

HERAN BUILDING GROUP PTY LTD
Established since 1952
ABN: 22 010 071 744 ACN: 010 071 744
DESIGNERS, BUILDERS AND DEVELOPERS
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21 February 2011

The Director General
NSW Department of Planning
GPO Box 39
Sydney
NSW 2001

Attn: Sebastian Tauni

Dear Sir,

RE: DA 43-3-2005 Mod 1

Section 75W Application to modify Development Approval Conditions allowing a Staged Development

Following earlier discussions with the Department and with Tweed Shire Council we wish to make an application to modify the current Conditions of Approval to enable staging of the issue of Construction Certificates for the proposed development and as a result, staging of the payment of the contributions scheduled in clauses B41 and B42.

In considering this application we have had direct contact and response for Tweed Shire Council through the TSC Director of Planning, Mr Vince Connell and TSC Planning Department Head Ms Colleen Forbes. Their support of our proposal is recorded in the attached email from Ms Forbes.

Attached are the following documents to formalise the application;

- Application Form completed
- Amended plans (5 copies plus digital copy on disc)
- Detailed description of proposed amendments.
- Cheque for \$750.00
- Copy of correspondence from Tweed Shire Council

We trust the information included is sufficient to complete the application, however if you require further or wish to discuss the application please contact me.

Yours faithfully
Heran Building Group Pty Ltd

Ian Hosking
BArch BA ARAIA
Project Manager & Architect

DESCRIPTION OF PROPOSED AMENDMENTS

The requested amendment to the approval is for;

- a. the inclusion of a clause enabling the development to be constructed in specified stages as detailed herein and the issue of individual Construction Certificates for each stage.
- b. Amendment of clauses B41 and B42 to enable the release of Construction Certificates for each individual stage conditional upon the payment of Section 94 Contributions for that specific stage at a rate apportioned for the extent of the stage being approved.

This proposed amendment maintains the existing approved built form and all relevant conditions, however seeks to enable the construction of the current approved development to be commenced and completed in stages as detailed below.

The purpose of the requested amendment is to specifically enable staged payment of the contributions scheduled in clauses B41 and B42 of the current Development Approval based on the percentage of contributions specifically related to each individual stage.

EXISTING APPROVAL

As summarised within condition A1 of the development consent DA 43-3-2005 and subsequent modification DA43-3-2005 Mod1, dated 19 January 2010, the current approval grants consent for a mixed use residential and commercial development consisting of a continuous part3/part 4 storey podium stretching across both the Bay Street and Enid Street frontages and 3 tower developments.

The elements are summarised as follows:

- a. 3 main towers comprising 202 residential apartments (17,332 sqm GFA) and ground floor retail tenancies (781sqm) in the following arrangement:
 - Bay Street tower at the corner of Bay and Enid Street to a max. Height of RL 56.100m AHD;
 - Thompson Street Tower at the corner of Thompson and Bay Streets to a maximum of RL 58.50m AHD, and
 - Enid Street Tower to a maximum height of RL 37.80m AHD.
- b. 386 car parking spaces including loading bays and car wash bays over 3 basement levels
- c. Managers Office located on the Ground Floor (185sqm GFA) and communal residential facilities including pool, spa, gym, theatrette, meeting room (407sqm)
- d. Landscaping
- e. Provision of services to the site; and
- f. Public domain works including the following
 - Reticulation of electricity supply underground within the immediate vicinity of the site (Bay , Thompson and Enid Streets) at the applicant's expense;
 - Replacement and widening of footpaths within both Bay and Enid Streets, subject to consultation and approval from Council; and
 - Provision of significant street plantings, streetscaping and features including water feature and relevant plantings within the intersection of Bay and Enid Streets.

PROPOSED STAGES FOR CONSTRUCTION

The proposed stages for construction are as follows;

- | | |
|---------|--|
| Stage 1 | The commercial component at street level plus all car parking and service areas up to the podium level at approx. RL 12.200 (level varies depending on location in the building) |
| Stage 2 | Residential component of Building A from RL 11.600 |
| Stage 3 | Residential components of Buildings B and C from RL 11.400 |
| Stage 4 | Residential components of Building D from RL12.200 |

The staging proposed includes for the Basement parking for the whole development to be completed in the First Stage along with the Commercial component along the Enid Street and Bay Street frontages.

It is proposed that construction commences with Stage 1, but will not necessarily follow the numerical staging listed, rather that subsequent stages can then be constructed independently above the podium.

Construction of the podium landscaping will occur along with the first of the tower stages to be built.

In the case of buildings C and D all construction of the residential portion of these towers is located above the podium level. However, in the case of buildings A and B part of the residential portion of both these towers, ie. from either level 1 at RL 8.300 or level 2 at RL 11.600, are located below the general podium level. In both these instances the construction of Stage 1 will include construction of the building envelope up to the underside of the residential portions above levels 1 or 2 but will not include any part of the residential apartments. This is clearly articulated on the attached coloured drawings.

The proposed staging makes no modification of any kind to the current approval and this is evidenced by the use of the recently approved drawings now coloured to indicate the stages .

It is noted that compliance with required egress from any of the spaces constructed in the proposed Stage 1 does not require the construction of any work beyond that delineated on the drawings for this first stage.

Further, by virtue of the separation of buildings, no subsequent stage after the podium is reliant in any way on any other stage for its completion or compliance with Building Act issues.

The attached drawings numbered;

01.02, 01.03, 01.04, 01.05, 01.06, 3.01, 3.41, 3.42, 3.52, 3.61, 3.71, 3.72, 4.02, 4.03, 4.04, have been coloured to clearly identify the physical extent of each stage proposed.

CONCLUSION

Of the utmost importance is that this proposal to amend the Conditions of the Development Approval proposes or includes no amendments to the built form of the current Approval, only the staging of construction along a logical series of steps.

The proposal has the qualified support of the Tweed Shire Council in regard to payment of Contributions in stages pursuant to the specific extent of each stage.

From: Colleen Forbes [mailto:CForbes@tweed.nsw.gov.au]
Sent: Monday, 7 February 2011 10:16 AM
To: Ian Hosking
Subject: FW: DA 2005-43-3 Bay Grand Development

Dear Ian,

Further to the email below and our subsequent telephone discussion, please be advised that Tweed Shire Council supports the proposed staging of the development in principle, subject to a S96 being lodged with the Department of Planning.

Regards,
Colleen

Colleen Forbes | Town Planner
Development Assessment



p (02) 6670 2596 | **f** (02) 6672 6250 | **e** cforbes@tweed.nsw.gov.au | **w** www.tweed.nsw.gov.au
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Please consider the environment before printing this email. One tonne of paper is equivalent to 13 trees or 30 kL of water.

From: Colleen Forbes
Sent: Monday, 7 February 2011 10:57 AM
To: 'User7@heran.com.au'
Cc: Vince Connell
Subject: FW: DA 2005-43-3 Bay Grand Development

Dear Ian,

I refer to your email of 1 February 2011 regarding the staging for payment of contributions.

Tweed Shire Council's S64 / S94 contribution plans are quite clear in the requirement to impose development contributions for any proposed building works prior to the issue of a construction certificate. The current consent requires all contributions to be paid prior to the issue of a construction certificate. Any proposal to stage the contributions will require a S96 application to be lodged to modify conditions B41 and B42 (any any other condition affected by the staging). The S96 will need to be lodged with the Department of Planning, as they are the consent authority for the development.

In reference to the staging noted in your email, contributions applicable to all development in the podium levels would be applicable to Stage 1. Stage 2 would incorporate the contributions for all development in Tower A. Similarly, contributions would be broken down to the relevant development for Stages 3 and 4. A S96 would need to clearly indicate how the staging would take place, and incorporate a Staging Plan.

Please contact me if you require any further clarification on the matter.

Regards,

Colleen Forbes
Acting Manager Development Assessment

Colleen Forbes | Town Planner
Development Assessment



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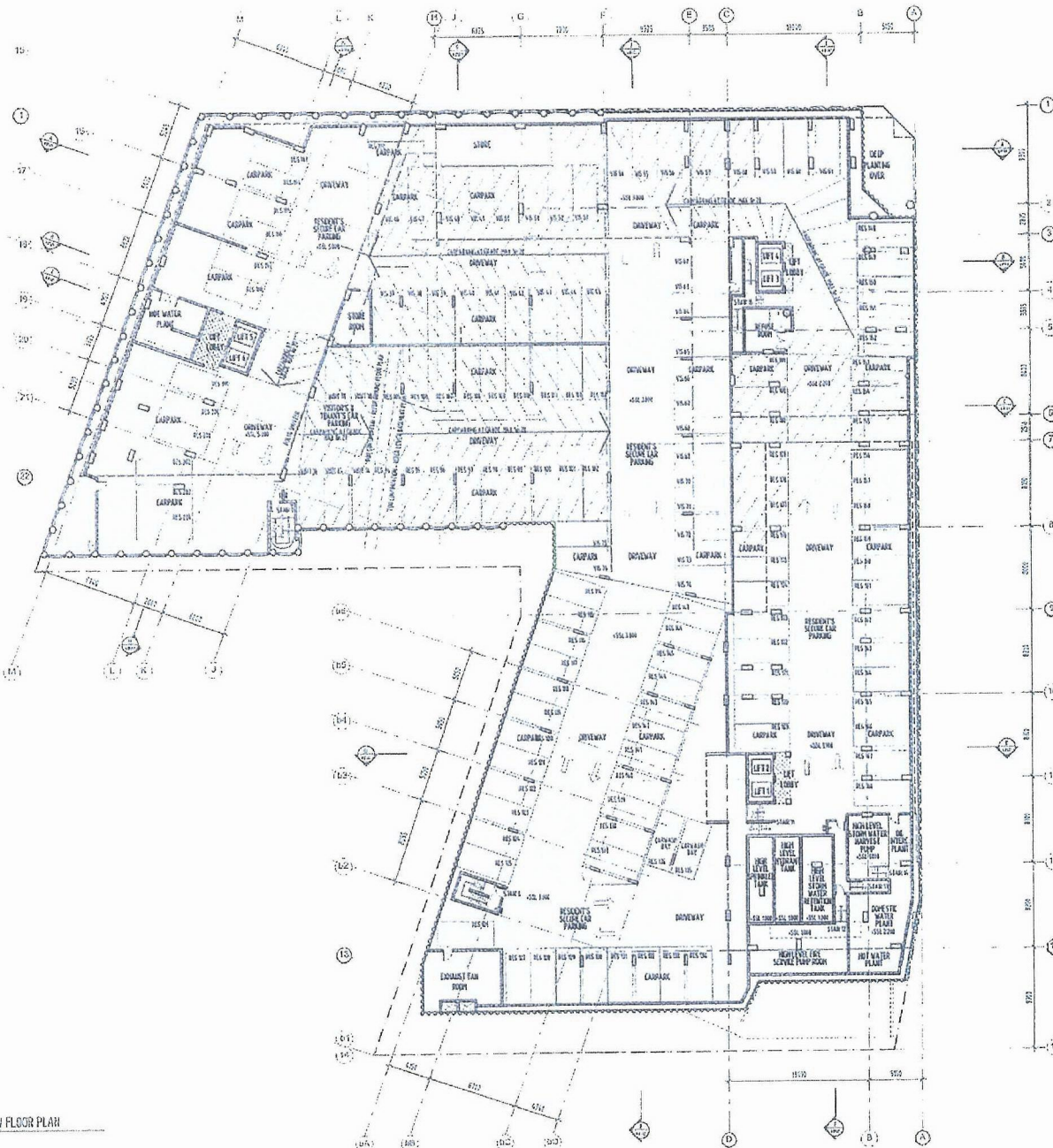
Signed:

Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.



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Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.



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01 BASEMENT 1- OVERVIEW FLOOR PLAN

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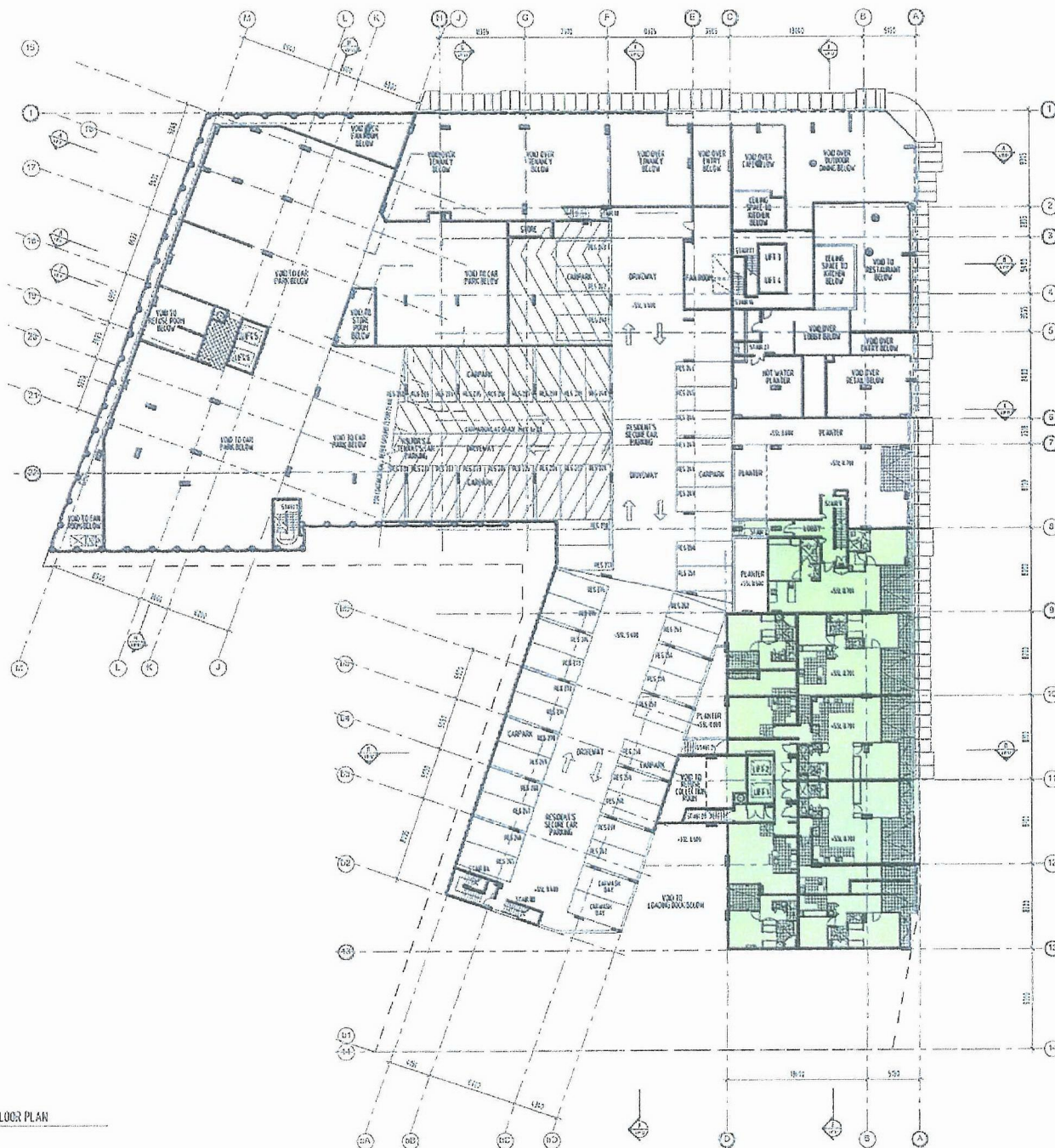
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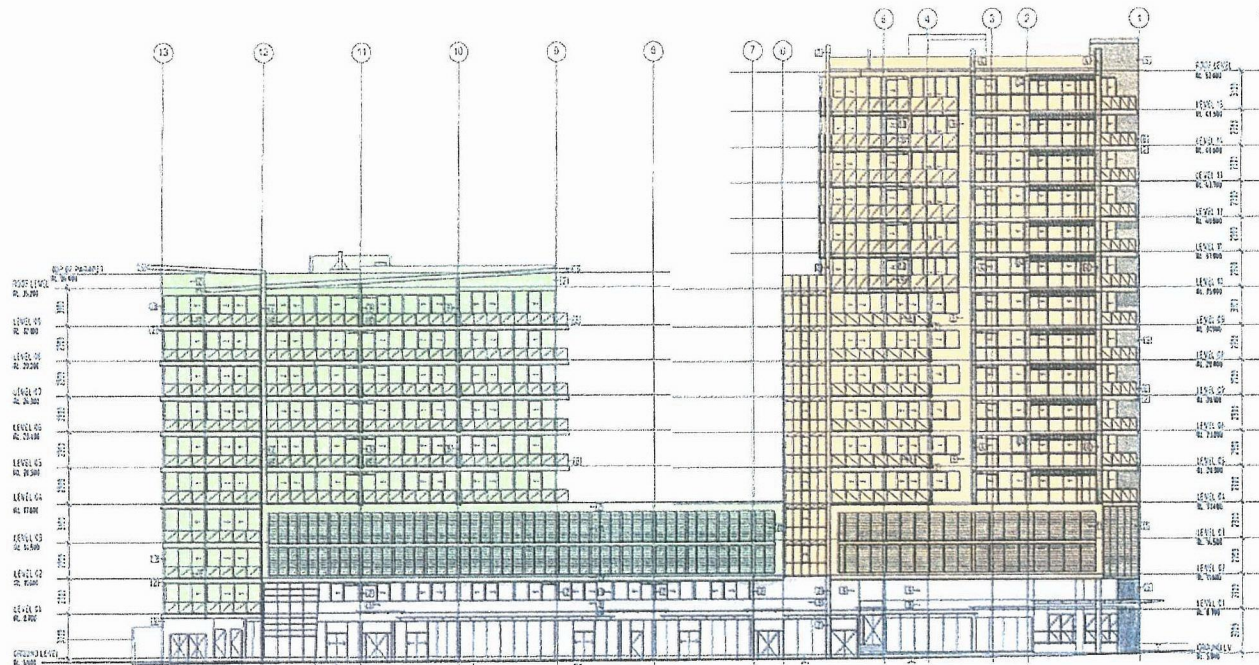
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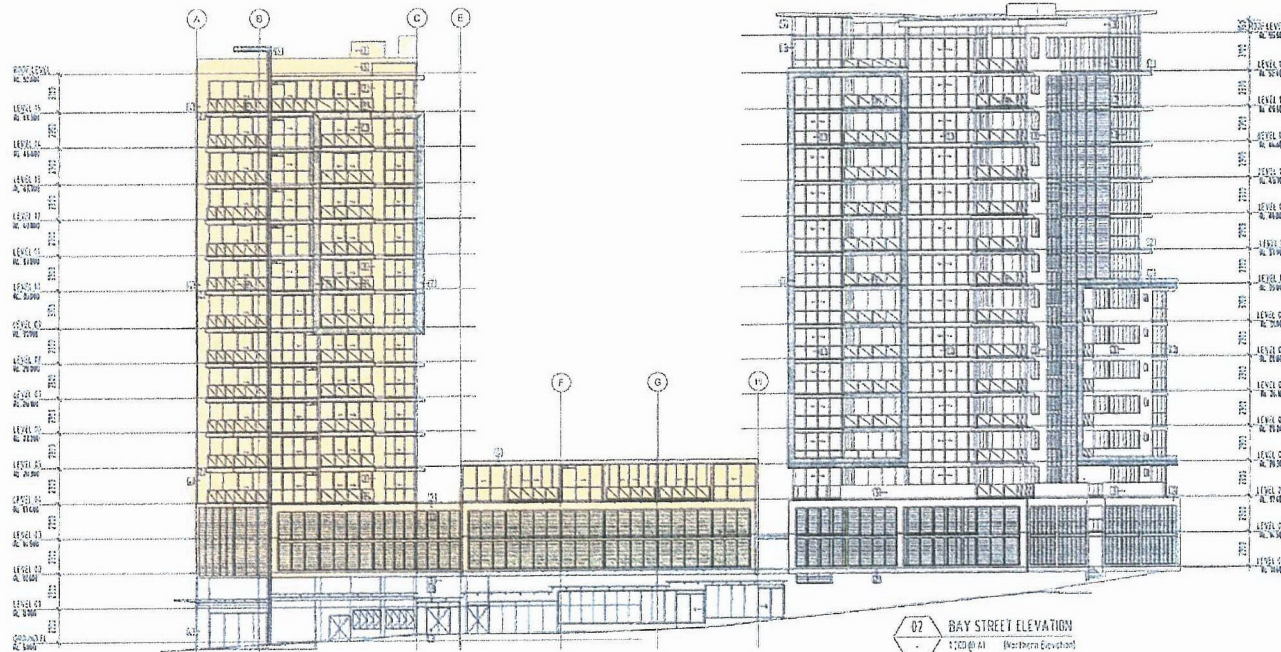
Pennings

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01 BAY STREET ELEVATION
1:200 @ A1 (Eastern Elevation)



02 BAY STREET ELEVATION
1:200 @ A1 (Northern Elevation)

Signed: *86*
Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.



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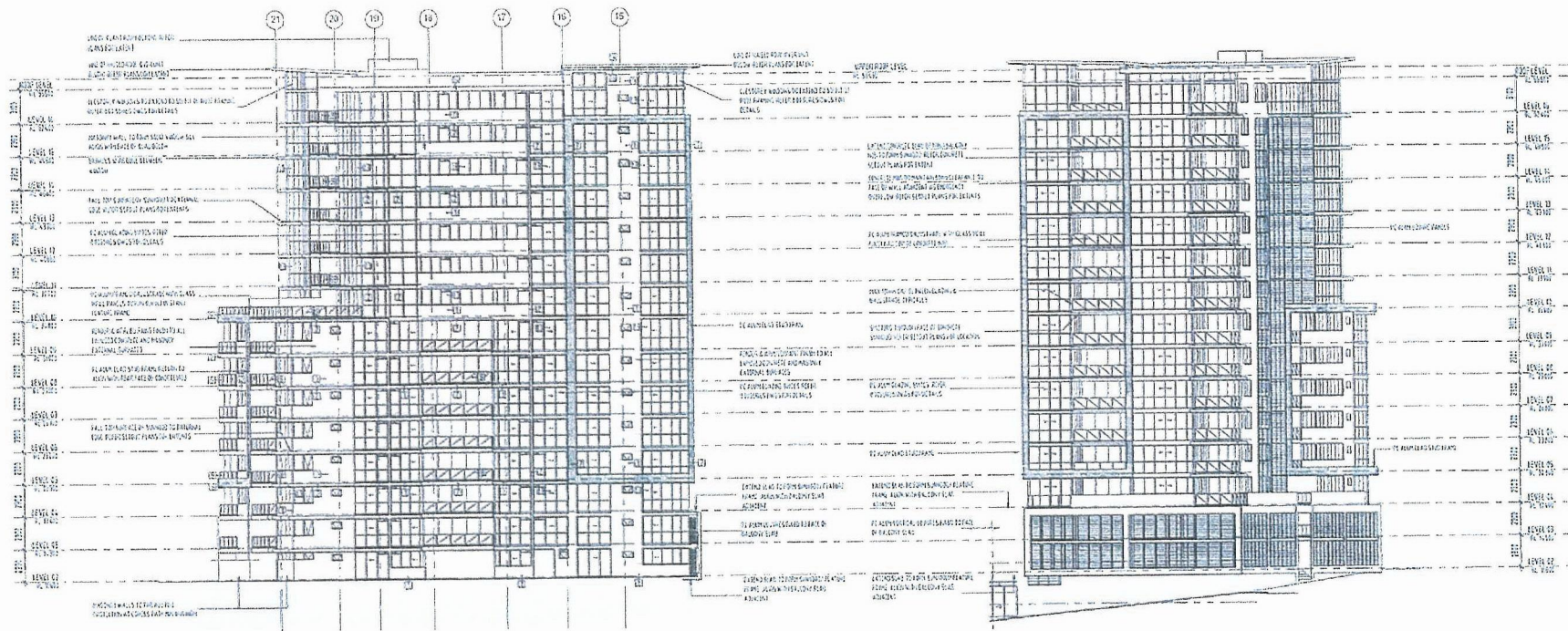


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01 BLOCK D NORTH ELEVATION
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Major Project Number: DA 43-3-2005 MOD 1 submission
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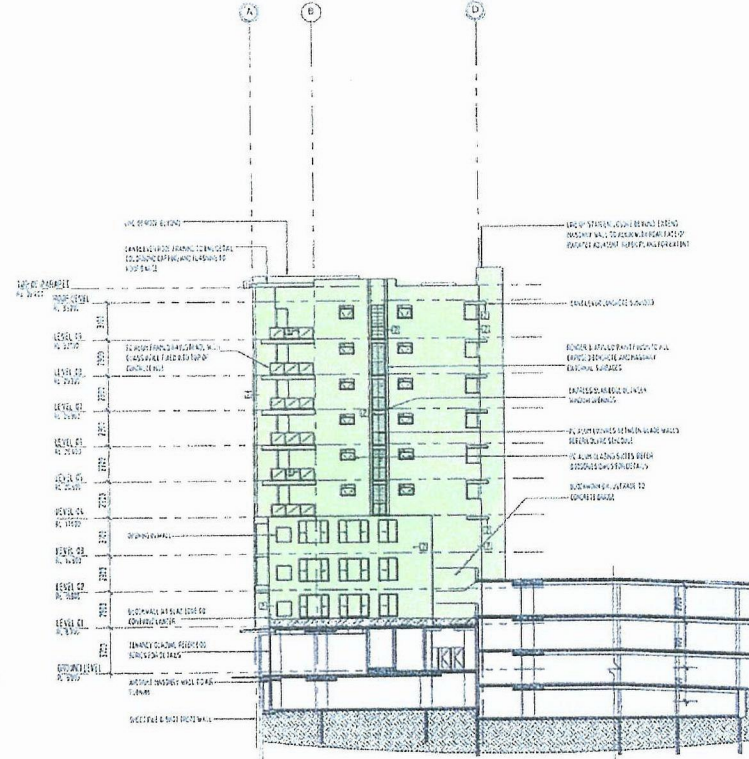
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02 BLOCK A NORTH ELEVATION
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BAY GRAND APARTMENTS
TWO HEADS

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HERAN
BUILDING GROUP

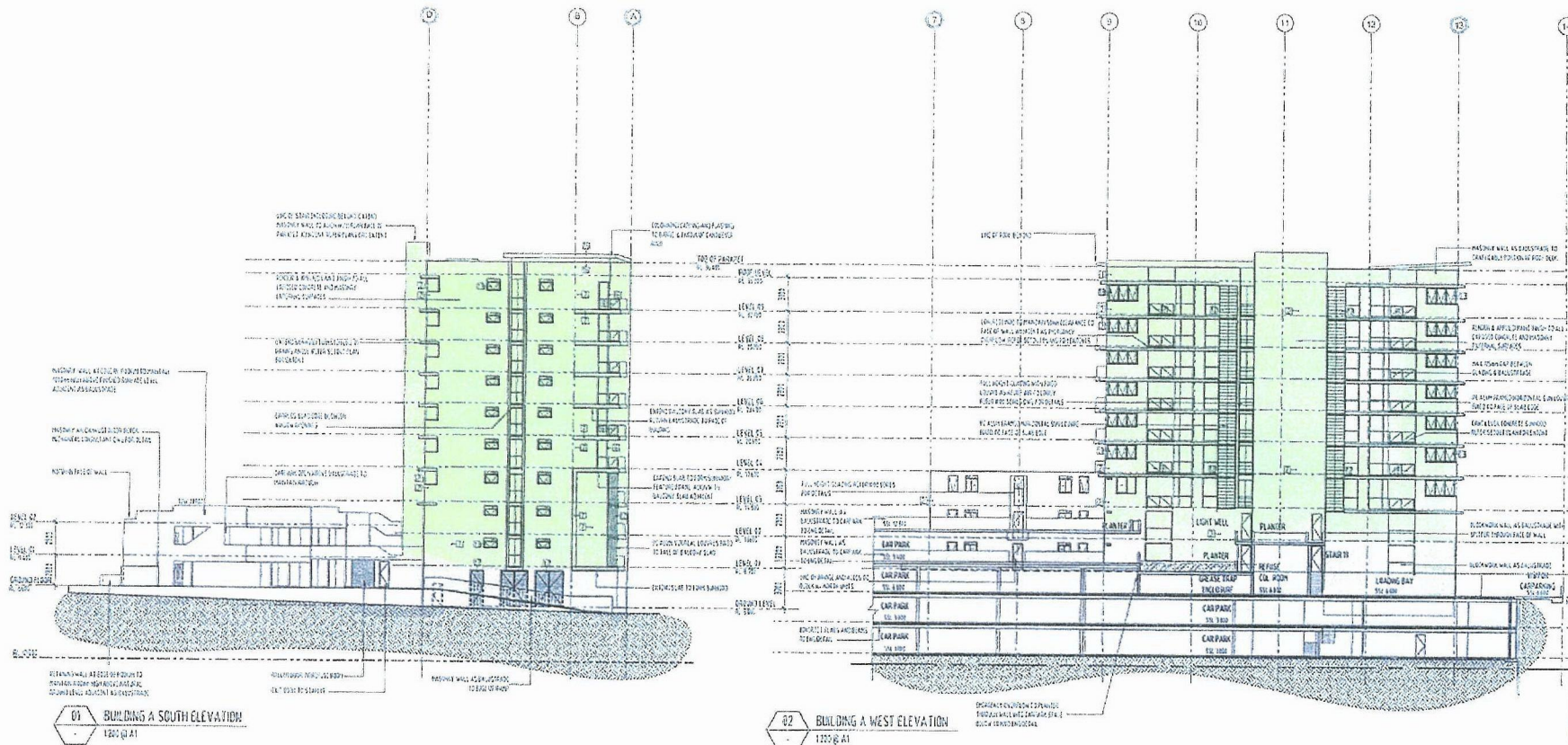
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AND EAST ELEVATIONS

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• REVISION NO. 1:200 @ A1
• DATE MAY 2010
• PROJECT NO. 09A R.02
• DRAWING NO. 3.41 P11



Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:



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Planning

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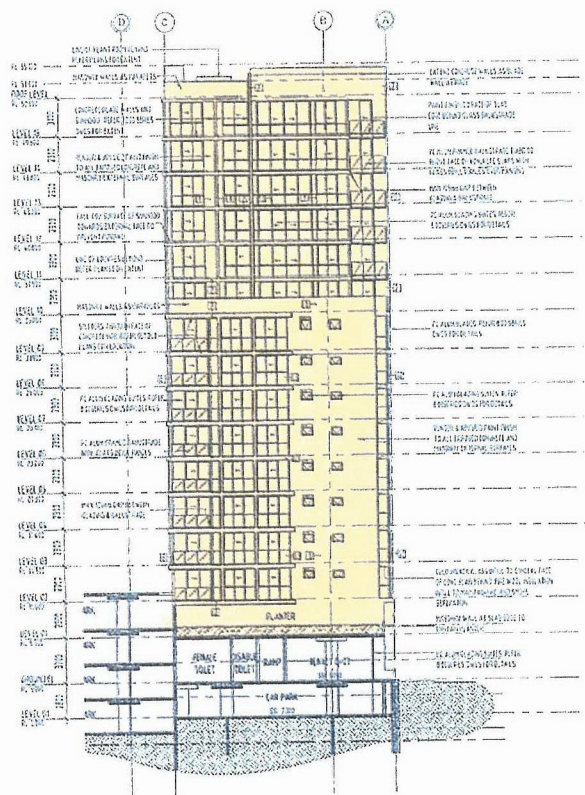
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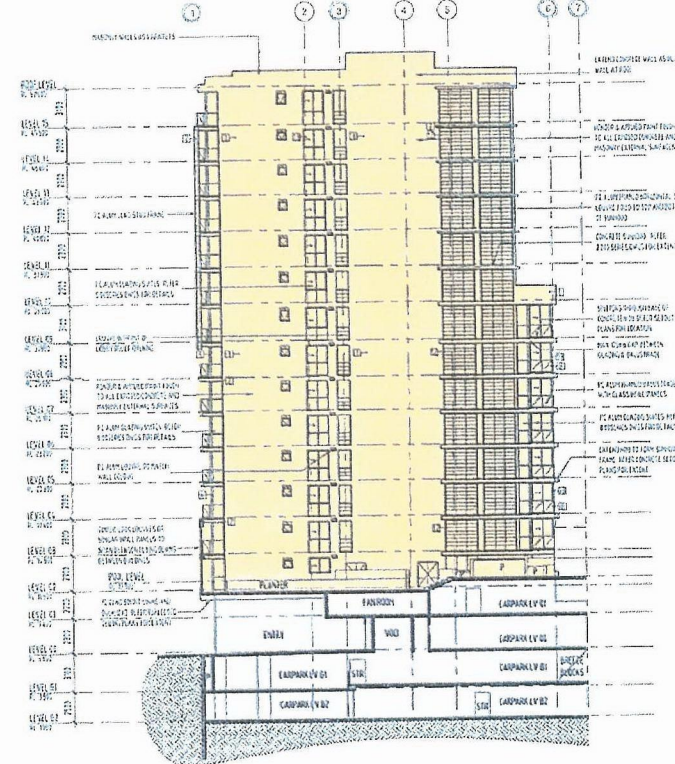
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AND WEST ELEVATIONS

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11	REVISED TO SHOW CHANGES	12/03/10
12	REVISED TO SHOW CHANGES	12/03/10
13	REVISED TO SHOW CHANGES	12/03/10
14	REVISED TO SHOW CHANGES	12/03/10



01 BLOCK B SOUTH ELEVATION
1:200 @ A1



02 BLOCK B WEST ELEVATION
1:200 @ A1



Planning

Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:

REV	REASON	DATE	BY
01	WALL FINISH	01/01/2011	GBA
02	WALL FINISH	01/01/2011	GBA
03	WALL FINISH	01/01/2011	GBA
04	WALL FINISH	01/01/2011	GBA
05	WALL FINISH	01/01/2011	GBA
06	WALL FINISH	01/01/2011	GBA
07	WALL FINISH	01/01/2011	GBA
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16	WALL FINISH	01/01/2011	GBA
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18	WALL FINISH	01/01/2011	GBA
19	WALL FINISH	01/01/2011	GBA
20	WALL FINISH	01/01/2011	GBA

REV	REASON	DATE	BY
01	WALL FINISH	01/01/2011	GBA
02	WALL FINISH	01/01/2011	GBA
03	WALL FINISH	01/01/2011	GBA
04	WALL FINISH	01/01/2011	GBA
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11	WALL FINISH	01/01/2011	GBA
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13	WALL FINISH	01/01/2011	GBA
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20	WALL FINISH	01/01/2011	GBA



CLIENT
HERAN BUILDING GROUP

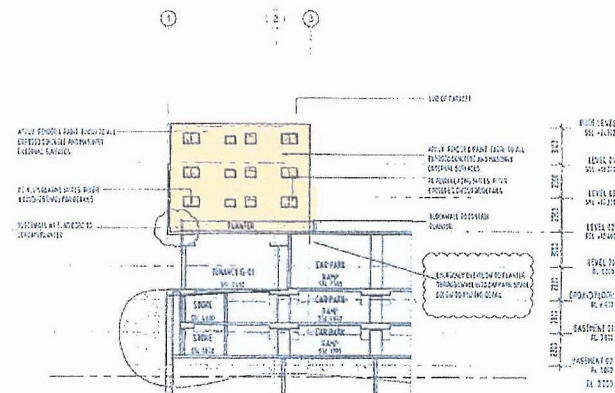


DRAWING TITLE
BAY GRAND
BAY ST TWEEDE HEADS
BLOCK B SOUTH
AND WEST ELEVATIONS

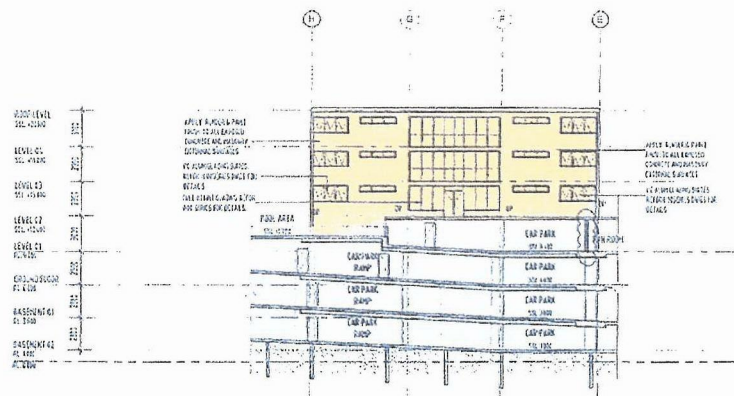
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• CHECKED	
• SCALE	1:200 @ A1
• DATE	MAY 2010
• PROJECT NO.	GBA 8.02
• DRAWING NO.	3.52 P11

[illegible]

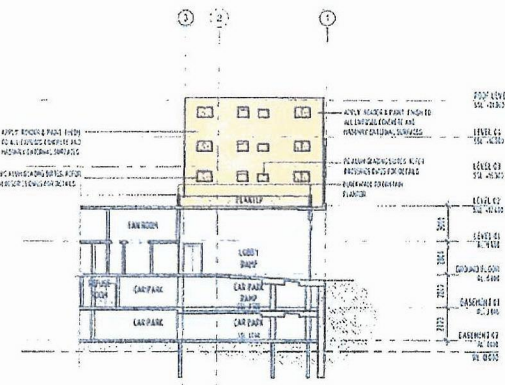
01 BLOCK C NORTH ELEVATION
15072 AT



02 BLOCK C WEST ELEVATION
4203 10 A1



03 BLOCK C SOUTH ELEVATION
12030 A1



04 BLOCK C EAST ELEVATION
1200 (R A)

1	DATE	1/1/2006
2	PROJECT	BAY GRAND APARTMENTS
3	CLIENT	HERAN BUILDING GROUP
4	DESIGNER	GBA
5	SCALE	1:200 @ A1
6	DATE	APR 2006
7	PROJECT NO.	GBA 0-02
8	DESIGNER'S NO.	3.61

Notes: All elevations are to be drawn to the same scale as the plan. All elevations are to be drawn to the same scale as the plan.

PRELIMINARY
NOT FOR CONSTRUCTION

HERAN BUILDING GROUP
TWEED HEADS

CLIENT
HERAN BUILDING GROUP

HERAN BUILDING GROUP

HERAN BUILDING GROUP

DRAWING TITLE

BAY GRAND
BAY ST TWEED HEADS
BLOCK C - NORTH, EAST,
SOUTH & WEST ELEVATIONS

• DRAWN BY: GBA

• CHECKED BY:

• SCALE: 1:200 @ A1

• DATE: APR 2006

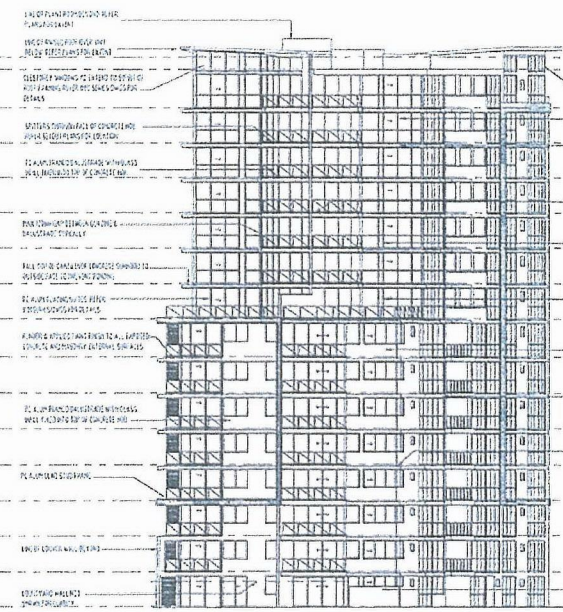
• PROJECT NO.: GBA 0-02

• DESIGNER'S NO.: 3.61

P7



02 BLOCK D WEST ELEVATION
1:200 @ A1 (THOMPSON STREET)



01 BLOCK D SOUTH ELEVATION
1:200 @ A1

STREET SCENE FINISHES

FIN	DESCRIPTION	FIN	
001	WHITE PAVEMENT	002	WHITE PAVEMENT
003	WHITE PAVEMENT	004	WHITE PAVEMENT
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093	WHITE PAVEMENT	094	WHITE PAVEMENT
095	WHITE PAVEMENT	096	WHITE PAVEMENT
097	WHITE PAVEMENT	098	WHITE PAVEMENT
099	WHITE PAVEMENT	100	WHITE PAVEMENT



Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:

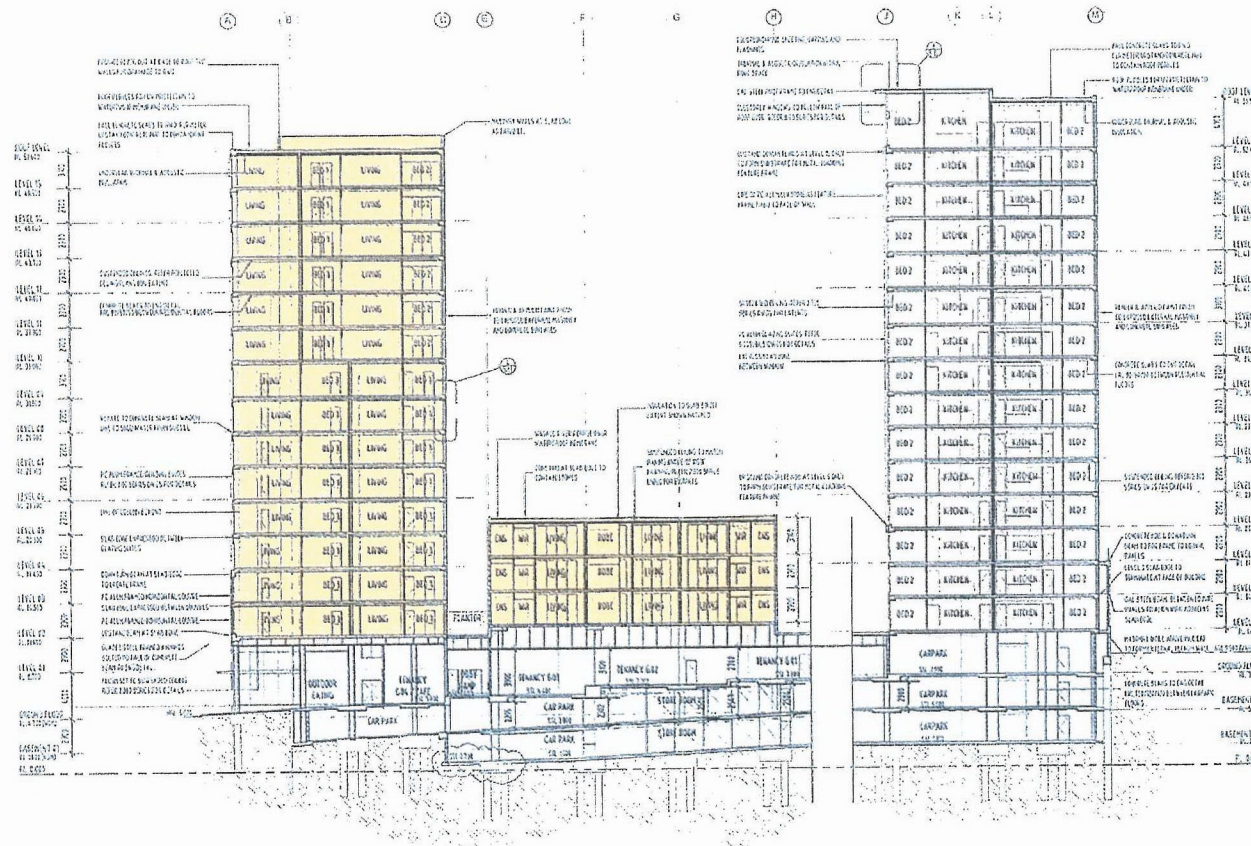
BAY GRAND APARTMENTS
TWEED HEADS

CLIENT
HERAN BUILDING GROUP

HERAN
BUILDING GROUP

DRAWING TITLE:
BAY ST TWEED HEADS
BLOCK D
SOUTH AND WEST
ELEVATIONS

DRAWN: HGG
CHECKED:
SCALE: 1:200 @ A1
DATE: MAY 2010
PROJECT NO.: GBA 6.02
DRAWING NO.: 3.72 P11



01 SECTION AA
1:200 @ A1



Planning

Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:

GENERAL NOTES 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2006 AND THE NATIONAL BUILDING STANDARDS 2006. 2. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 3. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 4. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 5. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 6. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 7. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 8. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 9. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 10. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE.	GENERAL NOTES 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2006 AND THE NATIONAL BUILDING STANDARDS 2006. 2. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 3. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 4. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 5. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 6. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 7. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 8. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 9. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE. 10. THE DESIGNER HAS ASSUMED THAT THE SITE IS FREE OF ALL OBSTRUCTIONS AND THAT ALL NECESSARY SERVICES ARE AVAILABLE.
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PRELIMINARY
NOT FOR CONSTRUCTION

BAY GRAND APARTMENTS
2/100 GERRARD STREET

CLIENT
HERAN BUILDING GROUP



BAY GRAND
BAY ST TWEED HEADS
SECTION AA

• DRAWN	GBA
• CHECKED	
• SCALE	1:200 @ A1
• DATE	MAR 2010
• PROJECT NO.	GBA 002
• DRAWING NO.	4.01

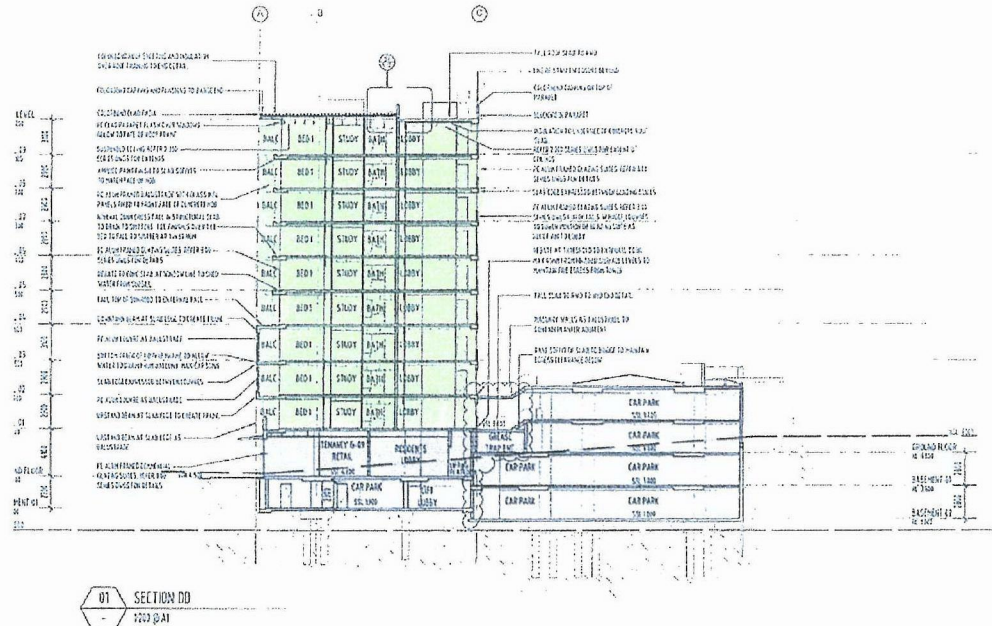


Planning

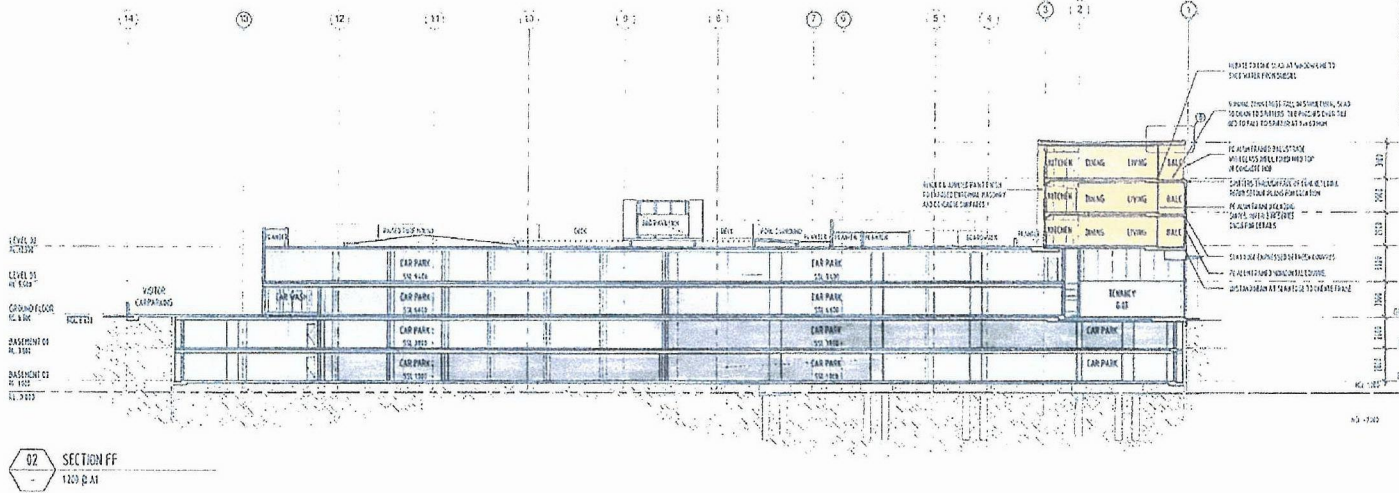
Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:

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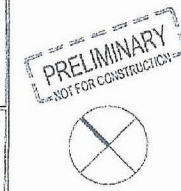


01 SECTION DD
1:20 @ A1



02 SECTION FF
1:20 @ A1

REVISIONS	DATE	BY	REASON
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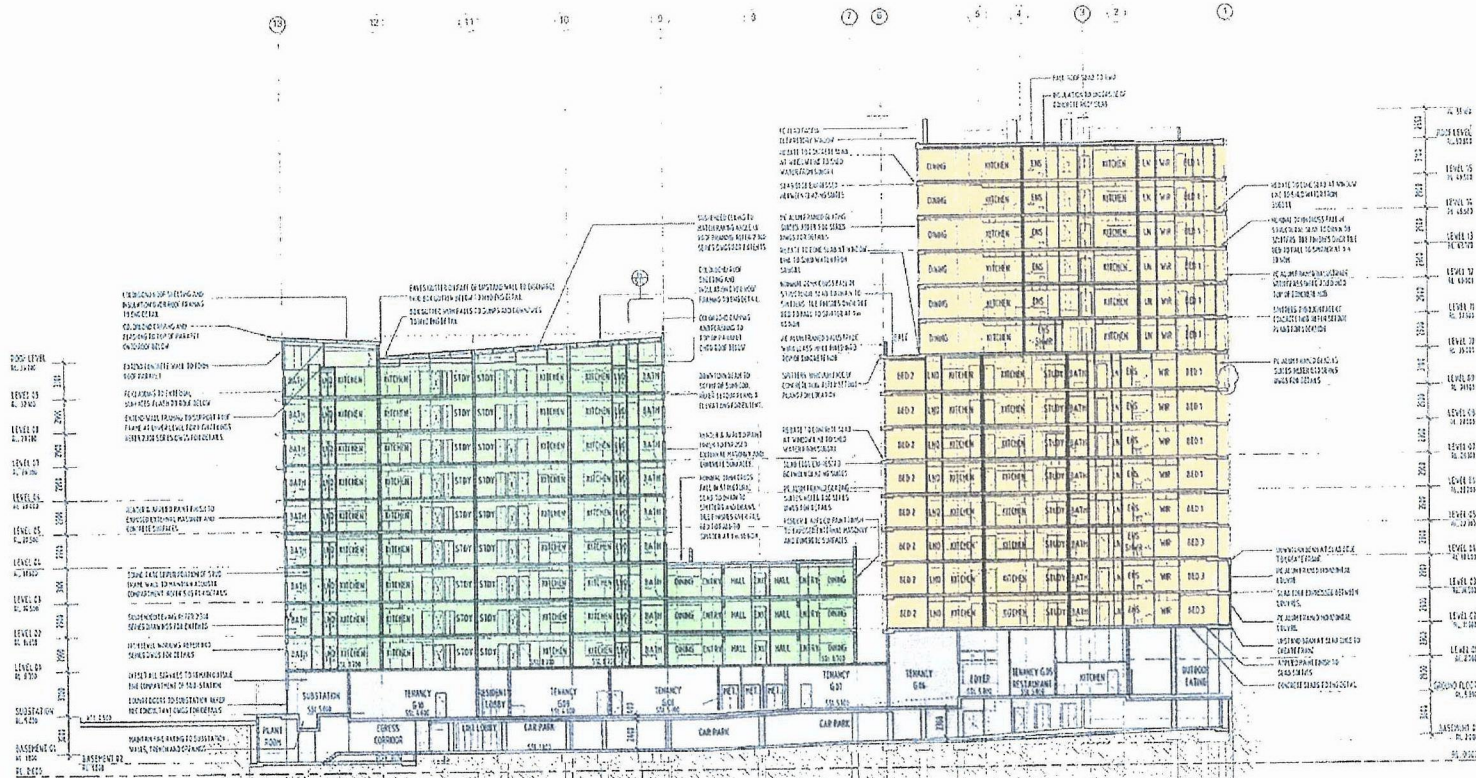


CLIENT
HERAN BUILDING GROUP



DRAWING TITLE
BAY GRAND
BAY ST TWEED HEADS
SECTIONS DD & FF

DRAWN	CSA
CHECKED	
SCALE	1:20 @ A1
DATE	MAY 2010
PROJECT NO.	CSA 8.02
DRAWING NO.	104 P10



01 SECTION EE
1:200 @ A1



Planning

Major Project Number: DA 43-3-2005 MOD 1 submission
approved on 11 January 2011.

Signed:

[Signature]

PRELIMINARY NOT FOR CONSTRUCTION	
BAY GRAND APARTMENTS TWEED HEADS	
CLIENT HERAN BUILDING GROUP	
HERAN BUILDING GROUP	
DRAWING TITLE BAY GRAND BAY ST TWEED HEADS SECTION EE	
DRAWN: GBA CHECKED: SCALE: 1:200 @ A1 DATE: MAY 2010 PROJECT NO: GBA 8.02 DRAWING NO: 4.05 P10	

ADDITIONAL INFORMATION REQUIRED FOR APPLICATION TO MODIFY A
DEVELOPMENT CONSENT
DA43-3-2005

4. DETAILS OF ORIGINAL DEVELOPMENT APPLICATION

The original Development Application was granted on 9th December 2006 and included a mixed use residential and commercial development consisting of a continuous podium across the site and three residential towers above. The development included 183 residential apartments, 10 ground floor commercial tenancies, 2 restaurants and 3 commercial offices. 324 parking spaces were required in 3 Basement levels.

A Modification to the original Approval was granted on 17th November 2009. This modification approved:

- Redesign of the external facade treatment
- Reconfiguration of floor plates and an increase in GFA and unit numbers by 18 units
- Construction of additional carparking levels and increase in parking to 386 vehicles
- Increase height of Enid Street tower by 100mm.
- Change of use of ground floor commercial tenancies to retail

7. DESCRIPTION OF MODIFICATIONS

The following modifications/additional Conditions are proposed.

Additional Condition Staging of Development

The development will be constructed in 4 stages defined as;

Stage 1	Basement and Commercial/Retail areas up to Podium at RL12.200
Stage 2	Residential Tower Building 'A' from RL 11.600
Stage 3	Residential Towers 'B' and 'C' from RL 11.400
Stage 4	Residential Tower 'D' from RL 12.200

Stage 1 as defined above must be the first constructed stage with subsequent stages being developed independently of each other and in no specific numerical order.

Payment of Monetary Contributions defined in Conditions B41 and B42 shall be made prior to the issue of a Construction Certificate for each individual stage proportionate to the value to that stage as if the stage was a standalone application. The rates applicable for payment shall be the rates as detailed in Conditions B41 and B42.

Amend Condition 41 to read as follows:

B41 Monetary Contributions

Payment of contributions totalling \$2,425,097.26 pursuant to Section 94 of the Act and is payable prior to the issue of *each construction stage Construction Certificate*.

Pursuant to Clause 146 of the Environment Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions *applicable to the individual development stage* 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 Council's adopted Fees and Charges current at the time of 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.

Amend Condition 42 to read as follows:

B42 Water Management Act 2000

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 *each stage* the development have been made with the Tweed Shire Council.

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

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

Water DSP4	94.27ET @ \$10,709	\$1,009,537.40
Sewer Tweed Heads	144.353 @ \$5,146	\$ 742,840.50

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 the *payments*