



Joint Regional Planning Panels

26 February 2013

Mr Stephen Murray
Regional Director, Northern Region
NSW Department of Planning and Infrastructure
Locked Bag 9022
GRAFTON NSW 2460

Dear Steve

Subject: Request for Gateway Review – Clarence Valley - PGR_2012_CLARE_001_00

As per the request in the letter from the Director General dated 30 January 2013, please find attached the advice of the Northern Joint Regional Planning Panel in regards to the above request for Gateway review.

Should you require any further information on this matter please contact me on telephone number 02 9228 2062 or ruth.paton@planning.nsw.gov.au

Yours sincerely

Ruth Paton
Senior Planning Officer
Regional Panels Secretariat



Dept Ref No.	PGR_2012_CLARE_001_00
JRPP Ref.	RPA2013NTH001
LGA	Clarence Valley
LEP to be Amended	Clarence Valley Local Environmental Plan 2011
Address / Location	Lot 51 DP1171431, Lot 3604 DP834592, Lot 361 DP751388, Boundary Road, Gulmarrad
Proposal	Rezone land currently zoned RU2 Rural Landscape and R5 Large Lot Residential to allow subdivision for 48 rural residential allotments and to establish a 35.5ha biodiversity corridor
Report By	Northern Joint Regional Planning Panel
Report Date	26 February 2013

Gateway Review - Advice Report and Recommendation

The Northern Joint Regional Planning Panel (regional panel) has been requested to provide advice to the Minister for Planning and Infrastructure regarding a request for review of a Gateway decision of the above planning proposal.

The request for review has been made by Clarence Valley Council.

The regional panel constituted for this matter comprised Garry West (Chair), Dr John Griffin and Bruce Clarke. The council nominated members to the regional panel declared a conflict of interest and did not participate in the review.

1. GATEWAY DETERMINATION

The Gateway Determination, dated 7 November 2012, was that the planning proposal would not proceed for the following reasons:

- *"The planning proposal is inconsistent with both the Mid North Coast Regional Strategy and Council's Local Growth Management Strategy. The relative merits of the proposal have not been sufficiently addressed to warrant a departure from the regional or local planning strategies."*
- *"Insufficient evidence has been provided to demonstrate the environmental value or otherwise of the subject land. The land's value may not necessarily support the loss of additional vegetated land proposed to be cleared and subdivided."*

The covering letter to the Gateway Determination stated that:

"Further investigations would be required which improve the standard of information to justify the proposal. Should Council decide to resubmit the planning proposal, Council would be encouraged to:

- undertake preliminary investigations with the Office of Environment and Heritage and the NSW Rural Fire Service and provide evidence of their requirements,
- explain under what framework the land exchange would occur,
- provide a clearer explanation about the future use and controls for residue lot 51, and
- provide greater articulation of the proposal's compliance with any relevant State Environmental Planning Policies."

2. REQUEST FOR REVIEW

A request for review of the Gateway Determination was made by Clarence Valley Council (council) on 18 December 2012. As part of the request, council provided additional information to justify the planning proposal, in response to the issues highlighted in the Gateway Determination.

On 30 January 2013, the regional panel was requested to provide advice to the Minister on the merits of the request for review.

3. DOCUMENTS REVIEWED

In preparing this advice report, the regional panel has reviewed the following documents:

Document	Reference
Referral letter	"Request for Gateway Review – (Referral to JRPP for Review)", letter from Director General, dated 30/01/2013
Justification Assessment	"Gateway Review Justification Assessment", dated 11/01/2013
Gateway Determination	Gateway Determination, letter addressed to Mr Scott Greensill, General Manager, Clarence Valley Council, dated 7/11/2012
Planning Team Report (Gateway Determination)	"Planning Team Report, Proposed Large Lot Residential and Environmental Zoning at Boundary Road, Gulmarrad"
Planning Proposal	"Planning Proposal endorsed by Council on 17 July 2012 for the rezoning of Lot 51 in DP 1171431, Lot 3604 in DP 834592 and Lot 361 in DP 751388 at Boundary Road, Gulmarrad", Revision A, March 2012
Council Request for Review of Gateway Decision	Letter from Clarence Valley Council, dated 18 December 2012
Council Officer's Report to Council	"Minutes of the Ordinary Council Meeting of Clarence Valley Council held on 17 July 2012" – Item 12.101/12
OEH Referral Letter	Letter addressed to Mr Scott Greensill, General Manager, Clarence Valley Council, dated 19 December 2012

4. REGIONAL PANEL'S COMMENTS

Strategic Merit

The regional panel agrees with the Gateway Determination that the proposal is inconsistent with the strategic planning framework, including the Mid North Coast Regional Strategy (MNCRS) and Clarence Valley Council's Local Growth Management Strategy. It was highlighted that council also recognises the inconsistencies with the strategic documents.

The regional panel does not agree with the view expressed by council that environmental outcomes of the proposal outweigh the recognised inconsistencies with the relevant strategic planning documents.

It is noted that the MNCRS states that "no new rural residential development will be permitted within the Coastal Area other than development already zoned or in an approved current or future local growth management strategy (or rural residential land release strategy)". The regional panel considers that there has been no justification provided by either the proponent or council to demonstrate any demand for additional rural residential lots in the area. Even if this demand was demonstrated, the regional panel considers that the appropriate response should be to modify the regional strategy, rather than to approve spot rezonings.

The regional panel agrees with the council officer's report to council (meeting 17 July 2012) where concern is raised about a precedent being set should the planning proposal, which seeks to secure a yield that cannot be achieved within an existing appropriately zoned site, be approved.

Environmental, Social and Economic Impact

The regional panel agrees with the Gateway Determination that insufficient evidence has been provided to demonstrate the environmental value or otherwise of the subject land.

As identified by the Office of Environment and Heritage, further information on biodiversity, flooding and Aboriginal cultural heritage, would need to be provided by council if the planning proposal was determined to proceed.

Management of Conservation Area

The regional panel has concerns with the proposal by the proponent to establish an owners' management association for the ongoing land management of the conservation area. While the regional panel understands the intent of this management arrangement, it is considered that the enforcement would be problematic. If the planning proposal were to be resubmitted to the Gateway, this matter requires further consideration and refinement.

Future Use and Controls For Residue Lot 51

The regional panel does not consider that the proponent's proposal to zone the residue Lot 51 to RU2 Rural Landscape and to combine it in ownership with an approved child care centre would facilitate a satisfactory arrangement for the ongoing management of the residue Lot 51.

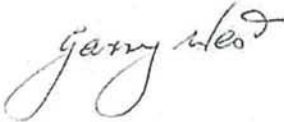
If the planning proposal were to be resubmitted to the Gateway, this matter requires further consideration and refinement.

5. RECOMMENDATION

It is recommended that:

- (A) The planning proposal should not proceed past Gateway due to the inconsistency of the proposal with the Mid North Coast Regional Strategy and Council's Local Growth Management Strategy, and that insufficient evidence has been provided to demonstrate the environmental value or otherwise of the subject land.
- (B) The original Gateway Determination should remain unaltered.
- (C) The proponent is advised to have further discussions with the Office of Environment and Heritage to ascertain the level of information and investigation that would be needed to determine if a future planning proposal could be supported.
- (D) The proponent is advised that if they were to resubmit the planning proposal, it is recommended that further consideration and refinement is made to the proposed use and controls for residue Lot 51 and the proposed management of the conservation area.

Endorsed by:



Garry West
Chair, Northern Joint Regional Planning Panel

26 February 2013