

Garry Hopkins - RE: Wyong LEP 2013 - Flood Mapping Revision - Issues identified with current LEP Clauses

From: "Mergan, Rod" <RSMergan@wyong.nsw.gov.au>
To: Garry Hopkins <Garry.Hopkins@planning.nsw.gov.au>
Date: Tuesday, 4 February 2014 10:05 AM
Subject: RE: Wyong LEP 2013 - Flood Mapping Revision - Issues identified with current LEP Clauses

Garry,

Thank you for your response to this. It's greatly appreciated.

1. I understand from our conversation that the wording came from PC and look forward to hear their response. I understand that the timing of this response may not correspond with our current planning proposal.
2. Happy with that wording – my only question is, do we need the additional subclause given this definition for “flood planning level” is in the WLEP 2013 Dictionary?

Regards

Rod Mergan

Senior Planner

Rezoning

Wyong Shire Council

P.O. Box 20, WYONG NSW 2259

Tel: 02 4350 5560 Fax: 02 4351 2098

E-mail: Rod.Mergan@wyong.nsw.gov.au WWW: <http://www.wyong.nsw.gov.au/>



please consider the environment before printing this e-mail

From: Garry Hopkins [mailto:Garry.Hopkins@planning.nsw.gov.au]
Sent: Tuesday, 4 February 2014 9:54 AM
To: Mergan, Rod
Subject: Re: Wyong LEP 2013 - Flood Mapping Revision - Issues identified with current LEP Clauses

Rod

1. As discussed earlier today the wording in cl. 7.3 is the latest PC version of these words. I will seek to obtain advice about use of the word 'discharge'.

2. For clause 7.2 I will seek to include something in the Gateway for Council's current flood mapping PP to allow that LEP amendment to insert the missing words. The amendment would be along the lines of:

cl. 7.2 (2) would change from

(2) This clause applies to land identified as "Flood planning area" on the Flood Planning Map.

to

(2) This clause applies to:

(a) land identified as "Flood Planning Area" on the Flood Planning Map, and

(b) other land at or below the flood planning level.

A new subclause (5) would also be inserted viz:

(5) In this clause: ***flood planning level*** means the level of a 1:100 (average recurrent interval) flood event plus 0.5 freeboard.

(NB. I have used text from Port Stephens LEP 2013 cl. 7.3 for above)

Can you review and confirm this is what Council wants. I can then use your confirmation as the basis for a condition in the Gateway to require you to amend the PP to reflect this additional amendment.

thanks

Garry Hopkins
Team Leader
Hunter & Central Coast Region
NSW Department of Planning & Infrastructure | PO Box 1148 | Gosford NSW 2250
T 02 4348 5002 M 0421 052 052 E garry.hopkins@planning.nsw.gov.au



Subscribe to the Department's e-news at www.planning.nsw.gov.au/enews
Please consider the environment before printing this email.

>>> "Mergan, Rod" <RSMergan@wyong.nsw.gov.au> Thursday, 30 January 2014 2:45 pm >>>
Garry,

Further to our discussion re the Flood Mapping LEP last week, Council has started to apply the Wyong LEP 2013 and we have identified a couple of issues with the Flooding Clauses as adopted.

1. Clause 7.3

Wyong LEP 2013 Clause 7.3(2) states:

*7.3 (2) (b) land surrounded by the flood planning area,
but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*

I note that the Port Macquarie LEP Clause 7.4 (2) (b) that our clause was based on indicates:

*(b) land surrounded by the flood planning area,
but does not apply to land below the flood planning level.*

The Port Macquarie wording would appear to be much clearer, is the wording we believed was to be used and refers directly to the LEP Dictionary. No one here is entirely sure why the word "discharge" is in the Clause. Our concern is that is that if it is not clear to experienced engineering and planning professionals then it should be either amended or clarification provided.

2 .Clause 7.2

Wyong LEP 2013 Clause 7.2(2) states:

7.2 (2) This clause applies to land identified as "Flood planning area" on the Flood

inning Map.

The exhibited version of Wyong LEP 2012 contained the following additional subclause which has been omitted:

7.2 (2) (b) other land at or below the flood planning level.

This is a significant change and the reason for the removal of this subclause has not been communicated to Council. The presence of this subclause allows Council to apply the LEP provisions to land where new flood studies are provided, overland flooding is identified or blue lines indicate there may be flooding. As the Department would be aware, most regional Councils do not have comprehensive flood mapping for their entire LGA and only provide LEP mapping for areas where appropriate studies have been completed. We have looked at several LEP's adopted late 2013 and can't find consistency in whether Clause 7.2 2(b) is present or not. I note that Clause 2(b) is shown in the most recent Settled Clause for Flood Planning available on the DoPI Website. Our interpretation of the Floodplain Development Manual (Section 3.1.4- Planning Certificates) indicates that we can:

- identify this land under a Council Policy (DCP) and still provide 149(2) Notification regarding flood related development controls and
- for sites where flooding issues are identified at DA stage we would look at impacts under Section 79(c) EP&AAAct.

However we would prefer that this clause was reinstated to give the issue appropriate weight or be provided with clarification on why it was omitted.

If possible I would like to discuss these issues at your earliest convenience. While it would be good to have these issues addressed now as part of the current LEP revision, if we come to the conclusion that amendments to these LEP Clauses is appropriate and these amendments have the potential to delay the adoption of our mapping, we can defer the issues.

Regards

Rod Mergan

Senior Planner

Rezoning

Wyong Shire Council

P.O. Box 20, WYONG NSW 2259

Tel: 02 4350 5560 Fax: 02 4351 2098

E-mail: Rod.Mergan@wyong.nsw.gov.au WWW: <http://www.wyong.nsw.gov.au/>



please consider the environment before printing this e-mail

Attention:

This email is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. The use, copying or distribution of this message or any information it contains, by anyone other than the intended recipient is prohibited by Wyong Shire Council.

This message is intended for the addressee named and may contain confidential/privileged information. If you are not the intended recipient, please delete it and notify the sender.
Views expressed in this message are those of the individual sender, and are not necessarily the views of the Department.
You should scan any attached files for viruses.

Attention:

This email is privileged and confidential. If you are not the intended recipient please delete the message and notify the sender. The use, copying or distribution of this message or any information it contains, by anyone other than the intended recipient is prohibited by Wyong Shire Council.
