

Mr Scott Greensill
General Manager
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

Our ref: PP_2015_CLARE_001_00 (15/01036)
Your ref: ECM 1409984

Dear Mr Greensill

Planning proposal to amend Clarence Valley Local Environmental Plan 2011

I am writing in response to your Council's letter dated 22 December 2014 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend Clarence Valley LEP 2011 to include land affected by flood hazard at Glenreagh on the Flood Planning Map and revise the map detail for land within the Clarence River floodplain.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of section 117 Direction 4.3 Flood Prone Land following adoption of the Glenreagh Floodplain Risk Management Plan and Direction 4.4 Planning for Bushfire Protection following consultation with the Commissioner of the NSW Rural Fire Service. Council should ensure this occurs prior to the plan being made.

The proposed implementation of flood controls prior to the finalisation of an adopted flood risk management plan for Glenreagh is inconsistent with the process for flood planning specified by the *Floodplain Development Manual 2005*. A condition has been included on the Gateway Determination requiring that the LEP amendment not be finalised until the Glenreagh Floodplain Risk Management Plan has been adopted by Council. This condition has been imposed to ensure consistency with section 117 Direction 4.3 Flood Prone Land.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within twelve (12) months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly

available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Melanie Buckham of the Department's Northern Region office to assist you. Ms Buckham can be contacted on (02) 6641 6611.

Yours sincerely



Jim Clark

**Acting General Manager, Northern Region
Planning Services**

16 January 2015

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2015_CLARE_001_00): to amend Clarence Valley LEP 2011 to include land affected by flood hazard at Glenreagh on the Flood Planning Map and revise the map detail for land within the Clarence River floodplain.

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Clarence Valley Local Environmental Plan (LEP) 2011 to amend the Flood Planning Map to include land affected by flood hazard at Glenreagh and revise the map detail for land within the Clarence River floodplain should proceed subject to the following conditions:

1. Council is to amend the Planning Proposal prior to public exhibition to include:
 - Maps that accord with the Department's Technical Guidelines for the proposed Flood Planning Area;
 - Separate maps for exhibition purposes which identify the change to land parcels affected by the Probable Maximum Flood Event and Flood Planning Area on the Clarence River Floodplain, and;
 - Additional explanatory information for exhibition purposes that clearly outlines the difference between the level of a 1:100 ARI flood event and the probable maximum flood event and the implications of the draft planning controls for properties affected by these constraints.
2. Council is to consult with the NSW Rural Fire Service as per the requirements of section 117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary to take into consideration any comments made prior to undertaking public exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2013)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Office of Environment and Heritage
 - Transport for NSW (Roads and Maritime Services)
 - NSW Rural Fire Service
 - State Emergency Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.



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5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The Local Environmental Plan amendment is not to be finalised until a Floodplain Risk Management Plan for Glenreagh has been adopted.
7. The timeframe for completing the LEP is to be twelve (12) months from the week following the date of the Gateway determination.

Dated 16th day of January 2015.

Jim Clark
Acting General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



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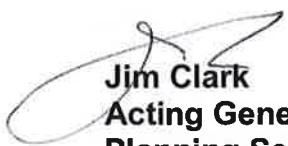
WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Clarence Valley Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_CLARE_001_00	Planning proposal to amend the Clarence Valley Local Environmental Plan 2011 to include land affected by flood hazard at Glenreagh on the Flood Planning Map and revise the map detail for land within the Clarence River floodplain.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 16th January 2015


Jim Clark
Acting General Manager
Planning Services
Department of Planning and Environment

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_CLARE_001_00
Date Sent to DoP&E under s56	5 January 2015
Date considered at LEP Review Panel	Proposal considered by General Manager, Northern Region under delegation
Gateway determination date	16 January 2015

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: