

TITLE: [PR-CM] Tweed City Centre Vision, Local Environmental Plan and Development Control Plan

ORIGIN:

Planning Reform

FILE NO: GT1/LEP/2006

SUMMARY OF REPORT:

This report seeks Council's endorsement for the re-exhibition of the Draft Tweed City Centre Plans.

The initial public exhibition of the Draft LEP and accompanying Vision Plan and Development Control Plan occurred between 27 January to 30 April 2010, during which 57 submissions were received.

The Draft Plans were prepared by the Department of Planning and Infrastructure's (DoPI) in conjunction with Council staff and their consultant, JBA Urban Planning.

Following a review of the submissions and amendment by the DoPI the Plans are suitable for re-exhibition.

This report addresses the key amendments to the Plans as agreed between the DoPI and Council staff. The DoPI has requested that the Plans be re-exhibited for the prescribed statutory period of 28 days and Council staff consider the request to be reasonable.

Request was made through public submission that a public hearing be held in respect of the Draft Plans. Council may, in accordance with s 68(1)(b) of the EP & A Act 1979, consider that the issues raised in a submission are of such significance that they should be the subject of a public hearing before the Council decides whether, and if so, what alterations should be made.

The two dominant issues raised comprise building height and the reliance on current planning investigations opposed to the wholesale adoption of the previous Council (not State Planning) endorsed Masterplan 2004, notwithstanding that there are similarities.

The building height issue has been largely addressed by way of proposed amendment to the Draft LEP and DCP, which reduces the previously proposed building heights to those more in-line with the current Tweed LEP, and as such does not warrant consideration by way of a public hearing. In any event it would be more practical to permit a re-exhibition and re-evaluation by the public of those amendments prior to considering the need for a hearing.

In relation to the earlier masterplan it was generally agreed by DoPI and Council staff that based on the masterplan's currency and in light of changes in available information over the preceding five years, it should not be relied upon as a single basis for informing the new planning. The evaluation of the locality and preparation of a new masterplan

through the Draft LEP and DCP, which are based on newer and broader investigations and data, particularly relating to climate change, transport infrastructure, and changes in State Policy, comprises a better practice.

This report recommends that a public hearing not be held; that the need for a public hearing, should it arise by request from the re-exhibition of the Plans, be reassessed at that stage and on the basis of the amendments proposed.

RECOMMENDATION:

That:

- 1. A public hearing under s68 of the Environmental Planning and Assessment Act 1979 not be held in relation to the issues raised by way of submission to the Draft City Centres Local Environmental Plan (2009) on grounds that the issues raised by way of submission are not of such significance that they should be the subject of a public hearing before Council decides whether and, if so, what alterations should be made.**
- 2. Council endorses the concurrent statutory re-exhibition of the Draft Tweed City Centre Vision, Local Environmental Plan (2011) and Development Control Plan in accordance with Section 66 and Section 74E of the Environmental Planning and Assessment Act 1979, for the prescribed period of 28 days.**
- 3. A report under Section 68 of Environmental Planning and Assessment Act 1979 addressing any public submission received and consequential amendments to the Draft Plans be prepared following the public exhibition.**

REPORT:

Council's Planning Reforms Unit (PRU) along with their consultant, JBA Urban Planning and the NSW Department of Planning and Infrastructure's Centres and Urban Renewal Team, prepared a suite of strategic planning documents for Tweed Heads and Tweed Heads South comprising a; Draft Local Environmental (standard instrument order) Plan, Development Control Plan and Vision document. These were identified within the 4 year priority actions of the *Tweed 4/24 Strategic Plan* and as a requirement of the then NSW State Government's planning initiatives.

The drafting of the plans was completed in late 2009 and public exhibition occurred between 27 January and 30 April 2010. This represented a total exhibition period of 95 days opposed to the 28 day statutory requirement.

The exhibition Draft Plans were supplemented with explanatory material prepared by Council staff, who were also available at public workshops held at; Murwillumbah, Burringbar, Uki, Tyalgum, Pottsville, Kingscliff, and Tweed Heads, to help explain both the changes to the State planning laws and those of the Draft Plans. More than 350 people took the opportunity to visit the display and talk with staff. The information packages included; a Users' Guide, Zone Comparison Tables and a series of Fact Sheets, which generally received positive feedback from the community.

Documentation was on public exhibition for the duration of the public exhibition period and could also be accessed on-line via Council's web site 24 hours a day. In addition, CDs were prepared for those with computer access but limited internet access and hard copies were provided to the more remote or without computer access, on request. In all about 150 CDs and 100 information packs were requested.

To further encourage public participation submissions were also accepted by email as well as the more traditional methods, which attracted more than 450 submissions as a combined total for both the Draft Tweed LEP 2010 (Shirewide LEP) and the City Centre Draft Plans.

Key Issues raised in Relation to the City Centres LEP

The following table identifies the main issues raised and a brief description of the proposed action/amendment.

Issue	No. of submissions	Action
Objection to the proposed increase in building heights	33	Maximum building height provisions reviewed and a general reduction of permissible heights made.
Impact on airport operations	1	Reduction in building height to reflect airport requests, inclusion of additional clause relating to airport operations
The lack of new infrastructure provision to support the increase in population	12	Post exhibition, building heights across the study area have been reduced, limiting an upper (theoretical maximum) population growth of about 1,000 – 1,500 people

Issue	No. of submissions	Action
		above the current planning provisions under the Tweed LEP 2000. This level of growth can be accommodated within existing infrastructure.
Limited objection to specific zone changes	3	Zone changes have occurred post exhibition within the Razorback precinct as requested within the submissions
Dissatisfaction as to the method of public exhibition	5	As detailed within this report, the public consultation of the draft plans was extensive and significantly exceeded both the statutory requirements and Council's general practice.
Objection to the special area controls detailed within the DCP.	4	Senior urban designers from DoPI's urban renewal team have reviewed the proposed special area controls and provided comment that the prescribed controls were considered satisfactory, subject to amendment of those relating to Tweed City Shopping Centre, which have been effected.
Objection to specific building height and floor space ratio controls	3	Senior urban designers from DoPI's urban renewal team have reviewed the proposed fsrs and provided comment that the prescribed controls was considered satisfactory, except in relation to the Tweed Heads Bowls Club where amendments have been made.

Proposed Amendments to the Plan

Several areas of the Plan have been amended as a result of the public submissions, these are addressed below.

Zoning Amendments

Environmental Protection

Post further review by Council's Natural Resource Management Unit and submissions received from NSW Department of Environmental, Climate Change and Water (DECCW), zoning changes have been made to redefine the boundary areas land zoned environmental protection, which has generally led to an increase in protected land.

These amendments generally occurred in the following areas:

- Vegetated areas adjoining Eden Street and Tweed Terrace on Flagstaff Hill.

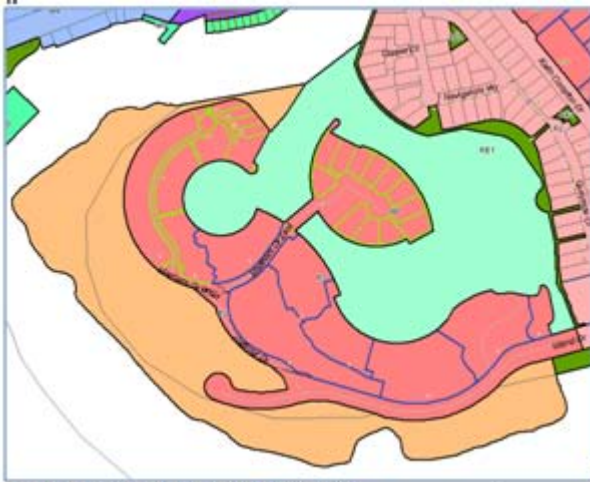


Draft Tweed City Centre LEP 2011



Tweed LEP 2000

- Vegetated areas to the immediate South of 'The Anchorage Islands'



Draft Tweed City Centre LEP 2011



Tweed LEP 2000

- Razorback Ridge Reserve

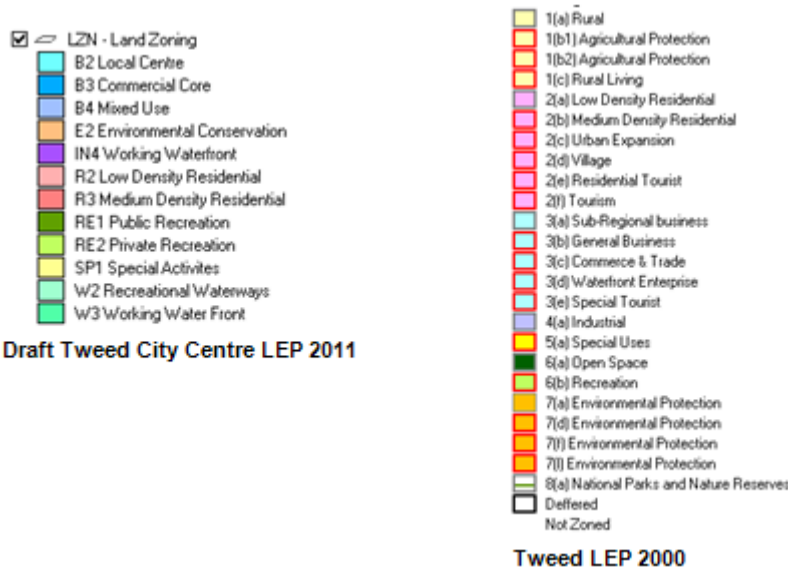


Draft Tweed City Centre LEP 2011



Tweed LEP 2000

Zoning Schedule









































Zoning of residential land on Razorback Hill

Submissions were received objecting a change in zoning of properties from 2(b) Medium Density zoning to R2 Low Density Residential under the exhibited Draft Plan. On review of the character analysis and Draft DCP provisions for the area the DoPI have recommended retaining the existing medium density zoning. Council staff agree with the recommendation.

The Draft LEP zone map has been amended to reflect the zoning under the Tweed LEP 2000.



Zoning Schedule

<input checked="" type="checkbox"/>	LZN - Land Zoning		1(a) Rural
	B2 Local Centre		1(b1) Agricultural Protection
	B3 Commercial Core		1(b2) Agricultural Protection
	B4 Mixed Use		1(c) Rural Living
	E2 Environmental Conservation		2(a) Low Density Residential
	IN4 Working Waterfront		2(b) Medium Density Residential
	R2 Low Density Residential		2(c) Urban Expansion
	R3 Medium Density Residential		2(d) Village
	RE1 Public Recreation		2(e) Residential Tourist
	RE2 Private Recreation		2(f) Tourism
	SP1 Special Activities		3(a) Sub-Regional business
	W2 Recreational Waterways		3(b) General Business
	W3 Working Water Front		3(c) Commerce & Trade
			3(d) Waterfront Enterprise
			3(e) Special Tourist
			4(a) Industrial
			5(a) Special Uses
			6(a) Open Space
			6(b) Recreation
			7(a) Environmental Protection
			7(d) Environmental Protection
			7(f) Environmental Protection
			7(j) Environmental Protection
			8(a) National Parks and Nature Reserves
			Deferred
			Not Zoned

Draft Tweed City Centre LEP (2011)

Tweed LEP 2000

Height of Buildings

The exhibited building heights were widely discussed during the exhibition period and within the submissions received. Figure 1 (also provided with Attachment 2) represents the Height of Buildings Map contained within the draft Plan.

A summary of the building height changes includes:

- No increase in building heights across the locality (with the exception of the Tweed Heads Bowls Club site, specifically discussed further in this report)
- Reduction in permitted building heights for elevated land on Flagstaff Hill.
- Reduction in permitted building heights west of Stuart Street and north of Bay Street.
- Reduction in building height along Thomson Street.
- Maximum building height before any prescribed permitted 'bonuses' of 49.5m AHD.

Essentially, the proposed amendments pare back the increases in building height sought under the exhibited plan meaning that the draft plan more closely resembles the current zoning under Tweed LEP 2000. What remains is a more limited opportunity to increase height and density through a suite of bonus provisions pertaining to a very limited number of identified key sites.

The current vision of Tweed through the Tweed LEP 2000 with its relatively lower scale city form, when compared to the neighbouring Gold Coast, will remain fundamentally the same, which assist in retaining Tweed's distinctiveness when compared to the neighbouring Coolangatta. This was identified as an important public issue through the public submissions received.

Opportunities are still available within the Plan to obtain a greater building height than 49.5m AHD by virtue of cl. 6.9 – Design Excellence (local). This provision is designed to encourage a greater level of design excellence to establish landmark buildings on key

sites within the Tweed City Centre. One of the criteria for triggering cl. 6.9 is that development must have a capital value of more than \$2m, be located on an identified key site and/or achieve a height in excess of 35m. This would trigger the need for an architectural design competition.

The clause enables the consent authority to grant up to 10% more building height and floor space ratio than those otherwise prescribed. The identified mapped 'Key Sites' include:

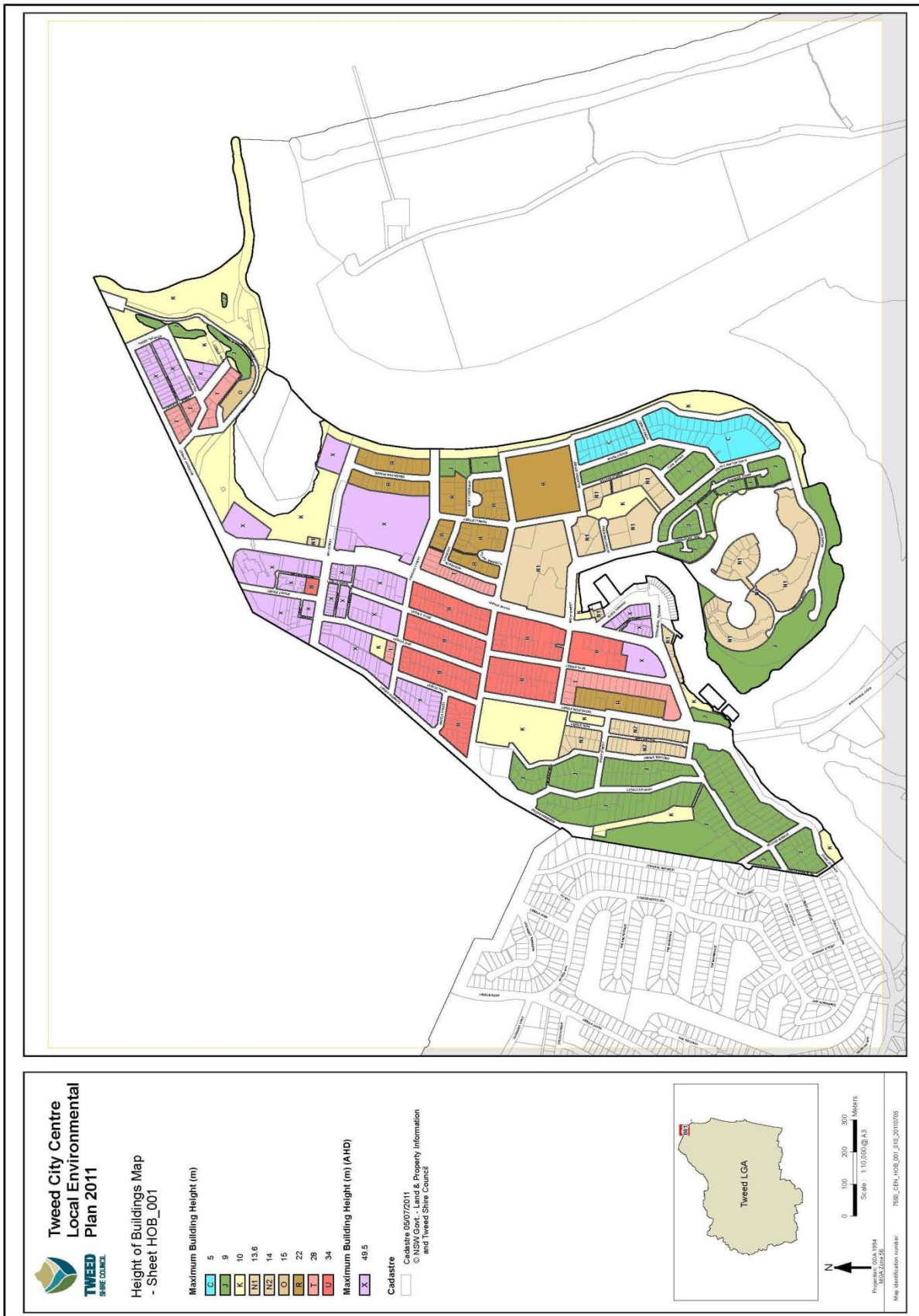
- Lot 703 of DP 877250 Coral Street
- Lot 1 of DP 777183, Wharf Street (Twin Towns Services Club)
- State and Council land bordered by Stuart Street, Stuart Lane and Bay Street
- Centro/Tweed Mall Shopping Centre
- 'Civic Precinct' comprising Council offices, Southern Cross University, Tweed Heads Bowls Club and Saint Cuthbert's Anglican Church
- All parcels on 'Monastery Hill'
- Lot 30 of DP 1084807 - The 'Von Bibra' site
- Lot 1 of DP1014402 - The former 'Scott's Fruit Market' site;

The general reduction of building height also reduces the potential population growth likely to be accommodated over and above that under the Tweed LEP 2000.

Whilst the Plan states a target of 7,000 more people, this target is derived from previous ABS statistics relating to existing population numbers. Accordingly, this target relates to a growth of 7,000 people to the existing (current) population. A desktop review by Council staff has concluded that this target results in an upper population growth limit of between 1,000 – 1,500 people - above that achievable under the Tweed LEP 2000. The previously exhibited Plan provided substantially higher population growth potential than the revised Plans.

The reduction, although disappointing from the view of generating a more walkable and public transport oriented city with a capacity to generate new investment, nevertheless goes some way to meeting the targets and expectations for the City Centre as outlined within the NSW Far North Coast Regional Strategy 2006.

FIGURE 1 – HEIGHT OF BUILDINGS MAP



Tweed Heads Bowls Club

A submission was received from the Tweed Heads Bowls Club which detailed their preference to review building heights for their site. The submission also canvasses their preference for an independent feasibility study for their land, as foreshadowed in the Draft Vision document.

The site is located within the Civic/Campus Precinct and has an approximate existing ground level of less than 3m AHD. Chapter 8 of the Draft Vision document identifies that:

'In the interim of the finalisation of the Council's Tweed Valley Floodplain Risk Management Study to determine the extent and impacts of climate change sea level rise planning benchmarks, the increased development densities are proposed only on the elevated city centre land over 3.5m AHD.'

Accordingly, the development standards identified within the draft LEP (i.e. zoning, height of buildings, FSR etc.) were based upon a general translation of the current controls into the standard template, and it was not seen to be an opportunity for circumventing or 'fast-tracking' any changes outside of the ordinary planning process.

The exhibited Height of Buildings Map nominated a 10 metre maximum height for the site. The issues raised by the Club was that it did not accurately reflect the existing development and therefore was aligned to the Tweed LEP as it would otherwise lead to a prohibited use, that is, buildings in excess of 10m. Council staff agree that this is a sound basis for making a further amendment.

The amended Height of Buildings Map, which is based on the standard set of heights used throughout the Tweed, reflects a permissible height of 13.6m.

While the Club's preference to uplift the development potential of the site it is noted, any changes in the planning scheme to facilitate a change would need to be made independent of the Draft City Centres LEP. It would also need to occur following the completion of the Draft Tweed Valley Floodplain Risk Management Study, which arose from the Council's Flood Risk Management Policy of December 2007; this latter Policy prohibits any increase in development potential in the interim.

Inclusion of additional clauses

Gold Coast Airport Limited (GCAL) as a key stakeholder were consulted and subsequently raised several issues with the Standard Instrument (local environmental plans) Order 2006 and the proposed building heights under the Draft LEP.

The Obstacles Limitation Surface (OLS) relating to Gold Coast Airport is 49.5m AHD across the entire Tweed City Centres study area. Buildings can encroach into this controlled airspace with the approval of GCAL and the Minister for Australian Department of Infrastructure, Transport, Regional Development and Local Government.

GCAL raised specific concern that the draft LEP did not highlight or identify the need for this approval, requesting the inclusion of a local clause relating to avoidance of obstacles within the prescribed airspace.

Following extensive consultation with the State Government GCAL was successful in bringing about amendment to the standard instrument and model clauses. In response to their issues the DoPI has responded by amending the building heights in the Draft LEP to affect a maximum height of 49.5m AHD, consistent with the OLS.

As detailed above, there remains a limited potential to increase height on key sites. GCAL have not raised an issue with this on the basis that the relevant airspace encroachment approvals will need to be sought and that the LEP does not advocate the higher limit as of right.

Refinement of existing provisions

Amendments to the Standard Instrument Order 2006

On 25 February 2011, the *Standard Instrument (Local Environmental Plans) Amendment Order 2011* (the amendment) was made. The objective of the order was to improve the efficiency of delivering LEPs through better clarifying the intentions of the zones, to update clauses and improve the land-use terms and how they relate to each other (parent/child terms). A copy of the DoPI's circular relating to the amendment is attached (refer Attachment 4).

Generally, the latest amendments are considered to provide overall improvements to the Standard Instrument Order 2006, resulting in a more legible document. The Draft LEP has been amended to incorporate the statutory changes in accordance with the advice of Parliamentary Counsel.

It is noteworthy that the latest amendment reaffirms the State Government's position in relation to several important matters. In particular the method for calculating height of building remains at being taken from the existing ground level. This is distinct from the Tweed LEP 2000, which takes its measure from finished ground level. This is not seen to be a significant issue in relation to the Tweed City Centres LEP and any additional height that may be required to offset any required site filling can be achieved through the provisions of the LEP, where warranted following merit assessment.

In addition, the template amendments have limited the ability for councils to prohibit restricted premises and bulky goods premises within the B2 – Local Centre, B3 – Commercial Core and B4 – Mixed Use zones. The effect of these changes can be best managed through amendments to the Tweed DCP and will need to be investigated when resources permit.

Roads

Following concerns raised by DECCW and Council's engineering unit, the land-use tables within the Draft LEP have been amended to change 'Roads' from a 'Permitted without Consent' use to 'Permitted with Consent'. The changes do not affect the permissibility of roads per se but it does result in a change in the level of assessment required to construct or modify roads by the private sector. Pursuant to both the LEP and State Infrastructure SEPP Council's statutory requirements would remain substantially unchanged from those currently operating.

Design competition

Clause 6.9(4) of the Draft City Centres LEP provides that an architectural design competition is required for any development having a capital investment value of more than \$2m on the land identified on the Key Sites Map. Concerns were raised about the application of the provision to internal renovations and refurbishments.

Clarifying that this provision is not intended to capture internal works Clause 6.9(4) of the Draft LEP was amended to read as follows:

“Development involving the erection of new buildings or external alterations to an existing building having a capital investment value of more than \$2m.

CONCLUSION:

The Tweed City Centre is a unique and diverse place and will face many new challenges as new development occurs and as the population increases.

Among those challenges is maintaining a sense of place and identity that Tweed residents identify with and value. Achieving a balance of new development and retaining the identifiable character requires careful long-term planning, with the ability to translate the ‘vision’ into a tangible set of tools that are legible across a broad sector of the community and professions.

Long-term planning is essential not only for managing the look and feel of the City Centre but for providing certainty for investment both at the private and public level, whether through new businesses, housing or necessary infrastructure.

The amended draft Plans have taken all relevant factors into consideration, including public opinion, and are designed to foster the growth of the Tweed City Centre as a contemporary multi-functional centre focused on providing integration of employment, residential and recreational uses in a liveable and vibrant urban environment.

The draft LEP, DCP and Vision are seen to be a balanced response to the diverse views and issues facing the future development and growth of the City Centre. The suite of Plans have progressed to a point where they are now suitable for re-exhibition.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Draft Tweed City Centre Vision (ECM 35602634)
 2. Draft Tweed City Centre Local Environmental Plan 2011 (ECM 35603650)
 3. Draft Tweed City Centre Development Control Plan (ECM 35603676)
 4. Planning Circular PS 11-011 (ECM 35603731)
-