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Department Generated Correspondence (Y)

DEPARTMENT OF PLANNING

Northern Region

BALLINA LEP 1987 AMENDMENT 90 - CONVERSION TO PART 3 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

PURPOSE

- To enable the conversion of Ballina LEP 1987 draft Amendment 90 from a pending LEP to a planning proposal under current Part 3 of the EP&A Act.

RECOMMENDATION

- That the Deputy Director General as a delegate of the Director General and Minister for Planning:
 1. pursuant to clause 12(2) of the Regulations notify Ballina Council that the plan making provisions for a pending LEP cease to apply to Ballina LEP 1987 (draft Amendment No 90); and
 2. pursuant to clause 122(2) of Schedule 6 to the EP&A Act, Ballina LEP 1987 (draft Amendment No 90) be converted to a planning proposal and dispense with conditions precedent for the making of the LEP prior to section 57(1) of the Act.

CURRENT POSITION

- LEP Amendment No. 90 is an amendment to the Ballina LEP 1987 to enable low to medium density residential use, local commercial use, conservation use and rural use on land known as the Stewart Farm at Old Coast Road, Skennars Head. A locality map of the land is attached (Tag A). The proposal also aims to ensure arrangements are made for dedication of coastal land for public recreation prior to rezoning.
- The LEP was being prepared under the former provisions of Part 3 of the EP&A Act and is a pending LEP to which clause 12 of the EP&A Regulation applies.
- By letter of 19 July 2010, the Council requested that the draft amendment proceed as a planning proposal under Part 3 of the Act (Tag B).
- The Director General, under the former Section 54, advised Council in January 2007 that an environmental study would be required. The Director General's letter also confirmed that the Department supported dedication to the public of land zoned 7(f) to achieve State Government objectives, and indicated this should occur prior to the rezoning being finalised rather than being staged.
- A draft LES was completed in 2009, indicating parts of the subject land were suitable for residential use as proposed in the planning proposal, subject to dedication of certain land to the community, revegetation of other land, and a DCP being prepared.

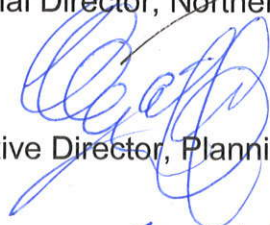
- The draft plan and draft LES have not yet been placed on public exhibition because negotiations are continuing with the landowner on a Planning Agreement including dedication of land.
- The proponents have lodged a Major Project Concept Plan with the Department over the subject land. The plan is being held by the Department pending the outcome of the Planning Proposal.
- A significant amount of investigation has been carried out over the site including the draft local environmental study, a draft Planning Agreement, a draft development control plan and a major project concept plan and project.
- Council has confirmed that it is unable to give any firm indication when negotiations with the landowner on land dedication may be finalised, but currently anticipate that it will not be possible to complete the plan before the 1 January 2011 expiry date for pending LEPs.
- It is considered that a nine month period should be sufficient for Council to finalise negotiations with the landowner and complete the plan.

BACKGROUND

- The subject land is identified in the Far North Coast Regional Strategy as a proposed future urban release area. Parts of the land are identified in the Regional Strategy as having high level constraints. Those areas are proposed for rural or environmental protection zones. Release of land within the site for residential use will assist in meeting the dwelling targets set for Ballina in the Regional Strategy.
- The subject land has been identified as a future release area since the introduction of the 1987 LEP that zoned the land for urban investigation. It was identified as an urban land release area in the Ballina Urban Land Release Strategy 2000 (URLS) agreed to by the Department of Planning in August 2000. The Strategy identified the subject land for rezoning between 2005 and 2010.
- Council indicates that the proposal has the potential to deliver significant public benefit as it will entail the dedication of coastal land to the public. Accordingly, Council is keen to ensure that the planning pathway for this LEP is in place to facilitate the rezoning process.

Contact Officer: Claire Purvis
Northern Region
(02) 6641 6611

 16 August 2010
Regional Director, Northern Region

 18.8.10.
Executive Director, Planning Operations

 19/8/10
Deputy Director General, Plan Making and Urban Renewal
As delegate of the Minister and the Director-General



Planning

Mr P Hickey
General Manager
Ballina Council
PO Box 450
BALLINA NSW 2478

Dear Mr Hickey

Conversion of Ballina LEP 1987 (Amendment No 90) to a Planning Proposal

I refer to your letter dated 22 July 2010, requesting a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for the draft Ballina Local Environmental Plan No 90.

I am writing to notify you that I have determined (as the delegate of the Director-General) under clause 12(2) of the *Environmental Planning and Assessment Regulation 2000* that the former LEP plan-making provisions cease to apply to the draft LEP. The current provisions of Part 3 of the Act now apply.

Furthermore I have, as the delegate for the Minister for Planning, determined under clause 122 (2) of Schedule 6 of the Act to dispense with the conditions precedent prior to section 57(1) of the Act for the making of this draft LEP. Council will note that this will require the Director General to be satisfied that the summary (the material to be exhibited) provides sufficient details for community consultation, including outcomes of consultation with relevant State agencies prior to exhibition. The community consultation period is to be 28 days.

Council is required to finalise the LEP within 9 months of the week following the date of this letter. Council's request for the Department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

Should you have any queries in regard to this matter, please contact Jim Clark or Claire Purvis of the Northern Region Office on 02 6641 6600.

Yours sincerely



19/8/10

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
(as delegate of the Minister and the Director-General)