

Caroline Murray

From: James Purtill [James.Purtill@env.qld.gov.au]
Sent: Friday, 1 March 2002 3:57 PM
To: Paul Arthur
Cc: Alan Feely; Ross MacLeod
Subject: Application for construction on Lizard Island

COPY

Paul

We will be receiving an application to build a house/resort on a lease block on Lizard Island. It has a long history in the Agency, as you know. I wanted to let you know it was coming, and request a summary of the process required, delegate, decision time frames etc. regarding consideration of the application. As you are aware, the decision previously was 'returned' to the agency after CYLC successfully appealed the process. I wish to understand whether the original decision was sound, and only the process was faulty or whether the facts did not support the decision under the cardinal principles of the relevant Act. Also, would any application be now considered under the NCA?

Thanks

--

James Purtill
Director-General
Environmental Protection Agency
Ph: (07) 3227 8826 Fax: (07) 3227 6485
Email: james.purtill@env.qld.gov.au

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<<http://www.env.qld.gov.au>>

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From: Peter Ogilvie [peter.ogilvie@env.qld.gov.au]
Sent: Thursday, 11 April 2002 3:50 PM
To: James Purtill
Cc: Ian McPhail
Subject: RE: [Fwd: Has a new application for Lizard Is development been received?]

James

My apologies for this delay in reply.

It is difficult to set a date for decision at this stage as we have not received full details of the application or details of the "changed circumstances" referred to in the letter from Corrs Chambers Westgarth. I would expect a period of 1 month (six weeks at the outside) from receipt of full details from Steve Wilson (Clynder Pty Ltd) to be sufficient for completing the assessment and providing a decision.

Robyn Potter advised me of discussions Steve Wilson has had with the Hopevale people and a number of issues associated with those discussions (and the attempt to develop a memorandum of understanding). We will need to meet with the Hopevale people and the Cape York Land Council to discuss those issues in detail.

Proposal is that we proceed (in broad terms) as follows:

1. Reply to Corrs seeking full details of the application and inviting Mr Wilson to meet with relevant officers (Ian McPhail, Alan Feely, Paul Arthur and myself) to discuss the application and the 'changed circumstances'.
2. Meet with Mr Wilson. He may choose to provide full details then, or subsequently.

CTPI 49-Sch 4 deliberative processes

4. Prepare necessary advice for decision-making. This will need to be done by Agency officers.

5. Make decision and, following further legal scrutiny on its documentation, advise Clynder Pty Ltd.

I should point out that you are the only person who can legally make that decision at this point in time. You may wish to consider delegating that power under section 183 of the Nature Conservation Act.

s73(2) Not Relevant

Peter

Peter Ogilvie
Manager, World Heritage Unit
Queensland Parks and Wildlife Service
Phone: (07) 3227 7707
Fax: (07) 3227 7676
Email: peter.ogilvie@env.qld.gov.au <mailto:peter.ogilvie@env.qld.gov.au>

Lesley Wilson

From: Peter Ogilvie [peter.ogilvie@epa.qld.gov.au]
Sent: Friday, 21 June 2002 2:50 PM
To: 'Alan Feely'
Cc: 'Clive Cook'; 'Ian McPhail'
Subject: FW: Meeting with Steve Wilson re Lizard Island application for Alan

The meeting with Steve Wilson relates to his reapplication to construct a building on his (Clynder Pty Ltd) sublease on Lizard Island. His previous application of some three years ago ended up in a Supreme Court judicial review which we lost. The Court referred the matter back to us for reassessment and a new decision. Steve Wilson has asked for this to be done, and requested a face-to-face meeting as a preliminary. The letter from his solicitors referred to 'changed circumstances'. Consequently, one of the primary outcomes of the meeting is to determine whether his application has any variations from the original, and also to find out about his subsequent negotiations with the Dingaal people (who initiated the judicial review and won the Court case).

If you would like a verbal update, please let me know. CTIP149-Sch4ch4 Clive can fill you in on the present circumstances on Lizard. Indications are that the present lessee would probably prefer it if the building did not happen.

Regards
Peter

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BNE 1724
BNE 2002/10153

Lesley Wilson

From: Lesley Wilson
Sent: Tuesday, 23 July 2002 3:21 PM
To: 'Paul Arthur'; 'Alan Feely'
Cc: 'Ian McPhail'
Subject: Lizard Island Proposal

Please find attached minutes from the meeting held with Steve Wilson et al on Monday, 15 July

Regards

Lesley Wilson
Executive Assistant
Office of the Deputy Director-General
Environmental Protection Agency
Tel: (07) 3227 6398
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Enquiries Karen Macintosh
Telephone (07) 3238 3409
Your reference
Our reference BNE 1724

12 January 2001

MEMORANDUM

TO: Dr Ian McPhail, Executive Director QPWS

FROM: John Gilmour, Director
Corporate Performance and Risk

SUBJECT: Director-General letter regarding Lizard Island

Please find attached a copy of the letter from the Acting Director-General to Mr Steven Wilson of Clynder Pty Ltd, a developer who has requested approval to construct buildings for a tourist facility on a lease in a National Park on Lizard Island.

As you would be aware, the approval was challenged in the Courts by other parties and the Court decided in May 2000 that the Agency was required to reddecide the approval.

Clynder Pty Ltd have indicated circumstances have changed since they originally sought approval and expect to be able to provide the Agency with detailed information on these changes in February 2001.

When this information is received it is intended to progress the matter quickly. Could you please be aware of this and nominate suitable officers to provide the Director-General with support in making this decision. This support should include officers who were not previously involved in the decision making, and action should now commence so that a prompt and considered decision can be made when the further material from Clynder Pty Ltd becomes available.

CTPI 49-Sch4 Signature gna

John Gilmour
Director, Corporate Performance and Risk

Enc.

(2)

Ian McPhail

A draft response to Mr Wilson
for your consideration.

Also attached are (i) a copy
of my email to the D-G, (ii) the suggested
steps in the assessment process and (iii)
the letter from Mr Wilson.

I shall email the draft letter to
yourself & Lesley so any changes can be
made.

Ian Ogle
11-4-02.

Enquiries Dr Ian McPhail
Telephone (07) 3227 8217
Your reference
Our reference BNE1724-2

12 April 2002

Mr Steve Wilson
Clynder Pty Ltd
GPO Box 669
BRISBANE QLD 4001

Dear Mr Wilson

I refer to your letter of 1 March 2002 and your request for reconsideration of the Clynder Pty Ltd application for construction of a facility on the sub-lease on Lizard Island National Park.

You have suggested a meeting to discuss the application, and I agree this would be the appropriate first step. I suggest you contact Dr Ian McPhail, Deputy Director-General, to arrange a time for the meeting.

We will need complete documentation for your proposal, particularly in relation to any variations on the material submitted for the original decision. You may wish to submit that in advance of the meeting or bring it with you.

The assessment process cannot commence until we have received all the necessary details. The fax from Corrs Chambers Westgarth to Mr Barry Carbon stated that a number of factors have changed since the original approval was granted. Subject to the outcomes of the meeting, it is likely we will need those details in written form.

I would expect the period for assessment and decision-making to be no longer than six weeks. We will, of course, need to consult with the traditional owners, and I am not in a position to predict whether this will affect the time estimate for decision-making.

As mentioned above, please contact Dr Ian McPhail to arrange the meeting. His contact details are as follows: phone 3227 8217, fax 3227 6485 and email ian.mcphail@epa.qld.gov.au.

Yours sincerely

James Purtill
Director-General

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OK
CTPL4

19/4/02

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ABN 87 221 158 786

 **FILE**
Posted 18/3/2003



**Queensland
Government**

Enquiries Alan Feely
Telephone (07) 3227 7082
Your reference BNE2003/3327
Our reference BNE 1724 Pt2

Queensland Parks and Wildlife Service

An entity of the
Environmental Protection Agency

14 March 2003

Mr Steven M. Wilson
Clynder Pty Ltd
GPO Box 669
BRISBANE QLD 4001

Dear Mr Wilson

Re: Lizard Island National Park, proposed tourist facility development

I refer to your request to construct a tourist facility on a sub-lease within Lizard Island National Park. I have reviewed the documents provided and have sought independent legal advice on how best to progress this matter. Based on that advice I have formed the view that taking into account all relevant considerations that are required to address the correct question specified by the Appeal Court, further information is required for the administrative decision making process.

As you are aware, the Court of Appeal found that central to this decision is the permanent preservation, to the greatest possible extent, of the **natural condition** of the park. To this end there are several unresolved aspects of your proposal. As the EPA would like to resolve this matter, an updated response from you is sought to ensure that the correct question specified by the Appeal Court, is fully addressed. While it is acknowledged that Clynder Pty. Ltd. has undertaken more recent studies, some issues remain unresolved.

I am keen to proactively resolve outstanding matters relating to your application for a tourism facility on Lizard Island National Park. It is proposed that a management plan that addresses all of the unresolved issues would be an appropriate manner to now proceed.

Should you wish to proceed with the development, terms of reference will be prepared which outline the information required.

Finally, it is noted that in the time since your original application for development was submitted, the Commonwealth has introduced the *Environmental Protection and Biodiversity Conservation Act*. As your proposal is located within the boundary of the Great Barrier Reef World Heritage Area, it is possible that off site impacts arising from the proposed development on Lizard Island may trigger the provisions of the Commonwealth legislation.

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Should the Commonwealth consider your development a 'controlled action' you may have additional statutory obligations in relation to this project. To facilitate the time taken to decide your application, it is recommended that you notify Environment Australia of your intention to build a tourist facility within the World Heritage Area.

Should you wish to discuss this matter further I can be contacted on Ph (07) 3227 7082.

Yours sincerely

CTPI 49-Sch 4- Signature

A large rectangular area of the document is redacted with a solid grey fill. A red border is visible around the redacted area. The text "CTPI 49-Sch 4- Signature" is printed in red above the redacted area.

Alan Feely
Executive Director, Parks

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Enquiries Dr Ian McPhail
Telephone (07) 3227 8217
Your reference
Our reference BNE1724-2

Environmental Protection Agency

Incorporating the
Queensland Parks and Wildlife Service

22 April 2002

Mr Steve Wilson
Clynder Pty Ltd
GPO Box 669
BRISBANE QLD 4001

Dear Mr Wilson

I refer to your letter of 1 March 2002 and your request for reconsideration of the Clynder Pty Ltd application for construction of a facility on the sub-lease on Lizard Island National Park.

You have suggested a meeting to discuss the application, and I agree this would be the appropriate first step. I suggest you contact Dr Ian McPhail, Deputy Director-General, to arrange a time for the meeting.

We will need complete documentation for your proposal, particularly in relation to any variations on the material submitted for the original decision. You may wish to submit that in advance of the meeting, bring it with you, or provide it subsequent to the discussions.

The assessment process cannot commence until we have received all the necessary details. The fax from Corrs Chambers Westgarth to Mr Barry Carbon stated that a number of factors have changed since the original approval was granted. Subject to the outcomes of the meeting, it is likely we will need those details in written form.

That material will have a bearing on matters that will need to be considered in making a decision. We will, of course, have to consult with the traditional owners, and I am not in a position to anticipate how this may affect the decision-making period.

As mentioned above, please contact Dr Ian McPhail to arrange the meeting. His contact details are as follows: phone 3227 8217, fax 3227 6485 and email ian.mcphail@epa.qld.gov.au.

Yours sincerely

CTPI 49-Sch 4 e Signature signature

James Purtill
Director-General

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