



## Planning

Mr M Rayner  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Our Ref 10/21685  
Your ref: GT1/LEP/2000/35

Dear Mr Rayner

### Conversion of Tweed LEP 2000 (Amendment No.35) to a Planning Proposal

I refer to your letters dated 5 October and 20 October 2010 requesting that the draft plan be converted into a planning proposal pursuant to clause 12 of the EP&A Regulations and clause 122(2) of Schedule 6 of the EP&A Act.

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 conditions precedent prior to section 57(1) of the Act for the making of this draft LEP. It should be noted that this decision is based on the condition that the subject land is zoned 6(b) Recreation instead of including an enabling clause to permit the proposed land uses.

As the conditions precedent to section 57(1) have been dispensed with 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 consultation with relevant State agencies prior to exhibition (section 57(2)).

In this regard Council is required to provide further information to address inconsistencies with section 117 directions as follows:

- **3.5 Development Near Licensed Aerodromes** - section (4)(a) requires that a relevant planning authority must consult with the Department of Commonwealth responsible for aerodromes and the lessee of the aerodrome. Council should consult with these authorities (if it has not already done so) and provide copies of any response;
- **4.3 Flood Prone Land** -section (4) requires that the draft plan include provisions that are consistent with the *Floodplain Development Manual 2005 (FDM)*. There is no indication in Council's advice that the Department of Environment, Climate Change and Water NSW (Coastal and Floodplain Management) has supported the findings in the environmental study or the *Flooding Assessment Report (May 2007)* in relation to flooding and filling of the land. The FDM lists mobile homes and caravan parks as having 'special evacuation needs' as there is increase in the hydraulic hazard category for these development types. Caravan and mobile

home parks, hostels, hotels can involve occupants (both short and long term) who are not conversant with the flood risk management strategies for the development. The area may become isolated if access roads are flooded i.e. in effect the filled land becomes an island.

In addition the effect of the recent *NSW Sea Level Rise Policy Statement* which specifies sea level planning benchmarks for the NSW coastline appears not to have been considered.

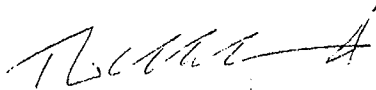
- **4.4 Planning for Bushfire Protection** – Council will need to confirm that the Bushfire Threat Assessment Report (October 2007) is consistent with the updated version (April 2010) of the *Planning for Bushfire Protection 2006*. Safe evacuation routes need to be available to the occupants of the subject land. The advice of the Rural Fire Service (if not already obtained) or the NSW Fire Brigades might be relevant.

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.

In your letter you requested the issue of a Certificate under the provisions of former section 65 of the EP&A Act in order for the draft plan to be publicly exhibited. As it has been determined to convert this LEP to a planning proposal, section 65 of the (unamended) Act is no longer applicable. As indicated above, the proposal will now follow the provisions onwards from Section 57 of the Act.

Should you have any queries in regard to this matter, please contact Jenny Vallis of the Northern Region Office on 02 6641 6006.

Yours sincerely

  
9/11/10

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