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DEPARTMENT GENERATED CORRESPONDENCE (Y)

DEPARTMENT OF PLANNING AND ENVIRONMENT*Planning Services***REFERRAL OF THE REQUEST FOR THE REVIEW OF GATEWAY****DETERMINATION OF PP 2015 BALLI 001 00****PRIVATE NATIVE FORESTRY PROVISIONS****PURPOSE**

- To recommend the request for the review of the Gateway determination of PP_2015_BALLI_001_00 Private Native Forestry Provisions be referred to Northern Joint Regional Planning Panel (JRPP) for its consideration.

RECOMMENDATION

It is recommended that the Deputy Secretary, Planning Services, as the Minister's delegate:

- **endorses** the justification assessment report for PP_2015_BALLI_001_00 Private Native Forestry Provisions (Tab A), and
- **signs** the letter to the Northern JRPP requesting it to undertake the review (Tab B).

CURRENT POSITION

- Ballina Shire Council has submitted a Gateway review request to introduce private native forestry provisions into the Ballina Local Environmental Plan (LEP) 1987 that still applies to areas that were deferred as environmental zones proposed under the Ballina LEP 2012 (Tab C).
- The Gateway determination for PP_2015_BALLI_001_00 Private Native Forestry Provisions was issued by the Minister's delegate on 24 March 2015 (Tab D).
- Council considers that the review is justified for the following reasons:
 - the Deputy Secretary, Planning Services (when exercising the Minister's delegation), gave insufficient weight to the findings, conclusions and recommendations of the Northern Planning Team Report (Tab E) and the Local Environmental Plan Review Panel recommendations (Tab G);
 - the briefing report of the Executive Director, Regions, is considered to be flawed in its interpretation of how the proposal relates to, and impacts upon, the Government's E Zone Review and the review of biodiversity legislation; and
 - the Deputy Secretary, Planning Services, would not have reasonably concluded that the introduction of new consent requirements and dual consent for private native forestry pre-empted the E Zone Review and the Government's review of biodiversity legislation had he not relied upon the inadequate information contained in the briefing report of the Executive Director, Regions.

- Given the contentious nature of the issue and its intersection with a number of current policy reviews (e.g. E Zones Review, Biodiversity Legislation Review), referral of the application to the Northern JRPP provides an opportunity for an independent review of the issues.

BACKGROUND

- The Northern Regional Planning Team recommended that the planning proposal proceed.
- The matter was considered by the Local Environmental Plan Review Panel. The Panel supported the Regional Office's recommendation that the matter proceed subject to agency consultation.
- A briefing note was prepared by the General Manager, Northern Region, through the Executive Director Regions for the Deputy Secretary that recommended that the planning proposal not proceed. The reasons for refusing the proposal was that the "introduction of new consent requirements and dual consent for private native forestry should not pre-empt the final outcomes of the Northern Councils review of environmental zones and the Government's review of biodiversity legislation" (Tab E).


 Tim Hurst 8/7/15
 Executive Director
 Regions


 Marcus Ray 10/27/15
 Deputy Secretary
 Planning Services
 Delegate of the Minister for Planning

 24.06.15
 Contact Officer: Brett Whitworth
 General Manager, Southern Region
 Phone: 0437 868 167 - 4224 9455



The Hon Garry West
Chair
Northern Joint Regional Planning Panel
Regional Panels Secretariat
GPO Box 39
Sydney NSW 2001

Ref: 15/09685

Dear Mr West *Garry*

Re: Request for pre-Gateway review – PP_2015_BALLI_001_00

I am writing to advise the Northern Joint Regional Planning Panel (JRPP) that a Gateway Review request, dated 29 May 2015, has been submitted to the Department of Planning and Environment for consideration, and to request that the Panel review the proposal.

The Ballina Shire Council is seeking a review of the Gateway determination that the planning proposal should not proceed.

The JRPP is requested to review the planning proposal and prepare its advice concerning the merits of the request for review. The advice should include a clear and concise recommendation to the Minister confirming whether or not, in the opinion of the JRPP, the planning proposal should proceed past Gateway in accordance with the original submission.

Please note due to the nature of the Gateway review application, I have asked the Southern Regional Office of the Department to assist the JRPP in its consideration of Ballina Shire Council's planning proposal.

The advice and recommendation should be provided within 28 days of the date of this request for review and sent to the Southern Regional Office of the Department of Planning and Environment.

Enclosed supporting information

The following information and documents are enclosed to assist the JRPP in its review of the planning proposal:

- Proponent's request for review, together with application form, supporting information and relevant correspondence;
- Department's justification assessment;
- Executive Director's endorsement; and
- JRPP advice and recommendation template.

Further information on independent reviews

The Department's '*A guide to preparing local environmental plans*' provides advice on procedures for the various stages in the independent review process. The guide is available on-line at www.planning.nsw.gov.au/gateway-process.

Should you have any questions in regard to this matter, please contact Mr Brett Whitworth, General Manager, Southern Region, at the Department on (02) 4224 9450.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

10/07/11

Encl

- Proponent's request for review, together with application form, supporting information and relevant correspondence
- Department's justification assessment
- Executive Director's endorsement
- JRPP advice and recommendation template