

1 August 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 submission from Clarence Valley Council.**

Dear Sir

We refer to a decision made by Council at its meeting on 23 July 2024 [Resolution 07.24.135]. Council has resolved to make a submission to the Northern Rivers Planning Panel advising that it is not in favour of the development application and setting out a number of grounds. These grounds are.

- inconsistency with rezoning assurances
- insufficient buffers and impacts on agricultural activities
- increased density and urban design/irreversible over development
- stormwater impacts
- Traffic and access to childcare centre
- Services and infrastructure
- Environment/Biodiversity
- Lack of green space (less than 1%)
- No play area for children
- Bio basins dangerous for children
- Single entry/exit for vehicles
- 300 vehicles per hours accessing site
- Non compliance with DCP
- Negative impacts on wildlife
- Suburban development/not village style
- No public transport to this site

This letter is by way of a response to the issues raised in Councils submission.

Strategic assessment - James Creek is directly referenced in the North Coast Regional Plan 2041 as an urban area contributing to future housing in the Clarence Valley. Similarly, the use of this land for residential purposes is identified in the Clarence Valley draft housing strategy. Therefore, there is a strong strategic basis for the lands development for residential purposes to meet State government and Council targets.

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1. Inconsistency with rezoning assurances – we have reviewed the original decision of Council when the land was rezoned and can find no planning restrictions applying to the land which would still be a current consideration in the determination of the application. All the land is zoned for development purposes. There is no open space or environmental zone which would limit development opportunities. Similarly, there is nothing contained within the Clarence Valley LEP or DCP which could limit the development. It is our view that any assurances made at the rezoning stage by a different applicant, unless incorporated in an ongoing planning requirement, carry no weight.

That said, we have been provided with two drawings which we understand were part of the material Council had to hand when the application was decided. One drawing is an indicative structure plan of the site and the land to the east of James Creek Road. The relevant part of the drawing is shown below.



Figure 1 – Strategy plan for James Creek [part]

The drawing shows substantial open space uses along the northern, western and southern boundaries. It is notable that the current proposal contains similar substantial opens space and buffer provisions on the northern, western and eastern boundaries consistent with the earlier plan. [the eastern and southern boundary areas have been interchanged]. Therefore, the principles which supported the rezoning are still current within the application in that the substantial parkland and open space areas are maintained on the boundaries of the site however in this case their location and size is underpinned by a detailed technical assessment including the LUCRA assessment.

The second drawing was an indicative subdivision plan which has certain similarities although it had lots fronting Austons Lane, at odds with the strategy plan shown above.



Figure 2 – Harrison Shepherd plan

This plan shows 208 residential lots. It also shows 15 medium density lots with an area of 5.062ha. These lots could be developed with townhouse or villa style of development with densities in the range of 25 – 40 units per hectare. This equates to unit density in the range of 200m<sup>2</sup> – 400m<sup>2</sup> of site area per unit. On 5.062ha of land this is 126 – 253 units of medium density development. Including the 208 lots shown on the plan this is a site yield of between 334 and 461 dwellings and units.

Council commissioned the James Creek Urban Growth Area Road Infrastructure Developer Contribution Plan which was adopted by Council on 25 February 2020. Section 3 of Councils report deals with Expected development and demand for infrastructure. Table 3.1 of the report deals with the James Creek development potential. In it the subject land is referred to as Unconstrained land with an area of 33.5ha. The following development potential is applied.

**Table 3-1 James Creek development potential**

	Area (ha)	8 dwellings/ha		10 dwellings/ ha		15 dwellings/ ha	
		Dwellings	Population	Dwellings	Population	Dwellings	Population
Whole site	102	800	2,080	1,000	2,600	1,500	3,900
Unconstrained land	33.5	232	603	290	754	755	1,131

As can be seen from this table Councils own work is factoring in a development yield of 232 to 755 dwellings.

The Master plan the subject of this application proposes 278 lots for a total of 352 units and dwellings.

Therefore, we hold the view that the current proposal is totally consistent with the planning documents available to Council when it made its original rezoning decision, and when it followed this up with the Developer Contributions Plan which had similar [and higher] development yield. We therefore consider that the plans provided at the time of original rezoning, while not relevant to the consideration of the application, do however have a strong similarity in terms of planning principles. The statement that this proposal is inconsistent with the earlier assurances is incorrect.

2. Insufficient buffers and impacts on agricultural activities – one of the reasons for refusal of the first application was insufficient buffers and impacts on agricultural land. With the current application additional work has been done with the LUCRA report to further examine the circumstances of the site and to arrive at a professionally determined set of recommendations which have been followed with the proposal. Furthermore, in the reasons for refusal it was stated as follows.

*The proposed subdivision does not incorporate appropriate land use buffers in response to the adjoining rural character and amenity of the locality to ensure a suitable edge/interface is achieved and potential land use conflict is mitigated. A 50m buffer treatment should be applied to all boundaries adjacent to rural zoned land (the north, east and west).*

This has been adopted but also confirmed by the LUCRA report.

3. Increased density and urban design / irreversible over development – The R1 and R3 zones bring with them an expectation to achieve residential density based on the planning instruments. A key planning principle is that good quality urban land should not be wasted but used in accordance with the zone. The North Coast Regional Plan 2041 supports this approach. Therefore, the planning of the site has been reworked to remain within the LEP and DCP requirements.

Part of this is that the application has abandoned the salt and pepper approach to density distribution used in the previous application and has now been designed to apply the density within the respective zones. One key point is that lot sizes have been kept under 800m<sup>2</sup> so that there is no ability to apply for a further subdivision of land once lots are sold to new owners. The level of development is consistent with the planning scheme in that the density and urban design has been confirmed through architectural design to conform to the DCP. Similarly, the urban design has changed so that the community facilities and integrated housing are generally collocated in the eastern part of the site.

4. Stormwater impacts – a lot of detailed design work has been done on stormwater to make sure the development when completed overtreats stormwater and detains runoff so that the rate of runoff from the site is less than from the site at present in its undeveloped state. This is achieved by



oversizing the stormwater detention basins. Stormwater reports form part of the application documents.

5. Traffic and access to child care centre – In the first instance it is worthwhile providing an extract from the Child care centre needs assessment.

*At present (November 2023), there are five (5) long day care centres in the local catchment supplying a total of 297 places to a market of 930 children under 5. This represents a ratio of 3.13 children per childcare place, which is higher than the NSW average of 2.4 children per place. Resident demand is also complemented by some external demand that is serviced in the local area. Local centres currently report NO VACANCIES and long waiting lists. The market is UNDERSUPPLIED and it's Business Geographic's view that there is a strong need for additional local childcare options.*

*The proposed development is ideally located in the proposed Village on James Creek subdivision which would be expected to be attractive to young family households. The nearest existing childcare centres are over 3kms away in Maclean and Harwood.*

*The catchment has a positive outlook in terms of demand growth, and at current forecasts, it's estimated that total demand will increase by an additional 49 - 84 places by 2028. However, in order to address the current undersupply and service the forecast growth in demand, it's estimated the local catchment could sustainably support an additional 135 - 175 places to 2028 without having significant negative impacts on the existing (or future) supply network.*

*The potential childcare development pipeline appears to be generally consistent with this forecast need with an estimated 153 places proposed for development including the 103-place centre at the subject site and an estimated 50-place centre at 4 River St, Harwood (Next door to the existing Walla Walla Bing Bang ELC).*

*Overall, it's Business Geographic's view that the subject site represents a reasonable and appropriate location for a new purpose-built childcare centre in the local catchment. It would greatly improve childcare choice, availability and amenity and any impacts on the existing network would be expected to be minor, ameliorated over time and outweighed by the positive economic benefits to the local community of improved local childcare options.*

The following assessment has been provided in the GeoLink traffic report.

*The proposal also includes a childcare centre. The RMS Guide recommends estimating traffic*

*generation for 'pre-school' type childcare centres as follows:*

■ 7:00 – 9:00 am – 1.4 trips per child

■ 2:30 – 4:00 pm – 0.8 trips per child.

*The childcare centre is proposed to accommodate 103 children. Thus the centre is expected to generate 145 trips during the AM peak and 83 trips during the PM peak. This equates to around 2,266 additional trips per weekday. However, as per the commercial centre, it is expected that at around 85% of the trips generated by the childcare centre will be from within the development. Further, it is assumed that close to 100% of these will be commuters on their way to work. As such, the bulk of the trips expected to be generated by the childcare*

*centre are already included in the estimated trips generated by the development overall. The additional 15% of trips generated by the development are assumed to be traffic already travelling on James Creek Road i.e. the childcare centre is expected to be utilised only by those who already travel along James Creek Road, or reside within the proposed development. The modelling has taken into account this additional traffic likely to enter and exit the development during the AM and PM peak.*

As can be seen from this assessment not only is there a large pent-up demand for child care services in the area the development, when complete is expected to have minimal impact on traffic.

6. Services and infrastructure – The development will provide full urban services to the site. This includes a pressure sewer system to Councils specification, a rising main to Townsend, and an upgrading of the water mains in James Creek.
7. Environment/biodiversity – The previous use of the land was a sugar farm. Following that it was used for grazing for many years. It contains no environmental features, and the proposed development will not have an adverse impact on the environment. A full ecological assessment forms part of the application documents.
8. Lack of green space [less than 1%] – Green space of the highest quality is proposed including active park, communal park including pavilions, buffer open space including linear pathways and the extensively landscaped stormwater management areas. While the subject land has an area of 33.49ha, the area the subject of the application to be developed is 28.0ha. Of this the greenspace is 4.7ha comprising 2.74ha of park/buffer and 1.95ha of stormwater management area. The greenspace comprises 16.4% of the development area. Furthermore the quality of the open space will be enhanced to be highly accessible and useable as shown on the Statement of Landscape Intent.
9. No play area for children – The Statement of Landscape Intent shows a detailed plan of the Village Green [page 14]. This plan shows proposed activities for children including playground, swings, spinner bowl and the like. The intention is that this area is to be a well used and loved public space.  
The landscape design also details the community facilities proposed including the provision of fixed pavilion style shelters intended to become a centrepiece of community activity.
10. Bio basins dangerous for children – The Statement of Landscape Intent [pages 16-17] show that the bio basins are fenced with child proof fence 1.2m and the access for maintenance purposes is controlled through an access gate.
11. Single entry/exit for vehicles – In practice a single intersection is safer than multiple intersections with reduced points of conflict. The access design is for one lane entering the site and two lanes leaving thereby creating redundancy in the event of an accident. Furthermore, an emergency access has been provided located between the commercial site and the stormwater basin to provide access in the case of an emergency.
12. 300 vehicles per hour accessing the site – GeoLink have provided a detailed Traffic Impact Assessment. It acknowledges that traffic volumes will increase as a result of the development and sets out a range of measures for Council to consider addressing the traffic impact. This report should be reviewed in the context of the Council traffic contribution plan which is directed towards offsetting the traffic impacts of the development.

13. Non compliance with DCP – The application has two areas of non compliance both of which form part of the application by way of a variation request. This relates to the height of retaining walls and the building typologies. Full documentation has been provided to Council.
14. Negative impacts on wildlife – A full ecological and biodiversity assessment has been carried out by GeoLink and the report forms part of the application documents.
15. Suburban development/not village style – Particular care has been taken with the current application to adhere to some key planning considerations in an effort to create a village-based community at James Creek. This includes.
  - Clustering of compatible facilities
  - Density follows the approved zonings
  - Introduction of needed child care facilities
  - Improvement of open space areas with a mix of active and passive open space and linear pathways.
  - Integrated housing development
  - Community pavilions in the park
  - Commercial site to be integratedThe approach to these principles has created an area which is not typically suburban but is rich in diversity and compatible community based activities.
16. No public transport to the site – While it is agreed that the site does not have existing public transport, discussions with BusWays and TfNSW demonstrate that bus runs are regularly reviewed and when the critical mass arrives to justify a change in the bus route then the site will be included with public transport.

Having regard to the points outlined above we believe that the matters raised by Council in its submission are not supported by the weight of the planning and technical input into the proposal. All of their points of objection have been overcome with the application.

We are available to discuss any aspect of this response to a submission.

Yours faithfully



Planning Principal  
Place Design Group