

Background to reasons for objection to draft Tweed LEP 2010

Introduction

Council claims that draft LEP 2010 is merely a transcription of the current LEP into the new state government-dictated format for LEPs. This is presumably the reason there is no material accompanying the draft LEP that actually admits to effective significant changes. There is certainly none that attempts to justify changes.

The state government-dictated LEP template does create some difficulties, but some very significant changes are proposed that are not the result of the template. The changes are principally to provisions governing:

- the area zoned for environmental protection and the controls over clearing in these areas
- heights of buildings
- floor space ratios (density of development)

The proposed changes to heights of buildings and floor space ratios provisions might simply be the result of poor drafting and can be relatively easily changed. Submissions should emphasise that even if council and state government bureaucrats say they are happy to make changes that restore the status quo, the new draft should be re-exhibited.

The process of fixing the environmental protection provisions is more difficult, in part because the problems are the result of state government intervention.

Councillors have already admitted there are problems, but senior council planners are yet to make this admission. Council and the community need to send a clear and united message to state government that rather than intervene to virtually destroy environmental protection provisions, the government must co-operate to improve them. Council can decide to have a public inquiry into the draft LEP. This would probably be the best way to tackle the state government. Submissions should call for a public inquiry.

Protection for natural areas outside of national parks

The draft LEP greatly reduces the area zoned for environmental protection.

Even in areas that would remain zoned for environmental protection, it would effectively provide no protection for native vegetation because it does not directly control "clearing", as the current LEP does.

The state government has adopted an informal and unpublished policy of not allowing local councils to keep or set higher standards than those in the state government's almost completely useless Native Vegetation Act.

For reasons that are not clear, council has not told the public that the state government has secretly forced council to put on exhibition a draft LEP that greatly reduces the current protections in the LEP.

The message for council and more particularly the state government is that the proposed reductions in the standard of protection for natural areas:

- have not been justified.
- are not consistent with previously exhibited changes that have been awaiting formal adoption for some years (contrary to claims in material published by council accompanying the draft LEP).
- are contrary to state government law regarding the making or modifying of LEP provisions for the natural environment (in the Regional Environmental Plan and Section 117 directives).

A separate message for council is that it should tell the public what it wanted to do prior to the secret, thuggish and unlawful intervention from state government bureaucrats.

Heights of buildings

In material accompanying the draft LEP, council claims the current heights of buildings rules have simply been rolled-over from the current to the new proposed system. This is clearly not the case.

Heights of buildings in Tweed Shire are currently defined by rules in the LEP limiting the number of storeys. There are also more detailed rules in the DCP based a measure of metres above ground level.

The new proposed system is based entirely on a measure of metres above ground level.

The draft LEP would increase the allowable heights of buildings in large parts of the shire from the current 3 storeys (12.2 metres) to effectively 4 storeys (13.6 metres).

In areas currently limited to 2 storeys, the allowable height would effectively be increased to 3 storeys (9 metres).

Rural villages are affected by these changes, not just urban areas. The proposed change from 3 to 4 storeys would affect Mooball, Burringbar, Tumbulgum, Stokers Siding, Uki, Tyalgum, Chillingham, Mebbin Springs and Kielvale.

The effective increase to 4 storeys appears to be the result of setting an upper limit that is the highest possible under the current rules for a very limited class of building (residential flat buildings above ground floor retail) and then applying it to all classes of residential buildings. There has been no attempt to distinguish the majority of residential buildings (including

conventional residential flat buildings) that are currently limited to 3 storeys and 12.2 metres, and set a 12.2 metres limit for these types in the LEP.

The message to council and state government is that:

- No justification has been offered for the proposed effective increases.
- No reasons have been offered for failing to specify separate height limits in the draft LEP for shop top housing and all other types of residential accommodation.
- There has been no analysis of the adverse impacts on the existing residential amenity.
- It is possible to make amendments consistent with the state-dictated template that make currently applicable distinctions and apply currently applicable standards.

Floor space ratio (density of development)

The draft LEP would effectively increase the allowable density of development in most parts of the shire zoned for urban purposes.

The main measure of density of development is Floor Space Ratio (FSR). It is defined as: the gross floor area of all buildings on the site to the site area. (For multi storey buildings, the area of each storey is added to make the gross area.)

The current DCP defines a range of maximum FSRs for different housing types:

- 0.55:1 for single dwellings and attached dual occupancies.
- 0.8:1 for multi dwelling housing.
- 1.2:1 for conventional residential flat buildings.
- 2.0:1 for housing or residential flat buildings above shops.

These housing-type distinctions have not been included in the draft LEP.

Most parts of the shire are proposed to have either a FSR of 2.0:1 or 0.8:1. The main exception is central Tweed Heads, where much higher FSRs are proposed, and small areas in other parts of the shire where FSRs in the range of 0.5:1 to 1.75:1 are proposed.

It is proposed to increase the effective FSR for conventional residential flat buildings from 1.2:1 to 2.0:1, which will almost certainly result in taller (4 storey) conventional residential flat buildings.

In areas where a FSR of 2.0:1 is proposed, multi dwelling housing is likely to rise to 3 storeys from the current effective limit of 2 storeys (each dwelling in multi dwelling housing must have a street-level entrance).

In areas where a FSR of 0.8:1 is proposed, this is likely to become the standard for single dwellings and attached dual occupancies, rather than the current 0.55:1.

A FSR of 2.0:1 is proposed for rural villages.

The message to council and state government is:

- No justification has been offered for the proposed effective increases.
- No reasons have been offered for failing to include in the draft LEP the current housing-type distinctions that are currently made under the provisions of the DCP.
- There has been no analysis of the adverse impacts on the existing residential amenity.
- It is possible to make amendments consistent with the state-dictated template that make currently applicable distinctions and apply currently applicable standards.

Draft Tweed Local Environmental Plan 2010

Submissions to:

The General Manager

Snail mail: PO Box 816 Murwillumbah 2484

Email: planningreforms@tweed.nsw.gov.au

By end of business 30 April 2010

Submissions should:

- State that you object to parts of the draft LEP
- Set out clearly what you object to
- Give reasons for your objection

It is also suggested that you call for [an inquiry into the draft LEP under the provisions of Section 68\(1\) of the EPA Act](#) as it applies to this draft LEP.

- State which matters you think should be the subject of the inquiry.
- State that you believe the matters are of such significance that an inquiry is warranted.

Henry James
18/04/2010