

1994—No. 679

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
NORTH COAST REGIONAL ENVIRONMENTAL PLAN 1988
(AMENDMENT No. 2)**

NEW SOUTH WALES



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I, the Minister for Planning, in pursuance of section 51 of the Environmental Planning and Assessment Act 1979, make the regional environmental plan set out hereunder.

ROBERT WEBSTER MLC
Minister for Planning

Sydney, 15 December, 1994

Citation

1. This plan may be cited as North Coast Regional Environmental Plan 1988 (Amendment No. 2).

Commencement

2. This plan takes effect on and from 2 January 1995.

Aims, objectives etc.

3. This plan aims to amend the Principal Plan:

- (a) to assist in the implementation of the following directions given by the Minister under section 117 of the Environmental Planning and Assessment Act 1979:
- G25—Flood Liable Land;
 - G26—Residential Allotment Sizes;
 - G27—Bus Services;
 - S25—Development Near Licensed Aerodromes;
 - S26—Coastal Policy; and

- (b) to implement new policies on coastal development, as required by the New South Wales Coast Government Policy; and
- (c) to reflect that there is no hierarchy of environmental planning instruments and that the Principal Plan provides guidelines for the preparation of local environmental plans; and
- (d) to reflect environmental planning policy development since January 1988 and to correct various anomalies.

Land to which plan applies

4. This plan applies to the land to which the Principal Plan applies.

Principal Plan

5. In this plan, North Coast Regional Environmental Plan 1988 is referred to as the Principal Plan.

Amendment of Principal Plan

6. The Principal Plan is amended:
- (a) by omitting from clause 2 (2) (b) the words “control and”;
 - (b) by inserting after clause 2 the following clauses:

Effect of aims and objectives of this plan on local environmental plan preparation

2A. (1) This clause applies to a council when deciding whether or not to prepare a draft local environmental plan applying to a part of the region and when preparing any such plan.

(2) When this clause applies, the council should take into consideration such of the aims and objectives of this plan as are relevant to the making of its decision.

Effect of aims and objectives of this plan on determination of development applications

2B. (1) This clause applies:

- (a) to a consent authority when determining an application for development consent for the carrying out of development on or in relation to land within the region; and
- (b) to the Minister or a public authority when determining whether or not to grant concurrence to the granting of such a consent.

(2) When this clause applies, the consent authority, Minister or Public authority must take into consideration such of the aims and objectives of this plan as are relevant to the making of its determination.

- (c) by inserting after clause 4 (2) the following subclause:

(3) Nothing in this plan prevents failure to comply with a requirement made by this plan that is not mandatory from being an inconsistency for the purposes of section 68 (4) (d) (iii) of the Act.

- (d) by inserting in clause 5, in alphabetical order, the following definitions:

“Coastline Management Manual” means the Government publication with that title published in 1990;

“dual occupancy” means the creation of not more than two dwellings (whether or not attached) on one lot within an urban zone, or of not more than two attached dwellings on one lot in a rural or environmental protection zone;

“Floodplain Development Manual” means the Government publication with that title published in 1986;

“New South Wales Coast Government Policy” means the Government publication with that title published in 1990;

“North Coast: Design Guidelines” means the Government publication with that title published in 1989;

“North Coast Region Tourism Development Strategy” means the Government publication with that title published in 1987;

“Tourism Development Along the New South Wales Coast: Guidelines” means the Government publication with that title published in 1992;

“Tourism Development Near Natural Areas: Guidelines for the North Coast” means the Government publication with that title published in 1990;

- (e) by omitting from the definition of “extractive material” in clause 5 the word “clay,”;
- (f) by omitting from the definition of “mineral” in clause 5 the matter “1973” and by inserting instead the matter “1992”;
- (g) by omitting the definitions of “multiple occupancy”, “Obstacle Limitation Surface” and “total destination resort” from clause 5;
- (h) by inserting in the definition of “rural land” in clause 5 after the word “zone” the words “, an environmental protection, a national park or a nature reserve zone, or a forestry zone, in each case”;
- (i) by omitting from the definition of “the map” in clause 5 the words “Environment and”;

- (j) by inserting at the end of clause 5 the following subclause:

(2) A copy of any of the publications referred to in subclause (1) may be inspected by any person during ordinary office hours at the Northern Regions office of the Department of Planning.

- (k) by omitting from clauses 7–11, 14 (1), 17 (1), 21 (1), 25 (1), 26, 27, 29, 31 (1), 35, 38 (2), 40, 42, 45 (1), 47, 48, 50, 53–56, 58, 61, 63, 65 (1), 80 and 83 the word “shall” wherever occurring (except in clause 10 (a)) and by inserting instead the word “should”;
- (l) by omitting from clause 7 (a) (ii) the words “based on the advice of the Director-General of Agriculture”;
- (m) by omitting from clause 7 (b) (ii) the words “based on the advice of the Director-General of Agriculture”;
- (n) by omitting from clause 7 (b) (iii) the word “and”;
- (o) by inserting after clause clause 7 (b) (iv) the following paragraph:
- (v) rezone prime crop or pasture land for purposes other than agricultural only after a detailed analysis of the agricultural capability of the land and the land adjoining the land has been carried out; and
- (p) by inserting in clauses 11, 14 (1), 17 (1), 21 (1), 26, 27, 29, 31, 38 (2), 40, 42 (1), 45 (1), 47, 48 (1), 50, 53 (1), 54, 55, 56, 58, 61, 62, 63 and 83, before the words “local environmental plan”, wherever occurring, the word “draft”;
- (q) by omitting the word “*Fisheries*” from the heading to Division 2 of Part 2 and by inserting instead the words “*Catchment Management*”.
- (r) by deleting clause 13 and inserting instead the following clause:
- Objectives**
13. The objectives of this plan in relation to fisheries and catchment management are to preserve and enhance fishery habitats and associated catchments, and to promote the sustainable use of natural resources.
- (s) by inserting in clause 14 (1) after the word ““containing” the words “rivers, streams,”;
- (t) by inserting at the end of clause 14 (1) (b) the following word and paragraph:

; and

- (c) be prepared only after consideration of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the land.

- (u) by omitting clause 14 (2);

- (v) by omitting from clause 15 the words “coastal or inland wetland or fishery habitat area or within the drainage catchment of a wetland or fishery habitat” and by inserting instead the words “river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat”;

- (w) by omitting from clause 15 (f) the words “Fisheries and Oyster Farms Act 1935” and by inserting instead the words “Fisheries Management Act 1994”;

- (x) by omitting from clause 15 (g) the words “protection” and “section 21A” and by inserting instead the words “protected” and “section 21AB”, respectively;

- (y) by adding at the end of clause 15 (h) the following word and paragraph:

- ; and

- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment.

- (z) by omitting clause 17 (2);

- (aa) by omitting from clause 18 (1) the words “ensure site rehabilitation during and after extractive operations” and by inserting instead the words “require implementation both during and after extractive operations of an erosion and sediment control plan and rehabilitation plan”;

- (ab) by omitting clause 18 (2);

- (ac) by inserting after clause 18 the following clause:

Development control—mineral sands mining

18A. (1) The consent authority must not grant consent for mineral sands mining without the concurrence of the Director.

(2) In deciding whether to grant concurrence required by this clause, the Director must take into account:

- (a) the impact of the proposed development on the natural environment;

- (b) the effect of any disturbance of the land by previous or existing mining activity; and
 - (c) whether natural areas likely to contain habitat for rare or endangered flora or fauna species, significant geomorphological or archaeological features or items of State or regional environmental heritage and cultural value will be disturbed.
- (ad) by omitting clause 19 and by inserting instead the following clause:

Objective

19. The objective of this plan in relation to rural housing is to ensure that any opportunities for rural housing area are available only as part of a planned strategy for rural living areas.

- (ae) by omitting clause 20 and by inserting instead the following clause:

Plan preparation—rural land release strategy

20. (1) The council should not prepare a draft local environmental plan for rural land permitting rural residential or small holding development unless:

- (a) it has prepared a rural land release strategy for the whole of its area; and
 - (b) the Director has approved of the strategy; and
 - (c) the draft plan is generally consistent with that strategy.
- (2) A copy of any such rural land release strategy should:
- (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours; and
 - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.
- (3) In identifying land suitable for rural housing, any such strategy is to give preference to areas which:
- (a) are physically capable of supporting rural housing; and
 - (b) are close to existing settlements which already have services and community facilities, or can otherwise be efficiently and economically serviced; and
 - (c) are physically suitable for septic effluent disposal; and
 - (d) are not required or likely to be required for future urban expansion of existing settlements; and

- (e) do not comprise prime crop or pasture land; and
- (f) are not subject to significant environmental hazard; and
- (g) are not of significant value for the conservation of wildlife.

(4) Any such strategy is to be based on the average number of allotments needed annually to meet genuine demand for rural residential and small holding development.

(5) The average annual number of allotments needed to meet such demand over any period agreed by the Director is not to exceed 130 percent of the average number of building approvals granted for the erection of dwellings (in the course of rural residential and small holding development) in the area in each of the preceding 5 years.

- (af) by omitting from clause 21 (2) the words “shall consult with the Director-General of Agriculture and take into account his or her comments in relation to” and by inserting instead the words “is to consider the desirability of”;
- (ag) by inserting after clause 21 (2) the following subclause:
 - (3) A draft local environmental plan which permits development for the purpose of caravan parks or camping grounds on land in rural or environmental protection zones should only allow the provision of temporary accommodation, unless:
 - (a) the land adjoins or is adjacent to land zoned for urban use; or
 - (b) the land is proposed for permanent residential accommodation in accordance with:
 - (i) a rural land release strategy referred to in clause 20 which has been approved by the Director; or
 - (ii) a land release program referred to in clause 38 (3) which has been agreed to by the Director.
- (ah) by omitting clause 22 and by inserting instead:

Plan preparation—dual occupancy

22. Except for the benefit of an employee referred to in clause 21 (1) (b), a draft local environmental plan applying to rural land and land zoned for environmental protection, scenic protection or escarpment preservation should not include provisions to permit the erection of more than one dwelling on an allotment of land, but may include provisions to permit:

- (a) the alteration of or additions to a dwelling erected on an allotment so as to create 2 attached dwellings; or
- (b) the erection of 2 attached dwellings on an allotment.

- (ai) by omitting clauses 23 and 25 (2);
- (aj) by inserting in clause 29 (b) after the words “environmental protection” the words “, scenic protection or escarpment preservation”;
- (ak) by inserting in clause 29 (c) after the words “littoral rainforest,” the words “riparian vegetation,”;
- (al) by omitting clause 29 (e) and by inserting instead the following paragraph:
 - (e) require consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones.
- (am) by inserting after clause 29 the following clause:

Development control—natural areas and water catchment

29A. (1) The council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones unless it is satisfied that:

 - (a) the wildlife habitat will not be significantly disturbed by the proposed development; and
 - (b) the scenery will not be adversely affected by the proposed development; and
 - (c) an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.

(2) In this clause, “**clearing of natural vegetation**” means:

 - (a) the removal of the majority of the vegetation, ground cover, topsoil or flora (other than noxious weeds, or trees which are dead, dangerous, exotic or propagated for horticultural purposes) within an area in excess of 1 hectare; or
 - (b) the reduction of the canopy or the population of any one tree species in excess of 20 per cent within an area in excess of 1 hectare,

but does not include such removal or reduction:

 - (c) within 3 metres of the boundary of land in different ownership or occupation for constructing or maintaining a fence; or
 - (d) within 0.5 metre of the common boundary of land in different ownership or occupation to allow a registered surveyor to survey the boundary.
- (an) by omitting clause 31 (2);

- (ao) by omitting clause 32 and by inserting instead the following clauses:

Plan preparation—coastal foreshore areas

32. A draft local environmental plan that applies to land adjoining or adjacent to a coastal foreshore area should include provisions that:

- (a) restrict development so as to minimise long term risk to life and property and its impact on the coastal processes; and
- (b) minimise the visual impact of development near the shore; and
- (c) require that the impact of engineering works on coastal processes be assessed; and
- (d) prohibit development landward from the back beach erosion scarp that is at immediate risk from coastal processes, other than development involved with stabilisation works.

Plan preparation—coastal lands

32A. (1) This clause applies to land within the region to which the New South Wales Coast Government Policy applies.

(2) A draft local environmental plan which applies to any such land should:

- (a) include provisions that give effect to and are consistent with the New South Wales Coast Government Policy; and
- (b) not remove from existing controls applying to any such land any requirement for the concurrence of the Director for consent to development in coastal protection zones; and
- (c) prohibit development buildings or other structures except those required for erosion control works or beach management on dunes, beaches and headlands that are not occupied by buildings or other structures; and
- (d) when development applications are being determined, require consideration of the possibility of higher sea levels caused by climatic change; and
- (e) include provisions to the effect that the council must not consent to the carrying out of development on a headland on which buildings are already situated, except where:

- (i) the height and scale of any buildings that will result from carrying out the development will be no greater than those of the buildings already on the headland; and
- (ii) an environmental assessment has been carried out including an assessment of the visual impact of the proposed buildings from other headlands within sight of the headland on which the development is proposed to be carried out; and
- (iii) the proposed development is considered by the council to have a low environmental impact.

Development control—coastal lands

32B. (1) This clause applies to land within the region to which the New South Wales Coast Government Policy applies.

(2) In determining an application for consent to carry out development on such land, the council must take into account:

- (a) the New South Wales Coast Government Policy;
- (b) the Coastline Management Manual; and
- (c) the North Coast: Design Guidelines.

(3) The council must not consent to the carrying out of development which would impede public access to the foreshore.

(4) The council must not consent to the carrying out of development

- (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time); or
- (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

(ap) by omitting clause 33 (a) and by inserting instead the following paragraph:

- (a) take into account the Coastline Management Manual;

(aq) by omitting clause 38 (1) and by inserting instead the following subclause:

- (1) The council should not prepare a draft local environmental plan which permits development that, in the opinion of the council (subject to the directions given by the Director), constitutes significant urban growth unless it has proposed an urban land release strategy for the whole of its local government area.
- (ar) by omitting from clause 38 (3) (b) the words “areas which are” and by inserting instead the words “development resulting in urban growth on land that adjoins other land which is already being used for urban purposes and is”;
- (as) by inserting after clause 38 (3) (b) the words:
- (b1) not provide for development of land which is unsuitable for urban growth due to its agricultural capability or which adjoins land that is currently used for agriculture;
- (at) by omitting from clause 38 (3) (c) the word “and” where secondly occurring;
- (au) by inserting after clause 38 (3) (d) the following paragraphs:
- (e) have regard to the rural character and heritage significance of villages and small coastal settlements and the need to maintain that character and significance; and
- (f) provide substantial buffer areas between coastal urban centres to avoid uninterrupted coastal development,
- (av) by omitting from clause 39 the words “A local environmental plan shall not include retail, commercial or business purposes unless—” and by inserting instead the words “A draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:”;
- (aw) by omitting from clause 39 (b) the words “and available at the office of the council for public inspection during normal office hours” and by inserting instead the following words:
- and:
- (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours; and
- (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.
- (ax) by omitting from clause 40 (b) the word “and”;

- (ay) by inserting after clause 40 (c) the following word and paragraph:
 - ; and
 - (d) the principle of minimising energy use, in particular in the design of buildings and effective transport systems.
- (az) by inserting after the words “incompatible development” in clause 42 (c) the words “, including agricultural activity on adjoining land”;
- (ba) by omitting clause 42 (f) and by inserting instead the following paragraph:
 - (f) permit the use of manufactured home estates for permanent occupation.
- (bb) by inserting at the end of clause 42 the following subclause:
 - (2) A draft local environmental plan that will permit dwellings to be erected in urban areas should not:
 - (a) require development consent for a dwelling-house in a residential zone, except where there are special environmental or hazard considerations; or
 - (b) specify a minimum allotment size for residential zones.
- (bc) by omitting from clause 43 (1) (c) the word “and” where secondly occurring;
- (bd) by omitting clause 43 (1) (d) and by inserting instead the following paragraph:
 - (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles; and
 - (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.
- (be) by omitting from clause 44 the word “of” where secondly occurring’
- (bf) by omitting clause 45 (1) (c) and by inserting instead the following paragraphs:
 - (c) dangers arising from potential or actual acid sulphate soils;
 - (c1) dangers arising from contaminated land;
- (bg) by omitting from clause 45 (1) (8) the word “or”;
- (bh) by inserting at the end of clause 45 (1) (h) the following word and paragraph:
 - ; and
 - (i) high tension electrical power lines,

- (bi) by omitting clause 45 (2);
- (bj) by omitting from clause 45 (3) the word “developement” wherever occurring and by inserting instead the word “development”;
- (bk) by omitting clause 45 (4);
- (bl) by inserting after clause 45 the following clause:

Plan preparation—flood liable land

45A. (1) This clause applies to flood liable land within the meaning of the Floodplain Development Manual.

(2) A draft local environmental plan should:

- (a) not alter the zoning of flood liable land the zoning of which is described as special use — flood liable, rural, open space, scenic protection, conservation, environment protection, water catchment or coastal lands protection, or similarly described, to a zone described as residential, business, industrial, special use, village or similarly described; and
- (b) not contain provisions which apply to flood liable land and which:
 - (i) permit an intensification of development on that land; or
 - (ii) are likely to result in an increase in the need for flood mitigation measures (including emergency measures), infrastructure or services; or
 - (iii) permit development to be carried out without development consent, except development for the purpose of agriculture which does not include landfill, drainage canals, fences, buildings or structures in the following places:
 - * floodways;
 - * high hazard flood fringe;
 - * high hazard flood storage areas,
as defined in the Floodplain Development Manual,

unless Justified by a floodplain management plan prepared by the council in accordance with the Floodplain Development Manual.

- (3) A draft local environmental plan should:
 - (a) zone land identified in accordance with the principles contained in the Floodplain Development Manual as high hazard flood liable or as floodway so as to reflect its potential for flooding; and
 - (b) provide that the erection of new buildings on any such land be restricted.
- (bm) by omitting from clause 46 the word “This” and inserting instead the word “The”;
- (bn) by omitting from clause 47 (1) the words “or granting consent to a development application on land in an urban area” and by inserting instead the words “relating to commercial or industrial development.
- (bo) by omitting clause 47 (1) (d);
- (bp) by inserting at the end of clause 47 the following subclause:
 - (2) Before granting consent for industrial development, the council must take into consideration the principle that land used for such development should be located where it can be adequately serviced by the transport system and is accessible from urban areas.
- (bq) by omitting clauses 53 (3) and 55 (a);
- (br) by inserting after clause 55 the following clause:

Plan preparation—development of new airports

55A. The council should not prepare a draft local environmental plan which provides for development of land for the purpose of a new airport unless it is satisfied that:

- (a) operation of the airport will not cause excessive noise intrusion to residential localities; and
 - (b) the land is substantially free from hazards to air navigation or can be made so without detrimental effects elsewhere; and
 - (c) the development will not have a detrimental economic effect on any other airports in the region.
- (bs) by omitting clause 56 and by inserting instead the following clauses:

Plan preparation—land in the vicinity of aerodromes

56. (1) In the preparation of a draft local environmental plan involving land in the vicinity of an aerodrome Licensed under the Civil Aviation Regulations of the Commonwealth, the council should:

- (a) include provisions to control the height of buildings to avoid obstructions and potential hazards to air navigation;
 - (b) include provisions to prohibit residential development on land affected by aircraft noise levels greater than 25 ANEF (measured in accordance with the Australian Noise Exposure Forecast); and
 - (c) include provisions to minimise the risk of obstacles to aircraft, such as bird strike, by requiring consent for development in the vicinity of any such aerodromes which may increase such risk.
- (2) Before preparing a draft local environmental plan referred to in subclause (1), the council should consider the most recent contour plan indicating the Australian noise exposure forecast in the vicinity of the aerodrome.

(3) In this clause:

“Australian noise exposure forecast” has the meaning given to that expression in the Australian Standard entitled “AS 2021—1985 (Acoustics—Aircraft Noise Intrusion—Building Siting and Construction)” published by Standards Australia on 4 November 1985;

“contour plan” means the noise exposure plan (of the particular locality concerned) within the meaning of Australian Standard AS 2021—1985 prepared by the Commonwealth Civil Aviation Authority or other appropriate Commonwealth authority.

Plan preparation—bus services

56A. In the preparation of a draft local environmental plan involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration the guidelines in Technical Bulletin 19—Planning for Bus Services (published in 1989 by the Department of Planning and the Ministry of Transport at that time) to ensure that the draft plan allows for the provision of an adequate and efficient bus route system.

- (bt) by omitting from clause 58 (d) the word “and” where secondly occurring;
- (bu) by inserting at the end of clause 58 (e) the following word and paragraph:
 - ; and
 - (f) consideration has been given to the provision of public transport facilities, pedestrian and cycleways.

- (bv) by omitting clause 59;
- (bw) by omitting from clause 61 (b) the word “recreation” and by inserting instead the word “educational”;
- (bx) by omitting clauses 62 and 65 (2);
- (by) by omitting Division 1 of Part 6 and by inserting instead the following Division:

DIVISION 1—*Tourism*

Objectives

67. The objectives of this plan in relation to tourism development are:

- (a) to encourage tourism activity that will complement the existing natural and man-made features of the region and be of positive benefit to the region’s economy; and
- (b) to encourage a range of tourism facilities in the region without degrading important environmental or agricultural features of the region; and
- (c) to encourage the location of tourism facilities so that they may benefit from existing air, road and rail services, physical service infrastructure, other tourist attractions, natural features and urban facilities; and
- (d) to encourage large scale resort development in places that are easily accessible to tourists by roads, railways or water transport (or any combination of them) of a high standard and that are in proximity to urban services.

Definitions

68. In this Division:

“large scale resort development” includes holiday unit complexes, hotels, motels and integrated resorts which may incorporate convention and recreation facilities, commercial facilities, golf courses and permanent residential accommodation;

“prime tourism development areas” means the urban areas of Port Macquarie, Coffs Harbour, Tweed Heads, Kingscliff, Ballina and Byron Bay;

“small scale or low key tourism development” includes rural retreats holiday cabins, caravan parks and camping grounds available for temporary accommodation only, guest houses and hostels.

Plan preparation—environmental features and hazards

69. A draft local environmental plan should not zone land for tourism development unless the council is satisfied that:

- (a) the land is without environmental features worthy of preservation or protection or is free from significant environmental hazards; or
- (b) there are acceptable design, engineering or other solutions that will allow preservation of environmental features or will allay concerns about the hazard.

Plan preparation—principles for location of tourism development

70. A draft local environmental plan that will facilitate tourism development should:

- (a) contain provisions which identify and protect important natural features and ecosystems of the region; and
- (b) permit large scale resort development with permanent residential accommodation only in, or immediately adjacent to, prime tourism development areas; and
- (c) permit in rural or environment protection zones small scale or low key tourism development only; and
- (d) have regard to the North Coast Region Tourism Development Strategy and the Tourism Development Along the New South Wales Coast: Guidelines.

Plan preparation—provision of services to tourism development

71. A draft local environmental plan should not zone land for tourism development unless the council is satisfied that:

- (a) adequate access by road, railway or water transport (or any combination of them) exists or will be provided; and
- (b) reticulated water and sewerage services are or will be available, or arrangements satisfactory to the council have been or will be made for the provision of those facilities.

Plan preparation—large scale resort development

72. A draft local environmental plan should not zone land to permit large scale resort development unless the following criteria will, in the opinion of the council, be satisfied:

- (a) there will be adequate access to the development; and
- (b) where the development has access to, or depends upon, the beach or other natural features, those features are able to sustain increased public usage; and

- (c) the development will be located on land where the environment is robust enough to support major development or will be carried out in such a way as will allow valuable environmental features to be protected; and
- (d) the land on which the development is to be carried out is within or adjacent to a prime tourism development area or adequate urban services are available.

Plan preparation—residential development and tourism

73. A draft local environmental plan that will permit tourism development should not include provisions which permit permanent residential accommodation except:

- (a) where it is ancillary to existing tourism development; or
- (b) where the development will be part of an area otherwise identified for urban expansion and is included in a residential development strategy approved by the council.

Plan preparation—tourism development on farms

74. A draft local environmental plan allowing tourism development on farms should contain provisions that:

- (a) require the tourism accommodation to be ancillary to the principal and continuing use of the land for the purpose of agriculture; and
- (b) permit tourism development only where it is compatible with existing neighbouring land uses and does not prejudice continuing agricultural activity.

Development control—tourism development

75. (1) The council must not grant consent to tourism development unless it is satisfied that:

- (a) adequate access by road, railway or water transport (or any combination of them) exists or will be provided to service the development, taking into account the scale of the development proposed; and
- (b) if the proposal involves permanent residential accommodation, all social and community services reasonably required by those residents exist in close proximity to the development; and
- (c) the development will not be detrimental to the scenery or other significant features of the natural environment; and
- (d) reticulated water and sewerage are available, or arrangements satisfactory to the council have been made for the provision of those facilities.

(2) In considering an application for consent to tourism development, the council must have regard to principles contained in the Tourism Development Along the New South Wales Coast: Guidelines.

(3) The council must not approve an application for large scale resort development unless it is within or adjacent to a prime tourism development area or adequate urban services are available.

Development control—natural tourism areas

76. (1) In this clause:

“natural tourism area” means an area within the region which:

- (a) adjoins a national park, nature reserve or state recreation area within the meaning of the National Parks and Wildlife Act 1974, or a State forest;
- (b) comprises or is adjacent to predominantly Crown land; or
- (c) is, in the opinion of the council, a natural area with qualities which make it a major attraction.

(2) Before granting consent for the development of a natural tourism area, the council must have regard to the Tourism Development Near Natural Areas: Guidelines for the North Coast regarding the location of facilities, the intensity of development and the means of access available from the development to any adjoining natural areas.

- (bz) by omitting from clause 78 (1) the word “shall” and by inserting instead the words “should include provisions which”;
- (ca) by omitting clause 78 (2);
- (cb) by omitting from clause 79 (1) the words “a council shall” and by inserting instead “a draft local environmental plan should”;
- (cc) by omitting clause 79 (2) and by inserting instead the following subclause:

(2) A draft local environmental plan should not zone other land or permit other land to be developed for the purpose of such a recreational vehicle area unless any guidelines relevant for selecting, establishing or maintaining a recreational vehicle area have been taken into consideration when the draft plan is being prepared.

- (cd) by omitting from clause 81 (2) the words “shall effect” and by inserting instead the word “affects”;
- (ce) by omitting clause 83 (g) and by inserting instead the following paragraph:

- (g) not alter, create or remove provisions for the acquisition of land without the agreement of the authority responsible for acquiring the land; and
- (cf) by omitting from clause 83 (h) the words “an environmental planning instrument” and by inserting instead the words “it amends a principal local environmental plan that”.

Savings

7. (1) Environmental planning instruments and draft environmental planning instruments apply to a development application made, but not finally determined, before the commencement of this plan as if this plan were not in force.

(2) Amendments made by this plan relating to the preparation of draft local environmental plans do not apply to the preparation of such a draft plan for which a certificate was issued under section 65 of the Act before the commencement of this plan.
