



Mr Ashley Lindsay
General Manager
Clarence Valley Council
PO Box 216
GRAFTON NSW 2460

Via email: council@clarence.nsw.gov.au

Dear Mr Lindsay

Planning proposal PP-2021-4850 to amend Clarence Valley Local Environmental Plan 2011

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone part of Lot 231 DP 880455, Hampton Road, Waterview Heights to R5 Large Lot Residential and amended minimum lot size controls.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Directions 1.2 Rural Zones, 3.2 Caravan Parks and Manufactured Home Estates and 5.10 Implementation of Regional Plans are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Direction 1.3 Mining, Petroleum and Extractive Industries. Council should ensure this occurs prior to the plan being made.

I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within nine months of 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 six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning, Industry and Environment.

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

I note that the Clarence Valley Local Strategic Planning Statement 2020 identifies the preparation of a local growth management strategy as a key short term action. It is recommended that Council consider the needs, supply and appropriate locations for future rural residential development through its upcoming local growth management strategy to ensure a co-ordinated and strategically planned approach to the delivery of this housing type.

This strategic work is particularly important noting the Clarence Valley Settlement Strategy had a planning horizon to only 2016 and should be completed prior to seeking any further large lot residential rezoning. The Department's Northern Region team is available to work with and assist Council with this strategic planning exercise.

Should you have any enquiries about this matter, I have arranged for Ms Ella Wilkinson to assist you. Ms Wilkinson can be contacted on 9995 5665.

Yours sincerely



17/9/2021

Jeremy Gray
Director Northern
Local and Regional Planning

Encl: Gateway determination
Authorised plan-making reporting template

Gateway Determination

Planning proposal (Department Ref: PP-2021-4850): *rezone part of Lot 231 DP 880455, Hampton Road, Waterview Heights to R5 Large Lot Residential and amend associated minimum lot size controls*

I, the Executive Director, Local and Regional Planning at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the Environmental Planning and Assessment Act 1979 (the Act) that an amendment to the Clarence Valley Local Environmental Plan (LEP) 2011 to rezone part of Lot 231 DP 880455, Hampton Road, Waterview Heights to R5 Large Lot Residential and amend associated minimum lot size controls should proceed subject to the following conditions:

1. Prior to community consultation, the proposal is to be amended to address the following:
 - (a) amend the minimum lot size proposed from 4000m² to 8000m²; and
 - (b) update the proposal to reference and address the State Environmental Planning Policy (Koala Habitat Protection) 2020 and State Environmental Planning Policy (Koala Habitat Protection) 2021.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - Department of Primary Industries - Agriculture
 - NSW Biodiversity and Conservation Division
 - Yaegl Local Aboriginal Land Council
 - Natural Resource Access Regulator
 - NSW Rural Fire Service

- NSW Mining, Exploration and Geoscience
- Essential Energy
- Transgrid

Each public authority/organisation 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.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 17 day of September 2021.



Jeremy Gray
Director Northern
Local and Regional Planning
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

Alteration of Gateway Determination

Planning proposal (Department Ref: PP-2021-4850)

I, Director, Northern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 17 September 2021 for the proposed amendment to the Clarence Valley Local Environmental Plan 2011 as follows:

1. Delete:

“condition ” 3

and replace with:

new condition 3: Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Department of Primary Industries – Agriculture
- NSW Biodiversity and Conservation Division
- Grafton Ngerrie Local Aboriginal Land Council
- Natural Resource Access Regulator
- NSW Rural Fire Service
- NSW Mining, Exploration and Geoscience
- Essential Energy
- Transgrid

Each public authority/organisation 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.

Dated 23 day of September 2021.



Jeremy Gray
Director, Northern
Local and Regional Planning
Department of Planning, Industry and
Environment
Delegate of the Minister for Planning
and Public Spaces