

COPY

4/05/2012

**FAX TRANSMISSION**

SN: 249  
ZONING  
LEP-2012

**TO:** General Manager  
**ATT:** Iain Lonsdale  
Coordinator Planning Reform  
**FAX:** (02) 6670 2429  
**Pages:** 4 (including Cover Page)

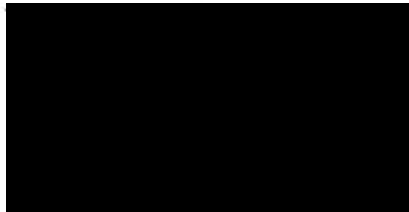
TWEED SHIRE COUNCIL	
FILE No:	GT11LEP1202A
DOC. No:	49952599
RECD:	-4 MAY 2012
ASSIGNED TO:	ZENKTELER, M
HARD COPY <input checked="" type="checkbox"/>	IMAGE <input type="checkbox"/>

**Re:** Draft Tweed City Centre LEP 2012 - Charles Street (Draft Environmental) Zoning

Good Afternoon Mr Lonsdale

Please find enclosed my submission regarding the above mentioned Draft LEP for Environmental Zoning on Charles Street, Tweed Heads.

Yours Sincerely



Reference: GT1/LEP/2012.

4 May 2012

General Manager  
Tweed Shire Council  
PO Box 816  
Murwillumbah NSW 2484

Attention: Iain Lonsdale

Dear Sir

**Draft Tweed City Centre LEP 2012- Charles Street (Draft Environmental) Zoning.**

As the owner of [REDACTED] I strongly object to the proposed E2 Environmental Conservation Zoning on my property. The 'New' E2 boundary, if adopted, would result in a third (32.16%) of my property essentially being taken from me.

My objections are based on:

1. Such a highly restrictive zoning would severely compromise the necessary development of the site which is already limited due to the topography of the hillside.
2. The E2 zoning over a third of the property would severely reduce the value of the land with no compensation being offered.
3. It appears that originally the correct process of adding this amendment to the draft LEP was not correctly followed. Therefore, due to the complete lack of public knowledge:
  - The affected land owners were not aware of the re-zoning within their properties and the implications of it.
  - The Councillors were not made aware that the proposed E2 rezoning was to affect up to 60% of individual's private property.
4. I am yet to be convinced or shown sufficient evidence that the area requires protection as restrictive as that of the E2 Zoning. It would appear that only some individual vegetation specimens were found on the hillside, and only after the rezoning amendment was added to the draft LEP.

## **1. Necessary development**

Zoning the front of the property as R3 is in no way a true indication of what could be achieved or even approved on the site due to the topography of the hill. The current dwelling is very old and more than one architect and engineer have indicated that renovations are not a viable option. In addition, the current access is "too" steep and it would not be approved under any new development application. To build a driveway with a more desirable gradient for vehicle access would require the site of the building to be placed a little further up the hill, as the driveway would have to 'weave' from one boundary side to the other, as occurs on many other properties along Charles Street.

I have no desire to 'over' develop this site, however I should be able to build a home for my family with reasonable driveway access to a garage and to the house. This was not an unreasonable proposition given the land size I originally purchased. Approval would not have been a problem when the rear of the lot would have been used for the landscaped/deep tree planting, as is required in a development application. An E2 conservation zone over a third of my property substantially reduces the building footprint, severely restricting any viable home development option, considering the restrictive nature of the hillside already.

Although it is not my intention to put a multiple dwelling on the site, if that is what the Tweed Council Town Planning Department see as a more desirable use of the land on Charles Street, then surely sterilising a third of the building site is not the way to maximise the potential of the R3 zone .

In the current state the occupants of 35 Charles Street and visitors, including all tradesmen and delivery vans, park on the street as entering & exiting the driveway is not attempted by most. This is particularly noticeable in the rain when the car tyres often don't grip in the wet conditions on the steep slope.

Given the already narrow width of Charles Street and the blind corner near our access, I believe street parking should be discouraged. However, until the site is suitably redeveloped, occupants and visitors to my house will continue to park on the street or negotiate a less than desirable access and exit to the property. 'Taking' a third of my land as a result of this highly restrictive E2 zoning further complicates and delays any foreseeable development applications being submitted.

## **2. Decreased land values**

Any E2 zoning would greatly reduce the land value of my property. Similarly, it would reduce the land value of all the affected properties along Charles Street.

When I purchased this site I paid for the whole 1694.27 M<sup>2</sup>. The original E2 zone was drawn to cover 55% of my land. It has now been reduced, but still proposes to cover 32% of my land. The loss of the 538.88M<sup>2</sup> should be compensated to reflect the lost parcel of land, as the E2 zoning basically sterilises the affected area. I should not have to pay yearly rates or land tax for over a third of my property that I cannot use or include in my housing application.

**3. Correct process not being followed for the proposed zoning amendments.**

As the owner of a property on Charles Street, I appreciate the chance to now raise my concerns about the zoning of the land. I believe that the proposed environmental conservation rezoning of the Charles Street properties is unnecessary and unjustified and should be removed from the current Draft Tweed City LEP 2012. If in the future the Council wants to proceed with this environmental protection zoning then it should be put forward following the correct procedures and with evidence that justifies the need for such a restrictive zone.

**4. Insufficient justification for E2 Zoning.**

The boundary line initially was drawn arbitrarily based on the tree line, and although reviewed briefly in March, it has still not been based on "significant areas of natural vegetation".

The hillside, including my own property, is heavily vegetated, but mainly by weeds and pests and not by "significant areas of natural vegetation" that require protection. Many properties have been previously cleared and re-planted with a variety of trees and bushes, including fruit trees and non endemic species. My property is vegetated by mainly umbrella trees, asparagus vines and other pest species. In fact, on inspection by the Bushlands Officer on 28 March, 2012 the comment was made that council would approve and encourage the removal of many of the trees on my property, even if a tree preservation order was in place, as they are pests and most undesirable. The officer also seemed to be of the opinion that the bushland could be maintained in ways other than by the restrictive E2 zoning.

I firmly believe that the bushland on the hillside can and will be maintained.

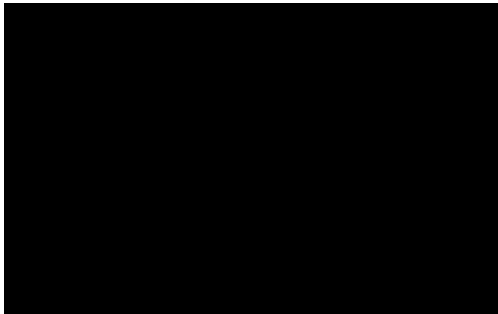
- (i) It has remained relatively unchanged for many years, as that is one of the main features that attract land owners to Charles Street.
- (ii) Even if a new development is proposed on a property, the topography of the hill and council's guidelines for building on steep sites will keep developments towards the fronts of the blocks, while allowing the required landscaped ratios to be used on the higher portion of the property. This also allows owners to be more receptive to maintaining and improving the affected areas, especially in controlling invasive weed and vine growth.

In summary, for the reasons stated above, I strongly object to the proposed E2 environmental zoning on Charles Street and believe it should be removed from the current version of the Draft Tweed City LEP 2012.

Also, along with many of the residents on Charles Street, I believe the bushland can be maintained and would appreciate the opportunity to discuss the issues raised in this letter with Council officers before the matter is reported to the Council Meeting on 26 June.

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3 May 2012

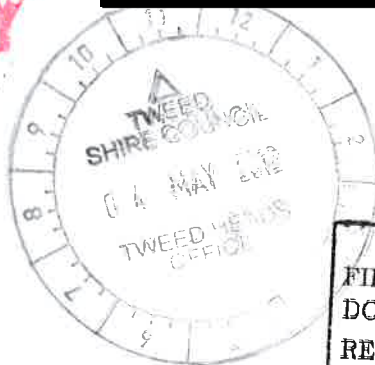
**COPY**

General Manager  
Tweed Shire Council  
PO Box 816  
**MURWILLUMBAH NSW 2484**

Attention: Iain Lonsdale

Reference: GT1/LEP/2012

Dear Sir



SN: 249  
ZONING  
LEP-2012

TWEED SHIRE COUNCIL	
FILE No:	GT1/LEP/2012 Pt.
DOC. No:	50085077
REC'D:	-4 MAY 2012
ASSIGNED TO:	ZENKTEUER
HARD COPY <input checked="" type="checkbox"/>	IMAGE <input type="checkbox"/>

Rel Doc: 40587389

**DRAFT TWEED CITY CENTRE LEP 2011 – RE-EXHIBITION – ZONING OF LAND IN CHARLES STREET, TWEED HEADS**

49166782

We refer to our letter of 14 October 2011 and subsequent communications. We maintain our strong objection against the proposed zoning changes included in the re-exhibited draft LEP - as amended by the recent boundary adjustment advised in the Council's letter of 17 April 2012. Adoption of the draft LEP in the form now proposed would result in about 36% of our property being included in the E2 Environmental Conservation Zone.

Issues related to the proposal are essentially unchanged from our earlier submission, despite the limited relocation of the proposed zoning boundary. The summary grounds of our current objection to the proposal are shown below, and can be elaborated on in discussions which we consider would be essential prior to the matter being presented to the Council for a decision.

1. The variation of the proposed boundary line and the Council's actions in belatedly consulting with affected property owners, while welcomed, were essentially of an informal and non-statutory nature, and do nothing from a legal viewpoint to correct the failure of the 2011 re-exhibition of the draft LEP in that,

- None of the material made available with the re-exhibited draft LEP in September/October 2011, including the "Vision" document, contained any explanation of or made any reference to the proposed zoning change. It was, with the exception of some minor routine corrections, such as changed dates and departmental names, identical to the material accompanying the original LEP exhibition, which had not included the proposed rezoning. Indeed, in relation to the Razorback Precinct, the "Vision" document continued in 2011 to anticipate "minimal changes to the precinct". This material therefore did not "enable the draft plan and its implications to be understood."
- Affected property owners were not appropriately alerted to the contents of the draft LEP, as the written notice of the exhibition did not properly describe the land affected by the proposed plan (merely referring to it as the "City Centre"), or hint that adverse zoning of residential properties could be involved. The absence of any such notice

was compounded by the wording of the advertisements, which only referred to the plan's intention to "accommodate future growth of the Tweed City Centre as a major regional centre". This process was therefore less than transparent, and could well be regarded as misleading.

- The complete lack of relevant information and publicity for this exhibition contrasted with the major fanfare associated with the initial exhibition of the draft LEP in early 2010, which included information sessions, mounted displays and frequent press articles. This low-profile exhibition, which unsurprisingly did not attract the attention of affected Charles Street property owners, was their sole opportunity to examine and comment on the proposed rezoning.
- The reasons put forward to the Council meeting of 19 July 2011 for including the proposed zoning in the re-exhibited draft LEP were said to be "further review" by the Council's NRMU and submissions from the then NSW DECCW. However neither the review referred to, nor any DECCW submissions which were said to be relied on, were made available to the Councillors or, as noted above, to the public.

In fact, it was eventually only possible to secure access to the (late) DECCW submission by a freedom of information search under GIPAA, which revealed cursory, non-specific and unsupported comments about an unnamed "escarpment". The fact that this insubstantial document, which was claimed to be the sole justification for the rezoning, could only be viewed by affected parties following an FOI search, and then only long after the LEP exhibition had been completed, undermines the alleged importance of the zoning change and the reasons behind it.

- The Councillors were also not informed that a zoning change affecting up to 60% of individual private properties was involved, with the proposal merely referred to as redefining the boundary of areas zoned environmental protection, and the land described as "Razorback Ridge Reserve" (of which the subject properties are clearly not part).

2. When the results of the re-exhibition of the draft LEP were placed before the Council on 13 December 2011, it was again suggested that the zoning proposal arose as a "direct outcome of submissions received to the 2010 exhibition". This was not accurate. The report also did not explain to the Councillors, as was only revealed in a subsequent FOI search, that officers had effectively accepted that the position of the zoning boundary line may not be accurate, and conceded that there may be scope to adjust it.

3. The brief inspection by the Council's Bushland Officer on 28 March 2012 resulted in recognition on his part that the original proposed zoning line was effectively arbitrary, based on aerial photography of the tree canopy, regardless of the types of vegetation involved (and in at least one case, on shadow having been mistaken for canopy).

This type of generalised approach is not consistent with the level of care and detail necessary to determine land to be included in the highest level of zoning protection (and most stringent restrictions) outside National Parks or reserves. LEP Practice Note 09-002 indicates that a Council's proposal to zone land E2 should be based on a study developed from robust data sources and analysis; ie not a generalised comment from DECCW and tracing from an aerial photograph. The decision needs to be supported by a strategy or study that demonstrates the high status of the land's values.

The environmental study referred to in the practice note would be of the type meant by Section 66(1)(b)(i) of the Act, which is required to be exhibited with the draft LEP, and likewise the supporting robustly-based studies would be among material expected to be displayed by sub-section (d) of the same section. As noted above, no such material (or any material) was exhibited.

4. The proposed classification would appear to rely on the presence in various locations on the hillside of some individual specimens of vegetation species which can be found (obviously in much greater concentrations) in genuine areas of forest worthy of protection. While large sections of the subject area could certainly be described as being heavily vegetated, though with a variety of introduced species, this alone is not a criterion for adoption of an environmental protection zone.

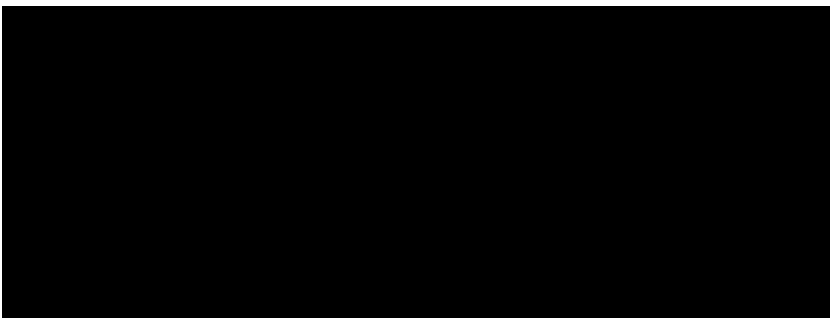
Areas appropriate for E2 zoning are described for instance in Clause 29(c) of the North Coast Regional Environmental Plan (deemed SEPP) as "significant areas of natural vegetation including rainforest and littoral rainforest". That is not the case with most of the subject locality, which is mainly characterised by vegetation which is other than "natural" to the hillside, to a large extent being re-planting of formerly cleared areas, and its classification is still not based on robust scientific analyses. In that regard, it is notable that the Council has never sought to impose a Tree Preservation Order on this hillside vegetation.

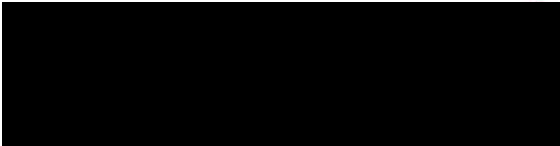
5. The absence of real criteria for identification of the area as representing endangered vegetation or littoral rainforest, or for restrictive zoning, does not mean that the vegetated character of the hillside cannot be preserved. The draft LEP also includes a "Bushland Map" overlay, which triggers the requirements set out in Clause 6.4 of the draft LEP. This would ensure that the vegetated nature of the site is protected, while also preserving rightful development rights for the subject properties, whereby the higher, treed sections of a site could continue to be designated as landscaped area in the event of redevelopment, with built forms mainly towards the front. That is the most suitable type of development for the local topography anyway.

6. Under a bushland overlay, land owners would be more likely to be encouraged to carry out sensible maintenance and improvement of affected areas, and continue control of invasive weed and vine growth, than would be the case under a restrictive zoning of an effectively sterilised section of their properties. It is clear from discussions with officers that the Council itself has no intention, or budget, in the foreseeable future to undertake any work to maintain, improve or restore the bushland area.

**As we have suggested previously, an appropriate solution to the current position with this zoning proposal would be for it to be excised from the current version of the draft LEP and re-introduced with the full suite of essential supporting material in a future amendment (or LEP phase 2) , if the Council decides it should proceed . However, as noted above, it is our view that the objective of retaining the hillside bushland area could be secured by the restrictions embodied in the LEP's bushland clause, with or without the addition of firmer controls on vegetation removal, such as a tree preservation order.**

We would appreciate the opportunity to further discuss the issues raised in this submission with Council officers before the matter is finalised. Please let us know if you would like any further information.





Coordinator Planning Reform  
 Tweed Shire Council  
**MURWILLUMBAH...NSW 2484**

**COPY**

Zonings. SN: 249.  
 LEP - DRAFT TWO LEP 2012.

TWEED SHIRE COUNCIL	
FILE No:	GT1/LEP/2012 A1
DCC No:	50098834
RECD:	- 7 MAY 2012
ASSIGNED TO:	ZENKLEVER M.
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

Dear Sir,

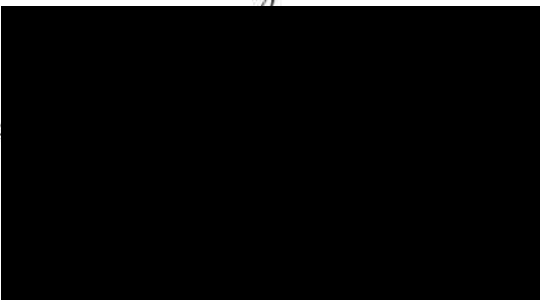
Your Ref: GT1/LEP/2012

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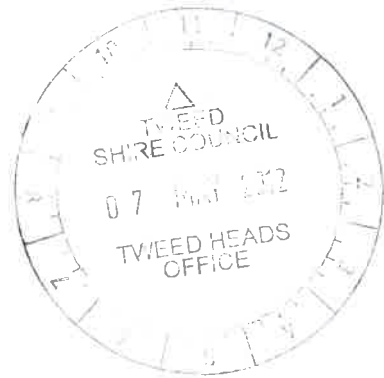
I thank you for your letter of 17<sup>th</sup> April and advise that this revised drawing of the rezoning basically accords with my thoughts expressed at our meeting of 6<sup>th</sup> March last.

It was my understanding that you would be holding a further meeting, with all those effected by the zoning, subsequent to your officers inspection of all the land holdings effected by the Zoning.

Provided that your proposed redefining of the area, as per the plan attached to your letter, is agreed to by the majority of all land owner effected by the zoning, I would be inclined to vote in favour of the new redefinition of the zoned area.







COF



May 5 2012

General Manager

Tweed Shire Council

PO Box 816

Murwillumbah

Attention Iain Lonsdale

Reference:GTI/LEP/2012

2011-12  
LEP - DRAFT T.H.O LEP 2012  
LN: 18418

FILE No:	GTI/LEP/2012 pt 1
DOC. No:	50135283
RECD:	-7 MAY 2012
ASSIGNED TO:	ZENKEL, M
HARD COPY	<input checked="" type="checkbox"/>
IMAGE	<input type="checkbox"/>

Dear Sir

We are the owner occupiers of [REDACTED] [REDACTED] [REDACTED]. We still strongly object to the proposed E2 Environmental Conservation Zone under the Draft LEP.

Although there has been a variation in the proposed boundary line after council officers belatedly met with Charles St property owners 35% or 534 m2 of our property would still be zoned E2.

At the meeting of property owners with council officers it was acknowledged that the draft LEP had been rushed due to pressure for completion by the State Government and that the area of E2 zoning should be reexamined.

This honesty was appreciated however the fact is the E2 zone was not in the original exhibition and appears to have been hastily added after comments by the DECCW regarding the escarpment (which was not named).

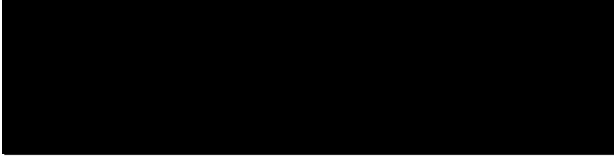
This haste seems to have continued with a viewing of our backyard by a councils bushland officer. The boundary of the E2 zone was subsequently reduced, however the question of whether an E2 zone should be on our privately owned property and if so what area it should include has not been adequately examined. A thorough and unbiased scientifically based environmental study has not been undertaken and the proposed zoning is totally unsupported.

The maintenance of an E2 zone if it was introduced is another issue to be considered as the area is covered in invasive weeds and vines.

During the Razorback " walk and talk " recently held by council a speaker when questioned about the possibility of restoration work to the vegetation said that it had been looked at but the cost and problems with occupational health and safety concerns for the workers would make it prohibitive.

I hope you will take into consideration all of the above points which we consider to be very valid ones.

Regards



LN. 26057.

LEP - DRAFT TWO LEP 2012

**COPY**

Reference # GT1/LEP/2012

21 April 2012


Mr Iain Lonsdale  
Tweed Shire Council  
PO Box816  
Murwillumbah NSW2484

TWEED SHIRE COUNCIL	
FILE No: GT1/LEP/2012	PH.
DOC. No: 4950718	
REC'D: 26 APR 2012	
ASSIGNED TO: ZENKTELD, M	

Dear Sir,

Re: Draft Tweed City Centre LEP 2012 –Charles St (Draft Environmental) Zoning

In reply to your letter 21 April 2012 we still disagree to the rezoning of these Charles Street properties to an environmental zone. The proposed area has not changed greatly in decades, only trees are taller and weeds are thicker, I'm sure the majority of property owners have no plans to greatly change their "green" back yards so feel an environmental rezoning unnecessary.

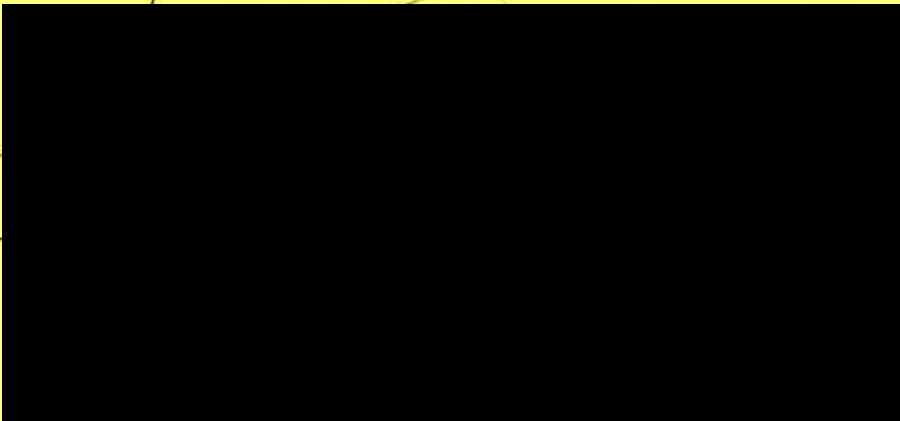
 we can see no vegetation of significant value to require an environmental zoning, any plants of value could be identified and preserved or replanted to a more appropriate area, please remember that this is "our" backyard and that "we" should choose how to use it.

Also of concern to us is the safety aspect of keeping this area reasonably clear of excess vegetation to reduce fire risk and discourage snakes, an environmental zoning would make this more difficult.

A major concern is also the devaluation of all the Charles Street properties because of this proposed rezoning, with no compensation to be made.

We do not want this area to be zoned as Environmental Conservation at all, but if this is unavoidable we still feel, even with the redefined boundary, a significant area of the majority of properties is being "lost", and that the boundary line should be moved further back towards Razorback.

We appreciate Council's commitment to resolving this issue.



**COPY**



zoning  
LW. 18420.  
LEP - DRAFT TWO LEP 2012

11 May 2012

TWEED SHIRE COUNCIL	
FILE No:	G.A. LEP 2012 P+1
DOC. No:	50482676
RECD:	15 MAY 2012
ASSIGNED TO:	ZENKTELE, m
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Tweed City Centre LEP/DCP  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

Attention: Iain Lonsdale

Dear Sir

**DRAFT TWEED CITY CENTRE LEP 2011 – RE-EXHIBITION – ZONING OF LAND IN CHARLES STREET, TWEED HEADS**

I am the owner of property at No. [REDACTED] and refer to my letter sent on 14 October 2011 as a submission concerning the re-exhibited draft of the Tweed City Centre LEP. 40587390

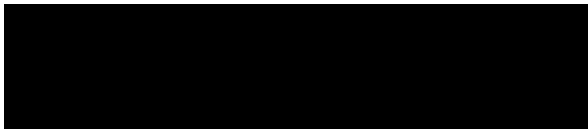
[REDACTED] and confirm that I continue to strongly object against the proposed E2 Environmental Conservation zoning, despite the zoning boundary adjustment shown in the plan accompanying your letter of 17 April 2012.

50085077

Having read the submission dated 3 May 2012 by Hillary and Ian Rigby, I confirm that I agree with the grounds of objection which are raised in it, and consider that the Council's actions concerning the proposed zoning have been less than transparent and not openly put forward to affected property owners. The proposal itself is unwarranted, according to the generalised material which the Council has put forward, and the subsequently acknowledged less than rigorous studies leading to it, and unsupported by any appropriate robust evidence.

In my opinion, the preferable course of action would be for the Council to withdraw the proposed rezoning from the draft "City Centre" LEP, and explore alternative, less punitive, measures to protect the vegetated hillside.





**COPY**

4 May 2012

General Manager  
Tweed Shire Council  
PO Box 815  
MURWILLUMBAH NSW 2484

Attention: Iain Lonsdale

Reference: GT1/LEP/2012

Dear Iain,

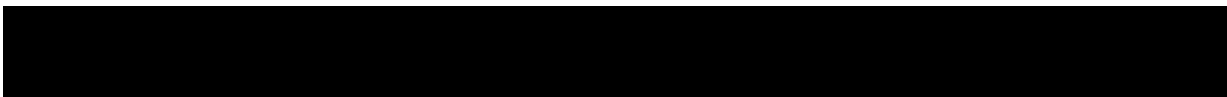
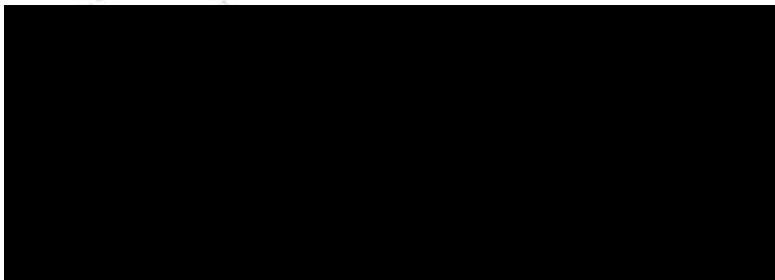
2012-05  
LEP - DRAFT TWO LEP 2012

TWEED SHIRE COUNCIL	
FILE No: GT1/LEP/2012	A1
DOC. No: 50190516	
RECD: - 9 MAY 2012	
ASSIGNED TO: ZENKIAK, M	
HARD COPY <input checked="" type="checkbox"/>	IMAGE <input type="checkbox"/>

**DRAFT TWEED CITY CENTRE LEP 2011 – RE-EXHIBITION – ZONING OF LAND IN CHARLES STREET, TWEED HEADS**

Thankyou for your letter 17 April. -49167838

Considering the manner in which this potential rezoning was proposed and all that has occurred since, we believe the best solution would be for the zoning proposal to be omitted from the draft LEP thus allowing the draft LEP to proceed whilst we (Council and residents) agree on a method to protect our rights and protect the bushland on Razorback.



7<sup>th</sup> May 2012

**COPY**

Attention: Mr Iain Lonsdale

Council Reference: GT1/LEP/2012

Draft Tweed City Centre LEP 2012 – Charles Street (Draft Environmental) Zoning

Dear Mr Lonsdale,

I received the redrawn proposed Environmental Conservation zone for my property at 39A Charles Street.

The new zone line is still 5 to 6 meters in front of any vegetation on my property, I recall from the March meeting that council wanted to keep an even line and not have a zig zagging conservation line across properties.

What I would like to propose is that on my property the Environmental Conservation line has a scallop similar to that on the property at 49 Charles Street. This would be an acceptable compromise and it would not have a zig zag effect council would like to avoid.

Very few properties have a straight line across them anyway they are either following the street line or are curved in some form across the property.

