

12 July 2024

General Manager,
Clarence Valley Council,
Locked Bag 23,
Grafton NSW 2460

Attention: Carmen Landers

Development application No: 2023/0759

Proposed subdivision and childcare centre at James Creek Road, James Creek
Response to Additional Information required.

Dear Sir

We refer to Councils Additional Information Request dated 13 June 2024. This is a full response to Councils request. This information is provided as an addendum to the submitted Statement of Environmental Effects and other documents incorporated in the application.

This response includes the following attachments.

- Attachment 1 – Bushfire Hazard Assessment dated July 2024 including RFS Request for information.
- Attachment 2 – Changes to Proposal resulting from Planning Panel Determination and attached Executive Summary.
- Attachment 3 – Email from Busway Group.
- Attachment 4 – Statement of Landscape Intent
- Attachment 5 – Comments on Submissions
- Attachment 6 – Geolink revised design plans.
- Attachment 7 – Statement regarding stormwater discharge from south west catchment to Austons Lane road reserve.

With respect to the items in the Council letter we advise as follows.

1. NSW Rural Fire Service Referral

We attach the updated GeoLINK bushfire report which addresses the points raised in the RFS letter dated 7 June 2024. [Attachment 1]

2. Interfaces and village feel.

We note the points raised by the Planning Panel in its briefing and the Council in the letter of 13 June requesting additional information. We also refer to the meeting held with Council officers on 27 June 2024.

Regarding the comments made by the Planning Panel and contained in Councils letter

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we advise our response as follows

- Zone boundaries and interfaces – rural land use conflict and future use impacts

An updated LUCRA report has been provided which addresses the interfaces with the neighbouring rural properties. A core part of the application is the provision of a 50m separation zone between rural activities and the future residential lots as identified in the revised LUCRA report and the Planning Panel Determination. This 50m separation zone is provided to the northern, eastern and western boundaries of the site. The interfaces will include public roads and open space areas to be maintained by Council. The open space areas will be landscaped to be usable as appropriate given the rural interface and the need to manage bushfire risk. Management regime is outlined in the GeoLink bushfire report and the Statement of Landscape Intent.

- Management of open space areas, noting road design and potential for amenity issues.

The open space areas will be managed by Council. The Statement of Landscape Intent has a landscape regime which will have a more open treed amenity consistent with the bushfire requirements but designed so that the area can be readily mowed and maintained by Council.

The design also maximises the exposure of the open space areas by having roads adjacent to the open spaces for CPTED, maintenance and amenity purposes so that the public will have a high level of engagement with the open space. It will be usable space.

- Creation of a village amenity for the site.

We have been mindful in the planning of this application of the matters which gave rise to the refusal of the earlier proposal. This included commentary about the creation of a village amenity. To assist with the review of this application in this context we have prepared a table and attachments titled Changes to proposal resulting from Planning Panel Determination [Attachment 2] This document sets out the reason for refusal and our comment by way of response. There is also an Executive summary within the attachment incorporating illustrations which further explain the differences between the proposals.

The village amenities which are provided with this proposal include.

1. Integrated housing which creates a variety of housing opportunities including detached dwelling lots, small lot housing, duplex lots, and townhouses.
2. The clustering of density in the core of the area consistent with the R3 zoning of the land.
3. Larger residential lots and the open space buffer transition from the neighbouring rural land to the residential development.
4. Substantial provision of open space including a core active park.
5. A child care centre

6. Commercial land which will provide for a future neighbourhood commercial service such as a shop and coffee shop.
7. Provision for pathways connecting within the development and externally to Townsend.
8. Communal facilities including pavilions for community events.
9. Full services including water, sewer, and stormwater.
10. Provision for future bus route through the development. [Attachment 3 - email dated 27 June 2024 from the Busways Group]

From a design perspective the main village amenity has been clustered near the entrance to the site where the colocation of these activities and facilities will create a sense of place and enhance the amenity of the development.

Council's letter also raises the matter of the buffer / interface with Austons Lane to the south. In the first instance we need to address the purpose for such an interface. Our comments are within the context of the Clarence Valley Local Environmental Plan.

1. The land to the south is zoned R5 Large lot residential. The subject land at its southern interface to Austons Lane is zoned R1 General residential. Both are residential zones.
2. The objective of the General residential zone is to provide for the housing needs of the community, to provide for a variety of housing types and densities and to provide facilities and services to meet the day to day needs of the residents.
3. The objective of the Large lot residential zone is to provide for housing in a rural setting. Our interpretation of this statement is for the rural setting to apply within the R5 zoned land itself, in that it's not the function of neighbouring land to create the rural setting. Rather it's the role of the provisions of the zone with larger lots, low site coverage, generally large open spaces and vegetation retention to create the rural setting. This is certainly the case in existing Large lot residential areas such as Gulmarrad where the ambience and amenity of the area is created by the R5 zone itself.
4. Dot point 2 of the LEP Objective is to ensure that 'large residential lots do not hinder the proper and orderly development of urban areas in the future.' This objective can be seen as covering several planning aspects. One is to ensure that the development within the Large lot residential land does not hinder an urban area by unduly constraining its development in the future.
5. Dot point 4 of the LEP Objective of the Large lot residential zone is 'to minimise conflict between land uses within this zone and land within adjoining zones.'
6. It's also noteworthy that the Large lot residential zone is also in itself a transitional zone generally between urban and rural areas.
7. It follows that with the current application we have two areas of land

both zoned residential but carrying different objectives. The Large lot residential zone objectives are expressed in a way which does not hinder the proper and orderly development of an urban area. Applying this test to the Austons Lane interface it appears that the primary planning principle is the development of the urban area largely unencumbered by the Large lot residential zoning nearby.

With this as a background we hold the view that the transition between the areas needs not be a substantial change but rather mechanisms which allow the retention of the large lot setting for land to the south while the urban area supported by the R1 zone is not unduly compromised. We have therefore retained the proposed 5.0m wide buffer zone adjacent to Austons Lane. This land will be created as a separate lot and transferred to Council.

However, this interface has been further softened by increasing the open space areas for the full depth of the lots between Road 2 to Austons Lane by adding additional open space land to the stormwater drainage areas in the SE and SW corners of the site. The full length of the Austons Lane frontage is 728m, and with this change 200m [27%] is to be vegetated within open space or stormwater treatment areas which are 30m deep. The remaining 528m contains residential lots which are located behind a 5.0m buffer.

There are 26 lots proposed for this interface which will all have frontages of 20m [two will be 24m wide] and this creates increased opportunities for separation of building and increased vegetation within these areas.

The Statement of Landscape Intent [Attachment 4] at Sections 4.2 [Southern boundary] and 4.4 [Planting batter to Austons Lane] show the ability to create a dense screen of vegetation along this boundary. Vegetation selection includes canopy trees and understory. Additionally, Section 4.5 shows the appearance of the planting buffer to Austons lane.

The Executive Summary at Drawings 7, 9-11 show the landscape visual imagery which provides an accurate representation of the landscape treatment of the site and the effectiveness of the screening vegetation. The buffer as proposed is more than adequate to allow for the planting of substantial trees which will create a canopy cover. There are numerous examples of successful buffer areas where a width of 5.0m allows vegetation to fully screen the subject, in this case the rear of the houses which will be built in this area.

We consider that in the circumstances of the LEP provisions and the desire for a transition between the two residential zones that the methodology proposed will be more than sufficient to retain the rural setting applicable to the land to the south while still allowing the urban development to proceed.

3. Submissions

We have reviewed the issues raised by the submitters in their correspondence and note the high level of detail many have provided. We have identified the key issues and provided our comments as part of our response to the request for additional information. [Attachment 5]

4. Further matters

- Crown Land owners consent – the matter of the discharge of stormwater from the site has been raised on several occasions including with respect to the Crown Land in Austons Lane. The plans have been changed to remove all stormwater and vehicular infrastructure from Austons lane.

In addition, we have made application to Crown Land for owners consent so that this matter is fully addressed.

- GeoLink plans – these plans have been updated. [Attachment 6]
- Statement of Landscape Intent – these plans have been updated. [Attachment 4]
- Pathway to Townsend – By way of further information on our response to the pathway to Townsend, GeoLink drawings 3204/C131 [External path network and typical section] and C132 [Gardiners Road / Concept upgrade for flood immunity] have been upgraded to show the pathway in the cross sections. [Attachment 6]
- Busway Group feedback – The GeoLink traffic engineer has been in contact with Busways Group. Busways work in conjunction with Transport NSW and are ultimately subject to their route selection. Routes are regularly reviewed and when the need for an adjustment to the service is identified then the procedures are put in place when the appropriate level of demand is reached. Therefore, the fact that there is not an existing bus service does not preclude a future service and this would be expected to occur to facilitate this development at the appropriate time.

Busways Group have provided their email comments [Attachment 3]

- Staging of external works – The development is proposed to be carried out in 5 stages. Given that the development has some extensive up front infrastructure costs such as constructing the sewer rising main over 5.0k to Townsend we are mindful of the need to have the key pieces of infrastructure provided as the priority, with other aspects of the external works to follow in later stages. This approach acknowledges the upfront cost of servicing the site but is also working to bring forward the provision of important community infrastructure such as flood free access.

This staging approach is also linked to how Council will exercise the Contributions Plan. As we see it the plan allows for a contribution to Council on a per lot basis and Council is at liberty to expend the funds as it sees fit. In this area the applicant is open to discussions with Council to assist to bring forward works identified in the plan.

There is also a notable point with the Contributions Plan in that it

includes payment towards bringing Gardiners Road to a Q20 level. This component of the works is a shared cost with Council. The increase costs of bring the works from Q20 to Q100 plus climate change level is a cost to be borne by the developer.

We propose the following external works proposed with the application be linked to the stages as follows.

Stage [Geolink plan110]	Number of lots	Works proposed
Stage 1 A	69 lots	Sewer rising main to Townsend, upgrade external water in James Creek Road and roadworks required in James Creek Road to provide access to the development.
Stage 1 B	25 lots	Gardiners Road upgrade to create flood free access and provision for this part of the pathway to Townsend. Work with Council to design the pathway from the site to Townsend.
Stage 2	46 lots	External roadworks as required by Council in conjunction with the Contributions Plan [eg Yamba Rd / James Creek intersection upgrade]
Stage 3	87 lots	Build pathway from the site along James Creek Road to Gardiners Road intersection
Stage 4	60 lots	Nil external works

- Rainfall data – the use of Grafton rainfall figures has been raised by the submitters and Council has asked that the matter be clarified. The following comments are from Duncan Thomas [Environmental Engineer] of Geolink.

Regarding the rainfall data used in the stormwater assessment, it is noted that two different stormwater computer simulation models have been developed, each for a specific purpose.

The MUSIC model was used to demonstrate compliance with the stormwater treatment targets. The model does this by quantifying the pollutant removal provided by the bioretention basins and rainwater tanks. As per Section [3.2.2.1](#) of the Stormwater report, the model simulates a five year period using historical rainfall data for Grafton from

1972 to 1976. This is the rainfall data specified by Council to be used in MUSIC model simulations. This climate data is preloaded into the Clarence Valley Council MUSIC-link template that Council developed in collaboration with the MUSIC software developers. It is noted that the stormwater treatment function of the bioretention basins is focused on the capture and treatment (i.e. filtering) of runoff from smaller, regular rainfall events, not large, rare events that cause flooding and inundation. To allay concerns about Grafton rainfall data being used instead of James Creek (or Harwood) rainfall data, a MUSIC model simulation has been completed using Ballina climate data as a sensitivity test. The rainfall data used in this simulation has an average annual rainfall of 1772 mm and the pollutant load reductions still meet Council's stormwater treatment targets.

The DRAINS model was used to demonstrate compliance with the stormwater peak flow attenuation requirements. As is standard practice for hydrologic/hydraulic models that are used to simulate peak flows, this model does not directly use historical rainfall data as an input. Instead, it uses 'design rainfall' and 'design storms' as per the procedures described in the national guideline Australia Rainfall & Runoff. A specific design storm is a statistically-based estimate of a rainfall pattern and total rainfall depth that are predicted to occur at a particular location with a specific likelihood. For example, a 5 year 'average recurrence interval' (ARI) design storm has a rainfall pattern and total rainfall depth that is predicted to occur at a particular location, on average, once every 5 years. The DRAINS software simulates more than 100 potential rainfall patterns for the 5 year ARI design storm and repeats this process for the other design storm events (10yr, 20yr, 50yr, 100yr). The rainfall data used in all of these simulations has been generated from the Australian Rainfall & Runoff data hub for a location with Latitude 29.4375 (S) and Longitude 153.2375 (E). This location is approximately 1.3 km to the north-west of the proposed James Creek subdivision. Importantly, it is the DRAINS model that has been used to determine the required stormwater storage volume within each basin and this model uses design rainfall that has been appropriately determined for the site.

Attachment 7 is a Statement regarding stormwater discharge from south-west catchment Austons Lane road reserve. This provides further information about the treatment of runoff into the Crown land.

- Small lot housing approach – The applicant has prepared architectural designs which are included in the DCP variation application. The question has arisen as to how to deal with other designs across the development while still preserving a high-quality residential community. We propose that Council provide for a covenant or restriction on the small lots which requires dwellings to be generally in accordance with the architectural drawings, or as otherwise approved by Council.

- Gardiners Road flood levels – There is an area of Gardiners Road between the site and Townsend which is flood affected and results in a closure of the road in generally minor flood event. The applicant has offered to upgrade this access by filling the road level to Councils flood planning level of Q100 flood plus climate change [RL 3.9m]. This will allow flood free and safe vehicular access to a Q100 level. Additionally, we are advised that Council has adopted a 2090 flood level which has reduced the flood height in this location to RL 3.6-3.7m. Notwithstanding this recent change, the applicant still proposes to retain the planned level at RL 3.90m thereby offering a higher level of immunity than that required by Council.

This completes the response to the additional information requested by Council.

Yours faithfully

A handwritten signature in black ink, appearing to be 'J. Smith' or similar, written in a cursive style.

Planning Principal
Place Design Group