



Tweed Shire Council

# **PLANNING COMMITTEE**

## **AGENDA**

### **19 OCTOBER 2005**

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## ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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**CONFIRMATION OF MINUTES**

**Minutes of the Planning Committee Meeting held 5 October 2005**

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Minutes of the Planning Committee Meeting held Wednesday 5 October 2005 (DW 1278063).
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## REPORTS THROUGH GENERAL MANAGER

### REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

#### MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

#### MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
  - (a) the provisions of
    - (i) any environmental planning instrument; and
    - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
    - (iii) any development control plan, and
    - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
  - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
  - (c) the suitability of the site for the development,
  - (d) any submissions made in accordance with this Act or the regulations,
  - (e) the public interest.

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**1 [PD] SALT Car Parking**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA02/1422 Pt40**

**SUMMARY OF REPORT:**

A submission has been received from the proponents of the Salt development regarding car parking. The retail tenancies contained within the Outrigger building were originally approved as shops. A car parking analysis was provided with the original application to support the proposed parking arrangements. Throughout the development of the precinct development applications for restaurants have been submitted to occupy the tenancies. This has had an impact on parking spaces as the parking rate for restaurants is higher than the rate for shops. The proponents wish to continue to use some of the tenancies for food outlets and as such a review of the parking demands for the precinct has been submitted. The analysis doesn't involve the parking for the units in Outrigger or Peppers as there is no change to these arrangements.

**RECOMMENDATION:**

**That: -**

- 1. The car parking arrangements for the Resort Precinct at Salt as described in this report be approved. The basement car parking for public usage is to be clearly marked and directional signage provided on the accessways around the precincts.**
- 2. The proponents be advised that upon take up of the uncommitted car parking spaces further approvals for use of the tenancies will be issued on the condition that the use is not to commence until the temporary carpark is operational or the uncommitted public spaces in the Peppers basement are available.**
- 3. The proponents be advised that the proposed development for lot 930 is to include an additional 26 car parking spaces for public use.**

**REPORT:**

**Outrigger Precinct**

The current available parking spaces within the Outrigger precinct is as follows: -

Spaces adjacent tavern and retail tenancies	96
Spaces at the entrance to the Outrigger Resort	67
<b>Total</b>	<b>163</b>

200 spaces for beach side public use have been approved around the Central Park. These spaces are excluded from the supply calculations for the commercial uses in the precinct. At the completion of the development a car parking shortage is unlikely given the total available spaces in the precinct and that the peak usage times for the beach (morning/early afternoon) and the restaurants (evening) are predominantly different and there is likely to be usage of the public car parking for both beach recreation and restaurants.

The proposed demand assuming full occupancy of the tenancies is 201 spaces. The analysis includes the tenancies proposed to be used for restaurants. A cross utilisation concession rate of 50 % has been applied for the tavern, function room, bottleshop and restaurants. This is based on patronage coming from the resorts and local residents. A 25% cross utilisation rate has been applied to the retail uses. This is based on patronage from the resorts, locals and beach users. The resorts have basement car parking allocated to guests. A shortfall of 38 car spaces exists for the Outrigger Precinct.

**Peppers Precinct**

The Peppers Resort has 105 basement spaces allocated for public use. The public uses in the Peppers complex are the function room, restaurant and health spa. A 50% cross utilisation has been applied. These uses plus spaces for Peppers staff take up 92.5 car spaces. 12.5 car space credit is available.

**Outrigger/Peppers combined**

Required 293.5  
Available 268  
Shortfall 25.5

The proponents wish to construct a temporary carpark on lot 930 for the shortfall which is located at the entrance to the resort precinct and is the site of the proposed Salt Central mixed development. The ultimate development of lot 930 will include the additional spaces required as a result of the shortfall plus additional to cater for any changes of use requiring more car parking. It is proposed to include additional spaces in the Salt Central development to cater for the Outrigger precinct shortfall.

A development application has been submitted for the temporary carpark. The proposal includes developing a temporary car park in 2 stages so that car parking is supplied immediately and car parking will be available during the construction of the ultimate development of Lot 930.

**Current Uncommitted Spaces**

Of the 163 spaces in the Outrigger precinct 151 spaces are committed to the uses including the retail/ restaurant tenancies. There are 12 uncommitted spaces at the time of writing. Upon exhaustion of the uncommitted spaces additional approvals will be conditioned so that the use is not to commence until the temporary carpark is operational.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

The Policy implications relate to providing appropriate car parking. It is considered that there will be a high level of cross utilisation between the resorts and the commercial style uses. Provided that the basement car parks remain accessible and free from constraint for use by the public the car parking arrangements are considered suitable for the resort precinct. In this regard appropriate signage will be required to be displayed indicating the availability of basement car parks for public usage.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**2 [PD] DA04/0631 for the Demolition of Existing Structures & Erection of a 12 Storey Mixed Used Development Comprising Administration, Meeting & Function Rooms & 30 Residential Units at Lots 13, 14, 15 & 16 DP 224382, No. 11-17 Frances Street Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0631 Pt2**

**SUMMARY OF REPORT:**

Council at its meeting of 5 October 2005 resolved as follows: -

*"This matter was deferred for consideration at the next Planning Committee meeting to be held on 19 October 2005."*

The report is now submitted for Council's determination.

Council is in receipt of an application for a mixed-use development at the corner of Frances & Enid Street, Tweed Heads. The application seeks consent for demolition of the existing buildings on the site and the construction of a twelve storey mixed use building comprising ground floor administration, meeting, and function rooms in association with the nearby Roman Catholic Church and 30 two and three bedroom units with basement and at grade car parking providing on site parking for 60 vehicles.

The land is zoned 2(b) Medium density residential under Tweed Local environmental Plan 2000 and is identified under Development Control Plan No.18 Tweed Heads as a high-density residential precinct.

The application incorporates minor encroachments into the building envelope, will impact on some ocean and scenic views and has raised privacy concerns for some adjoining residences.

Additionally, whilst the building height of 43m AHD complies with the nominated 50m AHD height limit for the site, the application seeks a variation to the number of permissible stories in accordance with the Tweed Heads Master Plan. The Master Plan stipulates that any building on this site should be limited in height to 10 stories. The subject application was lodged prior to the adoption of the Master Plan and was designed with 12 stories in accordance with the maximum height limit of 50m AHD.

Despite these issues the application is considered to warrant a recommendation for approval on the architectural merits of the building in addition to the high-density nature of the area.

The application attracted ten individual objections focusing on traffic implications, loss of privacy, loss of views and general loss of residential amenity. These issues are fully addressed in the following report.

This application is only one of several applications that Council is either currently considering or has recently determined in this area. The subject area is going through a change in character as more of the smaller cottages are being replaced with high-rise development in accordance with the precinct objectives for this area.

Given the proximity of recent applications to one another, this application has considered the cumulative impact of these applications, on adjoining residences, throughout the assessment process.

### **RECOMMENDATION:**

**That: -**

- 1. Council utilises its assumed concurrence for Clause 51 – Tall Buildings of the North Coast Regional Environmental Plan in accordance with its delegation.**
- 2. Council supports the application and refers it to the Director Planning & Development to negotiate a contribution of \$2,000 per unit under a voluntary agreement for public infrastructure identified in the Tweed Heads Master Plan.**
- 3. Approval for DA04/0631 for the demolition of existing structures and erection of a 12 storey mixed used development comprising administration, meeting and function rooms and 30 residential units at Lots 13, 14, 15 & 16 DP 224382, No. 11-17 Frances Street Tweed Heads be issued by the Director Planning & Development under Delegation in accordance with the following conditions:**

### **GENERAL**

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's:**
  - 2002/DA/11 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;**
  - 2002/DA/12 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;**
  - 2002/DA/13 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;**
  - 2002/DA/14 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;**
  - 2002/DA/15 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;**

- 2002/DA/16 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/20 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/21 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/22 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/23 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/23a prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/23b prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/23c prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/24 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;
- 2002/DA/25 prepared by Pat Twohill Designs Pty Ltd and dated Feb 2004;

except where varied by these conditions.

[GEN0010]

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]
3. The development is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual and Council's adopted Development Design & Construction Specifications.

[GEN0040]
4. Advertising structures/signs to be the subject of a separate development application, where statutorily required.

[GEN0070]
5. No retaining walls or similar structures are to be constructed over Council's sewer main.

[GEN0090]
6. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]
7. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

8. All excavation works shall comply with the Acid Sulfate Soil Management Plan for Lot 13-16 DP 224382 Cnr Frances & Enid Streets, Tweed Heads NSW prepared by Blueland Engineers dated 14 March 2005 (Ref No: 203064 V2).

[GENNS01]



9. The garbage collection point is to be built to the satisfaction of Council's Waste Management Co-ordinator and in accordance with the faxed Pat Twohill Plan dated 10 December 2004.

[GENNS02]

10. Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity.

[GENNS03]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

11. A detailed plan of landscaping is to be submitted and approved by Council's Director, Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[PCC0010]

12. Any carparking floodlighting shall not spill beyond the boundaries of the site. A plan of the lighting shall be approved by the Director Planning and Environment PRIOR to the issue of a Construction Certificate.

[PCC0030]

13. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

**14. Section 94 Contributions**

- (i) **Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.**

**Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.**

**These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.**

**A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.**

<b>a. Open Space (Structured): S94 Plan No. 5</b>	<b>\$12,179</b>
<b>b. Open Space (Casual): S94 Plan No. 5</b>	<b>\$2,602</b>
<b>c. Shirewide Library Facilities: S94 Plan No. 11</b>	<b>\$10,749</b>
<b>d. Bus Shelters: S94 Plan No. 12</b>	<b>\$376</b>
<b>e. Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13</b>	<b>\$2,176</b>
<b>f. Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16</b>	<b>\$3,252</b>
<b>g. Extensions to Council Administration Offices &amp; Technical Support Facilities S94 Plan No. 18</b>	<b>\$24,129</b>
<b>h. Cycleways S94 Plan No. 22</b>	<b>\$5,492</b>
<b>i. Regional Open Space (Structured) S94 Plan No. 26</b>	<b>\$18,364</b>

j. **Regional Open Space (Casual)** **\$3,436**  
**S94 Plan No. 26**

[PCC0050/PSC0005]

15. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP4: 14.229 ET @ \$4230	\$60,189
Sewer Banora: 20.7932 ET @ \$2634	\$54,769

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

16. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

[PCC0090]

17. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee. [PCC0190]
18. The Engineering Plans shall include details of settling ponds and the method of discharging the return water from the site. The design shall comply with the requirements of *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development", Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". [PCC0220]
19. Permanent Stormwater Quality Treatment
- (a) Permanent stormwater quality treatment shall comply with *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development" . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) **The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.**
- (d) **Specific requirements:**
- (i) **Runoff from all driveway and carparking hardstand areas (ground level and undercover basement) shall be treated to remove oil and sediment pollutants prior to discharge to the public realm. Treatment devices must be sized in accordance with Section D7.12 of Councils adopted Development Design and Construction Specification D& - Stormwater Quality, with full engineering details , including maintenance schedules, to be provided with s68 Stormwater Application for approval prior to the issue of a construction certificate.**
  - (ii) **The dedicated car wash bay(s) must be graded to direct contaminated runoff to grassed filter areas and pervious landscaping to maximize pollutant removal and filtration. Car wash runoff must not be discharged to the public stormwater system.**
  - (iii) **Surcharge flows from the rainwater storage / reuse tanks shall not be discharged to Councils drain west of the site. This surcharge pipe must be redirected to the Frances Street / Enid Street drainage system.**

[PCC0230]

20. **A construction certificate application for works that involve any of the following:-**
- **connection of a private stormwater drain to a public stormwater drain**
  - **installation of stormwater quality control devices**
  - **erosion and sediment control works**

**will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.**

**Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.**

[PCC0240]

21. A detailed site contamination report is to be provided which is prepared in strict accordance with the provisions of the NSW EPA's Contaminated Site "Guidelines for Consultants Reporting on Contaminated Sites" November 1997 and Council Contaminated Land Policy.

**Note:-**

1. It is a requirement of these Guidelines that all contamination reports include a clear statement from the consultant as to the suitability or otherwise of the subject site for the proposed use, together with a statement detailing all limitations and constraints that are applicable in relation to the use of the site.
2. Any contamination report that does not provide and follow the recommended report sections and information requirements as specified within the Guidelines will be returned on the basis of insufficient information provided.
3. Other relevant or applicable EPA Guidelines are to be used as appropriate.

[PCC0270]

22. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC0280]

23. Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.

[PCC0290]

24. Erosion and Sediment Control During the Construction Phase of Development

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix

E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

25. The basement car parking is to be protected against the inflow of water from Francis Street for storm events up to the ARI 100 year storm event. The basement pump out system must be designed and installed in accordance with section 9 of AS/NZS 3500.3.2 (Stormwater Drainage - Acceptable Solutions).

[PCCNS01]

26. Upgrading of the intersection of Francis and Enid Street is required as a result of this development. Works associated with the development include the realignment of the kerb return, pavement construction, relocation of the pedestrian crossing and splinter island, signage, relocation of utilities/drainage and footpath construction.

Council requires a contribution of \$18,345.00 prior to the issue of a construction certificate towards the works which shall be undertaken by Council as full intersection construction.

[PCCNS01]

27. Upgrading of the pedestrian crossing lighting to flood lights at the intersection of Francis and Enid Street is required as a result of this development.

Council requires a contribution of \$6,000 prior to the issue of a construction certificate towards the works which shall be undertaken by Council.

[PCCNS02]

#### **PRIOR TO COMMENCEMENT OF WORK**

28. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

29. Work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the work has been issued by:
    - (i) the consent authority, or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:
    - (i) has appointed a principal certifying authority, and
    - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the work.

[PCW0020]

30. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

31. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0070]



32. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
- i. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary, underpin and support the building in an approved manner.
  - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

33. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0090]

34. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0180]

35. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

36. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW0210]

37. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.

[PCW0220]

38. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

39. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0280]

40. Prior to commencement of any demolition works, drainage is to be disconnected from Council's Sewerage reticulation at the building's connection point. This work is to be carried out by Council staff at developers cost as per Council's current Fees and Charges.

[PCW0300]

#### **DURING CONSTRUCTION**

41. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

42. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

43. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

44. The provision of 60 off street car parking spaces, with the 11 residential visitor spaces to be signposted and depicted on any subsequent strata application as common property areas. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls. [DUR0050]
45. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. [DUR0060]
46. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
  - b. The chute shall be located in a position approved by the Principal Certifying Authority.
  - c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust. [DUR0070]
47. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR0080]
48. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste". The proposed storage area shall be located so as not to restrict the sight lines of existing vehicles as detailed in AS2890. [DUR0090]
49. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0130]
50. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Occupation Certificate. [DUR0150]
51. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0160]

52. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0170]

53. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.

[DUR0200]

54. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0210]

55. If the work involved in the erection or demolition of a building:

- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- b. building involves the enclosure of a public place,

a hoarding or fence in accordance with approval issued under S138 of the Roads Act must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

56. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0240]

57. All fire service connections are to be compatible with those of the NSW Fire Brigade.

[DUR0250]

58. Prior to the application for a Occupation Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (i) Compliance Certificate - Water Reticulation
- (ii) Compliance Certificate - Sewerage Reticulation
- (iii) Compliance Certificate - Drainage

**Note:**

1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Council's adopted Development Design and Construction Specifications and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Occupation Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

**Water Reticulation, Sewer Reticulation, Drainage**

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]

59. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR0430]

60. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet. Such to specifically include the following:

[DUR0460]

61. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

Such to specifically include the following:

- The driveway is to be constructed 6 metres wide at the property boundary and 9 metres wide at the kerb line with a uniform taper if a splay is specified.
- The proposed waste storage area shall be located so as not to restrict the minimum sight lines for pedestrian safety as detailed in as2890.1 - Off Street Carparking figure 3.3.
- Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR0470]

62. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Enid Street. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 2.5% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and

must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering & Operations Division prior to concrete being placed.

[DUR0520]

63. The concrete footpath is to be saw cut and removed to facilitate the construction of the concrete driveway access.

[DUR0530]

64. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

65. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering & Operations Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Water.

[DUR0840]

66. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

67. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[DUR0870]

68. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

69. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
  - B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0910]
70. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
- [DUR0920]
71. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.
- [DUR0930]
72. The burning of builders waste on site by open fire is prohibited.
- [DUR0940]
73. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.
- [DUR0970]
74. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building.
- [DUR1020]



75. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR1030]
76. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
77. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises. [DUR1070]
78. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
79. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
80. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]

81. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water. [DUR1170]

82. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement [DUR1190]
83. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000. [DUR1200]
84. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
85. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services. [DUR1230]
86. No ground anchors supporting shoring are to be installed under Councils road reserve in Enid Street and Francis Street unless approval is issued by Tweed Shire Council under Section 138 of the Roads Act and appropriate fees paid [DURNS01]
87. Any pumps used for the purpose of dewatering operations are to be electrically operated only. [DURNS02]

88. All pumps used for dewatering operations are to be installed on the site in a location that will minimize any noise disturbance to neighbouring residential premises. Such location shall be to the satisfaction of Council's Director Environment & Community Services.  
[DURNS02]
89. Practical measures to the satisfaction of Council's Director Environment & Community Services are to be taken to acoustically shield all pumps used for dewatering operations.  
[DURNS02]
90. Where any pumps used for dewatering operations are proposed to operate on a 24 hour basis then the owners of adjoining residential premises shall be notified accordingly.  
[DURNS02]
91. Dust control measures and water quality monitoring shall be carried out in accordance with the Soil & Water Management Plan prepared by Blueland Engineers and dated 20 January 2004.  
[DURNS03]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

92. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent.  
[POC0020]
93. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).  
[POC0030]
94. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.  
[POC0050]
95. Prior to occupation of the building or the issue of a Subdivision Certificate, all disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering & Operations.  
[POC0080]

96. Work as executed plans are to be provided to Council detailing:-
- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
  - (ii) the plans accurately reflect the Work as Executed;
  - (iii) plans are to show the two inspection points perpendicular to two side boundaries and a depth below natural surface to pipe culvert for each inspection shaft.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POC0120]

97. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC0170]

98. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- i. Easements for sewer, water supply and drainage over ALL PUBLIC services on private property.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[POCNS01]

99. Prior to the issue of a Occupation Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[POCNS01]

100. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of the occupation certificate.

[POCNS01]

101. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Occupation Certificate.

[POCNS01]

102. Prior to the issue of an Occupation Certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS01]

## USE

103. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0040]

104. All loading/unloading to take place within the boundary of the subject property.

[USE0130]

105. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

[USE0180]

106. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0220]

107. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE0240]

108. All mechanical plant and machinery including any air handling equipment shall be acoustically shielded or otherwise treated to prevent the emission of loud and/or offensive noise caused by the operation of such plant or equipment causing a nuisance to the occupants of any neighbouring or adjacent residential premises. Any such required acoustic shielding or treatment shall be to the satisfaction of Council's Director Environment & Community Services.

[USENS01]

109. All artificial lighting including security lighting shall be shielded where necessary to prevent the spill of light causing a nuisance to any neighbouring residential premises. Any such shielding so provided shall be to the satisfaction of Council's Director Environment & Community Services.

[USENS01]

110. Any premise used for storage, preparation or sale of food are to comply with the relevant provisions of the Food Act 2003 Food safety Standards and AS 4674 - 2004.

[USENS01]

**GENERAL TERMS OF APPROVAL UNDER SECTION 116 OF THE WATER ACT 1912 (Licence to commence sinking a bore to enlarge, deepen or alter a bore)**

**General Conditions**

The purposes of these conditions are to -

- define certain terms used in other conditions
- specify the need to obtain a license, permit or authority before commencing any works
- specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the Water Act)
- require existing approvals to be cancelled or let lapse when a license is issued (if applicable)
- require the safe construction and operation of all works
- require the use of appropriate soil conservation measures
- limit vegetation destruction or removal to the minimum necessary
- require the separate authorisation of clearing under the NVC Act
- allow conditions to be imposed for management of fuel (petroleum)
- require the payment of fees on the issuing of an approval

In the following conditions relating to an approval under the Water Act 1912:

“the Department” means the Department administering the Water Act 1912;

“approval” means a license, permit, authority or approval under that Act;

“river” has the same meaning as in Section 5 of the Water Act 1912;

**“work” means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the Water Act 1912;**

**“controlled work” means any earthwork, embankment or levee as defined in Section 165 of the Water Act 1912.**

- **Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.**
- **An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.**
- **When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.**
- **All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.**
- **All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.**
- **The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.**
- **All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.**
- **The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.**
- **A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.**
- **Any license so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.**

**Conditions relating to water entitlements**

The purposes of these conditions are to -

- allow rules for water transfers to be applied
  - specify an annual entitlement (regulated and unregulated streams)
  - allow the placement of limitations as to when water may be taken to ensure a flow remains for other users and the environment (unregulated streams)
- A transfer of an entitlement shall be subject to the provisions of the Water Act 1912 the regulations made thereunder and the transfer rules applying at the time of application as determined by the Department
  - The authorised annual entitlement will not exceed 10 mega litres.
  - Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary by the Department from time to time to ensure an adequate flow remains for other water users and the environment.

**Conditions for water use**

The purposes of these conditions are to -

- allow the department obtain an accurate measure of water use where necessary
  - specify the purpose(s) for which the water may be used
  - specify conditions to protect water quality and the environment
  - ensure proper management of tailwater drainage
  - ensure accessions to groundwater systems are restricted.
- If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
  - All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
  - The use of water shall be conditional on no tailwater drainage being discharged into or onto -
    - any adjoining public or crown road
    - any crown land
    - any river, creek or watercourse
    - any groundwater aquifer
    - any area of native vegetation
    - any wetlands



**Conditions for Bores and Wells**

**See also “general conditions” and “conditions for water use”**

The purpose of these conditions are to -

- set a limited time for bore construction
  - allow DIPNR access for inspection and testing
  - specify procedures if saline or polluted water found
  - specify procedures if the bore is abandoned
  - require advice if water found
  - specify the volumetric allocation for each purpose of the entitlement
  - identify lands that may be irrigated
  - specify the volumetric allocation for the works purpose
  - allow DIPNR to alter the volumetric allocation at any time
- 
- Works for construction of bores must be completed within such period as specified by the Department.
  - Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
  - Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
  - Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
  - The use of water shall be conditional on no tailwater drainage being discharged into or onto -
    - any adjoining public or crown road
    - any crown land
    - any river, creek or watercourse
    - any groundwater aquifer
    - any area of native vegetation
    - any wetlands
  - The work shall be managed in accordance with the constraints set out in the “Soil and Water Management Plan” and “Acid Sulfate Soil Management Plan” produced by blueLAND engineers dated March 2005.
  - The volume of groundwater extracted as authorised must not exceed 10 mega litres.

- The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The licence shall lapse within six (6) months of the date of issue of the licence.

**REPORT:**

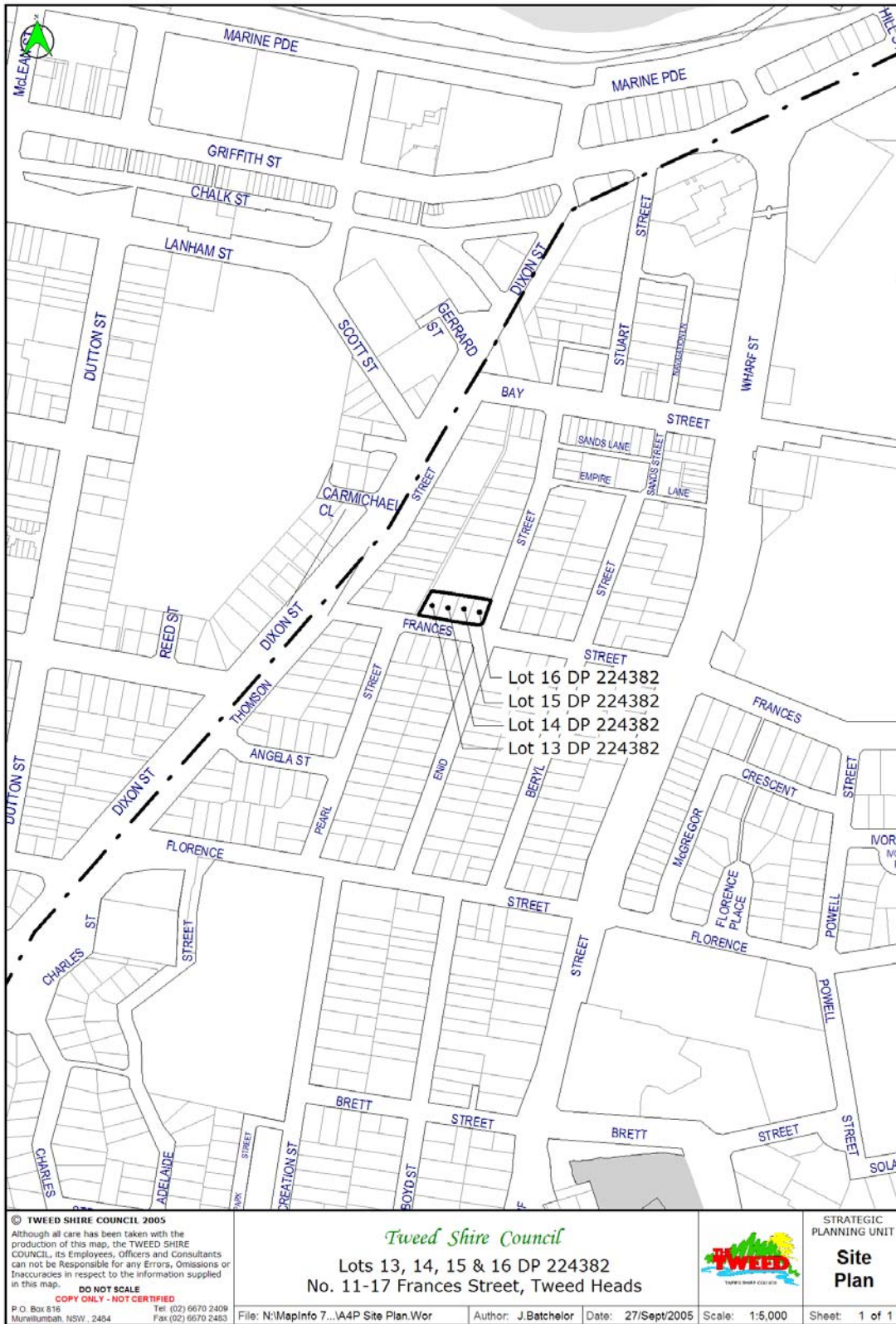
**Applicant:** Trustees of the Roman Catholic Church for the Diocese of Lismore  
Tweed Heads Parish  
**Owner:** Trustees of the Roman Catholic Church  
**Location:** Lots 13, 14, 15 & 16 DP 224382 No. 11-17 Frances Street, Tweed Heads  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$10,000,000

**BACKGROUND:**

Council is in receipt of a Development Application for a proposed multi-dwelling housing development containing 30 residential units as well as administration, meeting and function rooms for the Catholic parish. The proposed development involves the erection of a 12-storey building comprising 11 levels of residential units and the ground floor being the commercial floor space. The development is provided with a basement carparking area with 45 carparking spaces, storage areas, garage, garbage storage, irrigation tanks and lift and stairwells to the building. The basement is accessed by a ramp off Frances Street. From Enid Street, the proposed development at ground floor has a driveway entry which provides 15 vehicle carparking spaces and a car wash bay. The Enid Street entry is adjacent to Jack Chard Park, which is on the northern side of the subject land.

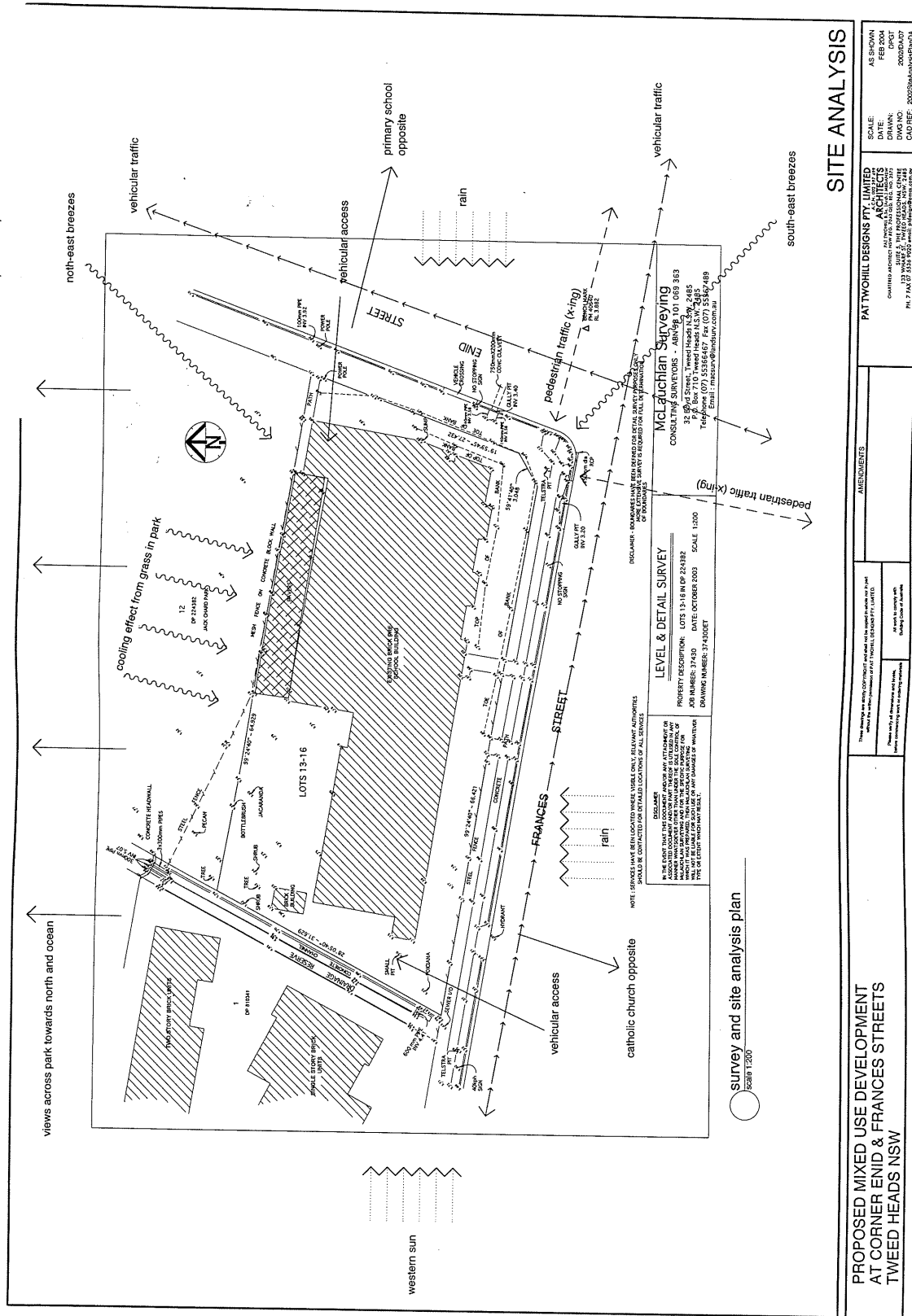
The proposed development will result in the removal of a pre-school and church hall building, on the site. The pre-school has been relocated to Council owned community land in Banora Point and the proposed re-development includes commercial floor space for the Catholic Church to undertake its' other administrative functions. The proposed development includes a pedestrian access way connecting Frances Street with Jack Chard park to the north of the site. The site is opposite the St Josephs Primary School and the St Josephs Catholic Church is located to the south of the site on Frances Street. Directly opposite the proposed development is a new Department of Housing complex. During the exhibition of the proposed development Council received 10 written submissions by way of objection and petitions with multiple signatures. Others issues raised with the proposed development are consistency with the Tweed Heads Master Plan as well as traffic impacts given the location of the development at the intersection of Frances and Enid Streets.

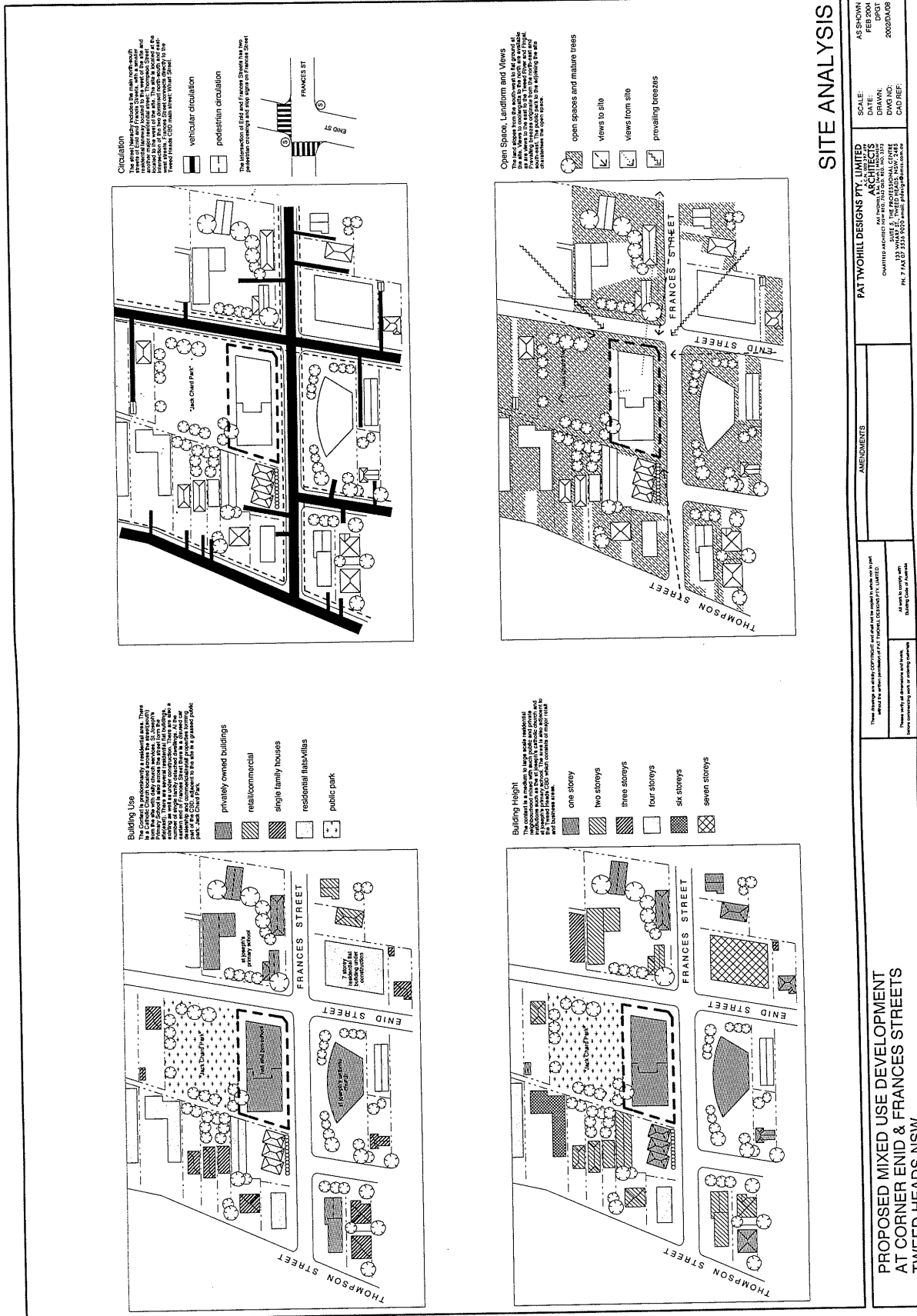
**SITE DIAGRAM:**



<p>© TWEED SHIRE COUNCIL 2005                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumbah NSW 2484                  Tel (02) 6670 2409                  Fax (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lots 13, 14, 15 &amp; 16 DP 224382                  No. 11-17 Frances Street, Tweed Heads</p>	<p>STRATEGIC PLANNING UNIT    <b>Site Plan</b>                  File: N:\Mapinfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 27/Sept/2005 Scale: 1:5,000 Sheet: 1 of 1</p>
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Development Plans

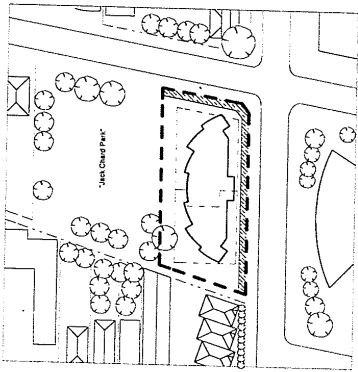




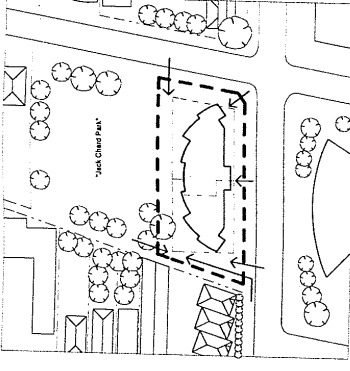
**SITE ANALYSIS**

AMENDMENTS  These drawings are under CONTRACT and not for construction. Any changes must be made in writing and signed by the client, the architect, and the relevant authority. These drawings are the property of PAT TWOHILL DESIGN PTY LIMITED.	PAT TWOHILL DESIGNS PTY. LIMITED <b>ARCHITECTS</b> COMPANY NO. 400156 133 VICTORIA PARK DRIVE ST. LOUIS, MISSOURI 63108 PH: 771.253.5500 WWW.PATWOHILLDESIGN.COM	SCALE: AS SHOWN DATE: FEB 2004 DRAWN: DWT CHECKED: DWT DATE: 20/03/08
	PROPOSED MIXED USE DEVELOPMENT AT CORNER END & FRANCES STREETS TWEED HEADS NSW	

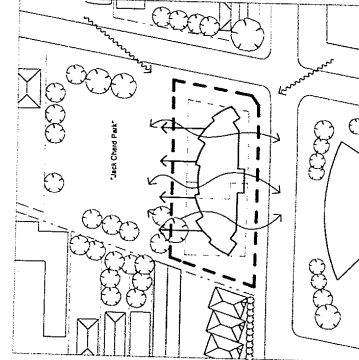
**Building Edges**  
The main purpose is to create the building foot print and to ensure that the building is integrated into the site. The building edges are defined by the building footprint and the surrounding landscape. A clear building edge is essential for a successful development.



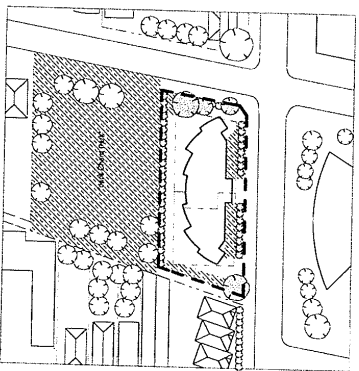
**Access and Parking**  
The site plan shows the proposed access and parking areas. The access is located on the western side of the site, and the parking is located on the eastern side. The site plan also shows the proposed building footprint and the surrounding landscape.

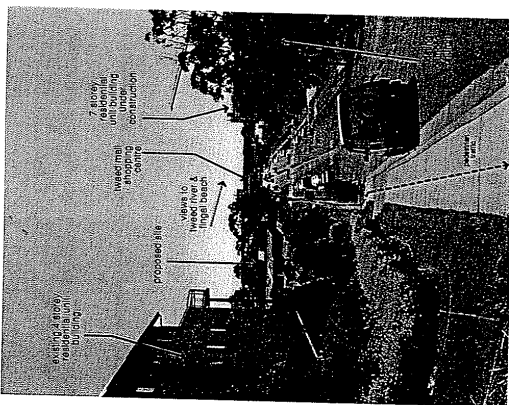


**Building Performance**  
The site plan shows the proposed building footprint and the surrounding landscape. The building is designed to be energy efficient and to provide a high level of comfort for the occupants. The site plan also shows the proposed access and parking areas.



**Landscape Response**  
The site plan shows the proposed building footprint and the surrounding landscape. The landscape is designed to be a natural extension of the building and to provide a high level of comfort for the occupants. The site plan also shows the proposed access and parking areas.

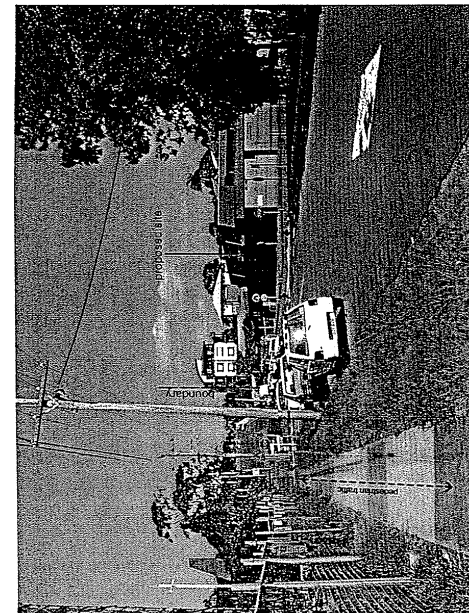




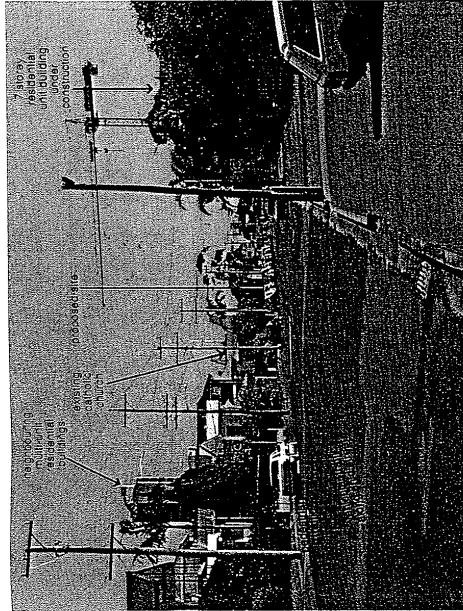
**VIEW EAST FROM WEST END OF FRANCES ST. AT THOMPSON ST.**

**SITE ANALYSIS**

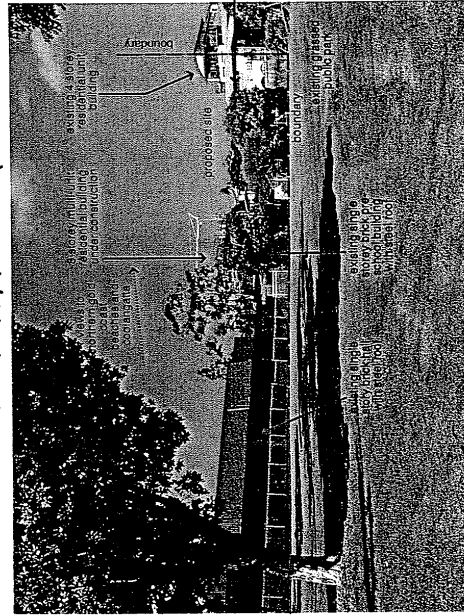
<p><b>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</b></p>	<p><b>AMENDMENTS</b></p>
<p>These drawings are the property of PAT TWO HILL DESIGNS PTY LIMITED and are not to be used for any other purpose without the written consent of PAT TWO HILL DESIGNS PTY LIMITED. These drawings are for information only and do not constitute an offer of any financial product. They are intended for use by the client only.</p>	<p><b>PAT TWO HILL DESIGNS PTY LIMITED</b>                  4/40 WOODVILLE ROAD, WOODVILLE NSW 2209                  PHONE: (02) 4222 1111                  FAX: (02) 4222 1112                  EMAIL: PAT@TWOHILLDESIGNS.COM.AU                  WEBSITE: WWW.TWOHILLDESIGNS.COM.AU</p>
<p>SCALE: AS SHOWN DATE: FEB 2004 DRAWN: DRAYAN DWG NO: 20020400 CAD REF:</p>	



VIEW WEST  
ALONG FRANCES ST.  
FROM OPPOSITE  
ST. JOSEPH'S SCHOOL



VIEW NORTH ALONG ENID ST.  
TOWARDS INTERSECTION  
WITH FRANCES ST.

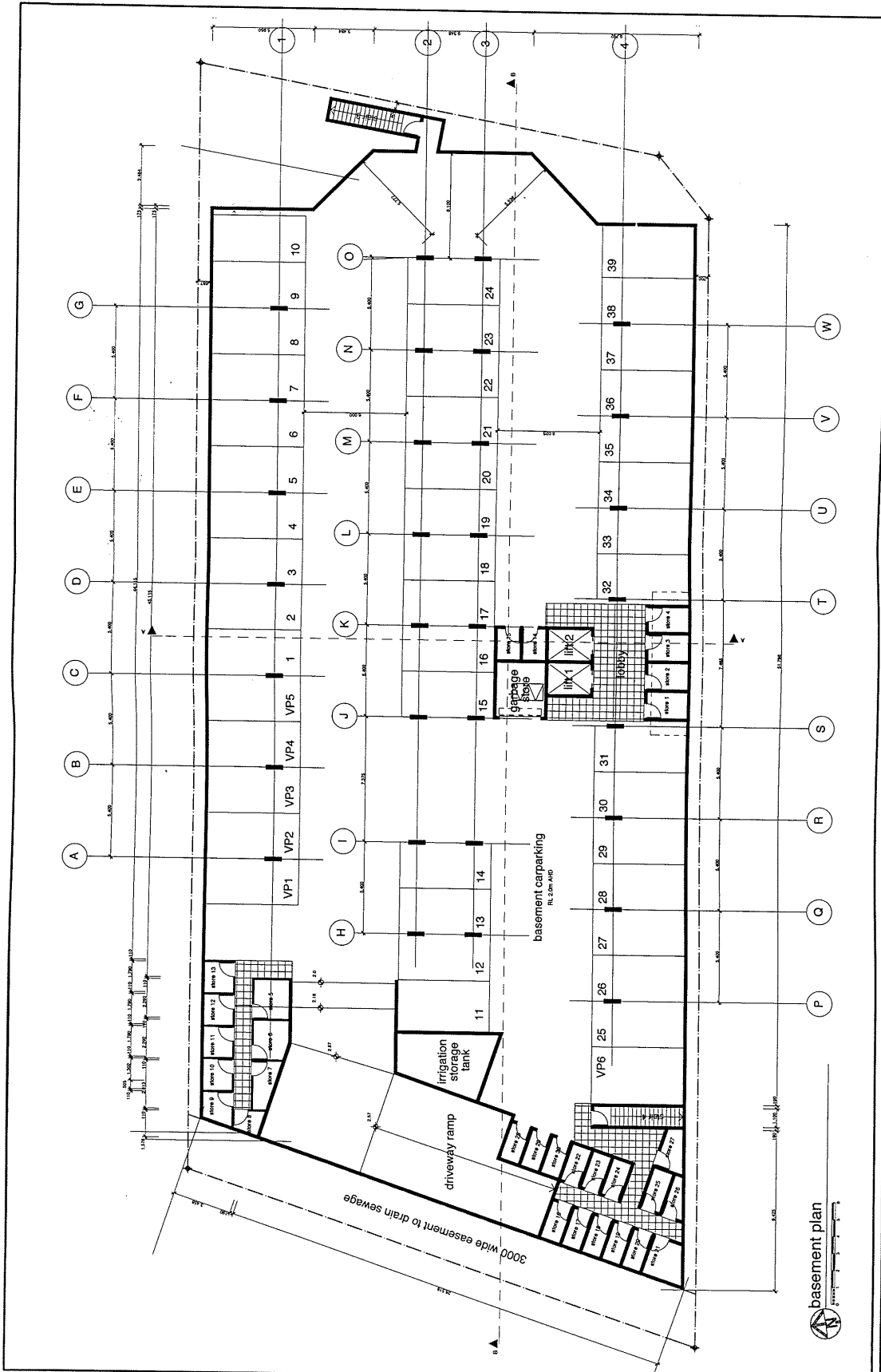


VIEW SW ACROSS  
PARK TO SITE  
FROM ENID ST.

SITE ANALYSIS

PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID & FRANCES STREETS TWEED HEADS NSW		AMENDMENTS (None shown)	PAT TWOHILL DESIGNS PTY. LIMITED ARCHITECTS 133 WYMAT ST. TWEED HEADS NSW 2486 PH: 7543 2333 FAX: 7543 2332	SCALE AS SHOWN DATE FEB 2004 DRAWN CAD REF 200202410
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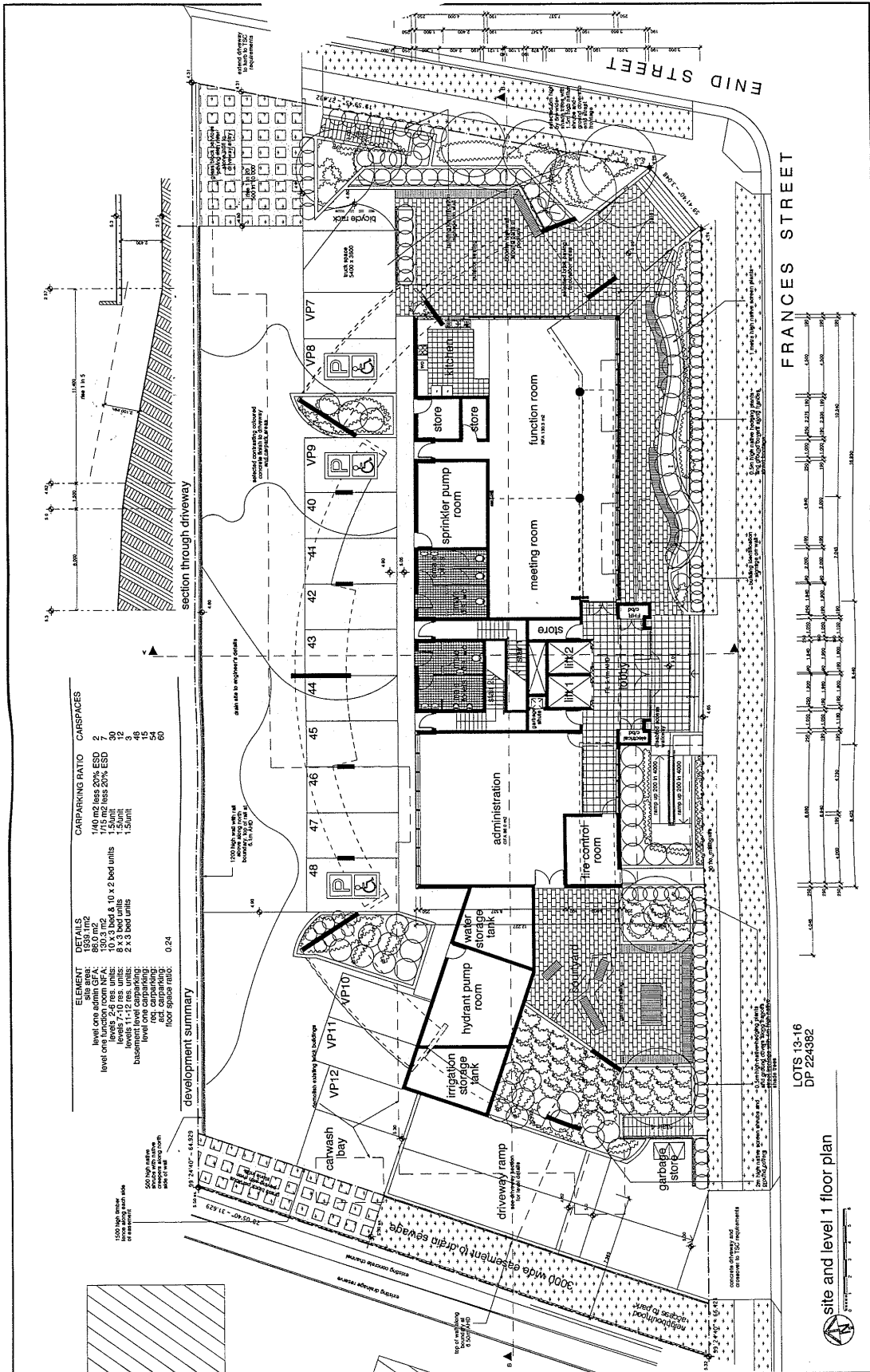


**basement plan**

PROPOSED MIXED USE DEVELOPMENT  
AT CORNER ENID & FRANCES STREETS  
TWEED HEADS NSW

AMENDMENTS

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**development summary**

ELEMENT	DETAILS	CARPARKING RATIO	CARS/PACES
level one admin GFA	130.3 m <sup>2</sup>	1/40 m <sup>2</sup> less 20% ESD	2
level one function room NFA	88.0 m <sup>2</sup>	1/15 m <sup>2</sup> less 20% ESD	7
level one function room	10	1/15 m <sup>2</sup> less 20% ESD	7
levels 2-10 res. units	8 x 3 bed units	1.5unit	12
levels 11-12 res. units	2 x 3 bed units	1.5unit	3
business	level one carparking		15
residential	residential carparking		15
total	floor space ratio:		64
			54

**AS SHOWN**  
 FEB 2004  
 2003DA1/2  
 2002P/001/004

**SCALE:**  
 DATE:  
 DRAWN BY:  
 DIMS NO:  
 CAD REF:

**PAT TWOHILL DESIGNS PTY. LIMITED ARCHITECTS**  
 847 TORNSHAW STREET, TWEED HEADS NSW 2486  
 CONTACT ARCHITECT: 08 2320 8400 FAX: 08 2320 8402  
 122 WARDLE ST., TWEED HEADS NSW 2486  
 PH: 7 748 5325 FAX: 7 748 5325

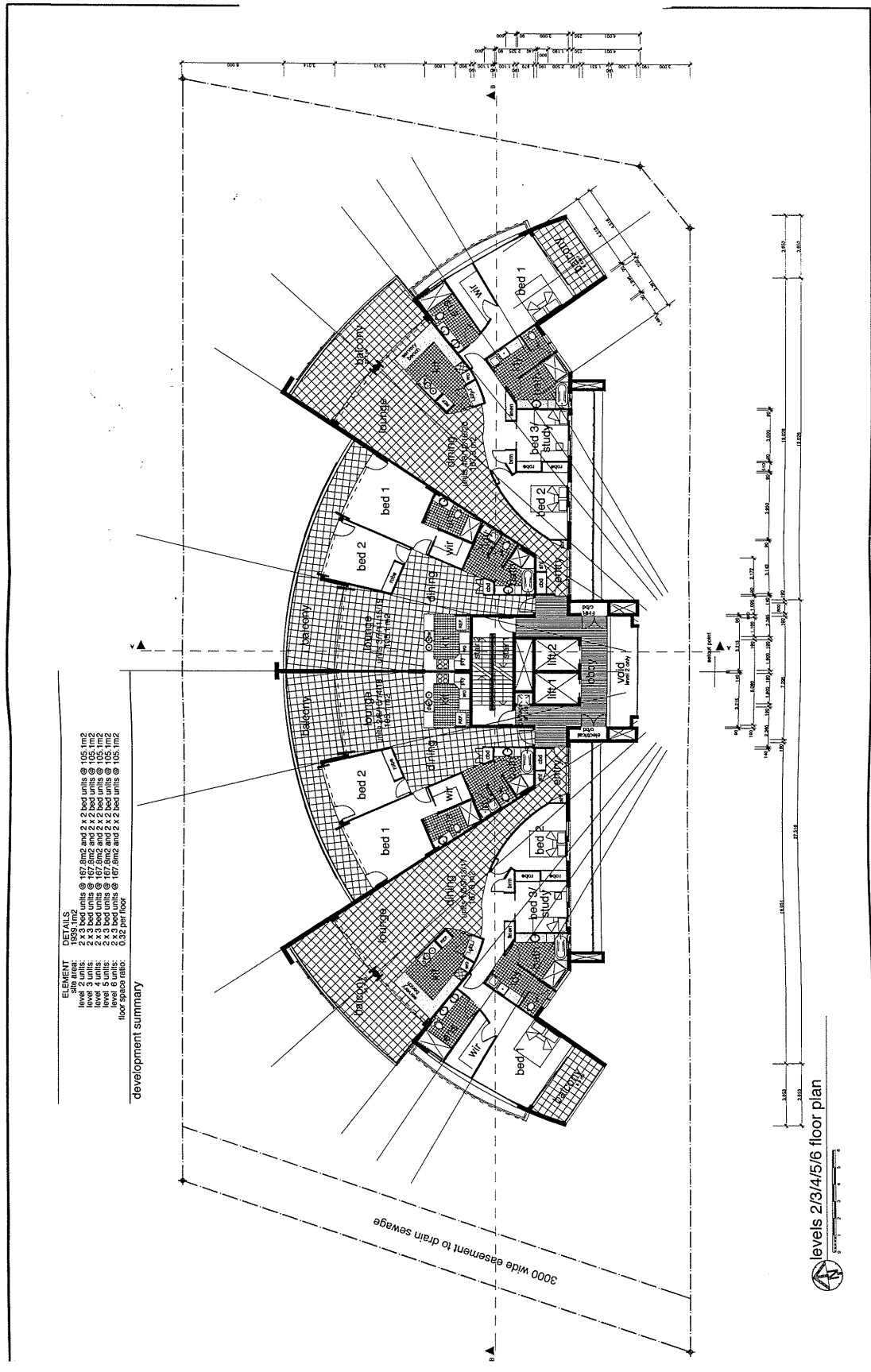
**AMENDMENTS**

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**LOTS 13-16**  
 DP 224382

site and level 1 floor plan

**PROPOSED MIXED USE DEVELOPMENT AT CORNER END & FRANCES STREETS TWEED HEADS NSW**

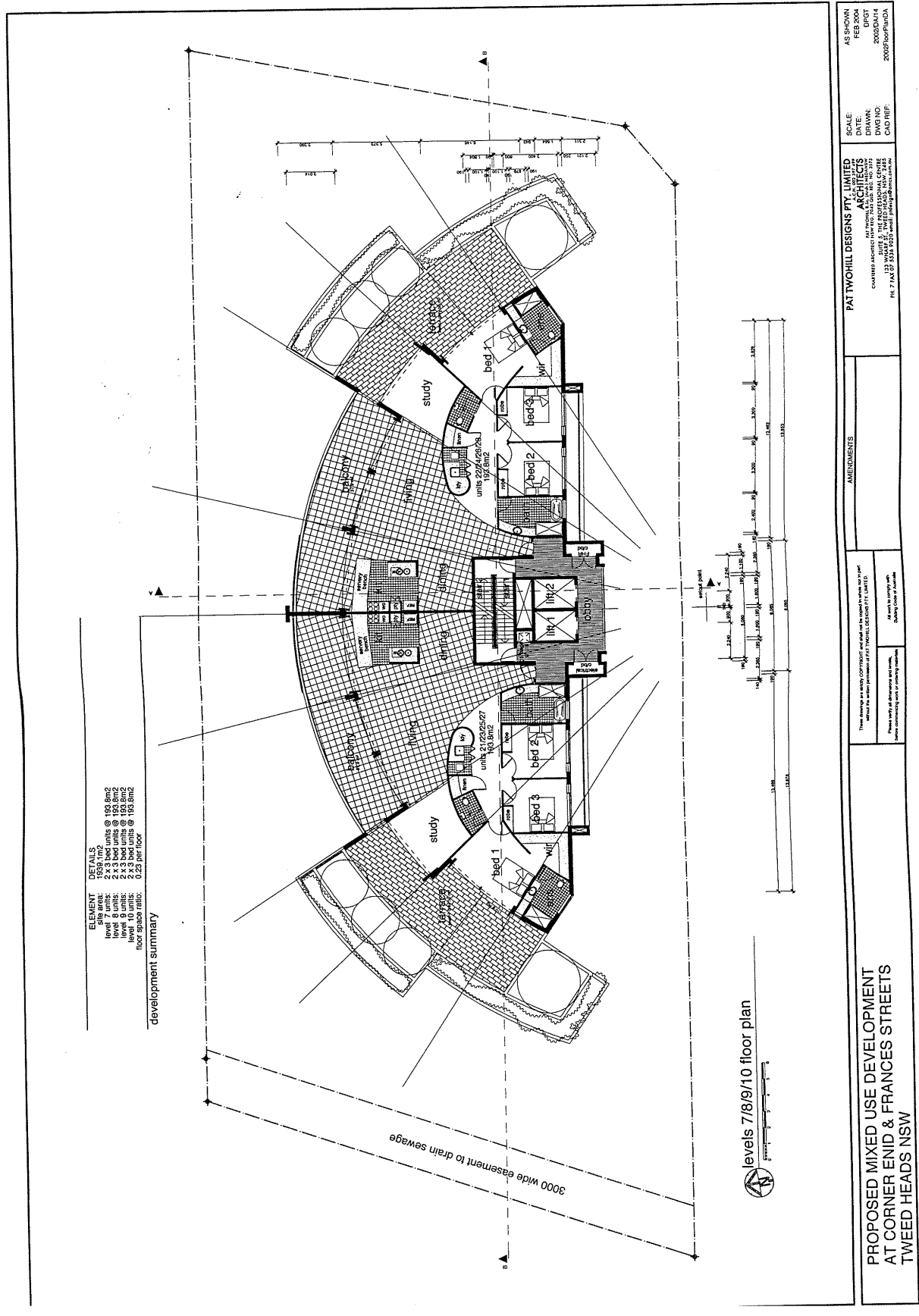


**ELEMENT DETAILS**  
 1595.1m<sup>2</sup>  
 level 2 units @ 187.8m<sup>2</sup> and 2 x 2 bed units @ 105.1m<sup>2</sup>  
 level 3 units @ 187.8m<sup>2</sup> and 2 x 2 bed units @ 105.1m<sup>2</sup>  
 level 4 units @ 187.8m<sup>2</sup> and 2 x 2 bed units @ 105.1m<sup>2</sup>  
 level 5 units @ 187.8m<sup>2</sup> and 2 x 2 bed units @ 105.1m<sup>2</sup>  
 level 6 units @ 187.8m<sup>2</sup> and 2 x 2 bed units @ 105.1m<sup>2</sup>  
 floor space ratio: 0.32 per floor

development summary

levels 2/3/4/5/6 floor plan

AMENDMENTS (This sheet is to be read in conjunction with the other sheets in this set of drawings. For the latest version of this drawing, please refer to the project file.)		AS SHOWN DATE: FEB 2004 DRAWN: DPJG DWG NO.: 2002/D/13 CAD REF.: 2002/00/P/04
PAT WOHILL DESIGNS PTY. LIMITED ARCHITECTS CHARTERED ARCHITECTS (NSW) REG. NO. 133 133 133 FAYERS ST. SYDNEY NSW 2009 PH: 7 549 8338 FAX: 7 549 8339		SCALE DATE DRAWN: DPJG DWG NO.: 2002/D/13 CAD REF.: 2002/00/P/04
PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID & FRANCES STREETS TWEED HEADS NSW		

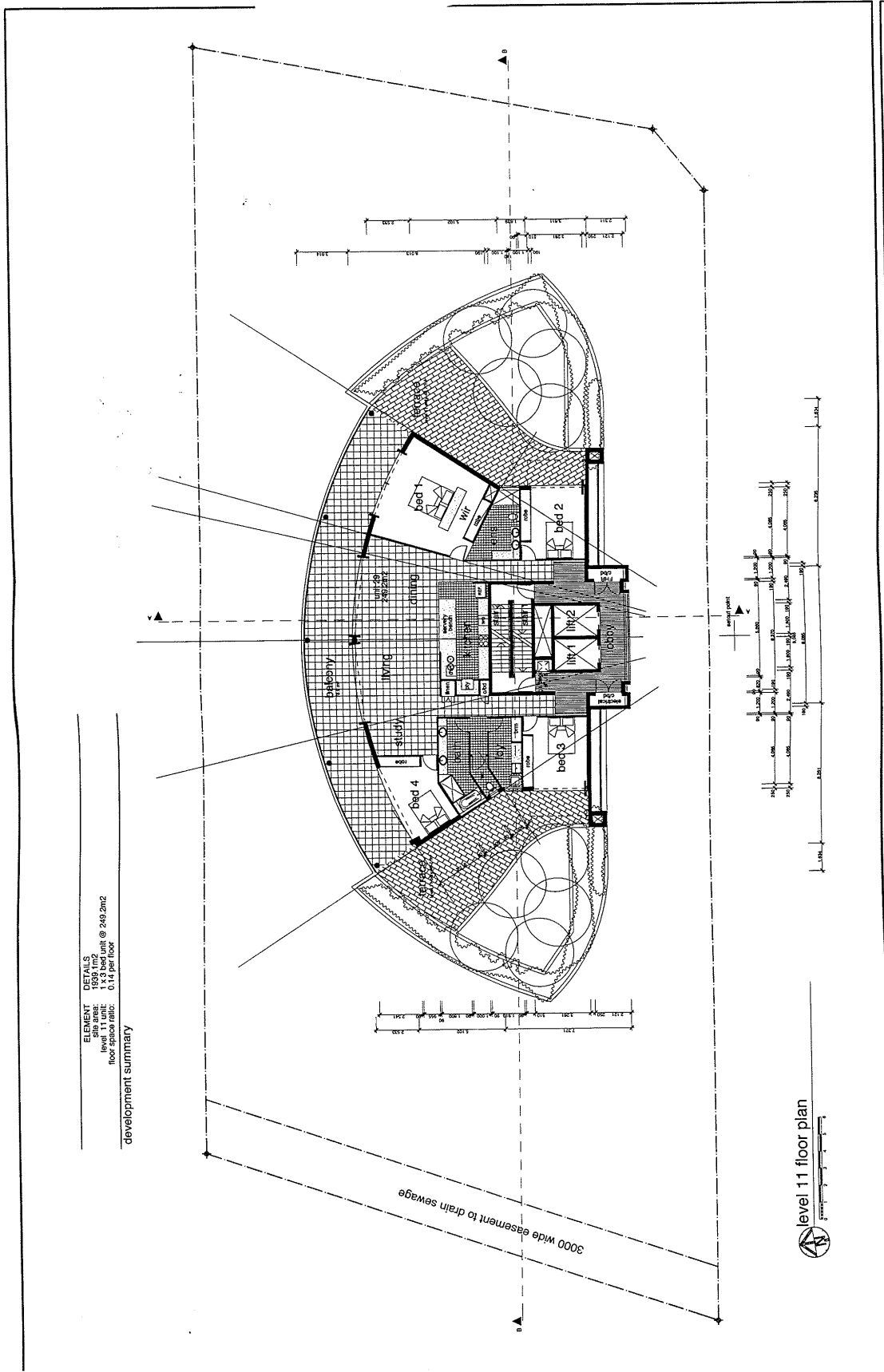


**ELEMENT DETAILS**  
 site area: 1639 m<sup>2</sup>  
 level 7 units @ 153.8 m<sup>2</sup>  
 level 8 units: 2 x 3 bed units @ 153.8 m<sup>2</sup>  
 level 9 units: 2 x 3 bed units @ 153.8 m<sup>2</sup>  
 level 10 units @ 153.8 m<sup>2</sup>  
 floor space ratio: 0.23 per floor

development summary

levels 7/8/9/10 floor plan

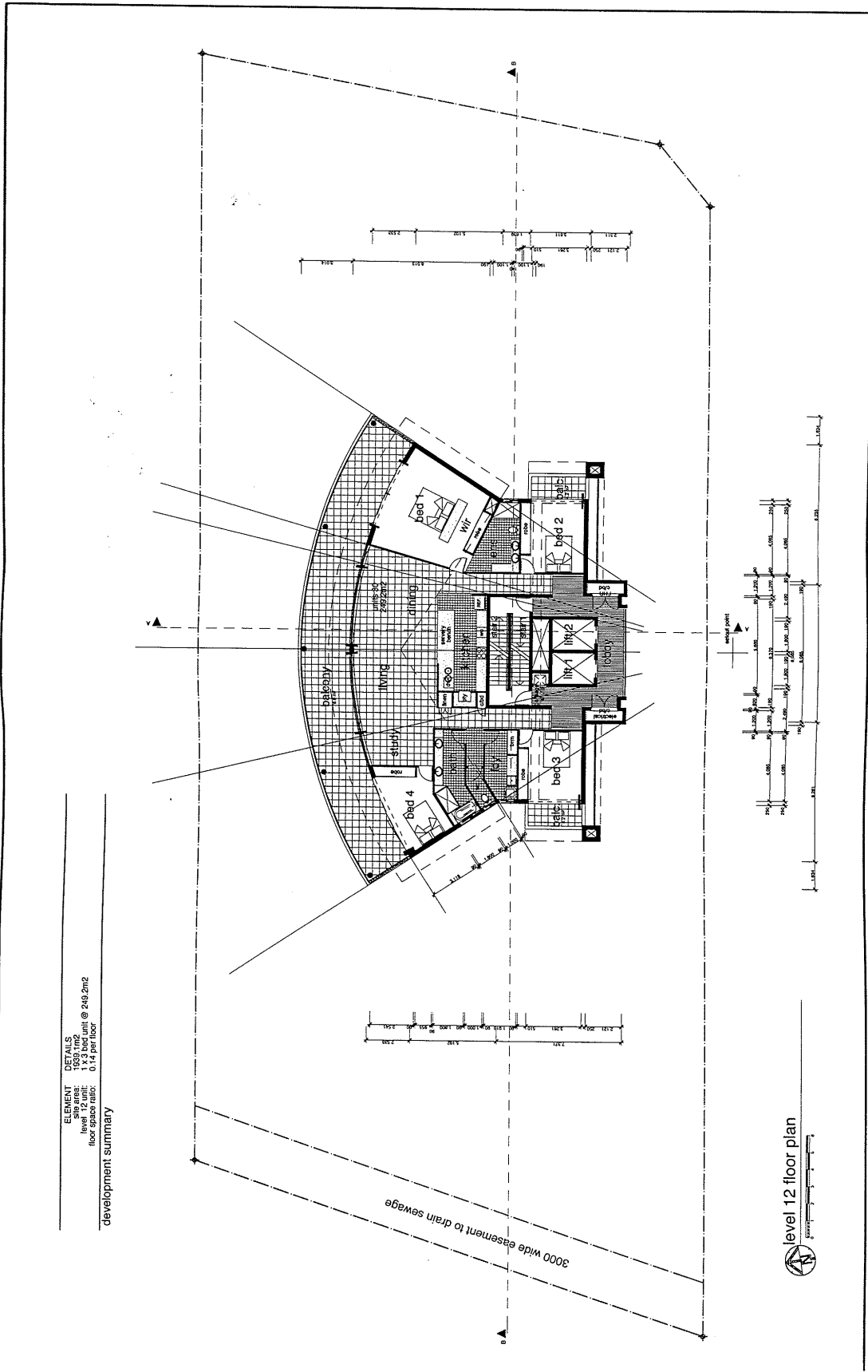
AS SHOWN FEB 2004 2005/01/4 2005/01/4 2005/01/4	SCALE: DATE: DRAWN: CHECKED: CAD FILE:	<b>PAT TWOHILL DESIGNS PTY. LIMITED ARCHITECTS</b> 123 WILSON STREET, TWEED HEADS NSW 2486 PH: 7 446 07 5553 (9 am - 5 pm) pat@twohill.com.au
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PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID & FRANCES STREETS TWEED HEADS NSW		



**ELEMENT DETAILS**  
 site area: 1500 sqm  
 level 11 area: @ 240.2m<sup>2</sup>  
 floor space ratio: 0.14 per floor

**development summary**

<p><b>AMENDMENTS</b></p>	<p><b>PATWORTHILL DESIGNS PTY LIMITED</b>                  12/1177 120                  12/1177 120                  12/1177 120                  12/1177 120                  12/1177 120                  12/1177 120</p>
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<p>SCALE:                  AS SHOWN                  FEB 2004</p> <p>DRAWN:                  DPST                  2002BDA15</p> <p>DWG NO:                  2002BDA15</p> <p>CAD REF:                  2002P00RPH00A</p>	<p><b>AMENDMENTS</b></p>



ELEMENT DETAILS  
 1997.1102  
 floor area: 1.14 per floor  
 floor space ratio: 0.14 per floor  
 development summary

PROPOSED MIXED USE DEVELOPMENT  
 AT CORNER ENID & FRANCES STREETS  
 TWEED HEADS NSW

AMENDMENTS

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 Please note all dimensions are in metres.  
 Before commencing work to comply with the Building Code of Australia.

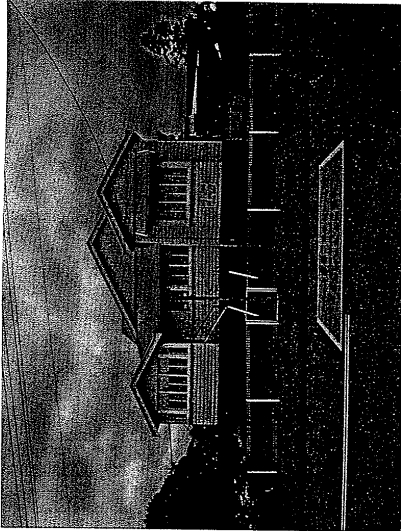
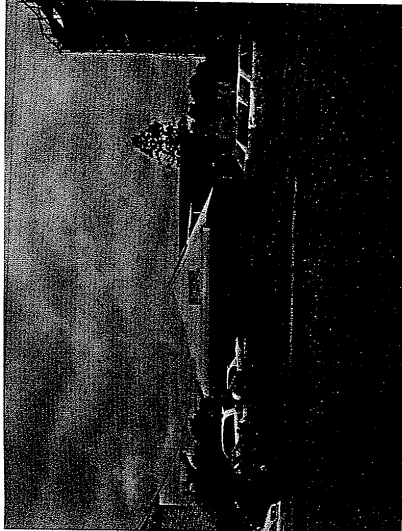
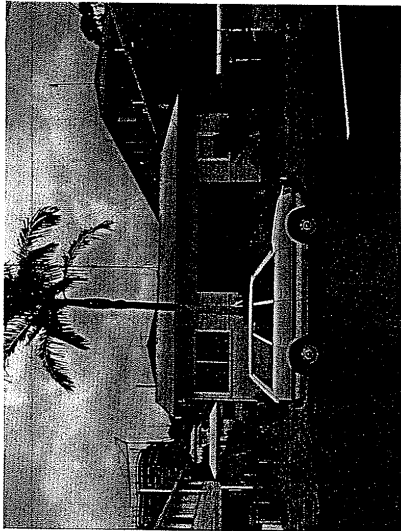
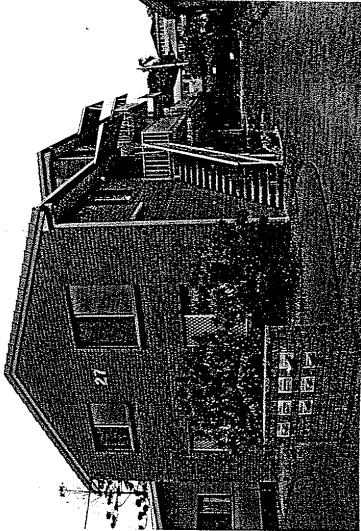
PAT TWOHILL DESIGNS PTY. LIMITED  
 ARCHITECTS  
 1111 PACIFIC HIGHWAY  
 CHAFFERTON VIC 3113  
 133 WARD ST. TWEED HEADS NSW 2485  
 PH: 7146 07 233 FAX: 7146 07 244  
 20050200000000

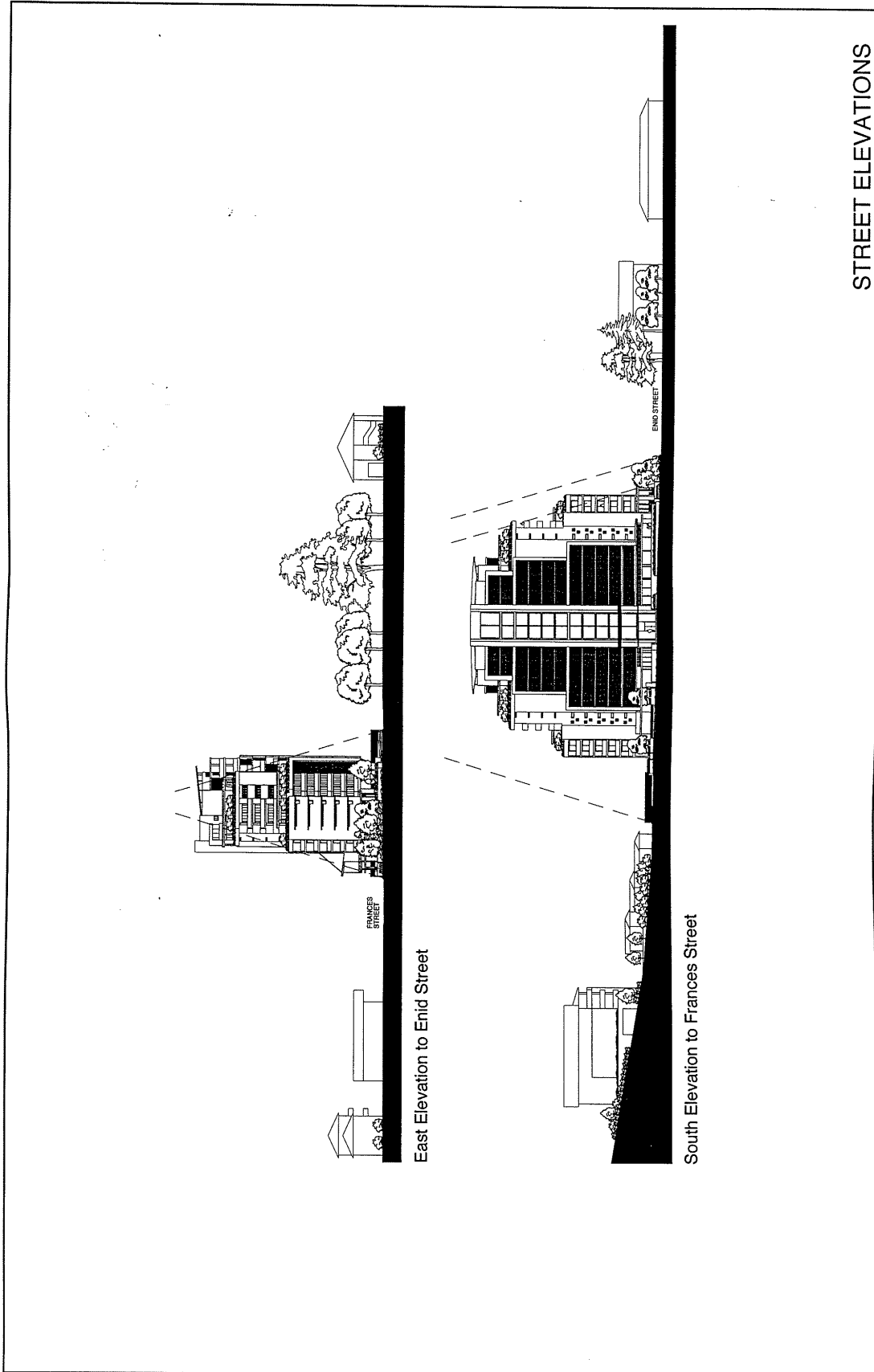
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						<p>THE SITE</p>	<p>JACK CHARD PARK WEST SIDE OF ENID ST.</p>	<p>SOUTH SIDE OF FRANCES ST. ST. JOSEPH'S CATHOLIC CHURCH</p>	<p>WEST SIDE OF ENID ST. NORTH OF JACK CHARD PARK</p> <p>STREET SCAPE</p>
<p>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</p>									
<p>AMENDMENTS</p>									
<p>SCALE AS SHOWN DATE FEB 2004 DRAWN DRGT CHECKED DRGT DATE CAD REF.</p>									
<p>PAT TWOHILL DESIGNS PTY. LIMITED ARCHITECTS 15/155 BRUCE ST. TWEED HEADS NSW 2485 PH 7542 5222 FAX 7542 5222 WWW.TWOHILLDESIGNS.COM.AU</p>									
<p>This plan is submitted in accordance with the provisions of the Planning Act 1973 and the Planning Regulation 2004. Please refer to the Planning Act 1973 and the Planning Regulation 2004 for further information. As with all planning applications, the Council is not responsible for the accuracy of the information provided.</p>									

			<p>28 ENID ST.</p>	<p>EAST SIDE OF ENID ST. 20 ENID ST.</p>	<p>18-20 ENID ST.</p>	<p style="text-align: center;"><b>STREET SCAPES</b></p> <p><b>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</b></p> <p style="text-align: center;">AMENDMENTS</p> <p><small>These drawings are hereby submitted for approval to the Council for the proposed project. Should the Council approve the project, the Council shall be deemed to have approved the project. These drawings are submitted for the Council's information only and do not constitute a contract. The Council is not responsible for any errors or omissions in these drawings.</small></p> <p><b>PAT TWOHILL DESIGNS PTY. LIMITED ARCHITECTS</b>  <small>ALL WORKS PREPARED BY THIS FIRM ARE TO BE USED IN ACCORDANCE WITH THE ARCHITECTS ACT 1992          322 MARKET ST. TWEED HEADS NSW 2486          PH: 7 532 2222 FAX: 7 532 2222 Email: pat@twohill.com.au</small></p> <p>SCALE: _____          DATE: _____          DRAWN: _____          CHECKED: _____          CAD REF: _____</p> <p>AS SHOWN: _____          DATE: _____          DRAWN: _____          CHECKED: _____          CAD REF: _____</p>
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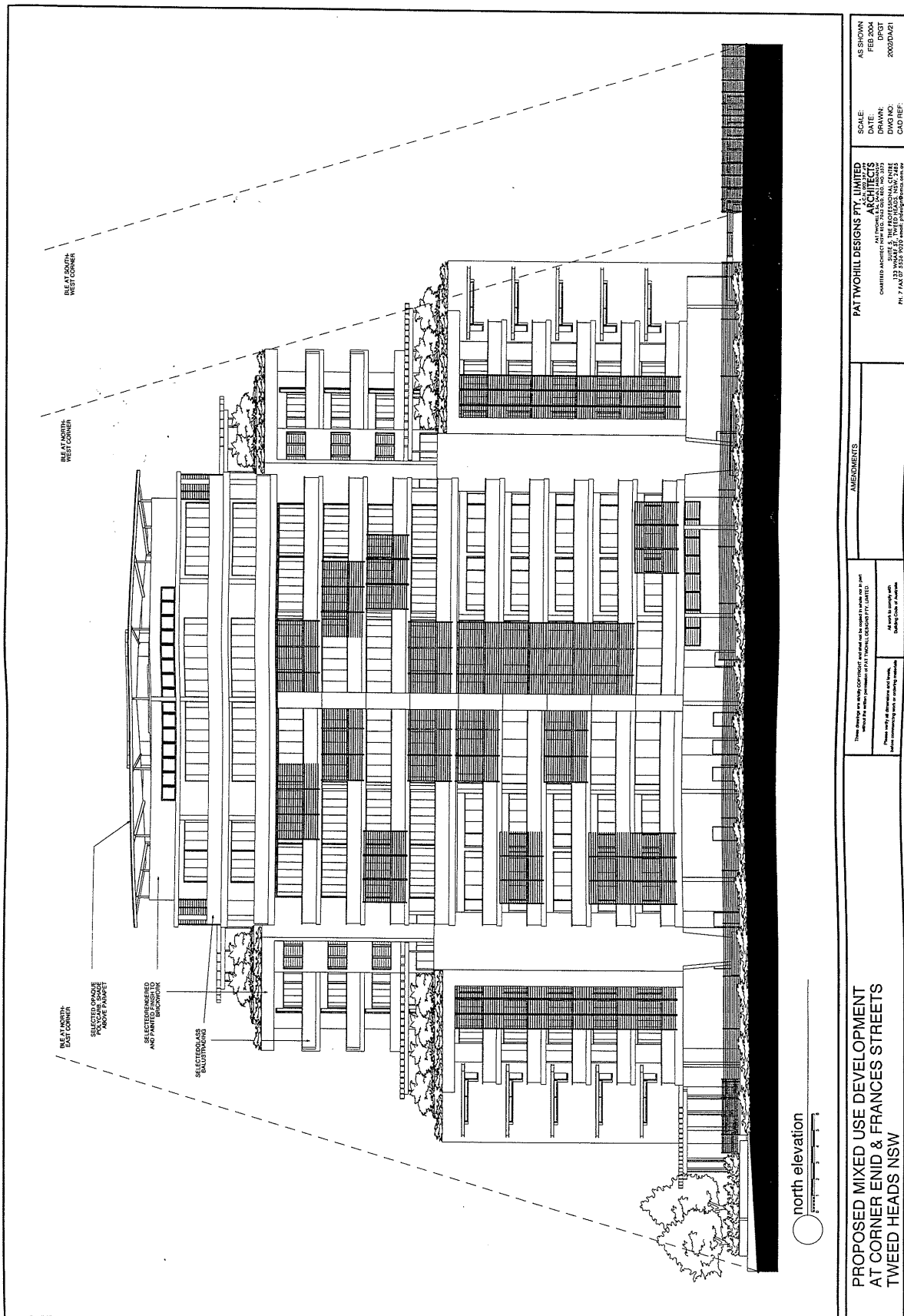


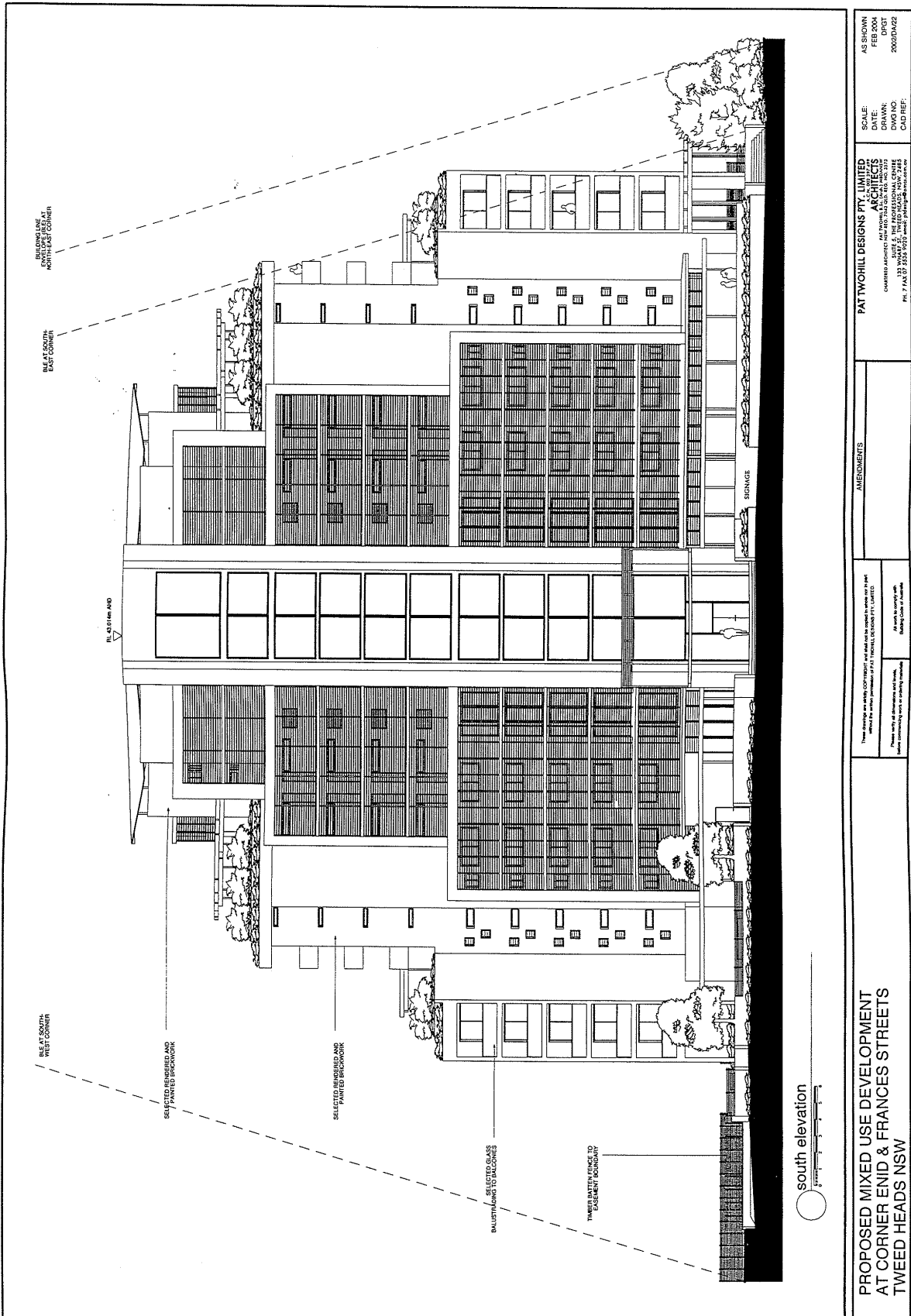
 <p>42 FRANCES ST.</p>	 <p>SOUTH SIDE OF FRANCES ST. 44 FRANCES ST.</p>	 <p>WEST SIDE OF ENID ST. 29 ENID ST.</p>	 <p>27 ENID ST.</p> <p style="text-align: right;"><b>STREET SCAPES</b></p>
<p>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</p>			
<p>AMENDMENTS</p>		<p>PATTWOCHILL DESIGNS PTY. LIMITED ARCHITECTS 133 FARMERS ROAD TWEED HEADS NSW 2486 CONTACT: ANDREW PATTON 08 2255 9555 WWW.PATTWOCHILLDESIGNS.COM.AU</p>	
<p>These drawings are submitted for approval of the Council and are not to be used for any other purpose without the written consent of the author.</p> <p>Professional seal of the author is required for all drawings submitted for approval.</p>		<p>SCALE: AS SHOWN DATE: 2005/04/19 DRAWN: DPBT DWG NO: 2005/DA/19 CAD REF:</p>	

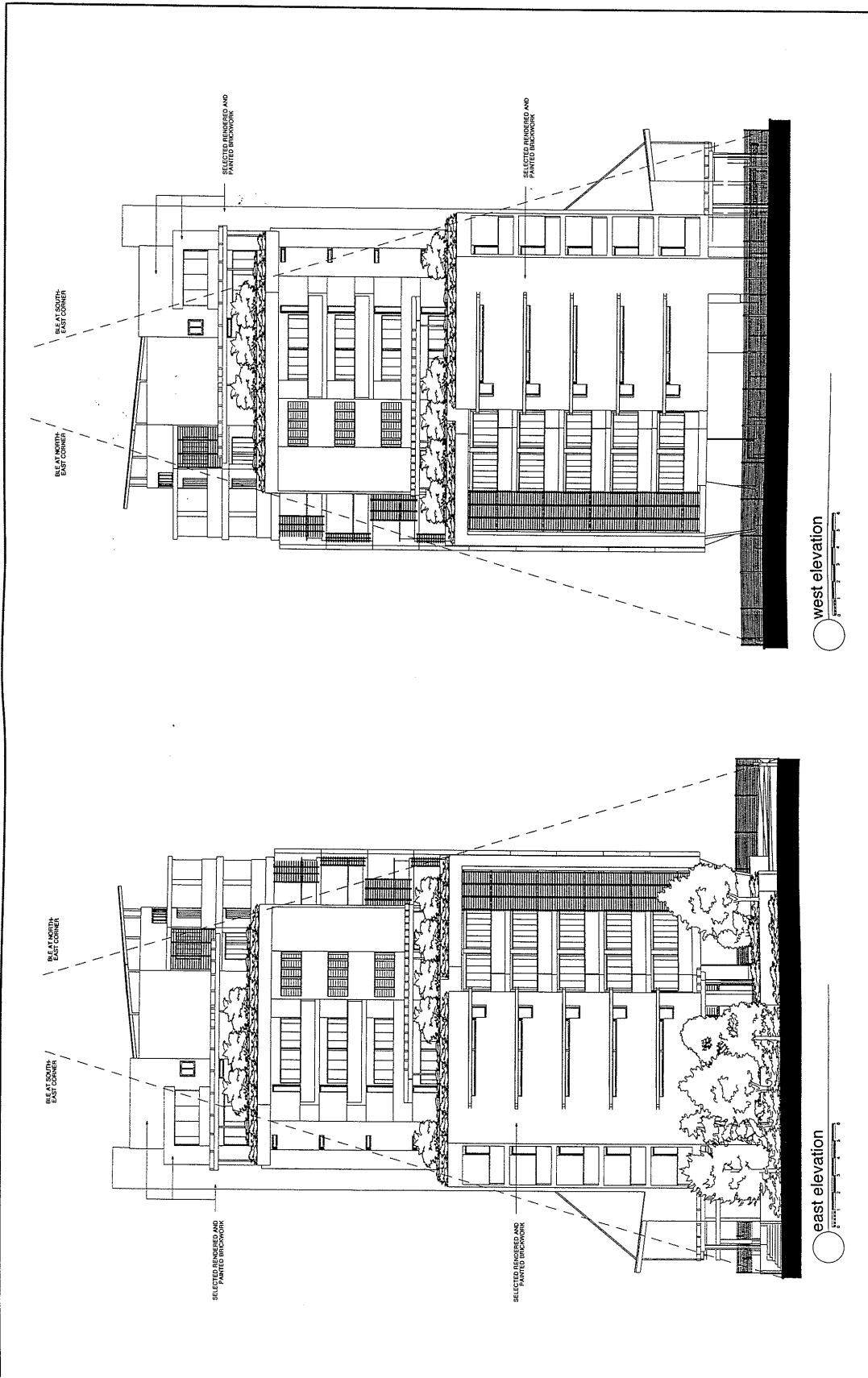


**STREET ELEVATIONS**

<p>AS SHOWN FEB 2004 2003(DA)02</p> <p>SCALE: DATE: DRAWN: DWG NO: CAD REF:</p>	<p><b>PAT TWOHILL DESIGNS PTY LIMITED</b> ARCHITECTS COUNTY OF TWEED - THE PROFESSIONAL CENTRE PT. 7 TAN ST. TWEED HEADS NSW 2486</p>	<p>AMENDMENTS</p>	<p>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</p>
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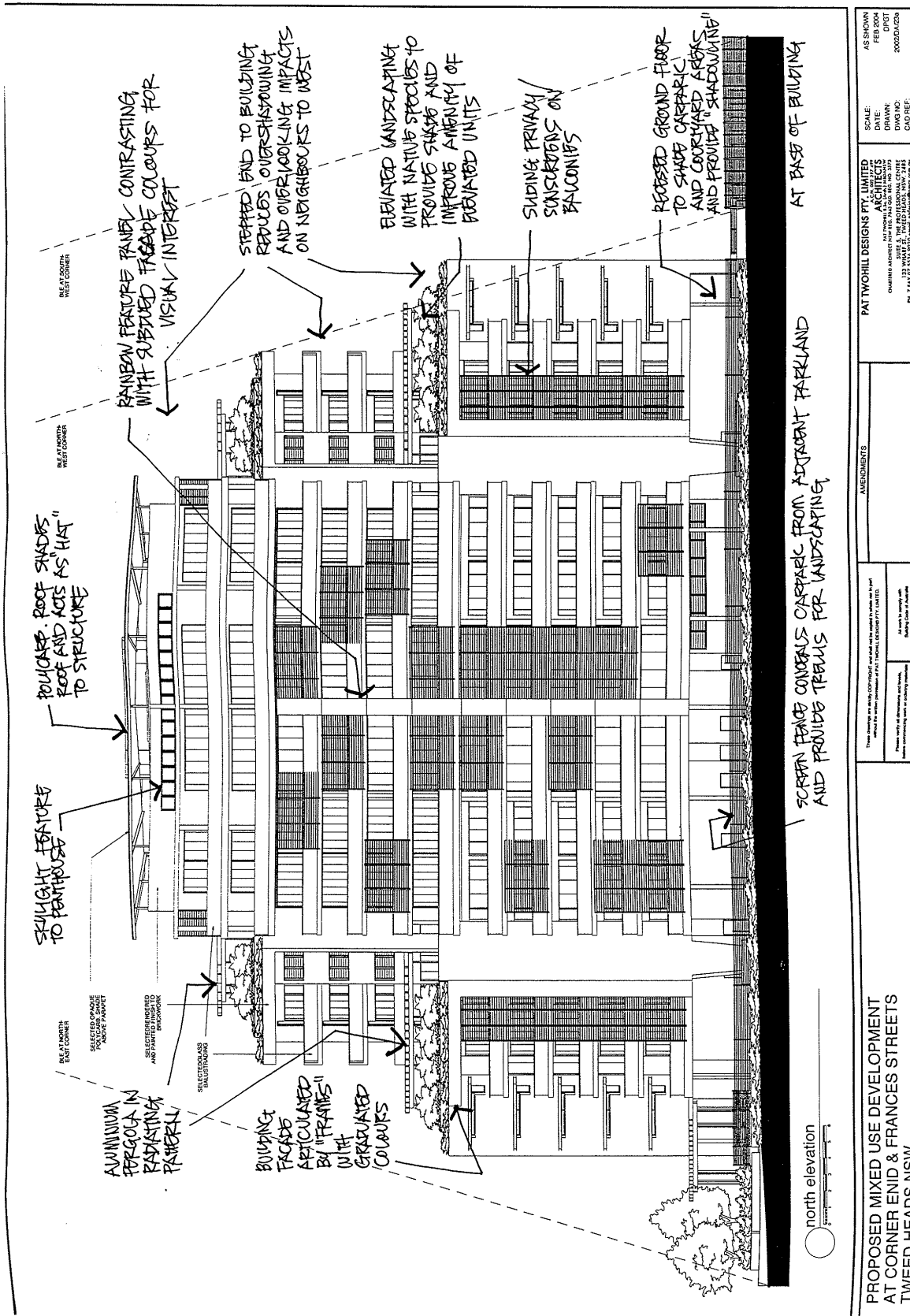
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C.O.D. REF:

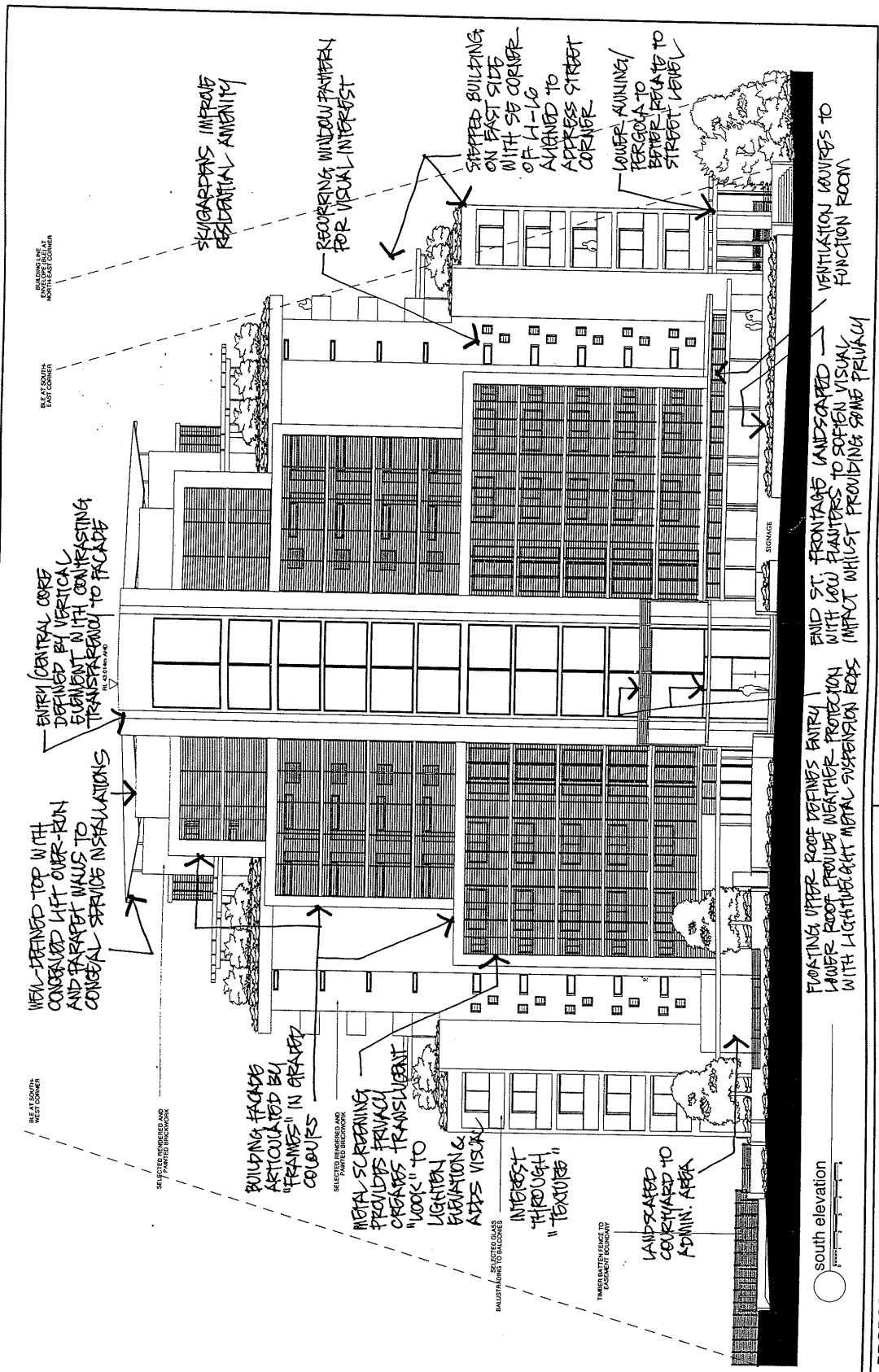
**PAT TWOHILL DESIGNS PTY. LIMITED**  
ARCHITECTS  
COMMERCIAL ARCHITECTS  
11/11 TROTT ROAD, TWEED HEADS NSW 2486  
PH: 7543 2323 FAX: 7543 2324  
WWW.PATDESIGN.COM.AU

AMENDMENTS

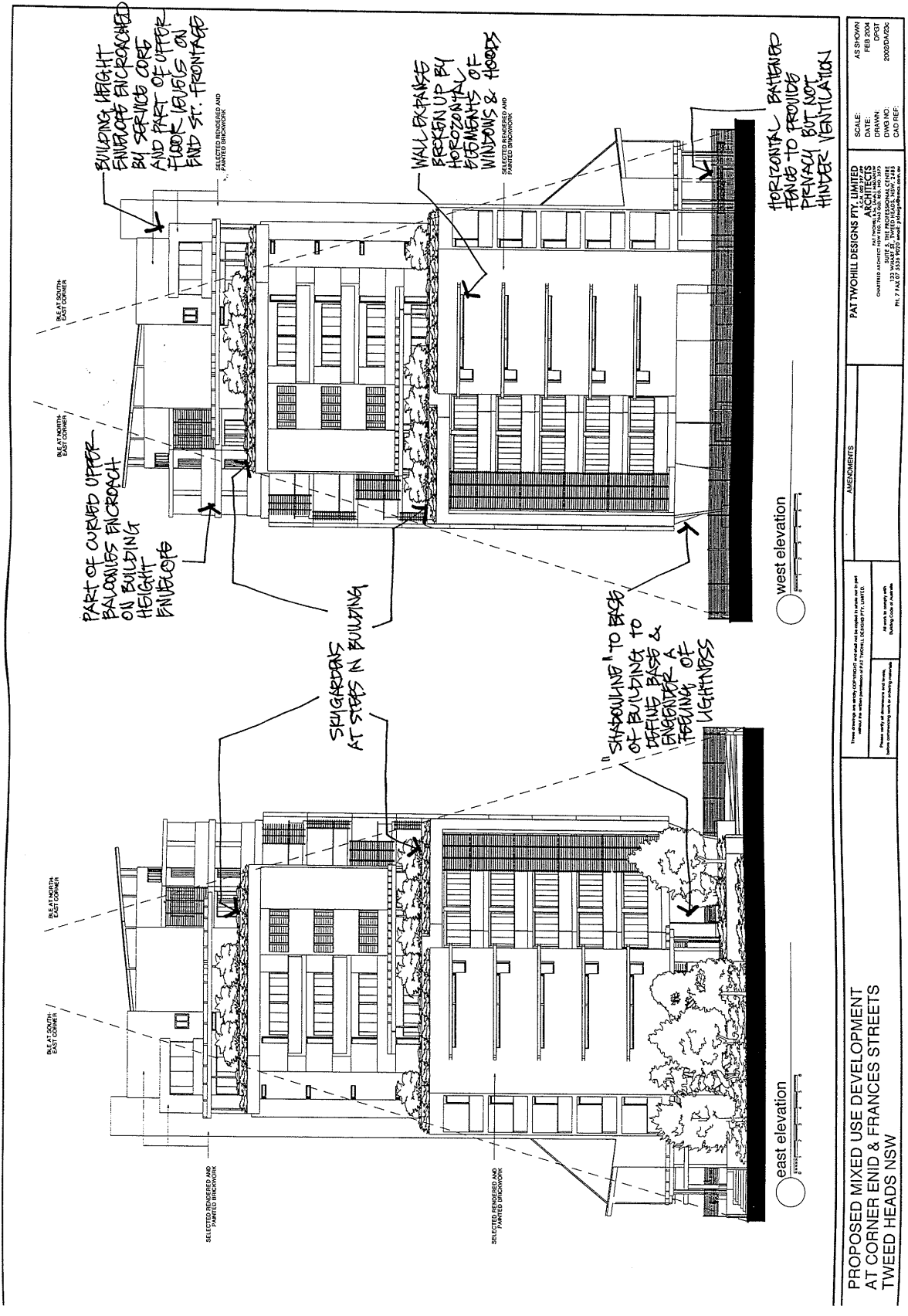
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**PROPOSED MIXED USE DEVELOPMENT  
AT CORNER END & FRANCES STREETS  
TWEED HEADS NSW**

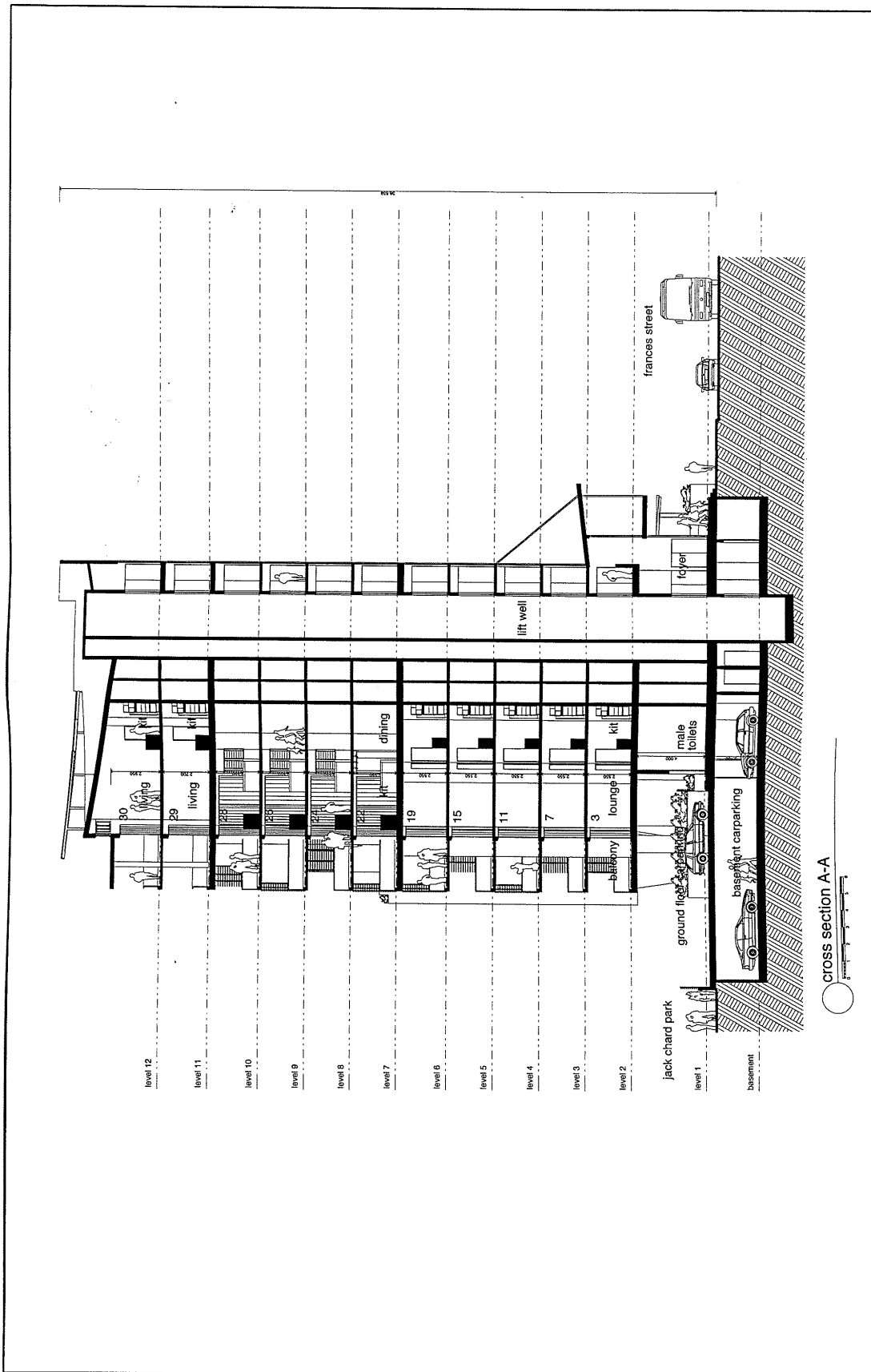




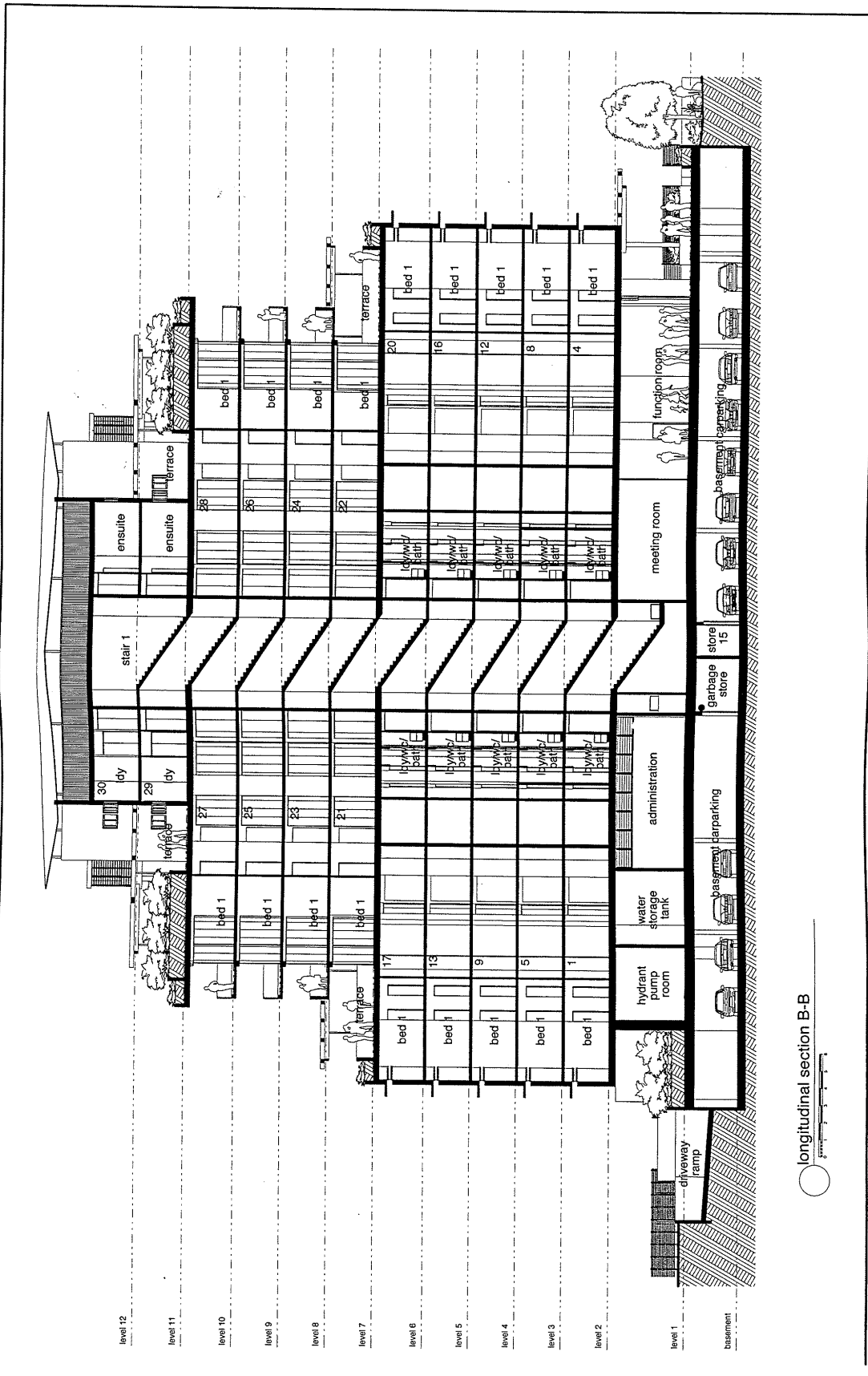
SCALE: AS SHOWN DATE: FEB 2004 DRAWN: DPCT CHECKED: DRG DATE: 2005/02/25 CAD FILE:	
PAT WOHILL DESIGNS PTY. LIMITED ARCHITECTS 141 NEWCASTLE STREET, TWEED HEADS NSW 2486 CHARTERED ARCHITECTS (NSW) INC. NO. 10717 133 WARD ST., THE BENTON, SYDNEY NSW 2048 Ph: 7 200 07 2000 Fax: 7 200 07 2001 patwohill.com.au	
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PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID & FRANCES STREETS TWEED HEADS NSW	







<p>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</p>		<p>AMENDMENTS</p>	<p>PAT TWOHILL DESIGNS PTY. LIMITED ALL RIGHTS RESERVED CONSULTANTS: SUITE 5, THE PROFESSIONAL CENTRE PH: 7 44 22 3378 FAX: 7 44 22 3379 WWW.PATDESIGN.COM.AU</p>	<p>SCALE: DATE: DRAWN: DWG NO: CADD REF:</p>	<p>AS SHOWN DATE: DWG NO: CADD REF:</p>
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level 12  
level 11  
level 10  
level 9  
level 8  
level 7  
level 6  
level 5  
level 4  
level 3  
level 2  
level 1  
basement

longitudinal section B-B

PROPOSED MIXED USE DEVELOPMENT  
AT CORNER ENID & FRANCES STREETS  
TWEED HEADS NSW

AMENDMENTS

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DWG NO: 2002020405  
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December 21 - 9am

December 21 - 12 noon

December 21 - 3pm

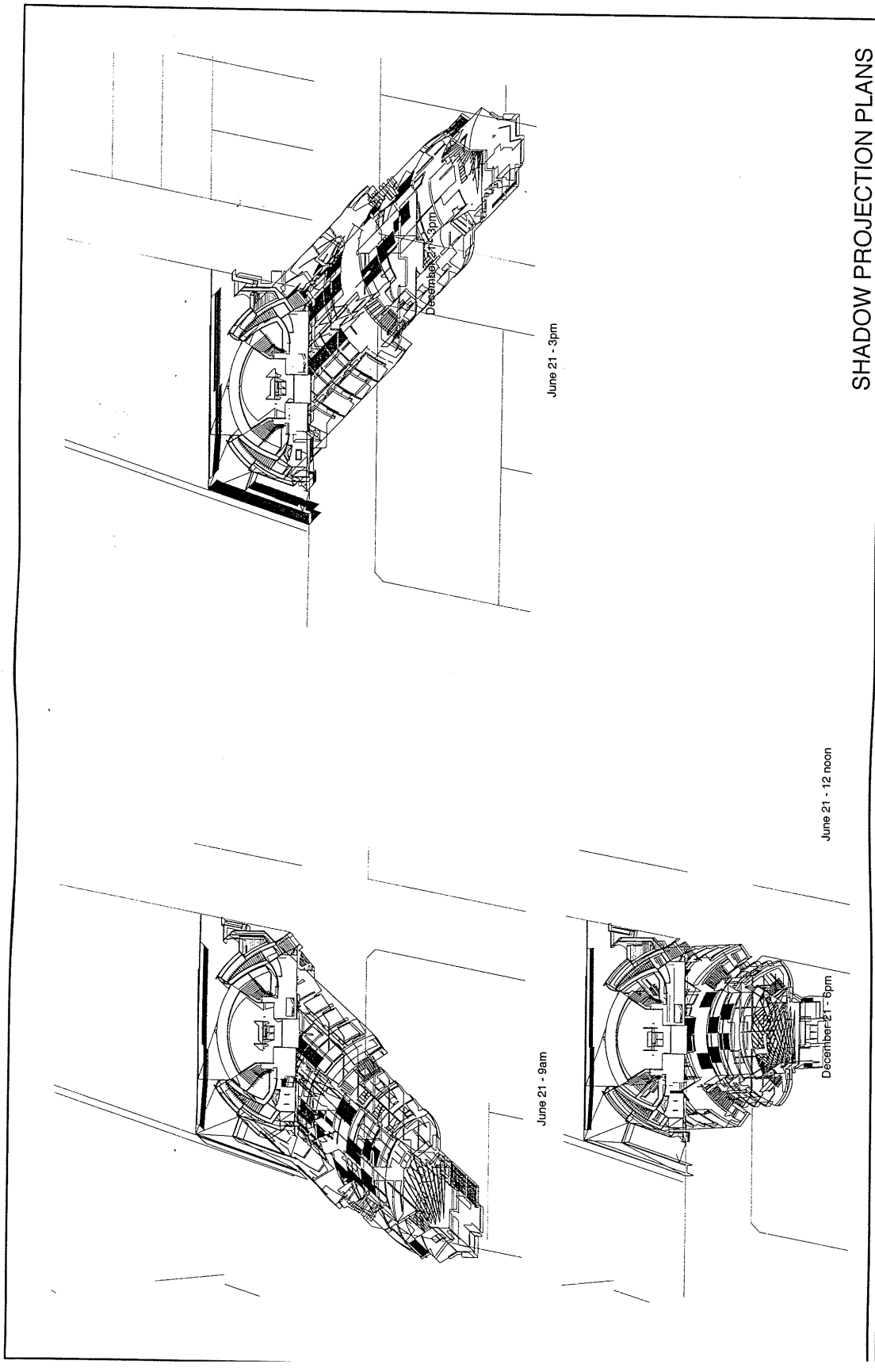
December 21 - 6pm

December 21 - 7pm

December 21 - 9pm

**SHADOW PROJECTION PLANS**

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**SHADOW PROJECTION PLANS**

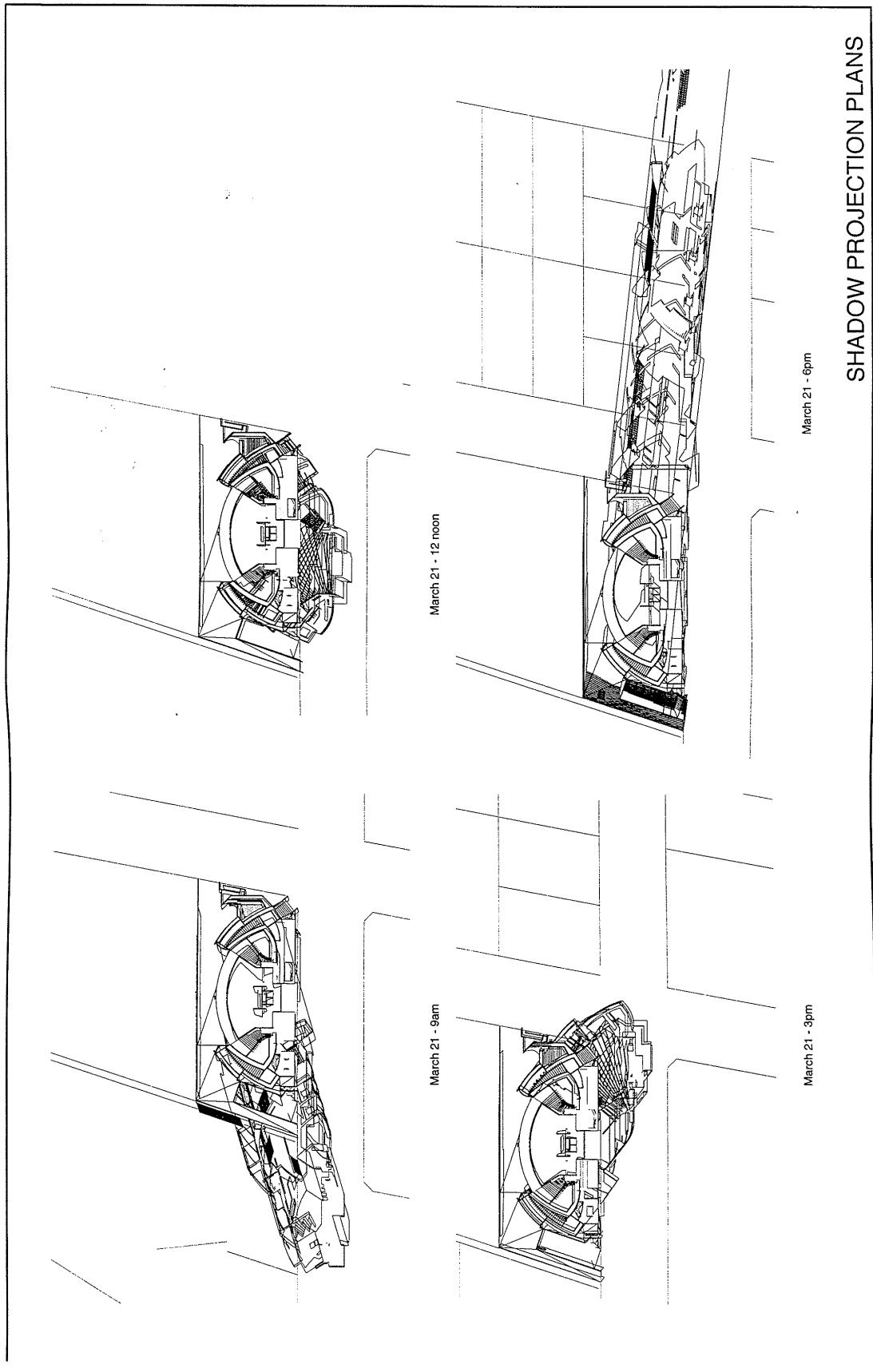
**PROPOSED MIXED USE DEVELOPMENT  
AT CORNER ENID & FRANCES STREETS  
TWEED HEADS NSW**

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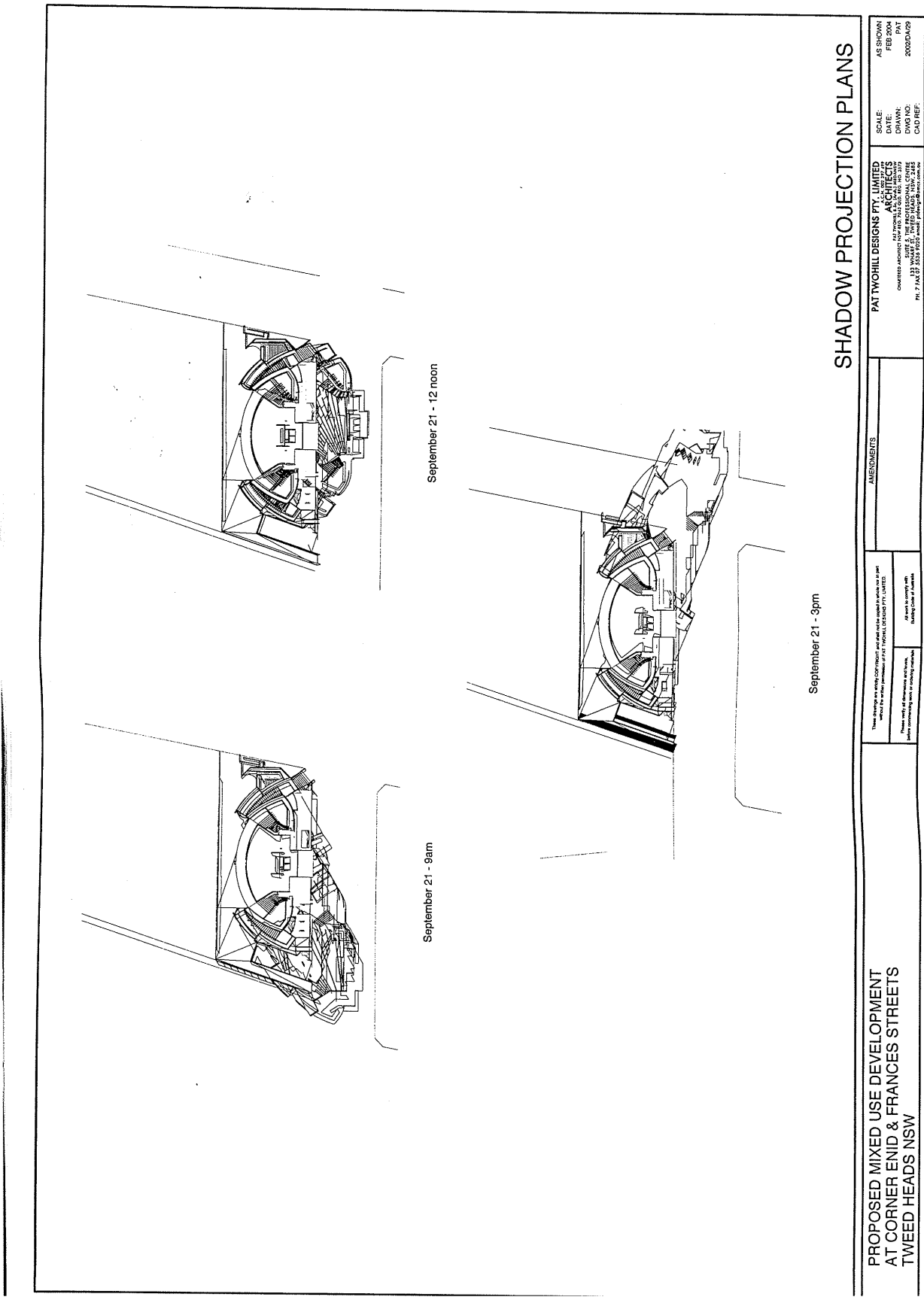
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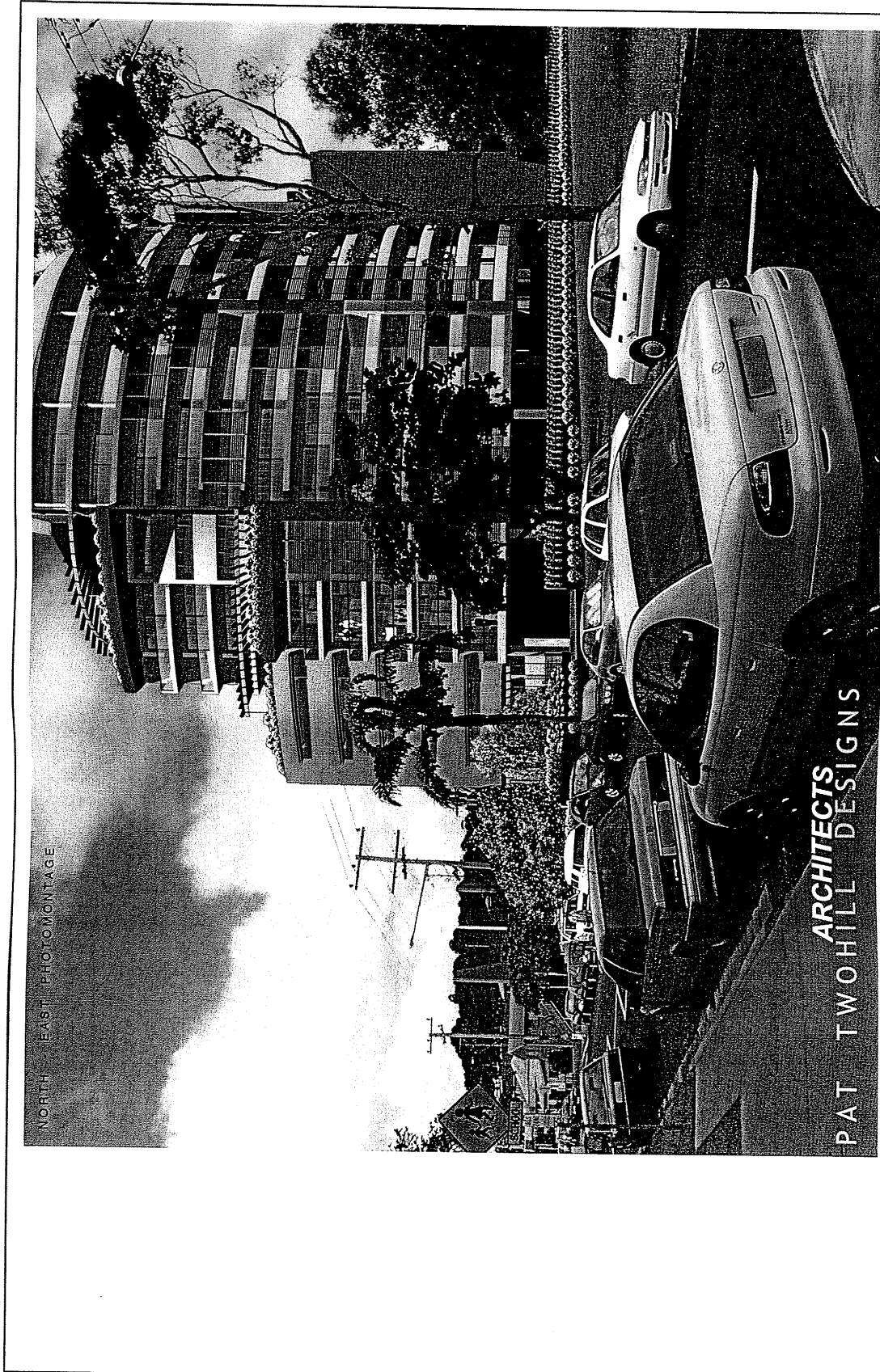
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**SHADOW PROJECTION PLANS**

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PROPOSED MIXED USE DEVELOPMENT  
 AT CORNER ENID & FRANCES STREETS  
 TWEED HEADS NSW

AMENDMENTS

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SCALE: AS SHOWN  
 DATE: FEB 2004  
 DRAWN: DPCT  
 DWG NO: 2002DA00  
 C/D REF:

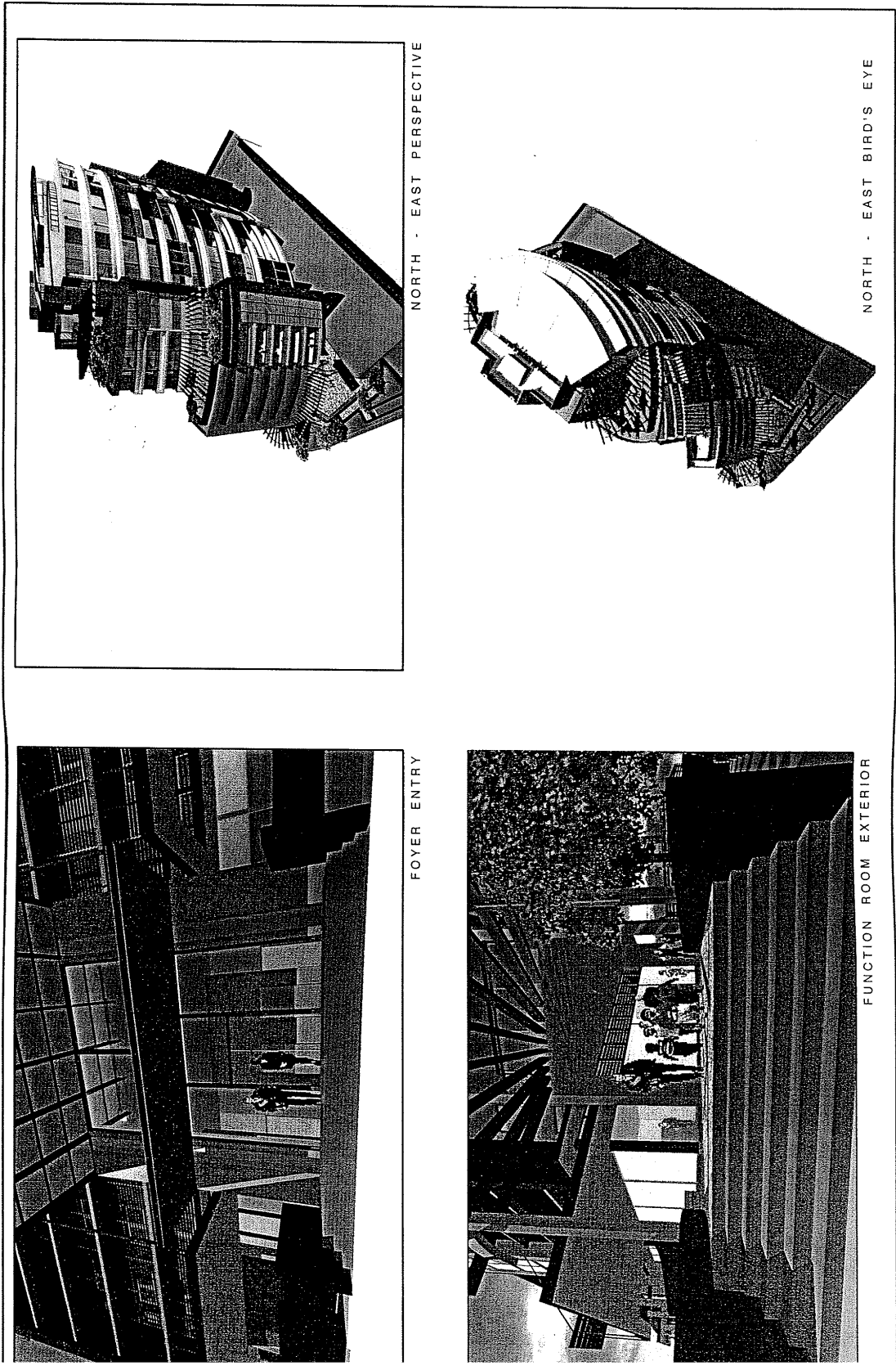
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AT CORNER ENID & FRANCES STREETS  
TWEED HEADS NSW**

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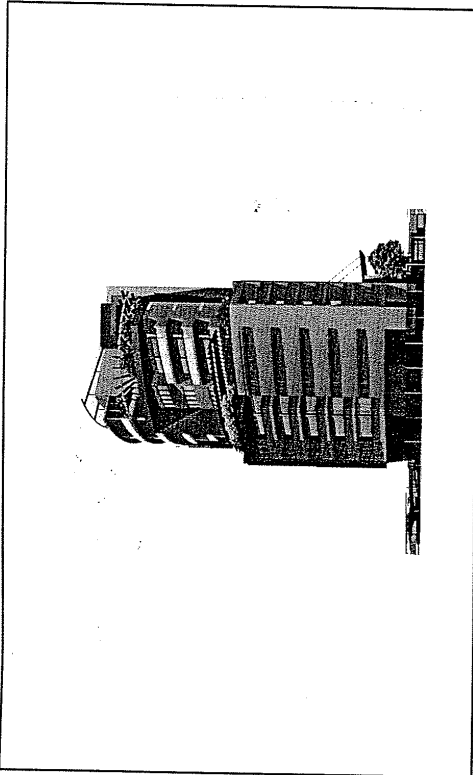
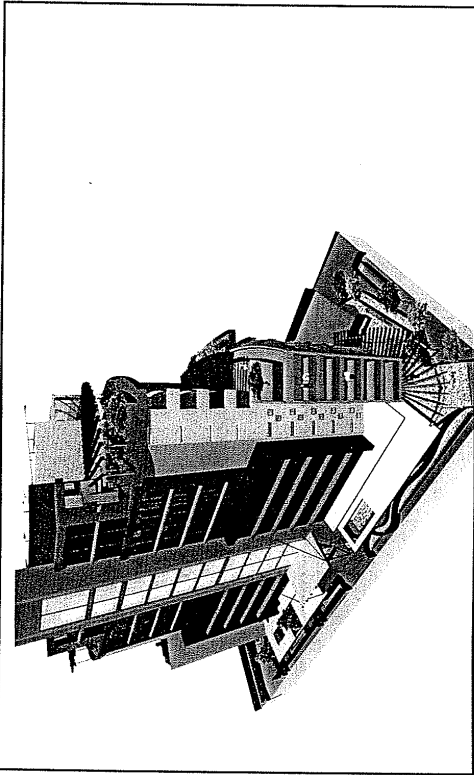
AMENDMENTS

PROPOSED MIXED USE DEVELOPMENT  
AT CORNER ENID & FRANCES STREETS  
TWEED HEADS NSW

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SCALE: AS SHOWN  
DATE: FEB 2004  
DRAWN: DPRT  
DWG NO: 2005/0A/02  
CAD REF:

 <p style="text-align: center;">WEST PERSPECTIVE</p>	 <p style="text-align: center;">SOUTH - EAST PERSPECTIVE</p>
<p>PROPOSED MIXED USE DEVELOPMENT AT CORNER ENID &amp; FRANCES STREETS TWEED HEADS NSW</p>	
<p>AMENDMENTS</p>	
<p>Pat Twohill Designs Pty. Limited Architects All work is done in accordance with the NSW Building Code of Practice Contract Address: 11/111 Enid Street, Tweed Heads NSW 2486 Ph: 71 42 33 3333 Fax: 71 42 33 3333 Email: info@twohill.com.au</p>	
<p>Scale: AS SHOWN Date: FEB 2004 Drawn: DPOT Checked: DPOT CAD Ref: 20020403</p>	

**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

**(a) (i) The provisions of any environmental planning instrument**

Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The objectives of the 2(b) zone are:

**Primary Objective:**

- To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.

**Secondary Objectives:**

- To allow for non-residential development which supports the residential use of the locality;
- To allow for tourist accommodation that is compatible with the character of the surrounding locality;
- To discourage the under-utilisation of land for residential purposes particularly close to the Tweed Heads sub-regional centre.

The proposed development is partly defined as multi-dwelling housing under the Tweed Local Environmental Plan and is permissible with consent in the subject zone.

The proposed development includes an administration and function meeting room facility at ground level which is associated with the St Josephs Catholic Church. The subject land has contained the commercial premises for the Catholic Church since the mid-1970's. Commercial premises are prohibited within the 2(b) Residential zone however the subject land has an existing use right due to the continued use of the land for church administration duties. The proposed development intends to continue the commercial component and utilises the existing use right provisions of the Environmental Planning and Assessment Act. The commercial component of the development is able to be considered by Council.

The applicant has demonstrated that the proposed development achieves a good urban design outcome for the site and has submitted substantial design documentation under State Environmental Planning Policy No. 65 as well as under the planning controls provided in Council's Development Control Plan No. 18 for Tweed Heads. The considerations contained within Tweed Local Environmental Plan 2000 have been satisfied and as such Council is able to favourably consider the proposal.

Clause 15 of the Tweed Local Environmental Plan relates to the provision of essential services to the site. The subject land has access to water, sewer, electricity and telephone services. The proposed development is able to be serviced by the existing connections to the subject land. Council's engineers have assessed the proposal and confirmed that adequate services are available for the proposed development.

Clause 16 of the Tweed Local Environmental Plan provides controls in relation to building heights. The subject land is identified as having a maximum height of 50m AHD. The proposed development reaches an RL of 43.014m AHD. Therefore the proposal is 7m below the existing height limitation under the Tweed Local Environmental Plan 2000.

It is however noted that the Tweed Heads Master Plan has identified the subject site to have a building height limitation of 10 storeys. While the proposal complies with the existing statutory height limits, it exceeds the height limits contained in the Tweed Heads Master Plan by two (2) storeys. Issues in relation to height and the impact of this in the general locality are further addressed in the following report.

Clause 17 of the Tweed Local Environmental Plan requires a social impact assessment to be prepared where Council is of the view that significant social or economic impact may be generated. The applicant has submitted a social economic impact report that has reviewed.

The relocation of the pre-school to Banora Point raises a question as to whether there will be equivalent pre-school places and whether the loss of the community facility in central Tweed Heads to Banora Point is satisfactory. The local area may suffer a local shortage of pre-school placements. However, the pre-school has since been relocated and is fully operational at Banora Point. The short distance between the two localities will reduce any negative impact in terms of the services available to the community.

Another issue raised is the issue of affordable housing and whether the proposed development will increase the average rental costs in that local area therefore reducing the proportion of affordable housing. It is however noted that the subject land doesn't contain any existing housing and therefore any additional housing in the central business district is beneficial.

Council's Social Planner raised some access issues including wheelchair access and slopes and the question of whether they are designed in accordance with the disabled access requirements. Council's Building Surveyors have reviewed this application and determined that the application is capable of achieving compliance with the Building Code of Australia, and subsequently appropriate conditions of consent have been applied to this development.

Clause 33 of the TLEP requires Council to consider any current obstacle limitation surface plan or procedures for aircraft navigation services. Council has received advice on the application from Ian Rigby Consulting who acts for the Gold Coast Airport Limited (GCAL) for the purposes of assessing matters of relevance under the legislative requirements administered by the Department of Transport and Regional Services. The advice includes a condition of any approval, as stated below:

*"Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity."*

The recommended condition has been incorporated into the conditions of consent.

Clause 35 of the Tweed Local Environmental Plan is applicable, as it requires the management of acid sulphate soils. The subject development will include a dewatering requirement during the construction of the basement. The proposed development has been lodged as integrated development and referred to the Department of Infrastructure, Planning and Natural Resources for the necessary permits. Part of that requirement included the provision of a dewatering and acid sulphate soil management plan. These aspects of the development have been assessed the proposal is considered to meet Council's requirements.

There are no further clauses applicable under the Tweed Local Environmental Plan.

#### North Coast Regional Environmental Plan 1988

Clause 32(b) addresses the need for Council to assess developments in relation to the NSW Coastal Policy and the North Coast Design Guidelines. The proposed development isn't considered to be in conflict with the NSW Coastal Policy. The North Coast Design Guidelines include general statements applicable to tall buildings. These general requirements are further elaborated with requirements in Council's Development Control Plan No. 18 - Tweed Heads. It is considered that in satisfying the requirements of DCP 18 the proposed development exceeds the requirements of the North Coast Design Guidelines. The proposed development is not adjacent to any coastal reserves or foreshore reserves and is not considered to require further assessment in relation to the shadow impacts onto the coastal reserve system.

Clause 43 of the Regional Environmental Plan relates to urban density and the number of residential units being achieved in the re-development of land. The applicant has submitted that the proposed development achieves approximately 1 unit per 66.4m<sup>2</sup> of the site. The applicant has submitted that this density has been maximised without adversely affecting the environmental features of the site or surrounding land. The application is submitted with erosion and sedimentation control plans and soil and water management plans to ensure environmental impacts are not generated by maximising the residential densities.

Clause 51 of the North Coast Regional Environmental Plan relates to heights of buildings. It requires the concurrence of the Director General of Department Infrastructure, Planning and Natural Resources for the erection of a building over 14m in height. Council has the assumed concurrence from the Director General by way of the Gazettal of Tweed Local Environmental Plan 2000, which contains a building height limitation on the site up to 50m AHD.

Clause 51 states that in deciding whether to grant concurrence to an application the Director (or Council due to our assumed concurrence) shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect, which it will or is likely to have on the amenity of the area.

It is considered the proposal will not have an adverse social, economic or visual impact regionally, and in local terms, the proposal will not have an unreasonable adverse impact upon the amenity of the neighbourhood. The issues considered to conclude this involve overshadowing, privacy, loss of view, traffic impacts, bulk and scale and the objectives for the area. Each of these issues are assessed in detail in this report.

The proposal is considered to be consistent with the provisions of the North Coast Regional Environmental Plan 1988.

#### State Environmental Planning Policies

##### State Environmental Planning Policy No. 55 - Remediation of Land

Investigation into the historic uses of the site identified that the land was once part of the rail yard associated with the former Tweed Heads to Brisbane rail line. The subject land has been redeveloped and used for Church purposes such as the hall and pre-school for over 30 years. The applicant submitted a soil contamination investigation including pre-demolition testing for residue organ-chloride pesticides below the existing structures. Council's Environmental Health Officer has assessed these reports and concludes that subject to the recommended conditions of consent specifically requiring compliance with the submitted Acid Sulphate Soils Management Plan no objection is raised regarding site contamination.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

The proposed development falls into a category which has required the design to be undertaken having regard to the design quality principles for residential flat development. The applicant has submitted a complete site analysis which details the design response as part of the Development Application. A verification statement has also been provided and the application has addressed all of the design quality principles as detailed below:

**Context**

"Good design responds and contributes to its' context. Context can be defined as the key natural and built form in the area."

The proposed development has been designed with regard to the geographical context in which it is located. The design has been justified with review of the features in the area both natural and built. The context for the development is based on its' location in relation to the Tweed Heads CBD and its presence in the St Josephs Catholic Church as well as school precinct. The site is located adjacent to the Enid and Frances Street intersection and this intersection also features Department of Housing units as well as the other Catholic developments. The proposed building has been designed to address the actual street corner, manipulating the different floor plan levels, providing balconies and overlooking opportunities to activate that street corner.

**Scale**

"Good design provides an appropriate scale in terms of the building bulk and height that suits the scale of the street and surrounding buildings".

The site analysis has identified that the subject land is close to a transition point under the Building Heights plan from the 15m AHD limit to the 12 storey limit. The building therefore has a significant potential space impact in relation to the character of Frances Street. Due to this the proposed design has incorporated a lot of façade treatment to articulate and enhance the visual impact, reduce large expanses of walls and ensure some mutual privacy between adjoining developments. The ground floor of the development incorporates pedestrian access into the commercial uses on the ground floor level bringing it to a human scale.

**Built Form**

"Good design achieves an appropriate built form for the site and buildings purpose in terms of building alignments, proportions, building type and the manipulation of building elements."

The applicant has submitted that the building design achieves a built form that is consistent with the desired future character of the area as set out in DCP 18. The building alignments at ground level are consistent with neighbouring developments and conform with major building plane envelopes on the eastern and western sides. The building envelopes encroached into on the northern and southern sides at the upper levels above 6 storeys. The building envelope encroachments are further addressed in this report.

### **Density**

"Good design has a density appropriate for the site and its' context in terms of floor space yields". The subject site is located in a high density residential precinct under DCP 18 and the proposed development maximises the residential density in the area by providing apartments.

### **Resource, Energy and Water**

"Good design makes efficient use of natural resources, energy and water throughout its' full lifecycle including construction".

The proposed building has been designed to achieve solar access into the living areas. The residential units have been orientated to capture natural light. The construction method will ensure thermal mass and insulation to achieve the required energy ratings and the development application is accompanied by NatHERS certificates confirming the energy efficiency of the development.

### **Landscape**

"Good design recognises that together landscape and buildings operate in an integrated and sustainable system resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain."

Landscaping occurs at the ground level, in conjunction with the commercial nature of the development, and includes landscape planters at the 7<sup>th</sup> and 11<sup>th</sup> levels which soften the visual impact of the proposed development.

Submitted landscaping plans indicate that the development will be suitably landscaped at ground level and on the podium with native trees and shrubs, to satisfy the provisions of DCP 18 and SEPP 65. Appropriate conditions of consent have been imposed to ensure that landscaping will be completed prior to occupation of the development.

### **Amenity**

"Good design provides amenity through the physical spatial and environmental quality of the development".



The applicant has submitted that the proposed building contains appropriate room sizes and shapes, solar access, natural ventilation, visual and acoustic privacy, indoor and outdoor space and efficient layouts. These features that are carried through the design have been promoted as providing good amenity.

### **Safety and Security**

"Good design optimises safety and security both internal to the development and for the public domain."

The applicant has submitted that the proposed development achieves safety and security for the public domain with windows and balconies providing natural surveillance. This is to both the streetscape as well as to Jack Chard park in the north. The proposed development is also provided with a security intercom system to the basement carparking area.

### **Social Dimensions**

"Good design responds to the social contexts and needs of the local community in terms of lifestyles, affordability and access to social facilities."

The applicant has submitted that the proposed building is located very close to the town centre and associated facilities, that the accommodation will provide an opportunity of housing closer to the central business district. There is also the opportunity in this precinct to be involved in Parish activities.

### **Aesthetics**

"Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context particularly to desired elements of the existing streetscape or in precincts undergoing transition contribute to the desired future character of the area."

The applicant has submitted that many of the design features of the proposed development increase the aesthetic quality of that particular corner. The intersection of Enid and Frances Streets will be anchored by the proposed development which addresses both the streetscape and the park at the higher levels. Various materials and textures on the facades break up the appearance of the building and it maintains a slender visual appearance to the street. A range of colours has been adopted in the design to minimise the bulk of appearance of the building.

State Environmental Planning Policy No. 71 - Coastal Protection

The subject land is within the coastal zone and therefore SEPP 71 applies.

The proposed development is not a state significant development type and is not located on environmentally sensitive coastal land. Council is the consent authority for the proposed development. The applicant has submitted an assessment of the proposal in relation to Clause 8 of SEPP 71 addressing conflicts that the proposal may have in relation to the coastal protection. As the subject land is not adjacent to any coastal foreshores the development will not impact on public access. The proposed development does not overshadow any coastal reserves and is not located in any area where coastal processes such as erosion are occurring. The subject land does not contain any native habitat areas and is not habitat for any protected flora or fauna. It is considered that the proposed development is not in conflict with the provisions of SEPP 71.

**(a) (ii) The Provisions of any Draft Environmental Planning Instruments**

The proposed development is not inconsistent with any draft EPI.

**(a) (iii) Development Control Plans (DCPs)**

Development Control Plan No. 2 - Site Access and Parking

The proposed development is for multi-dwelling housing which is to be provided at 1.5 spaces per unit. With the proposal being for 30 residential units a total of 45 carparking spaces are required for the residential component of the development of which 12 are to be provided as visitor spaces. The non-residential component of the development being the administration offices and meeting and function rooms for the Catholic parish also generate on-site carparking. The administration offices are calculated at 1 space per 40m<sup>2</sup> therefore requiring a total of 3 spaces and the function meeting rooms are calculated at 1 space per 15m<sup>2</sup> generating a total requirement of 9 spaces. The commercial component of the development is entitled to the 80% reduction due to ESD principles, therefore the total development generates a need for 54 carparking spaces. The applicant has proposed 45 spaces within the basement car park including 6 visitor spaces. An additional 15 spaces at ground level with six of these marked for visitors. The proposed development complies with the requirements of DCP 2. At ground level bicycle carparking has been provided as well as a car wash bay. The proposed development is accessed from Frances Street by way of a ramp into the basement and Enid Street by way of a driveway into the at-grade carparking area. Council's engineers have assessed the access to the development and have advised that each driveway shall be required to be splayed to 9m at the kerb line and ensure that no obstructions are located within the sight lines as defined in Council's adopted standard.

Development Control Plan No. 5 - Development of Flood Liable Land

The Tweed Heads Locality has an adopted design flood level of 2.65m AHD. The adopted minimum floor level for residential development is 2.95m AHD. The proposed development will result in a finished level over the site of 5.0m AHD and the ground floor units would be at an RL 5.1m AHD. The proposed development is considered to comply with Council's requirements in relation to development of flood liable land.

Development Control Plan No. 18 - Tweed Heads

The subject land is located in a high density residential precinct being the western precinct within DCP 18. The objectives of the high density precinct are:

- Develop the Precincts primarily as high density residential areas which respect existing residential amenity;
- Provide additional choice in housing accommodation to cater for an increase in variety of household types;
- Facilitate an increased residential population in proximity of the sub-regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land; and
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The applicant has submitted that the proposed development in its design is consistent with the objective for the high density precinct. The Development Control Plan also includes a strategic requirement for high density residential precincts to be characterised by attractive landscaped streets and for applications to be submitted with a comprehensive landscape plan. To achieve this strategic objective, the applicant has included in the design the following features:

- The use of the entry ramp and stairs from Frances Street to direct visitors to the building entry;
- Landscaping treatment of the podium to integrate the administration and meeting function room areas with the outside;
- Planting and paving to provide appeal from the street;
- Provision of terraces and sky gardens on levels 7 and 11 to create shade and improve amenity of the units on these levels as well as providing a greenscape element to the façade of the building.

## **Building Envelopes**

Development Control Plan No. 18 provides a building envelope of 72° from the property boundary. The proposed development has been designed with regard to a site analysis and in undertaking the site analysis certain areas were specifically designed with greater setbacks to reduce identified impacts. The proposed development includes encroachments into the building envelope and these appear in the following two areas in the design.

- Encroachment at levels 5 and 6 at the south-eastern corner of the building;
- Encroachment from levels 7 to 12 on eastern and western elevations of the building;

The building envelope provisions of DCP 18 are accompanied with the following objectives:

- Ensure that building setbacks to property boundaries increase relative to any increase in building height;
- Minimise the visual and physical impact and apparent bulk of tall buildings on adjoining developments and public streets and spaces;
- Facilitate adequate sunlight access to and minimise shadow impact on adjoining properties and public streets and spaces;
- Reduce ground level wind effects caused by tall buildings;
- Facilitate the development of taller, narrow buildings which produce visual diversity and can preserve important view corridors.

The applicant has provided a justification as to why the proposed development and its' building envelopes can be supported. The following points have been submitted as part of their application:

- The proposed setbacks increase on levels 7 and 11 so that the building becomes more slender at the high levels. Encroachments primarily occur on the east/west elevations as a consequence of the narrow width of the site. From this elevation the building height is greater than its' width which ensures a slender appearance.
- The building has been designed to minimise the visual and physical impacts. The 12 storey building is well proportioned and avoids bulk by being more articulated with increased setbacks at high levels. Features such as generous balconies and landscaped sky terraces further enhance the visual appearance of the building.

The applicant has submitted that the encroachment into the building envelope is primarily located on the eastern and western elevations of the building which do not contribute to unreasonable overshadowing of the surrounding properties. By limiting the building height to 12 storeys the shadow impact on adjoining properties and public streets and spaces has been minimised by maximising the development opportunities of the site. The applicant has provided justification because the development has a substantial podium level which reduces the wind tunnelling effect of a tall building and has submitted that the building does not fall within a view corridor identified in DCP 18. The above justification submitted by the applicant to support the building envelope encroachment is considered to have some merit given the lot shape with a narrow frontage and a deep lot depth. The proposed development has achieved a slender appearance however the narrow width has made it difficult to achieve a design maximising the density without having some encroachments into the building envelope.

### **Building Mass**

The applicant has submitted that the design has achieved the requirements of building mass under DCP 18, has no walls continuous or unbroken in length of more than 15 metres. The articulation in the façade is particularly important in relation to the building and its impact on the public realm, there are variations within the building setback. The design includes the use of metal screens and louvres and alternate textures to provide interest to the building. It is contended that the proposed design achieves the building mass requirements.

### **Energy Efficiency**

The proposed units have been designed with large openings to the north to capture north-easterly breezes as well as sunlight. Units generally have a south facing window and this achieves cross ventilation. The Development Application has been accompanied by a NatHERS Energy Rating Certificate which achieves the Council's requirements in terms of energy efficiency.

### **Daylight Access**

The proposed design incorporates substantial glazed areas into each of the units thereby achieving access to natural light.

### **Wind Mitigation and Overshadowing**

DCP 18 requires that down draft be avoided in tall buildings and for this to be achieved that podiums be provided. The proposal includes a podium at street level. The proposal also includes deep balconies, privacy louvres and landscaped podiums to reduce down draft. The effects of overshadowing have been assessed with a number of shadow diagrams submitted for the application. The proposed development doesn't result in any unreasonable overshadowing of Jack Chard park which is on the northern side of the property. The only period of time of shadowing of public space occurs

between 6pm and 7pm in mid-summer and that is to Jack Chard park. The application and its shadow diagrams demonstrate that most of the overshadowing impacts the public road and the Catholic church located opposite the site. The Catholic church is not considered to be adversely impacted by the building shadow.

### **Roof Lines**

The proposed design has achieved various roof lines. There is a northern roof and a lower pitched roof over decks. The use of parapets and various roof lines provides a visual crown to the building and is a design feature.

### **Privacy**

The proposed development is afforded balconies which prevent overlooking between the units as they are offset. Privacy within the actual development will be achieved by the methods of construction with concrete block walls dividing units as well as the floors preventing sound transmission. The issue of loss of privacy between various tall buildings within this locality has been raised by submissions. It is evident that from site inspections in the area that the various tall buildings in the locality that are afforded balconies and large glazed areas provide opportunity for overlooking and potentially loss of privacy. This aspect of the development is further examined in this report.

### **Security and Surveillance**

The proposed development has been designed with an orientation to the Church facilities which are on Frances and Enid Streets. Pedestrian access to the site is pre-defined with an entry lobby. Internal pathways and outdoor terrace area would be well lit. The proposed development is to be fitted with an intercom system to enable communication between residents and visitors to the site. The upper floor areas and their balconies provide opportunity for surveillance of Jack Chard park to the north. It is considered that security and surveillance has been adopted in the proposed design.

### **Materials and Colours**

The applicant has submitted a colour schedule with the proposed development. The building will essentially be constructed of concrete with a range of external finishes including:

- Rendered masonry finishes to varying colours;
- Glass;
- Aluminium louvres; and
- Elevated landscaping.

The applicant has submitted that the building colours on the northern side are predominantly light tones to harmonise with the colours of the coastal environment. The predominance of glazed balustrades will on this side will engender a feeling of lightness and transparency within the building façade. Graded tan colours are used on the east and western wings to reflect surrounding building colours and articulate the structure framing elements in darker greys to enhance definition. It is considered that this will work in well with the existing newly completed re-development being the Department of Housing units at the corner of Frances and Enid Streets. The southern façade is a combination of graded greys to reflect the sombre tone and nature of the street precinct adjacent to the church. Lighter walls rise vertically on each end towards the east and west wrapping around to the northern elevation. The south side is predominantly screened to provide privacy between the church and the proposed building thus engendering a translucent appearance to the southern façade. The proposed development also includes a colourful decorative treatment which may provide some vibrancy to the façade of the development. The proposed materials and colours are considered to be well considered and have been clearly selected given the neighbouring uses in the locality.

### **Access and Parking**

The proposed development will be accessed from Frances Street to the basement car park and that crossover is located at the western end of the site at Frances Street and the second crossover is located at the northern end of the site on Enid Street and that provides access to ground level carparking. The off-street carparking provided complies with the requirements of Development Control Plan No. 2.

### **Open Space and Balconies**

Development Control Plan No. 18 requires landscaped open space at a rate of 25m<sup>2</sup> per dwelling and in this case that would equate to 750m<sup>2</sup>. The landscaped ground level open space that has been submitted is 635m<sup>2</sup> with planting, paved areas and passive recreation areas. The minor shortfall is a result of the ground floor continuing to utilise existing use rights for commercial development, therefore to maintain the commercial feel of the site a reasonable footprint has been maintained. The minor reduction to ground level landscaping has been replaced by additional private open space in the form of landscaped terraces at level 7 and level 11 providing sky gardens to the development. Additionally the balconies within all of the units exceed the minimum of 8m<sup>2</sup> required by DCP 18. The balconies have been located directly adjacent to internal living areas thereby providing increased residential amenity for the future residents of the development.

Development Control Plan No. 39 - Energy Smart Homes Policy

The applicant has submitted NatHERS accreditation certificates for the proposed units. The certificates indicate that the proposed units will achieve a rating of 3.5 to 5 stars. The proposed development complies with Council's requirements.

Development Control Plan No. 45 - Socio-Economic Impact Assessment

The development application has been accompanied by a socio-economic impact assessment. As the proposed development will actually result in the loss of a childcare facility on the site the issue of a reduction in supply of child care spaces has arisen as part of the development. The applicant has submitted that childcare spaces are not being lost to the area but has been relocated to the community land at Leisure Drive, Banora Point where Council recently approved a child care facility. Council's Social Planner has assessed the proposed development and raised some general socio-economic impact issues that the proposal raises however it is not considered that any further detailed assessment is required in relation to this issue.

Development Control Plan No. 47 – Cut & Fill

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development involves excavation for the basement and will clearly extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with an erosion and sediment control plan, and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan. However, appropriate conditions of consent have been imposed to ensure safe construction.

Tweed Heads Town Centre Master Plan

The Master Plan establishes a vision for the Town Centre of Tweed Heads which describes the desired future character for Tweed Heads and provides urban guidelines for each precinct together with indicative plans and sections to illustrate the principal planning objectives and design intent. Public exhibition of the Draft commenced on 11 May 2004 and continued for a month before refinement and referral of the document to the Minister of The Department of Infrastructure Planning and Natural Resources who has endorsed the Plan.



The subject site is located in the Ridgeline High Density Residential precinct and is restricted to a 10-storey height limit in accordance with the Plan. However, the subject application was prepared prior to the Draft being exhibited and therefore incorporates 12 storeys in accordance with the current LEP Height control of 50m AHD. Subsequently, the current application does not comply with the numerical height provisions of the master plan. To assist in the assessment of this non-compliance the application was referred to the Tweed Heads Master Plan Project Facilitation Team who made the following comments:

- *The team supports the new height limits in the Masterplan in order to provide a finer grain to the overall structure of the Tweed Heads CBD urban character.*
- *The integrity of the Masterplan building height strategy needs to be maintained in order to ensure that the new built form responds to the topography.*
- *New applications should be assessed in relation to all strategies and provisions of the Masterplan, including height controls. Applications seeking to vary provisions of the Masterplan should demonstrate the variation will not set a precedent that would undermine the urban design principles of the Masterplan and all applications should demonstrate a positive contribution to the overall Masterplan strategy for Tweed Heads to create a place where people live, work and play in a vibrant, diverse and sustainable town centre.*

In regards to the above guidelines the following comments are provided:

The subject application has been thoroughly assessed against the urban design principles detailed in the master plan. The land is identified as a high-density residential precinct and is within walking distance to the Tweed Heads/Coolangatta CBD, clubs, sporting facilities and other recreational opportunities. The proposal is consistent with the precinct objectives and the vision for Tweed Heads.

Development is encouraged to accentuate and respond to the topography of the land. The architecture is encouraged to be distinctive contemporary forms reflective of the sub tropical environment and coastal location. The building has a distinctive base, middle and top with all elevations having strong vertical and horizontal articulation. The roof design is considered a feature of the building that adds to the overall aesthetics of the design.

The additional two stories and roof of the development occur between RL 34m and RL 43m. These two additional stories will obviously increase the length of shadow cast by the building and will add to the overall appearance of the building, however, these two stories themselves will not cause any significant view loss. Existing properties affected by view loss as a result of this development (specifically 30 Thomson Street) would suffer view loss from a complying 10 storey building as the balcony level of the upper most level of No. 30 Thomson Street is only RL 18.9m, which is some 15m lower than the

proposed level 11. Therefore the additional two stories in this instance should be assessed in terms of the overall appearance and bulk and not against any view loss implications.

The upper two stories form the peak of the building and have been tapered in to create a narrower footprint. This sets the development and gives it form from base, middle and through to the top. These aspects of the development add to the architectural merits rather than detract from it and therefore, the two storey variation to the master plan in this instance warranted for the following reasons:

- The subject development application was lodged prior to the adoption of the Tweed Heads Master Plan;
- The development is proposed at RL 43m which is 7m less than the statutory maximum;
- The development satisfies the objectives of the Tweed Heads Master Plan in all other regards;
- The additional two stories will have limited view loss for existing development in the immediate vicinity and is not within a recognised view corridor;
- The development represents good urban design and will assist in the changing character of the area.

The proposed design of the subject development complies with the urban design principles of the Master Plan and is therefore recommended for conditional consent.

**(a) (iv) Any Matters Prescribed by the Regulations**

**Coastal Policy**

The land is identified under the Coastal Policy. However, the site is significantly landward from the Coastal Erosion Zones, and is unlikely to be affected by the coastal processes, overshadowing of the foreshore reserves or restricting public access to the coast. Therefore, the proposed development is not considered to be in conflict with the policies and strategies contained in the coastal policy.

**Demolition**

The proposal requires the demolition of the existing structures on the site. The applicant has submitted a demolition plan, which has been assessed as adequate, and appropriate conditions of consent have been recommended to control demolition activities.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

It is considered the proposed development will not have an adverse impact upon the natural environment as the site is currently utilised for commercial purposes. In terms of the built environment the proposed residential flat building will replace a church and child care facility, and as such the development will have an impact upon the built environment. The following issues are raised.

**Character of the area**

The area is made up of a mix of medium density development comprising mainly residential flat buildings some that have only recently been constructed, older dwelling houses, and commercial premises. The area is currently undergoing a transition phase as the older dwellings come under market pressures to be demolished and the land redeveloped for higher density mixed and residential development as encouraged under the applicable planning controls. The proposal is considered not to be out of character with the area and is consistent with the future built form as per Tweed LEP 2000, DCP No. 18 – Tweed Heads, and the Draft Tweed Heads Town Centre Master Plan.

**Views**

DCP 18 acknowledges that views provide a sense of place and identity, and that key view corridors should be retained. The Senior Commissioner in the Land & Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council* adopted the following four-stage test to assess the reasonableness of view sharing:

1. The first step is the assessment of views to be affected;
2. The second step is to consider from what part of the of the property are the views obtained (an expectation to retain side views and sitting views would be unreasonable);
3. The third step is to assess the extent of the impact (the extent of the impact should be assessed for the whole of the property not just for the view that is affected. This could be done by ranking the affect from negligible to devastating); and
4. The fourth step is to assess the reasonableness of the proposal that is causing the impact (it may be unreasonable if it comes about as a result of non compliance with planning standards).

The proposed development will affect the views from near by developments in Thomson Street where views are enjoyed to the southeast and specifically from 30 Thomson Street where views are enjoyed to the east.

The views would be obtained from the upper floors of buildings (maximum fifth storey). The views from 16-18 Thomson Street would be obtained from side facing windows from bathrooms, bedrooms and living areas, while the development at 30 Thomson Street would obtain this view from external balconies, bedrooms, living and dining areas.

The impact on 16-18 Thomson Street would be a loss of distant views, which provide a higher level of amenity, however this impact would be considered acceptable given the sideways views. The impact on 30 Thomson Street would be loss of view, and a sense of enclosure. This loss has also been considered in light of other recent approvals, which have further reduced the available views. However, this view loss is also acceptable given the panoramic views that this property experiences. The view to the east is only one aspect of their view and could therefore allow for a reasonable sharing of views through view corridors.

In assessing the reasonableness of the proposed application it has been determined that the building satisfies the intent for the character of the area, while complying with the height and satisfying Council that the application has had adequate regard for the amenity of adjoining property in terms of shadow, privacy and general amenity.

Therefore, it is concluded that the loss of view that will result from the construction of the proposed building is not unreasonable despite the impact it will have on adjoining properties.

### **Amenity & Shadow Impacts**

Neighbouring residences have raised concern that the proposal will adversely overshadow adjoining properties. However, given the orientation of the site and its location with Francis Street to the south the majority of the shadow will fall on the road or is evenly shared between adjoining properties throughout the day as the shadow moves.

The applicant supplied shadow diagrams depicting the extent of the shadow. Adjoining land parcels receive adequate solar access as the day progresses,

Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of the area, nor restrict the ability of adjoining parcels to be developed for similar purposes.

In terms of privacy the architect has provided that the proposed building offers a number of design elements to ensure appropriate amenity for residents visitors and neighbours.

The key elements comprise the focus of the main living areas and private open space areas to the street and park frontages with generous door and window openings to provide adequate ventilation and natural sunlight.

The amenity of privacy sensitive rooms has been addressed by the provision of appropriate sized window openings away from active frontages and the inclusion of narrow balconies to some bedrooms break sightlines from levels below and provide physical separations from adjacent properties.

### **Traffic Impact and Local Road Network**

The immediate surrounding road network consists of local streets. The local road network is capable of absorbing the additional traffic generated by the proposed development however Councils traffic engineer has raised concern for the intersection of Enid and Francis Street. It has been tabled that upgrading works estimated at approximately \$50,000 are required.

The works associated with this development include the realignment of the kerb return, pavement construction, relocation of the pedestrian crossing and splinter island, signage, relocation of utilities/drainage and footpath construction. The estimated cost of works relative to this development have been estimated at \$18,345.00. Engineering services have requested that this be provided as a contribution allowing Council to undertake all works within the intersection at one time. A condition has been imposed accordingly.

Access to the site shall be provided from both Francis Street and Enid Street. Each access requires modification to that identified within the application to comply with Councils adopted standards. Each driveway shall be required to be splayed to 9m at the kerb line and ensure that no obstruction are located within the sight lines as defined in Councils standards and AS2890.

Any disused access shall be required to be reinstated in accordance with Councils adopted Development Design and Construction Specifications.

An exiting footpath in reasonable repair is located along the full frontage of Francis Street however this has a width of 1.0m, current standards require the path to be a minimum of 1.2m. Enid Street has no formed pedestrian pavement constructed. Recommended conditions of consent shall required the applicant to provide a minimum 1.2m wide path along the full frontage of both Francis and Enid Streets.

## **Design**

The proposed development has been reviewed by Council's Strategic Planning Unit who have raised a number of design issues that are relevant to the proposal. The proposed building is orientated more towards the actual street frontage of Frances Street and that is generating a connectivity to the Church and Frances Street and the school precinct in Frances Street. However, the subject land is adjacent to the Jack Chard Park, being a large opening on the northern boundary of the subject site. The proposed development does not open onto the parkland and essentially is turning away from that space. A design opportunity is being lost by not activating the park frontage of the development. One of the potential problems with this aspect of the design is that the at-grade carparking that is adjacent to the park area may become a security issue in that location. The actual visual connectivity with the park isn't achieved at the ground levels, rather it is achieved at the higher residential levels which are capturing the northern aspect in their design. The proposed development has been designed as part of a Catholic building precinct and as it's intended to maintain those connections with the Parish administration occurring at ground level the design has maintained that orientation. The loss in the development not activating the park at ground level is considered to be reduced by the other embellishments which are to occur in and around the park as part of the development on the northern side of Jack Chard park in Enid Street.

## **Waste Management**

The applicant has demonstrated that there will be a garbage storage area in the basement and at grade near the basement driveway which will enable Solo Resource Recovery to collect garbage directly from the storage area at grade. Council's Waste Management Officer has applied appropriate conditions of consent.

### **(c) Suitability of the site for the development**

The subject site is within close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities. The area is also serviced by medical facilities including the Tweed Heads Hospital and various professional consulting rooms in Boyd Street.

The subject site has been nominated as a designated high-density residential area to utilise the areas facilities as detailed above. Additionally the site has the benefit of a 50m AHD height limitation, which further encourages high-density development for the area. The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. The site of the proposed development is considered suitable for this type of development and encouraged through our strategic plan for the area.

**(d) Any submissions made in accordance with the Act or Regulations**

The proposed development was publicly exhibited for 30 days being the requirement for integrated development needing a water permit for the dewatering of the site. The submission period closed on 16 July 2004. During the exhibition period 10 written objections were received, some of these had multiple signatures. The following table examines the issues raised in the submissions.

Issue	Concern Raised	Assessment
Traffic and Pedestrian conflicts	<p>The school buses and speeding through traffic will create safety issues for pedestrians and other motorists.</p> <p>The drastically increased traffic volumes will create an even more dangerous intersection.</p>	<p>Council's Traffic &amp; Transport Engineer has provided that the local road network can cater for the proposed development however, the developers have been asked to contribute to the construction of a new round about.</p> <p>Additional pedestrian paths are required to a minimum width of 1.5m.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>
Amenity	There will be impacts during construction	<p>During construction there will be a disturbance to residential amenity. This is unavoidable however, there are recommended conditions of consent to minimise impact and ensure compliance with the Australian Standards.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>
Over Development	Small site therefore over development	<p>The application generally complies with the requirements for high density residential development. There is sufficient on site parking and a high level of private open space for potential residents.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>

Loss of residential amenity	Closing-down a convenient community service (kindergarten) in an ever increasing built-up area.	<p>The childcare centre has already closed and is now operational at Banora Point.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>
Loss of privacy	<p>Impact on quality of life in terms of lack of privacy, deteriorating environment (increases traffic, overshadowing etc)</p> <p>The block of five units on the corner of Thompson and Frances streets look directly at the proposal. Our ground floor unit currently receives 3-4hr of sunshine in summer and 1-2hr during winter will be lost with the erection of this tower.</p> <p>Our main living and dining areas, our kitchen and one balcony all face east directly into this building.</p>	<p>The objectives of the precinct are focussed on increasing the density within this area, as a result of this privacy and amenity can be reduced, however, the design of the building has focussed on orientation to ensure privacy implications have been minimised.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>
Loss of views	Looking into a massive 12 storey building adjacent to my two storey home, combined with the loss of sunlight due to the height of this building.	<p>View loss will be experienced, however, as detailed in the above report this application still affords some view sharing opportunities for the adjoining developments.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>
Height is excessive	Will bring too great an impact on the residents living nearby.	<p>The proposed building complies with the statutory 50m AHD height limit.</p> <p>The impact of the two additional stories to that permitted under The Tweed Heads Master Plan is considered on merit to be acceptable.</p> <p>This objection is not considered to warrant amendment or refusal of the application.</p>



<p>Visitor car parking</p>	<p>Street parking in the area is virtually impossible especially at school drop off and pick up times. The additional parking demand created by the visitors to the new units will be increased. The intersections are becoming exceedingly dangerous because of parked cars, the additional traffic and associated increase in on street parking generated by this building will make these intersections more dangerous.</p>	<p>The application complies with the requirements for onsite parking.  This objection is not considered to warrant amendment or refusal of the application.</p>
<p>Balconies overlooking each other</p>	<p>Balconies directly overlooking my property reducing my quality of life.</p>	<p>The objectives of the precinct are focussed on increasing the density within this area, as a result of this privacy and amenity can be reduced, however, the design of the building has focussed on orientation to ensure privacy implications have been minimised.  This objection is not considered to warrant amendment or refusal of the application.</p>
<p>Property devaluation</p>	<p>The two issue of overshadowing and loss of privacy would all most certainly devalue our property.</p>	<p>This is not matter of consideration under the Environmental Planning &amp; Assessment Act 1979.</p>
<p>Aesthetic of design</p>	<p>Aesthetically it is totally out of keeping with the current tone of the area.</p>	<p>The objectives of the precinct are focussed on increasing the density within this area and this will result in a change to the existing tone of the area.  This objection is not considered to warrant amendment or refusal of the application.</p>

Departures	There are departures from DCP 18 requirements.	The application has been assessed against the objectives for the area as detailed in DCP 18, SEPP 65 and The Tweed Heads Master Plan. Based on these provisions the application is recommended for conditional approval.
Sustainability	We need to look long-term not short term. Less emphasis on urban expansion and avoidance of over development.	As discussed in the above report this application is not considered to be an over development of the site. The four sites combined have a site area of 1939.1m <sup>2</sup> which results in a density of one dwelling for every 65m <sup>2</sup> . This is considered to be consistent with the high density intent for the area. Additionally the application satisfies the on site parking requirements and has acceptable private open space and landscaping.  Therefore, this objection does not warrant amendment or refusal of this application.

**(e) Public interest**

Despite the objections received to this application the proposal is not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the controls and the intended development for the locality.

**OPTIONS:**

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right of appeal to the Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed development has provided high density residential and commercial development in an area suitable for such a use given its close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities.

The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. Furthermore, the local road network surrounding the site is suitable for such a development especially when basement car parking is provided.

The merit assessment of the applicable issues relating specifically to the building envelope, landscaping, privacy and loss of views are not considered to be unsustainable or result in an over development of the site.

The site of the proposed development is considered suitable for this type of development and encouraged through Council's strategic planning documents for the area. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**3 [PD] Tweed Retail Strategy**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

This report reviews the progress of the preparation of the draft Retail Strategy for Tweed Shire and summarises the contents of the draft.

As a result it is recommended that this Strategy be placed on public exhibition for 6 weeks.

**RECOMMENDATION:**

**That Council publicly exhibits the Retail Strategy (final version dated September 2005) prepared by Core Economics for a period of 6 weeks and that a further report be prepared following the review of submissions.**

## REPORT:

### Background

On 20 August 2003 Council resolved to engage Core Economics to prepare a draft Retail Strategy for the Tweed. The consultants subsequently reviewed the existing retail structure within the Tweed and presented a draft Strategy in January 2004. This report was reviewed and considered to be comprehensive but lacked empirical evidence to review site-specific applications for retail developments.

On 6 October 2004 Council resolved that Core Economics undertake a review of the draft Strategy to include;

- Revised population projections
- Associated retail and related demand
- Floor space and land use survey
- Capacity assessment of larger centres in Tweed Shire
- Option analysis for catering for future demand
- Recommended strategy for the Tweed Shire

As part of this review process two workshop sessions were held with the retail consultants and Council. These were held in February and April this year. These workshops gave the consultants an understanding of some of the specific issues facing retail and commercial development within the Tweed as well as allowing Council to grasp the dynamics and competition of retail development generally.

The consultants ran a third workshop for the Administrators.

The consultants have now finalised the draft Strategy and it is now presented to Council for consideration to be put on public exhibition.

### Retail Strategy Overview

The draft Retail Strategy has reviewed the existing retail structure of the Tweed, reviewed future population growth areas and identified future retail demands. As a result a proposed retail policy framework is put forward in the Strategy.

The objectives of the strategy framework are as follows:

- *To sustain the character of existing towns and villages in the Tweed Shire as well as meeting the retail needs of a growing population.*
- *To develop a series of mixed use centres that respond to the needs of the local catchment. These centres are to promote a walkable catchment and diverse range of uses. This will require new centers to be developed as part of a fine grain urban form that includes significant residential population.*
- *Where possible, encourage the expansion of existing centres rather than the building of new centres.*

- *Provide a network of supermarket anchored centres (based on future growth areas) to cater to a localised catchment area.*
- *Allow the incremental expansion of smaller centres (impulse retail) in rural areas to cater to local demand.*
- *To allow for tourists and other inflow (such as residents from the Gold Coast). This will provide an outward looking strategy as opposed to limiting the strategy to residents in the Tweed Shire.*
- *Maintain the traditional Main Street focus in Tweed Heads and other rural and coastal towns.*
- *Reinforce Tweed Heads South as the main retail centre in Tweed*
- *Shire. This will require the redevelopment of established facilities in this precinct to cater to future demand.*
- *Limit the scale of new centres in the coastal region. These centers will be established to cater to the needs of identified local markets (including tourists, residents and workers). Higher order shopping (eg department stores, discount department stores, large discount variety stores and concentrations of specialty stores) will be conducted in the Tweed Heads South and Tweed Heads precincts.*
- *Establish a new bulky goods precinct to cater to future demand once the Tweed Heads South precincts reaches capacity.*

To achieve these objectives the draft Strategy has established the following framework for retail developments. Refer to Table 1.

TABLE 1: DRAFT RETAIL STRATEGY - TWEED SHIRE

	Size (Retail and Related Uses)	Land Use	Current Function of Area	Policy Framework
<b>Urban North</b>				
Tweed Heads	49, 545 Sq M	Supermarket Anchored Shopping Centre, strip-based retail, professional services, entertainment and recreation uses	Major retail precinct including a shopping centre and strip-based retail and related uses, which serve a catchment based on the older suburbs in the north of the shire	Incremental Expansion of existing centre and precinct, this existing precinct has the potential to be a focal point (of retail and other related uses) through development and integration of street based retailing with existing centres
Tweed Heads South	114,699 Sq M	Strip-based retail, Regional Shopping Centre, retail showrooms, professional services, entertainment and recreation uses	The main retail precinct for Tweed Shire includes Regional Shopping Centre and higher order retail that serves a wide regional catchment.	Expansion of Tweed South to cater to future demand. Precinct to increase as demand dictates. Retail showrooms to be accommodated at Chinderah as Tweed South areas reach capacity and demand dictates.
Tweed Heads West	3,759 Sq M	Strip-based retail and neighbourhood centres, impulse retail and professional services	Provides impulse and convenience shopping for local residents and tourists	Cater to local demand, locally, incremental expansion of local neighbourhood centres as demand dictates.
Bilambil/Bilambil Heights	730 Sq M	Impulse retail, retail services, neighbourhood retail uses	Provides impulse and convenience shopping for local residents and tourists	Allow incremental expansion of existing centres as demand dictates. Precinct may host a supermarket (demand dependant).
Terranora / Area E	88 Sq M	Impulse retail, retail services, neighbourhood retail uses	Provides impulse and convenience shopping for local residents and tourists	Allow incremental expansion of existing centres as demand dictates. Precinct may host a supermarket (demand dependant).
Banora Point	7,145 Sq M	Supermarket anchored shopping centre provides impulse retail, retail services, personal retail, professional services, general commercial office, education facilities, church and recreation uses	Functions as providing chore based shopping (supermarket) to a local area, entertainment precinct	Allow incremental expansion of existing centre as demand dictates. Precinct may host a supermarket (demand dependant).



	Size (Retail and Related Uses)	Land Use	Current Function of Area	Policy Framework
<b>Coastal</b>				
Kingscliff	12,757 Sq M	Supermarket anchored shopping centre and street based retail provides impulse retail, personal retail, homewares retail, retail services, professional services and general commercial office	Functions as providing chore based shopping (supermarket) to coastal Tweed area	Potential for another supermarket at Kingscliff as demand dictates.
Fingal	551 Sq M	Impulse retail, retail services, neighbourhood retail uses	Provides impulse and convenience shopping for local residents and tourists	Cater to local demand locally, incremental expansion of local shops as demand dictates
Cabarita	2,977 Sq M	Street and centre based impulse retail, retail services, personal retail, homewares retail, retail services and professional services	Provides impulse and convenience shopping for local residents and tourists	Cater to local demand locally, incremental expansion of local shops as demand dictates
Hastings Point	870 Sq M	Street based impulse retail	Provides impulse and convenience shopping for local residents and tourists	Cater to local demand locally, incremental expansion of local shops as demand dictates
Salt / Casurina		Street and centre based impulse retail, personal retail	Provides convenience and impulse shopping for local residents and tourists	Cater to local demand locally, incremental expansion of local shops as demand dictates. Precinct may host a supermarket (demand dependant).
Pottsville	4,348 Sq M	Street and centre based impulse retail, personal retail, homewares retail, retail services and professional services	Provides convenience and impulse shopping for local residents and tourists and professional services that serve local population	Cater to local demand locally, incremental expansion of local shops as demand dictates. Precinct may host a supermarket (demand dependant).
Chinderah				Establish new bulky goods / retail showroom precinct to cater to future demand from residents of Tweed Shire and surrounding LGA's

	Size (Retail and Related Uses)	Land Use	Current Function of Area	Policy Framework
<b>Rural West</b>				
Murwillumbah	48,282 Sq M	Traditional main street town with a supermarket anchored shopping centre and traditional CBD	The existing retail uses in Murwillumbah are to serve the local needs of residents	Cater to local demand locally. Expansion of existing centres and uses in Murwillumbah dictated by future demand, Murwillumbah to grow incrementally
Rural West Others	12,027 Sq M	Small retail and service outlets	Serves the convenience needs of local residents and passing motorists	Cater to local demand locally, incremental expansion of local shops as demand dictates
Emerging Communities (throughout Tweed Shire)				Cater to local demand locally, incremental expansion of local shops as demand dictates. Will require economic review to ensure that other aspects of the strategy are not compromised.

Source: Core Economics

## Public Exhibition

This draft Retail Strategy is a unique document for the Tweed. Council has previously never adopted a strategic policy document on retail development. The issue of retail development has therefore never been canvassed with the Tweed Community.

Furthermore there are several retail developers who are keen to establish their retail developments within proximity to new residential areas. It is considered important to allow all owners and developers of existing and proposed commercial lands the opportunity to put their position forward.

It is important that this draft Strategy be put on public exhibition to allow all interested parties including ratepayers, residents, owners and developers the opportunity to comment on this draft. Therefore this report recommends that the draft Tweed Retail Strategy be put on public exhibition for a period of 6 weeks.

## Modifications to the Draft

As a matter of clarification the Consultants have been requested, prior to exhibition, to modify the report to include definitions to the following terms used in the draft;

- Chore Retail
- Impulse Retail
- Personal Retail
- Homewares Retail / Bulky Goods
- Retail Services
- Professional Services
- General Commercial Office

- Industry
- Recreation
- Entertainment / Leisure

The draft attached to this report will be amended to reflect these changes.

### **Options**

As a result of this exhibition it is anticipated that there will be some significant submissions come forward. It is important that these submissions be reviewed and considered in the formation of a final policy for Council to consider for adoption.

There are several options available to Council once the exhibition has been finalised. These are:

Therefore how the structure of retailing in the Tweed is translated into Council's planning policy should be considered at the end of the exhibition period when another report will be brought forward.

### **Policy Status**

It is important to note that the draft Retail Strategy as attached to this report and placed on public exhibition does not represent Council policy. It is presented as a draft for comment and discussion (prepared by Council's consultants in consultation with Council's Development and Planning Division). It will remain a draft until such time as Council determines it as policy. Council reserves the right to prepare any policy on retail development in a form it sees fit after giving due consideration to this draft Strategy, as exhibited, and any subsequent submissions made to that exhibition.

### **Conclusion**

This report recommends that the draft Retail Strategy be placed on public exhibition for comment by landowners, retail developers, retail operators and the Tweed Community.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

### **POLICY IMPLICATIONS:**

Nil.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

[1. \*Draft Tweed Retail Strategy \(DW 1274702\)\*](#)

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**4 [PD] Draft Tweed Local Environmental Plan 2000, Amendment No 10 - Urban Release Area E**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/10 Pt5**

**SUMMARY OF REPORT:**

This LEP Amendment has been in abeyance since July 2005. Consideration of this report was deferred pending the review of urban design controls for the development of hilly areas. Council considered the Government Architects' Office review at its Planning Committee meeting of 5 October 2005. The recommendation of that report referred to relevant amendments of DCP 16 and DCP 47, and has little bearing on draft LEP No 10.

This report is now tabled again for Council's consideration. The content and recommendations of the original report remain the same.

Draft LEP Amendment No 10 - Terranora Urban Release Area (Area E) and the accompanying Environmental Study were placed on public exhibition between Wednesday, 17 March 2004 and Friday, 7 May 2004. A total of 138 submissions were received from various sectors including state agencies, private entities and community members.

A summary and discussion of the submissions received with respect to the exhibited draft Plan are provided within this report. The overriding issues identified from the submissions include protection of the natural environment (wetlands and significant flora/fauna), provision of appropriate infrastructure such as water, sewerage, stormwater, traffic and transport etc, contaminated lands, agricultural land, conflicting land uses, suitable density and lot size issues, master planning, amenity and aesthetic issues.

As a result of the submissions received it is recommended the draft Plan be amended from that which was exhibited. The recommended changes are discussed within this Report and are included in the amended draft Plan in Appendix B. In principle these changes involve:

- Amending the zoning map of the exhibited draft Plan by increasing the area of the 7(a) and 7(d) Environmental Protection Zones in response to the DEC's concerns. This reduces the extent of the proposed 2(c) Urban Expansion Zone.
- Amending the zoning map of the exhibited draft Plan by deleting the proposed alignment of the Mahers Lane extension.

No submissions received prevent the rezoning of Area E in the manner stipulated in Appendix B. Significant issues raised through submissions can be comprehensively addressed through a Development Control Plan, and at the Masterplan and development assessment stages of the project.

It is recommended that Council resolve to adopt the recommended changes to the exhibited draft Plan (as per Appendix B to this Report), and in doing so, the amendment would be ready to be made by the Minister for Department of Infrastructure, Planning and Natural Resources. This action would be succeeded by the preparation of a statutory Development Control Plan.

**RECOMMENDATION:**

**That Council:**

- 1. Pursuant to Section 68 of the Act, forwards the draft Local Environmental Plan Amendment No 10 – Terranora Urban Release Area (Area E), as per Appendix B, to the Department of Infrastructure, Planning and Natural Resources and requests the Department to forward the Plan to the Minister so the Plan can be made in accordance with the provisions of the Environmental Planning and Assessment Act 1979.**
- 2. Enters into a Deed of Agreement with the relevant landowner to enable Lot 227, DP 755740, Fraser Drive, Terranora to be transferred to Council prior to the Plan being forwarded to the Minister.**
- 3. Prepares a Development Control Plan (in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*) to manage future development of the site.**

## REPORT:

### BACKGROUND

It is intended to provide a thorough and integrated planning framework by which to appropriately manage Area E. Parsons Brinckerhoff were engaged to prepare a comprehensive planning framework for the development of Area E which includes preparation of a:

- Local Environmental Study and Draft LEP;
- Development Control Plan and Structure Plan;
- Section 94 Contributions Plan.

The first stage of the project, preparation of an LES and draft LEP, to determine the capability of the site to be developed for urban purposes has been finalised. A copy of the draft LEP, as exhibited, is provided as Appendix A.

The other stages of the project, DCP, Structure Plan and S94 Plan, planning tools by which to manage development of the land, are currently being prepared. A copy of the first draft of the DCP is provided for Councillor information as Attachment C.

Area E is generally bound by Mahers Lane, Terranora Road, Fraser Drive and the Terranora Broadwater (Trutes Bay), Terranora (Refer to Figure 1 'Locality Plan'). It is approximately 297 ha in area and comprises fifty-seven cadastral allotments in seven consolidated or amalgamated property holdings and thirty-three allotments in individual ownership (Refer to Figure 2 'Area E Study Area Boundaries').

Area E is principally comprised of the following uses:

- the Lindisfarne Anglican Secondary School, on an approximately eight hectare site (Zoned 5(a) Special Use (School))
- approximately 52 hectares of SEPP-14 wetlands at the northern interface with Trutes Bay (currently zoned 1(b1) Agricultural Protection)
- approximately 237 hectares of rural lands (zoned 1(b1) Agricultural Protection) of which the major resource is 73 ha of Class 6 Specialist Use Agricultural lands, the majority of which are lying fallow.

Area E has historically been utilised for intensive agriculture, being row cropping and plantations. However, there has been a sustained long-term reduction of intensive agriculture within Area E due to urban development encroachments and pressures, limited financial return from produce, and biophysical limitations (requiring mechanised farming which is otherwise precluded by surrounding urban development), amongst others.

The purpose of the LES and draft LEP was to investigate Area E and determine the values of the agricultural land and its suitability for urban development, as per the *Tweed Residential Development Strategy 1991*. The LES identified a number of constraints and

issues that require further management and consideration in the development of Area E for urban purposes. Of these, the management of traffic impacts, infrastructure provision and rehabilitation of environmentally sensitive areas are paramount.

The LES found that although there were issues which require further management and control, there were generally no constraints and issues to urban development of Area E that could not be resolved through the implementation of specific control provisions, design criteria, management measures, through amendments to the exhibited draft Plan, a future Development Control Plan or master plan for the site.

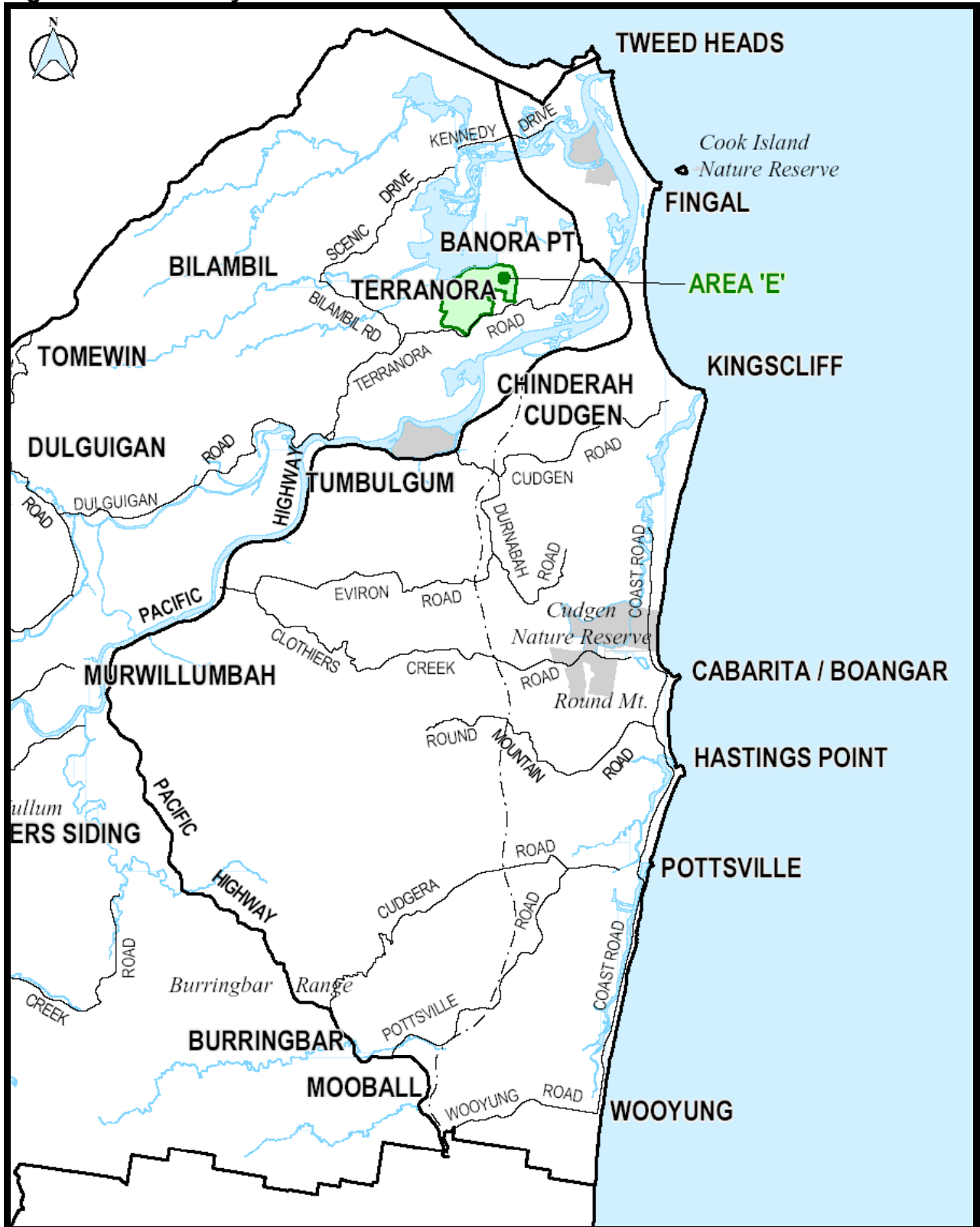
The draft LEP generally involves rezoning Area E from the predominant 1(b1) Agricultural Protection Zone, by excluding it from this Zone and including it in:

- approximately 187 hectares of 2(c) Urban Expansion zoned land (which includes area for the development of residential, commercial, recreational and community facilities, together with infrastructure provision) ;
- approximately 88 hectares of 7(a) Environmental Protection (Wetlands and Littoral Rainforests), particularly protecting the SEPP 14 wetlands (as rehabilitated);
- approximately 17 hectares of 7(d) Environmental Protection (Scenic/ Escarpment) in particular protecting the visual qualities and environmental significance of the central drainage channel;
- approximately 1.5 hectares of 5(a) Special Use (School) for the Lindisfarne Anglican Secondary School.

This Report identifies the nature of the submissions received, the recommendations with regards to amendments to the exhibited LES and draft Plan and a final draft Plan (including Clauses and a Zoning Map) Amendment 10.



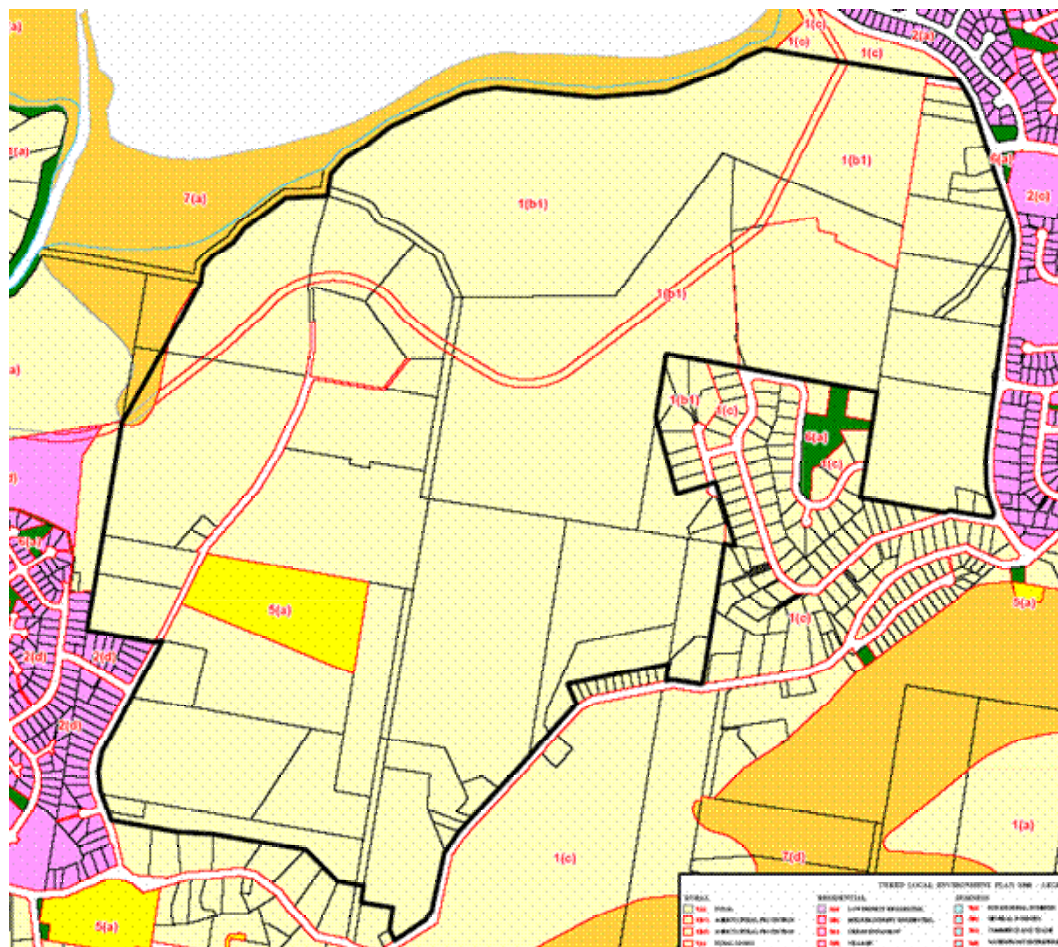
**Figure 1**    **Locality Plan**



**Figure 2: Area E Study Area Boundaries (as indicated by the bold outline)**



Figure 3: Current Zoning of Area E (Source: Tweed LEP 2000)



## **PUBLIC EXHIBITION OF STUDY AND DRAFT PLAN**

Pursuant to Section 66 of the *Environmental Planning & Assessment Act 1979*, the draft LEP and LES were placed on public exhibition from 17 March 2004 through to 7 May 2004. A public meeting was held on 29 April 2004 at the Terranora Community Hall. Council received a total of 138 submissions from State Agencies, Council itself, commercial and environmental entities and residents during the period of public exhibition.

Council received a total of seven (7) submissions from the following State Government Agencies:

- Department of Primary Industries (DPI) NSW Agriculture
- NSW Department of Infrastructure, Planning and Natural Resources
- Department of Environment and Conservation
- Mineral Resources NSW
- NSW Rural Fire Service
- Roads & Traffic Authority
- Department of Education and Training

Tweed Shire Council (Traffic and Transport Engineering Section) made one submission

Council received a total of six submissions from the following entities:

- Lindisfarne Anglican Secondary School
- Friends of Terranora
- Caldera Environment Centre
- Tweed Heads Environment Group Inc
- Tweed District Residents & Ratepayers Association
- Banora Point Residents Association

The remaining 124 submissions were received from community members, including residents and business owners.

A Submissions Matrix has been prepared providing comments on the grounds of the submissions (refer to Attachment A). A number of common issues were identified, and which overlap but are presented separately to ensure a complete picture is presented, have been addressed in the body of this report.

The submissions can be generally classified into one of the following three types:

- Submissions opposing the proposed development on a number of grounds
- Submissions objecting to the development proposal in its current form, with suggested development parameters for further consideration
- Submissions supporting the proposal on a number of grounds

## STATE GOVERNMENT SUBMISSIONS

### 1. Department of Primary Industries DPI (NSW Agriculture)

DPI acknowledged that the use of this area for urban development would seem inevitable. However, they noted that the Study did not adequately record or assess cultural significance and landscape values of Area E, nor did it identify areas of higher agricultural land resources that may be retained as community gardens. Similarly no transitional arrangements to avoid conflicts between agricultural and urban uses were outlined.

**Comment:** The LES includes a critical evaluation of the ability of Area E to support continued agricultural practices, including historical recognition of the agricultural practices that occurred. The evaluation included the identification of 'Class 6 Specialist Use' Agricultural Land. The retention of a portion of land for community gardens hasn't previously been undertaken in other urban residential estates and the need, suitability and the success of such a venture in this locality is questionable. Community gardens are generally situated in high/medium density locations where residents don't normally have access to a yard. Area E is envisaged to have a median lot size of 800m<sup>2</sup> which invariably provides enough land to site a house and still have room for a yard to pursue leisure pursuits such as gardening.

It is envisaged the majority of existing farmland will be developed for urban housing. This will inevitably result in the loss of the rural landscape. However, the scenic landscape of the area is addressed through the preservation and rehabilitation of significant environmental corridors, through the provision of vegetated ridgelines and through the vegetated buffers to existing rural residential areas. Other design characteristics such as streetscape, built form etc, should be addressed through a DCP and masterplan (refer to Attachment C - draft DCP, for an indication of how these design issues can be implemented).

The remaining agricultural practices are located at the eastern and southern periphery of Area E, in areas that would be generally developed first due to existing and proposed infrastructure sequencing and provision. As a result there is little requirement for transitional arrangements to be adopted in this instance.

**Recommended Action:** No change to the draft LEP as a result of the issues raised by NSW Agriculture.

### 2. NSW Department of Infrastructure, Planning and Natural Resources (DIPNR)

DIPNR supports the proposed 50 metre buffer around wetland in area zoned 7(a), and considers that the south-east corner of the area mapped as 7(a) should include wetland that is currently being drained. If it is not included, then this land should be retained as open space parkland and not be filled. Further, DIPNR indicate that no development should intrude into areas zoned as 7(a) and 7(d).

**Comment:** DIPNR's support of the wetland buffer is noted. The area referred to as 'draining wetland' has been identified to be a low-lying area into which water 'ponds' from

elevated areas of Area E. Hence, the minimal ecological significance of this area does not merit any protective zoning.

The intrusion of any development into areas zoned as 7(a) and 7(d) will be regulated under the *Tweed LEP 2000*, through existing planning controls and land use zoning tables.

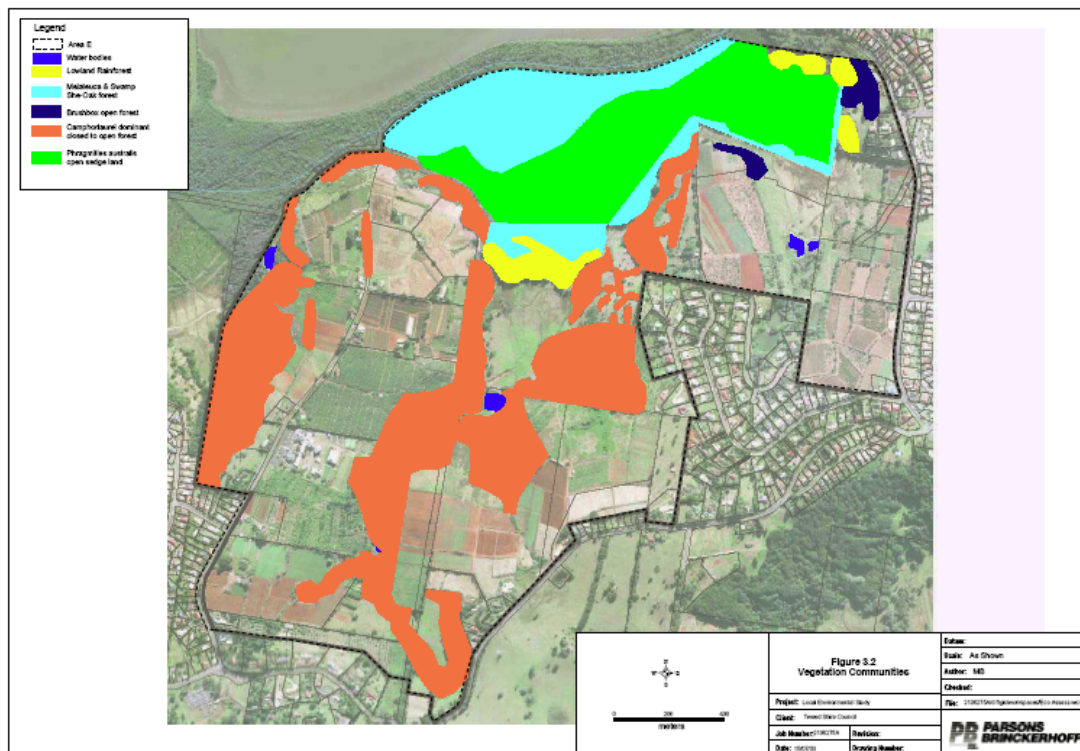
**Recommended Action:** No change to the draft LEP as a result of the issues raised by DIPNR.

### 3. Department of Environment and Conservation

The Department of Environment and Conservation (DEC) submission comprehensively outlines a number of concerns regarding the proposed LES and draft LEP. The main grounds of the submissions were in the following areas:

- Flora and Fauna (including SEPP14 wetland, remnant vegetation protection and rehabilitation). Figure 4 provides a map illustrating vegetation communities on site.
- Buffering of drainage lines and waterways.
- Biting Insects (salt marsh mosquito).
- Aboriginal Cultural Heritage.
- Stormwater Management.
- Contaminated Land.
- Sewerage Management.

**Figure 4**



**Concerns with Flora and Fauna/ Buffering of Drainage Lines and Waterways:**

- The DEC supports the exhibited draft LEP identifying the SEPP 14 wetland as an Environment Protection (7a) Zone. However, due to the steepness of the site and an increase in quantity and speed of stormwater runoff as a result of increased development, the proposed 50m buffer is considered inadequate. DEC recommended that a minimum of 100m in vegetated buffer between urban development or infrastructure and the prescribed boundary of the wetland be included in the LEP.
- The camphor laurel remnant on the western boundary has been Zoned 2(c) Urban Expansion. The central camphor laurel remnant is proposed to be Zoned (7d) Environmental Protection and, south of the school, it is proposed to be Zoned 2(c) Urban Expansion. Restoration and rehabilitation of these areas, including removal of camphor laurel, under a bush regeneration plan is recommended to increase biodiversity values and assist in improving the Terranora Broadwater water quality.
- The remnant vegetation may be utilised as a corridor for movement between areas of suitable habitat. The proposed 7(d) Environmental Protection Zone includes only part of the central drainage line, and should be extended to encompass the full extent to the southern study area boundary. Similar provision should be made for inclusion in the bush regeneration plan.
- The Swamp Sclerophyll Forest identified in the north-western boundary of the site is recognised as a significant community in the NSW North East Regional Forest Agreement and the Tweed Vegetation Management Plan 2003. The proposed 2(c) Urban Expansion Zoning is not supported. It is recommended that this community be Zoned 7(a) Environmental Protection with a minimum 50m vegetated buffer.
- The Brush Box remnant in the north-eastern portion of the site has been identified as supporting threatened species and hollow-bearing trees. The draft LEP includes these areas in the 2(c) Urban Expansion Zone and within designated road corridors which is not supported. Instead, these communities should be incorporated into the 7(a) Environmental Protection Zone with a minimum 50m vegetated buffer.
- The LES identified Closed Forest or Swamp Forest communities which are endangered under the *Threatened Species Conservation Act 1995* and provide potential habitat for the threatened Mitchell's Rainforest Snail. The approved Mitchell's Rainforest Snail Recovery Plan 2001 states that 'all lowland rainforest and swamp sclerophyll forest remnants and vegetated areas within 50m of SEPP 14 Coastal Wetlands in Tweed, Byron and Ballina Shires be protected from clearing or development in relevant Local Environmental Plans'. Therefore, to protect this type of vegetation community and potential snail habitat, all Lowland Floodplain Rainforest should be Zoned Environmental Protection with a minimum 50m vegetated buffer.
- The integrity of riparian buffers should not be compromised by positioning of stormwater treatment infrastructure or recreational facilities of a significant nature such as car parks, access roads, buildings or toilet facilities. A minimum buffer of 50m is required adjacent to areas of national, regional and local significance (e.g. wetlands, native vegetation). Infrastructure (such as roads) should not be included in the buffer.

**Comments regarding Flora and Fauna/ Buffering of Drainage Lines and Waterways:**

Verbal discussions were had with DEC officers to discuss the issue of the buffer to the wetlands. It was agreed that the proposed 100m buffer could be made up of 50m of vegetation and fifty metres of other non vegetated land, which can include infrastructure such as roads.

Extension of the 7(a) Environmental Protection Zone will ensure that other areas of SEPP 14 or adjoining areas are better protected from upstream impacts. These include:

- Melaleuca Forest in the north-west corner of the site
- Mangrove Shrubland in the north of the site (incorrectly mapped in the LES and which requires this updated level of protection)
- Phragmites Open Sedgeland in the north-east of the site

Further, inconsistencies between the vegetation communities identified in the field and those mapped in Figure 3.2 of the LES, require additional areas, referred to by DEC, to be protected because of their recognised local and State conservation values. These areas will be included in either the 7(a) or 7(d) Environmental Protection Zones. This extension of the Environmental Protection Zone will provide for the increased protection of potential habitat (ie Lowland Rainforest) for the Mitchell's Rainforest Snail, although it is not expected that the site supports a population of this species as outlined in Section 3.1.3.2 of the LES.

As a result of the DEC submission, a review of the vegetation community descriptions in the LES was undertaken. DEC advised that the original description in the LES does not adequately describe the variation in composition, habitat and biodiversity values of the various areas of Camphor Laurel Dominant Closed to Open Forest on the site. The Camphor Laurel community on the western boundary of the site is low in species diversity and structural diversity and almost solely comprises Camphor Laurel. While this community provides important bird habitat (particularly for pigeons and fruit doves), it does not provide the same level of ecological values as the Camphor Laurel community that runs from south to north in the centre of the site. This community has an emergent canopy of predominantly Camphor Laurel, but is much more diverse in the understorey, comprising predominantly Lowland Rainforest. Therefore, while some of the Camphor Laurel community (and avian habitat) in the west of the site will be retained as part of the extension of the Environmental Protection Zone outlined above, not all of this community warrants protection as significant vegetation in the area.

The proposed LEP amendment includes Clause 53A(3) which requires a Wetlands Rehabilitation and Management Plan to be prepared and must be complied with prior to Council giving consideration to the Consent to such development. Further, given that the wetland is designated as a SEPP 14 wetland an EIS will need to be prepared by the proponent.



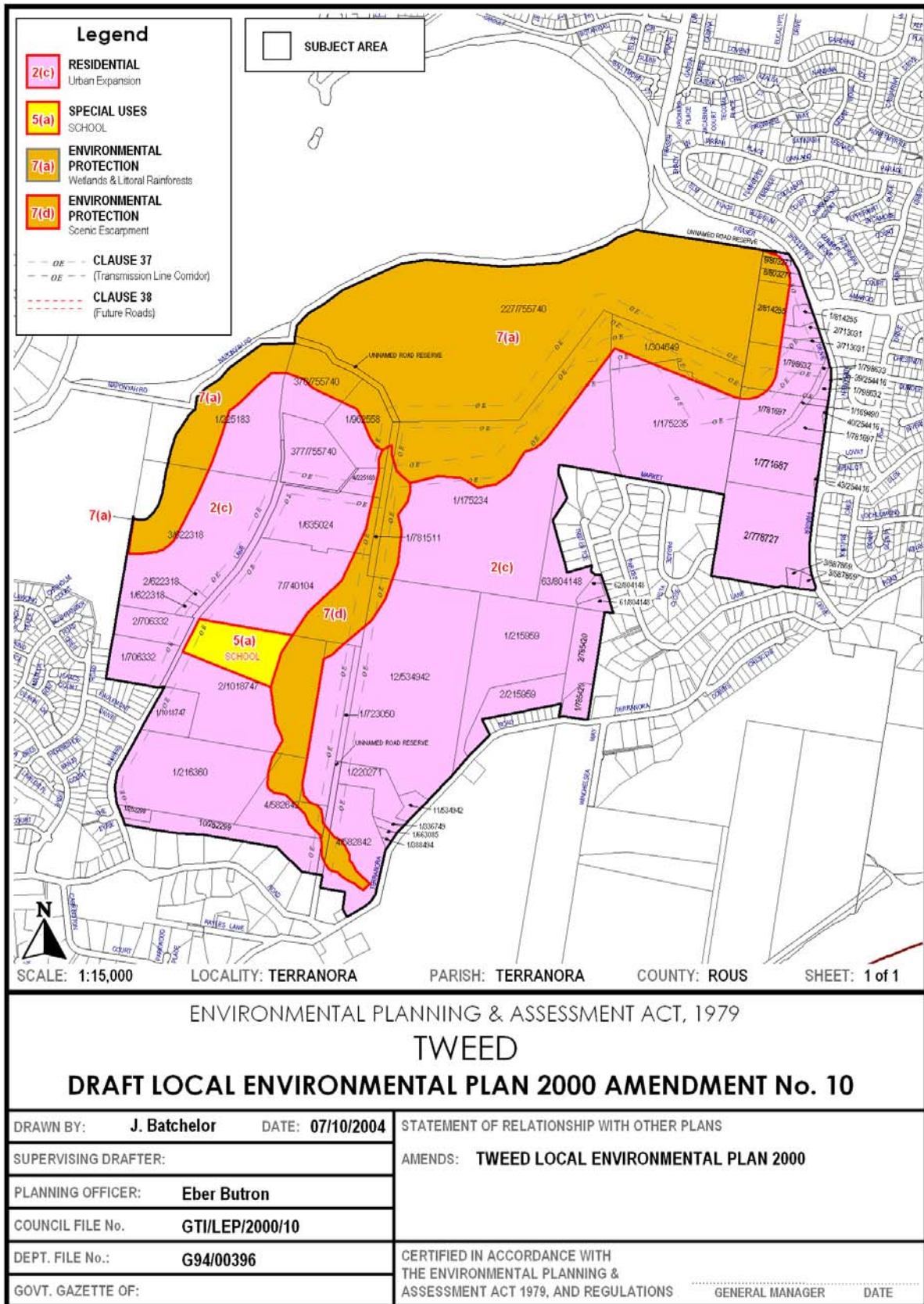
Some infrastructure, such as a water pipeline and associated access tracks, already exists within areas of the proposed 7(a) or 7(d) Environmental Protection Zone. These are not proposed to be removed as a result. Development of such infrastructure can sensitively occur to minimise disruption to habitat integrity, via the preparation of relevant management plans.

**Recommended Environmental Actions:**

As a result of the issues raised by the DEC, changes to the extent of the 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and the 7(d) Environmental Protection (Scenic/ Escarpments) are required to the zoning map. Refer to Figure 5 and Appendix B, which provides an illustration of the change in zone boundaries as a result of DEC's submission

**NOTE:** A copy of the amended draft LEP map was forwarded to DEC for their comment. DEC responded in a letter dated 29 October 2004 DEC confirming their support for the suggested amended LEP map shown in Figure 5 and Appendix B.

Figure 5



### **Biting Insects (Saltmarsh Mosquito) Concerns:**

The LES states that parts of the Terranora Broadwater SEPP 14 wetlands have been '*previously modified with the resulting effect being a change from a largely freshwater to a saline hydraulic system*'. Consequently there has been an increase in the populations of the Saltmarsh Mosquitos. The LES recommends the alteration of the wetland saline hydrology to a freshwater regime which would reduce the mosquito problem. DEC requires further evidence supporting the justification to alter the wetland hydrology to a freshwater regime for the purpose of reducing the mosquito problem.

Any clearing, levee construction, drainage work or filling within a SEPP 14 wetland is listed as 'Designated Development', requiring the preparation of an Environmental Impact Statement (EIS) and the approval of the DIPNR.

### **Biting Insects (Saltmarsh Mosquito) Comments:**

Section 3.1.3.6 of the LES includes anecdotal evidence from Council Entomologist testifying to the ability of the wetland hydrology to be altered to a freshwater regime. Further studies are required to determine appropriate measures for the rehabilitation of the wetland areas and feasibility of mosquito management in the SEPP 14 wetland area.

Proposed Clause 53A(3)(b) includes specific provisions for a Wetland Rehabilitation and Management Plan. This Plan is to identify the way in which the wetland is to be restored and managed, to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges. Proposed development must comply with this Plan for Council to give consent.

The requirement for the preparation of an EIS and subsequent approval of the DIPNR is noted. However, such a process would be conducted external to the proposed LEP amendment.

### **Recommended Actions**

No change to the draft LEP as a result of this issue raised by DEC.

### **Aboriginal Cultural Heritage Concerns:**

The LES has not adequately addressed Aboriginal archaeological heritage. This assessment must include a search of the DEC's Aboriginal Heritage Management Information System (AHIMS) to ascertain whether any objects or places occur within or surrounding the study area, and undertake consultation with the local Aboriginal community and Land Council.

It is noted that comment was sought from the Tweed Byron Local Aboriginal Land Council with no response. The local Aboriginal community was not consulted. It is recommended that written advice from both these entities be sought.

**Aboriginal Cultural Heritage Comments:** NSW National Parks and Wildlife's (NPWS) correspondence dated 15 June 2004 contains the results of an AHIMS search for Area E. The AHIMS search identified that no Aboriginal objects or places occur within Area E. A number of sites occur outside the boundaries of Area E and would not be directly impacted by the development of Area E.

No response from the Tweed Byron Local Aboriginal Land Council to the Section 62 Consultation (under the *Environmental Planning and Assessment Act 1979*) was received. Further telephone calls, messages and facsimile messages were made to the Land Council on 3 and 4 June 2003 for which no response was received.

Significant ground disturbance from previous intensive agricultural practices has substantially altered the natural Area E landscape, decreasing any potential presence of Aboriginal artefacts. Aboriginal sites (including places and objects) are protected under the *National Parks and Wildlife Act 1974*.

Tweed LEP 2000 currently contains "Clause 44 – Development of Land within likely or known archaeological sites" which provides for the protection of aboriginal archaeological sites. As a consequence, future development proponents will be required to address this issue as part of any development application process.

### **Recommended Actions**

No change to the draft LEP as a result of this issue raised by DEC.

### **Stormwater Management Concerns:**

The DEC supports the preferred treatment Strategy Mitigation Option 4 (treatment train approach) in the LES which recommends the use of rainwater tanks for laundry, hot water, toilets and external uses grassed swales, amongst others. DEC also states that these stormwater management strategies should be a mandatory component of the Stormwater Management Plan to be developed and should be detailed in the draft LEP.

The DEC also ventured further comments regarding the proposed Stormwater Management Plan in the LES, including:

- Complimenting the 'redundancy concept' which builds a contingency to ensure that necessary performance is achieved.
- The stormwater management system costings assessment also fails to account for the financial benefits accruing from rainwater tanks by reduced demand on existing infrastructure and deferring the need for augmentation of the water supply system.
- The proposed low flow pipes from the wetlands appear to significantly improve the ability of the stormwater management system to mimic flows downstream of the site and should be a mandatory component of the Stormwater Management Plan.
- The assessment of stormwater quantity impacts does not appear to address the impacts of rainwater tanks in detaining stormwater flows. This issue should be addressed and the need for detention basins reconsidered.

- Slightly larger tanks (ie. 10000L) more effectively meet the demands of residents on the North Coast. It is therefore recommend that a 10,000L tank be considered as the minimum size to optimise the reduction in potable water demands.

### **Stormwater Management Comments:**

A water quality assessment was undertaken for the urbanisation of Area E. The assessment included the estimation of expected stormwater pollutant loads and the performance and cost of various stormwater management strategies to meet Council's *Urban Stormwater Management Plan*. The estimated capital and maintenance costs provided in the LES were for the entire system and were not categorised as Council, developer or resident costs. It is a requirement that the developer provides all capital costs for the stormwater management infrastructure with the exception of the rainwater tanks. Residents typically meet rainwater tank installation and maintenance costs. Some Councils provide cash incentive to encourage their use.

It is expected that the demand for potable water would be lower for residents with rainwater tanks, resulting in lower water rates for residents. The installation of rainwater tanks may have additional cost benefits as the lower demand for reticulated water may defer the upgrade of existing potable water systems, but a total cost benefit analysis was not required as part of the LES and will not be undertaken at this time.

In response to DEC, Parsons Brinckerhoff have suggested that the low flow environmental pipe option be adopted for any stormwater treatment wetlands within Area E to better mimic natural flows. A long term water balance would be required to confirm the size of any low flow pipes to ensure that the wetlands do not drain and impact the health of wetland plants. These stormwater management plan provisions are to be included as part of the DCP for Area E.

The draft LEP (Appendix 1) currently requires a Stormwater Management Plan to be prepared for the site to the satisfaction of Council, and in accordance with the Tweed Urban Stormwater Quality Management Plan. It is considered that this, in conjunction with a DCP, provides Council with adequate statutory management of this issue.

Rainwater tanks will provide some benefit in reducing stormwater runoff volumes by retaining rainwater for household use. The MUSIC model used in the assessment of stormwater treatment strategies accounted for this on a regional scale by representing the rainwater tanks as a pond which could retain stormwater for meeting typical urban non-potable water demands. When the tanks (ponds) were full, excess flows were directed to the stormwater treatment system of grassed swales, bio-retention trenches and wetlands. As the model was run on a daily timestep over an average year, the annual stormwater volumes retained and used by residents could be estimated. The model estimated that the developed unmitigated average annual flow of 3722 ML/yr could be reduced to around 3300ML/yr with the treatment train stormwater management strategy that includes rainwater tanks, and wetlands.

The water quality modelling assumed each allotment would have a 7,500 litre rainwater tank. The tanks were assumed to have a low flow bypass of 1l/s to allow for the bypass of first flush. Once the tanks are full, any excess water will overtop the storage and be directed towards the swales and bio-retention trenches. The size of the rainwater tanks was based on a typical household tank size, however a long term daily water balance could be undertaken to determine the optimum size for the Tweed Area E.

The requirement for the stormwater management strategy identified as Stormwater Mitigation 4 Option (treatment train approach) and the undertaking of long-term water balance modelling to determine the low flow bypass requirements of stormwater treatment wetlands and the optimum rainwater tank size to ensure the maximum capture and re-use of rainwater should be included within the management guidelines of the DCP for the area.

**Recommended Actions:** No change to the draft LEP as a result of this issue raised by DEC.

**Contaminated Land Concerns:**

The DEC supports the proposed conditions contained in Section 4 of the LES requiring a proponent to undertake detailed contamination assessments and necessary remedial works at the development application stage. DEC recommend that these assessments be undertaken as early as possible so that Council can ensure the land is suitable for its intended use.

**Contaminated Land Comments:**

Council engaged the services of Mr Marc Salmon (JBS Environmental), a New South Wales EPA accredited site auditor (for contaminated land) to further investigate contamination within Area E. In correspondence dated 15 March 2004, JBS Environmental's interim audit advice stated *'no information was revealed during the review of (relevant) documents or a site inspection which would preclude the rezoning of the site to a residential with accessible soil landuse provided measures are in place to ensure that the potential for contamination and the suitability of the land for any proposed use are assessed once detailed proposals are made'*.

Clause 53A(2)(b) in the draft LEP amendment requires that the extent of contamination be known prior to development consent. This will ensure that an area can be remediated to the required EPA Standard to enable the desired use.

Further to the general assessment for sensitive land uses, prior to any works occurring, it is recommended that a statutory Site Audit Statement approving the proposed land use be secured from a NSW accredited site auditor for each prospective allotment, infrastructure areas, and all proposed public access areas.

**Recommended Actions:**

No action required to draft LEP as a result of this issue raised by DEC.

### **Sewerage Management Concerns:**

The DEC noted that the proposed Area E development (and its predicted population) will be serviced by the Banora Point Sewerage Treatment Plant, bringing it very close to its maximum capacity. DEC also noted that the consent to upgrade the plant has been granted, but it is understood works have not yet commenced.

### **Sewerage Management Comments:**

The existing Banora Point sewage treatment plant has existing capacity for the Area E population, but would need upgrading to support all proposed developments within its catchment. Council is currently reviewing what options they have to upgrade the treatment capacity and identify what effluent discharge and reuse options are available to meet current environmental discharge standards.

### **Recommended Actions:**

No changes to the draft LEP are required as a result of this issue raised by DEC.

## **4. Mineral Resources NSW**

Mineral Resources NSW is satisfied that proposal will not adversely impact on potential or existing mineralisation or extractive resources.

**Comment:** Mineral Resources NSW comments are noted.

**Recommended Action:** No change to the draft LEP as a result of the issues raised by Mineral Resources NSW.

## **5. NSW Rural Fire Service (RFS)**

The NSW RFS support the proposed draft LEP Amendment, however indicated the LES does not adequately address bushfire issues, with the need for residential development to comply with *Planning for Bushfire Protection 2001*. In particular access/egress, water for fire fighting activities and provision of Asset Protection Zones.

**Comment:** Clause 39A "Bushfire Protection" of TLEP 2000 also provides for bushfire issues to be addressed at the development application stage. The *Planning for Bushfire Protection 2001* requirements for access/ egress, provision of Asset Protection Zones and water provision for fire fighting can be dealt with through a specific Development Control Plan objectives (which will subsequently need to be considered by the developer when they formulate the Master plan) at the development application stage. Clause 39A "Bushfire Protection" of TLEP 2000 also provides for bushfire issues to be addressed at the development application stage.

It is considered that the NSW Rural Fire Service State interests are a consideration in the preparation of the Development Control Plan.

**Recommended Action:** No change to the draft LEP required.

## 6. Tweed Shire Council

Council's Traffic and Transport Engineer raised nine issues from Section 3.8 (Traffic and Access) of the LES that required clarification. Attachment B provides an amended Section 3.8 (Traffic and Access) reflecting issues raised by Council's Traffic and Transport Engineering section as well as anomalies identified during the public exhibition of the LES and draft LEP. These issues are discussed below.

**External Trip Concerns:** Section 3.8.2.1 of the LES claims most external trips are to the Pacific Highway. Assuming 'external' means outside Area E, Council traffic data indicates that only 50% of traffic access the highway, the remainder accessing Tweed Heads and Tweed South.

**External Trip Comments:** Section 3.8 shown as Attachment B reflects the information supplied by Council indicating about 50% of the traffic associated with Area E is likely to access the Pacific Highway. This information supersedes the previous conceptual work undertaken by PB in the LES. This information also reflects the work undertaken by Vietch Lister Consulting (VLC) whose Strategy was adopted by Council at its Ordinary Meeting of 2 March 2005.

**Recommended Action:** No change to draft LEP as a result of this issue.

**Public Transport Concerns:** Section 3.8.2.4 of the LES states that the bus routes need to be amended to serve Area E from early in its development. This is considered essential and for this to occur effectively and efficiently, the Mahers Lane extension needs to be completed at Stage 1. It is recommended that this is a condition of the LES and should be referred to the Public Transport Group for comment.

**Public Transport Comments:** This requirement is identified within the draft LES in Section 3.8.2.4 and Section 3.8.7.4. This issue can be addressed through the draft DCP for the study area.

**Recommended Action:** No change to the draft LEP as a result of this issue.

**Traffic Volume Concerns:** Table 3.4.2 of the LES appears to be incorrect stating an existing capacity of only 9000vpd which then causes volume/capacity ratios to be well over capacity (ie Terranora Road v/c = 1.61 or 61% over capacity). If in fact this table is not corrected then the LES should not be considered. The data in the table does not reflect the dialogue in Section 3.8.5.2 which claims to have a highest v/c of 1.16.

**Traffic Volume Comments:** Table 3.4.2 as exhibited is erroneous. The correct Table 3.4.2 is shown in Attachment B. This Table illustrates the current estimated traffic carrying capacity and also the remaining available capacity on the adjoining road network. This traffic analysis reflects the findings of the work undertaken by Vietch Lister and adopted by Council. Council adopted the work undertaken by Vietch Lister for Banora Point and Tweed Road Development Strategy at its Ordinary Meeting of 2 March 2005.



**Recommended Action:** No change to the draft LEP required.

**'Traffic Volume Split' Concerns:** Section 3.8.5.2 of the LES assumes certain traffic volumes splits. It is not indicated where from or why these were chosen, together with the accuracy of the comments and tables. However the Veitch Lister Consulting (VLC) review of the TRDS indicates through Council's model that traffic from Area E can be accommodated provided the TRCP works program is implemented.

The LES allocates many pages to reproducing VLC's findings and Council's works program but insufficient space to assessing the unacceptable impact of Area E traffic 'short cutting' through Amaroo Drive and other local roads.

**'Traffic Volume Split' Comments:** Attachment B now reflects the result of the work undertaken by VLC on behalf of Council (only recently made available by Council) as this work supersedes the previous conceptual work undertaken by PB in the draft LES. In this regard Section 3.8.5.2 of the LES now highlights the likely distribution of traffic given the road network structure and likely directional distribution of traffic. In particular, the report now illustrates the likely dissipation of Area E traffic through the adjoining road network.

Attachment B includes comments in relation to the potential 'rat running' through the adjoining local road network. In addition, it indicates that further investigations are required as part of more detailed Local Area Traffic Management (LATM) treatments in response to the development of Area E. These studies would need to be undertaken prior to the development of Area E and would require significant community input in relation to the proposed LATM treatments. These requirements can be imposed through the draft DCP, requiring these works to be undertaken at the cost of the developer and approved by Council Engineers.

Further, draft DCP (Attachment C) illustrates 3 alternate potential routes for the Mahers Lane extension. If the preferred route (Option A) is implemented the issue of the potential "rat-runs" through Amaroo Drive could possibly be reduced or eliminated. This option would also alleviate further traffic pressures on Terranora Road.

**Recommended Action:** No specific amendments to the draft LEP are required as a result of this issue.

**Intersection Design Concerns:** Section 3.8.6 of the LES proposes a cross roads intersection with Fraser Drive and Amaroo Drive via traffic signals or a roundabout.

Both treatments are not considered satisfactory, as they would facilitate Area E through traffic onto Amaroo Drive identified by VLC as undesirable and clearly it will be a community concern. Traffic signals require RTA NSW approval which is unlikely in any case as they would be relatively isolated. The signals and roundabout have excessive queue lengths for the scenario modelled and are considered unacceptable. Council is concerned how the intersections' worst level of service (LOS) is 'B' & 'D' respectively. The full AASIDRA results for each intersection should be included as they would enable proper scrutiny and allow the approaches to be assessed.

This section needs to be reviewed with a more acceptable intersection treatment that is separated from Amaroo Drive and including physical traffic control devices to restrict 'rat running' through Amaroo Drive.

**Intersection Design Comments:** Attachment B now reflects Council's requirements. It is noted that the proposed intersection arrangements are 'schematic concepts'. As the intersection concepts are not final designs they will be subject to further investigation at later stages, particularly in the detailed planning for the development of Area E. The required intersection analysis results (AASIDRA) have also been provided as an attachment to the LES.

Attachment B indicates that Council's preferred level of performance for intersections during peak periods is a LOS 'C' to 'D'. These requirements can be imposed on developers through the DCP. These works would need to be undertaken at the cost of the developer and approved by Council Engineers.

**Recommended Action:** No require specific amendments to the draft LEP required as a result of this issue.

**General Proposal Concerns:** The proposals included in Section 3.8.6.2 of the LES are not considered appropriate and are too vague, including simply stating LATM is required in conjunction with public consultation. The LES needs to recommend a solid outcome such as a condition of any development that this will be required. Vertical displacement devices will not be approved due to noise issues and similarly single lane slow points are not acceptable and should be removed from the LES.

Much more detailed work is required on the Fraser Drive - Mahers Lane intersection and all AASIDRA input and output data is to be included in an Annexure.

**General Proposal Comments:** Attachment B reflects Council's requirements in relation to the LATM treatments. It is also noted that potential LATM concepts can only be nominated at this stage of the LES as further work is required to determine the most appropriate LATM treatments. These requirements can be imposed on developers through the DCP. These works would need to be undertaken at the cost of the developer and approved by Council Engineers. These works are to be included as part of a S94 Plan specific for the study area.

Attachment B indicates that the Fraser Drive-Mahers Lane intersection is only a conceptual intersection arrangement as the location and route of the Maher's Lane extension (particularly where intersecting with Fraser Drive) is yet to be finalised. The intersection concept is not a final design and thus it will be subject to further investigation at later stages of the process (DCP, S94 Plan and development applications) and prior to the development of Area E. The required AASIDRA intersection analysis results have been included as Annexure B of this Report.

**Recommended Action:** No specific amendments to the draft LEP required as a result of this issue.

## **7. Roads & Traffic Authority**

The RTA lodged an objection to the draft Plan. The report presented to Council at its ordinary meeting of the 16 February 2005 detailed the grounds of the objection and provided a summary of the issues. At the time it was reported that Council officers have been meeting and trying to negotiate an outcome with the RTA over the last 8+ months. These discussions have proven unsuccessful. Council's Traffic and transport engineers advised the impact of Area E are relatively small and that the RTA would need to upgrade that section of the Pacific Highway and its interchanges at some time in the future regardless of Area E.

Notably, whilst a State Agency objection remains over the proposed LEP Amendment Council is unable to use its S69 Delegation to forward the Plan to the Minister. It will be necessary for Council to forward the Plan to DIPNR pursuant to S68 and request they forward the Plan to the Minister. It will be DIPNR's responsibility to assess the unresolved objection presented by the RTA.

**Recommended Action:** No change to the draft LEP as a result of this issue raised by the RTA.

## **8. Department of Education and Training (DET)**

The DET did not make a formal written submission during the public exhibition period. However, on 16 June 2003 the Department indicated the need for a primary school, aligned with the development of Area E. They stated that if new major residential areas proceeded, further government school provision would be required as part of the necessary human services infrastructure to cater for the population, potential a new primary school in Terranora. This position was reflected in the local environmental study prepared to support the draft LEP.

During and after the exhibition period discussions were held with DET to confirm their position and to clarify their requirements. On 27 October 2004 DET advised that their general advice on 16 June 2003 was based on a potential 8000 person population as per Council's Residential Development Strategy 1991. As the LES forecasts a much less lot yield and consequently total population for the study area, as well as having considered other demographic, geographic and logistical factors the Department is of the opinion that future government primary school enrolments likely to be generated from the new development will be able to be accommodated within the Department's existing local primary school infrastructure.

**Recommendation Action:** No change to the draft LEP as a result of the issues raised.

## **PUBLIC SUBMISSIONS**

The remaining 124 submissions were received from community members, including residents and businesses. A Submissions Matrix has been prepared providing comments on the grounds of the submissions (refer to Annexure B).

A number of common grounds of objection were identified against which a number of submissions were received. The following is a summary of these grounds together with recommended actions.

### **9. Lindisfarne Anglican Secondary School**

Lindisfarne School outline that the school site is only Zoned in part 5(a) Special Use (School) in the current *Tweed LEP 2000*. The current extent of the 5(a) Zone is also replicated in the proposed LEP Zone map and does not reflect the entire school site holding.

Lindisfarne School submit that the proposed 7(d) zoning on their site extends onto land that has no environmental significance and request that it be changed to 2(c). Further, the proposed 2(c) zoning will place a financial burden on the school as regards rates imposed on the land which would be higher than under a 5(a) Zone.

**Comment:** The proposed 7(d) Zone over the eastern portion of the Lindisfarne School site covers a section of Camphor laurel 'dominant closed to open forest' that includes at least 11 *Macadamia tetraphylla* species. This species has 'Vulnerable' status under the *Environmental Protection and Biodiversity Conservation Act 1999* and *Threatened Species Conservation Act 1995* (amongst others) and as such this area should be conserved through the retention of the existing 7(d) Environmental Protection (Scenic/ Escarpment) Zone. Further the Department of Environment and Conservation has recommended that environmental protections Zones should encompass the full extent of the drainage lines, including any required buffers.

The 2(c) Urban Expansion zoning proposed on the balance of the school site provides flexibility in choice as to whether it used for expansion of the education premises or a non-educational use (eg residential development). Internal Council advice determined that the school property is not rateable. On this basis the school confirmed in correspondence dated 24 May 2004 that they accepted the 2(c) Urban Expansion zoning.

**Recommended Action:** As a result of issues raised by the Lindisfarne School, it is recommended that:

- On the proposed LEP Zone map, the 7(d) Environmental Protection (Scenic/ Escarpment) Zone is extended to include buffers to the ecologically significant habitat in the channel located near the eastern property boundary of Lot 2 on DP 1018747, but not so as to encroach on the proposed extents of the 5(a) Special Use (School) zone. (Refer to Appendix B).
- On the proposed LEP Zone map, the 2(c) Urban Expansion Zone is retained for the balance of the school site (Refer to Appendix B).

### **10. Agricultural Land Viability**

Nineteen (19) submissions were received objecting to the proposal, generally on the following basis:

- Area E contains prime agricultural land and is a highly valuable resource in the Shire. Retain the present agricultural protection zoning
- Guidance from NSW Coastal Council & Department of Agriculture is ignored regarding recognition of the agricultural land value
- Land use conflict will continue between farming practices and urban uses (including existing subdivisions)

Two submissions were received supporting the proposed development with the main grounds raised generally being that:

- Proposed residential development will reduce impacts from existing farming activities
- Fragmented farmland is out-competed by larger enterprises and thus no longer viable

**Comment:** The LES includes a comprehensive analysis of the viability of the productivity of agricultural land in Area E. The long-term productivity of traditional row cropping in Area E is significantly curtailed because it can only be sustained in very limited areas. The agricultural land is well suited to intensive production of the chosen row crop, typically ladyfinger bananas. However, the economic viability of Area E for such crop production is marginal.

Section 3.9 of the LES identifies that there is a long, sustained trend away from intensive use of agricultural land in Area E, resulting from:

- limited farming returns;
- the potential conflict with encroaching development and development pressures;
- soil and organic matter decline;
- continued risk of soil erosion and environmental impacts;

The Northern Rivers Farmland Protection Project (Lismore Living Centres, 2003) aims to support agriculture by identifying the most important lands for agriculture and protecting such land from the encroachment of urban development. This Project categorises and maps agricultural lands, as either 'State' or 'Regional' importance. Area E is not included as Significant Farmland Protection Areas. Area E's omission from these maps is a reflection of the lands reduced agricultural significance to the regions farming economy.

The *Draft Interim Strategic Plan- Cobaki/ Bilambil Heights/ Terranora 1995* indicates that the market advantage of Area E to main southern markets is diminished from post-harvest storage and transportation systems from Queensland horticultural districts. (p.35). Area E properties are therefore exposed to the effects of low sustainability of production caused by '*severe physical shortcomings of the land*', particularly with regard to the inability to use significant agricultural mechanisation.

Further, the *Draft Interim Strategic Plan* indicates that of the 164.4 hectares of row crop land, '*78.7% comprises land ranked (as) Class 3, 4 and 5 reflecting major physical constraints to continuous cultivation*'. Production systems in the row crops on the cross slope rock terraces are consequently labour intensive. Further, the '*farms are now closely surrounded by residences, resulting in conflict with farming operations. Broadscale approaches to pest and disease control are precluded by the proximity of houses*' (p.36).

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With regard to Area E, the *Draft Interim Strategic Plan* concludes by stating that the approval of the NSW Department of Agriculture (DPI) must be sought if Council supports rezoning applications for this land.

NSW Agriculture (DPI) previously stated in correspondence dated 10 February 1995 to previous consultants dealing with the site, that it will not oppose the rezoning of lands adjoining Mahers Lane providing that it goes to a residential zoning.

The Department of Primary Industries (DPI) submission during the public exhibition period acknowledges and concedes the inevitability of the subject land being developed for urban purposes. Their submission is discussed in item 1.

The change in zoning from 'Agricultural Protection' to 'Urban' is in accordance with Clause 7 of the *North Coast Regional Environmental Plan* and Clause 122 of the *Strategic Plan 1996*. The subject site is also identified as an urban release area within Tweed Futures – Tweed Strategic Plan 2004-2024.

Rezoning the land from a rural use to urban development is supported by the findings of the LES, compliance with past reports and strategies, and acknowledgement received from the State in the form of the Department of Primary Industries.

**Recommended Action:** No change to the draft LEP as a result of the issues raised

#### **11. Appropriateness of the 1(c) Rural Living zoning**

Twelve (12) submissions were received objecting to the proposal on the basis of this issue. The main grounds raised were generally:

- The 1(c) Rural Living zoning is more appropriate to Area E (similar to Terranora Ridge).
- Suggestion of rezoning to 1(c) Rural Living will minimise any habitat changes.
- Area E is an environmentally sensitive area and should be Zoned 1(c) Rural Living
- The 1(c) Rural Living Zone together with extensions to existing roads (eg Parkes Lane, Market Parade) will promote the 'garden suburb' concept

#### **Comment**

The *Tweed Residential Development Strategy 1991* historically recognised Area E as a potential urban growth area for residential development (as opposed to recognition in a Rural Residential Strategy). The Residential Development Strategy provides for urban growth in key locations, of which Area E is '*the logical extension of urban development within... the Shire*' (p. 31). As such, allotment densities at a residential or urban scale within the suite of Residential Zones are intimated at by the Strategy to 'accommodate an additional 8,000 persons' (p. 31).

The LES has revaluated the potential population forecast estimating only approximately 3,500 persons population for Area E. Rezoning the land to 1(c) Rural Living Zone instead of an urban zoning would result in a population considerably less than that envisaged by the Residential Development Strategy in an area targeted for urban growth. The resultant low density population may lead to inefficient and increased costs for infrastructure provision or services delivery. Rural living development would be an impediment to urban growth and the population densities recognised in the *Tweed Residential Development Strategy 1991*.

The issues raised in the *NCUPS 1995* is a State Government Planning policy to manage residential land on the North Coast. With respect to rural living areas, it is notable that the then Department of Planning concluded in the *North Coast Urban Planning Strategy 1995* (NCUPS 1995) that *'current rates and forms of rural residential development are not sustainable in the longer term in respect of environmental, economic and social needs. They use large areas of land solely for the purpose of housing and lead to additional energy use, mainly for transportation. They can sterilise the use of... land resources. They often degrade the environment by... (polluting) waterways and aquifers and reduce flora and fauna habitat areas. They create social needs and demand which cannot be met without significant costs to the wider community'* (p.9). The Strategy proceeds to say that *'in areas near the coastal towns, where urban land is at a premium, rural residential development can significantly impede future urban growth'* (p. 15).

Given the above criteria stipulated by NCUPS above, it is considered that the location of Area E lends itself more toward urban development rather than rural residential development. Further, Area E is a pocket of land situated between Banora Point and Terranora Village. From a planning perspective the development of Area E for urban purposes appears a logical progression/infill of urban development subject to urban design considerations. Developing a pocket of rural residential land between two existing significant urban residential areas would not be considered sound planning.

Submissions indicate zoning the land to 1(c) would minimise the impact on environmental habitats. Irrespective of the use of 1(c) Rural Living or 2(c) Urban Expansion Zone, areas of significant habitat have been identified in the LES, and these environmental values will be safeguarded through Zones 7(a) Environmental Protection (Wetlands and Littoral Rainforest) and 7(d) Environmental Protection (Scenic / Escarpment). As a result of the Department of Environment and Conservation's submission, increased habitat buffer areas and inclusion of other significant habitat areas will further facilitate habitat conservation (this issue is discussed in more detail in Submission 3).

It is acknowledged that the development of larger lots commensurate with the 1(c) Rural Living Zone may result in lower densities that generally facilitate protection of the Area E scenic environment. However, transitional 'zones' comprising larger lots (ie potentially in the order of 1200m<sup>2</sup>+) can be provided to habitat areas, ridgelines and existing rural living areas in the vicinity of Parkes Lane/ Market Parade, as a buffer. Refer to Item 22 and Appendix C which provides a proposed transitional precinct.

Detailed investigations undertaken during the LES process have found that there is no planning impediment to zoning the land 2(c) Urban Expansion. The analysis has determined the site is suitable to accommodating a 2(c) urban environment.

Utilisation of the 1(c) Zone together with connections of proposed roads into Parkes Lane and Market Parade (for example) raises concerns of 'rat running', safety and potentially associated amenity impacts. The draft DCP for Area E acknowledges the potential rat running and restricts the traffic movements through Parkes Land and Market Parade (refer to Attachment C).

In summary a combination of detailed analysis and assessment and compliance with State Government policy, Council's Residential Development Strategy, Strategic Plan 2000, Tweed Futures - Tweed Strategic Plan 2004-2024, and the LES demonstrate the site can support an urban designation rather than a rural residential zoning.

### **Recommended Action**

No change to the draft LEP as a result of the issues raised.

### **12. Appropriateness of the 2(c) Urban Expansion zoning**

Twelve (12) submissions were received objecting to the proposal on the basis of the above issue. The main grounds raised were generally:

- The 2(c) Urban Expansion zoning would not reflect the urban character of the area, and would not allow Area E to be a logical extension to Banora Point
- The 2(c) Urban Expansion zoning will allow forms of development, including residential development forms (eg cluster houses) that are not foreseen for the area
- The LEP should allow for other suitable development needs, including shops, community infrastructure, schools and recreational areas, as a result of the future residential development

### **Comment**

Within the suite of Residential Zones, the 2(c) Urban Expansion Zone allows for a range of uses generally commensurate with an urban setting. The utilisation of the 2(c) Urban Expansion Zone is consistent with the identification of Area E within the *Tweed Residential Development Strategy 1991* as a major residential release area. The foreseen ultimate development of Area E is aligned with the objectives of the 2(c) Zone including:

- "... mainly residential development focused on multi-use neighbourhood centres" and "optimum utilisation consistent with environmental constraints" (primary objectives)
- allowance of "associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents" (secondary objective)
- "to ensure that sensitive environmental areas... are protected" (secondary objective)



- *“to enable planning flexibility to achieve the other objectives of the zone by providing detailed guidelines through development control plans”* (secondary objective)

A range of non-residential development (eg commercial, community facilities, open space etc) is required for Area E to support the residential component of the development to create a sustainable liveable community. The proposed 2(c) Urban Expansion Zone provides flexibility in the planning approach supplemented by a DCP and Masterplan, allowing for this through the completion of the associated supporting planning documents such as a Development Control Plan. Refer to Attachment C for a draft copy of the proposed DCP for Area E. The draft DCP provides a structure plan outlining the proposed land uses on site. These provide for a Residential Precinct (average allotments of 800m<sup>2</sup>), Residential Transition Precinct (minimum lot size of 1200m<sup>2</sup>), Village Centre Precinct (provides for retail, commercial activities, community facilities and medium density development), and an Environmental Precinct which reflects the proposed Environmental Protection Zones.

The 2(a) Zone, pursuant to LEP 2000, is more restrictive and does not provide for uses such as retail shops, commercial uses, refreshment premises, markets etc. The 2(a) Zone does not afford the same flexibility as that provided by the 2(c) Zone. The 2(c) Zone also provides for a greater variety of residential development whereas the 2(a) Zone generally restricts development to single detached housing and lower density residential development.

The use of the 2(c) Urban Expansion Zone for the Area E residential component is consistent in approach with the development of other broad hectare residential areas which also include associated non-residential development, but are supported by a DCP.

Area E is affected by SEPP 71 – Coastal Protection. This invariably means that zoning boundaries are not flexible and Council is unable to utilise the flexibility clauses provided for within TLEP 2000 at the development application stage. This clause can prove helpful at the development application stage when as a result of more detailed on-site field surveys and changing circumstances the zoning of the land may not necessarily reflect the topography of the land or the ultimate potential of the land. The ability to employ flexibility clauses of the LEP are considered useful. If the proposed draft LEP identified zones such as 2(a) Low Density Residential Zone, 2(c) Urban Expansion Zone, 3(b) General Business Zone, and 6(a) 6(b) Open Spaces zones, 5(a) Special Uses Zone a degree of certainty would be provided. However, if at a latter date through detailed field survey it is found that there is an anomaly to a zoning boundary or if a subdivision plan doesn't not fully conform with the exact zoning boundaries it would be necessary to amend the LEP and once again go through the entire LEP amendment process, a long process that would be avoided if more flexible provisions were employed. It is proposed to zone urban land 2(c) Urban Expansion and manage the urban uses on site through a proposed DCP for the area. This would provide for a degree of certainty of the land uses to be provided on site, the scale/density of these uses, and where these uses are to be located. It is considered this implementation process would provide for enough certainty and flexibility to ensure appropriate management of the site.

The DCP can be prepared to ensure future development on site will be integrated with the existing surrounding community and responsive to the topography and environmental attributes of the area.

### **Recommended Action**

No change to the draft LEP as a result of the issues raised.

### **13. Lot Sizes**

Thirty one (31) submissions received objected to the draft LEP on the basis of the current proposed lot sizes:

- The LES outlines an average not minimum allotment area of 800m<sup>2</sup>, as outlined in the *Draft Interim Strategic Plan 1996* or *Strategic Plan 2000+*.
- Allotments of 800m<sup>2</sup> or less would degrade visual amenity and result in greater stormwater run off due to increased hardstand.
- The subsequent Development Control Plan needs to outline minimum allotment areas of 1000m<sup>2</sup> - 2000m<sup>2</sup> particularly for steep slopes and visually prominent areas and where adjoining ridgelines or existing Park Living areas.
- Without the certainty of an approved masterplan proposed allotments 800m<sup>2</sup> or greater will be subdivided in future.

Some submissions supported the draft LEP, advising the proposed average 800m<sup>2</sup> allotment area is consistent with existing allotment areas in Terranora, including the Terranora Ridgeline.

### **Comment**

Policy and Action Item 122 of the *Strategic Plan 2000+* identified Area E should contain 'a relatively high proportion of large residential lots (ie minimum size 800m<sup>2</sup>) because of existing development and scenic values'. The Strategic Plan is a broad Shire-wide planning instrument. An LES undertakes a more detailed examination of the subject site. It is not until a local environmental study is undertaken that a more detailed assessment is undertaken and a determination of appropriate allotment sizes is made. In this instance the LES has determined the site is capable of sustaining a variety of different sized allotments averaging 800m<sup>2</sup>. This provides for lots less than and greater than 800m<sup>2</sup> depending on the topography of the area. Further, Strategic Plan 2000+ also provided for the definition of areas of potential dual occupancy and medium density development. The draft DCP in Attachment C provides for the proposed Village Centre Precinct.

It is recognised that allotment sizes have to be sympathetic to the topography of Area E and as such, larger allotments are appropriate as a transition to existing rural residential allotments; adjoining ridgelines; visually prominent areas; and potentially environmentally significant areas. A transition precinct is illustrated in the draft DCP (Attachment C) and provides for minimum size allotments of 1200m<sup>2</sup>. Council has previously adopted a minimum allotment size of 1,200m<sup>2</sup> in similar circumstances in the Black Rocks urban release area.

The transitional allotment size to external 1(c) Rural Living zone and rural residential development is of importance if Area E is to achieve seamless visual integration with surrounding development. The residential transition precinct achieves this through the provision of large allotments and through the requirement of vegetated buffers.

**Recommended Action:** No change to the draft LEP as a result of the issues raised.

#### **14. Planning Framework**

Thirty-two (32) submissions were received regarding the statutory process for the LEP amendment and development of Area E. Thirty-one submissions objected to the proposal on the basis that:

- It was not supported by a Master Plan to provide certainty of the final development form and outcomes. In particular, aspects such as allotment size, location of open space, and transport planning considerations should be defined and identified in the Master Plan.

One submission was received supporting the current statutory process.

#### **Comment**

From the grounds of the submissions there appears to be a general misunderstanding of the statutory process for the development of Area E, including the role and timing of a Master Plan.

- The term 'Master Plan' is defined in Section 17, Part 5 of *SEPP 71 – Coastal Protection* as '*a document consisting of written information, maps and diagrams that outlines proposals for development of the land to which the master plan applies*'. A Master Plan is usually required to be prepared by the developer under SEPP 71 at the development application stage in accordance with the site provisions in the LEP amendment and Development Control Plan Guidelines. It will provide certainty of the final development form.

The LES and proposed LEP amendment have been prepared in accordance with the statutory process outlined under Division 4, Part 3 of the *Environmental Planning and Assessment Act 1979* respectively. The Consultant's Brief includes preparation of a DCP to support the proposed LEP Amendment. The LEP amendment process for Area E has not included the preparation of a Master Plan because this has been undertaken at the development application stage and has been the responsibility of the developer. The developer will be required to prepare a Master Plan in accordance with Part 5 'Master Plans' of *SEPP 71 – Coastal Protection*. The Master Plan will provide final certainty of development form. It is to be prepared in accordance with the criteria identified in Section 20 of Part 5 and the broad concepts in the DCP.

Verbal advice from DIPNR has confirmed the DCP could form a statutory component of the LEP amendment, if it is gazetted (and dated) at the same time as the proposed LEP amendment. In this way it would form the basis for regulating the final subdivision pattern in the Master Plan. Council has not previously required the preparation of a DCP to accompany amendments to the *Tweed Local Environmental Plan 2000*. Similarly, the preparation of a DCP is not a statutory or State Agency requirement at this stage of the LEP amendment process.

Despite this, implementation of a DCP is considered appropriate, and a draft DCP has been prepared for the site to manage future developments of the site. Refer to Item 22 for further discussion of this issue.

In consideration of whether the preparation of a Master Plan is required at this point in the LEP amendment process, it is significant to note that DIPNR has not identified a requirement for same or recommended a departure from the statutory process outlined in the *Environmental Planning and Assessment Act 1979*. On this basis, there does not appear to be a significant reason to depart past Council practice and from the statutory process for the preparation of the LEP amendment (and associated documents) set down in the Act.

It is considered that the traditional approach adopted by Council in the past of effecting the LEP Amendment, followed by the management of the land through a DCP and assessing development through a Master Plan at the DA stage is adequate and appropriate for the development of this land. The draft DCP is nearing completion, and a S94 Contribution Plan for the site will be finalised providing Council with adequate statutory planning controls to manage development of Area E. The comprehensive planning framework of an LEP supported by a DCP is considered resilient enough to appropriately manage Area E.

### **Recommended Action**

No change to the draft LEP as a result of the issues raised.

### **15. Compensation**

Two submissions were received objecting to the proposal raising issues of compensation. The main grounds raised were generally that a reduction in property values would occur as a result of inclusion of the 7(d) Environmental Protection (Wetlands and Littoral Rainforests) Zone on their property.

### **Comment**

Section 24 of the *Environmental Planning and Assessment Act 1979* allows the draft LEP to make provision for protecting the environment; protecting or preserving trees or vegetation; and protecting and conserving native animals and plants (including threatened species, populations and ecological communities, and their habitats). Zoning land for Environmental Protection purposes does not trigger compensatory provisions in accordance with the Act.

The *Environmental Planning and Assessment Act 1979* only includes compensatory provisions under Section 27 for open space or a public school (as appropriate to Area E), but not for environmental protection. Where the future Structure Plan or Master Plan supporting the LEP amendment reserves land for use exclusively as open space or a public school, Council may acquire that subject land under Section 27 of the *Environmental Planning and Assessment Act 1979*.

Further, owners of allotments currently identified as 1(b1) Agricultural Protection Zone in the LEP have the right to develop one dwelling on their property. Irrespective of the inclusion of the property in the 7(d) Environmental Protection Zone, the land use rights are protected and the entitlement to develop a dwelling on their property still remains.

### **Recommended Action**

No change to the draft LEP as a result of the issues raised.

### **16. Consultation in preparation of the LES and LEP**

Twelve (12) submissions were received objecting to the proposal with regard to the lack of consultation in the preparation of the LES and LEP. The main grounds raised were:

- There was an inadequate, inappropriate or lack of community consultation in the preparation of the LES/ LEP
- No community consultation was undertaken prior to the LES and hence further consultation should be undertaken
- Consultation is requested/ recommended in the preparation of any Master Plan and Development Control Plan for the development of Area E.

### **Comment**

The draft LEP and LES were exhibited between 17 March and 7 May 2004 for 52 days, clearly exceeding the minimum statutory requirement of 28 days.

A community information forum was also held on 29 April 2004 at the Terranora Community Hall. This forum presented a further opportunity for the community and interested persons to be updated on the LES and Draft LEP and to talk to technical staff in a small group setting.

There were no additional requirements for community consultation notified to Council by the Director-General, DIPNR.

Council has complied with, and exceeded the minimum consultation requirements under the *Environmental Planning and Assessment Act 1979* and associated Regulation for the preparation of a LES and draft LEP for Area E.

### **Recommended Action**

No change is recommended to the LEP as a result of this issue.

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## 17. Transmission Lines

Twenty four (24) submissions were received objecting to the proposal with regard to the above issue. The main grounds raised were that the 66kV electricity lines should not be erected 'overhead' but instead that all electricity lines should be placed underground for the purposes of visual amenity.

There were no submissions made supporting the current proposal of above-ground power reticulation.

### Comment

The proposed mapping for the LEP Amendment includes both the existing registered easement and the corridor included in the current *Tweed LEP 2000* mapping. It is noted from correspondence dated 16 June 2003 that Country Energy have a requirement for an electricity transmission corridor. This correspondence indicates that the potential to reduce operational '*clearances exists (to the electricity line) should the developers fund an underground proposal*'.

Verbal confirmation from Country Energy was obtained on 18 May 2004 that 'undergrounding' the electricity infrastructure **may** be possible, subject to:

- The mutual agreement and satisfaction of the provider, Council, community and potentially the developer (particularly funding)
- The undertaking of further environmental studies by a consultant commissioned by Country Energy
- A decision not in-line with the existing Country Energy policy stance (overhead powerlines). A 66kV line is not for household supply but for greater network reticulation.

The requirement of underground power will be included and implemented through the DCP.

### Recommended Action

No change is recommended to the LEP as a result of this issue.

## 18. Visual Quality

Twenty six (26) submissions were received objecting to the proposal, generally on the basis that the urban development of Area E, the visual amenity of the area would be reduced or lost by:

- The effect of impervious surfaces such as rooves, roads, buildings and other infrastructure
- The need for retaining walls to afford development due to the slope of the land

- The subdivision of allotments into areas cited as '450m<sup>2</sup>-700m<sup>2</sup>', '400m<sup>2</sup> - 600m<sup>2</sup>' or 'blocks less than 800m<sup>2</sup>'
- Non-compliance with the Integrated Local Area Plan which outlined that only 'pockets' of houses should be developed

Two submissions were received supporting the proposed development with the main grounds generally being that the proposed development would:

- Retain the wetlands and rehabilitate habitat areas, thus having the affect of preserving or improving aesthetic values.
- Provide scope for coordinated development taking advantage of quality vistas for public areas and residential development.

### **Comment**

The visual impacts resulting from development would include loss of open/ rural character through the transformation of the site from a rural to a residential area, together with associated cut and fill.

The visual impact of cut and fill, and associated retaining walls, has been discussed in Item 19 of this report. The visual impact from such structures, if not adequately regulated or controlled, would have the potential to be significant. The need for additional guidelines or provisions in the Development Control Plan regulating design parameters for retaining walls and cut and fill is considered important.

The open/rural characteristics of Terranora and Area E have been eroded due to urbanisation on the western and eastern boundaries, and ribbon residential development along Terranora Road. It is considered the impact of urban development on landscape values will be lessened by the preservation and rehabilitation of wetlands and other vegetation fringing Terranora Broadwater, together with the retention of vegetation along waterways and steeper slopes. This will break up the urban form of development thus preserving some characteristics of the current views to the site. To soften the impact of the built environment it is also proposed to provide vegetated buffers to ridgelines and adjoining rural residential properties. Provision of larger allotments (greater than 1200m<sup>2</sup>) along ridgelines will also provide opportunity for vegetation on site and greater spatial distribution between built structures. This is to be implemented through specific provisions within the DCP.

The Draft Interim Strategic Plan recognised that diversity of landscape elements is a key to the area's visual quality. This includes both vegetation and land use diversity and the need to ensure that no one particular land use dominates in any one or all areas. It is acknowledged that the existing rural landscape will be lost. The draft DCP (Attachment C) provides a series of development controls including rehabilitation of environmentally significant areas, open space areas, building design guidelines, cut and fill development controls, provision of larger lots, and the provision of vegetated buffers to help soften the impact of a built environment.

Preservation and rehabilitation of environmentally significant areas is an integral element to the development of Area E. To ensure this is effected, relevant provisions have been incorporated in the draft LEP, which are to be supported by a DCP. A S94 Plan is to be prepared for the site which will address the issue of financing the cost of the required EIS and rehabilitation plans and the necessary works, as well as the transfer of these lands to public ownership.

The potential impact of allotment size on visual amenity is discussed in Item 13.

### **Recommended Action**

No change is recommended to the LEP as a result of this issue.

### **19. Cut and Fill**

Twenty three (23) submissions were received objecting to the proposal with regard to the potential impact from resultant cut and fill of the site to facilitate development. The main grounds raised were that:

- Cut and fill should be minimised so that there is consistency between the existing rural environment and future urban development and to minimise the extent of retaining walls required (and their associated visual impacts)
- Limit the amount of cut and fill required through the use of appropriate allotment sizes and movement networks, commensurate with the topography.

### **Comment**

The Area E topography will require some cutting and filling to afford development. However, this must be sympathetic to the existing topography to minimise impacts on visual amenity and the potential loss in character through transition from a rural to urban environment.

Council's requirements for cut and fill are regulated by Tweed *DCP No 47 Cut and Fill on Residential Land* and DCP 16 Subdivision Manual. Additional requirements, guidelines or provisions for maximum vertical retaining walls heights will be placed in the Area E DCP. (Refer to Attachment C). Also the provision of internal access roads will be planned 'along' contours. Refer to the draft DCP in Attachment C which provides cut and fill guidelines specific to Area E.

DCP 16 Subdivision Manual contains *Development Construction Specification C211 Control of Erosion and Sedimentation* which applies to cut and fill, including measures to prevent sedimentation, and erosion and sediment control.

### **Recommended Action**

Cut and fill design guidelines are provided within the draft Development Control Plan for Area E (Attachment C). As this issue can be addressed by the DCP no change is considered necessary for the draft LEP.



## **20. Stormwater Discharge and Water Quality**

Nineteen submissions were received regarding the potential stormwater and water quality impacts arising from the development of Area E. Seventeen submissions objected to the proposal on the basis that:

- Stormwater runoff has the potential to increase the siltation of Trutes Bay during heavy rainfall events
- Stormwater runoff has the potential to adversely impact on waterways, including the SEPP 14 wetlands, that are already under threat

Two submissions were received supporting the proposed development of Area E, on the basis that formalisation of stormwater management infrastructure would reduce the current water quality and siltation impacts to Trutes Bay (particularly from agricultural activities).

### **Comment**

The stormwater and water quality analysis was undertaken with a high level of rigour in consultation with the DEC (former EPA). It included a greater degree of detail than is otherwise required by the EPA to facilitate 'rezonings'. It is noted that the high level of analysis exhibited for this project will be adopted by the EPA for future LEP rezoning amendments. Verbal discussions with DEC representatives praised Parsons Brinckerhoff's and Council's efforts in the analysis and assessment of the stormwater and water quality issues for Area E. They complimented the redundancy concept outlined in the LES. It is proposed to implement this stormwater management technique through the DCP.

The sedimentation of Trutes Bay is linked to a much larger catchment of which Area E is only a part. A review of the entire catchment and potential sediment sources would be required to identify what treatment measures are required to limit sediment loads entering Trutes Bay. The Area E development will potentially increase the volume of stormwater and stormwater pollutants, including Total Suspended Solids (TSS), entering Trutes Bay from the Area E catchment. Water quality modelling indicates that a fully urban developed Area E would increase annual TSS loads by around 80% from existing levels. The modelling also indicates that if suitable stormwater management treatment measures such as grassed swales and wetlands are used to treat stormwater runoff, that the TSS loads will be less than current levels. Trutes Bay will still receive relatively high sediment loads from other catchments, but the input from a developed Area E, with the right stormwater treatment measures, will be reduced by around 60% from current levels.

The earthworks associated with development (cutting and filling) usually causes the highest concentration of Total Suspended Solids (TSS) in urban stormwater runoff. The impact of development earthworks can be minimised by ensuring that best management practices are adopted and maintained during the construction period.

An Erosion and Sediment Control Plan should be required to identify what additional treatment measures are required to limit scour and erosion during the construction period. Erosion and sediment control measures during construction should also be provided by the developer in accordance with Council's *Code of Practice for Soil and Water Management on Construction Works* (Annexure A, Development Design Specification D7 - Stormwater Quality).

As noted previously within this report the DEC submission supports the preferred treatment Strategy Mitigation Option 4 (treatment train approach) in the LES which recommends the use of rainwater tanks for laundry, hot water, toilets and external uses grassed swales, amongst others. DEC also states that these stormwater management strategies should be a mandatory component of the Stormwater Management Plan to be developed and should be detailed in the draft LEP.

### **Recommended Action**

As a result of issues raised by the DEC, it is recommended that a drafting change to the existing 53A(4) of the draft LEP amendment be made to include a requirement for:

- The stormwater management strategy identified as Stormwater Mitigation 4 Option (treatment train approach) in the LES to be mandatory (which by its nature includes the concept of 'redundancy'). Refer to Appendix B

### **21. Water and Sewer Infrastructure**

Twenty-seven submissions were received regarding the provision of water and sewerage infrastructure for the development of Area E. Sixteen submissions objected to the proposal on the basis that:

- Current sewer and water infrastructure servicing Area E is not adequate to cater for large scale development
- An alternate site should be identified for the 3ML water reservoir required to service the site

Eleven submissions were received supporting the proposed development on the basis that:

- The development will improve infrastructure in the area and provide greater development opportunities
- The costs of implementing infrastructure upgrades could be borne by the residential expansion

## **Comment**

The existing water and sewerage infrastructure for Area E is inadequate to cater for the proposed population. Previous Council studies and investigations have identified that a new 3ML water supply reservoir is required to store water and provide sufficient water pressure for supply to the residents of Area E. Attachment C provides a draft DCP for the area and identifies an alternate location for the reservoir.

The existing sewerage rising mains and pump stations do not have sufficient capacity to cater for the expected sewage flows from the fully developed Area E. A new rising main and three pump stations (for each sub-catchment) will be required to direct sewage to the Banora Point sewerage treatment plant.

The existing Banora Point sewage treatment plant has capacity for the Area E population, but it would need upgrading to support all proposed developments within its catchment. Council is currently reviewing what options they have to upgrade the treatment capacity and identify what effluent discharge and reuse options are available to meet current environmental discharge standards.

**Recommended Action:** No change is recommended to the LEP as a result of this issue.

## **22. Development Control Plan**

The DCP is intended to be a statutory planning document that supports the aims and objectives of the draft LEP and is implemented to manage development of the area through design/development guidelines. The LES and draft LEP is generally a broad assessment of the capabilities of the site to support urban development. The LES identifies issues requiring detailed controls and considerations to be applied through a DCP and consequently assessment of development. The DCP is intended to provide detailed development controls specific to the site to ensure development is consistent with the character of the area and responsive to the topography and environmental qualities of the site and is integrated with surrounding land uses.

One of the issues raised by the community during the course of public exhibition has been certainty. The LEP is a planning instrument that has greater weighting than the DCP. It is considered that there is greater likelihood to vary from development guidelines stipulated within a DCP rather than those identified in an LEP. Hence, there is public perception that the development parameters identified in the DCP may not necessarily be adhered to resulting in development that may not necessarily have been originally envisaged. One manner in which to provide greater certainty is to incorporate the draft DCP as part of the proposed LEP in much the same manner that DCP 40 - Exempt and Complying Development is applied.

This option would provide a greater degree of certainty than a stand alone DCP. However, it would also mean that the DCP would be very inflexible. Any time the DCP would need to be amended Council would be required to follow the entire LEP amendment process, regardless of how minor the DCP amendment is. These timing and resource issues are currently being experienced with DCP 40 amendments.

Aside from DCP40, no other DCP's are implemented in this manner. Similarly other urban release areas such as Cobaki Lakes, Banora Point, Seabreeze Estate, Black Rocks Estate, Casuarina, Salt, Koala Beach were undertaken without a DCP or with a DCP implemented in the traditional manner as a stand alone document.

As referenced through parts of this report a preliminary draft DCP has been provided for Area E. A copy of this document is provided as Attachment C. Please note that this document is still a draft document and subject to further amendments before being formally presented to Council and placed on exhibition for public comment. The purpose of providing this draft DCP at this stage is to support the draft LEP. The draft DCP has been referenced through this report to demonstrate how some of the issues raised during the public exhibition process can be addressed by the DCP rather than through the proposed LEP document. The draft DCP addresses issues such as:

- Broad land use allocations (including general locations of the commercial facilities and community facilities, note that details as to the constituent tenancies would be subject to commercial demand and further investigation)
- Design Philosophy and Development Principles (including 'sense of place' and 'character' and overriding lot layout principles)
- Land Use and Plan Components (including densities and intents for the land uses identified in the Structure Plan, also includes Guidelines for large allotment transition areas)
- Utility Requirements (including water and sewerage headworks requirements water requirements for fire fighting, and design Guidelines for the provision of underground electricity transmission and distribution infrastructure)
- Commercial Requirements (identification of role and intent of the proposed commercial facilities in the overall hierarchy)
- Housing Requirements (including building heights for ridgelines, building forms, sympathetic colours, housing diversity, and additional cut and fill requirements supporting DCP No. 47 Cut and Fill on Residential Land)
- Community Facilities (identification of final facility requirements and threshold targets for provision, together with any Section 94 Contribution requirements thereof)
- Stormwater Management (further guidance on Stormwater Management plan requirements)
- Major Open Space System (including Guidelines for Structured and Casual Open Space and any unique Contribution requirements for Area E identified thereof)
- Environmental Protection (includes Guidelines and measures for the protection of significant environmental areas, together with bush regeneration plan requirements)
- Indicative residential densities (based on desired allotment sizes and transitional areas to ridgelines, existing rural living allotments and significant environmental areas)
- Bushfire management controls
- Indicative locations of open space and environmental areas for conservation
- High-level movement corridors (including the indicative route of the Mahers Lane extension and its intersection with Fraser Drive) but not detailed road layouts
- Bicycle and pedestrian networks, together with likely stops ('end of destination') for public transport

- Indicative locations for community facilities
- Indicative infrastructure locations for stormwater management and water reticulation (including the 3Ml water reservoir and rehabilitated/artificial wetlands for stormwater management purposes)

If Council were to implement the DCP in conjunction with the LEP, in the same manner as DCP 40, it would invariably mean the LEP process would need to be placed on hold pending the finalisation of the DCP, exhibition of the DCP and adoption by Council. This would delay the process for approximately 2-3 months. It is not considered necessary that the DCP needs to be rigid and restrictive by tying it to the LEP in the same manner as DCP 40. Development Control Plans are generally meant to be documents with development guidelines and controls that enable developments to be assessed on its merits. If a DCP is applied correctly by Council its development controls are effective and resilient when assessing development applications. Tying the DCP to the LEP, although providing certainty, may prove too restrictive and may lead to an inefficient use of time and resources if the document needs to be amended.

The statutory planning framework when implemented accordingly has generally proven resilient and rigorous. It is considered that if Council's LEP provisions are implemented appropriately in conjunction with the DCP then development of Area E can be managed appropriately and accordingly.

**Recommended Action:** No change to draft LEP required.

### **23. Traffic**

There were approximately 57 submissions received concerning traffic issues. The main grounds raised included:

- Development will increase traffic on Terranora Road and streets around Banora Point.
- Development will further exacerbate existing traffic issues in the area (Terranora Road and Banora Point) creating safety concerns and traffic congestion.
- Objection to the path of the proposed Mahers Lane Extension.
- Provision of public transport (bus routes).
- Increase in traffic noise.
- Traffic impacts to existing 1(c) enclave (Parkes Lane).
- Proposed extension of Mahers Lane will reduce traffic impacts on Terranora Road.
- Development of key infrastructure needs to be in place prior to the development of Area E.

Many of the submissions received related to the potential impact of the additional traffic generated by Area E on the current traffic network and the ability of the traffic infrastructure to cope with the additional traffic volumes. The LES stipulates that certain external traffic infrastructure improvements need to be undertaken prior to the development of Area E. These include:

- Kirkwood Road extension;
- Upgrading of Fraser Drive;
- Upgrading of Leisure Drive;
- Upgrading of parts of Terranora Road  
(Refer to Attachment B for a more detailed description of these future proposed transport improvements)

The LES concludes that the traffic impacts of the potential development of Area E are likely to be accommodated within the future road network proposed for the locality.

At its Ordinary Meeting of 2 March 2004 Council adopted the work undertaken by Vietch Lister Consulting (VLC) for the Banora Point and Tweed Road Development Strategy. As part of this Strategy VLC were requested to specifically investigate the impact of potential traffic generation on the local traffic network and the Pacific Highway for Area E. VLC found that Area E will produce increased traffic on the local road network, and to a lesser extent, on the Pacific Highway. "Area E" is expected to have some reasonably significant impacts on the road network in South Tweed Heads/Banora Point. However, the more significant impacts are on Shire roads which would be capable of absorbing them, or for which improvements are contemplated. VLC's only concern, in respect of the local area network, is the potential 'rat-run' through Amaroo Drive-Darlington Drive-Banora Hills Drive. While it appears that adequate capacity exists for the demands forecast on this route, VLC suggest that more detailed planning of Area E should aim to encourage greater use of Terranora Road.

The engineering analysis (VLC and PB) for the traffic issues pertaining to Area E concludes that the additional traffic generated by Area E can be readily supported by the future local traffic network. This invariably suggests that local roads will be operating at various capacities and standards considered acceptable from a traffic engineering perspective.

Although the traffic engineering standards are met, this does not necessarily mean that the social/community concerns expressed by the submissions are addressed. The submissions received relate mainly to the loss in amenity as a result of the extra traffic generated by Area E traffic. It is suggested, by the submissions received, that traffic congestion, noise and safety concerns are currently being experienced on the road network and Area E will further exacerbate the current problems being experienced.

Assessing the issue of amenity is invariably a difficult task because it is a subjective issue. The engineering standards are uniform nationally, and hence the road standards/capacities applied to Banora Point/Terranora are the same as that applied to other urbanised localities. Hence, what is considered acceptable to one urban community may not necessarily be acceptable to another community not used to "urban" traffic movement and flows. This appears to be the situation facing residents of Banora Point and Terranora, whose objection is based on the potential impact of Area E and the corresponding decline in the traffic amenity of the locality.

It can be argued that future road upgrades as detailed previously will partially help to address these concerns, however the current amenity of the local area will be affected.

The loss in traffic amenity is inevitably a product of urban growth. Increase in residents leads to an increase in traffic which will impact on existing local traffic patterns. As with other factors such as infrastructure, landscape character and amenity considerations, existing situations will always change and it is impossible to retain the status quo. The most important consideration is effectively managing these changes.

Future road upgrades, currently being investigated by the RTA of the Pacific Highway, will also contribute significantly to addressing local traffic movements and flows.

VLC found the impacts of Area E on the strategic road network will be small, relative to the future base volumes and conditions. Any improvements which address the forecast base conditions should be capable of handling the additional impacts of Area E.

VLC's findings support those of the LES prepared by Parsons Brinckerhoff.

Certain submissions raised the issue of potential rat runs through local streets. It is important to note that Attachment C provide a draft DCP for Area E. This draft document stipulates three (3) alternate routes for the extension of Mahers Lane with the preferred option running through part of the wetland and connecting with Fraser Drive north of Amaroo Drive. If this proposed route is implemented the potential issue of "rat-running" through Amaroo Drive would be avoided/decreased. This preferred option should also address the concerns of those people affected by the route illustrated in the LES during the public exhibition period. The potential alignment of the Mahers Lane extension does not need to be illustrated through the draft Plan and is addressed through the draft DCP. This issue can be deleted from the exhibited draft Plan (map).

Other issues raised during the exhibition period related to the potential impacts to the existing 1((c) Zone and Parkes Lane. Attachment C, draft DCP, provides for controls that restricts the movement of vehicles from Area E through to Parkes Lane. This provision should maintain the traffic concerns and amenity of residents within Parkes Lane.

The issue of public transport has also been addressed through the draft DCP provided in Attachment C.

**Recommended Action:** Amend the exhibited draft Plan by deleting the proposed alignment of the Mahers Lane extension in accordance with the map illustrated in Appendix 3.

#### **24. Section 94 Contribution Plan**

As part of the project Parsons Brinckerhoff have also been requested to prepare a S94 Contributions Plan for the site. This process has commenced, but has not yet progressed to a draft stage. The S94 Plan is envisaged to include:

- Preparation of an EIS and rehabilitation plan for the SEPP 14 Wetland and environmentally significant areas;
- Dedication of these environmentally significant lands to Council;

- Traffic issues - extension of Mahers Lane and intersection to Terranora Road and Fraser Drive;
- Cycleways;
- Open Space;
- Community Facilities;
- Stormwater Infrastructure.

This report has identified a number of infrastructure requirements for Area E. The proposed S94 Plan is intended to fund the provision of this infrastructure.

**Recommended Action:** No change to the draft Plan as a result of this issue.

## **25. Transfer of Land**

As stipulated within this report and the draft Plan it is proposed to rehabilitate the SEPP 14 Wetland designated over Lot 22, DP 755740, Fraser Drive, Terranora. It is also proposed to have this land transferred into public ownership (Council). Discussions with landowners have demonstrated their agreement to enable this to occur. The draft DCP includes provisions requiring this transfer of land to occur, however it is considered that a legal Deed of Agreement be entered into between Council and the landowner to ensure this occurs. It is also considered that such a Deed of Agreement be entered into prior to the draft Plan being gazetted by the Minister.

**Recommended Action:** No change to the draft LEP required as a result of this issue. However, it is necessary that a legal Deed of Agreement be entered into that will realise the transfer of Lot 22, DP 755740 into Council's ownership. This Deed of Agreement is to be entered into prior to gazettal of the LEP.

## **CONCLUSION**

A number of constraints and issues were identified from the exhibition of the LES and the draft LEP. These constraints and issues can be resolved through the implementation of current and proposed planning provisions, design criteria, management measures, or amendments to the exhibited draft Plan, the future accompanying Development Control Plan and through the assessment of a masterplan (SEPP 71) and a development application.

In conclusion, no submissions received prevent the rezoning of the subject land in the form stipulated in Appendix B. Significant issues raised by the submissions can be comprehensively addressed through a DCP.

It is recommended the draft Plan be amended from that which was exhibited. The recommended changes are discussed within this Report and are included in the amended draft Plan in Annexure B. In principle they involve:

- Amendments to the zoning map of the exhibited draft Plan as a result of increasing the area of the 7(a) and 7(d) Environmental Protection Zones in response to the DEC's concerns. This reduces the extent of the proposed 2(c) Urban Expansion Zone.



The statutory options available to Council with regard to the further consideration of the LES and draft LEP include:

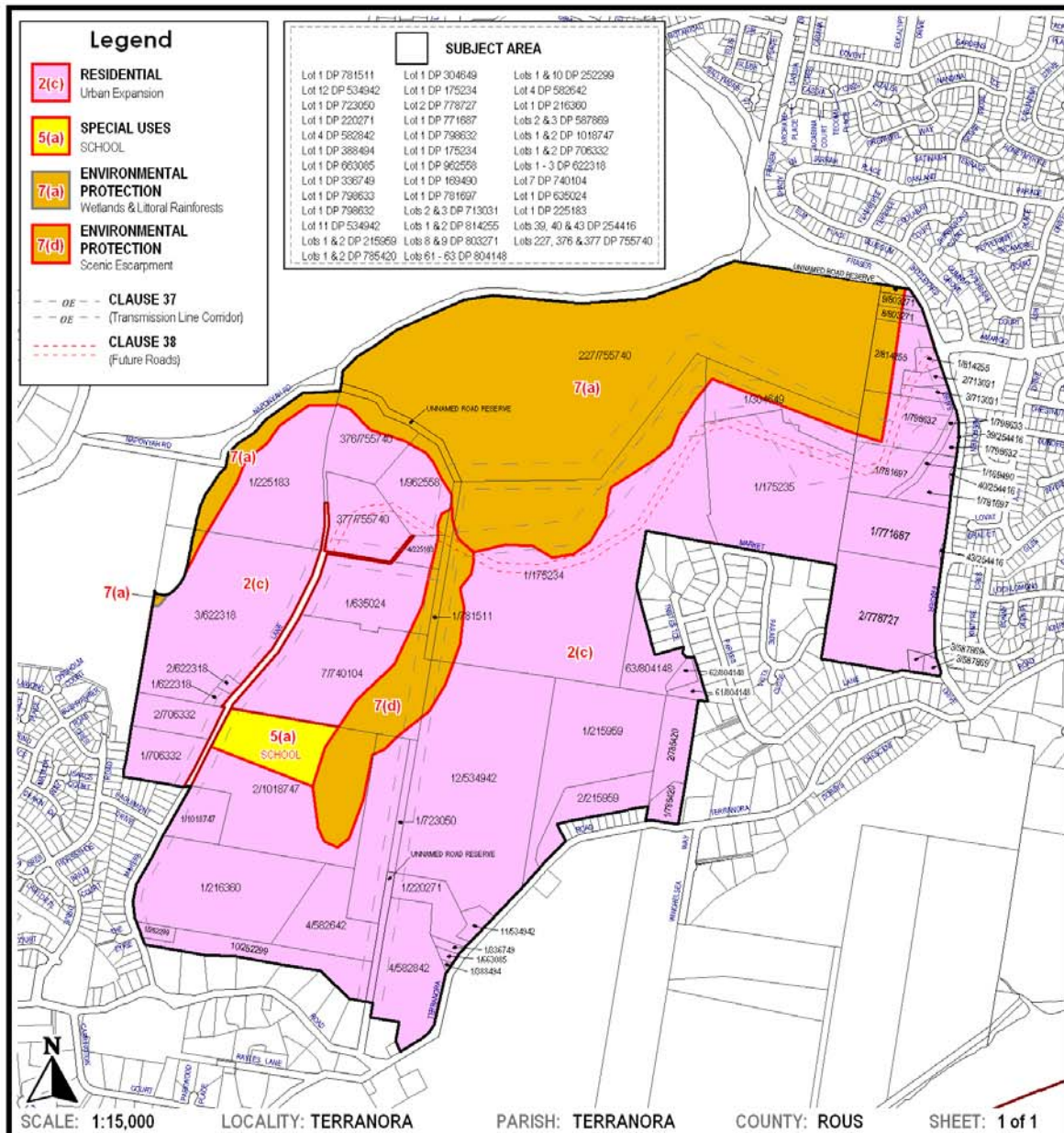
- A. Adopt the draft LEP as exhibited (Appendix A), or
- B. Adopt the draft LEP as amended in accordance with the recommendations in this Report (Appendix B), or
- C. Place the statutory process in abeyance until such time as a Development Control Plan has been prepared and finalised, to support the draft LEP, or
- D. Refuse to adopt the draft LEP, either as exhibited or as amended in accordance with the recommendations in this Report.

## **RECOMMENDATION**

It is recommended that Council resolve to adopt Option B above and amend the draft Plan as per Appendix B. The draft Plan should then be forwarded to the Department requesting it be forwarded on to the Minister for Department of Infrastructure, Planning and Natural Resources so that the Plan can be made.

This action would be followed by the preparation and finalisation of a statutory Development Control Plan (Attachment C).

**APPENDIX A**



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979	
<b>TWEED</b>	
<b>DRAFT LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT No. 10</b>	
DRAWN BY: <b>J. Batchelor</b>	DATE: <b>16/03/2004</b>
STATEMENT OF RELATIONSHIP WITH OTHER PLANS	
SUPERVISING DRAFTER:	AMENDS: <b>TWEED LOCAL ENVIRONMENTAL PLAN 2000</b>
PLANNING OFFICER: <b>Eber Butron</b>	
COUNCIL FILE No. <b>GTI/LEP/2000/10</b>	
DEPT. FILE No.: <b>G94/00396</b>	
GOVT. GAZETTE OF:	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS
	16/03/2004 GENERAL MANAGER    DATE

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draft

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## **Tweed Local Environmental Plan 2000 (Amendment No 10)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979* (.....)

Minister for Urban Affairs and Planning

\_\_\_\_\_

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draft

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## **Tweed Local Environmental Plan 2000 (Amendment No 10)**

**1. Name of plan**

This plan is the *Tweed Local Environmental Plan 2000 (Amendment No 10)*.

**2. Aims, objectives etc**

This plan aims to:

- Zone certain land at Terranora Urban Release Area (Area E) 2(c) Urban Expansion, 7(d) Environmental Protection (Scenic/Escarpment), 7(a) Environmental Protection (Wetland and Littoral Rainforest), and 5(a) School, to reflect the land's capability, suitability and characteristics.
- Amend provisions of Tweed Local Environmental Plan 2000 as they relate to the subject land to reflect changes and standards for urban design and environmental impact;
- Provide for efficient and consolidated urban growth;
- Protect local environmental and landscape values of wetlands, remnant vegetation and Terranora Broadwater; and
- Protect urban development from environmental hazards.

**3. Land to which plan applies**

This plan applies to land known as Terranora Urban Release Area (Area E) as shown edged heavy black on the map marked Tweed Local Environmental Plan 2000 (Amendment No. 10) deposited in the office of Tweed Shire Council.

**4. Amendment of Tweed Local Environmental Plan 2000**

*Tweed Local Environmental Plan 2000* is amended by

- a) By inserting in appropriate order, in Part 2 of Schedule 6, the words: Tweed Local Environmental Plan 2000 (Amendment No. 10);
- b) By inserting after clause 39(2) the following sub-clauses:-
  - (3) When preparing a development application for use of the land to which this plan applies, the applicant shall clearly demonstrate:-
    - (i) the likely contaminants within the soil, surface water and groundwater as a result of previous land uses;
    - (ii) that an effective testing regime has been implemented to identify hotspots of contamination pursuant to current EPA guidelines including a consideration of the hydrogeology of the land;
    - (iii) that appropriate thresholds and criteria have been used in the assessment of potential contamination;
    - (iv) that the land does not pose a significant threat to human health or the environment;

- (v) that if contamination has been identified that an appropriate remedial action plan can be developed to demonstrate how identified risks can be reduced to acceptable levels and that remediation is practical;
  - (vi) that an adequate monitoring program can be implemented.
- c) By inserting after clause 53 the following clause:-

**53A – Specific Provisions for Terranora Urban Release Area (Area E)**

- (1) This clause applies to land known as Terranora Urban Release Area (Area E) as shown edged heavy black and coloured on the map marked "Tweed Local Environmental Plan 2000 (Amendment No.10)";
- (2) Preliminary Planning
  - (a) Objectives
    - To ensure a development control plan, developer contribution plan and master plan has been developed for the entire site to avoid ad hoc development and ensure equitable cost sharing in the provision of public amenities and services
    - To ensure that issues relating to contaminated land are dealt with to a sufficient level to meet the requirements of State Environmental Planning Policy No 55—Remediation of Land
  - (b) Pursuant to the Environmental Planning and Assessment Amendment (Preliminary Planning) Regulation 2000, Council shall not consent to development on land to which this clause applies unless:
    - (i) a development control plan has been approved for the land, and
    - (ii) a contributions plan has been approved for the land, and
    - (iii) the development application makes comprehensive proposals for development of the land or consent has already been granted to such a development application, and
    - (iv) there is a master plan for the land, and the consent authority has taken the master plan into consideration, and
    - (v) that the extent of any contaminated land is known to an extent necessary to allow the location of sensitive land uses at both the development control plan and master plan preparation stage.
- (3) Wetlands Rehabilitation and Management
  - (a) Objective
    - To restore and protect freshwater wetland values and minimise breeding habitat for salt water mosquitoes and biting midges;
  - (b) The Council shall not consent to development on land to which this Clause applies unless the applicant demonstrates to the satisfaction of Council that the development complies with a Wetlands Rehabilitation and Management Plan which has been prepared for wetlands within the area. Such a Wetlands Rehabilitation and

Management Plan shall identify the way in which the wetland is to be restored and managed to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges. The plan will also include details of costs and works required to undertake this rehabilitation.

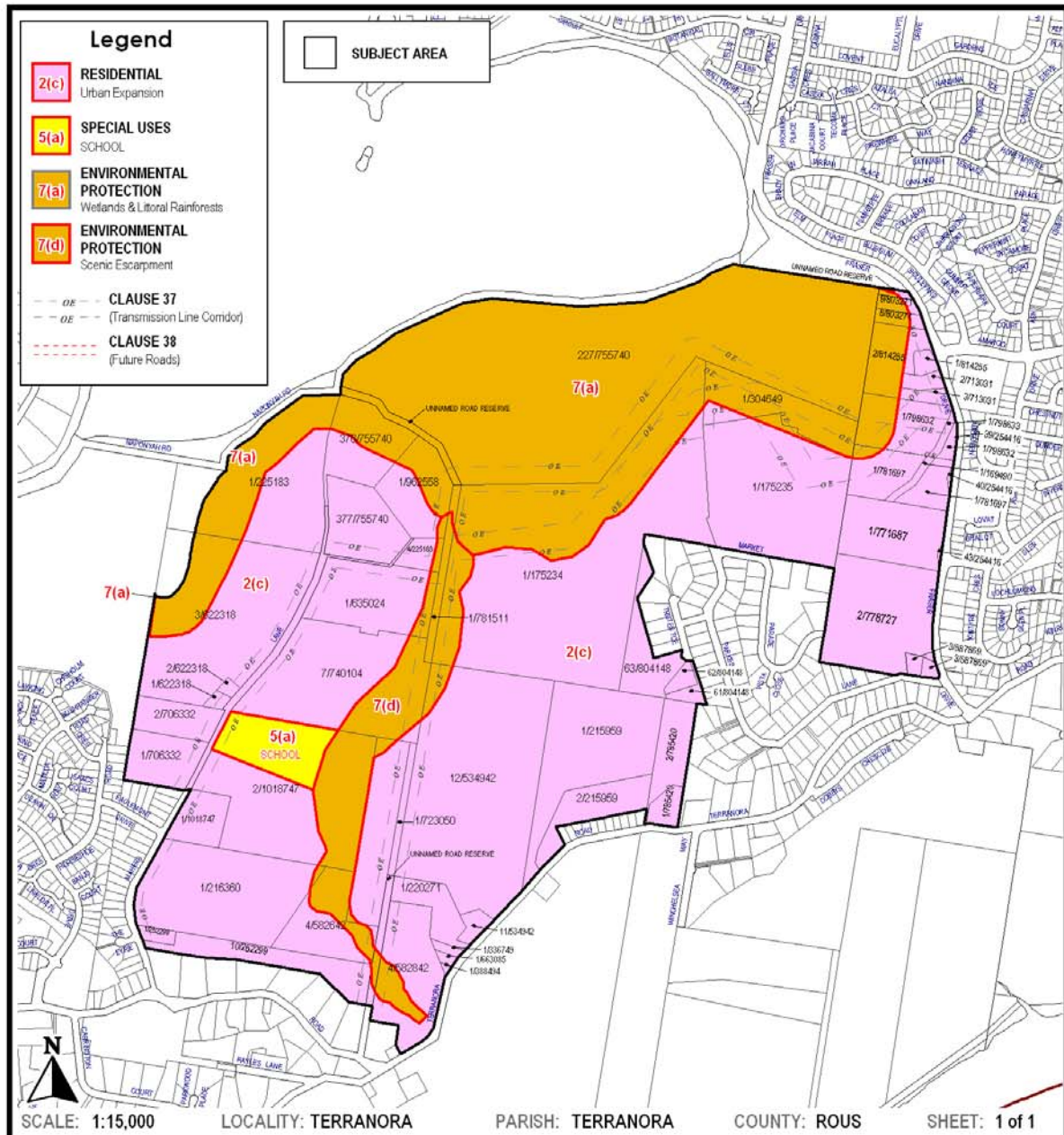
(4) Stormwater Management

(a) Objective

- Ensure that the management of urban stormwater is consistent with the 'Tweed Urban Stormwater Quality Management Plan' adopted by Council;

(b) The Council shall not consent to development on land to which this Clause applies, unless a Stormwater Management Plan has prepared by the applicant that demonstrates to the satisfaction of Council that the development generally complies with the "Tweed Urban Stormwater Quality Management Plan" adopted by Council.

APPENDIX B



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979		TWEED	
<b>DRAFT LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT No. 10</b>			
DRAWN BY: <b>J. Batchelor</b>	DATE: <b>07/10/2004</b>	STATEMENT OF RELATIONSHIP WITH OTHER PLANS	
SUPERVISING DRAFTER:		AMENDS: <b>TWEED LOCAL ENVIRONMENTAL PLAN 2000</b>	
PLANNING OFFICER: <b>Eber Butron</b>			
COUNCIL FILE No. <b>GTI/LEP/2000/10</b>			
DEPT. FILE No.: <b>G94/00396</b>	CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS		
GOVT. GAZETTE OF:	GENERAL MANAGER		DATE

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**Tweed Local Environmental Plan 2000 (Amendment  
No 10)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979* (.....)

Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)

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## **Tweed Local Environmental Plan 2000 (Amendment No 10)**

**1. Name of plan**

This plan is the *Tweed Local Environmental Plan 2000 (Amendment No 10)*.

**2. Aims, objectives etc**

This plan aims to:

- a) Zone certain land at Terranora Urban Release Area (Area E) 2(c) Urban Expansion, 7(d) Environmental Protection (Scenic/Escarpment), 7(a) Environmental Protection (Wetlands and Littoral Rainforests), and 5(a) Special Uses (School), to reflect the land's capability, suitability and characteristics.
- b) Amend provisions of *Tweed Local Environmental Plan 2000* as they relate to the subject land to reflect changes and standards for urban design and environmental impact;
- c) Provide for efficient and consolidated urban growth;
- d) Protect local environmental and landscape values of wetlands, remnant vegetation and Terranora Broadwater; and
- e) Protect urban development from environmental hazards.

**3. Land to which plan applies**

This plan applies to land known as Terranora Urban Release Area (Area E) as shown edged heavy black on the map marked Tweed Local Environmental Plan 2000 (Amendment No 10) deposited in the office of Tweed Shire Council.

**4. Amendment of Tweed Local Environmental Plan 2000**

*Tweed Local Environmental Plan 2000* is amended by

- a) inserting in appropriate order in Part 2 of Schedule 6 the words:  
Tweed Local Environmental Plan 2000 (Amendment No 10).
- b) By inserting after clause 39(2) the following sub-clauses:-
  - (3) When preparing a development application for use of the land to which this plan applies, the applicant shall clearly demonstrate:-
    - i. the likely contaminants within the soil, surface water and groundwater as a result of previous land uses;
    - ii. that an effective testing regime has been implemented to identify hotspots of contamination pursuant to current EPA guidelines including a consideration of the hydrogeology of the land;

- iii. that appropriate thresholds and criteria have been used in the assessment of potential contamination;
- iv. that the land does not pose a significant threat to human health or the environment;
- v. that if contamination has been identified that an appropriate remedial action plan can be developed to demonstrate how identified risks can be reduced to acceptable levels and that remediation is practical;
- vi. that an adequate monitoring program can be implemented.

c) By inserting after clause 39(2) the following sub-clauses:-

**53A – Specific Provisions for Terranora Urban Release Area E**

1. This clause applies to land known as Terranora Urban Release Area (Area E) as shown edged heavy black and coloured on the map marked "Tweed Local Environmental Plan 2000 (Amendment No.10)";
2. Preliminary Planning
  - (a) Objectives
    - i. To ensure a development control plan, developer contribution plan and master plan has been developed for the entire site to avoid ad hoc development and ensure equitable cost sharing in the provision of public amenities and services
    - ii. To ensure that issues relating to contaminated land are dealt with to a sufficient level to meet the requirements of State Environmental Planning Policy No 55—Remediation of Land
  - (b) Pursuant to the *Environmental Planning and Assessment Amendment (Preliminary Planning) Regulation 2000*, Council shall not consent to development on land to which this clause applies unless:
    - i. a development control plan has been approved for the land, and
    - ii. a contributions plan has been approved for the land, and
    - iii. the development application makes comprehensive proposals for development of the land or consent has already been granted to such a development application, and
    - iv. there is a master plan for the land, and the consent authority has taken the master plan into consideration, and
    - v. that the extent of any contaminated land is known to an extent necessary to allow the location of sensitive land uses at both the structure plan and master plan preparation stage.
3. Wetlands Rehabilitation and Management
  - (a) Objective
    - i. To restore and protect freshwater wetland values and minimise breeding habitat for salt water mosquitoes and biting midges;
  - (b) The Council shall not consent to development on land to which this Clause applies unless the applicant demonstrates to the satisfaction of Council that the development complies with a Wetlands Rehabilitation and Management Plan which has been prepared for wetlands

within the area. Such a Wetlands Rehabilitation and Management Plan shall identify the way in which the wetland is to be restored and managed to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges. The plan will also include details of costs and works required to undertake this rehabilitation.

4. Stormwater Management

(a) Objective

i. Ensure that the management of urban stormwater is consistent with the 'Tweed Urban Stormwater Quality Management Plan' adopted by Council;

(b) The Council shall not consent to development on land to which this Clause applies, unless a Stormwater Management Plan has prepared by the applicant that demonstrates to the satisfaction of Council that the development generally complies with the "Tweed Urban Stormwater Quality Management Plan" adopted by Council.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- [1. Attachment A - Public Exhibition Submissions \(DW 1279106\)](#)
  - [2. Attachment B - Traffic & Transport LES Update \(DW 1279330\)](#)
  - [3. Attachment C - Draft DCP Area E \(DW 1279098\)](#)
-

**5 [PD] Amendment to Section 94 Contribution Plan No 19 - Kings Beach/Kings Forest**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/S94/19**

**SUMMARY OF REPORT:**

At its Ordinary meeting of 17 August 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 19 – Kings Beach/Kings Forest (CP19).

CP19 required amending:

- Construction costs of the community centre buildings and associated car parking have been increased to reflect the current building costs;
- Land valuation for the community centre at Casuarina Beach has increased from \$200,000 for the 1,500m site to \$600,000. The various sites at Kings Forest for community facilities have also had land valuation increases, but not as significantly as Casuarina;
- Land valuation for the proposed open space at Kings Forest has increased from \$150,000 per ha to \$500,000 per ha;
- Costs associated with the open space (amenities blocks and parking) have increased
- Deletion of the cycleways levy as the developer is providing works in kind;
- Decrease in the projected population for Kings Forest
- Change in plan name from Kings Beach to Casuarina Beach

This plan was exhibited between 31 August 2005 and 28 September 2005. There was one response to draft CP 19. The submission was received from Darryl Anderson and Associates, acting on behalf of the developer of Kings Forest. In summary the submission objects to the draft Plan on the basis that *"it is premature given that resolution of zoning issues and final master planning for Kings Forest has not been completed and therefore it is impossible to determine with any degree of certainty where playing fields should be located and the number and distribution of community facilities"*.

This objection is discussed in the main report.

**RECOMMENDATION:**

**That Council:**

- 1. Adopts the amended exhibited Section 94 Contribution Plan No.19 – Casuarina Beach/Kings Forest.**
- 2. Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the amended Section 94 Contribution Plan comes into effect on the date of the notice.**

## REPORT:

At its Ordinary meeting of 17 August 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 19 – Kings Beach/Kings Forest (CP19).

CP19 required amending:

- Construction costs of the community centre buildings and associated car parking have been increased to reflect the current building costs;
- Land valuation for the community centre at Casuarina Beach has increased from \$200,000 for the 1,500m site to \$600,000. The various sites at Kings Forest for community facilities have also had land valuation increases, but not as significantly as Casuarina;
- Land valuation for the proposed open space at Kings Forest has increased from \$150,000 per ha to \$500,000 per ha;
- Costs associated with the open space (amenities blocks and parking) have increased;
- Deletion of the cycleways levy as the developer is providing works in kind;
- Decrease in the projected population for Kings Forest
- Change in plan name from Kings Beach to Casuarina Beach

This plan was exhibited between 31 August 2005 and 28 September 2005. There was one response to draft CP 19. The submission was received from Darryl Anderson and Associates, acting on behalf of Project 28 Pty Ltd, the owners of Kings Forest. In summary the submission objects to the draft plan on the basis that "*it is premature given that resolution of zoning issues and final master planning for Kings Forest has not been completed and therefore it is impossible to determine with any degree of certainty where playing fields should be located and the number and distribution of community facilities*".

In general, CP19 has been in operation since 1998, with contributions received since then from the residents of Casuarina Beach. Amendments to the plan concerning the community facilities at Kings Forest will occur once a master plan for that area had been developed and this review process is outlined in the current plan.

The specific objections to the draft plan are as follows:

### Population Predictions

*"The exhibited draft plan contains inconsistent population projections for Kings Forest. At Sections 1.0 and 6.0 the plan proposes a yield of 20,000 people whereas Section 5.0 it proposes a yield of 12,000. Final yields will not, of course, be known until such time as the rezoning and master planing process has been substantially complete".*

The Plan has reduced the estimated population yield for Kings Forest from 20,000 to 12,000 in line with current predictions. The retention of the 20,000 population projection in those two sections was an oversight. The owners of both Casuarina Beach and Kings Forest were advised during the exhibition period of this change. The proposed population at Kings Forest is an estimate and has been included in the plan as the community facilities are being levied against the future population of both development areas. The final yields will become clear at the master planning stage.

#### Community Facilities

*"The draft Section 94 Plan pre-empts the final Master Plan outcome for Kings Forest in terms of the location, size, cost and need for community facilities and indeed other facilities".*

The facilities for Kings Forest have been included as it is assumed that residents of Casuarina Beach will also use the community facilities at Kings Forest. In this respect it was deemed appropriate that these residents contribute to these facilities at Kings Forest. The community facilities in the plan for Kings Forest are an estimate and will require adjustment once the master plan for Kings Forest is finalised, as has been stated in the current plan.

#### Structured Open Space

*"The draft plan does not identify where the proposed 1.5ha of playing fields required by the Casuarina Beach development is intended to be sited. This is an important element in the spatial allocation of various land uses at Kings Forest and it is submitted that it should be undertaken on an integrated basis as part of the overall Master Plan for the site".*

The specific siting of the proposed structured open space will be undertaken as part of the overall Master Plan for Kings Forest. It has been included as part of CP19 to allow for contributions to be levied from the future residents of Casuarina Beach. The structured open space costs are not levied against the future residents of Kings Forest.

Daryl Anderson Consulting was advised during the exhibition period that Council would review CP19 to address all of the above concerns once a Master Plan for Kings Forest has been finalised.

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.



**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**6 [PD] Liveable Communities Action Plan - A Work Programme for Strategic Planning (2005/2008)**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

The initial report of the Government Architect's Office engaged to review Council's urban design controls for the development of hilly areas has been provided to Council. Their initial findings have questioned aspects of Council's strategic planning framework. In order to respond to those findings it is also necessary to consider the findings of the Daly Report, and the Woodward Report, which have also commented on the need to review that framework. Finally, there are significant legislative amendments, which also have a direct bearing on that framework.

This report provides a comprehensive response to the various strategic planning issues raised by these findings before making recommendations in respect to Council's strategic planning framework.

**RECOMMENDATION:**

**That :**

- 1. To ensure that strategic objectives of environmental, social and economic sustainability are fulfilled in the Tweed Shire Council will:**
  - **Review Tweed Futures to ensure that its strategic objectives are sufficiently concise as to be able to form the basis of future planning and the Council's overall Management Plan so that Council has as the basis of future operations, in particular to provide:**
    - **A comprehensive statement of intent to enable integration of all of its efforts in a long term agenda, and the agenda of the NSW Government as expressed in the Far North Coast Strategy;**
    - **Greater emphasis on the three elements of sustainability – environmental, economic and social;**
    - **Access and Equity statements to meet the Department of Local Government reporting requirements;**
    - **Greater integration within Council and with other government agencies to secure its implementation;**

- **Ensure that social, community and economic infrastructure is planned in the light of that capacity and likely development.**
  - **Review Tweed Local Environmental Plan (TLEP) 2000 and prepare clear and consistent locality plans, which reinforce Council's strategic objectives.**
  - **Prepare an Integrated Land Use Strategy based on current strategic planning projects to provide the basis for the review of the Tweed Local Environmental Plan and the preparation of Locality Plans.**
  - **Review the style, presentation and language of Development Control Plans.**
- 2. Council will investigate the resources required to undertake the following priorities for the Strategic Town Planning Unit for the next 3 years (2005-2008):**
- **Complete by December 2006 a review of Tweed Local Environmental Plan 2000 based on Tweed Futures, the Council's Strategic Plan, the NSW Far North Coast Strategy and the requirements of Planning NSW in developing a new Local Environmental Plan;**
  - **Prepare, as an immediate priority, options for amendments to existing Development Control Plans to ensure greater consistency with strategic objectives and detailed controls, particularly Development Control Plan No 6 and Development Control Plan No 16.**
  - **Complete by February 2007 a single Development Control Plan (including Locality Plans) for the Tweed which incorporates all the Development Control Plans now in force so that there is greater coherence and consistency across the planning policy spectrum, and consistency between Tweed Futures, Council's Strategic Objectives, the Local Environmental Plan, the Far North Coast Strategy and the proposed Development Control Plans;**
  - **Urban Design Charter to provide the basis for:**
    - **Locality Plans;**
    - **LEP review;**
    - **Development Control Plan review, in particular Development Control Plan No 6 and Development Control Plan No 16.**
  - **Locality Plans for key urban areas (Tweed Heads, Kingscliff, Kings Forest, Cabarita, Pottsville, Murwillumbah);**

- Complete major Local Environment Plan Amendments already commenced (Kings Forest, Seaside City, Seabreeze).
3. To ensure the most effective strategic planning framework Council operations shall provide for:-
- An internal Policy Review Committee; and
  - Inter-divisional activity groups, in particular a Strategic Planning Group to coordinate strategic planning matters for Council as a whole (eg Infrastructure Coordination; Social Planning; Asset Management; and Environmental Management).
4. Council will maintain a policy structure to create and manage liveable communities based on the framework for the management of growth in the Shire set out in Tweed Futures.
5. Council will use Tweed Futures as the basis for ensuring that the Management Plan clearly states Council's objectives.

## **REPORT:**

Council's strategic planning functions have been the subject of recent scrutiny: the Daly Report, the Woodward Report and more recently the initial report of the Government Architects Office. They have been critical of Council's strategic planning framework, in particular land use planning controls in the Tweed LEP and accompanying DCP's and the associated assessment process.

This report response to the issues raised by the Findings of these Inquiries before making recommendations in respect to Council's strategic planning framework. An initial assessment of the Findings indicates an the apparent lack of understanding of Council's current strategic planning framework, in particular Tweed Futures, and the limited role of land use planning controls in achieving liveable communities. Whilst a land use plan may provide the overall structure for such communities, a wide range of other initiatives and players is required to bring them to fruition. Nevertheless, the Findings cannot be dismissed on such a simplistic assessment. For other reasons there is a need to review and improve Council's strategic planning framework. There are significant aspects of Council's growth management that should be addressed.

A fundamental component of strategic planning for the Tweed is the management of urban growth. The 1991 Tweed Residential Development Strategy (RDS) provides for the long term housing needs of the Tweed and the wider region. The Strategy, which has been consistently endorsed by the State Government, is the basis for infrastructure plans.

Council's adopted strategic planning statement is Tweed Futures, which is based on the principles of sustainability and the creation of liveable communities. Its implementation calls for more than land use plans, and more than Council involvement. It proposes a package of detailed plans, policies and specific actions to be progressively implemented and updated over the next two decades in response to changing needs. Priority actions have been established for the first four years.

Attention has been focussed on the nature of the land being developed. The topography of the Tweed has meant that urban expansion has relied on the development of hilly terrain. The resultant release areas only affect a small part of the Tweed, with its overall character remaining largely unaffected. Whatever the response in respect of the RDS the critical issue is that individual release areas are developed in a sustainable way to create liveable communities.

The Findings have concentrated on the role of planning controls in the establishment of liveable communities. The management of growth goes well beyond that limited interpretation of a planning framework. Greater emphasis needs to be placed on social and economic infrastructure, which over recent years have not been seen by Council as a particularly high priority. This calls for greater integration with the efforts of State Government.

Intuitively, much of Council's land use policy structure for liveable communities is in place, and is based on ESD principles, which compares favourably with similar controls of other Councils. In particular the overall intent of DCP 6 and DCP 16 is considered to be sufficiently robust to be only in need of minor adjustments rather than any fundamental shift in emphasis.

Tweed Futures remains the basis for growth management. What is required to implement it is:

- A review of existing Plans to provide a more comprehensive statement of intent to integrate Council effort to create liveable communities;
- Amendments to the Management Plan to reflect this long term goal including Access and Equity statements, greater emphasis on social and economic development, (particularly youth, aged, and affordable housing);
- A Policy Committee and inter-divisional activity groups.

Based on Tweed Futures the report recommends a Liveable Communities Action Plan. The recommended priorities for the STPU for the next 3 years are:

- Integrated Land Use Strategy;
- Review of TLEP 2000;
- Single DCP for the Tweed;
- Urban Design Charter;
- Locality Plans for key urban and rural areas;
- Completion of major LEP amendments already commenced;
- Community development;
- Establishment of infrastructure and social management systems;
- Development of a monitoring system for urban development.

To undertake this work an additional 2 planners is identified in addition to the current vacancy in the STPU, and funds as follows:

- an additional \$200,000 for the LEP work;
- \$200,000 for Locality Plans;
- \$50,000 for Aged Needs Strategy.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

- [1. Draft Liveable Communities Action Plan - A Work Programme for Strategic Planning \(2005/2008\) \(DW 1279622\).](#)
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**CONFIDENTIAL MATTERS**

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