

TITLE: [PR-PC] Development Application DA13/0591 - Erection of Four Townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36 and 38 Enid Street, Tweed Heads

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA13/0591 Pt1



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

| | |
|-------|---|
| 1 | Civic Leadership |
| 1.1 | Ensure actions taken and decisions reached are based on the principles of sustainability |
| 1.1.1 | Establish sustainability as a basis of shire planning and Council's own business operations |

SUMMARY OF REPORT:

Council is in receipt of a Development Application to erect four townhouses at 36-38 Enid Street, Tweed Heads which is within the City Centre Support Precinct.

The proposal includes single storey development to the Enid Street frontage and two-storey development to the rear of the lots. A shared driveway is located in the middle of the development.

The land has an area of 1188.8m² and is zoned R3 Medium Density Residential under Tweed City Centre Local Environmental Plan 2012 (TCCLEP 2012). The proposal is permissible with consent. However, the density proposed is considered low and does not meet the objectives of the zone or the desired future character for the City Centre Support Precinct as outlined in Development Control Plan B2 (DCP B2).

The proposed development is considered an under utilisation of urban land which is zoned for medium density purposes. Expectations for the site are informed by a 34m building height limit and a floor space ratio of 3.25:1. A development with up to 10 storeys is anticipated for the subject site.

Subject to a separate report on this agenda is an adjacent dual occupancy development at 40 Enid Street, Tweed Heads which also represents an under utilisation of urban land. There currently exists a realistic opportunity for 36-40 Enid Street to be amalgamated and developed to its fullest extent with a combined area of 1783.2m².

The applicant was advised prior to lodgement that the proposal was contrary to Council's vision for future development of Tweed Heads. It was strongly recommended that the proposal be redesigned to take advantage of the 34m building height limit and greater floor space ratio controls. The proposal as submitted results in cumulative variations to DCP A1 Part B that represents an unacceptable outcome for the site.

Variation of the TCCLEP 2012 and DCP B2 will set an undesirable precedent for development in this strategic area of the Shire and will undermine the strategic planning objectives set by the Planning Instruments.

RECOMMENDATION:

That Development Application DA13/0591 for the erection of four townhouses at Lots 25 and 26 Section 5 DP 4043 Nos. 36-38 Enid Street, Tweed Heads be refused for the following reasons:

1. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

It is Council's view that the proposed development is inconsistent with the vision and objectives contained within:

The Tweed City Centre LEP 2012:

- **Clause 1.2: Aims of this plan** - – proposed density of the site is not consistent with the desired future character of the area
 - **Clause 2.3: Land Use Table** - the proposal does not meet the requirements for medium density residential development within the context of the locality.
 - **Clause 4.3: Height of Buildings** - the proposal does not maximise density on the site commensurate with the objectives of the clause.
 - **Clause 4.4: Floor Space Ratio** - the proposal does not incorporate increased building height and site amalgamation at a key location in the area of Tweed City Centre.
2. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

The proposal represents a significant variation to building height and floor space ratio for the locality as prescribed within the Tweed City Centre Local Environmental Plan 2012.

The proposal is inconsistent with the future desired character of the City Centre Support Precinct as defined within Development Control Plan B2 – Tweed Heads.

3. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed City Centre LEP 2012 specifically as it relates to residential development controls and density objectives of the R3 Medium Density Residential zone.

REPORT:

Applicant: Mr L Cotterill and Mrs W Cotterill
Owner: Mr Lance M Cotterill & Mrs Wendy Cotterill
Location: Lots 25 and 26 Section 5 DP 4043 Nos. 36-38 Enid Street, Tweed Heads
Zoning: R3 Medium Density Residential
Cost: \$500,000

Background:

Council is in receipt of a Development Application to erect four townhouses at 36-38 Enid Street, Tweed Heads which is within the City Centre Support Precinct. The proposal represents an under utilisation of urban land which is zoned for medium density purposes. Expectations for the site are informed by a 34m building height limit and a floor space ratio of 3.25:1. A development with up to 10 storeys is anticipated for the subject site.

The Subject Site

The subject site is comprised of two vacant, rectangular shaped lots, each with an area of 594.4m². The sites are generally flat, grassed and cleared of vegetation.

To the north of the site is a vacant lot utilised as an informal car park in association with the Legacy Club of Coolangatta/Tweed Heads. To the south of the site is a vacant lot, the subject of a dual occupancy proposal. Further south is older housing stock: a part two/part three-storey brick and tile residential flat building.



Figure 1: locality image

Along Beryl Street to the rear of the site are older style, two-storey dwellings utilised for residential and commercial purposes. Development along Beryl Street is zoned B3 – Commercial Core. Older housing stock is located opposite the site, inclusive of a part two/part three-storey brick and tile residential flat building and a two-storey dwelling. Residential unit development comprising seven storeys is located nearby on the corner of Enid Street and Frances Street casting shadow over 24 Enid Street.

Proposal

The applicant seeks consent for the erection of four townhouses. The proposal includes:

- 2 x 3-bedroom single storey villas;
- 2 x 4-bedroom two-storey townhouses;
- Shared central driveway and access from Enid Street;
- Associated resident and visitor car parking;
- Associated landscaping;
- Consolidation of allotments.

Summary

Having regard to dimensional controls and future desired character of the locality, the proposed townhouse development is considered inconsistent with the visions and objectives of the TCCLEP 2012 and DCP B2. The proposal is considered unsuitable for the location and is therefore recommended for refusal.

SITE DIAGRAM:



Locality Plan
 Lots 25 & 26 Section 5 DP 4043
 No. 38 Enid Street, Tweed Heads

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Cadastre 12/03/2014
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 Boundaries shown should be considered approximate only.

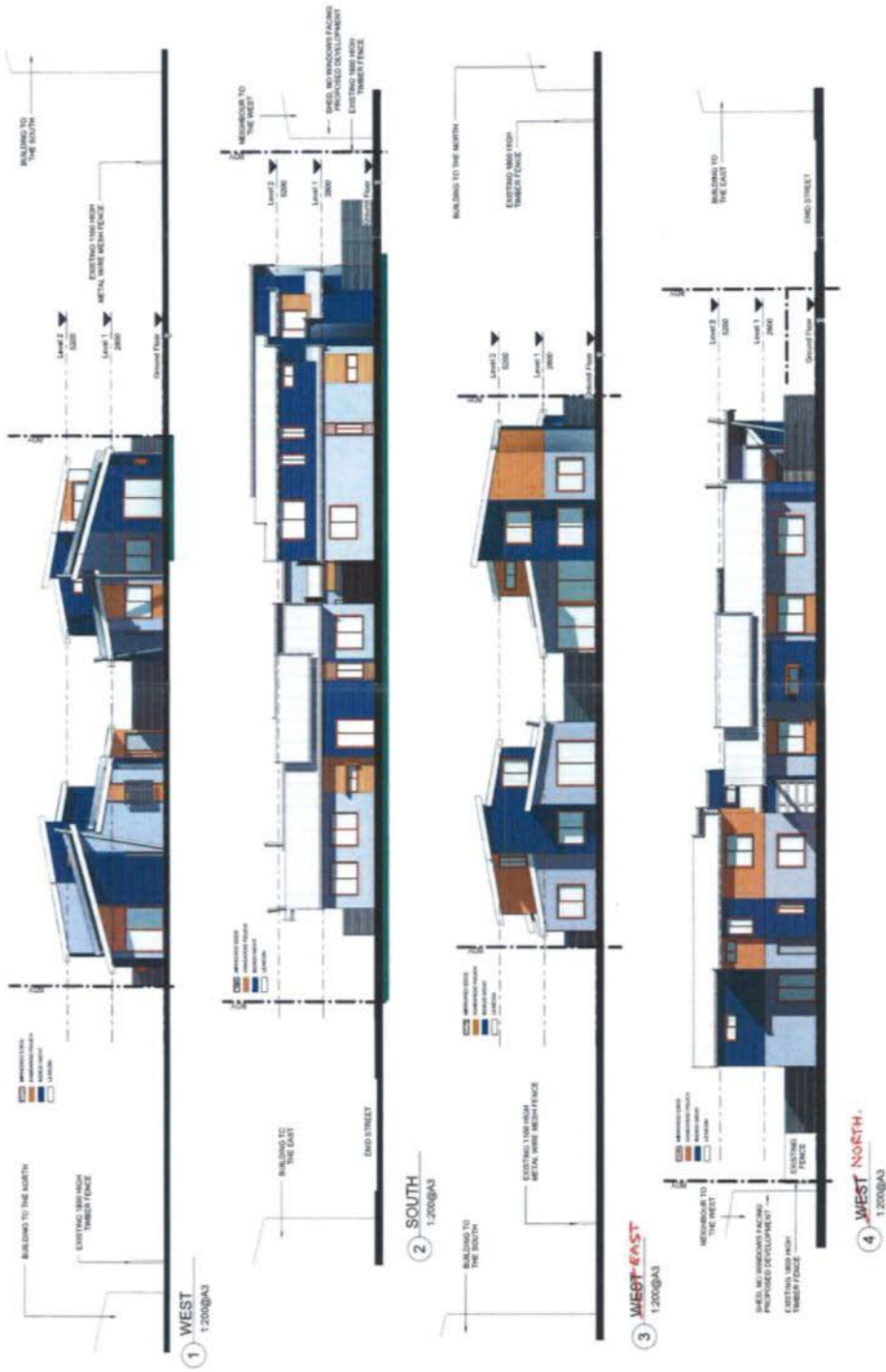
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Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geodetic Datum of Australia 1984
 GDA
 Vertical Datum: Mean Sea Level
 Map of Australia, Zone 56

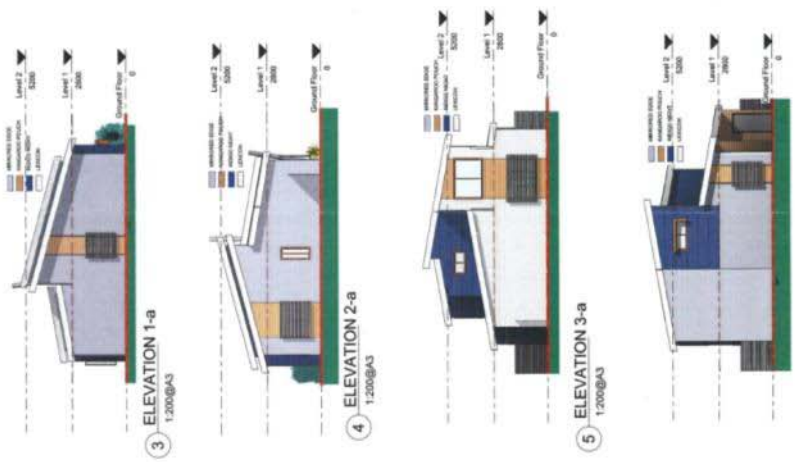
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DEVELOPMENT/ELEVATION PLANS:



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| WEST 1:200@A3 | | SOUTH 1:200@A3 | | WEST-EAST 1:200@A3 | | WEST NORTH 1:200@A3 | |
| SHEET NO. 1706 F | | BEST OF END 38-38 END STREET, THIRD FLOOR JAMES COSTELLO ELIMINATING | | SHEET NO. 13152 | | R.H. FRANKLAND & ASSOCIATES ARCHITECTS 100-100 RIVERVIEW AVENUE, SUITE 100 MELBOURNE, VIC 3046 PH: 03 9487 1000 WWW.FRANKLAND.COM.AU | |

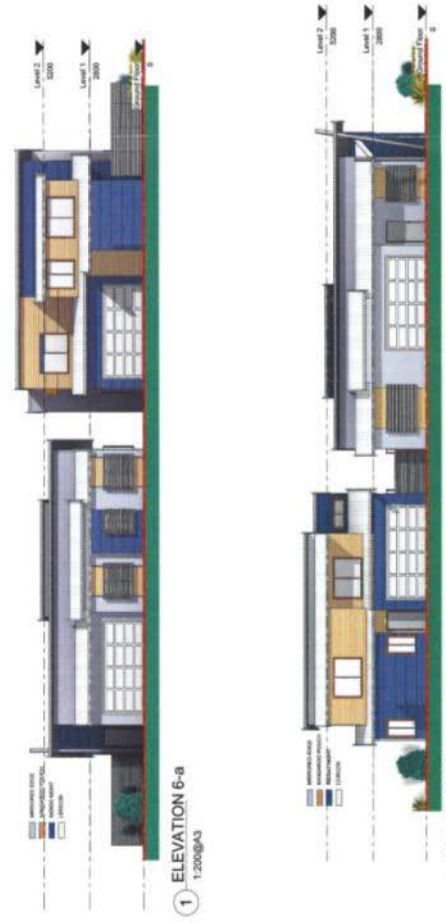


3 ELEVATION 1-a
1:200@A3

4 ELEVATION 2-a
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5 ELEVATION 3-a
1:200@A3

6 ELEVATION 4-a
1:200@A3



1 ELEVATION 6-a
1:200@A3

2 ELEVATION 5-a
1:200@A3

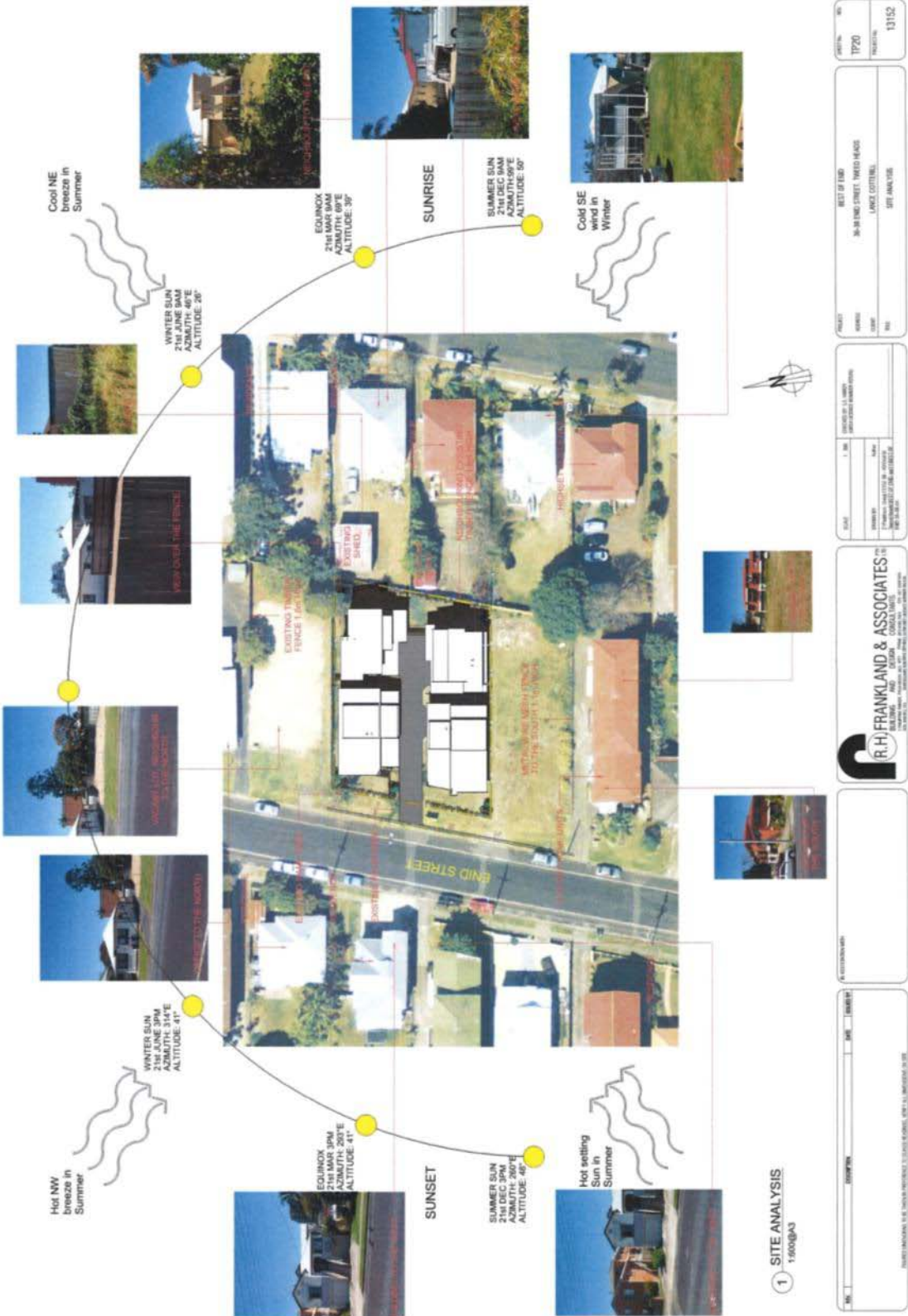
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| PROJECT | WEST OF END | |
| ADDRESS | 36-38 KING STREET WEST HEADS | |
| OWNER | LARGE CUTTLEB | |
| DATE | ELEVATIONS 1 | |

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| REV. NO. | REV. |
| 1007 | D |
| PROJECT NO. | 13152 |



① SITE ANALYSIS
1500@A3

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| DRAWN BY: FRANKLAND & ASSOCIATES | DATE: 11/13/2013 | PROJECT: 36-38 END STREET, TWEED HEADS | CLIENT: LANCE COITTELL |
| CHECKED BY: FRANKLAND & ASSOCIATES | DATE: _____ | PROJECT: _____ | CLIENT: _____ |
| APPROVED BY: FRANKLAND & ASSOCIATES | DATE: _____ | PROJECT: _____ | CLIENT: _____ |

R.H. FRANKLAND & ASSOCIATES
 CONSULTANTS
 10000 13th AVENUE, SUITE 200, TWEED HEADS, NSW 2486
 TEL: 07 9440 1234 FAX: 07 9440 1235

NO. _____ DATE: _____

PROJECT: _____

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PROJECT: _____

PROJECT: 36-38 END STREET, TWEED HEADS
 CLIENT: LANCE COITTELL
 SHEET ANALYSIS

13152



1 SUN STUDY SUMMER 9am
1.800@A3



1 SUN STUDY SUMMER 12pm
1.800@A3



1 SUN STUDY SUMMER 3pm
1.800@A3

SUN STUDY SUMMER
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|--|---------|------|-----------|-------------|-------------------------------|-------|--------|-------|--------|-------------|-------|
| NO. | DRAWING | DATE | SHEET NO. | SHEET TOTAL | PROJECT | DATE | SCALE | DATE | SCALE | PROJECT NO. | NO. |
| | | | | | 24-30 END STREET, WHEED HEADS | 11/21 | 1"=40' | 11/21 | 1"=40' | TPZ1 | 13152 |
|  R.H. FRANKLAND & ASSOCIATES ARCHITECTS 1715 S. W. 15th Ave. Ft. Lauderdale, FL 33304 PHONE: (954) 524-8800 FAX: (954) 524-8802 | | | | | | | | | | | |
| PROJECT: BEST OF TND ADDRESS: 24-30 END STREET, WHEED HEADS OWNER: LARUE COSTEREL DRAWN BY: SUN STUDY SUMMER CHECKED BY: DATE: 11/21/21 SCALE: 1"=40' SHEET NO. OF SHEETS: 13 OF 13 DATE: 11/21/21 | | | | | | | | | | | |



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2 SUN STUDY WINTER 12pm
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SUN STUDY WINTER
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NOTED: DRAWING IS TO BE USED FOR THE PROJECT ONLY. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM R.H. FRANKLAND & ASSOCIATES, INC.

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| PROJECT | WEST OF END |
| ADDRESS | 34-36 END STREET, TIMED HEAD |
| OWNER | LANCE CUTLER |
| NO. | SUN STUDY WINTER |

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| DATE | NO. |
| 1/22 | 13152 |

Considerations under Section 79c of the Environmental Planning and Assessment Act 1979:

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

Tweed City Centre Local Environmental Plan 2012

Clause 1.2 - Aims of the Plan

This Plan aims to make local environmental planning provisions for land in Tweed City Centre in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

The particular aims of this Plan are as follows:

- (a) to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents,*
- (b) to promote employment, residential, recreational, arts, social, cultural and tourism opportunities in Tweed City Centre,*
- (c) to encourage the responsible sustainable management and conservation of Tweed City Centre's natural and environmentally sensitive areas, the built environment and cultural heritage,*
- (d) to promote development that is consistent with the principles of ecologically sustainable development,*
- (e) to promote the economic revitalisation of Tweed City Centre,*
- (f) to strengthen Tweed City Centre as a multi functional and innovative regional centre that encourages employment and economic growth,*
- (g) to protect and enhance the vitality, identity and diversity of Tweed City Centre,*
- (h) to facilitate building design excellence appropriate to a regional city in Tweed City Centre.*

The proposed townhousing creates a density that is much lower than that envisaged for this locality. As such, the proposal is inconsistent with the aims of the plan as outlined above.

Clause 2.3 – Land Use Table

The subject land is within the R3 Medium Density Residential zone. The proposed development is defined as multi-dwelling housing which is permitted with consent.

The objectives of the zone are:

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

Density of residential development in this location within the Tweed Heads area is defined by building height limits and floor space ratios. As such, there is an expectation that medium density housing in this context will be characterised by taller residential unit buildings on consolidated lots that meet the numerical controls.

The townhouse proposal is not consistent with the vision for residential development within Tweed Heads and represents a lower density than that required to achieve future desired character. As such, the proposal is considered to be inconsistent with the aims and objectives of the land use table.

Clause 4.3 – Height of Buildings

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

There is a 34m building height limit over this site. It is expected that when the opportunity arises, lots may be consolidated and a development may result that takes advantage of the greater density that can be achieved in accordance with Council's vision and objectives for the Tweed City Centre.

The townhouse proposal represents an underutilisation of urban land and a missed opportunity to consolidate lots in order to achieve a development consistent with the aforementioned vision.

The proposal does not specifically meet objectives (b), (c) and (d) of this clause.

Clause 4.4 – Floor Space Ratio

A floor space ratio of 3.25:1 has been nominated for the subject site. The townhouse proposal achieves a floor space ratio of 0.47:1 which is considerably less than that nominated.

The proposal is inconsistent with this clause, specifically objective (1)(e):

- (e) to encourage increased building height and site amalgamation at key locations in the area of Tweed City Centre.

Clause 5.5 – Development within the Coastal Zone

The proposal is located within the coastal zone, however, as the site is located at a significant distance from waterways, within an existing urbanised area the proposal is considered not to impact upon the coast zone.

Existing public access to the coastal foreshore remains unchanged and the development will not impede access to the foreshore.

Proposed effluent and stormwater disposal will not impact on the foreshore as the proposed townhouses are to connect to reticulated water and sewer.

The development will not be impacted by coastal hazards or impact on coastal hazards or increase the risk of coastal hazards in relation to any other land.

Clause 5.9 – Preservation of Trees or Vegetation

The proposed development is within the Tree Preservation Order 2011 - Koala Habitat Study Area. The proposal is located within an area that has been previously cleared. As such, this clause is satisfied.

Clause 6.1 – Acid Sulfate Soils

Class 2 Acid Sulfate Soils are identified on the subject site.

The objective of this clause is *to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

The soil analysis provided with application documentation confirms potential for acid sulfate soil materials below 2m depth but considers a precautionary approach to consider works below 1.5m depth. A management plan was submitted which was considered satisfactory.

Clause 6.2 – Flood Planning

The whole site is not considered flood prone but is nominated within the Flood Planning Map as being prone to Probable Maximum Flood levels.

The proposed residential development is not required to provide a refuge or a floor response assessment plan. It is therefore considered that this clause is not impacted upon as a result of this application.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

This clause applies to the subject site as the NSW Coastal Policy applies. The proposal is consistent with the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The development will not result in overshadowing of the beach or waterfront open space.

Clause 43: Residential development

The proposal generally complies with this clause. However, density of residential development on the subject site has not been maximised given that environmental features of the land would not be adversely affected.

SEPP No 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality. It will not restrict public access to the foreshore.

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

There are no draft environmental planning instruments relevant to this proposal.

(a) (iii) Development Control Plan (DCP)

Tweed Development Control Plan

A1-Residential and Tourist Development Code

DCP B2 prevails over DCP A1 with regard to front building setback/building lines within Enid Street and its location within the City Centre Support Precinct. A 4m front setback is accepted as opposed to the 6m requirement.

The design of the proposal results in cumulative variations to DCP A1 Part B. The variations include:

- Reduction in width of rear deep soil zone from 7.242m to 5m;
- Reduction of side setback of walls containing primary windows of living rooms to side boundaries from 4m to 1.525m;
- Reduction of minimum separation between walls containing primary windows/doors of living rooms to side boundaries from 4m to 1.525m;
- Reduction of minimum separation between walls containing windows/doors of living rooms to shared driveways from 4m to 2.2m and 0m;
- Reduction of minimum separation between walls containing primary windows/doors of sleeping rooms to shared driveways from 3m to 0m;
- Reduction of minimum setback to the side boundary with a northerly aspect for Buildings 1 and 2 from 4m to 1.525m;
- Reduction of solar access to living area windows of neighbouring properties to less than three hours of sunlight between 9am and 3pm on 21 June.

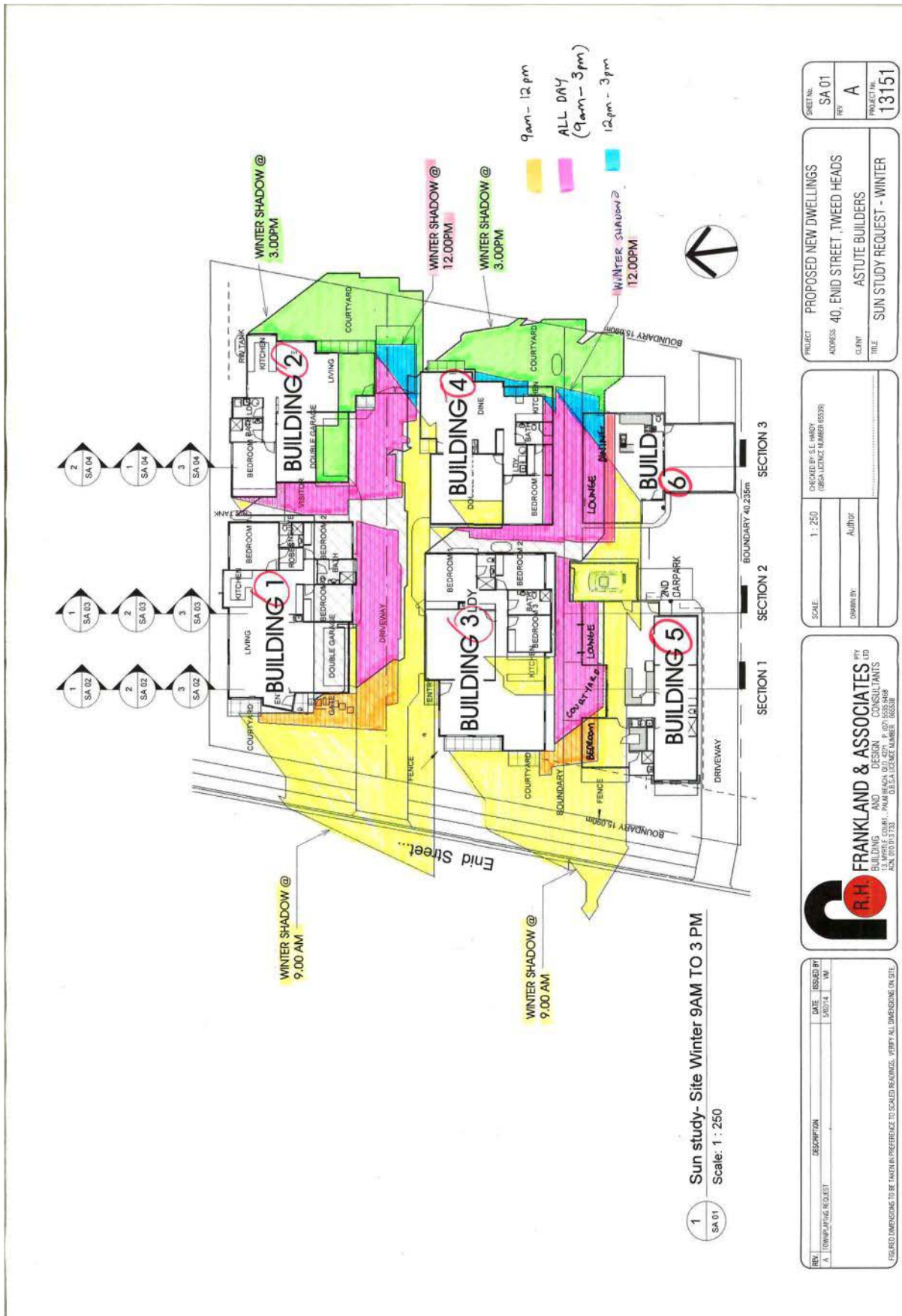
The variations (requested and identified) result from the proposed low density and broader building footprint to cater for single and two-storey development on 15m wide allotments. The variations are cumulative and while some may be supported individually on their own merit, in a locality in which the proposed density is appropriate, it can be concluded that *en masse* these variations are indicative that the proposed development is unsuitable for the site.

Of concern is the degree of overshadowing to the proposed dual occupancy on the southern adjoining allotment which is the subject of a separate report. Due to overshadowing from Buildings 3 and 4 of the townhouse development and a reduced northern side setback of the dual occupancy development, there is no solar access to lounge windows and external courtyard of the single storey dwelling, or to the lounge windows of the two-storey dwelling from 9am to 3pm on June 21.

Redevelopment of currently vacant 34 Enid Street would result in a similar degree of overshadowing to Buildings 1 and 2 as the adjacent dual occupancy.

Refer to Figure 2 below for clarification of the degree of overshadowing.

FIGURE 2 - COMPOSITE SHADOW DIAGRAM



On balance, the proposal results in an unacceptable outcome and cumulative variations to DCP A1 that as a whole, cannot be supported.

A2-Site Access and Parking Code

Carparking requirements in accordance with DCP A2 are as follows:

| | | | | | |
|----|------------------------|--|------------|----------------------------|--|
| A4 | Multi dwelling housing | More than one dwelling on an allotment | 1/15 units | 2/unit (class 2 AS 2890.1) | 1 per each 1 bedroom unit, 1.5 per 2 bedroom unit, and 2 spaces for 3 or more bedroom units. Plus 1 space per 4 units for visitor parking. |
|----|------------------------|--|------------|----------------------------|--|

A double garage is provided for each townhouse (2 x 3-bdrm + 2 x 4-bdrm) which is adequate. One visitor space between Buildings 1 and 2 caters for disabled access which is satisfactory. There is one single driveway for the four units which minimises hard surfaces along the frontage.

A3-Development of Flood Liable Land

As discussed previously in this report, the proposal is not located on flood liable land. There is no further consideration required.

B2-Tweed Heads

The subject site is located within the City Centre Support Precinct.



Figure 3: City Centre Support Precinct

Future desired character of this precinct is described as follows:

City Centre Support Precinct

The City Centre Support Precinct is located to the south of the City Centre Core and adjoins the Ridgeline and Razorback Precinct, the Tweed River Precinct and the Civic/Campus Precinct and the Southern Boat Harbour Precinct.

The objective for future development in this precinct is to allow for a similar range of land uses to the City Centre Core although at a lower density and without the extent of active street front uses as in the City Centre Core.

Future development on consolidated allotments will be up to 10 storeys fronting Wharf Street and 14 fronting Pearl Street with residential land uses only to the west of Beryl Street and Boyd Street. The objective for future development west of Beryl Street and Boyd Street is to create a residential precinct with high quality urban design and buildings that respond to the topography of the land. Buildings up to 10 storeys will be encouraged along Thomson Street and Florence Street will function as an interface between City Centre Support Precinct and lower density Ridgeline and Razorback Precinct.

Figure 4: objectives of the City Centre Support Precinct

The subject site is located west of Beryl Street. High quality urban design and buildings that respond to the topography of the land are expected in this location.

As such, the proposal for single storey and two-storey townhousing is inconsistent with the objectives for future development in this precinct.

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

Clause 92(a) Government Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown land. The Tweed Shire Coastline Management Plan 2005 is not applicable to the proposed development.

Tweed Coast Estuaries Management Plan 2004

This Plan relates to the Cudgen, Cudgera and Mooball Creeks and is therefore not applicable to the proposed development.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

This plan relates to the Cobaki and Terranora Broadwater and is therefore not applicable to the proposed development.

(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

Context and Setting

The proposed development is inconsistent with the future desired character of the locality which currently comprises older housing stock interspersed with redeveloped land of higher density.

Following assessment of the application, there is a concern that the level of privacy afforded to these structures in the future will be severely diminished as redevelopment of the area to 34m building height occurs over time.

(c) Suitability of the site for the development

The proposal is not considered suitable for the site given the requirement to increase density on sites in key locations that may be amalgamated in order to achieve the aims and objectives of the TCCLEP 2012.

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

Public:

The proposal was notified for a period of 14 days from Wednesday 6 November to Wednesday 20 November 2013. During this time, no submissions were received.

(e) Public interest

It is in the broader general public interest to enforce the standards contained within the Development Control Plan 2008 and Tweed City Centre LEP 2012

specifically as it relates to residential development controls and density objectives of the R3 Medium Density Residential zone.

OPTIONS:

1. Refuse the development application for the reasons supplied; or
2. Grant in-principle support for the application and a report to be brought back to a further Council meeting with recommended conditions of consent for Council to determine.

CONCLUSION:

The development is unsuitable for the site and inconsistent with the Tweed City Centre LEP 2012, specifically the density objectives of the R3 Low Density Residential zone. It is therefore recommended that the development be refused.

COUNCIL IMPLICATIONS:**a. Policy:**

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

The applicant may lodge a Class One appeal in the NSW Land and Environment Court relating to any Council determination.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
