

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	2012NTH006
DA Number	DA12/0110
Local Government Area	Tweed Shire Council
Proposed Development	The construction of an educational establishment being for the purpose of a primary school. The proposed development also includes the construction of the currently unformed road reserve of Charles Street.
Street Address	Lot 3 DP 263153; No. 1 Charles Street and Unformed road reserve at Charles Street POTTSVILLE
Applicant/Owner	Trustees of The Roman Catholic Church Diocese of Lismore – St Anthony’s Parish Kingscliff
Number of Submissions	Council received twenty (20) submissions and two (2) late submissions objecting to the proposal. In total there were eighteen (18) objections (including 2 from the same objector), three (3) in support and one (1) that provided comments.
Recommendation	Approval with conditions
Report by	Jamie Warren – Town Planner
Report date	3 October 2012

Assessment Report and Recommendation

FILE NO: DA12/0110

REPORT TITLE:

Development Application DA12/0110 for a St Ambrose Primary School and Construction of the Unformed Road Reserve at Lot 3 DP 263153; No. 1 Charles Street and Unformed Road Reserve Charles Street POTTSVILLE

SUMMARY OF REPORT:

The subject development application proposes the construction of an Educational Establishment being for the purpose of a Primary School. The proposed development also includes the construction of the currently unformed road reserve of Charles Street.

Sufficient car parking is provided in the form of a single car parking area on the western side of the subject site with a total of 48 car parks being provided for staff and visitors. The entry to the site will be via the newly constructed Charles Street with a crossover being maintained for the church and a new crossover for buses and cars. A bus bay area is being provided for 3 buses with parent drop off and parking provided in the bus turn around area.

The purpose of this report is to have the application determined by the Northern Region Joint Regional Planning Panel, due to the capital investment value of the proposed development exceeding \$5,000,000. Schedule 4A of the Environmental Planning and Assessment Act under clause 6(b) requires educational establishments with a Capital Investment Value of more than \$5 million to be determined by the Regional Planning Panel.

The proposed Educational Establishment development is permissible with consent and considered to be of appropriate nature within the surrounding locality due to the services and facilities that will be available to its residents and considered not to create a significant adverse impact on the natural and built environment.

PROPOSAL:

On 27 March 2012, Council received a development application for the construction of a Primary School and construction of the unformed road reserve at Lot 3 DP 263153; No. 1 Charles Street, Pottsville.

A detailed description of the proposal is provided below.

Stage 1

- Building A – Administration, Staff Room, Staff Facilities, Sports Store.
- Building B – Library, Canteen, Garden Store.
- Building C – Multi Purpose Hall.
- Building D – 3 x Classrooms, Boys Toilets, Girls Toilets.
- Building E – 4 Classrooms.

- Entry Forecourt, Bell Tower and Covered Walkways.
- Car parking Area Including Parent and Bus Drop Off/Pick Up Facilities
- New Set Down Area for the Church Building.
- Field and Courtyard Playing Areas.
- Covered Outdoor Learning Area, Outdoor Rooms and Garden Areas.
- Landscaping (staged).
- Charles Street Road Works.

Stage 2

- Building F – 3 x Classrooms, Girls Toilets, Boys Toilets.
- Outdoor Room and Covered Walkways.
- Landscaping (staged).

Stage 3

- Extension to Building A – Staff Amenities, Administration.
- Extension to Building B – Library, Canteen.
- Extension to Building C – Multi Purpose Hall.
- Building G – 4 x Classrooms.
- Covered Outdoor Learning Area, Outdoor Room and Covered Walkways.

SITE:

The subject site is located approximately 300 metres south of the commercial centre of Pottsville located in the Tweed Shire. Pottsville is located approximately 23 kilometres south of Tweed Heads and the Queensland / New South Wales border.

The subject site is of a rectangular shape and is described as Lot 3 DP 263153. The site has an area of approximately 2.02 hectares.

The school site has a northern frontage of approximately 131m including a frontage of approximately 79m to the unformed Charles Street road reserve, a western boundary of 155m a southern boundary of 130m.

The site is currently improved by a Church and is otherwise maintained as an open grassland area. The existing church building is a single storey structure with masonry walls and tile roof and is located in the north eastern corner on a filled part of the site.

The existing land levels range from approximately RL 4.5m AHD towards the Charles Street frontage of the site, down to approximately RL 2.3m AHD at the western side of the open grassed area.

KEY ISSUES:

Traffic

The proposed development raises a number of traffic issues for the locality being traffic noise, traffic congestion and the strain on the road network.

The applicant has proposed access to the site from the unformed Charles Street at the request of Council's Engineering and Operations Unit to take pressure of the existing road network.

The construction of Charles Street will enable a link between Overall Drive and the proposed school to avoid the use of Elizabeth Street and the intersection of Elizabeth Street with Coronation Avenue. The original application proposed a roundabout at the intersection of Charles Street and Overall Drive / Philip Street. This has been replaced in the latest submission with a "T" Intersection.

Given the likelihood of traffic volumes increasing on Overall Drive, the latest plans provided by CRG Traffic Pty Ltd include the installation of a raised island on Charles Street to prohibit right turns onto Overall Drive to be installed at the first stage of the development. It is noted that motorists only have to travel 200m to the roundabout at the intersection of Tweed Coast Road and Phillip St if they wish to head south on Overall Drive.

This new road will link into a circulating car park located at the end of Charles Street to service the school. Charles street will effectively only be used by people associated with the school. Philip Street / Overall Drive and Coronation Avenue all function as urban collector roads for the Pottsville area. The speed limit in the area is 50km/h for residential streets.

The application was referred to Council's Traffic Engineer and the Development Traffic Advisory Group which includes a representative from Council, Roads and Maritime Services (RMS) and the NSW Police. From this meeting there were no issues raised in regards to traffic numbers or the capacity of the road network. The main issues related to:

- conflict between students getting off buses and accessing the school and parents dropping off students on the school site;
- pedestrian movements from Elizabeth Street to the subject site; and
- the application not catering for pedestrians and cyclists at the intersection of Charles Street and Philip Street.

In relation to the internal car park conflict between students utilising buses and circulating parents dropping off students, two (2) pedestrian crossings have been provided to ensure safe crossing from the car park / set down area to the school. A condition has been included in the recommendations that the onsite marked pedestrian crossings are to be supplemented by the installation of Wombat Crossings as per Austroads 2008 Guide to Traffic Management Part 8 Local Area Traffic Management.

A 1.2m wide concrete footpath is located on the western side of Elizabeth Street in the vicinity of the subject site. As per Council's Request for Further Information letter dated 5 July 2012, this needs to be linked to the development. Appropriate conditions have been recommended for the footpath.

The existing 2.2m shared pathway along Overall Drive / Philip Street (on the same side as the proposed Charles Street intersection) needs to be incorporated into the

intersection design. This will be addressed at the Construction Certificate stage of the assessment.

It is considered that the proposed development has satisfactorily dealt with the likely impacts and will not in itself result in adverse impacts such as increased traffic, road noise and air pollution, which are attributable to urban areas generally.

Car Parking

A number of submissions raised issues with car parking, bicycle parking and the proposed bus bays for the development. Under Council's Development Control Plan Section A2 - Car Parking, Access and Traffic the Based upon the table the following is required:

- 294 Bicycle Spaces
- 14 Bus Bays
- 47.5 Car Parking Spaces

The applicant has provided the following:

- 36 Bicycle Spaces
- 3 Bus Bays
- 48 Car Parking Spaces

Austroads '*Guide To Traffic Engineering Practice*' – Part 14 document that recommends 1 bicycle space per 5 students over Year 4. This results in a total of 36 bicycle spaces being required which the applicant has provided to the north of proposed Building D. As such the bicycle parking provided is adequate in catering for the proposed development.

The applicant has provided 3 Bus Bays to cater for the proposal. Council's Traffic Engineer has assessed this and indicated that the applicant advised verbally that they consulted with the bus service provider who determined that there would be 3 buses servicing the school. It was determined that the 3 bus bays are reasonable for a school of this size and experience with other schools of a similar size. An oversupply of bus parking adjacent to schools leads to high parent parking non-compliance.

The applicant has provided 48 car parking spaces which complies with Council's Development Control Plan Section A2. Therefore car parking is not considered an issue for the proposed development.

Stormwater/Flooding

A number of submissions were received in regards to stormwater and drainage in the locality. It is noted that current drainage infrastructure is relatively poor in the area, with no piped stormwater drainage existing in the vicinity of Elizabeth Street and very little piped drainage existing in the unformed Charles Street.

The applicant has provided stormwater infiltration areas on the western portion of the site. Overland flow from these infiltration areas is intended to discharge (via sheet flow) to the west of the site. Runoff from the hardstand areas are to be collected and treated by way of swales and infiltration, prior to discharging.

A number of the submissions in regards to flooding focused on the eastern end of the Charles Street road reserve. There is currently an open drain at the eastern end of Charles Street (near Overall Drive) and the vegetation within was to be retained in the proposed intersection design. It is considered that this is not appropriate. The existing open drain is quite deep and in order to achieve an acceptable and safe road verge for Charles Street, this drain will need to be filled in. As such, appropriate piped drainage and surface drainage (pits and swale) will be required. A condition has been included in the recommendations to ensure adequate stormwater treatment will be undertaken, especially at the eastern end of Charles Street to reduce the severity of flooding in the locality.

Environmental

A number of environmental issues arose as a result of the assessment. Particular note was given to the SEPP 14 wetlands located to the west of the subject site and a number of Koala Habitat Trees (Red Gum) located at the western most end of the Charles Street road reserve.

The original environmental assessment information did not cover the Charles Street road reserve which had the Koala Habitat trees located within which would have been removed as a result of the development. It was requested that these trees remain untouched and a redesign of the internal bus and car turnaround area and the entry/exit be submitted showing this. On 6th September 2012 this redesign was received with the Koala Habitat trees to remain. It was therefore considered appropriate conditions could be applied to ensure the safety of these trees.

In regards to the SEPP No 14 - Wetlands issue, Council's usual practice is to require a 20m vegetated buffer. As these ecological communities occur within and adjacent to the site along the western boundary, such a measure was considered necessary to avoid off-site impacts arising from the development. The applicant provided amended plans showing a passive buffer of 20m with supplementary plantings of swamp mahogany which was accepted by Council's Natural Resource Management Unit

Acoustic

A number of submissions were received in regards to noise impacts upon the surrounding residents. It is considered that the proposed acoustic impact of the development upon the surrounding area is consistent with that anticipated by the use of the school premises being primarily day-time and weekday use. Acoustic impacts outside of these hours will be minimal. It is considered that there will be noise impacts from students utilising the play grounds during school days but it is envisaged that these will be kept to lunch periods. A condition has been included to ensure the hours of operation are 8am to 4pm Mondays to Fridays and no operations to be carried out on Saturday, Sundays or Public Holidays.

The design of the buildings provide enclosed class rooms and offices oriented towards the centre of the courtyard for student and staff circulation thereby minimising potential acoustic impact during circulation between the buildings. Additionally, the windows on the elevations adjoining the residential allotments are Clerestory Glazing and not operable therefore limiting noise impacts from the classrooms.

The setbacks to adjoining residential properties are considered appropriate and will aid in reducing acoustic impacts from the use of the new buildings. During the assessment the applicant was requested to increase the setbacks from the adjoining neighbours to the east and south. The applicant provided amended plans showing a five (5) metre setback from these boundaries which is considered to reduce the acoustic impact of the educational establishment on the adjoining residents.

The application was supported by an acoustic study that addressed noise impacts. It is recommended that conditions be imposed requiring a noise impact assessment from a suitably qualified acoustic consultant shall be prepared in respect to noise likely to be generated by the activities associated with the construction and operation of each stage.

Privacy

A number of submissions were received in regards to privacy issues from the surrounding residents.

As noted above, the design of the buildings provide enclosed class rooms and offices oriented towards the centre of the courtyard for student and staff circulation thereby minimising potential overlooking from upper storeys. Additionally, the windows on the elevations adjoining the residential allotments are Clerestory Glazing, not operable and are located at a height of approximately 2.2m from the floor of the second storey. It is therefore considered that there will be limited overlooking from the proposed school into adjoining neighbours. The applicant provided amended plans showing a five (5) metre setback from these boundaries which is considered to reduce potential for overlooking from the educational establishment into the adjoining residents.

REPORT:

Applicant: Trustees of The Roman Catholic Church
Owner: Catholic Church
Location: Lot 3 DP 263153; No. 1 Charles Street POTTSVILLE
Zoning: 2(b) Medium Density Residential
Cost: \$5,275,000.00

BACKGROUND:

Council is in receipt of a Development Application (DA) from the Trustees of the Roman Catholic Church for an “educational establishment” comprising the staged construction of 7 new 2 storey buildings with 14 classrooms, associated amenities/administration buildings at Lot 3 in DP 263153, 1 Charles Street, Pottsville. The proposed development has a Capital Investment Value of \$5.275 million.

The proposed development constitutes ‘Regional Development’ requiring referral to a Joint Regional Planning Panel (JRPP) as it is a Development with a Capital Investment Value of more than \$5M. As such, while Council is responsible for the assessment of the DA, determination of the Application will now be made by the Northern Region Joint Regional Planning Panel.

The DA was referred to the Roads and Maritime Services for comment, which raised no objection to the proposal at its Tweed Development Traffic Advisory Group (DTAG) meeting subject to conditions of consent, and has no concerns regarding the operation of the road network in the area surrounding the subject site.

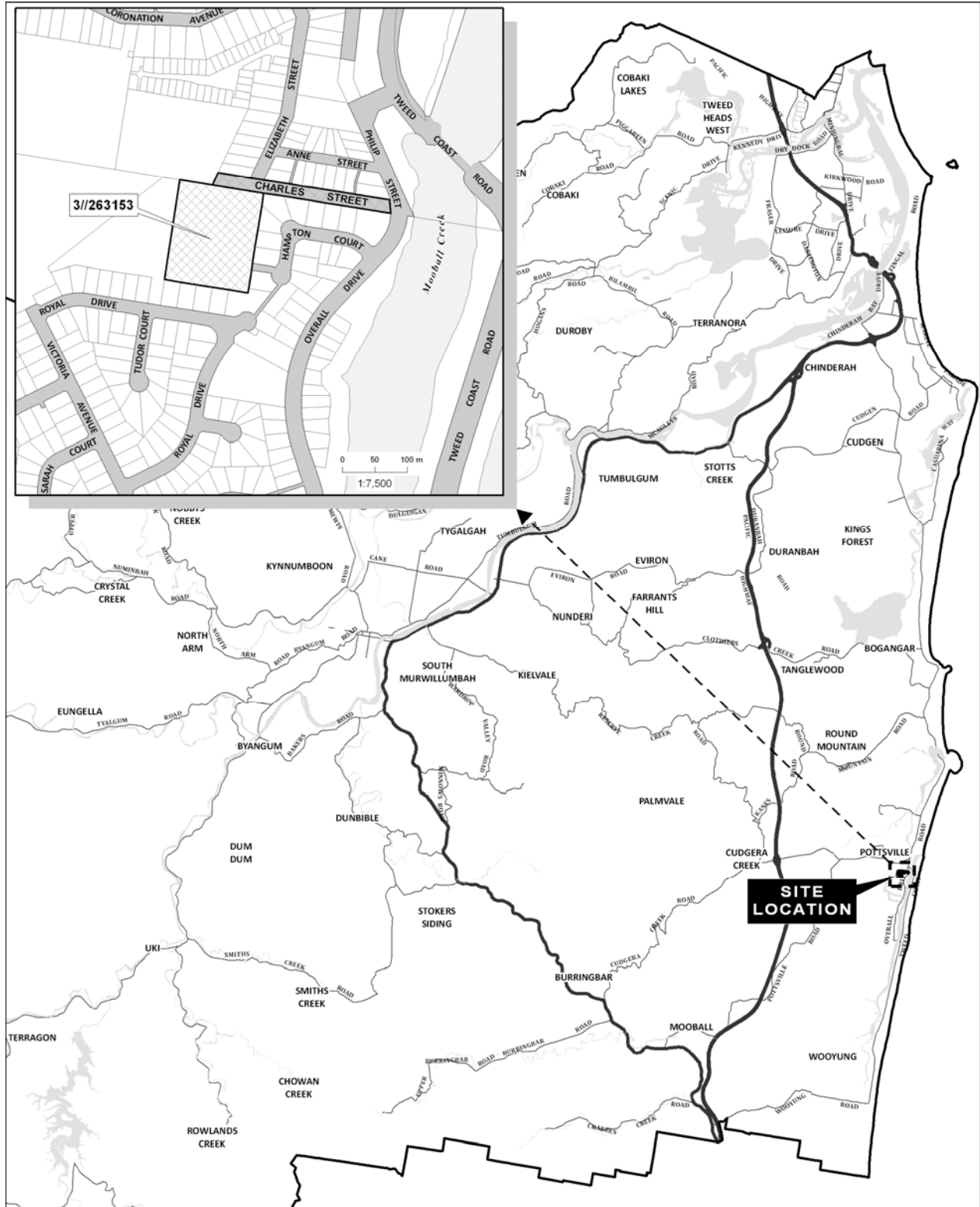
The Application was notified to adjoining and neighbouring owners for a period of 14 days from 11 April to 26 April 2012, during which time 20 submissions were received by Council which have been assessed later in this report. Two (2) late submissions were received which have also been assessed in this report. It is considered that the issues in the submission are not sufficient to warrant refusal of the DA.

A third storey for a Bell Tower (16m²) is a technical non-compliance resulting from the definition of a storey in Tweed Local Environmental Plan 2000. This non-compliance has been accompanied with a SEPP 1 objection which adequately demonstrates that the non-compliance is acceptable in this instance as the bulk and scale will be in keeping with the surrounding neighbourhood.

An information request was sent to the applicant on 5 July 2012 identifying items such as traffic issues, pedestrian crossings, setbacks/privacy, ecological and the submitter’s issues to be addressed. The applicant responded on 20 August 2012 providing additional information and an amended design for assessment.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, including suitability of the site and the public interest, and is considered satisfactory. The proposed development is considered satisfactory with regard to key issues such as built form, noise, access, traffic impact, stormwater drainage, social and economic impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.


SITE DIAGRAM:



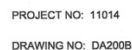
Locality Plan

Lot 3 DP 263153

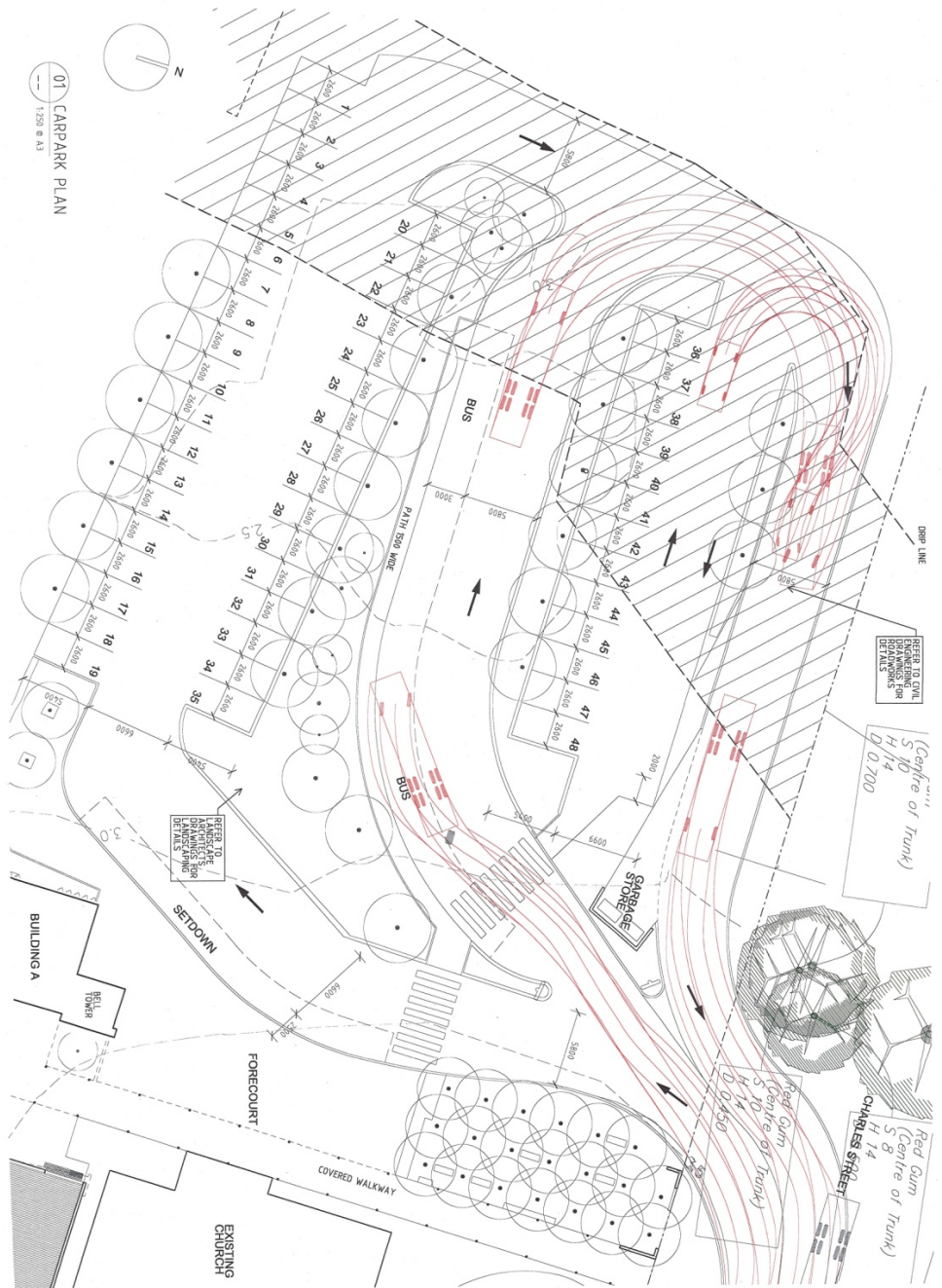
No. 1 Charles Street and Unformed road reserve at Charles Street, Pottsville

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PROPOSED NEW PRIMARY SCHOOL
AT CHARLES STREET, POTTSVILLE NSW
CLIENT: ST ANTHONY'S PARISH KINGSCLIFF

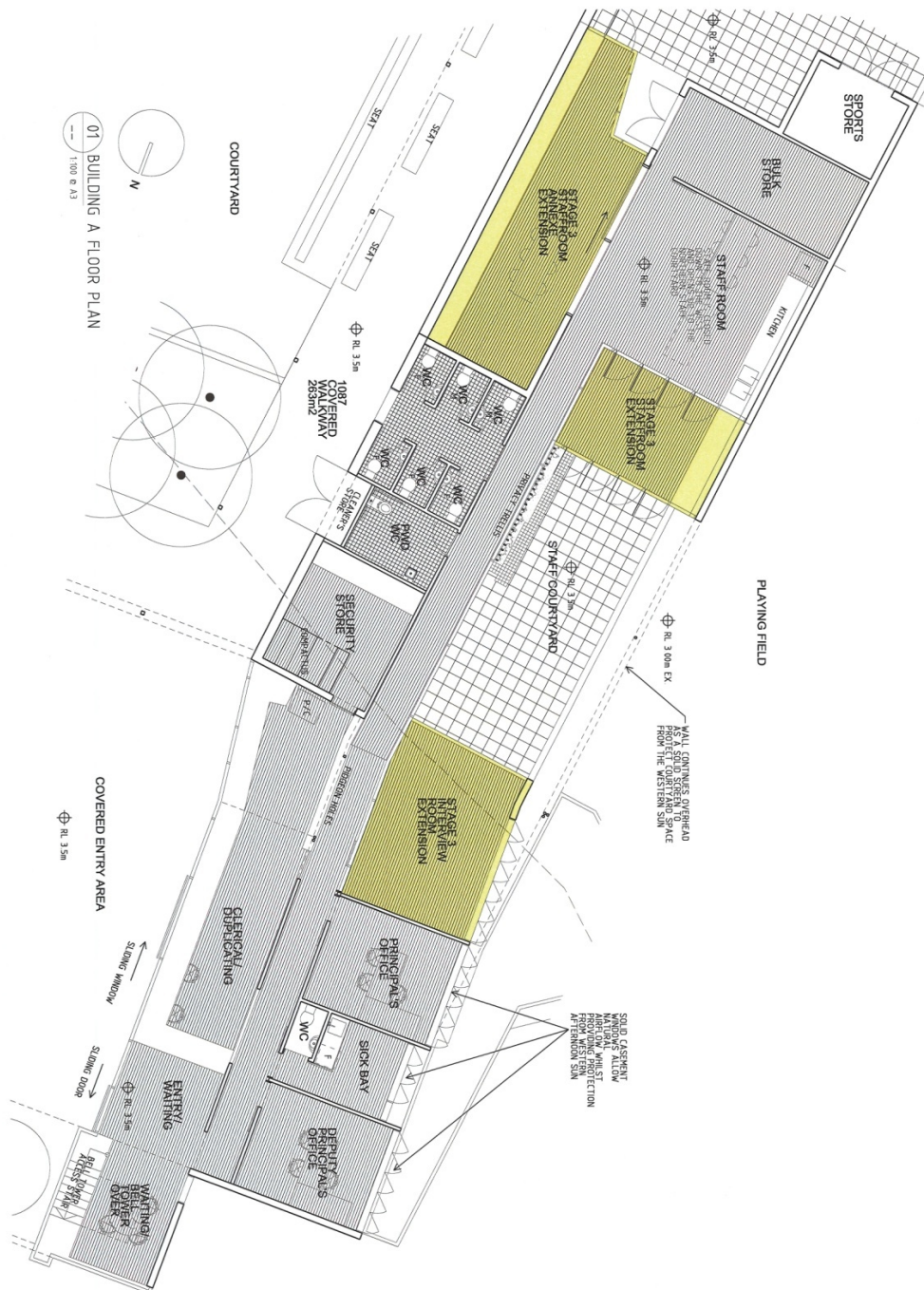
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PROJECT NO: 11014

DRAWING NO: DA202B



PROPOSED NEW PRIMARY SCHOOL
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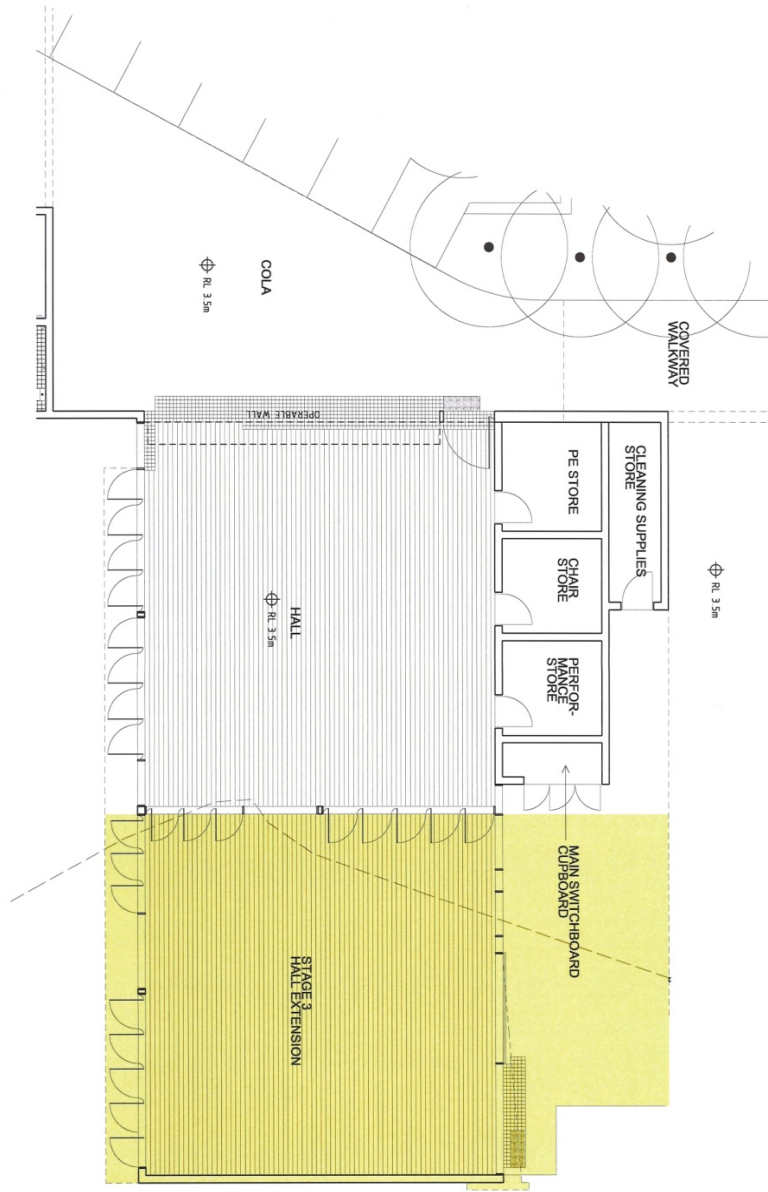
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PROJECT NO: 11014
DRAWING NO: DA203

01 BUILDING C FLOOR PLAN
1:100 R A3



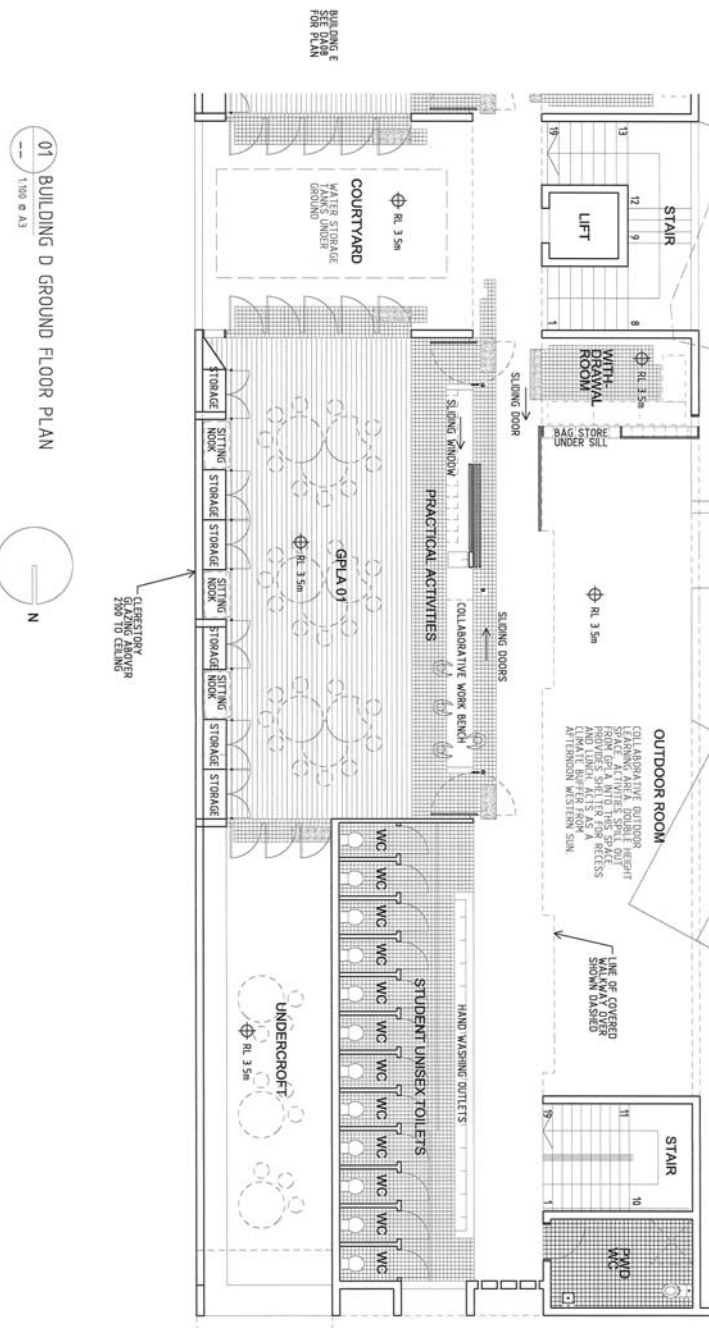
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PROJECT NO: 11014
DRAWING NO: DA205



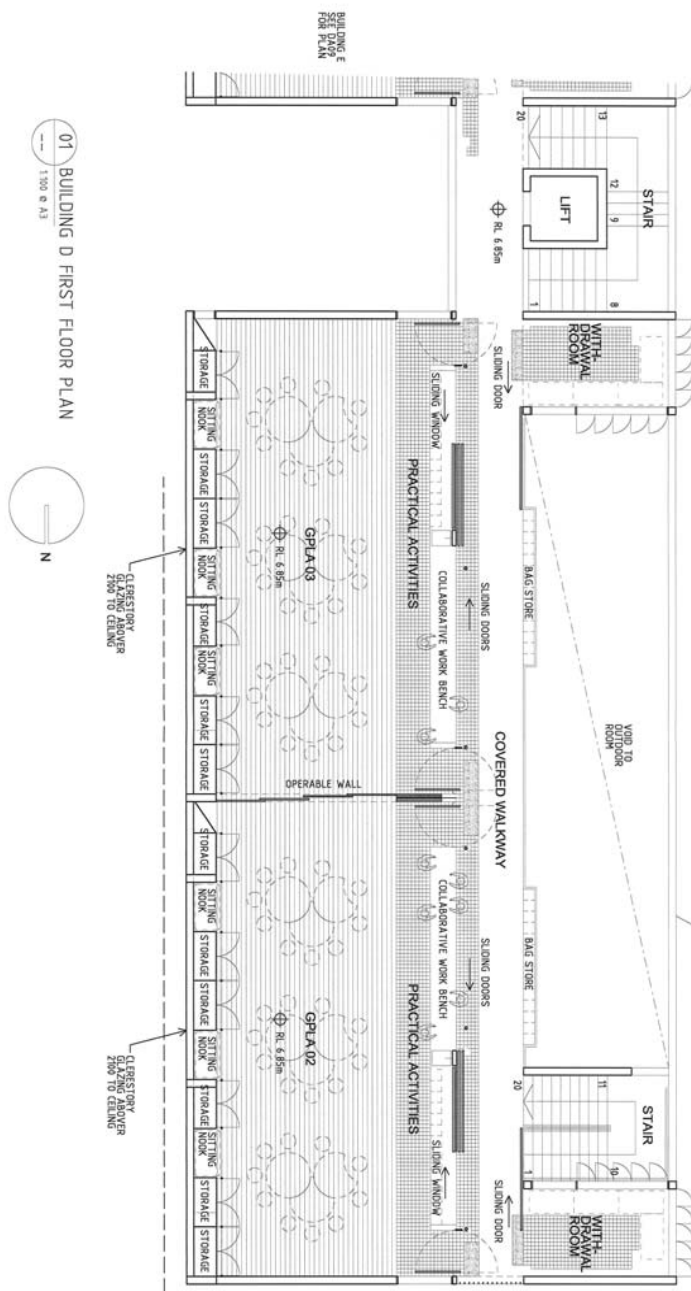
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PROJECT NO: 11014
DRAWING NO: DA206



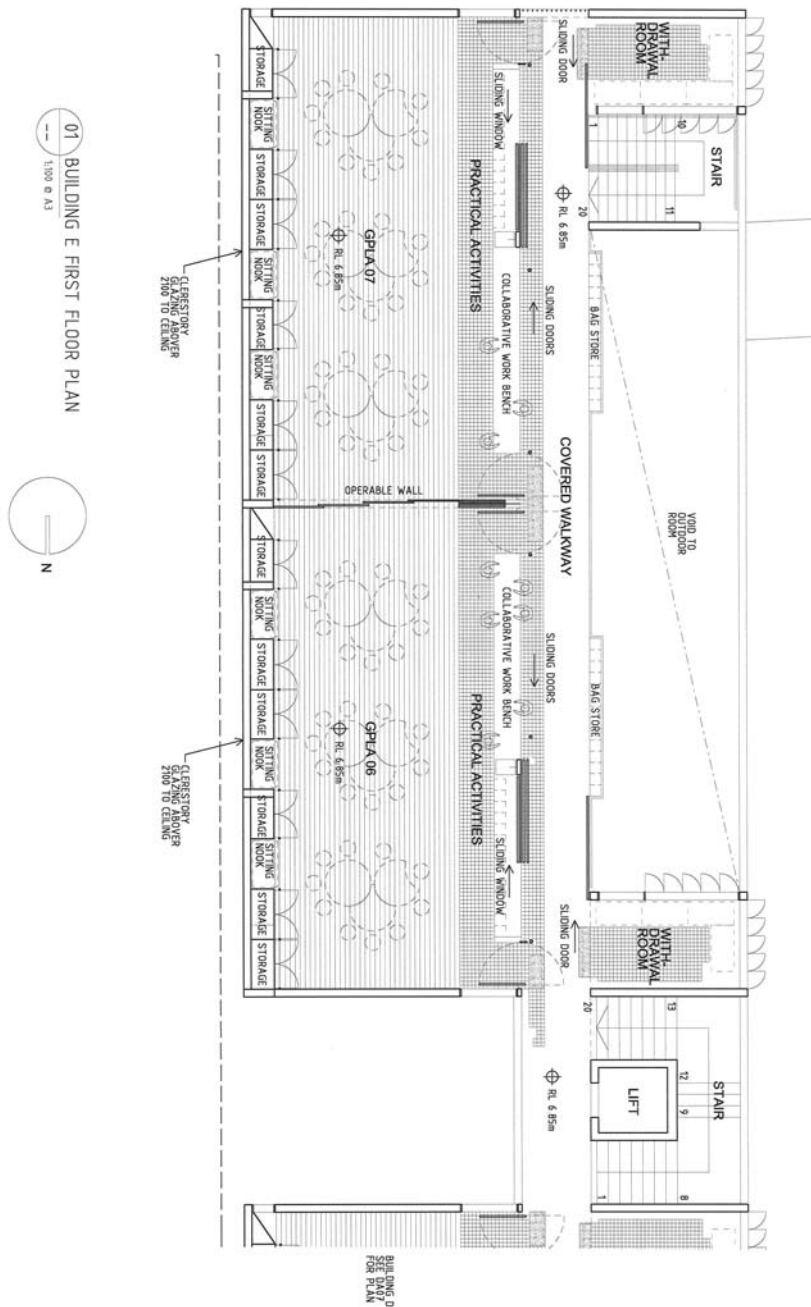
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PROJECT NO: 11014
DRAWING NO: DA207



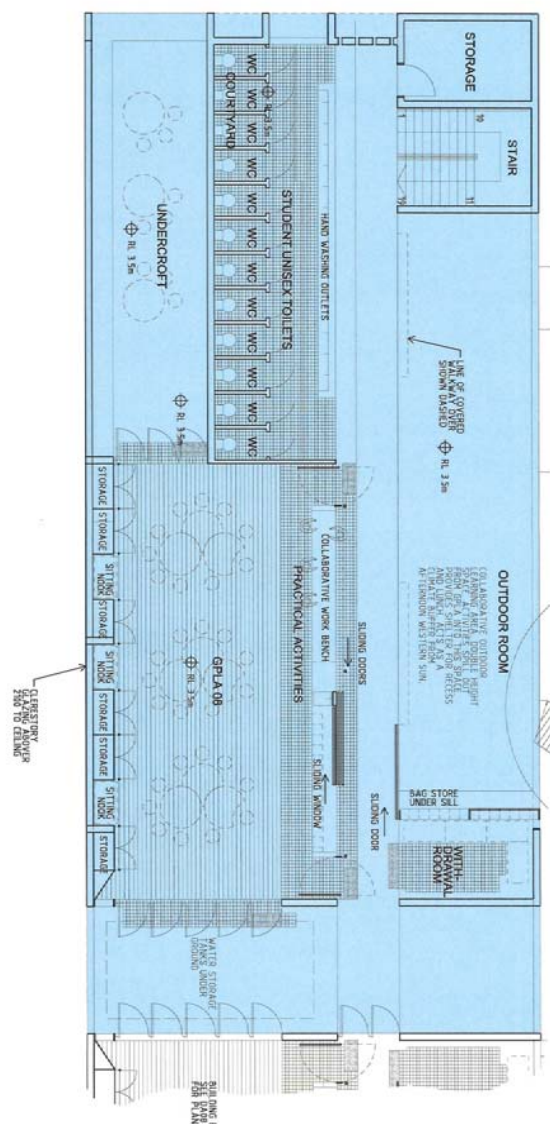
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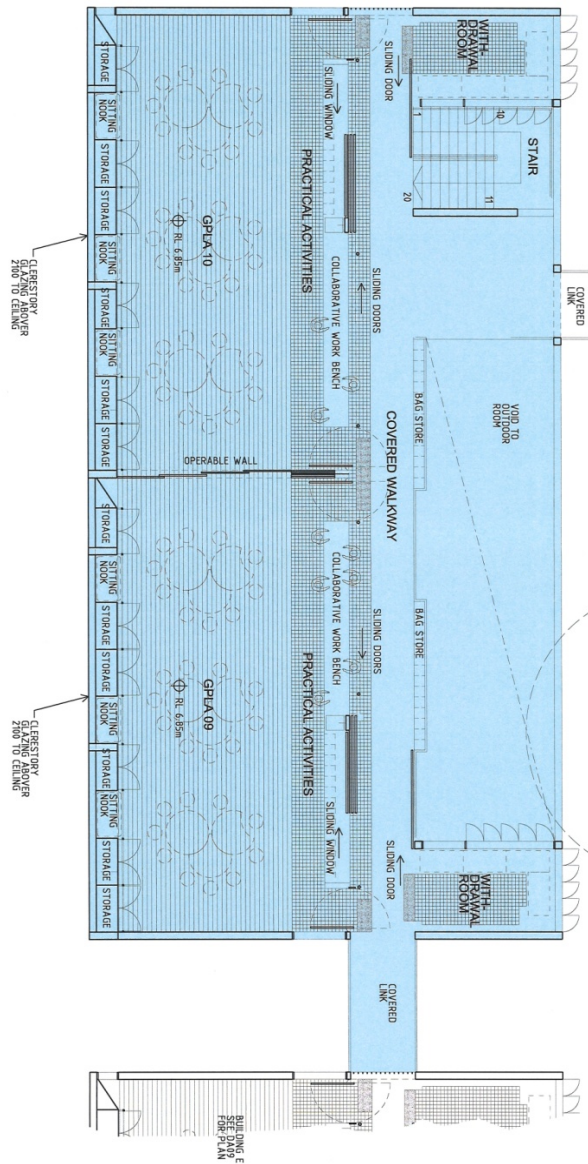
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PROJECT NO: 11014
DRAWING NO: DA209



PROJECT NO: 11014
DRAWING NO: DA210A

STAGE 02
01 BUILDING F FIRST FLOOR PLAN
1:100 @ A3



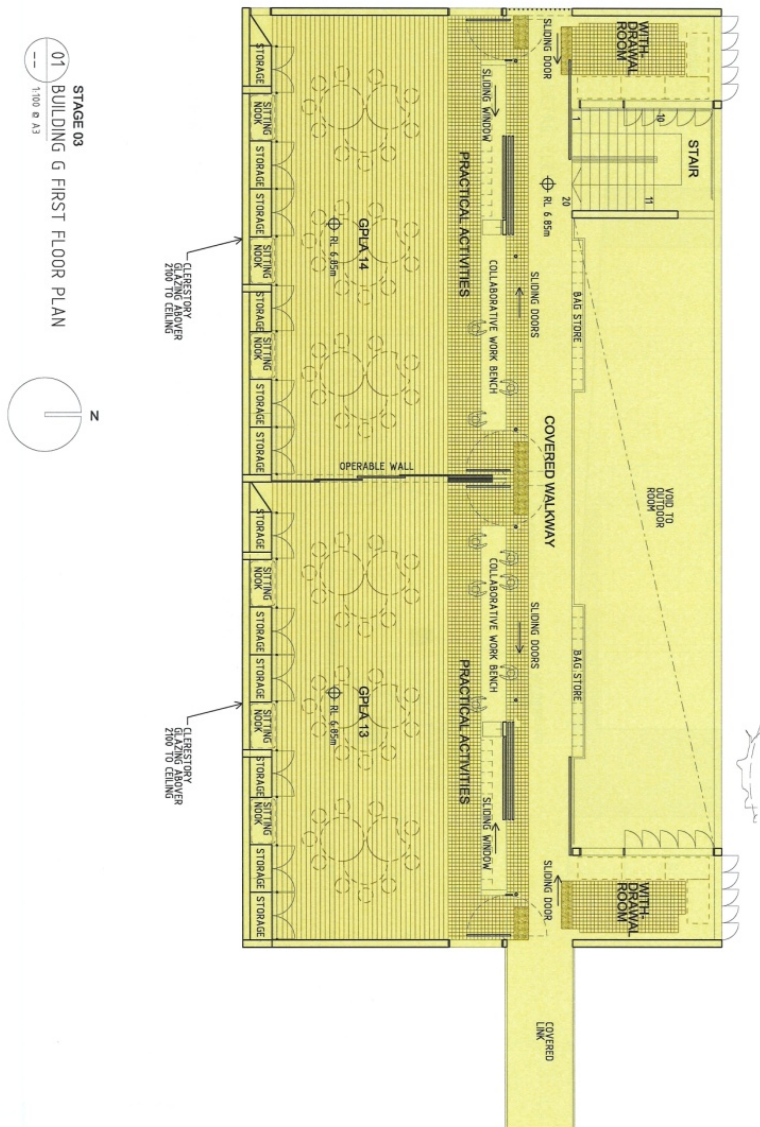
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PROJECT NO: 11014
DRAWING NO: DA211A



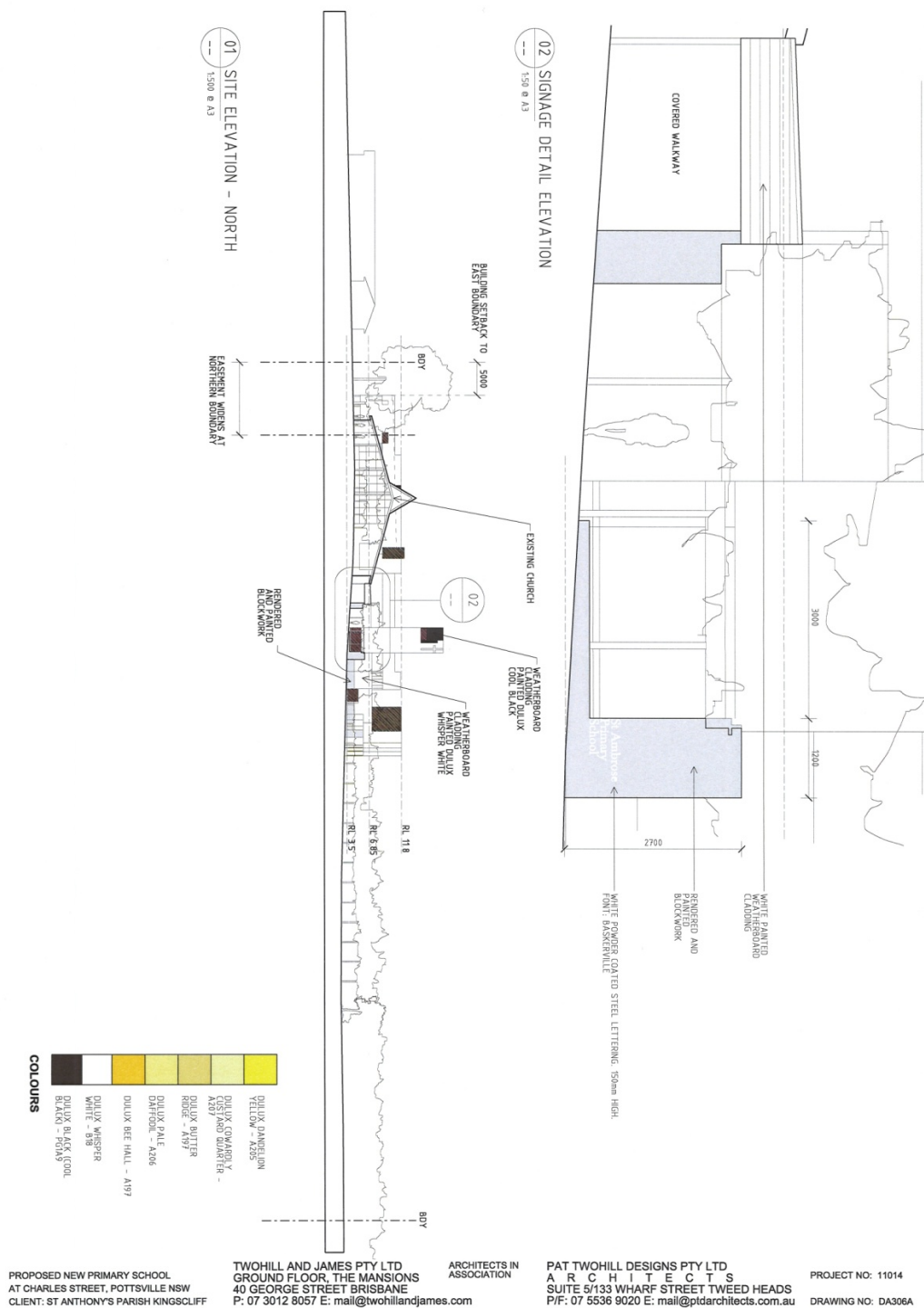
PROPOSED NEW PRIMARY SCHOOL
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CLIENT: ST ANTHONY'S PARISH KINGSCLIFF

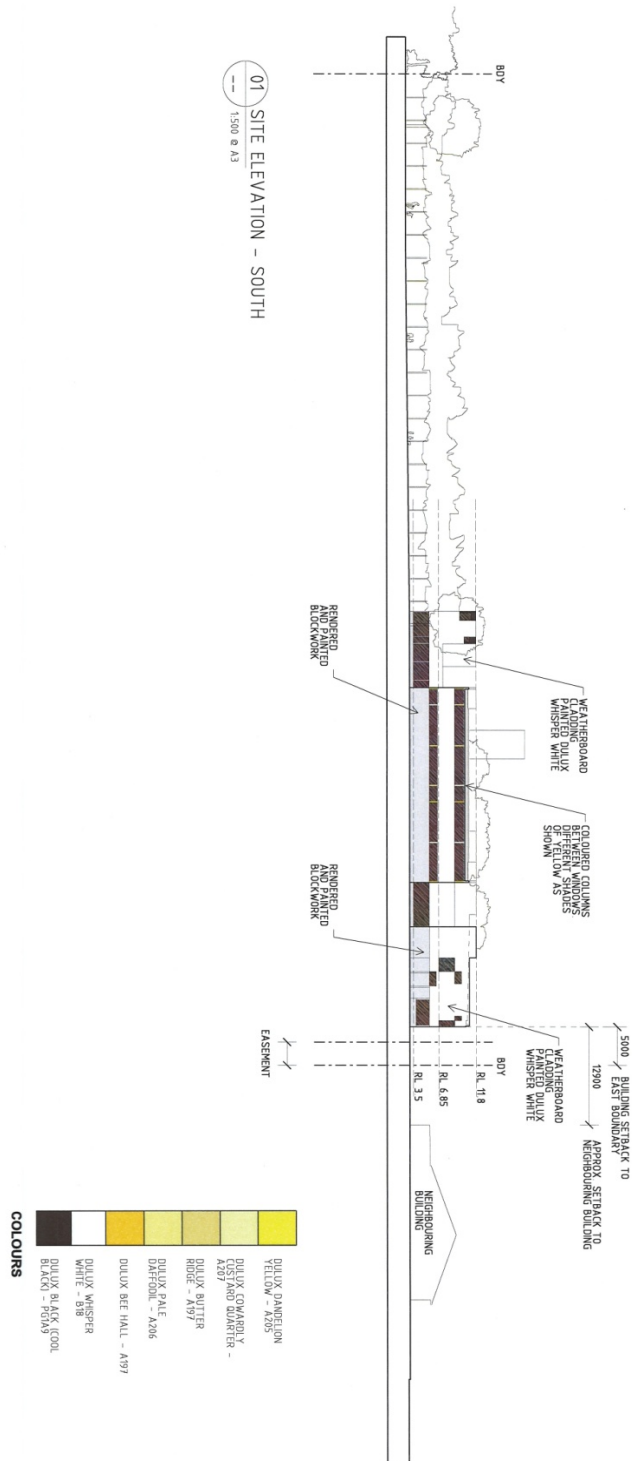
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PROJECT NO: 11014
DRAWING NO: DA213A





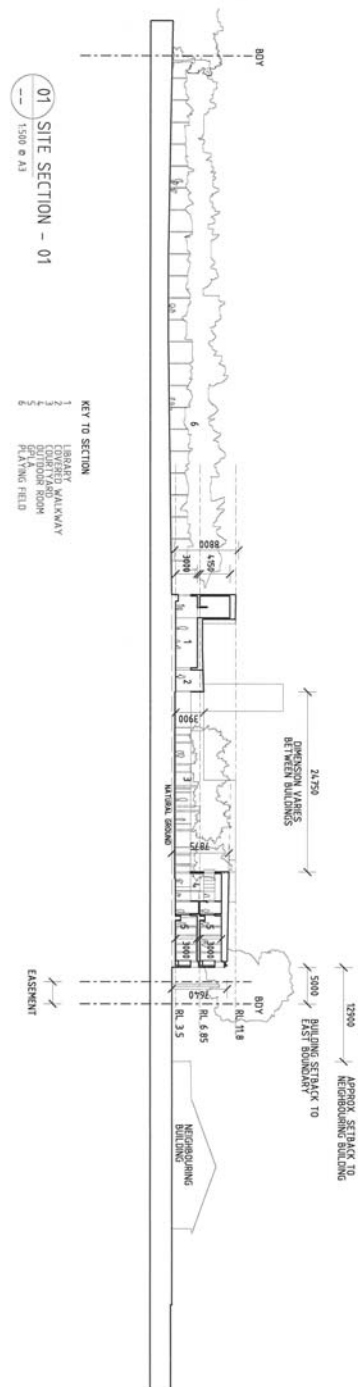
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CLIENT: ST ANTHONY'S PARISH KINGSCLIFF

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PROJECT NO: 11014
DRAWING NO: DA307A



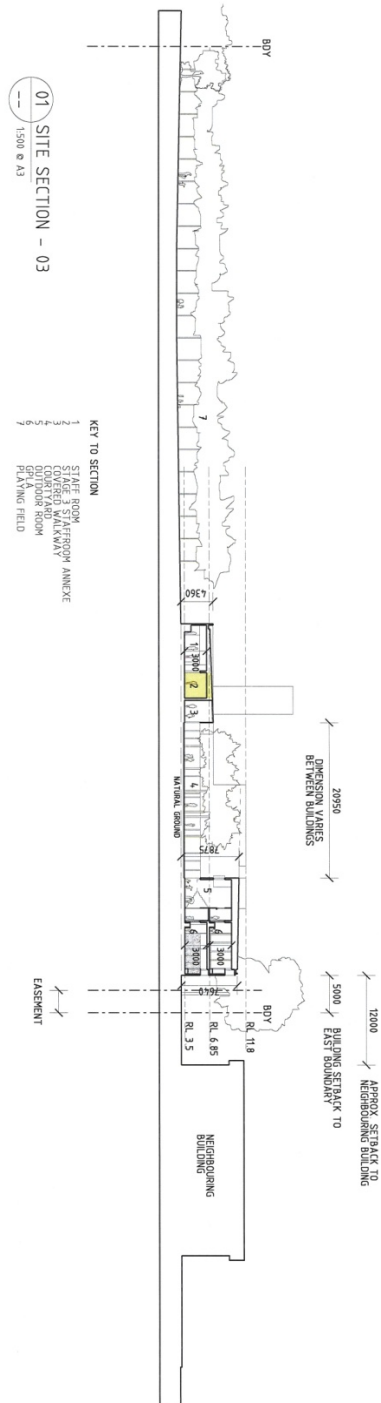
PROPOSED NEW PRIMARY SCHOOL
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PROJECT NO: 11014
DRAWING NO: DA400A



PROPOSED NEW PRIMARY SCHOOL
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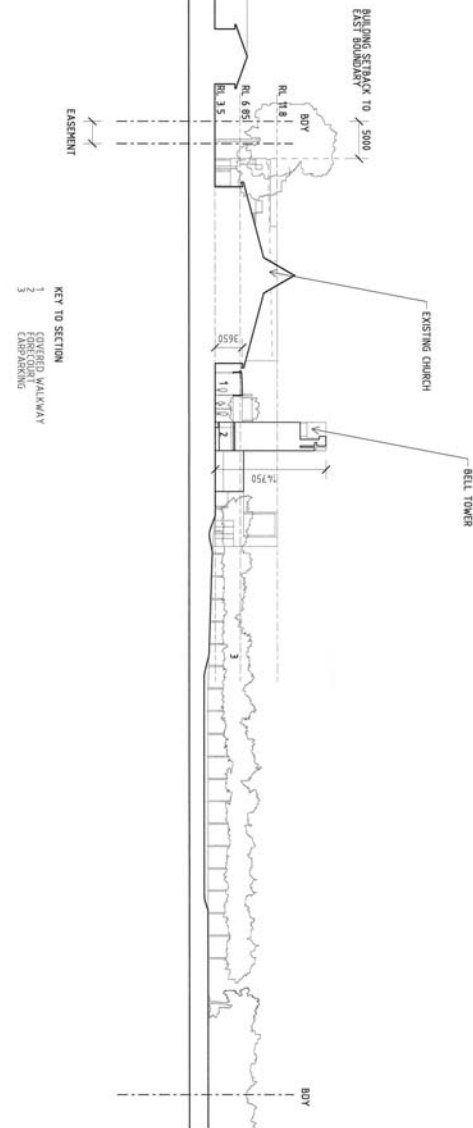
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PROJECT NO: 11014
DRAWING NO: DA402A

01 SITE SECTION - 06
1:500 @ A3



PROPOSED NEW PRIMARY SCHOOL
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CLIENT: ST ANTHONY'S PARISH KINGSCLIFF

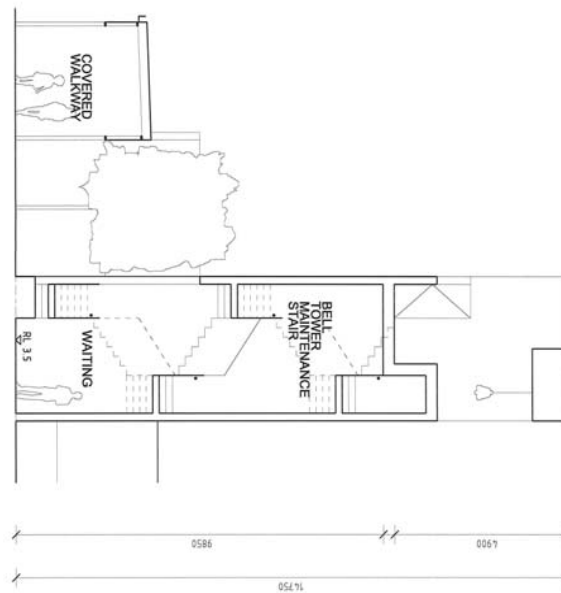
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PROJECT NO: 11014
DRAWING NO: DA405A

01 SECTION THROUGH BELL TOWER
1500 @ A3



PROPOSED NEW PRIMARY SCHOOL
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PROJECT NO: 11014
DRAWING NO: DA406

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

Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is *“the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”*.

Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

The proposed development is considered to meet the provisions of Clause 4 by way of encouraging sustainable economic development within the area whilst being compatible with the existing and future streetscape and amenity of the area.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

Appropriate conditions of consent have been applied, which will ensure that the proposed development will not significantly impact upon the surrounding residences or locality. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

Clause 8 - Consent Consideration

This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:

- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- (b) *it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and*
- (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will*

be affected by its being carried out or on the area of Tweed as a whole.

As noted below, the proposed development is considered to meet the primary objective of the zone by way of optimum utilisation of the site, whilst taking into account environmental constraints. The proposal generally complies with Clause 8(a).

Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposal generally complies with the aims and objectives of each.

The proposed development is not considered to have an unacceptable cumulative impact on the locality or the community as a whole.

Clause 11 - Zone Objectives

Clause 11 of the LEP relates to zone objectives. The subject site consists of zoned 2(b) Medium Density Residential under the provisions of the LEP.

The primary objective of this zone is 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 design outcomes”.

The secondary objective of this zone is to:

“Allow for non-residential development which supports the residential use of the locality.”

Additionally, Clause 28(1) of the State Environmental Planning Policy (Infrastructure) 2007 states that ‘*development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone*’. The educational establishment is within a zone which is permissible with consent.

The proposed use of the subject land for the purposes of an educational establishment is permissible with consent and is considered to be consistent with the zone objectives. It is considered that the proposed will make efficient use of the available urban zoned land and will directly support the surrounding residential areas of Pottsville by providing an additional primary school which for which there is a present demonstrated demand. The proposed construction of Charles Street is to be undertaken on land that is identified as being a road reserve and as such does not have a zone.

Clause 14 - Development Near Zone Boundaries

The subject site is located on 2(b) zoned land but is within 20m of 6(a) zoned land. As such Clause 14 applies. The objective of the clause is ‘*to provide flexibility where detailed investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site*’. As the proposed development is permissible within this zone it is considered that the clause is not applicable.

Clause 15 - Essential Services

Clause 15 of the TLEP requires the provision of essential services to be available to the site prior to any consent being granted. Council's reticulated potable water supply and piped effluent disposal infrastructure is available to the area.

Clause 16 - Height of Building

The objective of the clause is *to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.*

The clause also states that *consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates.*

The site is restricted by a 2 storey height limit with the proposed development, having two storeys for the entire development except for a bell tower. A variation to this clause 16(2) has been provided by the applicant and is addressed in detail later within this report under *SEPP No. 1 - Development Standards.*

The height of the proposed Bell Tower, when calculated in accordance with the definitions of Tweed Local Environmental Plan 2000 is therefore 3 storeys.

The proposed building height is consistent in scale with surrounding medium density development.

Clause 17 - Social Impact Assessment

Clause 17 of the TLEP requires a social impact assessment for development types likely to have a significant social impact in the locality. Tweed Development Control Plan Section A13 (Socio-Economic Impact Assessment) does not require a Socio-Economic Impact Statement for an educational establishment. However an Assessment of social and economic impact checklist has been included in the provided documents. It is considered that the proposed will have a positive social and economic impact on the locality with jobs created and facilities provided for the area.

Clause 34 - Flooding

Clause 34 of the TLEP provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land. The subject site is not flood liable but is affected by the PMF (Probable maximum flood). It is noted that flood liable land is located around the property. Council's Flooding and Stormwater Engineer has assessed the proposal and provided the following:

"The proposed Finished Floor Level for the school is RL 3.5, which is well above the Design Flood Level of RL 2.6. No habitable rooms are proposed. There are no flood concerns for the proposed School site."

The proposal is considered to comply with this clause.

Further detail is provided later in this report on the matter.

Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP provides for the management of acid sulfate soils. The subject land including the Charles Street road reserve is identified as being in a Class 3 ASS area. Council's Environment and Health Unit has assessed the proposed development in this regard with the comments are provided below.

"An Acid Sulfate Soil Management Plan (HMC 2012.005 ASSMP) was prepared by HMC Pty Ltd dated March 2012. The report appears adequate. Condition to be applied to ensure compliance with recommendations of the report."

It is therefore considered that this clause has been complied with.

Clause 39 – Remediation of Contaminated Lands

The proposal is considered compliant with the requirements of Clause 39 of the TLEP 2000.

Council's Environment and Health officer's comments are provided below.

"A Preliminary Site Contamination Investigation - Site History Report (2012.005 CL) was prepared by HMC Pty Ltd dated February 2012. The research revealed the land was subject to a potentially contaminating activity being mineral sand mining. No other like activities were identified. The report appears adequate."

Radiation

Historical records suggest mineral sand mining occurred in the area.

A Surface Gamma Radiation Survey of Proposed New Primary School Site at Charles Street Pottsville NSW dated March 2012 prepared by Bartolo Safety Management Service has been submitted.

The surface survey appears satisfactory and concluded that the results indicate limits are within residential occupancy with one variation. A Simple Remediation Plan at Proposed New Primary School Site Charles Street Pottsville NSW dated March 2012 prepared by Bartolo Safety Management Service has been submitted to address the variation. The remediation plan however sets remediation at $1.0\mu\text{Gy hr}^{-1}$ utilising low use areas criteria and not $0.7\mu\text{Gy hr}^{-1}$ for residential and schools. As the subject area identified for remediation is considered minor in extent of contamination it is considered that an appropriate condition may be applied to ensure remediation to the relevant criteria and a revised plan submitted."

A condition have been included to ensure that prior to the commencement of any construction works in any stage a surface radiation survey shall be completed and reported to the satisfaction of the General Manager of delegate of Tweed Shire Council. This is so that if the limits are exceeded then an amended remediation action plan shall be submitted.

It is therefore considered that the proposed development complies with this clause.

Clause 39A – Bushfire Protection

Tweed Shire Council's Bushfire Prone Land Maps indicate that the subject land is mapped as bushfire prone land. A Bushfire Hazard Assessment was provided which was referred to the NSW Rural Fire Service as an Integrated Referral. The Rural Fire Service responded on 3 May 2012 with conditions relating to Asset Protection Zones, Water and Utilities, Access, Evacuation and Emergency Management and Design and Construction to be included in the recommendations. It is considered that the proposed development complies with this clause.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

This Clause requires the consideration of the NSW Coastal Policy, Coastline Management Manual and the North Coast Design Guidelines for proposals on coastal lands; and also contains provisions relating to public access to the foreshore.

The proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual. The development is situated two hundred metres from the foreshore of the Mooball Creek. The development will not impede public access to the foreshore or cause any overshadowing of beaches or adjacent open space. Accordingly, the proposal fully complies with this clause of the REP.

SEPP No. 1 - Development Standards

SEPP No. 1 enables the consent authority to assume the Director's concurrence to a variation to a development standard where it is considered that strict adherence is both unnecessary and or unreasonable in the circumstances of the case.

The area of non-compliance is shown diagrammatically below.

- The public benefit of maintaining the planning controls.

Each of the three key matters is addressed in turn, as follows:

1. That the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The Chief Judge advised that the requirement to demonstrate that an objection is well founded and that the approval of the objection may be consistent with the aims of the policy could be satisfied in any one of the following ways:

(i) The objectives of the standard are achieved notwithstanding non-compliance with the standard.

(ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

(iii) The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

(iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

(v) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

We submit that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

The objective of Clause 16 of Tweed LEP is in the following terms:

“Objective

To ensure that the height and scale of the development is appropriate to its location, surrounding development and the environmental characteristics of the land.”

The proposed development is a primary school which will incorporate the existing Catholic Church building on the same site. The site is over 2 hectares in size and will be accessed via the construction of Charles Street. In this sense the site is separated from the adjoining residential areas.

The site is subject to a two (2) storey height limit pursuant to Clause 16 of Tweed Local Environmental Plan (LEP) 2000.

The school buildings generally are characterised as 1 and 2 storeys in height. The proposed height of the Bell Tower is appropriate to the scale of the site and the proposal and will not result in any adverse visual impacts or shadow to adjoining properties.

The proposed Bell Tower is integral to the architectural design and is a desirable urban design feature of the development. The Bell Tower identifies the entry to the school site and will assist with “way finding” within the site.

The Architect's statement elaborates:

“The school and church compliment, and further develop, each other's identity. Shared entry and gathering spaces are designed to facilitate the legibility of both during the school day and church services. A bell tower marks the entry to the new school and contributes to its civic, educational and spiritual identity.”

Figures 2 – 4 further demonstrate the height of the proposed Bell Tower in the context of the existing and proposed surrounding development, and landscaping.

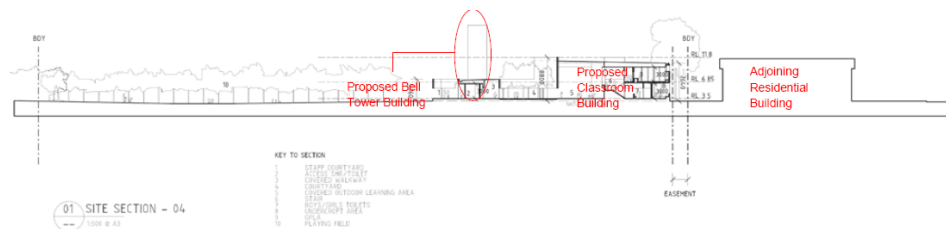


Figure 2 – Site Section Showing Relationship of Proposed Bell Tower to Surrounding Development



Figure 3 – Perspective Image of the Proposed Bell Tower Viewed From the Proposed Car Park to Illustrate it's Scale in Context

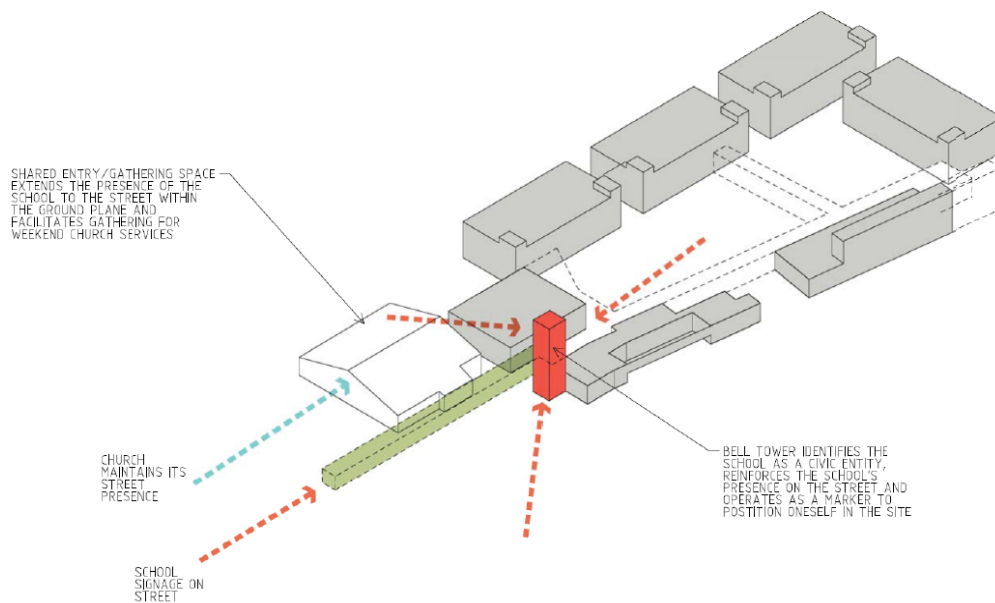


Figure 4 – Massing Diagram of the Proposed Bell Tower to Illustrate its Role in Identifying the School

We submit that the proposed development is of an appropriate height and scale when considered in the context of the nature of the proposed development and the other structures on the site. On this basis the proposed development achieves the objectives of the standard contained in Clause 16 of Tweed LEP 2000.

Accordingly, the objection is well founded and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

2. That the granting of consent is consistent with the aims of SEPP 1

The aims and objectives of the Policy (SEPP 1) are as follows:

“This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.”

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 is in the following terms:

“(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,”

Compliance with the development standard would preclude the erection of the Bell Tower which as an integral part of the proposed development. The Bell Tower is an important element of the proposed architectural design.

Due to the definition of “Storey”, if the Bell Tower did not contain an upper floor for maintenance and access it would be considered only 2 storeys in accordance with the LEP definitions. We submit that due to its limited floor area (approximately 16m²), that the inclusion of the Bell Tower will not result in any adverse visual impacts on the surrounding area. It is also noted that the site is not in a visually sensitive setting and the proposal will not block views across the site from any adjoining properties. We also note that the majority of the Tweed Shire Local Government Area is subject to a (3 storey or higher) building height limit, which if it applied to this site, this minor element of the proposal would fully comply.

In this case, strict compliance with the development standard would hinder attainment of the EP&A Act’s object to promote orderly and economic use and development of land in accordance with the zoning of that land and its physical capabilities. It would also result in an inferior architectural design outcome for this key civic development.

For this reason we submit that the granting of consent would be consistent with the aims of SEPP 1.

3. That clause 8 matters (in SEPP 1) are satisfied i.e.

- Whether noncompliance raises matters of State or regional planning significance.

- The public benefit of maintaining the planning controls.

In considering whether the proposal creates any matters of Regional or State planning significance or raises any issues in relation to the public benefit of maintaining the standard the following points are relevant.

The proposed Bell Tower has a floor area of only approximately 16m² and an overall height of approximately 15m.

We submit that the proposed bell tower is a desirable architectural feature of the proposed school design and that it is consistent with the objectives of Clause 16 of Tweed LEP 2000.

We conclude that the height of the proposed Bell Tower does not raise any matters of State or Regional planning significance and there is considered to be no public benefit in maintaining strict compliance to the 2 storey development standard.

Assessment of the Applicant's Submission

The NSW Land and Environment Court has established a new test to determine the appropriateness of a SEPP 1 application. The Chief Justice stated that:

1. *The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and*
3. *It is also important to consider:*
 1. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 2. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The Chief Justice then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Where the grounds of objection are of a general nature and would be applicable to many sites in the locality, approval of the objection may create an adverse planning precedent. Preston CJ noted that there is a public

benefit in maintaining planning controls and a SEPP 1 objection should not be used in an attempt to effect general planning changes throughout the area. Clause 16 of the Tweed LEP 2000 aims to ensure that the height and scale of development is appropriate to its location, surrounding development and environmental characteristics of the land.

The proposed development is consistent with the scale of existing developments. The subject site is over 2 ha in size and the bell tower comprises only 16m² of the entire development. The school will comprise buildings of 1 and 2 storey in height. The location of the proposed Bell Tower is appropriate in scale and the proposal will not result in any adverse visual impacts or shadow to adjoining properties.

The proposed three (3) storey element of the development will not significantly affect any adjoining property having regard to privacy, view sharing or overshadowing. These issues are discussed further below.

Having regard for the applicants SEPP 1 justification and the Courts assessment criteria, the proposed SEPP 1 is considered reasonable in the circumstances. Therefore it is recommended that the SEPP1 objection be supported and concurrence to the variation to the number of storeys be assumed in this instance.

SEPP No. 14 - Coastal Wetlands

The subject site is not a mapped State Environmental Planning Policy (SEPP) No. 14 Wetland. However, a SEPP 14 Wetland is located to the northwest of the site. As a result of this the applicant was requested to amend the plan to provide a 20 metre buffer to the SEPP 14 Wetland on the western boundary of the site which was requested to be vegetated.

The applicant provided the revised plans with a 20 metre vegetated buffer along the western boundary and has now demonstrated that any impacts to this wetland should be avoided.

The development is now set back from the SEPP 14 wetland at the western edge, and concurrence is not considered necessary. The works do not propose clearing, filling, draining or creating a levee in this area. A 20m buffer along the western boundary equates to a roughly 50m buffer to the mapped SEPP 14 areas.

SEPP No. 44 - Koala Habitat Protection

This Policy applies to the Tweed Local Government Area as the land to which the application relates has an area greater than 1 hectare.

Discrete parts of the site contain Koala food trees. Assessment undertaken by Council staff (scat and scratch mark survey) did not reveal recent signs of Koala usage on the site or immediate surrounds. Although the development lot itself is not considered to contain 'core' Koala habitat, the site is important as a local sub-population of koalas is known from Pottsville wetlands. Retention of Potential Koala Food Trees located within the Charles Street

road reserve and planting of a 20m buffer of Swamp Mahoganies will improve local conditions and allow eventual expansion of Koalas along this edge.

A Koala Plan of Management is not required for the site.

With recommended conditions included it is considered that the Koala Habitat will not be impacted upon as a result of this application. As such the proposal complies with SEPP No 44.

SEPP No. 55 - Remediation of Land

SEPP 55 specifies certain considerations for development on land with respect to the potential for contamination, particularly for sensitive land uses such as development for residential, educational or recreational purposes. The subject site has been utilised for a place of worship for a number of years with a large area of slashed grassland.

Council's Environmental Health Unit have assessed SEPP 55 and have provided the following:-

A Preliminary Site Contamination Investigation - Site History Report (2012. 005 CL) was prepared by HMC Pty Ltd dated February 2012. The research revealed the land was subject to a potentially contaminating activity being mineral sand mining. No other like activities were identified.

A Surface Gamma Radiation Survey of Proposed New Primary School Site at Charles Street Pottsville NSW dated March 2012 prepared by Bartolo Safety Management Service has been submitted.

The surface survey appears satisfactory and concluded that the results indicate limits are within residential occupancy with one variation. A Simple Remediation Plan at Proposed New Primary School Site Charles Street Pottsville NSW dated March 2012 prepared by Bartolo Safety Management Service has been submitted to address the variation. The remediation plan however sets remediation at 1.0 μ Gy hr⁻¹ utilising low use areas criteria and not 0.7 μ Gy hr⁻¹ for residential and schools. As the subject area identified for remediation is considered minor in extent of contamination it is considered that an appropriate condition may be applied to ensure remediation to the relevant criteria and a revised plan submitted.

A condition has been included to ensure that prior to the commencement of any construction works in any stage a surface radiation survey shall be completed and reported to the satisfaction of the General Manager of delegate of Tweed Shire Council. This is so that if the limits are exceeded then an amended remediation action plan shall be submitted.

As such, it is considered that the proposed development has complied with the considerations for SEPP 55 - Remediation of Land. Appropriate conditions have been included.

SEPP 64 - Advertising and Signage

The proposal involves the provision of building identification signage in the form of a flush mounted wall sign.

This proposed signage requires development consent and therefore the relevant provisions of State Environmental Planning Policy No. 64 apply. However Clause 9 of the Policy states that Part 3 of the SEPP does not apply to “building identification signs” or “business identification signs”. Accordingly the various development standards, prohibitions, limitations and concurrence provisions of the SEPP contained in Part 3 do not apply to the subject proposal. Part 4 of the SEPP is also not relevant to the proposal. The proposed signage is considered to be consistent with the aims and objectives of the Policy as demonstrated in the assessment of the matters for consideration pursuant to Schedule 1 of State Environmental Planning Policy No. 64

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, subject to appropriate conditions of consent. Specifically the proposed development is considered compatible with the intent for the development of the locality.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007 aims to ensure that the Roads and Maritime Services (RMS) is made aware of and allowed to comment on types of development nominated as ‘traffic generating development’ listed in Schedule 3 of the SEPP. Schedule 3 identifies educational establishments involving more than 50 students. The proposed development therefore triggers the Infrastructure SEPP.

Clause 28(1) of the SEPP states that *‘development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone’*. The educational establishment is within a zone which is permissible with consent.

The DA was referred to the RMS for comment in accordance with the Infrastructure SEPP. The RMS’ comments are outlined in this Report. In addition, a copy of any determination will be forwarded to the RMS in accordance with Clause 104(4) of the SEPP.

SEPP (State and Regional Development) 2011

The proposal is not State Significant Development or Infrastructure as mandated by Schedule 1 or Schedule 2.

Part 4 of the Policy deals with Regional Development, for which the Joint Regional Planning Panel is the consent authority. The SEPP refers to

Schedule 4A in the Environmental Planning and Assessment Act 1979 (as amended).

The application is not State Significant Development, however based on the criteria set by Schedule 4A of the EP&A Act 1979 (as amended), the project is properly categorised as Regional Development.

Accordingly the development application has been lodged with Tweed Shire Council as the Consent Authority and the application is being referred to the Northern Region Joint Regional Planning Panel (JRPP) for determination.

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

The site is covered by the Draft Tweed Local Environmental Plan 2010.

The site is zoned R1 – General Residential, with a maximum building height of 9 metres, with a floor space ratio of 2:1.

The proposed development is an Educational Establishment which is defined as follows:-

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

(a) a school, or

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

An Educational Establishment is permissible with consent and consistent with the zone objectives in that it enables other land uses that provide facilities or services to meet the day to day needs of residents.

The provisions of the Draft Tweed Local Environmental Plan 2010 raise no issue with regards to the proposal, with the exception of Building Height. The proposal has an element (Bell Tower) with a height of 14.75m. An Objection to SEPP No. 1 - Development Standards was received and detailed above. As the gazettal of the LEP is not imminent, the proposal is not considered to warrant refusal in regard to height.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The proposed development is considered to satisfy the requirements of on-site car parking and site access, subject to recommended conditions.

The proposed development will cater for approximately 420 primary school students and 25 staff members.

Table 4.9E of the DCP A2 provided the following car parking rate:

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle parking	Delivery, Service Vehicle parking Refer to Table 3.0	Resident Parking	Staff parking	Customer car parking
E2	Primary School			0.7/child	1/100 pupil + 1 bus stop/30 pupil. Bus stops to be off street carriageway HRV		0.5/staff	1/12 pupil

Based upon the table the following is required:

- **Bicycle Parking @ 0.7/child = 294 Bicycle Spaces**
- **Bus Bays @ 1/30 pupils = 14 Bus Bays**
- **Staff Parking @ 0.5/staff = 12.5 Staff Parking**
- **Customer Parking @ 1/12 pupil = 35 Customer Parking**

The applicant has provided the following:

- **Bicycle Parking @ 0.7/child = 36 Bicycle Spaces**
- **Bus Bays @ 1/30 pupils = 3 Bus Bays**
- **Staff Parking @ 0.5/staff = 13 Staff Parking**
- **Customer Parking @ 1/12 pupil = 35 Customer Parking**

The application does not comply with the bicycle spaces and bus bays however the following justification has been put forward:-

Bicycle Parking

Under the DCP Controls, the proposal would be required to provide 294 bicycle spaces. Given students will include young children who will not be able to ride to the school alone, this rate is considered to be excessive. Instead the project Traffic Engineer makes reference to Table 10-1 of Austroads Guide to Traffic Engineering Practice: Part 14 – Bicycles, which recommends a rate of 1 bicycle space per 5 students over Year 4. This is the rate which will be adopted and will require 36 spaces in a bike rack (at Stage 3). A location for the bike rack is shown on the Site Plan to the north of 'Building D'.

Bus Bay

The Traffic Report indicates that the proposal will comply with the car parking requirement of 45 spaces. The DCP requires the provision of 14 bus bays. This is considered excessive and instead, the project Traffic Engineer recommends that a bus parking bay that will accommodate 3 to 4 buses, as proposed, is considered adequate to service the needs of the proposed school.

Council's Development Engineer has assessed the applicant's justification and has provided the following:-

"As per Council's DCP A2, bicycle parking spaces are to be provided in the order of 0.7/ student. This equates to $420 \times 0.7 = 294$ being required. The application considers this excessive stating that a significant portion of the students will be in classes Year 4 or below and hence will most

likely not ride a bicycle to school. The Application references an Austroads Guide To Traffic Engineering Practice – Part 14 document that recommends 1 bicycle space per 5 students over Year 4. The Report advises that an appropriate sized bicycle rack will be available to the North of Building D.

I find this acceptable. It will be conditioned accordingly.

*Note, assuming the school has from Kindergarten to Year 6 (= 7 years).
 $420/7 = 60$ pupils per year. Years 4,5,6 = 3 years. $3 \times 60 = 180$
 $180/5 = 36$ bicycle parking spaces required.*

It shall be condition that the geometric layout of the internal parking and circulation access complies with Parking Facilities Part 1 – Off-Street Car Parking AS/NZ 2890.1 2004.

This designated bus stop area is estimated at 45m in length therefore accommodating 3 buses with an estimated length of 12.5m. The bus parking provided does not comply with Council's A2 specification which requires a minimum of 14 bus stops.

The original and latest Traffic Report makes that comment that "This requirement is considered to be excessive given that the school will only run three bus services."

Council's Traffic Engineer has assessed this and indicated that the applicant advised verbally that they consulted with the bus service provider who determined that there would be 3 buses servicing the school. It was determined that the 3 bus bays are reasonable for a school of this size and experience with other schools of a similar size.

As seen from the comments above it is considered that the car parking, bicycle parking and bus parking provided for the site are adequate in catering for the proposed development. The proposal generally complies with the requirements of Council's Development Control Plan Section A2 -Site Access and Parking Code.

A3-Development of Flood Liable Land

Section A3 of the Tweed Development Control Plan is applicable to the proposal as the site is prone to the Probable Maximum Flood (PMF). The proposed development is considered to be consistent with the policy, subject to recommended conditions of consent.

The site is not mapped as subject to inundation during a 100 ARI event; however it is mapped within the Probable Maximum Flood area under Tweed Shire Councils mapping. Areas subject to the Probable Maximum Flood area required to meet the same floor levels as land within the 100 ARI flood event area. In this regard the design flood level for this area is 2.6m AHD, with the Habitable Floor Level of all new buildings being set at 3.1m AHD. The development proposes habitable floor level of RL 3.5m AHD.

The following comments have been extracted from Council's Flooding & Stormwater Engineer's memo dated 11 May 2012;

"Flood Matters

The application has been assessed against TSC DCP "Section A3 – Development Of Flood Liable Land".

The current flooding characteristics for the site is :-

- *Design Flood Level (DFL) = RL 2.6m (AHD)*
- *Probable Maximum Flood (PMF) = RL 5.4m (AHD)*

Based on Councils' GIS the site is not affected by the Design Flood Level (1 in 100 year flood event). Even though the western fringe of the site is below the flood level the vegetated reserve adjacent is slightly higher and acts as a natural levee protecting the site. The site is inundated during the Probable Maximum Flood.

The Proposed Primary School

The proposal is located on 2(b) Medium Density Residential land - Tweed LEP 2000.

The proposed Finished Floor Level for the school is RL 3.5, which is well above the DFL. No habitable areas are proposed.

Based on these issues there are no flood concerns for the proposed School site."

Summary of Comments

Flood Matters

The proposed Finished Floor Level for the school is RL 3.5, which is well above the Design Flood Level of RL 2.6. No habitable areas are proposed. There are no flood concerns for the proposed School site.

As seen the proposed development is considered to comply with the relevant controls of DCP Section A3 and appropriate conditions of consent are recommended.

A4 - Advertising Signs Code

The proposal involves the provision of building identification signage in the form of a flush mounted wall sign with the school name.

On the basis that the building has a frontage of 79m, under the controls of Tweed DCP Section A4 a total of 44.5m² of signage area may be provided on the site. This allowance is based on the rate of 1m² of signage area for each of the first 10m of frontage and 0.5m² for every metre of frontage thereafter.

The proposal provides approximately 1m² of signage area and is therefore compliant with the numerical policy requirements of the signage DCP.

A11 - Public Notification of Development Proposals

The application was notified for a period of 14 days from Wednesday 11 April 2012 to Thursday 26 April 2012. During this period Council received twenty (20) submissions and two (2) late submissions objecting to the proposal.

The details of that submission are addressed later within the body of this report section (d) *Any submissions made in accordance with the Act or Regulations.*

A13-Socio-Economic Impact Assessment

The development is considered unlikely to generate adverse social or economic impacts with positive benefits to ensue to the local community and regional economy through provision of an educational establishment, whilst positive multiplier effects will accrue to the economy at the construction and operational stage.

B21- Pottsville Locality Based Development Code

DCP B21 built on the work contained within the Pottsville Village Strategy 1998, with this Code replacing that Strategy (identified under Part 02 – Pottsville in Context, Clause 4.2). Part 01 – Introduction, Clause 4 considers the relationship of this Code with other documents noting that where there are inconsistencies between this document and the TLEP 2000, the TLEP 2000 will prevail, though where there are inconsistencies between this Code and DCP A1, this Code will prevail, which is also the case where inconsistencies arise with Council's technical policies, guidelines and codes.

Under that Code the subject site is located within the 'Pottsville Village Centre', with the southern side of Charles Street forming the southern boundary of that area. Under Part 02 – Pottsville in Context, Clause 2 it is identified that: *"The existing character of that area is noted as being Residential character in Pottsville can be broadly classified in terms of its location and time period of its development. The village centre area is characterised by older timber dwellings, larger allotments and mature vegetation, with a mix of newer masonry and higher density developments serving a mixed-use purpose...The remaining residential areas are characterised by standard forms depicting the time of their construction, comprising largely of slab-on-ground construction with reduced levels of vegetation and tree cover. While architectural styles have changed over time many of these areas are quite typical of suburban development in many parts of Australia and possess little differentiation other than the physical characteristics of their location".*

Part 04 – Area Specific Strategies identifies the 'Pottsville Village Centre' under Clause 1, with the site identified as being for medium density residential development under the Structure Plan for that area. A number of the strategies identified for the 'Pottsville Village Centre' relate specifically to improving and strengthening the retail component and community facilities within that Centre to accommodate a growing population. Consideration of those requirements is as follows:

- Design Control 01 – Floor Space Ratio (FSR), under which the objectives are:
 - *Limit the potential for over development and underdevelopment of sites.*
 - *Provide incentives for positive redevelopment and revitalisation through manipulation of development potential for key sites.*
 - *Ensure the potential density of development for a site is coordinated with other built form controls and provision of car parking.*

Figure 4.15 of that document indicates that the FSR for development on the subject site does not impact the site. It is therefore considered that the proposed meets this control.

- Design Control 02 – Site Coverage, under which the objectives are:
 - *Provide an area on village centre sites that enables soft landscaping and deep soil planting, permitting the retention and/or planting of trees that will grow to a large or medium size.*
 - *Limit building bulk on village centre sites and improve the amenity of developments, allowing for good daylight access, ventilation and provision of high quality private and semipublic landscaped spaces.*

Figure 4.17 identifies that site coverage controls does not impact the site. It is therefore considered that the proposed meets this control.

- Design Control 03 – Building Height, under which the objectives are:
 - *Ensure that the height of buildings does not negatively impact on the amenity of the public domain.*
 - *Ensure appropriate solar access to adjacent public and private space.*
 - *Provide an incentive for revitalisation and renewal of Coronation Avenue and Phillip Street.*

The subject site is not identified under Figure 4.19 as having a maximum building height. The proposed development consists mainly of two (2) storey buildings with a bell tower which is three (3) storeys in height. An Objection to SEPP No. 1 has been included and assessed elsewhere in this report. It is considered that the proposed development generally complies with this control.

- Design Control 04 – Setbacks and Street Frontage, under which the objectives are:
 - *Achieve a comfortable street environment for pedestrians.*
 - *Provide a strong and appropriate definition of the public domain.*
 - *Maintain a compatible relationship with existing buildings in the street.*
 - *Create lively and interesting frontages to urban spaces.*

Under that Control the subject site is not identified as one where an active frontage or a landscaped frontage would apply as defined under the Control.

The first floor of the proposed development is setback 5 metres from the side and rear boundaries of the site. This was increased from 3 metres as a part of the information request. The objectives of the design control are met.

- Design Control 05 – Building Orientation, under which the objectives are:
 - *Achieve a strong definition of the public domain.*
 - *Reinforce a supportive relationship between buildings and streets.*
 - *Contribute to a strong landscape quality within the village centre.*

The school is orientated towards Charles and Elizabeth Street. The proposal incorporates a strong entrance to the proposed educational establishment and will reinforce a supportive relationship between buildings and streets. The proposed meets the requirements of this Control.

- Design Control 06 – Townscape and Building Character, under which the objective is:
 - *Development should create or contribute to the village townscape and landscape character of the precinct and the environs of the site in which the development is to be carried out.*

Under that Controls include:

- a. *Buildings and landscape in the village centre are to address the following characteristics:*
 - i. *Tops of buildings and roofs are to consider the townscape skyline encouraging a variety of roof planes (projecting roofs, skillion roofs, pitched roofs) and depth to the buildings elevation whilst concealing service and mechanical plant equipment from public view.*
 - ii. *Walls are to incorporate variation in frontages, use of varied textures, screening and layering.*
 - iii. *Buildings are to be articulated to create a human scale with awnings, recesses, detail and texture.*
 - iv. *Large vertical or horizontal masses are to be broken down with the use of a combination of colour, modelling of facade and layering.*
 - v. *Building construction is to avoid large areas of rendered masonry, instead using composite construction including lightweight cladding and screening materials.*
 - vi. *Entries are to be clearly identifiable.*
 - vii. *Buildings incorporate the use of screening, sun shading devices and deep recesses to create deep shadows and shading on building facades.*

- b. *Building facades in the village centre are to address the following characteristics:*
- i. *Articulated to explore the 'fine grain' of retail use along Coronation Avenue*
 - ii. *Articulated to express the buildings distinct elements and functions*
 - iii. *Recognise and architecturally respond to desired streetscape characteristics.*
 - iv. *Pick up the horizontal and vertical lines of adjoining buildings.*

It is considered that the proposed development is appropriately respectful of the existing residential feel of the area coupled with the desired intent of the 2(b) zone. Whilst being a modern addition to the existing older dwellings within Elizabeth Street, Charles Street and Anne Street, the overall design is considered to appropriately complement the residential design of the locality which is within proximity to the site. With the provision of appropriate landscaping (also to be conditioned), the proposed development is considered to satisfy the overarching objectives of the design control and represents a positive and contemporary addition to the streetscape.

- Design Control 10 – Sinage under which the objectives are:
 - *To encourage best use of land within the Pottsville village centre.*
 - *To promote pocket car parks for the collective use of the village centre as a more efficient use of land.*
 - *To ensure that the provision of parking is not inconsistent with the aims of this plan with regard to increasing gross floor area of buildings within the village centre.*

The subject site is not identified on Figure 4.33 as having a primary signage control. There is an element of the proposal which requires signage however this is covered by Development Control Plan Section A4 - Advertising Signs Code. It is considered to comply with these controls.

- Design Control 11 –Car Parking under which the objectives are:
 - *To encourage best use of land within the Pottsville village centre.*
 - *To promote pocket car parks for the collective use of the village centre as a more efficient use of land.*
 - *To ensure that the provision of parking is not inconsistent with the aims of this plan with regard to increasing gross floor area of buildings within the village centre.*

Under Figure 4.35 of that Control, a development on the subject site is to have car parking as per Council's adopted car parking Code, which in this instance is DCP A2. As previously mentioned, the car parking provided on site is considered to be acceptable with regard to DCP A2 and therefore the locality based code.

Therefore, based on the above, given many of the Controls relate back to requirements of DCP B21 that have now been satisfied, it is considered that the proposed development meets the required objectives and stated strategies contained within this Code.

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

Clause 92(a) Government Coastal Policy

The subject site is located within the Coastal Zone and as such the provisions of the Coastal Policy apply to the site. The proposed development is consistent with the objectives of the Coastal Policy.

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

Tweed Coast Estuaries Management Plan 2004

The Tweed Coast estuaries of Cudgen, Cudgera and Mooball Creeks, situated south of the Tweed River mouth between Kingscliff and Wooyung, are small barrier estuaries, highly regarded by the local communities, with substantial productivity and biodiversity values.

The 1997 Estuary Management Plan began a formal long-term management phase for the three systems. Implementation of the recommendations has been reliant on funding and support. The Plan has provided a good basis for the next phase of managing the three estuaries of Cudgen, Cudgera and Mooball Creeks, with a number of projects underway.

This Estuary Management Plan integrates the conclusions of the Review of Implementation of the 1997 Plan, a summary of documents, policies and significant developments around the estuaries since 1997, and the contributions of community members who attended the community consultation meetings.

Mooball Creek is located 250m to the east of the subject site. The proposed development does not pose an immediate impact to Mooball Creek or the identified management actions for that area. Clause 19.3 of the plan states that:

All new development should comply with all relevant Government and Council Policies, with adequate resources devoted to enforcement. Failure to ensure that development complies with regulation decreases community confidence in the government and feeds into lack of support for future strategic actions and plans.

All new development should be assessed in the context of the Water Sensitive Urban Design approach to water management of all kinds, including supply, treatment, and return to the water cycle. Opportunities to encourage green offsets and habitat rehabilitation by developers should be maximised, including making green offsets and rehabilitation a condition of the developments. Dedication of sensitive lands to Council should also be promoted.

It is considered that such can ensure that the requirements for new development outlined at Clause 19.3 of the Plan can be satisfied as stormwater runoff from the development can be controlled by way of conditions on any consent issued, with acid sulfate soils unlikely to be disturbed.

(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

A number of the matters identified above have previously been discussed throughout the report, it is determined that the proposed development will not impact upon the natural or built environment or have detrimental social or economical impact on the locality when considering those matters.

Traffic

The following comments have been extracted from a memo received from Council's Traffic Engineer dated 10 May 2012. Note this memo was based on the original Traffic Report (dated 15 March 2012) and was included in Council's Request for Further Information letter dated 5 July 2012;

"Access to the site is proposed from the unformed Charles Street with the construction of a new roundabout at the intersection of Phillip Street.

Within close proximity of the proposed roundabout is a public boat ramp and associated parking with this facility will be lost with the roundabout's construction. The applicant needs to provide information on how compensatory boat/trailer parking will be addressed.

The roundabout design needs to cater for cyclists and pedestrians through the intersection.

Children alighting from the bus lay by have to cross the path of parents' vehicles accessing the site which is not considered good practice. The preferred option is for separation of the bus and parent vehicular traffic.

It would be expected that children will access the site from Elizabeth Street. Appropriate facilities are required on Charles Street to be installed by the developer which may include a "Children's Crossing" managed by the school principal.

A linemarking and signage plan is required showing school speed zones and any proposed Children s Crossing."

The original application proposed a roundabout on the Charles Street, Overall Drive intersection but this has been replaced by a proposed "T" Intersection.

An amended Traffic Impact Assessment prepared by CRG (dated 20 August 2012) was received for assessment.

Council's Traffic Engineer has assessed the amended report and has indicated that the proposed "T" intersection can adequately cater for the proposed development.

The expected number of students is 420 and staff is estimated at 25, for the purpose of traffic generation and parking rates.

The Report notes that the *RTA Guide To Traffic Generating Developments* does not provide a traffic generation rate for schools. The Traffic Report has therefore adopted a value of 0.85 trips per student, based on CRG's professional experience.

The Latest CRG Traffic Report notes that the required Safe Intersection Sight Distance is achieved to the north (of the proposed "T" intersection of Charles Street and Overall Drive), but not to the south. As such, the Report proposes that Speed Control Devices are installed in Overall Drive to the south of the intersection to reduce northbound vehicle speeds to approximately 20km/hr.

Given the likelihood of traffic volumes increasing on Overall Drive, the latest plans provided by CRG Traffic Pty Ltd include the installation of a raised island on Charles Street to prohibit right turns onto Overall Drive to be installed at the first stage of the development. It is noted that motorists only have to travel 200m to the roundabout at the intersection of Tweed Coast Road and Phillip St if they wish to head south on Overall Drive.

It is noted that Council's Traffic Engineer "will accept Traffic Calming Devices on Overall Dr on the approach to the new T-intersection". No details of a suggested Speed Control Device have been tabled, with the Report suggesting that such detail be liaised with Council in due course.

Appropriate conditions in the recommendations to ensure compliance with Council's Specifications and RMS (formally RTA) guidelines have been provided.

It is therefore considered that even though there will be additional traffic for the proposed development, the construction of Charles Street and other speed calming devices provided will adequately cater for the proposed development. No further assessment is required.

Privacy

The original proposal was setback approximately 3m from the southern and eastern boundaries. A number of submissions were received in regards to a decrease in privacy. It was therefore considered a request for the applicant to increase the setbacks to offset the privacy issues was appropriate. The applicant responded on 20 August 2012 with an increased setback from the eastern and southern boundaries to 5m. This increase in setback will result in less of an impact on privacy to the adjoining residents. Additionally, the design of the proposed school buildings orientates the students towards the centre by providing the focus of the buildings to the courtyards and open space rather than to the side boundaries. The windows on the elevations adjoining the

residential allotments are Clerestory Glazing, not operable and are located at a height of approximately 2.2m from the floor of the second storey. It is therefore considered that there will be limited overlooking from the proposed school into adjoining neighbours. Accordingly, the development is unlikely to result in any unreasonably privacy issues.

Environmental

The original design raised a number of environmental issues. These were a three core koala habitat trees located within the Charles Street road reserve and an Endangered Ecological Community on the western boundary. Council requested that a redesign of the proposal was adopted so to include Koala food tree plantings as an informal 20m buffer to the Endangered Ecological Community (EEC) and to move stormwater infrastructure from the EEC area, thus avoiding the need for clearing of any EEC vegetation. The applicant provided an amended design with the 20m buffer incorporated into the design.

A second request to modify the entrance/exit route for the car park and bus lanes (to retain large Koala food trees within the road reserve) was sent to the consultants and received a favourable response. Thus, the habitat of importance will be protected and retained. Therefore there will be no trees removed that are part of the Koala food trees in the road reserve.

Overshadowing

The proposed development has increased setbacks as a result of the information request. It is considered that the 5m setback from the southern and eastern boundaries will result in minimal overshadowing to the adjoining neighbours. Shadow diagrams have been provided and show compliance with the Overshadowing control in Development Control Plan A1 by allowing:

- *sunlight to at least 50% of the principal area of private open space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and*
- *windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June.*

It is therefore considered that overshadowing will be kept to a minimum as a result of this proposal.

Stormwater

There is currently no piped stormwater drainage existing in the vicinity of Elizabeth Street and very little piped drainage existing in the unformed Charles Street.

To address Council's Request for Further Information letter (in regards to minimising impact on the EEC area that exists in the north-western corner of the site), the Applicant has advised that the stormwater infiltration areas will be clear of the existing EEC vegetation. Overland flow from these infiltration areas is intended to discharge (via sheet flow) to the west of the site. Runoff

from the hardstand areas is to be collected and treated by way of swales and infiltration, prior to discharging.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

Noise

The proposed acoustic impact of the development upon the surrounding area is considered consistent with that anticipated by the use of the school premises being primarily daytime and weekday use. It is noted that the design of the buildings provide enclosed class rooms and offices serviced by internal corridors for student and staff circulation thereby minimising potential acoustic impact during circulation within the buildings. The setbacks to adjoining residential properties are considered appropriate and will aid in reducing acoustic impacts from the use of the new buildings. The windows on the elevations adjoining the residential allotments are not operable therefore limiting noise impacts from the classrooms.

There is currently a child care centre (8 Hampton Court) to the east of the proposal for which the construction noise impact has not been addressed. It is considered that a further assessment is not needed to be undertaken until the Construction Certificate is considered and a Construction Management Plan submitted which will be required prior to the commencement of Stage 1. An appropriate condition is recommended.

Additionally, it is common practise for school halls to be utilised for recitals, band practice, discos etc where amplified music is used. It is noted the Acoustic Report stated that "activity in the hall has also been assessed, and it is concluded that assuming no high level amplified music is provided in this space, standard glazing with air conditioning will allow use of the hall. If high level amplified music is proposed, heavier building shell treatments will be necessary." High level amplified music was not defined. Further consideration needs to be undertaken. However it is considered appropriate that a further assessment can be undertaken once the Construction Certificate is considered to ensure an adequate building shell is proposed. This will be done prior to the release of a Construction Certificate for each relevant stage from Stage 2. An appropriate condition is recommended.

Safety and Security

The proposed development is consistent with principles of crime prevention through the design as detailed below:

- Each classroom includes a large window which provides for natural surveillance of the campus grounds.

- It is considered that effective access control has been achieved through the provision of physical and symbolic barriers to attract, channel and/or restrict the movement of people. The school has clearly identifiable entrances.
- Appropriate lighting will be provided to provide a safe night-time environment for pedestrians.
- The landscaping provided around the building's curtilage will be used to maximise the potential for natural surveillance around the building and so as not to provide opportunities for concealment.

(c) Suitability of the site for the development

A number of the matters identified above have previously been discussed throughout the report, with it determined that the proposed development is suitable for the site when considering those matters.

Surrounding Land Uses/Development

The site is considered suitable for the proposed development as the proposal complements the residential use of the area by providing a facility which will be utilised by the residents of the area. With the imposition of conditions it is considered that the proposal is unlikely to decrease the amenity of the locality. It is therefore found that it is an acceptable land use for the subject site and represents an efficient and sustainable use of urban lands.

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

The application was notified for a period of 14 days from Wednesday 11 April 2012 to Thursday 26 April 2012. During this period Council received twenty (20) submissions and two (2) late submissions objecting to the proposal. In total there were eighteen (18) objections (including 2 from the same objector), three (3) in support and one (1) that provided comments. The issues raised in the submission are tabled below, as well as with a response to the issues.

Objection 1 (No Address):

How will the flooding issues be addressed?

Council's Stormwater Engineer has provided the following:

The proposed Finished Floor Level for the school is RL 3.5, which is well above the Design Flood Level of RL 2.6. No habitable region is proposed and this proposal complies with the requirements of councils' Development Control Plan Section A3 - Development of Flood Liable Land.

In addition the proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase.

It is therefore considered that the proposed development adequately addresses flooding and stormwater factors in the locality.

Objection 2 & 3 (same submitter):

Insufficient road access to the proposed site.

Council does take into account concerns raised by the public regarding traffic safety. As noted above, the proposed development has been reviewed by Council's Traffic Engineer and RMS, and no objections were raised given that the traffic generation of the proposed development is able to be satisfactorily accommodated within the existing road network and with the construction of Charles Street road reserve, which will operate at an acceptable service level.

Insufficient parking space allocated within the proposed school.

The proposed development complies with Tweed Shire Council DCP Section A2. As such it is considered that the submission does not warrant refusal in this instance.

Insufficient Bus Bays.

The designated bus stop area is estimated at 45m in length therefore accommodating 3 buses with an estimated length of 12.5m. The bus parking provided does not comply with Council's A2 specification which requires a minimum of 14 bus stops.

The original and latest Traffic Report makes that comment that *"This requirement is considered to be excessive given that the school will only run three bus services."*

Council's Traffic Engineer has assessed this and indicated that the applicant advised verbally that they consulted with the bus service provider who determined that there would be 3 buses servicing the school. It was determined that the 3 bus bays are reasonable for a school of this size and experience with other schools of a similar size. An oversupply of bus parking adjacent to schools leads to high parent parking non-compliance.

Insufficient bicycle parking spaces.

The application considers this excessive stating that a significant portion of the students will be in classes Year 4 or below and hence will most likely not ride a bicycle to school. The Application references an Austroads Guide To Traffic Engineering Practice – Part 14 document that recommends 1 bicycle space per 5 students over Year 4. The Report advises that an appropriate sized bicycle rack will be available to the North of Building D. Council agrees with the representations and considers the proposed 36 bicycle parking spaces to be sufficient to cater for the proposed development.

Construction of a turning bay/cul-de-sac for caravans and trucks that mistakenly enter Charles Street when the school is closed.

Council's Traffic Engineer has assessed the application and considers the upgrade of Charles Street to be adequate to cater for the residents of the area.

Objection 4:

Coming home south bound into our property we would need to do a right hand turn from Philip St to enter our front gates.

The site in question will continue to have access from Philip Street. The road calming devices will not impede access to this site. As such the submission does not warrant refusal in this instance.

We have a double back yard access into Charles Street. We need this extra exit - would this be considered on your plan.

As access is not impeded, access off Charles Street to the site in question is not proposed.

We have 4 storm water drains into Charles Street - these would need to be connected to the storm water in the new kerb and gutter as with other residents.

The issue of Stormwater has been previously assessed. Conditions have been included in the recommendations to ensure adequate stormwater treatment will be undertaken, especially at the eastern end of Charles Street to reduce the severity of flooding in the locality.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

Objection 5:

We were told by Council staff at time of purchase that due to the position of Charles Street on a bend in the busy road leading into Pottsville Waters area that the road reserve would never be used as a road.

The Latest CRG Traffic Report notes that the required Safe Intersection Sight Distance (SID) is achieved to the north (of the proposed "T" intersection of Charles Street and Overall Drive), but not to the south. As such, the Report proposes that Speed Control Devices are installed in Overall Drive to the south of the intersection to reduce northbound vehicle speeds to approximately 20km/hr. Additionally, given the likelihood of traffic volumes increasing on Overall Drive, the latest plans provided by CRG Traffic Pty Ltd include the installation of a raised island on Charles Street to prohibit right turns onto Overall Drive to be installed at the first stage of the development. It is noted that motorists only have to travel 200m to the roundabout at the intersection of Tweed Coast Road and Phillip St if they wish to head south on Overall Drive.

It is noted that Council's Traffic Engineer "will accept Traffic Calming Devices on Overall Dr on the approach to the new T-intersection". No details of a

suggested Speed Control Device have been tabled, with the Report suggesting that such detail be liaised with Council in due course.

Appropriate conditions in the recommendations to ensure compliance with Council's Specifications and RMS (formally RTA) guidelines have been provided.

Filling of the road reserve to bring it up to the height of the existing road it will intersect with will cause flooding of our back yards in Anne Street.

The issue of Stormwater has been previously assessed. Conditions have been included in the recommendations to ensure adequate stormwater treatment will be undertaken, especially at the eastern end of Charles Street to reduce the severity of flooding in the locality.

Traffic noise and loss of privacy that will be generated from school traffic passing our back fence and our front fence.

It is considered that the proposed development has satisfactorily dealt with the likely impacts and will not in itself result in adverse impacts such as increased traffic, road noise and air pollution, which are attributable to urban areas generally.

Objection 6:

We are opposed to this because of the noise while the building is taking place and the ongoing noise when the school is completed.

Hours of demolition/construction on the site, along with demolition and construction methods would be controlled by way of conditions on any consent issued. It is noted that such matters are governed by Australian Standards and other government legislations, with those considering limiting impacts on the amenity of surrounding properties, particularly residential amenity.

The length of time in which any disruption would occur however would not be known, with any development consent only ensuring that development has commenced within five (5) years of the date of the consent.

We believe there will be many traffic problems created by this project.

Council's Traffic Engineer and the Development Traffic Advisory Group are satisfied that the proposed development can achieve compliance with the traffic standards subject to the recommended conditions of consent.

Support 7:

I have no objection to the proposed development providing Charles Street is made two-way traffic for all to and from the church and school to take pressure off Elizabeth Street.

The proposed development provides two way traffic on Charles Street for all to and from the church and school.

Support 8:

I have no objection to the proposed development providing but do have concerns in relation to traffic flow and parking matters in Elizabeth Street.

Council's Traffic Engineer and the Development Traffic Advisory Group are satisfied that the proposed development can achieve compliance with the traffic standards subject to the recommended conditions of consent.

Objection 9:

Vehicular traffic in Elizabeth Street is chaotic.

Council's Traffic Engineer and the Development Traffic Advisory Group are satisfied that the proposed development can achieve compliance with the traffic standards subject to the recommended conditions of consent.

I have witnessed water entering home on the junction of Phillip and Anne Street.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase. The proposal will have no impacts on the existing drainage characteristics of the Phillip and Anne Street intersection.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

Objection 10:

Worried about the traffic that will be on Elizabeth Street.

Council's Traffic Engineer and the Development Traffic Advisory Group are satisfied that the proposed development can achieve compliance with the traffic standards subject to the recommended conditions of consent.

Where will water go to that currently is directed into Charles Street.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase. Water currently discharging into Charles Street will be directed to swales/pipes which will drain to the existing piped network which outlets into Mooball Creek.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

Objection 11:

Extensive drainage works would need to be carried out before construction as this strip of land regularly floods in heavy rain.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase. The preliminary design submitted within this report demonstrates minor earthworks within Charles Street road reserve. These earthworks involve installing swales to collect stormwater runoff and direct to the proposed and existing piped network. The existing network outlets into Mooball Creek.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

Roundabout at the intersection of Charles Street and Overall Drive will be on a bend in Overall Drive which could cause road safety issues.

Council's Traffic Engineer and the Development Traffic Advisory Group are satisfied that the proposed development can achieve compliance with the traffic standards subject to the recommended conditions of consent.

At night time and during school holidays Charles Street could become a location for anti social behaviour.

The proposed development is consistent with principles of crime prevention through the design as detailed below:

- Each classroom includes a large window which provides for natural surveillance of the campus grounds.
- It is considered that effective access control has been achieved through the provision of physical and symbolic barriers to attract, channel and/or restrict the movement of people. The school has clearly identifiable entrances.
- Appropriate lighting will be provided to provide a safe night-time environment for pedestrians.
- The landscaping provided around the building's curtilage will be used to maximise the potential for natural surveillance around the building and so as not to provide opportunities for concealment.

Objection 12:

It appears that a school building will be constructed in close proximity to the rear of the townhouse development at Mountbatten Court.

The proposed development was amended to increase the setbacks from residents to the south on Mountbatten Court to 5 metres. It is considered that the increased setback provides for adequate privacy and reduces overshadowing to the residents in question. The submission does not warrant refusal in this instance.

Loss of privacy and increased noise levels.

The proposed development was amended to increase the setbacks from residents to the south on Mountbatten Court to 5 metres. It is considered that the increased setback provides for adequate privacy.

Council's Environmental Health Unit have assessed the proposed development and provided the following:

An Environmental Noise Impact Report (crgref: 11389a) was prepared by CRG Acoustical Consultants dated March 2012. The Report states the assessment has utilised criteria within the NSW EPA Industrial Noise Policy, AS 1055:1997 and NSW Road Noise Policy 2011.

The report has stipulated an assessment has been undertaken on the Stage 1 proposal only (whilst road traffic noise impacts were considered on full capacity) and a further assessment will need to be undertaken following detailed design, as such, the report has not addressed the noise impacts of Stages 2 & 3. Further assessment will need to be undertaken prior to each staged release of CC.

An amended acoustic report is required prior to the release of the Construction Certificate for Stage 1 to determine the construction noise impact on the adjoining child care centre. Additionally, new reports will be required prior to the release of the Construction Certificate for Stages 2 and 3 to ensure the buildings will provide adequate acoustic measures to reduce impacts on surrounding neighbours.

It is considered that the proposed acoustic measures will be adequately considered at each stage of development and this submission does not warrant refusal in this instance.

Objection 13:

Appears that this development will add to drainage issues.

Council's Stormwater Engineer has provided the following:

The proposed stormwater management arrangement provided in the "Civil Engineering Report " is generally supported subject to conditions and further design details under the Construction Certificate phase. Runoff from the school buildings and entry carpark are directed to On site Detention Areas / Infiltration basins onsite with overflows discharging towards the west away from any residential land. The roadworks within Charles Street will be rely upon swale drains that will be directed to proposed and existing piped network/s. The existing piped network discharges into Mooball Creek.

It is therefore considered that the proposed development adequately deals with stormwater in the locality.

The car parking is inadequate for school purposes.

The proposed development complies with Tweed Shire Council DCP Section A2. As such it is considered that the submission does not warrant refusal in this instance.

Access in and out of Elizabeth Street is already dangerous onto Coronation Drive.

The proposed development involves the construction of Charles Street. This is to ensure the bulk of the traffic will not utilise Elizabeth Street and Coronation Drive to access the site.

Why are the bollards removable?

This submission has been noted and referred to Council's Traffic Engineering section. It was advised that the Traffic Engineering section does not have an issue with the bollards located between Charles Street and Elizabeth Street being removable as they may be required to be removed for emergency access. The submission does not warrant refusal in this instance.

Objection 14:

Our quality of life will be affected by noise, increased traffic and exhaust emissions.

The proposed acoustic impact of the development upon the surrounding area is considered consistent with that anticipated by the use of the school premises being primarily daytime use. It is noted that the design of the buildings provide enclosed class rooms and offices serviced by internal corridors for student and staff circulation thereby minimising potential acoustic impact during circulation within the buildings. Finally the setbacks to adjoining residential properties are considered appropriate and will aid in reducing acoustic impacts from the use of the new buildings.

The boat ramp will be difficult to access with a roundabout next to it.

The proposed development has been amended to remove the roundabout and now proposes a T-intersection. The boat ramp will continue to be accessed via Philip Street with the car/trailer parking located further to the south of the existing car/trailer parking area. It is considered that the use of the boat ramp will not be significantly impacted on as a result of this application. The submission does not warrant refusal in this instance.

Objection 15:

Traffic noise, fumes and pollution generated by buses, trucks and cars using Charles Street to access the school.

The forming of Charles Street to provide access to the school is considered to have the best outcome in terms of minimising the effect on amenity and impacts on surrounding roads. It is considered that a new educational establishment will create traffic however through the existing road network and the construction of Charles Street, the increased traffic can be catered for.

The roundabout to be built at Overall Drive and Charles Street will impede the flow of traffic in Overall Drive.

The proposed development has been amended to remove the roundabout and now proposes a T-intersection.

The roundabout being built on a bend in Overall Drive must surely restrict the vision of drivers leaving Charles Street.

The proposed T-intersection will require traffic calming on the northbound approach on Overall Drive to maintain acceptable sight distance requirements.

Trees in Charles Street to be retained?

As outlined in the report the 3 Koala Habitat trees at the western end of Charles Street are to be retained.

Is there provision for bicycle and pedestrian movement along Charles Street?

It is expected that pedestrians and cyclists will use alternate routes to the school including Elizabeth Ave and the walkway between Hampton Court and the school.

Will the boat ramp and boat trailer parking in Overall Drive be impacted?

The proposed development has been amended to remove the roundabout and now proposes a T-intersection. The boat ramp will continue to be accessed via Philip Street with the car/trailer parking located further to the south of the existing car/trailer parking area. It is considered that the use of the boat ramp will not be significantly impacted on as a result of this application. The submission does not warrant refusal in this instance.

Support 16:

We strongly support the addition of a primary school facility for Pottsville and congratulate those responsible for the proposed traffic plan.

Noted.

Objection 17:

The proposed intersection at Charles Street/Overall Drive is not a wide area. I am concerned the roundabout will encroach too much into the existing boat parking area.

The proposed development has been amended to remove the roundabout and now proposes a T-intersection. The boat ramp will continue to be accessed via Philip Street with the car/trailer parking located further to the south of the existing car/trailer parking area. It is considered that the use of the boat ramp will not be significantly impacted on as a result of this application. The submission does not warrant refusal in this instance.

The roundabout will disrupt the flow of traffic on Overall Drive.

The proposed development has been amended to remove the roundabout and now proposes a T-intersection. Traffic calming devices will be utilised however Council's Traffic Engineer has advised that the devices are sufficient to cater for the proposed development.

At the unformed road reserve at Overall Drive there is a creek area surrounded by trees on either side, including natives which run alongside the development on Overall Drive. The DA documents don't clearly outline what will happen to the creek and the trees.

Trees are to be retained at the western end of the Charles Street Road Reserve with vegetation in the stormwater drain at the eastern end to be removed to ensure adequate stormwater drainage can occur.

The 'creek' area in the unformed Charles Street Road Reserve is actually a stormwater drain. This drain is proposed to be upgraded to swale drains that will be directed to proposed and existing piped network/s. The existing piped network discharges into Mooball Creek. Further detail will be provided at construction certificate stage.

How wide will Charles Street be?

Charles Street will be 6 metres in width.

Objection 18:

I have concerns with the proximity of the classrooms and their windows relative to my backyard. Concerned about privacy and overshadowing.

The information request sent to the applicant raised issues of setbacks. The response resulted in amended setbacks which are increased to 5 metres. It is considered that the increase in setbacks improves privacy and reduces the impact of overshadowing. It is therefore considered that this submission does not warrant refusal of the application.

Objection 19:

We purchased our property in Hampton Court believing that limited development could occur so close to the central business centre of the village.

The subject site is zoned 2(b) - Medium Density Residential in the Tweed Local Environmental Plan 2000 and has been for numerous years. An educational establishment is a use that is permitted with consent within this zone.

We object to the hundreds of cars, and buses utilising the proposed roundabout & Charles Street impacting on the quality of life and the potential for us to holiday rent the second unit of our complex.

The proposed development is expected to result in an increase in traffic for the area. Council's Traffic Engineering Section has assessed the application and considers the existing road network and the construction of Charles Street

are sufficient in catering for the proposal. Additionally, the school will only be operational in school terms not during holiday periods.

Object strongly to the dismissive nature of the applicant in the DA when considering expensive noise buffers as being undesirable by residents.

The proposed acoustic impact of the development upon the surrounding area is considered consistent with that anticipated by the use of the school premises being primarily daytime use. It is noted that the design of the buildings provide enclosed class rooms and offices serviced by internal corridors for student and staff circulation thereby minimising potential acoustic impact during circulation within the buildings. Finally the setbacks to adjoining residential properties are considered extensive and will aid in reducing acoustic impacts from the use of the new buildings.

We object because Traffic will not be restricted to school hours (8.00am - 4.00pm).

Traffic is not restricted to school hours as the road will be a public road with access available to all users at all hours. The proposed development has been assessed by Council's Traffic Engineer who has determined that there is adequate capacity within the newly created road and surrounding roads to cater for the proposal.

We object to the three-storey Bell Tower on visual grounds.

The proposed development is consistent with the scale of existing developments. The subject site is over 2 ha in size and the bell tower comprises only 16m² of the entire development. The school will comprise buildings of 1 and 2 storey in height. The location of the proposed Bell Tower is appropriate in scale and it is considered that the proposal will not result in adverse visual impacts or shadows to adjoining properties.

We object to the tree-storey Bell Tower on the grounds that the extra height will create an unobstructed flow of excessive noise created by the bell peeling over and around surrounding residences and village centre.

The applicant has stated that the Bell Tower will not be utilised for ending periods for the school but rather be utilised for special occasions in association with the church.

As ratepayers we object to the ongoing use of Council funds to maintain and upkeep Charles Street and other traffic works for the sole use and benefit of one business and to the detriment of surrounding residents.

Council is responsible for the maintenance of Council operated roads. It is considered appropriate that Council maintain this road which will be available for all to use.

DA for St Ambrose School and Charles Street development will devalue the outdoor lifestyle encourages through its building code.

The setbacks of the buildings located on the boundaries have been increased from the residential areas to increase privacy and decrease overshadowing. It is considered that the development is appropriate in the area and will not impede residents 'outdoor lifestyle'.

We object to Hampton Court not being included in the Traffic Impact Assessment even though it will have pedestrian access to the proposed school.

Council's Traffic Engineer has assessed the Traffic Report submitted and has not requested Hampton Court be included in the Traffic Impact Assessment. There is currently pedestrian access and an easement over the eastern portion of the site for pedestrians which will remain as a result of the application. As the subject site is accessed via Charles Street for vehicles and pedestrian access available from Charles Street and Elizabeth Street it is considered that only a small portion of pedestrians would utilise the footpath off Hampton Court. It is therefore considered that including Hampton Court in the Traffic Impact Assessment was not required.

We object because the impact on the safe usage of the boat ramp which is utilised by many locals and tourists will be significant.

The proposed development has been amended to remove the roundabout and now proposes a T-intersection. The boat ramp will continue to be accessed via Philip Street with the car/trailer parking located further to the south of the existing car/trailer parking area. It is considered that the use of the boat ramp will not be significantly impacted on as a result of this application. The submission does not warrant refusal in this instance.

Submission 20:

The submission number 20 has not objected to the proposed development rather provided a number of comments which have been noted.

Objection 21:

Constraints posed by Moobal Creek, the wetlands to the west of the site, and the koala habitat/wetland behind the shops immediately north of Coronation Avenue.

The proposed development has been assessed by Council's Natural Resource Management Unit. As previously outlined, stormwater is adequately treated on the subject site to ensure impacts on Moobal Creek and the surrounding wetlands are kept to a minimum. Additional plantings have been provided on the site to improve the koala habitat to the west of the subject site in the form of a 20 metre active buffer. It is therefore considered that these issues have been taken into account and do not warrant the refusal of this application.

The traffic generated by the proposed school would create far too much traffic congestion.

It is considered that there will be increased traffic as a result of the proposed development. The addition of Charles Street to the existing road network has

been done to reduce the impact of the proposed. The major impact on the adjacent road system will be at the intersection of Charles Street and Overall Drive which will primarily be traffic for the proposed educational establishment. All parking will be contained and managed on site by the school.

Effects of expected sea level rise, including erosion of the banks of the banks of Moobal Creek, must be taken into account.

This has been noted and taken into account.

Objection 22 (No address and Late Submission):

I object to the daily noise that will be created from students, bells, sports events.

The proposed acoustic impact of the development upon the surrounding area is considered consistent with that anticipated by the use of the school premises being primarily daytime use. It is noted that the design of the buildings provide enclosed class rooms and offices serviced by internal corridors for student and staff circulation thereby minimising potential acoustic impact during circulation within the buildings. Finally the setbacks to adjoining residential properties are considered extensive and will aid in reducing acoustic impacts from the use of the new buildings.

Object to the noise that will be generated during the construction period.

Hours of demolition/construction on the site, along with demolition and construction methods would be controlled by way of conditions on any consent issued. It is noted that such matters are governed by Australian Standards and other government legislations, with those considering limiting impacts on the amenity of surrounding properties, particularly residential amenity.

The length of time in which any disruption would occur however would not been known, with any development consent only ensuring that development has commenced within five (5) years of the date of the consent.

Configuration of the design where the school buildings are to be placed hard-up against my property on Royal Drive causing all classroom noise to flow into my residence and a loss of privacy from students looking in.

The original proposal was setback approximately 3m from the southern and eastern boundaries. A number of submissions were received in regards to a decrease in privacy. It was therefore considered a request for the applicant to increase the setbacks to offset the privacy issues was appropriate. The applicant responded on 20 August 2012 with an increased setback from the eastern and southern boundaries to 5m. This increase in setback will result in less of an impact on privacy to the adjoining residents. Additionally, the design of the proposed school buildings orientates the students towards the centre by providing the focus of the buildings to the courtyards and open space rather than to the side boundaries. Accordingly, the development is unlikely to result in any unreasonable privacy issues.

Major traffic problems that will be generated if the school is constructed.

The expected number of students is 420 and staff is estimated at 25, for the purpose of traffic generation and parking rates.

The Report notes that the RTA Guide To Traffic Generating Developments does not provide a traffic generation rate for schools. The Traffic Report has therefore adopted a value of 0.85 trips per student, based on CRG's professional experience. The acceptance of this rate was confirmed by Council's Traffic Engineer.

I object to any construction proceeding until a full and proper frog survey is carried out on the site.

Council's Natural Resources Management Section have assessed the application and provided the following:

The habitat on the site has previously been disturbed by clearing and slashing, yet has ecological value. Given the redesign of the proposal, it is now considered that sufficient assessment has been undertaken to be satisfied that the proposal is unlikely to have a significant effect on threatened species, populations or ecological communities, or their habitats.

Objection 23 (Late Submission):

Loss of sunlight on the back section of my property.

The proposed development has increased setbacks as a result of the information request. It is considered that the 5m setback from the southern and eastern boundaries will result in minimal overshadowing to the adjoining neighbours. Shadow diagrams have been provided and show compliance with the control of allowing:

- sunlight to at least 50% of the principal area of private open space of adjacent properties is not reduced to less than 2 hours between 9am and 3pm on June 21, and
- windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June.

It is therefore considered that overshadowing will be kept to a minimum as a result of this proposal.

NSW Rural Fire Service

Tweed Shire Council's Bushfire Prone Land Maps indicate that the subject land is mapped as bushfire prone land. A Bushfire Hazard Assessment was provided which was referred to the NSW Rural Fire Service. The Rural Fire Service responded on 3 May 2012 with conditions relating to Asset Protection Zones, Water and Utilities, Access, Evacuation and Emergency Management and Design and Construction to be included in the recommendations. It is considered that the proposed development complies with this clause.

Roads & Maritime Services

The proposed development was referred to Roads & Maritime Services (RMS) via the Development Traffic Advisory Group at its meeting held on 19 April 2012. From this meeting there were no issues raised in regards to traffic numbers or the capacity of the road network. The main issues related to:

- conflict between students getting off buses and accessing the school and parents dropping off students on the school site;
- pedestrian movements from Elizabeth Street to the subject site; and
- the application not catering for pedestrians and cyclists at the intersection of Charles Street and Philip Street.

In relation to the internal car park conflict between students utilising buses and circulating parents dropping off students, two (2) pedestrian crossings have been provided to ensure safe crossing from the car park / set down area to the school. A condition has been included in the recommendations that the onsite marked pedestrian crossings are to be supplemented by the installation of Wombat Crossings as per Austroads 2008 Guide to Traffic Management Part 8 Local Area Traffic Management. A Wombat Crossing is a raised pedestrian crossing (like a wide road hump) marked with thick white stripes.

A 1.2m wide concrete footpath is located on the western side of Elizabeth Street in the vicinity of the subject site. As per Council's Request for Further Information letter dated 5 July 2012, this needs to be linked to the development. Appropriate conditions have been recommended for the footpath.

The existing 2.2m shared pathway along Overall Drive / Philip Street (on the same side as the proposed Charles Street intersection) needs to be incorporated into the intersection design. This will be addressed at the Construction Certificate stage of the assessment.

It is therefore considered that the issues raised by RMS have been addressed and the appropriate conditions have been included.

(e) Public interest

The proposed development is not considered to have a negative impact the public's interest subject to recommended conditions. The proposal is permissible with consent and generally consistent with all relevant policies. The proposal is considered suitable for the subject site and also considered not to create a significant adverse impact on the natural or built environments or have detrimental social or economical impact on the locality. Each of these items have been discussed previously in the report.

OPTIONS:

1. Refuse the application and provide reasons for refusal.
2. Approve the application subject to recommended conditions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Right of appeal.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal is permissible with consent and generally consistent with all relevant policies. The proposal with recommended conditions of consent is considered suitable for the subject site and also considered not to create a significant adverse impact on the natural or built environments.

UNDER SEPARATE COVER:

Nil

RECOMMENDATION:

That Development Application DA12/0110 for a St Ambrose Primary School and construction of the unformed road reserve at Lot 3 DP 263153; No. 1 Charles Street and unformed road reserve POTTSVILLE, be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans:

- 01 Master Plan Drawing Number DA200B prepared by Twohill And James Pty Ltd undated;

Stage 1

- 01 Site Plan 3 Stage Development Drawing Number DA201B prepared by Twohill And James Pty Ltd undated;
- 01 Carpark Plan Drawing Number DA202B prepared by Twohill And James Pty Ltd undated;
- 01 Site Plan 3 Stage Development Drawing Number DA201B prepared by Twohill And James Pty Ltd undated;
- 01 Building B Floor Plan Drawing Number DA204 prepared by Twohill And James Pty Ltd undated;
- 01 Building C Floor Plan Drawing Number DA205 prepared by Twohill And James Pty Ltd undated;
- 01 Building D Ground Floor Plan Drawing Number DA206 prepared by Twohill And James Pty Ltd undated;
- 01 Building D First Floor Plan Drawing Number DA207 prepared by Twohill And James Pty Ltd undated;
- 01 Building E Ground Floor Plan Drawing Number DA208 prepared by Twohill And James Pty Ltd undated;
- 01 Building E First Floor Plan Drawing Number DA209 prepared by Twohill And James Pty Ltd undated;

Stage 2

- 01 Building F Ground Floor Plan Drawing Number DA210A prepared by Twohill And James Pty Ltd undated;
- 01 Building F First Floor Plan Drawing Number DA211A prepared by Twohill And James Pty Ltd undated;

Stage 3

- 01 Building G Ground Floor Plan Drawing Number DA212A prepared by Twohill And James Pty Ltd undated;
- 01 Building G First Floor Plan Drawing Number DA213A prepared by Twohill And James Pty Ltd undated;

Sections & Elevations

- 01 Site Elevation North & 02 Signage Details Drawing Number DA306A prepared by Twohill And James Pty Ltd undated;
- 01 Site Elevation South Drawing Number DA307A prepared by Twohill And James Pty Ltd undated;
- 01 Site Elevation East Drawing Number DA308 prepared by Twohill And James Pty Ltd undated;
- 01 Site Elevation West Drawing Number DA309A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 01 Drawing Number DA400A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 02 Drawing Number DA401A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 03 Drawing Number DA402A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 04 Drawing Number DA403A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 05 Drawing Number DA404A prepared by Twohill And James Pty Ltd undated;
- 01 Site Section 06 Drawing Number DA405A prepared by Twohill And James Pty Ltd undated; and
- 01 Section Through Bell Tower DA406 prepared by Twohill And James Pty Ltd undated.

and

- The Environmental Noise Impact Report Plan No. crgref:11389a prepared by CRG Acoustical Consultants dated March 2012, except where varied by the conditions of this consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

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

[GEN0135]

4. Sewer manholes are present within Charles Street. These manholes are not to be covered with soil or other material and are not to be located within drainage swales that could cause obstruction or stormwater inundation. Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

5. 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 the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[GEN0190]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

8. The proposed development shall be limited to the following number of enrolments:

Stage 1 - Maximum of 210 enrolments

Stage 2 - Maximum of 90 enrolments

Stage 3 - Maximum of 120 enrolments

[GENNS01]

9. All remediation works for radioactive materials shall comply with the approved remediation action plan, or amended plan where applicable.

[GENNS01]

10. The Right of Footway 3 Wide and Variable (2397289) burdening the subject site must be preserved.

[GENNS02]

11. All Preferred Koala Food Trees, being Swamp Mahogany (*Eucalyptus robusta*) and Forest Red Gum (*Eucalyptus tereticornis*), on and adjacent the development site must be protected and retained in accordance with Australian Standard AS4970 for the *Protection of trees on development sites* during construction of the school and the road.

[GENNS03]

12. Native vegetation must not be removed outside that area strictly required for works directly associated with the project as described in the revised documents submitted with the application.

[GENNS04]

13. Works must accord with the approved *Tree Protection and Habitat Restoration Plan* at all times.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. The developer shall provide a minimum of 48 parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

The developer shall also provide a minimum of 36 bicycle parking spaces on site to cater for student cyclists.

The onsite marked pedestrian crossings are to be supplemented by the installation of Wombat Crossings as per Austroads 2008 Guide to Traffic Management Part 8 Local Area Traffic Management.

Full design detail of the proposed parking and maneuvering areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a Construction Certificate for the building works.

[PCC0065]

15. Section 94 Contributions

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 for each stage 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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges include indexation provided for in the S94 Plan and 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.

Stage 1

- (a) Tweed Road Contribution Plan:
132.5 Trips @ \$1295 per Trips \$171588
(\$1284 base rate + \$11 indexation)
S94 Plan No. 4
Sector8_4

Stage 2

- (a) Tweed Road Contribution Plan:
56.7 Trips @ \$1295 per Trips \$73427
(\$1284 base rate + \$11 indexation)
S94 Plan No. 4
Sector8_4

Stage 3

- (a) Tweed Road Contribution Plan:
75.6 Trips @ \$1295 per Trips \$97902
(\$1284 base rate + \$11 indexation)
S94 Plan No. 4
Sector8_4

[PCC0215/PSC0175]

16. Section 94 Contributions

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 for civil or building works 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.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a Construction Certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PCC0225]

17. 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 for each stage 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:

Stage 1

Water DSP6:	7.05 ET @ \$12150 per ET	\$85657.5
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Sewer Hastings Point:	11.75 ET @ \$5838 per ET	\$68596.5
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Stage 2

Water DSP6: 2.7 ET @ \$12150 per ET \$32805

Sewer Hastings Point: 4.5 ET @ \$5838 per ET \$26271

Stage 3

Water DSP6: 3.6 ET @ \$12150 per ET \$43740

Sewer Hastings Point: 6 ET @ \$5838 per ET \$35028

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265/PSC0165]

18. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the (public infrastructure - insert / delete as applicable) works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

19. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the (public infrastructure - insert / delete as applicable) works as set out in Council's fees and charges at the time of payment.

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

20. All imported fill material shall be from an approved source. Prior to the issue of a Construction Certificate for either civil or building works, details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

[PCC0465]

21. 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.
Earthworks to facilitate the development shall at no time result in additional ponding occurring within neighbouring properties. All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval to demonstrate that no ponding occurs.
- [PCC0485]
22. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.
- [PCC0675]
23. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.
- [PCC0735]
24. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate for civil works. Safe public access shall be provided at all times.
- [PCC0865]
25. Prior to the issue of a Construction Certificate for building works, application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the Charles Street Road Reserve. Application shall include engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications.
The Application shall include (but not be limited to) the provision of separate vehicular accesses to service the existing Church and the Primary School, in accordance with Section A2 - "*Site Access and Parking Code*" of Council's consolidated Tweed Development Control Plan and Council's "*Driveway Access to Property - Part 1*" Design Specification June 2004.
The above mentioned engineering plan submission must include copies of Compliance Certificates relied upon and details relevant to but not limited to the following: -
- Road works/furnishings
 - Stormwater drainage
 - Water and sewerage works
 - Sediment and erosion control plans
 - Location of all services/conduits
 - Traffic control plan
- [PCC0895]
26. Prior to the issue of a Construction Certificate for civil works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications, *prepared in accordance with Development Design Specification D13 - particularly Section D13.09*. The detailed plans shall include but are not limited to the following:
 - 1 Earthworks
 - 2 Roadworks/furnishings
- (c) The upgrade of Charles Street to provide a bitumen sealed road formation 6.0m wide between flush kerbing, on a 9.0m roadbase and the associated intersection with Overall Drive. The 1.5m roadbase shoulders are to be turfed, unless agreed otherwise by Council.
- (d) Charles Street is to provide a left turn only lane onto Overall Drive, able to safely accommodate buses exiting Charles Street.
- (e) Appropriate Traffic Calming Devices on Overall Dr to ensure compliance with Council's Specifications and Austroads guidelines.
- (f) Relocation of 5 car and trailer parking spaces to the south of their existing location on Overall Drive.
- (g) A line-marking and signage plan showing school speed zones and Children's Crossing, including linkage to the existing 1.2m wide concrete footpath in Elizabeth Street.
- (h) Direct vehicular access is to be prevented between Elizabeth Street and Charles Street, via the installation of bollards or approved equivalent.
- (i) Re-establishment of existing vehicular access off Charles Street, including Lot 436 DP 755701, as deemed lawful by Council.
 - 1. Stormwater drainage
- (j) Including the extension of the piped drainage under Overall Drive in order to provide a standard road verge swale in Charles Street.
 - 2. Water supply works
- (k) including water main upgrade (as applicable) to achieve required fire fighting flows.
 - 3. Sewerage works
 - 4. Landscaping works
 - 5. Sedimentation and erosion management plans
 - 6. Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations.

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

- 27. Permanent stormwater quality treatment shall be provided in accordance with the following:
 - (a) The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development (including the Charles Street upgrade) prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.

- (c) It is encouraged that the stormwater and site works incorporate water sensitive design principles and where practical, integrated water cycle management, as proposed by "Water By Design", an initiative for best practice by the South East Queensland Healthy Waterways Partnership.
 - (d) Specific Requirements to be detailed within the Construction Certificate application include:
 - (e) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.
 - (f) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
 - (g) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.
- [PCC1105]
28. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils Development Design and Construction Specification - Stormwater Quality.
The stormwater infiltration areas must be clear of the existing EEC vegetation. Overland flow from the infiltration areas must be discharge via sheet flow.
- [PCC1125]
29. Stormwater associated with the building works.
- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate for the building works. These details shall include likely landscaping within the overland flow paths.
 - (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
 - (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
 - (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by **visible surface flow**, not piped.
 - (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
 - (f) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
 - (g) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or

existing structures on the subject property, and existing or likely structures on adjoining properties.

- (h) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (i) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

30. A Construction Certificate application for building 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 S68 of the Local Government Act.

- a) 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.
- b) Where Council is requested to issue a Construction Certificate for civil works, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

31. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) All Construction Certificate Applications must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

32. Prior to issue of a Construction Certificate for works within 40 metres of a watercourse, all applicable permits and licences are to be obtained from the Department of Environment, Climate Change and Water (DECCW) pursuant to s.89, 90 and 91 of the Water Management Act 2000.

[PCC1330] [PCC1330]

33. A revised remediation action plan shall be submitted to the satisfaction of the General Manager or delegate for approval. The plan shall demonstrate how the subject site is to be remediated to achieve a final surface level limit of $0.7\mu\text{Gy hr}^{-1}$ or less at 1m above the area of concern on the property, following earthworks, and prior to issue of construction certificate for Stage One.

34. The construction of the Educational Establishment shall incorporate the relevant requirements of the Environmental Noise Impact Report (crgref: 11389a) prepared by CRG Acoustical Consultants dated March 2012.
35. An amended Environmental Noise Impact Report shall be submitted to the satisfaction of the General Manager or delegate as follow.

Prior to the issue of Construction Certificate for Stage One the report shall:

- (i) Further consider the impacts of the construction upon the operations of the child care centre directly east of the development and provide recommendations, where necessary.
- (ii) Identify uses and further consider the impacts of the identified uses of the hall should the facility be considered to be utilised for school recitals, band practice, or like activities, and provide recommendations, where necessary.

Prior to the issue of Construction Certificate for Stage Two and Three:

- (i) a noise impact assessment from a suitably qualified acoustic consultant shall be prepared and submitted to the satisfaction of the General Manager or delegate in respect to noise likely to be generated by the activities associated with the construction and operation of stage 2 and 3. The assessment report shall include any recommended noise amelioration measures to be carried out by the applicant.
36. Prior to the construction certificate being issued copies of 3 plans drawn to a scale of 1:50 detailing the following with regards to all food related areas shall be provided to Council's Environmental Health Officers for assessment and approval accompanied by the adopted fee:
- a. Floor plan
 - b. Layout of kitchens and bar showing all equipment
 - c. All internal finish details including floors, wall, ceiling and lighting
 - d. Hydraulic design in particular method of disposal of trade waste
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
 - f. Servery areas including counters etc.

[PCCNS01]

37. The geometric layout of the internal parking and circulation access must comply with *AS/NZ 2890.1 2004 - Parking Facilities Part 1 - Off-Street Car Parking*, unless accepted otherwise by Council.

[PCCNS02]

38. The proponent shall submit plans and specifications with an application for Civil Works Construction Certificate for a "T" intersection of Charles Street and Overall Drive in accordance with Council's Specifications and AUSTROADS Pt 5 "Intersections at Grade".

The intersection must accommodate cyclist and pedestrians through the intersection and must appropriately accommodate the high priority turning traffic into and out of Charles Street.

Bus turning templates will also be required to ensure that the proposed intersection is suitably designed to cater for bus movements.

[PCCNS03]

39. The proponent shall submit a revised Traffic Report with the application for Civil Works Construction Certificate, to compliment the proposed "T" intersection of Charles Street and Overall Drive, taking into account (but not limited to) sight distance, queue lengths, turning templates, traffic numbers and lighting.

[PCCNS04]

40. The Applicant will submit to the General Manager or delegate a *Tree Protection and Habitat Restoration Plan* detailing measures to protect retained native trees on site prior to, during and after construction in accordance with Australian Standard AS4970 for the *Protection of trees on development sites*. The plan will also detail and schedule the planting of additional Preferred Koala Food trees, primarily Swamp Mahogany (*Eucalyptus robusta*) within the 20m buffer along the western boundary of the site. The plan must include a maintenance period not less than five years.
41. A detailed plan of landscaping containing no noxious or environmental weed species and with all plants comprised of local native species selected from the *Native Species Planting Guide* prepared for Tweed and Byron Shires, available at <http://www.tweed.nsw.gov.au/NativePlantGuide> is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

42. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

42. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

43. Prior to the commencement of works endorsed under the Civil Works Construction Certificate, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

44. 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

- (c) 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
 - (d) 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.
- [PCW0215]
45. 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.
- [PCW0225]
46. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) 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
- [PCW0245]
47. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000**, 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.
- [PCW0255]
48. Civil work in accordance with a development consent must not be commenced until:
- (a) a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 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,
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C. For the works endorsed under this Civil Works Construction Certificate, the SWAC may be an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with NPER registration or approved equivalent.
The SWAC shall provide documentary evidence to Council of their NPER registration prior to commencement of works, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
 - (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Occupation Certificate is issued for Stage 1 of the development, 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 civil work.

[PCW0815]

49. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period for the works endorsed under this Civil Works Construction Certificate.

[PCW0835]

50. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with any erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

This sign is to remain in position for the duration of the project.

[PCW0985]

51. 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.

[PCW1065]

52. Following completion of earthworks and prior to construction of stage one, a final site validation survey shall be undertaken to demonstrate compliance with an Action Level Criteria of $0.7\mu\text{Gy hr}^{-1}$ or less at 1m above the area of concern on the property.

[PCWNS01]

DURING CONSTRUCTION

53. All proposed works are to be carried out in accordance with the conditions of development consent, approved Construction Certificates, drawings and specifications.

[DUR0005]

54. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

55. 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.

$L_{Aeq, 15 \text{ min}}$ 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.

$L_{Aeq, 15 \text{ min}}$ 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.

[DUR0215]

56. 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 was made).

[DUR0375]

57. 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.

[DUR0385]

58. 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.

[DUR0395]

59. 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.

[DUR0405]

60. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

61. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

62. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

63. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

64. 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 Final Practical Inspection of the endorsed civil works and / or the Occupation Certificate for the building works.

[DUR0995]

65. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

66. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

67. During the course of the construction and fitout of the kitchen/food premises periodic inspections must be arranged with Councils Environmental Health officer to ensure compliance with all health related conditions of approval and respective legislation.

[DUR1575]

68. 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 (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.

[DUR1795]

69. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
 - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

70. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

71. The proponent must not undertake any work within the Crown or 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.

[DUR1845]

72. Pram ramps are to be constructed at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.

[DUR1855]

73. 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 in accordance with Councils Development Design and Construction Specifications prior to the issue of a Final Practical Inspection of the endorsed civil works and/or prior to any use or occupation of the buildings.

[DUR1875]

74. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, cycleways - formwork/reinforcement
- (h) Final Practical Inspection - on maintenance
- (g) Off Maintenance inspection

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 Practical 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.

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".

The fee for the above-mentioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for 'Compliance Certificate' of the constructed Civil Works.

[DUR1895]

75. Where existing kerb, footpath or driveway laybacks are to be removed for new driveway laybacks, stormwater connections, pram ramps or for any other reason, the kerb, footpath or driveway laybacks must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

76. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

77. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.

[DUR2195]

78. 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.

[DUR2375]

79. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

80. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

81. 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.

[DUR2485]

82. Plumbing

- (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.

[DUR2495]

83. 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.

[DUR2535]

84. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

85. 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°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50°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.

[DUR2555]

86. Following the completion of any excavations or site disturbances greater than 300mm deep below the existing surface levels in a development stage and prior to the commencement of any construction works in any stage, and once all services have been installed, a final validation surface radiation survey shall be completed and reported to the satisfaction of the General Manager or delegate of Tweed Shire Council. Should the Action Level Criteria of $0.7\mu\text{Gy hr}^{-1}$ or less at 1m above the area of concern on the property be exceeded then an amended remediation action plan shall be submitted to the satisfaction of the General Manager or delegate for approval.

[DURNS01]

87. A recognised and experienced fauna spotter/catcher must be present during any tree removal on the site.

[DURNS02]

88. No soil, sand, gravel, clay or other material shall be disposed of off the site where the radiation level of that material is above $0.7\mu\text{Gy hr}^{-1}$. Radiation levels of any materials proposed to be removed from the site shall be monitored and recorded by an appropriately qualified person. Record of the monitoring shall be maintained on site and made available to authorised officers of Tweed Shire Council on request.

[DURNS03]

89. The development shall be carried out in accordance with the provisions of the Acid Sulfate Soil Management Plan and Management Strategy (HMC 2012.005 ASSMP) prepared by HMC Pty Ltd dated March 2012..

[DURNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

90. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

91. Prior to the issue of an Occupation Certificate for Stage 1 of the development, a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the Charles Street civil works approved under the Construction Certificate for Civil Works, as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

92. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

93. 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.

[POC0225]

94. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

95. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

96. The premises is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

97. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works (as applicable to that stage of development) required under Section 138 of the Roads Act 1993.

[POC0745]

98. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

99. Upon completion of all civil works on the site, Work as Executed plans are to be provided to Council in accordance with Councils Development Design Specification - D13, as well as a CCTV inspection of the stormwater pipes and sewerage system that are to be dedicated to Council as public infrastructure, including joints and junctions to demonstrate that the standard of the system is acceptable to Council.

The plans are to be endorsed by a Registered Surveyor OR Consulting Engineer certifying that:

- a) The plans accurately reflect the work as executed.
- b) All stormwater lines, sewer lines, services and structures are wholly contained within the relevant easements or boundaries.

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.

[POC0765]

100. Prior to the issue of an Occupation Certificate, easements for services, rights of carriageway and Restrictions As To User (as applicable) under Section 88B of the Conveyancing Act are to be created.

[POC0860]

101. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council, as applicable for each stage of the development. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.
[POC0865]
102. Prior to the issue of an Occupation Certificate, as applicable for each stage of the development, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.
[POC0985]
103. 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.
[POC1045]
104. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.
[POC1055]
105. Provide certification by an appropriately qualified person that all outdoor lighting has been designed and installed in general accordance with AS4282-1997 Control of the obtrusive effects of outdoor lighting.
[POCNS01]
106. On completion of the Civil Works, a certificate signed by a practicing NPER Civil Engineer is to be submitted to the Principal Certifying Authority to certify compliance with the consent and good engineering practice.
[POCNS02]
107. Prior to issuing an Occupation Certificate, reticulated water supply and outfall sewerage reticulation and applicable service connections shall be provided to the development in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.
Water mains may require upgrading or a Booster Pump provided in order to comply with fire fighting requirements.

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.
[POCNS03]
108. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
[USE0125]
109. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.
[USE0175]
110. Hours of operation of the business are restricted to the following hours:

- * 8am to 4pm - Mondays to Fridays
 - * No operations are to be carried out on Saturday, Sundays or Public Holidays
 - * All deliveries and pickups relating to the business are to occur within the approved hours
- [USE0185]
111. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
- [USE0225]
112. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.
- [USE0245]
113. All plant and equipment installed or used in or on the premises:
- (a) Must be maintained in a proper and efficient condition, and
 - (b) Must be operated in a proper and efficient manner.
- In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.
- [USE0315]
114. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.
- [USE0835]
115. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.
- [USE0845]
116. Swimming pool pumps, air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the **NSW Protection of the Environment Operations (Noise Control) Regulation 2008**.
- [USE1510]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

Asset Protection Zone

The intent of measurers is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the property around the building for the following distances shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zone'.

- west for not less than 50 metres;
 - northwest to the existing tree line
 - north, east and south to the property boundary.
2. Landscaping of the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Reticulated water supply is to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.
4. Any extension of electricity services is to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.
5. In recognition that the building may be connected to a gas supply, the following requirements are to be complied with:
 - a) Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standards AS/NZS 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.
 - b) All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.
 - c) Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.
 - d) Polymer sheathed flexible gas supply lines to gas metres adjacent to building are not to be used.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

6. Public roads shall comply with section 4.1.3(1) of 'Planning for Bush Fire Protection 2006'.
7. Road works at the southern end of Elizabeth St are to incorporate traffic management devices to facilitate access from Charles St to Elizabeth St during an emergency (as indicated in the Civil Works Plan prepared by Cozens Regan Williams Prove Pty Ltd, ref: A.6.27 (Sk.3 - Issue A), dated 03/12).

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

8. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

9. An emergency and evacuation plan addressing section 4.2.7 of 'Planning for Bush Fire Protection 2006' shall be prepared for the subject site. A copy of the plan shall be provided to the consent authority prior to the issuing of an occupation certificate.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

10. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

General Advice - consent authority to note

To further improve protection of the property from bush fire attack, it is recommended that the existing church building be upgraded in accordance with the RFS publication 'Best Practice Guide to Bush Fire Protection - Upgrading of Existing Buildings', Version 1/25 February 2011.