing field.</p> <p>In addition, as identified in the DA documents: “No Aboriginal groups were contacted” during preparation of Aboriginal Due Diligence Assessment (page 1). As discussed in this submission (above) that is an extraordinary omission, that is disrespectful to the Aboriginal community and incomprehensible given that same report acknowledges the proximity of the development footprint of DA 233/2022 to a large site complex within a culturally sensitive landscape of “immense cultural value to the Gumbaynggirr People” (Aboriginal Due Diligence Assessment, page 11).</p> <p>In contrast, and in the absence of genuine engagement by Ingenia with the community, the SHCG has taken active steps to fill this void, including:</p>

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	<ul style="list-style-type: none"> • community briefing sessions for over 100 people on 25 January 2022 • a community rally and information event on 19 February (the same day as the Ingenia community information day) • establishment of a website with information about the proposal, the planning assessment process, and how community can have a say - supported by Facebook and Instagram postings • correspondence and advocacy to Council and elected representatives • multiple letter-box drops, articles in the local community newsletter, and emails • weekend information stalls during the DA exhibition period • media stories and event • a community survey with 238 responses, which showed that 81.5% (194) opposed the Ingenia proposal. <p>During these actions the SHCG has always aimed to present the facts and evidence about the proposal, so that people are informed and can make up their own minds about the merits of the DA.</p> <p>If these actions had not been undertaken by the SHCG, the broader community would have remained ill-informed and unaware of the opportunities available to them to participate in the planning decision-making process.</p>
Community services - health	<p>The development proposal will place significant, unacceptable and unmitigated strain on the full spectrum of medical services across the Nambucca Valley - including GPs, specialists, allied health professionals, ambulance response times, and hospital capacity. This is not only unreasonable and unconscionable, it risks the health and well-being of both the existing and proposed resident population.</p> <p>The dire state of rural and regional health care across NSW is well known and does not need to be presented or re-prosecuted in detail here. See, for example, the recent NSW Parliamentary report into health outcomes and access to services in rural, regional and remote areas³².</p> <p>For the NSW north coast, and Nambucca Valley, the following are salient and sobering points:</p>

³² <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2615#tab-reportsandgovernmentresponses>

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	<ul style="list-style-type: none"> • according to the North Coast Health Needs Assessment 2022-2025³³ <ul style="list-style-type: none"> - the highest proportion of population growth will be in the over 65s group, who will continue to be the highest proportion of the overall population (page 15) - for the Nambucca Valley, there will be an increase of 18% in over 65s by 2026 (page 16) - Nambucca is in the top 5 of LGAs for socio-economic disadvantage, which is a key determinant of health (page 17), and is ranked 10th in NSW (page 19) - in 2020-21 the North Coast region had the highest rate per 100 people for GP Chronic Disease Management Plan services in Australia, with 25% of the population needing this service (page 27) - the rate of death from kidney disease in over 75 males was the second highest in Australia (page 27), 28% of those surveyed experienced arthritis (page 28), the region had the 10th highest hospitalisation rate in Australia for cardiovascular disease (page 29) and the highest rate of melanoma in Australia (page 41) - 32% of people in the north coast over 45 had three or more long-term conditions, the 3rd highest rate in Australia (page 71) - almost 20% of adults in the region reported having to wait longer than acceptable times to get a GP appointment (page 73), with 64% stating they had stopped or delayed getting health care because it took too long to get an appointment (page 105) - the region had the highest percentage of people over 45 who said the main reason for visiting a hospital emergency department was because a GP was not available (page 75). That is consistent with previous survey data showing that in Nambucca 59% of people surveyed reporting difficulties in accessing a GP³⁴ - the region has a high percentage of people likely to require aged care services (page 86) but a lower availability of residential aged care than needed (page 91) - there is a significant maldistribution of the healthcare workforce across the region, with most concentrated in larger centres such as Coffs Harbour (page 96) - Nambucca LGA had 3 GPs per 1,000 people, the second lowest in the region (page 97), and one of the lowest rates in the region for medical specialists (page 98) and allied health professionals (page 102)

³³ https://hnc.org.au/wp-content/uploads/2022/06/Healthy-North-Coast-Health-Needs-Assessment-2022-2025_APPROVED-20220607.pdf

³⁴ North Coast Primary Health Network - General Population Needs Assessment 2018, https://hnc.org.au/wp-content/uploads/2019/03/E.-General_Population_NeedsReport_Nov18.pdf pages 16-17

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	<p>The critical issues with respect to DA 233/2022 are what impact will the proposal to locate up to 561 permanent over-55 residents (with 90% likely to be over 61 and more than 50% over 71 - Social Impact Assessment, page 46) have on medical services and can these be successfully mitigated? It is the view of the SHCG that the impacts of the DA will be adverse, significant, enduring and unmitigated.</p> <p>The following comments are provided:</p> <ul style="list-style-type: none"> • the rapid increase in the over-55 population at Scotts Head will severely strain already limited medical services, impacting access to health providers for both existing and new residents • this will exacerbate the existing health care challenges associated with the levels of socio-economic disadvantage in Nambucca LGA, as those on lower incomes and already experiencing difficulties in access to health services will be “crowded out” by the influx of higher income, over 55s • many existing GP services in Nambucca are not only closed to new patients, but have doctors that are close to retirement age or experiencing significant difficulties in attracting new doctors • Macksville Hospital is considered to be at “full capacity most of the time” and frequently transfers patients to Coffs Harbour as a result (DA 233/2022, Social Impact Assessment, page 29) • the Social Impact Assessment: <ul style="list-style-type: none"> - ranked the impact on access to existing emergency services as a medium social impact of moderate magnitude (page 55) - recognised that it was “evident that any increase in the resident population will place additional strain on local health and medical services” (page 57) - identified reduced access to local health services as having a medium social impact of potentially moderate magnitude (page 57). <p>Given the clear evidence about the perilous state of health services across the Nambucca Valley and Mid-North Coast, the SHCG contends that the conclusions of the Social Impact Assessment for DA 233/2022 do not reflect the true consequence of a rapid increase of up to 561 additional over-55s into the community. Instead, the impacts should have been identified as having high to very high social impacts of significant magnitude.</p> <p>It is also not appropriate to downplay the consequences of the development on the basis that</p>

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	<p>problems in access to health care are occurring everywhere (Social Impact Assessment, page 57). To do so is a “cop-out” and an attempt to distract attention from the fact that this development in and of itself will have direct and significant adverse outcomes for health care accessibility in the community.</p> <p>The only mitigation measure provided proposed by the applicant - the provision of empty consulting rooms - is manifestly inadequate to address the direct impacts that will arise from the development. The statement in the DA that “Ingenia is undertaking dialogue to increase the capacity of local medical services” (SEE, page 6) is hollow and condescending. Even if a GP service is provided on-site, the proposed preferential access for new residents (SEE, page page 33) is unreasonable and potentially divisive.</p> <p>The SHCG considers the unmitigated impacts to health services to be one of the critical, primary deficiencies of the DA - providing a core reason to refuse consent.</p> <p>In the event that the planning authority does decide to grant development consent, the SHCG contends that it should be subject to strict conditions of approval to address the increased demand for medical services. This is further discussed in Part D of this submission.</p>
Community volunteers	<p>The proposal will place significant pressure on community volunteers, particularly emergency first responders that will be expected to place themselves in harm’s way to protect and possibly rescue a resident population of up to 561 over-55s (plus their visitors and guests) in a high risk bushfire location that also experiences regular road access impacts due to floods.</p> <p>Local community members undertake critical emergency first responder roles, typically through their work for the RFS or SES. That includes bushfire fire-fighting and evacuation, flood rescue, and on occasion as first responders to vehicle accidents. All of these events can be traumatic and life-changing for community volunteers. The role of volunteers and the need to provide adequate support and resources was recognised during the NSW Bushfire Inquiry and the Natural Disasters Royal Commission, which followed the Black Summer bushfires of 2019/20.</p>

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	<p>If it proceeds, DA 233/2022 will locate a high density population of up to 561 over-55s in a site of known bushfire risk and on land where road access is frequently cut due to floods. It is unreasonable and unacceptable to place community emergency service personnel at risk when such events occur in the future. They should not be expected to place themselves at risk of injury or loss of life to mitigate the effects of poor development and planning decisions, especially when the risks of such decisions are clearly foreseeable.</p>
<p>Housing mix, affordability and need</p>	<p>DA 233/2022 will do nothing to address the affordable housing or rental crisis, which is acute on the Mid and North Coast of NSW. It locks out people under 55 who are desperate for housing and will only be available for those over-55s who are fortunate to have sufficient resources to buy in and then pay the ongoing site fees; essentially downsizers who already own a home.</p> <p>The DA (SEE, pages 76-77) recognises that housing in Scotts Head, like many coastal areas, is in demand and that house prices are rising. This lack of affordability is a widely recognised issue and is not unique to Scotts Head. It also acknowledges the increasing demand for, and apparent popularity of over-55 developments of the land lease model proposed by DA 233/2022.</p> <p>The current proposal will not alleviate housing affordability problems in the area; it will only entrench and exacerbate existing housing disadvantage. In addition, merely because there is demand for over-55s housing does not provide sufficient justification for the proposal to proceed. As discussed in depth elsewhere in this submission, the intended development site is inappropriate for the type and scale of development proposed - it is heavily constrained, will suffer a wide range of adverse environmental and social consequences, and is fundamentally the wrong proposal on the wrong site.</p> <p>The following specific comments are provided:</p> <ul style="list-style-type: none"> the development excludes and discriminates against large sections of the housing market that are known to be desperately seeking accommodation opportunities and are essential to building balanced viable communities. That includes young families, tradespeople, teachers, emergency service workers, aged care workers, medical professionals, and others in a range of service industries the cost of housing also excludes those over-55 on lower incomes. As discussed above, in a comparable Ingenia development at Anna Bay, the median dwelling price in 2021 was

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	<p>\$770,000 and some sold for as much as \$900,000. Because the land lease model requires residents to also pay an ongoing site fee, it means that only those over-55s with sufficient upfront and ongoing resources will be able to afford to buy in</p> <ul style="list-style-type: none"> • there is nothing in the DA that suggests that housing will be “affordable” within the meaning of the Housing SEPP, which defines income and rent thresholds for very low, low and moderate income households • the DA (SEE, page 76) admits that dwellings will be targeted at “out of area buyers”, meaning it will do nothing to improve supply for local people over 55. Despite this, the SEE also makes the unsubstantiated claim that this will somehow mitigate further price increases in the existing available housing market • the local community survey in April 2022 clearly shows that the vast majority of existing local over-55 residents - 84.5% (120) of relevant respondents - said they would never or were unlikely to consider selling their existing home to purchase a dwelling in the Ingenia development (Appendix A to this submission) • existing research shows that the benefits of the land lease model fall primarily to the developer and site operator, while residents bear the risks³⁵ • the proposal is inconsistent with, and fails to deliver on, the objectives for affordable housing supply set out in the North Coast Regional Plan and Nambucca Local Strategic Planning Statement (Part B of this submission) • the need for this scale of additional housing in the Scotts Head area is not demonstrated. According to the DA, approximately 1,000 new dwellings for over 65s will be needed across the whole of Nambucca Valley LGA by 2041 (Social Impact Assessment, page 54). Yet this one DA proposes to provide more than 25% of that need in one, inappropriate location within several years. <p>In short, DA 233/2022 will create an isolated, gated enclave occupied by well-off downsizers. It will deliver no additional affordable housing for purchase or rent, and will skew the demographic mix with</p>

³⁵ see for example:

- Towart and Ruming (2020) *Retirement housing on wheels: Is it as affordable as it says in the marketing brochure?*, at: <https://thefifthestate.com.au/innovation/residential-2/retirement-housing-on-wheels-is-it-as-affordable-as-it-says-in-the-marketing-brochure/>
- Towart and Ruming (2021) *Soaring housing costs are pushing retirees into areas where disaster risks are high*, at: <https://phys.org/news/2021-05-soaring-housing-retirees-areas-disaster.html>
- Towart and Ruming (2021) *Manufactured home estates as retirement living in Australia, identifying the key drivers*, at: <https://www.tandfonline.com/doi/abs/10.1080/19491247.2021.2007567?needAccess=true&journalCode=reuj20>

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	<p>resulting adverse social consequences in both the immediate short-term (such as strain on medical services) and over the medium-long term (increased demand for aged care services, in-home support etc).</p> <p>In short, if DA 233/2022 proceeds it will have detrimental housing and social consequences for Scotts Head.</p>
<p>Incident management and emergency planning/response</p>	<p>The DA fails to adequately address the bushfire risks associated with locating a high density, permanent population of up to 561 over-55 residents (with up to 641 vehicles on site) in a known area of bushfire prone land. No emergency or evacuation plan is provided and fire risk present in the locality is downplayed.</p> <p>This issue is discussed in more detail elsewhere in this submission [Part C1(a)],</p> <p>As an additional comment, it is noted that the Scotts Head community is rated by the Australian Disaster Resilience Index³⁶ as having:</p> <ul style="list-style-type: none"> • a low resilience to disasters, and • low adaptive and coping capacity to disasters. <p>This means the community is limited in its capacity to cope with adverse events for a range of reasons. The addition of the population anticipated by the development proposal will do nothing to improve community resilience to disasters and has the potential to exacerbate this situation by placing additional, unmitigated pressure on emergency management systems.</p>
<p>Population growth and demographic change</p>	<p>The scale and pace of population growth caused by DA 233/2022 will have dramatic, irreversible, unjustified and unacceptable impacts to Scotts Head and the surrounding areas. The consequence will be a “very high social impact” of “transformational magnitude” (Social Impact Assessment, page 45), with a clear, dominant majority of the population being over 50 in a short period of time. Mitigation measures proposed in the DA - to “monitor and adaptively manage social impacts” (Social Impact Assessment, page 74) - are deficient and meaningless.</p>

³⁶ Natural Hazards Research Australia - Australian Disaster Resilience Index - <https://adri.bnhcrc.com.au/#/>

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	<p>The population related impacts from DA 233/2022 have been extensively discussed at various points in this submission.</p> <p>To summarise the key concerns:</p> <ul style="list-style-type: none"> • the quantum of change - up to 62.4% increase - and speed of that change - within only several years, will have drastic outcomes for Scotts Head and the broader Nambucca Valley, including: <ul style="list-style-type: none"> ○ exacerbating long-standing problems with accessing medical and ancillary services across the LGA ○ additional wear and tear on local roads (which are already in very poor condition), and pressure on car parking, pedestrian safety and amenity in the Village ○ additional demands on already stretched or over-capacity utility infrastructure ○ a skewing in the demographic composition of the local population (see below) ○ impacts to social cohesion and the sense of community. <p><u>Speed and size of change</u></p> <p>The scale of the population change is inherently disproportionate to the existing size of Scotts Head, and the long-held planning controls in place to protect the coastal village character of this place. As demonstrated in Appendix C to this submission, the relative size of the development and resulting population growth is vastly beyond any other similar, regionally based Ingenia projects in NSW. In practical terms that means, unlike larger towns that are more readily able to accommodate developments of this scale with minimal adverse impact, the proposal at Scotts Head will have direct, demonstrable adverse social impacts.</p> <p>The measures proposed in the DA to mitigate these very high impacts of transformational magnitude are vague and essentially meaningless. It is unclear what mitigation benefits would be achieved by monitoring such impacts or what could feasibly be done to “adaptively manage” these (Social Impact Assessment, page 74). Similarly, it is unclear what types of “practical mechanisms for community collaboration” are envisaged, or how such an approach would build transparency, trust and facilitate integration of new residents (page 74).</p> <p>In short, if DA 233/2022 proceeds, the scale, speed and mix of population change will forever change Scotts Head, in ways that are adverse to the existing community, tourists and visitors to the area, and to future residents. The only benefits of such change accrue to the applicant - via profits</p>

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	<p>from the sale of dwellings and ongoing site fees from residents obtained under the land lease model.</p> <p><u>Demographic mix will be distorted</u></p> <p>The DA ranks demographic change as a “low social impact” due to most existing residents being in the 55+ age group (Social Impact Assessment, p.46). This conclusion is flawed for the following reasons:</p> <ul style="list-style-type: none"> • by the applicants own admission (Social Impact Assessment, page 46), 92% of residents across Ingenia properties are 61 and over • using data from the 'Scotts Head State Suburb' census unit (2021), 53.2% of the existing population in Scotts Head is over 50 years, compared to 35.8% for NSW and 35.4% for Australia • with up to 561 extra residents moving to the area as a direct result of the DA, the dominance of the over-50s population in Scotts Head will dramatically increase in only several years • conversely, the proportion under 50 years old will significantly drop from the existing level of 46.7% (2021 census). <p>This rapid demographic shift is dramatic and should be of concern to the planning authority and other agencies responsible for the delivery of essential services. As discussed above, it will lead to overwhelming pressure on an already strained medical system. It will also affect community cohesion, wellbeing, workforce availability, aged care, demand for primary schools, and so on. The end result will be a significant shift from the current, reasonably balanced demographic mix that supports a thriving, connected and welcoming community, to one where services are at risk of collapsing from over-demand, people are immobile and ageing in place, and the necessary workers to provide services for an ageing population are diminishing or non-existent.</p>
<p>Resident isolation and social cohesion</p>	<p>The development will establish an isolated, segregated enclave of up to 561 over 55s, with minimal connection to the existing community. It will be highly car-dependent, lock out existing local residents and promote an “us versus them” scenario that does nothing to build cohesion but undermines the existing strength of the community.</p> <p>DA 233/2022 is located on an isolated site, separated from the Village by distance, gated exclusion areas, and a fundamental lack of public transport and safe pedestrian and cycle access. It will establish an out-of-character, high density and car dependent outpost that is disconnected from the social fabric of the Village and surrounding areas.</p>

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	<p>The Social Impact Assessment (page 47) recognises that the development may create division in the community and rates the social impact as medium. The SHCG is of the view that it will indeed create division, with resentment likely to be generated because of the transformational change brought by the scale and pace of population growth (Social Impact Assessment, page 45) and the diminution of the low, key coastal character of the place due to more people and more cars. Similarly, there is likely to be ongoing resentment at the differential and inequitable requirements that apply to “caravan parks” with respect to development contributions and rate payments, which will be seen by many as the existing community effectively subsidising new residents.</p> <p>The depth of community concern about the impacts on social cohesion is already clear:</p> <ul style="list-style-type: none"> • an April 2022 survey of 238 people showed that 81.5% opposed the development, with almost 80% listing impacts to the sense of community as a key concern (Appendix A of this submission) • a community petition expressing concern at the negative impacts of the proposal was signed by 272 people (Appendix B of this submission). <p>As discussed elsewhere in this submission, the proposal to monitor social impacts and adaptively manage social these (Social Impact Assessment, page 74) is nonsensical and meaningless. Even if best practice monitoring systems were in place, it is unclear what practical steps Ingenia would be able to take to actually mitigate observed impacts. An “open day” and a “Good neighbour welcome program” (Social Impact Assessment, page 69) are tokenistic attempts at mitigation at best.</p>
Safety, security and crime prevention	<p>The proposal will result in a range of unmitigated risks to the new resident population, with flow-on consequences to community emergency services and related volunteers.</p> <p>Issues related to the proximity of the site, and the risks of placing an over 55s development of up to 561 people, and their visitors and guests, in a high bushfire prone and flood access affected location have already been canvassed elsewhere in this submission.</p> <p>As an additional comment, it is noted that a sudden and rapid influx of over 55s will also place pressure on the capacity of surf life saving services to cope. During peak summer periods, this will place specific pressure on services, which are largely volunteer based. If the development proceeds, conditions must be applied in order to support the provision of extra paid, professional life saving</p>

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	<p>staff during peak periods and critical, publicly accessible equipment such as rescue devices and defibrillators.</p> <p>It is also noted that a potential 62% population increase will increase demands on local police resources, yet this has not been discussed in the DA.</p>
Village character	<p>The development will irreversibly and adversely alter the character of Scotts Head Village. It will impact the very values that attract people to the area in the first place; the uncrowded beaches, parks, amenity and relaxed-pace of life that make Scotts Head unique as one of the last small, compact, accessible and welcoming places on the NSW coast. It will undermine and ultimately destroy the coastal village character and heritage of this place.</p> <p>The character of Scotts Head is unique - it represents one of the last places on the NSW coast to retain the feel and sense of place that is associated with a small, low-density, compact coastal village. While other parts of the NSW coast have succumbed to the pressures of over-development, Scotts Head has maintained the relaxed, coastal character that is highly prized by the Nambucca Valley community and makes it such a drawcard for holidaying locals from Macksville and surrounds, travelling grey nomads, families and tourists in general.</p> <p>The importance of protecting this character has long been recognised and supported by strategic plans and planning controls. For example, the Nambucca Local Strategic Planning Statement (LSPS, pages 26-27) states that:</p> <ul style="list-style-type: none"> • Scotts Head is a highly desirable place to live and visit and there is therefore some risk that new development could damage the low key, relaxed character of the village that attracts people in the first place • planning for Scotts Head should therefore aim to retain the lower density feel and connections to the public foreshore areas. <p>Similarly, the Nambucca DCP (2.4.2) states that the desired future character of any development for Scotts Head should:</p> <ul style="list-style-type: none"> • support and enhance its seaside village character and seek to maintain its high quality natural environment when designing new residential areas.

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	<p>The DA is inconsistent with the existing and desired character statements for Scotts Head. The high, density and car-dependent nature of the Ingenia development will have a direct, adverse and irreversible impact on the highly valued small, coastal character of Scotts Head Village.</p> <p>If it proceeds, the development of 255 dwellings, up to 561 people (62% increase), and up to 641 vehicles, will severely degrade and ultimately destroy the small coastal village character of Scotts Head, impacting its prosperity, vibrancy and social cohesion. This is recognised in the Social Impact Assessment, which concludes that:</p> <ul style="list-style-type: none"> the high and rapid population growth caused by the development will have a “very high social impact” of “transformational magnitude” (page 45), and the project will have a “high social impact” related to impacts to current residents’ “sense of community” (page 48). <p>There is no mitigation proposed or available for these impacts - it will simply mean the end of Scotts Head as a “village”.</p>
IMPACTS - ECONOMIC	
Economic and employment	<p>Any purported economic or employment benefits from the proposal will be short -term (at best), minimal, deliver no lasting gains, and will be significantly outweighed by the extensive suite of environmental and social impacts caused by DA 233/2022.</p> <p>The assessment of economic impacts accompanying the DA is narrow in its scope and selective in its approach. It fails to consider potential economic impacts to:</p> <ul style="list-style-type: none"> existing tourism business and accommodation providers, that would flow from the impacts of DA 233/2022 to the very attributes that attract visitors and tourists in the first place (such as the relaxed coastal village character and pace of life, low density amenity, low traffic volumes, ready and safe access for families and children, etc) ratepayers and Council, associated with the costs of subsidising infrastructure provision to the site which arise from inequitable developer contributions and rating systems for “caravan parks” existing and new residents, resulting from increased competition and decreased access to limited medical services, which will cause increased wait times, travel, and poor health

ISSUE	ASSESSMENT / COMMENT
	<p>outcomes (which in turn places more pressure on the health system)</p> <ul style="list-style-type: none"> the community generally, arising from longer term issues with up to 561 extra over 55s, ageing in place and with high service needs, but an unbalanced demographic mix that lacks the necessary under-55s workforce to meet those needs. <p>These, and other impacts, would have been more appropriately considered in a comprehensive cost-benefit analysis, rather than a narrow economic impact assessment.</p> <p>The assessment that has been undertaken for the DA presents a rosy, but unrealistic, picture of the benefits of the proposal. That includes in the areas of economic output, gross regional product, and employment. On this last point, the claims of local jobs are lacking in evidence; there is no commitment from the applicant to actually employ local people, instead of merely importing a temporary contract workforce. Similarly, the claim that 74 FTE jobs would be generated via flow on expenditure related impacts during the operational phase is made without specific evidence, such as post-development analysis of comparable Ingenia projects.</p> <p>The primary economic justification in the DA appears to be that because there is demand for housing (which there is), then this development should proceed. That is a shallow argument, which fails to recognise that the limitation on over 55s and the expected dwelling costs for this development mean that it will neither be affordable or accessible to key groups in the community that are experiencing a lack of housing supply.</p> <p>The following comments are also provided:</p> <ul style="list-style-type: none"> the analysis (page 7, Economic Impact Assessment) indicates that the area has significant socio-economic disadvantage (in the bottom 13% percentile nationally). The DA will do nothing to alleviate this future housing supply across Nambucca is sufficient to meet demand until 2014 (page 14, Economic Impact Assessment). This undermines arguments in favour of adding 255 new dwellings for over-55s, noting that according to Council's LSPS there are already 174 residential lots in Scotts Head zoned available for housing development there are almost 600 medium density and seniors dwellings, in the Nambucca development pipeline, accounting for 46% of the total pipeline (page 14, Economic Impact Assessment). That indicates there is plentiful supply of suitable housing for over-55s the assessment (page 15) states that the proposal could "play an important role in meeting demand from non-local buyers and mitigate further price increases in the established

ISSUE	ASSESSMENT / COMMENT
	<p>housing market". However, it is unclear whether an increased supply simply meets increased demand, at a time where prices are already rising, and how that would mitigate price increases</p> <ul style="list-style-type: none"> the development is targeted at older, out of area buyers (page 15, Economic Impact Assessment), meaning it has no benefit in improving supply for local purchasers the assessment does not factor in the impacts of peak holiday periods and visitor demands in terms of retail floorspace requirements the total construction cost is estimated at \$155.3 million (page 33, Economic Impact Assessment) yet the DA application only states that the cost is \$45.5 million.
Public funding/resources	<p>DA 233/2022 will result in significant financial costs to the community and Council. The burden of providing infrastructure to the site, services to support new residents, and the off-site impacts of a major growth in population will not be fairly shared.</p> <p>The financial and resource impacts of the proposal have been discussed at various points in this submission. In summary:</p> <ul style="list-style-type: none"> the DA does not fully account for the entire suite of costs that will be incurred to support the development. That includes: <ul style="list-style-type: none"> the incomplete assessment of the water and sewer servicing options for the site, and the implications of any upgrade needs for the existing water reservoir and sewage treatment plant upgrade and maintenance costs associated with additional vehicle traffic on local roads, and parking and pedestrian safety measures that may be required at popular destinations such as the beaches, bowling club and shopping area emergency services costs, including additional resourcing for the RFS, SES, surf life saving etc. <p>As a "caravan park" and "land lease" model of development, the proposal will not be subject to the same funding obligations for development contributions and rates that apply to standard residential developments. Based on prior analysis of similar developments by Nambucca Council³⁷, that will potentially mean there is both a significant funding shortfall upfront and in-perpetuity in the resources</p>

³⁷ Council business papers 13 January 2022, Item 9.9 - Financial Implications of Manufactured Home Estates.
https://www.nambucca.nsw.gov.au/bps/Open/2022/01/CO_13012022_AGN_1181.PDF

ISSUE	ASSESSMENT / COMMENT
	<p>available to Council to deliver essential physical and social infrastructure services.</p> <p>The end result will be either that Council cuts other programs to meet the shortfall or seeks to recoup the costs from the broader ratepaying community of Nambucca Valley. That is neither fair or equitable. It is unreasonable for the rest of the community to effectively subsidise this development - and it is an impact that the DA has failed to adequately identify and assess.</p>
Tourism and visitors	<p>The proposal will diminish the character and values of Scotts Head Village that attract tourists and visitors in the first place. It will reduce the attractiveness of the Village to the market, impacting local businesses and tourism operators.</p> <p>As noted above, the scale and rapid pace of population growth arising from DA 233/2022 will irreversibly damage the small-town, relaxed and safe character of Scotts Village.</p> <p>The traffic and overcrowding impacts of up to 561 new residents and up to 641 vehicles accessing the site and local area will diminish the tourism attractiveness of the Village. In turn, that will impact local businesses that rely on peak holiday period turnover, as it will no longer possess the characteristics that make it one of the most popular and safe family holiday destinations in the Nambucca Valley.</p>
Conclusion and cumulative impacts	<p>The adverse impacts of DA 233/2022 will be wide-ranging, deep and permanent. In contrast, the benefits are few, and are largely confined to the financial returns to be enjoyed by the applicant and short-term construction employment.</p> <p>Individually and cumulatively the impacts of the proposal warrant a decision to refuse development consent, taking particular account of the adverse, permanent and in many cases on-going outcomes for:</p> <ul style="list-style-type: none"> • Aboriginal cultural heritage • Biodiversity and the broader environment • Flooding, hydrology, and water quality • Hazard management (fire and flood) • Transport • Utility infrastructure provision • Community services (specifically health) • Community volunteers

ISSUE	ASSESSMENT / COMMENT
	<ul style="list-style-type: none"> • Housing mix and affordability • Population growth and demographic mix • Social cohesion • Village character • Public resourcing. <p>If the development were to proceed it would also establish an undesirable, ad hoc and unplanned precedent, potentially signalling opportunities for urban sprawl to extend further to the south and west of the existing Scotts Head Village. This would undermine the intent of the relevant strategic and statutory plans for this area and the North Coast more generally.</p>

g) 4.15 (1)(c) EP&A Act - Suitability of the site for the development

As set out and discussed at various points in this submission, DA 233/2022 is fundamentally the wrong development in the wrong location. It will have unjustified and unacceptable environmental, social and economic impacts and will irreversibly damage the unique, small coast village character of Scotts Head.

In summary, the **development is unsuitable for the site** because:

- it is inconsistent with the North Coast Regional Plan, which commits to a strategic investigation of the land south of Scotts Head Road before any decision is taken to make it available for development
- the rapid increase in the permanent population of Scotts Head by up to 62.4% will result in a “*very high social impact*” of “*transformational magnitude*” (Social Impact Assessment, page 45), with clear consequences for critical services such as medical care, and with no genuine means to mitigate these impacts
- its scale is entirely inconsistent with the nature of the surrounding coastal, rural and bushland landscape and is incongruent with the stated planning objectives of preserving the small-scale, coastal village character of Scotts Head
- it will impact culturally sensitive landscape values of Aboriginal heritage significance
- It will remove around 16 hectares of native vegetation, including from two endangered ecological communities and habitat for threatened plant and animals species, and has not demonstrated that it can proceed while avoiding or minimising biodiversity impacts
- it will accommodate up to 641 vehicles, which is more than the number of houses that currently exist in Scotts Head, with consequential impacts to local roads, accessibility and safety
- it is not accessible by any genuine public transport services, or safe pedestrian or cycle connections
- the feasibility of adequate water and sewer service supply to the site, including implications for the existing sewage treatment plant, has not been demonstrated
- it will expose up to 561 over-55 residents, and their guests and visitors, to significant risks arising from bushfires and flood affected road access, and unnecessarily place local community emergency services volunteers in harm’s way
- it will affect downstream water quality in Warrell Creek, including in areas proximate to protected coastal wetlands
- it will require significant infrastructure utility investment but without an equitable contribution towards costs from the applicant or future residents of the site.

h) 4.15 (1)(e) EP&A Act - The public interest

The granting of consent for DA 233/2022 would be inconsistent with the public interest, as informed by application of the principles of ESD (including but not limited to the precautionary principle) and consideration of the individual and cumulative impacts of the proposal.

The adverse and significant risks of the DA have been extensively discussed in this submission. In short, the key areas where the DA will have outcomes that fail to support the public interest are:

- impacts to Aboriginal cultural heritage values, including a ceremonial ground of “immense cultural value to the Gumbaynggirr people” (Due Diligence Assessment, page 11)
- loss of biodiversity, including endangered ecological communities and threatened species habitat
- impacts to downstream water quality, including in areas containing protected coastal wetlands
- placement of up to 561 over 55 residents on a site exposed to high bushfire risk and significant flood access limitations, with increased risk to community volunteers that would be called upon to assist in emergency situations (RFS and SES)
- establishment of an isolated and segregated community with no access to genuine public transport, pedestrian or cycle paths
- increased and unmitigated demands on already overburdened essential public health services
- rapid and significant population growth that will distort the demographic mix, with consequential impacts in a range of areas
- inadequately funded utility and road infrastructure requirements, that will require subsidising by the broader community
- housing that is neither affordable or accessible to most people.

The SHCG is therefore of the strong view that the evidence clearly demonstrates that DA 233/2022 is **not consistent with the public interest**.

PART D - RECOMMENDED CONDITIONS

As stated in the “Overview” section of this submission, the inclusion of recommended conditions below should **not** be taken as any sign of SHCG support for the proposal.

The SHCG’s fundamental position is that the DA should be **refused** because it:

- is characterised incorrectly by the applicant as a ‘caravan park’, and that if characterised correctly as a MHE or multi-dwelling housing it would not be permissible (Part A)
- is inconsistent with relevant planning strategies (Part B)
- will have unacceptable and unjustified environmental, social and economic impacts (Part C).

The recommended conditions below are only included for consideration by the consent authority in the scenario that it determines to grant approval to the development application, and on the basis that we understand we will have no other opportunity to make submissions in relation to any proposed conditions.

NOTE: to avoid any doubt - any plans, monitoring reports and the like, that are identified in the following conditions must be publicly available.

A. Scale, staging and use of development

1. The total number of sites must not exceed 75, and no more than 50% of these shall be for long-term residence.
2. No more than 20% of the total long-term residences are to commence construction in a single calendar year.
3. No dwellings on site may be used for the purposes of short-term rental accommodation (such as holiday letting).
4. No construction, or movement of construction vehicles to and from the site, shall occur on weekends or public holidays.

Reasons:

- *To limit the scale and timing of development to avoid unacceptable, rapid impacts to the community, including to the availability of social and community services (such as medical services), traffic and transport impacts, local amenity, costs of installing and maintaining infrastructure services, and impacts to tourism accommodation providers.*
- *To satisfy requirements in clause 131 of the Housing SEPP that development consent for a caravan park must not be granted unless a condition is imposed specifying the maximum number of sites for long-term residence.*

B. Biodiversity

1. Cats shall be prohibited from the development given the known risk they pose to native wildlife, taking account of the immediate proximity of the site to habitat and fauna corridors.
2. If dogs are permitted, then the entire development site should be fenced with dog proof fencing, to prevent risks of dog attack and predation on native wildlife and associated risks of dogs wandering onto Scotts Head Road.
3. Dogs must be kept on a lead at all times when in the common areas of the development site.
4. Barbed wire fencing must not be used on the site to minimise risks to native wildlife.
5. With the exception of the development footprint for DA 233/2022 (approximately 16 hectares) and the existing approved residential dwelling envelope for DA 0163/2022, all remaining parts of Lot 11 DP 1243930 must be protected by a biodiversity stewardship agreement established under the Biodiversity Conservation Act 2016.
6. The biodiversity stewardship agreement on the remainder of Lot 11 DP 1243930 must be in place and secured under the Biodiversity Conservation Act 2016 prior to commencement of any works associated with the development.
7. Any other remaining biodiversity credit obligations arising under the Biodiversity Conservation Act 2016 must also be discharged in full prior to commencement of any works associated with the development.
8. Any landscaping and plantings on site must only be local, indigenous species and sourced from local (mid and north coast) suppliers.
 - a. prior to development commencing, the applicant shall submit a Landscape and Planting Plan for approval of Nambucca Council
9. Prior to development commencing the applicant shall submit for approval, a detailed Weed and Pest Species Management Plan for the site and lands within 500 metres of the perimeter of the development footprint (or to the boundaries of Lot 11 DP 1243930, whichever is the lesser).
 - a. the Plan must identify actions to be undertaken annually to inspect, monitor and then take actions to address identified weed and pest species in the above areas
 - b. once approved by Council, the applicant will implement the Plan and provide annual reports to Council.

Reasons:

- *To limit the risks of impacts to biodiversity, including native plants, animals and habitats, and ensure ongoing protection for any areas not subject to physical works for the development.*

C. Aboriginal cultural heritage

1. Relevant Aboriginal community representatives must be present during earthworks and at key points in the construction phase to assess and identify any potential risks to Aboriginal cultural heritage.
2. Aboriginal community representatives must be appropriately compensated for the above role, at a rate negotiated between them and the applicant.
3. If risks are identified, the applicant must work with the Aboriginal community to take all reasonable steps to avoid impacts as the first priority.
4. If impacts to Aboriginal objects are likely to occur, the applicant must cease all works until such time as relevant approvals under the National Parks and Wildlife Act 1974 have been obtained.

Reasons:

- *To reduce risks to Aboriginal cultural heritage and ensure the Aboriginal community has opportunities to monitor works.*
5. Within 12 months of the date of development consent the applicant will provide \$500,000 to Nambucca Valley Council who, in partnership with relevant local Aboriginal organisations, will implement a program to document and share understanding of the Aboriginal cultural heritage values of the Scotts Head area and surrounds. That includes, but is not limited to, the recording of oral histories, assessments and documentation of cultural values (via publications, web-based information and similar), interpretative signage, cultural events, culture camps, and the like.

Reasons:

- *To assist in partially mitigating the loss of Aboriginal cultural heritage, including diminution of the cultural landscape, that will result from the development.*
6. Prior to any works commencing, the applicant must provide evidence that arrangements have been made with local Aboriginal community representatives to provide regular and ongoing access for cultural purposes to lands within Lot 11 DP 1243930 that are outside of the development footprint.

Reasons:

- *To support ongoing opportunities for the local Aboriginal community to access County and to practice culture.*

D. Soil and water

1. Prior to any works commencing, the applicant must provide a detailed, comprehensive Soil and Erosion Management Plan, addressing acid sulfate soils, erosion controls and downstream water quality, for approval of Nambucca Council. The Plan must include:

- a. baseline information on pre-construction water quality and quantity leaving the site and entering Warrell Creek (including any coastal wetlands protected under the Resilience and Hazards SEPP)
 - b. details of ongoing water quality monitoring to be undertaken and reported six-monthly to Nambucca Council
 - c. details of any adaptive management triggers and measures to be applied if water monitoring indicates adverse impacts.
2. Once approved, the plan must be implemented in full, made publicly available (including monitoring results) and then reviewed and submitted for re-approval every 5 years.

Reasons:

- *To ensure that adverse downstream impacts arising from the development, including risks to protected coastal wetlands, are identified early, and ongoing, and so that actions are taken to address such impacts.*

E. Affordable housing

1. Access to the development shall not be age limited (i.e. there will be no barriers to dwellings being purchased and/or rented and/or occupied by persons of any age).
2. A minimum of 33% of all long-term sites/residences/moveable dwellings shall be made available as “affordable housing”, as defined under the Environmental Planning and Assessment Act 1979 and Housing SEPP (meaning housing for very low income households, low income households or moderate income households).

Reasons:

- *To support the delivery of affordable housing to persons of all ages.*

F. Social and community services

1. Prior to any works commencing, the applicant must provide evidence of a binding agreement with relevant providers to deliver on-site GP medical services for the equivalent of at least 5 full days per week (35 hours) for a minimum period of 5 years.
 - a. the 35 hours may be met by multiple GPs providing services over staggered times and and days across the business week (e.g. 2 GPs could work a combined 28 hours over Monday and Tuesday - at 7 hours each per day - and the remaining 7 hours could then be met by one GP working on another day).
2. The binding agreement and provision of these services on-site must have commenced and continue for the minimum 5 years from at least the time that 10% of dwellings on the site have been occupied (if not earlier).
3. Access to on-site medical services must be available to all residents and visitors of the locality, and not restricted to residents of the development.
4. The applicant must report annually to the Nambucca Council on compliance with this condition.

Reasons:

- *To minimise impacts to existing medical services and support the health and well-being of the local community.*
5. Prior to any works commencing, the applicant must enter into a binding agreement with Nambucca Valley Council to provide \$250,000 per annum (CPI increased annually) for ten years from the date of the grant of the first approval for occupation of dwellings on the site.
 6. Nambucca Valley Council, in consultation with the local community, shall allocate those funds via an annual grants program to support programs, actions and initiatives that deliver improved quality of life outcomes for local residents of Scotts Head and surrounding areas.
 - a. for the avoidance of doubt, grants shall not be allocated to programs, actions and initiatives within the development site, or to programs, actions and initiatives that the applicant is obliged to deliver under other conditions of this development consent or other statutory authorisations.

Reasons:

- *To assist in partially mitigating the very high social impact that will be caused by the development as a result of large and rapid population growth, as identified in the Social Impact Assessment accompanying the DA.*

G. Social cohesion and integration

1. The development site shall not be 'gated' to pedestrians (i.e. there shall be no security, boom-gate or other similar gate to prevent non-residents entering the site by foot).
2. There shall be no restrictions on non-residents entering and walking or cycling in and through the site (noting that access to non-resident vehicles may be restricted and non-residents must keep dogs on a leash).

Reasons:

- *To support social cohesion between the existing community and new residents.*

H. Transport and accessibility

1. Prior to any works commencing, the applicant must enter into a binding agreement with Nambucca Council to deliver:
 - b. upgrade and ongoing maintenance of Scotts Head and Grassy Head Roads to accommodate the increase in vehicle traffic associated with the development
 - c. provision of accessible walking and cycle paths from the development site to Scotts Head Village (including the shopping area and beaches), and to the intersection of Scotts Head Road and Grassy Head Road

- d. pedestrian safety and traffic calming improvements in Scotts Head Village, including but not limited to, beach parking areas alongside the surf club and bowling club, and in the vicinity of the shopping areas
 - e. disabled access to Big and Little Beaches, including (but not limited to), accessible walkways and paths, accessible beach matting, accessible bathrooms/shower and parking, and the like.
2. Prior to any works commencing, the applicant must provide evidence of binding agreements related to the provision of public transport services to the site, with a minimum of eight services available to and from the site every day of the week into the Scotts Head Village and Macksville (i.e. four daily return services into the Village, and four daily return services to Macksville).
 3. Prior to any works commencing the applicant must provide a Construction Traffic Management Plan to Nambucca Council for approval. The Plan is to set out arrangements for the safe management of traffic during the construction period, including along Scotts Head. The Plan must specifically include:
 - a. the requirement for no construction, or construction vehicle movements, at (or to and from) the site on weekends or public holidays (condition A4 above)
 - b. on all other days, a cap on heavy vehicle movements to and from the site of no more than ten a day (including but not limited to concrete deliveries).

Reasons:

- *To support the provision of accessible, safe, sustainable vehicle, cyclist and pedestrian access and reduce vehicle dependency.*
- *To minimise the impact of construction traffic on neighbours and the broader community.*

I. Utility infrastructure

1. Prior to any works commencing, the applicant must enter into a binding agreement with Nambucca Council to deliver:
 - c. all necessary new sewer, water, stormwater and related utility services needed to service the development, at full cost to the applicant
 - d. all necessary upgrades to existing utility services (including but not limited to works to protect or improve water pressure, and the capacity of the sewage treatment plant) to prevent impacts on supply to the existing community and to ensure such services meet environmental protection obligations and standards, at full cost to the applicant
 - e. an agreed contribution to support ongoing maintenance for all new and existing services, equivalent to the contributions that would normally be expected of comparable new residential developments and existing residents.

Reasons:

- *To ensure adequate services are provided to the site without impacting on supply to the existing community, and to ensure costs are shared reasonably and equitably.*

J. Emergency services and management

1. Prior to any works commencing, the applicant must provide evidence of a binding agreement with relevant, local Rural Fire Service and State Emergency Services organisations to provide resources to support additional equipment, training and volunteer recruitment campaigns.
2. Prior to any works commencing, the applicant must provide an emergency management and evacuation plan for approval of Nambucca Council. The plan must be prepared in consultation with the RFS and SES and address bushfire, general fire, flood access and medical related emergencies. Once approved, the plan must be:
 - a. implemented in full by the applicant
 - b. reviewed and re-approved by Council, after consultation with the RFS and SES, every 5 years.
3. Prior to any works commencing, the applicant must provide evidence of a binding agreement with Nambucca Valley Council to provide financial resources for the engagement of professional life saving services during key periods of the year, and the provision of publicly accessible surf rescue devices and defibrillators.
 - a. the Council shall consult with the Macksville Scotts Head Surf Life Saving Club during preparation of the agreement with the applicant.

Reasons:

- *To support management and responses to current and emerging hazards (including from climate change) and emergency issues.*
- *To mitigate the increased risks of surf related incidents arising from a rapid and large increase in the over 55 population.*

K. Sustainability

1. Prior to construction commencing the applicant will provide a Sustainability Strategy to Nambucca Council for approval. The Strategy will set out clear commitments, including:
 - a. provision of solar panels, battery systems and electric vehicle charging infrastructure to all residences
 - b. arrangements for the landowner or applicant to enter into a 100% green power or carbon neutral electricity supply contract with an energy supplier
 - c. water tanks for all residences, plumbed and connected for use in all laundries, toilets and external taps
 - d. use of energy efficient light fittings, air conditioning and other appliances, and water efficient taps, shower heads, cisterns and the like

- e. dwelling construction and operation to at least a 5 Green Star rating (<https://new.gbca.org.au/green-star/rating-system/buildings/>)
 - f. arrangements to maximise waste minimisation, reuse and recycling during both construction and operational phases.
2. Once approved, the applicant must implement the Strategy and provide evidence to Council prior to the issuing of occupation certificates for each residence.

Reasons:

- *To ensure suitable measures are in place to support sustainability outcomes and emerging sustainable technologies to support the transition to net zero.*

L. Construction employment and business support

1. Prior to construction commencing the applicant will provide an Employment and Materials Supply Strategy to Nambucca Council for approval, including:
 - a. commitments and evidence of arrangements or relevant agreements to ensure:
 - i. at least 50% of the on-site construction workforce to be sourced from within the Nambucca, Kempspey, Bellingen or Coffs Harbour LGAs
 - ii. a ratio of at least one apprentice to each five tradespersons engaged on the site
 - iii. at least 50% sourcing of building construction materials from within the Nambucca, Kempspey, Bellingen or Coffs Harbour LGAs
 - b. details and commitments related to the provision of employment for Aboriginal persons.
2. once approved by Nambucca Council, the applicant will implement the Strategy and provide annual reports to Council for the full period of construction on the site.

Reasons:

- *To support local employment and skills development and to assist in partially mitigating the very high social impact that will be caused by the development, as identified in the Social Impact Assessment accompanying the DA.*