

# **Design Excellence Planning Proposal 2021**

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DRAFT	01	27/10/21	Tamworth Regional Council – GH	For Internal Review
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## Background

### *Introduction*

This planning proposal has been prepared in accordance with Sections 3.33(2) and 3.33(3) of the *Environmental Planning and Assessment Act 1979* (the Act) and guidelines “*A Guide to Preparing Planning Proposals*” published by the Department of Planning, Industry and Environment (DPIE).

This planning proposal addresses the following matters:

Section 3.33(2) of the Act states that a planning proposal must include the following components:

**Part 1** - A statement of the objectives and intended outcomes of the proposed instrument;

**Part 2** - An explanation of the proposed provisions that are to be included in the proposed instrument;

**Part 3** - The justification for those objectives, outcomes and the process for their implementation;

**Part 4** - Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies; and

**Part 5** - Details of the community consultation that is to be undertaken on the planning proposal.

Section 3.33(3) of Act allows the Planning Secretary to issue requirements with respect the preparation of a planning proposal, these requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the planning proposal.
- A project timeline to deal with the anticipated timeline for the plan making process for each planning proposal.

### *Background*

Blueprint 100 (which incorporates the *Tamworth Regional Local Strategic Planning Statement 2020*) includes the following actions relevant to the Tamworth Central Business District (CBD):

*Develop a Tamworth Town Centre precinct plan, considering:*

- *Facilitating shop-top housing on Peel Street, including introducing financial incentives to make it more viable.*
- *Supporting the upgrade and extension of Peel Street streetscape treatment south-eastwards towards the possible future university precinct.*
- *Facilitating the relocation of car yards on Kable Avenue to a more appropriate location in the city and the development of apartments along Kable Avenue opposite Bicentennial Park.*
- *Supporting the implementation of the Bicentennial Park Master Plan.*

The majority of the Tamworth CBD is zoned “B3 Commercial Core” under the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) with the objectives of the zone being:

- *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; and*
- *to maximise public transport patronage and encourage walking and cycling.*

Unfortunately, it is apparent that the zone objectives (which commenced as part of the LEP in 2010) are not particularly helpful in achieving Council’s (and the community’s) Blueprint vision. However, at present, any Development Application lodged within the zone must be assessed against these

objectives and on this basis, there are limited grounds available to require a proponent to enhance the design, the appearance or the activation potential of the proposal. Therefore, Council's current LEP provisions will not act as an enabler to facilitate the type of development Blueprint 100 envisages.

The review of the *TRLEP 2010* has commenced and work on the CBD precinct is underway. While this process will consider clauses that will more appropriately address Blueprint 100, the process to update the LEP provisions will take some significant time. In the interim, Council risks being in a position to have to approve developments that do not deliver on Council's Blueprint 100 objectives.

The objective of this planning proposal is to ensure that future development within the Tamworth CBD exhibits 'design excellence' and contributes to the natural, visual and built character of this significant precinct. This LEP amendment will introduce a '*design excellence*' clause that applies to the erection of new buildings or external alterations/additions to existing buildings. The clause would apply to all CBD properties identified as a '*Significant Urban Area*' on the LEP map, with the exception of minor development.

### *Subject Land Details*

The land which is the subject of this planning proposal is all of the properties located within the Tamworth CBD as identified on the Subject Lands map (Figure 1).

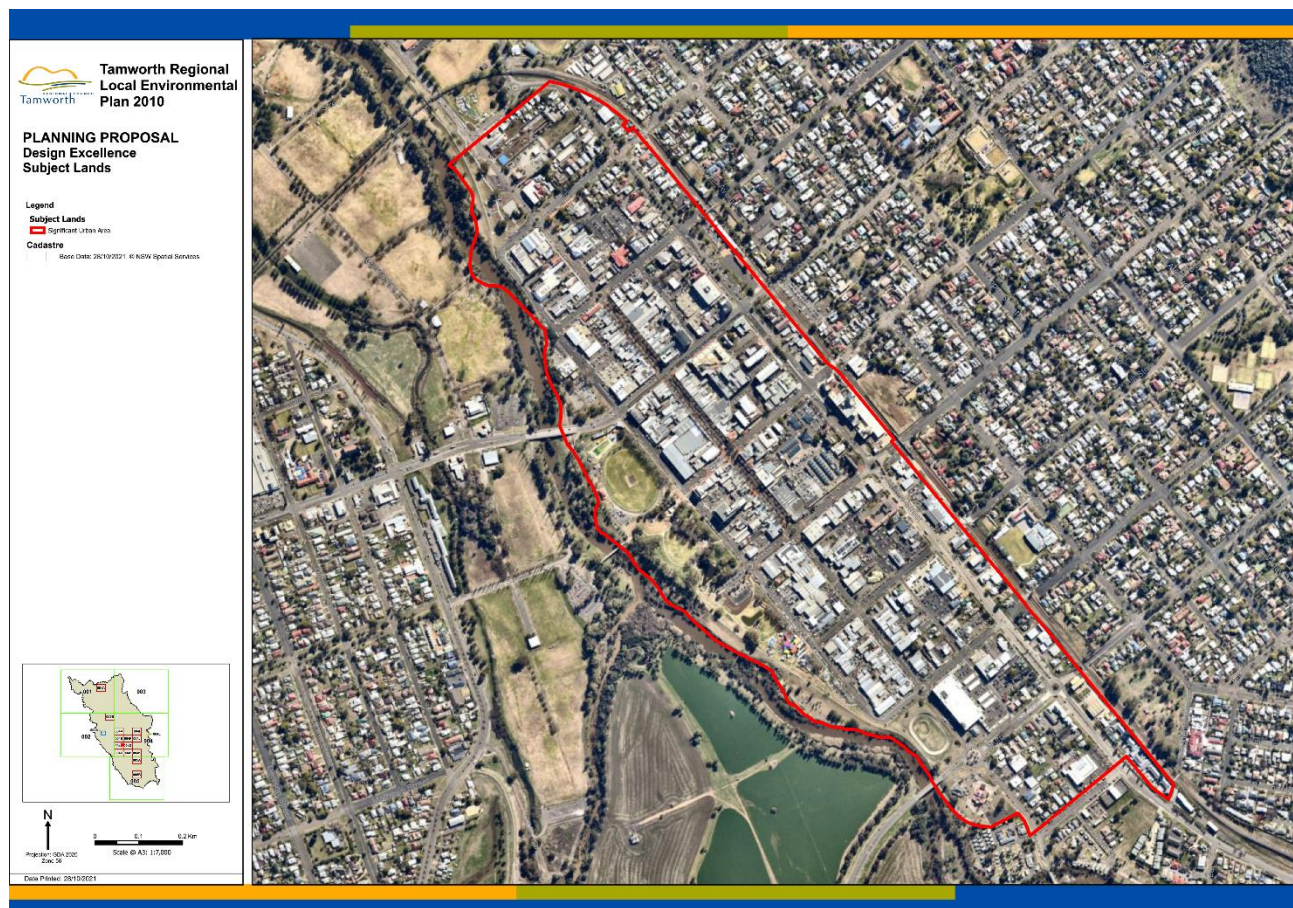


Figure 1. Aerial image of the Tamworth CBD.

## Context and Location

The Tamworth CBD is the main city centre for the New England North West region of NSW comprising almost 200,000m<sup>2</sup> of employment floor space of which around 70,000m<sup>2</sup> is occupied retail space. Anchor retailers include two discount department stores and three large supermarkets.

The CBD precinct is bounded by Macquarie Street to the North, properties fronting Marius Street to the East, East Street to the South and the Peel River to the West. Future development planned for the precinct currently includes a University and a Performing Arts Theatre. It is also proposed to enhance the public domain areas and facilitate place activation of the precinct, particularly at street level.

The Tamworth CBD area is identified on a *Significant Urban Area* map which accompanies this Planning Proposal (refer Appendix 2).

## Part 1: Objectives or Intended Outcomes

The objective of this planning proposal is to amend the *Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)* via the insertion of an additional local clause for the purpose of introducing design criteria to assess future development applications within the Tamworth Central Business District (CBD).

## Part 2: Explanation of Provisions

The proposed outcome will be achieved by:

- Insertion of an additional local clause into the *TRLEP 2010* that will apply to all land located within the Tamworth CBD as identified on the *Significant Urban Area* map.

The proposed additional clause is appended to this planning proposal (refer to Appendix 1). The final clause will be subject to Parliamentary Council Opinion and the draft is provided for the purpose of showing how the proposed outcome will be achieved.

The proposed amendment of the *TRLEP 2010* will be achieved via Gateway Determination issued by the Department of Planning, Industry and Environment (DPIE) and subsequent plan making processes. In the Draft version of this planning proposal Council has requested that the DPIE consider removing the requirement for public exhibition due to the low impact nature and clear alignment with the visions outlined in Blueprint 100 and the New England North West Regional Plan 2036 (the Regional Plan).

## Part 3: Justification

### Section A: Need for the planning proposal

1. **Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

This planning proposal arises from the need for Council to ensure that the *TRLEP 2010* contains provisions that facilitate the high-quality urban design outcomes necessary to deliver a “*strong and vibrant Tamworth City Centre*” as outlined in Blueprint 100 which incorporates the *Tamworth Regional Local Strategic Planning Statement 2020 (LSPS)*. The LSPS emphasises the need to ‘activate’ the CBD and improve urban design, amenity and overall liveability to encourage inner city living and the night time economy. A further objective

of the LSPS is to provide a mix of opportunities in the CBD for residential, tourist and commercial enterprises. This planning proposal will act as a specific enabler to achieving these outcomes.

**2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The planning proposal will result in an amendment to Council's statutory planning instrument, *TRLEP 2010* which will then become a matter for consideration in the development assessment process. Council does not currently have any 'statutory' urban design controls and a planning proposal is considered the best means of achieving the desired LSPS vision. It is emphasised that the planning proposal does not change the permissibility of any land uses within the CBD – it will provide a tool to achieve the 'urban design' outcomes outlined in the LSPS.

## **Section B: Relationship to strategic planning framework**

**3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?**

The planning proposal gives effect to a specific Direction contained within the *New England North West Regional Plan 2036*:

*Direction 9: Coordinate growth in the Cities of Armidale and Tamworth.*

According to the Regional Plan, the two centres of Armidale and Tamworth will accommodate over half of the region's population by 2036. Tamworth CBD is a key city centre in the region. This planning proposal will facilitate the activation and enhancement of the CBD in a manner that is consistent with this Direction.

The Local Government narratives within the Regional Plan identify priorities for each Council within the New England North West area of NSW. The priority actions which are relevant to the Tamworth Regional Local Government Area include:

- Deliver precinct plans to provide a holistic vision and planning framework for the regional cities (Armidale and Tamworth); and
- Prepare activation plans for the regional cities.

It is considered that this planning proposal provides opportunities for the Tamworth regional community to ensure that future growth of the Tamworth CBD both activates and enhances the overall appearance of the Tamworth CBD.

**4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

### **Tamworth Regional Local Strategic Planning Statement 2020**

The planning proposal gives effect to the vision and actions contained within the *Tamworth Regional Local Strategic Planning Statement 2020* such as activating the CBD and improving the urban design, amenity and overall liveability to encourage inner city living and stimulate the night time economy. The planning proposal will act as a specific enabler to achieving these outcomes.

## 5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy	Applicable to Tamworth Regional LGA	Consistent	Comment
State Environmental Planning Policy (Aboriginal Land) 2019	No	-	-
State Environmental Planning Policy (Activation Precincts) 2020	No	-	-
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Coastal Management) 2018	No	-	-
State Environmental Planning Policy (Concurrences and Consents) 2018	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Gosford City Centre) 2018	No	-	-
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Infrastructure) 2007	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Koala Habitat Protection) 2020	Yes	Not Applicable to subject land	Planning proposal is not contrary to SEPP provisions. The subject land is not subject to the zones listed in the SEPP.

State Environmental Planning Policy (Koala Habitat Protection) 2021	Yes	Not Applicable to subject land	Planning proposal is not contrary to SEPP provisions. The subject land is not subject to the zones listed in the SEPP.
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	-	-
State Environmental Planning Policy (Kurnell Peninsula) 1989	No	-	-
State Environmental Planning Policy (Major Infrastructure Corridors) 2020	No	-	-
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	-	-
State Environmental Planning Policy No 21—Caravan Parks	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 33—Hazardous and Offensive Development	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 36—Manufactured Home Estates	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 47—Moore Park Showground	No	-	-
State Environmental Planning Policy No 50—Canal Estate Development	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 55—Remediation of Land	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 64—Advertising and Signage	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	No	-	-
State Environmental Planning Policy (Primary Production and Rural Development) 2019	Yes	Not Applicable to site	-
State Environmental Planning Policy (State and Regional Development) 2011	Yes	Consistent	Planning proposal is not contrary to SEPP provisions.
State Environmental Planning Policy (State Significant Precincts) 2005	Yes	Not Applicable to site	-
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	No	-	-
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	-	-
State Environmental Planning Policy (Three Ports) 2013	No	-	-
State Environmental Planning Policy (Urban Renewal) 2010	No	-	-
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	No	Not applicable to site	-
State Environmental Planning Policy (Western Sydney Aerotropolis) 2020	No	-	-
State Environmental Planning Policy (Western Sydney Employment Area) 2009	No	-	-
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	-	-

**6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?**

<b>Section 9.1 Ministerial Direction</b>	<b>Applicable</b>	<b>Consistent</b>	<b>Comment</b>
<b>1.0 Employment and Resources</b>			
<b>1.1 Business and Industrial Zones</b>	Yes	Consistent	The subject land does include both Business and Industrial zones, however the planning proposal is not contrary to the objective of the Direction.
<b>1.2 Rural Zones</b>	Yes	Not relevant to this planning proposal	The subject land is not affected by Rural zones. The planning proposal is not contrary to the objective of the Direction.
<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	Yes	Not relevant to this planning proposal	The planning proposal is not contrary to the objective of the Direction.
<b>1.4 Oyster Aquaculture</b>	No	Not relevant to this planning proposal	Not Applicable
<b>1.5 Rural Lands</b>	Yes	Not relevant to this planning proposal	The subject land is not affected by the Rural Lands Direction.
<b>2.0 Environment and Heritage</b>			
<b>2.1 Environment Protection Zones</b>	Yes	Not relevant to this planning proposal	The planning proposal is not contrary to the objective of the Direction.
<b>2.2 Coastal Management</b>	No	Not relevant to this planning proposal	Not Applicable
<b>2.3 Heritage Conservation</b>	Yes	Consistent	The planning proposal is consistent as it does not alter the LEP provisions that facilitate the conservation of items, areas, objects and places of environmental and indigenous heritage significance.
<b>2.4 Recreation Vehicle Areas</b>	Yes	Not relevant to this planning proposal	Not Applicable

<b>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs</b>	No	Not relevant to this planning proposal	Not Applicable
<b>2.6 Remediation of Contaminated Land</b>	Yes	Not relevant to this planning proposal	The subject lands are not an investigation area within the meaning of the <i>Contaminated Land Management Act 1997</i> . The investigation of potential contamination is not considered necessary in relation to this planning proposal.
<b>3.0 Housing, Infrastructure and Urban Development</b>			
<b>3.1 Residential Zones</b>	Yes	Consistent	The planning proposal is consistent as it will help to ensure that development within the CBD is of a good design. The proposal does not alter the LEP provisions which would change the permissible residential densities in the CBD.
<b>3.2 Caravan Parks and Manufactured Home Estates</b>	Yes	Consistent	The planning proposal is consistent as it does not deal with the identification of sites for caravan parks or manufactured home estates.
<b>3.3 (Revoked)</b>	Not Applicable	Not Applicable	Not Applicable
<b>3.4 Integrating Land Use and Transport</b>	Yes	Consistent	The planning proposal is consistent because it will encourage development design which takes into account a variety of retail and community functions to create a vibrant CBD precinct.
<b>3.5 Development Near Regulated Airports and Defence Airfields</b>	Not Applicable	Not relevant to this planning proposal	The planning proposal is not contrary to the objective of the Direction
<b>3.6 Shooting Ranges</b>	Yes	Not relevant to this planning proposal	Not Applicable
<b>3.7 Reduction in non-hosted short term rental accommodation period</b>	No	Not Applicable	Not Applicable
<b>4.0 Hazard and Risk</b>			

<b>4.1 Acid Sulfate Soils</b>	No	Not relevant to this planning proposal	The subject lands are not known to contain acid sulfate soils.
<b>4.2 Mine Subsidence and Unstable Land</b>	No	Not relevant to this planning proposal	Not applicable
<b>4.3 Flood Prone Land</b>	Yes	Consistent	The planning proposal is consistent as it does not alter the LEP provisions regarding flood prone land.
<b>4.4 Planning for Bushfire Protection</b>	Yes	Not relevant to this planning proposal	The subject land is not mapped as bushfire prone.
<b>5.0 Regional Planning</b>			
<b>5.1 (Revoked)</b>			
<b>5.2 – 5.8 N/A</b>	Not applicable to the Tamworth Regional Council LGA.		
<b>5.9 North West Rail Link Corridor Strategy</b>	No	Not applicable	Not applicable
<b>5.10 Implementation of Regional Plans</b>	Yes	Consistent	The planning proposal is consistent with the aims and objectives of the <i>New England North West Regional Plan 2036</i> .
<b>5.11 Development of Aboriginal Land Council land</b>	No	Not applicable	Not applicable
<b>6.0 Local Plan Making</b>			
<b>6.1 Approval and Referral Requirements</b>	Yes	Consistent	The planning proposal is consistent with the requirements of this Direction and does not increase any referral requirements.
<b>6.2 Reserving Land for Public Purposes</b>	Yes	Consistent	Not applicable
<b>6.3 Site Specific Provisions</b>	Yes	Consistent	As per the subject lands identified on the <i>Significant Urban Area</i> map.
<b>7.0 Metropolitan Planning – N/A to the Tamworth Regional LGA</b>			

## Section C: Environmental, Social and Economic impact

- 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

There is no identified likelihood that the planning proposal will result in any adverse impact on the environment including critical habitat or threatened communities.

- 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There is no identified likelihood that the planning proposal will result in any adverse environmental effects.

- 9. Has the planning proposal adequately addressed any social and economic effects?**

The planning proposal facilitates a high quality of design for a precinct of significant importance to the Tamworth Region. It will ensure urban design matters that enhance the overall appearance and amenity of the Tamworth CBD, as described elsewhere in this report, are taken into consideration in any future development proposals.

## Section D: State and Commonwealth Interests

- 10. Is there adequate public infrastructure for the planning proposal?**

Yes. The planning proposal does not create new demand for public infrastructure.

- 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

It is not anticipated that consultation with any public authorities will be required, however this process will be confirmed by advice received in the Gateway Determination.

## Part 4: Mapping

The land affected by this planning proposal and the new local clause is formally shown on the *Significant Urban Area* map in Appendix 2.

If the planning proposal is approved, then the final map may be updated to include any applicable changes requested by the Gateway determination

## Part 5: Community Consultation

It is considered that community consultation is not required, however, this process will be confirmed by advice received in the Gateway Determination.

Tamworth Regional Council has recently undertaken targeted consultation with key stakeholders including the Tamworth City Centre Working Group, which incorporates representatives from the Tamworth Business Chamber and key landowners.

The planning proposal is considered to be a low impact proposal, as it:

- does not propose to alter permissible uses, land use zones, minimum lot sizes or floor space ratio controls,
- is consistent with the strategic planning framework,

- presents no issues with regard to infrastructure servicing,
- is not a principal LEP, and
- does not reclassify public land.

## Part 6: Project Timeline

Plan Making Step	Estimated Completion
Anticipated date of Gateway Determination	November 2021
Consideration of planning proposal post Gateway Determination	November 2021
Submission to the Department to finalise the LEP	December 2021

## Appendix 1 – Draft Proposed Additional Local Clause

### Design Excellence

- (1) The objective of this clause is to facilitate high quality urban design outcomes to deliver a strong and vibrant Tamworth City Centre.
- (2) This clause applies to development involving the erection of a new building, or external alterations or additions to an existing building, on land identified as "*Significant Urban Area*" on the *Significant Urban Area* map.
- (3) This clause does not apply to development that the consent authority considers to be minor.
- (4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (5) In considering whether the development exhibits 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 development will improve the quality and amenity of the public domain,
  - (c) whether the development detrimentally impacts on view corridors,
  - (d) whether the development incorporates active frontages to key streets and to pedestrian thoroughfares,
  - (e) how the 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 development with other development (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. pedestrian, cycle, vehicular and service access, circulation and requirements,
    - ix. the impact on, and any proposed improvements to, the public domain.