

TITLE: [PR-CM] Tweed City Centre Vision, Local Environmental Plan and Development Control Plan (Section B2)

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2006

SUMMARY OF REPORT:

On 6 October 2004, Council resolved to prepare draft Tweed Local Environmental Plan 2000, Amendment No 64, relating to Tweed Heads. The draft LEP amendment investigates the land zonings, building height and development standards of land located within the Tweed City Centre (as displayed on Land Application Map in Appendix A). Within the preparation of the initial LEP amendment it was identified that a more holistic planning approach was necessary and the project brief ultimately included the preparation of a Vision document and amendments to the existing Section B2 – Tweed Heads, of the Tweed Development control Plan 2008 (the draft Plans). 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.

The suite of Plans was placed on public exhibition initially from 27 January to 30 April 2010, and then again from 14 September to 14 October 2011. A total of 15 submissions were received in respect of the 2011 exhibited plans.

The purpose of this report is to inform the Council of the issues raised within the submission process, affirm the requirement for minor amendments to the draft Plans (both instruments and mapping) as exhibited and seek endorsement for the submission of a report to the Director General pursuant to the provisions of s68(4) of the EP&A Act 1979.

RECOMMENDATION:

That Council:

- 1. Receives and notes the summary content of submissions received as part of the exhibition of Tweed City Centre Vision, Local Environmental Plan and Development Control Plan – Section B2;**
- 2. Endorses the desired amendments identified within this report;**

Tweed City Centre Vision

- 3. Adopts the Tweed City Centre Vision document and encourages the 'Future Actions' identified to be included within Council's work programs as necessary;**

Tweed City Centre Local Environmental Plan 2012

- 4. Endorses the adoption of the Draft Tweed City Centre Local Environmental Plan 2012;**

5. Endorses the preparation and subsequent furnishing of a report to the Director General, pursuant to the provision of s68(4) of the Environmental Planning and Assessment Act 1979 to assist in the making of the Tweed City Centre LEP 2012;

Tweed Development Control Plan – Section B2 – Tweed City Centre

- 6A. Endorses the retention of the ‘Alternative routes of rapid transit service’ (and associated wording), provided by way of Figure 8.4 of the Tweed Development Control Plan – Section B2 – Tweed City Centre, as it relates to Council owned land at Bay Street, Tweed Heads (The Fire Station site).

OR

- 6B. Endorses the removal of the ‘Alternative routes of rapid transit service’ (and associated wording), provided by way of Figure 8.4 of the Tweed Development Control Plan – Section B2 – Tweed City Centre, as it relates to Council owned land at Bay Street, Tweed Heads (The Fire Station site).
7. Endorses the adoption of the Draft Tweed Development Control Plan 2008 – Section B2 – Tweed City Centre to take effect simultaneously with the commencement of the Tweed City Centre Local Environmental Plan;
8. Advertises a public notice of Council’s adoption of the Draft Tweed Development Control Plan 2008 – Section B2 – Tweed City Centre, be published in the Council’s newspaper, the Tweed Link, in accordance with Clause 21 and 22 of the Environmental Planning and Assessment Regulation 2000; and
9. Endorses the preparation of supporting documents to ensure appropriate implementation of the Tweed City Centre Plans; including but not limited to, development contributions plan/s and a policy framework for implementing Architectural Design Competitions.

REPORT:

On 6 October 2004, Council resolved to prepare draft Tweed Local Environmental Plan 2000, Amendment No 64, relating to Tweed Heads. The draft LEP, along with a Vision Document and new Development Control Plan - Section B2 amendment investigates the land zonings, building height and development standards of land located within the Tweed City Centre. The Study Area is displayed below.

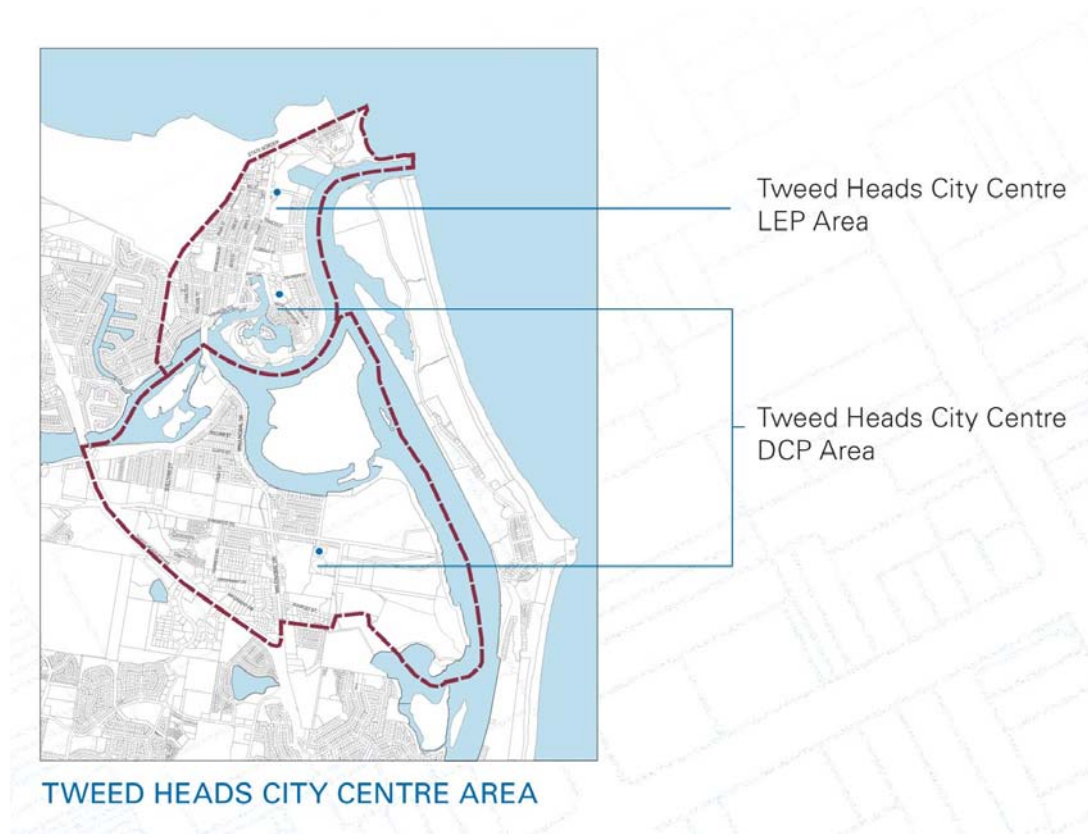


Figure 1 – The Study Area

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

At its 19 July 2011 meeting, Council resolved to publicly exhibit the Draft Plans for the second time. In accordance with cl.12 of the Environmental Planning and Assessment Regulation 2000, and section 66 of the Environmental Planning and Assessment Act 1979, the Draft Amendment and relevant supporting information was placed on exhibition between 14 September 2011 and 14 October 2011. A total of 15 submissions were received.

Public Exhibition

The draft plans and associated documents were placed on public exhibition from the 14 September 2011 to the 14 October 2011. The exhibition was advertised in the Tweed Link, Council's publication and on Councils' website.

The draft Plan was available for inspection at the following places:

- Murwillumbah Civic Centre from 8.00am to 4.30pm weekdays;
- Tweed Heads Civic Centre from 8.00am to 4.30pm weekdays;

- Kingscliff Library from 10.00am to 5.00pm Tuesdays, Thursdays & Fridays, from 10.00am to 7.00pm Wednesdays, and from 9.00am to 12 noon Saturdays.

In accordance with the Environmental Planning and Assessment Act, the following documents were placed on public exhibition:

- Draft Tweed City Centre Vision Document
- Draft Tweed City Centre Local Environmental Plan Instrument and Mapping
- Draft Tweed City Centre Development control Plan (Section B2 of the Tweed Development Control Plan 2008)
- Copy of the Standard Instrument (Local Environmental Plans) Order 2006
- Copies of relevant S117 Directions, SEPPs, REPs and Strategies (i.e. NSW Coastal Policy, Far North Coast Regional Strategy etc)
- Details of s62 Consultation
- Details of s64 Compliance
- S65 Certificate

A total of 15 submissions were received pursuant to s.67 of the EP&A Act 1979. A summary of the submissions and responses are detailed below.

- ***Vision***

Issue: Council planners should be looking to create a vibrant urban village, along the lines of new development just west of Robina Town Centre. This new centre has a mix of commercial, café and living in heights that range from six to ten stories. It is very attractive and is encouraging to new residents.

Response: Similar to the referred area (Robina/Varsity), the draft Plans provide for a variety of land uses (such as commercial, retail, cafes etc.) and building height. It is acknowledged that the draft Plans do provide for taller buildings north of Frances Street than presently surround Robina Town Centre, however this is considered to be appropriately coupled with design controls, such as setbacks and floorplate sizes to ensure that built form will be of appropriate height, bulk and scale. No further amendment to the Plans is recommended.

Issue: In previous submissions, the Tweed Community have previously submitted that a tiered form of high-rise development with city urban open space could be a priority, rather than the desolate "canon" style high-rise now evident in Stuart Street, Tweed Heads.

Response: The draft Plans provide for a variety in building height, ranging from 5m – 49.5m AHD in and around the Tweed City Centre. Similarly, the area is well serviced by open space areas including Jack Evans Boat Harbour, Duranbah Beach, Jack Chard Par, John Follent Park and Ebenezer Park. The draft Plans are considered to possess appropriate controls to result in high quality built form outcomes that are visually attractive, interesting and accommodate a range of suitable land uses. No further amendment to the Plans is recommended.

Issue: This plan also contains no provision for a public car park, rail or bus terminal, nor public transport corridor, which should be considered in the future planning of a town. Unless car park planning is corrected and more alternative car parking facilities provided, loss of car parking will seriously affect tourist amenity and local business

Response: At its meeting of 19 July 2011, Council resolved to:

- "2. *Develop a Rapid Bus Transit Corridor Plan from Gold Coast Airport Transport Hub to Pottsville through the coastal villages with links to Murwillumbah.*
5. *Does not include the southerly extension of light rail south of the Coolangatta Airport Hub in any medium/long term Tweed Shire Public Transport Strategy."*

At this point the referred Rapid Bus Transit Corridor Plan has not been commenced, accordingly, the Vision, LEP and DCP do not prescribe a corridor or route. From a strategic planning perspective, significant attempts to shift Tweed Shire's high vehicle dependency should be pursued. In this regard, the Plans include:

- increased mixed use development, assisting in reducing the number and length of trips
- increased requirements for bicycle parking and associated facilities
- improved built form controls to improve amenity and safety from the public realm, assisting in encouraging pedestrian movement.

It is acknowledged that efforts must be made beyond these Plans to significant shift methods of travel. Such projects could include:

- Public Domain and Infrastructure Plans – further increasing pedestrian and cyclist comfort and interest, strategically locating pocket car parks along transport routes.
- Public Transport Station/Stop Design – integrating land use, cultural development/awareness, 'Wi-Fi' nodes and facilities with 'stops', beyond simply providing shelter to waiting patrons
- Creating Transport Alliances - Ensuring long-term stability in transit routes to assist in financial stability to business owners, granting public transport street primacy, investigating car share programs and shuttle systems.
- Transit Corridor Plan – Identifying routes and marrying public transport opportunities with integrated land use and activity density.

The abovementioned potential plans are not within the scope of these Plans, however could be pursued by Council at a point in the future. It is acknowledged that the Plans propose an increase in population and as such additional focus should be made towards ensuring greater efficiency in human movement. Importantly, the Plans themselves provide an appropriate framework for future detailed investigations to occur and do not prohibit complimenting public transport and movement strategies. To this extent, Future Action 3 within the Vision document identifies the needs to review and develop transport management strategies and the LEP permits '*Passenger Transport Facilities*' within the business zones adopted. Both of these actions enable Council, State Government or other public transport providers to provide facilities if and when required to further encourage a variety of travel means. No further amendment to the Plans is recommended.

Issue: I do not support the cultural information contained in the Vision Statement, as my community did not play a role in developing that statement and I seek to have it replaced with the endorsed Aboriginal community statement, provided by members of the Tweed Shire Council Aboriginal Advisory Committee.

Response: In response to the abovementioned concerns, Council engaged Ian Fox to review the Historic Context chapter of the Vision document. Ian Fox has prepared a revised Cultural Statement, developed consultation with the community and endorsed by

the Aboriginal Advisory Committee at its meeting of 14 November 2011. The Historic Context chapter of the Vision document has been revised accordingly.

Issue: Reinstate the Tweed Heads Town Centre Masterplan - The community of Tweed Heads prefers to grow sustainably as a Town Centre and not try to duplicate the evils of the high rises and oppressive overdevelopment of the Gold Coast which is implied in this massive overdevelopment in the LEP/DCP of 2011. The regional city concept for Tweed Heads is rejected due to:

- *The lack of movement by developers since 2000 to implement LEP 2000 in Tweed Heads Town Centre over the last 12 years.*
- *All the development in the Tweed since 2000 and all the developments now planned for the future are south and west of Tweed Heads Town Centre or along the coast of Coolangatta where the views are that make both tourist units and residential units attractive.*
- *The highly restrictive areas of the Tweed Heads Town Centre and Tweed City south with its flood zone restrictions place limits on future development and growth in both areas.*
- *The proposed high rises west of Wharf and south of Frances Streets will have no views or reasons to attract buyers unless they are either on the hills or are specialist concepts catering for the up market retirement dollar or are proposed by the Clubs who have a \$100 million annual gambling income and expanding businesses from that income, as most current developments under construction or planned in Tweed Heads Town Centre are today.*

Response: Within the Vision document, a regional city is defined as:

“A city that is a focal point for jobs that also has a full range of business, government, retail, cultural, entertainment and recreational activities.”

The abovementioned definition is in keeping with the NSW Far North Coast Regional Strategy 2006, which identified Tweed Heads (along with Lismore) as a Regional Centre and ‘*containing 35% of the Region’s additional housing*’. The draft Plans are considered to embody this overarching guidance from DoPI as well as employ a triple-bottom line approach to development.

The Vision document identifies that growth within the Tweed statistical local area has been stronger than the Shire as a whole within the past decade. The Tweed City Centre is considered to continue to attract new investment, population and job growth with the attributes possessed by its location (close to employment, beaches, open space, the Gold Coast International Airport etc), and an improved planning framework which carefully considers the flooding constraints of the area. No further amendment to the Plans is recommended.

Issue: The current art gallery/museum proposal on priceless scenic land planned at Flagstaff Hill would be better suited at the current, but soon to be relocated, Southern Cross University campus at Brett Street, Tweed Heads.

Response: This submission and concept has been forward to Council’s Museum working group for their consideration. Information and Education Facilities (includes museums) is identified as permissible with consent within the draft TCC LEP for this site, accordingly no further amendment to the Plans is recommended.

Issue: A submission was received suggesting that Bay Street should be the Government and Recreational centre of Tweed City. The proposal would include pedestrian amenity, shops, studios, cafes, restaurants, recreation and promenade opportunities. Further, at

the Western (top) end of Bay St (Old fire station) close off Bay St on the ridge ie Thomson Street and build our new City of Tweed Government offices making Bay St an exceptional core centre for recreational and administration of the City of Tweed Heads.

Response: Whilst relocating Council operations is not presently included in any adopted strategies, should Council wish to pursue such a proposal the B3 – Commercial Core zone applied to the ‘Old Fire Station’ site includes *Public Administration Building* as a permissible with consent land use. No further amendment to the Plans is recommended.

- **Local Environmental Plan**

Issue: I object to the B4 zoning on Coral Street, Tweed Heads. Under this zoning high rise development is permitted. Coral Street land is Crown Land and as such, should be retained as parkland or perhaps a more suitable site for the proposed museum.

Response: The referred site (Lot 703 DP 877250) is currently zoned 3(e) Special Tourist (Jack Evans Boat Harbour), with a permitted building height of 3 storeys. The draft LEP includes a B4 – Mixed Use zoning, with a maximum building height of 15m.

When comparing objectives and land use tables of the current and proposed zoning (both seek to provide for a mixture of compatible land uses, including tourist orientated commercial, retail, service, residential and waterfront facilities), a number of similarities can be identified and the zones considered ‘like’. The B4 Mixed Use zone includes a number of public and community uses as permissible with consent, including Information & Education Facilities (which includes Museums etc) and as such, does not preclude community facilities being pursued on the site.

The site is currently affected by a 3 storey height restriction, which, under the Tweed LEP 2000 definitions could result in a 15m height building (3 storeys of commercial development). Whilst this height is permissible, a more ‘regular’ building height of 13.6m (as per the prescriptive controls of Section A1 of the Tweed DCP), representing a 1.4m uplift in building height. The building height controls for this site have been carefully considered by Council and Department of Planning officers to ensure appropriate view sharing for adjoining properties, whilst providing opportunities for high quality built form opportunities, framing Jack Evans Boat Harbour – a regionally significant open space area.

The referred lot presents a significant opportunity to frame and activate the northern edge of Jack Evan Boat Harbour. The controls included within the draft Plans are seen to provide appropriate planning controls and guidance to ensure an appropriately high quality outcome for this site and as such no further amendment to the Plans is recommended.

Issue: I object to the zoning of the Commercial Core to B3. Under this zoning high rises of excessive height are permitted. This type of high rise development is not suited to Tweed. It will create a smothered environment of bleak, wind tunnel unattractiveness in what could be a beautiful urban environment.

Response: Whilst it is acknowledged that building heights throughout the B3 Commercial Core zone are reflective of ‘high rise’ development within a Tweed Shire context, the requirements of the LEP by way of Floor Space Ratio restrictions and Design Competitions, coupled with the built form controls within the draft DCP ensure that built form will be of appropriate height, bulk and scale. No further amendment to the Plans is recommended.

Issue: Gold Coast Airport Limited (GCAPL) concurs in the intent and effect of the draft Clause 6.10, however, consider that it would be preferable for phraseology changes to be made to provide greater clarity. Further, it was suggested that it may be appropriate

for an Aircraft Noise clause to be included, for consistency with the draft Shire-wide LEP, although there are no current proposals which would specially bring about a need for protection against aircraft noise in the central Tweed Heads locally.

Response: The suggested amendments to the Aircraft Obstacles clause have been forwarded to DoPI staff for their review and feedback, concluding that some minor amendments are warranted, specifically relating to the role of the relevant Commonwealth body, however the full suite of amendments sought is not supported. As the Tweed City Centre area is not affected by the ANEF contours, pursuing an Aircraft Noise clause is not considered warranted at this time. No further amendment to the Plans is recommended in this regard.

Issue: Measurement of building height - It would appear that a 49.5m high building could be anything from 11 to 15 storey and 34m high could mean anything from 8 to 10 storey. This confusion must be cleared up to give guidance to both residents and developers.

Response: DoPI's Practice Note PN 08-001 provides detail on Building Height provisions within the Standard Instrument, confirming that heights are to be shown as metres. No further amendment to the Plan is recommended in this regard.

Issue: Submissions were received requesting that the area proposed by Centro to takeover or purchase in Bay Street north of the Centro Complex which is still shown on planning maps be removed.

Response: DoPI's Practice Note PN 10-001 provides guidance to councils on zoning public infrastructure land in standard instrument local environmental plans. Principle 1.3 of the Practice Note states 'Roads must be zoned' before providing a framework for how to appropriately zone roads. Bay Street, east of Wharf Street, is currently bound by commercial and recreational zones. DoPI advises that in cases where a road forms a boundary between zones the whole of the road should be zoned the same zone (i.e. the zone boundary should not run down the middle of the road); and that wherever possible, the zone applied should be the same as that applied to adjoining land, and which provides for a range of land uses to assist with flexibility in land use planning.

In keeping with the abovementioned principle, Bay Street has been zoned B3 – Commercial Core. It is largely viewed that the application of the B3 Commercial Core zone provides a continuation of the current Tweed LEP 2000 provisions. In this regard, Clause 12 of the Tweed LEP 2000 enables development on unzoned land that is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity.

In summary, the draft LEP is considered to reflect the application of the current Tweed LEP 2000 in relation to the referred site and is in keeping with the DoPI's practice note regarding the zoning of infrastructure. Any application for the site would need to be considered on its merits, having regard to the provisions of the LEP and DCP, particularly the Controls for Special Areas. No further amendment to the Plan is recommended in this regard.

Issue: The continuing zoning of Public Recreation Space surrounding Jack Evans Boat Harbour southern foreshores is nothing short of a disgrace and facilitates the sale of lands for residential use by the State Government.

Response: It is not clear from the submission received which specific property/s is referred to, however the zoning of Bay Street to B3 Commercial Core is considered likely. In this regard, the draft LEP is considered to reflect the application of the current Tweed LEP 2000 in relation to the referred site and is in keeping with the DoPI's practice

note regarding the zoning of infrastructure. No further amendment to the Plan is recommended in this regard.

Issue: The proposed high rises west of Wharf St and south of Frances Street appear to be "slum planning" with urban squalor of repetitive ten stories imposed.... No view planes, no sunlight allowed.

Response: The draft Plans provide for a variety of land uses (such as commercial, retail, cafes etc.) and building height. It is acknowledged that the draft Plans do provide for taller buildings north of Frances Street, however this is considered to be appropriately coupled with design controls, such as setbacks and floorplate sizes to ensure that built form will be of appropriate height, bulk and scale. No further amendment to the Plans is recommended.

Issue: Environmental Protection Zoning on Charles Street is objected to on the following grounds:

- *The principal purpose of the first phase of preparation of new LEPs for the Shire has always been put forward by the Council as being to effectively translate the status quo under the Tweed LEP 2000 into the new NSW standard format LEP. The current proposed zoning amendment is inconsistent with that declared purpose of the review, particularly where this otherwise unannounced zoning amendment had apparently not been contemplated when the draft LEP was first exhibited in early 2010.*
- *The re-exhibition of the draft LEP took place for other reasons, unrelated to zoning of residential areas within the LEP area, and the Council's decision at its meeting on 19 July 2011 to not undertake community consultation or ANY public presentation for the re-exhibition would have tended to reinforce that what was being proposed by way of amendment of the original draft LEP was of a routine nature.*
- *There is no evidence for the justification or need for the proposed amendment put forward in the supporting documents for the draft LEP. The only (less than transparent) reference to an amendment in the re-exhibited draft LEP documents occurs in the report to the Council Meeting of 19 July 2011.*
- *The affected land itself, despite obviously being heavily vegetated in part, could not mainly be categorized as being of high ecological, scientific or cultural values. Rare or threatened species do not appear to be involved. For much of the area, pest and non endemic species predominate.*

Response: The draft Plans as they relate to the Tweed City Centre has not been intended to translate the current LEP 2000 provisions into the Standard Instrument, rather to form a strategic review of the planning controls that apply to the Tweed Heads locality. Contrary to the submission, the draft Plans were re-exhibited in 2011 as a direct outcome of submissions received to the 2010 exhibition, as well as changes to the Standard Instrument Template. Council's Natural Resource Management Unit has reviewed the submissions received and commented as follows:

1. *The area in question is part of a larger bushland patch consisting of a rare form of Littoral Rainforest. Littoral Rainforest is listed as **Endangered** under the NSW Threatened Species Conservation Act 1995 (Gazetted 04/06/04; see <http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/profile.aspx?id=10867>) and **Critically Endangered** under the Commonwealth Environment Protection and Biodiversity conservation Act 1999 (Gazetted 10/10/08; see <http://www.environment.gov.au/epbc/publications/littoral-rainforest.html>).*

2. *The approved Conservation Advice provided to the Commonwealth for this ecological community recommends protection via zoning for environmental purposes of private and leased lands (see <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/76-conservation-advice.pdf>). The NSW Office of Environment and Heritage (OEH) acknowledge the potential for clearing and development of stands (such as this one) that are not already identified under SEPP 26 and recommend the implementation of appropriate protection measures.*
3. *The proposed E2 Environmental Conservation zone was also prompted by comments from DECCW (now OEH) on the Draft Tweed City Centre LEP 2009 where they specifically recommend the application of the E2 Environmental Conservation zone to "vegetated lands on the escarpment."*
4. *The submissions suggest that parts of the area proposed for Environmental zoning have been previously cleared and are affected by non-local species and environmental weeds. This in itself does not exclude the area from being regarded as an Endangered Ecological Community as noted in point 1 above. Indeed, both the State and Commonwealth Scientific Committee determinations for this community specifically acknowledge that many patches are highly degraded and subject to ongoing threats from a range of sources including invasive weeds.*

For the reasons outlined above I am of the view that it is in the public interest to retain the proposed zoning.

In light of the abovementioned comments, no further amendment to the Plans is recommended.

Issue: We submit that it would be more appropriate to define the block for floor space ratio purposes as Wharf Street, Florence Street, Powell Street and adopt a 2:1 FSR given that it is well removed from the river foreshore (thus minimizing the potential for overshadowing) and also the additional FSR will assist in achieving optimal residential development outcomes having regard to the proposed zone objectives and the allowable building height of 22m, which is normally 6 to 7 stories.

The additional FSR would also be consistent with the objective of providing for a high population in the town centre to make more efficient use of infrastructure and create a vibrant and active "city centre".

Response: The current controls have been extensively modelled and tested by DoPI urban designers and are considered appropriate for the site. Furthermore, the referred property is identified as being located within the area of Council's Tweed Valley Floodplain Risk Management Study (land below 3.5m AHD) and as such, is to remain as a translation of the existing planning controls by way of height and zone. It is noted that should an applicant wish to pursue an architectural design competition for the site, proposing a development of exemplary design, a bonus of 10% additional FSR and Building Height can be granted. No further amendment to the Plans is recommended.

- **Development Control Plan**

Issue: Whilst the draft DCP provides a range controls that are supported, amendments are sought in the following areas:

- *Minjungbal Drive Corridor Precinct - The proposed character statement still seeks to provide "relocation of car parking and storage and services areas to the rear of the buildings away from street frontages". We consider that the words "where functionally and practically possible" would be an appropriate amendment here.*

- *Table 3.1 also applies a 1,200sqm GFA cap per floor on non-residential uses within the Commercial core of the City Centre. It is not stated clearly in the draft DCP that this excludes South Tweed.*
- *Access, Parking and Servicing - On Site Parking - (Section 5.3) - remains consistent with the content of draft DCP 2009. Therefore, we consider that Section 5.3 needs to be amended to include the following wording: "Controls for Special Areas Section 8 provide site specific controls which prevail in the case of inconsistency with these general on-site parking controls".*
- *The Special Area Controls for TCSC need to be amended to take into account the current car parking rate of 4.4 spaces per 100sqm with a 30% dispensation allowed where appropriate justification can be demonstrated. This is reflective of development consents granted on the site to date.*

Response: Table 3.1 applies to South Tweed Heads and as such the maximum floor plate size of 1,200m² needs to be considered above the street frontage height. In this regard, the DCP has been amended to clearly identify such, however also acknowledge on large, consolidated allotments such as Tweed City Shopping Centre, that multiple structures could be constructed above the street frontage height and that ensuring an appropriate building bulk, scale and separation needs to be demonstrated as part of any approval. Whilst it is agreed that the DCP should clearly establish the hierarchy of development controls, the proposal to grant Tweed City Shopping Centre further car parking concessions within the draft Plans is not considered appropriate. Specific car parking rates can be further investigated within any future development application should a concession be deemed acceptable.

Issue: It is not clear from the current exhibited Draft Development Control Plan whether or not a Club comes within the scope of a commercial building. Accordingly we hereby object to the provisions of Section 3.3 – Building Depth and Bulk on the basis that a Club should be separately defined to a commercial building as the proposed controls would be a significant impediment to future redevelopment proposals for the Club.

Response: The proposal to exclude Clubs from the Building Depth and Bulk controls is not considered appropriate. Specific proposals can be further investigated within any future development application, however the referred controls detail a desired built form for the Tweed City Centre and should be upheld. No further amendment to the Plans is recommended.

Issue: Whilst we note the Section 4.2 only requires active frontages to be encouraged, we nevertheless again request that the Clause be amended to make it clear that active frontages are not required on the Club site itself, insofar as the Jack Evans Boat Harbour perimeter is concerned.

Response: This issue has been reviewed by DoPI urban designers, providing the following comment:

'Figure 4-5 indicates where active street frontages and outdoor dining should be encouraged in the city centre. The Club's building being the integral part of the Tweed City Centre on the Jack Evans Boat Harbour and on the boundary of the two States should significantly contribute to the attractiveness of the locality and the pedestrian amenity surrounding it. All efforts should be taken by the Club to make the building attractive and activate the ground level of the building facing the surrounding streets and the JEBH.'

No further amendment to the Plans is recommended.

Issue: Concerns are raised that the range of permitted signage under this Section may preclude normal signage ancillary to a Registered Club, such as TAB and Keno advertising and soft drink and beverage advertisements.

Response: The proposal to grant further signage parameters within the draft Plans is not considered appropriate. Specific signage proposals can be further investigated within any future development application. No further amendment to the Plans is recommended.

Issue: We object to this Draft Plan on the basis that the proposed controls are onerous and prescriptive and likely to result in reduced yields and significant additional development costs.

It is difficult to accurately quantify the impact of the controls without incurring the significant costs of preparing concept Architectural Plans of development options under current and proposed controls. However, based on a preliminary analysis it is apparent that yields are likely to be reduced and costs are likely to be significantly increased which would make redevelopment of the site unlikely.

Response: Void of any clear examples of how the document is 'onerous' or 'likely to reduce yields' it is difficult to provide further meaningful assessment. The draft Plans have been prepared with the intent of population and economic growth within the Tweed City Centre whilst also ensuring a high quality built form and amenity. It is not considered appropriate to repeal controls to guide high quality built form purely to gain further development yield. No further amendment to the Plans is recommended.

Public Hearing

No submissions within the 2011 exhibition requested a public hearing. No issues were raised in submissions of such significance that they should be the subject of a hearing.

Amendments Post Public Exhibition

In addition to the amendments identified above as a result of public submissions received the following additional amendments have been made:

- Amend appropriate references from 2011 to 2012 – As the Draft Plans are highly unlikely to take effect until 2012 it is considered appropriate to amend the references accordingly
- Amendments to Height of Buildings Map – Specific review of the proposed Height of Buildings map and topography of the City Centre identified 2 minor areas where the exhibited heights could result in penetration of the Airport Obstacle Limitation Surface. These protrusions were not intended and the Height of Buildings Map amended accordingly.
- Amendments to 'Controls for Special Areas – Stuart Street/Border Area' - At its meeting of 19 July 2011 Council resolved to publically exhibit the draft Plans and resolved on a Public Transport Strategy. The Public Transport Strategy included as follows:
 2. Develop a Rapid Bus Transit Corridor Plan from Gold Coast Airport Transport Hub to Pottsville through the coastal villages with links to Murwillumbah.
 5. Does not include the southerly extension of light rail south of the Coolangatta Airport Hub in any medium/long term Tweed Shire Public Transport Strategy.

In light of the above, Council's Executive requested a review of the Special Area Controls relating to the Stuart Street/Border Area as they detailed potential rapid transit links (see Figure 3)



Figure 2 – Exhibited Diagrammatic Representation of Future Development for the Stuart Street/Border Area

In short, concern has been raised that as light rail does not form part of any medium/long term Tweed Shire Public Transport Strategy, a corridor beyond the current road network is unnecessary and limits the development potential of the site by needing to retain a corridor (although noting the DCP enables development above).

It is identified that there is a need to reconcile the DCP, the need to properly integrate land use planning and transport and Council's adopted Public Transport Strategy. It is also acknowledged that work to 'Develop a Rapid Bus Transit Corridor Plan from Gold Coast Airport Transport Hub to Pottsville through the coastal villages with links to Murwillumbah' is yet to commence, resulting in significant uncertainty in what is required, where its required and when it's required.

Extensive design work needs to be undertaken for the site (owned by Council) to promote a best practice built form, showcasing the desired architectural excellence and maximise public benefit. It is considered that this design process is the appropriate phase to identify the sites ability and need to include a public transport interchange, the modes involved within, any necessary movement axis and the immediately surrounding design and treatments.

Accordingly, it is proposed not to amend the diagram contained within the DCP, however include the following statement to clarify and reconcile Council's position on public transport for the site:

'On 19 July 2011, Council resolved not to include the southerly extension of light rail south of the Coolangatta Airport Hub in any medium/long term Tweed Shire Public Transport Strategy. Accordingly, the preservation of the identified rapid transit route through Lot 1 DP 880816 may not be mandated as part of this Plan. Prior to lodgement of any application, applicants are encouraged to investigate design opportunities for public transport movement and interchange/stops for the site and discuss with Council officers to establish Council's position and requirements for public transport at the time.'

The abovementioned statement provides opportunities for Council to waive the need for the corridor after a preliminary design process, yet retain a corridor should the site be identified within its Rapid Bus Transit Corridor Plan when prepared or new opportunities be identified, such as infrastructure provision for the Gold Coast Commonwealth Games. Alternatively, it is open to Council to resolve to amend the diagram and remove all references within the document to light rail, consistent with its adopted Public transport Strategy.

Council Land

The draft LEP has been prepared in response to the State Government requirement for all NSW Councils to have an LEP consistent with the Standard Instrument (Local Environmental Plans) Order 2006, known as the 'standard template'. In addition, the draft LEP has been prepared to give effect to the provisions of the Tweed City Centre Vision, and to provide Tweed Heads with a strategic planning framework for the next 20 to 25 years. Council is not rezoning the land specifically for the purpose of sale or improvement, with the exception of Lot 7038 DP 1055266, which is discussed as follows.

Lot 7038 DP 1055266 has been identified as desirable site for a new regional museum, a land use currently prohibited within the Tweed LEP 2000. Table 1 below identifies the zone name and objectives for both the current Tweed LEP 2000 and the draft Tweed City Centre LEP

	Tweed LEP 2000	Draft Tweed City Centre Plan
Zone Name	6 (a) Open Space	RE1 Public Recreation
Zone Objectives	<p>To identify existing public land, and land that is proposed to be acquired for public ownership, to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land.</p> <p>To allow other development that is compatible with the recreational use of the land.</p>	<p>To enable land to be used for public open space or recreational purposes.</p> <p>To provide a range of recreational settings and activities and compatible land uses.</p> <p>To protect and enhance the natural environment for recreational purposes.</p>

Table 1 – Comparison between current and proposed Public Recreation Zone

As detailed within Table 1, the current and proposed zones share the same intent; however the draft LEP permits museums on this site.

Lot 7038, and adjoining Lot 7094 DP 1095768 are also impacted by a change in the maximum height of buildings permitted. Presently affected by a 3 storey height restriction, the draft TCC LEP seeks to allow development on the western portion of the Lots of up to 49.5m AHD, as displayed in Figure 2. When considering the topography of the site, buildings of between 17.5m – 22.5m in height could be perused (normally equated to approximately 6 – 7 storeys). Lots 7038 and 7094 are identified as Council administered Crown land, and Council does not have any plans at this time seeking to pursue development of this site other than the Regional Museum.

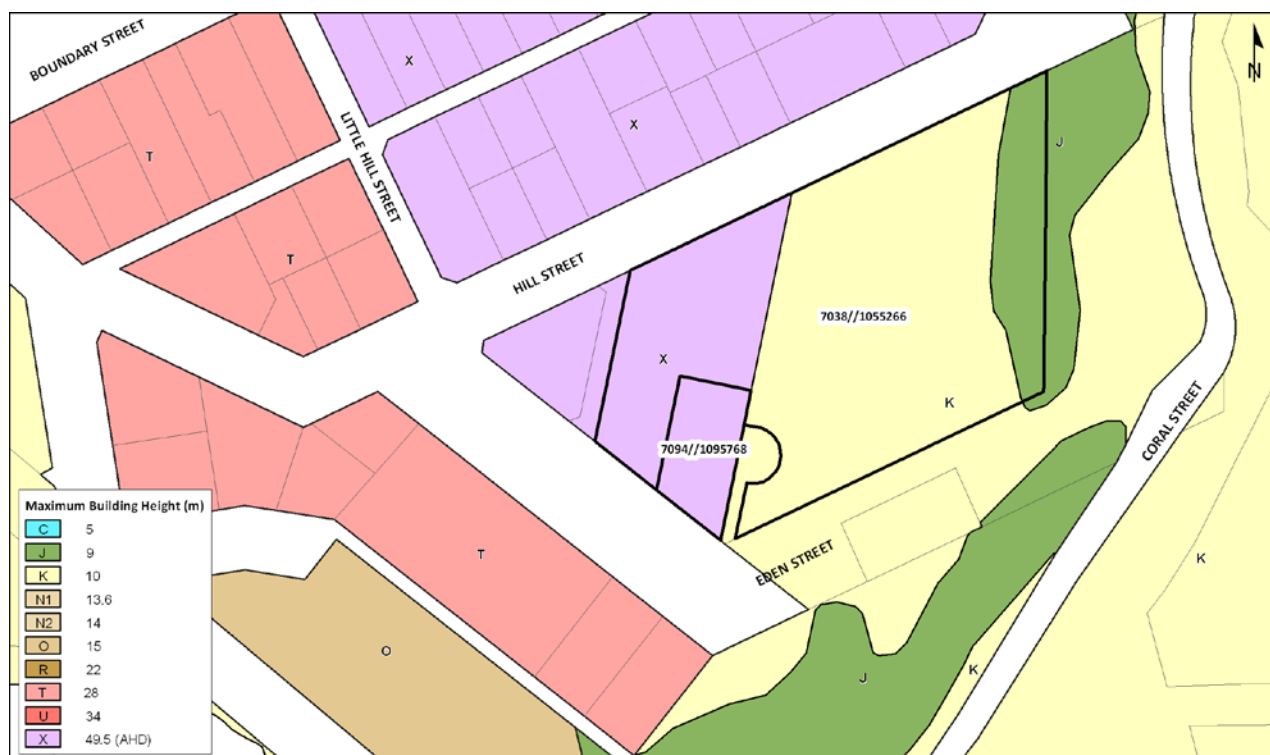


Figure 3 – Proposed Height Controls for Lots 7038 and 7094

The remainder of Council land is 'rezoned' due to the absence of the traditional Zone 5(a) – Special uses or the change in zoning names through the 'standard template'. Accordingly, the historical details, such as the type of tenure, date of Council acquisition, and reason for acquisition of all land affected have not been included for all sites affected.

Council does not intend to change the classification of any land within the TCC LEP.

Compliance with State and Regional Policy

Section 68(4)(d) of the Environmental Planning & Assessment Act 1979 requires Council to submitted to the Director-General a statement:

- (ii) *specifying the environmental planning instruments and directions under section 117 that have been taken into consideration.*
- (iii) *giving details of any inconsistency between the draft plan and any instrument or direction referred to in subparagraph (ii) and the reasons justifying the inconsistency, and*
- (iv) *giving details of the reasons justifying the exclusion of provisions of the draft plan under subsection (5) or the exclusion from the application of the draft plan of any land under that subsection.*

A copy of this documentation has been prepared and can be viewed within Appendix 5 of this report. In summary, the TCC LEP is considered to be consistent with the applicable SEPPs, Section 117 Directions and other applicable State and Regional Policy. The TCC LEP is however considered to be contrary to Section 117 Direction 4.3 – Flood Prone Land and will require the granting of 'Exceptional Circumstances' to enable development controls to be imposed above the Flood Planning Level. In this regard the TCC LEP is considered justifiably inconsistent with the Section 117 Direction for the following reasons:

- Significant flood assessment has been carried out including the adjustment of flood heights to take sea level rise into consideration. Parts of the precinct are known to be flood affected and are included in a map identifying the flood planning area. Much of the precinct is also affected by the Maximum Probable Flood. Small areas that are currently zoned to permit residential and commercial development within the flood planning area are proposed to remain in these urban zones. However any redevelopment will be assessed against cl 6.2 which applies stringent controls to new development in flood affected locations. A floodplain risk management assessment will be required for all development that is located within the areas affected by the maximum probable flood (cl 6.3)
- The TCC LEP does not permit substantial structures or other major land uses in flood affected areas without development consent.
- Design flood levels for the city centre are required to be consistent with the requirements of Section A3 – Development of Flood Liable Land in Tweed Shire Council's Development Control Plan.
- Land lower than 3.5m AHD in the South Tweed area has been deferred from this LEP to further consider the issue of flooding and how this should impact on planning controls in the context of predicted sea level rise.
- Land lower than 3.5m AHD in the North Tweed area has been translated as directly as possible from the current Tweed LEP 2000 provisions into the Standard Instrument Template format.

Relationship with Tweed Local Environmental Plan 2000 and Draft Tweed Local Environmental Plan 2010

Clause 1.8 – Repeal of planning instruments applying to land [compulsory] of the Standard Instrument Template (SI) details that all LEPs and deemed Environmental Planning Instruments applying to the Tweed City Centre cease to apply when the SI LEP is published. Accordingly, should the draft TCC LEP be published on the NSW legislation website the TCC LEP will apply to the Tweed City Centre, whilst the Tweed LEP 2000 will continue to apply to the remainder of the Shire. Whilst having active SI and non-SI LEPs operating simultaneously is not considered a desirable scenario for the general public, nor operational staff, the SI LEP for the remainder of the Shire is still some months away from completion. In this regard, Council could resolve to defer sending the TCC LEP to DoPI until such time that Shirewide SI LEP is resolved. This action would defer the TCC LEP for an undetermined amount of time, however likely to be in the vicinity of 12 months.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

The adoption of the suite of Tweed City Centre Plans enables a new policy framework for the Tweed City Centre. Whilst the Vision, LEP and DCP are robust documents, there is a need to pursue an amendment of Section 94 Plan No. 27 – Tweed Heads Masterplan, or another like funding mechanism, to reflect the aspirations and growth of the area. Similarly, the Plans introduce requirements for Architectural Design Competitions, a current unutilised process within the Shire. Accordingly a framework of how such competitions are to be administered will need to be developed.

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. Council Report dated 19 July 2011 on Tweed City Centre Vision, Local Environmental Plan and Development Control Plan (ECM 42698204)
 2. Tweed City Centre Vision (ECM 42698206)
 3. Tweed City Centre Local Environmental Plan 2012 (ECM 42710928)
 4. Tweed City Centre Development Control Plan (being Section B2 of the Tweed Development Control Plan) (ECM 42698209)
 5. State and Regional Policy compliance documentation (ECM 42698212)
-