
Public Exhibition Draft



New South Wales

Tweed City Centre Local Environmental Plan 2009

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows (S07/01879/PC-1):

Minister for Planning

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Contents

	Page
Part 1 Preliminary	
1.1 Name of Plan [compulsory]	5
1.1A Commencement [local]	5
1.2 Aims of Plan [compulsory]	5
1.3 Land to which Plan applies [compulsory]	6
1.4 Definitions [compulsory]	6
1.5 Notes [compulsory]	6
1.6 Consent authority [compulsory]	6
1.7 Maps [compulsory]	6
1.8 Repeal of other local planning instruments applying to land [compulsory]	7
1.8A Savings provision relating to development applications [local]	7
1.9 Application of SEPPs and REPs [compulsory]	7
1.9A Suspension of covenants, agreements and instruments [local]	7
Part 2 Permitted or prohibited development	
2.1 Land use zones [compulsory]	9
2.2 Zoning of land to which Plan applies [compulsory]	9
2.3 Zone objectives and land use table [compulsory]	9
2.4 Unzoned land [compulsory]	10
2.5 Additional permitted uses for particular land [compulsory]	10
2.6 Subdivision—consent requirements [compulsory]	11
2.6A Demolition requires consent [local]	11
2.6B Temporary use of land [local]	11
Land Use Table	
Part 3 Exempt and complying development	
3.1 Exempt development [compulsory]	22
3.2 Complying development [compulsory]	23
3.3 Environmentally sensitive areas excluded [compulsory]	24
Part 4 Principal development standards	
4.1 Minimum subdivision lot size [optional]	25
4.2 Rural subdivision [compulsory if clause 4.1 adopted and land to which Plan applies includes land zoned RU1, RU2, RU4 or RU6]	25
4.3 Height of buildings [optional]	25

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Contents

	Page
4.4 Floor space ratio [optional]	26
4.5 Calculation of floor space ratio and site area [optional]	28
4.6 Exceptions to development standards [compulsory]	30
Part 5 Miscellaneous provisions	
5.1 Relevant acquisition authority [compulsory]	32
5.2 Classification and reclassification of public land [compulsory]	33
5.3 Development near zone boundaries [optional]	34
5.4 Controls relating to miscellaneous permissible uses [compulsory]	34
5.5 Development within the coastal zone [compulsory if land to which Plan applies includes land in the coastal zone]	35
5.6 Architectural roof features [optional]	37
5.7 Development below mean high water mark [compulsory if land to which Plan applies contains tidal waters]	38
5.8 Conversion of fire alarms [compulsory]	38
5.9 Preservation of trees or vegetation [optional]	39
5.10 Heritage conservation [compulsory]	40
5.11 Bush fire hazard reduction [compulsory]	43
5.12 Infrastructure development and use of existing buildings of the Crown [compulsory]	43
Part 6 Additional local provisions	
6.1 Acid sulfate soils [local]	44
6.2 Flood planning area [local]	45
6.3 Floodplain risk management [local]	46
6.4 Environmentally sensitive land—bushland [local]	47
6.5 Additional and restricted uses in Zone B3 [local]	48
6.6 Minimum street frontage of land for buildings in Zones B2, B3 and B4 [local]	48
6.7 Serviced apartments [local]	48
6.8 Ground floor and first floor development in certain business zones [local]	49
6.9 Design excellence [local]	49
Schedule 1 Additional permitted uses	52
Schedule 2 Exempt development	53
Schedule 3 Complying development	63

Tweed City Centre Local Environmental Plan 2009

Contents

	Page
Schedule 4	
Classification and reclassification of public land	66
Schedule 5	
Environmental heritage	67
Dictionary	68

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 1.1

Preliminary

Part 1

Tweed City Centre Local Environmental Plan 2009

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1.1 Name of Plan [compulsory]

This Plan is *Tweed City Centre Local Environmental Plan 2009*.

1.1A Commencement [local]

This Plan commences on the day on which it is published on the NSW legislation website.

1.2 Aims of Plan [compulsory]

- (1) This Plan aims to make local environmental planning provisions for land in **Tweed City Centre** in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents,
 - (b) to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre,
 - (c) to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage,
 - (d) to promote development that is consistent with the principles of ecologically sustainable development,
 - (e) to promote the economic revitalisation of Tweed City Centre,
 - (f) to strengthen Tweed City Centre as a multi functional and innovative regional centre that encourages employment and economic growth,
 - (g) to protect and enhance the vitality, identity and diversity of Tweed City Centre,

Public Exhibition Draft

Clause 1.3 Tweed City Centre Local Environmental Plan 2009

Part 1 Preliminary

(h) to facilitate building design excellence appropriate to a regional city in Tweed City Centre.

1.3 Land to which Plan applies [compulsory]

This Plan applies to the land identified on the Land Application Map.

1.4 Definitions [compulsory]

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

1.5 Notes [compulsory]

Notes in this Plan are provided for guidance and do not form part of this Plan.

1.6 Consent authority [compulsory]

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

1.7 Maps [compulsory]

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note. The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 1.8

Preliminary

Part 1

1.8 Repeal of other local planning instruments applying to land [compulsory]

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

1.8A Savings provision relating to development applications [local]

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

1.9 Application of SEPPs and REPs [compulsory]

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

Note. Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6 and Parts 3 and 4)

State Environmental Planning Policy No 60—Exempt and Complying Development

Note. Regional environmental plans are now taken to be State Environmental Planning Policies under clause 120 of Schedule 6 to the Act.

1.9A Suspension of covenants, agreements and instruments [local]

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

Public Exhibition Draft

Clause 1.9 Tweed City Centre Local Environmental Plan 2009

Part 1 Preliminary

- (2) This clause does not apply:
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
 - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.1

Permitted or prohibited development

Part 2

Part 2 Permitted or prohibited development

2.1 Land use zones [compulsory]

The land use zones under this Plan are as follows:

Residential Zones

R2 Low Density Residential

R3 Medium Density Residential

Business Zones

B2 Local Centre

B3 Commercial Core

B4 Mixed Use

Industrial Zones

IN4 Working Waterfront

Special Purpose Zones

SP1 Special Activities

Recreation Zones

RE1 Public Recreation

RE2 Private Recreation

Environment Protection Zones

E2 Environmental Conservation

Waterway Zones

W2 Recreational Waterways

W3 Working Waterways

2.2 Zoning of land to which Plan applies [compulsory]

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

2.3 Zone objectives and land use table [compulsory]

- (1) The Table at the end of this Part specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.

Public Exhibition Draft

Clause 2.4 Tweed City Centre Local Environmental Plan 2009

Part 2 Permitted or prohibited development

- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

Notes.

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development.

2.4 Unzoned land [compulsory]

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
 - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
 - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

2.5 Additional permitted uses for particular land [compulsory]

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
 - (a) with consent, or
 - (b) if the Schedule so provides—without consent,in accordance with the conditions (if any) specified in that Schedule in relation to that development.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Permitted or prohibited development

Part 2

- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

2.6 Subdivision—consent requirements [compulsory]

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
- (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create:
 - (i) additional lots or the opportunity for additional dwellings, or
 - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Note. If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

2.6A Demolition requires consent [local]

The demolition of a building or work may be carried out only with consent.

Note. If the demolition of a building or work is identified in this Plan or a State Planning Policy, such as *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

2.6B Temporary use of land [local]

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

Public Exhibition Draft

Clause 2.6 Tweed City Centre Local Environmental Plan 2009

Part 2 Land Use Table

- (3) Development consent must not be granted unless the consent authority is satisfied that:
- (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months and in that case subclause (3) (d) applies only to the restoration as a dwelling at the end of the temporary use.

Land Use Table

Note. Development of a type referred to in an item of the Land Use Table is a reference to development of that type that is not already regulated by a State Environmental Planning Policy, in particular the following:

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No 64—Advertising and Signage

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Rural Lands) 2008

State Environmental Planning Policy (Affordable Rental Housing) 2009

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Land Use Table

Part 2

2 Permitted without consent

Environmental facilities; Environmental protection works; Home occupations; Roads

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Dwelling houses; Group homes; Health consulting rooms; Home industries; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Amusement centres; Boat repair facilities; Brothels; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Freight transport facilities; Function centres; Funeral homes; Health services facilities; Highway service centres; Home occupations (sex services); Hostels; Industrial retail outlets; Industries; Information and education facilities; Landscape and garden supplies; Marinas; Moorings; Mortuaries; Office premises; Passenger transport facilities; Port facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential flat buildings; Restricted premises; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Sex services premises; Shop top housing; Storage premises; Timber and building supplies; Tourist and visitor accommodation; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Wholesale supplies

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Environmental facilities; Environmental protection works; Home occupations; Roads

Public Exhibition Draft

Clause 2.6 Tweed City Centre Local Environmental Plan 2009

Part 2 Land Use Table

3 Permitted with consent

Attached dwellings; Boarding houses; Child care centres; Community facilities; Group homes; Health consulting rooms; Home industries; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Seniors housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Amusement centres; Boat repair facilities; Brothels; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Funeral homes; Health services facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Information and education facilities; Jetties; Landscape and garden supplies; Marinas; Moorings; Mortuaries; Office premises; Passenger transport facilities; Port facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restricted premises; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Wholesale supplies

Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Environmental facilities; Environmental protection works; Home occupations; Roads

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Land Use Table

Part 2

3 Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; **Funeral chapels; Home industries;** Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Service stations; Shop top housing; Tourist and visitor accommodation; **Any other development not specified in item 2 or 4**

4 Prohibited

Agriculture; Air transport facilities; Backpackers' accommodation; Bed and breakfast accommodation; Brothels; Bulky goods premises; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Exhibition homes; Exhibition villages; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Moorings; Mortuaries; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Restricted premises; Rural industries; Rural supplies; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Vehicle body repair workshops; Water recreation structures; Wholesale supplies

Zone B3 Commercial Core

1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- **To encourage upper floor residential or tourist accommodation that does not compromise the commercial use of the land.**

2 Permitted without consent

Environmental facilities; Environmental protection works; Home occupations; Roads

Public Exhibition Draft

Clause 2.6 Tweed City Centre Local Environmental Plan 2009

Part 2 Land Use Table

3 Permitted with consent

Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; **Funeral chapels; Home industries;** Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; **Shop top housing; Any other development not specified in item 2 or 4**

4 Prohibited

Agriculture; Air transport facilities; Bed and breakfast accommodation; Brothels; Bulky goods premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Exhibition homes; Exhibition villages; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Moorings; Mortuaries; Places of public worship; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Restricted premises; Rural industries; Rural supplies; Service stations; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Water recreation structures; Wholesale supplies

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Environmental facilities; Environmental protection works; Home occupations; Roads

3 Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; **Funeral chapels; Home industries; Hostels;** Hotel or motel accommodation; Information and education facilities; Office

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Land Use Table

Part 2

premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Brothels; Bulky goods premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Exhibition homes; Exhibition villages; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Moorings; Mortuaries; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Restricted premises; Rural industries; Rural supplies; Service stations; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Water recreation structures; Wholesale supplies

Zone IN4 Working Waterfront

1 Objectives of zone

- To retain and encourage waterfront industrial and maritime activities.
- To identify sites for maritime purposes and for activities that require direct waterfront access.
- To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.
- To encourage employment opportunities.
- To minimise any adverse effect of development on land uses in other zones.

2 Permitted without consent

Environmental facilities; Environmental protection works; Roads

3 Permitted with consent

Boat launching ramps; Boat repair facilities; Educational establishments; Jetties; Kiosks; Light industries; Liquid fuel depots; Markets; Restaurants; Take away food and drink premises; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Brothels; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Correctional centres;

Public Exhibition Draft

Clause 2.6 Tweed City Centre Local Environmental Plan 2009

Part 2 Land Use Table

Crematoria; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Freight transport facilities; Funeral homes; Health services facilities; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Mortuaries; Office premises; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Restricted premises; Retail premises; Rural industries; Schools; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Vehicle repair stations; Water recreation structures

Zone SP1 Special Activities

1 Objectives of zone

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

2 Permitted without consent

Environmental facilities; Environmental protection works

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Land Use Table

Part 2

- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Environmental facilities; Environmental protection works; Roads

3 Permitted with consent

Boat sheds; Car parks; Caravan parks; Charter and tourism boating facilities; Community facilities; Helipads; Heliports; Information and education facilities; Kiosks; Marinas; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants; Sewerage systems; Take away food and drink premises; Waste or resource management facilities; Water recreation structures; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Zone RE2 Private Recreation

1 Objectives of zone

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Environmental facilities; Environmental protection works; Roads

3 Permitted with consent

Boat sheds; Car parks; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Electricity generating works; Emergency services facilities; Entertainment facilities; Food and drink premises; Function centres; Helipads; Heliports; Information and education facilities; Kiosks; Marinas; Markets; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Sewerage systems; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Water supply systems

Public Exhibition Draft

Clause 2.6 Tweed City Centre Local Environmental Plan 2009

Part 2 Land Use Table

4 Prohibited

Any development not specified in item 2 or 3

Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Helipads; Home businesses; Home industries; Information and education facilities; Research stations; Roads

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Zone W2 Recreational Waterways

1 Objectives of zone

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

2 Permitted without consent

Environmental facilities; Environmental protection works

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 2.6

Land Use Table

Part 2

3 Permitted with consent

Aquaculture; Boat repair facilities; Boat sheds; Car parks; Charter and tourism boating facilities; Community facilities; Emergency services facilities; Kiosks; Marinas; Markets; Moorings; Research stations; Restaurants; Roads; Signage; Water recreation structures

4 Prohibited

Canal estate development; Industries; Multi dwelling housing; Residential flat buildings; Seniors housing; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Zone W3 Working Waterways

1 Objectives of zone

- To enable the efficient movement and operation of commercial shipping, water-based transport and maritime industries.
- To promote the equitable use of waterways, including appropriate recreational uses.
- To minimise impacts on ecological values arising from the active use of waterways.
- To provide for sustainable fishing industries.

2 Permitted without consent

Environmental facilities; Environmental protection works

3 Permitted with consent

Aquaculture; Boat repair facilities; Boat sheds; Car parks; Charter and tourism boating facilities; Community facilities; Emergency services facilities; Kiosks; Marinas; Markets; Moorings; Port facilities; Research stations; Restaurants; Roads; Sewerage systems; Signage; Waste or resource management facilities; Water recreation structures; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

Public Exhibition Draft

Clause 3.1 Tweed City Centre Local Environmental Plan 2009

Part 3 Exempt and complying development

Part 3 Exempt and complying development

3.1 Exempt development [compulsory]

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
- (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
 - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3).
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

(4A) A heading to an item in Schedule 2 is part of that Schedule.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 3.2

Exempt and complying development

Part 3

3.2 Complying development [compulsory]

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this Part,is complying development.

Note. See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
 - (3) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
 - (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.

Public Exhibition Draft

Clause 3.3 Tweed City Centre Local Environmental Plan 2009

Part 3 Exempt and complying development

(4A) A heading to an item in Schedule 3 is part of that Schedule.

3.3 Environmentally sensitive areas excluded [compulsory]

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means any of the following:
 - (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
 - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 4.1

Principal development standards

Part 4

Part 4 Principal development standards

4.1 Minimum subdivision lot size [optional]

- (1) The objectives of this clause are as follows:
 - (a) to ensure that lot sizes have a practical and efficient layout to meet their intended use.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

4.2 Rural subdivision [compulsory if clause 4.1 adopted and land to which Plan applies includes land zoned RU1, RU2, RU4 or RU6]

Not applicable.

4.3 Height of buildings [optional]

- (1) The objectives of this clause are as follows:
 - (a) to establish the maximum height for which a building can be designed,
 - (b) to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,
 - (c) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,
 - (d) to encourage greater population density in less car-dependant urban areas,
 - (e) to enable a transition in building heights between urban areas comprised of different characteristics,
 - (f) to limit the impact of the height of a building on the existing natural and built environment,
 - (g) to prevent gross overshadowing impacts on the natural and built environment.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Public Exhibition Draft

Clause 4.4 Tweed City Centre Local Environmental Plan 2009

Part 4 Principal development standards

4.4 Floor space ratio [optional]

- (1) The objectives of this clause are as follows:
- (a) to define the allowable development density of a site and for particular classes of development,
 - (b) to enable an alignment of building scale with the size of a site,
 - (c) to provide flexibility for high quality and innovative building design,
 - (d) to limit the impact of new development on the existing and planned natural and built environment,
 - (e) to encourage increased building height and site amalgamation at key locations in the area of Tweed City Centre.

- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

- (2A) Despite subclause (2), the maximum floor space ratio for a building on land that has an area of less than 2,000m² in Zone B3 Commercial Core is the ratio specified for the land in Table 1 to this clause where:

$$Z = (\text{the area of the land in square metres} - 1000) / 1000$$

Table 1: Maximum floor space ratio for certain buildings on land in Zone B3 Commercial Core

If the floor space ratio shown on the Floor Space Ratio Map for the land is:	For land that is 1000m² or less:	For land that is more than 1000m² but less than 2000m²:
3.25:1	2.25:1	2.25 + Z:1
4.5:1	3:1	(3 + (1.5 × Z)):1
5:1	3.5:1	(3.5 + (1.5 × Z)):1
6:1	4:1	(4 + (1.5 × Z)):1

- (2B) Despite subclause (2), the maximum floor space ratio for a building on land that has an area of less than 2,000m² in Zone B4 Mixed Use is the ratio specified for the land in Table 2 to this clause where:

$$Z = (\text{the area of the land in square metres} - 600) / 1400$$

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 4.4

Principal development standards

Part 4

Table 2: Maximum floor space ratio for certain buildings on land in Zone B4 Mixed Use

If the floor space ratio shown on the Floor Space Ratio Map for the land is:	For land that is 600m² or less:	For land that is more than 600m² but less than 2000m²:
2.25:1	1:1	$(1 + (1.25 \times Z)):1$
2.5:1	1:1	$(1 + (1.5 \times Z)):1$
2.75:1	1:1	$(1 + (1.75 \times Z)):1$
3.25:1	1:1	$(1 + (2.25 \times Z)):1$
3.5:1	1:1	$(1 + (2.5 \times Z)):1$
4:1	1:1	$(1 + (3 \times Z)):1$
4.5:1	1:1	$(1 + (3.5 \times Z)):1$

(2C) Despite subclauses (2), (2A) and (2B), the floor space ratio for the residential component of a building that is a mixed use development that includes shop top housing or serviced apartments is to be calculated as follows:

- (a) if the building is in Zone B3 Commercial Core—
 $[(\text{MaxFSR} \times (\text{NR})/100) + (2 \times \text{R}/100)]:1,$
- (b) if the building is in Zone B4 Mixed Use—
 $[(\text{MaxFSR} \times (\text{NR})/100) + (2.5 \times \text{R}/100)]:1,$

where

MaxFSR is the maximum floor space ratio permitted for the building under either subclause (2), (2A) or (2B),

NR is the percentage of the building's floor space to be used for purposes other than shop top housing or serviced apartments,

R is the percentage of the building's floor space to be used for the purpose of shop top housing or serviced apartments,

residential component means the part of the development used for the purpose of shop top housing or serviced apartments, or both.

Public Exhibition Draft

Clause 4.5 Tweed City Centre Local Environmental Plan 2009

Part 4 Principal development standards

4.5 Calculation of floor space ratio and site area [optional]

(1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,
- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
 - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
 - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
 - (iii) require community land and public places to be dealt with separately.

(2) Definition of “floor space ratio”

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) Site area

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) Exclusions from site area

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) Strata subdivisions

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 4.5

Principal development standards

Part 4

to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

Public Exhibition Draft

Clause 4.6 Tweed City Centre Local Environmental Plan 2009

Part 4 Principal development standards

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

4.6 Exceptions to development standards [compulsory]

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 4.6

Principal development standards

Part 4

- (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 5.4.

Public Exhibition Draft

Clause 5.1 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

Part 5 Miscellaneous provisions

5.1 Relevant acquisition authority [compulsory]

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

Note 1. At the time this Plan was notified on the NSW legislation website no land in the zones listed in the Table to subclause (2) was included on the Land Reservation Acquisition Map.

Note 2. If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this clause. Pending the designation of the acquiring

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.2

Miscellaneous provisions

Part 5

authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

5.2 Classification and reclassification of public land [compulsory]

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.
Note. Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

Note. In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

Public Exhibition Draft

Clause 5.3 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

5.3 Development near zone boundaries [optional]

Not adopted.

5.4 Controls relating to miscellaneous permissible uses [compulsory]

(1) Bed and breakfast accommodation

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 6 bedrooms.

(2) Home businesses

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 40 square metres of floor area.

(3) Home industries

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 60 square metres of floor area.

(4) Industrial retail outlets

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

- (a) 40% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
 - (b) 400 square metres,
- whichever is the lesser.

(5) Farm stay accommodation

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 12 bedrooms.

(6) Kiosks

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 15 square metres.

(7) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 300 square metres.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.5

Miscellaneous provisions

Part 5

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 30 square metres.

(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 20% of the total floor area of both the self-contained dwelling and the principal dwelling.

5.5 Development within the coastal zone [compulsory if land to which Plan applies includes land in the coastal zone]

(1) The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the NSW Coastal Policy, and in particular to:
 - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
 - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
 - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
 - (iv) recognise and accommodate coastal processes and climate change, and
 - (v) protect amenity and scenic quality, and
 - (vi) protect and preserve rock platforms, beach environments and beach amenity, and
 - (vii) protect and preserve native coastal vegetation, and
 - (viii) protect and preserve the marine environment, and
 - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

Public Exhibition Draft

Clause 5.5 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

- (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
 - (xi) protect Aboriginal cultural places, values and customs, and
 - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and
 - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
 - (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal waterbodies, and
 - (iv) native fauna and native flora, and their habitats, can be conserved, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.6

Miscellaneous provisions

Part 5

- (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
 - (i) on the proposed development, and
 - (ii) arising from the proposed development, and
 - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

5.6 Architectural roof features [optional]

- (1) The objectives of this clause are:
- (a) to provide high quality urban form for all buildings, and
 - (b) to provide flexibility in building height to promote architectural merit and visual interest of roof forms.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
- (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and

Public Exhibition Draft

Clause 5.7 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

- (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

5.7 Development below mean high water mark [compulsory if land to which Plan applies contains tidal waters]

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

5.8 Conversion of fire alarms [compulsory]

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
 - (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
 - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of:
 - (a) internal alterations to a building, or
 - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.9

Miscellaneous provisions

Part 5

(5) In this clause:

private service provider means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

5.9 Preservation of trees or vegetation [optional]

(1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

- (a) development consent, or
- (b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

- (a) that is or forms part of a heritage item, or
- (b) that is within a heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the

Public Exhibition Draft

Clause 5.10 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

Native Vegetation Act 2003 or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

5.10 Heritage conservation [compulsory]

Note. Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of **Tweed City Centre**, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.10

Miscellaneous provisions

Part 5

- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) When consent not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

Public Exhibition Draft

Clause 5.10 Tweed City Centre Local Environmental Plan 2009

Part 5 Miscellaneous provisions

(5) **Heritage impact assessment**

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) **Heritage conservation management plans**

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) **Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 5.11

Miscellaneous provisions

Part 5

(other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

5.11 Bush fire hazard reduction [compulsory]

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

5.12 Infrastructure development and use of existing buildings of the Crown [compulsory]

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

Public Exhibition Draft

Clause 6.1 Tweed City Centre Local Environmental Plan 2009

Part 6 Additional local provisions

Part 6 Additional local provisions

6.1 Acid sulfate soils [local]

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority.
- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:
 - (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan need not be carried out for the works, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 6.2

Additional local provisions

Part 6

- (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
 - (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
 - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
 - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
 - (a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or
 - (b) the works are not likely to lower the watertable.

6.2 Flood planning area [local]

- (1) The objectives of this clause are as follows:
 - (a) to maintain the existing flood regime and flow conveyance capacity,
 - (b) to enable the safe occupation of, and evacuation from, land to which this clause applies,
 - (c) to avoid significant adverse impacts on flood behaviour,
 - (d) to avoid significant effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses,
 - (e) to limit uses to those compatible with flow conveyance function and that reduce flood hazard.

Public Exhibition Draft

Clause 6.3 Tweed City Centre Local Environmental Plan 2009

Part 6 Additional local provisions

- (2) This clause applies to land at or below the flood planning level, including land shown as flood planning area on the Flood Planning Map.
- (3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied in relation to all of the following matters:
 - (a) all habitable floor levels of the development will be above the flood planning level,
 - (b) the development will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,
 - (c) the development will not significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
 - (d) the development will not affect the safe occupation of, and evacuation from, the land,
 - (e) the development will not significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses,
 - (f) the development will not result in unsustainable social and economic costs to the community as a consequence of flooding,
 - (g) if located in a floodway area—the development will not be incompatible with the flow conveyance function of, or increase a flood hazard in, the floodway area.

6.3 Floodplain risk management [local]

- (1) The objective of this clause is to enable the safe occupation of, and evacuation from, land to which this clause applies.
- (2) This clause applies to:
 - (a) land above the flood planning level and up to the level of the probable maximum flood shown on the Flood Planning Map, and
 - (b) land surrounded by the flood planning area.
- (3) Development consent must not be granted for development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not affect the safe occupation of, and evacuation from, the land:
 - (a) caravan parks,
 - (b) correctional facilities,
 - (c) emergency services facilities,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 6.4

Additional local provisions

Part 6

- (d) group homes,
- (e) hospitals,
- (f) residential accommodation (except for dwelling houses, secondary dwellings or dual occupancies in Zone R2 Low Density Residential or Zone R3 Medium Density Residential),
- (g) residential care facilities,
- (h) tourist and visitor accommodation.

6.4 Environmentally sensitive land—bushland [local]

- (1) The objective of this clause is to protect, maintain and improve the integrity of identified areas of environmental significance, by:
 - (a) protecting the biological diversity of native fauna and flora and their habitat, and
 - (b) protecting ecological processes necessary for the health of ecosystems, and
 - (c) encouraging the recovery of threatened species, communities, populations and their habitats.
- (2) This clause applies to land shown as “Bushland” on the Bushland Map.
- (3) Despite any other provision of this Plan, development consent must not be granted for development on land to which this clause applies unless the consent authority:
 - (a) has considered the impact of the development on:
 - (i) native terrestrial flora and fauna and their habitat, and
 - (ii) native aquatic flora and fauna and their habitat, and
 - (iii) the ecology of the land, waterways, riparian land or wetland, and
 - (iv) threatened species, communities, populations and their habitats, and
 - (b) is satisfied that the development is designed and will be located and managed to avoid any potential adverse environmental impact, or if a potential adverse environmental impact cannot be avoided, the development:
 - (i) is designed and located so as to have minimum adverse impact, and
 - (ii) incorporates effective measures to remedy or mitigate any adverse impact caused.

Public Exhibition Draft

Clause 6.5 Tweed City Centre Local Environmental Plan 2009

Part 6 Additional local provisions

6.5 Additional and restricted uses in Zone B3 [local]

Despite any other provision of this Plan, development consent must not be granted for development for the purposes of backpackers' accommodation or serviced apartments on land in Zone B3 Commercial Core, unless the accommodation or apartments are part of a mixed use development.

6.6 Minimum street frontage of land for buildings in Zones R3, B2, B3 and B4 [local]

- (1) The objectives of this clause are as follows:
 - (a) to ensure that, visually, buildings in the zones mentioned in subclause (2) have an appropriate overall horizontal proportion compared to their vertical proportions,
 - (b) to ensure that vehicular access to the buildings is reasonably spaced and separated along roads and lanes,
 - (c) to provide appropriate dimensions for the design of car parking levels in the buildings,
 - (d) to encourage the development of larger commercial, office, business, residential and mixed use buildings provided for under this Plan.
- (2) Development consent must not be granted for the erection of a building on land in Zone R3 Medium Density Residential, Zone B2 Local Centre, Zone B3 Commercial Core or Zone B4 Mixed Use unless the land on which the building is to be erected has at least 1 street frontage of 20 metres or more.
- (3) Despite subclause (2), development consent may be granted for the erection of a building on land that does not have at least one street frontage of 20 metres or more if the consent authority is satisfied that the construction of the building will be:
 - (a) otherwise in accordance with the requirements of this Plan, and
 - (b) consistent with the objectives of this clause.

6.7 Serviced apartments [local]

Development consent must not be granted for the strata subdivision of a building that is being, or has been, used as serviced apartments unless the consent authority is satisfied that, if the development was a residential flat development:

- (a) the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* would be achieved, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 6.8

Additional local provisions

Part 6

- (b) the design principles of the *Residential Flat Design Code* (A publication of the Department of Planning, September 2002) would be achieved.

6.8 Ground floor and first floor development in certain business zones [local]

- (1) Development consent must not be granted for the erection of a multi storey building on land in Zone B3 Commercial Core or B4 Mixed Use unless the consent authority is satisfied that:
 - (a) the building will have an active street frontage, and
 - (b) the ground floor of the building is to be used for the purpose of commercial activities, and
 - (c) if the building is also to be on land in Zone B3 Commercial Core, the first floor of the building is also to be used for the purpose of commercial activities.
- (2) Subclause (1) does not apply to the following parts of the floor of a building:
 - (a) lobbies for any office premises, business premises, residential accommodation, serviced apartments or hotel or motel accommodation,
 - (b) access for fire services,
 - (c) access for vehicles.
- (3) Subclause (1) (a) does not apply to any part of a building facing a service lane.
- (4) In this clause:
commercial activities means activities for amusement centres, business premises, function centres, hotel or motel accommodation (but not hotel or motel accommodation that is subdivided under a strata scheme), medical centres, office premises, registered clubs or retail premises.

6.9 Design excellence [local]

- (1) This clause applies to development involving the erection of a building or external alterations to an existing building.
- (2) Development consent must not be granted for development to which this clause applies unless the consent authority is satisfied the proposed development has design excellence.

Public Exhibition Draft

Clause 6.9 Tweed City Centre Local Environmental Plan 2009

Part 6 Additional local provisions

- (3) In considering whether development to which this clause applies has design excellence, the consent authority must have regard to the following matters:
- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development is likely to improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors,
 - (d) any relevant requirements of the Tweed City Centre Development Control Plan,
 - (e) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) heritage issues and streetscape constraints,
 - (iv) the relationship of the proposed building with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (x) the impact on, and any proposed improvements to, the public domain.
- (4) Development consent must not be granted to the following development unless an architectural design competition has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act and the Minister has made a determination under section 75P (1) (b) of the Act,
 - (b) development having a capital value of more than \$2,000,000 on a key site coloured red on the Key Sites Map,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Clause 6.9

Additional local provisions

Part 6

- (c) development in relation to a building that is, or is to be, higher than 35 metres,
 - (d) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) Despite any other provision of this Plan, the consent authority may consent to the erection or alteration of a building that has a floor space ratio of up to 10% more than that allowed by clause 4.4 or of a height of up to 10% higher than that allowed by clause 4.3 (or both), but only if:
 - (a) the design of the building or alteration is the result of an architectural design competition, and
 - (b) the concurrence of the Director-General has been obtained to the granting of consent.
- (7) In determining whether to provide concurrence under subclause (6), the Director-General must take into account the matters set out in subclause (3) and whether the development has design excellence.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 1 Additional permitted uses

Schedule 1 Additional permitted uses

(Clause 2.5)

(When this Plan was made this Schedule was blank.)

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Exempt development

Schedule 2

Schedule 2 Exempt development

(Clause 3.1)

Note 1. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application.

Note 2. Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

Cemeteries or burial grounds

- (1) Development must only involve:
 - (a) the creation of a new grave or monument, or
 - (b) an excavation or disturbance of land for the purpose of carrying out the conservation or repair of a monument or grave marker.
- (2) Must not disturb human remains, relics in the form of grave goods or a place of Aboriginal heritage significance.

Filming

- (1) **Note.** Provision repealed under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) May only be carried out on land:
 - (a) on which there is a heritage item, or
 - (b) within a heritage conservation area, or
 - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,if the filming does not involve or result in any of the following:
 - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
 - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
 - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
 - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 2 Exempt development

- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
 - (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
 - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
 - (c) the proposed location of the filming,
 - (d) the proposed commencement and completion dates for the filming at the location,
 - (e) the proposed daily length of filming at the location,
 - (f) the number of persons to be involved in the filming,
 - (g) details of any temporary structures (for example, tents or marquees) to be erected or used at the location for the purposes of the filming,
 - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
 - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
 - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
 - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
 - (l) a copy of the public liability insurance policy that covers the filming at the location,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Exempt development

Schedule 2

- (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
 - (i) an approval by the Roads and Traffic Authority for the closure of a road,
 - (ii) an approval by the Council for the erection or use of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
 - (iii) an approval by the Environment Protection Authority for an open fire,
 - (iv) an approval by the NSW Police Force for the discharge of firearms,
 - (v) an approval by the Department of Services, Technology and Administration for the use of Crown land,
- (n) details of any temporary alteration or addition to any building or work at the location for the purposes of filming.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
 - (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
 - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
 - (c) the proposed commencement and completion dates for the filming at the location,
 - (d) the proposed daily length of filming at the location.

Lighting (external)

- (1) Must not be for the lighting of a tennis court or sports field.
- (2) Must not cause glare to an adjoining property or street.

Rainwater tanks

Note. Rainwater tanks are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Only that Policy applies.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 2 Exempt development

- (1) Must not be installed or erected on land:
 - (a) that is within a heritage conservation area or within the curtilage of a heritage item, or
 - (b) that is within 40m of a perennial watercourse identified by a 1:50,000 topographic map held by the Department of Services, Technology and Administration, or
 - (c) the surface of which has a slope greater than 18 degrees from the horizontal, or
 - (d) that is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.
- (2) Must be located:
 - (a) behind the front alignment to the street of the building to which the tank is connected (or in the case of a building on a corner block, behind both the street front and the street side alignments of the building), and
 - (b) at least 450mm from any property boundary.
- (3) Must not be installed or erected:
 - (a) over or immediately adjacent to a water main or sewer main unless it is installed in accordance with any requirements of the public authority that has responsibility for the main, or
 - (b) over any structure or fitting used by a public authority to maintain a water main or sewer main, or
 - (c) on a footing of any building or other structure, including a retaining wall.
- (4) The installation or erection of the rainwater tank must not:
 - (a) require a tree to be removed, or
 - (b) involve the excavation of more than 1m from the existing ground level, or the filling of more than 1m above the existing ground level.
- (5) Subject to this clause, the capacity of the rainwater tank, or the combined capacity of the tanks, on a lot must not exceed 10,000L (or in the case of a tank or tanks used for an educational establishment, 25,000L).
- (6) The rainwater tank must:
 - (a) be designed to capture and store roof water from gutters or downpipes on a building, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Exempt development

Schedule 2

- (b) be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank, and
 - (c) be structurally sound, and
 - (d) be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank, and
 - (e) be assembled and installed in accordance with the manufacturer's or tank designer's specifications, and
 - (f) be installed and maintained (including any stand for the tank) in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed, and
 - (g) be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures, and
 - (h) be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water, and
 - (i) have a sign affixed to it clearly stating that the water in the tank is rainwater.
- (7) The rainwater tank must not:
- (a) collect water from a source other than gutters or downpipes on a building or a water supply service pipe, or
 - (b) exceed 3m in height above ground level, including any stand for the tank.
- (8) Any overflow from the rainwater tank must be directed into an existing stormwater system.
- (9) Any plumbing work undertaken on or for the rainwater tank that affects a water supply service pipe or a water main must be undertaken:
- (a) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
 - (b) in accordance with any requirements by the public authority for the plumbing work, and
 - (c) by a licensed plumber in accordance with the *New South Wales Code of Practice for Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.
- (10) Any motorised or electric pump used to draw water from the rainwater tank or to transfer water between rainwater tanks:
- (a) must not create an offensive noise, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 2 Exempt development

- (b) in the case of a permanent electric pump, must be installed by a licensed electrician.

Satellite TV dishes

Note. Satellite TV dishes are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Only that Policy applies.

- (1) Must not be installed or erected:
 - (a) on land within a heritage conservation area or within the curtilage of a heritage item, or
 - (b) less than 1m from any easement or sewer main.
- (2) Must be installed or erected wholly within the boundaries of a property.
- (3) If roof mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height at any point must not exceed the highest point of the roof (if the roof is peaked) or 1.2m above the roof (if the roof is flat).
- (4) If ground mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height must not exceed 1.2m above the highest point of the roof of the dwelling on which, or adjacent to which, it is erected.
- (5) If installed or erected on land within a Business or Industrial zone, must comply with the following:
 - (a) if roof mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height at any point must not exceed 1.8m above the highest point of the roof structure,
 - (b) if ground mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height must not exceed 1.8m above the highest point of the roof of any building on which, or adjacent to which, it is erected.
- (6) Must be installed in accordance with the manufacturer's specifications and any relevant standard specified by Standards Australia.
- (7) Must not affect the structural integrity of any building on which it is erected.

Signs, advertising structures and displays

- (1) An advertising structure and the display of an advertisement on it, or the display of an advertisement that is not affixed to an advertising

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Exempt development

Schedule 2

- structure, being a sign that displays an advertisement that relates to the premises on which it is situated, and that complies with the following:
- (a) must not cover mechanical ventilation inlet or outlet vents,
 - (b) must relate to a lawful use of, and carried out on, the land,
 - (c) if it has red, amber, green or blue lighting, must not be erected near traffic control signals.
- (2) Business identification signs in a residential or environment protection zone must comply with the following:
- (a) maximum size—1m² in a residential zone and 1.5m² in an environment protection zone,
 - (b) must not be illuminated,
 - (c) only 1 sign per premises,
 - (d) must be located wholly within property boundaries of the land to which the sign relates, or be flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building.
- (3) Business identification signs in business zones—only 1 sign per premises from the following list that complies with the requirements for the sign:
- (a) suspended under awning sign:
 - (i) maximum length—2.5m, and
 - (ii) maximum size—1.5m², and
 - (iii) must be securely fixed by rigid metal supports, and
 - (iv) if over a public road, at least 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line,
 - (b) vertical or horizontal projecting wall sign:
 - (i) maximum size—2.5m², and
 - (ii) must be securely fixed by rigid metal supports, and
 - (iii) if over a public road, must be suspended at a height not less than 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line,
 - (c) flush wall sign:
 - (i) maximum size—2.5m², and
 - (ii) must be securely fixed by rigid metal supports, and
 - (iii) must not project above the top of the wall to which it is attached,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 2 Exempt development

- (d) top hamper sign:
 - (i) maximum size— 2.5m^2 , and
 - (ii) must be securely fixed by rigid metal supports, and
 - (iii) must not extend below the level of the head of the doorway or window above which it is attached, and
 - (iv) must not be more than 3.7m above ground level (existing),
- (e) signs on building walls:
 - (i) maximum height—3m above ground level (existing) on front and side walls, and
 - (ii) maximum display area—50% of the area of the wall.
- (4) Business identification signs in industrial zones must comply with the following:
 - (a) maximum size— 1m^2 per metre of frontage, up to 10m,
 - (b) must be securely fixed by rigid metal supports.
- (5) Real estate signs advertising that the premises on which they are displayed are for sale or lease must comply with the following:
 - (a) maximum size in residential zones— 3m^2 ,
 - (b) maximum size in business or industrial zones— 4m^2 ,
 - (c) maximum—2 signs per premises,
 - (d) must be located wholly within the property boundaries of the land to which the sign relates, or if on the footpath, be flush against the property boundary,
 - (e) must not be displayed for more than 7 days after the commencement of the letting or settlement for the sale of the property is completed,
 - (f) must not be erected on public land.
- (6) Building identification signs must comply with the following:
 - (a) maximum size— 1m^2 in a residential zone or 1.5m^2 in all other zones,
 - (b) maximum height—1.8m in a residential or environment protection zone,
 - (c) must not be illuminated in a residential or environment protection zone,
 - (d) must be located wholly within the property boundaries of the land to which the sign relates, or flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building,
 - (e) only 1 sign per premises.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Exempt development

Schedule 2

- (7) Temporary signs must comply with the following:
- (a) must only announce a local event of a religious, educational, cultural, social or recreational character or relate to a temporary matter in connection with the event,
 - (b) must not include advertising of a commercial nature (except for the name of the event's sponsor),
 - (c) must not be displayed earlier than 14 days before the day on which the event is to take place or commence and must be removed within 7 days after the completion of the event,
 - (d) must not be a fly poster taped to poles, hoardings or buildings.

Tents or marquees used solely for filming purposes

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m².
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
 - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m²,
 - (b) 2 exits in any other case.
- (5) Width of each exit must be at least:
 - (a) 800mm if the floor area of the tent or marquee is less than 150m²,
or
 - (b) 1m in any other case.
- (6) Height of the walls must not exceed:
 - (a) 4m if erected on private land, or
 - (b) 5m in any other case.
- (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
- (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
 - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 2 Exempt development

- (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
 - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
- (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes

- (1) May only be erected, used, altered or added to in connection with filming that is exempt development.
- (2) Temporary structure must not be at the location for more than 30 days within a 12-month period.
- (3) Alteration or addition to the building or work must not remain in place for more than 30 days within a 12-month period.
- (4) Temporary structure, or building or work in its altered or added to form, must not be accessible to the public.

Wind monitoring towers

- (1) Must be a temporary structure that is removed within 30 months of being erected.
- (2) Maximum height—110m.
- (3) Must not be erected within 1km of a school.
- (4) Must not be erected within 1km of a dwelling (except with the prior consent in writing of the owner of the dwelling).
- (5) Must not be erected within 100m of a public road.
- (6) Must not be erected within 1km of another wind monitoring tower.
- (7) Must not be erected within 500m of an item of environmental heritage that is listed on the State Heritage Register under the *Heritage Act 1977*.
- (8) Must be erected in accordance with manufacturer's specifications.
- (9) The site must be enclosed by a fence that prevents unauthorised persons from entering the site.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Complying development

Schedule 3

Schedule 3 Complying development

(Clause 3.2)

Note 1. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application.

Note 2. Information relevant to this Part is also contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, the *Protection of the Environment Operations Act 1997* and the *Roads Act 1993*.

Part 1 Types of development

Recreation facilities (hit-up walls)

- (1) Must be on a lot on which a dwelling house is erected.
- (2) Must only be for private use.
- (3) Must be set back at least 2m from each property boundary.
- (4) Must be located behind the building line.
- (5) Maximum height—3m above ground level (existing).
- (6) Maximum length—7m.
- (7) Must not be illuminated.
- (8) Paved area associated with the wall must be constructed so that it drains directly into the existing on-site stormwater drainage system.
- (9) Perimeter netting must be installed in accordance with the manufacturer's specifications.
- (10) The window of any habitable room of a dwelling house, a clothes drying area or designated barbecue, playground or primary recreation area including a swimming pool located on adjoining land must not be in the shadow of the development between 10.00 am and 3.00 pm on 21 June.

Recreation facilities (tennis courts)

- (1) Must be on a lot on which a dwelling house is erected.
- (2) Must only be for private use.
- (3) Must be set back at least 2m from each property boundary.
- (4) Must be located behind the building line.
- (5) Maximum height of perimeter protective netting or wire—3m above ground level (existing).
- (6) Must not be illuminated.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 3 Complying development

- (7) Must be constructed so that it drains directly into the existing on-site stormwater drainage system.
- (8) Perimeter protective netting must be installed in accordance with the manufacturer's specifications.

Part 2 Complying development certificate conditions

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan.

Division 1 Conditions applying before works commence

Protection of adjoining areas

- (1) A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
 - (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - (b) could cause damage to adjoining lands by falling objects, or
 - (c) involve the enclosure of a public place or part of a public place.
- (2) A temporary fence must be covered in cyclone wire mesh if it adjoins or is on a public place.
- (3) A temporary hoarding, fence or awning must not be erected on public land or a road unless the relevant authority has approved of the works.

Note. Approval in relation to public land may be granted under the *Local Government Act 1993*. Approval in relation to a road may be granted under the *Roads Act 1993*.

Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Complying development

Schedule 3

- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

Division 2 Conditions applying during the works

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

Hours

Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

Sedimentation and erosion controls

Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

Division 3 Construction requirements

Utility services

If the complying development requires alteration to, or the relocation of, utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description
Nil	Nil

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Nil	Nil	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	Nil

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Environmental heritage

Schedule 5

Schedule 5 Environmental heritage

(Clause 5.10)

(When this Plan was made this Schedule was blank.)

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

Dictionary

(Clause 1.4)

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

acid sulfate soils means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

Acid Sulfate Soils Manual means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

Acid Sulfate Soils Map means the Tweed City Centre Local Environmental Plan 2009 Acid Sulfate Soils Map.

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

affordable housing has the same meaning as in the Act.

Note. The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

agricultural produce industry means an industry involving the handling, treating, processing or packing of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

agriculture means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

air transport facility means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

airport means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

airstrip means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

amusement centre means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

aquaculture has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

aquaculture means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of **natural water-based aquaculture**, **pond-based aquaculture** and **tank-based aquaculture**.

archaeological site means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) that contains one or more relics.

attached dwelling means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and
- (c) none of the dwellings is located above any part of another dwelling.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

backpackers' accommodation means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

bed and breakfast accommodation means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

Note. See clause 5.4 for controls relating to the number of bedrooms.

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note. The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

biosolid waste application means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

biosolids treatment facility means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

boarding house means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

boat repair facility means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

brothel has the same meaning as in the Act.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

building height (or height of building) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

building line or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

bulky goods premises means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

bush fire hazard reduction work has the same meaning as in the *Rural Fires Act 1997*.

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

bush fire prone land has the same meaning as in the Act.

Note. The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

bush fire risk management plan means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

Bushland Map means the Tweed City Centre Local Environmental Plan 2009 Bushland Map.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

canal estate development means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
 - (i) dwellings that are permitted on rural land, and
 - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

catchment action plan has the same meaning as in the *Catchment Management Authorities Act 2003*.

Note. The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

cellar door premises means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

cemetery means a building or place for the interment of deceased persons or their ashes.

charter and tourism boating facility means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

classified road has the same meaning as in the *Roads Act 1993*.

Note. The term is defined as follows:

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(see *Roads Act 1993* for meanings of these terms).

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

coastal foreshore means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

coastal lake means a body of water specified in Schedule 1 to the *State Environmental Planning Policy No 71—Coastal Protection*.

coastal waters of the State—see section 58 of the *Interpretation Act 1987*.

coastal zone has the same meaning as in the *Coastal Protection Act 1979*.

Note. The term is defined as follows:

coastal zone means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

community land has the same meaning as in the *Local Government Act 1993*.

correctional centre means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

Council means the **Tweed Shire Council**.

crematorium means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

(c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

dairy (pasture-based) means a dairy where the only restriction facilities present are the milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

drainage means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

dual occupancy means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

earthworks means excavation or filling.

ecologically sustainable development has the same meaning as in the Act.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

electricity generating works means a building or place used for the purpose of making or generating electricity.

emergency services facility means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

emergency services organisation means any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub, nightclub or registered club.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

estuary has the same meaning as in the *Water Management Act 2000*.

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

excavation means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

exhibition village means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

extensive agriculture means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
- (b) the grazing of livestock, or
- (c) bee keeping,

for commercial purposes, but does not include any of the following:

- (d) animal boarding or training establishments,
- (e) aquaculture,
- (f) farm forestry,
- (g) intensive livestock agriculture,
- (h) intensive plant agriculture.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

farm stay accommodation means tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

Note. See clause 5.4 for controls relating to the number of bedrooms.

feedlot means a confined or restricted area used to rear and fatten cattle, sheep or other animals for the purpose of meat production, fed (wholly or substantially) on prepared and manufactured feed, but does not include a poultry farm, dairy or piggery.

fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

filming means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

fish has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

Definition of “fish”

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
 - (a) oysters and other aquatic molluscs, and
 - (b) crustaceans, and
 - (c) echinoderms, and
 - (d) beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

flood planning area means the land shown as “Flood planning area” on the Flood Planning Map.

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard.

Flood Planning Map means the Tweed City Centre Local Environmental Plan 2009 Flood Planning Map.

floodway area has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0), published by the New South Wales Government in 2005.

Note. The term means those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with the naturally defined channels. Floodways are areas that, even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

floor space ratio—see clause 4.5.

Floor Space Ratio Map means the [Tweed City Centre Local Environmental Plan 2009 Floor Space Ratio Map](#).

food and drink premises means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

forestry has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

Note. The term is defined as follows:

forestry operations means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

funeral chapel means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

funeral home means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

group home means a dwelling that is a permanent group home or a transitional group home.

group home (permanent) or **permanent group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

group home (transitional) or **transitional group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

headland includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

health care professional means any person registered under an Act for the purpose of providing health care.

health consulting rooms means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

health services facility means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

heavy industry means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

Height of Buildings Map means the [Tweed City Centre Local Environmental Plan 2009 Height of Buildings Map](#).

helipad means a place not open to the public used for the taking off and landing of helicopters.

heliport means a place open to the public used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

heritage conservation area means an area of land:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and
 - (b) the location and nature of which is described in Schedule 5,
- and includes any heritage items situated on or within that area.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

Heritage Map means the [Tweed City Centre Local Environmental Plan 2009 Heritage Map](#).

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

highway service centre means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used to carry on the business.

home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used to carry on the light industry.

home occupation means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

home occupation (sex services) means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

hotel or motel accommodation means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 2007*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

Note. See clause 5.4 for controls relating to the retail floor area.

industry means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

intensive plant agriculture means any of the following carried out for commercial purposes:

- (a) the cultivation of irrigated crops (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

Key Sites Map means the [Tweed City Centre Local Environmental Plan 2009 Key Sites Map](#).

kiosk means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

Note. See clause 5.4 for controls relating to the gross floor area.

Land Application Map means the [Tweed City Centre Local Environmental Plan 2009 Land Application Map](#).

Land Reservation Acquisition Map means the [Tweed City Centre Local Environmental Plan 2009 Land Reservation Acquisition Map](#).

Land Zoning Map means the [Tweed City Centre Local Environmental Plan 2009 Land Zoning Map](#).

landscape and garden supplies means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

light industry means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

liquid fuel depot means storage premises that are used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid and at which no retail trade is conducted.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

livestock processing industry means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackeries, tanneries, woollscours and rendering plants.

Lot Size Map means the [Tweed City Centre Local Environmental Plan 2009 Lot Size Map](#).

maintenance, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

market means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

medical centre means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

mezzanine means an intermediate floor within a room.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mine subsidence district means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

mining means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

mixed use development means a building or place comprising 2 or more different land uses.

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

moveable dwelling has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

moveable dwelling means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

native fauna means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

native flora means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

Meaning of "native vegetation"

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
 - (a) trees (including any sapling or shrub, or any scrub),
 - (b) understorey plants,
 - (c) groundcover (being any type of herbaceous vegetation),
 - (d) plants occurring in a wetland.
- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

(3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

natural water-based aquaculture means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

Note. Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

navigable waterway means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

Note. See clause 5.4 for controls relating to the retail floor area.

non-potable water means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

NSW Coastal Policy means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

operational land has the same meaning as in the *Local Government Act 1993*.

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

pond-based aquaculture means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

Note. Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

port facilities means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

potable water means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

private open space means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

probable maximum flood has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0), published by the New South Wales Government in 2005.

Note. The term means the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation.

property vegetation plan has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

pub means licensed premises under the *Liquor Act 2007* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

public authority has the same meaning as in the Act.

public land has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

public reserve has the same meaning as in the *Local Government Act 1993*.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Reduced Level (RL) means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

registered club means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force, whether or not entertainment is provided at the club.

relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of **Tweed**, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

research station means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

conservation research, and includes any associated facility for education, training, administration or accommodation.

residential accommodation means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

residential care facility means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

restaurant means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises, whether or not takeaway meals and beverages or entertainment are also provided.

restricted dairy means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

restricted premises means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

restriction facilities means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

road means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

roadside stall means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area.

rural industry means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
- (b) livestock processing industry, or
- (c) use of composting facilities and works (including to produce mushroom substrate), or
- (d) use of sawmill or log processing works, or
- (e) use of stock and sale yards, or
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,

undertaken for commercial purposes.

rural supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

rural worker's dwelling means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

sawmill or log processing works means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

school means a government school or non-government school within the meaning of the *Education Act 1990*.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Note. See clause 5.4 for controls relating to the total floor area.

self-storage units means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

semi-detached dwelling means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

seniors housing means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

serviced apartment means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

sewage treatment plant means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

sewerage system means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

sex services means sexual acts or sexual services in exchange for payment.

sex services premises means a brothel, but does not include home occupation (sex services).

shop means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

shop top housing means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

Note. The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

spa pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

stock and sale yard means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

swimming pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined as follows:

swimming pool means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

take away food and drink premises means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

tank-based aquaculture means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the Act.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

the Act means the *Environmental Planning and Assessment Act 1979*.

timber and building supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

turf farming means the commercial cultivation of turf for sale and the removal of turf for that purpose.

Tweed City Centre Development Control Plan means the Tweed City Centre Development Control Plan 2009, as in force at the commencement of this plan.

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

vehicle repair station means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

vehicle sales or hire premises means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

viticulture means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

waste management facility means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

water recycling facility means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

water reticulation system means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

water storage facility means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

water supply system means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

water treatment facility means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

Public Exhibition Draft

Tweed City Centre Local Environmental Plan 2009

Dictionary

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

wholesale supplies means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.