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Department Generated Correspondence (Y)

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Our ref: PP_2011_CLARE_004_00 (11/13859)
Your ref: James Creek, Kahuna PP

Mr Stuart McPherson
General Manager
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

Dear Mr McPherson,

Re: Planning Proposal to zone the subject land adjoining James Creek Road, James Creek for low and medium density residential development, with a small area for commercial use. The land is currently zoned 1(a) Rural (Agricultural Protection)

I am writing in response to your Council's letter dated 1 August 2011 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 the Maclean Local Environmental Plan 2001 to zone the subject land adjoining James Creek Road, James Creek for low and medium density residential development, with a small area for commercial use. The land is currently zoned 1(a) Rural (Agricultural Protection).

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

It is noted that Council is currently revising its draft Local Growth Management Strategy (LGMS) for submission to the Department. One of these amendments is understood to be amending the proposed timeframe for the release of the James Creek Release Area. The draft strategy has been exhibited. The next step is for Council to seek endorsement of the LGMS by the Director General. Council is encouraged to submit its final amended LGMS as soon as possible to ensure that the current planning proposal is consistent with Council's strategic intent for the James Creek area. The planning proposal should not be exhibited until the revised LGMS is endorsed by the Director General of the Department.

It is also understood that Council is currently finalising its comprehensive Standard Instrument LEP. Council is requested to exhibit this planning proposal as an amendment to the Maclean LEP 2001 and an amendment to the soon to be completed Clarence Valley Standard Instrument LEP. Council is required to consult with the Regional Director, Northern Region to agree on the appropriate way to proceed with the planning proposal prior to the commencement of public exhibition

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils and 4.4 Planning for Bushfire Protection are of minor significance. No further approval is required in relation to these Directions.

Prior to commencing public exhibition Council is required to undertake another review of all relevant s117 Directions, SEPPs and other strategic planning documents relevant to the Clarence Valley LGA to ensure the planning proposal is consistent with strategic framework. Council will be required to place this updated assessment on exhibition.

It is understood that infrastructure servicing arrangements must be made prior to the land being available for future development. Council and the proponent are encouraged to work closely with adjoining landowners to develop an appropriate servicing strategy for the area. Council would be aware that a number of options are available to provide for essential infrastructure including entering into Voluntary Planning Agreements with proponents or developing appropriate Contributions Plans. Council should explore all available options to achieve the delivery of the required infrastructure in a timely and efficient manner. Details of the proposed servicing strategy for the James Creek area should be finalised and made available for public exhibition purposes.

Council is also required to consult with the Department's Infrastructure and Planning Coordination Branch to discuss the need for State Infrastructure Contributions due to the proposed scale of development within the release area. Council should liaise with the Northern Region Planning Team who will coordinate this discussion with Council.

It is also noted that investigations relating to the potential presence of koalas on the site have proved inconclusive. Further assessment is therefore required to satisfy the requirements of SEPP 44 – Koala Habitat Protection. This assessment should be undertaken in the context of a broader assessment of flora and fauna values of the site.

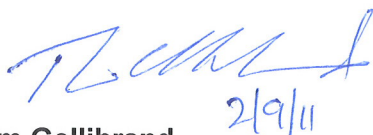
Council should also ensure that proper consideration has been given to transport planning for the proposed release area. In particular, Council should ensure that nearby roads can accommodate the anticipated future growth in vehicle movements resulting for the development of this area and that the James Creek Release Area can be adequately provided with public transport and pedestrian and cycle links to nearby centres.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

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 s54(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, please contact Jenny Vallis of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_CLARE_004_00): to zone the subject land adjoining James Creek Road, James Creek for low and medium density residential development, with a small area for commercial use. The land is currently zoned 1(a) Rural (Agricultural Protection).

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Maclean Local Environmental Plan 2001 to zone the subject land adjoining James Creek Road, James Creek for low and medium density residential development, with a small area for commercial use. The land is currently zoned 1(a) Rural (Agricultural Protection) should proceed subject to the following conditions:

1. Council is required to submit its final Local Growth Management Strategy (LGMS) to the Department for consideration and endorsement prior to the planning proposal being placed on public exhibition.
2. Council is to exhibit a proposed servicing strategy (local and state) for the James Creek Release Area. The outcomes of these discussions should be placed on public exhibition with the planning proposal.
3. Council is to demonstrate that adequate transport and access arrangements can be achieved for the James Creek Release Area. The assessment should include vehicle access, as well as a consideration of public transport access, and pedestrian and cycle access requirements. The outcomes of this assessment should be made available for public exhibition purposes.
4. Council is to investigate flora and fauna issues related to the site and in particular whether the site provides koala habitat and/or key vegetation corridors linking to other habitat areas. The outcomes of this assessment (which may include a Koala Plan of Management) should be made available for public exhibition purposes.
5. Council is to demonstrate that appropriate arrangements for stormwater management and drainage can be provided for the James Creek Release Area. In particular, Council is to demonstrate that flood free access can be provided to the release area, including via Gardiners Road.
6. The planning proposal is to be submitted to the Regional Director, Northern Region, prior to exhibition commencing. The Regional Director will assist Council on an appropriate way to proceed with the amendment referencing both instruments the planning proposal will amend.
7. 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 **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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

8. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

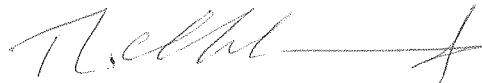
- NSW Aboriginal Land Council
- Office of Environment and Heritage
- Department of Industry and Investment (Agriculture)
- NSW Rural Fire Services
- Roads and Traffic Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

9. 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).

10. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 2nd day of September 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure