



Date received: 3.6.13

Reference No.

LODGEMENT

Instructions to users

This form is to be completed if you wish to request an independent review related to plan-making under Part 3 of the *Environmental Planning and Assessment Act 1979*. A review can be requested at pre-Gateway stage and following a Gateway determination. This form relates to Gateway review requests.

A **Gateway review** can be sought following a Gateway determination where a determination is made that:

- a) the planning proposal should not proceed;
b) the planning proposal should be resubmitted to the Gateway; or
c) imposes requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Note: With reference to point 'c' above, a request to review a Gateway determination can only be made prior to the commencement of community consultation on the planning proposal.

✓ **Note:** Gateway reviews can only be sought if the **original** Gateway determination was made by a delegate of the Minister.

Before lodging a request for review, it is recommended that you consult the Planning Circular '*Delegations and independent reviews of plan-making decisions*' and '*A guide to preparing local environmental plans*', which can be found on the department's website www.planning.nsw.gov.au. The guide gives a step-by-step explanation of the review procedure and necessary requirements.

To ensure that your request for review is accepted, you must:

- complete **all** relevant parts of this form
- submit **all** relevant information required by this form.
- provide **one hard copy** of this form and required documentation
- provide the form and documentation in **electronic format** (e.g. CD-ROM)

Note: The department may request further information if your request for review is incomplete or inadequate.

A fee is not charged for a Gateway determination review.

All requests **must be lodged** with the department's relevant Regional Office. Please refer to www.planning.nsw.gov.au for contact details.

PART A – APPLICANT AND SITE DETAILS

A1 – Applicant Details

Principal contact

☐ Mr ☐ Ms ☒ Mrs ☐ Dr ☐ Other

First name

JODY

Family name

COULTER (TOYER)

Name of company (N/A if an individual)

N/A

Street address

Unit/street no.

4454

Street name

LAWRENCE ROAD

Suburb/town

WOODFORD ISLAND

State

NSW

Postcode

2463

Postal address
(or mark 'as
above')

PO Box or Bag

Suburb or town

AS ABOVE

State

Postcode

Daytime telephone

02 66455300

Fax

02 66463566

Email

jandgcoulter@gmail.com

Mobile

0414 940 744

A2 – Site Details

Identify the land that is to be the subject of the planning proposal and for which you seek a review

Unit/street no.	Street name	
4454	LAURENCE ROAD	
Suburb/town	State	Postcode
WOODFORD ISLAND	NSW	2463

NAME OF THE SITE

REAL PROPERTY DESCRIPTION

LOTS 4 & 5 DP SECTION 9 DP 758532

The **real property description** is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Finance and Services, Land and Property Information. Please ensure that you place a forward slash (/) to distinguish between the lot, section DP and strata numbers. If the proposal applies to more than one piece of land, please use a comma (,) to distinguish between each real property description.

PROVIDE DETAILS OF ALL AFFECTED LANDOWNERS WHERE THEY ARE NOT THE DIRECT APPLICANT

HAVE ALL OWNERS OF LAND TO WHICH THIS PLANNING PROPOSAL APPLIES BEEN NOTIFIED?

- ☐ Yes
☐ No
☐ Some have but not all
☒ N/A (Applicant is owner)

Note: If some land owners, but not all, have been notified, list below those notified:

CURRENT ZONING OF THE LAND AT THE SITE

RU2 RURAL LANDSCAPE

CURRENT LAND USE AT THE SITE

RESIDENTIAL USE ON NEIGHBOURING SITES - NIL USE AT SITE

PART B – REASON FOR REVIEW AND THE PLANNING PROPOSAL

B1 – Reason for Gateway Review

WAS THE ORIGINAL GATEWAY DETERMINATION MADE BY A DELEGATE OF THE MINISTER

- ☒ Yes **Note:** Requests for the review of Gateway determination will only be considered if the original Gateway determination was made by a delegate of the Minister.
☐ No

Indicate below the reason for seeking a review of the Gateway determination. A review can only proceed if one of these three circumstances has occurred.

☒ **A determination has been made that the planning proposal should not proceed**

In the case of the above, will this request for review be submitted no more than 40 days from the date of the original notification of the Gateway determination?

- ☒ Yes
☐ No

☐ **A determination has been made that the planning proposal should be resubmitted to the Gateway**

In the case of the above, will this request for review be submitted no more than 40 days from the date of the original notification of the Gateway determination?

- ☐ Yes
☐ No

☐

A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal

In the case of the above, have you indicated your intent to submit a request for review no more than 14 days from the date of the original notification of the Gateway determination?

☐ Yes

☐ No

Will this request for review itself be submitted no more than 40 days after this date from the date of the original notification of the Gateway determination?

☐ Yes

☐ No

B2 – The Planning Proposal

DEPARTMENT'S REFERENCE NUMBER:

PP-2013-CLARE-004-00

NAME OF THE LOCAL GOVERNMENT AREA

CLARENCE VALLEY COUNCIL

DESCRIPTION OF PROPOSAL

CONSOLIDATION OF TWO LOTS & PROVISION OF ADDITIONAL DUELLING ENTITLEMENT

LOCAL ENVIRONMENTAL PLAN (LEP) TO BE AMENDED BY THE PLANNING PROPOSED

CVC LEP 2011 M/LS MAP LSZ-011F

IS THE LEP TO BE AMENDED (ABOVE) A STANDARD INSTRUMENT LEP?

☒ Yes

☐ No

INFORMATION REQUIREMENTS

Requests should be accompanied by:

- an application form
- a copy of the planning proposal as submitted to the Gateway
- a copy of all additional information and documentation provided at the Gateway
- justification for why an alteration of the Gateway determination is warranted (if applicable), including, where relevant, responses to issues raised by the original Gateway decision maker
- if relevant, disclosure of reportable political donations under section 147 of the Act.

Please refer to 'A guide to preparing local environmental plans' for the necessary information requirements.

List below all the documents, maps, plans, studies, information and any other supporting information that comprises your proposed instrument and request for pre-gateway review.

INFORMATION PROVIDED

APPLICATION FORM / JUSTIFICATION / DEPUTATION / PLANNING PROPOSAL / SUPPORTING DOCS.
GATEWAY REFERRAL

PART C – DISCLOSURE AND SIGNATURES

C1 – Donation and Gift Disclosure

Section 147 of the Environmental Planning and Assessment Act 1979 requires the public disclosure of *reportable political donations* or gifts when lodging or commenting on a *relevant planning application*. This law is designed to improve the transparency of the planning system.

DO YOU HAVE ANY DONATIONS OR GIFTS TO DISCLOSE?

☐ Yes

☒ No

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a reportable political donation or gift under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning submission if the donation is made before the submission is made; or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act. A Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General can be found on the department's website to www.planning.nsw.gov.au/donation-and-gift-disclosure

C2 – Signature(s)

By signing below, I/we hereby declare that all information contained within this Application form is accurate at the time of signing.

Signature(s)

Name(s)

In what capacity are you signing

Date



JODI COULTER

OWNER - PRIVATE

29 May 2013

Justification for an alteration of the Gateway Determination

It has been determined that the Planning Proposal should not proceed;

In summary and addressing matters identified by the Department of Planning and Infrastructure to reach the Gateway determination, I request you consider the following;

1. The Mid North Coast Regional Strategy.

The subject land is located outside of a “growth area”, however it is not located in a proposed green zone, is not a coastal settlement and has nil capacity for farming, this parcel of land is known as a “Greenfield Site”, therefore enabling development by satisfying the Sustainability Criteria.

Criteria which apply to this Planning Proposal are;

Avoidance of Risk;

Residential Development in a flood prone area –

Despite the land being in a flood prone area, the subject land was previously included in the Ilarwill Village zone and was developed primarily for residential use.

It should be recognized that flood prone land, whilst constrained, is a valuable land recourse and that development proposals which respond appropriately to that constraint, should be considered appropriate.

The design of the development would incorporate a number of measures that greatly reduce the risk to life and property in a flood event, including;

- The future flood risk will be managed by adopting appropriate development limits with regards to minimum floor levels.
- Proposed development would be built with flood compatible materials to a high flood protection standard
- The proposal had no hydraulic impacts on the function of the flood plain or any other unacceptable environmental or amenity impacts.
- Implementation of early evacuation system
- Implementation of a flood safe plan for onsite refuge
- The proposal is not reliant on flood mitigation works or Govt. expenditure, or for the capacity of Emergency Services.
- The proposal will not cause undue future distress to individuals nor increase potential flood liability to them or the community.

Avoidance of Land Use Conflicts –

Land use conflict arises with the presence of agriculture and non-rural land use in the one location. It is understood there is a need to separate incompatible land uses, however with the subject land use being residential, in a surrounding residential area, nil surrounding agricultural activity or the ability to be used as such, there is no evidence of exiting land use conflict or increase potential of land use conflict.

See picture below diagramming residential allotment size and existing residential use.



Safe Evacuation Route –

A key aspect of any development in a flood prone area is the implementation of an early warning and voluntary evacuation system. The floodplain is typified by slow rising flood waters, providing time for evacuation to take place.

There does exist a flood protection levee around Ilarwill and ‘main road access’ for residents who choose to evacuate during a flood event, however most residents take on site refuge. With an evacuation system and an emergency flood safe plan in place, there is no risk of injury or death from flood waters, nor is there burden on the State

Emergency Services.

As we currently reside in the location, and have experienced a number of flood events, there has never been a time we have called upon the SES for assistance, and to date neither have our neighbours.

Natural Recourses;

Avoids identified significant agricultural land –

As Regionally Significant Farmland is defined as ‘land capable of sustained use for agricultural production with a reasonable level of input and which has the potential to contribute substantially to the region’, the subject land would need to have potential agricultural use.

Historically the subject land was surveyed for residential housing lots and used as such, and with the minimal size of each of these individually owned lots, there is no ability for farming, therefore has no agricultural potential to contribute to the region.

The land surrounding the current development is not suitable for agriculture due to extreme limitations, with a natural catchment and poor drainage.

Essentially, the subject land should be classified as a buffer to more viable land for agricultural use due to the existing residential use and the condition of surrounding land. See picture below showing small allotments with an inability for agricultural use and the condition of the surrounding land, which due to the swamp area is not suitable for agricultural or farming activities.

SUBJECT
LAND

TRAILER
STORAGE

SWAMP

Ilarwill

© 2013 Whereis® Sensis Pty Ltd

© 2013 Google

Image © 2013 DigitalGlobe



2004

Imagery Date: 8/3/2012

29°28'23.16" S 153°10'57"

Environmental Protection;

Maintain existing environmental condition for water quality –

It is understood the LEP should protect water quality standards for primary and recreational use, however there is an existing use of residential development proving no harm to the water quality or environment. Existing use can be demonstrated with residential housing dating back to early 1900's and there is no indication of current or potential land use change.

Water quality will not be lowered to less than the level necessary to fully protect the fishable/recreational uses and any other existing uses with the erection of a further dwelling.

There does exist an area not far from the subject property that houses fishing trawlers in the winter time, if there was adverse effect to the water quality it would come with the repair and painting of these trawlers on an annual basis, not a complete self sufficient home with acceptable effluent disposal, amongst existing dwellings.



➤ Consistent with catchment and storm water management –

There is no evidence of storm water catchments within the current development.

Protects areas of Aboriginal Cultural Heritage value –

It is unsure if this area is relevant at the site, however, referral to the policy of what constitutes Aboriginal cultural heritage and procedures to be undertaken to ensure that prior negotiation occurs with the relevant Aboriginal People would take place prior to scheduled works.

2. Ministerial Directions

1.5 Rural Lands –

The objective of this direction is to protect the agricultural production value of rural land And be consistent with the Rural Planning Principles –

It has been established the subject land is not suitable for agricultural purposes and will not contribute substantially to the region.

The land is already located in a sustainable community (therefore no land fragmentation or land use conflict), supported by efficient and effective essential services and transport systems, there is no pressure to provide additional services.

There is no evidence of existing residential use having a negative effect upon the environment, and with use of eco-friendly sustainable materials, adverse impacts upon the environment will be avoided.

It is recognized the importance of rural lands and agricultural demands in the region, however, due to the condition of the land and its constraints, the limitations of the land are unreasonable.

4.3 Flood Prone Land –

The objective of this direction is to ensure that flood prone land is consistent with the NSW Govt. Flood Prone Land Policy. The policy provides for;

“A flexible merit based approach to be followed by Councils, when dealing with development or redevelopment of flood prone land”.

The proposal is not reliant on flood mitigation works or Govt. expenditure, or for the capacity of Emergency Services.

The proposal will have nil hydraulic impacts on the function of the flood plain or any other unacceptable environmental or amenity impacts.

The proposal will be ecologically sensitive within development controls.

The future flood risk will be managed by adopting appropriate development limits with regards to minimum floor levels and early evacuation system.

The proposal will not cause undue future distress to individuals nor increase potential flood liability to them or the community.

The proposal will not permit a significant increase in the development of the land.

5.1 Implementation of Regional Strategies –

The purpose of the Regional Strategy is to ensure that the Mid North Coast can continue to prosper over the next 25 years while protecting areas of high environment, cultural and resource value.

Whilst providing for sustainable development, it shouldn't preclude existing development where the proposal satisfies the "Sustainability Criteria" in item 1.

In summary;

Although the property is located in a rural zone, historically it was zoned residential and part of the Ilarwill Village, it has all the attributes and amenities of a residential zone. The subject land is already located in a sustainable community, supported by efficient and effective essential services and transport system's, there is no pressure to provide additional services.

It is established the subject land and surrounding "Regionally Significant Farmland," is not suitable for farming or agriculture and will not contribute substantially to the region. It is known the land is flood prone, however with careful consideration of management and design, will have no hydraulic impacts upon the functions of the flood plain.

The proposal is not reliant on flood mitigation works.

There exists a safe evacuation route in a flood event with no burden upon Emergency Services.

There cannot be fear of setting precedence; as my research does not find anything this will set precedence for, the subject land lies directly between two existing residential homes and is such, the last remaining vacant block, and it is essentially an extension to existing rural living.

Therefore, the erection of a dwelling, in my opinion, is of minor significance, a view shared by the elected Clarence Valley Councilors, demonstrated by the unanimous vote to support the Planning Proposal in the Ordinary Meeting, dated 19th March 2013.