

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	4 July 2023
DATE OF PANEL DECISION	3 July 2023
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ian Tiley and Peter Johnstone
APOLOGIES	None
DECLARATIONS OF INTEREST	Greg Clancy a non-pecuniary, non-significant conflict as he attended a public meeting with objectors to an earlier plan of this development.

Public meeting held by videoconference on 29 June 2023, opened at 4.30pm and closed at 6.39pm.

MATTER DETERMINED

PPSNTH-137 – Clarence Valley – SUB2021/0042 at James Creek Road, James Creek – 332 lot subdivision being 327 residential lots, 1 commercial lot, 4 drainage reserves and associated public open space areas (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The development application was refused for the reasons attached to the Council's assessment report.

The Panel agrees with the Council assessment that the proposed inward facing urban structure, density, and proposed lot design relates poorly to the existing topographical form and presents a stark change to surrounding rural and semi-rural setting and character.

The Panel considers there is inadequate social infrastructure and services to support the proposed development including bus services and given the distances to local shops and facilities.

The Panel also concluded there was insufficient consideration of flood evacuation, but notes the verbal advice provided by Council staff of an offer by the Applicant to upgrade Gardiners Road to enable evacuation in a 1:100 year flood event.

The Panel agrees with Council's view that additional information and design amendments which might result in a more integrated 'village' style settlement may resolve these and other issues addressed in Council's assessment report.






CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Impact on services
- Lack of flood-free access from Townsend along Gardiners Road

- Access to Austons Lane
- Stormwater management (quality and quantity) and flooding
- Impacts on adjoining rural land uses/lack of buffers
- Inconsistency of development with planning proposal and adopted Council policies
- Urban design and local character
- Traffic, transport and access
- Lack of Aboriginal cultural heritage assessment/consideration
- Bushfire hazard
- Lack of public consultation
- biodiversity

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
Dianne Leeson (Chair) 	Stephen Gow 
Michael Wright 	Ian Tiley 
Peter Johnstone 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-137 – Clarence Valley – SUB2021/0042
2	PROPOSED DEVELOPMENT	336 lot subdivision (329 residential lots, 1 commercial lot, 4 drainage reserves and 2 public open space areas)
3	STREET ADDRESS	Lot 104 DP 751388 – James Creek Road, James Creek
4	APPLICANT/OWNER	Mpd Investments Pty Ltd / Kahuna No 1 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Clarence Valley Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Clarence Valley Residential Zones Development Control Plan 2011 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 20 June 2023 Written submissions during public exhibition: 100 submissions and 1 petition Verbal submissions at the public meeting: <ul style="list-style-type: none"> Patrick Bowen, Lorri Brown (on behalf of the James Creek Residents), Carolyn Cameron, Melissa Lawrence, Dean Lawrence, Sharyn Farlow, Terry Hudson, Kiera Fahey, Glenn Brown, Peter Cartmell, Adam Cartmell, Lynnsey Cartmell, John Cashman, Andrew Grayson, Peter Gardner and Frank Hellwig On behalf of the applicant – Peter Bell, Duncan Thomson, Mike Willoughby
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 23 March 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow, Penny Holloway, Ian Tiley and Greg Clancy <u>Council assessment staff</u>: Carmen Landers, Murray Lane and James Hamilton <u>Department staff</u>: Carolyn Hunt, Stuart Withington, Cameron Brooks and Lisa Foley Site inspection: 22 February 2023

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: Jessica Summerhayes and James Hamilton <ul style="list-style-type: none"> ● Briefing: 19 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: Rachel Heath, Ben Bancroft, Murray Lane and James Hamilton ○ <u>Department staff</u>: Carolyn Hunt ○ <u>Applicant representatives</u>: Peter Bell, Mike Willoughby, Michelle Erwin and Duncan Thomson ● Final briefing to discuss council's recommendation: 29 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: James Hamilton, Murray Lane, Chris Dear, Alex Wells, Adam Cameron ○ <u>Council's Independent Assessment Planner</u>: Rachel Heath ○ <u>Department staff</u>: Carolyn Hunt
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided