

Call to cut council planning powers after rebuke

Robert Harley

North Sydney Council will have to go back to the drawing board and re-exhibit its new Local Environment Plan (LEP) for the North Sydney CBD after the Land and Environment Court found several parts of the process misleading.

In a decision handed down on Tuesday the judge, David Lloyd, found the "public exhibition process had miscarried" because of three misrepresentations.

Justice Lloyd said council's misrepresentations related to calculations of achievable floor space, the independence of consultants — the consultants also managed council's properties — and representations that residential land would not be rezoned.

The Urban Taskforce said the council should be stripped of its

planning powers over the North Sydney CBD after a "stinging rebuke" by the court.

"When a judge of the Land and Environment Court finds a council has misled the public, we have to question the fitness of the council to make crucial planning decisions," said the Urban Taskforce chief executive Aaron Gadiel.

The Mayor of North Sydney, Genia McCaffery, said council would re-exhibit the plan but branded the suggestion that it be removed from planning the CBD as "ridiculous".

"We got a landmark agreement to upgrade the station ... and there is development happening in the CBD," she said.

The decision follows a long-running battle between the council and developer, Castle Constructions.

Back in 2005, Castle lodged a

proposal for a 31-storey office and apartment tower in Walker Street.

Council found the proposal was too high and the Land and Environment Court agreed, but the Court of Appeal overturned the decision.

Councillor McCaffery said the new LEP, proposed in August 2006, had aimed to provide certainty for property owners.

"We tried to provide certainty with height controls — and height controls that reflected current shadow controls," she said.

"Castle Constructions wants double the height control and it is worthwhile for them to pay expensive lawyers to trawl over every aspect of how we exhibited the LEP. Many councils will be trawling over the judgement for when they set LEPs."

Castle chief executive Victor Lahoud said: "Everyone appreci-

ates the council's efforts to have planning provisions in place which are certain, transparent and above all, workable, but it is important that due process be followed.

"When draft LEP 28 was placed on public exhibition in October last year, there were in excess of 80 submissions made, most of which opposed the draft LEP," he said.

"It was council's failure to properly consider those submissions which contributed to the downfall of the draft LEP."

Mr Gadiel said the draft LEP was "embarrassingly inadequate and prohibited further residential development within the centre".

"It's disappointing that not only did council propose a plan that could have reduced residential development in North Sydney's centre, it misled the public about its intentions."



Genia McCaffery